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Public Hearing on Solicitations of Campaign Work and Contributions from Public Employees

New York State Commission on Government Integrity

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PUBLIC HEARING ON SOLICITATION OF CAMPAIGN WORK AND CONTRIBUTIONS FROM PUBLIC EMPLOYEES
[JULY 27, 1989]

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NEW YORK STATE COMMISSION ON
GOVERNMENT INTEGRITY

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PUBLIC HEARING
ON
SOLICITATION OF CAMPAIGN WORK AND CONTRIBUTIONS
FROM PUBLIC EMPLOYEES

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Association of the Bar of the
City of New York
42 West 44th Street
New York, New York

Thursday, July 27, 1989
9:30 o'clock a.m.

B E F O R E :

JOHN D. FEERICK, Chairman
RICHARD D. EMERY,
CYRUS R. VANCE,
JAMES L. MAGAVERN,
Commissioners

THOMAS J. SCHWARZ,
Special Counsel to the Commission

A P P E A R A N C E S :

PETER BIENSTOCK, Executive Director
CONSTANCE CUSHMAN, ESQ.
Deputy Counsel
MICHAEL BELLINGER, ESQ.
Staff Counsel
DIANE ARCHER, ESQ.
Staff Counsel

Stewart Nissenbaum
Steven Klein
Hearing Reporters

NATIONAL-REPORTING INC.
CERTIFIED SHORTHAND REPORTERS
71 HUDSON STREET
NEW YORK, N.Y. 10013
(212) 730-1130
THE CHAIRMAN: This public hearing is now in session.

I have a brief opening statement that I would like to read into the record.

The Executive Order establishing this Commission directs it to investigate weaknesses in laws and procedures throughout the State, including New York City, related to maintaining ethical standards and practices in government, preventing favoritism, conflicts of interest, undue influence or abuse of official position and maintaining the public's confidence in the integrity of government. The Executive Order further directs us to make recommendations to improve such laws.

The Commission has been investigating whether the State needs new measures to prevent public officials from using public resources for the private activity of campaigning, either for themselves or another. Related to this, we have been investigating situations, in New York City and elsewhere, in which public employees have been asked to give time or money to campaigns of the elected official for whom they work and the campaigns of others. These situations can subject
public employees to pressures that do not belong in the workplace. There can be no doubt that to say "If you want your job, you'd better contribute" is wrong. The pressure may not always be so direct; it may be subtle and even unintentional. Yet, is it any more acceptable if someone with power over a public employee's career advancement solicits time or money for a political campaign -- directly or through others -- without making an explicit threat? That is one of the questions to be explored in today's hearing.'

Today's hearing is focused on the Queens District Attorney's Office and the issue of solicitation of employees to contribute time and money to the 1985 re-election campaign of District Attorney Santucci and the 1984 campaign for State Senate of his son Thomas.

Some of the events we will question witnesses about have already been the subject of a criminal investigation that did not result in any prosecution. I want to emphasize that unlike the job of a prosecutor, it is not the Commission's function to uncover evidence of criminality or other wrongdoing.
The Commission's investigations are guided by the principle that public servants are properly held to a higher standard. It is the Commission's legal mandate to investigate conduct which may be entirely permissible under current law, but which may fail to reach those higher standards and which may illustrate the need for legislative reform.

With the exception of District Attorney Santucci, all witnesses who will testify have been served with a subpoena by the Commission. All of the witnesses who testify and all persons who are mentioned during the testimony of any witness have certain rights under the New York Civil Rights Law [Section 73]. For example, a witness has the right, at the conclusion of his or her testimony, to file a brief sworn statement for incorporation into the record of the hearing.

Any person whose name is mentioned or who is specifically identified during the testimony of another, and who believes that he or she has been adversely affected by the testimony, has the right to likewise submit a sworn, written statement for incorporation into the record. Witnesses may be accompanied by counsel, and counsel may advise the
witness of his or her rights, as long as there is no obstruction or interference with the orderly conduct of this hearing.

Counsel may submit proposed questions to be asked of a witness and the Commissioners shall ask any such questions they deem appropriate.

The witnesses today will be examined initially by members of the Commission's staff, Michael Bellinger and Diane Archer. Following the questioning by members of the staff, questions may be put to the witnesses by Commissioners. I now would like to recognize Commission's Staff Counsel Michael Bellinger.

MR. BELLINGER: Good morning, Mr. Chairman, sir. At this time, the staff would like to extend its condolences to you and your family and we appreciate your attendance here today.

THE CHAIRMAN: Thank you very much.

MR. BELLINGER: Mr. Chairman, I would like to introduce into the record Commission Exhibit 1, which is the chart that is before you. It's a listing of the names of either current or former employees of the Queens County District Attorney's Office. Those names that are framed in red...
participated in Tom Santucci's 1984 senatorial campaign. The names framed in blue solicited the participation of various employees of the Queens County District Attorney's Office in Tom Santucci's 1984 campaign and those names framed in both blue and red both solicited the participation of others as well as participated in the 1984 campaign.

At this time, Mr. Chairman, we would like to call our first witness and that would be Mr. Andrew Worgan.

THE CHAIRMAN: Mr. Worgan, would you raise your right hand, please.

ANDREW S. WORGAN, called as a witness, having been first duly sworn by the Chairman of the Commission, was examined and testified as follows:

THE CHAIRMAN: Please be seated.

Mr. Bellinger.

EXAMINATION BY

MR. BELLINGER:

Q Mr. Worgan, by whom are you currently employed?

A Queens County District Attorney's Office.
Q How long have you been so employed?
A Nine and a half years.
Q In what capacity are you currently employed?
A Supreme Court Bureau Chief, Jamaica 1 is the designation of the bureau.
Q Mr. Worgan, in the late summer, early fall of 1984, what was your position in the Queens County District Attorney's Office?
A Starting at approximately October 15, 1984, I was promoted to Supreme Court Bureau Chief, the job I now have.
Q Approximately how many Assistant District Attorneys did you supervise at that time?
A It varied between ten and twelve, no less than ten, no more than twelve.
Q Mr. Worgan, in 1984, the son of the Queens County District Attorney, Thomas Santucci, ran for State Senator; were you aware of his campaign at that time?
A Yes.
Q Did you ever personally work on the campaign of Thomas Santucci?
A No.
Q Nevertheless, you were solicited to find individuals to come on the campaign, isn't that true?
A Yes.

THE CHAIRMAN: I would like to ask the witness if you could speak into the microphone. It's hard to hear you.

Thank you.

THE WITNESS: It's on.

Q Mr. Worgan, who initially solicited you to find individuals to work on Tom Santucci's campaign?

A It's one of three. It's a vague recollection of something that happened five years ago. It was either John Mahoney, Joan Beilenson or Carol Williams.

Q Mr. Worgan, could it have been both Mr. Mahoney and Ms. Beilenson?

A Yes, it could have.

Q What was Mr. Mahoney's position in the Queens County District Attorney's Office at that time?

A I think -- he was the Chief of the Detective Investigators.

Q You think?

