

# PENNSYLVANIA CRIME COMMISSION



## **AN INVESTIGATION INTO THE CONDUCT OF LACKAWANNA COUNTY DISTRICT ATTORNEY / ATTORNEY GENERAL ERNEST D. PREATE, JR.**

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**APRIL 8, 1994**

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# PENNSYLVANIA CRIME COMMISSION

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April 8, 1994

TO THE GENERAL ASSEMBLY:

The Crime Commission has conducted an investigation into allegations that during 1987-1988, while serving as District Attorney of Lackawanna County, the present Attorney General of Pennsylvania, Ernest D. Preate, Jr., engaged in an arrangement to secure campaign contributions from persons who owned and operated illegal video poker gambling machines. It was further alleged that in return for such contributions, the then District Attorney would maintain a "hands off" or non-enforcement policy. This investigative report reflects the conclusions of the Commission with respect to these allegations.

Attorney General Preate was invited, on February 16, 1994, to appear before the Commission on March 2nd. Mr. Preate did not respond to this initial invitation. Two additional invitations were extended to the Attorney General to appear before the Commission. By the time this report was made final, however, Mr. Preate had not arranged to do so.

The investigation also revealed that the foregoing contributions arrangement was not examined for possible criminal violations by the appropriate personnel of the Attorney General's

Office. Despite the fact that both prior to the incumbency of Ernest Preate, Jr., as Attorney General and thereafter, during his tenure, investigative leads for that purpose were available, these leads were not pursued. In fact, a statewide Grand Jury staffed by Attorney General Preate's assistants was told explicitly about the scheme. Nevertheless the investigation of the arrangement involving the alleged *quid pro quo* was not pursued.

This raises serious questions about the administration of justice in the Commonwealth. These questions will not disappear with the legislatively mandated abolition of the Pennsylvania Crime Commission on June 30, 1994. Rather they should be pursued through independent prosecutorial review with the aid of a statewide Grand Jury.

The Pennsylvania Crime Commission abided by the mandate of former Governor Raymond P. Shafer, who said it should function as an independent, non-partisan watchdog *empowered to investigate serious crime wherever it exists in Pennsylvania.*

Respectfully submitted,

Chairman Glenn A. Walp

Vice Chairman Charles H. Rogovin, Esq.

Commissioner Arthur L. Coccodrilli

Commissioner James H. Manning, Esq.

Commissioner Michael J. Reilly, Esq.

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## I. SUMMARY

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Allegations of misconduct against Mr. Ernest D. Preate, Jr., former Lackawanna County District Attorney and current Attorney General of Pennsylvania, were brought to the attention of the Crime Commission in mid-1991 and January 1992.

One allegation was that Mr. Preate entered into an arrangement with video poker machine operators in Northeast Pennsylvania whereby he would not enforce the laws against illegal video poker gambling in exchange for contributions to his district attorney and attorney general campaigns.

It was also alleged that Mr. Preate sought to replicate this arrangement statewide with other video poker operators when he was seeking the Office of Attorney General in 1988.

As District Attorney, Mr. Preate allegedly attempted to frustrate a video poker gambling investigation conducted by the Pennsylvania State Police in Northeast Pennsylvania. It was also alleged that local video poker operators were forewarned of a large police raid to seize hundreds of illegal video poker machines. It was further alleged that the forewarning came from the Lackawanna County District Attorney's Office.

Mr. Preate, as Attorney General, allegedly failed to recuse himself from the video poker investigation conducted by the Sixth Statewide Grand Jury. Mr. Preate allegedly directed aides within the Office of Attorney General to remove any references to the Lackawanna County District Attorney's Office as the source of the forewarning from the Grand Jury Presentment.

Mr. Preate's involvement in the investigation allegedly extended to monitoring negotiations between his top aids and several attorneys for video poker operators. Mr. Preate allegedly was threatened with public exposure of receiving questionable political contributions if he did not provide favorable plea agreements for the video poker operators.

To investigate these allegations, the Commission obtained testimony from 71 witnesses, including current and former law-enforcement personnel employed by the Office of Attorney



General and the Pennsylvania State Police. Numerous sources were also interviewed by the Commission. Court and bank documents were subpoenaed and analyzed. The Commission determined that there was evidence to support four of the five allegations of misconduct against Mr. Preate.

The Commission determined that Mr. Preate sought the help of Scranton video poker operator Elmo Baldassari<sup>1</sup> for his political campaigns. Mr. Baldassari referred Mr. Preate to Joseph Kovach (deceased 1991), Elmo Baldassari's friend and business partner. Mr. Kovach owned Active Amusement Machines Co. of Scranton, a music machine distributorship, and was a vendor and distributor of video poker machines. Mr. Kovach solicited donations from video poker operators on behalf of Mr. Preate. It was represented to these operators that then District Attorney Preate would not interfere with their video poker gambling businesses through enforcement action. The Commission received testimony confirming the allegation that Mr. Preate—and persons working with his political campaign committees—received cash contributions which were not reported. These were in addition to unreported and questionable contributions which the Commission independently identified through its analysis of the campaign committees' records.

With regard to the allegation that Mr. Preate replicated the contributions arrangement state wide involving other video poker operators, the Commission determined that Mr. Preate did make such an attempt. However, before any substantial contributions could be collected from video poker operators, the Pennsylvania State Police raided video poker operators' locations in Northeastern Pennsylvania. After this raid, Mr. Kovach dissuaded some operators from continuing their contribution collection efforts.

During the original video poker investigation by the Office of Attorney General, testimony was received by the Sixth Statewide Grand Jury that Mr. Kovach had solicited campaign contributions on behalf of then District Attorney Preate. Testimony was also received by this Grand

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<sup>1</sup> Elmo Baldassari was convicted of maintaining gambling devices in 1960. An investigation by the Crime Commission resulted in the arrest of Baldassari by the Federal Bureau of Investigation in 1990 and his conviction for extortion in 1991.

Jury concerning the possible disclosure by a source within the Office of then Lackawanna County District Attorney Preate regarding the impending video poker raid. Although that testimony identified specific individuals and their relationship to the contributions arrangement, it was never followed-up by the Office of Attorney General.

The Commission determined that Mr. Preate was apprised of negotiations between his top aides and defense attorneys representing video poker machine operators who were accused of crimes by the Sixth Statewide Grand Jury. There is evidence supporting the allegation that these negotiations, which were underway before the Grand Jury issued its presentment, followed a threat from Joseph Kovach to expose the contributions arrangement if he and the video poker operators were prosecuted.

The Commission also determined that the final dispositions of the charges recommended by the Grand Jury were significantly less serious than the charges originally proposed. Felony charges against all individuals were dropped. One operator pled guilty to misdemeanor gambling charges, and one operator was placed on ARD. The remaining video poker operators were permitted to have their corporations plead no contest (*nolo contendere*) to gaming charges and pay small fines (relative to the monies generated by the gambling machines).<sup>2</sup> Four of the corporations which the Attorney General permitted to plead no contest had not been in existence at the time the original violations had been committed. Plea bargaining permitted individual defendants to create after-the-crimes corporate shells to plead to the charges. A rationale for the plea agreements which was offered by members of the Attorney General's staff was that the machine owners were going to assist in an investigation of video poker machine manufacturers. No prosecutions of machine manufacturers were ever initiated by the Pennsylvania Attorney General Ernest D. Preate, Jr.

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<sup>2</sup> In the 1980's, illegal video poker machines generated between \$500 and \$1,000 per week, per machine in gambling revenues.

## II. INTRODUCTION

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### Background of the Investigation

As part of its proactive program to monitor organized crime trends in the Commonwealth, the Crime Commission began a statewide investigation of gambling markets<sup>3</sup> in May 1991. The first two areas investigated were the legalized bingo industry<sup>4</sup> and illegal video poker gambling. Soon after the start of the gambling markets investigative project, the Commission received information alleging questionable conduct in regard to video poker gambling by the Attorney General, Ernest D. Preate, Jr.

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<sup>3</sup> For several years, the Commission has investigated the illegal video poker industry in the Commonwealth. As a consequence, it has determined that participants in this industry are involved in other rackets, particularly loansharking and, to a lesser extent, narcotics activity. Corruption of public officials, as demonstrated in the 1984 bribery convictions of 33 Philadelphia police officers, is but one of the results.

The electronic era has provided criminal organizations with a relatively risk-free method of producing revenues. In an attempt to assess some of the economic aspects of the video poker market, the Commission interviewed tavern owners, vendors, servicing vendors, and racketeers. The Commission determined that the price of a video poker machine varies from \$1,400 to \$2,800, and earns, on average, \$1,000 per week.

The illegal video poker industry in Pennsylvania permeates the organized crime subculture. Across the Commonwealth, video poker machines are located in taverns and private social clubs, and State Police have seized thousands of these machines as illegal gambling devices. In Pittsburgh, for example, state troopers seized 339 machines in a single raid. Some establishments had as many as 15 video poker machines operating at one time. In central Pennsylvania, 189 machines were seized during the course of one evening. In April 1988, State Police seized 349 machines in four northeastern counties.

Because of the time and resources involved in investigating this form of illegal gambling as well as the sophistication of the electronic technology, many police departments have taken the position that gambling does not warrant police attention. As a result, this form of illegal gambling represents an avenue for official corruption, that ultimately undermines the confidence of the community in its legitimate institutions of government.

<sup>4</sup> The Crime Commission released the findings of its bingo probe in an April 1992 report, *Racketeering and Organized Crime in the Bingo Industry*.

In January 1992, two special agents of the Crime Commission conducted an interview with Elmo Baldassari, who was at that time incarcerated.<sup>5</sup> Mr. Baldassari is a well-known video poker operator from the Scranton area who had been convicted of extortion. When questioned about his knowledge of public corruption, among other things, Baldassari made specific allegations of misconduct against former Lackawanna County District Attorney and now Attorney General Ernest D. Preate, Jr. These allegations were consistent with information which the Commission had previously received from other sources. Mr. Baldassari's allegations were based upon his personal knowledge of the events.

### Summary of Allegations

Allegations of misconduct by Attorney General Preate were brought to the Commission by a number of sources and informants, including law-enforcement sources. The allegations were:

- Mr. Ernest D. Preate, Jr., while District Attorney of Lackawanna County, approached Elmo Baldassari to seek his help in obtaining campaign contributions from Northeastern Pennsylvania video poker machine operators. According to Baldassari, Mr. Preate stated to him that, in return, he would not enforce the laws against illegal video poker gambling. Through this contributions arrangement, Mr. Preate received contributions from video poker operators which included unreported cash.
- Mr. Preate, with the assistance of Elmo Baldassari's business partner, the late Joseph Kovach, attempted to replicate this contributions arrangement statewide, when he sought the Office of Attorney General in 1988.

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<sup>5</sup> The Commission regularly conducts prison interviews with criminals, such as organized crime members and associates, significant rackets figures, and potential criminal informants. The Commission acknowledges that Elmo Baldassari was convicted of felony offenses. Thus, corroboration was necessary to ascertain the validity of his allegations. The Commission relied upon numerous other witnesses and sources to corroborate the information provided by Elmo Baldassari.

- Video poker machine operators were forewarned of the April 6, 1988, Pennsylvania State Police raids after Lackawanna County District Attorney Preate and members of his staff were informed of the raids.
- After Mr. Preate assumed office as Attorney General, investigation by the Sixth Statewide Grand Jury into allegations that he improperly received campaign contributions from video poker operators was terminated.
- The Sixth Statewide Grand Jury recommended that certain video poker operators be charged with felonies. The operators were subsequently able to have the recommended felony charges reduced to minor gambling offenses. Further, the operators succeeded in negotiating the substitution of corporate defendants for themselves. One of the defendants, Joseph Kovach, obtained plea agreements for himself and the other video poker operators after threatening to expose the contributions arrangement with Mr. Preate.

### III. DISTRICT ATTORNEY PREATE'S SOLICITATION OF CAMPAIGN CONTRIBUTIONS FROM VIDEO POKER OPERATORS

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ALLEGATION NO. 1: Mr. Ernest D. Preate, Jr., while District Attorney of Lackawanna County, approached Elmo Baldassari to seek his help in obtaining campaign contributions from Northeastern Pennsylvania video poker machine operators. According to Baldassari, Mr. Preate stated to him that, in return, he would not enforce the laws against illegal video poker gambling. Through this contributions arrangement, Mr. Preate received contributions from video poker operators which included unreported cash.

Illegal video poker gambling machines became popular in Pennsylvania in the early 1980's and were estimated to generate between \$500 and \$1,000 in gambling revenues per week per machine. These electronic gambling devices proliferated quickly in numerous parts of the state, including the Northeastern region. Elmo Baldassari and his brothers Joseph Chester (deceased 1990), Elio Joseph "Al" (deceased 1992), and Henry Baldassari, Sr., of Scranton,<sup>6</sup> were among the video poker gambling operators who were capitalizing on this highly lucrative market. The Baldassari brothers exerted influence over the illegal video poker market.<sup>7</sup> Elmo Baldassari and his brothers were well-known to law enforcement officers as local gambling figures.<sup>8</sup>

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<sup>6</sup> Joseph Chester and Elio Joseph "Al" Baldassari were publicly identified as gambling figures in the Scranton area in 1951 by the Kefauver Committee (U.S. Senate Special Committee to Investigate Organized Crime in Interstate Commerce). Elmo Baldassari was convicted of maintaining gambling devices in 1960.

<sup>7</sup> A significant number of individuals and companies have been affiliated with the Baldassaris in the vending and video poker machine business in Northeastern Pennsylvania.

<sup>8</sup> A statewide assessment of illegal gambling in the Commonwealth, prepared by the Pennsylvania State Police Vice-Intelligence Division in September 1967, reported that, for Lackawanna County, *All gambling is controlled in this area by the Elio Joseph BALDASSARI faction...*

Pennsylvania State Police Sergeant Albert Broscius, a 35-year veteran, who was in charge of State Police Corporal Peter Tonetti's video poker gambling investigation in Northeastern (continued...)

District Attorney Ernest D. Preate, Jr., Approached Elmo Baldassari For Financial Help

In his January 15, 1992 interview with Crime Commission agents, Elmo Baldassari stated that when Ernest D. Preate, Jr. was seeking the office of Lackawanna County District Attorney, Mr. Preate approached Elmo for *help*. *Help*, according to Baldassari, consisted of fund raising and other types of events in support of Ernest Preate at the Bellefonte Apartment complex in Scranton, owned at the time by Elmo Baldassari, as well as solicitations for votes and campaign donations from acquaintances and contacts of Baldassari.

Elmo Baldassari stated that when Ernest Preate, Jr., then serving as District Attorney of Lackawanna County, decided to make his bid for Attorney General in 1988, Mr. Preate again approached Baldassari and requested his help with soliciting campaign contributions and votes. Mr. Baldassari was asked if he had contacts throughout the state that could help Ernest Preate. According to Mr. Baldassari, Mr. Preate then told him that in exchange for his assistance and the help of other vendors, he [Preate] would not enforce the laws against illegal video poker machines.

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<sup>8</sup> (...continued)

Pennsylvania, testified that he became involved in vice work in 1963. The Baldassari name was familiar to him then because of their involvement in gambling and other activities. Sergeant Broscius testified that this was *common knowledge*.

### Mr. Preate Was Referred To Baldassari's Business Partner Joseph Kovach

Elmo Baldassari was a silent partner in Active Amusement Machines Co. of Scranton,<sup>9</sup> operated by Joseph Kovach, which operated and distributed vending machines, including video poker machines, throughout the Commonwealth. Elmo Baldassari referred District Attorney Preate to Baldassari's long-time friend and business partner Joseph Kovach. On behalf of Mr. Preate, Joseph Kovach solicited campaign contributions from video poker operators. Because of Kovach's statewide contacts, these contributions came not only from operators located in the northeast region but also from other areas of the Commonwealth. Baldassari told the Commission's agents that Mr. Kovach subsequently took Ernest Preate to vending companies throughout the state that Active Amusements dealt with for cash campaign contributions. Elmo Baldassari also stated that Joseph Kovach took Ernest Preate around the state at Baldassari's request, and Mr. Kovach kept records of the donations and trips. Baldassari stated that he contributed money to Ernest Preate's campaign, in addition to obtaining contributions from other operators in the area.

A number of video poker machine operators, as well as a former Deputy Attorney General, testified about the arrangement operators had with Joseph Kovach and how it impacted on Ernest Preate, Jr. During testimony,<sup>10</sup> former Deputy Attorney General Nels Taber — who had been in charge of the video poker investigation before the Sixth Statewide Grand Jury — testified with

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<sup>9</sup> A company which distributed and operated illegal video poker machines, Active Amusement Machines Co. of Scranton had seven of these machines seized during the April 6, 1988 State Police raid. Mr. Kovach is listed as contributing \$1,125 to the *Ernie Preate DA Committee*. First Eastern bank records reveal this contribution was made in the form of an official check, similar to a cashier's check, number 930921736, drawn on funds from The Third National Bank & Trust Company, Scranton. This \$1,125 reported contribution was not refunded to Mr. Kovach after the raid of April 6, 1988. Joseph Kovach, along with Active Amusement co-operators Elmo Baldassari and Angelo Merlino, were recommended by the Sixth Statewide Grand Jury to be charged with Corrupt organizations, Criminal conspiracy, and Gambling devices, gambling, etc.

<sup>10</sup> Hereafter, "testimony" or "testified" means sworn testimony before the Pennsylvania Crime Commission.



regard to his July 1989 exit interview with Deputy Attorney General Anthony Sarcione.<sup>11</sup> Mr. Sarcione was, at that time, serving under Attorney General Ernest Preate:

*Q. ... Did you express your opinions to him [Sarcione] concerning what you viewed as the conflict of interest problems with this case?*

*A. Yes ... I had the exit interview in which I basically had a — I discussed a number of things relating to this case ...*

*Q. And what did you indicate to him at that time?*

*A. I indicated that the investigation had shown or had raised serious questions as to what was going on up in the Scranton area with the various vendors. A number of them had indicated that they had been told that if they gave campaign contributions, then essentially they would be left alone and ... It was their impression that the District Attorney's Office would not prosecute them for having the video poker machines. And so they were giving the campaign contributions essentially ... so they wouldn't have their machines seized.*

*Q. Who would have been the District Attorney at this time?*

*A. At the time that the various vendors were testifying or the time frame they were speaking of giving the campaign contributions, it was Mr. Preate.*

Numerous witnesses testified before the Pennsylvania Crime Commission with regard to campaign contributions to candidate Ernest D. Preate, Jr. Eugene Caljean, operator of Caljean Amusements<sup>12</sup> and a personal friend of Joseph Kovach, was a contributor to Ernest D. Preate, Jr.'s political campaigns. Mr. Caljean testified:

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<sup>11</sup> Mr. Sarcione's official title was Director of the Criminal Law Division of the Office of Attorney General.

<sup>12</sup> A company which operated illegal video poker machines, Caljean Amusements had 13 of these machines seized during the Pennsylvania State Police raid of April 6, 1988. Mr. Caljean was not recommended for criminal charges by the Sixth Statewide Grand Jury.

*Q. ... Did you ever have any occasion to be approached by Mr. Kovach to make any type of political contributions?*

*A. Yes ...*

*Q. ... how was it that the subject matter came up [with Joseph Kovach] concerning making political contributions? ...*

*A. He thought as we were in the poker business that it wouldn't hurt us to get on some of these campaign bandwagons.*

*Q. And whose campaign bandwagon did he want you to get on?*

*A. Attorney Preate's.*

*Q. At that point, Mr. Preate was Lackawanna County District Attorney?*

*A. Yes.*

*Q. And perhaps he was getting [ready] to ... run for the Attorney General?*

*A. Yes, I believe so ...*

*Q. ... what is it that Mr. Kovach indicated to you that it would be [to] your advantage in supporting this particular candidate because you were in the video poker industry?... Why specifically Mr. Preate? What did he [Kovach] indicate to you?*

*A. He indicated that Ernie Preate would not hurt us in the amusement business....*

*Q. And Mr. Kovach indicated to you that perhaps proper political support would ensure that there would not be an enforcement of video poker?*

*A. ... He indicated that Mr. Preate would not interfere with our poker business ... We discussed that we should contribute to Ernie Preate's campaign and he wouldn't hurt us.*

Ronald Sompel, operator of Blue Chip Amusements<sup>13</sup> at the time of the April 1988 raids, testified:

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<sup>13</sup> Blue Chip Amusements, a company which operated illegal video poker machines, had six of these machines seized during the Pennsylvania State Police raid of April 6, 1988. According to Mr. Preate's campaign reports, Mr. Sompel contributed \$1,000 on May 28, 1987. This amount was contributed to help retire then District Attorney Preate's 1986 campaign debt. The campaign reports also list Mr. Sompel contributing \$260 on January 27, 1988 to the *Friends of Ernie Preate Committee*. The latter reported contribution was refunded to Mr. Sompel on April 11, 1988. Mr. Sompel was not recommended for criminal charges by the Sixth Statewide Grand Jury.

*Q. ... had you prior to that [April 1988] State Police raid been approached by anyone to contribute to any political candidates for office at the beginning of 1988?*

*A. ... Yes.*

*Q. And whom were you approached by ... to contribute?*

*A. ... it was Joseph Kovach at the time. ...*

*Q. Now, on whose behalf did Mr. Kovach wish to help or have you make political contributions?*

*A. ... it was for the district attorney's race in Lackawanna County to Ernie Preate....*

*Q. ... May 19th of 1987, this was the first check you ever made payable to Mr. Preate?*

*A. To the best of my knowledge, yes ...*

*Q. And this check you believe was a contribution made at the behest of Joseph Kovach?*

*A. Yes ...*

*Q. Why on this particular occasion were you willing to ... contribute \$1,000 to the "Friends of Ernie Preate Committee"?*

*A. Because ... everyone in our business was making those contributions ...*

*Q. ... When you say everyone in our business, you refer to operators. Are you referring to cigarette machine operators?*

*A. No ... amusement game operators.*

*Q. Amusement game operators to include individual poker machines?*

*A. Yes. ...*

*Q. When he [Kovach] says to you that Mr. Preate is a friend of the vendors, what does that mean to you?*

*A. Just that we've never had any problems in this area with confiscating any machines ...*

William McGraw, operator of McGraw Amusements,<sup>14</sup> testified that Joseph Kovach had approached him to donate to Ernest Preate's political campaigns:

*Q. Inherent in that conversation that you're referring to is that an earlier time Joe Kovach had approached you?*

*A. He had approached everybody. You couldn't go in or out and the telephone would ring, come here I want to see you again to talk over the phone.*

*Q. That was something that Mr. Kovach said that he would not talk [about] over the phone?*

*A. Yeah.*

*Q. And what did he want to talk to you about on these occasions?*

*A. A contribution.*

*Q. Okay. To whom?*

*A. Preate.*

James Judge<sup>15</sup> was interviewed by Commission agents on June 29, 1992. During this interview, Mr. Judge stated that Joseph Kovach had approached him and his partner, Raymond Petritus, for contributions to help satisfy the debt incurred by Mr. Preate's successful 1986 bid for Lackawanna County District Attorney. Mr. Judge stated Joseph Kovach wanted cash and that \$500 was the minimum contribution. Mr. Judge stated that he gave Joe Kovach, on two separate

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<sup>14</sup> A company which operated illegal video poker machines, McGraw Amusements had eight of these machines seized during the Pennsylvania State Police raid of April 6, 1988. According to Mr. Preate's campaign reports, Mr. McGraw contributed \$1,000 on May 28, 1987. This amount was contributed to help retire then District Attorney Preate's 1986 campaign debt. The campaign reports also list Mr. McGraw contributing \$260 on January 27, 1988 to the *Friends of Ernie Preate Committee*. The latter contribution was refunded to Mr. McGraw on April 11, 1988. Mr. McGraw was not recommended for criminal charges by the Sixth Statewide Grand Jury.

<sup>15</sup> James Judge and Raymond Petritus are co-operators of J&R Amusements, Inc., which was not incorporated at the time of the April 6, 1988 raid. The State Police seized 43 video poker machines owned by J&R Amusements during that raid. The *Ernie Preate DA Committee* records report a \$1,000 contribution from "James Judge", entered on May 28, 1987. A \$500 contribution reported by the *Friends of Ernie Preate Committee* from "Jim Judge" was entered January 27, 1988. Committee records declare that James Judge received a \$520 refund on April 11, 1988. Both Mr. Judge and Mr. Petritus were recommended by the Sixth Statewide Grand Jury to be charged with Corrupt organizations, Criminal conspiracy, and Gambling devices, gambling, etc.

occasions, \$2,000 cash, for a total of \$4,000. These contributions would constitute a violation of state campaign finance laws, if made in cash over \$100, and if not reported.

Gabriel Horvath, owner of Rex Vending, Hazleton, had 28 video poker machines seized in two Pennsylvania State Police raids in Schuylkill County in January and March 1987. As a result, Horvath was charged with three counts of Corrupt organizations (18 Pa.C.S. § 911 (b) (3) (4)); 24 counts of Gambling devices, gambling, etc. (18 Pa.C.S. § 5513 (a) (1)); and 15 counts of Criminal conspiracy (18 Pa.C.S. § 903 (a) (1) (2)). During several debriefings with Crime Commission personnel, Mr. Horvath, acknowledged meeting with Mr. Preate, Joseph Kovach, and Henry Baldassari, Sr. at a Scranton-area restaurant. During this meeting, Mr. Preate advised Mr. Horvath to retain attorney Richard Guida<sup>16</sup> to represent him on the video poker charges he faced in Schuylkill County. Additionally, Mr. Horvath acknowledged his role with Joseph Kovach in the collection and solicitation of campaign contributions from video poker operators. According to records obtained from the *Ernie Preate DA Committee*, Horvath contributed \$750 on May 28, 1987. During testimony, Mr. Horvath invoked his Fifth Amendment right against self-incrimination when asked whether he had ever been solicited by Joseph Kovach to make any political contributions for Mr. Preate.

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<sup>16</sup> Richard Guida was interviewed by Crime Commission staff on June 8, 1993. During this interview, Mr. Guida stated that Gabriel Horvath told Guida that Horvath was referred to him by then Lackawanna County District Attorney Ernest Preate. Mr. Guida stated that he began representing Mr. Horvath before charges were filed and shortly after the state police raids.

Henry Baldassari, Sr., operator of HLJ Amusements of Scranton, Inc.,<sup>17</sup> and Joseph O. "Jo Jo" Baldassari, operator of Jo Jo Baldassari Vending,<sup>18</sup> testified similarly. Henry Baldassari testified:

*Q. What was the purpose of making the contributions?*

*A. Well, you know, the guy [Preate] is running for office. He needs money. I guess everybody was under the impression that he wouldn't bother nobody and he didn't bother nobody in Lackawanna County.*

*Q. Who didn't*

*A. Ernie [Preate].*

*Q. What do you mean?*

*A. He never raided no poker machines while he was in office.*

*Q. Why?*

*A. ... They were contributing him good money....I don't mind giving him a couple hundred dollars.*

*Q. And hope that he would continue not to [enforce gambling laws]?*

*A. Certainly.*

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<sup>17</sup> Henry Baldassari's vending company, not incorporated at the time of the raids, had 11 illegal video poker machines seized during the April 6, 1988 Pennsylvania State Police raid. According to Mr. Preate's campaign reports, Mr. Baldassari contributed \$1,000 on May 28, 1987. This amount was given to help retire then District Attorney Preate's 1986 campaign debt. The campaign reports also list Mr. Baldassari contributing \$250 on January 27, 1988 to the *Friends of Ernie Preate Committee*. The latter reported contribution was refunded to Mr. Baldassari after the April 6, 1988 raids. Henry Baldassari, Sr. was recommended to be charged by the Sixth Statewide Grand Jury with Corrupt organizations, Criminal conspiracy, and Gambling devices, gambling, etc.

<sup>18</sup> "Jo Jo" Baldassari's company operated illegal video poker machines and had 12 of these machines seized during the Pennsylvania State Police raid of April 6, 1988. According to Mr. Preate's campaign reports, Mr. Baldassari contributed \$1,000 on May 28, 1987. This amount was contributed to help retire then District Attorney Preate's 1986 campaign debt. The campaign reports also list Mr. Baldassari contributing \$260 on January 27, 1988 to the *Friends of Ernie Preate Committee*. The latter contribution was refunded to Mr. Baldassari after the video poker raids. Joseph O. Baldassari was not recommended to be charged with criminal violations by the Sixth Statewide Grand Jury.

"Jo Jo" Baldassari testified:

*Q. Were you also solicited by anyone else to make any other contributions other than directly where you wrote the check to the committee [to elect Ernest Preate]?*

*A. Joe Kovach was the one that always solicited campaign donations to Ernie Preate ... The money always went to Joe Kovach.... [Ernest Preate] never bothered us at all. And it was my common sense and belief that if I continued to help this guy out, he didn't bother me before, then maybe he won't bother me in the future ...*

*Q. Was that just your feeling?*

*A. That was pretty much the consensus. That was why everybody kicked in for the guy. He never bothered us.*

Mary Louise "Mary Lou" Salerno,<sup>19</sup> who lived with Elmo Baldassari for approximately 18 years, had knowledge of Mr. Baldassari's activities, including his alleged criminal activities. Mary Lou Salerno testified as to how Joseph Kovach initially became involved with Ernest D. Preate, Jr.:

*Q. Do you know how Kovach became involved with Ernie Preate?*

*A. Because of the poker machines ...*

Ms. Salerno was asked why Elmo Baldassari and Joe Kovach would support Ernest Preate, Jr. Ms. Salerno stated that Elmo told Joe Kovach that ...*we need him.*

*Q. What do you mean we need him?*

*A. Because of the machines, the poker machines.*

*Q. ... What do you mean by you need him?*

*A. You know, he wouldn't bother them.*

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<sup>19</sup> Mary Lou Salerno was arrested in May 1991 and charged with possession with intent to distribute cocaine and aiding and abetting. Ms. Salerno was convicted and received a 39-month jail sentence and four years of supervised release.

*Q. Who told you that?*

*A. Elmo ... He said that Ernie wouldn't have them bother with the poker machines because they were using them [for] gambling ... Elmo said Ernie helped him. ...*

*Q. What was it that was guaranteed in return for this?*

*A. They wouldn't get the machines kicked out of the locations. They wouldn't pick them up.*

*...*

*Q. ... you're indicating up until this [April 1988] police raid, they were allowed to operate, specifically, without any interference from local law enforcement and that Elmo felt he had protection?*

*A. That's what he said ... they wouldn't pick up his machines because of Ernie. This is what Elmo told me.*

Ms. Salerno was also aware of the money Joseph Kovach collected from the video poker operators:

*Q. What money is that?*

*A. The operators all got together for campaigning. They gave Ernie money. Joe [Kovach] was the one that collected all the money ... Joe had contact with them. He called them and he got so much money from each person that owned vending businesses. And he got it all for Ernie in cash. Went to Ernie and gave it to him.*

*Q. How do you know that?*

*A. ... Because Joe Kovach was up at the house.*

*Q. Would Joe Kovach discuss this in front of you?*

*A. Yes.*

Mary Kasper, daughter of Mary Lou Salerno, lived with her mother and Elmo Baldassari and, for a period of time, functioned as Baldassari's bookkeeper. In an interview with the Crime Commission, Ms. Kasper stated that during late 1986 and early 1987, she overheard numerous conversations between Joseph Kovach and Elmo Baldassari. During one conversation, Baldassari told Kovach, 'I don't care if you don't pay bills. Make sure Ernie gets his money.'



Joseph Kovach was not the only video poker operator involved in the solicitation of campaign contributions on behalf of Ernest Preate, Jr. Some operators testified that Joseph C. Baldassari initially approached them regarding campaign contributions to Ernest Preate, Jr.

William Ferrario, operator of Ferrario Amusements Sales and Service,<sup>20</sup> Scranton, testified:

*Q. ... Did Mr. Kovach or Mr. Baldassari, Joe Baldassari, Senior, did either one of them ever approach you to make any political contributions to political candidates in this area?*

*A. Joe Baldassari did ... Joe said, Bill, we got to come up with some money ...*

*Q. ... the first time you were asked for a contribution from Joe Baldassari, Ernie Preate was District Attorney?*

*A. Right ...*

*Q. ... Did Joe [Joseph C. Baldassari] indicate that he was collecting from other people?*

*A. Yeah, he collected from two people, but I don't know who.*

*Q. Okay.*

*A. He collected from me, and I don't know who else he collected from; but he was going to get this money and just give it to Kovach.*

*Q. Give it to Kovach, you say?*

*A. I don't know. I'm not positive.*

*Q. Okay. What did he [Joseph C. Baldassari] say the purpose was of making these political contributions?*

*A. It was for Preate. ... He was District Attorney, I guess, and maybe he can help us.*

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<sup>20</sup> Ferrario Amusements Sales and Service, a company which operated illegal video poker machines, had seven machines seized during the Pennsylvania State Police raid of April 6, 1988. According to Mr. Preate's campaign reports, Mr. Ferrario contributed \$1,000 on May 28, 1987. This amount was contributed to help retire then District Attorney Preate's 1986 campaign debt. The campaign reports also list Mr. Ferrario contributing \$250 on January 27, 1988 to the *Friends of Ernie Preate Committee*. These contributions were not refunded to Mr. Ferrario after the April 6, 1988 raids. Mr. Ferrario was not recommended to be charged with criminal violations by the Sixth Statewide Grand Jury.

Gordon Potratz, operator of Maple City Amusements,<sup>21</sup> testified:

*Q. Were you ever approached by Mr. Kovach to make any political contributions?*

*A. Not by Joe. We talked about things like that, but he didn't approach me.*

*Q. ... Did any of those conversations involve the continuing operation of video poker?*

*A. At times, yes. ... I think it's quite obvious and everybody knows that Joe Kovach was trying to help Ernie Preate by giving him some political contributions. ...*

*Q. Did Joe Kovach indicate that to you?*

*A. Yes, in this direction. ...*

*Q. Okay. You had conversation along those lines with Joe Kovach?*

*A. Um-hum.*

*Q. You indicated he [Kovach] never solicited you for any political contribution?*

*A. ... I wasn't solicited by him. I was solicited by Joe Baldassari. ... Joe had asked me to do that. I know I made a contribution. ... It was either a \$100 or \$500. ... It was in cash, and I gave to Joe Baldassari.*

#### The Existence Of A List Of Video Poker Operators Who Contributed To Ernest Preate

Joseph Kovach collected campaign contributions to help retire the debt incurred in Ernest Preate's successful 1986 bid for District Attorney. He subsequently collected campaign contributions to assist Mr. Preate in his 1988 bid for Attorney General. Mr. Kovach maintained a list of those operators who gave and those who did not contribute to Preate's campaigns.

Eugene Caljean testified to the existence of a list:

*Q. Did Mr. Kovach ever show you a list that he had of vendors?*

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<sup>21</sup> Maple City Amusements, a company which operated illegal video poker machines had 11 of these machines seized during the Pennsylvania State Police raid of April 6, 1988. Mr. Potratz is not listed on campaign reports as being a contributor to Mr. Preate's campaigns. Along with his wife Judy, Mr. Potratz was recommended to be charged by the Sixth Statewide Grand Jury with Corrupt organizations, Criminal conspiracy, and Gambling devices, gambling, etc.

