

**ORGANIZED CRIME LINKS TO THE WASTE
DISPOSAL INDUSTRY**

HEARING
BEFORE THE
SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS
OF THE
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ENERGY AND COMMERCE
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ORGANIZED CRIME LINKS TO THE WASTE DISPOSAL INDUSTRY

THURSDAY, MAY 28, 1981

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2123, Rayburn House Office Building, Hon. John D. Dingell (chairman) presiding.

Mr. DINGELL. The Chair announces there is a vote on the floor. We will recess briefly and reconvene in about 15 minutes.

[Brief recess.]

Mr. DINGELL. The subcommittee will come to order.

Today, under the authority of Rules X and XI of the House of Representatives, the Subcommittee on Oversight and Investigations continues its examination into matters relating to the disposal of hazardous waste.

During our investigation of toxic waste issues extending over several years, the subcommittee has accomplished considerable in the way of inquiry. We have also encountered numerous instances of improper as well as illegal dumping.

It is appalling enough when disposers of hazardous waste, through inadvertence or ignorance, recklessly poison the environment and endanger the public health. But it is considerably more disturbing when generators, haulers, and disposers—in order to avoid the cost of legitimate disposal—engage in the practice of illicit dumping for profit.

In the course of the inquiries of the subcommittee, we have developed information linking organized crime to the illegal dumping of toxic substances. This comes as no surprise. In fact, it was predictable, given the lucrative nature of this activity.

The involvement of organized crime in the toxic waste industry poses a continuing threat to undermine Government's efforts to resolve the national problem of hazardous waste disposal through the Resource Conservation and Recovery Act regulations which became effective last November.

At the subcommittee's hearing on December 16, 1980, Harold Kaufman, an FBI informant in the Federal witness protection program, testified that for many years the solid waste industry in New Jersey and New York City has been controlled by organized crime through a system of property rights enforced by fear, intimidation, and violence. He further testified that in recent years organized crime has been extending its influence into the area of toxic waste disposal.

Mr. Kaufman also testified concerning alleged ties between organized crime and SCA Services, Inc., through waste disposal companies acquired by SCA in New Jersey. Clearly, these are serious allegations.

SCA is a national waste disposal company whose stock is traded on the New York Stock Exchange. SCA is seeking to expand its operations in several areas of the country, and Mr. Kaufman's testimony has promoted inquiries from local, county, and State officials concerning the veracity of his remarks.

In addition, Mr. Thomas Viola, president and chief executive officer of SCA, has publicly requested that the subcommittee provide SCA with the opportunity to refute Mr. Kaufman's allegations. That will be afforded today.

Since December, the subcommittee has been conducting inquiries concerning Mr. Kaufman's testimony and the validity of his allegations regarding SCA. The subcommittee has concentrated its efforts on the solid waste industry in New Jersey, which was the focus of Mr. Kaufman's testimony.

The purpose of today's hearing is to examine Mr. Kaufman's testimony relative to SCA and to afford SCA the opportunity to respond to Mr. Kaufman's allegations.

The subcommittee is interested in having a full and complete record on this matter and, to the extent possible, seeks evidence of a clarifying, amplifying, or refuting nature.

In this regard, the subcommittee has asked New Jersey law enforcement authorities and the FBI to provide information available to them which bears on the substance of Mr. Kaufman's testimony.

Without inferring any connection between the two, it is relevant to this hearing, and of great concern to the subcommittee, to note that last December 22—6 days after Mr. Kaufman testified before this subcommittee—Mr. Crescent Roselle, general manager of Waste Disposal, Inc., one of SCA's largest New Jersey subsidiaries, was brutally murdered in what appeared to be a gangland-style execution.

Rule X of the rules of the House establishes the jurisdiction of the Committee on Energy and Commerce and especially matters relating to solid waste, hazardous waste, and toxic substances.

Rule X also requires the establishment of an oversight subcommittee to review, on a continuing basis, the application, administration, execution, and effectiveness of those laws under the jurisdiction of this committee.

Copies of the appropriate portions of the rules of the House have been provided to the witnesses and are available at the witness table.

Our first witnesses this morning will be Lt. Col. Justin Dintino of the New Jersey State Police and Deputy Attorney General Steven Madonna of the New Jersey Division of Criminal Justice, who appear today in response to the subcommittee's invitation.

Gentlemen, if you will come forward to the witness table, accompanied by such other persons as you may wish, we will administer the oath and hear your testimony after a brief opening statement by our good friend and colleague, Mr. Marks from Pennsylvania.

Mr. MARKS. Thank you, Mr. Chairman.

I speak for my minority colleagues as well as for myself when I say that we are deeply concerned by the evidence which the subcommittee has accumulated concerning organized crime involvement in the toxic waste industry.

Illegal dumping of hazardous wastes, strongarm takeovers of small, legitimate businesses, and certainly gangland violence cannot and must not be tolerated. Thus, I commend the efforts of the law enforcement officers with us today who are attempting to stop this criminal activity. We appreciate their efforts in this very difficult task.

Mr. Chairman, you personally are to be commended for your tireless efforts and also for affording, in the interests of fairness, an opportunity for one of our witnesses to appear today to attempt to refute certain allegations against him and his company.

Thank you very much, Mr. Chairman.

Mr. DINGELL. Gentlemen, would you each, for purposes of the record, identify yourselves—Colonel Dintino and Mr. Madonna?

Mr. DINTINO. I am Lt. Col. Justin Dintino of the New Jersey State Police, sir.

Mr. DINGELL. And your associate?

Mr. MORRONE. Detective Sgt. Fred Morrone, New Jersey State Police.

Mr. DINGELL. Do you appear here, sir, as a witness, or do you appear here as counsel?

Mr. MORRONE. As counsel.

Mr. DINGELL. You are an attorney?

Mr. MORRONE. No, sir.

Mr. DINGELL. I see.

Mr. DINTINO. He is assigned to the intelligence bureau, and he is an expert in the garbage and solid waste industry and the toxic waste industry.

Mr. DINGELL. We would be happy to hear your testimony, if you choose, or happy to have you as an adviser. The reason that the Chair directs these questions to you is to ascertain whether it would be appropriate to have you sworn or not. I think probably not, but if you do choose to respond to questions, it will be necessary at that time to administer the oath.

Colonel, is that acceptable to you?

Mr. DINTINO. Yes, sir.

Mr. DINGELL. Is that acceptable to you, sir?

Mr. MORRONE. Yes, sir.

Mr. DINGELL. Very good.

Mr. Madonna?

Mr. MADONNA. My name is Steven J. Madonna, Deputy Attorney General.

Mr. DINGELL. And your associate there—if you please, sir?

Mr. MARTENS. Fred Martens, New Jersey State Police, Intelligence Bureau.

Mr. DINGELL. Do you appear here as a witness, or counsel, or simply as an adviser?

Mr. MARTENS. Just as an adviser.

Mr. DINGELL. Then it will be the ruling of the Chair at this time that it will not be necessary to swear either of you gentlemen. We will if you choose to give testimony.

Colonel Dintino and Mr. Madonna, with the thanks of the subcommittee, if you will each rise, we will administer the oath.

Gentlemen, before we do, the Chair observes for the record that there are copies of the rules of the committee and the rules of the House at the witness table.

Do you have objection to being sworn?

Mr. DINTINO. No, sir.

Mr. MADONNA. No, sir.

Mr. DINGELL. Very well. If you will each raise your right hand—do you solemnly swear that the testimony you are about to give will be the truth, whole truth, and nothing but the truth, so help you, God?

Mr. DINTINO. I do.

Mr. MADONNA. I do.

Mr. DINGELL. Gentlemen, you may be seated, and you may consider yourselves sworn. Before we commence with your testimony, however, the Chair has a comment for the record.

The Chair does note for the record that it has received a request from counsel for Mr. Thomas C. Viola that the subcommittee receive certain testimony in executive session.

To the extent that rule XI, clause 2(k)(5) of the rules of the House may require the subcommittee to proceed in executive session, we will consider doing so at the appropriate time.

The Chair, however, does require of counsel—is Mr. Nathan in the room at this time?

Mr. NATHAN. Yes, sir.

Mr. DINGELL. Mr. Nathan, in order to assist the subcommittee and in order to be as fair as we possibly can to you and your client, would you like to state at this time—come forward, please, if you would—would you like to state to the subcommittee the portions of the testimony which you wish to request be taken in executive session?

Mr. NATHAN. I would like to make a statement.

Mr. DINGELL. We are not interested in a statement at this time. We are interested in hearing from you the reason for your request.

Mr. NATHAN. Mr. Chairman, as you are well aware, I have not seen or heard or had any preview of the testimony that your subcommittee is about to receive. Therefore, I am not in a position to make a statement.

I have been advised by the witnesses who appear for the FBI that they have absolutely no adverse testimony to give with respect to Mr. Viola.

Mr. DINGELL. So you do not direct your comments to the witnesses who are appearing from the FBI? Very well.

Mr. NATHAN. I was not advised who the witnesses would be until late last night and I have not met either one of them previously—until this minute—and I have never been informed of what testimony they are about to offer.

I must say that I have no basis for believing that there will be any adverse testimony concerning Mr. Viola. If there is any such indication, I would appreciate some advance notice of it.

Mr. DINGELL. We will try to cooperate as fully as we can. It is in the interests of the Chair that the subcommittee shall be fair and

shall protect the rights of the persons before the subcommittee as fully as we possibly can under the rules.

Given those circumstances, we will consider your request, then, with regard to closure of the session and proceeding in executive session at the appropriate time.

Mr. NATHAN. Thank you, Mr. Chairman.

Mr. DINGELL. We thank you for your assistance to the subcommittee.

Gentlemen, the Chair observes that you have both been sworn. Colonel Dintino, for the assistance of the subcommittee, and I think for the completion of the record, could you describe your background and experience as a member of the New Jersey State Police?

TESTIMONY OF LT. COL. JUSTIN DINTINO, NEW JERSEY STATE POLICE, ACCOMPANIED BY SGT. FRED MORRONE, INTELLIGENCE BUREAU; AND STEVEN J. MADONNA, DEPUTY ATTORNEY GENERAL, NEW JERSEY DIVISION OF CRIMINAL JUSTICE, ACCOMPANIED BY SGT. FRED MARTENS, INTELLIGENCE DIVISION, NEW JERSEY STATE POLICE

Mr. DINTINO. Mr. Chairman, I enlisted in the State Police in 1952. In 1957, I was promoted to detective. In 1967, on April 1, I was assigned to the intelligence bureau of the New Jersey State Police. That was its inception at that time.

In 1973, I became supervisor of the intelligence bureau. In 1977, I was promoted to major and I was placed in charge of the superintendent's special staff section which encompassed the intelligence bureau, the central security bureau, and the casino gaming bureau.

On May 14, 1981, I was promoted to lieutenant colonel, and I presently have four sections under my command, and they are basically all in the plainclothes field and they still include the intelligence bureau.

Mr. DINGELL. Colonel, the subcommittee thanks you for that. Do you have a prepared statement?

Mr. DINTINO. Yes, sir.

Mr. DINGELL. Would you, then, proceed with your prepared statement?

Mr. DINTINO. My testimony today is based on information obtained through investigative and intelligence-gathering activities—including electronic surveillance operations and a network of organized crime informants—which were conducted by the New Jersey State Police and other law enforcement agencies.

Last December 16, this subcommittee received testimony that organized crime controls the garbage collection industry in New Jersey and is extending its influence into the area of toxic waste disposal in our State. That information is accurate.

This is not to imply that everyone engaged in the waste disposal business in New Jersey is associated with organized crime. That is not the case. But over the years, organized crime has effectively controlled the solid waste industry, through a rigid system of property rights, backed up by threats and acts of violence.

The principal organized crime groups exerting this control over the garbage industry in New Jersey are the Genovese and the Gambino crime families of New York, together with the mob-

controlled local No. 945 of the Teamsters Union in West Paterson, N.J.

During the last 5 years, three men—each actively involved in the waste disposal industry in New Jersey—were shot and killed in gangland-style executions:

On June 3, 1976, Alfred DiNardi, owner of Custom Disposal Service in Middlesex County, was shot to death while picking up his automobile at a parking garage in New York City.

On May 31, 1978, Gabriel San Felice, operator of Sano Carting Co. of Keyport, was shot and killed while unloading a rolloff container at a landfill in Old Bridge, N.J.

On December 22, 1980, Crescent Roselle, a management employee of SCA Services, Inc., was shot and murdered outside his place of business, Waste Disposal, Inc., an SCA subsidiary in Elizabeth, N.J.

These unsolved killings are under investigation by law enforcement agencies. I will not speculate on possible motives or suspects for these murders, but several things are clear from the information developed: Each of these victims had been involved in disputes over property rights or turf; each was shot multiple times and killed in gangland-style executions; and none of the victims were robbed.

In response to the subcommittee's request for information relative to the testimony of Harold Kaufman last December 16, our investigative and intelligence-gathering activities reveal the following associations between SCA managers or employees in New Jersey and organized crime.

In 1973, the Roselle family, owners and operators of one of the largest solid waste businesses in New Jersey, sold a number of their companies to SCA. Following these acquisitions by SCA, the Roselle brothers and other relatives continued to manage their former companies through employment contracts with SCA. One of the brothers, Crescent Roselle, served as general manager for the Roselle group of companies acquired by SCA.

Gabriel San Felice started in the scavenger business in New Jersey in the mid-1960's. By 1973, he had begun to expand his operations and to bid on municipal garbage contracts in the Bay Shore area.

As a result of this bidding activity, a dispute developed between Crescent Roselle and San Felice over the municipal garbage contracts in Keyport and Matawan. San Felice was successful in underbidding Roselle for these contracts.

Crescent Roselle was able to use his influence with Ernest Palmeri, business agent of Teamster Local No. 945, to intervene in Roselle's dispute with San Felice. San Felice, in turn, sought and obtained the assistance at various times of organized crime figures Frank "The Bug" Caruso—now deceased—Vinnie Mauro, and Philip "Brother" Moscato to intercede on his behalf.

Palmeri was a close associate of the late Peter LaPlaca, a "capo" in the Genovese crime family. LaPlaca exerted control over the garbage industry in New Jersey through Palmeri and Tino Fiurara, a member of the Genovese family and an enforcer for LaPlaca. John DiGilio, another Genovese family member, also intervened in the Roselle/San Felice dispute.

Various "sitdowns," or meetings, were held over several years among these organized crime figures in an effort to resolve the dispute between Roselle and San Felice. On one occasion in 1976, John DiGilio, Tino Fiumara, Ernest Palmeri, Crescent Roselle, Gabriel San Felice, and other individuals held a meeting at which Fiumara told San Felice to give back the contracts to Roselle.

The subsequent result was that in the summer of 1977 San Felice relinquished the municipal garbage contracts in Keyport and Matawan by assigning them to Roselle's Waste Disposal, Inc., an SCA subsidiary.

A similar situation existed with respect to Alfred DiNardi, a sanitation contractor from Middlesex County. In the mid-1970's, DiNardi's company, Custom Disposal, began taking stops and towns from a number of companies. One instance, which involved SCA, occurred in late 1975.

For years, Roselle's Waste Disposal Co. had held the garbage contract in Roselle Park. DiNardi was successful in underbidding Roselle and was awarded a 2-year contract. Waste Disposal contested the award of this contract in litigation. DiNardi was killed in June of 1976.

Subsequent to the murder and as a result of the litigation, the contract was rebid. A total of eight scavenger companies were solicited to bid, or picked up bid forms, including Custom Disposal and Waste Disposal. However, Waste Disposal was the only bidder and was awarded a 3-year contract.

Interestingly, after DiNardi's murder, his company, Custom Disposal, was in effect managed by Carmine Franco, an associate of organized crime figure Tino Fiumara.

In 1973, SCA acquired United Carting Co. owned by Ralph Mastrangelo. Mastrangelo is currently a corporate officer of SCA. In 1972, Mastrangelo and August Vergalitto were involved in the extortion of a North Jersey contracting company.

Vergalitto is a known associate of John DiGilio and John Riggi, the acting boss of the DeCavalcante crime family in New Jersey. In fact, on March 10 of this year, NBC aired on national television a special report entitled "Crime and Labor." From a hidden camera, John Riggi was observed being kissed by an unidentified male. The male was August Vergalitto.

In 1972, the Iommetti brothers sold their solid waste company, Impac, Inc., of Paramus, N.J., to SCA and entered into employment contracts with SCA to continue the management of their former company.

Last summer, a surveillance was conducted on Louis "Streaky" Gatto, the apparent successor to Tino Fiumara. Gatto was observed and photographed meeting with Ernest Palmeri and Peter Iommetti. SCA's corporate directory lists Peter Iommetti as "district manager."

Mr. DINGELL. The subcommittee thanks you for your very helpful testimony.

Before the members of the subcommittee are recognized for questions, we will hear now the statement of Mr. Madonna.

Mr. Madonna, could you describe to the subcommittee your positions and responsibilities in the New Jersey Division of Criminal Justice, if you please?

TESTIMONY OF STEVEN J. MADONNA

Mr. MADONNA. Mr. Chairman, preliminarily I might state that I started out as an assistant prosecutor in the county of Essex. I served there for approximately 1½ years, gaining trial experience.

I subsequently became an assistant prosecutor in the county of Morris, where I was involved in municipal corruption and organized crime investigations.

Before I left that particular position, in which I spent 2½ years, I was the acting first assistant prosecutor there in that county.

In June, 4 years ago, I was sworn in as a deputy attorney general and was hired specifically to devote my attention to a unit within the Division of Criminal Justice known as the Organized Crime and Special Prosecutions Unit.

I spent approximately 1 year doing general organized crime-related cases and was then assigned out, or farmed out, so to speak, from my unit, to become the supervising deputy of an investigation into the garbage investigation. That investigation has now lasted 3 years.

I have supervised that investigation—a staff of investigators, intelligence analysts, members of the New Jersey State Police, and we have worked in concert and good, close cooperation with the Federal Bureau of Investigation in Newark and the Organized Crime Strike Force in Newark.

Mr. DINGELL. Mr. Madonna, the Chair understands you do not have a prepared statement, but we would like you to feel free to make any comments at this time that you would like with regard to the matter now under inquiry by the subcommittee.

Mr. MADONNA. I thank you, Mr. Chairman. I do not have a prepared statement. I wish you would bear with me in the manner in which I present it.

I think that in order to understand the testimony of the Major and subsequent testimony it would be helpful to have a perspective of the garbage industry in the State of New Jersey, and so I would devote a short period of time to outline what I think would be several perspectives that might assist in understanding the testimony.

The investigation in the early stages disclosed that, as an objective fact, the solid waste industry in the State of New Jersey actually had two rather clear-cut facets or sectors.

One sector is that which involves the commercial-industrial area of collection. The other sector is that which, for the most part, deals with municipal contracting. There are a couple of distinctions that flow from the two types.

In the case of commercial-industrial collection, you have prices regulated, set, and posted, with an agency of the State of New Jersey called the Public Utilities Commission.

With respect to the sector of the industry which deals with municipal contracting, you have, as a safeguard or as a watchdog, so to speak, the State bidding laws which, if they function correctly, and in fact the bidding is genuine and without collusion, the consuming public would be assured that municipal contracts, when let to such contracting companies, would actually be at a competitive price.

The distinction that I tender to the subcommittee at this time, I think, is not arbitrary by any means; it is fairly clear cut.

The operatives in the commercial-industrial side of the industry have a center of focus around an association called the New Jersey Trade Waste Association. It has a brother or sister association called the Hudson County Association.

Likewise, in the municipal contracting sector of the industry, there is another association around which the collectors gravitate, and that is the Municipal Contractors Association.

As you might expect, there is little interaction between these two groupings. The interaction that does exist exists on the part of the municipal collectors who do deal fairly actively in commercial-industrial work. But if you look at the commercial-industrial collectors, in very, very few instances do you find them engaging in municipal contracting.

The sphere of influence for the municipal contract group which, as I have indicated, is the Municipal Contractors Association, is a small, tight group which has at no time, to my knowledge, exceeded 30 members in the Municipal Contractors Association. I believe that during the course of this investigation the numbers probably fell to around 24 members.

Information developed indicates that that association was basically interested in maintaining its members as those who function and control that area of the market. There was little or no effort to solicit small collectors to become members or to service the municipal contract side of the industry.

On the commercial-industrial side, as I indicated, there is the New Jersey Trade Waste Association, and, again, there are members of that association which number approximately 120, and, with the exception of possibly 1 or 2 of those 120, these people—whether they be in business 10, 15, 20, or more years—have not had the potential to go into the municipal contract market.

There are some, what I would call conspiratorial, aspects or a conspiratorial perspective that I would like to suggest to the subcommittee that might be of assistance.

If we look now to the commercial-industrial side of the industry, we are talking about the New Jersey Trade Waste Association. An indictment was returned on October 17, 1980, to be exact, indicting 56 corporations, associations, and individuals, including the Trade Waste Association and the Hudson County Association, as the core of a conspiracy.

The crux of the concept which operates within that conspiracy is the concept that you have heard of before, I believe, of "property rights." I will not belabor the point, except to suggest that it bestows upon the carter who gets a particular stop the lifetime right to service that stop.

That concept or that right impinges not on the business that is in a location but on the land itself. So, irrespective of who comes into a particular complex, the property right will remain with the person who had it.

Mr. MARKS. Mr. Madonna, the conspiracy you say they were indicted for—what was the conspiracy under which they were indicted—for doing what?

Mr. MADONNA. They were indicted for a conspiracy under the State antitrust laws for parceling out these contracts between them.

Mr. MARKS. Fixing prices, or did it go beyond that?

Mr. MADONNA. Not fixing prices specifically. Basically, a shorthand term—it is not quite accurate, but you might refer to it as an allocation of territory, but it is not an allocation of geographic territory, it is an allocation of different stops. You might have in any given location five collectors collecting.

Mr. MARKS. OK.

Mr. GORE [presiding]. Please proceed.

Mr. MADONNA. That particular conspiracy which, as I indicated, utilizes the property rights concept, exists in such a fashion that the concept is harnessed, it is implemented, and it is basically given a forum within which to operate, and that is the forum of the Trade Waste and Hudson County Associations in which grievance procedures are made available for differences of opinion—disputes between collectors over their property rights. That, again, reflects on the one side of the industry.

If you look at the municipal contract side of the industry, you have the term “property rights” used, but more often than not, in that side of the industry, the term used is that of “respect.” They talk about respecting particular contracts and respecting particular rights.

The investigation that I have referred to started approximately 3 years ago, and when it started the investigation recognized these two facets of the industry and focused its investigative talents and manpower to develop, somewhat simultaneously or parallel, each side of the industry that I have referred to.

In approximately November 1979, we became privy to the existence of Harold Kaufman as a person who had operated within the industry and had been assisting the Federal Bureau of Investigation.

Prior to that time, we had spent a year or a year and a half developing a case against the Trade Waste Association and the property rights concept that I have referred to and the grievance committee concept.

When Mr. Kaufman appeared on the scene and, through the assistance of the FBI, and things we were able to do with him, we found that Mr. Kaufman corroborated in virtually every respect the type of information we had developed through numerous sources during the course of our previous year or year and a half of investigation.

Not only could he corroborate it, but he had done some tapes and particular tapes of grievance hearings going on within the New Jersey Trade Waste Association.

So he offered the potential which had, up until that time, been missing, and that was the potential to tie together all of the investigative fragments, segments, and witnesses into the unified trade waste conspiracy case which, in fact, was indicted.

The point that I think is somewhat significant is to pay note of the fact that that indictment did center around an investigation into the commercial-industrial sphere of the market.

When Mr. Kaufman came on the scene in November or December 1979, the opportunity to harness this information and to apply it to our previous investigative efforts became apparent, and I shifted the priorities within our unit, and we devoted our attention to returning that particular indictment.

From that point in time, for the most part, we did not abandon, but we were not able to maintain, the investigation into the municipal contract side of the market.

Since the return of the indictment in the *Trade Waste Conspiracy* case, we have now returned to pick up with the investigation or that phase of the investigation which refers specifically and which focuses on the municipal contract side of the market.

A couple of things have become apparent. I will not go into too much detail in this sphere of the investigation because it is actively going on: A grand jury is hearing testimony, and some of the information and leads of Mr. Kaufman are currently being utilized before the grand jury. But on a broader scale, we are also continuing the broad-scale investigation in the municipal contract market.

I can point to certain observations that I think are significant. I am not suggesting to you at this point in time that I can label them as criminal, but I suggest to you that they do deserve further attention and clarification by law enforcement, and that will be the subject matter of our investigation.

An analysis of public information that we were able to obtain with respect to five northern counties in New Jersey—and this would be the counties of Hudson, Essex, Union, Passaic, and Bergen—we were able to determine that the Municipal Contractors Association members control 92 percent of the dollar value of all of the contracts that are let within that five-county area. That meant that a balance of 8 percent of the moneys—gross revenues received—are non-Municipal Contract Association carters.

In addition to that and of equal significance is the fact that these particular contracts are held on the average of 17 years by one carter. I am not trying to mislead you—average means just what it says. There are instances where somebody may hold their contract 20 years and somebody else may hold it a lesser number of years. But, on the average, the period of time in which these contracts had been held—and I believe this report was concluded in the earlier phases of the investigation, probably around 1979—they were being held for a period of approximately 17 years.

The significance of all of what I have said to you, I believe, is this: The fact that a company is or is not indicted in the indictment which was returned on October 17, 1980, has to be viewed in the perspective of which sector of the market they happen to operate in.

SCA operates by the figures that have been provided—I believe, upwards of 90 percent of their activities in those northern counties are directed at the municipal contracts sphere of operation. They are members of the Municipal Contractors Association. They are not members of the New Jersey Trade Waste Association, the Hudson County Association, or any other association whose frame of reference is the commercial-industrial sphere.

So, it is of no moment, in effect, that they were not indicted in this particular case. In fact, quite frankly, with the exception of

Browning-Ferris that was implicated in one or two property rights incidents, no other Municipal Contractors Association member was, in fact, indicted in the *Trade Waste Association* case. But again, bearing in mind the two facets of the industry, that is entirely logical. So I want to make that point.

Another perspective is the economic perspective on this bifurcation of the industry. By that, I mean that when this property rights grievance-type procedure is implemented and fostered on the commercial-industrial sphere by associations such as the New Jersey Trade Waste Association, you have prices basically being at the discretion of, or the good nature of, the particular carter.

There are tariffs that have and do apply in the State of New Jersey, but unfortunately our investigation leads us to believe that they are ineffectual in really controlling prices. So the net effect, or the bottom line, of that conspiracy is that the public is basically at the mercy of the collector in terms of prices.

Of equal moment is the fact that numerous customers of garbage or solid waste collectors who have attempted to secure alternate collectors, for whatever reason, have found that it is virtually impossible to obtain a different garbage man to pick up their garbage.

I can throw out one illustration, and I do this very quickly because it is a part of the trade waste conspiracy indictment, and I think it illustrates what I am talking about.

There is a hospital in Mountainside, N.J. called Children's Specialized Hospital. It is an orthopedic hospital for children. That hospital, for reasons that are not here relevant, was dissatisfied with the collector that they had, the collector being a member of the New Jersey Trade Waste Association.

It solicited for alternative collectors—actually sent letters requesting other collectors, who are in business, and you would think in business for profit and looking for business—to service the hospital—with no success.

They, in fact, brought this to the attention of the Public Utilities Commission of the State of New Jersey and, in fact, began to carbon the Public Utilities Commission with all of their correspondence. And they were not effective in obtaining an alternate carter.

They were then paying \$400 a month for their collection services. When they ultimately were successful, and they got it through a friend of a friend, another company came in—a member of the Hudson County Association—who is violating one of the basic tenets of the conspiracy or the association, and that is respect for the property rights of somebody else, this company comes in at \$600 a month.

I would like you to keep this in mind. This happens all within a period of one year.

Subsequent to that, a grievance takes place within the associations—a joint grievance with members of both the Hudson County of New Jersey Trade Waste Association—and the company from Hudson County is basically told to give back the stop. And it did, in fact, give back the stop to the previous carter, the one who had the property rights.

The hospital, faced with this situation, decides it was going to again seek alternative services and is unsuccessful again. When they get their previous carter back, they are now paying \$800 a month. So the price for collection to this hospital, within 1 year, went from \$400, to \$600, to \$800, and they are basically forced to accept the services of somebody that they are not happy with, that they did not want, and if they had their druthers would not be collecting their garbage.

This is the practical type of impact of this kind of a conspiratorial arrangement.

What other effects does it have? Well, for carters who are outlaws—who are not members of the association, who do not fall into line—you have all of the gamut of tools, so to speak, that are available:

They will be talked to. If they do not respond to that, if they can psyche out the background of these people, they may attempt to sit down with them in some form of an organized crime "sit down" and use the leverage of that type of "sit down." If that is not successful, arsons have happened, and we have seen them happen as recently as the last year or so. Threats are fairly common. In the end, these people will fall in line.

On the municipal contract side of the market—again, the side that is actively under investigation—I would only say that property rights does apply, has applied for many years, and usually finds itself exemplified by situations where if, in fact, an outlaw comes into that sphere or facet of the market—and that is usually fairly unlikely—ultimately, the contract will return to the person who originally had it.

In conjunction with that statement, I would bring to the attention of the subcommittee that I did review certain of the records I was able to come up with, and I would point out that, following the death of Alfred DiNardi, eight contracts which I am personally aware of through people on my staff—they have brought to my attention eight instances in which contracts have reverted back to an SCA subsidiary.

Reverted back—there is no magic to it. What I am, in effect, saying to you is that, after the word has gotten to the offending collector, more often than not they do not rebid.

In the case of Custom Disposal and Alfred DiNardi, when he took these eight contracts from Waste Disposal or Interstate, both of whom are subsidiaries of SCA, he did it through the bidding process. He held it for 1 year, and it came up for bid again following his death, and in seven of the eight instances nobody else bid against the SCA subsidiary.

There was one bidder who came in out of left field, Super Quick. I can assure you, Super Quick is not a formidable force within the industry and did not successfully take back that contract.

But it was pretty clear that Custom Disposal did not bid any of these contracts again.

I would refer these to you as Roselle Park; the New Jersey State Office Building contract; the New Jersey School for the Deaf; Marie Katzenbach School for the Deaf; the Trenton State College contract; the Trenton Post Office and Courthouse complex, which is, in fact, a Federal complex; the New Jersey education complex;

the New Jersey Cultural Center; the New Jersey statehouse and statehouse annex. That number might even be nine. The annex and the statehouse were bid sometime somewhat interchangeably, so I am using the figure of eight.

In each instance, the holder of those contracts was an SCA subsidiary. The contract was taken in bidding by Custom Disposal and subsequently, in the next bidding sequence, was returned to the SCA subsidiary by virtue of, you might want to call it, default. Custom surely did not rebid the things.

Finally, I think that I have covered the different perspectives that I had hoped to bring to your attention—investigative perspective, economic perspective, conspiratorial perspective. I think that this might assist you in understanding how some of the things that come up during the course of the testimony apply and fit into the situation in the State of New Jersey.

Mr. GORE. Thank you, Mr. Madonna, and thank you, Colonel Dintino.

Colonel Dintino, is your statement based on information which was obtained independently of information which may have been furnished by Harold Kaufman?

Mr. DINTINO. Yes, sir. In fact, to concur with Steve Madonna, we had been working in the garbage industry for a year and a half before Harold Kaufman came to our attention. He had been working with the FBI. And we had a number of independent sources that we have developed concerning the solid waste industry. And we also had corroborative testimony through surveillances, statistics, records, and other law enforcement agencies—a number of ways—and other informants.

Mr. GORE. Well, the two of you have come here this morning and have testified to virtually all of the matters raised by Mr. Kaufman in the previous hearing. There is at least one exception, which will be explored later. But you have, in your statements, corroborated a good deal of what he testified to earlier.

In your opinion, what is the reliability of Harold Kaufman, based upon your opportunities to evaluate the credibility of the information he has given you?

Mr. DINTINO. In my opinion, I think that Harold Kaufman is completely reliable. In fact, I wanted to mention that on your previous question. Every bit of information that he has given us we have been able to corroborate and substantiate.

Mr. GORE. Would you agree, Mr. Madonna?

Mr. MADONNA. I agree wholeheartedly. I believe that a person, in order to have the information that Harold Kaufman has become privy to, must get in and be accepted by these people. And I am suggesting to you that his background adds credence to what he has said because that is how you get people into an industry where this type of criminal conduct is going on. I agree 100 percent as to his reliability.

Mr. GORE. Colonel Dintino, you mentioned in your testimony Peter LaPlaca. Can you describe who Mr. LaPlaca is or was and the nature of his activities in organized crime?

Mr. DINTINO. Congressman Gore, Peter LaPlaca was a capo in the Genovese organized crime family.

Mr. GORE. What is a capo? Is that a captain or a lieutenant?

Mr. DINTINO. Yes. He would be on a supervisory level within the organized crime sphere. He would normally have 10 or more soldiers under his command.

LaPlaca's primary function in the State of New Jersey was to control the garbage industry for the mob—for the Genovese family. In fact, LaPlaca appointed Ernest Palmeri to his position as business agent in 945 in 1969.

Mr. GORE. This is Teamsters Local 945?

Mr. DINTINO. Yes.

Mr. GORE. I have read a number of statements that say that Teamsters Local 945 is dominated by organized crime. Is that, in your opinion, an unfair assertion, or is that something that is taken for granted in your work?

Mr. DINTINO. Sir, since you ask the question, if I may, I would like to give you a brief history of 945.

Mr. GORE. Before you do, let me ask you this brief question in preparation for that—and I would ask unanimous consent to place into the record a history of Local 945 prepared by members of the Teamsters Union who are quite unhappy with the events in Local 945. Without objection, that will be included in the record at this point.

[Testimony resumes on p. 24.]

[The document referred to follows:]

PORTRAIT OF A CORRUPT UNION—TEAMSTER LOCAL 945

Jurisdiction.—According to the Teamsters' official roster of local unions, Local 945 is authorized to represent warehousemen, industrial and sanitation workers in Northern New Jersey.

How that differs from Local 97, Newark, whose jurisdiction is industrial and allied workers; Local 418, Garfield, whose jurisdiction is production, maintenance and allied workers, Passaic & Bergen Counties; Local 84, whose jurisdiction is general and industrial employes, or Local 1518, whose jurisdiction is miscellaneous employes; is a mystery—unless, of course, one figures in the organized crime angle. Each of the above locals has at least one organized crime tie (e.g. Louis Scordomaglia, organizer for Local 1518, is currently awaiting trial on charges that he ran a \$20 million sports betting ring—the second such time he has been charged with such a crime; Joseph Tarantino, the secretary-treasurer of Local 418, is the nephew of Peter LaPlaca, a reputed Genovese family capo, and the son of Robert Tarantino, a reputed Genovese family soldier). What has happened over the years, since the days of Abner "Longy" Zwillman, the legendary Newark racketeer, is that mobsters and/or their associates were granted Teamster and other union charters to aid them in the enforcement of their grip on certain industries, whether it be vending, garbage, laundry, whatever, through sweetheart contracts for mob-run companies and tough contracts and strikes for those who were not mob-run. Jurisdictions in many cases may have been left purposely vague to permit added opportunities for expansion of mob territories—the infiltration of other businesses at the expense of the worker.

Local 945, for example, has always been primarily responsible for organizing the garbage industry, whose mob links have long been considered a fact of life in New Jersey. However, it has also expanded into other areas, including representation of department store employes (E.J. Korvettes, Herman's World of Sporting Goods) garden apartment maintenance employes (Maybrook Gardens and Jefferson Gardens) auto repairs (King Bear Auto) and even specialty shops (Angel Coiffures and Diamond Wig Co.) Also, some of its members are garbagemen employed by the City of Newark, making Local 945 a representative of public service employes—even though Teamster Local 286 in Clifton has as its jurisdiction public service employes.

In all, the local represents close to 5,000 employes at approximately 175 companies—an average of around 30 employes per bargaining unit. Such a diverse group—in terms of economic interests, geographic location, and crafts—makes successful reform of the local all but impossible, yet another reason for chartering such diverse miscellaneous jurisdiction locals and spreading the membership across a wide spectrum.

History.—Local 945 first entered the public consciousness during New Jersey State Senate hearings in 1958, when witnesses testified that members of the waste trade association were forced to contribute money yearly to buy the local's business manager, John Serratelli, a Cadillac. The hearings, into price gauging and bid-rigging produced more bad news for the local in 1959. In February of that year, Serratelli, was indicted twice. On February 10, 1959, he was indicted along with Alfred Lippman, a garbage contractor, on state charges that Lippman gave him \$4,000 in bribes to secure labor peace. Two weeks later, Serratelli was again indicted on state charges that he and others in the garbage industry arranged to rig the bidding on the Belleville, N.J. garbage collection contract in 1955.

Between the indictments, however, Serratelli disappeared. According to news reports, Serratelli was murdered for failing to go along with the directions of organized crime leaders who warned him against cooperating with authorities in any way. With Serratelli out of the way, the indictments fell apart.

In June 1959, Teamster President James R. Hoffa threw the local into an international union trusteeship, transferring control of the local from its membership to the international union. The reasoning behind Hoffa's decision was spelled out by John English, the union's general secretary-treasurer. "The trusteeship was established June 3, 1959 at the request of the local due to the loss of the services of the business manager, who disappeared after indictment, and the vice president, who resigned, and the partial loss of the president to illness. The hearing on trusteeship shows the local had been the subject of critical attacks by newspapers. Trusteeship was necessary for stability and security." To clean up this mess, Hoffa appointed Anthony "Tony Pro" Provenzano, then the president of Local 560 in New Jersey and Joint Council 73, the Teamster umbrella group for North Jersey, Provenzano remained as trustee until March 1, 1961. During the period of trusteeship, Provenzano, who has been publicly identified as a Genovese family capo, was indicted for doing the same thing Serratelli was accused of—taking bribes for labor peace—and took the Fifth Amendment 18 times before the Senate Labor Rackets Committee.

The new president of the local, after trusteeship, was Michael Ardis, who also had his own organized crime ties. In 1964, for example, Ardis appointed John "Johnny Coca-Cola" Lardiere, a Newark hood who served the Genovese crime family in several ways, including as an intermediary between the family groups in New York-New Jersey and Western Massachusetts. Lardiere's previous experience in trade unionism had been as a business agent for Retail Clerks Local 1262 in Newark, another local with ties to organized crime. During the period Lardiere was working for the Retail Clerks, he was also working for Best Sales Co., a Newark- and Paterson-based marketing firm owned by Gene Catena, the brother of Gerardo "Gerry" Catena, the Genovese family underboss, or No. 2 man. Best, at the time, was busy pushing consumer products like detergents and other household goods on supermarket chains in New Jersey and New York. (Lardiere was imprisoned in August 1971 for refusing to cooperate with the New Jersey State Commission of Investigation.)

Eventually, Ardis and Lardiere met the same fate as Serratelli. In early 1971, the Internal Revenue Service began a review of his accounts, and on June 18, 1971, following a meeting at the Local 945 union hall, he, too, disappeared. All that was found of Ardis was his car and his eyeglasses, both of which were found in the parking lot of the union hall off Route 46 in West Paterson. Lardiere died a violent death in April 1977. Less than 24 hours after being released from State Prison, where he was still incarcerated for refusing to cooperate with the SCI, Lardiere was murdered—gunned down outside a motel in Bridgewater, N.J. While in prison, Lardiere had a not-so-subtle reminder of the mob's power thrust at him. In July 1972, his wife Carolyn, was poisoned. While staying at the family's summer home in Toms River, she tried to beat the heat by drinking from a bottle of Fresca. After one drink, she ran into her driveway, clutching her throat. The bottle from which she had drunk had been laced with enough arsenic to kill 50 people, the medical examiner later revealed.

Current Leadership.—The men who run Local 945 today are cut from the same mold as their predecessors, that is, they are men with criminal backgrounds and ties to organized crime. It is difficult, however, to determine who runs the local. The records filed by the local indicate that it is Joseph Campisano, the president, and Vito Cariello, the secretary-treasurer. But other public records, most notably transcripts of testimony given at a recent trial in U.S. District Court in Newark, indicate otherwise. A reading of those records produces the impression that Ernest Palmeri, a business agent and director of the union's sanitation department, is the real power—and that his power flows from his background as a member of family with ties to some of the New York-New Jersey area's most powerful mobsters. In either case, however, the rank-and-file members of Local 945 are getting no bargain.

Joseph Campisano, president, has no criminal record (he has a license to carry a gun in New Jersey). However, he had served as an official of the local since the days of the Provenzano trusteeship. He has served as president of the local since Ardis disappeared.

Vito Cariello, secretary-treasurer, has a criminal conviction record. He was convicted of conspiracy while a bookkeeper with Local 819 of the Teamsters, a New York local, in 1964. Cariello was sentenced to 18 months in prison and fined \$1,000. He became the local's secretary-treasurer in early 1972, following the end of his federally mandated exile from union leadership. Before that, he had served as the local's Office manager, that position being exempted from the federal law (the Landrum-Griffin Act of 1959) that prohibits convicted felons from holding a significant union office for five years after his release from prison or conviction whichever is later. Since the law did not prohibit felons from serving as trustee of employe benefit funds, however, Cariello was able to run the local's pension and health and welfare funds during his exile. Cariello replaced Daniel Tortorel who had been secretary-treasurer under Serratelli, Ardis, and Campisano and who apparently received a big severance bonus upon retirement. (see below)

Ernest Palmeri, business agent and director of sanitation, also has a criminal conviction record, having been convicted of uttering worthless checks in 1963. Palmeri comes from a long line of organized crime figures. Paul Palmeri, his father, was described in Senate testimony as "a New Jersey hood." His brother, Frank Palmeri, took the Fifth Amendment before the Senate Commerce Committee during its 1971 investigation of how the Catenas used labor unions to coerce supermarket chains to buy large quantities of a household detergent marketed by Best Sales in return for labor peace. Frank Palmeri, the senators were told, had been the middleman in setting up an agreement between Best Sales and North American Chemical Company, the detergent manufacturer. Ernest Palmeri ran a restaurant, the Western Charcoal Pit, West Caldwell, until 1965, when he declared bankruptcy. He was appointed a business agent in the local in 1969, the year after Lardiere left. During the 1977 trial of former Bank of Bloomfield (N.J.) president Robert Prodan, a government witness, Arnold Daner, testified that Prodan described Palmeri as one of the state's most powerful men. "He said Palmeri was a very powerful man in New Jersey," said Daner, a confederate of Prodan's in a bank fraud, "told me that nothing ever goes on in the state, in the garbage industry, without his blessing one way or another." Palmeri who is 58 and small, is often accompanied by Local 945 Business Agent Flen Chestnut, who is 47 and big, and has a conviction for assault and battery.

Corrupt Activities.—The power inherent in running a large labor union has been corrupted in just about every imaginable way, from the time of Serratelli, when selling labor peace was the accepted way of making money, through the time of Palmeri, when buying banks and forcing them to do your bidding was accomplished through the use of union pension, welfare, and severance fund money.

There is no doubt that the local is one of the crown jewels of the old Genovese crime family, with enough facets to satisfy mobsters the length of New Jersey. And, of course, in the end, it is the rank-and-filer who winds up supporting the jewel.

The sophistication employed by the organized crime figures and their associates in the union has increased over the years, but there is no evidence that suggests that the old, least sophisticated methods of gaining riches have been abandoned in favor of newer, more sophisticated schemes. Instead, the old ones merely continue as the new ones develop.

The least sophisticated manner in which corrupt union officials can enrich themselves—with the least worry—is through high salaries, fringe benefits, etc. Although Local 945 is not large enough and thus, its dues not great enough to support salaries on the order of those in places like Chicago and Cleveland, local officials do all right for themselves, especially when considering their records.

In 1976, the latest year for which records are available at the U.S. Department of Labor, two officials, Campisano and Cariello, topped the \$35,000 mark. Campisano received \$36,500 in salary, \$7,973 in allowances (fixed expenses) and reimbursed expenses, for a total of \$44,473, while Cariello received \$31,100 in salary, \$7,495 in allowances and expenses, for a total of \$38,595. Palmeri received \$23,650 in salary, \$6,222 in allowances and expenses, for a total of \$29,872. Chestnut received \$20,950 in salary, \$5,160 in allowances and expenses, for a total of \$26,110. In addition, four others topped \$20,000—William Lyons at \$26,517, Pedro Mendez at \$25,207, Alfred Vera at \$24,820, and Moses Neal at \$24,707.

The benefits do not stop there, though. Close to \$75,000 in union dues money were contributed to fringe benefit funds for the exclusive use of union officials and employees—only 11 of whom are full-time. Of that total, \$14,076 went to health and welfare fund accounts of the officers and employes, \$13,576 went to the Teamster

Joint Council 73 Pension Fund, which covers all officers and business agents in North Jersey, \$23,131 to the local's employe pension fund, \$13,576 to the local's employe severance fund, \$10,540 to a City of Newark life insurance fund, and \$1,093 to a diagnostic health center fund. It should be noted the pension and severance funds mentioned here are not the same funds which finance the pensions and severance pay of the rank-and-file. These are far more lucrative separate entities. In addition, the international union provides a pension for every local union officer anywhere. Thus, the rank-and-file contributes, through its monthly dues, to the secure future of the men and women whose efforts have not been enough to lift them to the same level.

In all, the 11 full-time officers and employes of the local receive an extra \$100 a week in fringe benefits, courtesy of the rank-and-file. The 11 are eligible for four pension or severance plans upon retirement. Should they die in office, certainly an occupational hazard in Local 945, they would be eligible for their severance as well as two life insurance payments—the local's own and the one provided them by the City of Newark. (The background of the Newark life insurance policy would appear to be worthy of further study. Why an employer would include representative of its employes, its adversary in contract negotiations and grievance under its group life insurance umbrella is certainly a question that any honest unionist should raise.)

During 1976, the salaries, allowances and expenses, plus the fringe benefits, became so expensive that the local had to borrow \$20,000 to meet expenses. The interest on that loan, from the Valley Bank of Clifton, will, of course, be borne by the rank-and-file.

The local was also generous to the professionals—lawyers, accountants, etc.—who represented the local, paying them \$60,325 in 1976.

In comparison, the rank-and-file do not do very well. Many of the garbagemen are paid salaries that are less than one-third that of the local's officers. The local members who work for the sanitation companies of the Municipal Contractors Association are a case in point. Under their current contract, negotiated by Palmeri, sanitation men are being paid \$226 a week. By contrast, the sanitation men who are members of Oakland, Calif. Local 70, a Teamster local, are being paid \$321 a week under their contract with Oakland Scavenger Co. The contract between Local 945 and the Municipal Contractors Association provides salaries so low, in fact, that they are below the national average for sanitary service workers. According to the most recent (December 1977) figures provided by the Bureau of Labor Statistics, the average hourly wage paid American sanitary service workers, union and non-union, is \$5.84. The sanitation men covered by the Local 945 contract earn \$5.65. Although contracts between the local and other employers in other crafts are not so readily available, it is doubtful that the employes of garden apartment complexes, specialty shops and other shops earn more than the sanitation men. In fact, it is doubtful that they earn as much.

The disparity in pensions is even greater. An employe or officer of the local, like Campisano, can expect to retire on a monthly pension of close to \$1,000 a month. In addition, when he does step down, he will be covered by two severance plans—the one set up by the local and the one set up for all local officials by the IBT. Yet, some employes represented by Campisano can work 30 years and receive only \$103.50 a month, \$3.45 a month for every year worked.

The number of people who will actually receive a pension under the Local 945 Pension Fund is so minute, however, that such comparisons are foolhardy. As of December 31, 1976, there were 1,860 participants in the pension plan, but none had enough credits to qualify for a pension, either then or in the future. And even though the local has had a pension plan since 1962, only eight retirees are receiving any type of benefits under the pension plan. Those eight were receiving an average monthly pension of \$103 a month. The number is so low for several reasons—the local refuses to reciprocate with other pension funds, whether they are Teamster funds, private funds, or company funds. That means if a Local 945 member changes jobs—and Teamster locals—without accumulating 10 years of credited service with a Local 945 employer, he will lose any chance he has at a pension from the Local 945 fund. From a more cynical viewpoint, one could say the number is kept low so the fund officials can have more money around for investment purposes, and as this report will later show, these investments have been used to further the interests of organized crime, not the local's members.

Mob domination of the New Jersey garbage industry has never been a secret. Beginning with the 1958 State Senate hearings and continuing through the present, waste removal in the Garden State has been beset by one series of scandals after another. They have ranged from Serratelli's acceptance of \$4,000 in labor peace bribes to a 1969 State Commission of Investigation probe into garbage trade associations that allocated municipal garbage contracts on a geographic basis. While

corruption has not always been linked to organized crime, there have been some gruesome reminders of how the mob reacts when its hold on some element of the industry is threatened. The release of transcripts made from tapes of mobsters' conversation has shown how low-level mafiosi have been murdered to protect mob garbage operations.

The 1977 testimony about Palmeri being one of the most powerful individuals in the state, that "nothing goes on in the state, in the garbage industry, without his blessing" is evidence enough that Palmeri, whose mob lineage is pedigreed, has a great deal to say about who picks up whose garbage. Add to it his links with Peter LaPlaca, the man law enforcement officials believe is running the mob's garbage operations, and an impression of Local 945's position in the underworld's control of waste disposal in the state becomes clearer. Palmeri and LaPlaca, for example, co-signed a loan from CBM to Paul E. Palmeri, Ernest's son, in 1972. (CBM is run by Harry Herzog, a Middlesex County lawyer who often represents garbage companies.) In addition, Palmeri's brother, Frank, was the brother-in-law of LaPlaca's late son Dominick. (Both Frank Palmeri and Dominick LaPlaca married daughters of Willie Moretti, LaPlaca's boss in the 40's and 50's, according to Senate Crime Committee testimony.)

LaBlaca, nicknamed "Lodi Pete" has a long history of criminal associations and arrests. He spent eight years in a federal prison for attempting to bribe a juror during the 1957 income tax evasion trial of Newark racketeer Abner Zwillman. LaPlaca used his time in prison well. According to 1971 testimony given before the Senate Permanent Investigations Subcommittee by Michael Raymond, a fellow inmate, LaPlaca served as a jailhouse counsellor for Vito Genovese, the most powerful organized crime figure in America during the 1960's. LaPlaca, Raymond said, bragged that he "had them planted like potatoes" throughout the Garden State. Today, law enforcement officials contend that although LaPlaca is in his 70's, he is a powerful man in organized crime, representing Genovese crime family interests in the waste disposal business.

The power that the local has to make or break companies is best shown in the local's 1976 letter to municipalities in Northern and Central New Jersey. The letter reads: "The following is a list of members of the New Jersey Municipal Contractors Association whose employes are members of this Local Union. We are not concerned as to which company collects refuse in your city. What we are concerned with is that the job be done with Union help and under Union conditions."

Since the local's jurisdiction gives it the right to organize outside the waste disposal industry, it can also use its power to extort money from legitimate businesses, some of whom are more the corruptor than the corrupted. This was proven during the 1972 hearings of the Senate Commerce Committee. The committee was looking into organized crime's use of labor unions to push an industrial cleaner, Poly-Clean, on supermarket chains and other companies whose employes were represented by mob-dominated locals.

In testimony given before the committee in June 1972, a former purchasing agent for Diana Stores, a Local 945 shop, told of how Daniel Tortorella, the local's longtime secretary-treasurer, was friendly with Frank Vasfallo, a Genovese family operative who was pushing Poly-Clean. The purchasing agent, George Levinson, said Vasfallo was brought to him by the vice-president of Great Eastern, a Diana Stores subsidiary, when discussions of industrial cleaners came up. The Great Eastern vice-president, Levinson said, pressured him into buying Poly-Clean because "it would help in the relationship with the union." Levinson, unhappy with the vice-president's pressure, agreed to make a modest purchase of the cleaner—the least he could order, in fact. Tortorella, realizing this, approached Levinson. "I was approached by Mr. Tortorella with a request that I please give his friend a little more business, and he was a little upset that he wasn't getting enough." Later, Levinson added that although he was never threatened by Tortorella or his vice-president, "everything was implied. If somebody comes to you and says the company will be better off in its union relations if you buy from a friend of a union delegate, you put whatever implications you want on that." What Tortorella would have delivered in return for larger orders is known only to Tortorella and the Great Eastern vice-president.

No corrupt union would be complete without manipulations of fringe benefits. In Local 945, those manipulations have taken at least two forms: high commissions for the agents and administrators of union funds and investment of fund assets for the benefit of organized crime figures.

With regard to high administrative fees, the local was one of several to join forces with Louis C. Ostrer, the Romanian-born insurance racketeer. While some unions may be able to claim that they were duped by Ostrer or his chief salesman, Donald Fitzsimmons (the middle son of Teamster General President Frank Fitzsimmons)

Local 945's officials cannot make that claim. Before they gave Ostrer the high fees and commissions required under his severance pay-life insurance plan, they had the New Yorker set up a special, more lucrative plan for their benefit.

According to records on file with the Senate Permanent Investigations Subcommittee and a recent book, *Wall Street Swindler*, by Michael Hellerman, Ostrer had several associates in organized crime, including New York labor racketeers Anthony "Tony Ducks" Carrola and John "Johnny Dio" Dioguardi. Hellerman, who was involved in at least one stock swindle with Ostrer, Corrallo forgave more than \$400,000 in loanshark debts Ostrer owed his men. The book gives no indication what Ostrer did in return.

When Ostrer got around to setting up severance pay plans for the local and its officers in 1970-71, he not only had the help of Don Fitzsimmons, but also that of several Teamster vice-presidents, including Sam Provenzano, Tony Pro's brother. Working with Ardis, Ostrer set up the officers and employes' plan first. Between 1970, when the plan was set up and 1976, more than \$220,000 in dues' money has been channelled into the severance accounts of the officers and employes. During the first three years of its operations, 1970-72, the fund received \$178,153 in members' dues. The huge outlay was probably due to either the retirement of Tortorella or the disappearance of Ardis. The reasoning behind this statement is that in 1970 the union contributed \$15,000 to the fund on behalf of its officers and employes. The next year, 1971, the year of Ardis' disappearance, the annual contribution jumped to \$75,000. The year after that, 1972, the year of Tortorella's retirement, the annual contribution was \$88,153. Following those years, the union never contributed more than \$12,656 to the fund, indicating that events in 1971 and 1972 required extraordinary expenses—like disbursements to officers who left the union in one way or another. (If disbursements to Ardis' survivors were responsible for the large union contributions in either or both of those years, it could be said that the employes severance pay plan is nothing more than an institutionalized version of the old mob custom of providing for the family of those they murder.)

The rank-and-file severance pay plan, however, was not as lucrative as the one the local officials set up for themselves. The contribution rate was considerably less, as were the benefits. In addition, the rank-and-file had to contend with the high fees and commissions paid to firms associated with Ostrer.

According to a 1977 Senate Permanent Investigations Subcommittee staff study of 11 Ostrer-inspired severance pay-life insurance plans, Local 945's rank-and-file severance pay plan paid the Ostrer firms \$11,990 in commissions, which amounted to 80 percent of the \$14,880 in insurance premiums the fund paid in the first two years of operations.

Also, it should be noted that none of the members of the Municipal Contractors Association had been signed onto the severance plan as of 1976. Instead, the union has concentrated in the non-sanitation area of its jurisdiction, signing up Korvet and seven other companies for what is an excellent benefit, now that Ostrer has been removed. As a result, only 689 of the local's 5,000 members are eligible for the severance plans.