A Well, he was. I'm not sure of the official title. He was the Chief D.I.

Q When Mr. Mahoney called you, what exactly did he say?

A He said that it was about 3:00 o'clock in
the afternoon, that they realized that there was going to be nobody down in campaign headquarters that evening, could I look around and see if I could find some people who would be willing to go down in the evening, about 6:30, for a few hours.

Q When Mr. Mahoney said "they realized", whom did you assume he was referring to?

A Whoever was in charge of the campaign. I don't know.

Q Mr. Worgan, were you the only bureau chief that Mr. Mahoney called?

A To my knowledge, no.

Q Mr. Worgan, what was the basis upon which you assumed that Mr. Mahoney had authority to call you to inquire about assistance for Tom Santucci's campaign?

A I didn't know of any real authority other than that when he called and asked, I assumed he knew. I can't answer you other than that. He just said "they realized" there would be nobody in campaign headquarters. He wouldn't call for no reason, sir.

Q You had a belief that he had a personal relationship with the District Attorney, isn't that true?

A Yes, sir.

Q Mr. Worgan, did you know whether or not Mr.
Mahoney was working on Tom Santucci's campaign?
A Personal knowledge, no, sir.
Q Did you have any independent knowledge?
A No, other than the phone call from him asking me to try to find some people.
Q Did you inquire of Mr. Mahoney why he was telephoning you?
A No, sir.
Q What was your response to Mr. Mahoney?
A I said that I would look around, see if I could find any people who would be willing to go down in the evening, however, since it was 3:00, 3:30 in the afternoon, the odds are that he wasn't going -- we weren't going to find too many because people either had plans for the evening or just didn't want to go.
Q Mr. Worgan, other Queens County District Attorney employees called you to ask you to work on Tom Santucci's campaign, isn't that true?
A I believe so, yes.
Q I'm sorry, I didn't hear your answer?
A I said I believe so, yes.
Q And one of those was Joan Beilenson, isn't that so?
A I believe so, yes, sir.
Q Who was Joan Beilenson at that time?

A I'm not sure of her official title, but she worked directly -- she worked in the District Attorney's Office up on the third floor.

Q Was she the secretary to the District Attorney?

A I don't know if she's a secretary or a personal assistant.

Q Carol Williams called you as well, isn't that true?

A I believe so, yes.

Q What was Ms. Williams' position in the office at that time?

A She is a secretary to the District Attorney.

Q Mr. Worgan, you refused the request to work on the campaign, isn't that true?

A That's right, sir.

Q But you did indicate to Mr. Mahoney, Miss Beilenson and Ms. Williams that you would endeavor to find assistance for the campaign?

A I said I would look and and see if I could find people, yes.

Q Mr. Worgan, did you inquire of either Miss Beilenson or Ms. Williams as to whose authority they were
making this non-work related request of you?

A No, sir.

Q Why is that, Mr. Worgan?

A As I stated to you the other time we spoke, when you work in an office that has a chain of command, be it the District Attorney's Office, be it a private law firm, private industry, you really don't question the bosses' secretaries. There is a chain of command, you just don't do it and it -- at that point, as I stated, it seemed like a harmless request.

Q Isn't it a fact, sir, that you didn't know whether or not these secretaries were acting under the orders of the District Attorney?

A No, I don't know. I did not know and I do not know.

Q Mr. Worgan, did you, in fact, ask any Assistant District Attorneys that you supervised to work on the campaign of Tom Santucci?

A I asked them if they could work on the campaign, yes.

Q And some of them worked on the campaign as a result of your request, isn't that true?

A Yes, sir.

Q Do you recall whether or not some of the
assistants that you asked were angry with you with respect to your request?

A Direct knowledge, no, but I can assume that some of them were, yes.

Q And is that assumption based on the fact that some of them responded with expletives to your request?

A Yes.

Q Mr. Worgan, I would ask you to examine Commission Exhibit 1, and if you can't see it from there, I believe it's the first exhibit in that black binder right next to you.

A Over here?

Q Yes. It should be the first exhibit.

A Yes, sir.

Q Mr. Worgan, do you recognize any Assistant District Attorneys that you supervised in the late summer and early fall of 1984?

A Yes.

Q Would you please indicate which names on Commission Exhibit 1 you supervised?

A Arena, Fusfeld, Nussdorf, Russo and Sharp.

Q Are there any other names on Commission Exhibit 1, Mr. Worgan?
A: That I supervised back then?
Q: Yes.
A: No.
Q: Mr. Worgan, do you recall telling the Assistant District Attorneys that you supervised that it might be in their best interest to work on the Tom Santucci campaign?
A: No, sir, I don't remember that.
Q: Mr. Worgan, you were deposed in the offices of the Commission on Government Integrity, were you not?
A: Yes, I was, sir.
Q: I would ask you to look at your transcript of that deposition.
A: Okay.
Q: I would refer you to page 22. Do you have a copy of that, sir?
A: Yes, I do.
Q: Mr. Worgan, were you asked these questions and did you give this answer:
"Question: Do you recall telling any one of them that it might be in their best interests to go down?"
"Answer: If I did -- I might have. I don't know."
"Again, you're talking about five years ago."?
Did you give that answer, sir?
A Yes, I did, sir.
Q So, in fact, you may have --
A Yes, I may have. I don't know.
Q Thank you, sir.
Q Mr. Worgan, is there an office policy that you're aware of with respect to political involvement by Assistant District Attorneys?
A Yes, there is.
Q What is that policy, as you understand it, sir?
A I'm now on the interview panel, and when --
Q When you say "now", currently?
A Currently, for the last two years.
When we interview prospective employees, and by that I mean for the legal staff, either for Assistant District Attorneys or law school graduates who have not yet passed the Bar, for the job of CLA, we inform them point-blank that they cannot work on anybody's campaign at all and that they, themselves, of course, cannot run for any elective position.
Q Mr. Worgan, I believe you earlier testified
that you are in the office approximately nine and a half years?

A Yes, sir.

Q And how long has this policy been in effect, that you're aware of?

A I can't answer you that, sir. I know that since I have been on the interview panel for the last two years, it is at least in effect that long. It may be longer. I was not on the panel.

Q Mr. Worgan, did you, in fact, sign a document to the effect of this policy that you just testified to?

A Nine and a half years ago?

Q At any time while you were at the Queens County District Attorney's Office?

A I think I may have, yes, sir.

Q Mr. Worgan, I'm going to direct your attention now to Commission Exhibit 2, which should be the second exhibit in that book that you have there.

A That would be the document you're talking about, sir.

Q For the record, Mr. Worgan, do you recognize this document?