*A. I believe he did. He showed everybody the list.*

*Q. Of who had given what?*

*A. Yes ...*

*Q. But he showed you the list?*

*A. He showed me the list.*

William McGraw testified that he asked Kovach what would happen if he did not give any campaign contributions to Ernest Preate:

*A. If you give \$1,000.00 ... I [Kovach] have your name there. And I [McGraw] said supposing I don't give then you don't have my name. He [Kovach] says, well, then you're put on the other side of the paper there. And he knows who gave and who didn't.*

*Q. Who knows?*

*A. Meaning Preate. ...*

*Q. Well, you say he [Kovach] put your name on the paper and here's who gave and who didn't. Why is it important who didn't give it?*

*A. ... If there was any favoritism, you certainly wouldn't get it.*

*Q. Because you weren't on the list of the givers?*

*A. Right.*

Henry Baldassari, Sr., testified regarding the nature of the list:

*Q. What did Mr. Kovach tell you about that list?*

*A. That he had a list of the operators.*

*Q. All the — what operators, video poker operators?*

*A. Video poker operators that donated to Ernie [Preate].*

*Q. He [Kovach] told you that?*

*A. Oh yeah, there was a list.*

*Q. He [Kovach] specifically told you that he had a list of all the video poker operators who donated to Ernie [Preate]?*

A. Yeah.

Joseph O. "Jo Jo" Baldassari testified that Mr. Kovach showed him a list of those operators who did and did not contribute as well as dollar amounts given to Ernest Preate, Jr. "Jo Jo" Baldassari stated that he telephoned Ernest Preate and they discussed a contribution which Mr. Baldassari had given Mr. Kovach. Mr. Preate told Baldassari he saw his name on a list of contributors. Mr. Baldassari also testified this contribution was in cash and that then District Attorney Preate acknowledged receiving his contribution during that telephone conversation:

*Q. Who had the list, Jo?*

*A. Joe Kovach.*

*Q. He showed you the list?*

*A. Yeah. I was really concerned [because] this was cash I gave ... so I can remember actually [calling] Ernie up on the phone and saying Ernie I had given Joe Kovach x-amount of dollars towards your campaign. I want to make sure you got [it]. I want to make sure you know it came from me.*

*Q. So you talked to him [Preate] personally about that?*

*A. On that particular instance, yeah.*

*Q. Was Ernie [Preate] aware that the money given by Joe [Kovach] other than checks [that] there was an amount of the cash that came from you, some came from other people?*

*A. Well, that particular situation ... I made him aware that it was from me.*

When asked whether Ernest Preate, Jr. knew of the existence of a list of operators who were contributing to his campaign, "Jo Jo" Baldassari testified:

*Q. Do you know the list of names that you mentioned that Joe [Kovach] showed you of the vendors that contributed? Was that list given to Ernie [Preate] or his campaign?*

*A. It was supposed to ... I wanted him [Preate] to know that I — he [Preate] said, I saw your name on there. So he evidently saw the list ...*

*Q. Ernie [Preate] indicated that I [Preate] saw your name on the list, and that was the time you gave cash?*

*A. Yes, he [Preate] acknowledged my donation.*

In an interview with Commission staff, Mary Lou Salerno stated that she was present when Joseph Kovach was reviewing a list of video poker operators who had or had not contributed to Ernest Preate's campaign. Joe Kovach would show the list to Elmo Baldassari and then read off the names. Ms. Salerno stated that she saw Joe Kovach's list of video poker vendors who contributed to Ernest Preate's campaign at the offices of Active Amusements. The list was written on a white sheet of paper attached to a clipboard. Joe Kovach was using the list on the clipboard to advise Elmo Baldassari who had contributed. Ms. Salerno stated that she accompanied Elmo Baldassari when he took \$3,000 cash to Joe Kovach at the offices of Active Amusements. According to Ms. Salerno, Baldassari laid the \$3,000 cash on the desk and said to Joe Kovach, 'Here's the money for Ernie.'

#### Amounts Solicited Were Based On The Size Of The Video Poker Operators' Businesses

The contributions arrangement was developed by Joseph Kovach and Elmo Baldassari so that the size of a video poker operator's business would determine the dollar amount contributed to Ernest D. Preate, Jr. Kovach and Baldassari asked those they perceived as large operators for more money than asked of smaller operators. Eugene Caljean testified:

*Q. Did he [Kovach] specifically then indicate a type or amount of contribution you should make? ...*

*A. I'm going to say, yes. ...*

*Q. Did it relate in any way or in any manner to the number of video poker machines you had?*

*A. Yes, it did.*

*Q. Did he [Kovach] indicate that he was collecting or going to be collecting similar amounts of money from other people?*

*A. Definitely.*

Ronald Sompel testified:

*Q. The check in the amount of a thousand dollars, did he [Kovach] specifically ask you for a thousand dollars?*

*A. What I remember there was that he [Kovach] sort of made it seem that the larger operators were giving larger amounts and the smaller were giving smaller amounts.*

Mr. Sompel was referring to the \$1,000 contribution he made on May 28, 1987 to assist in eliminating the debt incurred by Mr. Preate's 1986 bid for District Attorney.

Gordon Potratz, operator of Maple City Amusement Company, testified:

*Q. At the time Mr. [Joseph C.] Baldassari approached you for the contribution, did he suggest a certain amount or request a certain amount?*

*A. He probably did. And whatever it was, I believe ... that other, bigger operators were paying more than I was. I was a very small operator and you shouldn't pay that much. You're just a small guy. Pay that much or whatever you feel is right.*

*Q. Was that amount based on the number of poker machines you had out?*

*A. I think it was a gut feeling of you're a big guy, you're a small guy. That type of thing.*

William Ferrario testified that Joseph C. Baldassari requested a \$250 cash contribution to Ernest Preate's campaign:

*Q. You gave Joe two-fifty cash?*

*A. Yeah, because he says, Bill, you got a small route, you shouldn't even be putting in this. The rest of the fellows will give more who have bigger routes. I wanted to give five hundred, and he [Joseph C. Baldassari] said, no, you don't have a big enough route. You only got a few machines out, give them two-fifty.*

*Q. Well, the amount was related to the number of machines you had out, right?*

*A. Yeah.*

Joseph O. "Jo Jo" Baldassari testified:

*Q. Did Joe Kovach indicate to you ... a rough amount that he had managed to collect?*

*A. If I remember correctly, the little guys — didn't have to give [as much] — little guys 500 and the big guys a thousand [dollars].*

#### Video Poker Operators Help Retire District Attorney Preate's Campaign Debt In May/June 1987

Before seeking the office of Pennsylvania Attorney General, Ernest Preate, Jr. retired the approximately \$81,000 debt incurred during his successful 1986 District Attorney re-election bid. Elmo Baldassari stated in his January 1992 interview with the Commission that Mr. Preate approached him and asked for his help in soliciting campaign contributions. Baldassari stated that he took Mr. Preate to meet with his friend and business partner Joseph Kovach. Kovach was a major solicitor of contributions from video poker operators to Mr. Preate's campaigns.

Many video poker operators testified they were approached personally by Mr. Kovach to contribute to Mr. Preate and that they then gave their contributions directly to Mr. Kovach to be given to Mr. Preate. In some instances, operators contributed to members of Mr. Preate's campaign committee. In most instances, the operators acknowledged making contributions to District Attorney Preate during May and June 1987 as reported in the campaign expense records of the *Ernie Preate DA Committee*.

Frank Mancuso, operator of Mancuso's Archbald Vending Service,<sup>22</sup> contributed \$2,000 to the *Ernie Preate DA Committee* by a business check signed by his wife, Mary Mancuso, dated May 15, 1987 and reported by the Committee May 28, 1987. Frank Mancuso testified:

*Q. How did it come about that he [Joseph Kovach] got you to contribute \$2,000 to the "Ernie Preate DA Committee"?*

*A. At the time he asked if we would buy those tickets, we felt it was a business decision.*

*Q. What was that business decision based on? Was it anything he represented to you?*

*A. Well, we probably felt it was good that Ernie was in ....*

*Q. We don't understand why it was a good business decision to give it [the \$2,000] to Ernie...*

*A. Every time Joe [Kovach] asked for something, we sort of helped out ...*

*Q. ... here's a contribution to a man who has already successfully run for office the previous November is now, I guess, sworn in January. And five months later, there is a \$2,000 contribution to him, and there was no other indication of him forming any other political committee until much later in 1987 and the beginning of 1988. So, I mean, you know, that's why we're looking at that \$2,000 what the business decision involved....*

*A. He [Ernie Preate] was doing a good job. He was a good man to be in that position.*

*Q. What do you mean? From your business standpoint?*

*A. From my business standpoint.*

*Q. From video poker? Certainly not the cigarette machines?*

*A. Certainly not.*

Mr. Mancuso then testified to giving cash contributions to Mr. Kovach:

*Q. ... could you have at any other time, made a cash contribution or could Mr. Kovach [have] collected cash from you?*

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<sup>22</sup> The State Police seized 17 poker machines from Mancuso's Archbald Vending Service in the raids of April 6, 1988. Frank Mancuso and his brother, Louis Mancuso, were recommended by the Sixth Statewide Grand Jury to be charged with Corrupt organizations, Criminal conspiracy, and Gambling devices, gambling, etc.



A. ... we gave cash to Mr. Kovach several times. ...

Q. But why would you give cash? I don't understand. You're a businessman. You talk about making good business decisions. Contributions are tax deductible. Is that correct?

A. Right.

Q. Why would you give cash?

A. Well, they asked for \$200. You give him \$200.

Q. ... Who asked for 200?

A. Joe Kovach. ... At that time I knew that other operators at that time were giving cash too.

Campaign expense reports declare that William McGraw, operator of McGraw Amusements, contributed \$1,000 to the *Ernie Preate DA Committee* on May 28, 1987. Mr. McGraw testified:

Q. And do you know the total amount that you gave?

A. I would say like \$3,000, yeah.

Q. Was it all at one time or at different times?

A. No, at different occasions.

Q. So he approached you a number of different times?

A. Yeah.

Ronald Sompel testified that his first contribution to Ernest Preate, Jr. occurred in 1987 when he donated \$1,000 to the *Ernie Preate DA Committee*:

Q. ... May 19th of 1987, this was the first check you ever made payable to Mr. Preate?

A. To the best of my knowledge, yes.

Q. Okay. To your recollection?

A. Yes. ...

Q. Just for your information, the election for ... district attorney the last election that Mr. Preate ran for was in November of 1986 ... you're indicating your first solicitation would

*be approximately the time you made this first check payable? This is May 19th, '87. That could have been some months?*

*A. After the election.*

During testimony, Eugene Caljean identified his \$1,000 contribution to the *Ernie Preate DA Committee*:

*Q. Let me briefly show you a page from a political contribution committee. And it indicates Eugene Caljean, One Park Street, Archbald, PA, businessman, self-employed? Is that you?*

*A. That's me.*

*Q. Now, next to it, it says aggregate amount contributed on 5/28/87 would have been \$1,000.00?*

*A. That's me ...*

Joseph O. "Jo Jo" Baldassari previously testified that he telephoned then District Attorney Preate to make certain Mr. Preate received a cash contribution Baldassari had given to Joseph Kovach. Campaign records report a \$1,000 contribution from Joseph O. Baldassari to the *Ernie Preate DA Committee* on May 28, 1987. "Jo Jo" Baldassari testified:

*Q. So you talk[ed] to him personally about that?*

*A. On that particular instance, yeah.*

*Q. Was Ernie [Preate] aware that the money given by Joe [Kovach] other than checks [that] there was an amount of the cash that came from you ...?*

*A. Well, that particular situation in time, I made him [Mr. Preate] aware that it was from me. ... [Mr. Preate] was in the hole from his campaign. And they were raising money to get him out. ... besides the checks which are obvious, I think I gave a thousand one time and \$500 another time in cash.*

Campaign records for the *Ernie Preate for DA Committee* report that Henry Baldassari, Sr. contributed \$1,000, entered on May 28, 1987. Bank records from Penn Security Bank and Trust

Co., showed a cashier's check numbered 163225, dated May 26, 1987, in the amount of \$1,000. This cashier's check was attributed to a "Henry B. Baldassari". It was deposited into the *Re-elect Ernie Preate DA Committee* bank account at First Eastern Bank. However, Baldassari denied under oath making this \$1,000 contribution:

*Q. ... in 1987, May 28th, his [Mr. Preate's] campaign committee reports for the Ernie Preate for D.A. Committee shows a contribution by you of \$1,000.*

*A. No ...*

*Q. Let me just show it to you. You see, it's Henry Baldassari, 550 [Seymour Avenue], your son doesn't live there, right?*

*A. No, no, no.*

*Q. That's your address?*

*A. Yeah.*

*Q. Self-employed businessman?*

*A. Yeah.*

*Q. Right there is occupation and it shows \$1,000.*

*A. Now the only thing I can come up with here — I know I never gave him \$1,000. Kovach could have put my name down that I contributed \$1,000 because I never gave \$1,000.*

Patricia Zangardi was at one time an employee of Mr. Preate's during his tenure as Lackawanna County District Attorney. In January 1988, Mrs. Zangardi left the employ of the Lackawanna County District Attorney's Office to become campaign chief of staff for the *Friends of Ernie Preate Committee*. Henry "Hank" Baldassari, Sr. testified that it was Joseph Kovach, and possibly Patricia Zangardi, who approached him to contribute to Mr. Preate:

*Q. ... How many different times would you say you contributed to Mr. Preate's campaign?*

*A. I'd say approximately three or four times.*

*Q. Three or four times. Okay. Were those other times because you were approached by Mr. Kovach or were you approached by someone else?*

*A. Mostly by Kovach but I may have been approached by his secretary, Pat Zangardi.*

In an interview with Commission personnel, Henry Baldassari, Sr. stated that he gave Patricia Zangardi several \$250 and \$300 cash contributions for Ernest Preate's campaigns.

Patricia Zangardi testified concerning receipt of campaign contributions and her involvement in Mr. Preate's 1986 re-election bid for Lackawanna County District Attorney:

*A. ... You're asking my involvement in the DA's race? Did I actually receive checks or cash that were contributions for the DA's race? Is that correct?*

*Q. Yes.*

*A. My answer is, yes.*

*Q. You received cash and checks?*

*A. Yes.*

*Q. Or just checks?*

*A. Let me say this, I remember receiving checks. It's possible that, you know, there were a lot of events. But I do remember receiving contributions. Let me say it that way.*

James Judge, during his interview with the Commission, stated that he and his partner Raymond Petritus were approached by Joseph Kovach to contribute to Ernest Preate and that they gave Kovach \$2,000 cash on two separate occasions. First Eastern Bank records show consecutive cashier's check numbers 35003710 and 35003711, both dated May 22, 1987, in the amount of \$1,000 each. These cashier's checks are attributed to a "Jim Judge" and a "Ray Petritas", respectively. Raymond Petritus, co-operator of J&R Amusements, testified:

*Q. I'm going to show you ... a document which is the campaign expense statement report for the Ernest D. Preate, Jr. candidacy for district attorney for a reporting period of January*

*1st 1987 to December 31st of 1987 ... that entry shows that you made a thousand dollars political contribution to Mr. Preate's committee, doesn't it?*

*A. ... It says — my name is on that paper. ...*

*Q. This says Ray Petritus [Petritas], 242 Butler Street, Scranton, PA. That's your address?*

*A. No, it's not. I gave you my address.*

*Q. That's not your business address?*

*A. No, sir.*

*Q. You never lived at that address?*

*A. No, sir.*

Two operators testified that they had been approached by a member of the Baldassari family, rather than Mr. Kovach, for donations to Ernest Preate, Jr. William Ferrario testified that the money he gave to Joseph C. Baldassari would ... *help in his campaign because he was — the District Attorney [Preate] was so much in debt on his election.* Campaign records report Ferrario contributed \$1,000 to the *Ernie Preate DA Committee* on May 28, 1987. In addition to the \$1,000 reported contribution, Mr. Ferrario testified that he made at least one \$250 cash contribution to Mr. Preate's campaign:

*Q. Did Mr. Kovach or Mr. Baldassari, Joe Baldassari, Sr., did either one of them ever approach you to make any political contributions to political candidates in this area?*

*A. Joe Baldassari did. ... Joe said, Bill, we got to come up with some money ... we gave it in cash first ...*

*Q. ... you indicated to me ... that you gave cash the first time?*

*A. Two-fifty.*

*Q. Two-fifth in cash?*

*A. That was to Joe Baldassari.*

*Q. Who was the contribution for?*

*A. ... it was for [District] Attorney Preate at that time.*

*Q. ... So, the first time you were asked for a contribution from Joe Baldassari, Ernie Preate was the District Attorney?*

*A. Right ...*

Maple City Amusements, operated by Gordon Potratz, was partially financed by Joseph C. Baldassari. Mr. Potratz testified:

*Q. ... did Joe Kovach feel that any political contributions would be helpful in avoiding the type of thing that happened where there was eventually raids?*

*A. ... I think it's quite obvious and everybody knows that Joe Kovach was trying to help Ernie Preate by giving him some political contributions. ...*

*Q. Did Joe Kovach indicate that to you?*

*A. Yes, in this direction.*

*Q. You indicated he [Kovach] never solicited you for any political contribution?*

*A. No. ... I was solicited by Joe Baldassari.*

*Q. Did you make a contribution?*

*A. Yes, I did. It was either \$100 or \$500. ... it was in cash, and I gave to Joe Baldassari.*

However, Mr. Preate's campaign committee records show no reported contributions by Gordon Potratz.

*Ernie Preate for DA Committee* records declare that Joseph G. Gustin, operator of Joseph G. Amusements,<sup>23</sup> contributed \$750 on May 28, 1987. However, according to the Committee's bank records, two \$250 Merchants Bank personal money orders numbered 59609 and 59613,

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<sup>23</sup> A company which operated illegal video poker machines, Joseph G. Amusements had 13 of these machines seized during the Pennsylvania State Police raid of April 6, 1988. The *Friends of Ernie Preate Committee* records declare that Mr. Gustin contributed \$500 entered January 22, 1988 and \$400 entered April 4, 1988. The two 1988 reported contribution were returned to Mr. Gustin on April 11, 1988. Mr. Gustin was recommended by the Sixth Statewide Grand Jury to be charged with Corrupt organizations and Gambling devices, gambling, etc.

respectively, are attributed to "Joseph Gustin, 224 Lk Scr. Rd., Scranton, PA" and "Jos. Gustin, 224 Lk Scr. Rd., Scranton, PA".

Joseph C. Baldassari, co-operator of Baldassari Amusement Company<sup>24</sup> with brother Elio "Al" Baldassari and nephew Robert Baldassari at the time of the April 1988 raid, contributed \$2,000 to the *Ernie Preate DA Committee*. This contribution was entered by the Committee on May 28, 1987.

In one instance, an operator testified he forwarded a contribution directly to a Preate campaign aide, not Kovach. Al Pelicci, operator of C&A Vending,<sup>25</sup> testified that he gave a \$500 cash contribution for Ernest Preate's campaign. A Traveler's Express money order, through Old Forge Bank, number 241 2119 626, dated May 22, 1987, in the amount of \$500, is attributed to "Al Pelicci, Scranton, PA". Campaign records declare that a \$500 contribution for Mr. Pelicci to the *Ernie Preate DA Committee* was entered on May 28, 1987.

The *Ernie Preate DA Committee* declared that \$22,875 had been contributed by video poker operators which paid off approximately 28 percent of then District Attorney Preate's debt of \$80,914. Campaign bank loans were retired on June 10 and June 30, 1987, respectively. No video poker machine operators were identified by Mr. Preate's campaign committees as such. In most

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<sup>24</sup> A company which operated illegal video poker machines, Baldassari Amusement Company had 70 machines seized during the Pennsylvania State Police raid of April 6, 1988. The *Friends of Ernie Preate Committee* lists Joseph Baldassari contributing \$520 on January 27, 1988 but this contribution was refunded to Mr. Baldassari five days after the April 6, 1988 raid. Joseph C. Baldassari, along with co-owners of Baldassari Amusement Company, Robert Baldassari and Elio "Al" Baldassari, were recommended by the Sixth Statewide Grand Jury to be charged with Corrupt organizations, Criminal conspiracy, and Gambling devices, gambling, etc.

<sup>25</sup> C&A Vending, Inc., a company which operated illegal video poker machines, had 21 of these machines seized during the Pennsylvania State Police raid of April 6, 1988. According to Mr. Preate's campaign reports, Mr. Pelicci contributed \$500 on May 28, 1987. This amount was contributed to help retire then District Attorney Preate's 1986 campaign debt. This reported contribution was not refunded to Mr. Pelicci after the video poker raids. Mr. Pelicci, along with Gerald Remick, were recommended by the Sixth Statewide Grand Jury to be charged with Corrupt organizations, Criminal conspiracy, and Gambling devices, gambling, etc.

instances, video poker operators were identified in the campaign reports as either a "businessman" or "self-employed"; while others were incorrectly identified as "retired". In some cases, operators contributed to Ernest Preate using bank cashier's checks or personal money orders.<sup>26</sup> (See Table 1, *Reported Contributions From Video Poker Operators To Retire District Attorney Preate's 1986 Campaign Debt, May/June 1987.*)

#### Disagreements Between The State Police And The Lackawanna County District Attorney

In July 1987, the Pennsylvania State Police held a regional seminar on video poker gambling sponsored by State Police Area 2 Commander, Major Michael Jordan, to which all local county district attorneys and chiefs of police had been invited. Lackawanna County District Attorney Ernest Preate expressed opposition to the focus of this conference and to video poker enforcement in Lackawanna County. Corporal Peter Tonetti, who was in charge of the video poker investigation in the Northeast, testified:

*Q. Did you have discussions with then Lackawanna County District Attorney [Ernest] Preate relative to that conference?*

*A. ... Somewhere between the ... 8th of July and ... 28th of July [1987], I was approached by District Attorney Preate on Washington Avenue ...*

*Q. In Scranton?*

*A. Yes ... He said, 'What's going on with this video poker seminar?' ... he proceeded to advise me that he didn't want any enforcement action in Lackawanna County relative to video poker machines, that he would not attend or have anybody from his office attend, and that he didn't have any problems with these machines in the bar[s]. And he wanted [the] support of the bar owners, and he didn't want them bothered ... I thought to myself, what's Ernie up to now? He's always closing the bars. He certainly doesn't have the support of the bar*

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<sup>26</sup> See the Appendix, *Analysis of 1988 Campaign Finances For Attorney General Candidate Ernest D. Preate, Jr.*, for more information regarding contributions made to Ernest D. Preate's 1988 Attorney General campaign via bank and postal money orders.



Table 1 — Reported Contributions From Video Poker Operators To Retire District Attorney Preate's Campaign Debt. May/June 1987.				
Listed Contributor	Actual Business Affiliation	Listed Occupation Listed Business	Entry Date of Contribution	Reported Amount
Henry J. Baldassari	Hank Baldassari Co.	Businessman Self-employed	5/28/1987	\$1,000
J. J. Baldassari	Jo Jo Baldassari Vending / American Amusements & Sons	Businessman Self-employed	5/28/1987	\$1,000
Joe Baldassari	Baldassari Amusement Co. / Joe Baldassari Enterprises	Businessman Self-employed	5/28/1987	\$2,000
Frank Brozzetti	Hugo's Amusements/Vending	Businessman [blank]	5/28/1987	\$2,000
James Brozzetti	Jim's Amusements	Businessman Self-employed	5/28/1987	\$1,000
Eugene Caljean	Caljean Vending	Businessman Self-employed	5/28/1987	\$1,000
William Ferrario	Ferrario Amusements	Businessman Self-employed	5/28/1987	\$1,000
Rose Marie Frey	Sterling Services & Vending	Businessman Self-employed	5/28/1987	\$1,000
John Gustin	Gustin Amusements	Businessman Self-employed	6/01/1987	\$500
Joseph Gustin	Gustin Amusements	Businessman Self-employed	5/28/1987	\$750
Gabriel Horvath	Rex Vending	Retired [blank]	5/28/1987	\$750
James Judge	J&R Amusements	Adjuster [blank]	5/28/1987	\$1,000
Charles Kokinda	DeFazio Amusements	Retired [blank]	5/28/1987	\$1,000
Joseph Kovach	Active Amusements	Businessman Self-employed	6/01/1987	\$1,125
Frank (Mary) Mancuso	Mancuso Vending	Housewife [blank]	5/28/1987	\$2,000
William McGraw	McGraw Amusements	[blank] Self-employed	5/28/1987	\$1,000
Alfred Pelicci	C&A Vending	Physician (son Leroy is a physician) [blank]	5/28/1987	\$500
Ray Petritas [Raymond Petritus]	J&R Amusements	Retired [blank]	5/28/1987	\$1,000
Arthur Phillips	Rex Vending	Businessman Self-employed	6/01/1987	\$750
Donald Plappert	Don's Vending	Businessman Self-employed	5/28/1987	\$1,000
Philip Roth	Roth Novelty Co.	Businessman [blank]	5/28/1987	\$500
Ronald Sompel	Blue Chip Amusements	Businessman Self-employed	5/28/1987	\$1,000
TOTAL: 22 Listed Contributors				TOTAL: \$22,875

owners. He was a crusader against the bars from being opened after 2 a.m. It [struck] me ... he wouldn't have any enforcement action. I told him we have to do what we have to do.

Q. You understood him to be serious though?

A. Oh, sure.

Q. He didn't say it in a joking manner?

A. He was very serious.

#### Solicitation Of Campaign Contributions For Ernest Preate's 1988 Campaign For Attorney General

Video poker operators testified they were again approached by Joseph Kovach for additional contributions to Ernest Preate, Jr., after Mr. Preate decided to seek the Office of Attorney General. These solicitations occurred between January 1988 and shortly before the April 6, 1988 video poker raid by the State Police.

In addition to the \$1,000 reported contribution made to the *Ernie Preate DA Committee* entered May 28, 1987 for Eugene Caljean, campaign records show a \$260 contribution entered January 27, 1988, to the *Friends of Ernie Preate Committee*, Ernest Preate's Attorney General campaign committee. Mr. Caljean, operator of Caljean Vending, confirmed this contribution during testimony:

Q. ... the check for \$260 that again was solicited through Mr. Kovach?

A. Yes.

Two additional contributions from the Caljean family included a \$100 contribution from Eugene Caljean's ex-wife Linda; and \$500 from Eugene's brother Robert. Both of these donations were recorded by the *Friends of Ernie Preate Committee* on January 25, 1988. Caljean was asked whether his brother had been solicited by Kovach. ... I would have to say if my brother gave, I would have to say yes, [by] Joe Kovach.

Ronald Sompel, operator of Blue Chip Amusements at the time of the April 1988 video poker raids, testified that Joseph Kovach had solicited him to donate to Mr. Preate and that he made *at least one* cash contribution. As noted previously, Mr. Sompel contributed \$1,000 to the *Ernie Preate DA Committee*. Campaign records show that Mr. Sompel made a second contribution, to the *Friends of Ernie Preate Committee*, of \$260 entered January 27, 1988.

Video poker operator William McGraw testified that he gave a \$260 contribution to the *Friends of Ernie Preate Committee*. Committee records declare that a "Bill McGraw" contributed \$260 on January 27, 1988.

A \$500 reported campaign contribution was given by James Judge, co-owner of J&R Amusements, to the *Friends of Ernie Preate Committee* on January 27, 1988. In his interview with the Commission, Judge stated that he gave Joseph Kovach \$2,000 cash on two separate occasions, for Ernest Preate's campaigns.

Joseph Gustin, operator of Joseph G. Amusements, made two reported contributions to the *Friends of Ernie Preate Committee*: a \$500 contribution dated January 22, 1988 and a \$400 contribution dated April 4, 1988.

Campaign records for the *Friends of Ernie Preate Committee* declare that Henry Baldassari, Sr., contributed \$250 entered January 27, 1988.

Joseph O. "Jo Jo" Baldassari contributed \$260 on January 27, 1988, to the *Friends of Ernie Preate Committee*.

The *Friends of Ernie Preate* campaign records declare that Joseph C. Baldassari made a \$520 contribution entered January 27, 1988.

Some Campaign Contributions Were Returned After The April 6, 1988 Raids; Some Were Not

Reported contributions to Mr. Preate's campaign committees from the Caljean family, between May 1987 and February 1988 totaled \$1,860. When asked whether he received a refund from Mr. Preate's committee, Mr. Caljean testified:

*Q. Did you ever get any money back?*

*A. Yes, I did.*

*Q. That was after the raids took place?*

*A. Yes.*

*Q. Did you get that \$260 back?*

*A. No, not from the check. I ... gave some cash at one time that Mr. Kovach gave back to me.*

*Q. How much was that?*

*A. I think \$250.00.*

Reported contributions for Ronald Sompel, operator of Blue Chip Amusements, made to Ernest Preate's campaign committees between May 1987 and April 1988 total \$1,260. Mr. Sompel received a letter, dated April 11, 1988, from Patrick Meehan, Esq., Campaign Manager, Ernest Preate, Jr.'s Attorney General's race. The letter reads as follows:

April 11, 1988

Mr. Ronald Sompel  
807 Johns Drive  
Moosic, PA 18507

Dear Mr. Sompel:

Enclosed please find a check in the amount of \$260.00 which represents a refund of your contribution to the Friends of Ernie Preate Committee.

Because of the present situation involving the seizure of video machines by law enforcement agencies, we think it only proper and prudent that we refund your contribution to the Committee, even though your contribution to the Committee was made long before this situation arose.

Sincerely,

Patrick Meehan, Esq.  
Campaign Manager

Enclosure

Mr. Sompel testified:

*Q. ... Now, was this amount [the \$1,000 contribution dated May 19, 1987] or this check ever returned to you?*

*A. No.*

*Q. This thousand dollars?*

*A. No.*

Two contributions made by video poker operator William McGraw were reported by Mr. Mr. Preate's campaign committees between May 1987 and January 1988: a \$1,000 contribution to the *Ernie Preate DA Committee* and a \$260 contribution to the *Friends of Ernie Preate Committee*. Mr. McGraw testified he received a refund check from Ernest Preate's election committee in the amount of \$250. A *Summary of Expenditures* statement from the *Friends of Ernie Preate Committee* shows a \$260 return to Mr. McGraw dated April 11, 1988. Mr. McGraw testified:

Q. When you say you got it back, when and why would you have gotten that [\$250] back?

A. I don't know. This is when all this came up about Preate.

Q. Subsequent to the video poker raids?

A. After the video poker raids.

According to campaign reports filed by the *Friends of Ernie Preate Committee* Mr. Judge received a refund of \$520 on April 11, 1988, five days after the video poker raids. The *Friends of Ernie Preate Committee* reported a \$500 contribution for Mr. Judge on January 27, 1988. However, during his interview with the Crime Commission, Judge stated that he and partner Raymond Petritus gave Joseph Kovach \$2,000 cash on two occasions — the first to help retire Mr. Preate's debt for his 1986 District Attorney election, and the second contribution, for Mr. Preate's 1988 Attorney General bid, sometime in January 1988.

In addition to \$750 contributed to the *Ernie Preate DA Committee* entered May 28, 1987, Joseph Gustin made two subsequent contributions to the *Friends of Ernie Preate Committee*: a \$500 contribution dated January 22, 1988 and a \$400 contribution dated April 4, 1988. On April 11, 1988, Gustin received \$900 from the *Friends of Ernie Preate Committee*. However, the \$750 campaign contribution to retire Mr. Preate's debt was not returned.

Al Pelicci, operator of C&A Vending, contributed \$500 cash, entered May 28, 1987 to assist in retiring Preate's DA debt. Mr. Pelicci testified:

Q. ... Did anybody in his [Preate] campaign come back and say, look, this creates an awkward situation, we're going to give you money back?

A. I didn't get any money [back].

Joseph C. Baldassari received a \$520 refund from the *Friends of Ernie Preate Committee*. The refund was for the \$520 reported contribution to the *Friends of Ernie Preate Committee* entered January 27, 1988. Joseph C. Baldassari had contributed \$2,000, entered May 28, 1987 to retire Mr. Preate's District Attorney debt.

Joseph O. "Jo Jo" Baldassari, nephew of the late Joseph C. Baldassari, testified, with regard to the total dollar amount he had given to Ernest Preate, Jr.:

*Q. ... we're talking roughly you wound up kicking in a total of around \$3,500, \$4,000?*

*A. Yes ... And the poker raid came. And then the stink. Do you remember that little stink about Ernie, and he gave the campaign contributions back....I got a check back. It wasn't anywhere near what I gave him [Preate]. I was hoping I was going to get that all back.*

*Q. How much did he give back?*

*A. It was only a hundred and some dollars to make it look like he gave campaign contributions back, but it was none near.*

"Jo Jo" Baldassari received a \$260 check returning his campaign contribution from the *Friends of Ernie Preate Committee*. This check was dated April 11, 1988. Campaign reports reveal Joseph O. Baldassari contributed \$1,000 to the *Ernie Preate DA Committee* on May 28, 1987 and \$260 on January 27, 1988, to the *Friends of Ernie Preate Committee*. These figures do not include "Jo Jo" Baldassari's unreported cash contributions.

Henry Baldassari, Sr. was questioned under oath as to why he received a \$250 refund from the *Friends of Ernie Preate Committee*. He explained in his testimony:

*Q. You indicated you got money back?*

*A. Yeah, one check come back. I don't know how much it was.*

*Q. It wasn't as much as you gave?*

*A. No, just one donation ...*

*Q. Why did you get it back?*

*A. Well, there was some trouble after the raid and I guess Ernie didn't want to get in no trouble getting money from the operators, so he made it look —*

*Q. Made it look what?*

*A. That it was clean, you know.*

Five days after the April 6, 1988 video poker raid, the *Friends of Ernie Preate Committee* issued refunds of contributions to some video poker operators. In May-June 1987, operators contributed to the *Ernie Preate DA Committee* and the January-April 1988 contributions were made to the *Friends of Ernie Preate Committee*. None of the contributions made to retire Ernest Preate's District Attorney campaign debt were returned. Of the \$6,060 reported contributions made between January-April 1988 attributed to video poker vendors, \$2,970 or approximately 49 percent were refunded. The video poker operators contributed to Ernest D. Preate, Jr., the candidate, and did not distinguish between Ernest Preate's various campaign committees. Operators did not make distinctions between whether their contributions were given in cash or check. (See Table 2, *Reported Contributions From And Refunds To Video Poker Operators, Friends of Ernie Preate Committee, Winter/Spring 1988.*)

#### Joseph Kovach Contacts Some Vendors To Return Contributions After The April 6, 1988 Raids

Video poker operators testified that after the April 6, 1988 raids, Mr. Kovach returned some operators' contributions which had been given before the raids occurred.

Eugene Caljean testified that after the April 1988 video poker raids, Joseph Kovach returned a cash contribution designated for Mr. Preate:

*Q. Did he [Joseph Kovach] ever request cash from you?*

*A. Just the one time.*

*Q. ... And you believe he gave it back to you?*

*A. I know he did.*

*Q. ... Was this around the time the raids had taken place?*

*A. It was after.*

*Q. ... He gets the money before the raids. After the raids occur, you get a call to come and pick your money up?*

*A. We were going to contribute to the campaign and then when he raided Lackawanna County, Mr. Kovach didn't think that he should get the money.*



**Table 2 — Reported Contributions From, And Refunds To Video Poker Operators,  
By Friends of Ernie Preate Committee, Winter/Spring 1988.**

Listed Contributor	Business Affiliation	Contribution Entry Date	Reported Amount	Reported Refund (4/11/1988)	Remarks
Henry Baldassari	Hank Baldassari Co. [NOT identified on Committee report]	1/27/1988	\$250	\$250	<ul style="list-style-type: none"> <li>• Part of 4/06/1988 Raid (11 machines seized)</li> <li>• Recommended to be charged by Grand Jury</li> </ul>
Joseph Baldassari	Baldassari Amusements Co. [identified on Committee report]	1/27/1988	\$520	\$520	<ul style="list-style-type: none"> <li>• Part of 4/06/1988 Raid (70 machines seized)</li> <li>• Recommended to be charged by Grand Jury</li> </ul>
Joseph O. Baldassari	Jo Jo Baldassari Vending [identified as Jo Jo Baldassari & Sons on Committee report]	1/27/1988	\$260	\$260	<ul style="list-style-type: none"> <li>• Part of 4/06/1988 Raid (12 machines seized)</li> <li>• Recommended to be charged by Grand Jury</li> </ul>
James Brozzetti	Jim's Amusements [identified on Committee report]	1/27/1988	\$260	NO REFUND	<ul style="list-style-type: none"> <li>• Part of 4/06/1988 Raid (4 machines seized)</li> </ul>
Eugene Caljean	Caljean Vending [NOT identified on Committee report]	1/27/1988	\$260	NO REFUND	<ul style="list-style-type: none"> <li>• Part of 4/06/1988 Raid (13 machines seized)</li> </ul>
Linda Caljean (Eugene Caljean's former wife)	Caljean Vending [NOT identified on Committee report]	1/25/1988	\$100	NO REFUND	<ul style="list-style-type: none"> <li>• Part of 4/06/1988 Raid (13 machines seized)</li> </ul>
Robert Caljean (Eugene Caljean's brother)	Caljean Vending [identified on Committee report]	1/25/1988	\$500	NO REFUND	<ul style="list-style-type: none"> <li>• Part of 4/06/1988 Raid (13 machines seized)</li> </ul>
M/Ms James Ferrario	Ferrario Amusements Co. [NOT identified on Committee report]	2/09/1988	\$200	NO REFUND	<ul style="list-style-type: none"> <li>• Part of 4/06/1988 Raid (7 machines seized)</li> </ul>
William Ferrario	Ferrario Amusements Co. [NOT identified on Committee report]	1/27/1988	\$250	NO REFUND	<ul style="list-style-type: none"> <li>• Part of 4/06/1988 Raid (7 machines seized)</li> </ul>
Joseph Gustin	Gustin Amusements [identified as <u>Gustin's</u> on Committee report for both contributions]	1/22/1988 4/04/1988	\$500 \$400	\$900	<ul style="list-style-type: none"> <li>• Part of 4/06/1988 Raid (13 machines seized)</li> <li>• Recommended to be charged by Grand Jury</li> </ul>

**Table 2 — Reported Contributions From, And Refunds To Video Poker Operators,  
By Friends of Ernie Preate Committee, Winter/Spring 1988.**

Listed Contributor	Business Affiliation	Contribution Entry Date	Reported Amount	Reported Refund (4/11/1988)	Remarks
James Judge	J & R Amusements [identified as J&K Amusements on Committee report]	1/27/1988	\$500	\$520	<ul style="list-style-type: none"> <li>• Part of 4/06/1988 Raid (43 machines seized)</li> <li>• Recommended to be charged by Grand Jury</li> </ul>
Charles Kokinda	DeFazio Amusements [identified on Committee report]	1/27/1988	\$260	NO REFUND	<ul style="list-style-type: none"> <li>• Part of 4/06/1988 Raid (6 machines seized)</li> </ul>
Louis Mancuso	Mancuso Vending [identified on Committee report]	1/27/1988	\$520	NO REFUND	<ul style="list-style-type: none"> <li>• Part of 4/06/1988 Raid (17 machines)</li> <li>• Recommended to be charged by Grand Jury</li> </ul>
William McGraw	McGraw Amusements [NOT identified on Committee report]	1/27/1988	\$260	\$260	<ul style="list-style-type: none"> <li>• Part of 4/06/1988 Raid (8 machines seized)</li> </ul>
Donald Plappert	Don's Vending [identified on Committee report]	1/27/1988	\$260	NO REFUND	<ul style="list-style-type: none"> <li>• Part of 4/06/1988 Raid (2 machines seized)</li> </ul>
Marvin Roth	Roth Novelty [identified on Committee report]	2/12/1988	\$500	NO REFUND	Not part of 4/06/1988 Raid
Ronald Sompel	Blue Chip Amusements [NOT identified on Committee report]	1/27/1988	\$260	\$260	<ul style="list-style-type: none"> <li>• Part of 4/06/1988 Raid (6 machines seized)</li> </ul>
TOTALS:		18 contributions from 17 individuals	\$6,060 (100%) Contributions	\$2,970 ( 49%) Refunds	8 contributions refunded to 7 contributors.