Ostrer is not the only administrator of a Local 945 fund to profit handsomely. Leo Marcus, a dentist whose offices are in Tony Pro's Local 560 building in Union City, has reaped large fees for his Welfare and Dental Plan Administrators. Marcus administers the self-insured portions of local union health and welfare funds. His administrative abilities are somewhat suspect, however, having been involved in three bankruptcies since 1972. One of those involved Linden General Hospital in Brooklyn, N.Y., which was closed down after Marcus ran it for several years. The reasons given by the New York State Department of Health and federal Social Security Administration were that the hospital did not meet requirements for, among other things, safety, medical staffing, emergency services and dietary services. The hospital survived, according to state records, on Medicaid-financed tonsillectomies and abortions.

Marcus' firms have survived only because he has transferred all his stock to relatives.

Beyond high fees, however, there are far more sophisticated methods of manipulating union funds. In particular there is the "Roman Forum" and "Nero's Den" caper. The "Forum" is a nightclub and party center while the "Den" is a bar at the Local 945 union hall in West Paterson. The receipts of both are supposed to find their way into the coffers of the Local 945 Welfare Fund, which as owner of the building, leases the premises to firms who manage operations. However, as the New Jersey Alcoholic Beverage Control Commission found out, the firms that held the liquor licenses for the "Forum" and "Den" were nothing more than front operations that permitted Palmeri to literally dip his hand into the till, and conduct mob

business, such as securing loans from banks that were held hostage by deposits from the local's benefit funds.

The ABC Commission report and other public records on file in New Jersey, show how Palmeri and Morristown lawyer George Franconero (whose former law partners include Gov. Brendan T. Byrne and State Sen. Martin Greenburg) set up a front operation and then ripped it off to the point where the Internal Revenue Service filed a tax lien on the front companies' assets and the ABC took away its liquor license, for it to become a "BYOB" nightclub featuring such attractions as Frankie Valli.

Palmeri set up the front company, the ABC found, by helping Neil Batelli, one of its stockholders, get a loan from the State Bank of Chatham, one of the banks that were being held hostage. With that debt, Batelli became indebted to Palmeri and Franconero, who in turn were granted operating authority over the "Forum". Franconero, for example, did the hiring, including the hiring of the "Forum's" manager, Comillo Molinaro, who the ABC described as an associate of Simone "Sam the Plumber" DeCavalcante, the Central Jersey mob boss. At the time of his hiring, Molinaro was fugitive from justice, having been convicted of running an abortion mill. In spite of this record, Molinaro was given the job of running the "Forum" and paid \$325 a week. Palmeri and Franconero also helped engineer another loan, of \$30,000 for the front company from the Bank of Bloomfield, another hostage bank. U.S. Funding, a company in the business of finding investment capital for other firms, also chipped in with a loan for a new sign. (The U.S. Funding president, Arnold Daner, was the man who testified as to Palmeri's power in the garbage business; he also testified to owing Carmine "Lilo" Galente, the mob's reputed boss of bosses, \$90,000 in loansharking debts.) The loan for the sign, however, was diverted, according to the ABC, which reported, "the money received was to purchase a sign and cash register but the total collateral was about \$7,000 less than the money lent. No notation of the extra \$7,000 or what was done with it."

The ABC also described other mystifying deals: "There was a \$10,000 check drawn from this bank (Bank of Bloomfield) account that was actually hidden in the disbursement books" . . . "The Union Pension Fund lent money to Coterie, Inc. (the front company). However, after a breakdown of the checks given to Coterie by the Pension Fund, there was another \$10,000 unaccounted for and not shown on the books. Only \$19,000 was deposited into the Coterie account instead of \$29,000" . . . "There was money going out to pay (for) carpet that was installed at a private home (Harry Herzog of CBM, a firm that had lent money to Palmeri's son in 1972)" . . . "Union Local 945 Representative and Comillo Molinaro also controlled the money and took money out of the register at will" . . . "An entry in the books for the \$10,000 to Boulderwood Construction Co. shown as improvements when in fact the money was given to Molinaro" . . . "Coterie Inc. . . . did not file any federal or state tax return."

In addition, the ABC reported that intelligence sources told their investigator that one of Molinaro's jobs for DeCavalcante was transporting money to Las Vegas. The purpose of the transfer was not noted.

An investigator also reported that a source inside the operation had told him that Palmeri "probably" did not pay a \$6,000 "Forum" bill for his daughter's wedding reception. (Other sources have reported that Forum has been the scene of several weddings of mobster progeny recently.)

When the local president, Campisano, was presented with much of this information by ABC investigators, he responded that he had placed Palmeri in charge of overseeing "Forum" operations because some furniture was being stolen. He made no mention of all the funds that had been stolen out of the "Forum"—and thus from the welfare fund. (The "Forum", interestingly enough was rumored to be one possible casino site in 1974 when the state's voters were asked to approve statewide gambling. The referendum lost because of local opposition. The choice would have been fitting, however, considering that the Local 945 union hall, in which the "Forum" is located, was financed by a Central States Pension Fund loan—like many Las Vegas casinos.)

The biggest bonanza that the mob has reaped from manipulating Local 945's rank-and-file, however, has been in the use of the local's benefit funds in its takeover of several small New Jersey banks.

The key to the scheme was the certificate of deposit—a negotiable, short-term security offered by many banks in denominations of \$1,000 and up. The CD is particularly helpful to the small banks that dominate the New Jersey banking industry. With so many small banks trying to cut up the banking pie, the bank with easiest access to steady CD investment is going to be the bank in the best shape since the amount of money a bank can lend is determined by the amount of money

on deposit in the bank—and a CD counts as a deposit. In addition, a bank must keep a certain amount of its assets—around 10 to 20 per cent—in liquid deposits.

The CD is an investment instrument used by many small pension and welfare funds that cannot afford a professional money manager and want a low-risk investment that promises a reasonable, guaranteed rate of return and requires very little servicing. Large funds, with professional money managers, also use CD investments during periods of sharp stock and bond market fluctuations as a means of stabilizing their investment package.

Thus, when used in an honest, forthright manner, the CD fills the needs of the fund, as well as the bank. The fund gets a guaranteed rate of return on its investment—as high as 13 per cent annually in 1975—while the bank gets a ready supply of cash to fulfill its deposit requirements. The dual advantage is best illustrated by the manner in which the interest rate is set on large CD investments—those about \$100,000. The two sides in the transaction—the investor, in this case, the fund, and the bank—work out an interest rate ungoverned by anything other than what the market will bear.

However, when used illegitimately, all of its advantages are corrupted. The weak link in the transaction—the one organized crime has taken advantage of—is the leverage the funds have over bank lending operations. For example, it is theoretically possible for a fund with \$1 million to gain leverage over 10 small banks—those with less than \$10 million in assets—by investing \$100,000 in each of the 10 and then threatening to pull its money out. The banks, of course, had to have malleable executives, ones who wanted the money bad enough to go along with the conspiracy, and were willing to help it along in return for kickbacks on some loans. As one might expect, there were no shortage of such executives.

In detail, the deal was worked this way: The banker offers a low-interest loan to the benefit representative—or a promise that such loans will be easy to obtain for either himself, his friends, or both. In return, money is deposited in the bank and a low interest rate is established, meaning the fund will get shortchanged.

What often happened was the fund lost valuable interest and the bank eventually came laden with bad loans. Since the CD can be pulled at any time—at a loss of interest to the fund—sweeter deals could be worked by the fund official using the threat of no more money. A bank president dependent on fund deposits would promote more in terms of low-interest loans, under- or un-collateralized loans, or forgive past loans for fund officials, and their friends.

During 1975, when cash was short due to the recession and New Jersey's burgeoning bank population, Local 945's severance and health and welfare funds had \$1,335,000 invested in CD's. Working with two other mob-influenced locals, Local 1262 of the Retail Clerks (which once employed John "Johnny Coca-Cola" Lardiere) and Local 863 of the Teamsters (whose principal officer, Joseph Pecora, was described as a Mafia lieutenant in the Genovese family during 1972 Senate Commerce Committee testimony. Palmeri was able to fashion what the Wall Street Journal called a "key to the mint.")

Four banks collapsed. Millions of dollars were lost in bad loans to organized crime figures, including several men who have been identified as narcotics dealers, loan-sharks and others who ply their trade in the underworld.

Perhaps the two best examples of the bank-breaking tactics of this mob operation are the State Bank of Chatham and the Bank of Bloomfield, both of which have since collapsed.

The State Bank of Chatham received its charter on March 27, 1972. On April 21, 1972, a welfare fund of Local 1262 purchased a CD valued at \$20,000 from the bank. The purchase was made through Alexander Smith, the bank president. When Local 1262's vice-president, Frank Rando, pleaded guilty to an indictment in Newark's U.S. District Court in January 1977, he stated: "I came to an agreement with Smith. I would put CD's in the Chatham bank, that him (Smith) in turn would supply loans to friends, relatives, myself." On June 5, 1972 and June 30, 1972, \$120,000 more in CD's were purchased. Rando's first loan client was Anthony Cilli, a gambler and loan shark who was given \$20,000.

Shortly thereafter, Smith, who knew Palmeri's sister, was doing business with the local's severance and welfare funds. The totals lent to organized crime figures or their associates is staggering: Cilli eventually was lent \$110,000. Another loan shark, Patrick Rizzo, received \$22,000. Their victims received \$40,000-plus. A state prison inmate, Patrick Pizute, was given a \$2,500 loan the day he was released from jail on a forged appellate court decision.

Palmeri's son Paul received a \$23,194 fifth mortgage on his home in Wayne. Rando's cousin, nephew and brother-in-law received a total of \$30,000. Rando and Palmeri also received mortgages from the bank—of \$25,000 and \$17,500 respectively. Franconero and his partner, an accountant named George Piccola, received more

than \$200,000 in personal and corporate loans. Flen Chestnut received a \$20,000 mortgage.

Daner, the man who owed \$90,000 to loansharks and helped finance the "Forum" was given \$25,000 to help him finance a stock manipulation scheme.

The bank also refinanced a loan to Newark longshoremen boss Vincent Collucci. The Bank of Bloomfield was an even better source of easy money. Its president, Robert Prodan, stated in a deposition once: "Obviously in an effort to help one another—if one of the people from the local or someone—if they (the fund officials) would recommend someone to the bank we gave them a look."

The records on file in U.S. District Court in Newark show that the bank gave them more than a look. It gave them \$3.8 million.

The recipients of bad loans included some of America's biggest gangsters, including Galente; Detroit's Raffaele Quasarano and Peter Vitale, both of whom have been identified as being among the Motor City's biggest heroin importers by the Senate Permanent Investigations Subcommittee; Jimmy Fiorillo, an associate of yet another Genovese family capo, Matthew "Matty the Horse" Ianniello; Thomas Milo, a Westchester, N.Y. garbage carter whose father, Sabato and uncle, Thomas Sr. were cited as Genovese family soldiers specializing in gambling, loansharking, and narcotics; Anthony Ferro, another Genovese family soldier into loansharking; and others.

During testimony at the Bank of Bloomfield trial in 1977, Daner told of the close relationship between Palmeri and he and Prodan, the bank president. When, for example, Central Sanitation Services of Detroit (Quasarano and Vitale's firm) fell behind on its payments to Daner's company, Daner went to Prodan. "I asked him if he could use an acquaintance of his, who I knew to help me collect this money. He said absolutely. He told me we would discuss it that day at the Roman Forum, which we very often had lunch at." The acquaintance, of course, was Palmeri. After Daner explained the situation to Palmeri, Palmeri said he would help. Daner said Prodan told him about Palmeri's power at that luncheon meeting, and when Daner asked Prodan what Palmeri would do regarding Central Sanitation Services, the bank president replied, "He would be able to collect the money if he had to break the guy's head with a pipe." Shortly thereafter, Central Sanitation began making its loan payments again.

On another occasion, Palmeri told Daner he could get \$500,000 financing for a revolutionary recycling plant in Hoboken, N.J. Palmeri would not perform such chores for free, however. Daner testified that he gave Palmeri \$500 to help secure payment on the Central Sanitation loan, and that in one case, that of a pizza shop in North Jersey, Palmeri demanded and received \$5,000 from the loan proceeds as a kickback.

When Daner's accounts were depleted by a stock manipulation involving bank stock, Palmeri again came to the rescue. Daner said he originally sought money from several banks, but had no luck. Prodan recommended he speak with Palmeri, introducing him thusly, "This is my friend Arnold, who needs \$50,000 and we've got to get him a bank loan." Daner said Palmeri left the table at the "Forum" where they were eating, made a phone call, came back and told him to be at his house at 3 o'clock, an hour later. Accompanied by Franconero and Prodan, Daner arrived at the Palmeri house to find Palmeri and Alexander Smith, the president of the State Bank of Chatham. The deal was concluded at the house and Daner gave Palmeri another \$500. "The president of the bank was there," Daner testified, "and Mr. Palmeri laid out what he wanted done and this man agreed to it."

As the bank deals began to fall apart in winter of 1976, Prodan and two of Galente's associates involved in the scheme met to discuss strategy. Daner testified that Prodan threatened him. "Mr. Prodan told me that I had gotten him in a jam," Daner testified, "because he was doing things with Ernie Palmeri. By my placing him (Prodan) in danger, I was actually placing Palmeri in danger, and Palmeri would get me, no matter what happened." Daner eventually turned government evidence, and to protect him from any future reprisals, the government has given him a new identity.

The power Palmeri's manipulations of rank-and-file money must have given him in organized crime is best revealed by the scope of the deal that almost went through—a reported plot to skim millions from the Tropicana casino in Las Vegas.

According to Daner's testimony, the Bank of Bloomfield was ready to participate in a \$23 million loan to the Tropicana in return for assurances that the combined interest and principal would be high enough to provide them with substantial return.

Granting those assurances was Galente, the most powerful organized crime figure in the nation. Under a plan worked out by the three men and Galente's associate, Charles Musillo, shell corporations would be set up to launder "dirty" money—

receipts from loansharking, narcotics, etc.—and put it together with “clean” money from the bank and Daner’s U.S. Funding in a pool of cash. The total would then be lent to the Tropicana at a high rate of interest, which would be made even higher in a later refinancing. The refinancing would be necessary because Daner would inflate construction costs by setting up exorbitant equipment leases and Galente would use his labor contacts to slow construction. These two steps would effectively delay construction, drive up costs, and eventually require a new loan agreement.

The proceeds from this complicated scheme would be split among Galente, Musillo and Prodan and Daner. It fell apart, however, when in the spring of 1975, the four went to Fort Lauderdale for a meeting with Tropicana officials. Galente was to wait in a nearby motel while Prodan, Daner and Musillo worked out the details. Galente, however, was arrested by local police for failing to register as a felon and the meeting broke up when Musillo had to leave and bail him out.

Mr. GORE. This local has organized the employees of many of the waste disposal companies in New Jersey—is that accurate?

Mr. DINTINO. Yes.

Mr. GORE. All right. Go ahead with your narration.

Mr. DINTINO. Local 945 first came to the attention of the public and law enforcement authorities during New Jersey State Senate hearings in 1958. In 1959, John Serratelli, a business agent for 945, along with Thomas Viola and Crescent Roselle, were indicted by an Essex County grand jury for bid rigging of a municipal garbage contract.

This case went to trial, and the defendants were acquitted. But it demonstrates a business association between these subjects back to 1959.

After Serratelli’s disappearance, local 945 was thrown into international trusteeship by Jimmy Hoffa. Anthony “Tony Pro” Provenzano, an organized crime figure for the Genovese family, was appointed trustee.

Michael Ardis became the new president, and he appointed John “Johnny Coca-Cola” Lardiere as their organized crime member of the Genovese family as the business agent. Ardis disappeared on June 18, 1961. Lardiere was imprisoned, and in April 1976, 24 hours after his release, he was murdered gangland-execution style.

Ernest Palmeri was appointed the new business agent for local 945 by the late Peter La Placa, a capo in the Genovese organized crime family. Palmeri’s tenure has been marked with violence and corruption. Palmeri threatened and coerced various garbage contractors. In 1976, Palmeri threatened Gabriel San Felice, stating: “You’re a dead man.” On May 31, 1978, Gabriel San Felice was murdered.

George Franconero, a once-prominent New Jersey attorney, provided information to the FBI on Ernest Palmeri concerning a misappropriation of Teamster pension funds.

On May 7, 1981, George Franconero was murdered gangland-style in front of his house. He was murdered in his driveway.

Palmeri was sentenced to 7 years for violation of the RICO statutes of the labor laws. Palmeri has since been replaced by the present-day business agent, Anthony Rizzo, a former garbageman from North Jersey who, himself, was indicted on October 17, 1980, by the New Jersey State grand jury for conspiracy to violate the New Jersey Antitrust Act.

Rizzo is an associate and a nephew of organized crime figure Joseph Sciapani, a member of the Genovese crime family. The new president of Teamsters Local 945 is Flen Chestnut, a former en-

forcer for Ernest Palmeri. Chestnut has several arrests for assault and battery.

I also will refer to—although I will not quote it—the Prod report which quite explicitly and clearly defines the total corruption within 945, and I agree with that report wholeheartedly.

Mr. GORE. All right. Now, I need to get in a few more questions for the record, and then I will turn to my colleagues.

In your testimony, you state that on at least one occasion a meeting to resolve the dispute between Crescent Roselle and Mr. San Felice was attended by Ernie Palmeri, Tino Fiumara, and John DiGilio.

You have just described in some detail your knowledge of Mr. Palmeri. Would you describe who Mr. Fiumara is and the nature of his activities alleged to be in organized crime?

Mr. DINTINO. Tino Fiumara is a Genovese organized crime member. At one time, he was one of the more prominent up-and-coming members, basically because of his suspicion in a number of mob homicides.

Fiumara, like John DiGilio, is an enforcer for the Genovese crime family and is involved in illicit gambling, loan-sharking, and racketeering, and legitimate businesses. Within the garbage industry, Carmine Franco is Tino's front man.

A reliable source advised us that Gabriel San Felice was introduced to Carmine Franco by Tino Fiumara. Fiumara told San Felice that if he had any problems with local 945 or any problems within the garbage industry, that he was to see Carmen Franco. In other words, he was establishing a buffer between himself and San Felice.

Recently, Tino Fiumara, along with three of his associates, were sentenced to Federal prison on extortion charges in the *Belavita* case, which results from Project Alpha, and received a 20-year sentence. In addition, more recently he was sentenced to 25 years by a New York Federal court for receiving kickbacks to ensure labor peace on the New York waterfront.

Fiumara at one time reported to Peter LaPlaca—until he died.

Mr. GORE. Can you describe Mr. DiGilio for us?

Mr. DINTINO. John DiGilio is another Genovese crime family member. He is somewhat along the lines of Tino Fiumara, in that he was an up-and-coming powerful figure in the North Jersey area, particularly along the waterfront, Hudson County, Hoboken.

His sphere of illegal activities involves labor racketeering, gambling, loan-sharking, and he is an enforcer for the Genovese family. He is suspected of a number of homicides. He has a very vicious reputation.

At one time, through a Joseph Scugoza, the owner of Haulaway, and he is also the president of the Hudson County Sanitation Association—what I am saying here is that Joseph Scugoza, the president of the Hudson County Sanitation Association is John DiGilio's front man in the garbage industry.

On May 10, 1981, John DiGilio began serving a 9-month sentence in Federal prison in Lexington, Ky., for engineering the theft of his criminal file from the Newark FBI office.

Mr. GORE. Were you through with your response?

Mr. DINTINO. Yes.

Mr. GORE. All right. These three gentlemen that you have just described, then, it is fair to say, are members of organized crime?

Mr. DINTINO. Absolutely.

Mr. GORE. And they have served to enforce disputes that have arisen within the property rights system in the State of New Jersey?

Mr. DINTINO. Yes, sir.

Mr. GORE. You testified to at least one dispute that was resolved by these individuals in which SCA was one of the parties in dispute?

Mr. DINTINO. Yes, sir.

Mr. GORE. An SCA subsidiary—and that is an important point.

Mr. DINTINO. Yes, sir.

Mr. GORE. I have a number of other questions, and I want to return to them, but at this point I would like to recognize my colleague, Mr. Marks.

Col. MARKS. Thank you, Mr. Chairman.

Gentlemen, I only have a few questions for you.

In reading the written testimony of Mr. Viola who apparently is going to testify here in a little while—the president of SCA—I note that he states on page 11:

To the best of my knowledge, no one in SCA has any connection with organized crime, and organized crime exercises no control or influence over SCA.

He goes on in that same paragraph, on page 11:

All ties with representatives of these individuals—

[Continuing.] And he is referring to some that came into SCA that they were unaware of at the time as undisclosed owners—

were severed prior to my becoming president of SCA. In fact, SCA has aggressively avoided any possible improper associations, and, as I have stated, to the best my knowledge there is no one connected with the company in any way with any ties to organized crime.

I note, on page 2 of your testimony, Mr. Dintino, in the last paragraph, that you stated to us:

In 1973 the Roselle family, owners and operators of one of the largest solid waste businesses in New Jersey, sold a number of their companies to SCA. Following these acquisitions by SCA, the Roselle brothers and other relatives continued to manage their former companies through employment contracts with SCA. One of the brothers, Crescent Roselle, served as general manager for the Roselle group of companies acquired by SCA.

My question to you is: Having stated that in your testimony, and referring to 1973, what is the present situation as far as the brothers Roselle and SCA are concerned, if any, as far as you know?

Mr. DINTINO. Crescent Roselle was murdered recently.

Mr. MARKS. I understand about Crescent.

Mr. DINTINO. As far as I know, they are still in business, and maybe some of the other brothers are still associated with them—I am not sure.

Mr. MARKS. I am concerned about your answer in the sense that you say “as far as you know.” Do you know, or do you not? I do not want you to guess.

Mr. DINTINO. Yes.

Mr. MARKS. Yes—the Roselle brothers are still involved with SCA.

Mr. DINTINO. Yes.

Mr. MARKS. Later on in your testimony, you state on page 4: "In 1973, SCA acquired United Carting Company owned by a Ralph Mastrangelo. Mastrangelo is currently a corporate officer of SCA." Is, in fact, that the case?

Mr. DINTINO. Yes, sir.

Mr. MARKS. You are positive of that?

Mr. DINTINO. Yes, sir.

Mr. MARKS. All right.

Mr. GORE. Would my colleague yield briefly?

Mr. MARKS. Certainly.

Mr. GORE. The subcommittee had asked that Mr. Mastrangelo be present for this hearing. We were notified this week that he would not be made available because he had not been interviewed prior to the hearing and he felt that it would be unfair to appear without notice.

The subcommittee could, of course, have gone to a subpoena but, due to the timeframe, did not, and those are the reasons he is not here.

Mr. MARKS. Gentlemen, I want to go into a different area with you just for a moment. In answer to a question by my colleague concerning Harold Kaufman, the gentleman who testified previously and may be testifying again, I think you were asked whether or not you gave credence to Harold Kaufman in that which he testified to here, previously at least. And your answer was: "Absolutely, yes," without any hesitation whatsoever.

I was handed, as I came in here this morning, a record depicting Harold Kaufman's background. In it, according to the record that was handed to me, it says that he was apparently convicted of military crimes, sentenced to confinement at hard labor at Fort Monmouth, N.J., and required to forfeit his pay. He was dishonorably discharged from the military service.

He was convicted of grand larceny in 1950 and sentenced to 2-20 years. He was convicted of transporting stolen property in interstate commerce in 1954 and sentenced to 2 years at Leavenworth. He was convicted of transporting forged securities in interstate commerce in 1956 and sentenced to 3 years. He was convicted of issuing worthless checks on numerous occasions, for which he received sentences that sent him to Waupum Prison.

He was convicted of transporting false and forged securities in interstate commerce in 1960 and sentenced to 2 years. He was convicted of robbery and assault in White Plains, N.Y., in 1963. He was convicted of armed robbery of a Federal savings and loan association in St. Louis in 1963 and sentenced to 20 years.

He was convicted of bank robbery in 1964 and sentenced to 20 years. He was convicted of first degree grand larceny in 1965 and sentenced to 5-10 years at Attica Prison. He was convicted of bank robbery and assault in 1968 and sentenced to 30 years. He was convicted of bank robbery at Terre Haute, Ind., in 1972.

He has served time in Leavenworth, Texarkana, Waupum Prison, Sandstone, and Attica Prison.

I want to ask you if, in answer to my colleague's question that you told this subcommittee, which has very seriously, of course, considered the testimony of Harold Kaufman—it bears a great deal on what we are trying to do and what we are getting at—whether

or not, before you answered that question, you took all of that into consideration.

Or was it that you have independently, on your own, in each and every case, gone out and checked out the information that he gave to this subcommittee and based your statement on that and that alone?

Mr. MADONNA. May I answer that one, please?

Mr. MARKS. Sure.

Mr. MADONNA. I am not sure that the information provided there is totally accurate. I believe Mr. Kaufman was honorably discharged. I believe Mr. Kaufman never spent a day in Attica. And there are many other things involved.

Mr. MARKS. Excuse me just one moment—if I may, I would like to go back and then correct that. If you have his record there and it differs from that which the subcommittee was given, or which I was given, I would like to know it.

You say he did not spend any time in Attica?

Mr. MADONNA. That is correct.

Mr. MARKS. And he received an honorable rather than a dishonorable discharge?

Mr. MADONNA. That is correct. Now, I am accepting Mr. Kaufman's statements to me on that. If that presents a problem to you, Congressman, I put that up front to you.

Mr. MARKS. Excuse me just one moment. I do take it that you gentlemen certainly checked his record.

Mr. MADONNA. Yes.

Mr. MARKS. All right. Then, will you get out the papers that show what his record is so that we finally get on the record what is correct?

Mr. MADONNA. I am not prepared at this point to get into that. I do not have the record with me.

Mr. MARKS. Maybe Mr. Dintino has it.

Mr. GORE. Without objection, we will hold the record open.

Mr. MARKS. Yes. Let us do that, because I think that would be very important to this subcommittee to know, and certainly to know that you checked it.

Mr. GORE. Without objection, we will hold the record open.

[Mr. Gore subsequently determined that Mr. Kaufman's criminal record should not be included in the hearing record because of security considerations relating to Mr. Kaufman's safety. In making this determination, Mr. Gore noted that later in the hearing, members availed themselves of the opportunity to question Mr. Kaufman at some length about certain areas of his criminal background and to clarify questions about his record that arose earlier in the hearing.]

Mr. MADONNA. May I make an observation, Congressman?

Mr. MARKS. Certainly.

Mr. MADONNA. And I say this respectfully. In order to get to the kind of places in the industries that we are dealing with—industries that are controlled and operated by organized crime—you cannot take a former police officer—and I say this respectfully. You understand that in order to get into that kind of a position, this person has to have credibility.

Mr. MARKS. Yes. We are not looking for the all-American boy—there is no question about that.

Mr. MADONNA. OK.

Mr. MARKS. What I am trying to get at really—just to save some time—is your answer to my colleague, that you are satisfied to the utmost of what his testimony was to us before, based on your investigation on your own, totally?

Mr. MADONNA. Yes. As I indicated to you, our investigation had been going on almost a year and a half before Mr. Kaufman ever came on the scene.

Mr. MARKS. OK. So that the fact that he has this type of a record—or at least basically this type of record—does not concern you at all in taking what he is saying as gospel?

Mr. MADONNA. No. It would concern me if I found that his testimony was completely at variance with a year and a half of investigation and other sources and objective facts and things we have developed. But we also have tapes that he has prepared that bear out the things he has said.

I would indicate to you, with the exception of dates, which Mr. Kaufman is not very good at handling, I have found him to be totally accurate, and his testimony has fit into the previous investigation like a glove on a hand.

Mr. MARKS. OK. This is really the last question. Again, I repeat to you, it is vitally important to us to know just how much we can rely on Mr. Kaufman's testimony, and that is why I am asking these questions.

The testimony which Mr. Kaufman gave us previously—I take it from what you are saying—you had checked out independently, not just because he said it, but have found each and every bit of that testimony to be accurate—is that correct?

Mr. MADONNA. Yes, sir, that is correct.

Mr. MARKS. Thank you very much.

Mr. GORE. Mr. Rogers?

Mr. ROGERS. Following up on my colleague, Mr. Mark's question, you mentioned that there were some indictments that you had secured in your State court. Who was indicted, and what for?

Mr. MADONNA. The indictments that were returned were against members of the New Jersey Trade Waste Association and the Hudson County Sanitation Association. These are the associations that deal with or are made up of members who specialize in the area of commercial-industrial collection. These are not your municipal collectors.

There were 56 people and companies and associations, in total, indicted. Only one of those, Browning-Ferris Industries, was a non-member of the association. Without exception, they were members of the association who dealt in a sphere other than that which SCA specializes in, in the area of operation.

Mr. ROGERS. That basically was under a State statute dealing with conspiracy to do what?

Mr. MADONNA. To violate the antitrust laws.

Mr. ROGERS. Of the State?

Mr. MADONNA. That is correct.

Mr. ROGERS. Are those indictments a product of the Kaufman testimony?

Mr. MADONNA. Those indictments are a product, in part, of the Kaufman testimony.

Mr. ROGERS. In your opinion, would they stand without his testimony?

Mr. MADONNA. The indictments would stand against a large number without his testimony. He has implicated people whom we did not previously have within the conspiracy. But it would stand as to a great number of individuals without his testimony.

Mr. ROGERS. When were those indictments returned?

Mr. MADONNA. Those indictments were returned on October 17 of this past year.

Mr. ROGERS. Of 1980?

Mr. MADONNA. Of 1980—that is correct.

Mr. ROGERS. And have they been brought to trial yet?

Mr. MADONNA. Needless to say, with the numbers involved, we are in the pretrial stages. Discovery has been completed, and we are in the process—I believe our timetable is to start with pretrial motions. We anticipate a trial in the spring of 1982, which would be after the Christmas recess of the courts this coming Christmas.

Mr. ROGERS. Is there a special task force which is proceeding with the process of those indictments through trial?

Mr. MADONNA. Yes. It is members of my own staff. Originally, I was slated to try the case, but I will continue my efforts in the investigation, and we have a trial team put together utilizing people who are a part of my investigative staff and trial lawyers.

Mr. ROGERS. Is the Federal grand jury involved in any of this?

Mr. MADONNA. I cannot answer that—no, they are not involved in the indictment that was returned, and I really cannot speak totally for the Federal strike force.

Mr. ROGERS. Is there a Federal strike force involved in the investigation?

Mr. MADONNA. Yes. The use of Mr. Kaufman as a witness and as a source was actually started with the FBI who are working with the organized crime strike force in Newark.

Mr. ROGERS. Who makes the decisions in your investigation—either of the gentlemen who have testified—who makes the decisions about who gets which territory? What person or persons?

Mr. MADONNA. The answer is not easy. I am not hedging you, but I think that in order to understand that answer—if we are talking about a corner delicatessen, few people are going to get too upset. They will probably handle it on the level of the members of the association, themselves.

If you are talking about a significant contract, then those decisions may be made by organized crime members who are associated with different carters. They are referred to as rabbis, or sponsors, or what-have-you. If the money is right, they will make a decision and use their influence to see that a particular carter receives a particular contract.

As an instance, the New Jersey Sports and Exposition Complex went out to bid, I believe, several years ago. At that time, the information we had—the intelligence was—that there are so many people vying for it, all of whom had fairly high-level backers, or sponsors, so to speak, that it was thrown up for grabs. I think, at

that first bidding, there were, in fact, 11 bidders. When it came up for bid the second time, I believe there were one or two.

Mr. ROGERS. Who made the decision, then, that there would only be one or two bidders under that circumstance?

Mr. MADONNA. If you utilize the property rights concept, what they, in effect, said is: "This is open territory. This is up for grabs for anybody." Once the person became the low bidder, that was his contract for life.

That is subject to aberration, and there was aberration. Our presence in the industry—our investigative presence—has caused certain aberrations to take place in the industry.

Mr. ROGERS. Are you saying, then, that it has become a custom, either overtly or covertly, within the organized crime figures involved, that once one of the members establishes what you have called property rights in a certain contract, or territory, or area, that all of the other members of the family leave him alone and that becomes his business, and they respectfully let him use it?

Mr. MADONNA. Yes, Congressman, bearing in mind that we are not dealing here with totally respectable people. So, greed, being what it is, if anybody can get an angle, whether they are an organized crime figure or whatever, if there is a void in the succession—a member dies and there is a void—or there is some reason that the particular sponsor or rabbi falls into disfavor, somebody could make a play for that particular contract for his person.

Mr. ROGERS. Why did not the property rights concept work in the case of SCA where the two main figures fell into disagreement and various pressures were brought on various other members of the family? Why did not the property rights concept work in that particular situation?

Mr. MADONNA. I am not sure that it did not work, Congressman. Which one are you referring to?

Mr. ROGERS. The one that Mr. Dintino mentioned.

Mr. DINTINO. San Felice?

Mr. ROGERS. Yes.

Mr. MADONNA. In fact, Congressman, the contracts did go back to Waste Removal, which was the SCA subsidiary. They got back those contracts.

Mr. ROGERS. You are saying, then—both of you—that the method that occurred in the San Felice example is, in fact, an example of how the situation operates—is that correct?

Mr. DINTINO. San Felice was a maverick in the industry. He was stealing stops. As a result, there were a number of sitdowns involving organized crime members to mediate this dispute. The end result was that these stops reverted back to Cres Roselle. The end result also was that San Felice was murdered.

Mr. ROGERS. I see.

In your testimony, Mr. Madonna, you indicated that various principals that you have mentioned have been involved in loan sharking, gambling, and so forth. Are there any of those folks who have been indicted, or charged, or, in fact, convicted of those types of charges that you mentioned?

Mr. MADONNA. Congressman, I am not sure that I made that statement, and I am trying to home in on the statement with the colonel. Do you recall the context?

Mr. ROGERS. I do not recall the names that you mentioned, but you did mention some names and that various ones had been involved in loan sharking, gambling, and possibly some other things.

Mr. MADONNA. You are referring, I believe, to the colonel's testimony with respect to Mr. LaPlaca or Mr. DiGilio and Mr. Fiumara.

Mr. DINTINO. They were never indicted on those specific offenses, but they were indicted on other offenses throughout their careers, and we have indicted a number of organized crime figures in the State of New Jersey for loan sharking and various crimes that I specified.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes the gentleman from Indiana, Mr. Coats.

Mr. COATS. I have no questions, Mr. Chairman.

Mr. DINGELL. The Chair recognizes the gentleman from Tennessee, Mr. Gore.

Mr. GORE. Thank you very much, Mr. Chairman.

Colonel, you mentioned a meeting between Mr. Peter Iommetti, whom you identified as an SCA district manager—I will come back to that—Mr. Ernest Palmeri, and Mr. Louis "Streaky" Gatto. Who is Mr. Gatto—just briefly, if you could identify him?

Mr. DINTINO. Louis "Streaky" Gatto is a Genovese crime member who replaced both Peter LaPlaca and Tino Fiumara for the Genovese family. In other words, he is controlling the mob interests in the garbage industry.

Mr. GORE. So, he is not only a member of organized crime, he is one of—

Mr. DINTINO. He is very involved in the garbage and solid waste industry.

Mr. GORE. All right. This was a meeting between Ernie Palmeri, who was, according to your testimony, the Mafia-controlled leader of Teamsters Local 945—

Mr. DINTINO. Yes, sir.

Mr. GORE [continuing]. Those two gentlemen—Palmeri and Gatto—plus the SCA district manager. How do you know that that meeting took place?

Mr. DINTINO. We have a photographic surveillance of that meeting, sir.

Mr. GORE. Whom were you taking pictures of when you came across this meeting?

Mr. DINTINO. Ernest Palmeri.

Mr. GORE. You were following Mr. Palmeri. And he went to the meeting with Mr. Iommetti?

Mr. DINTINO. I am not sure who arrived with whom, but the three of them wound up together, and we have photographs of that meeting, sir.

Mr. GORE. Again, let me say for the record that the subcommittee requested that SCA make available Mr. Peter Iommetti so that we might explore the reasons for this meeting with organized crime figures, and we were informed at the last minute that Mr. Iommetti was now no longer a part of SCA and had, in fact, been terminated on March 31.

As with Mr. Mastrangelo, the timing of the company's informing the subcommittee that these people were not going to be made

available prevented us from subpoenaing them to appear in person. We may wish to pursue that at a later time.

This whole thing is very difficult—very difficult. The whole set of allegations about organized crime moving into legitimate businesses—they are tough questions, and they involve gray areas and difficult judgments.

Essentially, in our last hearing, we heard four allegations—and I am leaving Mr. Viola out of this for the moment, I want to treat that question separately.

The four allegations are: first, the property rights disputes are enforced by organized crime figures; second, that the resolution of those disputes can, on occasion, be violent, and that there have been, in the past, murders, two of which were described in some detail at our last hearing and in this hearing today.

The third allegation was with respect to the murders of Mr. DiNardi and Mr. San Felice. In both instances, SCA took properties back after those murders. According to your testimony, there were legal disputes going on in the courts during that time. But after the murders, when bids were taken on the properties in question, I believe you said, on one occasion, nobody except SCA bid. Is that correct?

Mr. MADONNA. Yes, that is correct, Congressman.

Mr. GORE. The fourth allegation was that SCA had acquired a large number of companies in New Jersey and that some of those companies were controlled by figures associated with organized crime—and that word “associated” is a very difficult and tricky one but one that police investigators have been forced to resort to in the investigation of organized crime in white-collar pursuits.

But the allegation, again, was that SCA had acquired companies dominated by figures associated with organized crime and that some of those individuals had been placed on the payroll of SCA.

At the time of that last hearing, three individuals on the payroll of SCA were Crescent Roselle, Mr. Mastrangelo, and Mr. Iommetti. Mr. Roselle was murdered six days after the last hearing. That case is unsolved, and no inference can be drawn about the motivations that led to that. I understand that even the investigators believe it to be an extremely complicated set of facts.

Mr. Iommetti has just recently left SCA. Mr. Mastrangelo—again, this word “associated” can be used in an unfair way. It is difficult to use that word.

You talked about Mr. Mastrangelo’s involvement with Mr. Vergalitto. Mr. Vergalitto is an organized crime figure—would you say that is a fact?

Mr. DINTINO. Yes, sir.

Mr. GORE. And Mr. Vergalitto and Mr. Mastrangelo were involved together, according to your testimony, in the extortion of another waste disposal business—

Mr. DINTINO. No, it was another contracting company.

Mr. GORE. Another contracting company. Well, it is difficult. It is extremely difficult.

If you were asked to evaluate the companies that are SCA subsidiaries in the State of New Jersey, would you conclude that there is involvement with organized crime figures in the property rights system?

Mr. DINTINO. Absolutely.

Mr. GORE. Your answer is: "Absolutely"?

Mr. DINTINO. Yes, sir.

Mr. GORE. Mr. Madonna, with regard to the municipal contracts, have you had the opportunity to evaluate the bidding patterns of the two largest waste disposal companies in New Jersey?

Mr. MADONNA. Yes, Congressman, I have.

Mr. GORE. What are those companies, and what is the result of your evaluation?

Mr. MADONNA. The two largest companies operating in the State of New Jersey are SCA and Browning-Ferris Industries, referred to as BFI.

I did, through the assistance of people on my staff, have the six northern counties analyzed in a period which I will refer to as the postmerger period. We usually use the cutoff of 1974, but the mergers took place in 1972, 1973, and 1974. Nothing fell within that period that would change the statements I am going to make.

We referred to Bergen, Essex, Hudson, Morris, Passaic, and Union Counties.

Our findings from the information made available by local municipal officials indicate that Bergen County solicited municipal contract bids in 37 of their 70 municipalities. Essex County solicited such bids in 15 of their 22 municipalities. Hudson did it in 9 of their 12 municipalities. Morris did it in 17 of their 39 municipalities. Passaic did it in 12 of their 16 municipalities.

Mr. GORE. Let me short-circuit this because we are going to have to go over for a vote and come back. Let me just ask you this, very briefly. There were in these 6 counties that you mentioned some 70 communities—correct?—and some 99 contracts bid during that 7-year period—is that correct?

Mr. MADONNA. There are 108 communities in the 6 counties, 99 of which solicited municipal contracts.

Mr. GORE. Out of those 99 contracts bid, in how many did the two largest companies in this business bid against each other?

Mr. MADONNA. There were four instances of competitive bidding between these two companies in three municipalities.

Mr. GORE. There were 4 cases out of 99 where the 2 companies that dominate this particular sector of the business bid against each other?

Mr. MADONNA. That is correct, but remember that we are dealing with a 7-year period, and contracts do not extend for more than 5. So 99 is the minimum. You are talking probably numbers higher than 99 opportunities to bid.

Mr. GORE. That is separate from the questions about the organized crime involvement—is that correct?

Mr. MADONNA. That is correct. This pattern is now part of the investigation we are looking into.

Mr. GORE. All right.

Mr. DINGELL. The time of the gentleman has expired.

The Chair is going to recognize counsel Mr. Frandsen for one brief question, and then we are going to recess.

Mr. FRANDSEN. Colonel Dintino, do you have any information that Mr. Thomas Viola is a member of or associated with organized crime?

Mr. DINTINO. Sir, positively, Mr. Viola is not a member of organized crime, but I would consider him an associate member of organized crime—a business associate. I would like to expound on that slightly.

If you go back through the history of Thomas Viola, the Thomas Viola family were involved in the waste disposal business in Nutley, Essex County, since approximately 1950 until their purchase by SCA in 1972. At that time, Thomas Viola was employed by SCA in a managerial position.

In 1976, he became chief executive officer for SCA, whose headquarters are based in Boston, Mass.

During 1972 and 1973, SCA purchased a number of solid waste corporations in New Jersey. Among them were a number of solid waste businesses from the Roselle family—Crescent Roselle continued on as the general manager for the Roselle group of companies acquired by SCA until his gangland execution on December 26, 1980.

On August 5, 1973, SCA purchased Impac, a waste disposal business owned and operated by the Iommetti brothers. Peter Iommetti continued on as a supervisor for SCA until his termination by SCA on March 31, 1981.

In January 1973, SCA purchased United Carting Co. from Ralph Mastrangelo, who continued to be employed by SCA in a supervisory position at United Carting until the present time.

Crescent Roselle, Peter Iommetti, and Ralph Mastrangelo presently or formerly were all high-level supervisors for SCA, and they all have strong, deep-rooted connections to organized crime.

Mr. DINGELL. The Chair apologizes to you. We have a vote on the floor, and that always makes us just awfully uncomfortable up here.

You have been very helpful to us. Would you bear with us, while the Chair recesses this? We will return, to permit you to finish your comments.

Mr. DINTINO. Certainly.

Mr. DINGELL. I do apologize, gentlemen, for the inconvenience that this occasions.

The subcommittee will be in recess for about 10 minutes.

Gentlemen, we do again thank you, and we do again express our apologies to you for the rather disorderly process we have had to adhere to this morning.

[Brief recess.]

Mr. DINGELL. The subcommittee will come to order.

The Chair will now recognize staff for questions.

Mr. GORE. Will staff yield to me?

Mr. DINGELL. We are somewhat constrained on time.

Mr. GORE. I just have two questions.

Mr. DINGELL. The Chair will yield to the gentleman.

Mr. GORE. Your last response troubled me somewhat. I do not want to throw you a curve ball, but I have some problems with, as I said earlier, this word "association."

I understand that police investigators and others dealing with organized crime in the white collar area have to track associations, but is it not subject to unfairness to label someone as an "associate" of organized crime figures if the only association is being

involved in the same business—not company, but the same general business—with organized crime figures? You mentioned a case that is now 22 years old. Do you understand what I am saying?

In order to be fair—does that not raise questions of fairness in your mind?

Mr. DINTINO. Sir, it would if you were talking about some other type of an industry, but we are talking about the garbage industry in New Jersey. We are talking about a property rights system in New Jersey which has been in effect for years.

I am saying that someone in the garbage business since 1950 to the present time, is operating in north Jersey and central Jersey areas no way can operate unless somehow, somehow, they are dealing with members of organized crime—are given approval to deal in those territories.

Mr. GORE. If you were an official in another State—I come from Tennessee, and Tennessee is one of the States where this company is attempting to begin doing business—what I think happened is that you had a dramatic change in this business and hazardous waste disposal suddenly became a hot ticket item, and you had a dramatic expansion, and those companies with a foothold in the waste disposal business saw that as an enormous opportunity to expand quickly into the burgeoning hazardous waste disposal industry.

New Jersey was one of the areas where SCA began by consolidating a number of companies. Because the solid waste industry was at least in large part controlled and refereed by organized crime, there was, according to your testimony, this substantial association between people with SCA and other companies with members of organized crime who refereed disputes in the system of waste disposal in New Jersey.

Some of these companies coalesced to make SCA, and others joined other organizations. These conglomerations then saw the opportunity to expand into the hazardous waste disposal industry and expanded into other areas.

If you are an official in a State that is dealing for the first time with hazardous waste disposal, and you are confronted with an application from SCA, is it fair for you to look back to how the company has done business in New Jersey and conclude from that that there is a danger that problems of the same sort are going to occur in a new State, even if the waste disposal business is not characterized by organized crime in that State?

Mr. DINTINO. I think that is a decision that the officials of that particular State would have to make at that time. I would not necessarily say that other States that do not have the organized crime problem that certain States do, may have the same situation.

It very well may be that in Tennessee you do not have the property rights system in effect, and a company like SCA would go there and work legitimately. I can conceive of that.

Mr. GORE. Thank you, Mr. Chairman.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes counsel, Mr. Frandsen.

Mr. FRANDSEN. Mr. Dintino, in your opinion, is there any possible legitimate reason why individuals such as Mr. Fiumara and

Mr. DiGilio should be involved in a dispute over municipal garbage contracts?

Mr. DINTINO. No.

Mr. FRANSEN. Why were they involved?

Mr. DINTINO. Because they were protecting their interests. They were the enforcers. They were there to make money. They would mediate disputes.

Mr. FRANSEN. Colonel Dintino, are the DiNardi and San Felice murders still unsolved?

Mr. DINTINO. Yes.

Mr. FRANSEN. I want the record to be very clear that neither I nor the subcommittee is making any inference as to the person or persons responsible for the San Felice murder, nor do I think the facts that the subcommittee is aware of permit the drawing of any such inference.

Thank you, Mr. Chairman.

Mr. DINGELL. The Chair would like to fully concur in that comment on behalf of the subcommittee.

The Chair recognizes again the gentleman from Tennessee, Mr. Gore.

Mr. GORE. Thank you, Mr. Chairman.

Colonel Dintino, you referred to these two murders. These were perhaps the most explosive of the allegations made at the last hearing. Let me ask you to review them briefly. The first was the murder of Mr. DiNardi in 1976.

The allegation was that, following that murder, properties in dispute with Mr. DiNardi were returned to SCA—is that correct?

Mr. DINTINO. Yes—Cres Roselle's Waste Disposal.

Mr. GORE. The way certain of them were returned was that in a lawsuit in court the bids in question were disqualified and the property was declared open to be bid again—is that right?

Mr. DINTINO. Yes.

Mr. GORE. On that occasion, after the murder, SCA did bid and Mr. DiNardi's company, or the company that he had been with, did not bid—is that correct?

Mr. DINTINO. Yes.

Mr. GORE. With respect to the San Felice murder—this was in June of 1978—the properties were in dispute. What was Mr. San Felice's company?

Mr. MADONNA. Sano Carting.

Mr. GORE. Was there a court proceeding involved in that instance?

Mr. DINTINO. No; not to my knowledge.

Mr. GORE. How were the properties returned to SCA?

Mr. DINTINO. After they were mediated by organized crime sit-downs.

Mr. GORE. Mr. Roselle, who was then the manager of one of the SCA subsidiaries, participated in that sitdown?

Mr. DINTINO. Yes.

Mr. GORE. Mr. Madonna, you wanted to respond to that?

Mr. MADONNA. I just wanted to add that they were assigned by Mr. San Felice back to, I believe it was, Waste Removal, following these efforts of mediation.

Mr. GORE. OK. Thank you very much. We will review these matters with our later witnesses. Thank you very much, gentlemen.

Mr. DINGELL. The Chair thanks the gentlemen—Colonel Dintino and Mr. Madonna, and your associates, Mr. Martens and Mr. Morrone. Thank you very much for your assistance to the subcommittee. You have been most helpful to us, and we are very grateful to you.

Gentlemen, you may consider yourselves excused.

The Chair announces that the subcommittee will stand in recess until the hour of 1:30, at which time we will reconvene.

[Whereupon, at 12:25 p.m., the hearing was recessed, to reconvene at 1:30 p.m.]

AFTERNOON SESSION

Mr. GORE [presiding]. The subcommittee will come to order.

We would like to call Colonel Dintino back to the witness table briefly to finish his response to the last question when we recessed, and then we will proceed to our next witness.

I recognize counsel at this point.

Mr. FRANSEN. Colonel Dintino, you were discussing the property rights system and business associates within that system. Would you please complete your answer to the extent that you feel is necessary?

Mr. DINTINO. Yes, sir.

I agree with the testimony of Harold Kaufman on December 16, 1980, before this subcommittee in regard to the property rights system in New Jersey, which has been in effect for a number of years and enforced by organized crime through threats, vandalism, assaults, and homicides, such as the three homicides mentioned in my opening statement.

In 1959, the New Jersey Senate conducted hearings concerning organized crime control of the garbage industry within New Jersey. These hearings focused on property rights or territorial allocations.

In 1969, the solid waste industry again was the subject of public hearings by the New Jersey State Commission of Investigation. It was brought out loud and clear that organized crime controlled the solid waste industry, and there was a system of territorial allocations and/or property rights, and as a result of the hearings the solid waste industry came under the regulation of the Public Utilities Commission, where previously there had been no State regulation.

During October 1980, the Division of Criminal Justice of New Jersey returned a 1-count antitrust conspiracy indictment against 56 individuals, corporations, and associations. Part of that indictment clearly spells out in detail the property rights system in New Jersey.

Mr. Chairman, there is absolutely no question in my mind that territorial allocations exist within the northern and central sections of New Jersey in the solid waste industry that is enforced by organized crime.

It is inconceivable to me that anyone in the solid waste business from 1950 until the present time is unaware of the property rights,

especially someone in the business in north and central New Jersey.

It is unbelievable to me that the present chief executive of SCA, employed by SCA since 1972, during the timeframe when SCA purchased a number of solid waste corporations in New Jersey in the critical zones controlled by organized crime, has no knowledge of property rights, especially as some of the corporations purchased have deep-rooted organized crime connections.

If this individual pleads ignorance to property rights in the State of New Jersey, he is either the most naive person involved in the solid waste industry or the least informed citizen in the State of New Jersey, let alone a top executive of a solid waste conglomerate doing extensive business in New Jersey.

I would like to finish with my definition of "business associate," which I was asked and I do not believe I had the opportunity to describe. Our definition of a "business organized crime associate" is someone who either knew or should have known a person's organized crime associations—that there is a business relationship between the individual and the organized crime subject, one in which they are working together in a business relationship for profit, knowingly.

Mr. GORE. I thank you, Colonel, and good luck in your future work in New Jersey.

I would like to call now Mr. Wayne Comer, a supervisor of the Federal Bureau of Investigation, Newark, N.J.

Mr. Comer, would you identify yourself to the reporter for the record?

Mr. COMER. My name is Wayne Comer. I am a supervisory special agent with the Newark field office of the Federal Bureau of Investigation.

Mr. GORE. Would you stand and be sworn, please? Raise your right hand. Do you swear that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. COMER. I do.

Mr. GORE. Thank you.

I would like to note for the record that you are appearing here today in response to the subcommittee's invitation. In this regard, I want to note that the subcommittee recognizes that there will necessarily be limitations on your testimony consistent with pending investigative matters and the necessity to protect the identity of informants in pending investigations.

We will try not to get into those areas. If we do, I invite you to caution us. It is not the intention of this subcommittee to in any way jeopardize pending criminal investigations or prosecutions or to endanger in any way the safety of confidential sources and informants.

We invite you to proceed with your statement.

**TESTIMONY OF WAYNE COMER, SUPERVISOR, FEDERAL
BUREAU OF INVESTIGATION, NEWARK, N.J.**

Mr. COMER. The following is a synopsis of information pertaining to the relationship between SCA Services and organized crime in

New Jersey, a relationship viewed in the context of the entire New Jersey garbage industry.

In New Jersey, a carting company derives its value from its real property and, to a far greater extent, from its intangible property. The first type is composed of the physical property, whereas the second arises from the right to collect garbage from its customers, called stops.

These "property rights" are bought and sold on a multiple of monthly billings which may be as high as 40 times the billings. Because of their value, these property rights are vigorously defended.

Prior to June 1976, these property rights were protected by Ernest Palmeri, Business Agent, Local 945, International Brotherhood of Teamsters. This was done by a process which might be called selective unionism. That means that he exerted union force, or union problems, on the carting companies which were competing with favored companies, thereby giving the favored companies a competitive edge.

Between 1971 and 1974, the Newark office investigated seven instances in which Ernest Palmeri allegedly used Local 945 of the International Brotherhood of Teamsters to enforce the will of favored carting companies.

In the most promising investigation, the key witness refused to testify when subpoenaed before the grand jury. In the other instances, it was determined that no prosecutable case existed because: One, Palmeri received no personal gain; or, two, he failed to enforce his threats when his orders were not obeyed; or, three, he could claim to be performing legitimate union duties.

In the Newark case captioned "Ernest P. Palmeri; Et Al.; RICO—Bank Fraud and Embezzlement," Palmeri and four other officers of IBT 945 were indicted in October 1978, convicted, and sentenced in July 1979 to prison terms for violations of title 18, United States Code, sections 1962(C), 1962(D), 1954, 1014, and 2. All are presently incarcerated, and Palmeri is serving a 7-year sentence.

In June of 1976, the New Jersey Trade Waste Association [NJTWA] was formed, with Carmine Franco as its president. Franco, believed to be a long-time associate of members of a traditional New York organized crime family, began to exercise considerable control over the industry.

For example, if a carting company took over a stop or threatened to take a stop, he would receive a telephone call or a friendly visit from Franco. When this failed to resolve the matter, the contending carting companies would be called to an NJTWA grievance meeting where each side presented their claim to the property rights for the stop and members of the NJTWA hierarchy would give a ruling.

Finally, should this procedure fail to resolve the matter, one or both of the contending parties would go to a supporting organized crime figure to plead his case and solicit assistance. Generally, the more powerful organized crime member would win the dispute. It is the organized crime figure's role as mediator that forms the basis for the organized crime control over the garbage industry.

The NJTWA, its president Carmine Franco, and his associate Tino Fiumara, a traditional organized crime member from New

Jersey, were included in a New Jersey State grand jury indictment in October 1980.

As part of the evidence used in that indictment, the New Jersey Division of Criminal Justice [NJDCJ] used consensually monitored conversations of Harold Kaufman recorded at NJTWA grievance meetings by the Newark office of the FBI.

In the early 1970's, SCA entered the above milieu. When SCA arrived in New Jersey, they purchased large New Jersey carting companies and allowed the former owners to remain as managers. Thus, the control remained in local hands. As a result, the respect for property rights and the contact with or coexistence with organized crime which predated SCA continued.