A Yes.
Q And what is this document?
A It is what we call the dos and don'ts; it's the rules and regulations of employment in the Queens County District Attorney's Office.
Q The Conditions of Employment?
A Yes.
Q That's your signature at the bottom of the document, isn't that true?
A Yes.
Q Sir, would you please read, for the benefit of the record, condition number 2?
A Sure. "There is a limitation on political involvement. A.D.A.'s are not permitted to participate in political activities, including town or school boards. They may not be officers or directors or members of a political organization or involved in any political campaigns or political events."
Q Mr. Worgan, would you also read, for the benefit of the record, the paragraph that appears right under the words "From: District Attorney John J. Santucci."
A Where am I looking?
Q Still on Exhibit No. 2; the paragraph right under the words --
A "The following are Conditions of Employment. Please read and sign that you have been so notified and agree to the same. The completed statement should be returned to Joan Beilenson."

Q Joan Beilenson is the secretary that called you and asked you to find volunteers for Tom Santucci's campaign, isn't that true, sir?

A Yes, sir.

Q Mr. Worgan, do you recall an occasion when the Assistant District Attorneys that you requested that volunteer on Tom Santucci's campaign were questioned about not showing up at campaign headquarters on one particular evening?

A I recall the incident of them not showing up. Whether they were asked or not, I don't know. I may have gone up to one of them the next morning. I know the incident now.

Q Would you please recount that incident, sir?

A Sure. I believe Assistant District Attorney Robert Arena and Naomi Werne went to campaign headquarters that evening or what they thought was campaign headquarters. It was locked. They stayed for a little while. Nobody ever showed up and they left.

Q Mr. Worgan, do you recall Joan Beilenson
inquiring of you what happened to the assistants that evening?

A I don't recall that, no. It may have happened, but I don't recall it. Again, you're talking five years ago.

Q Mr. Worgan, at the time that Joan Beilenson made these requests of you, how long had you been a Bureau Chief in the Queens County District Attorney's Office?

A One week.

Q An would it be fair to say that both Miss Beilenson and Ms. Williams knew this fact?

A I would assume so. Miss Beilenson keeps the personnel records.

Q Sir, you've previously testified under oath that you felt that it was in your best interest to comply with their request, especially since you didn't know what came with the territory.

A I had been a bureau chief for one week and felt that it couldn't do any harm, no, sir.

Q Mr. Worgan, did you resent these requests?

A I wasn't happy with them, no, but, again, they were really immaterial and miniscule requests. I don't see any harm in it, or didn't.
Worgan

Did I resent it? Probably a little bit, yes.

Q Mr. Worgan, do you feel that your requests of the assistants that you supervised was in contravention of the Condition of Employment that you signed at the District Attorney's Office?

A Well, it probably is, but if you look at the date of that, sir, it's on 4 of 1985, and we are talking probably October of '84.

Q So, Mr. Worgan, is it your belief that that was the first Condition of Employment that you had signed?

A I don't recall signing any others earlier, sir, I just don't remember, I probably did.

Q If I were to tell you that that form was in existence in at least some form in 1982, would you argue with that fact?

A No, sir.

MR. BELLINGER: Thank you very much.

I have no further questions, Mr. Chairman.

COMMISSIONER VANCE: No questions.

THE CHAIRMAN: Thank you very much.

THE WITNESS: If I may, I would just like to make a short statement.

I would just like to say that the people
who did go down to campaign headquarters were volunteers, to the best of my knowledge. They did it on their own time and in the evenings. If people were asked and did not want to go down, they were not penalized. People who were asked and did go down have received no special benefit in the office. By that I mean those who have gone down to campaign headquarters have not received any promotions that they did not deserve on their merits. They have not received any raises that they did not deserve on their merits, nor people who did not go down, they have not been denied promotions because they did not go down, sir.

Thank you.

THE CHAIRMAN: Thank you.

(Witness excused.)

THE CHAIRMAN: Robert Arena.

Raise your right hand.

ROBERT ARENA, called as a witness, having been first duly sworn by the Chairman, testified as follows:

THE CHAIRMAN: Please be seated.

MR. BELLINGER: Mr. Chairman, for the duration of the hearing could I request that any
witness who would like to make a statement
pursuant to our procedures make that statement
prior to the questioning?

THE CHAIRMAN: Yes.

MR. BELLINGER: Thank you, sir.

THE CHAIRMAN: I would like to now
recognize Diane Archer.

MS. ARCHER: Thank you very much.

EXAMINATION BY

MS. ARCHER:

Q Good morning Mr. Arena.

Mr. Arena, where are you currently employed?

A Queens District Attorney's Office.

Q What is your position there?

A Assistant District Attorney.

Q How long have you been employed at the

Queens District Attorney's Office?

A Approximately eight years.

Q Mr. Arena, Thomas Santucci, the son of the

Queens District Attorney, ran for a seat on the New York

State Senate in 1982 and 1984. Did you in any way assist

Tom Santucci in either of these campaigns?

A I personally had volunteered to assist in

telephone calls from the campaign headquarters on two or
three occasions, four, tops, on my own.

THE CHAIRMAN: I would like to ask Staff Counsel to just speak into the microphone. It's a little hard to hear up here.

BY MS. ARCHER:

Q You say you volunteered on your own to work on that -- on a campaign for Tom Santucci?

A At times there was a request looking for volunteers, but I had never felt coerced or --

Q Which of Tom Santucci's campaigns did you work on?

A I'm really not sure. I would venture to best guess at 1984. I don't remember work on the '82 campaign, I'm almost sure I didn't.

Q Do you recall being requested by your bureau chief to work on Tom Santucci's 1984 campaign?

A I do recall one incident being requested by the bureau chief yes.

Q Who was your bureau chief?

A Andy Worgan.

Q Had you volunteered to work on Tom Santucci's 1984 campaign prior to being requested by Mr. Worgan?

A Not at the time, no.
Q Had you thought about working on the campaign before Mr. Worgan brought it up with you?
A Yes, I did.
Q Mr. Arena, do you remember providing sworn testimony to the Commission on June 6, 1989?
A Yes, I do.
Q I would like to direct your attention to page 41 of the transcript of that deposition.
A Page 41?
Q Page 41, line 19.
Mr. Arena, were you asked this question and did you give this answer:
"Question: So you hadn't thought about working on the campaign until Worgan brought it up with you?"
"Answer: Right."?
Mr. Arena, I ask you; is that correct or is your current testimony correct?
A My answer back then was incorrect.
Q Now, what did Mr. Worgan say to you when he asked you to work on the campaign?
A He -- it was towards the end of the evening and he walked up to me and asked if I was free for the evening, had any free hours and if I wished to go down to
the Tom Santucci campaign headquarters and work on their phone bank system and to call voters.

Q Did he ask you or did he ask everyone in your bureau?

A When he asked me, personally, I was alone at that point, I was in a particular office; but I know, from talking to other people, that he did ask other people also, yes.

Q Now, I believe you just testified that you worked on that campaign as many as four times?

A Yes.

Q How often did Mr. Worgan solicit you to work on the campaign?

A I don't remember. I know definitely once. I would only be guessing if I said more. I really only recall once. It might have been more than once, though.

Q Mr. Arena, I would like to direct your attention to page 17 of the transcript of your deposition, line 11, and ask you, were you asked these questions and did you give these answers:

"Question: How often did Andy Worgan come to you or to your colleagues seeking volunteers, roughly?"