*Q. And he gave it back?*

*A. Mr. Kovach did.*

Philip Eisenberg is the former CEO and operator of Consolidated Vending, Johnstown, a company which distributed and operated illegal video poker machines. Eisenberg testified that Joseph Kovach sent him 100 tickets to sell for a breakfast fund raising meeting with Mr. Preate:

*Q. Did you attempt to -- or did you pass out those [100] tickets?*

*A. I sent either five or ten to every member of the Board of Directors [of the Pennsylvania Amusement & Music Machine Association] with a letter asking them to try and sell these tickets. ...*

*Q. Did you ever collect any funds for the sale of those tickets?*

*A. Yes, I did.*

*Q. Would you remember, approximately, how many of the tickets you collected for?*

*A. I collected ... for six tickets. But there was an incident that took place after that stopped the sale of the tickets.*

*Q. ... What was the incident that took place?*

*A. There was a raid on machines up in the northeast; that is, on poker machines. And some time -- it was within a day or two after that, Joe Kovach called me up. He sounded very excited on the phone. He asked me to call him on a different number, which I presume was a pay phone number. I called him and he said, Phil, do me a big favor. Get all those tickets back and return the money.*

ALLEGATION NO. 1: Mr. Ernest D. Preate, Jr., while District Attorney of Lackawanna County, approached Elmo Baldassari to seek his help in obtaining campaign contributions from Northeastern Pennsylvania video poker machine operators. According to Baldassari, Mr. Preate stated to him that, in return, he would not enforce the laws against illegal video poker gambling. Through this contributions arrangement, Mr. Preate received contributions from video poker operators which included unreported cash.

### **THE COMMISSION'S INVESTIGATIVE FINDINGS**

The Commission determined that Joseph Kovach or a member of the Baldassari family played a central role in soliciting, collecting, and forwarding video poker operators campaign contributions to Mr. Preate. A number of these contributions exceeded \$100 and were given in cash — in violation of state election campaign laws.

The Commission determined that Joseph Kovach represented to numerous video poker operators that then District Attorney Preate would not hurt them in their illegal video poker machine gambling business.

The Commission determined that Joseph Kovach kept a list of who donated and who did not, and that the amount of the contributions solicited was based on the size of illegal video poker operators' businesses.

The Commission determined that video poker machine operators contributed to Mr. Preate, the candidate, and did not distinguish between Mr. Preate's various campaign committees. Operators also did not make distinctions between whether their contributions were given in cash or check form.

The Commission determined that Mr. Preate did not return any of the contributions collected from video poker operators to retire the debt incurred during his 1986 re-election bid for

Lackawanna County District Attorney. These reported contributions totaled \$23,000 or 28 percent of then District Attorney Preate's \$80,914 debt.

The Commission determined that of the \$6,060 reported contributions from video poker vendors, collected between January and April 1988 for the *Friends of Ernie Preate Committee*, \$2,970, or about 49 percent, were refunded to these operators.

The Commission determined that Mr. Preate and persons associated with his political campaign committees received cash contributions which were unreported.<sup>27</sup>

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<sup>27</sup> During May 1993, in addition to conducting field interviews and private hearings, the Commission analyzed records and available bank documents for the *Preate for Attorney General* and the *Friends of Ernie Preate Committee* for the year 1988. On August 2, 1993, the Attorney General filed amendments with the State Election Bureau for his past campaign expense reports for the *Friends of Ernie Preate Committee* covering the period 1988 to 1992. The amended papers identified 238 previously unreported contributions totaling over \$146,000, and 11 expenditures totaling over \$224,000 that were either unreported or under reported. The stated reason for the filing was to correct *inadvertent clerical errors*, following an audit of the campaign books by an exploratory committee on behalf of a potential Preate gubernatorial bid. The Commission's financial analysis of Mr. Preate's political committee expenses and contributions appears in the Appendix, *Analysis Of 1988 Campaign Finances For Attorney General Candidate Ernest D. Preate, Jr.*

#### IV. DISTRICT ATTORNEY PREATE ATTEMPTS TO REPLICATE THE CONTRIBUTIONS ARRANGEMENT STATEWIDE

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ALLEGATION NO. 2: Mr. Preate, with the assistance of Elmo Baldassari's business partner, the late Joseph Kovach, attempted to replicate the contributions arrangement statewide, when he sought the Office of Attorney General in 1988.

When interviewed by Crime Commission agents, Elmo Baldassari stated that Ernest Preate, Jr., while seeking the Office of Attorney General, requested Baldassari's assistance in soliciting campaign contributions and votes. Specifically, Mr. Baldassari was asked by Mr. Preate if he had contacts with video poker operators throughout the state. Elmo Baldassari said that his partner, Joseph Kovach, subsequently took Mr. Preate to vending companies throughout the state for large cash campaign contributions. Mr. Baldassari further said that these vending company operators across the state donated large sums of money, much in cash, to Mr. Preate's campaign, which was not reported. Mr. Baldassari advised that Mr. Kovach took Mr. Preate around the state at Baldassari's request, and Kovach kept records of the donations and trips. Mr. Baldassari stated that he contributed money to Mr. Preate's campaign, in addition to getting other contributions from people in the area.

When Mr. Baldassari was called before the Commission to testify, he invoked his Fifth Amendment rights against self-incrimination. However, when asked specifically about his previous statements to Crime Commission agents, Mr. Baldassari confirmed that those earlier statements were accurate:

*Q. Let me clarify something, Mr. Baldassari. There's no reason for you to exercise the Fifth if you are not going to incriminate yourself. So at any point you want to get up and leave the hearing and speak to Mr. Kane [Baldassari's counsel] feel free to go.*

*A. But if you check with the F.B.I., they have all the information. Everything you ask me, they have all in black and white. I answered a couple of weeks ago.*

*Q. Did you give the F.B.I. answers to all these questions?*

*A. Yes.*

...

*Q. On the 15th [of January 1992], when you did the interview with our agents, you gave them accurate and truthful information?*

*A. Yes, I just said that.*

*Q. That's what we're looking to reaffirm on the record.*

*A. He [Special Agent J. F. Kanavy] had it all the last time I talked to him.*

Mr. Kovach Arranges Meeting With Directors Of Pennsylvania Amusement & Music Machine Association (PAMMA)

Joseph Kovach, in his attempts to contact video poker operators in other areas of the state on behalf of Ernest Preate, Jr., called an old friend, Philip Eisenberg, former manager and co-owner of Consolidated Vending Company, Johnstown. Eisenberg had been in the vending business since the 1940's. He was one of the founding members of the Pennsylvania Amusement & Music Machine Association (hereafter "PAMMA"), created in 1982. He was a director of PAMMA, was a Chairman of the Board, and was on its Board of Directors from approximately 1985 until his resignation in June 1992.<sup>28</sup>

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<sup>28</sup> Mr. Eisenberg's company, Consolidated Vending, was one of the largest distributors and operators of illegal video poker gambling machines in the Johnstown/Cambria County area in the 1980's until approximately 1992, when the Pennsylvania State Police seized 157 of its illegal video poker machines on June 16, 1992. Eisenberg pled guilty to one charge of money-laundering on September 15, 1993, stemming from the June 1992 State Police raid. The case was developed by the Pennsylvania State Police and prosecuted by the Office of Attorney General. On October 20, 1993, Eisenberg was sentenced to pay \$100,000 in fines, court costs, and the state police and grand jury cost for investigation of \$13,233. He was required to perform 100 hours of community service, serve 23 months of probation, of which 60 days were under house arrest, and pay \$300 for the cost of monitoring the house arrest. In the interim, Eisenberg sold his vending business.

Mr. Preate Meets With Directors Of PAMMA

Mr. Eisenberg testified that he organized a retreat for the Board of Directors of PAMMA in January 1988, which was held in Hershey. Prior to the retreat, Mr. Eisenberg received a request by telephone from his long-time friend Joseph Kovach, asking Eisenberg if Kovach could bring attorney general candidate Ernest Preate, Jr., to meet some of the directors of PAMMA. Mr. Eisenberg arranged for several members of the PAMMA board to attend a dinner at the conclusion of the retreat, at which Mr. Preate gave a talk:

*Q. Prior to your attending that meeting, were you approached by anyone who requested that the Board of Directors be addressed as a group [by someone] who might have been running for political office?*

*A. I had a call from a Joe Kovach from... Scranton, Pennsylvania -- who I have known for 20 years and asked me if I could get together some of the Board of Directors and hold a meeting with him at which time he would bring Ernie Preate to the meeting.*

*Q. And did he indicate to you what office Mr. Preate was running for at that time?*

*A. Yes, he did.*

*Q. And what was that office?*

*A. He told me Ernie Preate was running for the office of Attorney General of Pennsylvania.*

*Q. Did he indicate to you what office Mr. Preate held at the time?*

*A. He told me he was District Attorney in the area which Mr. Kovach lived.*

*Q. Did Mr. Kovach indicate to you in that conversation why he thought -- or if he thought it would be helpful for the association [PAMMA] to have some type of relationship with Mr. Preate?*

*A. He told me Mr. Preate was not interested in poker machines -- for the prosecution of anybody in the poker machine business, that his main thrust was always drugs and that's what it would continue to be.*

*Q. How did you understand that conversation and those representations?*

*A. That he would be a friend to the industries, and that he would not be out to hurt the industry.*



*Q. Did Mr. Kovach discuss with you at any time any enforcement efforts or lack of enforcement efforts that may have taken place in his home area?*

*A. He said that they haven't had any problems up in that area in many years.*

*Q. He specifically brought that up in that conversation and pointed that out to you?*

*A. Yeah.*

*Q. What was your response about the ability to have Mr. Preate meet with the Board of Directors?*

*A. I thought that I had enough friends in there that I could ask them to convene after the meeting and meet with Mr. Preate....*

*Q. What type of meeting was arranged and do you recall where it was held?*

*A. It was a dinner meeting. It was held at the Hershey Hotel.*

*Q. And can you recall for me now the list of the actual individuals who appeared at that meeting --*

*A. Myself --*

*Q. -- that you may recall?*

*A. Myself, Russ Warner, Arnie and Pat Taksen, Al Medved, Bill Shay, Ben Hufnagel, Gabe Horvath, Joe Kovach, and Ernie Preate.*

Among those in attendance identified by Mr. Eisenberg were Russell Warner,<sup>29</sup> owner/operator of Warner's Coin Machine Company, Erie; Albert Medved<sup>30</sup> of Americal Amusements, Lancaster; William Shay, Jr.,<sup>31</sup> of Shay's Vending, Lebanon; Ben Hufnagel of Staff Inc., Hanover; and Arnold Taksen of D&L Distributing, Harrisburg, along with his wife, Patricia Taksen. A number of these PAMMA directors testified regarding the meeting. Arnold Taksen testified:

*Q. At this winter meeting in... the early part of 1988, did you have occasion to attend a meeting where the now Attorney General, Mr. Ernie Preate attended?....*

*A. I was at a Board of Directors meeting, I believe. My recollection is really not, it's some time ago. But at that meeting I was introduced to the now Attorney General of the State of Pennsylvania.*

*Q. Do you recall who introduced you to him?*

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<sup>29</sup> Crime Commission analysis of Mr. Preate's political campaign expense records identified, among others, two unreported contributions from Russell Warner's wife, Irene Warner: a check in the amount of \$500, dated May 18, 1988; and a \$100 postal money order dated September 8, 1988. Known reported contributions from the Warners are two \$200 contributions, from Irene and Russell, respectively, entered into campaign records on June 16, 1989. In 1985, Russell Warner, operator of Warner's Coin Machine Company, Erie, had approximately 59 illegal video poker machines seized by federal authorities. This seizure was part of a larger raid which took place in Western Pennsylvania where a total of 294 video poker machines were confiscated. In September 1991, Mr. Warner was sentenced to 120 days probation and fined \$1,000 for illegal gambling activity relating to the 1985 raid. This case was the source of the July 20, 1989 video gambling device decision by U.S. District Court Justice Gerald Weber which established that video poker machines (in the Western District of Pennsylvania) are illegal gambling devices *per se* for federal purposes, and that seizures by law enforcement authorities may be made without observing payouts or determining that machines have knock-off switches (*United States v 294 Various Gambling Devices*, 731 F. Supp. 1246).

<sup>30</sup> Reported contributions in Mr. Preate's campaign records attributed to "Al Medved" are for June 27, 1990, in the amount of \$250, and June 13, 1991, for \$650.

<sup>31</sup> William James Shay, Jr., and his father, William James Shay, Sr., operate Shay's Vending Service, 1504 Cumberland Street, Lebanon, PA. They were arrested by the Pennsylvania State Police on charges relating to illegal video poker gambling. Shay, Jr., was arrested on March 14, 1986 in Jonestown; the charges against him were dismissed on January 9, 1987. Shay, Sr., was arrested on March 17, 1986 in Jonestown, on gambling device charges. On July 30, 1986, he pled guilty and was sentenced to probation, a \$10,000 fine, and costs.

*A. He was, I believe he was brought down by a gentleman named Joseph Kovach, I believe from Scranton, Pennsylvania, at the time. And he attended our dinner that night.*

Benjamin Hufnagel testified:

*Q. Now, do you recall attending that PAMMA Board of Directors meeting in Hershey, Pennsylvania, in the early part of 1988?*

*A. Yes, sir, I do....*

*Q. Was there any function or anything held after the Board of Directors meeting or any event that you attended where there were any political candidates?*

*A. We were invited to have coffee with a political candidate after the familiar PAMMA function was over....*

*Q. Do you recall who invited you to that dinner?*

*A. If I recall, it was Phil Eisenberg, I think was the gentleman's name that invited me to the dinner...*

*Q. ...do you recall who the candidate was that appeared at that time?*

*A. Yes, sir. It was Mr. Preate.*

*Q. Our current Attorney General, Mr. Ernest Preate?*

*A. Yes, sir.*

William Shay, Jr., testified:

*Q. Pursuant to those responsibilities as treasurer [for PAMMA], did you have occasion to attend or be at a Board of Directors meeting that was held in the early part of 1988 in Hershey, Pennsylvania?*

*A. Yes.*

*Q. Okay. At that point you were not a member of the Board of Directors?*

*A. Yes, I was. I was a member of the Board of Directors. But that was not a PAMMA meeting, per se. We were, I was called by a gentleman by the name of Phil Eisenberg, who also sat on the board of PAMMA and he called as a -- it wasn't -- I don't know how to*

*phrase this, gentlemen. It wasn't an official PAMMA meeting. It was him calling up some people actually on the Board of Directors to meet a gentleman at that time who was running for Attorney General.*

*Q. So, in other words, you weren't at a Board of Directors meeting where the subject was brought up?*

*A. No, sir. Not that I can -- this was just a bunch, maybe a group of, I don't remember exactly. Eight, nine board members that were called by a gentleman by the name of Phil Eisenberg to attend a get together to meet, actually it was Ernie Preate.*

Philip Eisenberg testified that Mr. Preate came to the dinner with Joseph Kovach. Gabriel Horvath,<sup>32</sup> of Rex Vending, accompanied Messrs. Kovach and Preate. According to Mr. Eisenberg, Mr. Preate stressed that if elected attorney general, his priority would be in the area of drug enforcement. At the meeting, Mr. Preate said that he was not interested in video poker machines, but that his agenda was strictly drugs. Mr. Eisenberg testified regarding Mr. Horvath's role in accompanying Mr. Preate to the meeting:

*Q. He was originally on the Board of Directors?*

*A. Originally on the Board of Directors...*

*Q. This is Mr. Horvath?*

*A. This is Mr. Horvath.*

*Q. Did you invite him to that meeting?*

*A. I hadn't spoken with him before that, no.*

*Q. Do you know who he came with?*

*A. He came.... [with] Gabe [Horvath] and Joe Kovach....*

---

<sup>32</sup> Pursuant to a joint investigation of Gabriel Horvath's illegal video poker gambling activity by the Crime Commission, State Police and Internal Revenue Service, raids were conducted on January 25, 1994. During these raids, authorities seized 36 video poker machines belonging to Horvath's business, Rex Vending. Over one million dollars in currency and securities (over \$900,000 cash) and securities (approximately \$250,000) were subsequently seized from Gabriel Horvath by the Internal Revenue Service, on his person, at his residence, and at his safety deposit boxes.

*Q. Now, at that particular time, can you just indicate what took place during that dinner meeting?*

*A. Joe introduced Ernie Preate, he was a good friend of his. And Ernie spoke about his main thrust being drugs and he wasn't too concerned about machines and that Joe Kovach was a good friend of his. And, of course, he asked for our support.*

In testimony, Mr. Shay, Jr., confirmed that attorney general candidate Ernest D. Preate, Jr., attended a dinner with a number of PAMMA directors at the conclusion of the PAMMA retreat in 1988 at which he asked for their support:

*Q. Did anyone ever discuss with you or explain why they wanted you to meet Mr. Preate as a candidate?*

*A. What I -- before the meeting, no. At the meeting, that he was just looking for our support.*

*Q. Okay?*

*A. That's basically -- yeah.*

*Q. When you say our support?*

*A. Looking for votes, looking for votes that we could basically go back to our people and say hey, this is the guy we'd like to back, et cetera.*

Mr. Taksen testified:

*Q. But you know definitely Mr. Kovach was [with Mr. Preate]?*

*A. Mr. Kovach? I believe Mr. Kovach was the person who brought him to the meeting and introduced him to everybody at that meeting....*

*Q. What, basically, was the import of that particular meeting? What was the meeting?*

*A. I believe he was there to solicit help from our association for his upcoming -- his running for the --*

*Q. Campaign?*

*A. For his campaign, right....*

*Q. ...Why did he come there? To have dinner?*

*A. He came there to be introduced to the members of our association to get some help from that, I am sure to help him during his political campaign.*

Mr. Hufnagel testified:

*Q. ...do you recall who the candidate was that appeared at that time?*

*A. Yes, sir. It was Mr. Preate.*

*Q. Our current Attorney General, Mr. Ernest Preate?*

*A. Yes, sir.*

*Q. Were you told ahead of time that he would be appearing at this particular dinner?*

*A. No, sir. Well, when I was invited, which was during the course of the afternoon, sometime, that's all.*

*Q. Okay. Did Mr. Eisenberg indicate to you the purpose of why they wanted to have the dinner or why they wanted to introduce Mr. Preate?*

*A. No, sir. Just a political candidate that was looking for support.*

*Q. But it was characterized as a meeting with a political candidate who was looking for support?*

*A. Yes, sir....*

*Q. Do you recall if Mr. Preate addressed you as a group in any form of speaking other than meeting him directly?*

*A. Yes. I believe he stood up in front of the table when we were finished eating and said a few words.*

*Q. Do you recall what they were about?*

*A. Basically that he was running, planning to run for Attorney General, and he was looking for support.*

Mr. Shay, Jr., testified he had heard of Joseph Kovach's links to the Baldassari family in Northeast Pennsylvania. Mr. Shay, Jr., testified that Mr. Preate, in the speech he gave at the dinner, described his professional background and his political agenda:

*Q. Did you know if Mr. Kovach was a member of your organization?*

*A. I don't believe he was and I don't think so today.... I don't think, honestly don't think PAMMA wanted to affiliate themselves with a gentleman like that...*

*Q. What do you mean?*

*A. He [Kovach] wasn't our kind of guy. I mean, I heard, you hear through the rumor... that he just wasn't a... fair player... I heard nasty things about Joe Kovach that we didn't want him to -- that he was connected with that Baldassari. PAMMA isn't that kind of group.... I heard this already in the '60s, '70s... I remember hearing names like that from my father....*

*Q. Do you recall if he [Mr. Preate] gave a speech or a talk or anything else like that?*

*A. He did give a -- he gave a talk. He came out with paraphernalia, a picture of himself, where he was born and raised. Where he went to school, I believe. Military service. I think he might have been a Vietnam vet that I recall but that was -- married. I think he was divorced at that time, separated, had a couple of kids. That was basically it. Why he'd like to be elected. He thought he could help the state.*

Albert Medved testified he was present at the dinner and that Mr. Preate solicited the support of these directors of PAMMA for his candidacy. Mr. Medved testified that there was a lobbying effort within PAMMA for the legalization of video gambling, and Mr. Medved felt that candidate Preate would be supportive of this effort. Mr. Medved also testified that he subsequently invited Mr. Preate to two political functions in Lancaster County in 1988:

*Q. You were introduced to [Mr. Preate]?*

*A. Right. I was there having dinner and discussions and I think he spoke for a few moments and the thing that I recall that impressed me the most was that he was covering the state trying to get votes and he was out to get druggies. I said that's -- he just did not like to have these drug runners on the street and drunken drivers, and that was going to be his campaign and he wanted our support individually.*

*Q. Okay.*

*A. And I was impressed.*

*Q. Did he indicate what type of support that he wanted?*

*A. Like any candidate, I guess whatever it takes to -- which I have supported him. Financial, whatever.*

*Q. Okay.*

*A. He also said that I will visit your town, make speeches, introduce you to people. Which I did do. I had come home to my -- I am a past president of the Lancaster Kiwanis Club. I had him [Mr. Preate] come to our Kiwanis Club and give a talk. George Bush came into Lancaster and I invited him [Mr. Preate] down into Lancaster and did a breakfast. It was more than money. It was just the opportunity of exposure....*

*Q. You indicated... previously when you were introduced, you gave contributions as well as support by taking the candidate [Mr. Preate] around?*

*A. Yes.*

*Q. ...what was the reason you were doing that?*

*A. I thought this was the -- I am a Republican, he's a Republican and he indicated that he was out, he just gave me his spiel, that I am somebody that's out there that's willing to go out to bat. I am aware of the drug problem and what not and I said hey, fine.*

*As a matter of fact, I guess because, maybe because of support that I helped him and campaigned and that I know when he testified before the Committee to legalize video poker, he said I'd rather see them legalized than illegal out there because it's not a good thing, which I agree. And he has my support.*

*That's somebody who said I'd rather have them legalized. I'd rather him than Governor Casey. I figure if we can go through the House and Senate, we have somebody that could support it.*

Philip Eisenberg testified that Mr. Preate's appearance before a group of PAMMA directors was the only such instance he could ever remember that a candidate appeared before the group. PAMMA has a lobbyist and holds an annual affair in Harrisburg which politicians and elected officials are invited to attend:



*Q. Had you had any other -- during your term as a member of the Board of PAMMA, have you ever had that type of request from a person who was running for State office or somebody along that line requested to appear and talk to the Board members and seek their support?*

*A. No.*

*Q. Mr. Preate, then, would be the only candidate that you can recall?*

*A. Who came to a dinner like that, yes.*

Mr. Medved testified similarly:

*Q. Was that the only candidate that you ever met with like that?*

*A. At a specific board meeting that I recall, yes.*

....

*Q. So this is the only time you can recall it ever happening?*

*A. Right.*

#### Video Poker Operators From Other Parts Of The State Are Solicited And Contribute

Philip Eisenberg stated that Joseph Kovach and Mr. Preate wanted video poker operators affiliated with PAMMA to raise \$100,000 for Mr. Preate's election campaign, but the request was turned down.<sup>33</sup> Regarding the fund raising effort by PAMMA for the benefit of Mr. Preate's political campaign, Mr. Eisenberg testified:

*Q. Did you become aware that PAMMA had been asked to raise a large sum of money for Preate?*

*A. Not at the time that I was selling tickets. I'm not going to say anything more about that.*

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<sup>33</sup> In testimony, Philip Eisenberg refused to discuss this issue on the record, because of the ongoing criminal proceedings involving Delmar Guerrini and his father, Frank Guerrini. The Guerrinis are awaiting trial for video poker gambling related charges. See following page.

*Q. Other than subsequently you did become aware?*

*A. Yes.*

Delmar Guerrini, operator of Frank Guerrini Vending Machines, Inc., Lewistown, stated in an interview with Crime Commission staff in November 1993 that PAMMA was asked to raise a substantial amount of money for Mr. Preate, but it was not done. Delmar Guerrini stated that he was active in PAMMA and in 1988 was president of PAMMA. Mr. Guerrini stated that he would be the individual the Crime Commission should contact regarding information pertaining to that meeting. Del Guerrini stated that neither himself nor his father, Frank Guerrini, attended the meeting with Preate, and Del Guerrini refused to attend specifically because he did not think it was proper for a candidate for Attorney General to be contacting video poker operators for campaign contributions which he characterized as extortion.<sup>34</sup>

After the meeting between Mr. Preate and the directors of PAMMA, Mr. Eisenberg was telephoned by Joseph Kovach who asked him if he could sell tickets for a fund raiser breakfast for Mr. Preate, which cost \$200 or \$250 each.<sup>35</sup> Mr. Eisenberg testified he requested 100 tickets and sent either five or ten tickets each to his friends and the directors of PAMMA, along with a letter asking them to try and sell the tickets:

*Q. Now after that dinner meeting, were you again contacted at any time by Mr. Kovach?*

*A. Sometime after that meeting, Joe called me on the phone and said they were having a breakfast meeting with Ernie Preate. The tickets, I believe, were \$250.00 and wanted to know how many tickets I could sell....*

*Q. Okay. Did he then send you tickets?*

*A. He sent me 100 of them. That's what I requested.*

*Q. In other words, you indicated that you would have committed for \$25,000.00 worth of tickets?*

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<sup>34</sup> Mr. Guerrini, who is awaiting trial for video poker gambling related charges, declined to testify before the Commission.

<sup>35</sup> It appears, from subsequent witness testimony, that the tickets cost \$200 each.

*A. No, no. I was going to try to sell that many tickets. If I couldn't sell them, he would have got some of them back.*

*Q. Did you attempt to -- or did you pass out those tickets?*

*A. I sent either five or ten to every member of the Board of Directors with a letter asking them to try and sell these tickets. And I sent some to other people that were [in] the industry -- like distributors and so forth....*

*Q. Did you collect any funds for the sale of those tickets?*

*A. Yes, I did.*

Shortly thereafter, Mr. Eisenberg was contacted again by Joe Kovach, who was agitated and told Mr. Eisenberg to call him back at another telephone number. This occurred just after the video poker raids of April 6, 1988 by the Pennsylvania State Police. Joe Kovach asked Philip Eisenberg to contact all the people to whom he had given tickets, get the tickets back, and return them to Joseph Kovach:

*Q. Would you remember, approximately, how many of the tickets you collected for?*

*A. I collected two, four, five, six -- I collected for six tickets. But there was an incident that took place after that stopped the sale of the tickets.*

*Q. Okay. The tickets that you would have initially collected for, do you remember did you receive checks or cash for those tickets?*

*A. I received checks.*

*Q. For the actual ones that you had sold?*

*A. Yes.*

*Q. What was the incident that took place?*

*A. There was a raid on machines up in the northeast; that is on poker machines. And some time -- it was within a day or two after that, Joe Kovach called me up. He sounded very excited on the phone. He asked me to call him on a different number, which I presume was a pay phone number.*

*I called him and he said, Phil, do me a big favor. Get all those tickets back and return the money.*

*Q. Did he indicate why he wanted you to do that?*

*A. No.*

Mr. Shay, Jr., testified that after attending the dinner he received a number of tickets from Mr. Eisenberg, but that Eisenberg almost immediately requested that Mr. Shay return the tickets:

*Q. Did Mr. Eisenberg ever contact you and ask you to take tickets or distribute tickets for fund raisers for Mr. Preate? Back in 1988?*

*A. I think he did.*

*Q. Okay.*

*A. I think he did.*

*Q. And prior to your paying and distributing those, did he request those back?*

*A. I think so. I am trying to put this in order.*

*Q. Take your time. Don't hurry so much.*

*A. I know I didn't sell any.*

*Q. He did ask you to?*

*A. I think he might have. I think he might have...*

*Q. But you remember Mr. Eisenberg contacting you to distribute some tickets.*

*A. If we could, and I don't remember how -- I know they were real salty. I said I am sure, Phil, I can't move any of those tickets for you.*

*Q. Salty?*

*A. Maybe \$100.00.*

*Q. Could they [have been] about 250?*

*A. That could have been....*

*Q. You do remember an expensive ticket?*

*A. That I do remember.*

Mr. Eisenberg testified that some vendors gave him checks for Mr. Preate because they said they would have given a contribution even if they did not buy the tickets. Mr. Eisenberg also testified that he received a \$1,000 check from Sal Mirando, a former co-owner of SMS

Manufacturing Co., Lakewood, New Jersey, through Mirando's friend Carl Milletary, operator of R.M.V. Sales, a vending business in Imperial, PA, which also distributed SMS machines. Mr. Eisenberg testified he returned Mirando's check after Kovach called and asked for the return of the tickets:<sup>36</sup>

*Q. You indicated previously that you had written a letter sending tickets to friends and to the director... I think you identified the directors for us, but who were some of the friends that you may have sent the letter to?*

*A. Carl [Milletary] from Pittsburgh and subsequently he sent me a check for \$1,000 from Sal. He was a president of.... a distributor of poker machines... out of New Jersey... SMS.... Sal [Mirando] was the president of SMS... He was a good friend of Carl [Milletary].*

*....*

*Q. Did you return those checks?*

*A. Yes, I did.*

*Q. How much was the check from SMS?*

*A. It was \$1,000.00...*

*Q. Okay. After you received the call from Mr. Kovach --*

*A. I returned that check.*

*Q. Did you purchase SMS machines?*

*A. Yes, I did.*

*Q. And you distribute[d] SMS machines?*

*A. Not distributed, operated.*

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<sup>36</sup> SMS Manufacturing has been involved with members and associates of traditional organized crime in New Jersey. See, for example, State of New Jersey Commission of Investigation [SCI], *Video Gambling*, September 1991. Salvatore Mirando started SMS Manufacturing Co., Inc., in 1982 along with brothers Vincent and Pasquale Storino; he bought the Storinos' interest in the firm in 1990.

Mr. Eisenberg testified he gave a \$200 cash contribution<sup>37</sup> to Ernest D. Preate, Jr.'s brother, Robert, at a breakfast fund raiser in Johnstown, as well as two checks from video poker vendors which Eisenberg had solicited. One check was from the operators of Bittner Vending, Berlin, PA. The other check was from the owner of Seder Vending Company, Portage, PA:

*Q. At that particular breakfast meeting, did you have an opportunity to talk to Mr. Preate?*

*A. No, I did not... I wanted to talk to Ernie, but there were so many people around him because he was accompanied by Frank Rizzo at the time... I saw a fellow outside with a Preate badge on and I started talking to him and he introduced himself as Ernie's brother.*

*I had two checks with me from the sale of the tickets and when I returned the tickets the people said, make the donation to Ernie, anyway. So, I handed him two checks. I believe one was from Seder Vending and one from [Bittner] Vending Company. And I also handed him \$200.00 cash as a donation for myself.*

*Q. When you say to him, to Mr. Preate's brother?*

*A. Correct.*

*Q. Do you recall his first name?...*

*A. It could have been Robert. It was a very common name. He was an attorney, and he gave me his card, with a firm up in that area.*

....

*Q. The cash that you gave to Mr. Preate's brother, the one you described as an attorney who gave you his card, was that cash ever returned to you?*

*A. No, sir.*

*Q. And you indicated the amount was \$200.00?*

*A. Two hundred dollars.*

Mr. Robert Preate testified that he did not recall receiving this cash from Mr. Eisenberg:

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<sup>37</sup> Campaign expense records indicate only a \$100 contribution, entered October 28, 1988, in the name of "Philip Esenberg," for the *Ernie Preate For Attorney General Committee*.

*Q. Do you recall receiving \$200 in cash from Mr. Eisenberg or any other individual while you were in Johnstown?*

*A. No. The question was do I recall receiving \$200 in cash from Mr. Eisenberg or any individual while I was in Johnstown, no, I don't.*

*Q. Or did you receive \$200 in cash?*

*A. No, I don't.*

*Q. You don't recall?*

*A. Um-hum.*

*Q. Okay.*

*A. I don't recall.*

*Q. You don't recall. It's not that you didn't, it's that you don't recall?*

*A. The answer is no, to the best of my knowledge, I don't recall. No, it's no. No, I did not receive cash from Mr. Eisenberg or any individual in Johnstown.*

Operators Craig Bittner and Kim Bittner, of Bittner Vending, confirmed to the Commission that they gave a \$200 check for the political committee of Mr. Preate in April 1988, at the request of Mr. Eisenberg. Walter Seder, owner of Seder Vending, confirmed to the Commission that he gave a \$200 business check, dated March 28, 1988, to the *Ernie Preate Campaign Committee* in 1988. However, this check was returned to him with the inscription "For obvious reasons check is returned. Tell you next time I see you" handwritten on the back.<sup>38</sup>

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<sup>38</sup> Mr. Eisenberg later stated to the Crime Commission that he thought this inscription on the back of the check was most probably written by him.

ALLEGATION NO. 2: Mr. Preate, with the assistance of Elmo Baldassari's business partner, the late Joseph Kovach, attempted to replicate the contributions arrangement statewide, when he sought the Office of Attorney General in 1988.

### THE COMMISSION'S INVESTIGATIVE FINDINGS

The Commission determined that in early 1988, then Lackawanna County District Attorney Ernest D. Preate, Jr., was accompanied to a dinner meeting by Joseph Kovach and Gabriel Horvath. This dinner meeting was attended by directors of the Pennsylvania Amusement & Music Machine Association (PAMMA). At that dinner, Mr. Preate solicited the support of those in attendance for his bid for the Office of Attorney General, and indicated that his priority, if elected Attorney General, would be drug enforcement. Mr. Preate left the impression that video gambling would not be a priority.

The Commission also determined that an effort was made by Messrs. Preate, Kovach and Eisenberg to duplicate the Kovach campaign fund raising effort among video poker operators statewide. This effort was frustrated by the Pennsylvania State Police raids of video poker operators' machines in Northeastern Pennsylvania on April 6, 1988.

The Commission determined that Mr. Preate's statewide solicitation of campaign contributions resulted in the receipt of unreported and cash contributions from illegal video poker machine operators.





## V. DISTRICT ATTORNEY PREATE'S HOSTILITY TOWARDS THE 1987-88 STATE POLICE VIDEO POKER INVESTIGATION IN NORTHEAST PENNSYLVANIA

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ALLEGATION NO. 3: Video poker machine operators were forewarned of the April 6, 1988, Pennsylvania State Police raids after Lackawanna County District Attorney Ernest D. Preate, Jr. and members of his staff were informed of the raids.