Foremost among the companies acquired by SCA was Waste Disposal of Elizabeth, N.J. Information indicates that its president, Crescent Roselle, was a powerful figure in the industry who attended grievances with other carting companies as well as with members of traditional organized crime.

Before the murder of carting company owner Gabriel San Felice in May 1978, Roselle attended a meeting with several high ranking members of a traditional organized crime group and San Felice, at which time San Felice was ordered to return several stops to Roselle.

After the murder of carting company owner Alfred DiNardi in June 1976, Roselle met with several members of the New Jersey carting industry and an organized crime figure, at which time stops taken by DiNardi were returned to their previous owners.

In general, Roselle took an active part in settling property rights disputes between carting companies in northeastern New Jersey as well as the Ocean and Monmouth County, N.J., areas.

No specific evidence exists which shows a relationship between SCA and organized crime beyond those of its individual managers which arise from circumstances independent of SCA's corporate structure.

All murders that have been apparently related to the New Jersey solid waste industry have been or are currently being investigated by State and local authorities.

Thank you. I would be happy to respond to any questions.

Mr. GORE. Thank you very much.

Has the FBI been able to corroborate the information in your statement independently of any information which Harold Kaufman may have furnished to the Bureau?

Mr. COMER. Yes, sir. This statement that I have just made has been corroborated by other sources and by independent investigation as well as by information provided by other agencies—law enforcement agencies.

Mr. GORE. Thank you.

What do you mean by the term "traditional organized crime member or group"?

Mr. COMER. There are many different types of organized crime groups, be they ethnic groups, be they motorcycle gangs; one of this sort is La Cosa Nostra. In this sense, in my statement, what I am referring to is La Cosa Nostra.

Mr. GORE. Or the Mafia? This is the organized crime in the classic sense of the Mafia or Cosa Nostra or any of the other terms that are applied to that form of organized crime?

Mr. COMER. Yes, sir—which has subdivisions known as families, which we often refer to as organized crime families.

Mr. GORE. All right.

Your statement, on page 3, indicated that Mr. Roselle “attended a meeting with several high ranking members of a traditional organized crime group.” Can you identify the group to which you refer?

Mr. COMER. That group referred to in my statement is the Genovese family.

Mr. GORE. The Genovese crime family?

Mr. COMER. Yes, sir.

Mr. GORE. At the bottom of page 3, you stated:

Subsequent to the DiNardi murder Mr. Roselle met with several members of the New Jersey carting industry and an organized crime figure, at which time “stops” taken by DiNardi were returned to their previous owners.

If you prefer not to identify the organized crime figure in question, could you identify the crime family to which he belonged?

Mr. COMER. Yes, sir. That family would also be the Genovese family.

Mr. GORE. You testified that:

In general, Roselle took an active part in settling property rights disputes between carting companies in northeastern New Jersey as well as in the Ocean and Monmouth County, N.J., areas.

Was Mr. Roselle considered by the FBI to be an organized crime member or a close associate of organized crime who performed mediation functions?

Mr. COMER. I would have to respond to that in the latter, in that the information that the FBI possesses would indicate that Mr. Roselle was an associate of organized crime figures and acted on their behalf in these disputes.

Mr. GORE. Does the FBI have any specific evidence that Mr. Thomas Viola is a member of organized crime?

Mr. COMER. The records pertaining to investigations conducted by the Newark office of the FBI have absolutely no information that indicates that Mr. Viola or SCA is connected with organized crime.

Mr. GORE. In your opinion, based on your experience and knowledge of the solid waste disposal industry, could a new company today with new equipment and sufficient funding survive in the New Jersey area without becoming a part of the property rights system and becoming engaged in the mediation process ultimately controlled by organized crime members and associates?

Mr. COMER. No, sir.

Mr. GORE. Let me ask you to clarify the response that you gave earlier. I asked you a question: Does the FBI have any specific evidence that Mr. Thomas Viola is a member of organized crime? Your answer was: No. You went on to extend your answer to SCA. Can you elaborate on that? Do you mean to confine that to their board of directors, or do you mean it to include also their subsidiaries and operating officers?

Mr. COMER. No, sir. I am referring to the corporate structure. I use SCA and the relationship of Mr. Viola, which I thought was the intent of your question. I had indicated that managers such as Crescent Roselle were involved with organized crime, which may or may not have been independent of the corporate structure of SCA.

What I am saying, sir, is that I have no information which specifically indicates that Mr. Viola is connected with organized crime.

Mr. GORE. All right. But at least one subsidiary of SCA operated in close association with organized crime figures in New Jersey—is that correct?

Mr. COMER. Yes, sir.

Mr. GORE. I recognize my colleague, Mr. Marks.

Mr. MARKS. Thank you, Mr. Chairman.

Mr. Comer, I am not sure that we do not have two answers on the record to the same question. My colleague from Tennessee called to your attention that you had suggested, in answer to his question, that Mr. Viola is—as far as information that the FBI has—not connected with organized crime.

Then you went on to say, very specifically, as I remember—when asked the question a second time by my colleague, it would appear as if your answer were different. Maybe we can clarify that once and for all for the record.

You are suggesting that the FBI indicates that the present president of SCA, Mr. Viola, has no connections with organized crime—is that correct?

Mr. COMER. What I am saying, sir, is that the Newark office of the FBI has no information contained in their files which indicate that Mr. Viola is connected with organized crime.

Mr. MARKS. Would you mind repeating that? I am sorry, I was being interrupted.

Mr. COMER. Certainly. The files of the Newark office of the FBI do not have any specific information which indicates that Mr. Viola is connected with organized crime.

Mr. MARKS. You said it in the negative, and the question is, can you say it in the positive for the sake of the subcommittee—that is, through whatever investigative services you have used, it is indicated that he is not?

Mr. COMER. Yes, sir—right.

Mr. MARKS. You can answer that in the affirmative?

Mr. COMER. Yes, sir.

Mr. MARKS. So, what you are telling us, then, is that the FBI has investigated it, and they find that he is not a member of organized crime—is that correct, or am I misstating what you have said?

Mr. COMER. Now I am getting a little confused, sir. Are you asking me if the FBI investigated Mr. Viola and found him not to be involved with organized crime?

Mr. MARKS. Yes.

Mr. COMER. I would have to answer no, because there is no indication in our files that we investigated Mr. Viola based upon any allegations that he was involved with organized crime.

So, what I am saying is, based upon a review of mine, there is no information from sources or from investigations or from any other

area which would indicate that Mr. Viola is connected with organized crime.

Mr. MARKS. Let me go back one more time, if I may. You are now saying to us that Mr. Viola, as far as your records are concerned, has no indication in his record that he is a member of organized crime—is that correct?

Mr. COMER. Yes, sir.

Mr. MARKS. And the reason for that was, partially at least, because no complaint was made that he was?

Mr. COMER. Yes, sir.

Mr. MARKS. And therefore you never investigated?

Mr. COMER. Yes, sir.

Mr. MARKS. Your statement on page 3, that may have been alluded to previously, says:

In the early 1970's, SCA entered the above milieu. When SCA arrived in New Jersey, they purchased large New Jersey carting companies and allowed the former owners to remain as managers. Thus, the control remained in local hands. As a result, the respect for "property rights" and the contact with or coexistence with organized crime which predated SCA continued.

For how long did it continue, if you can tell us, and is it continuing up till today?

Mr. COMER. From the information that we have, it is continuing. It had continued for many, many years prior to SCA's arrival and continued after SCA's arrival and is continuing, to the best of the information we have, today.

Mr. MARKS. Let us be specific if we can, now. What you are telling us is that, as far as the local control is concerned, tied in with SCA, it does have connections with organized crime—is that what you are saying?

Mr. COMER. What I am saying by the statement is that, to the best of the information that we have, the way SCA operates is that it would buy an existing carting company—for example, in New Jersey. That owner would become the manager of the company. And so, therefore, when we talk about property rights, the respect for the property rights would continue with that now-manager, formerly the owner.

Mr. MARKS. Fine. Then my question is a simple one: Are you saying that that continues right up till today?

Mr. COMER. Yes, sir.

Mr. MARKS. OK. In its simplest terms, what you are suggesting is that companies that have been purchased by SCA, that have had people involved in those companies purchased, that did, in the FBI's opinion, have connections with organized crime, have been continued and are still working with those companies on the local level, which are a part of SCA—is that what you are saying?

Mr. COMER. Yes, sir.

Mr. GORE. The gentleman's time has expired.

Mr. MARKS. May I ask one additional question?

Mr. GORE. The gentleman is recognized for one additional question.

Mr. MARKS. Is that based on information that the FBI, itself, has gone out and gotten, or is that based on information received from other sources, including Mr. Kaufman?

Mr. COMER. It is based upon other sources, not necessarily from Mr. Kaufman exclusively.

Mr. MARKS. The FBI, itself, has not uncovered that?

Mr. COMER. No, sir.

Mr. MARKS. I see. Thank you, sir.

Mr. GORE. Mr. Mottl?

Mr. MOTTLE. Thank you very much, Mr. Chairman.

Mr. Comer, how long have the property rights activities been going on in New Jersey?

Mr. COMER. For a specific year—I do not have that information at my fingertips. I could respond to that for the record.

Mr. MOTTLE. Please furnish the specifics for the record, but just approximately—to the best of your recollection?

Mr. COMER. That would have to be at the same time period that the New Jersey Trade Waste Association was formed. It was formed to stop the problems in the industry of the infighting between the carting companies for stops, for customers, for accounts.

So I would have to say that it was probably in 1976, which was the year that the New Jersey Trade Waste Association was formed to eliminate the aggressive competition between the carting companies, and this is where the respect for the property rights, which was also referred to as the "territorial allocations," then began.

Mr. GORE. Without objection, that specific information will be included in the record.

[See response on p. 54.]

Mr. MOTTLE. When we eliminate this aggressive competition which you alluded to, thereby the consumer gets ripped off with higher prices—is that correct?

Mr. COMER. Yes, sir.

Mr. MOTTLE. Would you consider these activities to be, at this point, legal or illegal—property rights?

Mr. COMER. From a property respect, and from the additional cost laid upon the consumer, it is illegal from an antitrust aspect, which is exactly what the State of New Jersey has indicated by indicting the number of carting companies that they had testified to in their antitrust case.

Mr. GORE. Would the gentleman yield?

Mr. MOTTLE. Yes.

Mr. GORE. And I might add that some of the enforcement actions that support and uphold the property rights system are clearly illegal, such as arson, intimidation, and murder.

Mr. COMER. Yes, sir—definitely.

Mr. MOTTLE. Mr. Comer, are law enforcement agencies such as yours doing all humanly possible to clear up and put an end to property rights activities in New Jersey?

Mr. COMER. Yes, sir. To speak for the FBI in New Jersey, we will continue—we do today and we will continue in the future to investigate any allegations that are brought to us by informants or by citizens who are willing to cooperate relative to the garbage industry, whether it be property rights or any other illegalities of the industry.

Mr. MOTTLE. Are State authorities and local authorities doing their utmost to put an end to this?

Mr. COMER. Yes, sir. From the FBI's standpoint, when we receive information which may pertain exactly to what the State of New

Jersey is doing currently in the garbage industry, we will disseminate that information to them as well. We have an ongoing dialog between the two agencies.

Mr. MOTTL. Mr. Comer, do you need any additional legislative initiatives from the Congress or from the New Jersey Legislature to give you the additional tools to put an end to property rights in New Jersey or elsewhere?

Mr. COMER. That would be difficult for me in my particular supervisory position to answer.

Mr. MOTTL. Could the Bureau supply that to the subcommittee?

Mr. COMER. Yes, sir. FBI Headquarters could research that and supply that answer to the subcommittee.

Mr. GORE. Without objection, it will be included in the record. [See p. 54.]

Mr. MOTTL. Mr. Comer, with regard to Ohio, are there organized crime activities in the solid waste industry, to your knowledge?

Mr. COMER. I do not know, sir.

Mr. MOTTL. Is there such a concept as property rights in the State of Ohio?

Mr. COMER. I do not know that, sir.

Mr. MOTTL. If there is, could you furnish that information to the subcommittee?

Mr. COMER. Yes, sir.

Mr. GORE. Without objection, that information will be included in the record.

[See p. 54.]

Mr. MOTTL. Thank you very much, Mr. Chairman and Mr. Comer.

Mr. GORE. Thank you.

Mr. ROGERS?

Mr. ROGERS. Thank you, Mr. Chairman.

Could I ask you the same question, Mr. Comer, about Kentucky?

Mr. COMER. Yes, sir. The answer would be, I do not know, to both questions.

Mr. ROGERS. Will you also furnish that information to the subcommittee, should it exist, in relation to Kentucky?

Mr. COMER. Yes, sir.

Mr. GORE. Without objection, it will be included in the record. [See p. 54.]

Mr. ROGERS. Mr. Comer, on page 3 of your testimony in the middle paragraph, you state that in the early 1970's SCA entered the New Jersey area when they purchased large New Jersey carting companies and allowed the former owners to remain as managers. Then you go on to say, in the next paragraph, that foremost among the companies was Waste Disposal of Elizabeth.

How many companies did SCA acquire during the frame of time you have mentioned?

Mr. COMER. I do not know that number, sir. I could respond to that on the record later.

Mr. ROGERS. Can you give us some idea?

Mr. COMER. I really have absolutely no idea as to how many companies they had acquired.

Mr. ROGERS. Are we talking about three or four, or are we talking about two dozen?

Mr. COMER. I think we are talking in excess of six or seven.

Mr. GORE. If the gentleman will yield, the subcommittee has that information. Without objection, we will insert it into the record at this point.

[The information referred to follows:]

COMPANIES IN NEW JERSEY ACQUIRED AS SUBSIDIARIES BY SCA SERVICES, INC.

Industrial Haulage Corp.; Avon Landfill Corp.; United Carting Company, Inc.; Waste Disposal, Inc.; Peter Roselle & Sons & Fereday & Meyer, Inc.; RF&M; Roselle Lippman; P. Roselle & Sons Partnership; Gaess Environmental Service Corp.; A. A. Mastrangelo, Inc.; Carl Gulick, Inc.; DeLorenzo Paper Stock, Inc.; Fairview Equipment Company; Impac, Inc.; Instant Disposal Services, Inc.; Interstate Waste Removal Company; Intercity Service, Inc.; Mar-Tee Contractors, Inc.; R&R Sanitation Service, Inc.; Mt. Holly Landfill; and Landfill & Development Company.

Mr. ROGERS. How many of these companies were similar to Waste Disposal, where you, in your testimony, describe the activities of its president, Crescent Roselle—how many of those companies that were acquired by SCA had similar—what you stated are—organized crime connections?

Mr. COMER. The information that we have would have allegations of two other companies.

Mr. ROGERS. Can you relate those to us?

Mr. COMER. I think so. If I could, Congressman—could I respond to that on the record?

Mr. ROGERS. Yes.

Mr. GORE. Without objection, it will be included.

[See p. 54.]

Mr. ROGERS. On page 4 of your testimony, you stated that:

No specific evidence exists which shows a relationship between SCA and organized crime beyond those of its individual managers, which arise from circumstances independent of SCA's corporate structure.

I wonder if you could elaborate on that for us?

Mr. COMER. It is very much what I had previously responded to in general, in that the information which we gathered relative to SCA as total entity basically dealt with the individual subdivisions of SCA—the individual companies like Waste Disposal and their managers, the former owners, as being involved with organized crime members, which they were involved with prior to SCA purchasing that company.

Mr. ROGERS. When SCA purchased, for example, Waste Disposal and these other companies that you have mentioned, then Mr. Crescent Roselle, I assume, became the manager of that subsidiary of SCA?

Mr. COMER. Yes, sir.

Mr. ROGERS. Did SCA pay him for that service?

Mr. COMER. As far as I know—yes, sir.

Mr. ROGERS. Do you know whether they did or not?

Mr. COMER. I do not know specifically. It is the type of relationship in which the larger corporation—SCA—actually bought the small company then took the owner and put him on salary as the manager. So I am saying that I assume that they paid him—yes.

Mr. ROGERS. Who owned Waste Disposal before SCA bought it? Was it a corporation?

Mr. COMER. As far as I know, it was owned by Crescent Roselle.

Mr. ROGERS. As a proprietorship?

Mr. COMER. As a proprietorship.

Mr. ROGERS. And he owned the entire company?

Mr. GORE. If the gentleman would yield—we have those records also and will provide them for the record at this point, without objection. I would just note that his family also owned portions of the company.

[The document referred to follows:]

January 31, 1973

Files

J. N. Spencer, Jr.

cc:

D. M. Hayward
R. J. ThorntonSCA SERVICES, INC. - ROSELLE

This memorandum up-dates the status of SCA's negotiations for the acquisition of the Roselle group of companies located in New Jersey. As discussed in previous memoranda this involved several companies all of which have at least 50% ownership by five Roselle brothers. At the present time, SCA has deals for the acquisition of five of these companies plus certain assets of a partnership; this is what SCA refers to as Phase I. In addition, there are two other companies which SCA hopes to be able to acquire in what it would describe as Phase II.

The Phase I acquisition would consist of:

1. RFM, Inc. - This company is 68% owned by the Roselles and would be a stock-for-stock deal to be accounted for as a pooling of interests.
2. Waste Disposal - 50% owned by the Roselles and 50% owned by the Stavolas. This company would be bought for cash and accounted for as a purchase.
3. Roselle - Lipman - 50% owned by the Roselles, 45% owned by Lipman, and 5% owned by another. This would be a stock-for-stock deal, but would be accounted for as a purchase in light of the common ownership of stock as between this company and the company in number 4 below.
4. Peter Roselle & Sons and Fereday & Regan, Inc. - An additional corporation owned 50% by the Roselles and 50% by the Lipmans. This company would be bought for cash and would be accounted for as a purchase.

To complete Phase I, SCA would also acquire certain assets from a partnership named Peter Roselle and Sons. This partnership receives management fees equal to 15% of the gross revenues of companies 2, 3, and 4 listed above. Further it owns certain equipment which it leases to the same companies and certain real estate including a landfill which is used by a rubbish business operated by the partnership and an additional rubbish business operated by Peter Roselle and Sons Company (see below). As stated in the preceeding sentence, the partnership also operates a rubbish business. The partnership is wholly owned by the Roselle brothers.

The certain partnership assets which SCA would purchase for cash are the above-mentioned management contracts, the leased equipment, and the real estate. The partnership would transfer the rubbish business to Peter Roselle and Sons Company, and such business would not be included in the Phase I acquisitions.

Files

-2-

January 31, 1973

Phase II would consist of the acquisition of Peter Roselle and Sons Company and White Trucking Company, both 100% owned by the Roselle brothers. This would be a stock-for-stock deal to be accounted for as a pooling of interests, if consummated.

We have already discussed the question of whether the management contracts can be purchased from the Roselles for cash in Phase I, without violating the pooling concept. We have concurred that such a transaction would not violate a pooling of interests and Charlie Gillette of Home Office has agreed with us as noted in a previous memorandum. It should be noted, however, that the management agreements being purchased from the Roselle brothers relate to 50% Roselle owned companies, the acquisitions of which will be accounted for as purchases - so the question of a pooling violation vis-a-vis the management contracts purchase is no longer of concern. The same would be true for the equipment owned by the partnership and leased to these 50% owned (by the Roselles) companies.

Purchase of the real estate from the partnership may, however, be a problem. A purchase of this real estate for cash and the later acquisition (from the same owners) of the stock of the companies which utilize this real estate might be construed as a part purchase, part pooling. Under Opinion 16 such a transaction would have to be accounted for entirely as a purchase transaction. This problem was followed up with Bob Temkin who indicated that only \$300,000 of the Phase I purchase price (which approximates \$6,000,000 or so in total) was being allocated to land. He also stated that there has been no definitive negotiations regarding Phase II and that no plan for Phase II has been initiated (see APB Opinion No. 16, paragraph 46(a)).

J.N.S.

To: J. F. Eppich: I would like to discuss this with you, at your convenience.

J.N.S.

Mr. ROGERS. But I assume, then, and you are assuming, that when SCA bought the company he was put on the payroll?

Mr. COMER. Yes, sir.

Mr. ROGERS. Do you know if it was a salary-type arrangement, or profit sharing?

Mr. COMER. I do not know that, sir.

Mr. ROGERS. All right. Were these other companies done the same way?

Mr. COMER. Yes, sir.

Mr. ROGERS. Is it your testimony that the SCA, at the very least, condoned the activities of these local managers of these companies when they bought them out?

Mr. COMER. I do not know that either, sir. The files relative to the garbage industry—the FBI files—there is nothing in there that indicates that SCA corporate officers or SCA, the corporation, were knowingly buying a New Jersey carting company which was involved with organized crime.

Mr. GORE. The gentleman's time has expired.

Mr. Coats?

Mr. COATS. I have just one question, Mr. Comer. I would like you to add Indiana to your list and suggest that any evidence for any of the 50 States be submitted to the subcommittee regarding organized crime activity in the solid waste management field and the existence of any property rights.

Mr. COMER. For all 50?

Mr. COATS. At least Indiana. I cannot speak for any of my other colleagues, but I would appreciate it on Indiana.

Mr. COMER. Yes, sir.

Mr. GORE. Without objection, it will be included in the record at this point.

Let me state that Mr. Comer, as the supervisor of the Newark region, may not be the proper person to get all these requests, but the subcommittee will submit the requests for Indiana, Kentucky, Ohio, and perhaps Tennessee as well, and we will get it to the right person at the FBI and pursue this matter.

[The following letter and response were received for the record.]

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 OF THE
 COMMITTEE ON ENERGY AND COMMERCE
 WASHINGTON, D.C. 20515

June 19, 1981

Honorable William H. Webster
 Director
 Federal Bureau of Investigation
 J. Edgar Hoover Building
 Washington, D. C. 20535

Dear Mr. Webster:

Special Agent Wayne Comer of the Newark Field Office testified at the Subcommittee's hearing on May 28, 1981, relative to organized crime links to the waste disposal industry in New Jersey.

In connection with Mr. Comer's testimony, the hearing record is being held open to include certain information which was requested by several of the Members, as follows:

- (1) On pages 86-87 of the hearing transcript, Mr. Motti inquired whether the Bureau needed any additional legislation to put an end to property rights in New Jersey or elsewhere.
- (2) With respect to four states -- Ohio, Kentucky, Indiana and Tennessee -- the Members inquired:
 - (a) Are there organized crime activities in the solid waste industry?
 - (b) Is there such a concept as property rights?

(Mr. Motti, p. 88; Mr. Rogers, p.89; Mr. Coats, pp. 94-95; and Mr. Gore, p. 96).

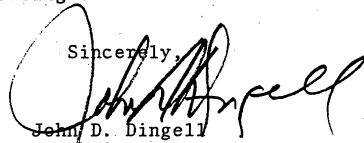
- (3) On page 91, in response to Mr. Rogers' inquiry concerning how many companies like Waste Disposal that were acquired by SCA had similar organized crime connections, Mr. Comer indicated that the Bureau had allegations involving two other companies. (Please identify the two companies.

In addition, on pages 84-85, Mr. Motti inquired as to approximately how long the property rights system has been in existence in New Jersey. Mr. Comer's response indicated

that it was in the same time period when the New Jersey Trade Waste Association was formed in 1976. Since other witnesses have indicated that the property rights system in New Jersey has been in effect for a long period of time, Mr. Comer may have been referring to the current enforcement aspects of the system. To clarify the record, Mr. Comer may wish to elaborate on his response.

I want to take this opportunity to thank you for designating Mr. Comer to testify at our hearing. I also wish to express my appreciation for the excellent cooperation and assistance furnished by Special Agent Thomas P. Martens of your Congressional Affairs Unit who worked closely with my staff during the course of this investigation.

Sincerely,



John D. Dingell
Chairman
Subcommittee on
Oversight and Investigations

JDD:Sm



U.S. Department of Justice
Federal Bureau of Investigation

Office of the Director

Washington, D.C. 20535

August 12, 1981

Honorable John D. Dingell
House of Representatives
Washington, D. C. 20515

Dear Congressman Dingell:

This communication is provided in response to your letter dated June 19, 1981, relative to the Subcommittee on Oversight and Investigations hearings which were conducted on May 28, 1981, concerning organized crime links to the waste disposal industry in New Jersey.

As you are aware, the Racketeer Influenced and Corrupt Organizations (RICO) statute (Title 18, United States Code, Section 1962), confers significant jurisdiction relative to the investigation of organized crime groups. This statute in conjunction with existing state statutes, provides the basis for most investigations into organized crime infiltration of legitimate business. While we have not identified any significant need for legislation in this field, you may be assured that the FBI is continually monitoring the needs of our special agents and you will be advised of any legislative needs as they are identified.

With respect to your inquiry concerning organized crime influence in, and the concept of "property rights" relative to, the waste disposal industry in the states of Ohio, Kentucky, Indiana, and Tennessee, inquiry of our offices covering these geographical areas fails to establish any significant organized crime influence or the existence of the "property rights" concept.

Communication with Supervisory Special Agent (SSA) Wayne Comer of our Newark Division has determined that allegations were received alleging organized crime influence into waste disposal companies identified as A. A. Mastrangelo and Sons, owned by Ralph Mastrangelo, and Interstate Waste Removal, owned by John Zuccarelli, both of whom are reputed associates of organized crime.

Further, the Subcommittee conjecture that SSA Comer may have been referring to the current enforcement aspects of the "property rights system" is correct. For clarification, that system had been in effect for a substantial period of time, but was formalized, negotiated and enforced upon the creation of the New Jersey Trade Waste Association (NJTWA) in 1976.

If this Bureau can be of any further assistance to either you or your subcommittee, please feel free to contact me.

Sincerely yours,

William H. Webster
Director

Mr. GORE. Let me ask you just two brief questions to conclude. Mr. Comer, an intelligence report on organized crime, prepared in 1977 by a Government agency, contains information which was furnished to the FBI to the effect that, as early as 1976, Sam DeCavalcante, head of a New Jersey crime family bearing that name, was receiving 3 percent of the action from John Zuccarelli who was the president of Interstate Waste Removal, an SCA subsidiary in Trenton; and, further, that this, allegedly, had led to a confrontation between DeCavalcante and a member of the Gambino family, Nicholas Russo. Are you familiar with that item of information?

Mr. COMER. Yes, sir.

Mr. GORE. Can you tell us something about the reliability of the source who reported that information to the FBI?

Mr. COMER. That particular source has provided reliable information in the past.

Mr. GORE. But I understand that the FBI has not corroborated that information independent of the source known to be reliable in the past?

Mr. COMER. No, sir, we have not.

Mr. GORE. OK. I think the record should also reflect at this point that the persons whose companies were bought by SCA were given a salary arrangement with employment agreements and that this was the common method of purchase.

Mr. Comer, thank you very much for your testimony. Evidently, the Newark office of the FBI has a large workload, and I sympathize with your task.

This subcommittee wants one of the messages of this hearing to be that, no matter what the prevailing climate might be in New Jersey, there is not going to be a blase, business-as-usual attitude about organized crime's involvement in hazardous waste disposal and solid waste disposal in the rest of the country.

New Jersey can handle it in its own way, and the FBI, I take it, is trying to supplement those efforts, but if companies that accept and condone this kind of association seek to do business elsewhere in the United States, they had better get rid of this blase attitude toward a daily relationship with organized crime figures because it is unacceptable.

We thank you for your testimony here today.

We would like to now call witnesses from SCA, Inc.—Mr. Thomas Viola; and Mr. James Fox, chairman of the board; and counsel for each.

Gentlemen, I am going to assume that your counsel will not be providing testimony but, rather, will be serving in an advisory capacity, as they are allowed to do with respect to constitutional rights.

At this point, if the two of you would identify yourselves for the record to our reporter, I will then proceed with the swearing in.

Mr. FOX. I am John M. Fox—not James.

Mr. GORE. My apologies, Mr. Fox.

Mr. FOX. This is Mr. Viola.

Mr. VIOLA. I am Thomas C. Viola.

Mr. GORE. Gentlemen, if you would both stand and raise your right hands—you have been provided a copy of the rules, and I take it you have no objection to being sworn.

Do you swear the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. FOX. I do.

Mr. VIOLA. I do.

Mr. GORE. For the record, Mr. Fox, would you identify your counsel?

Mr. FOX. Yes—Mr. James Ryan of Rogers & Wells.

Mr. GORE. And Mr. Ryan is counsel to the corporation, or your personal counsel?

Mr. FOX. He is counsel to the special committee of the board that investigated the Kaufman charges.

Mr. GORE. About which we will hear more later.

Mr. Viola, would you identify your counsel for the record?

Mr. VIOLA. Mr. Irvin Nathan from the firm of Arnold & Porter, here in Washington.

Mr. GORE. Gentlemen, without objection, the entire text of your prepared statements will be included in the record in full. We invite you to either present all of the statements orally, if you wish, or to summarize, if you wish—at your discretion—and you may choose which of you desires to go first.

Mr. FOX. Mr. Chairman, I would like to go first.

Mr. GORE. Very well.

**TESTIMONY OF JOHN M. FOX, CHAIRMAN, SCA SERVICES, INC.,
ACCOMPANIED BY JAMES RYAN, COUNSEL; AND THOMAS C.
VIOLA, PRESIDENT, SCA SERVICES, INC., ACCOMPANIED BY
IRVIN NATHAN, COUNSEL**

Mr. Fox. I will summarize the statement you have received in the interests of time. With your permission, I would like to summarize the detailed statement which we have previously furnished to the subcommittee and which I request be included in its entirety in the record of these proceedings.

As to my own background, in addition to my membership on the SCA board, I serve as a director of a number of other corporations, including IBM. Also, my past business experience includes service as chairman of the board of H. B. Hood, Inc., which is a dairy in New England; chairman of the board of United Fruit Co.; and president of the Minute Maid Corp.

I am appearing before this subcommittee on behalf of the entire board of directors of SCA. The SCA board consists of nine members, seven of whom are so-called outside directors, meaning that we are entirely independent of the company's management.

The members of the SCA board include persons of the caliber of Jim Needham, who served as chairman of the New York Stock Exchange and as a member of the SEC; Harold Miller, presently chairman of the board of Houghton Mifflin Co.; Charles Longworth, who is president of the Colonial Williamsburg Foundation; Dr. Jay Fay, a professor of mechanical engineering at MIT, former chairman of the Massachusetts Port Authority, and a member of the Union of Concerned Scientists; Bill Pruyn, who is president and

chief executive officer of Eastern Gas & Fuel Associates; and Henry Russell, vice chairman of the board of directors of the Boston Co. With myself, these are the outside directors.

In addition, the members of the board include two SCA officers—Dick Case, the vice president; and Tom Viola, our president and chief executive.

We are appearing before you today to answer specifically the allegations against SCA before this subcommittee last December. However, as a necessary introduction, I would like to tell you something of the history of SCA, to treat frankly some of the problems of the company, and to share with you the important role that SCA is presently playing in helping to clean up the Nation's environment.

As to the history of SCA, the company began operations in 1970 and was originally an amalgam of several small vending companies and waste disposal firms. SCA's growth was accomplished by the company's acquisition of many small solid waste companies and operating them more efficiently. SCA acquired no fewer than 130 of these solid waste companies over a 3-year period, from 1970 to 1973.

In addition, in 1973, SCA made its first entry into hazardous or toxic waste disposal, acquiring a company in this field in western New York.

As SCA was acquiring over 100 small solid waste companies, a new era was dawning in the entire waste disposal field. As a result of new regulations and a heightened public consciousness about cleaning up the environment, waste disposal was becoming a big business and only nationwide companies possessed the financial strength and technical expertise necessary to stay competitive.

SCA was one of these nationwide companies seeking to meet the challenges of the new era. However, because SCA had expanded so rapidly, it was encountering difficulties in achieving stable profitability and in realizing the economies of scale. The difficulties stemmed primarily from a lack of managerial control.

Then, on top of all this, in the midseventies, it was learned that SCA's former president, Mr. Recklitis, had defrauded the company out of several million dollars, and after a subsequent investigation the company's founder, Burton Steir, was implicated as well.

An SEC investigation of the company followed. As a result, a consent decree was issued in 1977, which is in effect to this very day.

This decree called for an exhaustive examination of the company's entire operation by independent special counsel and required the appointment of two new outside directors, among other measures.

I might note at this point that the fact that SCA has a 7-2 majority of outside to inside directors on its board represents what is exemplary corporate policy in the eyes of the SEC, a policy best designed to protect the public interest and the interest of the stockholders as well. I might add that I was one of those outside directors that joined the company as a result of that SEC action.

After this tumultuous period, the board elected Mr. Viola to be SCA's new president. Mr. Viola authorized reorganization of the company's top management and strengthened the company's finan-

cial and accounting procedures. There followed a significant increase in the company's profits.

Since Mr. Viola took over the company, revenues and profits have steadily risen each year. Earnings per share rose from 10 cents a share in 1976 to \$1.27 a share in 1981, which is the year that has just been completed.

For the last fiscal year, the company earned a net income of \$16.5 million on gross revenues of \$270 million. In this period, the value of the company's outstanding stock has increased tenfold, to over \$200 million.

Also during this period, the company expanded significantly its hazardous waste operations. These technical operations, which are handled by skilled scientists, engineers, and technicians, are conducted entirely separate and distinct from our solid waste divisions.

In fact, SCA's expertise in hazardous waste has reached the point where SCA technicians were, not too long ago, called upon to assist in the detoxification of the Love Canal site and may have been called upon to undertake similar assignments in other sites of dangerous hazardous waste dumping.

In addition, the company continues to operate a hazardous waste facility in western New York, the State's largest, and it operates hazardous waste facilities in Newark, N.J.; Braintree, Mass.; and in Pinewood, S.C., as well.

SCA has also under construction a new hazardous waste facility in Chicago and has filed permit applications to build two other such facilities in North Carolina and in Tennessee.

Still, the collection of solid waste remains the backbone of SCA's operations, and in this area SCA serves commercial and residential customers in some 32 States and the District of Columbia.

In many instances, SCA assumes the complete functions of a city sanitation department, as it did, for example, in 1980 for a portion of the city of Phoenix, Ariz.

At the time SCA was discussed before this subcommittee last December, it was, and remains, the third largest waste disposal company in the country. Its stock is listed on the New York Stock Exchange. It was expanding dramatically, particularly in the hazardous waste area, and a sense of optimism was shared by the company's 4,000 employees and 20,000 public stockholders.

However, a cloud was placed over these accomplishments and prospects when, on December 16 of last year, this committee heard allegations against SCA by an individual named Harold Kaufman.

Briefly, Mr. Kaufman alleged that SCA's president, Tom Viola, was "an organized crime figure," and that SCA was somehow implicated in two unsolved murders in the State of New Jersey.

Further, Mr. Kaufman alleged that SCA was a participant in the system of "property rights" in New Jersey, a system, as described by Mr. Kaufman, which establishes a rigid allocation of territories and customers in the waste disposal business.

As experienced and legitimate businessmen, we who serve on the board of directors of SCA Services did not take these allegations lightly, even though they were made by a convicted felon who was not available for cross examination to test the veracity of his allegations.

In response, the SCA board promptly named a special committee of the board, independent of management, to investigate the Kaufman charges. This committee consisted of all the outside directors of the company.

To undertake the investigation, the special committee of the board retained the law firm of Rogers & Wells, granting to that firm unlimited and unqualified access to all personnel and documents of the company.

In pursuing the investigation, Rogers & Wells reported an unfettered cooperation from everyone associated with the company. They hired an investigative accountant and conducted extensive and intensive interviews with the company personnel. They also received responses to questionnaires which they prepared and sent to the managers of all SCA's operating centers in New Jersey.

Following its extensive 3-month investigation, Rogers & Wells has advised the board that there was no evidence to support Mr. Kaufman's allegations, or that these allegations were demonstrably false or incredible.

Based on that advice from our outside counsel, I, as chairman of the board, am satisfied that there is absolutely no basis for Mr. Kaufman's allegations.

As reported to the special committee by the counsel: No. 1, we could find no evidence which would indicate that SCA's president, Tom Viola, or his family is in any way associated with organized crime; No. 2, no evidence was discovered which linked any SCA present subsidiaries with organized crime; No. 3, Mr. Kaufman's charges that SCA somehow employed murder as a means of regaining lost contracts is simply incredible, and our investigation found no evidence linking SCA with the crimes that were enumerated by Mr. Kaufman; No. 4, Mr. Kaufman's allegations of SCA's participation in a property rights system in New Jersey is not borne out by the facts in the specific instances that he mentions.

Nor have we found after a full antitrust audit by our counsel any evidence whatsoever to support his general allegation that SCA participates in such a system in either the solid or the hazardous waste fields.

As further substantiation of SCA's noninvolvement in the property rights system in New Jersey, it might be noted that the State has been investigating its waste industry for years, and only last October, as we have heard today, indictments were issued against 2 industry trade associations, 24 corporations, and 28 individuals on charges of conspiring to control commercial garbage contracts in the 9 northern New Jersey counties.

Those indictments, we understand, encompass 15 percent of the entire industry of the State. However, SCA and its subsidiaries, approximately 50 percent of whose New Jersey-based revenues are derived from commercial work, were not named in any of these indictments, nor, to our knowledge, in any other indictment in New Jersey for all of the State's intensive investigations, in cooperation with the Federal authorities as well, of the State's waste disposal industry.

As far as we know, we are not today a target of any kind of investigation on this property rights issue.

The fifth point is that Mr. Kaufman's specific allegations of price fixing are false, and the facts regarding the incidents which Mr. Kaufman cites indicate circumstances in which price-fixing schemes could not exist.

Finally, no evidence could be found of alleged payments by SCA to an individual from whom it had assumed a contract. Our investigation in this matter included the retention of an investigative accountant who has had long experience in the performance of so-called fraud audits.

Moving beyond Mr. Kaufman's charges and our responses to them, I would like to stress that SCA is a large, responsible company dedicated to complying with all Federal, State, and local regulations for the protection and the preservation of the Nation's environment.

We recognize that the handling and treatment of hazardous waste is a vitally important yet intensely sensitive matter. We believe that SCA is in the forefront of this industry, utilizing the best available technology to treat and dispose of such waste.

Like any company in this developing industry, we have had certain incidents. When these problems have arisen, we have acted responsibly with dispatch and with full cooperation with governmental agencies to correct these problems. We are proud of our environmental record and our commitment to improve it in the future.

In pursuing the issues raised by hazardous waste treatment, we look forward to working closely with this subcommittee as well as all Government agencies interested in this problem. We think we have a substantial contribution to make in this field, and we would like to move on to them and to put to rest all of these false, extraneous allegations.

May I just add in reference to some statements made this morning which would indicate a lack of cooperation on the part of the company, it was last Friday—less than a week ago—when we were asked if we would deliver for testimony this morning Mr. Feinstein, Mr. Iommetti, and Mr. Mastrangelo.

Mr. Feinstein is here. He was interviewed prior to his being here. Mr. Iommetti is no longer in our employ, and we have no control over him. And, as far as Mr. Mastrangelo is concerned, we felt the time was far too short for him to be either interviewed or properly briefed on what he was supposed to be presenting to the subcommittee.

We will, of course, make him available in the future for any interviews or any testimony that you require; and, as I said, Mr. Feinstein is here today if you wish to talk to him.

[Testimony resumes on p. 95.]

[Mr. Fox's prepared statement follows:]

STATEMENT OF JOHN M. FOX, CHAIRMAN, SCA SERVICES, INC.

My name is John M. Fox, and I am Chairman of the Board of SCA Services, Inc. I have served as an outside director of SCA since 1977. In addition to my membership on the Board of SCA, I serve as a director of a number of other corporations, including IBM Corporation. My past business experience includes service as Chairman of the Board of H. P. Hood, Inc.; Chairman of the Board and Chief Executive Officer of the United Fruit Company and President of the Minute Maid Corporation.

I am appearing before this subcommittee on behalf of the Board of Directors of SCA. That Board consists of nine members, seven of which are outside directors. The members of the Board include persons of the caliber of James J. Needham, former Chairman of the New York Stock Exchange and a former member of the SEC; Harold T. Miller, Chairman of the Board and Chief Executive Officer of Houghton Mifflin Company; Charles R. Longworth, President and Chief Executive Officer of the Colonial Williamsburg Foundation; Dr. James A. Fay, a professor of Mechanical Engineering at MIT, former Chairman of the Massachusetts Port Authority and a Director of the Union of Concerned Scientists; and William J. Pruyn, President and Chief Executive Officer of Eastern Gas and Fuel Associates. Henry Russell, Vice Chairman of the Board of the Boston Company joined the Board on May 22, 1981. In addition, the members of the Board of SCA include Dick F. Chase, Sr., a company Vice-President, and Thomas C. Viola, SCA's President and Chief Executive Officer.

Needless to say, I am grateful for the opportunity to appear before this subcommittee and to answer specifically the charges leveled against SCA here last December. As a necessary introduction to my response, I feel it important to tell you something of the history of SCA, to treat frankly some of the problems that the company has encountered in its development, and to share with you the important role that SCA is presently playing in helping to solve one of the country's most difficult problems, namely, cleaning up the environment.

History of SCA

SCA Services has been in operation since 1970, having been incorporated the previous year. It began as an amalgam of several small vending machine companies and waste disposal firms. The company's founder, Burton Steir, at the time of its founding, envisioned SCA as a diversified service organization specializing in office building maintenance, vending machine sales and waste disposal services.

However, the mission of SCA was soon to be transformed. The concept of a diversified service organization was abandoned, and in its place SCA concentrated almost exclusively on waste disposal and collection, initially in the solid waste area. This concentration proved to be extremely profitable, and in fact SCA's gross revenues tripled, from \$40,000,000 to \$150,000,000, in the two-year period from October 1971 to Oc-

tober 1973. The company's growth was accomplished by the acquisition of many small, individually owned and operated, solid waste disposal companies, commonly known as scavengers or garbage collectors, located in many areas of the country. For example, in 1970, SCA acquired 15 of these companies; it acquired 15 more in 1971; 48 more in 1972 and 52 more in 1973. Thus, SCA acquired 130 such companies from 1970 through 1973. In addition, in 1973 SCA made its first acquisition of a hazardous, or toxic, waste facility, acquiring a company in this field in western New York.

At the time the small, solid waste companies were acquired by SCA, they were ill-equipped both managerially and financially to meet the increasingly stringent environmental regulations that were being imposed upon them by state and federal authorities. The acquired companies also lacked the resources to deal with the enormous increase in the volume of waste that was being generated in the areas of their operations. Thus, as the era of permissible open dumping was coming to a close in the nation's waste disposal industry - to be replaced by a new era demanding heavily regulated sanitary landfills and costly incineration under strictly controlled conditions - the day of the small family owned and operated garbage collection company was drawing to a close as well.

SCA, along with its two major competitors, Browning-Ferris Industries, Inc. and Waste Management, Inc., fully recognized that a new era was at hand. However, so rapidly did the new era arrive, under the compulsion of new regulations and a heightening public consciousness about cleaning up the environment, that frankly by late 1973 SCA was forced to retrench and consolidate. To put it colloquially, the company had bitten off more than it could chew.

During this period of consolidation, there was a substantial drop in the market value of SCA stock, and in the value of the stock of its competitors as well. Also, because of a lack of managerial control, SCA encountered difficulty in achieving stable profitability, and in realizing economies of scale in its operations.

Then on top of all this, in mid-1975, the company learned that its President, Christopher Recklitis, had defrauded SCA out of several million dollars. Recklitis was forced to resign by the Board of Directors, and the Board directed an investigation of all of his transactions. Even more disturbing, the investigation of Recklitis also implicated the company's founder, Burton Steir. At this juncture SCA's then three outside directors, among them Chuck Longworth, who is still a Board member, demanded that Steir resign as the company's Chief Executive Officer, and that Tom Viola, then a Vice

President of SCA, be permitted to succeed him. Steir ultimately yielded to these demands but only after all of SCA's outside directors themselves threatened to resign.

There was also litigation and a bitter and divisive Board conflict developed between Steir and the three company directors loyal to him, and Tom Viola and the three outside directors who supported him. This litigation was finally settled, and not only Steir but his three company directors were forced to resign as well. Following these resignations, a new outside director, Hal Miller, who is still on the Board, was named.

SEC Investigation

Also in 1975 there was an investigation of SCA by the Securities and Exchange Commission, with the Commission examining in particular the actions of Recklitis and Steir. The investigation resulted in a consent decree issued in 1977, which is in effect, though modified, to this day. The decree, in addition to setting forth the customary prohibitions against future violations of the securities laws, required the appointment of two new outside directors and that the company appoint and maintain an Audit Committee of the Board, whose membership was to consist exclusively of outside directors. Also, the decree set forth strict authority limits over the company's expenditures, and it required the appointment of an independent

special counsel to conduct an exhaustive examination of the company's entire operations.

I would like briefly to set forth for you my own role during this tumultuous period in the company's history. As I mentioned previously, I joined the Board in 1977, and I did so along with Board member Jay Fay, pursuant to the SEC consent decree requiring the company to name two new outside directors. Furthermore, my membership on the SCA Board only came about after my discussing the matter with the SEC, and being assured by the Commission that the company was embarking on a course of reform and sound management.

With his assumption of the presidency of SCA during this same period, Tom Viola initiated a program of rebuilding and renewal. The company's top management was completely reorganized, control over the operations of the company's subsidiaries was substantially strengthened and strict financial and accounting procedures were instituted. These steps in turn resulted in a significant reduction in the company's corporate debt and an overall improvement in the company's financial condition. These measures were followed by a dramatic increase in the company's profits. In fact, in Tom Viola's first year as President of the company, profits of \$1.2 million in fiscal 1976 climbed to \$3.2 million in fiscal 1977, a 167% increase in a one-year period.

The late 1970's were to represent a period of mature and sustained growth for SCA Services. Not only did the company's solid waste operations experience continued success, but also the company began to expand aggressively and profitably in the area of hazardous waste. Hazardous waste disposal, incidentally, is one of the critical problems facing our country as a modern industrial nation. The searing tragedies of Love Canal and the explosions and dangerous conditions at other improperly supervised hazardous waste disposal sites, but underscore this conclusion. At the same time, siting hazardous waste facilities presents the most serious and emotionally charged of community problems. Such is the case because virtually every American as a general proposition wants hazardous waste facilities to be built although not -- if you please -- in his own backyard.

However, after securing all the necessary state and local permits - sometimes painstakingly - SCA now manages to own and operate the largest hazardous waste facility in the ~~State~~ of New York, and it has hazardous waste facilities in ~~Newark, New~~ Jersey; Braintree, Massachusetts; and in central ~~South Carolina~~ as well. In New York its expertise in this area has been recognized to the point that SCA scientists and technicians were invited to help detoxify the Love Canal site. SCA also has under construction a hazardous waste facility in

Chicago which when complete will be the most modern in the nation, and it has filed permit applications to build two other such facilities, in North Carolina and Tennessee. The company's hazardous waste facilities employ the very latest technology and equipment, and techniques are constantly updated. Even though the collection of solid waste, such as household garbage and the like, remains the backbone of SCA's operations, the company fully appreciates the challenging future of hazardous waste disposal. In the solid waste area, incidentally, SCA serves commercial and residential customers in some 32 states and the District of Columbia, and important new contracts for the collection and disposal of solid waste recently have been awarded to SCA. For example, in 1980 SCA assumed the solid waste collection functions for the entire City of Jackson, Tennessee and for a portion of the City of Phoenix, Arizona. In all, combining both its solid waste and hazardous waste operations, SCA is the third largest waste disposal company in the country. Also, its stock is listed on the New York Stock Exchange.

Clearly, as of December of last year when this subcommittee afforded a platform for Mr. Kaufman's charges against SCA, the future of the company looked bright indeed, and this optimism was widely shared by SCA's 4,000 employees and its 20,000 public shareholders.

Allegations of Organized Crime Connections

However, a cloud was put over this sense of confidence, when on December 16, 1980, this Committee, without any notice to SCA whatsoever, and, evidently, without any prior independent investigation, provided a public platform for the testimony of one Harold Kaufman. This testimony included vague allegations that SCA was somehow implicated in murders and that the company's President, Tom Viola, was a member of, or associated with, organized crime. These charges, although lacking in specifics and on their face certainly wild, obviously were serious both in their very nature and in their potential effects on SCA.

As for the effects of the charges on our company, I can state simply that they have endangered our ability to expand, particularly in the highly charged hazardous waste area. For example, Kaufman's allegations have been used by those seeking to block our hazardous waste facility permits for new plants in both North Carolina and Tennessee, and by those seeking to block the expansion of our facility in New York as well. In addition, on a more personal level, as a result of Kaufman's allegations, SCA's employees have been made to suffer the stigma of being associated with a company which allegedly employs murder as a way of doing business and is linked to organized crime. In particular, SCA's President, Tom Viola, a

man who has 30 years experience in the waste services business and who has been an exemplary SCA executive, has been the subject of savage and persistent attacks in the press. These attacks reiterated the allegations made by Kaufman here last December, and reported the subsequent allegations leaked to the media.

However, as I have noted, for all their doubtful authenticity -- Kaufman after all is a convicted felon -- the nature and the effects of the allegations meant that we had to treat them with the utmost seriousness. Therefore, on January 9, 1981, the SCA Board unanimously passed a resolution establishing a Special Committee of the Board to investigate thoroughly, on behalf of the corporation, the Kaufman allegations, both those made directly by him in his testimony, and those attributed to him subsequently in the media. This Special Committee of the Board consisted of all of the company's outside directors, which at that time was six, and it deliberately did not include either SCA President/director, Tom Viola, or Vice President/director, Dick Chase. This was done because both the Board and Mr. Viola wanted to insure the independence of counsel and avoid even the appearance of interference by management. Further, to insure the independence of the Board Committee, Mr. Viola and other members of management were not advised of the progress of the investigation until its final stages.

To undertake the actual investigation, the Special Committee retained the law firm of Rogers & Wells, granting to the firm unlimited and unqualified access to all personnel and documents of the company. In addition, all members of management were directed to cooperate and, in all cases did cooperate, with the investigation.

The investigation has revealed, I can report, either that there is no evidence to support Mr. Kaufman's allegations, or that they are demonstrably false or incredible.

Of course, neither the Special Committee of the Board nor the law firm of Rogers & Wells had the investigative resources, or the powers, of a law enforcement agency. However, the endeavor was diligently made to determine whether or not there was any factual basis for Mr. Kaufman's allegations that "Viola" is an "organized crime figure", or that SCA through the Viola family owns "some of the toughest organized crime companies in the world." In considering these accusations, we might also note that when Mr. Kaufman made them, he supplied no details and showed no support, proof, or documentation whatsoever for his statements.

Among the steps taken to investigate the Kaufman charges, the counsel to the Special Committee spoke with SCA employees and others who have known for many years both Tom Viola and Frank Viola, who like his brother is an SCA em-

ployee. Without exception, these individuals stated that they had no information which indicated that the Viola family was associated with organized crime. Furthermore, the persons with whom counsel spoke said that they personally did not believe such a charge.

Indeed, at least one local New Jersey paper has decried the treatment that Tom Viola has received as a result of Kaufman's allegations and has noted the fine reputation that Tom Viola and his family enjoy in the northern New Jersey community in which they have lived and worked for several generations. Consistent with this local press report, the SCA Board was simply unable to find any basis for the claim that Tom Viola is an "organized crime figure", or was in any way associated with organized crime.

Counsel also inquired into the background and reputations of other SCA personnel in New Jersey. Here again, they were unable to find any organized crime connections among SCA employees. In this regard, however, I feel it incumbent upon me to note, that on December 22, 1980 the head of a SCA subsidiary in New Jersey, Crescent S. Roselle, was murdered in the parking lot of his company's premises. To date, like law enforcement authorities, we have been unable to identify Mr. Roselle's murderers or their motives. I might add that Mr. Roselle and his family have enjoyed good reputations over the

years as reputable businessmen in their community, and that not a single employee or other person interviewed suggested that Mr. Roselle was associated with organized crime.

As for the allegation that SCA owns some of the toughest organized crime companies in the world, it stands to reason that since our counsel could find no organized crime connections among SCA employees, they could find no crime connections among SCA's present subsidiaries as well.

Let me next respond to Kaufman's allegations that SCA was somehow connected with the murders of two of its competitors, Gabriel San Felice and Alfred DiNardi. These acts were committed allegedly in retaliation for the loss of business by SCA to these two competitors of the company.

These charges are again inconsistent with the facts as we have learned them, and they are incredible.

Allegation of Complicity in the San Felice Murder

This Subcommittee, last December, heard Mr. Kaufman make the claim that SCA was somehow responsible for the death of Gabriel San Felice, who in the various versions of the transcripts that we have been furnished, is erroneously referred to as "Sanowick" or "Greg Sano." Here, we are confronted with an allegation involving a murder which notwithstanding the efforts of law enforcement authorities remains unsolved, and we are put in the almost impossible position of establishing a negative.

However, I believe when you hear the facts that you will find that this allegation is as baseless as the other allegations of Mr. Kaufman.

Insofar as we have been advised, SCA lost but two contracts to Gabriel San Felice. These contracts involved the Borough of Keyport and Brookdale Community College.

As for Keyport, in the fall of 1973, the Borough of Keyport advertised for bids for a scavenger contract to become effective on January 1, 1974. Two firms submitted bids: SCA's subsidiary Waste Disposal, and San Felice's company, Sano Carting. Waste Disposal's bid was lower and the contract was awarded to it in December 1973.

Sano Carting, through litigation, however, sought to set aside the contract award to Waste Disposal. This litigation, following a hearing, was unsuccessful, and Waste Disposal performed the Keyport contract for the years 1974 and 1975.

When the contract next came up for bid, in December 1975, Sano was the low bidder and won a three-year contract from January 1, 1976 through December 31, 1978. While Waste Disposal's counsel wrote a letter to municipal officials contending that Sano Carting's bid was deficient, Waste Disposal did not challenge through litigation the award of the contract to Sano Carting.

As for SCA's loss of the Brookdale Community College contract to San Felice, it appears that Waste Disposal held that contract since at least 1970 and that the contract involved billings of approximately \$900-\$1500 a month. The contract was lost to Sano Carting as of July 1, 1976.

Over one year later, in the spring of 1977, San Felice's Sano Carting experienced difficulties in fulfilling its contractual obligations to a number of towns, including Keyport, and to Brookdale Community College. As an illustration of these difficulties, it was reported in a newspaper article that San Felice commenced a defamation action against an official of one municipality who had criticized his firm's performance.

In order to avoid defaults and substantial exposure under its various performance bonds, Sano Carting at this point requested Waste Disposal to assist it in the performance of its contracts by providing equipment and manpower on a per diem basis. It soon developed, however, that Sano Carting was unable to meet its per diem obligation to Waste Disposal and, in June 1977, it was agreed that Sano Carting would assign its contracts, including the Keyport contract, to Waste Disposal.

In August 1977, the formal assignments of the Keyport and Matawan Township contracts, as well as the Brookdale Community College contract, were made by Sano Carting to Waste

Disposal. These assignments were authorized by the New Jersey Public Utilities Commission and were consented to by the townships of Keyport and Matawan and by Brookdale Community College.

It appears from numerous newspaper articles that Sano Carting, even though relieved of the obligations it had assigned to Waste Disposal, continued to experience financial difficulties and customer dissatisfaction with its performance in other municipalities.