"Answer: I really don't know."
"Question: Was it frequent?

"Answer: No.

"Question: Was it two or three times, a handful of times?

"Answer: Two or three times, four, tops. Not that often."; is that correct?

A Yes.

Q Was Mr. Worgan the only person who solicited you to work on the campaign?

A No. There was other times, but I don't remember. As matter of fact, there were other -- another campaign, Mr. Santucci himself, so there were other people that might have asked whether we wanted to volunteer on a particular evening, but I don't remember those incidents, but it definitely was more than just Andy Worgan.

Q Who were those other people?

A I don't recall.

Q Might it have been Joan Beilenson, the D.A.'s personal secretary?

A That's possible.

Q Did you always agree to work when you were asked to do so?

A No.
Q: Did you ever agree to work on a particular day and then not end up working?

A: Yes.

Q: What happened?

A: That was the evening, as I had testified before, when we went down to a certain location -- when I say "we", I was with Assistant District Attorney Naomi Werne. We had arrived at a location or an address provided to us. When we arrived there, there was no one there, and we stood there on the corner for approximately an hour, an hour and a half, and then, after being informed that we were at the wrong location, I went home.

Q: What happened the next morning?

A: Excuse me.

(Pause.)

The next morning, I received a telephone call asking -- the other person on the line, I don't remember who it was -- asked me why or inquired why I did not appear at the campaign headquarters for work the prior evening, to which I responded -- I basically told her what had happened to us the night before, being at the location and we were at the wrong location.
And then there was a question as to -- in substance, as to once you found out the correct location, why didn't you come down anyway. And at that point I said, after standing on the corner for an hour and a half or an hour and 45 minutes, "I'm not about to volunteer for more work. Give me another night and I'll come down." That was the end of that conversation.

Q Were you angry?

A I don't know if that's proper. I was a little bit disturbed more than angry. I, more or less, thought about it as a stupid comment to be made. If you want to say disturbed, angry, it's the same thing, if you want.

Q You said you don't remember who called you. Was it one of the District Attorney's secretaries?

A It's possible, yes.

Q Isn't it likely that it was one of the District Attorney's secretaries?

A Yes.

Q I would like to direct your attention now to Commission Exhibit 1, which is that chart you see before you. The persons whose names are framed in red, according to Commission evidence, worked or attempted to work on campaigns. Do you recall any of the persons on
that chart working on the campaign?

A I definitely remember Mr. Nussdorf, Mr. Fusfeld, Mr. Pruszynski, Mr. Denkberg, Miss Werne. Any others I would really be guessing at.

Q Are there any Assistant District Attorneys whom you know worked on the campaign whose names do not appear on this chart?

A Are we talking about Tom Santucci's campaign?

Q Tom Santucci's 1984 campaign.

A I really don't recall any others.

Q Now, when you were down at Tom Santucci's campaign headquarters in 1984, did you ever see any of the executive assistants from your office down there?

A Yes, at one time I did see Norman Rosen there, who was an Executive A.D.A. at the time, once.

Q Do you recall what he was doing?

A He was there very briefly. He came in, said hello to a few people and left.

Q Did you ever see John Santucci at Tom Santucci's campaign headquarters?

A Yes.

Q How many times did you see him?

A At least once. I'm not sure if I saw him
more than that.

Q Did he speak to you?

A Maybe an hello, yes, and thanks for coming type of a conversation, but nothing more than that.

Q Isn't it a fact that he thanked a group of you for being there and helping out?

A Right. He thanked everybody that volunteered that night, right.

Q Didn't he also bring coffee and doughnuts to a group of you while you were working?

A There was probably coffee and doughnuts brought, sure. That's standard procedure.

Q Did he tell you that it was inappropriate for you to be there?

A No.

Q Mr. Arena, when you were hired at the Queens District Attorney's Office, do you recall signing a Conditions of Employment agreement?

A No.

Q I would now like to direct your attention to Commission Exhibit 3, which is in that book to your right, if you will turn to it.

Q Do you recognize it, Mr. Arena?

A Yes, I do.
Q  What is it?
A  I recognize my signature at the bottom of this. That is my signature.
Q  What is it?
A  "Application" or "Applicant", I should say, "For Position As Assistant District Attorney."
Q  And if you read the next two sentences, you'll see that it says, "The following are conditions precedent for a position in this office."
Do you see that?
A  Yes.
Q  Now, I would like you to read aloud Paragraph 2?
A  You want me to read it?
Q  Yes, please.
A  "There is a limitation on political involvement. A.D.A.s are not permitted to participate in political activities beyond membership in an organization. They may not be officers or directors of a club or involved in any campaign."
Q  Mr. Arena, isn't it a fact that the reason you worked on the Tom Santucci 1984 campaign was because Tom Santucci was the boss' son and you believed it could only help?
A No, absolutely not.

Let me finish the question here.

That's not the only reason. He happened to be a personal friend of mine.

Q Was that one of the reasons?

A Yes.

MS. ARCHER: No further questions.

THE WITNESS: That was one of the reasons you're saying?

I'm sorry, can you repeat the question?

Q Isn't one of the reasons that you worked on Tom Santucci's campaign because he was the boss' son and you believed it could only help?

A Okay. Yes.

MS. ARCHER: No further questions.

THE CHAIRMAN: Commissioner Emery.

COMMISSIONER EMERY: During the period you worked at the Queens District Attorney's Office, have you worked on any other campaigns?

THE WITNESS: For Mr. Santucci or outside of office?

COMMISSIONER EMERY: Any you had.

THE WITNESS: Yes.

COMMISSIONER EMERY: What campaigns?
THE WITNESS: For the 24th Democratic Organization, Tom Manton, Gloria D'Amico.

COMMISSIONER EMERY: What year was that, approximately?

THE WITNESS: '83, '84.

COMMISSIONER EMERY: Any others?

THE WITNESS: George Onorato, State Senator.

COMMISSIONER EMERY: When was that?

THE WITNESS: Same time periods. As matter of fact, even '82, '81.

COMMISSIONER EMERY: Is that a Queens race, Mr. Onorato.

THE WITNESS: Yes.

COMMISSIONER EMERY: Any others.

THE WITNESS: No. My mother's.

COMMISSIONER EMERY: Your mother's?

THE WITNESS: Yes, but that was back in 1978.

COMMISSIONER EMERY: Were you an Assistant District Attorney at the time?

THE WITNESS: With my mother's?

COMMISSIONER EMERY: When you were working on your mother's campaign.
THE WITNESS: No.

COMMISSIONER EMERY: How much time did you spend when you worked on the Manton campaign, D'Amico campaign and Onorato campaign?

THE WITNESS: I mean, I don't recall. A couple of hours maybe once in a while, doing phones or posters or on a Saturday maybe going to locations. That's about it.

COMMISSIONER EMERY: Do you know if anybody in the Queens District Attorney's Office knew of your activities on these campaigns?

THE WITNESS: No, but we were -- once there was an advisory opinion given down, we were told to resign. As a matter of fact, we had to hand in resignations to all political clubs and I had stopped campaigning at that time.