### The 1987-1988 Video Poker Investigation In Northeastern Pennsylvania

In the summer of 1987, the Pennsylvania State Police initiated an investigation into illegal video poker gambling in the northeastern part of the state. This investigation encompassed Lackawanna, Pike, Susquehanna, and Wayne counties. Pennsylvania State Police Corporal Peter Tonetti (who was responsible for the video poker investigation) testified:

*Q. In 1987, 1988, Corporal Tonetti, were you involved in an investigation of video poker in the northeast region?*

*A. Yes, sir, I was.*

*Q. And what were the circumstances of that investigation?*

*A. ... discussion with Major Jordan initially targeted several of [the] Baldassari Vending companies: Baldassari Amusements itself on Cedar Avenue, Jo Jo Baldassari Amusements, and Hank Baldassari Amusements as the initial targets of an investigation into video poker machines in the northeast area of the state.*

From March 1987 through August 4, 1989, Nels Taber was a Deputy Attorney General in the Criminal Prosecution Section of the Office of Attorney General. Mr. Taber was responsible for, among other things, prosecuting cases investigated by the statewide grand jury. In testimony, Mr. Taber explained that in September 1987, Pennsylvania State Police Corporal Peter Tonetti and Trooper Thomas Taylor approached the former chief of the Criminal Law Division Paul Yatron and

indicated that they had been investigating video poker operators in the northeast section of Pennsylvania. According to Mr. Taber, the State Police indicated to representatives of the Attorney General's Office that they were interested in putting the video poker case before a grand jury for possible corrupt organizations investigations. Mr. Taber testified:

*Q. Pursuant to matters before the statewide investigating grand jury ... did you have any responsibility for investigating a case that involved video poker operators?*

*A. Yes, I did.*

*Q. And who or what other investigative agency was involved in that activity?*

*A. The Pennsylvania State Police.*

*Q. And could you explain how it came to the attorney general's office attention that there was this matter which required the grand jury to investigate it?*

*A. A couple of state police officers; Corporal Tonetti and... Tom [Thomas] Taylor came to Paul Yatron who at that time was chief of the criminal law division. They indicated that they had been investigating video poker operators in the northeast section of Pennsylvania. They were interested in putting it before the grand jury [for] possible corrupt organizations investigations. ...*

*Q. ... Now, do you recall approximately when this involvement began or when you were assigned to the case?*

*A. I believe it was in September of 1987 that they approached the office of attorney general. We put together a notice to put the case before the grand jury.*

Corporal Tonetti testified with regard to the conduct of the Pennsylvania State Police concerning the video poker investigation:

*Q. What happened ... with the investigation?*

*A. ... We went around to all the bars. I saw that the [machines in the] bars, in our opinion, were per se devices<sup>39</sup> ... Almost every machine that we found seemed to be*

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<sup>39</sup> Seizing a video poker machine as a *per se* gambling device means law enforcement officials no longer have to prove players have received pay-outs for winning games.

*per se. So at this point ... I said, we're going to survey every bar in the Troop R Area, which is the Lackawanna, Wayne, Susquehanna, and Pike Counties, to see what machines we have where and take them all. And then we'll target these, have the specific bar owners come in and testify against the vendors. And that's pretty much how the investigation went. We had identified over 400 machines in the four-count area. And we made plans to conduct our raid.*

#### Further Disagreements Between The State Police And The Lackawanna County District Attorney

Lackawanna County District Attorney Ernest Preate expressed his opposition to State Police enforcement action against video poker machines in a July 1987 discussion with Corporal Tonetti. Later, on April 1, 1988, a meeting unrelated to the Pennsylvania State Police video poker investigation was held at the private residence of District Attorney Ernest Preate. In attendance were defense attorney Harold Kane,<sup>40</sup> Lackawanna County Assistant District Attorney Andrew Jarbola, and Pennsylvania State Police Trooper Walter Carlson. Trooper Carlson testified about then District Attorney Preate's demeanor during the April 1, 1988 meeting and a discussion he had with Corporal Tonetti the following day:

*Q. And what was his [Mr. Preate] general demeanor or attitude?*

*A. He was angry that he was not being told what was going on. ... the following day I was on the second floor of the barracks. Peter Tonetti went by ... I said, Peter, are you having a raid? And at that time he closed the door and said yes, why? I related to him. I said [these] exact words ... Pete, Ernie is pissed. He knows about this raid that's coming down. And he's pissed that nobody talked to him about it. He*

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<sup>40</sup> H.K. represented Elmo Baldassari during his 1990 bail hearing on extortion charges. In testimony, Mary Lou Salerno stated the following:

*Q. ... How did Elmo wind up with Mr. [H.K.] as an attorney?*

*A. Pat Zangardi. ... It goes back to Ernie [Preate] because this was the attorney Ernie suggested to get.*

*Q. Who did Ernie suggest it to?*

*A. To Pat [Zangardi].*

*was quite vocal about it yesterday. I was in a meeting with him. ... I think it was in the afternoon, Peter came back and said, How about doing a G.I. [General Investigative Report] on that, what occurred with Ernie? I said, Sure.*

In a General Investigative Report dated April 25, 1988, Trooper Walter Carlson reported that "... Upon arrival at the residence, Atty. Preate asked the undersigned what was going on in connection with [the] upcoming video poker machine raid ... stated he had just learned of the raid on 3/31/88 ... subject (Preate) was angry and upset as to [the raid] and was verbalizing loudly ..."

Corporal Tonetti related during testimony what Trooper Carlson told him about the April 1, 1988, meeting:

*Q. Did you have any discussions with another trooper regarding Preate's position on those raids?*

*A. Yes I did.... Carlson's description to me was that in all his [Carlson's] years, he never saw Preate so upset. He was violently upset in his apartment, throwing things around, cursing and screaming. I wasn't getting the search warrants and I wasn't picking the machines up.... It wasn't going to happen, not in Lackawanna County.*

#### District Attorney Preate's Reaction To Pennsylvania State Police Requests For Search Warrants

In a Pennsylvania State Police General Investigative Report dated April 11, 1988, former Trooper Salvatore A. Burruano reported that on April 1, 1988, he was approached by James Doherty, Lackawanna County Magistrate Coordinator. Burruano reported that Doherty had been approached by Lackawanna County Assistant District Attorney Andrew Jarbola and Lackawanna County Detective Mike Crossin. According to Burruano's report, Jarbola told Doherty "... should he receive a call from Cpl. TONETTI concerning assigning a special magistrate for the up and coming poker machine raids on Wednesday, 4/6/88. ... any such request should be denied and to have TONETTI call his office."

During testimony, Corporal Tonetti described the following:

*Q. Did Crossin acknowledge to you that he had this conversation with Doherty?*

*A. Yes.*

*Q. And that they had been ordered not to —*

*A. He told me that he was told by Preate to do exactly what he did.*

*Q. Now, that was to tell Doherty not to give you a D.J. [District Justice] if you requested it?*

*A. Right ...*

*Q. He specifically ... said he was told by Preate?*

*A. Yes.*

*Q. Not by Jarbola?*

*A. He told me Ernie told me to do it.*

Sergeant Albert Broscius and Corporal Tonetti met with District Attorney Preate on April 5, 1988 to discuss search warrant approval. They indicated that Mr. Preate reacted in a hostile manner with regard to his approving the search warrants. Sergeant Broscius recounted in his sworn testimony:

*Q. Would you relate what happened when you went to the district attorney's office?*

*A. ... Preate came in and he got pretty boisterous toward us about doing machines, picking up machines in his county ... One thing that stuck in my mind was, 'you want to pick up all the machines in my county? And there are other crimes, more serious crimes ... happening, murder and rapes' ... the type of argument you get from your bar owners, your machine owners....*

*Q. ... Were you surprised at the reaction that you received?*

*A. Yes.*

*Q. Why?*

*A. Well, I thought ... we'd get cooperation from him like we did the other counties, not any verbal abuse or resistance ... from him. That surprised the hell out of me.*

Former Deputy Attorney General Nels Taber testified about then District Attorney Preate's resistance to the State Police requesting search warrants:

*Q. Did you receive any reports from the troopers involved, either Corporal Tonetti or Trooper Taylor, concerning the reaction they received at the District Attorney's office in Lackawanna County from Mr. Preate?*

*A. Yes.*

*Q. And what was the nature of that report?*

*A. Mr. Preate was totally outraged about the fact that they were going to be conducting this raid in this [Lackawanna] county ... they said [he] basically screamed at them. Basically, he didn't want them coming into his county and doing this.*

Assistant District Attorney Andrew Jarbola recalled that when the State Police met with Mr. Preate for approval of the search warrants, an argument ensued in Preate's office, which was at the other section of the building from where Jarbola's office was located. Jarbola stated he could hear Mr. Preate arguing with the State Police about the video poker raids and believes that everyone in the office could hear the argument.

The search warrants prepared by Corporal Tonetti were for video poker operators' records, not for the video poker machines, since the machines were regarded as *per se* gambling devices by the State Police, and would be seized as such without any warrants. Tonetti testified that ... *we went around to all the bars ... in our opinion [the video poker machines] were per se devices ... almost every machine that we found seemed to be per se.*<sup>41</sup>

Tonetti testified ... *I sensed a change in things when I told him [Ernest Preate] no matter what he was doing with the search warrants, they [the machines] were all going. I wasn't getting search warrants for the machines. He was surprised. He thought I was coming to get search*

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<sup>41</sup> Video poker vendor Alfred Pelicci, operator of C&A Vending, Inc., testified before the Commission that in 1988 poker machines were not used for amusement only because ... *they [customers] wouldn't play them.*

warrants to pick up machines at the individual bars. I was not. I was seizing them on view as a per se gambling device. The only search warrants I was coming in for were for records from different vendors ... I think ... he realized he can't stop this no matter what.

According to Corporal Tonetti, District Attorney Ernest Preate, Jr., asked Cosmo J. Mustacchio, an attorney in the District Attorney's Office, to review the affidavit of probable cause. Mustacchio resisted, telling Mr. Preate that he had once represented the Baldassaris and that there might be a conflict of interest on Mustacchio's part. District Attorney Preate demanded that Mustacchio read the affidavit which Mustacchio did:

*Q. ... he [Mustacchio] was ordered to review the search warrants. What happened at that point? ... He reviewed them?*

*A. Yes he did.*

*Q. And did he approve them?*

*A. There was some changes that Preate requested be made, nothing substantial to the warrant ... And that was basically it. I got the changes done and what he wanted in the probable cause, and then the search warrants were approved.*

#### A Forewarning In Lackawanna County Before The Raids Occurred

The State Police raid on video poker stops in Lackawanna County occurred on April 6, 1988. However, operators and bar owners received information that a raid was to occur prior to the raid taking place.

During testimony, Barbara Passaniti, former operator of the VIP Lounge, Scranton, stated she had been informed of the upcoming raids by Joseph O. "Jo Jo" Baldassari:

*Q. Now, in 1988, in the beginning of April 1988, did you become aware of the fact that there was to be a State Police raid on locations that had video poker machines?*

*A. Yes.*



*Q. At that time did you have a video poker machine in the VIP Lounge?*

*A. Yes.*

*Q. Who provided that machine to you?*

*A. ... Jo Jo [Baldassari].*

*Q. ... When were you first advised that there was going to be a State Police raid?*

*A. ... A few days before I'd say ...*

*Q. Who advised you?*

*A. Jo Jo [Baldassari]. ...*

*Q. Did Jo Jo Baldassari tell you how he heard about it [the raids]?*

*A. No.*

Barbara Evans, according to Passaniti, was an employee at the VIP Lounge at the time of the April 6, 1988 raid. Passaniti testified that Evans received a phone call around 3:00 pm, the same day "Jo Jo" Baldassari called, from a woman warning of the upcoming raids. ... *she [Evans] did get a phone call and came out and told me about it. And I told her I already knew. So it was old news to me.*

Witnesses, including Henry "Hank" Baldassari, Sr., and Henry Baldassari, Jr., testified that Joseph C. Baldassari provided the upcoming raid information to them. Henry Baldassari, Sr., conveyed the following during his sworn testimony:

*Q. ... Did you receive information just prior to that raid that there was going to be a state police raid?*

*A. ... [at] 3:00 pm - 4:00 pm in the afternoon ... there was a message on my answering service to call my brother Joe [Joseph C. Baldassari]. And I called my brother Joe and he said get your machines out. There is going to be a raid today, tonight....*

*Q. He [Joseph C. Baldassari] would not tell you [where his information regarding the leak came from]?*

*A. No.*

Henry Baldassari, Jr., gave similar information regarding the tip from his uncle Joe:

*Q. Did you receive notification prior to that raid taking place that it would take place?*

*A. Yes sir.*

*Q. And how did you get that information?*

*A. ... I got a message on my beeper to call my uncle.*

*Q. Which uncle would that be?*

*A. Joe Baldassari ... I returned the call and he said there was going to be a raid, move your machines. Just like that.*

*Q. ... And that was accurate. Within the next 24 hours —*

*A. Yeah, right.*

*Q. — there was a raid. Is that correct?*

*A. Yes sir.*

While both Henry Baldassari Sr., and Jr. testified that Joseph C. Baldassari warned them of the upcoming video poker raids neither was told by "Old Man Joe" where and from whom he received his tip. Video poker operator William McGraw, operator of McGraw Amusements at the time of the April 1988 raids, added the following during his sworn testimony:

*Q. What is your knowledge of that [the raid] sir?*

*A. Like I said, the rumor had been going around for like two weeks ... If anybody had any information on the leak it would have been Joe Baldassari and he's deceased now.*

*Q. Joseph C. Baldassari?*

*A. Yeah.*

*Q. What makes you say that sir? I mean out of all the vendors in Northeastern Pennsylvania to single him out?*

*A. Because Joe always had information that nobody else did.*

Joseph O. "Jo Jo" Baldassari, in a conversation with Corporal Tonetti on the day of the raid, identified his uncle Joseph C. Baldassari as the source of information pertaining to the raid.

Corporal Tonetti explained what he was told by "Jo Jo" Baldassari:

*Q. What did Jo Jo tell you about what he knew?*

*A. He ["Jo Jo" Baldassari] told me that he received a call to remove his machines from his Uncle Joe [Joseph C. Baldassari] who had Baldassari Amusements. He said that his Uncle Joe told him that he got a call from Zangardi, his insurance man. And they had gotten the information about all the raids for years from Zangardi. That was their main source of information ...*

*Q. Who was this Mr. Zangardi, this insurance agent, that he would get any kind of information from the District Attorney's Office?*

*A. He ["Jo Jo" Baldassari] told me it was Pat Zangardi's husband ... [Pat Zangardi] was Ernie's personal secretary, Mr. Preate's.*

*Q. He ["Jo Jo" Baldassari] specifically told you ... an insurance guy who was Pat Zangardi's husband?*

*A. Yes, he did ... Baldassari Amusement had their insurance with them. And for years, they were the providers of information about different raids that were going to occur.*

Mary Lou Salerno lived with Elmo Baldassari for 18 years and had direct knowledge of Elmo's activities. She testified that Elmo Baldassari received a warning with regard to the April 6, 1988, raids ... *the day that they went in and raided them, Annie Stack called Elmo and said, Pat Zangardi called her and they were going to raid them.* Ms. Salerno testified to the business and social relationship between the Stacks and Elmo Baldassari:

*Q. What kind of relationship did the Stacks have with Elmo? ... How long did he know the Stacks?*

*A. .... They have been friends for a long, long time.*

*Q. Did the Stacks or do the Stacks have a vending business; or do they have a location [where] they have machines?*

*A. They had a bowling [alley]. ... And they had Elmo's machines. They had [James] Judges' machines in there.*

Additionally, Ms. Salerno testified to the relationship between the Stacks and the Zangardis:

*Q. The Stacks were close to the Zangardis?*

*A. Yeah, very close. ... Annie had a lot [of] parties for Ernie [Preate].*

"Jo Jo" Baldassari also testified that Frank Stack ... *was a friend of Elmo's.*

Gerald Mancus' business ventures with Elmo Baldassari included Baldassari financing a rice exportation deal for him. Mancus also had a personal relationship with Mary Lou Salerno. Mancus testified about campaign contributions given to Ernest Preate, Jr., from Joseph Kovach and Elmo Baldassari:

*Q. ... When you said that Elmo and Kovach had given money to Preate, when was that for? ...*

*A. When he was running for, I believe, it was Attorney General ...*

*Q. Was Preate the Attorney General at that time [of the April 6, 1988 raids]?*

*A. No, he was the district attorney. ... Elmo gets a call from Annie Stack, Frank Stack's wife, who owned a bowling alley in Dunmore ... Annie Stack had gotten a call from Ernie Preate's secretary because, just prior to the raid, Preate was informed by the Pennsylvania State Police that they were going to [be] rounding these people up.*

*Q. ... Do you know the secretary that Annie Stack referred to?*

*A. ... Pat Zangardi. ... She called Annie Stack. She is a very personal friend of the Stack's, and she let them know because Frank Stack ... was Elmo's friend. ... So Pat called Annie Stack. Annie Stack called Elmo.*

Ann Stack testified about her relationship with Elmo Baldassari and whether she had been forewarned about the State Police video poker raids:

*Q. ... do you know an individual by the name of Elmo Baldassari?*

A. Yes.

Q. How long have you known Mr. Baldassari?

A. I've known him about 25 years. ... It was mostly social. My son — my oldest son bought a piece of land from him and we bought a piece of land from him. ... There were three condominiums [owned] by my husband and Mr. Baldassari. ...

Q. Do you recall during ... the spring of 1988 that there was a large raid of bars and other establishments for video poker?

A. Yes.

Q. Do you recall receiving a phone call from anyone advising you that the raid was going to take place?

A. No. If it came, it didn't come to me. I have no idea about that.

Additionally, Ann Stack denied discussing the video poker raids with Patricia Zangardi:

Q. Do you know Mrs. Pat Zangardi?

A. Yes.

Q. ... Did you ever speak to her about these raids?

A. No.

Q. ... you've known her [Patricia Zangardi] for 20 years?

A. Oh, yeah.

Q. ... Your testimony is you've never discussed either video poker with Mrs. Zangardi or any raids with Mrs. Zangardi?

A. I did not.

During testimony, both Patricia Zangardi and her husband, Armond V. Zangardi, denied prior knowledge of the State Police video poker raids or discussing the impending raid with anyone, including members of the Baldassari family. Armond Zangardi testified:

Q. Did you receive or have any advanced knowledge prior to the event that the State Police would be executing search warrants or picking up video poker machines?

*A. ... The answer is no.*

*Q. Are you aware of either now or then back in April of 1988 that any other member of your family either by blood or marriage had knowledge of the impending State Police raid I've previously described to you? ...*

*A. I have no knowledge of what any other member of my family may or may not have known.*

*Q. Okay. Then you could not have been or are not the Armond Zangardi who may have discussed this impending raid with members of the Baldassari family ... members we have previously asked you about, ... Joseph C., Joseph known as Jo Jo Baldassari, Elio known as Al Baldassari, Henry known as Hank Baldassari, Buster or Elmo?*

*A. I have no knowledge of any conversation that any Zangardi or any other person that might have had. I stand on what I said.*

*Q. No. It wouldn't be you? Did you have a conversation with any of those people concerning the leak?*

*A. ... The answer is no.*

Patricia Zangardi testified:

*Q. Mrs. Zangardi, did you become aware in April of 1988 that there was to be a State Police raid in the Lackawanna County area on video poker operators ...*

*A. ... You asked me, Did I become aware in April of '88 that there was a raid in Lackawanna County on individuals who operated video poker machines?*

*Q. Yes.*

*A. Yes, I did when I read the paper.*

*Q. You had no knowledge prior to the raids taking place?*

*A. Absolutely no knowledge.*

## The State Police Observed Removals Of Video Poker Machines

Sergeant Albert Broscius testified that the evening of April 5, 1988, the same day he and Corporal Tonetti met with District Attorney Ernest Preate, Jr., to obtain search warrants, the State Police got word that machines were being pulled out of some bars in the area. ... *We got out, got people on the street and were able to get some of ... the machines that we had target[ed]. We had a total of about 400 lined up ... and we wound up with about 300. So we missed a hundred machines.*<sup>42</sup>

Tonetti testified that on April 5, 1988, he received a telephone call around 5:00 p.m. from an informant that Biff's Restaurant, Cedar Avenue, Scranton, and "Barbara" from the VIP Lounge, Scranton, had been tipped off about the raids. ... *I had several guys working for me. I sent them out. I said you go ... on the streets and see what's going on out there. The guys were immediately calling back. The machines were flying out of bars all around town.* Trooper Thomas Taylor testified that ... *we went out on the streets and started surveillance and did see vendors' trucks flying around the city picking up machines, taking them out of the bar[s] and putting them in trucks and taking them to warehouse[s].*

ALLEGATION NO. 3: Video poker machine operators were forewarned of the April 6, 1988, Pennsylvania State Police raids after Lackawanna County District Attorney Ernest D. Preate, Jr. and members of his staff were informed of the raids.

## THE COMMISSION'S INVESTIGATIVE FINDINGS

The Commission determined that Mr. Preate was hostile towards Pennsylvania State Police efforts to conduct video poker raids in Lackawanna County. Testimony received by the Commission indicated that knowledge of the raids had been shared with numerous individuals, thus increasing

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<sup>42</sup> In 1988, a video poker machines cost, on average, \$2,500. The April 6, 1988, raid resulted in the seizure of 349 machines.

the possibility that any one of these persons could have been the source. The Commission cannot conclude, at least at this time, that early information regarding the raids originated in the Lackawanna County District Attorney's Office. While Patricia and Armond Zangardi were implicated as being sources of information by more than one witness, both denied prior knowledge of the raid or discussing raid information with anyone.





## VI. ATTORNEY GENERAL PREATE ACTS TO NEUTRALIZE GRAND JURY EVIDENCE

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ALLEGATION NO. 4: After Mr. Preate assumed office as Attorney General, an investigation by the Sixth Statewide Grand Jury into allegations that he improperly received campaign contributions from video poker operators was terminated.

### The Sixth Statewide Grand Jury Was Investigating Allegations Against Mr. Preate

The Sixth Statewide Grand Jury received testimony centering around Mr. Preate's relationship with video poker operators from Northeastern Pennsylvania. Numerous witnesses appeared before the Crime Commission and were apprised of a court order authorizing disclosure of Grand Jury material to the Commission. Those witnesses stated that testimony before the Sixth Statewide Grand Jury outlined a campaign contributions arrangement between Mr. Preate and Northeastern Pennsylvania video poker operators. Nels Taber, the Deputy Attorney General assigned to the Sixth Statewide Grand Jury's video poker investigation, testified:

*Q. ... Besides the other vendors had there come to your attention other allegations involving potential wrongdoing that these vendors were involved with?*

*A. ... the other matter is—was involved with campaign contributions being made to Mr. Preate both when he was running for District Attorney and then for his run for Attorney General in exchange for them basically for the vendors being left alone.*

*Q. Now, did you receive any testimony that would in any way—before Mr. Preate took office—would have in any way supported that possible allegation?*

*A. Yes.*

*Q. And had you received it from more than one vendor?*

*A. Yes.*

*Q. Did you consider it a matter that required or that you were attempting to investigate further?*

A. Yes.

...

Q. When you made the decision to look into campaign contributions, did you feel that that was a predicate act under the corrupt organizations charge ... ?

A. I don't believe I had that kind of analysis to be perfectly honest. I believe it came up that—it was brought to my attention as to the fact that these campaign contributions were being made under what appeared to me [to be] a sophisticated form of bribery if the allegations were correct. And to that extent since it came up during the course of the investigation, I felt it was something ... that should be inquired into to see where it went one way or the other.

Michael Kane,<sup>43</sup> former Senior Deputy Attorney General in the Criminal Law Division, testified that the Grand Jury inquiry involved both the contributions arrangement and allegations concerning the forewarning of the 1988 video poker raids involving the Lackawanna District Attorney's Office:

Q. Do you recall ever having any discussions with Mr. Taber about any concerns he had about information that he was developing in reference to the District Attorney, the then District Attorney of Lackawanna County, Mr. Ernest Preate?

A. ... I became aware that Nels was looking into whether Ernie Preate had anything to do with the tip-off of the targets in the investigation. ...

Q. And were you aware if there were other matters that Mr. Taber made inquiry of concerning Mr. Preate other than the tip concerning these raids?

A. I know that in general he was ... questioning some of the witnesses about their prior relationship to him [Mr. Preate], the fact that there had been campaign contributions ...

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<sup>43</sup> The fact that Michael Kane, a Deputy Attorney General not assigned to the video poker case, would be aware of the workings of the Sixth Statewide Grand Jury was not unusual. Dennis Reinaker, the Deputy Attorney General in charge of the Seventh Statewide Grand Jury investigating video poker testified before the Commission that, ... *We in the office, particularly those who work in the prosecution section, generally knew about cases that the other attorneys were working on, at least those of some significant nature.*

Defense attorney Charles Volpe, Jr., testified that Nels Taber told him that the questioning would cover two areas: the forewarning and campaign contributions.

*Q. Were there any other subjects besides the manufacturers of the machines that he wished to address?*

*A. Yes, ... he did indicate that there would be some questions regarding Ernie Preate at that point who was then Attorney General-Elect ... during the time of the raid, the sitting District Attorney of Lackawanna County ...*

*Q. Did he indicate the areas that these would cover?*

*A. Yes, they were mainly directed in two areas. The first area was ... about a leak coming from the Attorney General's office around the time of the raid...*

*Q. And what was the other area that—*

*A. The other area was on the subject of campaign contributions that had been made during Preate's campaign ... on whether he [Joseph O. "Jo Jo" Baldassari, originally one of Volpe's clients] thought that he was paying for the privilege of operating ... those questions were probed.*

Attorney Volpe had, in part, premised his strategy of cooperation with the prosecution on the public corruption focus that Volpe felt was being pursued by Nels Taber. Mr. Volpe testified:

*Q. After this appearance before the Grand Jury by [Joseph O.] "Jo Jo" Baldassari ... were you contacted again by Mr. Taber concerning the appearance of your other clients?*

*A. ... My clients were served with subpoenas ... I proceeded to call Nels Taber to say, you know, what's the story? What's your area of inquiry? ... I was at that point very concerned about a first degree felony charge for my clients.*

*So I believe at that point I wanted to get some indication as to whether or not there was going to be any accommodation or any amenability to a plea arrangement with the Attorney General's office ...*

*So Nels Taber at that point indicated to me that he had no power at that point to specifically give me any arrangements or deals. He did say that he would look kindly on not proceeding if they cooperated fully before the Grand Jury ...*

*My impression, at that point, was, I believe, that Nels Taber is an honorable enough individual and I think that if their scope is—in other areas at that point I believed it was. At that point they had been asking questions about Ernie Preate, and they had been asking a lot of questions about the manufacturers.*

Frances Hamacher, Administrative Officer<sup>44</sup> for the Sixth Statewide Grand Jury, testified concerning the reaction of the jurors to the testimony they had heard:

*Q. ... what is your first recollection of your involvement with the video poker investigation headed by Mr. Taber?*

*A. ... As this thing progressed in the Sixth [Statewide] Grand Jury, ... they were quite honestly shocked at that time of the investigation in what they were hearing. I'm not sure all of what they heard in there but they were quite shocked and I can remember many of them coming out of the grand jury and saying my God, he's a crook ...*

Attorney General Elect Preate Sent An Aide To Gather Information About The Sixth Statewide Grand Jury's Video Poker Investigation

Lois Lichtenwalner, a Deputy Attorney General under Mr. Preate, was previously an Assistant District Attorney in Lackawanna County under then District Attorney Preate. Lichtenwalner also served on Preate's transition team prior to Mr. Preate's swearing in as Attorney General.

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<sup>44</sup> Hamacher testified that she ... took care of all logistics concerning the grand jury ... housing jurors, paying the jurors, paying witnesses, subpoenaing witnesses, scheduling them into the grand jury, preparing various pleadings, anything that had to do with running the operation of the grand jury.

Frances Hamacher testified that, prior to Mr. Preate's swearing in, Lois Lichtenwalner approached her, requesting witness lists and stating that Mr. Preate was very concerned about the video poker investigation. Ms. Hamacher testified:

*Q. Okay. Now, after Mr. Preate was elected, was there a transition team that was set up with the Attorney General's office from his campaign staff?*

*A. ... Yes, ... they [the transition team] set up an office in the city in Harrisburg and they interview the heads of the various units ... and this was so that they could get a good picture of the office.*

*Q. Did you have to undergo that type of interview?*

*A. No—well, I was very shocked that I was called by Lois Lichtenwalner and asked—she asked if she could come over to talk to me. As a matter of fact, I mentioned it to Mr. Graci. I said I really don't understand why she's coming over because she said on the phone that she wanted to talk about the grand jury.*

*... It was apparent immediately that what she wanted was information on the video poker case that was currently running in the grand jury.*

*Q. How did that become apparent?*

*A. She asked—she asked me if the case was in the grand jury and I said I was not at liberty to tell her anything. She asked if I had a list of witnesses and I told her that we kept a log of people who went in and out of the grand jury. And she asked if she could see this log and I said, no, that she was not under disclosure. This went on for quite a while and finally I guess she understood that she just was not going to get any information and she said I can tell you quite frankly that Mr. Preate is very concerned about this investigation. So when she left the office, I immediately went to Mr. Graci<sup>45</sup> and related this. He was furious. He went to Paul Yatron<sup>46</sup> who told Mr. Zimmerman and a memo came down that after that no one was to disclose anything to the team that after all they were not at that point in power ... I think at that point in time when this happened it pointed out that he really was*

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<sup>45</sup> Robert Graci, Chief Deputy Attorney General in charge of the appeals and legal services section.

<sup>46</sup> First Deputy Attorney General under Attorney General Leroy Zimmerman, Mr. Preate's immediate predecessor.

*concerned about the investigation. And from what all we knew about the investigation, he had every right to be.*

Nels Taber testified that Ms. Lichtenwalner, during the transition period, requested access to grand jury testimony from the video poker case and was refused:

*Q. When did you first learn that Ms. Lichtenwalner either had an interest in the video poker case or was to assist you in the case itself?*

*A. The first time I learned she had an interest in the case was during the transition period after Mr. Preate was elected she came to Harrisburg, she asked to see the transcripts for testimony that had already been taken before the grand jury.*

*Q. In a particular case or all testimony?*

*A. ... as it was related to me from Fran Hamacher. It was specifically targeted to the video poker investigation.*

*Q. And did you take any action internally in reference to that request?*

*A. We refused her access at that point.*

Taber testified that Ms. Lichtenwalner had told him Mr. Preate had a personal interest in the video poker case:

*Q. Did she ever indicate to you ... that, in fact the new Attorney General had some interests in what was going on in that Grand Jury investigation?*

*A. I believe she did.*

*Q. ... Specifically do you remember the words?*

*A. ... she indicated ... Mr. Preate felt the only reason the state police conducted the raids and were conducting this investigation was to embarrass him [Preate]. And he [Preate] indicated that he was very interested in the case.*

Former Senior Deputy Attorney General Michael Kane connected Lichtenwalner's inquiry to the likelihood that Mr. Preate was a *subject* of the video poker investigation. Kane testified:

*Q. Did Mr. Sarcione ever indicate to you or do you recall any conversation about the Attorney General recusing himself ... ?*

*A. No. And that was one of the things that obviously we—we knew before or after the election before the swearing in that there was a—that Preate had an interest in that case obviously since he was probably at least one of the subjects in the investigation.*

*And I also knew and everybody in the office knew that he had Lois Lichtenwalner snooping around to see what she could find out about that investigation. And we were all of the opinion back then that he shouldn't have anything to do with that case.*

*And, in fact, when Lois was trying to pump information out of Fran Hamacher ... And Nels told everybody that she planted herself in his office and started drilling him on what was going on.*

*So we were all aware of this and we all knew what was going on was wrong and Paul Yaron put a memo out saying don't disclose any grand jury information out to the transition team ... we all knew there was an interest there. And we all knew that he shouldn't have had anything to do with it. But there were discussions about that ... what's this guy [Preate] doing coming in and sending in his former assistant DA. It was clear what he was trying to do. He wanted to find out who was testifying and what they were saying.*

Ms. Lichtenwalner confirmed speaking to Ms. Hamacher during the transition period but did not know who raised the issue of the video poker investigation. Lichtenwalner testified:

*Q. Did you at any time speak with a Mrs. Fran Hamacher ... regarding the video poker probe?*

*A. ... I believe that is in the context of talking to Fran Hamacher about Grand Jury practices and procedures.*

*Q. Okay. Do you remember about when it was that you spoke to her about Grand Jury practices and procedures?*

*A. Yes. That would have been before I was in the Attorney General's Office. That would have been during the transition period...*



*And I know that she also used the Northeast video poker as a sort of, as a matter that I would have some familiarity with, since I had been up in the Scranton area...*

*Q. So in other words it was Ms. Hamacher that brought up the northeast video poker probe, as an example?*

*A. ... how it came up, that I do not know.*

Ms. Lichtenwalner thought it *very possible* that she had made a statement concerning Mr. Preate's sensitivity to the case. Lichtenwalner testified:

*Q. Do you ever recall perhaps a statement that you made to her that Mr. Preate was very upset about this particular probe?*

*A. It is very possible I made that statement. I don't recall it.*

Ms. Lichtenwalner could not recall requesting grand jury testimony:

*Q. Did you at any time ask Mrs. Hamacher to review any Grand Jury testimony regarding the northeast video poker probe?*

*A. I don't recall that.*

*Q. ... as a result of that visit [Lichtenwalner's visit] to her that, in fact, there was a general office policy put out and issued that until a person was sworn, transition individuals could not review Grand Jury testimony. Do you recall that?*

*A. No. Not at all ...*

*Q. Did Ms. Hamacher ever tell you that you could not review the testimony because you weren't assigned or sworn in yet? Do you ever remember that?*

*A. No, but it might have been part of a discussion on proceedings in the Grand Jury.*

Mr. Taber stated that following Mr. Preate's being sworn in as Attorney General, Ms. Lichtenwalner was sworn in before the Grand Jury and granted access to grand jury material ...*at that point there was no basis on [which] she could have been denied access.*

Mr. Taber testified that former Director of the Criminal Law Division Anthony Sarcione indicated to him that Mr. Preate himself wanted Ms. Lichtenwalner assigned to the video poker case:

*Q. Did Anthony Sarcione tell you who wanted Lois assigned to that?*

*A. Yes, the Attorney General, Mr. Preate.*

Anthony Sarcione did not recall assigning Lois Lichtenwalner to the video poker case before the Grand Jury:

*Q. Were you aware that she [Lichtenwalner] was ever assigned to work with Nels Taber on the northeast video poker investigation.*

*A. I can't recollect that ... Skip [Ebert] may have [unbeknown] to me.*

Ms. Lichtenwalner denied being "assigned" to the video poker investigation and stated instead that she attended the grand jury on her own. Lichtenwalner testified:

*Q. Ms. Lichtenwalner, when you were assigned to sit in on the Grand Jury, to review how it was conducted, who assigned you to that?*

*A. Assigned is a very bad word.*

*Q. Maybe it is the wrong word.*

*A. ... there [had] been this general education in the office about how a Grand Jury can assist you ... we were even given at some point in time, we were even given a little mini-seminar on Grand Jury practice. And I do recall going down on my own in this respect. No one assigned me.*

Discussions Concerning The Potential Inclusion In The Presentment Of The Campaign Contributions Material And The Lackawanna County District Attorney's Office As A Possible Source Of The "Alleged Leak"

Nels Taber, the Deputy Attorney General assigned to the Sixth Statewide Grand Jury's video poker probe, prepared a draft presentment for the Grand Jury sometime after Mr. Preate became Attorney General in January 1989. Between the writing of the first draft and when a later draft was reviewed by the *front office*, Mr. Taber received assistance from Deputy Attorney General Brian Gottlieb of the Appeals and Legal Services Section. Anthony Sarcione, Director of the Criminal Law Division at that time, described Taber as *good with his analysis ability* and Gottlieb as *a very good lawyer*.

Prior to a draft of the presentment going to the *front office*, Mr. Taber discussed with Chief Deputy Attorney General Robert Graci<sup>47</sup> whether or not it would be appropriate to include the material concerning Mr. Preate's receipt of contributions from the video poker operators. Mr. Graci did not believe that the grand jury's notice of investigation encompassed the material.<sup>48</sup> Taber testified:

*Q. Did you ever have any discussions with Mr. Graci concerning the campaign contribution matters?*

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<sup>47</sup> Graci has held the position of Chief Deputy Attorney General for the Appeals and Legal Services Section since 1987. One of Graci's duties was reviewing grand jury presentments.