In late May 1978, nearly ten months after Sano's last contract assignment to Waste Disposal, San Felice was found shot to death. No evidence has even been offered that SCA was in any way involved in this murder, and in light of the circumstances outlined above, Kaufman's allegation of his murder is simply incredible.

Allegation of Complicity in the Alfred DiNardi Murder

In the case of the murder of Alfred DiNardi, Kaufman alleged that SCA was involved because "[DiNardi] took about ten towns from SCA." This too is false. In 1976, when DiNardi was killed, SCA had 40 municipal contracts in the State of New Jersey. Insofar as our counsel can determine, SCA, and, specifically its subsidiary, Waste Disposal, competed for but one town with DiNardi's company, Custom Carting, and the circumstances surrounding that competition, which I will now describe, are totally inconsistent with the suggestion that SCA resorted to murder.

The facts are these. In September 1975, the Borough of Roselle Park advertised for bids for a two-year disposal contract to commence on January 1 of the following year. In November, SCA's subsidiary Waste Disposal, which had held the Roselle Park contract for a number of years, and Mr. DiNardi's firm, Custom Disposal, submitted bids. The Custom Disposal bid, which was approximately \$35,000 lower than that of the SCA subsidiary, was accepted.

Shortly thereafter, SCA's New Jersey counsel wrote to the mayor and council of Roselle Park, advising them of certain irregularities in the bidding procedures, and requesting that both bids be rejected and that the contract be readvertised. These contentions were rejected, and the two-year contract was awarded to Custom Disposal.

Far from reacting to this setback by violence SCA sought to vindicate, and ultimately did vindicate, its position by formal, legal processes. Specifically, on December 15, 1975, SCA's Waste Disposal brought an action in the New Jersey state courts against the Borough of Roselle Park and DiNardi's company, Custom Disposal, challenging the awarding of the contract on the ground that the bidding procedures were contrary to the Local Public Bidding Law of the State of New Jersey. Following a hearing in May of 1976 at the trial court level, judgment was rendered in favor of the defendants in this action, Roselle Park and Custom Disposal.

On June 3, 1976, Mr. DiNardi was murdered in a parking garage on the east side of Manhattan. To our knowledge, his murder has never been solved, and again it is thus extremely difficult, if not impossible, to prove the negative; that is, that SCA was not responsible for DiNardi's murder. However, viewing this matter fairly and objectively, it is simply incredible that a corporation which submits to legal processes to vindicate its claims, and is in the midst of doing so, would seek to murder its adversary.

Waste Disposal soon appealed the adverse determination of the trial court. Incidentally, during the pendency of that appeal, Custom Disposal continued to perform the Roselle Park contract, thus rendering false Kaufman's claim that after DiNardi was killed, "all these towns reverted back to SCA".

In October, 1976, argument was held on the appeal before the intermediate appellate court in New Jersey, and, in late November, 1976, that court ruled in favor of SCA's Waste Disposal, reversing the judgment of the trial court. The matter was then remanded to the trial court, and, on remand, the trial court set aside the contract awarded to Custom Disposal and ordered readvertisement of the contract.

SCA's subsidiary then, after bidding, won the two-year contract, which commenced on January 1, 1977, as well as a two-year contract for 1979 and 1980. Incidentally, the con-

tract for 1981 and 1982 for Roselle Park was recently lost by SCA to a competitor.

To repeat, the circumstances surrounding the Roselle Park contract, and specifically, SCA's reliance upon judicial remedies, are wholly inconsistent with the Kaufman claim of murder. Further, the assertion that SCA was motivated by the loss of ten towns to DiNardi is also false.

I also would like to respond to another allegation concerning Mr. DiNardi, which appeared in the March 29, 1981 issue of the Charlotte Observer. There it is stated that:

Kaufman has elaborated for the Congressional Committee on a pair of murders in New Jersey that during his December testimony he said involved SCA.

* * *

Specifically, Kaufman told the subcommittee DiNardi's Custom Carting has "stolen" contracts from SCA subsidiaries at Trenton State College, Roselle Park and Bordentown.

Kaufman here seemingly has narrowed his claim to a loss by SCA to Custom Carting of not ten towns, but two, and has added what was a minor non-municipal contract at Trenton State College, as a third. With this refinement, our counsel still finds that Kaufman's statements are largely false. Roselle Park we have discussed. As for Bordentown, it is true that an SCA subsidiary has in the past held the Bordentown gar-

bage collection contract. However, this contract was never lost to, or in Kaufman's words, "stolen by", Mr. DiNardi. Indeed, insofar as we can determine, DiNardi never even submitted bids on the Bordentown contract. Our counsel's investigation did show, however, that SCA engaged in some hard fought litigations with other competitors for this contract.

As for the Trenton State College contract, our counsel's investigation shows that DiNardi was successful in obtaining that contract, which called for monthly payments of approximately \$1,500 for the year 1979. Further, during the two-year period 1976-77, DiNardi was also successful in winning miscellaneous commercial stops from SCA's subsidiary, Interstate, a corporation which in 1976 had gross revenues of \$3,739,000. Those stops, in the aggregate, involved billings of approximately \$1,500 per month. It defies reason and common sense that the loss of this amount of business would supply a plausible motive for murder.

In sum, when Kaufman appeared before you and told you that ten towns were lost to Mr. DiNardi he was not speaking the truth; similarly, when in a newspaper article he reduced the number of towns to two, he again was not telling you the truth.

Finally, Mr. Kaufman cites the San Felice and DiNardi murders as evidence of a system of "property rights", that is,

a rigid allocation among competitors of territory, and/or customers, which he asserts is in force in the waste disposal business. In addition to the San Felice and DiNardi allegations, we understand that Mr. Kaufman has supplied this Subcommittee with purported proof of SCA's involvement in this alleged "property rights" system. We will deal with each of these allegations, and will show that each is baseless and, I believe, one in particular will shed some insight into Kaufman's character and his possible motivation for falsely vilifying SCA and its employees.

The New Brunswick Contract and "Property Rights" Allegations

On December 28, 1980, shortly after Kaufman testified before this Subcommittee there appeared an article in The New York Times which dealt, in part, with the collection and disposal contract for the Town of New Brunswick, New Jersey. The relevant portion of that article reads:

In 1977, according to testimony the previous week at a hearing of the House subcommittee on oversight and investigations, SCA won the bidding to handle the municipal carting of New Brunswick, N.J., taking the contract from John Albert. Mr. Albert was identified at the Washington hearing as having reportedly "brought in organized crime to take over Chemical Control Corporation," the Elizabeth concern where toxic chemical drums caught fire last April.

A subcommittee investigator said that the panel had information that Mr. Albert

had complained to SCA and others about losing the contract and that Mr. Roselle had consequently agreed to pay Mr. Albert \$10,000 a month for the year SCA had the contract. After that, the investigator said, Mr. Albert got the contract back.

As will be shown, this allegation is demonstrably false. In 1977, SCA's Waste Disposal subsidiary did commence performance of the New Brunswick contract, having won that contract from Mr. Albert's firm, which had had the contract for a number of years. This shift in the servicing of the New Brunswick contract itself calls into question a "property rights" system as far as SCA is concerned.

Moreover, contrary to the allegations reported in The New York Times, Albert did not get the contract back. Rather, the contract was for a five-year period, which SCA's Waste Disposal continues to perform to this day.

Because it so forcefully negates Kaufman's claim of "property rights" as regards SCA, it would be instructive to review briefly the history of the New Brunswick contract.

In February, 1976, the Municipal Council of New Brunswick advertised for bids on a five-year contract to commence the following June. Four bids were received, including bids by Albert's firm, which was the holder of the existing contract, and SCA's Waste Disposal. The city's Purchasing Board recommended acceptance of Waste Disposal's bid, and it appeared that the contract would be awarded to Waste Disposal, until the

attorneys for Albert's firm sent a letter to the City Attorney in which it was alleged that Waste Disposal's bid was deficient in a number of respects. The City Attorney thereupon advised the Council that all bids should be rejected and shortly thereafter the Municipal Council accepted this recommendation.

In May 1976, Waste Disposal commenced a lawsuit seeking to compel the Council to award it the contract, or alternatively to afford it an opportunity to respond to the objections raised in the letter from Albert's attorneys. During this period of time, and until resolution of the lawsuit later that year, Albert's firm continued to perform collection disposal work for New Brunswick under the contract.

In June 1976, following a hearing, a state trial court directed that the contract be awarded to SCA's Waste Disposal, unless after public hearing the Council determined that Waste Disposal was not a responsible bidder. The municipality under the terms of the court's order was required to make its determination on or before July 20, 1976.

However, the municipality failed to make its determinations as to Waste Disposal's responsibility as a bidder within the required time period. Thereafter, in early August 1976, Waste Disposal brought a motion to compel the municipality to enter into a contract. This action resulted in a consent order in which the municipality agreed either to adopt a resolution

finding Waste Disposal a responsible bidder and thus award to it the contract, or to adopt a resolution finding Waste Disposal not a responsible bidder for specified reasons and not award to it the contract.

On August 17, 1976, the municipality, without setting forth its reasons, adopted a resolution finding Waste Disposal not to be a responsible bidder. As a result of this action, Waste Disposal commenced a second lawsuit against the municipality in late August 1976. Shortly thereafter, the municipality consented to the entry of a judgment in which it acknowledged that its resolution finding Waste Disposal not to be a responsible bidder was not supported by the evidence. This judgment further directed the municipality to enter into a contract with Waste Disposal within ten days. However, before the expiration of that period, the municipality filed a notice of appeal and obtained a stay of the judgment below. The municipality was eventually unsuccessful, as following argument in late December 1976, the State's Appellate Division affirmed the trial court's judgment awarding the contract to SCA's Waste Disposal subsidiary.

This hard-fought litigation is hardly consistent with Kaufman's claim of the operation of a property rights system as far as SCA is concerned, but to the contrary illustrates hard-fought competition for business by SCA.

Alleged Payments to John Albert

Referring back now to the New York Times article of December 28, 1980, you will recall the reference to alleged payments to Mr. Albert totalling \$120,000. To determine the truth or falsity of this allegation, Rogers & Wells retained Mr. Seymour Laskow, an investigative accountant who has had long experience in the performance of so-called "fraud" audits. Mr. Laskow was asked to determine whether there existed evidence of the alleged payments referred to in the Times article by SCA to Mr. Albert. Mr. Laskow, with the support of members of SCA's audit staff, conducted an exhaustive and thorough special audit of the books and records of Waste Disposal. Mr. Laskow's audit covered a period of time broader than that indicated in the New York Times article, which refers to twelve monthly payments, each in the amount of \$10,000, during 1977. The period audited by Mr. Laskow was April 1, 1976, which was the commencement date of SCA's 1977 fiscal year, to March 31, 1978. The latter date was chosen as the terminal date of the audit period because SCA's internal audit department had already audited Waste Disposal's records for the period April 1, 1978 to December 31, 1978.

On the basis of the Laskow investigation, no evidence of direct or indirect payments to Mr. Albert, or to any entity with which he, to our knowledge, is associated was found.

Allegations of Price Fixing

I shall now turn to two further allegations of wrongdoing which have been attributed in the press to Kaufman. In addition to the erroneous statements concerning DiNardi which I have already discussed, the March 28, 1981 issue of the Charlotte Observer reported:

Kaufman has told New Jersey investigators SCA was involved in price-fixing schemes for garbage removal at McGuire Air Force base near Trenton and Trenton Psychiatric Hospital.

These claims are false. However, one of them may explain Kaufman's animus towards SCA.

It is true that SCA's subsidiary, Interstate, pursuant to government bidding procedures held the McGuire Air Force Base contract for several years. However, in 1975, a competitor, Atlantic Disposal, bid for the contract and prevailed. In fact, in 1976, McGuire Air Force Base advised Interstate that under a governmental preference granted to small businesses, only small businesses would be permitted to bid on the McGuire Air Force Base contract. Interstate, because it does not qualify as a small business, has since been precluded from bidding on the McGuire Air Force Base contract. Gentlemen, not only is there no evidence of price fixing in this matter, but since 1976, there has not even been an opportunity to fix prices, if that indeed were SCA's intent, which it was not, as there has been no contract.

Now let me address the allegation of price fixing with respect to the contract at Trenton Psychiatric Hospital.

Since the hospital performed its own garbage contracting prior to early 1976, there was simply no possibility of price fixing until after that time. In early 1976, however, the hospital did advertise for bids for a one-year waste disposal contract. The advertisement required submission of bids on July 16, 1976 at 2:00 P.M. SCA's subsidiary, Interstate, was the only firm to submit a bid at the requisite date and time. However, at 2:04 P.M., on the 16th, a bid was belatedly delivered by a representative of Statewide Environmental Contractors on behalf of that concern. That bid, although \$4,000 less than that of the SCA subsidiary, was rejected by the hospital as untimely.

An administrative hearing was held on the matter, during which the following facts were developed:

It appears that the tardy Statewide representative left South Plainfield for Trenton at approximately 12:30 P.M., bid proposal in hand. En route to Trenton, however, the representative was caught in traffic; and in addition, upon his arrival in Trenton he encountered considerable difficulty in finding a parking space for his car. At 1:54 P.M., evidently undaunted, the representative entered the capitol building, but he had to wait for two or three minutes for an elevator to the

basement, where the bids were to be received. Upon entering the elevator and pressing the basement button, the elevator did not move. The representative, perhaps in desperation, then pressed the "Up" button, and, after the elevator opened up on the second floor, and would not move, got out. After making inquiries as to what was wrong with the elevator, the representative got back in and pressed the basement button once again. Unfortunately, the elevator descended only to the first floor, where it remained for another minute or two before it descended to the basement. As noted, it was not until 2:04 P.M. that the Statewide representative arrived.

Notwithstanding these excuses, the administrative hearing officer, as mentioned, deemed the Statewide bid as untimely and rejected it. Significantly, during the administrative hearing on the matter, the Statewide representative specifically testified under oath that he had no prior knowledge of the bid of SCA's subsidiary Interstate.

Gentlemen, the Statewide representative who denied under oath that he had any knowledge of collusive behavior with SCA, and who was made to look like a fool besides, was none other than this Subcommittee's chief witness, Harold Kaufman.

We do not know for certain of course if Kaufman's behavior with regard to the Trenton Psychiatric Hospital contract resulted in the termination of his employment by State-

wide Environmental Contractors. However, we do know, as Kaufman has previously acknowledged, that one of his motives for testifying before this subcommittee was to obtain revenge against Charles Macaluso who, we understand, is the owner/operator of Statewide. More to the point at issue as regards SCA, Kaufman may well have been seeking revenge against SCA, who beat him in a bid in this instance. Regardless, on the basis of these facts, any charges of price fixing against SCA Services by Kaufman are sheer fantasy.

General Allegations Regarding "Property Rights"

Now let us look further at Kaufman's general allegation of SCA's participation in a system of "property rights."

To begin with, it should be noted that each purported example of the exercise of property rights cited so far by Kaufman either is false or incredible. Moreover, many of the examples that he cites -- the New Brunswick contract, the Trenton Psychiatric Hospital and others -- show the very opposite of collusive behavior.

In addition, there exists objective evidence that "property rights" do not affect SCA's competitive conduct in New Jersey.

To this end as part of the Board investigation undertaken in response to the Kaufman charges, special counsel interviewed executives of SCA who have for years been intimately

involved in SCA's New Jersey operations, with respect to the "property rights" allegations. These executives specifically denied the existence of "property rights" or other anti-competitive behavior on the part of SCA's New Jersey subsidiaries. Mr. Mark Lerner, an attorney who had represented SCA in New Jersey for many years, in our interview of him, also stated that in his experience with SCA and its subsidiaries, he had found no evidence of anti-competitive behavior.

Counsel also sent a questionnaire as part of the Board investigation to the manager of each of SCA's operating centers in New Jersey. In their responses to this questionnaire, these managers confirmed the accuracy of the responses that they had previously submitted to a civil investigation of the State of New Jersey in 1978. Those responses, on behalf of the particular SCA subsidiaries by which they are employed, are replete with denials that the company's New Jersey subsidiaries have engaged in unlawful, collusive conduct with respect to bids for solid waste collection and disposal contracts.

In addition, the Board investigation reviewed the responses by SCA's New Jersey personnel to questionnaires submitted by the Audit and Compensation Committee of the company's Board of Directors for Fiscal Years 1978, 1979 and 1980. Those responses uniformly contain denials of any awareness of violations of corporate policies, which policies include, among

other things, a prohibition against collusive activities with competitors.

Finally, the investigation analyzed SCA's municipal bidding activities over the past five years within the northern counties of Bergen, Essex, Union, Hudson and Passaic, which counties account for approximately 58% of SCA's work with municipalities in the State of New Jersey for fiscal year 1981. This analysis shows no patterns suggestive of "phony" or token bids, or of SCA's participation in any "property rights" system. However, it does show that, to some extent, SCA subsidiaries, like their competitors, appear to hold the same contracts year to year. The record also shows that SCA has decided not to bid in New Jersey where it would have to expend additional capital. This is the result of the full utilization of existing facilities and a determination by SCA management, based upon an unsatisfactory and declining return on investment from New Jersey operations, not to commit additional resources in that state.

As a further substantiation of SCA's non-involvement in a "property rights" system in New Jersey, it might be noted that the state has been investigating its waste industry for

years. Only last October, indictments were issued against two industry trade associations, twenty-four corporations, and twenty-eight individuals on charges of conspiring to control commercial garbage contracts in nine northern New Jersey counties. Those indictments, we understand, encompass fifteen percent of the entire industry in the state. However, SCA and its subsidiaries -- approximately 50% of whose New Jersey based revenues are derived from commercial work -- were not named in any of these indictments nor, to our knowledge, in any other indictment in New Jersey for all the state's intense investigation, in cooperation with federal authorities as well, of the state's waste disposal industry.

I have thus answered one-by-one the allegations that Kaufman raised in his testimony before you last December. In each instance, following a special investigation commissioned by the SCA Board, we have found these allegations to be false and without any factual foundation whatsoever. In sum, we find no evidence linking the company or its President, Tom Viola, with organized crime. We find no evidence of the company's complicity or connection with the murders of Gabriel San Felice or Alfred DiNardi. We find no evidence of price fixing or of the company paying off a losing competitor in the person of John Albert, and finally, which many of the above allegations were purportedly designed to illustrate, we find no evidence of

participation by SCA in a system of "property rights." Rather, we find the picture of a company competing vigorously in formal bidding proceedings, and where necessary resorting to the courts, to gain and maintain municipal waste contracts.

Also, in my testimony before you today, I have told you something of the history of SCA and have acknowledged frankly the company's past difficulties. In addition, and in some ways I think most important of all, I have set forth for you the present corporate structure of SCA, giving in the process a portrait of the company's experienced and highly qualified Board of Directors. This Board, under my chairmanship, let me assure you, is committed to running an above-board, honest, and profitable corporation. Our SCA Board is not "window dressing"; rather, it is a Board deeply involved in our company's operations. We are not afraid to act, even if necessary independent of management, as we did in the investigation just conducted of the Kaufman charges. Of course in this instance management was fully cooperative.

In addition, let me again stress the independent make-up of the SCA Board. Only two out of the total nine Board members are employed by the company. The rest of us are entirely independent, and thus free to call the shots as we see them. We have always done so in the past and we shall continue to do so in the future.

It is well known that the waste disposal industry has witnessed explosive growth over the past decade. The fact that there have been problems in connection with this growth, however, does not mitigate the fact that there have been enormous achievements made in an area which is of enormous and legitimate public concern. SCA disposed of over five million tons of solid waste and in excess of a half million tons of toxic or hazardous waste in 1980 alone. This is a massive contribution towards a cleaner environment.

Obviously, in the process of carrying out this important work, we at SCA understand the need for governmental regulation and scrutiny. In fact, on the technical level few companies experience greater governmental regulation than those concerned with the environment. We are prepared to accept governmental oversight in other areas of our operations as well, from bodies such as this subcommittee. We, of the SCA Board, on behalf of the entire corporation, its shareholders, and its employees, want no more than a better, stronger company. This I submit to you is not only in our company's own interest, but in the national interest as well.

Mr. Fox. I would like now to introduce Mr. Viola who will briefly summarize his prepared statement, and then we will both be available for any questions that you may have.

Mr. Viola?

Mr. DINGELL. The Chair believes Mr. Viola has already been sworn.

Mr. VIOLA. Yes, sir.

Mr. DINGELL. You may consider yourself recognized for such statement you choose to give.

TESTIMONY OF THOMAS C. VIOLA

Mr. VIOLA. Mr. Chairman and members of the subcommittee, my name is Tom Viola. I am president of SCA Services, Inc.

Before I answer your questions, I would like to summarize my prepared statement which I have submitted to the subcommittee.

Mr. DINGELL. Mr. Viola, I assume, then, you are telling us that you desire to insert your full statement in the record?

Mr. VIOLA. Yes, sir.

Mr. DINGELL. Without objection, your full statement will be inserted in the record, and you are recognized for such summary as you choose to give.

Mr. VIOLA. Thank you.

As you know, last December this subcommittee heard sensational allegations about me and my company from a man named Harold Kaufman. Even though the allegations were false, I was not contacted nor given any opportunity to defend myself before the matter was made public.

Mr. Kaufman's allegations, followed by anonymous press leaks, have generated widespread negative press comments over the last 6 months. These have caused great harm to me, to my family, to my company, and to its 20,000 shareholders.

I welcome this opportunity to respond to Mr. Kaufman's scurrilous allegations. I do so by denying, under oath, categorically and without qualification, each and every allegation that he made against me and my company. When your investigation is complete, I am sure you will see Mr. Kaufman's allegations for what they are—lies.

Let me tell you first of all about my family. We come from Nutley, N.J. After serving in World War II, I was honorably discharged and graduated from Rutgers University in 1949. I then went into my family's construction supply and waste disposal businesses.

A few years later, my father, brother, and I formed our own commercial waste disposal company. In 1972, SCA purchased it, and I have worked for SCA ever since. I was elected president and chief executive officer in 1976, when I moved to Boston, where I have lived ever since.

From the beginning, I have insisted that the management of the company be totally honest and above board. I have worked hard at my job, and SCA has prospered under my leadership.

Since 1976, our net earnings have risen steadily. In the last 5 years, we have been successful in establishing SCA as a respected, responsible, and credible corporation performing an essential service in communities around the country.

You can imagine the setback to all our accomplishments and hopes when we were hit out of the blue with Mr. Kaufman's charges.

I feel that many aspects of the subcommittee's investigation have been handled unfairly. I do not attribute any of this to the current chairman, Mr. Dingell, who was not with the subcommittee last session. But I do want to say that the handling of the situation has made it extremely difficult for us to defend ourselves in the public eye.

I have concluded that the only way to resolve this matter is to come here, tell the truth, and answer all of your questions fully. The truth is that Mr. Kaufman's charges against me and SCA are lies.

Let me turn to the specific charges. Mr. Kaufman's basic allegation against me seems to be that I am a member of or have ties to organized crime. This is preposterous, gentlemen. The truth is that I have been an honest, hardworking businessman all of my life. No one—and I mean no one—has ever before claimed that I was associated in any way with organized crime.

After Mr. Kaufman's charges, I requested the FBI in Washington to search its organized crime records for any information about me. In response, I received a letter stating that the FBI has no adverse record about me of any kind.

Mr. Kaufman's reference to the Viola family is especially distressing to me. The entire Tom Viola family consists of my 75-year-old mother, my brother, my two sisters, my pregnant wife, my son, and three daughters. Any suggestion that these quiet, law-abiding individuals constitute a criminal enterprise is ludicrous—worse, it is tragic.

No one in the Viola family—including uncles, relatives, second cousins, third cousins, in-laws—has ever been convicted of a crime.

Newspaper records in the community where we have lived for generations show that no one has ever before claimed that the Violas have any connection with organized crime.

To the best of my knowledge, no one in SCA has any connection with organized crime, and organized crime exercises no control or influence over SCA.

In 1972, long before I became president, a company that SCA had acquired had undisclosed owners who, according to the Government, had criminal connections. SCA cooperated fully in the Government's investigation. All ties were severed with the representative of these people even before I became president.

Mr. Kaufman's wild and false claims that SCA was implicated in two murders have been refuted by special counsel. I simply add, I have no personal knowledge about either of these matters or the tragic killing last December of Crescent Roselle, a valued employee of SCA.

Mr. Kaufman also alleged that territories are allocated in the waste disposal industry in New Jersey according to a property rights system. I have no knowledge of any such system. If it does exist, I can tell you that SCA does not participate in it.

SCA's business in New Jersey consists, in large part, in municipal trash-hauling contracts. These contracts are subject to competitive bidding and are regulated by the Board of Public Utilities.

This board has the power to investigate anticompetitive practices and has the power to revoke the permit of any company engaged in illegal activity. No SCA company has ever been charged or disciplined by this board—the Board of Public Utilities.

Our activities in New Jersey belie any property rights system. Over 20 percent of our municipal business is new in the last 5 years. During the same period, we lost—mostly through competitive bidding—contracts in 16 towns we had previously served.

We also submitted competitive bids on 47 towns in which we were not successful; 15 times, we brought suit to vindicate our legal rights in competitive bids where we lost.

I suggest to you, gentlemen, and this subcommittee, and to others in this audience—I suggest to you that these actions are not the actions of a company whose territories are allocated.

I believe I have now responded fully and candidly to Mr. Kaufman's allegations. The only thing I cannot explain is why he would lie about SCA and me. I do not know Mr. Kaufman. To the best of my knowledge, I have never seen him or spoken to him. But I am informed by my attorneys that Mr. Kaufman has been sentenced to more than 150 years in prison for forgery, passing stolen or worthless property, assault, grand larceny, armed bank robberies, and various other felonies.

I have no idea whether he had a specific reason to defame us or whether he was simply trying to impress people by making sensational allegations without any factual basis.

Whatever his motives, though, I implore you, gentlemen, in the name of fairness, to consider whether you can possibly believe the word of this man.

As I said at the outset, one of the most unfortunate consequences of Mr. Kaufman's allegations is that they distract attention from the real issue that ought to concern us—the safe handling of hazardous waste.

SCA has spent a great deal of money to put itself in a leadership position in the hazardous waste field. We spent \$13 million last year for toxic waste treatment facilities, and we have budgeted \$20 million this fiscal year, and that does not include potential plants in Charlotte or Memphis.

We are sensitive to the genuine concerns of communities about hazardous waste disposal sites, and we are taking responsible actions to meet those concerns, but when false issues, such as the specter of organized crime, are added to the debate, it becomes virtually impossible to deal intelligently with an already difficult problem.

I believe that this subcommittee would do a real service to the long-range interests of our Nation if it would refocus its attention on the real problem—the treatment and disposal of hazardous waste.

We are proud to discuss our environmental record and our future plans. We ask only that the discussion be held on the merits. We ask that sensational side issues be avoided so that there will be no further vilification of innocent people and law-abiding companies.

Thank you. I am now available to answer any of your questions.
[Testimony resumes on p. 120.]

[Mr. Viola's prepared statement and attachment follow:]

STATEMENT OF THOMAS C. VIOLA, PRESIDENT, SCA SERVICES, INC.

Mr. Chairman and members of the Subcommittee:

My name is Tom Viola, and I am the President of SCA Services, Inc. ("SCA").

As you know, almost six months ago, this Subcommittee heard sensational allegations about me and my company from an ex-convict named Harold Kaufman. The Subcommittee did not contact me or give me any opportunity to defend myself before the charges were made public or at any time soon thereafter. The allegations, and the many anonymous leaks to the press since December, have generated widespread, but entirely unfounded and unfair, publicity over the last six months. This stream of adverse publicity has caused untold harm to me, my family, and my company and its 20,000 shareholders.

I welcome the opportunity that the Subcommittee has now given me to respond to these scurrilous and totally false allegations. I deny, under oath, categorically and unequivocally, each and every allegation made against me and my company. After I have completed my statement refuting these charges, I will answer fully any questions you may have about these matters to the best of my knowledge and ability.

When your investigation is complete, I am sure you will come to recognize Mr. Kaufman's allegations for what they are: unfounded, unwarranted, unsupported and untrue. They are claims made by an individual with whom I am personally unfamiliar, but who, I have been informed, is a life-long criminal who has been sentenced to more than 150 years in prison for crimes ranging from forgery to armed bank robbery. Whatever his personal motives for spreading his lies, I note that no law enforcement agency -- local, state or federal -- has brought any proceedings on the

basis of any of his uncorroborated allegations against SCA or me or appeared to rely in any other way on them.

I trust that after hearing me out, you will help me put these unfortunate and untrue allegations to rest so that both the Subcommittee and the company can proceed to deal with our area of real concern. That concern is for the safe and lawful treatment and disposal of hazardous waste. As Mr. Fox made clear, we at SCA take that responsibility very seriously and believe that we are in the forefront of developing the technology for handling hazardous wastes properly and safely. The long-term tragedy of these false allegations is that they obscure the excellent work that SCA has done and is continuing to do in treating and disposing of hazardous waste and they provide a pretext for delaying implementation of desperately needed plants and facilities for the safe and lawful treatment of such waste in the future.

I would like to begin by telling you a little bit about myself.

My family is from Nutley, New Jersey. I attended Nutley High School and Rutgers University. My education at Rutgers was interrupted by World War II. I served in the Navy during World War II and received an honorable discharge. When the war was over, I went back to Rutgers and graduated in 1949 with a B.S. degree in Business Administration.

After college, I went into my family's construction supply and waste disposal businesses. A few years later, my father, brother, and I formed a commercial waste disposal company in Nutley, New Jersey. It started out as a small business but we gradually expanded it by

developing a containerized operation. I worked in that business until 1972 when SCA purchased my company. I have worked for SCA ever since.

Shortly after I joined SCA, I became a Vice President and a member of the Board of Directors. I served as the Regional Director for the Mid-Atlantic Region before being elected by the Board as President and Chief Executive Officer of the company in 1976.

It is important that you understand the background to my becoming President of SCA. In 1975, it was discovered that the former President of the company had unlawfully converted corporate funds. He was dismissed and sued by the company. An SEC investigation ensued, and a third outside director was placed on the eight-man board. A committee consisting of those three outside directors recommended me to be President of the company, and I was unanimously elected. The SEC, which was then in the midst of its investigation, was advised that I had been chosen, and thereafter advised prospective outside directors that the company now had sound management.

I did not solicit the job as president. I believe I was chosen not only because of my experience in the industry, but also because the outside directors, who had come to know me, concluded that I had the integrity and stature to turn the company around.

I considered my basic function as president to be the restoration of the company's credibility, both internally and externally. The activities of the former executives had cheated the company's employees and stockholders, and I felt my job was to repair the damage.

Shortly before I became president, it was discovered that the chairman of the board, the founder of SCA, had been implicated in the improper activities of the terminated president. I and the three outside directors insisted, over the vigorous opposition of the four inside directors, that he resign from the board of the company. As a result, in late 1976, he and the other three inside directors resigned from the board and from their management positions with SCA.

From the very beginning of my presidency, I have insisted that the management of the company be totally honest and aboveboard. I have worked very hard at my job and SCA has prospered during my tenure. In the last five years, we have been successful in establishing SCA as a respected, responsible and credible corporation performing an essential service in communities across the country. During this time our 20,000 shareholders have prospered, our earnings have risen and the market value of our shares has increased ten-fold so that at current valuation it is over 200 million dollars.

When I became President in 1976, I began to reorganize the company. Eventually, I established three Solid Waste Divisions -- Eastern, Central and Western -- and I created a new Chemical Waste Division. The Chemical Waste Division is operated entirely separate and distinct from the solid waste divisions. The reorganization helped me to get better operational and financial control over the company. Each member of the management team is a top-notch professional in his field.

To ensure that SCA's management complied with the highest standards of professional ethics, I promulgated a code of business ethics and conduct that applies to SCA and all of its subsidiaries. The code prohibits direct or indirect payments to any government officials or employees, and it prohibits bribes or kickbacks to customers or middlemen. The code requires approval by the Board of Directors of any contract or financial transaction between the company and its directors, officers, or employees and it forbids insider stock transactions. The code requires all directors, officers, and regional directors to submit annual compliance reports to the Audit Committee of the Board of Directors.

My programs have been successful. As noted, the company has prospered during my tenure. Since I have been president, earnings per share of the company's stock have risen steadily from ten cents per share in 1976 to \$1.27 per share in 1981. During this same period, net income also rose steadily from \$1.2 million in 1976 to \$16.5 million in 1981. SCA's gross revenue for the most recent fiscal year, ending March 31, 1981, was approximately \$270 million.

When I became President, I established a five-year goal which had two specific objectives consistent with my general goal of restoring the company's credibility. I wanted the company's stock to go above \$15 per share and wanted to pay a cash dividend. We have met both of those goals. Our stock has been above \$15 for some time now, and we paid our first cash dividend earlier this month. I am especially proud of the review of our company's performance in the January 9, 1981,

Investor Company Investment Research Report Update which states:

"Ever since new management took over five years ago, SCA has been in a 'catch up' position with its leading counterparts, Waste Management [Inc.] and Browning Ferris [Industries, Inc.]. In spite of the handicaps of a clouded business image, weak financial structure and lack of acceptance in the stock market, their accomplishments during this period were indeed laudable. Now, recent events seem to have placed SCA on an equal footing with its top competitors."

In addition, the distinguished investment banking firm, Kidder Peabody recently wrote:

"On balance, prospects for the company thus appear quite attractive. We continue to believe that SCA, because of its expected earnings trend and the fact that, along with relatively few other firms, it is in a good position to benefit from the need to upgrade the nation's handling, treatment, and disposal of hazardous wastes, is likely to be the focus of considerably heightened investor interest."

In light of the company's dramatic progress over the last five years -- built on the hard work of diligent, dedicated and honest employees -- you can imagine the devastating setback to all of our accomplishments and aspirations when we were hit out of the blue with the unfounded Kaufman charges last December.

Before refuting the specifics of those charges, I think you must understand how unfair the past proceedings have been to me and the company. I should state that I do not attribute any of the unfairness to

the current Chairman of this Subcommittee, who was not associated with the Subcommittee last term and who does not appear to have authorized or condoned any of the activities which have injured my company and me.

The transcript of the hearing reveals that last December Mr. Kaufman had discussed his charges in private with the Subcommittee staff during the week prior to public hearing. Yet at no time prior to the hearing did anyone from the Subcommittee or its staff ask me or anyone at the company for our response. No one even notified us that we were to be the subject of public testimony. No one from the Subcommittee appears to have done any independent investigation into the charges or Mr. Kaufman's motives.

Mr. Kaufman was brought on to testify with great fanfare. He was accompanied by the head of the Criminal Justice Division in New Jersey, Mr. Edwin Stier. Mr. Stier stated that he was there, pursuant to an agreement with the Subcommittee, to prevent Mr. Kaufman from testifying in a manner which would interfere with outside indictments returned by Mr. Stier's office against a large number of garbage companies and executives in New Jersey. Significantly, neither SCA nor any of its subsidiaries nor any of its employees have been indicted or implicated in any way in any of Mr. Stier's cases. Therefore, Mr. Stier had no occasion to temper Mr. Kaufman's remarks about SCA or me. Unfortunately, Mr. Stier's silence, while he sat next to Mr. Kaufman, could have been seen by some as support for Mr. Kaufman's charges against SCA.

Mr. Kaufman offered absolutely no support at the hearing for any of his claims. He did not have any documents or any other tangible

evidence. He did not offer the names of any other witnesses who could corroborate his allegations. He did not provide any specifics. As to SCA and me, he simply offered vague allegations and speculations regarding long unsolved crimes. Yet at the end of his testimony, several members of the Subcommittee expressed considerable gratitude for his testimony, which they appeared to accept at face value without even hearing from the company or me.

The news media seized on the allegations and published them without any independent inquiries. Worse, leaks directly attributed to the Subcommittee staff over the next several months had the effect of further defaming SCA and promoting these hearings as a media event. The staff was quoted as suggesting that some of Mr. Kaufman's allegations had been corroborated, but declined to identify the evidence of witnesses which allegedly supported these claims.

Almost immediately after the hearing, I issued a public call for an opportunity to appear before the Subcommittee to confront the charges. It was more than three months -- and many news stories later -- before the Subcommittee first contacted me and offered the possibility of testifying.

Even then, the unfairness continued. Well after my attorneys had delivered a letter to the Subcommittee stating unequivocally my intention to testify and even to provide your staff with a prehearing interview, the Subcommittee's chief investigator was quoted in a news story suggesting that I would not keep my commitment to appear. Further, instead of giving us an unfettered forum to meet the charges, the Subcommittee

decided to put us on after a panel of mystery witnesses, whose identities and allegations the Subcommittee staff repeatedly refused to disclose.

I suggest that this kind of treatment -- which is reminiscent of tactics of the early 1950's -- is fundamentally unfair and does not permit the American public to see an accurate picture of us.

In spite of this background and in spite of the fact that it is generally impossible to prove a negative, I have decided the only thing I can do is come before you, testify truthfully and answer all of your questions to the best of my ability. The truth is that Mr. Kaufman's charges against me and SCA are lies.

Mr. Kaufman's basic allegation against me is that I am a member of organized crime and/or that I have ties to organized crime. By his references to the "Viola family", he suggests that I am some kind of "godfather." These preposterous charges are absolutely false and have no conceivable foundation.

I have been an honest businessman all of my adult life, and no one has ever before claimed that I was associated in any way with organized crime. After Mr. Kaufman's charges, I requested the FBI in Washington to provide me with any allegations they had ever received that I was in organized crime or any other adverse records they had concerning me. In response I received a letter, a copy of which is attached, stating that the FBI had no adverse record about me of any kind. In fact, they stated that the only reference to me in any of their files

involved an occasion in which I assisted the FBI in one of their investigations. It also appears that no one from the Subcommittee ever attempted to check with the FBI about the truth of Mr. Kaufman's allegations about me.

I also had my attorneys contact the Organized Crime and Racketeering Section of the Criminal Division of the United States Department of Justice as well as the Criminal Justice Division in New Jersey. My attorneys were advised by these government agencies that neither I nor SCA was the target of any investigation. These agencies did not furnish any information which could corroborate Mr. Kaufman's allegations.

Mr. Kaufman's reference to the "Viola family" is particularly ludicrous. The Tom Viola family consists of my 75-year old mother, my brother, two sisters, my pregnant wife, one son and three daughters. Any suggestion that these quiet, law-abiding individuals constitute a criminal enterprise is outrageous. No one in the Viola family has ever been convicted of any crime, and newspaper records in Northern New Jersey where we have lived for generations going back to the turn of the century show that no one has ever before claimed that any of us had any connections with organized crime.

The only involvement I have ever had with the law is an anti-trust case wrongfully brought against me and others by the state of New Jersey more than twenty years ago. After a trial, I and the other co-defendants were acquitted of all the charges against us. Recent

newspaper stories about that case imply that a key witness disappeared shortly before the trial. That is totally untrue. Rather than a witness, it was one of the co-defendants who dropped out of sight immediately after the charges were filed which was three years before the case went to trial. There was never any suggestion that that individual planned to testify for the government, and there was never any claim by the government that it did not have all of the witnesses it expected. There simply was no merit to the charges and the court threw them out.

To the best of my knowledge, no one in SCA has any connection with organized crime, and organized crime exercises no control or influence over SCA. Of course, it must be recognized that SCA grew rapidly in the early 1970's by the acquisition of more than 130 local garbage companies. It is, of course, conceivable that some of the employees who came with some of these companies may have committed crimes or even had contacts with organized crime. If that occurred, I am not aware of anyone at SCA who had any knowledge of those past associations. I know of one example where a company SCA acquired had undisclosed owners who, according to the government, had criminal connections. SCA was defrauded by these individuals and cooperated fully with the federal government in its investigation of that matter. All ties with the representative of these individuals were severed prior to my becoming President of SCA. In fact, SCA has aggressively avoided any possible improper associations and, as I have stated, to the best of my knowledge there is no one connected with the company in any way who has any ties to organized crime.

Our policy is that SCA will not buy a company without a thorough check of the background of the company and its owners. We now require that an independent investigative agency conduct such an investigation and report the results to the General Counsel before any acquisition is made. He in turn would report any adverse information to the Board. Our purpose is to be sure that we are not inadvertently acquiring a company with criminal involvement. We certainly would never do so intentionally.

In his testimony, Mr. Kaufman implied that SCA was implicated in two murders, including one of an individual I had never even heard of. I have absolutely no personal knowledge about either of these matters, or the tragic killing last December of Crescent Roselle, a valued employee of SCA. I am informed that special counsel retained by the SCA Board of Directors, Rogers & Wells, concluded that Mr. Kaufman's allegations in this regard were completely lacking in factual support, demonstrably false and incredible. The full details refuting any possible connection between SCA and these deaths are set forth in Mr. Fox's statement. All I can add is my fervent hope that if Mr. Kaufman has any evidence involving any of these murders that he provide it immediately to the appropriate law enforcement officials.

I respectfully suggest that speculations and accusations about serious crimes such as murder have no place in a Congressional forum such as this. Such matters should be handled by criminal investigators and prosecutors and resolved in a court of law. I hope they will be solved

promptly in the proper forum, but I have no information to contribute to that process.

Mr. Kaufman also alleged that territories are allocated in the waste disposal industry in New Jersey according to a "property rights system." I have no knowledge of the existence of any such system and can state categorically that SCA does not participate in it, if it does exist. I note, for example, that although 50 members of the New Jersey Trade Waste Association have recently been indicted on antitrust violations for territorial allocations, neither SCA nor any of its subsidiaries were indicted. We are not even a member of the New Jersey Trade Waste Association, which allegedly served as the vehicle for these antitrust violations.

SCA's business in New Jersey consists in large part of municipal solid waste collection and disposal contracts, all of which are subject to competitive bidding and are regulated by the Board of Public Utilities. Our competitive activities in New Jersey during the period I have been President disprove any claim of territorial allocation among competitors. We presently service approximately thirty-five municipalities in New Jersey, over 20% of which are townships which we did not service five years ago. During the last five-year period in which we were the successful bidders on eight new town contracts, there are sixteen towns whose contracts we lost to competitors or the municipality itself. Further, during this period, we submitted competitive bids on forty-seven contracts in which we were not successful.

In addition, we have frequently gone to court to vindicate our legal rights on bid contests which we lost, and we have also been sued when we won. Since 1975, we have been involved in more than fifteen lawsuits growing out of competitive bids in fifteen separate townships in New Jersey and we have spent more than \$200,000 on legal fees in those cases. The results have often been reversed as a consequence of the lawsuits, either with the contracts being awarded to us as the victorious litigant or with the contract being set aside for re-bidding. I suggest this is not the action of a company whose territories are "allocated".

New Jersey is the only state in the nation in which a solid waste collection and disposal company is regulated as a public utility whose rates are subject to review. The Board of Public Utilities is designed to promote competition in this industry. The BPU has the power to investigate any anti-competitive practices among solid waste disposal companies, including territorial allocations, and to revoke the permit of any offending company. No SCA company has ever been the subject of a BPU investigation on such charges, and none of its companies has ever been disciplined in any way by the BPU.

Our profit margin in New Jersey also belies any claim of an allocation of territory. If we were assured of our territories, as Mr. Kaufman claimed, you would expect that we would have high profit margins. The facts are just the opposite. Our profit margins in New Jersey are among

the lowest of any of our regions in the country, and they have been steadily declining in the last several years. The percentage of our total net income represented by our operations in New Jersey has plummeted from approximately 11.3% in 1977 to just 1.28% in 1981. At the same time, the return on our investment in New Jersey is less than half of what it was in 1977. For fiscal 1981, the corporate return on investment outside New Jersey was more than 900% greater than our return in New Jersey, where the return was just 0.74%.

Even though there is strong competition, as I have described, it has been observed that there is a substantial retention rate of municipal solid waste collection and disposal contracts over the years. This is true not only in New Jersey but throughout the country. The legitimate reasons for this situation are readily seen. As in all service industries, once a contractor has made a capital investment in a particular town and has served that town for a period of time, he has a substantial built-in advantage over potential competitors. Over a period of time, the contractor learns intimately the contours of the streets, people's habits, scheduling, routing and the like. The contractor comes to know where he can and cannot cut costs and is thus able to estimate with precision his expenses. A competitor would have to make a very substantial analysis of the community in order to be in a position to submit a competitive bid. After factoring in his start-up costs, it is unlikely that any new contractor would be easily able to underbid the existing contractor and still make a profit. Further, because of the constant threat of the municipi-

pality's taking over the trash collection business, the contractor must also perform to the satisfaction of a large number of householders through all kinds of conditions. There is a continuing need to build good will and avoid any diminution in the quality of service. If a contractor continues to perform satisfactorily, he is in a good position to retain the contract for the future.

Once a contractor's resources are fully utilized, there are disincentives to expanding to distant towns. For maximum efficiency, the collection equipment should be used within a five or ten mile radius of both garage and landfill. If more distant townships are sought, the contractor will have to make substantial additional capital expenditures.

SCA has made a calculated business decision not to make significant additional capital expenditures in the solid waste business in New Jersey. Virtually all of the new municipalities for which we have bid in the last five years are located close to operational and disposal facilities currently being utilized by the company. In view of the declining rates of return in New Jersey which I have previously described, you can readily appreciate why we have decided to invest our discretionary capital elsewhere. As a matter of corporate policy, we have decided to make expenditures for chemical treatment of hazardous wastes our number one priority. Following that, we are embarked on a course of expanding our facilities in rapidly growing population centers such as the Sun Belt, where our rates of return are substantially higher or potentially higher as a result of greater than average growth. Again, I emphasize, however,

that while we will not make substantial new capital investments in New Jersey, we have aggressively sought to expand our municipal operations in that state by bidding on townships close to our existing facilities. We will continue that policy as long as we remain in this business in New Jersey.

I believe I have now responded fully and candidly to each of Mr. Kaufman's allegations. The only thing I am unable to explain is why Mr. Kaufman would spread such lies about me and the company.

I have no idea why Mr. Kaufman would lie about me or SCA. I am totally unfamiliar with the man. To the best of my knowledge, I have never met, seen, or spoken with him. I have no idea what he looks like and have no personal knowledge where he has ever worked. I am informed by my attorneys that they have ascertained that Mr. Kaufman is a life-long criminal whose record reveals that he is unworthy of belief. I am informed that his FBI file reveals that he has been convicted of more than 40 separate offenses, including selling forged securities, transporting stolen property, passing worthless checks, assault, grand larceny and five separate armed bank robberies. He has been sentenced to more than 150 years in prison and has served substantial amounts of time in Leavenworth, Attica, Atlanta and several other state and federal prisons.

I do not know whether he has a specific reason for defaming us or whether he was simply trying to impress people by making sensational allegations without any basis for knowing the truth. The confused

and vague nature of his testimony lends no support to this interpretation of his conduct. Of course, we have no way of making any kind of investigation into his business affairs, nor have we had any opportunity to cross-examine him to try to ascertain his motives.

In the name of fairness, I implore you to consider whether you can possibly believe the uncorroborated word of this criminal. He is a man who has been repeatedly convicted of crimes involving deception and moral turpitude. How can you possibly credit his claims against the sworn testimony of the president of a New York Stock Exchange company who has never been convicted in his life and about whom the FBI has not a single adverse entry? I urge you to help me put these allegations behind us so that we can proceed with the important business at hand, ensuring the American people of the safe and lawful disposal of solid and hazardous waste.

One of the most unfortunate consequences of Mr. Kaufman's allegations is that they deflect attention from the proper focus of these hearings. SCA is clearly a leader in the treatment and disposal of hazardous waste, utilizing the best available technology and meeting or exceeding all of the federal and state environmental laws and regulations. A dangerous side effect of these sensational allegations and attendant publicity is that responsible companies, such as SCA, will be unwilling to tackle this extremely important and sensitive problem. If large, responsible companies are driven from the field, the way will be open for the so-called "midnight dumpers" who, in my opinion, pose the real danger of organized crime involvement in this area.

SCA already has made substantial commitments in the handling of toxic wastes. The company has budgeted over \$20 million for this fiscal year for toxic waste treatment facilities. SCA has chemical waste facilities at Model City, New York; Newark, New Jersey; Braintree, Massachusetts; and Pinewood, South Carolina. These facilities collect, recover, treat and dispose of chemical wastes. We maintain sophisticated laboratories at each site to analyze samples of incoming waste and to determine the proper method of disposal or treatment. We also operate a research laboratory at Buffalo, New York which has been a leader in developing new techniques for detoxifying chemical wastes, and transforming them into reusable products such as pure and blended solvents, acids, and blended organic fuels.

Like every company in this business, we have had some environmental problems at certain of our facilities in the past, but we have worked diligently to correct those problems and to avoid future difficulties. Going well beyond the requirements of the Resource, Conservation and Recovery Act of 1976 and the recent implementing regulations under that Act, SCA has established an elaborate Chemical Waste Information System which permits us to track all hazardous wastes which any facility is handling. This system will even provide the required information for our customers to comply with the reporting requirements of RCRA. In addition, I have established an Environmental Management Audit and Compliance unit (EMAC), which is supervised by the Technical Services and Quality Assurance Director reporting directly to me. This en-

vironmental audit function, staffed with qualified professional engineers, is responsible for assessing the adequacy of the environmental control systems of the company. Periodic scheduled and surprise audits are conducted to ensure that these control systems are functioning properly and that all federal, state and local regulations are being complied with. From time to time, outside experts are consulted to review and update the control system and audit procedures. Moreover, we expect the environmental audit function to assist management in anticipating potential problems and changes in laws or regulations which will improve the quality of our service or the safety of our facilities.

The trade publication, Waste Age, published by the National Solid Waste Management Association, has described our Newark facility as:

"a dramatic departure from previous chemical waste management philosophy and operations. It is in the forefront of activating concepts repeatedly deemed necessary and desirable in industry studies conducted for the Environmental Protection Agency. These studies all have ranked as first priority and encouraged the development of new practices in waste treatment which optimize recovery, detoxification, and reuse of valuable resources."

Of course, we are sensitive to community concerns about hazardous waste disposal sites. Our facilities at Wilsonville, Illinois; Model City, New York, and proposed facilities at Charlotte, North Carolina, and Memphis, Tennessee, have been the focus of especially intense community attention. As I have indicated, we are taking responsible action to meet these concerns.

As you well know, the problems created by hazardous waste are serious, and the concerns of the local communities in which treatment centers

are located or planned are genuine. When totally false issues -- such as the spectre of organized crime -- are added to the debate, it becomes difficult to deal rationally with an already complex problem. I believe that this Subcommittee would do a real service to the long-range interests of our nation if it would continue to focus its attention on the real problem -- the treatment and disposal of hazardous wastes.

We at SCA stand ready to work closely with the Subcommittee and with local communities having an interest in that problem. We believe that we have made and can continue to make a significant contribution to the protection of the nation's environment and its public health. We are proud to display our environmental record and our future plans. We know that a full disclosure of all of the facts concerning our environmental efforts will enhance our reputation. We ask only that the discussions be held on the merits concerning our policies and practices with respect to the treatment and disposal of hazardous wastes. We ask that headline-grabbing side issues be avoided or, at the very least, that the Subcommittee deal with them in a fair and even-handed manner so that there will be no further vilification of innocent people and law-abiding companies.

Thank you. I am now available to answer any of your questions.



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D.C. 20535

May 26, 1981

Charles H. Cochran, Esq.
Arnold and Porter
1200 New Hampshire Avenue, N.W.
Washington, D. C. 20036

Dear Mr. Cochran:

This is in reference to the letter to the Director of the FBI, dated April 27, 1981, from your client, Thomas C. Viola, which has been referred to me for response.

A review of our records at FBI Headquarters reveals there is no record that your client, Mr. Thomas C. Viola has been the subject of an investigation by the FBI. A search of the indices to our central records system at FBI Headquarters reveals only one record identifiable with Mr. Viola. As Mr. Viola was informed by a Special Agent in our Boston office, that is a record of where he once cooperated with the FBI in the 1950's. This record will be processed and made available to you at the earliest possible time.

Your patience and cooperation are indeed appreciated.

Sincerely yours,

A handwritten signature in cursive script that reads "James K. Hall".

James K. Hall, Chief
Freedom of Information-Privacy
Acts Section
Records Management Division

Mr. DINGELL. Mr. Viola, the subcommittee thanks you for your testimony. The Chair will now recognize members in the order of their appearance. Under the rules, the Chair recognizes now the gentleman from Tennessee.

Mr. GORE. Thank you very much, Mr. Chairman.

Mr. Viola, you have no knowledge of the property rights system in New Jersey?

Mr. VIOLA. I have heard for years, sir, being from New Jersey—I am not naive—I have heard of this, but I have no personal knowledge that any system exists. If it does exist, SCA and the Violas will not, do not allow it or anyone to participate in it—if it does exist.

I heard many allegations a long time ago, as a result of different investigations by various agencies, going back to 1959.

Mr. GORE. Do you think organized crime exists in New Jersey?

Mr. VIOLA. It may. I have no evidence of it, sir.

Mr. GORE. Do you think there is such a thing as the Mafia or Cosa Nostra?

Mr. VIOLA. A lot of very responsible people say these things. I have no personal knowledge of it. I have no personal knowledge that it does exist.

Mr. GORE. You have been in the business of waste disposal in New Jersey for quite some time—is that correct?

Mr. VIOLA. Yes, sir.

Mr. GORE. And you are telling us that you have no knowledge of organized crime and no knowledge of the property rights system—is that your testimony?

Mr. VIOLA. I tell you, sir, that I have heard of these allegations of a property rights system. From my own personal knowledge, I know of no system existing.

Mr. GORE. Some of the individuals who have been identified as organized crime figures involved in the waste disposal industry in New Jersey are Peter LaPlaca, now deceased; Tino Fiumara; John DiGilio; and John Riggi. Do you know any of these individuals?

Mr. VIOLA. I knew one of the individuals.

Mr. GORE. Which one?

Mr. VIOLA. Peter LaPlaca.

Mr. GORE. Peter LaPlaca? In what capacity did you know him?

Mr. VIOLA. I did not know him in any capacity, sir. I knew who he was.

Mr. GORE. Have you had any contact with Mr. John Riggi?

Mr. VIOLA. No, sir.

Mr. GORE. Did you meet with—well, you said you have had no contact with him, so your answer to the question: Did you meet with him in the summer of 1980 in Newark? would be no as well, I take it?

Mr. VIOLA. Not that I recall. I do not ever recall hearing the name, Riggi.

Mr. GORE. Let me ask you for the record very carefully—you are under oath—

Mr. VIOLA. I know. I take that very seriously, sir.

Mr. GORE. I understand. I know.

Mr. VIOLA. Thank you.

Mr. GORE. Did you meet in Newark, in the summer of 1980, with John Riggi?

Mr. VIOLA. Not that I can recall—no.

Mr. GORE. Testimony has been presented by the New Jersey State Police—

Mr. VIOLA. Did you say 1980?

Mr. GORE. Yes.

Mr. VIOLA. The answer is no.

Mr. GORE. At any other time?

Mr. VIOLA. No. I just wanted to make sure of the timeframe.

Mr. GORE. All right.

Testimony presented here today by the New Jersey State Police and the Federal Bureau of Investigation indicates that a property rights system does exist in New Jersey, that SCA's subsidiary companies do participate in it, and that grievances are mediated by organized crime figures. How do you reconcile your lack of knowledge about either organized crime or property rights with the testimony of these law enforcement officers?

Mr. VIOLA. I do not believe that there has ever been such a charge, sir. There has been an allegation. I do not believe there has been a charge.