There was an order given down by Mr. Rosen, I forget the time period, but I remember having to resign from all political clubs. That must have been about '85, end of '85, beginning of '86, and I resigned from all clubs and did not participate in any campaigns after that.

COMMISSIONER EMERY: Was that after the Tom Santucci campaign?
THE WITNESS: Yes.

COMMISSIONER EMERY: But Mr. Rosen gave you that order?

THE WITNESS: Right, he gave all Assistant District Attorneys an order stating that if you belong to any political clubs or organizations or even -- sorry -- school boards, you had to resign from them immediately.

COMMISSIONER EMERY: That's all.

COMMISSIONER VANCE: How did you square working on those campaigns with condition number 2 in Conditions of Employment which you signed?

THE WITNESS: I'm sorry. How do I --

COMMISSIONER VANCE: How do you square the fact that you signed a document which had Conditions of Employment that said you couldn't work on any political campaign?

THE WITNESS: I really can't square it at all except there is no date on this document, so I don't know when I signed it.

But once I found out that there was an advisory opinion stating that ethically we shouldn't be working on campaigns, I -- immediately, as matter of fact. My mother happened to be
the Democratic Leader out in the 34th District and
I resigned from her club. I resigned from all
activities at that point, not realizing before
that it was an actual ethical consideration.

THE CHAIRMAN: I just note for the record
that Exhibit 3, the document in question, does
bear a date of a year, 1982.

THE WITNESS: Right, it does. I'm sorry.

THE CHAIRMAN: Are there any other
questions?

MR. BELLINGER: Mr. Chairman, may I ask
just a couple of questions of the witness?

THE CHAIRMAN: Go ahead.

EXAMINATION BY

MR. BELLINGER:

Q Mr. Arena, I believe if you look at Exhibit
No. 2 -- I'm sorry, not Exhibit No. 2 -- Exhibit 3a.
Following Exhibit No. 3, you'll find another document
that is a Condition of Employment, isn't that true?

A Yes.

Q And that document is dated, isn't that true.

A May 1, 1985, yes. If I may, I would say by
then I was not -- I did not belong to any clubs.

Q Certainly.
A We had to sign this, I recollect, after we
we signed restating our position.

MR. BELLINGER: For the record, Exhibit 3a
indicates the inclusions that you just spoke of
with respect to Mr. Rosen, that being town and
school boards and that type of thing.

Q Isn't that correct?
A Right.

Q If you look at Exhibit 3, those conditions
are not contained in condition number 2; is that clear, sir?

A Can you restate that?

Q If you would examine condition number 2 in
Exhibit 3a, that includes provisions with respect to
school boards; isn't that correct?

Perhaps you should just read it?

A I see it.

Q If you will refer now to Exhibit 3,
condition number 2, there does not include any reference
to school boards, isn't that true?

A That's true.

Q That's true.

A Yes.

Q And that is because Exhibit No. 3 predated
Exhibit 3a?

A Yes.

Q Thank you very much.

A I would venture to guess -- all right.

Q And Condition of Employment 3 was signed by you, not dated, but that was signed some time in 1984, isn't that true?

A 3a?

Q Exhibit No. 3.

A Exhibit No. 3.

Q That's dated 1982?

A Right.

Q That was signed when you first joined the Queens District Attorney's Office, isn't that true?

A I really don't want to say that's definitely true. I didn't put a date near my signature, so I'm not going to say when I signed this. There's a date on top. There's a standard form here. This could be the date when this form was printed.

MR. BELLINGER: I have no further questions.

THE CHAIRMAN: Thank you.

THE WITNESS: Thanks.

(Continued on the next page.)
THE WITNESS: Commissioner, I'm sorry, I know Mr. Bellinger stated he wanted comments before, but I wasn't prepared before questions. I would like to make a brief statement to the commission.

THE CHAIRMAN: Our general rule has been to request witnesses to supply us with a written statement, but I'm going to waive that rule and allow you to make a statement at this time.

THE WITNESS: I wanted to state briefly, at no time did I ever feel coerced or threatened as to a position within the office. If there was any personal gain, that was my own personal perception on the job, that I might want to advance. But I never felt pressured by other assistants.

I have never seen anybody, in the years I have been there, be reprimanded or changed a position for not appearing also. Any work I did personally was totally voluntarily.

Again, I wanted to say as soon as I found out that there was an advisory opinion saying that we should not work on campaigns, I had ceased all campaigning at that point. Thank you.

THE CHAIRMAN: Commissioner Emery, I...
believe, has a question based on what you said.

COMMISSIONER EMERY: One question with respect to that. You are still working in the Queens District Attorney's office?

THE WITNESS: Yes.

COMMISSIONER EMERY: Did you speak with anyone in that office about your testimony here today?

THE WITNESS: No. We were told not to.

COMMISSIONER EMERY: Excuse me?

THE WITNESS: Actually, I did talk to Mr. Fish, who said, "Don't discuss your testimony with each other, it wouldn't be proper." That is about it, though.

COMMISSIONER EMERY: Did you discuss making the statement that you just made with anybody in your office?

THE WITNESS: No.

COMMISSIONER EMERY: Okay.

THE CHAIRMAN: Thank you.

THE WITNESS: Thanks.

THE CHAIRMAN: The Commission calls as its next witness, David Everett.

Raise your right hand, please.
DAVID EVERTT, called as a witness and having been first duly sworn by the Chairman, and testified as follows:

THE CHAIRMAN: I recognize Mr. Bellinger.

EXAMINATION BY

MR. BELLINGER:

Q  Good morning.
A  Good morning.

Q  Mr. Everett, do you have a statement for the record?
A  No, I do not.

Q  Mr. Everett, by whom are you currently employed?
A  I'm currently employed by the Kings County District Attorney's office.

Q  And in what capacity, sir?
A  I'm a Deputy Bureau Chief in the Supreme Court Bureau.

Q  And how long have you been in that position?
A  It was three years this past June.

Q  Were you ever employed at the Queens County District Attorney's office?
A  I was.

Q  And would you describe the period involved
that you were employed there?

A I commenced employment there in April of 1982, served in the Homicide Trials Bureau as a trial attorney for about 13 months, and then in June of 1983 was appointed as Chief of the Criminal Court Bureau where I served until I resigned effective May 30th of 1986. That is the position from which I resigned.

THE CHAIRMAN: I'm not sure the record is clear. Was the reference with reference to the Queens or Kings County District Attorney's office?

MR. BELLINGER: To the Queens County District Attorney's office.

THE CHAIRMAN: Thank you.

Q Mr. Everett, in the late summer, early fall of 1984, what was your position in the Queens County District Attorney's office?

A I was then Chief of the Criminal Court Bureau.

Q And how long had you been in that position?

A Approximately a year and four, five months, something in that neighborhood. A year and three, and four months, something in that general area.

Q What were your general responsibilities in that position?
Everett

A I was in charge of the Criminal Court Bureau, which at that time handled all misdemeanor cases except for specialty cases such as sex crimes and other special areas. At that time, we were handling felony arraignments. The general work was handling misdemeanor cases in the Criminal Court.