<sup>48</sup> 42 Pa.C.S.A. § 4550 (a) states ... *Before submitting an investigation to the investigating grand jury the attorney for the Commonwealth shall submit a notice to the supervising judge. This notice shall allege that the matter in question should be brought to the attention of the investigating grand jury because the investigative resources of the grand jury are necessary for proper investigating. The notice shall allege that one or more of the investigative resources of the grand jury are required in order to adequately investigate the matter.*

In a meeting between Taber, Robert Graci (Chief Deputy Attorney General in charge of the Appeals and Legal Services Section), and Gary Reinhardt (Chief Deputy Attorney General in charge of the Prosecutions Section) it was discussed whether or not the contributions material was within the scope of the Sixth Statewide Grand Jury Notice. Mr. Graci had reservations about the legal relevance of the contributions material, while Mr. Reinhardt indicated that the material was within the scope of the original Grand Jury Notice.

A. Yes.

Q. And what was [the] nature of the conversations with him?

A. It was a question of whether or not it was appropriate to include that aspect in the presentment ... whether or not the grand jury notice really encompassed this area of inquiry...

Q. Did Mr. Graci indicate an opinion on that matter?

A. He as I recall didn't believe it would be appropriate.

Mr. Taber testified that he was told the grand jury itself was very interested in having the contributions material pursued:

Q. Did the grand jurors express as a group or I guess perhaps the foreman express an opinion concerning the necessity to continue the investigation to those matters?

A. It was expressed to me from Fran Hamacher who was the administrator for the grand jury that they were very interested in that, yes.

The section of the presentment that concerned a forewarning of information about the April 1988 video poker raid in Lackawanna County, was removed by the front office. Former Deputy Attorneys General Taber and Gottlieb testified that the leak section of the draft presentment contained explicit reference to the Lackawanna County District Attorney's Office. Gottlieb testified:

Q. In other words, you saw a connection between the testimony about the political contributions and the relationship between perhaps a leak coming out of the District Attorney's Office?

A. ... at the time that the raid took place there was a leak of information to subjects of the investigation. As a result of that, machines were removed from establishments. There was testimony taken about the source of the leak. And some of the testimony implicated the Lackawanna District Attorney's Office ... It clearly indicated to me that there was a relationship between Mr. Preate and the part of the presentment that was edited.

While the presentment was still in the approval process, Mr. Graci called Mr. Gottlieb into Graci's office for a meeting in the presence of Nels Taber. Gottlieb testified that Graci showed Gottlieb a draft of the presentment with a section on the forewarning put back in:

*Q. ... you had gone to him to discuss a section being excised ...?*

*A. ... And he then showed me a draft of the presentment which had I would say a capsulized version, a synopsis of the last page and a half that we've been discussing reinserted back into it ...*

*... Bob felt satisfied that this took care of the matter and he wanted to know if my concerns were satisfied by this. So I read it over and I said that, no, I did not feel that it satisfied my concerns about the matter.*

*... The synopsis that was now in the draft didn't include any reference to the Lackawanna County District Attorney's Office. It just mentioned, as I recall, in a sort of generic fashion that there had been testimony about leaks.*

Former Senior Deputy Attorney General Michael Kane testified:

*Q. Did you hear from other individuals about what was originally perhaps included in that presentment?*

*A. ... he [Gottlieb] told me recently that he had gone through and signed off on it, sent it up to Bob Graci and then it went to the front office and it came back with several significant deletions ...*

*Q. Did he tell you what those significant deletions were?*

*A. ... the Grand Jury had made recommendations at least that the investigation continue to look into the leaks and the relationship to the Attorney General ... that had gotten excised. It came back and there was no reference in there.*

*... There was a page or so that basically had been excised and that Brian [Gottlieb] when he saw that felt that was [a] significant deletion from what the Grand Jury was really looking at and what the Grand Jury really wanted.*

From his past experience at the Office of Attorney General, Mr. Gottlieb believed that the draft document that Robert Graci had signed-off on would, with only nominal changes, become the final presentment. Mr. Gottlieb testified:

*Q. And do you recall specifically what the content of that conversation [with Robert Graci] would have been?*

*A. Yes. ... After Nels [Taber] and I finished working on the document, I had the expectation that it was pretty much in finished form. Usually after the appeals and legal services lawyer [Gottlieb] and the prosecution's attorney reviewed the document, there might be some changes made ... but once it got beyond Bob's [Robert Graci] level ... I don't recall instances where it was routine for there to be substantive changes in the document.*

*So in this case we reviewed it we sent it through Bob. I don't recall Bob having any specific concerns with it and it then went up for further approval.*

Former Senior Deputy Attorney General Michael Kane testified concerning his own experience with the presentment approval process and the fact that the video poker presentment was the only one he recalled that was ever changed:

*Q. But he [Mr. Preate] would have to approve the changes ... ?*

*A. It would go up to somebody in the front office.*

*Q. Okay.*

*A. ... No doubt in my mind that it went to Preate. Any presentment went to Preate and then came back down and .... I don't believe I have had one that got changed. I mean, this is the only one ... I can think of right now that got changed.*

Mr. Kane also testified that Director of the Criminal Law Division [Anthony Sarcione] was one of the links in the presentment approval process ... *it would normally go from the deputy that did the case to Bob Graci who's chief of Legal Appeals and Services. It would normally go to Bob Graci who would ... send it up to Anthony Sarcione and then it would go up to the front office to*

*Preate or Cohen.* Director of the Criminal Law Division, Anthony Sarcione, testified concerning his role in the presentment approval process:

*Q. Do you remember him [Mr. Gottlieb] being upset because a certain section dealing with the leak and the need for further investigation was deleted from a draft that he had reviewed after it had been given to him in legal review?*

*A. I don't remember a deletion. Now, I know that grammatically sometimes presentmenus would be altered by whomever, either Bob Graci, [or] the lawyer that prepared the presentment. I don't recollect ever changing language in a presentment myself personally [during] the four years I was there.*

*Q. This wouldn't have been changed. This would have been a deletion of the last part concerning the need for further investigation into the leak—of this particular leak.*

*A. I can state I did not do that, but I couldn't tell you whether who or if it was done. I did not. I don't have any knowledge of that.*

Mr. Gottlieb testified that Walter Cohen, First Deputy Attorney General, played a role in the editing of the presentment:

*Q. And do you recall specifically what the content of that conversation [with Robert Graci] would have been ... ?*

*A. Nels Taber came to me one morning and he said that ... Walter Cohen the First Deputy Attorney General had made some changes in the document. And I believe this happened over a weekend ... And I said to him [Taber] well, what changes were made. And he referred to a part of the presentment that discussed testimony regarding a leak of information about a state police raid on establishments that had video poker machines. And he said that Mr. Cohen had removed the section that discussed that leak.*

*... I immediately went to Mr. Graci and ... discussed this with him and I explained to him that I felt that it was inappropriate to remove the section of the presentment ... I felt that under the circumstances ... there had been testimony taken during the Grand Jury investigation regarding the Attorney General's relationship with the subjects of the—some*

*of the subjects of the investigation that it was especially inappropriate for someone in the executive office to have made that kind of a change in the document.*

Mr. Kane testified that legal review included Mr. Preate:

*Q. So the presentment that was changed ... that Mr. Preate reviewed ...?*

*A. Brian [Gottlieb] told me that Walter Cohen was the one who redacted it, that he was told by Bob Graci that it was Walter Cohen who read it over the weekend... [and] Walter Cohen did whatever Ernie wanted ... I never knew of anything that didn't go to Preate. I never knew of a case that didn't go; a plea bargain, a request interview, ... a presentment it all went to him [Mr. Preate].*

Mr. Gottlieb testified that Mr. Graci stated that he (Graci) had received assurances regarding a continuing investigation of the issue of the forewarning:

*Q. ... you had gone to him to discuss a section being excised, he had no memory of that?*

*A. ... he remembered most everything that I said to him with the exception I think of one thing that he said he didn't recollect.*

*Q. Which was?*

*A. ... I expressed a concern about a conflict of interest. And so at that point, Bob [Robert Graci] indicated to me that—that as I recall Bob indicated that he felt that this was satisfactory, the language that had been put back in. And he told me that he had been assured that there was going to be a continuing investigation into the issue of the leak. And that as a result of receiving those assurances, you know, that made him feel comfortable that this matter was satisfactorily resolved. ... when I had [a] recent conversation with Mr. Graci ... we discussed the changes in the presentment draft, that matter of the assurance that he said had been given to him that the investigation was going to continue was the one matter that I told him about that he didn't have present recollection of. He said that he didn't remember saying that to me.*



Mr. Gottlieb testified that several weeks prior to his hearing before the Commission on June 25, 1993 he was shown by Bob Graci ... *a document which purported to be an early or a preliminary draft of the presentment* ... along with the final presentment. Mr. Gottlieb testified:

*Q. Did it [the final version of the presentment] indicate or was there any part of that recommendation of that presentment ... that an investigation continue in that particular area [the contributions arrangement]?*

*A. No, I don't recall that being in the presentment. ... the only chance I've had to see that document since ... 1989 was on an occasion a few weeks ago when I was talking to Bob Graci. And he showed me a document which purported to be an early or a preliminary draft of the presentment. And then he showed me also the final presentment that was voted out of the grand jury ... as a result of having reviewed it several weeks ago, I know that there was a section of the [draft] presentment that made reference to the fact that the Lackawanna County District Attorney's office was allegedly one of the sources of the leak of information about the raid.*

First Deputy Attorney General Walter Cohen provided a document to the Crime Commission that, on its face, appears to be pages 15 and 16 of the un-edited version of the presentment. The un-edited version contained specific mention of the Lackawanna County District Attorney's office:

*These "leaks" had been attributed to several sources, including the Lackawanna County District Attorney's Office ... Corporal Tonetti had brought several search warrants to the district attorney's office for approval a day or two before the scheduled raids ... Joseph Baldassari testified that he had been informed of the raid a week before the raid. Such a "leak" would have occurred before the search warrants were brought to the district attorney's office ... there was no identifiable*

*source for the release of any information concerning the raid. [draft presentment made available by First Deputy Walter Cohen.<sup>49</sup>]*

The final version of the presentment for the Sixth Statewide Grand Jury dated July 27, 1989 and handed down on July 31, 1989 does not mention the Lackawanna County District Attorney's Office, nor does it make any mention of the alleged improper contributions from video poker operators.

The Office Of Attorney General Did Not Request The Seventh Statewide Grand Jury To Follow-Up On Allegations Against Mr. Preate

The Commission questioned Deputy Attorney General Dennis Reinaker, Mr. Taber's successor, concerning the possibility of a follow-up on previous grand jury testimony concerning contributions to Ernest Preate's political campaign. Mr. Reinaker testified:

*Q. Was there any effort made to follow up on that particular allegation by Mr. Baldassari ["Jo Jo" Baldassari and the allegation of the leak]?*

*A. There was not any effort made by me. I mean, when I got the case, it basically was finished from an investigative standpoint. The grand jury presentment was prepared ...*

After Mr. Preate had been elected, the Office of Attorney General issued a new grand jury notice to investigate the manufacturers of video poker machines. The Office of Attorney General, however, chose not to issue a notice to pursue the allegations against Mr. Preate that had surfaced in the Sixth Statewide Grand Jury, specifically the contributions arrangement and the issue of the forewarning. The Seventh Statewide Grand Jury was located in Harrisburg and consisted of new

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<sup>49</sup> This un-edited version, however, was inaccurate insofar as it implied that the district attorney's office was not an "identifiable source" of the leak merely because news of the raids had circulated prior to the search warrants being brought to Mr. Preate's office. As mentioned in Section V of this report, Mr. Preate knew of the impending raid at least as early as March 31, 1988. Mr. Preate met with Trooper Walter Carlson on April 1, 1988 and told him that he had learned of the raid one day prior. Mr. Preate therefore knew of the raid at least six days prior to the raid's occurrence.

jurors who were not privy to the testimony of the Sixth Statewide Grand Jury. In addition, in August 1989 a new Deputy Attorney General, Dennis Reinaker, was assigned to the Grand Jury video poker cases. He did not begin working on the video poker cases until after Mr. Preate was elected and after the Sixth Statewide Grand Jury had issued its presentment.

Joseph Kovach, the principal individual in the campaign contributions arrangement, was subpoenaed by the Seventh Statewide Grand Jury and granted immunity, but never questioned about his role in collecting contributions from the operators and the arrangement with Mr. Preate.<sup>50</sup> Mr. Reinaker testified:

*Q. Was Mr. Kovach ever asked to testify regarding his role after immunity was granted?*

*A. No.*

*Q. Is the central focus point of the video poker vendors organization?*

*A. No. At the point where he testified there had been a new grand jury empaneled and a new notice submitted. And the focus of that was to look at the manufacturers of these machines to see if, in fact, we could do anything at that level to try and deal with the problem on a statewide basis.*

Grand jury notices, however, were not always interpreted so restrictively. The Director of the Criminal Law Division at the time, Anthony Sarcione, in his testimony before the Commission, implied that there was some latitude granted to investigative attorneys in determining the subject matter of presentments. For example, during the Sixth Statewide Grand Jury, Nels Taber conducted

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<sup>50</sup> Mr. Reinaker testified before the Commission that Attorney General Preate would have had to sign the petition for Mr. Kovach's immunity. The immunizing of Kovach and others, however, contradicted Mr. Preate's general stance on grants of immunity. In an August 7, 1989 letter from Attorney General Preate to the Crime Commission, Mr. Preate refused to grant an Allentown video poker operator immunity. Preate wrote: *I personally frown on giving immunity to persons who have violated the criminal statutes of Pennsylvania. I am of the belief that immunity is warranted only when it is a case of last resort.*

Video poker operator Arnold Taksen who met with Mr. Preate in connection with Mr. Preate's alleged attempt to replicate the contributions arrangement statewide, testified that he was subpoenaed before the Seventh Statewide Grand Jury in 1990 and given immunity without requesting it.

*manipulate*

an extensive inquiry into whether or not different operators had been solicited by Joseph Kovach for campaign contributions to Mr. Preate. Mr. Sarcione testified that he told Taber ... *Wherever it goes, go with it.* Mr. Sarcione testified:

*Q. ... he [Taber] questioned each and every one of those witnesses concerning their relationship with Mr. Kovach and their knowledge of having been solicited by Mr. Kovach who raised ... political contributions for Mr. Preate ... did he discuss that with you again at that time just prior to his leaving the office or during the time that he was preparing the ... presentment?*

*A. Before he prepared the presentment, I don't recollect ... whether he did or he didn't. All I can say is whatever—if there was PC [Probable Cause] for a charge to be sustained, go ahead. If there is not, forget it. If there is PC, probable cause, go ahead.*

#### Attorney General Preate Did Not Recuse Himself

The week following the April 1988 video poker raids, Mr. Preate returned a portion of the operators' reported campaign contributions. A question arises whether Mr. Preate was aware of a potential conflict of interest prior to his election to the Office of Attorney General. After Mr. Preate became Attorney General, the Sixth Statewide Grand Jury handed down a presentment recommending prosecution of many of the illegal video poker operators who contributed to Mr. Preate's campaigns. The charges included Corrupt organizations, 18 Pa.C.S. § 911; Criminal conspiracy, 18 Pa.C.S. § 903; and Gambling devices, gambling, etc., 18 Pa.C.S. § 5513. However, once assuming office as Attorney General, Mr. Preate did not recuse himself from the video poker investigation.

Deputy Attorney General Brian Gottlieb testified concerning the ethical conflict he perceived in that the *front office* was editing the presentment:

*Q. ... you had gone to him [Robert Graci] to discuss a section being excised ...*

*A. I ... [told him] that I felt that my greatest concern was ... not so much what the language was, but the fact that the administration of the office which had to one extent or another been implicated in the investigation was continuing to work on the matter and that they were making decisions about what should be in the presentment.*

Former Senior Deputy Attorney General Michael Kane testified:

*Q. Did Mr. Sarcione ever indicate to you or do you recall any conversation about the appropriateness of the Attorney General recusing himself for not handling any matters in relationship to that particular investigation or there being any discussions about that?*

*A. No. And that was one of the things that obviously ... we knew before the swearing in that there was a—that Preate had an interest in that case obviously since he was probably at least one of the subjects in the investigation.*

Former Deputy Attorney General Nels Taber testified:

*Q. Did you at that particular time feel that it was appropriate for Mr. Preate to continue to have any involvement in that case?*

*A. ... I would see it as a major conflict of interest for him to be involved based upon the information that had been related to me where he was at a number of functions with a number of these individuals; Mr. Baldassari, Mr. Kovach and a number of other vendors. Mr. Preate ... had more than a casual association with a lot of these people. And I would think it inappropriate for him to have any extensive involvement in the investigation.*

Deputy Attorney General Nels Taber testified that during the probe by the Sixth Statewide Grand Jury he had anticipated requesting immunity for Elmo Baldassari and Joe Kovach to enable the Grand Jury to further investigate the charges against Preate. Taber, however, testified that Mr. Preate, after assuming office, had forbidden further grants of immunity in the video poker case:

*Q. ... did you anticipate giving immunity, further immunity to other vendors who would have been critical to determining the role of the majority of the vendors in dealing with Mr. Preate?*

*A. Yes ... to be specific ... Elmo Baldassari, Joe Kovach ... those really would have been the two major witnesses as far as verifying what the various vendors were saying ...*

*Q. Did you ever discuss with anyone your desire to obtain or attempt to obtain immunity orders for those witnesses; Mr. Kovach and Mr. Baldassari ?*

*A. ... what happened was there were other vendors I believe that I wanted to call first and when I attempted to get grants of immunity for those vendors, I was informed that they were—the Attorney General was not going to allow grants of immunity to be given any longer for persons testifying before the grand jury in this case.*

Once the Sixth Statewide Grand Jury expired, the Seventh Statewide Grand Jury came into existence for the purpose of investigating the manufacturers. The new jurors were not privy to previous grand jury testimony concerning the contributions arrangement and the forewarning of the raid. Dennis Reinaker replaced Nels Taber as the Deputy Attorney General assigned to the video poker case, and petitions for immunity were freely granted by the Attorney General. Reinaker testified:

*Q. Whose decision was it to give Mr. Kovach immunity?*

*A. You mean when we were investigating the manufacturers?*

*Q. Right.*

*A. ... the Attorney General would have to sign the paperwork ... that was done for everyone who testified at that stage ... assuming they asked for it ... I mean everyone who testified, who asked for immunity was given it...*

Despite a grant of immunity, the issue of the contributions arrangement was not raised:

*Q. Was Mr. Kovach ever asked to testify regarding his role [in the contributions arrangement] involving Mr. Preate] after immunity was granted?*

A. No.

Q. As the central focus point of the video poker vendors [investigation]?

A. No ...

Deputy Attorney General Dennis Reinaker testified as to how he dealt with the potential conflict of interest that Attorney General Preate might have with an investigation of the campaign contributions. Mr. Reinaker testified that he did not approach his superiors regarding the subject:

Q. Did you raise upon seeing this potential issue here ... the fact that the Grand Jury involved questions concerning Mr. Preate's political contributions, did you raise that issue with any of your superiors?

A. I never raised it. I mean, I guess personally I was aware of this issue a year before I ever got involved in the case ... I just assumed that that wasn't something that any of my superiors saw as a problem and so I didn't raise it.

Anthony Sarcione, Director of the Criminal Law Division, testified that Mr. Preate never formally recused himself from any involvement in the video poker investigation and prosecution. Mr. Preate discussed developments in the video poker case with his subordinates. Mr. Sarcione testified:

Q. Besides discussing just the presentment with him, after it had been drawn, prior to that time had there been any general discussion with him concerning this investigation?

A. I am quite certain that I probably informed — I informed him of — that the thing was going on.

Q. Did Mr. Preate at any time indicate to you that he thought he should recuse himself from any involvement in this matter?

A. ... there was, I remember, one discussion about that, whether he should or shouldn't. And basically it was left that, you know, I would dispose of it as a way I felt appropriate and I don't believe he ever did formally recuse himself.

Q. When was that?

*A. ... it was probably sometime shortly after the presentments.*

Mr. Reinaker and others recognized potential problems. Reinaker testified:

*Q. ... did any of the superiors or anyone else ever relate to you that there should, in fact, be for ethical reasons, a removal of that case from either your office and your handling the matter, because of the fact that it did involve allegations against your boss?*

*A. I think everybody assumed there were ethical problems with doing that.*

*Now, whether somebody should have taken the step of drawing in another agency and saying, here, we have this information, you guys take it and run with it, I don't know ...*

Mr. Sarcione testified that Mr. Preate had met with him to discuss the dispositions in the video poker case:

*Q. Are you saying it [the contributions arrangement] was purposely ignored and people just didn't want to face it or deal with the possibility of investigating their boss?*

*A. I don't have an answer to that, John.*

*Q. That's the crux of the matter.*

*A. I did discuss the dispositions with the Attorney General.*

*Q. And he agreed these were the best ways to dispose of the case?*

*A. He agreed with myself and Reinaker ...*

Although Attorney General Preate had never officially recused himself from the investigation, there were those from the Attorney General's Office who testified that they were told that Mr. Preate had informally removed himself from the case. Mr. Reinaker testified:

*Q. Did Mr. Sarcione ever discuss the subject with you concerning the fact there was some involvement ... of Mr. Preate ... with these video poker operators, that would be a problem?*



*A. I recall ... Mr. Sarcione indicating to me that Mr. Preate had basically removed himself from participation in this case. That he, Mr. Sarcione, was the person responsible for making the decisions on what was going to be done. And that, you know, he and I were the two people that had the responsibility for the case ....*

*Q. Did he [Sarcione] specifically tell you that?*

*A. Mr. Sarcione did, yes.*

Mr. Reinaker testified concerning Mr. Sarcione's assurances that Attorney General Preate had unofficially removed himself from the video poker case::

*Q. So, in effect, that aspect of any further investigation in that matter had, in fact, been foreclosed and [you] would not deal with it?*

*A. It was finished ... you guys have been involved in law enforcement, it is just not realistic to think that we in that office were going to be asking questions about our boss. I mean, maybe it is something somebody else should have brought up.*

Mr. Sarcione testified:

*Q. ... Did it never occur to you that the issue of the possible improper or perhaps criminal behavior of the Attorney General should be explored? ...*

*A. I didn't believe that the — I will be frank ... the Attorney General hired me. I didn't know him. He showed a lot of faith in giving me such a position ... I didn't see him as a potential criminal.*

*Q. ... it didn't occur to you that Mr. Preate might have been involved in criminal conduct?*

*A. I did not at the time have any belief ... that that was possible. That's my statement ... I didn't know either all these details from '87 and '88 either, you know, that obviously everyone has brought to light ... I didn't have all this stuff from Scranton that you have.*


ALLEGATION NO. 4: After Mr. Preate assumed office as Attorney General, an investigation by the Sixth Statewide Grand Jury into allegations that he improperly received campaign contributions from video poker operators was terminated.

### THE COMMISSION'S INVESTIGATIVE FINDINGS

The Commission determined that investigative leads concerning Mr. Preate's conduct that developed during the Sixth Statewide Grand Jury's proceedings were not pursued by the Attorney General's Office.

The Commission determined that, throughout the Sixth and Seventh Grand Juries' probes, Mr. Preate was briefed concerning the status of the video poker investigation. Mr. Preate's briefings included a discussion concerning the case dispositions with Director of the Criminal Law Division, Anthony Sarcione. The Commission determined that Deputy Attorney General Lois Lichtenwalner, a member of Mr. Preate's transition team and a former employee of Mr. Preate in the Lackawanna County District Attorney's Office, attempted to review the Grand Jury material on behalf of Mr. Preate, before being authorized to do so by the Grand Jury's Supervising Judge.

The Commission determined that Mr. Preate appears to have breached a duty to recuse himself from the investigation. The attorney assigned to the Seventh Statewide Grand Jury's video poker investigation, Dennis Reinaker, testified ... *it is just not realistic to think that we in that office were going to be asking questions about our boss.*





## VII. VIDEO POKER OPERATORS ESCAPE PERSONAL CRIMINAL RESPONSIBILITY

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ALLEGATION NO. 5:

The Sixth Statewide Grand Jury recommended that certain video poker operators be charged with felonies. The operators were subsequently able to have the recommended felony charges reduced to minor gambling offenses. Further, the operators succeeded in negotiating the substitution of corporate defendants for themselves. One of the defendants, Joseph Kovach, obtained plea agreements for himself and the other video poker operators after threatening to expose the contributions arrangement with Mr. Preate.

### A Meeting Is Held Ten Days Before The Grand Jury Presentment Is Handed Down

Although corrupt organizations charges were not yet filed by the State Police, the Office of Attorney General was already involved in plea negotiations with defense attorneys for the video poker operators. Ten days prior to the issuance of the Sixth Statewide Grand Jury presentment, Anthony Sarcione, Director of the Criminal Law Division, met with defense attorneys S.C., R.I., and J.M. in Wilkes-Barre, Pennsylvania. Mr. Sarcione, in testimony, could not recall bringing to that meeting a copy of the proposed grand jury presentment and described this meeting as essentially an intimidation tactic on the part of the defense attorneys:

*Q. Had you already received and reviewed a copy of the proposed presentment that Mr. Taber was going to present to the grand jury ... ?*

*A. Boy, I don't recollect that. ... Because I doubt very much because when I went up to Wilkes-Barre<sup>51</sup> ... I wanted a clear mind ...*

*Q. You would not have known then all of the individuals that were in fact going to be charged in ... the presentment?*

*A. I knew that these three individuals represented some of the video poker people that the investigation obviously was looking at. I knew that. I couldn't tell you specific names and*

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<sup>51</sup> Mr. Sarcione testified that he was in Wilkes-Barre at the time working primarily on an unrelated murder investigation. Mr. Sarcione also testified he could not remember who had scheduled the meeting.

*I don't even know if I knew them then ... I don't recollect bringing a presentment. I don't think I would do that because I would be concerned, number one, because of the security of the thing ...*

*Q. Do you recall outlining for them [the defense attorneys] individual or the company or the individuals associated with the companies that were going to have presentments issued against them?*

*A. I wouldn't agree with the term outlining.*

*Q. Telling them.*

*A. My recollection of that [July 21, 1989] meeting was simply them trying to bully me and tell me: What are you doing here? This is horse-shit ...*

Although Mr. Sarcione did not recollect taking the presentment to the meeting, one defense attorney's notes entitled ... *Meeting Wilkes-Barre 7/21/89, Anthony Sarcione* ... listed the following names of businesses and individuals:

<i>C&amp;A</i>	<i>Pelicci</i>
<i>Active [Amusements]</i>	<i>Angelo Merlino; Kovach</i>
<i>Mancuso</i>	
<i>Hugo Brozzetti</i>	
<i>Maple City</i>	
<i>Joe Gustin</i>	
<i>Hank Baldassari</i>	<i>Hank</i>
<i>J&amp;R</i>	<i>Judge</i>
<i>Northeast Vending</i>	<i>Tony Brutico, Cominsky, Capaccio [Cacioppo]</i>
<i>Baldassari Amusement</i>	<i>Joseph, Al</i>
<i>William Ferrario</i>	

The order listed in the defense attorney's notes was identical to the final version of the presentment with the exception of Joe Gustin, Hank Baldassari, and William Ferrario.<sup>52</sup> The defense attorney's list also included the names of individuals who were not represented by any of the three attorneys present at the Wilkes-Barre meeting.

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<sup>52</sup> Ferrario was not recommended to be charged in the final version of the presentment.

Mr. Sarcione testified that he did not recollect informing the defense attorneys that the Grand Jury had voted not to extend itself and that he did not recall discussing dispositions:

*Q. Do you recall indicating to them ... or informing them that the Grand Jury had voted not to extend itself?*

*A. Boy, I don't recall that. I don't recall that.*

*Q. Do you recall discussing the dispositions of these cases and how these cases might be resolved?*

*A. ... I don't believe they arose at that time, at the July [meeting]. I may have said: Hey, look we will work something, you know, ... We will work something later, just let it take its course, so I may have said that.*

*Q. Did you discuss the possibility of corporations being permitted to plead guilty as opposed to individuals?*

*A. ... I don't believe at that time ...*

The first item, on the first page of the defense attorney's notes, read:

*Grand Jury voted not to extend.*



Regarding the discussion of dispositions, the defense attorney's notes detailed the positions of both the Office of Attorney General and that of the defense attorneys:

[S.C.]

*proposed a civil consent degree*  
*consent degree*  
*corporations or partnerships*

*Attorney General's Proposal*

*1-2 misdemeanor 10-20,000 fine*  
*guilty*  
*cooperation against manufacturers*  
*immunity*  
*Corporation - nolo contendere*  
*possible guilty if it does not affect cigarette license*  
*Cooperation - re - manufacturer*  
*Get rid of machines within 15 days of plea*  
*Restriction order on machines they have*  
*15,000 - 1 year*  
*2 misdemeanor*  
*1 conspiracy*  
*1 gambling*  
*No Jail*

Mr. Sarcione testified that he had discussions with Attorney General Preate concerning the July meeting:

*Q. Did you ever discuss with Mr. Preate the July 21, 1989 meeting?...*

*A. Yes ...*

*Q. What did Mr. Preate say about that meeting?*

*A. ... he laughed at it. He said: don't worry about it ... You can deal with them ...*  
*Because I guess he knew, being from Scranton, he knew [S.C.] ... He knew [J.M.].*

Mr. Sarcione stated that after the July meeting Mr. Preate met or talked with Mr. S.C.:<sup>53</sup>

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<sup>53</sup> Mr. S.C. represented video poker operator Anthony Rinaldi who, although recommended to be charged in the grand jury presentment, was not arrested. Three of Rinaldi's employees—Anthony Brutico, Carmen Cacioppo, and Paul Cominsky—were not only named in the presentment, but were also arrested. These three employees all testified before the Crime Commission that they learned of their impending arrest from Anthony Rinaldi, their employer. They also testified that Anthony Rinaldi paid for their legal counsel, Mr. S.C. The Crime Commission received sworn testimony (continued...)

*Q. Did he [Mr. Preate] indicate he met with [S.C.] ... or Mr. [J.M.]?*

*A. He [Mr. Preate] may have indicated to me that during this time from presentment to disposition that they called him or [he] spoke to them ...*

*Q. Okay, spoke, discussed the dispositions?*

*A. I believe he may have said that, yes, they called me ...*

*Q. He may have or he did?*

*A. ... I believe he did. He did. ... they go back a long way. I don't know what the heck they talked about ... I know they had contact. I know [J.M.] was friendly with him [Mr. Preate]. I mean from being from Scranton. So was [R.I.]....*

#### Corporations Formed After State Police Raids

Several of the corporations that were charged along with the video poker operators did not exist at the time of the actual offenses or at the time of the Wilkes-Barre meeting with Mr. Sarcione. Four of the nine corporations ultimately charged were formed after the April 6, 1988 raids but prior to the unsealing of the grand jury presentment. Moreover, the principals of these four corporations were each represented by an attorney who participated in the July 21, 1989 Wilkes-Barre meeting.<sup>54</sup>

Deputy Attorney General Dennis Reinaker testified that he had been under the impression

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<sup>53</sup> (...continued)

from Brutico, Cacioppo, and Cominsky that stated that Anthony Rinaldi and Elmo Rinaldi were directly involved in a video gambling enterprise. Cominsky stated:

*Q. ...any decisions about the poker machines or placing loans—*

*A. have to come from A.J. [Rinaldi].*

Both Cominsky and Cacioppo testified that Anthony Rinaldi's son, Elmo Rinaldi, besides being their immediate supervisor, would do collections when the collectors were on vacation or sick.

<sup>54</sup> S.C. represented, among others, Joseph Gustin, operator of Joseph G. Amusements & Vending, Inc., which was incorporated on July 26, 1989. R.I. represented C&A Vending Inc., incorporated on November 22, 1988, and HLJ Amusements Inc., incorporated on September 29, 1989. Finally, J&R Amusements, represented by J.M., filed for incorporation on July 31, 1989 — the same day the presentment was issued — and was incorporated on August 8, 1989.



that an October 1989 meeting was the first time that the notion of charging the businesses or corporations was raised:

*Q. Do you recall ... during this October meeting ... whether there was, in fact, some issue concerning corporations ...?*

*A. Yes. I do remember that being raised at that time...It could well be that that is the first point that the corporate plea issue was broached ...*

Mr. Reinaker was then confronted with the fact that two of the corporations that would enable the video poker operators to receive more lenient treatment were formed within three weeks after the July 21, 1989 meeting:

*Q. ... two of the four corporations that didn't exist previously were formed before the presentments were issued?*

*A. That could be true. I guess my, what I am saying is, I assumed that it [the October meeting] was the first time the corporate plea issue was raised because in my conversations with Mr. Sarcione afterward it seemed as though that was something new to him that was being brought into this.*

Dennis Reinaker testified that he was not informed of the July 1989 meeting.<sup>55</sup>

#### Mr. Preate Is Threatened With Exposure Of Contributions Arrangement

Elmo Baldassari, in an interview by the Commission, stated that Joseph Kovach told him "he [Kovach] had spoken with Preate's top assistant, whose name Baldassari could not recall, and told this individual that if he [Kovach] went to jail, so would Ernie, as he had records of the money

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<sup>55</sup> On April 7, 1994, First Deputy Attorney General Walter Cohen transmitted to the Commission a memo dated May 10, 1993. The ten page memo was from Dennis Reinaker to Mr. Cohen and dealt with several issues concerning the video poker probe. Mr. Reinaker testified before the Commission on July 27, 1993 and made no mention of the memo. Portions of the memo appeared to be inconsistent with Mr. Reinaker's testimony and with the Commission's investigative findings.

given and the individuals who gave the money to Preate's campaign." Video poker operator Gabriel Horvath, in an interview with the Commission, corroborated Mr. Baldassari's statement. Horvath stated that Mr. Kovach told an official in the Office of Attorney General "if he [Kovach] goes to jail, Ernie will go to jail with him."

Video poker operator Eugene Caljean testified:

*Q. Did he [Joseph Kovach] indicate to you that in any way .. he [Kovach] might try and get even or do something about this? ...*

*A. Yes ...*

*Q. What did he say?*

*A. He said he wanted to get even with Ernie Preate for what he did to Joe personally. And the arresting [of] him ...*

*Q. You're indicating ... that he felt betrayed because of that?*

*A. Oh definitely ...*

*Q. So it was his understanding that he wouldn't be prosecuted in exchange for the contribution?*

*A. ... his understanding [was] that Ernie Preate would not raid the poker games.*

Mary Lou Salerno testified:

*Q. Before Joe Kovach died, do you know if he made any efforts, if Joe Kovach made any efforts to contact or do anything with these people?*

*A. ... Joe [Kovach] was really upset because they were indicting him ... And Kovach said to Elmo, I'm involved. He said, if ... this happens, if I get in trouble, he said, I'm going to fix Ernie too. He'll never get away with this ... he said that he would go after Ernie if they didn't drop whatever they were doing to him and all the other operators.*

*Q. Joe Kovach said that?*

*A. Yeah. He said Ernie won't screw with me.*

Ms. Salerno testified concerning an angry exchange of words between Elmo Baldassari and Mr. Preate during a fund raiser at the St. Mary's Center in Scranton ... *Ernie was there and Elmo walked up to him. And there were people standing there. And he said to Ernie, You're a f\_\_\_ing bum. And Ernie said, I don't know what you mean. He [Elmo Baldassari] says, you know what you did. You know what you did to me. ... It was in reference to the machines.* Video poker operator Henry Baldassari, Sr. testified about the incident:

*Q. Who related that incident to you ... ?*

*A. ... I think Kovach told me.*

*Q. What did he tell you?*

*A. ... he [Elmo Baldassari] sort of cursed at Ernie ... that Kovach did so much for him [Mr. Preate] and then he jerked him around ...*

*Q. Because [Mr. Preate] did what?*

*A. Because Ernie I guess didn't help Kovach somehow or another. Because Kovach was collecting all this money for him.*

Video poker operator Frank Mancuso testified:

*Q. ... What happened?*

*A. I know I heard he had some words with him.*

*Q. With who?*

*A. He was yelling.*

*Q. Who was?*

*A. Elmo Baldassari. ... I guess at Ernie. ... I heard it on the road. ... Elmo was upset with Ernie.*

*Q. Over What?*

*A. Over Joe Kovach ... at the time I guess Joe was going through the same thing I was going through ...*

*Q. You mean in relationship to the raids and the video poker?*

*A. Right.*

## Conflicts Between The State Police And Office Of Attorney General

Disputes arose between the Pennsylvania State Police and representatives of the Attorney General regarding both the arrests of individuals recommended for prosecution by the Grand Jury and disposition of the cases.

The Office of Attorney General had not made Corporal Tonetti aware of the existence of the Sixth Statewide Grand Jury Presentment which was handed down on July 31, 1989 until January 1990.