Mr. GORE. There has been testimony to that effect, under oath, by the law enforcement officers here.

Mr. VIOLA. I do not believe that there has been any case brought—to my knowledge—except the one that SCA is not involved in, and I have no information about that.

Mr. GORE. Mr. Fox, you are new as chairman of the board, as I understand it.

Mr. Fox. That is correct.

Mr. GORE. You took over in March of this year—is that right?

Mr. Fox. Yes, sir.

Mr. GORE. How do you reconcile your testimony that there is no evidence of a property rights system and no evidence that SCA participated in it with the statements that you heard this morning by law enforcement officials?

Mr. Fox. Mr. Gore, those statements I heard this morning are statements that I have heard for the first time. I can only depend upon the work done by Mr. Ryan and his staff of Rogers & Wells who, in my knowledge, thoroughly investigated every one of the charges and came back with the statements that you have before you, which would indicate to our board and to me that there is no basis for these claims, as it applies to SCA.

We did not investigate the whole waste industry of New Jersey. We did not investigate any other companies in that industry. We only looked into the matter pertaining to our company, and we could find nothing to substantiate any of these claims.

Now, we will look carefully into the charges that we have heard this morning. We will continue our investigations. And we will make very, very sure that whatever has come out is either true or false as far as the board is concerned.

Mr. GORE. I encourage you to do so, and I am sure you will.

I have two questions related to the fairness of the inquiry. You referred to Mr. Iommetti. I wanted to clarify for the record that—

Mr. DINGELL. The gentleman's time has expired.

Mr. GORE. Will we have a second round?

Mr. DINGELL. Yes.

Mr. GORE. I will come back to this.

Mr. DINGELL. You may conclude the question.

Mr. GORE. Let me just say for the record that, as of April 21, we were told by SCA that Mr. Iommetti was still a district manager. On Thursday of last week, when we requested his appearance, we were not informed that he was not still a district manager. On Tuesday—2 days ago—we were told for the first time that he would not be available because he was no longer a district manager.

And I will come to the district manager when the second round comes.

Mr. DINGELL. The time of the gentleman has expired. The Chair recognizes now the gentleman from Pennsylvania, Mr. Marks.

Mr. MARKS. Thank you, Mr. Chairman.

Mr. Viola, I wonder if you can tell us a little bit about the subsidiaries that SCA has—perhaps how many, generally where they are located—are they all in New Jersey? Are they scattered around other States? Give us a little bit of background on this.

Mr. VIOLA. I would be very happy to do so, Mr. Marks.

SCA is located in 32 States plus the District of Columbia. We acquired well over 150 smaller companies. Most of the people we bought these companies from, in the early stages of our existence, we gave employment contracts to. It was not solely in New Jersey that we gave employment contracts.

We encouraged those people where we bought companies to stay with the business. Good managers are very hard to find, sir. At all times, we encouraged the former owners to stay with the companies.

So I would like to refute this charge that we gave employment contracts so that the so-called property rights would be respected. If that is the case, then it is the case all over the country.

I would like to add, if I might, sir, that the retention rate of holding on to our customers is very high in this industry, not only for SCA, but for all other companies. Because we retain a goodly amount of our work in New Jersey, all of a sudden in New Jersey it is considered property rights. But in other States, these allegations do not exist.

Mr. MARKS. Mr. Viola, if you will permit me to interrupt—do you have subsidiaries in the Commonwealth of Pennsylvania?

Mr. VIOLA. Yes, sir.

Mr. MARKS. Any in western Pennsylvania?

Mr. VIOLA. No. I think the westernmost company we have, sir, is in the York area.

Mr. MARKS. Since you have been involved in the corporate structure of the company, Mr. Viola, and have brought into the company various subsidiaries, you are telling us that you have, in fact, given employment contracts to the people who were then running and/or owning those companies—is that correct?

Mr. VIOLA. That was generally the case when SCA was first formed.

Mr. MARKS. Is that no longer the case?

Mr. VIOLA. Under the direction of the board of directors since I became chief executive officer, we have frowned on that, and we try very much not to have any long-term employment contracts.

Mr. MARKS. I guess some of us find it rather troublesome that both the New Jersey police officers that testified before us this morning under oath and the gentleman from the Federal Bureau of Investigation who also testified under oath—as I remember their testimony—and I tried to get them to be specific—they were indicating to us that at the present time SCA has subsidiaries whose managers and/or the people who run them have ties to organized crime and that they are involved specifically in the property rights distribution of property. They were rather specific about that this morning, and I am sure you were here to hear their testimony.

Mr. VIOLA. I heard them, but I did not hear them be specific, sir, if I may say that. They did not seem to be specific at all to me.

Mr. MARKS. What you are saying is that, when they were asked about that, they made specific statements. Certainly, they did that. When asked what investigation they personally made, if asked at all, they did not give us those specifics. In that sense, I think you are right.

However, there was no question that they indicated that SCA at this particular time has subsidiaries, in the State of New Jersey at least, that have ties to organized crime. I think that was the question that my colleague from Tennessee was trying to get at and one that you vehemently—if I remember—denied.

Mr. VIOLA. Sir, I did listen. I, too, had experienced some problems in understanding them. They did not indicate what the ties were. I really would like to know that.

It is a terrible thing to have a statement there that Mr.—I forget his name—had a photograph taken. He was somewhere, and another guy was involved in something. It does not say whether he was innocent, whether he was the victim—yes, I did hear these things, sir. I would hope, as you do that, it could be explained what “ties” means.

Mr. MARKS. Mr. Viola, I asked—if I remember—this morning the specific question about the Roselle brothers and their involvement with SCA and whether or not they continue on with SCA. Do they?

Mr. VIOLA. Yes, sir, they do.

Mr. MARKS. OK. And what you are telling us so far is that, to your knowledge, they have no ties to organized crime—is that correct?

Mr. VIOLA. Yes, sir, I said that in my statement.

Mr. MARKS. Was that a part of the investigation that was made by Mr. Ryan’s firm?

Mr. VIOLA. I believe so—yes.

Mr. MARKS. If I may, I would like to ask, either through you or Mr. Fox, to Mr. Ryan—or perhaps you can answer—what type of an investigation did they make?

Mr. VIOLA. I respectfully have to pass that on to Mr. Fox because I, as part of management, was kept out of the investigation.

Mr. MARKS. OK. The chairman advises me that my time is up. We will come back to this in a few minutes.

Mr. FOX. Could I attempt the answer to that, Mr. Marks?

Mr. MARKS. If the chairman would indulge us.

Mr. DINGELL. It would be appropriate. Go ahead.

Mr. FOX. I have been advised that the investigating team interrogated people within the company and outside of the company—everyone that they could possibly talk to—on this particular point—whether any of the Roselle people were at all involved with organized crime—and got a negative answer in every case.

I might just like to add that from an economic point of view it seems very strange to me that, here is a section of our operation, which is the least profitable of any place in the whole country, and if we were involved in territory allocation, which we have been accused of, and if we were involved in using organized crime to insist upon high-priced, very profitable contracts, this would not be the case. We are really very, very low profit-makers in New Jersey.

Mr. MARKS. Mr. Fox, permit me, if you will, to interrupt you. I do not think you are answering the question. What we are trying to find out from you—if you could tell us specifically—is how many people were used, whom they interviewed, were there reports made of these interviews, have you been willing to turn those reports of those interviews over to this subcommittee? In fact, I am advised that perhaps you have not been willing.

In the general procedure, you are using this investigation, as we understand it, to suggest that there is nothing wrong, and we would like to know a little bit about how indepth this investigation is.

Mr. FOX. I will have to confer with my counsel for a minute. [Witness confers with counsel.]

Mr. FOX. This is not a direct answer, but this is really the first statement that has been made in public that any of the Roselles have been connected with organized crime. It is the first time we have heard about it.

Mr. MARKS. You are talking about the officers that testified this morning?

Mr. FOX. Yes.

Mr. MARKS. I see.

Mr. FOX. The very first time—and we knew nothing of it—

Mr. MARKS. So, what you are saying, in a rather direct way, is that no inquiry was made of that question?

Mr. FOX. Oh, yes, but not to the great depth that it will be made now as a result of this.

Mr. MARKS. I see.

Could we get back to my original question? Perhaps you could still answer it. That is, can you give us, in some detail, what this investigation consisted of?

Mr. FOX. I cannot, because I did not make the investigation.

Mr. MARKS. I see. We can put Mr. Ryan under oath, I assume. Is he prepared to give us that information, if he feels that he can?

Mr. DINGELL. We had better defer on this. I think we are getting to the point where we may convert Mr. Ryan from counsel to witness, and while the Chair has no objection whatsoever to that, we would like to have a little chance to reflect and would like to have you folks at the witness table reflect on it.

The time of the gentleman from Pennsylvania has expired. He will be recognized again.

Mr. Ryan, you might reflect on what your concerns are—and Mr. Fox, you also.

Mr. GORE. Mr. Chairman, relative to this matter and relative to the Chair's consideration, it should be noted for the record that the subcommittee did request the investigation referred to, the list of persons interviewed, and the backup documents which were supposed to support the conclusions drawn, and the company declined to provide that.

Now, that may be an appropriate action on their part. I would like to reflect on that, myself. But that is, I think, a significant matter for the record.

Mr. DINGELL. That is a question of concern to the Chair, and we will deal with that, the Chair assures the gentleman.

Mr. Fox—I guess the Chair might as well deal with this right at this particular time—that request was made by the subcommittee of you and the company. I am advised that you have refused to submit the backup documents and so forth to the subcommittee. Is that correct?

Mr. Fox. Yes; that is correct. The investigation is still ongoing, actually—we have not completed. We feel that at this point in our investigation these working papers are privileged and should stay in the company's files.

Mr. DINGELL. The power of the subcommittee to issue subpoenas on questions of this kind is relatively unlimited, I am sure you are aware. Are you saying, then, that the investigation that you have been citing to us has been conducted internally, inside the committee, is not yet completed?

Mr. Fox. It is not completed—no—it is still ongoing.

Mr. DINGELL. The Chair, then, is curious about the value of an incomplete investigation to establish the truth.

Mr. Fox. The investigation regarding Mr. Kaufman's charges has been completed, but the overall investigation that we are making, with the committee, has not been completed.

Mr. DINGELL. What, then, does this investigation establish when you have not completed the investigation? If it is complete enough to establish the truth of the statements to your satisfaction, why, then, would it not establish the truth of the facts to the satisfaction of the subcommittee?

Mr. Fox. I do not quite understand your point. The point is that I heard for the first time that Mr. Roselle was possibly connected with organized crime. From our records, and from our knowledge, and from everything we know about Mr. Roselle, he has been an upstanding and able businessman in that community.

Now, we did not ferret deeply into Mr. Roselle's background because we did not know at this point that he was under investigation.

Mr. DINGELL. I am not clear whether you are defending, then, through this mechanism or attacking the investigation performed by the corporation.

Mr. Fox. We are not attacking it at all. We support it completely, and we say the investigation has been completed as far as the Kaufman allegations are concerned.

Mr. DINGELL. Have you come to the conclusion that Mr. Kaufman's allegation of a property rights system within the industry is false?

Mr. FOX. It is false—that is the conclusion we have come to.

Mr. DINGELL. Allegations relative to the existence of this property rights system also relate to Mr. Roselle and his place in the corporation and his functioning within the corporation with regard to questions relative to the property rights system. You have advised us that you were not aware of the existence or the possibility that Mr. Roselle may or may not have been a convicted felon or a member of organized crime—is that correct?

Mr. FOX. That is correct—as far as we know.

Mr. DINGELL. Just sitting here, I am curious, given those circumstances, how much credence I should give to an investigation that apparently is bottomed on rather unfortunate oversight insofar as certain information that is of importance, I think, to an investigation of this kind.

Mr. FOX. Just a second.

[Witness confers with counsel.]

Mr. DINGELL. The Chair has to make an observation. We have been trying here in the subcommittee to be as fair as we could to afford you the right to counsel. The Chair advises you at this time that the right to counsel, under the rules of the House and the applicable court decisions, is the right to be advised of your rights.

The Chair advises that if Mr. Ryan chooses to advise you of those, the Chair will defend your rights and the rights of your counsel and the duties of your counsel to advise you to the fullest of the ability of the Chair.

The Chair advises, though, that we do not think that we will further allow, under the practices and rules of the House, Mr. Ryan to advise you on substantive questions. If he chooses to respond either directly or indirectly through you to substantive questions, we will then, I think, find ourselves compelled to swear Mr. Ryan and hear from him directly on matters of this sort. I leave the choice to you.

We will allow Mr. Ryan to advise you on your rights—to advise you on those rights either privately or to do so through the use of the microphone—or to speak on your behalf relative to your rights, but we will not allow him to advise you on questions of substance unless he desires to be sworn.

Mr. Ryan, do you have any difficulty with that ruling of the Chair?

Mr. RYAN. Mr. Chairman, the question was directed by Mr. Marks to Mr. Fox to ask of his counsel what was the supporting information, and that was the inquiry we had here. I did not give him any other answers to anything else.

I think it would be entirely inappropriate for me to be here as a witness.

Mr. DINGELL. The Chair understands the difficult place this puts you. It is for this reason that the Chair has been somewhat tolerant of what are not acts fully in conformance with the rules of the House. The Chair does advise that the Chair now feels it necessary to proceed.

The Chair will come back to the gentleman from Pennsylvania. The Chair recognizes now the gentleman from Indiana, Mr. Coats, for questions.

Mr. COATS. Thank you, Mr. Chairman.

Mr. VIOLA and Mr. FOX, either of you can answer this question. I think there was testimony indicating that you are now the third largest waste management company in the Nation. At what point did SCA reach this plateau?

Mr. VIOLA. I think it was in the early 1970's, sir.

Mr. COATS. Did you achieve that basically through acquisitions?

Mr. VIOLA. Yes, sir, as did the other two companies.

Mr. COATS. Without divulging corporate strategy, is that basically the policy of the company—to continue to grow through acquisitions rather than through—

Mr. VIOLA. We have slowed down dramatically the pace of our acquisitions.

Mr. COATS. Is that in any way due to those allegations we are discussing here today?

Mr. VIOLA. No, sir. It has nothing to do with it.

Mr. COATS. You indicated in your testimony that the stream of adverse publicity resulting from the hearing in December resulted in untold harm to you, your family, the company, and its shareholders. Can you describe in a measurable way the adverse economic impact on the company and the shareholders?

Mr. VIOLA. Not in a measurable way, sir, but I would like to explain it, if I might. I have been hurt to read for the very first time in my 54 years that someone made a claim about me and my family—I have been hurt, as you gentlemen would be hurt, or anyone else in the room.

Mr. COATS. I appreciate that, and I think you alluded to that in your opening statement. But I was interested in the possible adverse effects on the company's business.

Mr. VIOLA. The cost of the investigation alone, in dollars and man-hours, the time I have had to spend, the time of the board of directors, the legal cost being borne by our companies, having to respond to questions and investigations such as the one they are having in North Carolina, the delaying of our plans for a facility in North Carolina in particular—the Kaufman charges have stirred up more local resentment—and so we have been hurt in that way, sir. I cannot quantify it, though.

Mr. FOX. Another way it has hurt is in recruiting—recruiting new employees. It is obviously a major roadblock.

Mr. COATS. What about in terms of securing new contracts?

Mr. VIOLA. We have not seen any adverse effects as of this date.

Mr. COATS. Thank you, Mr. Chairman, I have no further questions.

Mr. DINGELL. Thank you. The time of the gentleman has expired. The Chair recognizes again the gentleman from Tennessee, Mr. Gore.

Mr. GORE. Thank you very much, Mr. Chairman.

Mr. VIOLA, in 1972 SCA acquired a company in Detroit, Mich., called Tri-County Sanitation and placed the president of Tri-County, Mr. Nicholas Micelli, under an employment contract with SCA.

You were not involved personally in the negotiations in which SCA acquired Tri-County—is that correct?

Mr. VIOLA. That is correct, sir.

Mr. GORE. To your knowledge, who was involved in the negotiations on behalf of SCA?

Mr. VIOLA. I believe Burton Steir.

Mr. GORE. Was Mr. Steve Feinstein the legal counsel involved in those negotiations?

Mr. VIOLA. I do not think he was legal counsel at that time, although he may well have been. I think he was outside counsel.

Mr. GORE. Was he involved as outside counsel with the law firm that handled that purchase?

Mr. VIOLA. I think that is correct, sir.

Mr. GORE. The 1963 McClellan committee hearings in the U.S. Senate on organized crime specifically identified Tri-County Sanitation as a Mafia-controlled company. The names of Joseph Barber, Jr., son of the host of the famous Appalachian meeting, and Peter and Paul Vitale were identified as being associated with Tri-County in the U.S. Senate McClellan committee hearings.

The Vitales were further publicly identified as chiefs of operating units of the Detroit area Mafia organization.

The subcommittee staff has requested of SCA's counsel a copy of any investigative background report of the principals of Tri-County which SCA performed prior to or contemporaneous with its acquisition of Tri-County. To date, I understand that SCA has been unable to find any such investigative background report in its files.

Mr. Viola, are you personally aware of whether SCA obtained any background report regarding the character and reputation of the principals involved in Tri-County at the time it was purchased by SCA?

Mr. VIOLA. The only knowledge I have is what Mr. Steir said back some time ago—that he had a verbal report from someone in either the Justice Department or the FBI. That is all I know about that.

Mr. GORE. But nobody has been able to locate a copy of any such background report?

Mr. VIOLA. I said it was verbal.

Mr. GORE. All right.

Did you know Mr. Micelli while he worked for SCA?

Mr. VIOLA. Yes.

Mr. GORE. What were the nature of your contacts with Mr. Micelli?

Mr. VIOLA. They were very, very infrequent. At the time—1972 to 1976—I was based in New Jersey. I would go to Boston maybe once every 2 months or 3 months for board meetings, or, on occasion, for some other reason. If he happened to be in Boston at that time, I would see him—this was very infrequently, I never have any business discussions with him—just: "How are things going?" and pass the time of day.

Mr. GORE. Mr. Micelli terminated his employment with SCA in 1974. You were later promoted to president and chief executive officer of SCA in 1976. After that time, did you have any further contact with Mr. Micelli?

Mr. VIOLA. Yes; I did. As I indicated to the staff attorneys when I was interviewed, I met with Mr. Micelli one time.

Mr. GORE. Can you describe that meeting? Where did it take place and what did it involve?

Mr. VIOLA. It took place in a restaurant in or around the city of Detroit. Mr. Micelli asked me to see him when I came to Detroit, which I did, but it was not an immediate response to his request. I told him that on my next trip to Detroit I would see him.

I met with him in a restaurant, and he asked me to drop a lawsuit that SCA had brought against him for violation of a non-compete clause in our contract, and I refused to do so. We did go to trial, and SCA was upheld in the courts in that case, sir. That was the only time I ever talked to him since I became president and since he left the company, sir.

Mr. GORE. Did Mr. Peter Vitale arrange the meeting with Mr. Micelli?

Mr. VIOLA. No, sir. I thought I indicated to you, sir, that Mr. Nick Micelli, himself, called me.

Mr. GORE. Do you know, or have you had contact with, Peter Vitale or Paul Vitale?

Mr. VIOLA. Not that I know of, sir—no.

Mr. GORE. When did you learn that Peter Vitale was the father-in-law of Nicholas Micelli?

Mr. VIOLA. I do not recall with any exactitude, sir.

Mr. GORE. Has SCA had a policy of background investigations and reports on the principals of companies it was seeking to acquire to check for character and reputation or organized crime associations?

Mr. VIOLA. Would you repeat the question, please, sir?

Mr. GORE. Had SCA had a policy of investigating the background of the principals in companies that SCA acquires to determine whether or not they are members of organized crime?

Mr. VIOLA. We formalized a policy by board directive—I think it was in January of this year.

Mr. GORE. You did not have a policy until January of this year?

Mr. VIOLA. We did not have a formal, written policy.

Mr. GORE. Did SCA do any background investigations on any of the acquisitions in New Jersey?

Mr. VIOLA. If it was done, it was done by Mr. Steir in the normal course of events that he said he took care of when he was in charge of acquisitions, and Mr. Steir made all the acquisitions in New Jersey.

Mr. GORE. Are you personally aware of any background investigations that were conducted?

Mr. VIOLA. No, sir.

Mr. GORE. All right. I will come back in the next round.

Mr. DINGELL. The time of the gentleman has expired.

The Chair recognizes the gentleman from Pennsylvania, Mr. Marks.

Mr. MARKS. Thank you, Mr. Chairman.

I do not intend to come back another time to ask you any further questions, but I would like to clear up the question that I asked a few moments ago.

First, I would like to tell you that I asked the question about the substantive investigation that was made in your behalf by Rogers & Wells in light of the fact that both you, Mr. Viola, and Mr. Fox have put great weight on that investigation and have made very specific statements to this subcommittee based on it.

Therefore, what I was trying to do was to find out what, in fact, took place that would give you the reason to come before the subcommittee, under oath, and indicate that there are no ties to organized crime and that the property rights situation does not exist as far as SCA is concerned.

If you will recall the testimony, certainly the entire testimony offered both by you, Mr. Viola, and Mr. Fox, as we have read it, consists of very general statements about this investigation.

We would like to know, if you know that is, when it started, who was contacted, in what depth did you go to determine whether these allegations that were made by Kaufman were true or false, what the expertise was, if any, of the people who made those inquiries, and the likes of that. If you can answer any or all of that, I will appreciate it. If not, I appreciate your saying so, so that we can go on.

Mr. Fox. Let me attempt to answer it, Mr. Marks.

Mr. MARKS. Certainly.

Mr. Fox. The investigation started 3 months ago. The appointment of Rogers & Wells as the investigative team was taken very seriously and carefully. I happen to know Mr. Rogers personally and was assured by him that we would get the best talent for this kind of investigation that the firm had, and we satisfied ourselves that we did, indeed, get the best talent.

I do not know just how many men were involved on the team, but I know that Mr. Ryan and one other who is here, Mr. Rabbino, were both very actively engaged in it.

We had frequent progress reports on their work, in which we went into a great deal of detail as to the numbers of people they talked to, the type of questions they asked, the efforts they made, and the outside public accountants that they brought in to check on the antitrust matters.

Although, I think you must realize, an investigative team of this sort does not have subpoena powers and can only go on what people tell them and what they learn from reading the documents and from putting out questionnaires to a lot of our own employees and others, we felt that the results we were getting indicated the position that I have taken in my report and the position that Rogers & Wells have taken in their reports verbally to us.

I do not know what more I can tell you to supplement that.

Mr. MARKS. Thank you, Mr. Chairman.

Mr. Fox. I have just been advised that it was since January 9 that the investigation has been going on.

Mr. DINGELL. The Chair would like to inquire, Mr. Viola—in your prepared statement you said—and I now quote:

Almost immediately after the hearing, I issued a public call for an opportunity to appear before the subcommittee to confront the charges.

Can you tell the subcommittee when, and where, and how you made that public call?

Mr. VIOLA. I did it two ways, sir. One was by letter to a county official either in Memphis or Charlotte. I am not all too certain about that.

Mr. DINGELL. A county official in Memphis, Tenn., or in Charlotte, N.C.?

Mr. VIOLA. Yes—either place. My memory escapes me there. And the other was at—I think within days of the hearing, one of our attorneys met with members of the staff of either the full committee or the subcommittee and indicated that we would like to have a meeting or that Mr. Viola wanted to appear—yes.

Mr. DINGELL. Could you identify who it was on the committee staff or the subcommittee staff that your attorney met with?

Mr. VIOLA. No, sir, I cannot—no.

Mr. DINGELL. Would you provide that, please, for the record?

Mr. VIOLA. I will provide—yes.

Mr. DINGELL. Without objection, it will be included in the record. [The information requested was not available to the subcommittee at the time of printing.]

Mr. MARKS. Would the chairman yield?

Mr. DINGELL. Yes, I will yield to the gentleman.

Mr. MARKS. Mr. Chairman, I note in the file, under the date of Wednesday, December 31, 1980, there is a letter that was sent, apparently by Mr. Viola, to the Memphis Press-Scimitar in which he says: "We are, therefore, requesting that the subcommittee provide us such an opportunity so that we may refute these groundless allegations."

Mr. DINGELL. Without objection, it will be included in the record at this point.

[The letter referred to follows:]

[From the Memphis (Tenn.) Press-Scimitar, Dec. 31, 1980]

SCA SERVICES INC., CHAIRMAN DENIES CRIME CONNECTION

(By Thomas C. Viola)

Recently an ex-convict testifying before a congressional subcommittee made sensationalist allegations against me, SCA Service Inc., and waste service industry.

Although I would not ordinarily lend the dignity of a reply to such irresponsible and reckless statements from such a discredited source, these allegations are serious and were widely disseminated by the media. The allegations against SCA Services Inc. and me are categorically false and totally unwarranted. Neither I nor SCA Services is controlled by, or otherwise connected with, organized crime.

SCA Services Inc. is owned by over 20,000 stockholders, including some of America's most prestigious institutions, and its stock is traded on the New York Stock Exchange. In addition, the company is regulated by the Securities and Exchange Commission.

It is unfortunate and grossly unfair that the making of the allegations was permitted without giving SCA Services notice and an opportunity to repudiate them. We are therefore, requesting that the subcommittee provide us such an opportunity so that we may refute these groundless allegations.

As chairman of the Board and chief executive officer of SCA Services Inc., I assure you that when the true facts are made known you will have complete confidence, as I do, in the character and stature of the company and its employees.

Mr. MARKS. I am serious as to whether it was about that time that you made a request to this subcommittee?

Mr. VIOLA. You have to understand what happened. Within days of the hearing our attorneys met with someone on the staff, and shortly thereafter, on January 9, I was instructed by my board of directors—the special committee of the board—not to have any

contact with the subcommittee in any way, shape, or form, and I obeyed their directives.

Mr. GORE. Will the gentleman yield—whoever has the time?

Mr. DINGELL. The Chair has the time, and the Chair will yield, if the gentleman from Pennsylvania has finished.

Mr. VIOLA. Is that an important issue?

Mr. GORE. Well, it is the charge that you have made in your statement that reflects upon the proceedings conducted by the subcommittee, and you charge that you called for an opportunity to testify, and so forth. And yet we have absolutely no record of your attorney contacting the staff of the subcommittee or the committee. We have no record of a letter from you—a communication of any kind from you.

The only communication that we are aware of, whatsoever, in addition to a letter that you wrote to some county official in one of two States—the only record we have is the letter to the editor of a newspaper in Memphis, Tenn., which I happened to read and provided to the subcommittee. We never heard from you, and the copy of that letter to the editor was not sent either.

So, to charge that you had publicly called upon the subcommittee to give you an opportunity—it is a minor point, but—

Mr. NATHAN. Mr. Chairman, may I respond and ask that something be included in the record of this proceeding at this point, since it is pertinent to Mr. Gore's statement?

Mr. DINGELL. Mr. Nathan, the Chair advises, under the rules, you are here to advise your client. If your client wishes to request that, we will be happy to see that the matter is considered by the subcommittee.

Mr. NATHAN. I will ask my client simply to bring to the subcommittee's attention a letter of May 21, 1981, to him from Chairman Dingell and ask him to read at this point, in the first paragraph of that letter, a statement that was made there which indicates there should be no public confusion.

Mr. DINGELL. What is the date of that letter, please?

Mr. VIOLA. May 21, 1981.

Mr. DINGELL. That is a little later, I gather, than the time of the December 31, 1980, issue of the Memphis Press-Scimitar. Is that "almost immediately after the hearing" you referred to?

Mr. NATHAN. Mr. Chairman, this letter—if it can be admitted in the record here—refers to a prior call by Mr. Viola—a public call—for testimony, and it appears to recognize that that had occurred substantially earlier.

Mr. VIOLA. If I may, sir, I would like to read it. May I?

Mr. DINGELL. If Mr. Viola requests it. The Chair advises that your function here is to advise Mr. Viola of his constitutional rights. Your carrying out of that function will be fully protected by the Chair. But the Chair advises that, unless you choose to be sworn, and unless Mr. Ryan chooses to be sworn, we will have to limit you to the function of serving as counsel.

Mr. VIOLA, do you have a request of the subcommittee?

Mr. VIOLA. Yes; I would like to read into the record part of this letter.

Mr. DINGELL. Let us just insert the whole letter in the record. Without objection, that will be done.

[The letter referred to follows:]

NINETY-SEVENTH CONGRESS

JOHN D. DINGELL, MICH., CHAIRMAN
 JIM SANTOS, MEY.
 BOB WALTERS, PA.
 ALBERTSON, JR., TENN.
 RONALD W. MOYLL, OHIO
 THOMAS A. LIKENS, OHIO
 RICHARD G. SMELBY, ALA.
 MIKE SPAR, OKLA.
 W. J. "BILLY" TAUBIN, LA.
 BOB WYDEN, OREG.

MARC L. MARKE, PA.
 NORMAN F. LLOYD, N.Y.
 BOB WHITTAKER, KANS.
 BOB RITTER, PA.
 HAROLD ROGERS, NY.
 DANIEL R. COATE, IND.
 JAMES T. BROTHILL, N.C.

147

ROOM 2323
 RAYBURN HOUSE OFFICE BUILDING
 PHONE (202) 225-4441

CONGRESS OF THE UNITED STATES
 HOUSE OF REPRESENTATIVES
 SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
 OF THE
 COMMITTEE ON ENERGY AND COMMERCE
 WASHINGTON, D.C. 20515

MICHAEL F. BARRETT, JR.
 CHIEF COUNSEL/STAFF DIRECTOR

May 21, 1981

Mr. Thomas C. Viola
 President
 SCA Services, Inc.
 60 State Street
 Boston, Massachusetts 02109

Dear Mr. Viola:

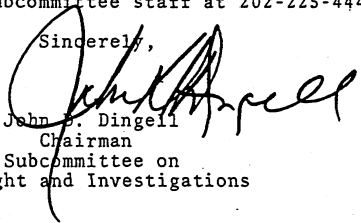
The Subcommittee on Oversight and Investigations will hold a public hearing on Thursday, May 28, 1981, at 10:00 a.m., in Room 2123 of the Rayburn House Office Building in Washington, D. C. to continue its examination into links between organized crime and the waste disposal industry. Specifically, the hearing will focus on the testimony of Mr. Harold Kaufman before the Subcommittee last December 16 concerning alleged ties between organized crime and waste disposal companies acquired by SCA Services, Inc., or SCA employees. You have publicly requested the opportunity to refute these allegations and the May 28th hearing will provide that opportunity. In addition to hearing further testimony regarding Mr. Kaufman's allegations involving SCA, it is also expected that the existence of a property rights system in the waste disposal industry and methods by which such rights are protected will be the subject of the hearing.

Since Mr. Kaufman's previous testimony principally involved the waste disposal industry in New Jersey, the May 28th hearing, with some exceptions, will again be focused in that geographic area. It is our understanding that the Rogers & Wells' investigation on behalf of the special committee of SCA's Board of Directors was principally directed at company operations in New Jersey. The Subcommittee is also interested in SCA's acquisition of Tri-County Sanitation Services, Inc. of Detroit, Michigan, and has a pending request with Mr. James Ryan of Rogers & Wells, SCA's outside counsel, for copies of any background reports conducted by SCA concerning the Tri-County acquisition.

By letter dated May 4, 1981, your personal counsel, Mr. Nathan, informed the Subcommittee that you will appear voluntarily (without the need for a subpoena) at the May 28th hearing, and I look forward to your appearance. In addition, the Subcommittee would request that Mr. Peter Iommetti and Mr. Ralph Mastrangelo, who are familiar with New Jersey operations, and Mr. Steven F. Feinstein, a corporate vice-president, be present at the May 28th hearing.

Under the Committee Rules, two copies of which are enclosed, your prepared statement should be submitted to the Subcommittee by noon on Tuesday, May 26, 1981. Should you have further questions, please feel free to contact the Subcommittee staff at 202-225-4441.

Sincerely,


 John D. Dingell
 Chairman
 Subcommittee on
 Oversight and Investigations

Enclosures (2)

Mr. VIOLA. May I read it, if you have no objection, sir?

Mr. DINGELL. Certainly.

Mr. VIOLA [reading]:

You have publicly requested the opportunity to refute these allegations and the May 28th hearing will provide that opportunity.

What I am suggesting, Mr. Gore and chairman, this is your recognition—the subcommittee's, the staff's recognition—that I did make such a call, sir.

Mr. GORE. If the chairman will continue to yield, that refers to the copy of the letter to the editor which I personally supplied to the chairman and the subcommittee.

But let me just ask you this: You did not communicate directly with the subcommittee and make a request directly to the subcommittee, did you?

Mr. VIOLA. I do not believe I made a written request.

Mr. GORE. And you did not send us a copy of that letter, did you?

Mr. VIOLA. I do not know that.

Mr. GORE. OK. It is a minor point, but I think it is important to clarify it.

Mr. DINGELL. We are getting a little away from the questions asked earlier. Who was it, please, that communicated with the staff of the subcommittee on your behalf requesting an opportunity to appear?

Mr. VIOLA. I indicated before, I will find out the name of the attorney, and I will get back to you—I do not know.

Mr. GORE. Would the chairman yield?

Mr. DINGELL. Yes; the Chair will yield.

Mr. GORE. Did you request a lawyer to contact the staff?

Mr. VIOLA. He was working in my behalf.

Mr. GORE. Whom did you request to contact the staff—which lawyer?

Mr. VIOLA. I do not recall which lawyer specifically.

Mr. GORE. Did you have a face-to-face conversation with him or a telephone call, or was it by letter? How did the request take place?

Mr. VIOLA. Sir, if I could remember the name, I could remember what it would be—a telephone call or a letter. Excuse me, I am trying to be responsive. I do not know what the point is that you are trying to get at—really, I do not know.

Whether you knew about the letter before in the newspaper or I sent it to you—you know, here it is. I have been defamed. That bothers me, sir.

Mr. GORE. Part of your charge is that you requested us to give you an opportunity, and yet there is no record of any such request.

Mr. VIOLA. As I indicated, I will speak to my attorneys to have my thoughts recollected as to that very early meeting, back some time ago, with some of your staff members.

Mr. DINGELL. Did you regard this matter of this hearing in December, about which you have complained, as being a matter of some gravity and importance?

Mr. VIOLA. Yes, sir; Mr. Chairman—if I may—I have been under instructions by my board of directors not to have any contact with your committee since January 9.

Mr. DINGELL. But you tell us that you had one of your attorneys—

Mr. VIOLA. That was prior to January 9 and after December 16.

Mr. DINGELL. What I am trying to figure out is, if you regarded this as a matter of importance, I find it curious that you do not remember which of your attorneys you instructed to communicate with the staff of the subcommittee regarding this matter.

Mr. VIOLA. Excuse me, I know the name of the law firm.

Mr. DINGELL. Who is the attorney that you had communications with?

Mr. VIOLA. The name of the law firm was Mintz, Levin, et cetera, from Boston.

Mr. DINGELL. When did you instruct them to make this request to the staff? Can you tell us when?

Mr. VIOLA. It would have been some time between December 16 and January 9.

Mr. DINGELL. Do you know that, in fact, they made such communication?

Mr. VIOLA. That is the impression I have—yes, sir.

Mr. DINGELL. You have the impression—do you know?

Mr. VIOLA. I was not there. I do not know from my personal knowledge.

Mr. DINGELL. Did they ever report back to you that they had made such communication to the staff?

Mr. VIOLA. That is what I indicated—yes; I thought that is what I said, sir. One of our attorneys met with people of your staff and said that Viola wanted to appear.

Mr. DINGELL. How do you know that?

Mr. VIOLA. I was told that.

Mr. DINGELL. Sir?

Mr. VIOLA. I was told that.

Mr. DINGELL. Who told you that?

Mr. VIOLA. One of our attorneys from Mintz, Levin.

Mr. DINGELL. Did he tell you who met with him?

Mr. VIOLA. No; I thought I answered that, sir.

Mr. DINGELL. The Chair thanks you.

The Chair recognizes Mr. Gore.

Mr. GORE. Thank you, Mr. Chairman.

Again, this is a minor point, but the reason for it is page 8 of your testimony. You said:

Almost immediately after the hearing, I issued a public call for an opportunity to appear before the Subcommittee to confront the charges. It was more than 3 months—and many news stories later—before the Subcommittee first contacted me and offered the possibility of testifying.

So it is a minor point.

Mr. VIOLA. That is what I thought—yes.

Mr. GORE. But there was no contact, that we are aware of.

Now, since you have been president of SCA, Mr. Viola, has there been a company policy to prohibit solid waste companies from engaging in the hauling or disposing of chemical wastes?

Mr. VIOLA. One of the policies I instituted, Mr. Gore, was to separate completely the solid waste operations from our chemical waste operations. I set up a separate division. I knew that the area of hazardous waste was a very sensitive one, and I wanted to make sure that we had the proper people trained.

They are two different businesses entirely, and we are the only public company that separates our income by line-of-business segment—chemical waste versus solid waste. That is one of the indications to the public and our shareholders how serious we are about the treatment of hazardous waste, and we take it very seriously, sir.

Mr. GORE. With regard to Waste Disposal, Inc.—this is the SCA subsidiary which was purchased from Mr. Roselle and run by Mr. Roselle until his murder last December—the staff inquired whether or not this company had ever hauled hazardous waste in addition to solid waste.

Mr. Rabbino of the law firm of Rogers & Wells responded by letter dated May 5, 1981, on which I would ask unanimous consent to put into the record at this point, Mr. Chairman.

Mr. DINGELL. Without objection, it is so ordered.

[Testimony resumes on p. 197.]

[The letter referred to, and attachments, follow:]

1666 K STREET, N.W.
WASHINGTON, D.C. 20006
TELEPHONE (202) 331-7760
INTERNATIONAL TELEX 248439

261 SOUTH FIGUEROA STREET
LOS ANGELES, CALIFORNIA 90012
TELEPHONE (213) 626-6900
INTERNATIONAL TELEX 194758

110 WEST A STREET
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (714) 239-1200
INTERNATIONAL TELEX 897842

Rogers & Wells
Two Hundred Park Avenue
New York, N.Y. 10166

TELEPHONE (212) 972-7000

INTERNATIONAL TELEX

RCA 234493

ITT 424493

47, AVENUE HOCHÉ
75008-PARIS, FRANCE
TELEPHONE 763.11.00
INTERNATIONAL TELEX 290617

58 COLEMAN STREET
LONDON EC2R 5BE, ENGLAND
TELEPHONE 01.628.0101
INTERNATIONAL TELEX 884964

CABLE ADDRESSES
"YORKLAW" NEW YORK
"WALAW" WASHINGTON
"LAW" LOS ANGELES
"DIEGOLAW" SAN DIEGO
"EURLAW" PARIS
"USLAW" LONDON

May 5, 1981

Richard A. Frandsen, Esq.
Counsel
Subcommittee on Oversight &
Investigations
Committee on Energy & Commerce
House of Representatives
Rayburn House Office Building
Washington, D.C. 20515

Re: SCA Services, Inc.

Dear Mr. Frandsen:

On April 3, 1981, you, together with Benjamin Smethurst, interviewed Louis Roselle. Mr. Roselle is an employee of Waste Disposal, Inc. ("Waste Disposal"), which is a subsidiary of SCA Services of New Jersey, Inc. ("SCA"), and which is engaged in the solid waste collection and disposal business and in landfill operations. In your interview, you posed the question whether Waste Disposal had engaged in the hazardous waste business. Mr. Roselle responded that, with one possible exception, Waste Disposal had not engaged in the hazardous waste business. As to the one possible exception, Mr. Roselle stated that, some time ago, Waste Disposal may have done a limited amount of hazardous waste hauling from Chemical Control Corporation ("Chemical Control"), in Elizabeth, New Jersey, to Municipal Sanitary Landfill Authority ("MSLA"), a New Jersey landfill in which members of the Roselle family have a 25% interest. You requested copies of any relevant documents in the files of Waste Disposal, including billing invoices.

On the basis of conversations with Louis Roselle, his brother Joseph Roselle, David Lieb, an accountant who for many years has performed services for Waste Disposal, and two drivers who were involved in the Chemical Control hauling, Rocky

Cavalino and George Markevich, it appears that, in fact, Waste Disposal did not do any hauling of hazardous waste for Chemical Control. This letter is to advise you of our understanding of the relevant facts.

Some time during the summer of 1978, Chris Roselle had a meeting with John Albert of Chemical Control. Chris Roselle informed Mr. Lieb of his conversations with John Albert. Mr. Lieb specifically recalls that it was agreed that Waste Disposal would haul drums from Chemical Control to MSLA only on condition that the drums contained non-hazardous, solid, industrial waste and bore the marking "X" in yellow paint. It was understood that a New Jersey official would inspect the drums to be hauled by Waste Disposal and would place the "X" markings on the drums to indicate that they contained non-hazardous, solid, industrial waste. It also appears that Chris Roselle required that Chemical Control furnish to its drivers copies of the enclosed letters from Ralph G. Buchanan of the New Jersey Department of Environmental Protection.

On September 6, 1978, Waste Disposal commenced deliveries of roll-off boxes, each containing approximately 20 to 25 drums, from Chemical Control to MSLA. Waste Disposal performed approximately 30 such deliveries, the last occurring on or about September 22, 1978. I have enclosed the available billing information.¹

Joseph Roselle, Louis Roselle, David Lieb, and the two drivers with whom I spoke, Rocky Cavalino and George Markevich, firmly believe, for the following reasons, that the Chemical Control drums hauled by Waste Disposal contained non-hazardous, solid, industrial waste:

1. Mr. Lieb, as noted, spoke with Chris Roselle just prior to the time Waste Disposal began the Chemical Control work. He specifically recalls that Chris Roselle did not want to have any involvement in hazardous waste hauling for Chemical Control (or for anyone else), and took the above-described precautions to insure that Waste Disposal did not haul hazardous waste for Chemical Control.

2. Both drivers, George Markevich and Rocky Cavalino, are convinced that they hauled non-hazardous, solid waste. For example, Mr. Markevich recalls that the drum lids were not sealed tight and that he personally inspected each drum to assure himself that the drum contained solid waste. Both drivers recall that the drums contained "X" markings in fresh yellow paint and that the contents of the drums were

¹ You will note an invoice dated October 26, 1978, in the amount of \$150. It is my understanding that the work indicated in the October 26, 1978 invoice was never, in fact, performed and that Chemical Control was erroneously billed. The October 26, 1978 invoice was never paid and was ultimately written off by Waste Disposal. Apart from the October 26, 1978 invoice, there are 27 invoices, each in the amount of \$150 and totaling \$4,050. Since Waste Disposal received payment from Chemical Control in the amount of \$4,500 on October 18, 1978, David Lieb believes that there may be three additional invoices which cannot be located.

odorless. Further, it appears that drums containing liquid waste are easily identifiable. For example, when moved, they generate a sloshing sound. Again, the drivers discerned none of the characteristics of drums containing liquid waste.

3. The amount charged Chemical Control, i.e., \$150 per truck load, is the customary charge for the hauling of boxes containing solid waste.

4. The Waste Disposal drivers insisted upon, and received from Chemical Control, copies of the aforementioned letters from Ralph J. Buchanan in order to give employees of MSLA some assurance that the drums did not contain anything other than non-hazardous, solid, industrial waste. It appears that MSLA employees insisted upon such assurances for at least three reasons. First, the handling of drums containing toxic liquid waste is extremely hazardous. Second, MSLA did not want to infect its landfill with highly flammable and polluting liquid waste. Third, MSLA, under its Public Utilities Commission certificate, did not have authority to accept hazardous waste.

5. Members of the Roselle family, as noted, have an ownership interest in MSLA. Louis and Joseph Roselle both stated to me that they would be vehemently opposed to having hazardous waste dumped in that landfill. They, as well as David Lieb, stated that Chris Roselle was similarly opposed to such dumping.

In late September 1978, Waste Disposal ceased doing hauling work for Chemical Control. The following circumstances led to that decision: Rocky Cavalino recalls that he discovered that a box filled by Chemical Control contained drums containing liquid waste. Upon discovery of the drums, Cavalino immediately called Chris Roselle, who according to Cavalino, directed Cavalino to have Chemical Control empty the box. From that point on, Waste Disposal did not do any further hauling for Chemical Control.

If you should require any further information, please do not hesitate to call me.

Sincerely,


Robert A. Rabbino, Jr.

Enclosures

cc: Mr. Louis Roselle
Mr. Joseph Roselle
Mr. David Lieb
Mr. Rocky Cavalino
Mr. George Markevich

\$150/Per Box

CHEMICAL CONTROL *MT:Gene*

NAME *23 S. FRONT ST. ELIZABETH CONNOR*

DATE DUE	DATE REC'D	DEBIT	CREDIT	BALANCE
<i>PAST BALANCE</i>				
JAN.				
FEB.				
MAR.				
APR.				
MAY				
JUNE				
JULY				
AUG.				
SEPT.	<i>12-18-79</i>	<i>150</i>	<i>150</i>	<i>—</i>
OCT.	<i>12-19-79</i>	<i>150</i>	<i>150</i>	<i>—</i>
NOV.				
DEC.		<i>150</i>		
<i>FORM 3858 1/13/79</i>				
JAN.		<i>150.00</i>	<i>300</i>	<i>—</i>
FEB.				
MAR.				
APR.				
MAY				
JUNE				<i>300</i>
JULY	<i>Wrote off this</i>			<i>300</i>
AUG.	<i>as much as billed</i>			
SEPT.	<i>in error SP</i>			
OCT.				
NOV.				
DEC.				

1978
YEAR

1980
YEAR

WORLD RECORD EQUIPMENT CO.
MALVERN, OHIO 44

DEPOSIT TICKET

PLEASE BE SURE EACH ITEM IS ENDORSED

CHECK NO.	LIST SINGLY	DOLLARS	CENTS
1	<i>C. J. ...</i>		
2	<i>Master</i>	4	50000
3			
4	<i>...</i>	3	3000
5			
6	<i>...</i>	2	6000
7			
8	<i>...</i>	8	000
9			
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26			
27			
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29			
30			
31			
32			
33			
34			
35			
TOTAL		<i>51</i>	<i>6000</i>

PLEASE ENTER TOTAL ON THE FRONT OF THIS TICKET

DEPOSIT TICKET
WASTE DISPOSAL INC. - 2 - FAM

FOR BANK'S USE ONLY
REG. ITEMS

CURRENCY	
COIN	
TOTAL CHECKS FROM THIS TICKET	<i>5160.00</i>
TOTAL	<i>5160.00</i>

LIST ALL CHECKS ON REVERSE SIDE.

UNITED COUNTIES TRUST COMPANY
HILLDALE OFFICE
HILLDALE, NEW JERSEY

DEPOSIT IS ACCEPTED SUBJECT TO VERIFICATION AND THE RULES AND REGULATIONS OF THIS BANK.

27 OCT 1978 5:16:00 PM

7103 291 611

DEPOSITS
 CHECKING
 SAVINGS
 PAYMENTS
 CLUB
 MASTER CHRG.
 INSTAL. LN.
 MORTGAGE LN.

UNITED COUNTIES TRUST COMPANY

ACT 10-78 03 27604 M710,329.16
 ACCOUNT NUMBER
 OCT 19-78 27085 D**5,160.00

THIS IS A RECEIPT FOR YOUR DEPOSIT OR PAYMENT AS INDICATED. THE DATE, BANK SYMBOL, TELLER'S NUMBER, TRANSACTION NUMBER AND AMOUNT OF YOUR DEPOSIT ARE SHOWN ABOVE.

WASTE DISPOSAL INC.

163 TREMONT AVENUE
EAST ORANGE, N.J. 07033

864 OLIVE STREET
ELIZABETH, N.J. 07208

BOX 181 - RD 1 ROUTE 34
MATAWAN, N.J. 08057

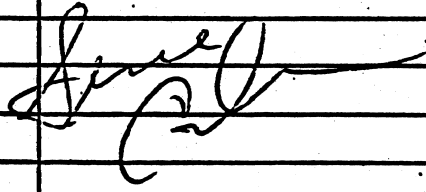
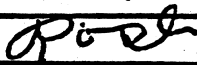
SOLID WASTE REMOVAL CONTRACTORS

4500 -

DATE 9/6 1978

TO _____

ADDRESS 23 S. FRONT ST. ELIZ.
CHEMICAL CONTROL
corp.

1	30	9d	BK
			
40594			
			



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

November 14, 1977

Mr. Michael Dunay
Consultant
Chemical Control Corp.
23 South Front Street
Elizabeth, NJ

Re: Disposal of fumed silica, alumina

Dear Mr. Dunay:

Be advised that the above referenced material may be disposed
at any landfill registered for industrial (non-chemical) waste.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ronald J. Buchanan".

Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

Handwritten note:
Hauled Copy
shipped 9/6/78 first copy

WASTE DISPOSAL INC.

163 TREMONT AVENUE
EAST ORANGE, N.J. 675-1874

864 OLIVE STREET
ELIZABETH, N.J. 289-3222

BOX 181 - RD 1 ROUTE 34
MATAWAN, N.J. 583-2767

SOLID WASTE REMOVAL CONTRACTORS

TO _____ DATE 9-7 1978

ADDRESS Chemco Control Corp.

Front St.

Eliz. N.J.

1 - 30 yd. trash box

Handwritten Signature

40785 *gm*

WASTE DISPOSAL INC.

163 TREMONT AVENUE
EAST ORANGE, N.J. 675-1874

864 OLIVE STREET
ELIZABETH, N.J. 289-3222

BOX 181 - RD 1 ROUTE 34
MATAWAN, N.J. 583-2767

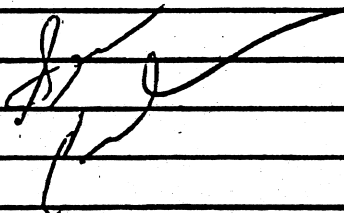
SOLID WASTE REMOVAL CONTRACTORS

DATE 9/8 1978

TO _____

ADDRESS

CHEMICAL CONTROL

130 yd BX	
	
39451	
<u>Paul</u>	

h. Kelly



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

November 14, 1977

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Very truly yours,

Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

*hauler's copy
9/13/78*



10/24/77

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

November 14, 1977

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23 South Front Street
Elizabeth, NJ

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Very truly yours,

A handwritten signature in black ink, appearing to read "R. Buchanan".

Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

*Landfill copy
9/8/78*

WASTE DISPOSAL INC.

- 163 TREMONT AVENUE
EAST ORANGE, N.J. 675-1874
- 864 OLIVE STREET
ELIZABETH, N.J. 289-3222
- BOX 181 - RD 1 ROUTE 34
MATAWAN, N.J. 583-2767

SOLID WASTE REMOVAL CONTRACTORS

		DATE	9-9 1978
TO Chem Central Corp.			
ADDRESS		Front St. Elizabeth N.J.	
	1 -	30-yd. trash bag	
		Drums	
		Jan Boshuizen	
		40788 ATM	



10 silly

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

November 14, 1977

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23 South Front Street
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Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

Handwritten note: 79-78



copy

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

November 14, 1977

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Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

*Hauler's copy
9/11/78*

WASTE DISPOSAL INC.

163 TREMONT AVENUE
EAST ORANGE, N.J. 675-1874

864 OLIVE STREET
ELIZABETH, N.J. 289-3222

BOX 181 - RD 1 ROUTE 34
MATAWAN, N.J. 583-2767

SOLID WASTE REMOVAL CONTRACTORS

TO DATE 7/11 1978

ADDRESS

CHEMICAL CONTROL

<u>1</u>	<u>309d</u>	<u>BX</u>	
<i>[Signature]</i>			
<u>39459</u>	<u>P</u>	<u>152</u>	



-K only

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

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Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

*Handwritten Copy
Sept 11-78*

WASTE DISPOSAL INC.

163 TREMONT AVENUE
EAST ORANGE, N.J. 675-1874

864 OLIVE STREET *2-30*
ELIZABETH, N.J. 289-3222

BOX 181 - RD 1 ROUTE 34
MATAWAN, N.J. 583-2767

SOLID WASTE REMOVAL CONTRACTORS

TO *Chen Control Corp.* DATE *9-12* 19 *78*

ADDRESS *Front St*

Eliz. N.J.

1-3040 - Down box

40797 89 M



copy

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

November 14, 1977

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23 South Front Street
Elizabeth, NJ

Re: Disposal of fumed silica, alumina

Dear Mr. Dunay:

Be advised that the above referenced material may be disposed
at any landfill registered for industrial (non-chemical) waste.

Very truly yours,

Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

Hauler copy 9-12-78

WASTE DISPOSAL INC.

163 TREMONT AVENUE
EAST ORANGE, N. J. 675-1874

864 OLIVE STREET
ELIZABETH, N. J. 289-3222

BOX 181 - RD 1 ROUTE 34
MATAWAN, N. J. 583-2767

SOLID WASTE REMOVAL CONTRACTORS

DATE 9-10 1978

TO Chem. Control Corp.

ADDRESS Asphalt

Chig. N. J.

1 - 30 yds. Drum box

Henry Johnson

40798 sl by

MOORE BUSINESS FORMS, INC. ©



file only

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

November 14, 1977

Mr. Michael Dunay
Consultant
Chemical Control Corp.
23 South Front Street
Elizabeth, NJ

Re: Disposal of fumed silica, alumina

Dear Mr. Dunay:

Be advised that the above referenced material may be disposed at any landfill registered for industrial (non-chemical) waste.

Very truly yours,

Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

*Hansen copy
9-12-78*

WASTE DISPOSAL INC.

163 TREMONT AVENUE
EAST ORANGE, N.J. 675-1874

864 OLIVE STREET
ELIZABETH, N.J. 289-3222

BOX 181 - RD1 ROUTE 34
MATAWAN, N.J. 583-2767

SOLID WASTE REMOVAL CONTRACTORS

DATE 9/13 1978
TO Chemical Control
ADDRESS 22 Front St

1	30 - VILCONT		
	Sum		
	TICKET		
	<i>[Signature]</i>		
	41629		
	<i>[Signature]</i>		

Handwritten note: "Handwritten only"



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

November 14, 1977

Mr. Michael Dunay
Consultant
Chemical Control Corp.
23 South Front Street
Elizabeth, NJ

Re: Disposal of fumed silica, alumina

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Be advised that the above referenced material may be disposed at any landfill registered for industrial (non-chemical) waste.

Very truly yours,
[Handwritten signature of Ronald J. Buchanan]

Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

Handwritten note: "Handwritten copy 9-13-78"



file

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

November 14, 1977

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23 South Front Street
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Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

*September 13, 1977
Haulis copy*

WASTE DISPOSAL INC.

163 TREMONT AVENUE
EAST ORANGE, N. J. 675-1874

864 OLIVE STREET
ELIZABETH, N. J. 289-3222

BOX 181 - RD 1 ROUTE 34
MATAWAN, N. J. 583-2767

SOLID WASTE REMOVAL CONTRACTORS

TO Cemical Control DATE 9/13 1978
ADDRESS 23 Fruit St

1	30 yd Cont		
	Dump		
	T RETURN		
	<i>[Signature]</i>		
	41628		
	<i>[Signature]</i>		



file only

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

November 14, 1977

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23 South Front Street
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Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

Nuclear copy 9-13-78

WASTE DISPOSAL INC.