Q You supervised the new assistants in the office?

A Most of the new assistants that came into the office were assigned to the Criminal Court Bureau, so I would say yes, they were primarily newer assistants, or brand new assistants.

Q And they would have been in the office approximately six weeks, two months in the late summer, early fall?

A Well, it would depend. The new group that came on board would have come in sometime in August, the so-called class of '84 would have come in sometime in August. So, they would have been there a few weeks, a couple of months.

Q Mr. Everett, have you ever participated in any political campaign?

A Never.

Q In your adult life?
A Never.
Q Did there come a time when you received a call from an employee of the Queens County District Attorney's office asking you to find volunteers to work in Tom Santucci's 1984 campaign?
A Yes, there was.
Q And from whom did you initially receive that call, sir?
A The first phone call which I received was from Joan Beilensen.
Q Will you please describe for us the nature of the conversation you had with Miss Beilensen?
A Ms. Beilensen told me that she wanted me to get my assistants to come down to Tom Santucci's campaign headquarters to make telephone calls.
I told her that I thought it was inappropriate for us, I didn't think the assistants should be engaging in that kind of conduct. Furthermore, even if I were to put it to them, that it was strictly voluntary; they could do it if they wanted to, that these were, for the most part, new assistants, they were impressionable, and even if I put it in the terms of being a volunteer thing, that they would probably read between the lines and feel that it was in their best
interests to do so.

I told her that I felt that it was inappropriate for that reason, and just generally speaking, I felt it was inappropriate.

Q Mr. Everett, again, who was Joan Beilensen at that particular time?

A John Santucci's personal secretary.

Q And as far as you knew in 1984, where was she physically located in the office?

A As far as I could recall, at that time her office was adjacent to his office. If it wasn't directly adjacent, it was right -- there is a general area. If it wasn't directly adjacent to his at that time, it was maybe fifteen feet from his office.

Q When you say "his office," you mean --

A John Santucci's.

Q Thank you, sir.

Mr. Everett, would it be fair to characterize Ms. Beilensen, in your opinion, as one of the most powerful people in the Queens District Attorney's office at that time?

A I would say she was a very powerful individual in that office at that time.

Q What was Ms. Beilensen's response to you?
Everett

A She -- it is hard for me to recall the direct response at this time, but the general -- the recollection that I have was that she felt that I should be asking them. I indicated that I was not going to do that, that I didn't think it was appropriate. Somehow, I don't recall exactly how, after I indicated that I wasn't going to do it, the conversation ended.

Q Incidentally, Mr. Everett, approximately what time during the day, more or less, did you receive this call?

A My recollection is that it was probably -- it was during the day, of course, but probably -- for some reason it stands out in my mind that it was in the morning.

Q Mr. Everett, was this the only time that you were called in an attempt to have you provide campaign assistants to Thomas Santucci?

A No, it was not.

Q Would you please describe the other phone call you received?

A A short time afterwards, I don't know if it was several days or a week, but something along those lines, I got another call from Rose Cipolla, who is another secretary of the District Attorney Santucci. She
Everett said to me she was in charge of the phones that night at Tommy's headquarters, she wanted me to get people to come down. She said, "We want to look good for the District Attorney." I assumed that she meant she and myself.

I said to her that she should speak to Ms. Beilensen because I already told her that I'm not getting involved in this kind of thing, I thought it was inappropriate. It was as if I didn't say anything. She said, "We really want to look good for the D.A., you should really try to get people to come down tonight, have your people come down to phone night." She emphasized that it was important.

Q  Mr. Everett, when you informed Ms. Cipolla that you were not going to comply with her request, did she express, to the best of your recollection, some form of disbelief?

A  I don't know if I would call it disbelief. It was like I had never said it. If you want to call that disbelief, perhaps. It is like, "What are you talking about," that kind of thing.

After I said I just wasn't going to do it, you know, the conversation ended.

Q  Mr. Everett, again, where is Ms. Cipolla's office located?
Her office was at all times, as far as I know, that she was employed by the District Attorney's office, at least that I was in the office, right adjacent to John Santucci's office.

And approximately what time during the day, to the best of your recollection, did you receive this call from Ms. Cipolla?

To the best of my recollection, it was also in the morning hours.

Mr. Everett, although you categorically refused to request that any Assistant District Attorney's that you supervised work for the Tom Santucci campaign, did you later find out that some did, in fact, work on the campaign?

Yes, I did.

And how did you become aware of that, to the best of your recollection?

I don't recall -- there was a chain of events that took place, but ultimately I was surprised that I had not been contacted with reference to the fact that -- another Bureau Chief had been approached that I became aware of, through the grapevine, I guess. Another Bureau Chief had been approached about the fact that none of his assistant DAs had come down to phone nights.
Everett

I heard the story and I was sort of surprised. If they were coming down on him about this, why weren't they coming down on me? I forget if I inquired, or just -- I think it probably just came to my attention that several Assistant District Attorneys, whom I supervised, had been contacted directly by either Joan Beilensen, or Carol Williams, another one of the District Attorney's secretaries, and they had been approached directly to come down to work on Tom Santucci's campaign.

Q Mr. Everett, directing your attention to Commission Exhibit 1. Would you indicate if there are any Assistant District Attorneys, that you supervised in 1984, that appear on that exhibit?

A I'm going to do this to the best of my recollection, because I supervised probably most of them one time or another, or many of them.

Girardi, I don't know if Denkberg was still working for me at the time, he may have been working for me at the time, but I'm not sure.

I believe Pogoda and Wolk.

There may have been others. There probably were others, but I'm reluctant to tell you the specific dates they were working for me. I believe most of those people worked for me at one time or another.
Q Mr. Everett, isn't it a fact that you heard that one of your colleagues, Herb Leifer, was approached by the then Executive Assistant District Attorney, Jim Robinson, and an exchange was had where Mr. Robinson said "What do you think your guys are, primadonas? Your group was the only group that didn't participate in phone night."

A Something did come to my attention that that, in fact, had transpired, that words to that effect were said by Mr. Robinson, by James Robinson to Herb Leifer. Apparently Herb Leifer supervised the Major Offense Prosecution Program. Apparently, none of his people had come down there, and I assume because -- actually, it's an assumption, I shouldn't say. I had heard that that was what happened. I was surprised that the same thing hadn't happened to me.

Q Mr. Everett, in 1985 Executive Assistant District Attorney Jim Robinson chaired a meeting of Bureau Chiefs regarding fundraising; is that correct?

A That is correct.

Q And where was this meeting held?

A It was held in one of the jury parts on the ground floor of the Criminal Court building in Queens County on Queens Boulevard.
Q That is a courtroom?
A That is a courtroom.
Q And Mr. Robinson asked you to schedule the courtroom for this meeting?
A Well, he told me that -- just to give you background, I did a lot of training with the Criminal -- of the Criminal Court Bureau assistants, and frequently we do trial training in one of the courtrooms. I had permission -- the permission of the Administrative Judge to use one of the jury part courtrooms to conduct training.