*Q. ... I believe the recommendation on a majority of the charges included charges of racketeering [Corrupt organizations]... along with gambling devices and/or conspiracies. Is that correct?*

*A. ... It would be a good point to note that I was not advised of that presentment nor was I given a copy of this as the investigating officer until January [1990.]*

It was unusual that Corporal Tonetti would not even be alerted to the presentment's existence. Chief Deputy Attorney General for the Appeals and Legal Services Section, Robert Graci implied that it was unusual for the state police to be excluded ... *When you prepare a presentment, you've been working with a particular trooper or agent[,] depending on where the case comes from[,] have them review it before it comes to me to make sure that they think it's accurate because ultimately they're going to be the ones signing a criminal complaint if this is to be used as an affidavit of probable cause.*

On February 27, 1990, Corporal Tonetti and Anthony Sarcione engaged in a verbal confrontation regarding charges against one video poker operator. Certain video poker operators named in the presentment were not charged by the Office of Attorney General. Corporal Tonetti testified:

*Q. Did you agree with the charges as they were drafted?*

*A. I thought some people were missing that should have been involved ... It was a hostile situation at the barracks between myself, Sarcione, Reinaker, and Joe Kovach.*

*Q. How did that become a hostile situation ... ?*

*A. I was finger printing Joe Kovach at the barracks ... Kovach was quite irate over the fact that [Anthony Rinaldi] that had [Automatic Vending] wasn't arrested ... and I turned to Sarcione and Reinaker because I didn't understand it myself.*

*And I told Sarcione and Reinaker to give me a warrant, and I'll go down and arrest Rinaldi because I think he should have [been] arrested too.*

When representatives of the Office of Attorney General decided on the pleas that would be accepted they then met with the state police and sought their concurrence. Another dispute arose between State Police Sergeant Broscius and Anthony Sarcione. Sergeant Broscius testified that the Attorney General's decision to charge corporations with gambling devices instead of prosecuting individuals was inappropriate:

*Q. ... At this meeting or these meetings, what was discussed?*

*A. Well, we discussed the Grand Jury findings. We had to coax them to give us the Grand Jury findings ...*

*Q. What do you mean you had to coax, coax whom?*

*A. Coax Tony Sarcione ... I'm sure there were phone calls made and personal visits made for the presentment.*

*After we got that settled with them, they then wanted not to arrest the individuals. They wanted to arrest the corporations.*

*Q. What was their rationale or explanation for that?*

*A. They didn't say.*

*Q. Who made that decision?*

*A. Well, Sarcione presented it to us ...*

*Q. He presented to you [that] the corporations would be arrested and not individuals?*

*A. That's right. ...*

*Q. Was it an idea that the State Police had either pushed or suggested or wanted?*

A. ... We did not want it. And I specifically told him [Sarcione] that that wasn't the way we did business. And it was a bad judgement. I can remember telling him that if you arrest those corporations, the next day the corporations are going to go in and reincorporate under a new fictitious name and there's no record. The only way is to have an arrest record on the individual...

Q. You specifically said that?

A. Absolutely ...

Q. So you specifically [told] Mr. Sarcione and Mr. Reinaker that you did not feel that particular approach was an appropriate approach?

A. That's right ...

Q. And who ultimately carried out that decision?

A. Well, the paperwork was all drawn up by the Attorney General's Office ...

Q. Who was the Attorney General at this point in time?

A. Preate, Ernie Preate.<sup>56</sup>

Trooper Thomas Taylor testified his sergeant, Albert Broscius, was very *adamant* that corporations not be prosecuted in place of individuals. Trooper Taylor described the problems Sergeant Broscius encountered with the Attorney General's Office:

Q. When you say charge the company, charge the manufacturing companies?

A. No, the vending companies ... if you charge this corporation, and if, in fact, you can do that, charge a non-person with a criminal violation, then the company can be dissolved. Then there's really no record ... [for example,] it used to be Star Vending. Now it doesn't exist. I'm now Ace Vending, and they don't have a record. He [Sergeant Broscius] foresaw that.

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<sup>56</sup> Dennis Reinaker testified, ... He [Sergeant Broscius] did not like the idea. There is no denying that. I think of everybody involved he was the most opposed to that.

Both A Defense Attorney And The Prosecution Concluded That The Corrupt Organizations Charges Were Sustainable

Defense attorney Charles Volpe<sup>57</sup>—excluded from the July meeting in Wilkes-Barre—was surprised when informed that corporations would be prosecuted instead of individuals. Mr. Volpe was particularly shocked over the Office of Attorney General offering his clients a negotiated plea that was far better than the one to which he had initially agreed. Concerning the deal that Mr. Volpe eventually obtained from the Attorney General's Office, Mr. Volpe testified:

*Q. Now, were you eventually offered a deal by the Attorney General's office?*

*A. Yes.*

*Q. And what was the nature of the deal? How did it compare against the one that you had offered them?*

*A. It was better.*

Mr. Volpe characterized the evidence against his clients as ... *voluminous*. Mr. Volpe's video poker operator clients ... *were operating video poker machines; and unless I was able to get the evidence suppressed, which up to that point I had been unsuccessful in doing, the prospects of victory at trial for them were going to be very difficult.* Mr. Volpe was not optimistic about successfully defending against the first degree felony charge. *The odds of my clients winning a trial would have been negligible ... They would inevitably be facing a corrupt organizations charge. Nels Taber had pretty well indicated that to me in so many words.* Mr. Volpe and Mr. Taber had tentatively agreed on the defendants as individuals pleading guilty to a misdemeanor charge.

The investigative attorney for the Seventh Statewide Grand Jury, Dennis Reinaker, also stated the corrupt organizations charges were viable:

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<sup>57</sup> Mr. Volpe represented Gordon Potratz, William Ferrario, Frank Brozzetti, and Robert Baldassari. Joseph O. "Jo Jo" Baldassari, Joseph C. Baldassari, and Joseph Gustin were also represented by Mr. Volpe though only for a short while. They were later represented by S.C. [Volpe-T, 10:4-17.]

*Q. That they were solid corrupt organizations [charges]. You have no doubt about that?*

*A. There is no doubt in my mind that those individuals that were charged with corrupt organization violations, that there was sufficient evidence there to gain a conviction on those counts.*

Robert Graci, Chief Deputy Attorney General in charge of the Appeals and Legal Services, testified:

*Q. ... do you think it was a competent investigation? Do you think the quality of the evidence supported the presentment?*

*A. If I didn't think the quality of evidence supported it, I wouldn't have approved it. ...*

*Q. So then you feel confident that the charges of corrupt organizations could have stood up... ?*

*A. There was probable cause to file which is the standard we use ... I think the corrupt organizations could have been made.*

#### A Press Conference To Announce A Crackdown

Mr. Preate's handling of the video poker case was inconsistent with his public stance in which he called for a *crackdown* against video gambling. On February 23, 1990, less than one week prior to the arrests of the video poker operators in the northeast, Mr. Preate held a press conference to announce his *crackdown* against video poker, in which he stated:

*We are not going to stand idly by and permit Pennsylvania to become a de facto gambling state ... we're changing the risk-reward equation for bar owners and distributors ... In the past, they knew that even if they were convicted of illegal gambling, the only punishment they were likely to get was a modest fine ... our goal is nothing less than driving every video poker machine out of Pennsylvania ... we're clamping down because blatant illegal activity and sporadic enforcement breeds contempt for the law ... and we're clamping down evenly,*



*on the entire industry, top to bottom ... all the distributors, all the bars and clubs.*<sup>58</sup>

Mr. Preate announced the presentment from the Sixth Statewide Grand Jury in which 25 individuals involved with video poker were recommended to be charged with first degree felony charges of corrupt organizations.<sup>59</sup> Within two months, the pleas were settled, rendering the individual operators free of criminal penalties.

Soon after Mr. Preate's announcement of a *crackdown*, on May 24, 1990, Mr. Preate issued a prepared written statement to the state House of Representatives Finance Committee detailing his *crackdown*:

*... we cannot legalize video poker by having the police look the other way. When the police ignore blatantly illegal activity it breeds contempt for the law, economically coerces honest tavern owners and vending machine distributors into joining the illegal activity and, as we have seen in at least one case, can attract the mob.*

*So I set out to develop a comprehensive plan to crack down on this blatantly illegal activity...*<sup>60</sup>

As early as July and October of 1989, the Office of Attorney General had begun to conduct plea negotiations that would allow the majority of the individuals arrested to avoid criminal penalties altogether. Mr. Preate did not include in his press release the fact that corporations—even though they were not recommended by the presentment for prosecution—had been charged along with the

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<sup>58</sup> *Pennsylvania, U.S. Attorneys Unite Against Video Poker. Organized Crime Digest.* Washington Crime News Services: Fairfax, VA. March 14, 1990, Vol. 11 No. 5. pp. 1,7, and 8.

<sup>59</sup> See the Chart, *Individuals Recommended To Be Charged By The Sixth Statewide Grand Jury (July 1989).*

<sup>60</sup> Prepared Statement of Attorney General Ernest D. Preate, Jr. before The House of Representatives Finance Committee, May 24, 1990, p. 9.

**Individuals Recommended To Be Charged By The 6th Statewide Grand Jury (July 1989).**

**C&A Vending**

Alfred  
PELICCI

Gerald  
REMICK

**J&R Amusements**

James  
JUDGE

Raymond  
PETRITUS

**Hank Baldassari Co.  
(aka HLB Amusements)**

Henry  
BALDASSARI  
Jr.

Henry  
BALDASSARI  
Sr.

**Maple City Amusements**

Gordon  
POTRATZ

Judy  
POTRATZ

**Hugo's Amusements**

Frank  
BROZZETTI

Hugo  
BROZZETTI

**Mancuso Vending**

Frank  
MANCUSO

Louis  
MANCUSO

**Active Amusements  
(A&M Vending)**

Elmo  
BALDASSARI

Joseph  
KOVACH  
[deceased  
1991]

Angelo  
MERLINO

**Gustin  
Amusements**

Joseph  
GUSTIN

J. Gustin: No Conspiracy  
Charge Recommended.

**Automatic Vending  
(formerly  
Northeast Vending)**

Paul  
COMINSKY

Anthony  
RINALDI

Anthony  
BRUTICO

Carmen  
CACIOPPO

Clement  
RINALDI

Elmo  
RINALDI

**Baldassari Amusements**

Elio  
Joseph  
BALDASSARI

Joseph  
BALDASSARI

Robert  
BALDASSARI

**RECOMMENDED CHARGES:**

- Corrupt Organizations  
(18 Pa.C.S. 911)
- Gambling Devices  
(18 Pa.C.S. 5513)
- Conspiracy  
(18 Pa.C.S. 903)

individuals. Charging the corporations later became significant; under the plea bargain the corporations would plead guilty in exchange for the corrupt organizations charges against the individuals being withdrawn.

### The Investigation Of The Video Poker Machine Manufacturers Fizzled

Part of Mr. Preate's *crackdown* focussed on the manufacturers:

*... we in the Office of Attorney General are focussing our enforcement efforts in two key areas:*

*First, investigating manufacturers. A Statewide Investigating Grand Jury is seated in Harrisburg and hearing testimony regarding the manufacturers. Some of that testimony is coming from vending machine company operators who have now become cooperative witnesses pursuant to plea agreements they have made in court.*<sup>61</sup>

After Mr. Preate was elected, a notice of investigation targeting video poker manufacturers was issued by the Office of Attorney General. The principal witnesses from the Sixth Statewide Grand Jury—including the key figure in the contributions arrangement, Joseph Kovach—were granted testimonial immunity at the request of the Office of Attorney General. Despite testimony before the new grand jury that the manufacturers had shipped illegally equipped video poker machines across state lines into Pennsylvania, the Office of Attorney General failed to follow-up on key aspects of the investigation. Former Director of the Criminal Law Division Mr. Sarcione testified:

*Q. What ever happened to the probe of the manufacturers?*

*A. It fizzled ...*

State Police Sergeant Albert Broscius testified similarly before the Commission that Attorney

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<sup>61</sup> Prepared Statement of Attorney General Ernest D. Preate, Jr., before The House Of Representatives Finance Committee, May 24, 1990, p. 6.

General Preate had announced a *statewide crackdown on machines*. Sergeant Broscius testified:

*Q. And was it a general consensus that the State Police would not participate in this crackdown?*

*A. I don't think that there was a statement that we would not participate. I think our feeling was that we would cooperate once we found out what the game plan was. The game plan never seemed to mature or develop into anything.*

Testimony of Patrick Cadden of Cadden's Moving and Storage, Scranton, before the Crime Commission indicated that SMS Manufacturing was shipping counters<sup>62</sup> with every video poker machine it transported into Pennsylvania.

*A. ... Usually, if they sent 20 machines, they had 20 counters. ...*

*Q. One video-poker machine, one counter?*

*A. Right.*

SMS Manufacturing sold machines in Northeastern Pennsylvania using Cadden's Moving and Storage as a repository for machines and drop-off point for payment. Patrick Cadden would receive ... *guaranteed money, certified checks, cash, or anything like that* ... and then send the funds to SMS via express mail. An individual from SMS would then contact Cadden and inform him ... *such and such a vendor is coming to pick up five video poker machines...* Mr. Cadden estimated that SMS, using Cadden's Moving as a pick-up point, sold between 10 and 20 machines per week. Mr. Cadden testified before the Commission that *at least* a thousand video poker machines went through Cadden's Moving since 1984 until April of 1988. Mr. Cadden appeared before the grand jury and turned over his records. He was never re-contacted by the Office of Attorney General. Mr. Cadden testified before the Commission:

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<sup>62</sup> A "counter" is the device on a video poker machine that records the number of credits that are won. When the video poker vendor splits the profits with the location owner, the counter ensures that the location owner does not overstate the pay-offs on the machine, i.e. with a counter, a location owner could never claim more pay-offs than credits won.

*Q. Once you appeared before the state grand jury, were you ever contacted subsequent to that by the state police or anyone within the state Attorney General's Office?...*

*A. I don't believe I was ever contacted after that.*

*Q. And whatever records you provided to them under subpoena, they still have?*

*A. Yes, sir.*

The fact that video poker machines were crossing state lines already equipped with "knock-down" devices<sup>63</sup> was common knowledge to video poker operators in the Northeast. Video poker operator Gordon Potratz testified that both SMS Manufacturing and Grayhound Electronics would equip their machines with "knock-down" devices.<sup>64</sup> SMS would send a "knock-down" device along with each machine. Video poker operator Alfred Pelicci testified before the Commission that machines from Grayhound came with knock-down switches. *We had to add nothing.* Video poker operator Eugene Caljean testified that the grand jury had questioned him regarding his supplier of video poker machines. Caljean testified before the Commission that Kramer Manufacturing from New Jersey shipped the video poker machines to him with "knock-down" devices. Caljean testified, *Everything was intact.*

Despite the grand jury testimony of Patrick Cadden and various video poker operators, the Attorney General did not pursue the allegations against the manufacturers. Director of the Criminal Division, Mr. Sarcione, testified:

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<sup>63</sup> A "knock-down" or "knock-off" device allows the poker machine to be cleared of winning credits, readying the machine for the next player.

<sup>64</sup> Both SMS and Grayhound have been publicly linked to organized crime. SMS Manufacturing, Lakewood, NJ, is a business aligned with the Lucchese LCN Family of New Jersey and the Bruno/Scarfo LCN Family. Carmen Ricci, the owner of Grayhound Electronics Inc., paid "tribute" to the Bruno/Scarfo LCN Family (*Video Gambling*, State of New Jersey Commission of Investigation, September 1991, pp. 7,8,31, and 32).

*Q. You never pursued any of the manufacturers?*

*A. No.*

*Q. In terms of any consent agreements?*

*A. No, we did not.*

*Q. Did you ever check with New Jersey authorities on SMS (or) Grayhound?*

*A. I did not ...*

Trooper Thomas Taylor testified that he was never directed to investigate the manufacturers:

*Q. Were you asked to pursue interviews in Toms River, N.J. with SMS [SMS Manufacturing] officials or Grayhound [Grayhound Electronics] officials regarding... whether or not the machine was manufactured as a per se illegal gambling device?*

*A. I was not, no.*

*Q. Was anybody?*

*A. Not that I'm aware of.*

Video poker operator Philip Eisenberg testified that, prior to Mr. Preate being elected Attorney General, Mr. Preate had told him that the operators in the northeast might ... *get out of it* ... because of an emphasis on the manufacturers:

*Q. ... Did you discuss with him [Preate] at that particular dinner meeting or the other breakfast meeting that you mentioned, did you ever discuss with him the video poker industry or the possibility of his position about the legalization of video poker?*

*A. ... The only thing discussed was the situation up in the northeast. Some of the operators like ... [Gabriel] Horvath—were having problems. And Ernie said they could probably get out of it without too much problem because it was the State's intention to go after the manufacturer of the machine[s] rather than the operators.*

*Q. He said this to you?*

*A. Yes.*

*Q. This was at the point prior to his actually being elected, though?*

*A. Yes ...*

The "state's intention," according to the testimony of Nels Taber, the investigative attorney for the Sixth Statewide Grand Jury's video poker probe, was not to pursue the manufacturers to the point of excluding the prosecution of the individual operators:

*Q. ... did the question ever come up concerning identifying the manufacturers of these particular machines during your investigation?*

*A. ... yes.*

*Q. And when did that happen?*

*A. That was after we felt we had sufficient information on the various vendors that we could put a corrupt organization case against them. And we felt it was just the next step up to go after the various manufacturers and get them under corrupt organizations case as well.*

*Q. ... did it ever become your goal or become your strategy to, in fact, turn around and give the vendors immunity from prosecution for their testimony?*

*A. We gave ... use immunity. We did not give them immunity from prosecution ...*

## **FINAL DISPOSITIONS OF CASES**

### **Corrupt Organizations Charges Against Individuals Are Dropped In Exchange For Guilty Pleas To Gambling Offenses**

It was previously indicated that several meetings were held between defense attorneys and representatives of Attorney General Preate's Office. These meetings culminated with an agreement between these parties that corrupt organization charges be withdrawn against individuals and corporations be permitted to plead guilty or no contest (*nolo contendere*) to gaming charges.

Former Deputy Attorney General Nels Taber testified regarding his and the grand jury's original intentions concerning the charges against individual operators in these cases:

*Q. Now, in the presentment, there was a recommendation for charges to be brought against the individual vendors. Was it ever your intention or was it ever the grand jury's recommendation that, in fact, the corporations or the companies be charged with these particular offenses?*

*A. No. In fact, I have the presentment in front of me and I think it's pretty clear on it that criminal proceedings be instituted against the following individuals. Then there are a number of individuals listed. At the time I listed them it was always my intention that the individuals would be the ones charged. In fact, some of these are partnerships and not actually companies. So I think to that extent that would have been inappropriate anyhow.*

*Q. Was there any indication to you prior to the filing of this presentment that there would be another strategy that would eventually be following concerning corporations pleading guilty?*

*A. No.*

*Q. Was there a reason why you thought it was appropriate for the individuals to be charged as opposed to corporations or partnerships?*

*A. The individuals were the ones who were responsible for the various activities that took place ... I didn't see where it would be appropriate for the criminal penalties to fall upon the corporations and allow the corporations to shield various individuals from their criminal responsibility.*

*Charles Volpe, Jr., defense attorney for Henry Baldassari, Sr., and Henry Baldassari, Jr., testified that ... they [the Attorney General's Office] made it clear they were after the two major groups of individuals ... the major operators and the manufacturers of the machines. And at that point it was made clear to me ... what they were after was a first degree felony for corrupt organizations which, naturally, I relayed to my clients. It caused a great deal of concern. That felony carries a ten-year prison sentence and some stiff fines. So at that point what I understand ... from Mr. Taber was that was their intent.*



Dennis Reinaker, who was Taber's successor, was aware that the initial plan involved pursuing corrupt organizations charges against individuals. Mr. Reinaker testified:

*Q. Wasn't the original purpose of conducting this investigation as a RICO investigation for the purposes of, in fact, seeking more severe penalties and showing that this whole activity centered around corrupt organizations and therefore obtaining more serious penalties to discourage other people throughout the state?*

*A. I think that was certainly part of it, yes.*

#### Charges Are Dismissed, Some Records Are Expunged

Of the 25 *individuals* recommended for prosecution by the Sixth Statewide Grand Jury on charges of Corrupt Organizations, 18 Pa.C.S. § 911; Criminal Conspiracy, 18 Pa.C.S. § 903; and Gambling, Gambling Devices, Et Cetera, 18 Pa.C.S. § 903, seven were never arrested. The 18 remaining *individuals* were arrested in February 1990. Sixteen either had their arrest records expunged and/or the charges withdrawn. Only two operators received dispositions: Frank Brozzetti pled *nolo contendere* and paid a \$12,250 fine; and Henry Baldassari, Sr., was sentenced to Accelerated Rehabilitative Disposition, 25 hours community service and court costs.<sup>65</sup> The nine corporations ultimately charged (yet not recommended for prosecution by the Grand Jury) on the same day as the 18 individual video poker operators, pled *nolo contendere* to one count of gambling devices. Eight of the nine corporations charged<sup>66</sup> paid fines ranging from \$7,500 to \$14,750. Corporation fines totaled \$74,500 while *individual* operator fines totaled \$12,250.

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<sup>65</sup> Mr. Brozzetti did not file for incorporation of his business. His attorney, Charles Volpe, was not a party to the private negotiations with representatives of the Office of Attorney General. As for Henry Baldassari, Sr., Common Pleas Court Judge Conway refused to accept a plea by Mr. Baldassari's newly formed corporation. This is discussed below in the sub-section entitled *The Exception: A Fraud on the Court*. See Table 3, *Video Poker Analysis: Charges Recommended, Charges Filed, & Final Case Dispositions*.

<sup>66</sup> HLJ Amusements of Scranton, Inc., has no disposition recorded and therefore no fine has as of this date been levied.

**TABLE 3 — VIDEO POKER CASE ANALYSIS: CHARGES RECOMMENDED, CHARGES FILED, & FINAL CASE DISPOSITIONS.**

INDIVIDUALS WHO WERE RECOMMENDED TO BE CHARGED	CHARGES RECOMMENDED BY THE GRAND JURY (7-31-1989)	CHARGES FILED	CORPORATIONS	DISPOSITIONS	INDIVIDUALS
ALFRED PELICCI GERALD REMICK	CORRUPT ORGANIZATIONS (CO) GAMBLING DEVICES (GD) CONSPIRACY (C)	■ C&A VENDING INC.: GD <sup>1</sup> A. PELICCI: CO - GD - C G. REMICK: CO - GD - C	■ <u>C&amp;A VENDING INC.</u> : PLED GUILTY TO GD		A. PELICCI: WITHDRAWN/EXPUNGED G. REMICK: WITHDRAWN/EXPUNGED
ELMO BALDASSARI JOSEPH KOVACH ANGELO MERLINO	CORRUPT ORGANIZATIONS (CO) GAMBLING DEVICES (GD) CONSPIRACY (C)	■ ACTIVE AMUSEMENTS: GD E. BALDASSARI: NOT ARRESTED I. KOVACH: GD - C A. MERLINO: CO - GD - C	■ ACTIVE AMUSEMENTS: NOLO TO GD		J. KOVACH: WITHDRAWN/EXPUNGED A. MERLINO: WITHDRAWN/EXPUNGED
FRANK MANCUSO LOUIS MANCUSO	CORRUPT ORGANIZATIONS (CO) GAMBLING DEVICES (GD) CONSPIRACY (C)	■ MANCUSO ARCHBALD VENDING: GD F. MANCUSO: GD L. MANCUSO: GD	■ MANCUSO ARCHBALD VENDING: NOLO TO GD		F. MANCUSO: CHARGES WITHDRAWN L. MANCUSO: CHARGES WITHDRAWN
FRANK BROZZETTI HUGO BROZZETTI	CORRUPT ORGANIZATIONS (CO) GAMBLING DEVICES (GD) CONSPIRACY (C)	■ HUGO'S VENDING [NOT A CORPORATION] F. BROZZETTI: GD H. BROZZETTI: NOT ARRESTED			F. BROZZETTI: NOLO TO GD
GORDON POTRATZ JUDY POTRATZ	CORRUPT ORGANIZATIONS (CO) GAMBLING DEVICES (GD) CONSPIRACY (C)	■ MAPLE CITY AMUSEMENTS: GD G. POTRATZ: GD J. POTRATZ: NOT ARRESTED	■ MAPLE CITY AMUSEMENTS: NOLO TO GD		G. POTRATZ: CHARGES WITHDRAWN
JAMES JUDGE RAYMOND PETRITUS	CORRUPT ORGANIZATIONS (CO) GAMBLING DEVICES (GD) CONSPIRACY (C)	■ J&R AMUSEMENTS: GD <sup>1</sup> J. JUDGE: GD R. PETRITUS: GD	■ <u>J&amp;R AMUSEMENTS</u> : NOLO TO GD		J. JUDGE: WITHDRAWN/EXPUNGED R. PETRITUS: WITHDRAWN/EXPUNGED
ANTHONY BRUTICO CARMEN CACIOPPO PAUL COMINSKY ANTHONY RINALDI CLEM RINALDI ELMO RINALDI	CORRUPT ORGANIZATIONS (CO) GAMBLING DEVICES (GD) CONSPIRACY (C)	■ NORBETH VENDING: GD A. BRUTICO: CO - GD - C C. CACIOPPO: CO - GD - C P. COMINSKY: CO - GD - C A. RINALDI: NOT ARRESTED C. RINALDI: NOT ARRESTED E. RINALDI: NOT ARRESTED	■ NORBETH VENDING: NOLO TO GD		A. BRUTICO: WITHDRAWN/EXPUNGED C. CACIOPPO: WITHDRAWN/EXPUNGED P. COMINSKY: WITHDRAWN/EXPUNGED
ELIO BALDASSARI JOSEPH BALDASSARI ROBERT BALDASSARI	CORRUPT ORGANIZATIONS (CO) GAMBLING DEVICES (GD) CONSPIRACY (C)	■ BALDASSARI AMUSEMENTS: GD E. BALDASSARI: CO - GD - C I. BALDASSARI: NOT ARRESTED R. BALDASSARI: CO - GD - C	■ BALDASSARI AMUSEMENTS: NOLO TO GD		E. BALDASSARI: NO DISPOSITION R. BALDASSARI: NO DISPOSITION
HENRY BALDASSARI, JR. HENRY BALDASSARI, SR.	CORRUPT ORGANIZATIONS (CO) GAMBLING DEVICES (GD) CONSPIRACY (C)	■ HLI AMUSEMENTS OF SCRANTON INC.: GD <sup>3</sup> H. BALDASSARI, JR.: CO - GD - C H. BALDASSARI, SR.: CO - GD - C [WAYNE COUNTY] GD [LACKAWANNA COUNTY]	■ <u>HLI AMUSEMENTS OF SCRANTON INC.</u> : NOLO PLEA REFUSED BY JUDGE.		H. BALDASSARI, JR.: NO DISPOSITION H. BALDASSARI, SR.: WAYNE COUNTY: NO DISPOSITION LACKAWANNA COUNTY: PLED GUILTY: 1 YEAR ARD + COMMUNITY SERVICE
JOSEPH GUSTIN	CORRUPT ORGANIZATIONS (CO) GAMBLING DEVICES (GD)	■ JOSEPH G. AMUSEMENTS & VENDING INC.: GD <sup>4</sup> J. GUSTIN: CO - GD - C	■ <u>JOSEPH G. AMUSEMENTS &amp; VENDING INC.</u> : NOLO TO GD  COUNTY ( = WITHDRAWN/EXPUNGED)		J. GUSTIN: NO RECORDS IN LACKAWANNA

1: INCORPORATED 11-22-1988, 7 1/2 MONTHS AFTER THE POLICE RAIDS.

2: INCORPORATION FILED ON 7-31-1989, THE SAME DAY THE PRESENTMENT WAS ISSUED; INCORPORATED ON 8-11-1989, 8 DAYS AFTER PRESENTMENT.

3: INCORPORATED ON 9-19-1989, 59 DAYS AFTER THE PRESENTMENT.

4: INCORPORATED ON 7-26-1989, 5 DAYS BEFORE THE PRESENTMENT.

[ "NOLO" = NOLO CONTENDERE ]

In a joint letter to the editor of the *Philadelphia Inquirer* dated March 31, 1993 entitled, *Video poker prosecutors speak out*, Anthony Sarcione and Dennis Reinaker stated that ... *the fines and restitution we obtained, rang[ed] up to \$14,750 per defendant* ... Five of the eight corporations each paid \$2,500 less than the \$10,000 recommended for such a plea. Norbeth Corporation paid the recommended \$10,000 because Wayne County Common Pleas Court Judge Robert Conway refused to accept the \$7,500 plea bargain fine.

Deputy Attorney General Dennis Reinaker testified:

*Q. ... Whose decision was it to expunge the records of these defendants at the same time that the corporations plead guilty?*

*A. That was done by Mr. Sarcione and myself ...*

Former Deputy Attorney General Anthony Sarcione was unable to explain why criminal convictions were expunged so promptly. Mr. Sarcione testified:

*Q. So how did the decision evolve as to allowing the corporations to plead guilty, the individuals to be released and their records expunged?*

*A. I don't recall expungement.*

*Q. They were all expunged.*

*A. I don't recollect expungement being in the formula ...*

*Q. All of the individual records were expunged.*

*A. ... Well, under the law, under the law as it is right now on expungement in this Commonwealth I believe if you are not convicted personally, if you are charged and it doesn't happen, I believe you are entitled to expungement.*

*Q. If there is no disposition within a three-year period you may move for expungement. Even if the charges are dismissed and there has been no new arrest and you weren't convicted on those after ten years you may move for expungement. These expungements took place at the same time that the corporations pled guilty, without keeping any records on these individuals to see if they were ever to repeat again ...*

A. ... How that [formula] was arrived at, I thought — I thought that it was an appropriate disposition.

### The Exception; A Fraud On The Court

The prosecution of Henry Baldassari, Sr., was recommended by the grand jury on charges of Corrupt Organizations, Criminal Conspiracy, and Gambling, Gambling Devices, Et Cetera. After his February 26, 1990 arrest, in which he was charged with offenses recommended by the same grand jury, a plea agreement was reached on March 21, 1990, between the corporation, HLJ Amusements, and the Office of Attorney General. This agreement allowed HLJ Amusements of Scranton, Inc., to plead *nolo contendere* to gambling charges.

On April 12, 1990, Baldassari's attorney, R.I., informed Wayne County Magistrate Edward H. Dix that Mr. Baldassari had waived the preliminary hearing that was scheduled for April 27, 1990. Charges against Mr. Baldassari were subsequently withdrawn.

On June 21, 1990, Henry Baldassari, Sr., Baldassari's defense attorney R.I., and Deputy Attorney General Dennis Reinaker appeared before Wayne County Common Pleas Court Judge Robert J. Conway. Henry Baldassari, Sr. testified before the Commission:

Q. Your plea was for — a corporation was supposed to enter a plea. Is that correct?

A. Right.

Q. And the judge indicated that he was not satisfied because the corporation —

A. Was formed after the raid.

Q. After the raid? ...

Q. Who advised you to do that [form the corporation]?

A. My attorney.<sup>67</sup>

Q. He advised you to form a corporation?

A. Yeah.

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<sup>67</sup> Attorney R.I. was present during the July 21, 1989 meeting at Wilkes-Barre.

*Q. Subsequent to the —*

*A. After the raid.*

*Q. After the raid?*

*A. Because of the other operators did the same thing and Judge Walsh accepted it.*

*Q. He accepted it with all the others but with you —*

*A. Well, I didn't go before Judge Walsh I went before Judge Conway in Wayne County and he wouldn't accept it.*

In the Court of Common Pleas of Wayne County, on June 21, 1990, criminal case number 141-1990, Deputy Attorney General Dennis Reinaker was asked by Judge Conway to explain the plea agreement dated March 21, 1990, between HLJ Amusements and the Commonwealth of Pennsylvania. The agreement allowed HLJ Amusements of Scranton, Inc., to plead *nolo contendere* to gambling devices/gambling charges. Mr. Reinaker explained to Judge Conway the reasoning behind the plea agreement:

*... This investigation continued after the raid in April of '88, and it is true that in some cases there were incorporations that occurred between the date of the raid and prior to these charges being filed, and in those cases we were satisfied that the activity continued after the time that the corporation was chartered. We filed charges against those corporations and allowed those pleas to take place, as well ... this corporation [HLJ Amusements] had participated in the distribution of these machines after the time the incorporation took place. ... [CR# 141-1990, Commonwealth v. HLJ Amusements of Scranton, Inc., hearing before Honorable Robert J. Conway, 6/21/90. 4:7-17.]*

Judge Conway's reply to Deputy Attorney General Reinaker's accounting was the following:

*The Court: Alright. I don't agree with you at all. I think that is so much garbage ... I think it is a fraud on the Court, sir, and I am not going to be any part of it. [CR# 141-1990, 5:12-13, 18-20]*

Judge Conway not only refused the plea, he stated that he was forwarding the information to the Wayne County District Attorney's Office for possible criminal sanctions regarding obstruction of justice. Judge Conway suggested to R.I. that the State Police re-arrest Henry Baldassari, Sr.

Again, Henry Baldassari, Sr., before the Commission, testified:

*Q. The Judge didn't take the plea and the case was sent back to ... Lackawanna County?*

*A. It wasn't sent back. We had to — I had to get — go through a lot of red tape to get it into Lackawanna County.*

*Q. As a matter of fact, you were re-arrested at a later time?*

*A. Yes.*

*Q. On the same charges?*

*A. Yes.*

*Q. You kind of agreed to that?*

*A. Right ...*

Anthony Sarcione testified concerning the reasoning behind the final dispositions of all the video poker cases ... *you asked me what the formula was that went into the disposition of these cases. What I considered was do I want to tie up one of the few experienced trial lawyers that I had on my staff at that time on video poker prosecutions in the northeast from whence these people came from and we all know how judges who know the local guys, I see it in any county I go to ...* Henry Baldassari, Sr. was charged in Lackawanna County on March 21, 1991, with gambling devices and on June 10, 1991, accepted into the ARD Program for one year probation, costs, and 24 hours community service. The corporation was never charged in Lackawanna County.

When asked how did the Attorney General feel about the dispositions in general, Mr. Sarcione testified: ... *I remember ARD was discussed with the Attorney General with me and I thought, ah, ARD, I would rather have a corporate plea, you know, because, I don't know, ARD.*

On February 23, 1990, the Attorney General announced at a press conference that certain

individuals would be arrested on illegal video poker charges as the result of the Sixth Statewide Grand Jury investigation. The grand jury presentment was unsealed, and charges were filed against individuals and corporations, on February 26, 1990. The press release related that the Attorney General's Office was part of an initiative against illegal video poker gambling in the Commonwealth.

As shown in the previous sections, the April 1988 state police raids of illegal gambling devices in Northeastern Pennsylvania, as part of the Sixth Statewide Grand Jury investigation, eventually resulted in dispositions whereby two individuals received minor penalties and several corporations were fined.

ALLEGATION NO. 5: The Grand Jury recommended that certain video poker operators be charged with felonies. The operators were subsequently able to have the recommended felony charges reduced to minor gambling offenses. Further, the operators succeeded in negotiating the substitution of corporate defendants for themselves. One of the defendants, Joseph Kovach, obtained plea agreements for himself and the other video poker operators after threatening to expose the contributions arrangement with Mr. Preate.

### **THE COMMISSION'S INVESTIGATIVE FINDINGS**

The Commission determined that Mr. Preate was informed of the plea negotiations with the operators' defense attorneys. The Commission concludes that after Mr. Preate was threatened with exposure, the Office of Attorney General favorably disposed of the video poker cases.

The Commission determined that Nels Taber, the Deputy Attorney General in charge of the Sixth Statewide Grand Jury's video poker probe, was not invited to the July 1989 meeting in Wilkes Barre.<sup>68</sup>

The Commission determined that the State Police were not informed of the Sixth Statewide Grand Jury Presentment for six months, and did not agree with the eventual dispositions.

The plea agreements that were reached between the Office of Attorney General and the video poker operators—with the exception of two instances—involved only corporations instead of individuals pleading guilty or no contest (*nolo contendere*) to gambling charges in return for the charges against individuals being withdrawn and records of arrest expunged.

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<sup>68</sup> Dennis Reinaker, Deputy Attorney General in charge of the Seventh Statewide Grand Jury's video poker investigation, testified that he was not aware of the Wilkes-Barre meeting and the plea negotiations that occurred at that date.





## VIII. CONCLUSION

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The investigation covered by this Report was undertaken with great care, professionalism, and investigative expertise, and had unanimous, bi-partisan support among the Commissioners. It was based upon facts and testimony of over 70 individuals, all of whom provided some information regarding the actions and events that shaped the campaign contributions arrangements.