163 TREMONT AVENUE
EAST ORANGE, N.J. 675-1874

864 OLIVE STREET
ELIZABETH, N.J. 289-3222

BOX-181-RD1 ROUTE 34
MATAWAN, N.J. 583-2767

230

SOLID WASTE REMOVAL CONTRACTORS

TO *Control Central* DATE *9/14/1975*

ADDRESS *Front St.*

<i>1.30 yd Cont</i>			
<i>Dump</i>			
<i>+ RETURN of</i>			
<i>Timmy</i>			
<i>47091</i>			



Handwritten initials

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

November 14, 1977

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Consultant
Chemical Control Corp.
23 South Front Street
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Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

Handwritten note:
Vaulter copy
9-14-78

WASTE DISPOSAL INC.

163 TREMONT AVENUE
EAST ORANGE, N.J. 675-1874

864 OLIVE STREET
ELIZABETH, N.J. 289-3222

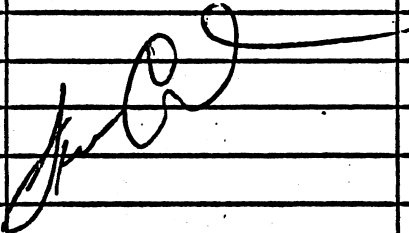
BOX 181 - RD 1 ROUTE 34
MATAWAN, N.J. 583-2767

SOLID WASTE REMOVAL CONTRACTORS

DATE 9-14-1975

TO Chemical Control

ADDRESS Eliz N.J.

1	30 yd	BOX	
	PICK	UPS	
			
Oneshaw			
48670			

keep original only



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

November 14, 1977

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Chemical Control Corp.
23 South Front Street
Elizabeth, NJ

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Very truly yours,

Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

Scott 141
Jane [unclear]
Howler
Copy



-file only

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

November 14, 1977

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Chemical Control Corp.
23 South Front Street
Elizabeth, NJ

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Very truly yours,

Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

*Naulus
Copy 8-16-78*

WASTE DISPOSAL INC.

163 TREMONT AVENUE
EAST ORANGE, N. J. 675-1874

864 OLIVE STREET
ELIZABETH, N. J. 289-3222

BOX 181 - RD 1 ROUTE 34
MATAWAN, N. J. 583-2767

SOLID WASTE REMOVAL CONTRACTORS

DATE 9-15 1978

TO CHEMICAL CONTROL

ADDRESS FRONT ST. ELIZ.

1	30 YARD BOX		
	DUMPED		
	TIME: 12:30		
	<i>G. Rosillo</i>		
	<i>John [unclear]</i>		
	47099		



keep only

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

November 14, 1977

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Consultant
Chemical Control Corp.
23 South Front Street
Elizabeth, NJ

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Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

*Harder Copy
Sept 15*

WASTE DISPOSAL INC.

163 TREMONT AVENUE
EAST ORANGE, N.J. 675-1874

864 OLIVE STREET
ELIZABETH, N.J. 289-3222

BOX 181 - RD 1 ROUTE 34
MATAWAN, N.J. 583-2767

SOLID WASTE REMOVAL CONTRACTORS

DATE 9-16-1978

TO Chemical Control

ADDRESS ELIZ. N.J.

4	3oxd Box pick. up.					

J. Rosembert
Chen shaw
48677

MOORE BUSINESS FORMS, INC. E



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

June 12, 1978

Mr. Michael Colleton
Chemical Control Corporation
23 South Front Street
Elizabeth, NJ 07202


Re: Polystyrene, Methyl Methacrylate Plastics

Dear Mr. Colleton:

Be advised that solid polymeric plastic materials as described in your letter of May 15th may be disposed of at any landfill registered to accept industrial waste (I.D. #27). This is conditioned upon using "open-head" drums and includes solid polymers only. These wastes shall not contain liquid solvents, elastomers, plasticizers or any other such liquid wastes. Furthermore this permission is conditioned upon Chemical Control submitting at least 7 days in advance to this office written notification indicating the type and quantities of waste for disposal, the disposal site and date of transportation. Lastly, an inspector from the Solid Waste Administration will be available to inspect such drums for disposal as deemed necessary by the Department.

Should you have any questions regarding this matter, please contact me directly.

Very truly yours,


Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

9/14/78

WASTE DISPOSAL INC.

- 163 TREMONT AVENUE
EAST ORANGE, N. J. 675-1874
- 864 OLIVE STREET
ELIZABETH, N. J. 289-3222
- BOX 181 - RD 1 ROUTE 34
MATAWAN, N. J. 583-2767

SOLID WASTE REMOVAL CONTRACTORS

DATE 9-18-1978

TO Chemical CONTRAK

ADDRESS _____

1	30 yd Box PICK UP and Ret		

Henry J. Shaw
Henry J. Shaw
48680

Shaw



201

State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

November 14, 1977

Mr. Michael Dunay
Consultant
Chemical Control Corp.
23 South Front Street
Elizabeth, NJ

Re: Disposal of fumed silica, alumina

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Be advised that the above referenced material may be disposed
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Very truly yours,

Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

*Hauled 9/18/78
cotg*

WASTE DISPOSAL

163 TREMONT AVENUE
EAST ORANGE, N. J. 675-1874

864 OLIVE STREET
ELIZABETH, N. J. 289-3222

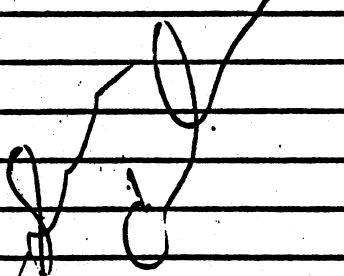
BOX 181 - RD 1 ROUTE 34
MATAWAN, N. J. 583-2767

SOLID WASTE REMOVAL CONTRACTORS

DATE 9/18 1978

TO CHEMICAL CONTROL CO

ADDRESS _____

1-30 gal Box		
Dumped		
		
41635		



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

November 14, 1977

Mr. Michael Dunay
Consultant
Chemical Control Corp.
23 South Front Street
Elizabeth, NJ

Re: Disposal of fumed silica, alumina.

Dear Mr. Dunay:

Be advised that the above referenced material may be disposed
at any landfill registered for industrial (non-chemical) waste.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Ronald J. Buchanan".

Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

*Handes
copy 9/18/78*



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

HEATRICE S. TYLUTKI
DIRECTOR

June 12, 1978

Mr. Michael Colleton
Chemical Control Corporation
25 South Front Street
Elizabeth, NJ 07202

Re: Polystyrene, Methyl Methacrylate Plastics

Dear Mr. Colleton:

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Should you have any questions regarding this matter, please contact me directly.

Very truly yours,

Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

Harless copy 9/11

WASTE DISPOSAL INC.

163 TREMONT AVENUE
EAST ORANGE, N.J. 675-1874

864 OLIVE STREET
ELIZABETH, N.J. 289-3222

BOX 181 - RD 1 ROUTE 34
MATAWAN, N.J. 583-2767

SOLID WASTE REMOVAL CONTRACTORS

DATE 9-19-78

TO CHEMICAL CONTROL

ADDRESS FRONT STREET

1	30 YARD	Box	
		Dumped	
		Miller	
		A Roselle	
		48685	



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

June 12, 1978

Mr. Michael Colleton
Chemical Control Corporation
25 South Front Street
Elizabeth, NJ 07202

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Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:ajs

Hauler copy 9/19/81



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

June 12, 1978

Mr. Michael Colleton
Chemical Control Corporation
25 South Front Street
Elizabeth, NJ 07202

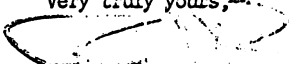
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Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

BTB:mg

*Hauls
exp
6-20-78*

WASTE DISPOSAL INC.

- 163 TREMONT AVENUE
EAST ORANGE, N.J. 675-1874
- 864 OLIVE STREET
ELIZABETH, N.J. 289-3222
- BOX 181 - RD1 ROUTE 34
MATAWAN, N.J. 583-2767

SOLID WASTE REMOVAL CONTRACTORS

DATE 9-20 19 78

TO CHEMICAL CONTROL

ADDRESS FRONT STREET

1	30 YARD BOX		
	DUMPED		
	A. Roselle		
	Henry [Signature]		
	44802		



State of New Jersey
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 SOLID WASTE ADMINISTRATION
 TRENTON, 08625

HEATRICE S. TYLUTKI
 DIRECTOR

June 12, 1978

Mr. Michael Colleton
 Chemical Control Corporation
 23 South Front Street
 Elizabeth, NJ 07202

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Ronald J. Buchanan, Ph.D.
 Chief
 Bureau of Hazardous & Chemical Wastes

Handwritten:
 Hauling
 copy 7-20-78



State of New Jersey
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 SOLID WASTE ADMINISTRATION
 TRENTON, 08625

DEATRICE S. TYLUTKI
 DIRECTOR

June 12, 1978

Mr. Michael Colleton
 Chemical Control Corporation
 25 South Front Street
 Elizabeth, NJ 07202

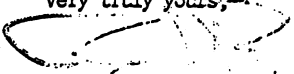
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 Ronald J. Buchanan, Ph.D.
 Chief
 Bureau of Hazardous & Chemical Wastes

RJB:hjg

Handwritten:
 Haubert copy
 7-21-78

WASTE DISPOSAL INC.

163 TREMONT AVENUE
EAST ORANGE, N.J. 675-1874

864 OLIVE STREET
ELIZABETH, N.J. 289-3222

BOX 181 - RD 1 ROUTE 34
MATAWAN, N.J. 583-2767

SOLID WASTE REMOVAL CONTRACTORS

TO Chem. Control DATE 9-21 1978
ADDRESS Front St
Eliz. N.J.

1 - 30 yd. Drum bag

[Handwritten Signature]

47788 *[Handwritten initials]*



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

June 12, 1978

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25 South Front Street
Elizabeth, NJ 07202

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Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:mg

Sept 21
Hacker
Copy

WASTE DISPOSAL INC.

163 TREMONT AVENUE
EAST ORANGE, N. J. 675-1874

864 OLIVE STREET
ELIZABETH, N. J. 289-3222

BOX 181 - RD 1 ROUTE 34
MATAWAN, N. J. 593-2767

SOLID WASTE REMOVAL CONTRACTORS

DATE 9/22 1978

TO CHEMICAL CONTROL

ADDRESS CRP

1-30yd Bag		
DUMPED		
Seal		
<i>[Signature]</i>		
39480		



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

BEATRICE S. TYLUTKI
DIRECTOR

June 12, 1978

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Chemical Control Corporation
23 South Front Street
Elizabeth, NJ 07202

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Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

*Haus
copy 9-22-7*

WASTE DISPOSAL INC.

163 TREMONT AVENUE
EAST ORANGE, N.J. 675-1874

864 OLIVE STREET
ELIZABETH, N.J. 289-3222

BOX 181 - RD 1 ROUTE 34
MATAWAN, N.J. 583-2767

SOLID WASTE REMOVAL CONTRACTORS

DATE 9/22 19 78

TO CHEMICAL CONTROL
ADDRESS CORP

1-30 yd Bags
Dumped
39481



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SOLID WASTE ADMINISTRATION
TRENTON, 08625

SEATRICE S. TYLUTKI
DIRECTOR

June 12, 1978

Mr. Michael Colleton
Chemical Control Corporation
25 South Front Street
Elizabeth, NJ 07202

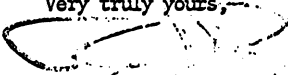
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Ronald J. Buchanan, Ph.D.
Chief
Bureau of Hazardous & Chemical Wastes

RJB:hjg

*Landfill
copy 7-22-78*

WASTE DISPOSAL INC.

163 TRENT AVENUE
EAST ORANGE, N.J. 675-1874

864 OLIVE STREET
ELIZABETH, N.J. 289-3222

BOX 181 - RD 1 ROUTE 34
MATAWAN, N.J. 583-2767

SOLID WASTE REMOVAL CONTRACTORS

DATE 10-26 1978

TO CHEMICAL PROCESS

ADDRESS CO RD

(Billed)
10/26/78

1-20 gal box

33 DRUMS

DUMPED.

J. Mang

41861

R.E.



State of New Jersey
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 SOLID WASTE ADMINISTRATION
 TRENTON, 08625

MATRICE S. TYLUTKI
 DIRECTOR

June 12, 1978

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 25 South Front Street
 Elizabeth, NJ 07202

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Ronald J. Buchanan, Ph.D.
 Chief
 Bureau of Hazardous & Chemical Wastes

WJH:jg

*Paul's copy
 9-26-78*

Mr. GORE. Based on the investigation, the lawyer's letter states that: "Waste Disposal did not do any hauling of hazardous waste for Chemical Control," and that: "In late September, 1978, Waste Disposal ceased doing hauling work for Chemical Control."

However, I would like to direct your attention—and I would ask the staff to provide this to you—to a letter dated October 13, 1978, from Marvin Mahan of Scientific, Inc., a partner of SCA's in the Earthline facility, in which reference is made to hauling of drums from Chemical Control on October 12, 1978, and observations of a load of tank-bottom oil going to Edgeboro.

Do you have that letter?

Mr. VIOLA. Yes, sir.

Mr. DINGELL. Without objection, it will be included in the record at this point.

[The letter referred to follows:]

October 13, 1978

Mr. Thomas Viola
President
SCA Services, Inc.
60 State Street
Boston, Massachusetts 02109

Dear Tommy:

As you well know, SCA is not to engage in the disposal or trucking of chemicals or liquid wastes or sludges within 150 miles of Edison.

Recently I observed you taking drums, sludge and stabilized chemicals at Pottstown - all in violation.

Recently I was told that SCA was moving drums from Chemical Control and on Thursday, October 12, I went to Chemical Control, Elizabeth and observed SCA rolloffs in front of Chemical Control. I then went to see Lou and Chris Roselli at their office and they advised me: (1) Yes, they were handling drums approved by DEP and were taking them to MSLA at \$50.00 per load, plus \$100 trucking. (2) They had a load of tank bottom oil from Coastal Services picked up at Exxon, Bayonne going to Edgeboro Landfill, Truck #327, License No. XLG29W-N.J. The oil was running out the back of the roll-off and I took samples. Chris stated that he did not know of the Partnership restriction and Lou stated that business was so good that they had just ordered six more rolloffs.

This is not an oversight on Steve's part and there is no excuse for this violation. I expect this stopped immediately with the business directed to Earthline and a full three-year audit of all SCA facilities within the partnership radius at SCA's expense with full retribution to the partnership.

Very truly yours,

SCIENTIFIC, INC.

MHM/mrb

Marvin H. Mahan

cc: Chris Roselli
Steve Siegel

Mr. GORE. Do you recall receiving Mr. Mahan's letter?

Mr. VIOLA. Yes, sir.

Mr. GORE. What action did you take?

Mr. VIOLA. I see by my handwritten note—and it is the same thing that I mentioned to your staff investigators—that normally I would have turned this over to the head of our chemical waste division at that time.

I was asked by your staff to find out if I did respond. I told your staff I did not know whether I did. I went back to my files, my secretary pulled out the letter, and in my handwriting there is my notation to the vice president at this time: "This must be answered." I do not know whether or not this was answered verbally or in writing.

I have been told that we do not have any correspondence in our files indicating that we did answer in writing.

Mr. GORE. What did Mr. Siegal and Mr. Milano report back to you?

Mr. VIOLA. As I indicated to your staff, I sent Mr. Siegal down—he was the head of our chemical waste division—along with Mr. Milano, who was in charge of the eastern division of the solid waste division, to speak to Mr. Roselle and to ascertain whether or not the facts in Mr. Mahan's letter were correct.

If they were correct, then Mr. Roselle was to stop immediately dealing with hazardous or toxic waste because I had a policy separating those functions, and I did not want Mr. Roselle's company or any solid waste company handling hazardous waste.

Mr. GORE. What did they report back to you after you instructed them to do that?

Mr. VIOLA. They reported back to me that they complied with my wishes.

Mr. GORE. What did they say about the factual accuracy of the allegations?

Mr. VIOLA. I am about to answer that, in anticipation.

Mr. GORE. All right. Go ahead.

Mr. VIOLA. What I found out just recently was the facts—excuse me?

Mr. GORE. The question was what they reported back to you.

Mr. VIOLA. I am going to tell you.

Mr. GORE. Did you find out from them just recently?

Mr. VIOLA. I have already told you—that they did what I told them to do.

Mr. GORE. What did they report back to you about the allegations?

Mr. VIOLA. "We took care of it, Tommy. We told Roselle not to do it." I do not recall whether Roselle admitted doing it or not.

Mr. GORE. OK. So you do not recall what they reported back to you about the veracity of the allegations?

Mr. VIOLA. You have to understand—please, sir. I am running an operation in 32 States. This is back on October 13. I call a division manager in or a vice president to take care of a problem. The next we have, he says: "Yes, I took care of that." The details—I do not get involved in all the details, sir.

Mr. GORE. You see, I think the details are important.

Mr. VIOLA. Yes; they are, and you have them now.

Mr. GORE. This facility subsequently blew up—the facility where the barrels were being hauled from by Mr. Roselle subsequently blew up, and except for favorable weather conditions could have caused a major public health threat to New York City—Manhattan Island.

And here we have a subsidiary, and we heard testimony this morning that this subsidiary, particularly, had association with organized crime figures who mediated disputes between this subsidiary and other companies in the area. And you found that this subsidiary was handling hazardous waste.

You were sent a letter, by one of your partners, saying that they were handling hazardous waste from the Chemical Control facility, and you asked somebody to check into it. But you do not acknowledge that?

Mr. VIOLA. Would you ask the question again, please?

Mr. GORE. Did they handle chemical waste or not?

Mr. VIOLA. No; I said, and you have the letter with all the details, sir.

Mr. GORE. But you do not recall whether or not the results of the investigation determined that or not.

Mr. VIOLA. There was no investigation.

Mr. GORE. You asked these people to look into it for you.

Mr. VIOLA. Yes, sir; if you call that an investigation. They went down and spoke to Mr. Roselle, and told Mr. Roselle—reminded him of my policy.

Mr. GORE. When they came back, did you ask them whether or not it was true—was he handling waste or not? Did you ask them?

Mr. VIOLA. I do not recall what they told me. I do recall that they went down and spoke to Mr. Roselle. The facts of the matter you have before you in Mr. Rabbino's letter—that, in fact, they were not handling hazardous waste. There it is—you have it.

Mr. GORE. Mr. Mahan requests in the last sentence of the letter a full 3-year audit of all SCA facilities. Was such an audit ever conducted, and, if so, what were the results?

Mr. VIOLA. I do not know, sir, if it was.

Mr. DINGELL. You do not know what the results were, sir, or you do not know whether or not it was conducted?

Mr. VIOLA. I do not know whether a 3-year audit of the partnership was conducted. I do not know.

Mr. DINGELL. What actions were taken by SCA after the explosion?

Mr. VIOLA. You have to understand, sir, that from Chemical Control we took some materials that were labeled nonhazardous, nontoxic, by the State Department of Health in New Jersey.

What you have to understand is that Mr. Roselle took materials away that were labeled by the State of New Jersey to be nontoxic, nonhazardous, allowable to be transported to a sanitary landfill. We took material out of Chemical Control.

Mr. DINGELL. What action did you take after you found out that the labeling by the State of New Jersey as nonhazardous, and so forth, may not have been factual and correct? What action did you take after the exposure—did you take any?

Mr. VIOLA. Would you repeat what you think the facts are first for me, please, sir?

Mr. GORE. If the chairman would yield—

Mr. DINGELL. The Chair yields.

Mr. GORE. The facts were, as we have outlined them, that you received a letter from your partner indicating that this company—Mr. Roselle's company, that was an SCA subsidiary—was handling hazardous waste from the Chemical Control facility.

Mr. VIOLA. Which was found to be wrong, sir—please say that.

Mr. GORE. OK. You asked your two employees to look into it. The point of the question is how SCA and how officials of SCA conduct oversight of its subsidiaries and to what extent they maintain control over the operations of subsidiaries.

If you, as chief executive officer, have no recollection of the inquiry, which evidently was a serious inquiry, and you did not evidently get a confirmation or denial from Mr. Roselle in a way that is rememberable, then I think that says something about the amount of control that you exercise over what they are doing.

I have some other questions along this line, but go ahead.

Mr. VIOLA. You almost made a charge—that was not a question—but I will respond.

Mr. GORE. You asked for a statement of the facts as we understood them.

Mr. VIOLA. No; well, I do not want to be argumentative. We have enough to do without being that.

First of all, we have very good controls, and our auditors will tell you that. We have a strong audit committee composed of outside directors of our company, and we have one of the big eight accounting firms.

Sir, when we file reports to the SEC, our accountants must sign off as to whether or not SCA has good financial controls and management controls. And, sir, we do.

To get back to your question, I think I did the proper thing when I received this letter. If someone could tell me in what instance or in what way I did not do the proper thing—I mean, I am here to learn, too. I am not infallible.

But let me say what I did. I gave the letter to Mr. Siegal, who was the head of our chemical waste division, as I would give it to any one of my vice presidents, whatever the problems are. These vice presidents take their job seriously, and I treat them as competent people. We pay them well, and they are very responsible people. And I tell them to take care of it.

Now, if there was a problem that he could not take care of, I am sure I would have heard about it. And you have the facts—we did not handle hazardous waste at Waste Disposal. It is clear.

Mr. GORE. You mentioned your vice presidents and talk about the amount of faith you put in them. Earlier today, SCA made a point of elaborating on Mr. Kaufman's criminal record. During the time that you have been president of the corporation, are you aware of any corporate officers of SCA with felony records?

Mr. VIOLA. I am not aware of any current employees of SCA having any felony records.

Mr. GORE. As far as I am concerned, the name of this individual is not important. Are you aware of any corporate officers of SCA promoted by you to vice president who were convicted felons?

Mr. VIOLA. Unfortunately, that happened one time, and since then I have adopted a policy that before I nominate anyone to become an officer in our company we have a special investigative check. Yes, sir; we had one, and I did not know it at the time.

Mr. GORE. That is fine. His name is not important.

There seems to be a double standard, though, if you are impeaching Mr. Kaufman solely on the basis of his felony record and yet promoting an individual—

Mr. VIOLA. No, no; you knew beforehand. You had Mr. Kaufman here for 4 days. You knew his record, or your staff should have known whether or not he was credible—the veracity of the man. You should have known that before you had him come in and degrade me in 32 States. You should have known that.

I did not know about Mr. ——— whatever his name was—until after the fact. It is not the same. It is not a double standard. I beg to differ.

Mr. Gore, I want to apologize. I seem to be getting a little testy. It has been a long 6 months for me.

Mr. GORE. No, no; that is all right—you do not have to apologize. I understand that, Mr. Viola.

Incidentally, how did SCA acquire Mr. Kaufman's criminal record which it has been passing out? Did that come from any New Jersey law enforcement official? How did the company acquire that?

Mr. VIOLA. It was given to me by—it was shown to me by my attorneys. It is immaterial, sir, how that came about. What is important is that this man defamed me, and you helped him defame me. You should not do that to anybody, sir.

Mr. GORE. Do you know where SCA acquired Mr. Kaufman's criminal record? Was it from a law enforcement official?

Mr. VIOLA. I do not know.

Mr. GORE. All right.

SCA operates Earthline, Inc., a large hazardous waste disposal firm in Newark, N.J. On May 1 of this year, a State county task force executed a search warrant at that facility. Press reports indicate that there may have been a relationship between the toxic fumes in the Newark sewer lines and the Earthline facility.

Have you looked into that matter, Mr. Viola?

Mr. VIOLA. Definitely, sir; and I am glad you asked me. Maybe the press will report the accurate facts. The accurate facts are these: That there is no causal relationship between the death of that person and the operation of SCA's facility.

In fact, we had a meeting with our attorneys only Tuesday of this week. Information has come to me that the construction worker who went into the sewer without proper equipment—and OSHA is checking into it—died from methane gas, which is inherent in the sewer system. There are 8 miles of sewer system, by the way, in this sewer.

And we are the only company, sir, that has its records monitored daily. That is the penalty we get for being the only one that is monitored. It is crazy. It is just crazy.

Mr. GORE. Your actual response is directed at—

Mr. VIOLA. I immediately—immediately—sent the head of our chemical waste division down to Newark to give me a full report,

which he did, and we sent our two top operating people, with two or three attorneys, to meet with the proper law enforcement officials, and I could tell you now that there is no causal relationship between the death of that person and the operation of that plant.

And our plant has never been in any violation. We are running a model plant. It is one of the top in this Nation. And people should be welcoming—this committee and this Congress should be encouraging companies like SCA to get into this business.

Mr. GORE. Do you have any reason to believe that hazardous chemicals have been improperly or illegally disposed of at the Earthline facility or by Earthline employees?

Mr. VIOLA. Absolutely not, sir.

Mr. GORE. I have one further question along this line, Mr. Chairman.

SCA operates a large solid waste landfill called Waste Disposal, Inc., in Howell Township, N.J., which recent test results show is leaching benzene and other volatile organic chemicals into nearby waters.

I understand negotiations are underway with the State Department of Environmental Protection to implement a monitoring and leachate collection plant. Do you have any information, or has SCA conducted an investigation to determine the circumstances under which chemical waste was dumped into its solid waste landfill?

Mr. VIOLA. As you indicated, we are cooperating fully with the State officials in New Jersey. You must understand, sir, that that site was acquired by SCA in the early 1970's—around 1973 or 1974—and the site had been operated since 1948, I believe. It is virtually impossible to determine where the materials came from.

The focus of our attention is on remedial action, and we are taking remedial action. We are discussing it with the State Department of Environmental Affairs in New Jersey, and we intend to take all necessary steps to make sure that we do not do any environmental damage.

Mr. GORE. Mr. Viola, with regard to the municipal contracts, is it merely a coincidence that in the 99 contracts involved you and your principal competitor have bid against each other only four times?

Mr. VIOLA. You know, this is like putting a microscope on a pimple. We bid against our main competitors all over the country—all over the country—and no one ever talks about that. And we do not bid necessarily every town and city all over the country.

Mr. GORE. I am talking about New Jersey—six counties in New Jersey, 99 contracts.

Mr. VIOLA. I cannot speculate as to where BFI bids or where they do not bid.

Mr. GORE. This was the focus of Mr. Kaufman's testimony, you understand.

Mr. VIOLA. The guy is a liar.

Mr. GORE. Is it a coincidence, then, that 95 out of 99 were bid without any competition from the principal competitors?

Mr. VIOLA. No; look at the amount of times we did bid, as I said in my prepared statement.

Mr. GORE. We looked at a 7-year period.

Mr. VIOLA. If you look at them, look at the towns we lost, look at the towns we bid—why are you just looking at only ourselves and BFI? That is unfair.

Mr. GORE. Are you the two principal companies in that area of New Jersey in this segment of the business?

Mr. VIOLA. Mr. Madonna mentioned the name of the company, I did not.

Mr. GORE. Are the two of you the two principal firms—

Mr. VIOLA. No; we are not the two principal firms.

Mr. GORE. [continuing]. In taking municipal contracts in that section of New Jersey?

Mr. VIOLA. If you call us the principal because we are the largest—we do large volumes nationwide—that is one thing. But is BFI a principal in northern New Jersey? I do not know that. Did you ask Mr. Madonna?

Mr. GORE. It must be a coincidence, then.

Mr. DINGELL. The time of the gentleman has expired.

The Chair advises that we—

Mr. Viola, the Chair had assured you that you would have an opportunity for a brief comment.

Mr. VIOLA. Actually, sir, I just wanted to ask permission to put into the record two letters from Rogers and Wells, both to Mr. Frandsen and this subcommittee, one dated May 5, 1981, the other dated May 26, 1981. I would like to have them included in the record. They are related to the subject of waste disposal.

Mr. DINGELL. The May 5 letter has already been inserted. (See p. 137.) Without objection, the May 26 letter will be included at this point.

[The letter referred to follows:]

1668 K STREET, N.W.
WASHINGTON, D.C. 20006
TELEPHONE (202) 331-7760
INTERNATIONAL TELEX 248439

261 SOUTH FIGUEROA STREET
LOS ANGELES, CALIFORNIA 90012
TELEPHONE (213) 626-6900
INTERNATIONAL TELEX 194758

310 WEST A STREET
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (714) 239-1200
INTERNATIONAL TELEX 697842

Rogers & Wells
Two Hundred Park Avenue
New York, N.Y. 10166

TELEPHONE (212) 972-7000

INTERNATIONAL TELEX
RCA 234493
I T T 424493

47, AVENUE HOCHÉ
75008-PARIS, FRANCE
TELEPHONE 763.11.00
INTERNATIONAL TELEX 290617

58 COLEMAN STREET
LONDON EC2R 3BE, ENGLAND
TELEPHONE 01 558 0101
INTERNATIONAL TELEX 884984

CABLE ADDRESSES
"YORKLAW" NEW YORK
"WALAW" WASHINGTON
"LALAW" LOS ANGELES
"DIEGLAW" SAN DIEGO
"EURLAW" PARIS
"USLAW" LONDON

May 26, 1981

BY SPECIAL MESSENGER

Richard A. Frandsen, Esq.
Counsel
Subcommittee on Oversight and
Investigations
Committee on Energy and Commerce
House of Representatives
Rayburn House Office Building
Washington, D.C. 20005

Re: SCA Services, Inc.

Dear Mr. Frandsen:

On Thursday, May 21, you furnished Jim Ryan, and questioned Thomas Viola with respect to, a copy of an October 13, 1978 letter from Marvin H. Mahan of Scientific, Inc. to Mr. Viola. I have discussed that letter with Mr. Louis Roselle and David Lieb and wish to bring the following to your attention:

1. The Mahan letter refers to the "the taking [of] drums, sludge and stabilized chemicals at Pottstown." Louis Roselle advises me that Waste Disposal, Inc. never did any hauling into or out of Pottsdam, Pennsylvania.
2. Mr. Mahan, in his letter, claims to have observed Waste Disposal, Inc. rolloffs (i.e., boxes) at Chemical Control on October 12, 1978. Mr. Roselle is virtually certain that Waste Disposal, Inc. did not do any work for Chemical Control after September 22, 1978 and that, therefore, the Mahan letter, to the extent it may be read to suggest that Waste Disposal, Inc.

was actually engaged in hauling work for Chemical Control on or about October 12, 1978, is in error.* Mr. Roselle points out that the "rolloffs" referred to by Mr. Mahan may be the box (or possibly boxes) which, pursuant to Chris Roselle's instructions, was unloaded at Chemical Control in late September, 1978 and that, as of October 12, 1978, Waste Disposal, Inc. may not have yet retrieved that box (or boxes).

3. With respect to the reference to the hauling of tank bottom oil from Bayonne to the Edgeboro Landfill, it is Louis Roselle's understanding that tank bottom oil is a fairly hard, tar-like, non-hazardous residue. He recalls that, were such oil considered hazardous at the time, Edgeboro Landfill would not have accepted it.
4. With respect to the purported statement of Louis Roselle "that business was so good that they had just ordered six more rolloffs," Louis Roselle does not have any specific recollection of having made that statement; however, he believes that, if he made any such statement, he necessarily would have been referring to the non-hazardous waste business.
5. Louis Roselle recalls that, following the Chemical Control hauling which took place in the fall of 1978,

* In my May 5, 1981 letter to you concerning the Waste Disposal, Inc./Chemical Control work, I raised the possibility (at page 2, n.) that there may have been three missing invoices. After further discussions with David Lieb and Louis Roselle, it is now apparent that there are no missing invoices, and that the records we furnished you reflect all thirty deliveries for which Waste Disposal, Inc. was compensated by Chemical Control. Until recent discussions concerning the Mahan letter, it was not realized that the September 16, 1978 invoice reflects four deliveries, unlike the other invoices, each of which reflects only one delivery. Because the thirty deliveries for which Waste Disposal, Inc. received compensation are fully documented, Mr. Roselle is reasonably certain that no deliveries were made after September 22, 1978.

Waste Disposal, Inc., ceased not only hauling services for Chemical Control, but also the hauling of non-hazardous liquid waste.

If you should require any further information, please do not hesitate to call me.

Sincerely,


Robert A. Rabbino, Jr.

cc: Mr. Louis Roselle
Mr. David Lieb

Mr. DINGELL. The Chair thanks you, gentlemen, for your patience with us. You may consider yourselves excused.

Mr. FOX. Thank you, Mr. Chairman.

Mr. VIOLA. Thank you, sir.

Mr. DINGELL. The Chair advises that we may be recalling you, but at this particular time the Chair has doubts as to that point.

The Chair announces as follows: The subcommittee will remain in session. The Chair announces that, for the next few minutes, while the subcommittee is in session, however, certain events will take place.

First of all, both moving and still cameras and photography by any form of photographic or reproductive device will be prohibited during the preparation for the testimony of our next witness.

All cameras will, at this time, be turned off, and the Chair requests that, for a brief period, our cameras now be turned to the wall while we bring in our next witness, who is Mr. Kaufman.

The Chair advises that Mr. Kaufman is in the witness protection program, and Mr. Madonna of the New Jersey Division of Criminal Justice will join him so that his testimony will not adversely affect any pending prosecutions.

Gentlemen, we regret that we have to ask the assistance of our guests in the media, but all the cameras will, at this time, be turned off and will be turned to the wall, and the Chair means the wall in back of our photographers, not this wall.

While we are waiting, the Chair does have another brief announcement. Sound will be permitted in the room by our guests from the press, and we will permit the functioning of cameras which the marshals find will not photograph the face of the witness.

The Chair also advises that we will permit cameras, which are placed in the room so as not to have the possibility of photographing the witness, to, in fact, function.

The Chair does make one additional request of our guests from the press in the subcommittee room, and that is that those members of the press who now sit over at this end of the committee

table—would they please go down into the general audience or press table.

The Chair does, again, apologize to our guests from the press, but the Chair does not always have full control of events in this subcommittee, as you have probably already ascertained.

The Chair does make this request of the gentlemen of the press: If you would, please, just until our witness gets in, turn the cameras away so that the marshals and the Chair are a little more comfortable with the way matters are going.

Marshal, would you now escort our next witness into the chamber of the subcommittee, please?

Mr. Kaufman, in light of all the circumstances, the Chair is going to ask that you remain seated during the administration of the oath. Do you have any objection to being sworn, sir?

Mr. KAUFMAN. No, I do not, sir.

Mr. DINGELL. Then, would you raise your right hand? Do you solemnly swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. KAUFMAN. I do.

Mr. DINGELL. You may consider yourself as having been sworn.

You will note that copies of the rules of the committee are at the table with you there. The Chair observes that Mr. Madonna of the New Jersey Division of Criminal Justice is there at the witness table with you.

Do you have any objection to his presence there?

Mr. KAUFMAN. No; I do not.

Mr. DINGELL. Will you identify yourself fully, if you please?

Mr. KAUFMAN. My name is Harold Kaufman, and I am presently under the witness protection program.

Mr. DINGELL. Mr. Madonna, the Chair observes that you are already sworn, and I assume that you consider yourself to continue to be sworn.

Mr. MADONNA. I understand that.

Mr. DINGELL. The Chair will now recognize Mr. Frandsen, counsel to the subcommittee for some questions he wishes to ask.

Mr. FRANDSEN. Mr. Kaufman, do you have any opening remarks or statement you would like to make at this point?

Mr. KAUFMAN. Yes, I would like to make one short statement.

Mr. DINGELL. You may consider yourself recognized for that purpose.

TESTIMONY OF HAROLD KAUFMAN, FEDERAL BUREAU OF INVESTIGATION WITNESS PROTECTION PROGRAM, ACCOMPANIED BY STEVEN J. MADONNA, DEPUTY ATTORNEY GENERAL, NEW JERSEY DIVISION OF CRIMINAL JUSTICE

Mr. KAUFMAN. Thank you.

To save a lot of time, I have a criminal record since I am 20 years old. The Army charged I was AWOL 12 days when I was 19 years old in Fort Monmouth. I do have an honorable discharge, and I have never been to Attica Prison. But I do have an extensive criminal record.

Second, I think Mr. Viola is entitled to know my motive—he really is. I have no vendetta against SCA. SCA or Mr. Viola has never done me any harm—never.

The only reason I appeared before this committee was—well, in my own words, which probably is not very fluent, but in my own words—and it is the only way I know how to tell you this—all my life, as I said, I had been a criminal.

About 10 years ago, my life changed. I became an honest, law-abiding citizen—a worker. I became president of my own company—not my own company, but president of a company. I earned a good salary. I had seen what they were doing in the toxic and solid waste industries in New Jersey, and I figured, if one thing I ever did in my life that could save one kid from inhaling toxic waste, I have done something good. That is my motivation.

I left a job where I had an excellent salary. I worked till the day I went into the program—till the day I went in the program, I worked. I had no criminal charges pending against me. There was no muscle on me at all. This was all voluntary on my part.

That is what I wanted to tell the chairman.

Mr. DINGELL. You are also here, Mr. Kaufman, by reason of the request made of you—is that correct?

Mr. KAUFMAN. Yes; I am.

Mr. DINGELL. Very well.

The Chair recognizes Mr. Frandsen for questions.

Mr. FRANSEN. Mr. Kaufman, I would just like to clear the record. Prior to your previous appearance before the subcommittee, had you focused on SCA in your discussions with the subcommittee staff in any significant way?

Mr. KAUFMAN. I am sorry—I did not hear the end of that.

Mr. FRANSEN. Prior to your previous appearance before the subcommittee, had you focused on SCA in your discussions with the subcommittee staff in any significant way?

Mr. KAUFMAN. No; I did not.

I called—originally, I spoke to former Congressman Maguire. And then I spoke to Congressman Gore. I explained to them that I had heard about this hearing, and I felt I had something to contribute toward organized crime's involvement in hazardous waste. I did not specify anything.

The first time we ever discussed SCA was the night before the hearing when we had that meeting in the room.

Mr. FRANSEN. Have you ever personally attended any grievance meetings?

Mr. KAUFMAN. Yes; I have.

Mr. FRANSEN. Have you ever been taped while you were participating or attending a grievance meeting?

Mr. KAUFMAN. Yes; I have. I have taped a grievance meeting from the beginning to the end.

Mr. FRANSEN. Were you or the company you worked for, Statewide, ever told to stay out of a town—by that, I mean not to bid a town?

Mr. KAUFMAN. You mean by an organized crime figure?

Mr. FRANSEN. That is correct.

Mr. KAUFMAN. Yes; we were.

Mr. FRANSEN. Could you explain briefly the details of that?

Mr. KAUFMAN. The city of Newark was going out on a bid. They formerly did the sanitation removal by themselves. They were going to the private contractor. There was an agreement among the property rights people that BFI would get the job by themselves. Statewide bid it, too—went in there. We were the low bidder.

The bids were thrown out because the council of Newark said that the bids were too high.

We were called to a meeting by Carmine Franco and Tino Fiumara in northern New Jersey—I believe it was a Holiday Inn. We were called to a meeting where we were told to stay out of Newark and not to bid it again because it was not our job.

Mr. FRANSEN. Who was the “we”?

Mr. KAUFMAN. Chuck Macaluso and myself—the owner of the company.

Mr. FRANSEN. Did Mr. Franco or Mr. Fiumara specifically tell either you or Mr. Macaluso not to bid the Newark municipal contract?

Mr. KAUFMAN. They told Mr. Macaluso, who told me.

Mr. FRANSEN. Did Statewide bid the Newark contract?

Mr. KAUFMAN. No; they did not.

Can I bring up a point? In the interview, Newark has become a private contractor, and it is costing the city of Newark now \$1,200,000 more than it would have had we taken the job. We took it with bags, and now they are doing it without bags—plastic bags.

Mr. FRANSEN. Mr. Kaufman, I would like to refer you to your previous testimony regarding SCA where you stated—and I quote:

SCA buys a company for stock. They turn around, and they give the same president of that company a 5-year contract in the State of New Jersey. They have some of the toughest organized crime companies in the world in the SCA through the Viola family.

Did you mean by that statement that Mr. Viola was the head or a member of an organized crime family?

Mr. KAUFMAN. No, I did not.

Mr. FRANSEN. Can you clarify for the subcommittee what you meant?

Mr. KAUFMAN. I meant that the Viola family recruited these companies to join SCA.

Mr. FRANSEN. Why do you say “family”?

Mr. KAUFMAN. I meant his brother, Frank, and him.

Mr. DINGELL. You meant the family of firms?

Mr. KAUFMAN. No; I meant the family—I do not know how to explain. I did mean his father, too, by the way, because I knew his father was involved in the garbage business long before the property rights concept.

So I meant the father and the two sons, but I did not mean an organized crime family. I meant a blood family.

Mr. DINGELL. I see. Thank you.

Mr. FRANSEN. Have you ever met Mr. Viola?

Mr. KAUFMAN. Yes; I have.

Mr. FRANSEN. Can you describe when and where that meeting took place?

Mr. KAUFMAN. I met him with a Mr. Charles Macaluso in Boston—I would say for about 10 minutes. I was introduced to him.

We were down in Boston to get a bond for a job, and Mr. Macaluso had a meeting with him in the office. I was not in the office.

When he came out, I shook his hand, and he said: "This is Harold. He works for me, and he is—you know—like my alter ego."

I also talked to him on the telephone one time.

Mr. FRANDBEN. I have no further questions, Mr. Chairman.

Mr. DINGELL. Could you tell us approximately how often you spoke to him on the telephone?

Mr. KAUFMAN. Once or twice.

Mr. DINGELL. At approximately what time?

Mr. KAUFMAN. It had to be 1977.

Mr. DINGELL. I see.

The Chair recognizes now the gentleman from Tennessee, Mr. Gore.

Mr. GORE. Thank you, Mr. Chairman.

Mr. Kaufman, I do not have many questions. We explored this matter in some detail with you at the last hearing. Let me just ask you for a brief response to this question: Is it conceivable that someone could work for many years in the waste disposal industry in New Jersey and have no knowledge of a property rights system?

Mr. KAUFMAN. Impossible.

Mr. GORE. Is it conceivable that a person could work for many years in that industry in New Jersey and have no independent knowledge of the existence of organized crime?

Mr. KAUFMAN. Impossible.

Mr. GORE. Thank you, Mr. Chairman.

Mr. DINGELL. The Chair recognizes now the gentleman from Pennsylvania, Mr. Marks.

Mr. MARKS. Thank you, Mr. Chairman.

Mr. Kaufman, you were not in the room when Mr. Viola and Mr. Fox testified.

Mr. KAUFMAN. I heard the testimony.

Mr. MARKS. You heard the testimony?

Mr. KAUFMAN. Yes; sir. They had a speaker.

Mr. MARKS. I see. Having heard their testimony, you heard them specifically indicate, first from Mr. Fox, that SCA is not a part nor does it participate in any way with organized crime. Did you hear him make that statement?

Mr. KAUFMAN. Yes, I heard.

Mr. MARKS. Do you agree with that?

Mr. KAUFMAN. Of course not. I made the statement before—when I was before the subcommittee before. I stand by that statement—that SCA subsidiaries in New Jersey—well, I really cannot say—I heard somebody else say here about the corporation down here, because I do not know the board of directors.

I will state unequivocally, under oath, right here, right now, that Mr. Viola not only knew about property rights, he supported the property rights concept. I have heard this from many sources, myself.

I sat there, and I taped grievances. I have met with Mr. Roselle. I met with Mr. Iommetti. I met with Mr. Zuccarelli.

Mr. MARKS. Who were the sources that you suggest you heard this from?

Mr. KAUFMAN. Mr. Roselle, Mr. Zuccarelli, Mr. Iommetti, Mr. Mastrangelo—I have met with all these people.

Mr. MARKS. Anybody else?

Mr. KAUFMAN. Specifically, no, I cannot say.

Mr. GORE. Will the gentleman yield briefly?

Mr. MARKS. Sure.

Mr. GORE. Just a minor clarification—you taped meetings involving Mr. Roselle and the SCA subsidiaries—

Mr. KAUFMAN. No; I did not.

Mr. GORE. You did not?

Mr. KAUFMAN. I never did.

Mr. GORE. And you did not tape any meetings at which Mr. Viola was present, did you?

Mr. KAUFMAN. No. Also, I have never taped a meeting—they were members of the Municipal Contractors Association. All my tapes were made at the New Jersey Trade Waste Association.

Mr. MARKS. Mr. Kaufman, have you ever told the New Jersey Police that you, in fact, know of any connection between Mr. Viola and/or SCA and organized crime?

Mr. KAUFMAN. I would almost bet—you know, it is hard to remember. I was under cover for 2 years with the FBI, taping every day almost. It is hard to remember. But I know for a fact I told the FBI agent that I worked with that Mr. Viola was connected to the property rights system and the organized crime system.

The fact is, I made a report. There is a 302—which I understand is the FBI thing—where I reported that Mr. Franco went to see Mr. Viola. Certainly, he asked me why did he go there, and certainly I told him.

Mr. MARKS. Did you ever tell the New Jersey Police that you really did not know of any connection between Mr. Viola and organized crime?

Mr. KAUFMAN. Do you mean in my own personal knowledge—have I ever seen him with organized crime figures?

Mr. MARKS. No; I did not ask you that question. Now, listen to the question. Did you ever tell the New Jersey police that you really did not know of any connection between Mr. Viola and organized crime?

Mr. KAUFMAN. I do not ever remember saying that.

Mr. MARKS. You deny saying that?

Mr. KAUFMAN. No; I do not deny saying it. I do not remember. I have spoken to the police many times. When I said I had no personal knowledge of it—if I did use that expression, and I probably did—I meant that I have never seen Mr. Viola with Tino Fiumara, I have never seen him with Ernie Palmeri, personally.

Mr. MARKS. When did you say that you did see him? When were you in his presence?

Mr. KAUFMAN. 1977.

Mr. MARKS. Who was there with you at the time?

Mr. KAUFMAN. Charles Macaluso?

Mr. MARKS. Anyone else?

Mr. KAUFMAN. That is it.

Mr. MARKS. Where was this?

Mr. KAUFMAN. At his office. I could not even tell you the address of his office.

Mr. MARKS. At whose office, sir?

Mr. KAUFMAN. Mr. Viola's office in Boston.

Mr. MARKS. Where was that located?

Mr. KAUFMAN. I do not know. I could not tell you the address.

Mr. MARKS. In what city?

Mr. KAUFMAN. Boston.

Mr. GORE. Will the gentleman yield on this point?

Mr. MARKS. Certainly.

Mr. GORE. The subcommittee has a document from the FBI dated September 28, 1979. I would like to ask staff to give it to the witness to refresh his memory. It is on this specific point of did he ever advise the law enforcement officials of a connection between Mr. Viola and the property rights system. I will just read it while the staff is providing it to the witness.

It is from the FBI Newark files, and it says: "He"—referring to Mr. Kaufman in February 1979—

advised that Carmine Franco of Carmine Franco, Inc., Hillsdale, N.J., was summoned to meet with Tommy Viola, president of SCA Services, Inc., Boston, Mass., to discuss one Cushy Roselle—

I take it that is Crescent Roselle?

Mr. KAUFMAN. Crescent.

Mr. GORE [continues reading]:

who had been with SCA and who now apparently was stealing back work he had originally sold to SCA. Roselle appeared to be leaving SCA and in taking back this work was using a firm known as West Essex Disposal, Livingston, N.J., as a vehicle for obtaining this work.

With that refreshing of your memory, do you remember advising the FBI of that incident?

Mr. KAUFMAN. Yes; I do.

Mr. GORE. I thank my colleague for yielding.

Mr. MARKS. This morning, we heard testimony from Mr. Viola that he had a letter from the Federal Bureau of Investigation which indicated that there was no adverse information with them at all concerning his relationship with organized crime. Did you hear that this morning?

Mr. KAUFMAN. Yes; I did.

Mr. MARKS. And although we were not shown that letter, apparently he was holding the letter at the time. Can you account for the fact that the Federal Bureau of Investigation would not have that information?

Mr. KAUFMAN. Are you asking me to speculate on that? I do not know how they operate. I do not know if they send all the memorandums or how they operate.

This was a report made that was shown to me before, I think by a member of the staff, or somebody told me it was here. And this was long after the hearing.

Anyway, I had told them about this meeting. I remembered that. Whether they forwarded it to their bosses in Washington—I cannot answer that. I do not know what their policy is.

Mr. MARKS. Mr. Kaufman, your preliminary statement today was that you have been involved in illegal activities since you were 20.

Mr. KAUFMAN. Yes, sir.

Mr. MARKS. I recanted today a statement that we were given that indicated 10 or 12 charges that you were convicted of, from

bank robbery, to armed robbery, transporting false and forged securities, issuing worthless checks, transferring forged securities, stolen property—I assume that all of those, as you heard me ask about them, were correct?

Mr. KAUFMAN. Yes, sir.

Mr. MARKS. And the only difference was that you say that you received, in fact, an honorable discharge. Is that correct?

Mr. KAUFMAN. Yes, sir. And I was never in Attica, which is not important.

Mr. MARKS. And you were never in Attica prison. What about the other prisons—Leavenworth, Texarkana, Waupum, Sandstone?

Mr. KAUFMAN. Yes, sir.

Mr. MARKS. Anything else—any other prison that we have left out?

Mr. KAUFMAN. Yes.

Mr. MARKS. Do you want to add to the list? What other prison?

Mr. KAUFMAN. If we are going to talk about my record—you know, in all fairness, these were strings of checks. They would take me from one prison, they would put me in the other prison. This was not really separate crimes. I went to North Dakota, to Wisconsin.

I would pass a check for \$50—that was my big crime—or \$100. They would grab me when I came out the door, and they would say: “We have a detainer on you.” And they would take me to the other prison.

Mr. MARKS. How about the bank robbery and assault in 1968 when you were sentenced to 30 years? What was that little item about?

Mr. KAUFMAN. You can see, I did get a big punishment for it—right? I robbed a savings and loan, I think of \$600.

Mr. MARKS. With a gun?

Mr. KAUFMAN. With a gun. But that is the only gun I ever did, and I did not hurt anybody, thank God.

Mr. MARKS. You did not hurt anybody?

Mr. KAUFMAN. No, sir.

Mr. MARKS. And the bank robbery in 1964?

Mr. KAUFMAN. Again, this was a string. There were three savings and loans, and each one put a detainer against me, so I was tried on all of them.

Mr. MARKS. You knocked off three savings and loans?

Mr. KAUFMAN. If you like that word—yes.

Mr. MARKS. I sort of like the word.

Mr. KAUFMAN. I do not.

Mr. MARKS. You robbed three savings and loans?

Mr. KAUFMAN. Yes, sir.

Mr. MARKS. So that that list we were given—the bank robbery in 1964 was a savings and loan where you were sentenced to 20 years?

Mr. KAUFMAN. Yes, sir.

Mr. MARKS. And the second one was a bank robbery in Terre Haute, Ind., in 1972?

Mr. KAUFMAN. Yes, sir.

Mr. MARKS. How many years did you get for that?

Mr. KAUFMAN. Ten years, to run consecutively. That is what made it 30 years.

Mr. MARKS. All right, sir. And then the bank robbery and assault in 1968—the one I mentioned to you a little while ago—you were sentenced to 30 years?

Mr. KAUFMAN. It was the time that I was in prison. They took me from prison back to Indiana to be tried. So it took 4 years to bring me out. In other words, I always had that detainer.

It was the same time I robbed the savings and loan in St. Louis. I robbed one in Terre Haute, Ind. [not Terre Haute] Indianapolis, Ind., and one in Pittsburgh. So I had the three charges.

But you know something, sir—can I say something?

Mr. MARKS. I am curious. I do not see the one in Pittsburgh—and where else did you knock one off?

Mr. KAUFMAN. There is a statute of limitations, so it is all right.

Mr. MARKS. Where else was it?

Mr. KAUFMAN. I did not rob any more, sir.

You know, it is not funny. I should not make any jokes because it is not funny.

Mr. MARKS. No; I do not think it is.

Mr. KAUFMAN. To tell you the truth, it is a shame to a man to do what he did to his life like I did, and I am more ashamed of it than you are. And you keep repeating it, sir.

Mr. MARKS. Could I ask you, sir—

Mr. KAUFMAN. Let me finish, sir.

Mr. GORE. Would the witness respond to the question, Mr. Chairman.

Mr. MARKS. I wonder if you will just answer the question? You mentioned three other bank robberies. Would you tell us where they were, please?

Mr. KAUFMAN. I said the three. I said Indianapolis, Pittsburgh, and St. Louis.

Mr. MARKS. All right. Thank you very much, sir. I have no further questions.

Mr. DINGELL. The witness had a comment he wished to make.

Mr. KAUFMAN. I would like to explain to you, sir—when I was in Terre Haute, Ind., I was the longest sentenced Federal inmate ever put on the prison farm. I completed school on the prison farm. I made a parole after 7½ years. I completed the parole and was discharged. Otherwise, I would have been on parole until 1999. I am not on parole. I received a discharge.

I worked from the first day I got out of prison until the day I went in the program. You are talking about something that happened in 1964, I guess it was. That is a long time ago. I served my sentence.

If it is my credibility that you are talking about, great, but I served my sentence, and I was punished for it.

Mr. MARKS. I do not need any more speeches, Mr. Kaufman. All I was talking about was your record, and I was trying to get it straight. And what you have done is add to that which we had already in two additional bank robberies.

Thank you.

Mr. KAUFMAN. You are welcome.

Mr. DINGELL. Mr. Kaufman, I believe that completes the questions of the subcommittee.

You have come here at considerable difficulty and distance. The subcommittee expresses its thanks for your assistance to us.

The Chair observes that the subcommittee will stand adjourned until tomorrow at 10 o'clock when we will meet on other matters.

Mr. Kaufman, again, we thank you. Mr. Madonna, we thank you also.

Mr. KAUFMAN. Thank you.

Mr. MADONNA. Thank you, Mr. Chairman.

Mr. DINGELL. Before we do adjourn, the Chair will advise that we will remain in session but there will be no business transacted for a brief period of time while the marshals assist Mr. Kaufman from the room.

The Chair advises that we are requesting our guests from the media to turn their cameras again to the wall, again with apologies and thanks to the members of the media.

[The following material was submitted for the record:]

Appendix 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA :
 :
 v. : Criminal No. 78-319
 :
 TINO FIUMARA, MICHAEL COPOLLA, : TRANSCRIPT OF PROCEEDINGS
 JERRY COPOLLA and LARRY RICCI, : CONTINUED SENTENCE HEARING
 :
 Defendants.
 ----- :

Newark, New Jersey
October 2, 1979

FOR E:

THE HONORABLE HERBERT J. STERN, U. S. D. J.

Appearances:

ROBERT J. DEL TUFO, United States Attorney,
BY: CARL LO PRESTI, Special Attorney,
U.S. Department of Justice, and
MARK J. MALONE, Assistant U.S. Attorney,
For the Government.

DENNIS MC ALEVY, ESQ.,
For Tino Fiumara.

SAMUEL R. DE LUCA, ESQ., and
JOSEPH A. HAYDEN, JR., ESQ.,
For Michael Copolla.

MARTIN S. GOLDMAN, ESQ.,
For Jerry Copolla.

THOMAS J. CAMMARATA, ESQ.,
For Larry Ricci.

1
2 P.A T R I C K . K E L L Y, having been previously
3 sworn, recalled and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. MALONE:

6 Q State your full name, please?

7 A Patrick Kelly.

8 Q Do you know the defendants in this case?

9 A Yes, I do.

10 Q Would you please identify them?

11 THE COURT: Oh, well, we have done this.

12 Q When did you first meet the defendant Tino
13 Fiumara?

14 A 1975.

15 Q When did you first meet the defendant Michael
16 Copolla?

17 A Approximately the same time.

18 Q When did you first meet the defendant Jerry
19 Copolla?

20 A 1977.

21 Q When did you meet the defendant Larry Ricci?

22 A At approximately 1975.
23
24
25

1 Q Do you remember where you were testifying about
2 coming back--Dominic DiNorscio--what did Mr. DiNorscio say
3 to you?