Apparently Mr. Robinson was aware of that. He asked me to get one of these courtrooms, or this particular courtroom which we used, which was adjacent to our office. He asked me to get it for a Bureau Chiefs meeting.

Q Sir, again to the best of your recollection, would you describe the substance of that meeting, and prior to you doing that, who was at the meeting, to the best of your recollection?
A All of the -- I shouldn't say all. The people who were at the meeting were people who were under Jim Robinson's supervision. I don't know if all were there, I just know that those were the people that were
Everett

there.

I couldn't tell you -- there was no attendance list, so I couldn't tell you specifically who was there other than certain people. I couldn't give you an exact list of names.

Q To the best of your recollection, give us the names that you recall being present at that meeting in addition to yourself?

A Ed Hammock, Debbie Stevens, Barry Schreiber. Let me try to think of some of the others.

There were others. There were approximately 12 all together, but I'm not sure exactly who was there other than the ones that I have named.

Q Again, what was the substance of that meeting, sir?

A The substance of the meeting was that the District Attorney was planning on having a fundraising dinner at the Waldorf Astoria sometime, I believe, in late June of 1985, and that the cost would be $250 a plate, with ten plates at the table. That each of the assistant -- each of the Bureau Chiefs, as well as each of the Assistant District Attorneys, would be -- would have to take a table for $2500, and that once they had fronted the money for the table, they could then sell the
tickets at $250 each to friends, relatives, to whomever they wanted to.

James Robinson indicated to us that each of the Bureau Chiefs, in addition to having to buy a table, would be held responsible for seeing to it that each of the Assistant District Attorneys under our supervision would buy a table as well.

Q What was your reaction to that proposal?
A Well, I think the reaction of everybody in the room was that they were very upset about it.

I think the reason that I recall the people whose names I do recall is they were among the people who spoke against it.

Q Did you ever hear further mention of that proposal, Mr. Everett?
A No, it pretty much died after that. The next time I heard about it was when I read about it in the paper in Newsday. That is the next time I heard about it.

There was probably some discussion about it if I passed one of the other Bureau Chiefs in the hall, "What do you think of that, isn't that crazy?"

There was nothing official that I ever heard after that.
Q To the best of your recollection, did the newspaper article come out shortly after the meeting?

A I believe it came out within two weeks of the meeting.

MR. BELLINGER: Thank you, Mr. Everett.

I have no further questions.

THE CHAIRMAN: Commissioner Magavern.

COMMISSIONER MAGAVERN: At that meeting, was anything said about who the Assistant District Attorneys might sell the tickets to?

THE WITNESS: I don't believe specifically that it was mentioned who they could or could not sell them to. I think it was just generally said they could just be resold to friends, family, whoever.

COMMISSIONER MAGAVERN: Was anything said about the possibility of sales to Defense Attorneys they might encounter in their work?

THE WITNESS: To the best of my recollection, that issue was never addressed.

COMMISSIONER MAGAVERN: What were the reasons given when people spoke against it?

THE WITNESS: First of all the cost. $2500, on the salaries that most of us were
Everett

making, was a lot of money.

I would imagine -- I don't want to do that.

There may have been conversation about that it was inappropriate. The inappropriateness of it and the cost thing were the things that I recall being raised.

COMMISSIONER MAGAVERN: Mr. Everett, is it fair to say that you committed your career to work in the criminal justice system, and specifically as a prosecutor?

THE WITNESS: Yes, that is correct.

COMMISSIONER MAGAVERN: Can you tell us, very quickly, what your personal beliefs are about the system, and why you are committed to it?

THE WITNESS: I think it's a very important system. I think it's the cornerstone of the justice system. I think without it, we would have anarchy.

I think what happened -- I wasn't prepared to make a statement, but I think what happened in the Queens DA's office was a very terrible thing. It was -- I have worked both for the Brooklyn District Attorney's office on two occasions, and I never saw anything there like I saw in Queens.
There was this undercurrent of politicization, for lack of a better word. It was just not run the way a prosecutor's office should be run. It was not run -- that's not to say that there weren't some fine, dedicated prosecutors that worked in the office. The person who I came in contact with, frequently, Barry Schreiber, was a very dedicated, conscientious person, and I don't want anything that I say here to impugn the reputations of many of the people who worked in the office.

The tragedy was, from my perspective, I had a lot of young, fire-in-the-belly Assistant District Attorneys right out of law school, who really wanted to get out there and do a job, and act like professionals. Then they were exposed to this kind of thing. It caused terrible morale problems. I think they stopped seeing themselves as upholders of the law.

Not that they did anything wrong, but I just think that their own self-image had to suffer as a result of what they were exposed to there.

As far as I'm concerned, it came from the top.
COMMISSIONER MAGAVERN: How in turn, in your opinion, did that affect the effectiveness of the District Attorney's office?

THE WITNESS: On a day-to-day basis, from what I could see, I don't think it affected it, because I think the people that I supervised were very professional in what they did.

Unfortunately, they didn't stay, they didn't make careers of it in many instances. They left because the climate was such that they felt that it was inappropriate.

There was the feeling that promotions were not made on the basis of merit, and were made on the basis of other things, things like who you knew.

A lot of people, who have gone on to become very successful in other areas in the legal profession, just did not go as far in their careers as they should have because they, perhaps, didn't know the right people, didn't do the right things. And the office suffered from, you know, lack of depth of experience for that reason, I believe.

COMMISSIONER MAGAVERN: The office
continued to lose some of its most promising and
effective prosecutors?

THE WITNESS: I would say so.

COMMISSIONER MAGAVERN: Thank you.

THE CHAIRMAN: Thank you.

THE WITNESS: Thank you very much.

(Witness excused.)

THE CHAIRMAN: The Commission calls Andrea

Shapiro.

ANDREA SHAPIRO, called as a witness and
having been first duly sworn by the Chairman,
testified as follows:

THE CHAIRMAN: I would like to recognize

Diane Archer.

EXAMINATION BY

MS. ARCHER:

Q  Good morning.

A  Good morning.

Q  Where are you currently employed?

A  Do you want the name of the place that I'm

working for?

Q  Yes.

A  The law firm of McAloon, Friedman and

Mandel.
Q And how long have you been employed there?
A I started working at that firm on January 3rd of 1989.

Q Were you ever employed at the Queens District Attorney's office?
A Yes, I started at the Queens District Attorney's office, I believe, on August 6th of 1984.

Q I'm going to turn your attention now to the fall of 1984. What position did you hold in the Queens District Attorney's office at that time?
A In the fall of 1984 I was a Criminal Law Investigator, or Criminal Law Associate, I'm not quite sure exactly which term was used at the time. But I had just started. I believe it was a Criminal Law Investigator.

Q But you carried out the functions of an Assistant District Attorney?
A Basically, that was the title that was given to people who had not been admitted to the Bar yet, who had just started.

Once you were admitted to the Bar, you were sworn in by the District Attorney, and your title was changed to Assistant District Attorney.