That a high governmental law-enforcement official sought and accepted the financial backing of known illegal video poker operators to further political ambitions, and accepted disposition of criminal cases which allowed such persons to avoid individual criminal responsibility, has serious implications.

Given the circumstances, one approach might be for the General Assembly to provide for the appointment of a special prosecutor to look into this entire matter.<sup>69</sup>

Moreover, there would appear to be a basis for the Elections Commission to consider steps to deal with what appears to be violations of the Elections Code.

Finally, the need for legislation to address in the future the type of conduct referred to in this Report may well be a matter to be considered by the General Assembly.

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<sup>69</sup> Some of the Commissioners expressed the view that the appropriate committee or committees of the General Assembly may wish to consider impeachment or some similar procedure.



# APPENDIX



**ANALYSIS OF 1988 CAMPAIGN FINANCES FOR  
ATTORNEY GENERAL CANDIDATE ERNEST D. PREATE, JR.**

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## SUMMARY OF MAJOR FINDINGS

- In 1988, Mr. Preate's campaign committee, *Friends of Ernie Preate Committee*<sup>70</sup>, failed to report a large amount of campaign contributions on its Campaign Expense Reports.<sup>71</sup> Throughout six consecutive campaign expense reporting periods (January 1 to November 28), unreported contributions totaled more than \$144,000.
- The Committee failed to report to the Department of State, Bureau of Commissions, Elections, and Legislation<sup>72</sup> more than \$124,000 in expenses during the same period. Three expense figures were altered to achieve the misreporting of \$123,000 of that amount.
- The Committee accepted cash contributions in excess of \$100 from individual contributors, in violation of the Campaign Expense Reporting Law. The Committee used some cash contributions to purchase negotiable instruments.<sup>73</sup> In a number of cases, purported contributors testified under oath that they never made contributions reported in their names. Other persons who made contributions testified they did not authorize the purchase of the money orders or negotiable instruments in their names.
- The Committee reimbursed candidate Ernest D. Preate, Jr., for expenses charged to his personal credit cards, totaling over \$26,000 in 1988. The reimbursements were made in lump sum payments and these expenses were not properly itemized in the Committee's reports. The candidate, Ernest D. Preate, Jr., also failed to itemize these credit card expenses and reimbursements, as required by law. Mr. Preate filed affidavits stating he did

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<sup>70</sup> Hereinafter "the Committee."

<sup>71</sup> Hereinafter "CERs." During the period of January 1, 1988, to December 31, 1988, the Campaign Committee filed seven expense reports listing contributions and expenses.

<sup>72</sup> Hereinafter "State Elections Bureau."

<sup>73</sup> Negotiable instruments include postal money orders, bank money orders, cashier's checks, and treasury checks. Records of the Committee show deposits of 97 negotiable instruments during 1988 totaling \$28,156.

not receive or spend over \$250 during these reporting periods. This failure to itemize these expenses was not corrected in the amended campaign filings.

- The Committee did not report numerous in-kind contributions, although such reporting is required by statute.
- In May of 1993, the Crime Commission contacted Mr. Preate's Committee and advised the Committee of the existence of discrepancies between the Committee's CERs and the Committee's bank records.<sup>74</sup> The Committee filed amended campaign expense statements on August 2, 1993. These statements covered a five-year period from 1988 to 1992.

In its amended 1988 CERs, Mr. Preate's Committee admitted that it did not report to the State Elections Bureau a total of \$267,000 in campaign contributions and expenditures during 1988. The amended statements for 1988 still did not report properly a number of contributions and expenses.

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<sup>74</sup> By May 28, 1993, the Commission had identified 110 unreported and questionable contribution items totaling \$47,906 in the campaign records of the *Friends of Ernie Preate Committee*.



## THE COMMISSION'S ANALYSIS OF THE *FRIENDS OF ERNIE PREATE COMMITTEE* 1988 RECORDS

In the course of its investigation into the conduct of attorney general candidate Ernest D. Preate, Jr., the Crime Commission received information that cash contributions from video poker operators were given to Mr. Preate or his political campaign committee, the *Friends of Ernie Preate Committee*.<sup>75</sup> Witnesses who testified corroborated this information. These contributions were not reported in CERs as required by law. Besides these cash contributions, the Commission discovered that video poker operator Russell Warner, owner/operator of Warner's Coin Machine Company, Erie, PA, made a \$500 contribution to Mr. Preate in the form of a check signed by his wife, Irene Warner. The Commission obtained a copy of the canceled check and determined that it had been deposited into the bank account of the *Friends of Ernie Preate Committee*. The Committee's CERs did not show receipt of this contribution. Based on testimony and the initial finding of an apparent violation, the Commission subpoenaed Mr. Preate's Committee's bank records. The analysis of the campaign finances showed a number of apparent irregularities, omissions and inconsistencies.

In April 1993, the Commission issued subpoenas for the records of the *Friends of Ernie Preate Committee* and the bank where it had its accounts, covering the four month period April through July of 1988.<sup>76</sup> The Committee provided records covering the period March 25 through September 26, 1988. Comparison of the Committee's records and its bank account statements with its CERs revealed a number of discrepancies and inconsistencies. Many contributions had been deposited but were not reported on the Committee's CERs filed with the State Elections Bureau. Unreported and other questionable contributions totaled approximately \$50,000.<sup>77</sup>

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<sup>75</sup> The Committee is also known as the *Ernie Preate for Attorney General Committee*.

<sup>76</sup> The subpoena for the bank was issued on April 6, 1993, and was served on April 13, 1993. The subpoena for the campaign records was issued on April 13, 1993, and was served on April 15.

<sup>77</sup> The Director of the Campaign Expense Unit, Department of State, Bureau of Elections, stated to the Crime Commission in a June 23, 1993 interview that three percent of campaign expense reports filed each year with the Bureau of Elections are audited by independent auditors. Based on her review and knowledge of these audit reports, there are not many instances where contributions  
(continued...)

In late May of 1993, the Commission informed legal counsel for the *Friends of Ernie Preate Committee* of these discrepancies. The Commission requested the remainder of the Committee's records for 1988.<sup>78</sup> Additional bank records were also subpoenaed.<sup>79</sup>

The Commission determined that a substantial number of campaign contributions and expenses were never reported to the State Elections Bureau. These unreported contributions, however, were deposited into the Committee's checking account.

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<sup>77</sup> (...continued)

are not reported. Most of the errors in audited reports are mathematical errors or cash receipts or disbursement errors. She further stated that it is not a common occurrence for campaign contributions to be deposited in the campaign's bank account and yet not be reported on the campaign contributor's reports.

<sup>78</sup> The first set of campaign records provided by the Committee appeared neatly compiled and detailed on their face. The additional records were not as neatly compiled as the ones previously received, and were not complete. In some instances, the Commission received folders from the Committee which were empty and devoid of any records or documents.

<sup>79</sup> This subpoena was issued on June 21, 1993, and served on June 24, 1993.

## SYSTEMATIC UNDER REPORTING OF CAMPAIGN CONTRIBUTIONS LED TO ALTERATIONS OF EXPENSES ITEMS

Analysis of bank and campaign records of the *Friends of Ernie Preate Committee* revealed that the Committee failed to report campaign contributions for six of seven campaign expense reporting periods. The Committee also failed to report or misreported campaign expenses during these periods. Table 1 below illustrates these findings.

TABLE 1 — UNREPORTED & MISREPORTED CONTRIBUTIONS AND EXPENSES, FRIENDS OF ERNIE PREATE COMMITTEE, BY REPORTING PERIODS, 1988.				
REPORTING PERIOD	UNREPORTED CONTRIBUTIONS	CUMULATIVE UNREPORTED CONTRIBUTIONS	UNREPORTED OR MISREPORTED EXPENSES	CUMULATIVE UNREPORTED OR MISREPORTED EXPENSES
January 1 - March 7	\$850	\$850	\$100	\$100
March 8 - April 11	\$300	\$1,150	\$0	\$100
April 12 - May 16	\$500	\$1,650	\$315	\$415
May 17 - September 19	\$52,681	\$54,331	\$998.36	\$1,413.36
September 20 - October 24	\$65,075	\$119,406	\$120,000	\$121,413.36
October 25 - November 28	\$24,700	\$144,106	\$3,000	\$124,413.36
November 29 - December 31	\$0	\$144,106	\$0	\$124,413.36
TOTALS:	\$144,106	\$144,106	\$124,413.36	\$124,413.36

Beginning with the fourth reporting period — May 17 to September 19 — substantial funds were deposited in the Committee's account, but were not reported on its CERs. By mid-September of 1988 the Committee had failed to report over \$54,000 in contributions on its first four CERs.

Robert Holste, an Assistant Treasurer for Mr. Preate's Committee, characterized the unreported items as *random* accounting errors. Mr. Holste testified:

*Q. ... Was there a particular pattern or explanation of why the particular funds that were not reported took place?*

*A. I didn't detect a pattern to it. They seemed to me to be pretty random.*

*Q. It was not a situation, then, where whole deposit tickets were missed or not reported?*

A. *Not that I recall, no. They seem, to be -- I mean, there was no rhyme or reason to them at all.*

Q. *It also appeared that there were missed expense items.*

A. *Right.*

Q. *And that the missed expense items almost matched close to the total amount of the reported expenses?*

A. *I think that's how -- they got past us at the time.*

Q. *Wait. I'm confused.*

A. *Well, when you're up against a deadline on the filing, and you're making the filing, the easiest way to check to look to see if the filing passes an eyeball test to see that the total after income and expenditures roughly comports with what you have in the checkbook, knowing they'll never be entirely accurate because you have checks that haven't cleared yet and that sort of thing. And expense reporting periods don't match end-of-the-month bank statements sort of things. So when you look at those and they roughly come out the same, you figure you've got a pretty decent report.*

Q. *So you didn't see the expenses -- see, I'm confused when you say [that's] why you missed it.*

A. *Well, in other words, if after you've -- when you complete the filing, if you've got \$80,000, you know, if the final cash position on the filing, and you look in the checkbook and it says \$80,000, then you figure you've got it right.*

Q. *With those two items, you're saying, was just a matter of pure coincidence that as best you can tell that those particular items balanced within the same reporting periods?*

A. *Yes, that's right.*

Q. *...Now, there were errors contained in all of those particular reporting periods that you came across?*

A. *Right*

Q. *And you're indicating that the expense items that were often balanced in each of those particular periods apparently came close to matching?*

A. *Close enough.*

Q. *For the total of those seven different periods?*

*A. That's right.*

*Q. It was consistency of balance throughout the seven different reports.*

*A. Yeah, well, in the early reports there weren't an awful lot of errors in either direction. You know, in the first, I think, two or three reports there were only a handful of errors at all.*

*Q. With your amended return, now, you have reported all of the contributions and expenses that the campaign committee had for the calendar year of 1988?*

*A. We believe so...*

Mr. Holste's testimony does not comport with bank account and campaign records. By the fourth CER filing period ending September 19, 1988, the Committee had not reported \$54,331 in contributions yet only missed reporting \$1,413.36 in expenses from January first. The imbalance between missed contributions and missed expenses should have clearly indicated to the Committee it had collected at least \$50,000 more than it had spent. During this reporting period, this discrepancy was not a problem to disguise as long as the Committee reported it had more money than it was spending. It was a matter of understating on the CER the amount of contributions received.

The fifth CER filing period ending October 24, 1988 closed two weeks before the general election. The amount of unreported contributions had by then accumulated to \$119,406. Examination of expense items for this period showed they exceeded the total amount of contributions reported on the CER. If the expense items were correctly reported for this period as they had roughly been during the previous four reporting periods, the Committee would have shown it spent approximately \$100,000 more than it had reported receiving.

An examination of the fifth CER shows that two major expense items were originally reported on the form showing the correct amounts. These were later changed to show incorrect amounts. These items were payments made to the Garth Group for advertising expenses. The first was for a payment made on September 20, 1988 to the Garth Group for \$225,000. This amount was sent by wire transfer to the Garth Group on authorization of Carlon Preate, a Certified Public

Accountant, who was Assistant Treasurer for the Committee. This transfer was from an account at the First Eastern Bank that was never registered with the State Elections Bureau.<sup>80</sup> (See Exhibit 1, Copy of Wire Transfer). The only authorized signatories were Carlon or Robert Preate, brothers of Ernest D. Preate, Jr. Robert Preate was also an Assistant Treasurer for the Committee. The Crime Commission confirmed from the Garth Group that they had received this payment of \$225,000. An examination of this entry on the fifth CER shows that it was originally entered correctly as a \$225,000 expense. However, the "2" at the beginning of this item was erased and replaced with a "1", thereby incorrectly reporting this figure as \$125,000 (See Exhibit 2, Copy of Page 61, CER For Period Ending October 24, 1988).

The second item which is also on the same page of the CER was a payment made to Garth Group on October 21, 1988 for \$125,000. This payment was sent to the Garth Group by a wire transfer from the Northeastern Bank of Pennsylvania authorized by Carlon Preate. (See Exhibit 3, Copy of Wire Transfer). The Commission confirmed this payment of \$125,000. An examination of this entry shows that it was originally entered correctly as a \$125,000 expense. However, the "2" was replaced by a "0", thereby incorrectly reporting this expense as \$105,000. (See previously cited Exhibit 2).

The alteration of these two items allowed the Committee to under report its expenses by \$120,000. This amount is almost identical to the \$119,406 accumulated contributions not reported up to October 24, 1988. Without these alterations, the Committee would have had to explain how it spent more money than it had reported receiving just two weeks before the general election.

An examination of the sixth CER for the period ending November 28, 1988, revealed that the expense items listed for this period exceeded the amount of contributions reported on the CER. If the expenses had been correctly reported for this period, the Committee would have shown it

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<sup>80</sup> A campaign committee is required to file Political Committee Registration Statements with the State Elections Bureau and report all depositories of the committee. The only depository reported to the State Elections Bureau by the Committee was Northeastern Bank of Pennsylvania.

spent more than it had reported receiving. The CER on file with the State Elections Bureau<sup>81</sup> showed that one major expense item appears to have been changed and shows an incorrect amount. This expense item was also for a payment to the Garth Group for advertising expenses. The payment was made on November 4, 1988 for \$102,000, sent via three wire transfers — \$17,000, \$40,000, and \$45,000, all authorized by Carlon Preate (See Exhibits 4, 5, and 6, Copies of Wire Transfers). The Commission confirmed with the Garth Group their receipt of a payment of \$102,000. An examination of this entry shows that it originally began with the numeral "1", but was replaced with "99". This change is darker and written differently than the other entries on this page. This incorrectly reported the expense as \$99,000. (See Exhibit 7, Copy of Page 61, CER For Period Ending November 28, 1988). This allowed the Committee to under report expenses by \$3,000.

#### **Failure To File Political Committee Registration Statement For First Eastern Bank Account**

Carlon Preate and Robert Preate utilized a checking account at First Eastern Bank in the name of *Friends of Ernie Preate Committee*, for the period September 20, 1988, through December 31, 1988. The account was opened with proceeds of a \$250,000 loan from First Eastern Bank. According to information on the signature card for this account, only "Carlon Preate, Assist. Treasurer," or "Robert A. Preate, Assistant Treasurer," were authorized signatories. The October 21, 1988, wire transfer to the Garth Group for 225,000—the expense item that was later the subject of an alteration on the fifth CER—was drawn on campaign funds from the account at First Eastern Bank.

Robert Preate testified that he could not recall the purpose of the account at First Eastern:

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<sup>81</sup> The CER on file in Harrisburg with the Department of State, Bureau of Commissions, Elections, and Legislation, for the *Friends of Ernie Preate Committee* for the period October 25, 1988, to November 28, 1988, appears to be a photocopy. No CER for this period for the *Friends of Ernie Preate Committee* could be located by the Bureau of Voter Registration, at the Lackawanna County Courthouse, in Scranton.

*Q. ... Let me show you what I marked as Exhibit Number 2, it's a copy of a signature card from the First Eastern Bank indicates that it's for the Friends of Ernie Preate Committee and it's dated 9/20 of '88. And it again indicates I believe it would have your signature as a second signature on here. Do you recognize that as your signature?*

*A. Yes.*

*Q. And do you recall the purpose for opening that particular account, separate account at First Eastern?*

*A. No, I don't recall.*

This account was not registered with the State Elections Bureau, as required.<sup>82</sup>

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<sup>82</sup> Campaign Expense Reporting Law, 25 PS § 3241-3260b.



## **ILLEGAL RECEIPT AND DEPOSIT OF CASH CONTRIBUTIONS OVER \$100 THROUGH POSTAL MONEY ORDERS AND OTHER NEGOTIABLE INSTRUMENTS**

The Crime Commission, during its audit, examined how the committee collected, deposited, and reported currency contributions. In 1988 there were 97 money orders and other negotiable instruments deposited into the Committee bank account totaling \$28,156. Analysis revealed that 60 of the 97 money orders and negotiable instruments were purchased in amounts of \$200 or more totaling \$25,006.

The Commission received testimony from individuals who confirmed their cash contributions to Mr. Preate's 1988 Attorney General campaign but denied authorizing anyone from the Committee to purchase a negotiable instrument on their behalf. Other witnesses denied ever making a contribution to Mr. Preate yet their names appeared on negotiable instruments which were deposited into the Committee's bank account.

In one instance, a \$500 contribution was credited to an individual who could not be identified. This contribution was one of four postal money orders which had been deposited into the Committee bank account in-blank. The payee and purchaser information was filled in after the instruments were deposited and the customer receipts were found among original Committee records.

### **Committee Policy Regarding The Acceptance Of Cash And Purchase Of Negotiable Instruments**

Robert Holste testified to campaign committee policies regarding the acceptance of cash contributions and the purchasing of money orders:

*Q. Was there a set procedural manner for handling cash contributions by campaign staff?*

*A. ... To my recollection, we didn't get much cash. ... They [contributors] don't*

*usually give you cash for large donations; you get a check. If someone were to walk in off the street ... and say they wanted to donate. You're not allowed to accept cash contributions in excess of \$100. So if somebody came in with more than \$100, we'd just tell them to go down to the bank and get a money order and come back up. ... By and large we preferred just in general to have somebody go buy a money order.*

*Q. When you say large contribution, what [are] you talking?*

*A. \$250.*

*Q. ... but say more than \$50, you didn't want to accept cash?*

*A. Right. By and large we preferred just in general to have somebody go buy a money order.*

Mr. Holste testified that campaign committee staff had been instructed by him not to accept cash over \$100 and to obtain money orders:

*Q. Was that a policy or procedure that was established within the campaign that people were advised of on it how to handle those [cash and money order] matters?*

*A. Finance staff was told. They knew about the \$100 limit, and they knew that we preferred to have money orders. That was something that I wanted done ...*

Mr. Holste testified with regard to campaign committee workers assisting contributors in the purchase of a money order or bank cashier's check:

*Q. Were campaign staff ever instructed concerning whether they could lend assistance to an individual who wished to get a money order or a bank cashier's check?*

*A. Yeah, you could tell them to go down to the bank.*

*Q. Could you assist them or perform -- would any of the staff perform that function for them?*

*A. ... if somebody wanted to donate ... and their job is to help raise money, they're going to do what they can to help them donate. You know, if that means going down to the bank with them or telling them to go down to the bank or whatever, they're going to want to do*

*that.*

Ms. Carey Dunn was a paid employee of the *Friends of Ernie Preate Committee* in 1988 and responsible for fund raising activities in Western Pennsylvania. During testimony, Ms. Dunn stated the Committee's policy of converting cash contributions into money orders:

*Q. Specifically, was there anyone that you would call on a regular basis for advice, if you had a question in that area concerning the campaign?*

*A. I would probably call Pat [Zangardi] or Bob [Holste].*

*Q. Okay. Now, would you relate to me what your specific instructions were concerning ... the limitations on the funds you could accept?*

*A. The policy set forth by the campaign ... we were never permitted to take cash from a donor, never, whether in any amount, but we were to ask the donor's permission to convert that cash into a money order, take their home address, their work address, their occupation, and if they said, "No, you don't have my permission," then we didn't take it.*

Carlton Preate also testified to the campaign Committee's specific policy toward accepting cash contributions over \$100:

*Q. Were you aware of a specific policy within the committee concerning the receipt of contributions and cash in excess of \$100? ... what was that policy?*

*A. Yes, I was aware of the policy. The committee could not accept cash contributions in excess of \$100.*

However, both Carlton Preate and Patricia Zangardi testified that there was no campaign policy concerning the purchase of bank or postal money orders. Carlton Preate testified:

*Q. Did you at any point instruct any of your campaign workers or individuals responsible for handling cash ... contributions that if they received cash in excess of \$100 that they could*

*purchase or obtain bank or postal money orders with that cash identifying that person as the contributor?*

*A. No.*

*Q. Are you aware of anyone within the campaign committee authorizing anyone to follow the procedure of taking cash in excess of \$100 and obtaining bank or postal money orders?*

*A. ... No, I'm not aware of any violation of our policy.*

However, later in his testimony, Carlon Preate was questioned regarding why the Committee had in its possession customer copies of postal money orders. Mr. Preate requested an opportunity to consult with his attorney and left the room. Upon his return, he testified:

*Q. Why would you have the customer receipts? Wouldn't the customer get the receipt?*

*A. I have now learned that there were occasions when contributors requested that their contributions be turned into a money order.*

Mrs. Patricia Zangardi testified:

*Q. ... was there a practice or a procedure you were aware of in the campaign committee where if a cash contribution were received in excess of \$100.00 ... who would be authorized to go and purchase postal money orders on behalf of the committee?*

*A. There was no policy on money orders, and we were definitely instructed that we could not take cash over \$100.00.*

#### **Individuals Who Admitted Contributing But Denied Authorizing The Purchase Of Money Orders**

Mr. John J. Petrolas owns and operates two restaurants in the Pittsburgh area, Jamie's and the Smithfield Cafe. Campaign records reveal five postal money orders, for \$200 each, were purchased and made payable to the *Friends of Ernie Preate Committee*. All five are dated October

18, 1988. The names appearing as purchasers of these money orders are John J. Petrolas; his wife Elizabeth Petrolas; James Petrolas; and his wife Athena Petrolas (nee Zaras); and Colleen Kelly, an employee of John Petrolas.

During testimony, John Petrolas was questioned with regard to his campaign contributions to Mr. Preate:

*Q. ... during the year 1988, [do you recall] ever making political contributions toward the campaign of Mr. Ernest Preate for Attorney General, in that year, 1988?*

*A. I did make a contribution. ... and the only thing I could come up with here is one check, and incidentally, that was a very active year. ...*

*Q. ... I understand that you are politically active, and that you are a contributor to numerous campaigns.*

*A. That's correct. This is the only check that was in my canceled checks made payable to the Ernie Preate Committee. It is in the amount of 250 dollars, Check No. 961.*

Mr. Petrolas testified that he did not purchase the October 18, 1988, money order in the amount of \$200:

*Q. ... This is a postal money order, and it is dated October 18th, 1988, and it indicates that the purchaser is John J. Petrolas of 1239 Malvern Avenue, Pittsburgh, PA, and it is made ... payable to the Friends of Ernie Preate Committee. ... Do you recall purchasing this money order, or making this particular contribution?*

*A. I do not. ...*

*Q. Do you recognize the handwriting on this [postal money order]?*

*A. I do not.*

*Q. Did you ever personally or direct anyone else to go personally and purchase any money orders in your behalf?*

*A. Not to my memory.*

Mr. Petrolas examined the four remaining postal money order dated October 18, 1988:

*Q. I would like you to take a look at those [postal money orders] because they all appear, on examination, to be written by the same individual.*

*A. They do, yes.*

*Q. ... And they are all for the sum of \$200? .... there's a total of five here ... for a thousand dollars. Okay, Now, you did not purchase these money orders?*

*A. I did not purchase those money orders.*

*Q. ... And you would not have purchased those money orders?*

*A. I don't think I would have. ....*

*Q. Would you have given a thousand dollars to someone?*

*A. I would have given a thousand dollars. As a matter of fact, my memory tells me that I did, that I was looking for a check.*

At the Crime Commission's request, Mr. Petrolas searched his files for canceled checks made payable to Mr. Preate's 1988 campaign committee. He located 16 canceled checks, (including the \$250 contribution to Mr. Preate) made payable to various local, state and national Republican election campaigns, totaling \$17,212.50. Mr. Petrolas testified that ... *it is not my style to go out and buy money orders. I would give a check.* Mr. Petrolas further testified:

*Q. Well, is it your style to give cash, because you have given all these checks?*

*A. Yes, I could have given cash.*

During testimony, Elizabeth Petrolas, James Petrolas, and Athena Petrolas (nee Zaras), denied purchasing the postal money orders which bear their names or authorizing anyone to purchase a money order for them. They also denied directly making a contribution to Mr. Preate's campaign. Colleen Kelly testified that she did make a contribution to Mr. Preate's campaign through her employer, John Petrolas, however, she ... *only gave him [Petrolas] maybe 100.* Kelly testified that she did not purchase the postal money order or authorize anyone from the Preate Committee to purchase it for her.

Carey Dunn testified that John Petrolas was ... *very active in our [Mr. Preate's] campaign. He is a traditional Republican, active in many Republican party functions in Western Pennsylvania.* She then testified about the five \$200 postal money orders which bore the names of John Petrolas, three members of his family, and one of his employees:

*Q. Do you recall if Mr. John Petrolas gave you one thousand dollars in cash for the purpose of purchasing these money orders, all in the amount of \$200? ....*

*A. Do I remember John Petrolas giving me a thousand dollars in cash? No, I do not. ....*

*Q. You have a recollection, though, of having purchased postal money orders for the purpose of ---*

*A. -- Oh, sure.*

*Q. -- converting them?*

*A. Oh, sure, because I would never take -- I would never take cash and forward cash out of my possession to Scranton.*

A cashier's check for \$3,000 dated October 7, 1988, was made payable to the "Friends of Ernie Preate Committee" and listed the remitter as Frank Stanish. Dr. Frank Stanish stated in an interview that he remembered this \$3,000 contribution but advised that although it was made in his name, most of the money was actually contributed by Larry F. Sylvester, Jr. Dr. Stanish stated that Mr. Sylvester is now deceased. According to Dr. Stanish, Mr. Sylvester gave approximately \$2,500 cash to be contributed in Stanish's name to the Committee. Dr. Stanish further stated that the handwriting on the money order was not his, nor could he recall how the money order was transmitted to the Committee or who from the Committee accepted the contribution.

#### **Individuals Who Denied Making A Contribution To Mr. Preate's Campaign Committee**

Mr. Louis Grippo, owner of The Original Oyster House, Pittsburgh, held a fund raiser at his restaurant for Mr. Preate in 1988.<sup>83</sup> In testimony, Mr. Grippo was questioned about the

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<sup>83</sup> Mr. Grippo testified that he was not reimbursed by the Committee for the cost of the fund raiser. For more details concerning in-kind contributions to Mr. Preate's 1988 campaign, see the sub-section *Failure To Report Private Fund Raising Functions As In-Kind Contributions.*

circumstances surrounding a Merchants Bank money order in his name, purchased in Scranton, for \$200 and dated October 28, 1988:

*Q. Mr. Grippo, I'm going to show you what's been marked Exhibit #1, which is a personal money order in the amount of \$200, purchased on October 28, 1988 at Merchants Bank. ... Did you purchase this particular money order?*

*A. No, I've never had any dealings with Merchants Bank.*

*Q. And did you authorize anyone else to purchase it in your behalf?*

*A. No, I don't recall anybody even asking me to purchase this.*

*Q. Is the handwriting on that particular document yours?*

*A. No. It's made to look like mine, but it's not my writing.*

*Q. ... You never authorized anyone from the Preate Committee to purchase it in your behalf?*

*A. No.*

Mr. Grippo testified that he attended a fund raiser for Mr. Preate and that he gave Carey Dunn more than \$100 cash to attend the fund raiser:

*Q. When you say you gave her [Carey Dunn] cash, do you remember how much? ... [was it] more than a hundred dollars?*

*A. Yes, more than a hundred dollars. I'm sure the tickets were more than a hundred dollars.*

Carey Dunn testified regarding this same postal money order of Mr. Grippo:

*Q. ... I would like to show you what I have marked as Exhibit No. 10, and ask you if you recall or have any knowledge of that. This is a personal money order drawn on the*



*Merchants Bank of Wilkes-Barre, Pennsylvania. Do you recall having received any cash from Mr. Grippo to forward to the campaign?*

*A. No, I don't.*

*Q. Do you recognize ... the handwriting on that particular document, the hand filled in part that says "Louis Grippo Ernie Preate for AG"?*

*A. It looks like it is Pat Zangardi's.*

*Q. ... You have no knowledge, then, of under what circumstances this postal money order may have been purchased in [the Merchants Bank of] Wilkes-Barre?*

*A. No.*

Patricia Zangardi testified regarding the same money order purchased on behalf of Louis Grippo:

*Q. Now, I'm going to show you what I've marked now as Exhibit Number 4 [\$200 money order made payable to "Louis Grippo-Ernie Preate for AG"] and I ask you if you recognize it? Again, this has handwriting on it, pay to the order, and [I] ask you if you recognize that check, first of all, or the handwriting?*

*A. ... This is my handwriting on it.*

*Q. Okay. And if we could just identify that, again, it says pay to the order, Louis Grippo dash Ernie Preate for AG. And the amount is \$200.00?*

*A. Um-hum.*

*Q. ... This, again, is a personal money order drawn on the Merchants Bank here [Scranton]? ... Do you have any knowledge concerning how that money order came to be purchased and deposited in the campaign?*

*A. No, I do not.*

*Q. ... Mr. Grippo also indicates that he did not make that particular contribution. And, in fact, that he did not purchase that money order or authorize anyone else to.*

*A. ... I don't know Mr. Grippo.*

Mr. Paul Scoliere owns and operates The Eastwood Inn, a restaurant in the Pittsburgh area.

A \$250 Merchants Bank money order dated June 14, 1988 and signed by a "Paul Scolieri" — Mr. Scoliere spells his name with an "e" while the Merchants Bank money order showed his name spelled incorrectly, Scolieri; the given street address on the money order is his correct home address — was deposited in the Committee's bank account. In testimony, Mr. Scoliere denied ever contributing to Mr. Preate's campaign:

*Q. ... do you recall being solicited by anyone back in 1988, to make a contribution to the campaign of Mr. Ernest Preate, when he was running for Attorney General?*

*A. No.*

*Q. Did you ever voluntarily send them any money, or make any contributions to Mr. Preate's campaign?*

*A. No. I don't recall doing any of that. ...*

*Q. ... I am going to show you what I am going to mark as Exhibit No. 1 for our purposes. ... This is a personal money order, and it is made payable to the order of "Ernie Preate for Attorney General," and it purports to be signed by a Paul Scolieri, of 4268 Verona Road in Verona, PA 15147, and it is dated June 14th of 1988 ... do you recognize any part of that exhibit or those documents? Have you ever seen that before?*

*A. No. ...*

*Q. Is any of that in your handwriting?*

*A. No, it is not.*

*Q. Your printing, or anything?*

*A. That is not my handwriting.*

*Q. Is that your signature on that check?*

*A. No. ...*

*Q. Have you ever purchased anything at the Merchant's Bank ...?*

*A. No. ...*

*Q. ... your name being used, or showing as a contributor having purchased a ticket to any type of function, that could not be correct or accurate?*

*A. No. I never authorized that.*

Ms. Dunn testified that it was her handwriting which appeared on the \$250 Merchants Bank money order. She could not, however, explain how her signature appeared on a money order purchased in Northeastern Pennsylvania while Mr. Scoliere, the alleged contributor, lived in Pittsburgh:

*Q. Did you ever have occasion to receive a cash contribution from Mr. Scolier[se]?*

*A. I think we did, yes.*

*Q. Did you, personally?*

*A. I think so. ...*

*Q. This is a personal money order again on June 14th 1988 and again on the Merchants Bank, and it also has attached to it a -- well, it looks to be a ticket stub. You might recognize it on the campaign. ... the portion of this particular exhibit which indicates, "Pay to the order of," and the handwritten section of "Ernie Preate for Attorney General," you indicate is yours?*

*A. Yes.*

*Q. Is there a particular reason ... or could you explain to me why you would have been on this particular document? It is from a Wilkes-Barre or Scranton Bank.*

*A. No, I can't. I mean, I was in Scranton during the campaign ... Perhaps I just -- perhaps I took it with me, the [\$250] cash, and converted it when I got there ...*

Mr. Joseph Laquatra has been president and business manager of Laborers District Council of Western Pennsylvania, located in Pittsburgh, since 1986. He testified that he did not make any contributions to Mr. Preate's campaign prior to February 1989. During its audit of Mr. Preate's campaign records, the Commission obtained a Merchants Bank cashier's check, dated October 28, 1988, in the amount of \$500 which listed Joseph Laquatra as the payee and made payable to the "Ernie Preate for AG Preate Headquarters" as well as a \$500 Northeastern Bank cashier's check, dated June 27, 1988, which showed "Pay to the order of Joseph Laquatra". During testimony, Mr. Laquatra stated that he had no prior knowledge of the two separate bank cashier's checks:

*Q. The first one [bank check] I am going to show you is from the Northeastern Bank*

*... of Scranton, Pennsylvania. It is for the account of Friends of Ernie Preate Committee, and it says, "Pay to the order of Joseph Laquatra." This indicates that money was given to you.*

*A. To me?*

*Q. Yes. Did you ever receive any such money?*

*A. No way.*

*Q. ... it is in the amount of five hundred dollars, and it is dated June 27th, 1988. Now, for your information, even though that is filled out in reverse as if it is payable from the Friends of Ernie Preate Committee to you, that particular check was cashed and deposited into the Friends of Ernie Preate Committee and deposited in their account.*

*A. By whom?*

*Q. That is our question....*

*Q. Let me show you ... Exhibit No. 4 -- and it is another cashier's check. This one is from Merchants Bank, and it says "Pay to the order of Ernie Preate" and it is to Joseph Laquatra, 48 Glenhaven Drive, Glenshaw, PA, again for five hundred dollars. Do you recognize, or do you have any knowledge about anything on that check? ... Is any of that in your handwriting?*

*A. ... No. ... It is not my wife's. I know that.*

*Q. ... Were you aware of these contributions?*

*A. No, not at all.*

*Q. Nobody has ever spoken to you about these contributions?*

*A. No.*

*Q. Are you surprised that these contributions are there?*

*A. Definitely surprised. ...*

*Q. ... Did you give any cash to the campaign?*

*A. No ...*

Patricia Zangardi testified with regard to Mr. Laquatra's two bank cashier check contributions:

*Q. ... what I'm going to do now then is show you what I'm going to mark as Exhibit Number 1. It is a Northeastern Bank cashier's check in the amount of \$500.00. It says, per the account Friends of Ernie Preate Committee. And it says, pay to the order of Joseph Laquatra. Not to confuse you, this particular check was deposited - - and I have the attached deposit ticket -- into the campaign account. ... Do you know or was Mr. Laquatra familiar to you in 1988?*

*A. ... In reference to Exhibit 1, cashier's check, I don't know anything about this.*

*Q. Mr. Laquatra ... also had no knowledge, one of making the contribution of \$500.00 or ever being in Scranton, Pennsylvania?*

*A. I find that very hard to believe ....*

*Q. Let me show you then what I'll mark as Exhibit 3. This is a copy, again, of a cashier's check for \$500.00 on the Merchant's Bank in Wilkes-Barre, PA ... in addition to the signature of the authorized signature of the bank officer, it has other handwritten information on it, specifically, Mr. Laquatra's address 485 GlenHaven Drive, Glenshaw, remitter Ernie Preate for AG Committee. Do you recognize that document or check? ...*

*A. Well, that handwriting is mine.*

*Q. That handwriting is yours?*

*A. Yes, it is.*

*Q. Do you know anything about the purchase then of that particular money order [cashier's check]?*

*A. No, no, I don't. ...*

*Q. ... I'd like to show you the original customer copy of that particular document. Now, you wrote the part that indicates Ernie Preate for Attorney General, who it's payable to and you wrote the address on that. But you have no knowledge of when or how that money order was obtained?*

*A. No.*

In an attempt to clarify a few issues, Mr. Holste requested to testify again. During testimony, Mr. Holste attempted to explain Mr. Laquatra's two 1988 contributions by submitting

as exhibits thank-you notes which the Committee sent to Mr. Laquatra for his two 1988 contributions:

*Q. Would they [the thank-you notes] have been something that would have been in the files that we would have had?*

*A. No. ... That's the June 14, that's the thank you letter that follows up to the contribution from June. And this second letter follows up to the contribution from October. ... It's very clear to me that he donated the contribution and that's why we sent him the thank you letter.*

*Q. Well, I will mark these as Exhibits E and F. ... And you are submitting them as original documents?*

*A. Uh-huh. ...*

*Q. So what you are suggesting is that Mr. Laquatra gave someone within the campaign cash which someone within your campaign converted to money orders?*

*A. Right.*

*Q. And the interesting thing, I guess is, that .... the conversion of the money took place in a location Mr. Laquatra has never been to.*

*A. Yeah.*

The Committee's thank you letter to Mr. Laquatra for his June 27, 1988, contribution was dated June 14, 1988, 13 days prior to the date of the money order that was Mr. Laquatra's alleged contribution:

*Q. Exhibit F would be the letter that would have related, I believe, to the --*

*A. The June letter related to the June contribution.*

*Q. Wouldn't that be a little difficult since Exhibit C, the bank money order, was dated June 27, which would be two weeks after the date of the thank you letter. ... The confusion ... is that the letter was sent out before the contribution is received?*

*A. Before the money order is dated?*

*Q. Yes. So it could have been that the cash had been on hand for some period of time prior to that?*

A. That's right.

Mr. Holste testified again about the policy regarding the purchase of money orders by campaign committee staff members:

Q. Do you do believe that that is a practice that may have been followed or used in any campaign contribution?

A. Yeah. I do see that, sure.

Q. The campaign staff workers would take cash from individuals in amounts larger than they were allowed to contribute and were taken to a bank without that person's knowledge and get a money order?