4 A That he had just put his life on the line for me;
5 that if I ever did testify or turn bad, as he stated, that he
6 would have to kill me or be killed.

7 Q Now, are you familiar with the term "made man" or
8 "button man"?

9 A Yes, sir.

10 Q Would you tell us what that term means, "made
11 man"?

12 A A "made man" is an individual that has been sworn
13 into the Cosa Nostra and has taken the oath of secrecy and
14 allegiance; has taken a blood oath, an oath of fire.

15 Q How did you become familiar with this term "made
16 man" and the oath that you mentioned?

17 A The term "made Man" was explained to me in 1969
18 by Giacomo "Jackie Adams" DiNorscio. The oath was described
19 to me in a conversation returning from Philadelphia, from a
20 meeting with Pete Casale, another made man, between Dominic
21 DiNorscio and myself where he had given the words, spoke the
22 words in Italian, and had made the motion with the holding of
23 the fire.

24 Q I show you Exhibit 151 in evidence and ask you to
25 examine it.

1 (Document handed to the witness.)

2 Q Is Dominic DiNorscio also known as "Tommy Adams,"
3 a made man?

4 A Yes, sir. He was.

5 Q What crime family is he a made man in?

6 A He is a soldier in the Angelo Bruno family of
7 Philadelphia.

8 Q Would you tell us what Exhibit 151 represents?

9 A It's a diagram of the structure or part of the
10 structure of the Angelo Bruno family and the DiNorscio family.

11 Q Does it accurately reflect the chain of command
12 within the DiNorscio group?

13 A Yes, sir; it does.

14 Q Now, are any of the defendants a made man or made
15 men in any organized crime family?

16 A Yes, sir.

17 Q Which defendant or defendants?

18 A Tino Fiumara.

19 Q In what family is the defendant Fiumara a made
20 man?

21 A Genovese family.

22 Q I believe you have Exhibit 152 in evidence there.
23 I'd ask you to examine it. Would you tell us what that exhibit
24 represents?

25 A It's a brief structure of the Genovese family

1 showing the boss, Funzi Tieri, the underboss or past underboss,
2 Patty Mack, Mr. Fiumara's captain, Peter LaPlaca. Mr.
3 Fiumara as the made man, the head of his own family.
4 Michael Copolla, Larry Ricci, Pat Kelly, Jerry Copolla,
5 Lucky Suppa, Patty Cerque, an individual known as "The Funzi,"
6 Ted Fiore, Ray Tango, Tony Ray. The other part of Mr.
7 Fiumara's family operating out of the Hoboken area. Mike
8 Borelli, Richie Santos, Petey Greco, Sammy, Joey Del. Nunzi,
9 Pete, John Greco. Individual known as "Joe," and "Hoboken
10 Jimmy."

11 Q Are Exhibits 150 and 151 prepared by yourself?

12 A Yes.

13 Q On what did you base those exhibits, the informa-
14 tion contained therein?

15 A My knowledge and experience.

16 Q How -- from whom did you learn that the defendant
17 Fiumara was a made man?

18 A I first learned from Joe Pizzi that Fiumara and
19 other individuals had just been made recently. I then
20 clarified it with Jackie or Giacomo "Jackie Adams" DiNorscio,
21 who had checked through channels and got back to me and verified
22 it, that he had been made.

23 Q Directing your attention to March 19, 1976, did
24 you have a conversation with Mr. Pizzi on that date concerning
25 Mr. Fiumara becoming a made man?

1 A Yes, sir.

2 Q You mentioned that Mr. Pizzi told you other
3 persons were also made at that time. What other persons did
4 Mr. Pizzi identify to you?

5 A I believe it was Johnny DiGillo, Joe Sadano. If
6 I can look at my report, sir, I can refresh my memory.

7 Q Okay.

8 A He stated John DiGillo, Anthony Tumac,
9 Tino Fiumara and "Scoops" Licata.

10 Q Do you know who "Scoops" is?

11 A Yes.

12 Q "Scoops"? Who is "Scoops"?

13 A I know him as "Scoops." He's made now under Angelo
14 Bruno family.

15 Q Do you know his last name?

16 A Yes, sir. Licata, I believe is --

17 Q At the time you were having this discussion with
18 Mr. Pizzi, who did you know Mr. Pizzi to be?

19 A Mr. Pizzi is an associate of Carmine Battiglia,
20 a captain in the Genovese Family. Also is associated and does
21 business with Tommy Lombardi, another captain in the Genovese
22 family, as labor relations with John Riggi, the acting head of
23 the Sam DeCavalcante family as sole -- stolen Treasury checks--
24 not Treasury checks. Cashier checks. To undercover agents,
25 participating in a deal with me.

1 Q As a result of your reporting back to Mr. Copolla,
2 what then happened?

3 A Mr. Copolla stated that he had somebody that he
4 wanted to purchase the garbage route, for me to talk to
5 Robert Delaney, who was a State Trooper working in an under-
6 cover capacity as Robert Covert. Ask Robert Covert if he
7 wanted to purchase the garbage route. That Mr. -- he stated
8 that -- Mr. Copolla stated that they wanted to control whoever
9 bought the route.

10 Q Did you have conversations with Mr. Tomae as a
11 result of Mr. Copolla discussing the matter with you?

12 A Yes.

13 Q What was the reason you had a conversation with
14 Mr. Tomae?

15 A I was instructed by Mr. Michael Copolla to tell
16 Mr. Tomae that he was to contact Carmine Franco with reference
17 to the sale of his garbage route and to remind Mr. Tomae that
18 they knew the reason for him joining the association controlled
19 by Mr. Fiumara was for the purpose of building up a route and
20 getting a price for it.

21 Q Who was Carmine Franco?

22 A He was the head of -- an associate of Mr. Fiumara.
23 He was the head of the association, garbage association.

24 Q Did you then contact Mr. Tomae?

25 A Yes.

1 Q Did you pass this message along to him?

2 A Yes.

3 Q Did you find out the selling price of the garbage
4 route that Mr. Tomae was seeking?

5 A Yes.

6 Q Did you then relate this selling price to Mr.
7 Fiumara?

8 A To Mr. Copolla.

9 Q To Mr. Copolla. Do you recall what the selling
10 price was that Mr. Tomae wanted, the ratio?

11 A I think it was like 18 to 1 or 20 to 1. I have to
12 look at my report.

13 Q Was this price acceptable to Mr. Fiumara, to your
14 knowledge?

15 A No.

16 Q Do you recall what price Mr. Fiumara wanted?

17 A I believe it was 15 to 1 and he wanted three points
18 for himself.

19 Q Were you instructed to relay this price to Mr.
20 Tomae?

21 A Yes.

22 Q Were you instructed to advise Mr. Tomae what would
23 happen if he didn't agree to go along?

24 A Yes.

25 Q What were your instructions?

1 A To get a price to Mr. Tomae and advise him that
2 some of his routes -- customers could be taken away from him.
3 Q Who gave you those instructions?
4 A Mr. Copolla.
5 Q Now, did you then pass this message along to Mr.
6 Tomae?
7 A Yes, sir.
8 Q What was Mr. Tomae's response?
9 A "Do they know that they're fooling with Fat
10 Louie?"
11 Q Who did you understand "Fat Louie" to be?
12 A Louie LaRusso, underboss for the Sam DeCavalcante
13 family.
14 Q Is that the same Louie LaRusso who is set out in
15 Exhibit 150 in evidence under the DeCavalcante heading?
16 A Yes.
17 Q Did you then convey Mr. Tomae's message about Mr.
18 LaRusso to any of the defendants?
19 A Michael Copolla.
20 Q What did Michael Copolla do then?
21 A They would handle it.
22 Q Do you know what the outcome of that -- well,
23 subsequently, did you have a meeting with any of the defendants
24 and Carmine Franco?
25 A Yes.

1 Q Where was that meeting?
2 A Carmine Franco's office.
3 Q Where is that?
4 A It's in Bergen County.
5 Q Who else was present at the meeting?
6 A Michael Copolla, Larry Ricci, Teddy Fiore,
7 Carmine Franco, Sal Franco and Steve -- Ernie Palmieri.
8 Q Who is Ernie Palmieri?
9 A An associate of Mr. Fiumara's.
10 Q Do you know him to hold any union position?
11 A Yes, sir.
12 Q Where?
13 A Local 945.
14 Q What is that?
15 A Business Agent.
16 Q What is Local 945?
17 A It controls the -- it's Teamster local controlling
18 the drivers for the garbage trucks.
19 Q Do you recall what happened at that meeting?
20 A We had a discussion of a number of things, sir.
21 Q I'm talking about in reference to the Tomae
22 transaction?
23 A Yes. Carmine Franco had stated that the -- Tomae
24 was trying to sell the garbage routes to some people in New
25 York. The had called Carmine to get an okay, . . .

AFTERNOON SESSION

1
2
3 All counsel and defendants present.)

4 P A T R I C K K E L L Y, resumes the stand.

5 THE COURT: Please continue.

6 MR. MALONE: Thank you, your Honor.

7 DIRECT EXAMINATION (CONTINUED)

8 BY MR. MALONE:

9 Q Mr. Kelly, in addition to the incident
10 involving the sale of the garbage route by Anthony Tome,
11 did the defendant Fiumara have any other active
12 participation in the solid waste disposal industry?

13 A Yes, sir.

14 Q Will you please detail for us what that
15 participation was?

16 MR. MC ALEVY: Again, Judge, I note my objec-
17 tion. I don't know of any allegation concerning this
18 whatsoever. The analogy that the prosecutor gave last
19 time, I find it absolutely absurd. I would ask him to
20 confine any comments to the accusations we're here to
21 defend.

22 THE COURT: Your objection is overruled.
23 Proceed, please.

24 THE WITNESS: Yes. He controlled the dumping
25 sites for garbage waste.

1 Q How did he control those dumping sites?
2 A Through the garbage association and other
3 associates of his.
4 Q Was Mr. Palmieri involved in this activity?
5 A Yes, sir.
6 Q Mr. Palmieri of the Teamsters?
7 A Yes, sir.
8 Q Were they able to set prices or inflate
9 prices for the cost of dumping?
10 A Yes, sir.
11 Q To your knowledge did they engage in such
12 price fixing?
13 A Yes, sir.
14 Q Also did they eliminate competition in the
15 garbage industry?
16 A Yes, sir.
17 Q Was Mr. Fiumara in any way involved in chemical
18 dumping?
19 A Yes, sir.
20 Q Would you tell us his involvement in chemical
21 dumping?
22 A Through T & J Landfill and Theodore Fiore.
23 Q Who is Theodore Fiore?
24 A An associate of Mr. Fiumara's.
25 Q What was the nature of the chemical dumping?

1 A Dumping illegal chemicals at T & J Landfill.

2 Q During the period you were associated with
3 Airport Landfill was there any discussion about using
4 Airport Landfill for illegal chemical dumping?

5 A Yes, sir.

6 Q What was that discussion?

7 A That once landfill was properly graded and had
8 enough material, where it could be concealed, it was --
9 considered dumping chemicals there.

10 Q Did Mr. Fiumara meet with any members of
11 the DeCalvalcante group concerning dumping sites?

12 A Yes, sir.

13 Q With whom did he meet?

14 A John O. Riggi and Louie LaRusso.

15 Q What was the subject matter of their
16 discussions?

17 A There was another federally funded excavation
18 project coming up at the Passaic Valley Sewage Authority
19 and Mr. Riggi and Louie LaRusso had a contractor that
20 was with them and they were looking for a place to dump
21 the debris. They would have to have a place to dump
22 before they could establish a bid price.

23 Q Did Mr. Fiumara have an indirect interest
24 in the Passaic Valley Sewage Authority project?

25 A Yes, sir.

1 Q What was that interest?
2 A Through Consolidated Enterprises.
3 Q What was the nature of the interest?
4 A He was receiving fees and kickbacks from
5 dumping fees and had arranged dump areas for Consolidated.
6 Q How were the moneys generated by which
7 Consolidated received moneys from Passaic Valley Sewage
8 Authority?
9 A Consolidated had the subcontract of hauling
10 the decomposed garbage from Passaic Valley to dumps.
11 Q Were any phony invoices submitted by Consoli-
12 dated to your knowledge to the Passaic Valley sewage
13 Authority?
14 A Yes. They boosted yardage totals on trucks.
15 Q Was Mr. Fiumara aware that these phony
16 invoices were being submitted?
17 A Yes.
18 Q Were moneys received by Consolidated for the
19 phony invoices submitted?
20 A Yes, sir.
21 Q Did Mr. Fiumara receive a portion of these
22 moneys received by Consolidated?
23 A Yes, sir.
24
25

1 Q Did Mr. Fiumara participate in these talks?
2 A Yes.
3 Q Did Mr. Fiumara approve the idea of paying kick-
4 backs to city officials?
5 A Yes, sir.
6 Q You have testified previously, Mr. Kelly, that
7 Mr. Fiumara was a member of the Genovese organized crime
8 family; correct?
9 A That's correct.
10 Q He was a made member?
11 A That's correct.
12 Q You have identified Peter LaPlaca as his boss; is
13 that correct?
14 A Yes, sir.
15 Q Directing your attention to November 10th, 1975,
16 did you have a conversation with Joseph Pizzi concerning Mr.
17 Fiumara's boss?
18 A Yes, sir.
19 Q Would you please relate what the conversation was?
20 A Mr. Pizzi had stated that Tony Pro's boss and Tino
21 Fiumara's boss was the same. Peter LaPlaca.
22 Q Also, did any member of the DiNorscio family also
23 confirm that Mr. LaPlaca was Mr. Fiumara's boss?
24 A Yes.
25 Q Who was the head of the Genovese family?

1 A Funzi Tieri.

2 Q Did Mr. Fiumara ever indicate to you Mr. Tieri's
3 position as boss of that family?

4 A Yes, sir.

5 Q What did he say?

6 A In conversation we were having concerning Frigid,
7 Mr. Fiumara stated that he was going to see Patty Mack's part-
8 ner, who was also his boss.

9 Q Do you know who Patty Mack's partner was in
10 Frigid Express?

11 A Yes.

12 Q Who was that?

13 A Funzi Tieri.

14 Q Mr. Kelly, I invite your attention to Exhibit
15 150.

16 (Exhibit G-150 handed to the witness.)

17 Q That exhibit is in evidence and has been previously
18 identified as a list of Mr. Fiumara's known associates. If
19 you could, would you please identify which persons, to your
20 knowledge, Mr. Fiumara dealt with for the purpose of illegal
21 enterprises during the period you knew Mr. Fiumara?

22 A John Riggi, Louie Luciano, Jimmy Higgins, Joe the
23 Indian, Pulverino, Patty Mack, Tommy Lombardi, Joey Adonis,
24 John DiGillo, Tony Pro, Sal Briguglio, Carmine Battiglia,
25 John Simeone, Tony Bananas, Louis Luciano, Dominic DiNorscio,

1 Q Did you ever -- do you have any recordings
2 to substantiate what you've told us today? In other
3 words, where we hear Mr. Fiumara's voice making these
4 statements. Anything.

5 A I would have to check, sir. I don't know.

6 Q Please do. Please check.

7 A Could you give me a specific instance?

8 Q Any of the allegations you made today about
9 Mr. Fiumara, sir, any of them.

10 A We have recordings on the garbage, control
11 of the garbage.

12 Q Was Mr. Fiumara speaking?

13 A Yes.

14 Q What was Mr. Fiumara saying?

15 A We have A-159.

16 Q What is he saying?

17 A He's on the phone with Carmen Franco and is
18 asking me questions about the Tomae incident. Then
19 referring instructions or giving instructions to Franco on
20 the other end of the phone.

21 Q What is he saying, sir?

22 A Sir, we'd have to look.

23 Q I'm asking you to tell me.

24 A I'd have to look at the transcript.
25

OFFICIAL TRANSCRIPT OF PROCEEDINGS
BEFORE THE
Securities and Exchange Commission

FILE No. HO-367

In the Matter of SCA Services, Inc.

Witness - Thomas C. Viola

Place Washington, D. C.

Date Tuesday, 24 August 1975

Pages I - 165

2 A I graduated from Nutley High School, Nutley, New
3 Jersey, in 1944. Graduated from Rutgers University, 1949.
4 After that, one year military service.

5 Q And what has your employment history been since
6 your graduation from Rutgers to the time you have been em-
7 ployed by SCA?

8 A I went to work for my father and uncles. Two
9 years later my father and his uncles separated in various
10 corporations and my father and my brother and I conducted the
11 business affairs of one of those corporations.

12 Subsequently we formed several other corporations.
13 My father and my brother and I were active in the management
14 of these various corporations.

15 Q What are the names of the companies?

16 A We went through a series of names, but the names
17 now are Louis Viola Company, which is a sand and gravel
18 company, not connected with SCA.

19 Another company not connected with SCA, known as H-
20 a-r-d-y-s-t-o-n Sand and Gravel Company.

21 And the three corporations that we sold
22 merged with SCA. They are Industrial Haulage Corporation,
23 Intercity Service, Incorporated, and Avon, A-v-o-n, Landfill
24 Corporation.

25

1
2 A They approached us before acquisition but after
3 Bruce Kirck contacted us.

4 Q Had they heard that SCA had been talking to you
5 about acquiring your companies? Did that catalyze any
6 initial approach on their part in contacting you?

7 A I think they heard we were approached.

8 Q Did the other companies offer you any better ac-
9 quisition deal than SCA?

10 A They never got to that stage.

11 Q Did you have any particular reason, or your busi-
12 ness associates, for affiliating yourselves with SCA, as
13 opposed to other companies that had talked to you about an
14 acquisition?

15 A We thought it was a better opportunity for us.

16 Q In terms of growth or in terms of actual ac-
17 quisition consideration?

18 MR. JACKSON: I assume you mean by that

19 BY MS. GALLAGHER:

20 Q In other words, in terms of money paid for your
21 companies or what you would eventually benefit or ver a long
22 term.

23 A We never had any other good offers.

24 Q I'll talk to you in more detail about those
25 acquisitions. After your companies were acquired by SCA,

1 | what position did you hold in SCA Services?

2 | A Member of the board of directors and vice president.

3 | Q When did you first become a member of the board
4 | of directors of SCA?

5 | A I believe it was the first board of directors
6 | meeting after our acquisition.

7 | Q Was it decided prior to acquisition that you would
8 | become a director?

9 | A Mr. Steir said that he would recommend that to
10 | the board.

11 | Q Was it recommended to the board, prior to acquisition
12 | that you become a director?

13 | A I don't know.

14 | Q Had you met with Mr. Steir concerning the terms
15 | of the acquisition of your companies?

16 | A Yes.

17 | Q Did you have any other relationship with Mr.
18 | Steir prior to negotiations regarding acquisition of your
19 | companies?

20 | A Never met him before.

21 | Q Did you have any relationship, either business
22 | or personal, with any officer, director, or employee of
23 | SCA at the time your companies were acquired?

24 | A None.

1 BY MS. GALLAGHER:

2 Q Did you at any time become corporate officer?

3 A Yes.

4 Q When did you become corporate officer?

5 A Shortly after.

6 Q Simultaneous to your becoming a director?

7 A No.

8 MS. GALLAGHER: I would like to note for the record
9 that Mr. Peter Sullivan, also named as an officer on this
10 investigation, is present.

11 BY MS. GALLAGHER:

12 Q Did you become an officer of SCA prior to becoming
13 a director, or subsequent?

14 A Subsequent.

15 Q What office did you assume?

16 A Vice president.

17 Q What were your duties and responsibilities as
18 vice president in 1972?

19 A To help assist the company in making acquisitions.

20 Q Did you have any particular geographical territory
21 which you were assigned to, or was this a nation wide respon-
22 sibility?

23 A It was basically nationwide.

24 Q Did your activities primarily concentrate in the
25 New Jersey area?

1 A Yes.

2 Q Did you assist with bringing any other companies into
3 SCA services?

4 A Yes.

5 Q Could you name those companies, please?

6 A IMPAC Incorporated, Delorenzo Paper Stock Company,
7 Interstate Waste Removal Incorporated, A. A. Mastrangelo,
8 Incorporated, United Carting Company, Instant Disposal Incor-
9 porated, the Rozelli Companies, 4, 5 of them, those were in
10 New Jersey.

11 In New York State there was C & D Disposal, Reno
12 Disposal Company, and other various companies located there
13 in Reno, Nevada.

14 Q Any others?

15 A Those were the ones that I was primarily involved
16 with. Others I talked I would meet to say hello to people.

17 Q Regarding any acquisitions*of SCA which you parti-
18 cipated in, did you receive a finder's fee or any type of
19 consideration?

20 A None whatsoever.

21 Q Do you know of any other director or employee who
22 received finder's fees or compensation regarding an acquisition
23 by SCA?

24 A Yes.

25

1
2
3 Q Beside that duty and responsibility, did you
4 perform any others?

5 A After acquisition I performed the duty
6 of vice president in charge of the region, in which were
7 most of the acquisitions I participated in.

8 New Jersey, I was regional director for
9 New Jersey. Co-regional director for Philadelphia region.

10 It was called the Mid-Atlantic Region. I was
11 co-director.

12 Q Do you recall approximately the years you were
13 co-regional director for the Mid-Atlantic Region, in general?

14 A As co-director, and then director, when we first
15 formed our regions. I guess that was in '73, maybe, up
16 to March 30th, '76, when I became the president.

17 Q Who was co-regional director with you?

18 A Stanley Lessick. Until he moved to Boston.

19 Q When did he move to Boston?

20 A I don't know.

21 Q Up until March 30, 1976, were you primarily located
22 in the Mid-Atlantic Region?

23 A Yes.

24 Q Where, specifically, did you operate?

25 A 1099 Wall Street West, Lyndhurst, New Jersey.

1 Q Is that the headquarters of any particular
2 SCA subsidiary?
3 A No.
4 Q Was it designated as the regional headquarters?
5 A Yes.
6 Q Is any other company that you have business
7 interest in, financial or otherwise, located there?
8 A No.
9 Q Did you recollect when you moved to Boston?
10 A I have an aunt in Boston.
11 Q When did you first have a residence in Boston or
12 domicile, whichever?
13 A I moved to the apartment on May 1, '76.
14 Q Between 1972 and March 30, 1976,
15 approximately how much time, on a monthly basis, did you
16 spend in Boston at the headquarters?
17 A Very seldom in the beginning.
18 Q Once a month?
19 A Not even.
20 Q Did you gradually increase your time in Boston?
21 A Never more than once every two weeks. On
22 various occasions it would be more than once every three
23 weeks.
24 Q Is that up to and including the time you became
25 president of SCA?

1 A February, I was up more often. Things were
2 popping, so to speak.

3 Q Who is regional director of the Mid-Atlantic
4 Region?

5 A We have not replaced any particular man
6 in that role.

7 Q Is anyone performing the duties that you used
8 to perform as regional director?

9 A Only in the southern part of the state.

10 Q Who would that person be?

11 A Ralph M-a-s-t-r-a-n-g-e-l-o.

12 Q Do you have a brother that is employed by SCA?

13 A Yes.

14 Q What is the name of your brother?

15 A Frank.

16 Q Do you have any other relatives or --

17 A Sister.

18 Q What is your sister's name?

19 A Louise, C-r-e-m-o-n-n-i. Excuse me. I have
20 an uncle who works for Industrial Haulage, and who is
21 employed by a company under the acquisition, and another
22 uncle who works for Landfill & Development Company.

23 Q Is that a private company, or SCA?

24 A SCA.

25

1
2 Q Did he indicate to you if SCA went without a
3 president much longer SCA might not have the support of the
4 lending institutions?

5 A No. He did not have any adverse thing to say. He
6 called in essence to ask me to take the job and to offer his
7 support if I did take it.

8 That was like the final blow, or the final straw,
9 and then I just looked at myself and everyone in the company.
10 The outside directors of the board asked me to take it. Each
11 one of them: Longworth, Lewis, Brontas. Everyone I talked
12 to in the company supported me and asked me to accept.
13 Finally Steir came down and talked to my brother, and finally
14 my brother said, "Tom, accept it."

15 Q Approximately what date did you finally accept?

16 A Steir came down to New Jersey and asked the New
17 Jersey people to urge me to accept the job. The New Jersey
18 partners. I told him I would not go without the support of
19 what I call the local people that I knew for a long time.

20 Q Does that include the Rozelli brothers?

21 A Yes.

22 Q Did you have the Rozelli support?

23 A Yes.

24 So Steir came down and said that he wanted me to go
25 to Boston, and they urged me to take the job, and I took it.

ORIGINAL

OFFICIAL TRANSCRIPT OF PROCEEDINGS

BEFORE THE

Securities and Exchange Commission

FILE No. ED-267

In the Matter of

SCA SERVICES, INC.

1977

(With Thomas G. Viola)

Place Washington, D. C.

Date Thursday, January 27, 1977

Pages 1 - 103

CSA REPORTING CORPORATION

OFFICIAL REPORTERS

300 SEVENTH STREET, S.W.
WASHINGTON, D.C. 20024

TELEPHONE (202) 554-9050 — 554-7580

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Q Were you involved in the acquisition of Tri-County Sanitation?

A No.

Q Did you ever receive any information that any officers or directors or employees of SCA made payments to the Small Business Association officials to get a Small Business Association loan?

A No.

Q Were you involved in the acquisition of the Rozelli companies?

A I attended some meetings?

Q Did you recommend that the Rozelli companies be purchased by SCA?

MR. JACKSON: Did he recommend or did he go along with it? When were the Rozelli companies acquired?

MS. GALLAGHER: Over a period of time -- '72, '73.

MR. JACKSON: Were you suggesting that Mr. Viola was the initiator?

MS. GALLAGHER: I am asking whether or not he recommended the purchase.

MR. JACKSON: Well recommended -- you know, if four of us sit around a room and we all say yes, directly, each of us is recommending it. There is an initiator -- the guy who

1 starts the ball rolling. You might find out if that is Mr.
2 Viola or, if just as a member of the Board, he recommended it
3 and went along with it.

4 BY MS. GALLAGHER:

5 Q Do you have any information as to how SCA and the
6 Rozelli's came in contact with one another?

7 A Mr. Rozelli called my brother Frank.

8 Q Which Rozelli?

9 A Chris.

10 Q What did Chris Rozelli talk to your brother, Frank,
11 about concerning the business of SCA?

12 A He would like to have more information about it.

13 Q Had any other waste companies approached Mr. Rozelli
14 concerning the possible acquisition of his company?

15 A Mr. Rozelli told me that Waste Management contacted
16 him.

17 Q How long have you know Chris Rozelli?

18 A Over 25 years.

19 Q Did your brother then contact you about Mr. Rozelli's
20 inquiries?

21 A He mentioned it to me.

22 Q Did you then talk to Mr. Rozelli?

23 A Yes, I spoke to Mr. Rozelli.

24 Q What action, if any, did you take to further the pos-
25 sibility of the acquisition of the Rozelli companies by SCA?

1 A Spoke with Mr. Steir, who made contact with Mr. Rozelli,
2 and Mr. Rozelli told me at one point that he did not want me in
3 the negotiations.

4 Q Why?

5 A I guess I was driving too hard a bargain for SCA.

6 Q Were you ever involved in any business transactions
7 with Mr. Rozelli prior to the acquisition of your mutual companies
8 by SCA?

9 A No.

10 Q Other than your joint involvement in SCA, since the
11 acquisition of your companies, have you had any business
12 dealings?

13 A No.

14 Q Did you and Mr. Rozelli ever compete for contracts
15 prior to acquisition by your companies and SCA?

16 A Yes.

17 Q Were there ever any allegations made that your bidding
18 was not true and competitive?

19 A Yes.

20 Q Who made this allegation?

21 A Prosecutor's office.

22 Q Pardon.

23 A Prosecutor's office.

24 Q Which prosecutor's office?

25 A Assistant county.

1 Q When were the allegations made?

2 A We were indicted in 1959 and acquitted in 1962 on a
3 conspiracy charge to rig admissible contract in Belleville,
4 New Jersey.

5 MR. JACKSON: Belleville?

6 THE WITNESS: Belleville. Along with three other
7 bidders.

8 MR. JACKSON: Indicted in 1959 and acquitted in ---

9 THE WITNESS: 1962, summary of judgment.

10 BY MS. GALLAGHER:

11 Q That was a pretrial dismissal?

12 A No. It went to trial.

13 Q Was a jury selected?

14 A Jury was selected.

15 MR. JACKSON: Dismissed after the plaintiff's case?

16 THE WITNESS: Yes.

17 BY MS. GALLAGHER:

18 Q Did any witnesses disappear?

19 A If they disappeared, they would not be witnesses.

20 MR. JACKSON: Potential witnesses.

21 BY MS. GALLAGHER:

22 Q Potential witnesses.

23 A I did not know whom the prosecutor was going to call
24 as potential witnesses.

25 Q Were there any allegations that witnesses who were

1 intended to be called disappeared?

2 A Allegations by whom?

3 MR. JACKSON: By anybody?

4 THE WITNESS: Newspapers.

5 MR. JACKSON: Did newspapers say that?

6 THE WITNESS: Newspapers said that. Yes.

7 BY MS. GALLAGHER:

8 Q Do you recall the names of individuals who supposedly
9 were not able to be reached?

10 A According to the newspaper articles?

11 Q Yes.

12 A John Serritelli.

13 Q How do you spell that name?

14 A S-E-R-R-I-T-E-L-L-I.

15 Q Did you know Mr. Serritelli?

16 A Yes.

17 Q In what respect did you know Mr. Serritelli?

18 A He was the business agent, business manager, or whatever
19 for the Teamsters, Local 945, whose Union represented 90 percent
20 of the workers who worked on the trucks picking up refuse.

21 Q Did anyone else disappear allegedly?

22 A Not that I know of.

23 Q Do you have any information as to where Mr. Serritelli
24 went and how he disappeared?

25 A No, ma'am.

1 Q Has he ever been heard from since?

2 A Not that I know of.

3 Q To the best of your knowledge, was he scheduled to
4 testify in the trial?

5 A Not that I know of.

6 Q Do you know a man by the name of Anthony Bentro?

7 A No.

8 Q You have never met him?

9 A No. What is the ---

10 MR. JACKSON: Bentro.

11 THE WITNESS: I have heard the name.

12 MR. JACKSON: But never met him.

13 THE WITNESS: Never met him.

14 BY MS. GALLAGHER:

15 Q Did you ever meet a man by the name of David Sass?

16 A How do you spell his last name?

17 Q S-A-S-S.

18 A No.

19 Q To the best of your knowledge, has anyone ever suggested
20 that Teamster money be invested in stock of SCA?

21 A Repeat, please.

22 Q To the best of your knowledge, has it ever been
23 suggested that Teamster money be invested in stock of SCA?

24 A Not that I know of.

25

Appendix 4



TO: Sam Hunt
FROM: Thomas C. Viola
SUBJECT: Waste Disposal, Inc.
DATE: June 17, 1975

Dear Sam:

Effective March 31, 1975, please have Ralph Mastrangelo as President of Waste Disposal, Inc. and eliminate myself as an Officer.

Ralph Mastrangelo
Please have Steve Feinstein replace me as the sole Director of Waste Disposal, Inc. Please be kind enough to send me a memo stating that this matter has been attended to.

Best regards....

Tom
TCV/ff

Appendix 5



TO: Samuel P. Hunt, III
FROM: Thomas C. Viola
SUBJECT: Waste Disposal, Inc.
DATE: July 21, 1975

Dear Sam:

Stan Lammick

I had previously indicated to you that I wanted Ralph G. Mastrangelo as President, and ~~Steve Feinstein~~ as Sole Director of Waste Disposal, Inc.; I am not to be an officer.

Regards.

Tom
TCV/ff
enc.

Appendix 6

ORGANIZED CRIME AND ILLICIT TRAFFIC IN NARCOTICS 441

Mr. PIERSANTE. Yes, sir. Our information from confidential sources indicate that Joseph Zerilli was within 6 miles of Apalachin at the time it was raided. He was on his way to the meeting but, of course, was a little late and when he found out that there was a little trouble, he just turned around and went back.

The CHAIRMAN. He didn't quite make it?

Mr. PIERSANTE. He didn't quite make it.

Senator CURTIS. This morning my colleague, Senator Javits, asked about Joseph Barbara, Jr.

Mr. EDWARDS. Yes, Senator.

Senator CURTIS. That was in connection with Apalachin, or some similar connection, and it was indicated that the information would come out at a subsequent place. Is this the proper place?

Mr. EDWARDS. I would be glad if we could at this point call on Inspector Miller. I have demoted him several times here today. Maybe I better get them back in the right order. This is District Inspector Piersante. He has general supervision of our CIB, but this is Inspector Miller, who has charge of our CIB. Inspector Miller has a writeup on Joseph Barbara, Jr., current business activity which he would be glad to present.

The CHAIRMAN. Do you solemnly swear the evidence you are about to give before this Senate Subcommittee shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MILLER. I do.

TESTIMONY OF EARL C. MILLER

The CHAIRMAN. Identify yourself and proceed.

Mr. MILLER. My name is Earl C. Miller. I am an inspector in charge of the Criminal Intelligence Bureau at this time.

The CHAIRMAN. Of Detroit?

Mr. MILLER. Yes, sir.

Senator CURTIS. I believe the original question, too, related to Barbara's father. So if you have anything on both of them, we would appreciate it.

The CHAIRMAN. His father is dead now.

Mr. EDWARDS. What we are prepared to show you, Senator, is how they take care of the sons of the deceased chieftains after the deceased chieftains are deceased. That is what this story will illustrate.

The CHAIRMAN. This will illustrate it, how they have taken care of this one in Chicago, the boy of the one who was the host of the meeting in Apalachin?

Mr. MILLER. Actually, this is an excerpt of the explanation of the legitimate business chart. It has to do with Joseph Barbara, Jr.

We describe the effect of a super sales force in a business in Detroit which involves Joseph Barbara, Jr. And we say that on a much larger scale, the history of the Tri-County Sanitation Co. illustrates the effectiveness of a super sales force. Tri-County Sanitation, a subsidiary of the Tri-County Sanitation Co., Inc., in New York City, in March of 1960.

Secretary and treasurer of that corporation, and the resident agent of the company in Detroit is Joseph Barbara, Jr. He is No. 25 in our organizational chart. Joseph Barbara, Jr., is the son of the host of

442 ORGANIZED CRIME AND ILLICIT TRAFFIC IN NARCOTICS

the Apalachin meeting. Young Barbara married the daughter of Detroit Peter Vitale, No. 23 on our chart. Barbara, his father-in-law Peter Vitale, and Peter's brother Paul, No. 24 on the chart, in February of 1962 incorporated the Tri-County Leasing Co. to do business leasing motorized equipment to the Tri-County Sanitation

Senator CURTIS. Where did all of this take place? What city?

Mr. MILLER. In Detroit, Mich.

The new corporation purchased the most modern rubbish-collecting equipment available and the Tri-County Sanitation Co. launched itself into the highly competitive commercial refuse-hauling business in the city of Detroit. Its competitors were companies of long standing who could not match them in the area of equipment. These units are reported to cost upward of \$20,000 each and, because of hydraulic packing facilities, will haul at least twice as much as the average truck owned by its competitors.

The use of such equipment also reduces the number of laborers required. It is reasonable to believe that for any new company to equip itself with highly expensive mobile units and enter into a well established, highly competitive industry, it must have had some assurance of success.

Association of the people involved in this company with other high-ranking Mafiosa in the Detroit business and union field could have afforded them some of the needed assurance. Almost immediately Tri-County Sanitation became big business. It was noticed that Tri-County took over several of the most lucrative contracts of its largest competitor. One of the company's truckdrivers was interviewed by members of the criminal intelligence bureau in Detroit and stated that, although he worked a considerably greater number of hours, his paycheck amounted to approximately \$40 a week less than a driver for a competitor. The reason for this was that Tri-County Sanitation drivers had not been organized by the Teamsters Union.

The CHAIRMAN. How long ago was that?

Mr. MILLER. Just about a year, Senator.

The CHAIRMAN. About a year ago they hadn't been organized?

Mr. MILLER. That is right, sir.

As recently as Monday, September 25, 1963, Tri-County still had no contract with the Teamsters Union for its 40 employees.

The CHAIRMAN. Do you mean right there at the home of the Teamster president, the international president, this company is operating prosperously?

Mr. MILLER. Yes, sir.

The CHAIRMAN. And they have this connection with this gang of hoodlums you show here on the chart?

Mr. MILLER. I think I will divulge that connection that we believe exists there, Senator.

Senator CURTIS. Is it an indictment of somebody if they do not join the Teamsters Union?

Mr. MILLER. I beg your pardon?

Senator CURTIS. Is it an indictment of an employee that he does not join the Teamsters Union or any other union?

Mr. MILLER. No, sir; it is not.

ORGANIZED CRIME AND ILLICIT TRAFFIC IN NARCOTICS 443

Senator CURTIS. Is it an indictment of the employer if he chooses to employ people who are not union members?

Mr. MILLER. I do not consider it so.

The CHAIRMAN. What I was trying to understand was how this thing could thrive out there without some effort to organize it. There must be some insulation there. That is what I am trying to find out. You are talking about insulation. Go ahead.

Mr. MILLER. This is the point, I think, Senator: Fundamentally, the basis for bidding on rubbish collection—

The CHAIRMAN. It is there under the jurisdiction of Hoffa's own local, it is not?

Mr. MILLER. That is correct, sir.

The CHAIRMAN. Proceed.

Mr. MILLER. The basis for bidding on rubbish collection contracts would be the labor cost and the transportation and disposal of the refuse. Private dumps are distant and therefore expensive in terms of gasoline and time. Municipally operated dumps inside our community are a decided advantage. Inadvertently and regrettably in a sense, investigative work of members of my own unit of the Detroit Police Department resulted in increased business for Tri-County Sanitation. This came when, in July of 1962, 29 employees of the department of public works and 8 rubbish-hauling companies were indicted for defrauding the city of legal dumping fees at city incinerators. This was effected by the rubbish companies paying the department of public works employees bribes to cheat on the weight and volume of the rubbish dumped.

Senator CURTIS. Who were those companies?

Mr. MILLER. I can name them for you with just a little research, Senator.

Senator CURTIS. I think you should.

Mr. EDWARDS. There were probably a dozen or better.

Mr. MILLER. The Reitzloff Co. was one.

The CHAIRMAN. Name some that you remember and then supply a list for the record at this point.

Mr. MILLER. Yes, sir.

Senator CURTIS. It would place rather a cloud on everybody who is in the garbage business in your area unless they are named.

Mr. EDWARDS. They have been named, Senator, and they have been tried.

Senator CURTIS. But they have not been named here.

Mr. EDWARDS. Yes, sir; that is true. We will be glad to get the information.

The CHAIRMAN. Supply them for the record. Name any you can at the moment that you recall.

Mr. MILLER. One that comes quickly to my mind is Reitzloff Co., Tri-County's largest competitor. There were a total of eight, I believe, altogether. I will submit the names.

(The list of names was subsequently received and is as follows:)

444 ORGANIZED CRIME AND ILLICIT TRAFFIC IN NARCOTICS

LIST OF NONCITY EMPLOYEES AND TRUCKING COMPANIES CONVICTED OF BRIBING
EMPLOYEES OF CITY OF DETROIT

ALL DEFENDANTS PLED GUILTY APRIL 4, 1963

Sydney T. Eder (W/47), of 444 Bryn Mawr Road, Birmingham, Mich. Owner of Variety Trucking Co., 18450 Livernois, Detroit. Pled guilty to third count—bribing employees of the city of Detroit.

Marvin B. Hyman (W/37), 20500 Strathmoor, Detroit, Michigan. Owner of Michigan Business Hauling, 20500 Strathmoor, Detroit. Pled guilty to third count—bribing employees of city of Detroit.

Lester Kull, Jr. (W/31), 24981 Ward, Taylor, Mich. Owner of Lee's Trucking, 2635 Wabash. Pled guilty to third count—bribery of employees of city of Detroit.

Arnold Reitzloff, Jr. (W/38), of 20038 Dean, St. Clair Shores, Mich.; and Richard Reitzloff (W/38), of 19813 Avalon, St. Clair Shores, Mich.

Coowners of A. N. Reitzloff Corp., 12001 Mack, Detroit. Pled guilty to third count—bribery of employees of city of Detroit.

Fred J. Roulo (W/61), of 2649 Roulo, Dearborn, Mich. Owner of Roulo Trucking Co., 2649 Roulo, Dearborn, Mich. Pled guilty to third count—bribery of employees of city of Detroit.

The CHAIRMAN. Very well.

Mr. MILLER. Tri-County Sanitation trucks were observed by surveillance officers engaging in this same operation, that is, paying the bribe, or apparently paying the bribes. However, they were not enough in the business that they had dealt with only a few of the department of public works employees, none of whom were willing to testify against Tri-County Sanitation.

When the city ordered the private rubbish haulers barred from the incinerators pending the outcome of the court case, their business was hampered to such an extent that Tri-County, for whom a warrant could not be issued, and therefore having the advantage of incinerator disposal, thrived on their competitors' misfortune.

Legitimate industry, fearful of adverse publicity, marked the contracts they held with the offending rubbish companies for cancellation. Tri-County was further benefited by being able to use the facilities of the municipal incinerator of a nearby suburb, where a Licavoli henchman had and has the unique position of being able to grant or refuse use of this incinerator to private haulers.

It seems to us that Barbara and the Vitales are either tremendous astute businessmen or their family relationships and associations with supersalesmen, such as Licavoli, Zerillis, Corrados, the Melis, William Buffalino, and others, helped them in areas in which competitors could not rate so highly.

That is my report.

Mr. EDWARDS. This is the report which we indicated would be based on the business relationship of Joseph Barbara, Jr., as we know it.

The CHAIRMAN. It indicates the boy is doing pretty well.

Mr. EDWARDS. At the present writing, Senator, I think that is a fair statement.

The CHAIRMAN. Very well.

Senator CURTIS. Did this concern have anything to do with the charges brought against their competitors?

Mr. EDWARDS. No, sir. Do you mean did they originate them?

Senator CURTIS. Yes.

Mr. EDWARDS. No, sir. As a matter of fact, they were under a rigorous investigation. We just didn't get enough to indict them.

Appendix 7



TYRONE C. FAHNER
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD
62706

May 21, 1981

Sub Committee on Oversight & Investigations
Room 2323
Rayburn House Office Building
U.S. House of Representatives
Washington, D.C. 20515

Attention: Dick Frandsen

Dear Mr. Frandsen:

Enclosed please find the most recent opinion on the case entitled Village of Wilsonville v. SCA Services, Inc. which was handed down by the Illinois Supreme Court.

If you need anything further, please contact me.

Sincerely,

Ann L. Carr

Ann L. Carr
Assistant Attorney General
Chief, Environmental Control
Division, Southern Region

ALC:es
Enclosure

Docket No. 52885—Agenda 10—January 1981.
THE VILLAGE OF WILSONVILLE *et al.*, Appellees, v.
SCA SERVICES, INC., Appellant.

MR. JUSTICE CLARK delivered the opinion of the court:

On April 18, 1977, the plaintiff village of Wilsonville (the village) filed a complaint seeking injunctive relief in the circuit court of Macoupin County. Plaintiffs Macoupin County and the Macoupin County Farm Bureau were granted leave to intervene on April 29, 1977, and May 9, 1977, respectively. They filed complaints substantially similar to the village's complaint. The gravamen of the complaints was that the operation of the defendant's chemical-waste-disposal site presents a public nuisance and a hazard to the health of the citizens of the village, the county, and the State. The Attorney General of Illinois filed a complaint on May 26, 1977, seeking an injunction pursuant to the Environmental Protection Act (Ill. Rev. Stat. 1975, ch. 111½, pars. 1003(d), 1003(n), 1012(d), 1043). After several amendments to the complaints and several motions were made and decided, the Attorney General's action and the other action were consolidated and set for trial. Trial began on June 7, 1977, consumed 104 days, and resulted in judgment for the plaintiffs on August 28, 1978. The trial court's judgment order concluded that the site constitutes a nuisance and enjoined the defendant from operating its hazardous-chemical-waste landfill in Wilsonville. It ordered the defendant to remove all toxic waste buried there, along with all contaminated soil found at the disposal site as a result of the operation of the landfill. Further, the court ordered the defendant to restore and reclaim the site.

The defendant appealed. The Appellate Court for the Fourth District unanimously affirmed the trial court's judgment. (77 Ill. App. 3d 618.) We allowed the defendant's petition for leave to appeal. (73 Ill. 2d R. 315.) We affirm.

The record in this matter is over 13,000 pages long. The appellate court opinion sets out many pertinent facts. It is only necessary to summarize them here.

The defendant has operated a chemical-waste landfill since 1977. The site comprises approximately 130 acres, 90 of which are within the village limits of the plaintiff village. The remaining 40 acres are adjacent to the village. The defendant enters into agreements with generators of

toxic chemical waste to haul the waste away from the generators' locations. The defendant then delivers it to the Wilsonville site, tests random samples of chemical waste, and then deposits the waste in trenches. There are seven trenches at the site. Each one is approximately 15 feet deep, 50 feet wide, and 250 to 350 feet long. Approximately 95% of the waste materials were buried in 55-gallon steel drums, and the remainder is contained in double-wall paper bags. After the materials are deposited in the trenches, uncompacted clay is placed between groups of containers and a minimum of one foot of clay is placed between the top drum and the top clay level of the trench.

The site is bordered on the east, west, and south by farmland and on the north by the village. The entire site, the village, and much of the surrounding area is located above the abandoned Superior Coal Mine No. 4, which operated from 1917 to 1954. The No. 6 seam of the mine was exploited in this area at a depth of 312 feet. The mining method used to extract coal was the room-and-panel method, whereby about 50% of the coal is left in pillars which provide some support for the earth above the mine. There was testimony at trial by Dr. Nolan Augenbaugh, chairman of the Department of Mining, Petroleum and Geological Engineering at the University of Missouri at Rolla, that pillar failure can occur in any mine where there is a readjustment of stress. Also on the defendant's site is a 30- to 40-foot-high pile of "gob," or mine spoil of coal, shale, and clay, which was accumulated over the time the mine was operated. Acid drainage from the mine has seeped into the ground and contaminated three surface drainage channels at the site. The defendant has attempted to remedy this situation by covering the surface of the "gob pile" with excess soil from the trenches.

There are 14 monitoring wells along the perimeter of the site. They are designed to detect liquids which seep through the soil and into the wells. They are not designed to contain liquids, however. In fact, monitoring wells Nos. 5 and 6 are 650 feet apart, which would allow many materials to pass between those two wells and not be discovered. The wells are sampled quarterly by a private laboratory, and test results are submitted to the Illinois Environmental Protection Agency (IEPA). Additional water samples are taken from three surface channels and are tested and reported in the same manner as samples taken from the wells. The surface drainage and the ground-

water drainage from the site are to the south, away from the village and toward farmland.

The village has no sewage-treatment plant and no municipally owned sewage system. Most homes are served by septic tanks, and some homes and businesses are connected to private sewers. The water-distribution system is centralized, and water is purchased from Gillespie, Illinois. The system was built in 1952 after the village tried unsuccessfully to find sufficient water by drilling municipal wells in the area. There are still 73 water wells in the village, some of which are used to water gardens or wash cars. At least one well is used to water pets, and another is used for drinking water. South of defendant's site, approximately one-half mile from the gob pile, is the Vassi Spring, the owner of which intends to use it as his water supply when he builds his home. Further south are four more springs used to water livestock.

On February 11, 1976, the defendant applied to the IEPA for a permit to develop and operate the hazardous-waste landfill. A developmental permit was issued by the IEPA on May 19, 1976. After a preoperation inspection was conducted by the IEPA, an operational permit was issued to the defendant on September 28, 1976. Each delivery of waste material to the site must be accompanied by a supplemental permit issued by the IEPA. A supplemental permit specifies the chemical nature and quantity of the waste to be deposited at the sites. Between November 12, 1976, and June 7, 1977, the first day of trial, the defendant had obtained 185 such permits.

The materials deposited at the site include polychlorinated biphenyls (PCBs), a neurotoxic, possibly carcinogenic chemical which it has been illegal to produce in this country since 1979. Due to the extensive use of PCBs in electrical equipment such as transformers, capacitors, and heat-transfer systems, and in hydraulic systems, any PCBs that were produced legally now have to be disposed of when they are no longer in use. PCBs have been stored at the site in liquid, solid and semi-solid form. Additionally, there are a number of now-empty drums which had once contained PCBs, which are also buried at the site. Other materials buried at the site in large quantities are solid cyanide, a substance known as C_{5, 6}, paint sludge, asbestos, pesticides, mercury, and arsenic. Considerable evidence was adduced to show that these and other substances deposited at the site are extremely toxic to human

beings. Some of the adverse reactions which could result from exposure to these materials are pulmonary diseases, cancer, brain damage, and birth defects.

The general geologic profile of the site shows a surface layer of about 10 feet of loess (wind-blown silt and clay material), under which lies 40 to 65 feet of glacial till. In the till material there is a thin sand layer of a few inches to approximately two feet. Some ground water has been found in the sand layer. All trenches dug at the site have between 10 to 15 feet of glacial till below them. The glacial till is reported to be very dense and is not very permeable. Thus liquids do not travel through it quickly.

Permeability studies conducted before the site opened by John Mathes, a professional engineer hired by the defendant, indicate permeability results ranging from 7.4×10^{-8} centimeters per second to 1.2×10^{-8} centimeters per second (cm/sec.). (The larger the negative exponent is, the less permeable the soil. *E.g.*, a finding of 10^{-8} cm/sec. indicates that the soil is less permeable than would a reading of 10^{-4} cm/sec.) After the site opened, Mathes took permeability samples from or near the bottoms of the trenches that had been dug. His second set of results ranged from 1.4×10^{-7} cm/sec. to $.9 \times 10^{-7}$ cm/sec.

Dr. James Williams, an engineering geologist with the Missouri Geology and Land Survey, also made permeability findings on behalf of the defendant from samples taken from the site after it opened. Dr. Williams' results ranged from 7×10^{-6} cm/sec. to 1×10^{-7} cm/sec. Dr. Williams testified on cross-examination that the general permeability of the site is considered to be greater than 1×10^{-8} cm./sec. and that he would not expect the average permeability of the soil to be as low as that used for samples.

In the interim between the opening of the site and the time of trial, the IEPA adopted a suggested permeability standard of 1×10^{-8} cm/sec. for hazardous-waste landfills.

Subsidence of the earth underneath the site is another contention raised by the plaintiffs to support their thesis that the site is unsafe and is therefore an enjoined nuisance. Dr. Nolan Augenbaugh testified extensively at trial. Dr. Augenbaugh took pictures of the area from an airplane as well as at ground level. During his testimony, he pointed out where subsidence occurred in the pictures he had taken. Dr. Augenbaugh stated that he had observed subsidence in a wheat field on the Wilbur Sawyer farm on June 17, 1977. Dr. Augenbaugh also testified that a subsidence basin lies to the northeast of the disposal site.

The pictures also indicate, according to Dr. Augenbaugh, fractures in the ground. One picture depicts a fault, which, Dr. Augenbaugh explained, is a "fracture where there's been differential movement of the two blocks. One block has been moved more than the other block." Sawyer, the farmer, told Dr. Augenbaugh the cracks had begun to appear approximately two months before, which would have been spring 1977. Several of these subsidences and fractures are located approximately one-half mile from the western boundary of the lower part of the disposal site. Dr. Augenbaugh testified that, in his opinion, subsidence can and will occur at the disposal site. Further, that ruptures in the earth would occur which, like an open pipe, would act as conduits for artesian water to reach the trenches, thereby contaminating the water.

Dr. Augenbaugh was recalled to testify on rebuttal. He testified that on March 22, 1978, he returned to the Sawyer farm. With the use of a backhoe, Dr. Augenbaugh had a trench dug across the subsidence cracks which he had observed earlier. When the digging was completed, there was a trench nine feet long and approximately three feet wide, with a maximum depth of a little over eight feet. Photographs were taken and slides prepared of the operation at the site. As the trench was being dug, water began to seep into the trench at a depth of approximately 4 to 4½ feet. Dr. Augenbaugh testified that the water flowed from subsidence fractures which were below the surface of the ground. Dr. Augenbaugh then poured some green dye into a surface fracture which was located approximately 10 feet away from the trench. The green dye entered the trench through two openings within 25 minutes.

Thomas O. Glover, a mining engineer and liaison officer with the United States Bureau of Mining, Department of the Interior, also testified regarding subsidence. Glover defined subsidence as the settling of the ground, due to the diminution of the underground support structure, and either the pillars pushing into the fine clay bottom below the coal system, or the roof fracturing immediately above the coal seam and continuing to the surface. He stated that subsidence normally can be expected to appear, on the average, 40 years after a mine has closed down. Glover never visited the instant disposal site, but he had examined the information relative to Superior Mine No. 4 and he had witnessed subsidences

many times in the field over the course of 27 years as a mining engineer. Glover offered the opinion that there is a possibility of subsidence wherever coal is mined and underground support is removed.

Several of the defendant's expert witnesses, James Douglas Andrews, the designer of the site and a consulting engineer for the defendant, John A. Mathes, an engineer, Steven Hunt, a geologist with the Illinois State Geological Survey (ISGS), and Paul B. DuMontelle, an engineering geologist with ISGS and coordinator of environmental geology for the Survey, testified in summary that there would be subsidence at the site, but that it would not be deep, would close in a short time, and could be repaired by means of engineering techniques.

Another of plaintiffs' witnesses, Dr. Arthur Zahalsky, offered the opinion that an "explosive interaction," resulting in chemical explosions, fires, or emissions of poisonous gases, will occur at the site. Dr. Zahalsky is a professor of biochemistry and head of the laboratory of biochemical parasitology at Southern Illinois University at Edwardsville. He testified in essence that if sufficient oxygen could reach the buried chemicals, and he believed it could, then an explosive interaction of unknown date of occurrence, magnitude, and duration is likely. Moreover, Dr. Zahalsky testified that it is unknown what interactions might occur when the waste materials combine after the deterioration of the steel containers and plastic bags.

The defendant challenged Dr. Zahalsky's opinion during cross-examination and requested him to diagram the precise chemical formula which would result in an explosive interaction. Dr. Zahalsky testified that a precise formula could not be diagrammed. He stated that the defendant's trench logs indicate that several of the chemical wastes have flash points less than 80 degrees Fahrenheit. Zahalsky reviewed the trench logs and gave examples of chemicals, such as paranitroaniline, which is a strong oxidizing agent and may be explosive, and also paint sludge, which has a flash point of less than 80 degrees Fahrenheit, which could result in a chemical fire. Dr. Zahalsky offered one scenario in which acidic chlorinated degreasers would interact with waste phenolic, releasing the phenolics so that the flash point would be achieved, thereby setting off the paint sludges which, in turn, would set off paint wastes, which would achieve the temperature sufficient for the ignition and combustion of

liquid PCBs. All of these materials are deposited together in trench No. 3.