A. Well, I think their object was to comply with the statutes which require that the sources of contributions be reported to the campaign and that they took the step in an obvious attempt to make sure they complied with that statute to buy a money order and make sure that the campaign did not deposit cash in excess of \$100.

Q. I believe it's not a matter of depositing. I believe it is a matter of receiving or making a contribution in that amount?

A. I believe what the statute says ... is that a campaign may not willfully accept donations which are forbidden.

Q. It says people may not in fact make cash contributions in amounts larger than \$100.?

A. ... and campaigns may not willfully accept contributions which are forbidden.

Q. ... the campaign workers you are describing here ... would have accepted the cash, would have taken it and then without perhaps the knowledge of these individuals, converted it into a commercial instrument.

A. That's possible.

Q. ... was that a practice or did they do this on their own?

A. ... I don't think it is a situation that arose that often. ...

## Postal Money Orders Deposited Into The Committee's Bank Account In-Blank

The Commission found four postal money orders, whose order numbers are very close in sequence, deposited into the Committee's bank account but without payee or purchaser information. Three of these money orders were for \$500 each and were dated October 11, 1988. The fourth, dated November 18, 1988, was for \$200.

Carlton Preate initially testified that there was no campaign policy concerning the purchase of bank or postal money orders. He also testified that he was not aware of any violation of the Committee's policy of accepting in excess of \$100 cash and then purchasing a bank or postal money order. He testified with regard to depositing funds into the Committee's bank account:

*Q. Was there a particular individual who was responsible for regularly filling out the deposit slips for the bank deposits? ...*

*A. No.*

*Q. Was there one person who made or filled out the deposit tickets a majority of the time ... whether it was their specific responsibility or not?*

*A. Not that I recall.*

However, during testimony, Carlton Preate identified the handwriting on numerous Committee bank deposit slips as his. He testified to the method he used in filling out each deposit slip:

*Q. Now, when you filled out these deposit tickets, would you personally sit there and review each check and write out and complete the deposit ticket? Was that the procedure you used? ...*

*A. If the deposit ticket had my handwriting on it, I got the information for the deposit from the checks. But I do not consider that a review of each check.*

*Q. But it did come off the checks that's the bottom line, right?*

*A. Yes, where else could it have come from?*



Carlton Preate testified about the deposit slip, dated October 12, 1988, which contained the names of "Wm. Spear," "Delma Mashack," and "Joan Sukoski." All three individuals were credited by the Committee with contributing \$500 each using a postal money order:

*Q. ... let me show you a document which I will mark ... as Exhibit Number 3 [which] is a deposit ticket from 10/12 of 1988 ... indicates total checks of \$20,200. I'll ask you if you recognize the handwriting on that?*

*A. It appears to be my handwriting.*

*Q. ... I'm going to show you what I marked as Exhibit Number 5 just so I understand I have [Exhibit] 4 here but I'm just holding that for a second. I ask you to look at these three copies of what I marked as customer receipts for postal money orders. Looking at the three individuals on there and ask if you can find those three individuals toward the bottom of that deposit slip?*

*A. Yes, these three individuals are listed on this deposit ticket.*

*Q. In those amounts of money?*

*A. Yes.*

*Q. And the money orders themselves, the customer receipt copies have a date of 10/11 of '88 on them? ...*

*A. Yes.*

*Q. ... I'd like to show you and I marked as Exhibit 4 as I indicated out of order are the front of those particular money orders as we obtained them from the bank as having been deposited with that deposit slip. Those are the bank records, the endorsements are on the back. ... Would you acknowledge that the faces of those documents as deposited are not filled in, they're in blank?*

*A. Yes.*

*Q. ... can you explain how you were able to enter who those contributors were and the amounts when those records are, in fact, blank?*

*A. I don't recall exactly. ...*

*Q. Why would you have the customer receipts? Wouldn't the customer get the receipt?*

*A. I have now learned that there were occasions when contributors requested that their*

*contributions be turned into a money order. ...My best guess is that Exhibit 5 is an example of such a transaction where the campaign would have had a copy of the customer receipt.*

During testimony, Patricia Zangardi was questioned with regard to the three October 11, 1988, postal money orders:

*Q. ... The next exhibit I am going to show you is a series of documents ... The first one is a blank postal money order ... it is \$500. And it is in the form that it was deposited into the account. In other words, it is blank as to the payor or the payee. ...*

*A. Errors can be made. ...*

*Q. The next particular document is, in fact, a deposit ticket that's associated with that name in that particular item in order. The third document is a customer's receipt for that document. And it is now -- or this particular customer's receipt is filled in. Do you recognize any of the handwriting contained on that particular document?*

*A. That is my handwriting, and that's my printing.*

*Q. ... So this particular customer receipt with that information would have been filled out by you?*

*A. ... yes.*

*Q. ... the printing would have obviously been added after the item was deposited?*

*A. Why do you say that?*

*Q. Because how could you have put the printing on before the item was deposited since the bank received it with no writing on it?*

*A. I have no knowledge of this. I have no idea. ...*

*Q. ... Do you know Delma Mashack?*

*A. No, I do not.*

One of the postal money orders for \$500 dated October 11, 1988 made payable to "Ernie Preate for AG" showed the purchaser as "Delma Mashack; 654 Wolf Ave., Easton, PA; Housewife." The Commission attempted, but could not locate, a "Delma Mashack" anywhere in the Commonwealth. The second postal money order for \$500 dated October 11, 1988 payable to

"Ernie Preate for AG" shows the purchaser as a "Joan Sukoski; 251 E. Walnut St., Nazareth, PA; clerk." Miss Sukoski testified she has been employed by an attorney whose office is located at 654 Wolf Avenue, Easton, for over ten years. Miss Sukoski testified with regard to the postal money order which bears her name as well as "Delma Mashack's":

*Q. You were shown a copy of the United States Postal Money Order?*

*A. Right. ....*

*Q. Is the writing on these money orders yours?*

*A. No.*

*Q. Do you recognize the writing?*

*A. No.*

*Q. How do you spell Nazareth, Pennsylvania?*

*A. N-a-z-a-r-e-t-h.*

*Q. Is there anything unusual about the way it's written there?*

*A. It's spelled incorrectly. ....*

*Q. Do you know Delma Mashack to be anyone at 654 Wolf Avenue, Easton?*

*A. No.*

Miss Sukoski testified that ... *I made the contribution of \$500. ... If I did it by cash, I didn't know you couldn't make over \$100. That I didn't know.* She then testified that no one from Mr. Preate's committee told her she could not contribute more than \$100 cash:

*Q. The campaign committee never came back and said, you can't give us a \$500 --*

*A. No. Nobody ever said anything to me. ....*

*Q. They never came back and said, "You cannot donate \$500 in cash"?*

*A. I don't recall that. No.*

The third money order for \$500 dated October 11, 1988 and made payable to "Ernie Preate for AG" reflects a "Wm. L. Spear, 121 W. Hemlock St., Hazelton, PA; Clerk" as the purchaser. Mr. Spear testified:

*Q. ... do you remember making a contribution in 1988 to Mr. Preate's campaign?*

*A. Yes, I do recall making a contribution.*

*Q. Do you recall the amount, sir?*

*A. Not the exact figures but as we discussed, it could have been around the \$500 level.*

Mr. Spear was shown a copy of the postal money order dated October 11, 1988:

*Q. Is that your handwriting on the money order?*

*A. My handwriting, no. No, it's not. ....*

*Q. Is your name correct as it appears on the money order?*

*A. Well ... my middle initial [is J.]. I see it looks like an L here. My middle initial is J.  
....*

*Q. ... you did not purchase the money order?*

*A. That's correct. ....*

*Q. ... Your residence, the city where you live, is there anything that you find out of the ordinary about that?*

*A. The spelling of Hazleton. We spell it H-a-z-l-e-t-o-n. This is a common error that occurs a lot in the spelling of our town.*

*Q. The two errors you see on the money order, first of all, your middle initial is wrong. It's J, not L as it appears on the money order? ... And the city of Hazleton is misspelled?*

*A. Yes.*

Mr. Spear then testified that he has made numerous cash campaign contributions but never authorized anyone to purchase the money order for him:

*Q. You give contributions on a routine basis to political candidates?*

*A. Pretty much routine. ....*

*Q. Have you ... ever given a contribution ...in check [form]? ....*

*A. Well, I have no positive recollection that I did. I think most of the times I use cash.*

*Q. Is there any reason why you do that, as a businessman, in cash?*

A. No. ...

Q. *It's unusual, would you agree, to give cash?*

A. *Unusual. I didn't think it was.*

Patricia Zangardi testified:

Q. *Now, I had previously shown you a copy of Delma Mashack. Now, this has a Joan Sukoski and a William Spear from Hazleton and Easton. They are \$500 money orders. Do you recognize the money orders on those other two. Mr. Spear's and the other woman's?*

A. *The handwriting and printing is mine.*

Q. *... Do you have any knowledge concerning the purchase of those particular postal money orders for those individuals?*

A. *No, I do not.*

## FAILURE TO ITEMIZE CREDIT CARD EXPENSES OF CANDIDATE PREATE ON EITHER CANDIDATE OR COMMITTEE CAMPAIGN EXPENSE REPORTS

The Commission examined the Visa and Mastercard accounts in the name of Ernest D. Preate, Jr., and payments for this account from Mr. Preate's *Friends of Ernie Preate Committee*. The analysis revealed that Ernest D. Preate, Jr., charged on his personal credit cards several hundred expense items that were not reported to the State Elections Bureau but were paid for by his Committee. According to the credit card statements, the charges appeared to be for lodging, restaurants, travel, travel agents, gas stations, and cash advances. The Crime Commission was unable to ascertain if these expenses were for personal as opposed to campaign expenses.

Analysis of the Committee's records revealed that ten checks totaling \$26,307.79 were drawn on the Committee's checking account and were made payable to Mr. Preate's credit card accounts. These reimbursements were made in lump sum amounts and they did not correspond to specific credit card charges. On one occasion, Mr. Preate was reimbursed by the Committee an amount of \$1,647.29 for expenses he incurred. Mr. Preate did not file a personal expense report nor did the Committee itemize those expenses for him.

If the expenses charged on these credit card accounts were for campaign purposes, the campaign committee failed to properly itemize each expense on CERs to the State Elections Bureau. Expense entries on the campaign expense reports described these disbursements as *reimbursement*, *Ernie's expenses*, *expenses*, or *expenses-credit card*. Specific items or services charged to these accounts were not enumerated on the expense reports as required. According to reports filed by the Committee, there was over \$26,000 reimbursed to Mr. Preate. None of these expenses were itemized by the Committee to verify the payments to the credit cards accounts were campaign related expenses. Mr. Preate, who is required to file a separate report as an individual candidate, certified that he had not received or expended in excess of \$250 during each of the campaign reporting periods. Refer to Table 2.

TABLE 2 — ANALYSIS OF CREDIT CARD CHARGES AND PAYMENTS FOR ERNEST PREATE, JR., FOR 1988.			
CAMPAIGN EXPENSE REPORTING PERIOD	SUMMARY OF TOTAL CHARGES	PAYMENT FROM CAMPAIGN COMMITTEE	DATE OF CHECK
01-01-88 TO 03-07-88	\$574.10	\$0.00	N/A
03-08-88 TO 04-11-88	\$2,106.98	\$0.00	N/A
04-12-88 TO 05-16-88	\$2,752.66	\$997.74	04-21-88
05-17-88 TO 09-19-88	\$12,695.37	\$2,337.63	05-18-88
		\$2,762.81	06-15-88
		\$417.93	07-13-88
		\$971.93	08-03-88
		\$3,819.75	08-16-88
		\$6,000.00	09-01-88
09-20-88 TO 10-24-88	\$6,796.59	\$3,000.00	10-14-88
		\$3,000.00	10-24-88
10-25-88 TO 11-28-88	\$6,527.38	\$0.00	N/A
11-29-88 TO 12-31-88	\$500.47	\$3,000.00	12-23-88
TOTALS	\$31,953.55	\$26,307.79	

NOTE: (1) Charges of \$31,953.55 were for items such as meals, lodging, gas, air travel, flowers, and cash advances.

(2) Table does not include check issued on 06-23-1988 to Ernest D. Preate, Jr., in the amount of \$1,647.29.

## FAILURE TO REPORT PRIVATE FUND RAISING FUNCTIONS AS IN-KIND CONTRIBUTIONS

In the course of its analysis of the financial records for the *Friends of Ernie Preate Committee*, the Commission found tickets for a number of fund raising functions in 1988. The Commission interviewed or received testimony from a number of persons who stated they attended breakfast, lunch or cocktail parties for attorney general candidate Ernest D. Preate, Jr., in 1988. As reported in the section regarding cash contributions in money orders and negotiable instruments, a number of the alleged contributors denied making such contributions. In efforts to reconcile the discrepancies, the Commission analyzed a sample of records with regard to fund raising functions, and the particular question of in-kind contributions. From this sample, the Commission was able to determine that in at least four cases, fund raising functions on behalf of candidate Preate were held in 1988 and food and beverage costs for these political functions were not reported as paid expenditures on the CERs or in the campaign records of the *Friends of Ernie Preate Committee*.

### Cocktail Party Of January 13, 1988 At The Galleria Restaurant

The Commission interviewed W. Jack Kalins, the owner of the Galleria Restaurant, Split Rock Lodge, Lake Harmony, PA, on October 4, 1993. Mr. Kalins stated that a cocktail party and buffet dinner was held at the Galleria Restaurant on January 13, 1988, at 7:00 p.m., to raise funds for then Lackawanna County District Attorney Ernest D. Preate, Jr. W. Jack Kalins, operator of Split Rock, collected over \$10,000 for Mr. Preate's campaign which he forwarded to Patricia Zangardi. Of the \$10,000 collected, \$1,100 was in the form of eleven postal money orders for \$100 each purchased by Mr. Kalins. Mr. Kalins stated he had 100 tickets printed for this occasion, which he stated people attended at no charge. Mr. Kalins also stated to the Crime Commission that he invoiced to the *Friends of Ernie Preate Committee* the cost of the party. However, during his interview with the Commission, Mr. Kalins could not locate any invoice in his manila folder. Mr. Kalins testified before the Commission and produced his file on the fund raising event. In this file was a letter dated October 6, 1993, two days after his initial interview with a Crime Commission agent, addressed to Mrs. Pat Zangardi. It read:



*Recently, at the request of the Pennsylvania Crime Commission, I was required to review the file pertaining to the fund raiser held for Ernie Preate in 1988.*

*As part of the review, a request was made for a copy of the function invoice. Further review may indicate that the invoice was not paid or that you may never have received the invoice....*

Mr. Kalins also produced a copy of an invoice dated March 23, 1988, along with an invoice bearing no invoice number and no account number for a sum of \$1,291.41, directed to *Attorney Ernest Preate, District Attorney - Lackawanna County, Scranton, PA, 18503, Attention: Mrs. Pat Zengara [sic]*. This invoice, according to Mr. Kalins's testimony, was paid just prior to his appearance before the Commission:

*Q. What was provided at that [January 13, 1988] fund-raiser?*

*A. Cocktail party, hors d'oeuvre and cocktails.*

*Q. And were you reimbursed for the cost of that ... party? How?*

*A. By check from Preate's funds. ...*

*Q. There's a letter from you dated October 6, 1993 which is [the] date of our interview?*

*A. Correct.*

*Q. "To Mrs. Pat Zangardi ... Dear Pat. Recently at the request of the Pennsylvania Crime Commission ... I was required to review the file pertaining to the fund-raiser for Ernie Preate in 1988. As part of the review,, a request was made for a copy of the function invoice. ... would you please check your records if available and advise me to the status of the enclosed invoice. ..." There's an invoice dated 3/11/88 in the amount of \$1,291.41 for a statement of the hotel charges which is listed to Ernest Preate and Friends for Ernie. Now you're indicating that you had initially mailed this invoice in 1988?*

*A. I guess -- I don't -- the invoice was mailed, yes. And it has been paid since that time, since that letter. ...*

*Q. Up until our interview, it had not been paid?*

*A. That's correct. ... I just checked yesterday, and they said it was paid.*

*Q. You didn't bring the check?*

*A. We don't make copies of checks. ...*

*Q. I understand that. But in this particular instance, we're talking [about] a specific investigation?*

*A. I don't think this investigation merits me making copies of checks of invoices being paid to the company. Put that in the record too.*

*Q. ... You made a contribution in the amount of \$1,200.00?*

*A. So what. We didn't make a contribution for \$1,200.00. Absolutely not.*

Mrs. Patricia Zangardi testified with regard to Mr. Kalins' invoice which went unpaid until Mr. Kalins mailed a duplicate the day he was interviewed by the Crime Commission:

*Q. It [Exhibit Number 19] is a front page of a letter with a copy of a receipt. It's addressed to Ernest D. Preate, Jr., district attorney Lackawanna County,, Scranton. Attention Mrs. Pat Zangardi. Dear Pat. And the body itself reads: Enclosed is money orders in the amount of \$1,100.00 with an indication of other funds raised at that event?*

*A. From Jack Kalins?*

*Q. Yes. ... You're familiar with that?*

*A. With the event, yes, I am?*

*Q. ... Do you know any reason why that particular invoice was never paid until, I guess, October of this year?*

*A. Probably ... because it was never received. Could you tell me why all of a sudden a bill, you know, a bill would show up?*

*Q. Why it would show up? I can tell you why because we went to interview Mr. Kalins to get his records. And the day we interviewed him for his records, he wrote a letter to you indicating that, in fact, the bill had never been paid some -- over five years later, requesting payment on it.*

*A. But ... if another bill hadn't been sent to a proper address ...*

*Q. That was addressed to Mr. Preate himself at the DA's office. Is that an improper address? Is Attorney Ernest Preate, District Attorney, Lackawanna County, Scranton, PA?*

*A. ... And then it says, attention, Pat Zangardi.*

*Q. No one would have called or --*

*A. I cannot answer what the district attorney's office did.*

The March 23, 1988, invoice from Mr. Kalins to Patricia Zangardi bore the same address as his letters dated January 18th and February 3rd 1988, respectively, which contained the money orders and check contributions, which were received by the Committee.

#### **August 29, 1988, Cocktail Reception At Mount Airy Lodge**

The Commission verified whether a fund raising event held at the Mount Airy Lodge, in Mount Pocono, PA, on Monday August 29, 1988, was reported in the records of the *Friends of Ernie Preate Committee*. The controller for the lodge stated to the Commission that she was unable to locate any records, sales functions sheets, or any evidence that this function was paid, after reviewing the 1988 records for the business. The Commission found nothing to indicate payment for this event.

#### **September 21, 1988 Fund Raiser Breakfast at Genetti's Best Western**

The Commission contacted the operator of Genetti's Best Western, Route 309, Hazleton, PA, to ascertain whether the costs of a September 21, 1988, breakfast function hosted for *Friends of Ernie Preate for Attorney General* had been paid by Mr. Preate's Committee. The operator, Tony Chatla, stated that he searched his records and could not find any references to any invoice having been paid for this fund raiser or sent to the *Friends of Ernie Preate Committee*. Mr. Chatla stated that there was a fire in 1989 and that many of the records were destroyed at that time. The Commission could not find any reported expenditures for payment of this breakfast listed in the CERs submitted by the Committee in 1988.

#### **October 30, 1988 Reception At The Original Oyster House**

Mr. Louis Grippo, owner of The Original Oyster House in Pittsburgh, testified regarding

a fund raiser that was held at his restaurant in October 1988:

*Q. In connection with that particular fund raising function, did you incur certain costs?*

*A. Yes, for food and beverages.*

*Q. ... Do you have any idea what your costs were that evening?*

*A. It was over \$300; that was my cost.*

*Q. ... Were you reimbursed for those costs?*

*A. No.*

*Q. So that was an in-kind contribution?*

*A. Right.*

*Q. And the fact that you were incurring this costs yourself, were people on the Preate Committee aware of that?*

*A. I'm sure they were. I was thanked for it. ... Ernie [Preate] thanked me and Carey [Dunn] thanked me.*

*Q. So they were both aware you were incurring these costs on your behalf?*

*A. Right.*

Carey Dunn testified regarding the fund raising function for Mr. Preate held at the Oyster House:

*Q. Do you know an individual by the name of Louis Grippo?*

*A. Yes.*

*Q. Okay. And how do you know Mr. Grippo?*

*A. We had a reception once at the Oyster House. ... What is the date on it?*

*Q. ...October 30th [1988].*

When questioned regarding Mr. Grippo's unreported in-kind contribution to Mr. Preate's campaign, Mrs. Zangardi testified:

*Q. ... Mr. Grippo testified that he had held an event at his restaurant. It does not appear*

*as an expense item or as an in-kind contribution?*

*A. Mr. Grippo is from where?*

*Q. Pittsburgh.*

*A. I have no knowledge of that. I don't.*

This does not appear on CERs as an in-kind contribution.

## FAILURE TO REPORT OVER \$267,000 IN CONTRIBUTIONS AND EXPENSES IN 1988

The examination of Committee records and campaign bank accounts showed that in 1988 a total of 258 check and cash items from contributors totaling \$144,106 were deposited to the Committee's checking account with Northeastern Bank but were not reported on six original CERs filed by the Committee with the State Elections Bureau.

Three major campaign expense items were misreported causing a \$123,000 under reporting of expenses.

Robert Preate speculated that the more than \$100,000 in unreported contributions was the result of *clerical error*:

*Q. Were you aware in 1988 that the campaign report failed to show over \$100,000 in contributions to the campaign committee for that year? ...*

*A. As to the question was [I] aware in 1988 that the campaign reports failed to show over \$100,000 in campaign contributions for that year, the answer is no ... I object to the characterization of the word failure to report since it imputes an intentional element. ... My speculation is that it was an unintentional clerical error ...*

Carlton Preate testified that the missing \$144,000 appeared to be the result of unintentional clerical transcription errors:

*Q. Let me ask you, would you characterize the [1988 campaign] records as meticulous that you prepared? Would you characterize them as meticulous or well-organized? ... Are those records meticulous? And I'll rely upon your experience as a CPA to provide that answer.*

*A. The records speak for themselves. ...*

*Q. Could you explain why there was \$100,000 missing in reported contributions or \$100,000 or more missing on the initial reports?*

*A. In hindsight, it appears there were unintentional clerical transcription errors.*

## Incorrect Amendments Of 1988 Campaign Filings

The Commission issued subpoenas in April 1993 for the records of the *Friends of Ernie Preate Committee* and the bank where it had its accounts covering the four month period from April through July of 1988. The Committee provided records covering the period of March 25 through September 26, 1988. Comparison of the Committee's records and bank account with its CERs revealed a number of discrepancies and inconsistencies. Many contributions were deposited but not reported in the Committee's Campaign Expense Reports with the State Elections Bureau. The unreported and other questionable contributions totaled close to \$50,000 for the period examined.

In late May of 1993, the Commission informed legal counsel for the *Friends of Ernie Preate Committee* of these discrepancies. The Commission requested the remainder of the Committee's records for 1988. Additional bank records were also subpoenaed.

Mr. Preate's Committee subsequently filed amended campaign expense statements on August 2, 1993, with the State Elections Bureau. The amended CERs filed by the Committee contained contribution entries that were improperly deleted. On eight occasions the Committee deposited contributions totaling \$1,325. The Committee deleted the contributions though it did not issue "return of contribution" checks to the contributor. These contributions included:

CONTRIBUTOR	CHECK DATE OR CAMPAIGN DATE	CHECK AMOUNT	BANK DEPOSIT DATE
CATERINO, MICHAEL	11-02-1988	\$100	11-02-1988
HESSER, TOM (T.J. HOLDING CO.)	11-18-1988	\$200	11-22-1988
HODIN, JOSEPH	10-27-1988	\$200	10-31-1988
HODIN, JOSEPH	10-27-1988	\$100	10-31-1988
T.J. HOLDING CO. (TOM HESSER)	11-01-1988	\$250	11-02-1988
WILLENSKY, MARK	04-15-1988	\$400	04-18-1988
YANNIELLO, AMBROSE	10-25-1988	\$25	11-02-1988
YANNIELLO, AMBROSE	11-03-1988	\$50	11-14-1988
TOTAL:		<u>\$1,325</u>	

The Committee also overstated six contributions totalling \$800 by incorrectly reporting them

a second time. These contributions included:

CONTRIBUTOR	CHECK DATE OR CAMPAIGN DATE	CONTRIBUTION AMOUNT
DUTCH GIRL CLEANERS (MR. MARTIN)	10-25-1988	\$100
FISCHER, STEVEN R.	04-15-1988	\$100
LEBER, JEFF	11-09-1988	\$100
MAGNOTTA, ALBERT	09-06-1988	\$150
MINORA, JOHN Q.	07-28-1988	\$250
PENN BANCORP PAC	09-09-1988	\$100
TOTAL:		<u>\$800</u>

The Committee failed to report 14 contributor checks totaling \$3,050 and five expense items totaling \$1,023.26. The contributor checks included:

CONTRIBUTOR	CHECK DATE OR CAMPAIGN DATE	CHECK AMOUNT	BANK DEPOSIT DATE
EGGLESTON, ROBERT H. (MARY ANNE)	10-27-1988	\$500	10-31-1988
FALVELLO, ANTHONY C.	11-02-1988	\$250	11-07-1988
FIATO, MIKE (NORTON'S BODY SHOP)	11-07-1988 [Cash]	\$100	11-07-1988
FIRST PENNSYLVANIA PAC	09-26-1988	\$250	10-12-1988
FOX, ROTHCHILD, ET AL	10-21-1988	\$250	11-07-1988
HOWE, RAYMOND L.	11-01-1988	\$125	11-02-1988
HRYNKIW, WALTER S.	03-17-1988	\$100	03-18-1988
MARTIN, JAMES B.	10-28-1988	\$125	10-31-1988
MINIHAN, D. P.	09-22-1988	\$250	09-29-1988
MINORA, AMIL	07-28-1988	\$250	08-02-1988
OLSOMMER, DONALD E.	07-05-1988	\$400	07-12-1988
PAULOSKY, RITA S.	03-20-1988	\$100	03-23-1988
ROSS, ELLEN L.	07-11-1988	\$100	07-12-1988
VANDUSEN, LEWIS H., JR.	10-07-1988	\$250	10-12-1988
TOTAL:		<u>\$3,050</u>	



The expense items included:

PAYEE	CHECK DATE	CHECK AMOUNT	CHECK NUMBER
P R NEWSWIRE	08-24-1988	\$500.00	528
PRESTWOOD	09-09-1988	\$13.36	560
ST. UBALDO SOCIETY	05-16-1988	\$25.00	302
U.S. POSTMASTER	08-09-1988	\$125.00	475
WORNER, R.	09-14-1988	\$360.00	573
TOTAL:		<u>\$1,023.36</u>	

# EXHIBITS

STAMPED

## CONCLUSION

Analysis of the 1988 *Friends of Ernie Preate Committee* available bank and campaign records for the Attorney General election uncovered serious problems in almost all areas of reporting and recording financial information by the Committee. The recurring and cumulative nature of these irregularities, misstatements and alterations appear to amount to a systematic pattern of disregard for Pennsylvania's Campaign Expense Reporting Law. The collective errors, misstatements, and contradictory records effectively precluded the Crime Commission from being able to trace and follow the path of large amounts of unreported cash that were brought to its attention. The Commission's analysis determined that an accurate record of monies received and spent by the Committee in 1988 could not be established through examination of the 1988 Campaign Expense Reports.



22

RECEIVED

8

88-02-10 79500000



EXHIBIT 1

#33

~~Check~~ Commercial Loans

ADVICE OF CHARGE

DATE 9/20/88

WE HAVE CHARGED YOUR ACCOUNT AS FOLLOWS

Wire transfer to Barclay Bank of NY Garth Group, Inc. 056-70500-0  
per instructions Carion Preate

AMOUNT

\$225,000.00  
10.00

\$225,010.00

Wire Transfer Fee

3006-402-6



To

Friends of Ernie Preate Committee

*L.B. Holcomb*

AUTHORIZED SIGNATURE

0081-09-20

103 130056 21

300640 26

50 700 2250 1000

## SCHEDULE II

### SUMMARY OF EXPENDITURES

USE THIS SECTION TO ITEMIZE ALL EXPENDITURES MADE DURING THE REPORTING PERIOD.

NAME OF CANDIDATE, COMMITTEE OR LOBBYIST		REPORTING PERIOD	
Ernie Preate for Attorney General		From 9/20-88 To 10/24-88	
DATE(S)	FULL NAME, MAILING ADDRESS AND ZIP CODE OF RECIPIENT	DESCRIPTION OF EXPENDITURE	AMOUNT
10/21-88	US Postmaster Scranton Pa 18503	postage	250.00
10/21-88	PNC Service Corp PO Box 7490 Phila Pa 19101	expenses	3,000.00
10/21-88	Hotel Hershey Broad & Locust St Phila Pa	reception	10,119.64
10/21-88	Garth Group Inc 745 Fifth Ave New York NY 10151	advertising	125,000.00
10/21-88	Northeastern Bank Wyoming Ave + Spruce St Scranton Pa 18503	service charge	6.00
10/18-88	Garth Group Inc 745 Fifth Ave New York NY 10151	advertising	45,000.00
10/12-88	Northeastern Bank Wyoming Ave + Spruce St Scranton Pa 18503	service charge	6.00
10/9-88	Northeastern Bank Wyoming Ave + Spruce St Scranton Pa 18503	taxes	3,500.00
9/20/88	Garth Group, Inc. 745 Fifth Ave. New York, NY 10151	advertising	125,000
9/23/88	Garth Group, Inc. 745 Fifth Ave. New York, NY 10151	advertising	20,000
9/20/88	First Eastern Bank Box 751 Scranton, PA 18501	fee	10.00
9/23/88	First Eastern Bank, Box 751 Scranton, PA 18501	fee	10.00
Subtotal This Page (Optional)			▶ 331,901.64
Total This Period — Enter on Page 1 (Face Sheet) — Item D			▶

SEE INSTRUCTIONS ON NEXT PAGE

# NORTHEASTERN BANK

of Pennsylvania

PLACED THROUGH  
FEDERAL RESERVE BANK OF PHILADELPHIA

DATE TO

026008523

TYPE

1040

DUE FROM

031300012

REF

0098

WIRE AMOUNT

\$125,000.00

CHARGE

\$6.00

DEBIT

TRANSFERRED FROM

N.E. BK SCRANTON/ORIG=C. PREATE FRIENDS OF ERNIE PREATE

TRANSFERRED TO

BARCLAYS NYC

/CIR/UNIT=GARTH GROUP/AC-0567050

147523

C. PREATE, FRIENDS OF ERNIE PREATE  
507 ELECTRIC BUILDING  
SCRANTON, PA 18503

MESSAGE ACKNOWLEDGMENT

1021 110H101X 000028

001084371P

84 /0012500600P

EXHIBIT 3



# NORTHEASTERN BANK

SCRANTON, PENNSYLVANIA

PAID TO ORDER  
NORTH EASTERN BANK OF PENNSYLVANIA

DUE TO  
1000523

TYPE  
1040

DATE FROM  
11300012

REF  
0079

WIRE AMOUNT  
\$17,000.00

CHARGE  
\$8.00

DEBIT

FOR CREDIT OF  
SCRANTON/ORG=C. PREATE FRIENDS OF ERNIE PREATE

FOR CREDIT OF  
RELAYS NYC

/CTR/BMT-GARTH GROUP/AC 0567050

149137

C. PREATE FRIENDS OF ERNIE PREATE  
507 ELECTRIC BUILDING  
SCRANTON, PA 18503

BE ACKNOWLEDGED

04 C10H101X 010079

0010643714

84 100017005007

EXHIBIT 4

# NORTHEASTERN BANK

of Pennsylvania

FUNDS TRANSFERRED THROUGH  
FEDERAL RESERVE BANK OF PHILADELPHIA

SCRANTON, PENNSYLVANIA

WIRE TO TYPE  
1008523 1040

WIRE FROM REF  
1308012 0041

WIRE AMOUNT  
\$40,000.00

CHARGE  
\$6.00

DEBIT

WIRE FROM  
BY ORDER OF  
E. BK SCRANTON/ORG=C. PREATE FRIENDS OF ERNIE PREATE  
WIRE TO  
FOR CREDIT OF  
CLAYS NYC /CTR/BNF=GARTH GROUP/AC-0567050

149049

C. PREATE FRIENDS OF ERNIE PREATE  
507 ELECTRIC BUILDING  
SCRANTON, PA 18503

DE ACKNOWLEDGMENT

04 C19H101X 000041

0010843718

84 200040006007

EXHIBIT 5

0012

90

**NORTHEASTERN BANK**  
of Pennsylvania

FUNDS TRANSFERRED THROUGH  
FEDERAL RESERVE BANK OF PHILADELPHIA

SCRANTON PENNSYLVANIA

DATE 08/23 TYPE 1040

ACCOUNT 000012

REF 0008

WIRE AMOUNT \$45,000.00

CHARGE \$6.00

DEBIT

FROM SCRANTON/ORG=C. PREATE FRIENDS OF ERNIE PREATE

NYC

FOR CREDIT OF /CTR/BNF=GARTH GROUP/AC-0567050

149139

C. PREATE FRIENDS OF ERNIE PREATE  
507 ELECTRIC BUILDING  
SCRANTON, PA 18503

DE ACKNOWLEDGMENT

04 C10H101X 000080

001084371

84 000045006007

EXHIBIT 6

2100

40

# **SCHEDULE II** **SUMMARY OF EXPENDITURES**

**USE THIS SECTION TO ITEMIZE ALL EXPENDITURES MADE DURING THE REPORTING PERIOD.**

NAME OF CANDIDATE, COMMITTEE OR LOBBYIST		REPORTING PERIOD	
Ernie Tate for Atty General		From 10/28-88 To 11/28-88	
DATE(S)	FULL NAME, MAILING ADDRESS AND ZIP CODE OF RECIPIENT	DESCRIPTION OF EXPENDITURE	AMOUNT
10/25/88	NE Bank Wyoming + Spruce St. Scranton PA	Wire Transfer	6.00
10/27/88	Garth Group, Inc. 745 Fifth Ave NY NY 10151	advertising	122,000.00
10/27/88	NE Bank Wyoming + Spruce St. Scranton PA	wire transfer	6.00
10/28/88	Garth Group, Inc. 745 Fifth Ave NY NY 10151	advertising	90,000.00
10/28/88	NE Bank Wyoming + Spruce St. Scranton PA	wire transfer	6.00
10/28/88	Garth Group, Inc. 745 Fifth Ave NY NY 10151	advertising	40,000.00
11/2/88	NE Bank Wyoming + Spruce St. Scranton PA	wire transfer	6.00
11/3/88	Garth Group, Inc. 745 Fifth Ave NY NY 10151	advertising	40,000.00
11/3/88	NE Bank Wyoming + Spruce St. Scranton PA	wire transfer	6.00
11/4/88	Garth Group, Inc. 745 Fifth Ave NY NY 10151	advertising	99,000.00
11/4/88	NE Bank Wyoming + Spruce St. Scranton PA	wire transfer	18.00
11/7/88	Garth Group, Inc. 745 Fifth Ave NY NY 10151	advertising	4,000.00
11/7/88	NE Bank Wyoming + Spruce St. Scranton PA	wire transfer	6.00
Subtotal This Page (Optional)			395,054.00
Total This Period — Enter on Page 1 (Face Sheet) — Item D			

**SEE INSTRUCTIONS ON NEXT PAGE**