Finally, considerable testimony was adduced, much of it conflicting, as to dust, odors, and spills of chemical waste which have occurred in the village. Various residents testified that dust emanating from the site blew toward their houses. Also, odors which caused burning eyes, running noses, headaches, nausea, and shortness of breath were mentioned in testimony. The odors themselves were said to resemble, among other things, fertilizer, insecticide, and burning rubber. There was further testimony that the dust and odors interfered with the witnesses' ability to use their yards for gardening or other recreational uses. The defendant presented witnesses who denied that the disposal site was the source of any odors, and that the odors resulted from the local practices of openly burning refuse and dumping sewage into a nearby creek.

There was testimony that trucks carrying the waste materials to the disposal site via Wilson Avenue, the main street of the village, sometimes spilled toxic liquids onto the street. The evidence is undisputed, both from the defendant's receiving reports and testimony from IEPA inspectors, that many drums arrived on the site leaking waste materials. Also, Sam Campagna, defendant's site manager, testified that he heard that a drum had once been dropped into a trench rather than stacked using a drum handler. He did not know whether rumors that this practice persisted were true or not, but he had ordered that such a practice cease.

The defendant has raised several issues on appeal: (1) whether the finding of the circuit and appellate courts that the waste-disposal site is a prospective nuisance is contrary to the manifest weight of the evidence; (2) whether those courts applied the wrong legal standard in finding that the waste disposal site constitutes a prospective nuisance; (3) whether the circuit and appellate courts erred in failing to balance the equities, either in finding a prospective nuisance or in fashioning relief; (4) whether the courts erred in failing to defer to, or to otherwise weigh, the role of the IEPA, the United States Environmental Protection Agency (USEPA), and the Illinois State Geological Survey (ISGS); (5) whether the courts erred in finding that plaintiffs have no adequate remedy at law; (6) whether the courts erred in ordering a mandatory injunction; and, finally, (7) whether the courts' decisions

constituted a taking of property without due process of law.

We conclude that the evidence in this case sufficiently establishes by a preponderance of the evidence that the chemical-waste-disposal site is a nuisance both presently and prospectively. The defendant does not challenge the fact that the spillage from improperly contained chemical waste, the odors, and the dust created by the site constitute a present interference with the right of the plaintiffs to enjoy and use their property. Thus, we will not belabor this point.

The defendant points out three areas where, it argues, the trial court made erroneous findings of fact. The defendant refers to: (1) Dr. Arthur Zahalsky's opinion testimony concerning an explosive interaction and Dr. Stephen Hall's testimony which concurred in that opinion; (2) evidence concerning soil permeability; and, (3) infiltration of water into the trenches, and of migration out of the defendant's trenches of chemical waste either through the "bathtub effect" or subsidence.

We have reviewed the extensive record compiled in this case. While it is true that the defendant vigorously challenged the evidence concerning an explosive interaction, permeability, and infiltration and migration due to subsidence, the defendant has not overcome the natural and logical conclusions which could be drawn from the evidence. Findings of fact made by the trial court will not be set aside unless they are contrary to the manifest weight of the evidence. *John Calnan Co. v. Talsma Builders, Inc.* (1977), 67 Ill. 2d 213, 218; *Kenny Construction Co. v. Metropolitan Sanitary District* (1971), 52 Ill. 2d 187, 196.

Defendant argues that Dr. Zahalsky and Dr. Hall are unqualified to render opinions concerning an explosive interaction occurring in the trenches. Dr. Zahalsky is a professor of biochemistry at Southern Illinois University at Edwardsville, the holder of a doctorate in that discipline, and has been active in his field since 1967. Dr. Hall is an associate professor of science and technology in the Department of Chemistry at Southern Illinois University at Edwardsville. He was awarded a doctorate in inorganic and analytical chemistry in 1967, as well as a master's degree in environmental health. While working on that master's degree, his second, Dr. Hall studied toxicology, a course dealing with the health effects of chemicals,

and took courses on air pollution and occupational health and safety as affected by chemicals in the work environment. Currently, Dr. Hall teaches a course in industrial toxicology at the University.

Over a limited objection by the defendant, the court qualified Dr. Hall as an expert in the fields of industrial toxicology, analytical, organic and inorganic chemistry, occupational hygiene, and environmental health.

Defendant placed several experts on the stand to refute the conclusions of Drs. Zahalsky and Hall. These experts testified that the fire-retardant properties of some of the chemicals would prevent chemical fires, that the gases predicted by Dr. Hall due to the mixing of chemicals would not occur, and that other chemical reactions predicted by Dr. Hall would not occur.

The defendant particularly relies upon the opinion of Dr. Raymond D. Harbison, a professor of pharmacology at Vanderbilt University, a toxicologist and consultant to the USEPA on toxic-waste handling. Dr. Harbison offered the opinion that the instant site is the most advanced scientific landfill in this country, and that the inventory system and the "absolute confinement" of the materials to the site render the interaction of the chemicals an impossibility.

At bottom, Dr. Harbison's opinion is premised upon his belief that the materials at the site will be sufficiently confined so that they will not pose a threat to the health or lives of the residents of the village. Dr. Harbison's opinions were discounted by the trial court, however, due to the substantial evidence which shows that the soil is more permeable than originally thought; that there is migration of water out of the trenches; and that there is subsidence in the area. Moreover, Dr. Harbison's opinion must be further discounted due to his erroneous statement that the waste materials will be sufficiently confined since "there is no ground water to be contaminated anyway below the particular site." Dr. Harbison later amended that statement to say there was no "usable water supply below the site" in terms of volume. This statement is also erroneous and also ignores evidence that the ground water would flow from beneath the site, thereby transporting any contamination into Cahokia Creek and could eventually flow into the Mississippi River. Thus we will not overturn the trial court's findings on this issue. They are amply supported by the manifest weight of the evi-

dence.

The defendant next contends that the appellate and circuit courts misinterpreted the permeability tests admitted into evidence. It is argued that permeability coefficients are but one factor in determining the permeability of soil. We agree, but the fact remains that the defendant placed a good deal of emphasis on the tests conducted by John Mathes and Dr. Williams, which show that the soil at the site is more permeable than the IEPA suggested standard of 1×10^{-8} cm/sec. These courts also relied upon the testimony of Dr. Williams, defendant's witness, that the soil was probably even more permeable than indicated in the tests. Based on this evidence the trial court was correct in finding that the permeable nature of the soil, as demonstrated by the coefficients, as one of several factors, poses a threat of migration of chemical waste away from the disposal site. That finding will not be disturbed.

The defendant also contends that the trial court's finding that subsidence warrants closing of the site is erroneous. The defendant argues that, assuming *arguendo* that subsidence would occur at the site, it could be counteracted by engineering techniques. This issue becomes complicated by the fact that the IEPA adopted a regulation providing that Class I disposal sites (*i.e.*, chemical waste disposal sites), must be secure without engineering. The USEPA, however, has recently adopted regulations to require all landfill sites to establish containment-engineering systems to detect and prevent migration of chemicals. (45 Fed. Reg. 33,239-42 (May 19, 1980).) Moreover, the General Assembly has, since the inception of this suit, passed a statute prohibiting the placement of a hazardous-waste-disposal site above a shaft or tunneled mine. Section 21(g) of the Environmental Protection Act provides:

"No person shall:

* * *

(g) Locate a hazardous waste disposal site above an active or inactive shaft or tunneled mine or within 2 miles of an active fault in the earth's crust. In counties of population less than 225,000 no hazardous waste disposal site shall be located (1) within $1\frac{1}{2}$ miles of the corporate limits as defined on June 30, 1978, of any municipality without the approval of the governing body of the municipality in an official action; or (2) within 1000 feet of an existing private well or the existing source of a public water supply

measured from the boundary of the actual active permitted site and excluding existing private wells on the property of the permit applicant.

The provisions of this subsection do not apply to publicly-owned sewage works or the disposal or utilization of sludge from publicly-owned sewage works." (Ill. Rev. Stat. 1979, ch. 111½, par. 1021(g).)

The instant disposal site is above an inactive tunneled mine lying partly within the corporate limits of the village of Wilsonville. Without an express statutory provision stating an act is to have retroactive effect, it can only be applied prospectively. (*Stigler v. City of Chicago* (1971), 48 Ill. 2d 20, 24; *People ex rel. Schmidt v. Yerger* (1961), 21 Ill. 2d 338, 344; 2 A. Sutherland, Statutory Construction sec. 41.04, at 252 (1973).) Thus, the defendant cannot be thought to be in violation of the foregoing provision. The fact remains, however, that the instant site, which is intended to be permanent, is located above an inactive tunneled mine.

Moreover, Dr. Nolan Augenbaugh testified at great length, supported by many photographs, of the considerable subsidence which has already occurred near the site. In Dr. Augenbaugh's opinion, subsidence will occur at the site itself. The defendant's experts testified that any subsidence would be negligible and shallow and would not present a threat to health or life. Dr. Augenbaugh refuted this testimony. He stated that subsidence would permit chemical-waste materials to seep into the ground water. In addition, Dr. Augenbaugh testified that subsidence would create a "bathtub effect" by permitting water to get into the trenches, eventually rise to the surface, overflow, and contaminate the ground around the site. We think the circuit court was fully justified in giving more weight to Dr. Augenbaugh's well-documented opinion than to the opinions of defendant's experts. We will not disturb that finding.

Another assignment of error raised by defendant is that the circuit court should have allowed its motion to strike the opinion testimony of Drs. Zahalsky and Hall because of lack of a foundation for their opinions, lack of qualifications, and lack of evidence that any intermixing of chemicals would occur.

We again are constrained to disagree with the defendant's characterization of the testimony adduced at trial. Dr. Zahalsky and Dr. Hall testified that oxidizing channels

caused by root systems and subsidence of the earth would permit air to reach the chemical-waste materials. Defendant's own site manager testified that the 55-gallon drums and paper bags used to transport the materials to the site were not intended to and would not contain the materials forever. There was evidence in fact that several of the drums were rusting, leaking, and spilling when they arrived at the site and that others were rolled over the edge of the trenches. Furthermore, photographs taken of the site and admitted into evidence show that the individual drums were not uniformly separated by several feet of clay. Moreover, Dr. Zahalsky, as recognized by the circuit court, is fully qualified in the field of biochemistry, and Dr. Hall is qualified as a chemist and toxicologist. They both testified to possible reactions caused by the intermixing of certain chemicals. They both also stated the reactions were not certainties but that, with the given flashpoints of certain chemicals, the fact that oxygen could reach the waste materials and the highly volatile nature of some of the chemical-waste materials, in their opinions, based upon a reasonable degree of scientific certainty, it was entirely possible that an "explosive interaction" in the form of fires, gaseous emissions, or explosions could occur at the site. While defendant's expert witnesses disputed these opinions and referred to fire-retardant properties of some chemicals, or the unavailability of ambient temperatures due to lack of oxygen, we are unable to say that Drs. Zahalsky's and Hall's opinions were wrong and the other experts were right. Drs. Zahalsky's and Hall's opinions are at least as plausible as defendant's experts, are based on explicit examples of possible chemical reactions, are buttressed by the two doctors' qualifications, and are supported by evidence concerning conditions at the site which indicate intermixing could occur. The trial court was correct in denying the motion to strike.

As the defendant candidly admits about its next assigned error, it cannot prove that 13 persons did not smell odors or see dust emanating from the site. Therefore, it cannot argue that the court's finding based on this evidence was contrary to the manifest weight of the evidence. The defendant does argue, however, that evidence of dust and odors does not justify ordering closure of the site. Less restrictive relief must be ordered instead. We agree, of course, that dust and odors alone do not justify the relief which has been ordered in this case. "Whether smoke,

odors, dust or gaseous fumes constitute a[n] [enjoinable] nuisance depends on the peculiar facts presented by each case." (*City of Chicago v. Commonwealth Edison Co.* (1974), 24 Ill. App. 3d 624, 631-32, wherein it was held that "no unreasonable or substantial injury" was established so as to warrant enjoining the defendant from operating its plant (24 Ill. App. 3d 624, 633).) But, when the dust and odors the trial court found to be present at the site are considered together with the other evidence indicating that the air, water, and earth in and around the site will become contaminated, the trial court's relief is not excessive.

The same is true of defendant's argument that the evidence of spillage from trucks as they were driven through the village does not warrant closure of the site. Evidence of spillage is simply an additional reason the circuit court ordered the site closed. Whether spillage alone would justify closure is not before us.

The trial court herein concluded that defendant's chemical-waste-disposal site constitutes both a private and a public nuisance. Professor Prosser has defined a private nuisance as "a civil wrong, based on a disturbance of rights in land" (Prosser, Torts sec. 86, at 572 (4th ed. 1971)), and a public nuisance as "an act or omission 'which obstructs or causes inconvenience or damage to the public in the exercise of rights common to all Her Majesty's subjects.'" (Prosser, Torts sec. 88, at 583 (4th ed. 1971) quoting, Stephen, *General View of the Criminal Law of England* 105 (1890); *City of Chicago v. Festival Theatre Corp.* (1980), 88 Ill. App. 3d 216, 223.) Prosser has also quoted the following, more precise definition of a public nuisance: "'A common or public nuisance is the doing of or the failure to do something that injuriously affects the safety, health or morals of the public, or works some substantial annoyance, inconvenience or injury to the public.'" (Prosser, Torts sec. 88, at 583 n.29 (4th ed. 1971), quoting, *Commonwealth v. South Covington & Cincinnati Street Ry. Co.* (1918), 181 Ky. 459, 463, 205 S.W. 581, 583.) It is generally conceded that a nuisance is remediable by injunction or a suit for damages. See *Belmar Drive-In Theatre v. Illinois State Toll Highway Com.* (1966), 34 Ill. 2d 544, 546.

The defendant herein argues that "[e]ven if some or all of plaintiffs' evidence is deemed believable, the findings of the courts below that [defendant's] conduct constitutes

a prospective nuisance must be reversed for failure to *** balance the reasonableness and utility of the defendant's conduct, the harm to the plaintiff, and the general societal policy toward risk-taking before [a court may] find an actionable nuisance present." The defendant continues that the law of Illinois requires that the circuit court engage in a balancing process before reaching a conclusion that the waste disposal site presents a prospective nuisance. The appellate court appears to have agreed with the defendant that the trial court did not engage in a balancing process:

"The record in the case on appeal indicates that the trial court acknowledged the need for the landfill facility and the substantial investment defendant had made in it but stated in its memorandum opinion, 'The court will not balance public benefit or public inconvenience against the individual right,' thus, apparently refusing to engage in the balancing." (77 Ill. App. 3d 618, 638.)

We do not agree, however, with the foregoing characterization of the trial court's statement. The trial court's statement is a direct quotation from *Wente v. Commonwealth Fuel Co.* (1908), 232 Ill. 526, 533. There, this court affirmed a decree in equity which enjoined the defendant from piling its coal against the plaintiff's building and from operating its coal hopper in the manner in which it had previously been operated. This court said:

"The business of the defendant is a necessary one and it is not a nuisance *per se*, but if a business is offensive to such a degree as to materially interfere with ordinary physical comfort, measured, not by the standard of persons of delicate sensibilities and fastidious habits, but by the habits and feelings of ordinary people, and the damages are of a nature which cannot be adequately compensated for in an action at law, a court of equity will grant an injunction. In such a case the court will not balance public benefits or public inconvenience against the individual right. (*Seacord v. People*, 121 Ill. 623.)"

It is reasonably clear that this court and the circuit court meant that where individual rights are unreasonably interfered with, the public benefit from a particular facility will not outweigh the individual right, and the facility's use will be enjoined or curtailed. Such a conclusion presupposes a

balancing process with the greater weight being given to the individual's right to use and enjoy property over a public benefit or convenience from having a business operate at a particular location. In such an instance, the individual's right to noninterference takes precedence.

Moreover, the trial court did engage in a balancing process, as is made clear by the following excerpt from the trial court's memorandum opinion.

"It is the opinion of the Court that the state of the law is such that nuisance cannot be justified on the ground of necessity, pecuniary interest, convenience or economic advantage.

The Court understands as does counsel that there is a need for disposal of industrial hazardous wastes. However, where disposal of wastes create a nuisance said disposal site may be closed through legal action.

Substantial sums of money have been expended by the defendant in developing and operating the Earthline site at Wilsonville. Not only is the site convenient to nearby industries but it is a profit producer for the defendant. All of these elements are relevant to our economic system but notwithstanding the same it is the opinion of the Court that nuisances cannot be justified on such grounds when we have substantial injury to individual rights, community rights, substantial damage to human beings and other living things.

The Court recognizes that in time of war or great national emergency the creation of a nuisance may be legally allowed and/or authorized by statute. Such is not the situation before the Court in this cause.

Whether or not a business is useful or necessary or whether or not it contributes to the welfare and/or prosperity of the community are elements to be considered in a serious manner but said elements are not determinative as to whether or not the operation is a nuisance.

The importance of an industry to the wealth and prosperity of an area does not as a matter of law give to it rights superior to the primary or natural rights of citizens who live nearby. *However, such matters may be considered and have been in this case.*

It is the opinion of the Court that trifling annoyances or inconveniences of an operation will not give the character of a nuisance to a business that is useful and necessary to society.

A significant inquiry is—was the business established and then persons moved into the business area after it was established and subsequent thereto the business operation moved in and now complaints are made by the citizens who were located in the area before the business was so located. It is the opinion of the Court that if a business is located in

a certain area before complainants moved into the area and if the complainants come to the nuisance this may constitute a defense or operate as an estoppel. A person cannot place himself in a position where you suffer and then complain. In this case the defendant established its chemical waste landfill near the area where persons of the Village had resided for many years. Complaints came from residents many of whom lived in the area long before the industrial waste disposal site was ever established.

An industrial waste disposal site in and adjacent to a village means that the hazardous waste disposal operation is near or next to homes, families—children, youth, middle aged and old people—sick people, well people—sensitive persons and anxious and fearful persons. The location of a business has significance in reference to being a nuisance or not being a nuisance.” (Emphasis added.)

We think the foregoing indicates that the trial court did carefully engage in a balancing process between the site's social utility and the plaintiffs' right to enjoy their property and not suffer deleterious effects from chemical wastes. Accordingly, the defendant's argument that the trial court did not balance the equities in this case is without merit.

The defendant's next contention is that the courts below were in error when they failed to require a showing of a substantial risk of certain and extreme future harm before enjoining operation of the defendant's site. We deem it necessary to explain that a *prospective* nuisance is a fit candidate for injunctive relief. Prosser states: “Both public and private nuisances require some substantial interference with the interest involved. Since nuisance is a common subject of equity jurisdiction, the damage against which an injunction is asked is often merely threatened or potential; but even in such cases, there must be at least a threat of a substantial invasion of the plaintiff's interests.” (Prosser, Torts sec. 87, at 577 (4th ed. 1971).) The defendant does not dispute this proposition; it does, however, argue that the trial court did not follow the proper standard for determining when a prospective nuisance may be enjoined. The defendant argues that the proper standard to be used is that an injunction is proper only if there is a “dangerous probability” that the threatened or potential injury will occur. (See Restatement (Second) of Torts sec. 933(1), at 561, comment *b* (1979).) The defendant further argues that the appellate court looked only at the potential

consequences of not enjoining the operation of the site as a nuisance and not at the likelihood of whether harm would occur. The defendant assigns error on this basis.

We agree with the defendant's statement of the law, but not with its urged application to the facts of this case. Again, Professor Prosser has offered a concise commentary. He has stated that "[o]ne distinguishing feature of equitable relief is that it may be granted upon the threat of harm which has not yet occurred. The defendant may be restrained from entering upon an activity where it is highly probable that it will lead to a nuisance, although if the possibility is merely uncertain or contingent he may be left to his remedy after the nuisance has occurred." (Prosser, Torts sec. 90, at 603 (4th ed. 1971).) This view is in accord with Illinois law. (*People ex rel. Difanis v. Futia* (1978), 56 Ill. App. 3d 920, 926; *Fink v. Board of Trustees* (1966), 71 Ill. App. 2d 276, 281-82.) In *Fink* the plaintiff sought to enjoin construction of a dam and also the discharge of sewage effluent in a watercourse which flowed past plaintiffs' property. Construction of the dam was not enjoined, but the discharge of effluent was prospectively enjoined. The court stated:

"While, as a general proposition, an injunction will be granted only to restrain an actual, existing nuisance, a court of equity may enjoin a threatened or anticipated nuisance, where it clearly appears that a nuisance will necessarily result from the contemplated act or thing which it is sought to enjoin. This is particularly true where the proof shows that the apprehension of material injury is well grounded upon a state of facts from which it appears that the danger is real and immediate. While care should be used in granting injunctions to avoid prospective injuries, there is no requirement that the court must wait until the injury occurs before granting relief." (71 Ill. App. 2d 226, 281-82.)

We agree.

In this case there can be no doubt but that it is highly probable that the chemical-waste-disposal site will bring about a substantial injury. Without again reviewing the extensive evidence adduced at trial, we think it is sufficiently clear that it is highly probable that the instant site will constitute a public nuisance if, through either an explosive

interaction, migration, subsidence, or the "bathtub effect," the highly toxic chemical wastes deposited at the site escape and contaminate the air, water, or ground around the site. That such an event will occur was positively attested to by several expert witnesses. A court does not have to wait for it to happen before it can enjoin such a result. Additionally, the fact is that the condition of a nuisance is already present at the site due to the location of the site and the manner in which it has been operated. Thus, it is only the damage which is prospective. Under these circumstances, if a court can prevent any damage from occurring, it should do so.

The defendant next asserts that error occurred in the courts below when they failed to defer to the IEPA and the USEPA, as well as when they failed to give weight to the permits issued by the IEPA. This assertion has no merit, however, because the data relied upon by the IEPA in deciding to issue a permit to the defendant were data collected by the defendant, data which have been proved at trial to be inaccurate. In particular, defendant's experts concluded that any subsidence at the site would be negligible. The IEPA (as well as the USEPA) adopted this inaccurate conclusion in deciding to issue a permit to the defendant.

We also disagree with the defendant that since the plaintiffs did not seek review from the IEPA's decision to grant permits to the defendant through the Pollution Control Board they have an adequate remedy at law and are unable to obtain relief in a court of equity. First, the plaintiffs are not seeking a review of the issuance of permits. The plaintiffs seek to enjoin a nuisance, a matter which is properly brought in a court of equity. This court has stated that jurisdiction exists in the circuit court "to abate public nuisances which may endanger the general welfare." (*People ex rel. Scott v. Janson* (1974), 57 Ill. 2d 451, 460.) Thus, the trial court has subject matter jurisdiction to decide the issues raised herein, and to award appropriate equitable relief.

The next issue we consider is whether the trial court erroneously granted a permanent injunction. The defendant argues first that the courts below granted injunctive relief without proof that the alleged injury is both substantial and certain to occur. We have already addressed this question in discussing whether relief may be granted for a prospective nuisance. We will not unduly prolong

this already lengthy opinion with duplicative discussion. The second argument raised is that the courts below did not balance the equities in deciding to enjoin the defendant from continuing to operate the waste-disposal site. Defendant cites *Harrison v. Indiana Auto Shredders Co.* (7th Cir. 1975), 528 F.2d 1107, for the proposition that the court must balance the relative harm and benefit to the plaintiff and defendant before a court may enjoin a nuisance. (528 F.2d 1107, 1109.) A balancing process is implicit in the following statements made by this court in *Haack v. Lindsay Light & Chemical Co.* (1946), 393 Ill. 367, 373, 375:

"It is equally clear that the rule in this State and generally, is, and should be, that even though a right has been established in law, a court of equity will not, as a matter of course, interpose by injunction but will consider all the circumstances, the consequences of such action and the real equity of the case.

* * *

To entitle one to injunctive relief he must establish, as against the defendant, an actual and substantial injury and not merely a technical inconsequential wrong entitling him to nominal damages, only. To warrant the allowance of the writ of injunction it must clearly appear that some act has been done or is threatened against the plaintiff which will produce an irreparable injury to him. (*Cleveland v. Martin*, 218 Ill. 73; *Girard v. Lehigh Stone Co.* 280 Ill. 479; *Dunn v. Youmans*, 224 Ill. 34; *Springer v. Walters*, 139 Ill. 419.) As this court observed in *Klumpp v. Rhoads*, 362 Ill. 412, 'If the damages are of a nature which cannot be adequately compensated for in a suit at law, equity will afford relief by injunction. On the other hand, lawful and useful business may not be stopped on account of trifling or imaginary annoyances which do not constitute real injury.' " (393 Ill. 367, 375.)

We would add that an injunction should be reasonable and should only be as broad as is essential to safeguard the rights of the plaintiff. *Toushin v. City of Chicago* (1974), 23 Ill. App. 3d 797, 804.

In *Harrison*, an auto shredder operated its business in a residential neighborhood in Indianapolis. There was con-

siderable testimony from nonexperts that the shredder created too much noise, vibration, and air pollution in the forms of dust and debris. The defendant shredder company defended on the ground that while difficulties in starting up the operation had occurred, it had taken steps, and would do whatever further was necessary, to abate the nuisance. Several experts testified that the noise, vibration, and pollution were well within permissible State and local standards. After a 30-day trial, the court issued a permanent injunction ordering the shredder to cease operations and awarded permanent and punitive damages to the plaintiffs for the diminution in value of their property. The trial court conceded that the shredder performed a "very real social function" in disposing of and recycling old automobiles, but concluded that the machine ought to be somewhere else. (528 F.2d 1107, 1119.) The court of appeals agreed that the shredder's effect upon the quality of life in the neighborhood entitled the plaintiffs to some form of equitable relief and damages. The court did not, however, view the complete cessation of operations as appropriate to the facts presented. The court stated:

"Reasonableness is the standard by which the court should fashion its relief in ordinary nuisance cases, *Meeks v. Woods*, 66 Ind. App. 594, 118 N.E. 591 (1918), and reasonableness is also the appropriate standard for relief from environmental nuisance. Ordinarily a permanent injunction will not lie unless (1) either the polluter seriously and imminently threatens the public health or (2) he causes non-health injuries that are substantial and the business cannot be operated to avoid the injuries apprehended. Thus the particular situation facts of each pollution nuisance case will determine whether a permanent injunction should be issued." (528 F.2d 1107, 1123.)

The court concluded in *Harrison* that since the defendant was not in violation of any relevant zoning standards, and since the shredder did not pose an imminent hazard to the public health, the defendant should not be prevented from continuing to operate. The court then ordered that the defendant be permitted a reasonable time to "launder its objectionable features." 528 F.2d 1107, 1125.

This case is readily distinguishable for the reason that the gist of this case is that the defendant is engaged in an extremely hazardous undertaking at an unsuitable lo-

cation, which seriously and imminently poses a threat to the public health. We are acutely aware that the service provided by the defendant is a valuable and necessary one. We also know that it is preferable to have chemical-waste-disposal sites than to have illegal dumping in rivers, streams, and deserted areas. But a site such as defendant's, if it is to do the job it is intended to do, must be located in a secure place, where it will pose no threat to health or life, now, or in the future. This site was intended to be a *permanent* disposal site for the deposit of extremely hazardous chemical-waste materials. Yet this site is located above an abandoned tunneled mine where subsidence is occurring several years ahead of when it was anticipated. Also, the permeability-coefficient samples taken by defendant's experts, though not conclusive alone, indicate that the soil is more permeable at the site than expected. Moreover, the spillage, odors, and dust caused by the presence of the disposal site indicate why it was inadvisable to locate the site so near the plaintiff village.

Therefore, we conclude that in fashioning relief in this case the trial court did balance relative hardship to be caused to the plaintiffs and defendant, and did fashion reasonable relief when it ordered the exhumation of all material from the site and the reclamation of the surrounding area. The instant site is akin to Mr. Justice Sutherland's observation that "Nuisance may be merely a right thing in a wrong place—like a pig in the parlor instead of the barnyard." *Village of Euclid v. Ambler Realty Co.* (1926), 272 U.S. 365, 388, 71 L. Ed. 303, 311, 47 S. Ct. 114, 118, quoted in 2 J. Dooley, *Modern Tort Litigation* sec. 31.15, at 225 (1977).

We are also cognizant of *amicus* USEPA's suggestion in its brief and affidavits filed with the appellate court which urge that we remand to the circuit court so that alternatives to closure of the site and exhumation of the waste materials may be considered. The USEPA states: "Heavy equipment may damage drums, releasing wastes and possibly causing gaseous emissions, fires, and explosions. Repackaging and transporting damaged drums also risks releasing wastes. Workers performing the exhumation face dangers from contact with or inhalation of wastes; these risks cannot be completely eliminated with protective clothing and breathing apparatus. Nearby residents may also be endangered." It is ironic that the host of horrors mentioned by the USEPA in support of keeping the site

open includes some of the same hazards which the plaintiffs have raised as reasons in favor of closing the site.

The USEPA continues that while it is not suggesting a specific alternative remedy to closure, possible alternative remedies exist: "A proper cap of low permeability can ensure that little or no rain water can infiltrate the site, and thus that little leachate will be formed. Leachate-collection sumps can also be installed to remove whatever leachate is formed. Ground water monitoring can generally detect any migration of waste constituents, and counterpumping of contaminated ground water (or other measures) can protect against further migration."

We note, however, that the USEPA does not suggest how the location of the disposal site above an abandoned tunneled mine and the effects of subsidence can be overcome. Instead, the USEPA refers to a report admitted into evidence at trial, which was prepared by a technical evaluation team from the USEPA. The team's report had a limited scope. It only "compares and relates the technical aspects of the facility for disposal of PCB's to the EPA proposed regulations." The team visited the site on June 8, 1977, and discussed the site with defendant's personnel. Extensive technical data were provided to the team by defendant, the IEPA, ISGS, and other sources during the site visit and over the next several months, but the team itself did not collect any soil or water samples for analysis. Thus the team used the same data in reaching its conclusion as were used during the trial by defendant. The team noted the following points:

"(1) The glacial till which lies under the site is quite dense and essentially massive (permeability 10^{-8} cm/sec.)."

This finding was effectively refuted at trial.

"(2) The potential for mine subsidence under the site as reported by the ISGS is negligible."

Dr. Augenbaugh's studies, which the circuit court gave more weight, directly contradicted this finding.

"(3) The 14 groundwater and the 3 surface water sampling points around the site are sufficient to detect any contamination of the sand layer or of the surface drainage channels (analyses to date indicate no change in the amounts or types of contaminants compared to those measured from samples taken before the site began accepting waste)."

As previously stated, some of the sampling points are a considerable distance apart, thereby allowing for the possibility that contamination could occur and be undetected.

Moreover, though the defendant states that it could easily establish a containment trench to catch any waste migration, since the IEPA does not have such a requirement, the defendant did not build a containment trench. Indeed, IEPA regulations require that Class I disposal sites, such as the instant one, must be secure without the use of containment-engineering techniques. Since the inception of this case, however, the USEPA has adopted regulations which require containment trenches at all chemical-waste-disposal sites.

Finally, Sam Campagna, defendant's former site manager, testified at trial that no test had, as yet, been taken from the samples to detect whether cyanide was present in the monitoring wells, and that, during the quarterly sampling, tests were conducted to detect certain chemicals only. Thus, some chemicals could be present for several quarters before tests would reveal their presence.

"(4) The operation of the site, as demonstrated to the [team] considers those precautions necessary to assure that both the public and the environment are protected.

(5) The site, at the time of the visit, was in good order and the site housekeeping procedures appear adequate."

These findings are in conflict with the defendant's own delivery reports and other evidence adduced at trial which shows that many of the drums were brought to the site in a rusting and leaking condition. Also, the evidence of spillage on the streets of Wilsonville, and of rolling drums into trenches instead of carefully lowering them in, fly in the face of the team's report.

"(6) The segregation of PCBs from solvents as practiced by [defendant] will cause the PCBs to be nearly immobile (PCB travel times will be at least 10 to 100 times longer than even the least mobile heavy metals)."

Dr. Hall challenged this finding when he testified that PCBs would be dissolved in the organic solvent components of the paint sludges deposited in trenches Nos. 2, 3, and 4. Moreover, Robert A. Griffin, an associate geochemist with the ISGS, reported to the USEPA that although PCBs are "immobile in soil materials, including pure sand, when leached with water," when "the mobility of PCB's were tested using organic solvents (e.g. carbon tetrachloride, methylene chloride, methanol, and acetone), using the same experimental conditions as on the aqueous solvent tests, the PCB's were found to be highly mobile."

Griffin went on to say that as long as PCBs were not disposed in the same trenches with organic compounds that would make PCBs soluble, the possibility of migration of PCBs was nil. Clearly, this precaution has not been followed by the defendant.

Finally, the USEPA's own regulations governing disposal of PCBs, which became effective November 19, 1980, contain the following:

"High temperature incineration is the primary disposal method for PCBs. This disposal method is the only technique that will result in the destruction of PCBs and prevent the eventual escape of the chemical to the environment. Properly operated chemical waste landfills may provide an element of security for the containment of PCBs for long periods of time, but the ultimate fate of PCBs using this method is unknown.

* * *

All PCB chemical substances, PCB mixtures, PCB articles, and PCB containers are to be disposed of by high temperature incineration with the following exceptions:

(A) PCB transformers ***

(B) Until July 1, 1979, approved chemical waste landfills may be used for the disposal of non-liquid PCB mixtures ***

(C) Small PCB compactors that are used in private housing units ***. (42 Fed. Reg. 26,566 (1977).)

Therefore, the PCBs contained at defendant's site are in violation of USEPA regulations presently in effect, even though it is true that these regulations are not strictly enforced by the USEPA.

The point is that the USEPA is asking this court to remand this cause to the circuit court on the basis of evidence which the trial court has previously considered and discounted in favor of the plaintiffs' evidence. We see no point in doing so. The circuit court carefully weighed the evidence adduced throughout the 104-day trial, balanced the relative hardship to the plaintiffs and defendant of permitting the site to continue to operate, or closing it down, and reached the conclusion which is strongly supported by the record, that the site's dangers outweigh its utility. Moreover, it needs to be remembered, as the trial judge pointed out, that the nuisance in this case came to the village. (See Prosser, Torts sec. 91, at 611 (4th ed. 1971).) The residents of Wilsonville have a right to enjoy and use their property without being unreasonably interfered with

by the defendant's hazardous-waste site. Also, there is evidence in the record that representatives of the defendant told the village board, in response to a question from the water works commissioner, that no toxic materials would be buried at the site, when the truth is precisely the opposite. We view these factors as additional reasons why defendant's conduct is inequitable and why plaintiffs are entitled to a permanent injunction. We conclude therefore that the relief fashioned by the trial court is reasonable under the precise facts of this case and will not be disturbed.

The defendant raises another point that the courts below refused to consider the practicability of exhuming and moving the wastes deposited at the site. Our reading of the opinions of the trial and appellate courts indicates the contrary. Serious consideration was given to available remedies; and it was concluded that exhumation of the materials and reclamation of the site is the best and safest alternative. Additionally, the defendant "concedes" in its reply brief filed with this court that it is possible to excavate the site and haul the materials elsewhere. It disputes, however, the technical and scientific reasonableness of doing so.

First, many of these materials have already been transported once from Dittmer, Missouri, where they were illegally dumped and had destroyed all vegetation for a square mile, to Wilsonville. So it is possible to transport these materials. Second, since the trial court has decided that the likelihood exists that great harm will be done if the materials are *not* moved, it seems only reasonable that the materials must be taken somewhere safer than where they are now deposited. It is the defendant's responsibility to make certain the exhumation is performed in a careful manner.

Finally, the defendant argues that the decisions of the courts below constitute sudden changes in State law and, as such, deprive the defendant of its property without due process of law. (See *Hughes v. Washington* (1967), 389 U.S. 290, 298, 19 L. Ed. 2d 530, 536, 88 S. Ct. 438, 443 (Stewart, J., concurring).) We disagree; the principles of law applied in this case are neither new, unreasonable, nor unpredictable. Manifestly, a party cannot expect to operate a site in the manner and in the location the defendant has chosen and expect to be immune from liability for creating a public nuisance. Defendant's argument has no

merit in this case.

Accordingly, for all the reasons stated, the judgments of the circuit and appellate courts are affirmed and the cause is remanded to the circuit court to enable it to retain jurisdiction to supervise the enforcement of its order. See *Hake v. People* (1907), 230 Ill. 174, 196; *Melbourne Corp. v. City of Chicago* (1979), 76 Ill. App. 3d 595, 611.

Affirmed and remanded.

MR. JUSTICE RYAN, concurring:

While I agree with both the result reached by the majority and the reasoning employed supporting the opinion, I wish to add a brief comment. In response to the defendant's argument that the trial court failed to apply the proper standard for determining when a prospective nuisance may be enjoined, the majority concluded that the court had in fact applied the correct rule as set out in *Fink v. Board of Trustees* (1966), 71 Ill. App. 2d 276. I am concerned that the holding of *Fink*, quoted by the majority (slip op. at 17), may be an unnecessarily narrow view of the test for enjoining prospective tortious conduct in general. Any injunction is, by its very nature, the product of a court's balancing of competing interests, with a result equitably obtained. Prosser, in discussing the law of nuisance, quoted by the majority (slip op. at 17), states:

"[I]f the possibility [of harm] is merely uncertain or contingent [the plaintiff] may be left to his remedy after the nuisance has occurred." Prosser, Torts sec. 90, at 603 (4th ed. 1971).

Prosser thus recognizes that there are cases in which the possibility of inflicting harm is slight and where the plaintiff may be left to his remedy at law. However, I believe that there are situations where the harm that is potential is so devastating that equity should afford relief even though the possibility of the harmful result occurring is uncertain or contingent. The Restatement's position applicable to preventative injunctive relief in general is that "[t]he more serious the impending harm, the less justification there is for taking the chances that are involved in pronouncing the harm too remote." (Restatement (Second) of Torts sec. 933, at 561, comment b (1979).) If the harm that may result is severe, a lesser

possibility of it occurring should be required to support injunctive relief. Conversely, if the potential harm is less severe, a greater possibility that it will happen should be required. Also, in the balancing of competing interests, a court may find a situation where the potential harm is such that a plaintiff will be left to his remedy at law if the possibility of it occurring is slight. This balancing test allows the court to consider a wider range of factors and avoids the anomalous result possible under a more restrictive alternative where a person engaged in an ultrahazardous activity with potentially catastrophic results would be allowed to continue until he has driven an entire community to the brink of certain disaster. A court of equity need not wait so long to provide relief.

Although the "dangerous probability" test has certainly been met in this case, I would be willing to enjoin the activity on a showing of probability of occurrence substantially less than that which the facts presented to this court reveal, due to the extremely hazardous nature of the chemicals being dumped and the potentially catastrophic results.

Appendix 8

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June 26, 1981

By Hand

The Honorable John D. Dingell
Chairman, Subcommittee on Oversight
and Investigations of the
Committee on Energy and Commerce
Room 2323
Rayburn House Office Building
Washington, D.C. 20515

Re: Hearing of May 28, 1981
("Organized Crime Links to
the Waste Disposal Industry")

Dear Chairman Dingell:

Thomas C. Viola, by his counsel, respectfully requests that two additional items be included in the permanent record of these proceedings and printed along with the transcript of the above hearing. These items are enclosed and consist of the following:

- (1) All of the FBI records concerning Mr. Viola which were provided to him after the hearing and which show, consistently with testimony at the hearing, that the FBI's only records relating to Mr. Viola are highly laudatory of his honesty and reliability and concern his cooperation with the Bureau.
- (2) A letter from John M. Fox, Chairman of the Board of SCA, to Mr. Viola, dated June 24, 1981, accepting Mr. Viola's resignation as President of SCA. The

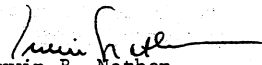
ARNOLD & PORTER

The Honorable John D. Dingell
June 26, 1981
Page Two

letter advises Mr. Viola that "the investigation by the Special Committee of the Board of Directors found absolutely no evidence of any relationship between you or your family and organized crime" and thus reaffirms Mr. Viola's testimony at the hearing on that point.

In accordance with instructions from your Printing Editor, Donald Watt, I am returning to him directly a revised and corrected version of the transcript of the hearing.

Sincerely,


Irvin B. Nathan
Attorney for Thomas C. Viola

Enclosures

cc: Donald A. Watt
Printing Editor
(w/enclosure)

SCA SERVICES, INC.

80 State Street
 Boston, Massachusetts 02109
 (617) 367-6300



June 24, 1981

Mr. Thomas C. Viola
 633 Chestnut Street
 Needham, Massachusetts 02192

Dear Tom:

It is with deep regret that I accept your resignation as Director, President and Chief Executive Officer of SCA as written to me in your letter of June 22, 1981.

The last six months have been terribly difficult ones for the Company and, as I know only too well, for you personally. The damaging allegations made before the Congressional subcommittee last December and repeated frequently and on a widely distributed basis in the press, have put you in an extremely difficult position.

In my view you showed great personal courage in volunteering to confront and refute each of these allegations in your Congressional testimony last month. Furthermore, your painful decision to resign so that SCA may put this unfortunate episode behind it was another act of courage and I commend you for it.

I also want you to know that the investigation by the Special Committee of the Board of Directors found absolutely no evidence of any relationship between you or your family and organized crime.

You took charge of a Company that was in deep trouble five years ago. Under the most difficult of circumstances you have led the Company to its present position of strength and profitability.

On behalf of the Board of Directors I want to thank you for your loyal and untiring service to the Company and to wish you the very best in your future endeavors.

Sincerely yours,


 John M. Fox
 Chairman of the Board

JMF/rcn

cc: Board of Directors

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, F.B.I.

DATE: 7/1/53

FROM : SAC, NEWARK (134-144)

SUBJECT: THOMAS VIOLA
POTENTIAL CONFIDENTIAL SOURCE
Office of Origin: Newark

(4) neg 11-1
b7C

See Nutley

On an investigation in another matter SA'S [redacted] and [redacted] interviewed the subject who is manager of and a partner in THOMAS VIOLA and Sons, 218 Washington Avenue, Nutley, N.J. VIOLA is a close personal associate of SA [redacted] since college days. Bureau authority is requested to consider subject a Confidential Source.

VIOLA advised that his organization is engaged in general trucking activities. He stated that among others his contracts included the scavenger operations for Nutley and Lyndhurst, N.J. He stated that his trucks pick up all refuse and garbage from residences and business establishments in these two towns.

[redacted] VIOLA evidenced a desire to cooperate with the F.B.I. and made repeated offers to help any time such help was desired.

It is to be noted that 12 security index subjects reside in the town of Nutley, N.J. At least two of these have been in repeated contact with missing Smith Act subjects of the Newark Division.

[redacted] of the Record Bureau of the Nutley Police Department, advised SA [redacted] on 6/18/53 that the subject has no police record in that town and that the subject and the subject's family are regarded as substantial and law abiding citizens. Selective Service records reflect that VIOLA enlisted in the United States Navy on 6/18/45 and was honorably discharged on 8/3/46. VIOLA is married and the father of two infant children. He was born 7/24/27 at Nutley, N.J. and presently resides at 17 Alexander Ave., Nutley, N.J.

VIOLA'S description as witnessed by the interviewing agents is as follows:

Race: White
Sex: Male
Height: 5' 2 1/2"
Weight: 136 lbs.
Eyes: hazel

gmv
SE-33

RECORDED - 518

1134-1219-1
JUL 2 1953

b7C
Let to [redacted] 7-15-53 5 PM

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5/22/81 BY [redacted]

NK 134-144

Hair: Black
Complexions: Dark

The Newark Division is desirous of establishing Confidential Source status for VIOLA with a view toward a future operation of

[REDACTED]

b7E

The indices of the Newark Office show no record of the subject.

SAC, Newark (134-144)

July 15, 1953

Director, FBI 134-1219-1
RECORDED - 51
THOMAS VIOLA
CONFIDENTIAL SOURCE

Reurlet July 1, 1953.

Bureau files contain no identifiable information of a subversive type regarding captioned individual.

Authority is granted to continue your contacts with Viola as a confidential source. Use caution to be certain that Viola is not a plant. Advise him not to consider himself a Bureau employee and that he must maintain his cooperation with your office in strict confidence.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5/29/91 BY SP-4
Gentleman

67M:rbk
57
88 JUL 29 1953
JUL 16 1953
COMM - FBI

RECEIVED
FBI
JUL 15 6 48 PM '53
U.S. DEPT. OF JUSTICE
FBI
RECEIVED

Handwritten initials and scribbles.

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI

DATE: 8/24/53

FROM: SAC, NEWARK (134-144)

SUBJECT: THOMAS VIOLA
CONFIDENTIAL SOURCE

134-1219 (2)

~~CONFIDENTIAL~~

Mr. Tolson	
Mr. Boardman	
Mr. Belmont	
Mr. Clegg	
Mr. Glavin	
Mr. Harbo	
Mr. Rosen	
Mr. Tracy	
Mr. Egan	
Mr. Gurnea	
Mr. Hendon	
Mr. Pennington	
Mr. Quinn	
Mr. Nease	
Miss Gandy	

Re: Bureau letter to Newark dated 7/15/53

VIOLA was recontacted by SA [redacted] on 8/6/53 and reaffirmed his desire to be of assistance to the Bureau. He was informed that he could in no way consider himself an employee of the Bureau and that all his dealings with the Bureau must be kept in the strictest confidence.

b7C

Bureau authority is requested to [redacted]

b7E

The following individuals will be the subjects [redacted]

b7E

[redacted]

b7C

CC: [redacted]

b7C

Reg. Mail

DECLASSIFIED BY SP-4 JWA/abw/rw
ON 5/29/01

LDN
9/1/53
GAL/c

RECORDED - 134-1219-2

9-2

Handwritten initials and marks

SAC, Newark (134-144)

APPROPRIATE AGENCIES AND FIELD OFFICES ADVISED BY SLIP(S) DATE 6-2-53 *Class*

September 1, 1953

Director, FBI (134-1219)-2

RECORDED - 55

~~CONFIDENTIAL~~

THOMAS VIOLA
CS

Reurlet dated August 24, 1953.

b7E

Bureau letter dated July 15, 1953, authorized your office to utilize Viola as a confidential source in order ~~to investigate~~ on certain subjects of investigations of your office. In view of this authority, Bureau authority is not necessary to institute

~~[REDACTED]~~

b7E

GFMc:bb

DECLASSIFIED ON 5/19/91 *SP-4 Jankalov*

- Tolson _____
- Ladd _____
- Nichols _____
- Belmont _____
- Mohr _____
- Winterrowd _____
- Tele. Room _____
- Holloman _____
- Gandy _____

COMM - FBI
SEP 1 1953
MAILED 27

50 SEP 14 1953 *33*

By
ass
7/1/53
53

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI (134-1219)

DATE 3/14/55

FROM : SAC, NEWARK (134-144)

SUBJECT: THOMAS VIOLA
CS

RE: SAC letter 55-15

VIOLA is a young business man of Rutley, New Jersey, and a personal associate of SA [redacted] with whom he went to college. VIOLA and his business enjoy an unusually favorable credit status and have no criminal record. SA [redacted]

b7c

VIOLA himself is a devoted family man with several children and a leader in civic and religious organizations. His loyalty to the United States and his admiration for the Federal Bureau of Investigation make it extremely unlikely that VIOLA would ever be a source of embarrassment to this organization. VIOLA is an emotionally mature, mentally above average individual. He is used exclusively [redacted] and in this respect information obtained through him is completely reliable. VIOLA is aware of the confidential nature of his cooperation and is security conscious.

b7E

It is to be noted that VIOLA's father, who preceded in the operation of his business, cooperated with the Bureau [redacted] during World War II.

b7E

It is recommended that services of this source be continued.

b7c
RMT
(3)
REGISTERED MAIL

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5/29/81 BY SP-4 Jem/ala

RECORDED-45

134-1219-3
2 MAR 16 1955

71 MAR 29 1955

LV-121

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI
FROM : SAC NEWARK (134-144)
SUBJECT: THOMAS VIOLA
CONFIDENTIAL SOURCE

DATE: 6/20/55
G.L.R.

Reylet 3/14/55 and SAC Letter 55-15.

There has been no known change in subject's personal life or habits that might lessen his desirability as a Confidential Source.

It is recommended that subject be retained as a Confidential Source in the Newark Division.

JHC:ab
(3)

REG. MAIL

RECORDED - 94

EX-121
24 JUN 22 1955

134-1-11-4

1417
JUN 23 1955

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 10/11/01 BY SP24
jmk/lt



P/K

SECURITIES AND EXCHANGE COMMISSION
 WASHINGTON, D.C. 20549

Form 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF
 THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended March 31, 1981

Commission file number 1-7076

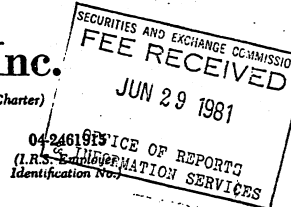
SCA Services, Inc.

(Exact Name of Registrant As Specified In Its Charter)

DELAWARE
 (State of Incorporation)

60 STATE STREET
 BOSTON, MASSACHUSETTS 02109
 (Address of Principal Executive Offices)

(617) 367-8300
 (Registrant's Telephone Number)



Securities registered pursuant to Section 12(b) of the Act:

<u>Title of Each Class</u>	<u>Name of Each Exchange on Which Registered</u>
Common Stock, par value \$1.00 per share	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act:

None

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. YES NO

State the aggregate market value of the voting stock held by non-affiliates of the registrant as of May 29, 1981.

Common Stock, Par Value \$1.00 Per Share — \$199,177,389

Indicate the number of shares outstanding of the issuer's class of common stock as of May 29, 1981.

Common Stock, Par Value \$1.00 Per Share — 14,155,963 shares

Document Incorporated By Reference

Portions of the definitive Proxy Statement are incorporated by reference into Parts I and III and will be furnished to security holders and the Commission subsequent to the filing of this report.

of hazardous waste disposed of and remaining at these sites following closure. The Post-Closure fund will provide funds to monitor and maintain any facility which has been operated and closed in compliance with RCRA and to compensate third parties for damages which might be caused by such closed facilities. The law relieves the owner/operator of such hazardous waste site from any liability after closure of the site.

As governmental regulation of waste service activities becomes more widespread, SCA and others in the waste service business may be required to change their methods of operation, modify their facilities or obtain new facilities, all of which may result in increased costs. The impact, if any, upon SCA's operations and earnings cannot be determined at the present time. Rigid enforcement of existing laws and regulations, as well as the adoption of new laws, regulations and environmental standards, is expected to add to the cost of doing business. SCA believes, however, that compliance with these laws will afford market expansion opportunities to it as one of the larger companies in the waste service industry offering the more technically sophisticated services which such regulations and standards require.

Employees

On March 31, 1981, SCA employed approximately 4,400 employees. Of this number, approximately 1,100 were executive, supervisory, clerical and sales personnel and the balance were full-time or part-time hourly employees. Approximately sixty per cent of the hourly employees are represented by various collective bargaining groups. SCA believes that its relations with its employees are good.

Other Matters

Recent federal and state investigations of certain alleged illegal activities of waste collection and disposal service businesses, and of the possible influence of organized crime on the waste collection and disposal service industry, have been given broad publicity in the media. SCA and certain of its past or present personnel have been referred to in, or are subjects of, certain of those investigations. Publicity of this nature is damaging to the Company, whether or not the allegations are true.

Insofar as SCA is aware, the investigations which are now in progress with which it might be concerned include a federal grand jury investigation into possible illegal dumping of toxic wastes in the States of New York and New Jersey; an ongoing New Jersey state investigation into possible improper allocation of customers by waste collection and disposal companies (including specifically certain of SCA's New Jersey subsidiaries), and the involvement of organized crime in such activities; and investigations by a U.S. Congressional subcommittee and a New York State Senate committee into the possible influence of organized crime on the waste collection and disposal industry. In addition, authorities in three states where the Company is seeking to establish toxic waste treatment and disposal facilities or to secure a solid waste collection and disposal contract have instituted investigations of the Company.

During hearings held in December 1980 and May 1981, law enforcement officials and a police informer gave testimony before the Congressional subcommittee to the effect that certain SCA subsidiaries in New Jersey have knowingly participated with companies and persons identified with organized crime in an illegal system of allocation of customers, enforced by individuals identified with organized crime through economic and physical coercion. There was also testimony that certain present and former officials of SCA, including the then President and Chief Executive Officer, and of certain of its New Jersey subsidiaries (none of whom is now a director or officer of SCA) were aware of, or participated in, the illegal allocations system. During the subcommittee hearings in May, 1981, the Company's then President and Chief Executive Officer denied the allegations made against him, denied any knowledge of a system of customer allocation and denied any knowledge that persons associated with SCA were connected with organized crime.

By resolution of the Board of Directors in January, 1981, a Special Committee, consisting of non-management directors, was formed to investigate and review, to the extent practicable, lacking subpoena power, the allegations made before the Congressional subcommittee in December, 1980. The Special Committee, on behalf of the Company, retained counsel which advised the Special Committee prior to the May, 1981 hearing that they had found no evidence to support certain of such allegations and that others of such allegations were demonstrably false or incredible. In light of the testimony given at the May hearing, and counsel having advised that its earlier advice could no longer be relied upon, the Company is looking further into the matters touched upon at the hearing and will take any remedial action it deems appropriate. The Company has no reason to believe that its former President and Chief Executive Officer has any association with organized crime.

ITEM 2. PROPERTIES

SCA leases approximately 40,900 square feet of executive and administrative office space of which 18,890 square feet are used as the Company's headquarters at 80 State Street, Boston, Massachusetts. In addition, SCA owns approximately 125 buildings and leases approximately 80 buildings throughout the United States which are used in connection with its solid and chemical waste operations. These buildings are used principally for regional or local offices, warehouses, garages and parking facilities, repair shops and, in certain chemical waste locations, laboratory facilities. In addition, the Company owns or operates landfill properties as described in Item 1 under "Solid Waste Services" and "Chemical Waste Services". SCA considers its properties to be generally in good condition, well maintained and adequate for its present needs.

ITEM 3. LEGAL PROCEEDINGS

In March, 1981 the United States District Court for the Northern District of Georgia issued an order dismissing the criminal action brought by the United States Government against four waste service companies (including a local subsidiary of SCA) and the operations managers of the companies for alleged violation of the federal antitrust laws.

In April 1981, the Commissioner of the New York State Department of Environmental Conservation ("DEC") withdrew an order with respect to SCA's chemical waste facility in Model City, New York that had, as previously disclosed by the Company, purported to summarily suspend the facility's operating permit. The DEC has also granted the facility overall permits necessary for continued operation and permission to construct an enlargement of its existing secured landfill at the facility. Operation of the expanded section of the landfill requires additional approvals. In addition, the DEC has offered the Company the opportunity to reapply for a permit to construct a new secure landfill, provided that a ten year plan is submitted therewith, describing the Company's expansion into treatment and/or incineration.

The Company is a party to one other environmental proceeding instituted by federal authorities which alleges non-compliance with certain regulatory requirements regarding storage of waste materials at a facility owned and operated by the Company. Proceedings of this nature arise from time to time in the ordinary course of the Company's business. The proceeding described above is not material to SCA's business or financial condition.

Additional information with respect to this item may be found in Note 5 of Notes to Consolidated Financial Statements appearing on page F-9 of this report.

ITEM 4. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

Information with respect to this item may be found in the section captioned "Stock Ownership of Directors and Officers" in the Company's definitive Proxy Statement. Such information is incorporated herein by reference.

[Whereupon, at 4:45 p.m., the subcommittee adjourned.]

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