Q And what bureau were you in at that time?
A At the beginning of my career in the
District Attorney's office, we had a rotation. We worked
four weeks in the Criminal Court Bureau, and two weeks in
the Intake Bureau. So, I rotated between those two
bureaus.

Q Now, in the fall of 1984, Tom Santucci, the
District Attorney's son, ran for a seat in the State
Senate. Did you work on that campaign?

A No, I did not.

Q Were you ever asked to work on that
campaign?

A Yes, I was.

Q Who asked you to do so?

A Brad Wolk, who worked with me in Criminal
Court, and who started with me in August of 1984, asked
me to work in the campaign.

Q What did he say to you?

A He stated to me that Joan Beilensen had said
that it would be in our best interests to work on Tom
Santucci's campaign.

Q Did he relay this message only to you, or to
the other C.L.A.s?

A I don't believe that I was the only person
that he spoke to.
Q Did he say anything else?
A Not that I recall.
Q Did anyone else from the District Attorney's office ask you to participate in Tom Santucci's '84 campaign?
A Yes, there was a secretary in the Appeals Bureau who had asked me to work on Tom Santucci's campaign.
Q What was her name?
A Sharon Pollack.
Q Now, what was your reaction to these requests for you to participate in this campaign?
A I thought it was inappropriate. We had just started in the office, and I remember being told that we were not supposed to work on political campaigns. So I did not feel that we should be asked to work on the campaigns, nor did I think we should be working on the campaigns.

THE CHAIRMAN: Did you express that when the request was received by you?
THE WITNESS: Yes, I did.
Q Who did you express that to?
A Well, I believe I told it to Brad. I don't remember if I specifically told it to Sharon. But I
spoke to other colleagues at the time.

I was not the only person who was asked, other people within the group that started with me were also asked. We had a discussion about how could they ask us to do something when we just started, and we were told that we weren't supposed to be doing exactly what they were asking us to do.

Q Now I would like to direct your attention to the spring of 1985 efforts to assist the District Attorney in his campaign for reelection. What bureau were you in at that time?

A Until sometime in May of 1985, I was still on the rotation of four weeks in Criminal Court and two weeks in Intake.

Q Now, were you ever asked to participate, in any way, in John Santucci's reelection efforts?

A No, I was not.

Q Were you asked, in any way, to contribute money to a fundraiser for him?

A There was a memo that was handed out, I don't know to who, but I certainly saw a copy of it. I don't know if it was on the desk when I got back to my office, or whether it was handed to me.

It was a memo which, I believe, was to all
A.D.A.s, and we were included in that. It said that each A.D.A. was expected to purchase a table of tickets to John Santucci's fundraiser. It stated the amount of the table. It was something over a thousand, 1200, 1500, $2500, I cannot recall at the time.

Q Was that memo on D.A. letterhead?
A It was on D.A. letterhead, yes.

Q Do you know who wrote the memo?
A I don't remember if it was written by someone, or it was just a memo to all of the A.D.A.s, all of the staff, I can't be specific.

Q Is it possible that that memo was written by Jim Robinson?
A Yes.

Q Do you think that that is the most likely person to have written it?
A What I remember of the memo was that it was either from Mr. Robinson, or it was just a general memo with no name of a sender.

Q What was your reaction to the memo?
A We weren't -- I wasn't happy about it. I would say that I was somewhat upset about it.

First, we looked at it and we felt somewhat pressured that we had to buy a whole table of tickets.
Then we all laughed it off saying, "We don't have money like this to go spend on the table of tickets."

Then we thought that we will pay the consequences of what happens if we don't buy the table.

This was it, and we were not going to buy a table of tickets to his fundraiser.

Q What consequences did you think you might pay?

A As Mr. Everett expressed, it is my feeling as well, that at least some Assistant District Attorneys, within the Queens D.A.'s office at the time, were transferred not based on merit, but on who you knew, what parties you went to, and if you got on the good side of the District Attorney.

At the time that we were told that it was in our best interest to work on Tommy Santucci's campaign, some of us felt that we should go down to help out in an effort to step up the ladder to Supreme Court that much faster.

When we got this memo, we felt that was another effort for us to get on the DA's good side, to make an impression so he will remember us when he creates another transfer list.

We were not pleased with this at all. That
Q You mentioned that the request to buy tickets to the fundraiser was similar to a request to attend parties. What are you referring to there?

A The District Attorney has parties during the year, whether it's a Christmas party or a spring party. It's a feeling among numerous Assistant District Attorneys in the office that if you don't go to the office party, that you will not be transferred to a better bureau.

Some people felt, myself included, pressure to attend the parties. As a matter of fact, I was asked specifically by a Bureau Chief to attend a party. I stated I did not want to go. He certainly put some pressure on me to go and said it would really be helpful to me if I attended the party.

Q Who was that Bureau Chief?

A Tony Communiello.

Q Did those parties cost money?

A Yes, they did.

Q About how much money did they cost?

A Somewhere -- I remember one party costing about $50.

Q And how often did these parties take place
during the year?

A There were usually two parties, one around Christmas time, and one during the spring.

MS. ARCHER: I have no further questions.

THE CHAIRMAN: These parties you referred to, they weren't political functions, or were they?

THE WITNESS: No, they were not.

THE CHAIRMAN: Commissioner Vance, please.

COMMISSIONER VANCE: Were they seen as fundraisers?

THE WITNESS: No.

COMMISSIONER VANCE: Do you know what the money was used for, other than paying for the party?

THE WITNESS: No, I do not.

THE CHAIRMAN: Commissioner Emery, please.

COMMISSIONER EMERY: You testified about the belief that people would get ahead by who they knew, associated with. Can you also testify, are you able to testify, about the political climate in the office?

Was politics viewed, in your estimation, as an important consideration for advancement; was
politics a subject of concern to people in the
office while you were there, with respect to the
District Attorney's son, or others?

THE WITNESS: The only time it was a real
consideration, as far as I was concerned, was when
we were requested to work on Tom Santucci's
campaign.

More specifically, the way that it was
expressed to me was that it would be in our best
interest to work on the campaign. That really
meant to me that, "Hey, I better get involved in
politics now."

Basically, since we were young,
impressionable, and vulnerable, I really thought
that this is going to be the way for a while.

COMMISSIONER EMERY: Was that your
observation of your fellow Assistant District
Attorneys?

THE WITNESS: At the time we started, yes.

COMMISSIONER EMERY: What about the 1985
John Santucci campaign, did that change in any
way, or was it a similar climate that you
described?

THE WITNESS: I would say it was somewhat
similar at the time we got the memo.

At that time, I guess, we had been there longer, and we just -- personally, we felt we weren't going to do it, we had had enough, and whether there was politics or not, we were not going to do it.

Within hours of the memo coming out, it was rescinded.

THE CHAIRMAN: As a result of your refusals to participate either in the campaign, or in the fundraiser, did you ever receive, subsequently, a response to you in terms of your own work position because you refused?

THE WITNESS: No, I think I was treated fairly by the District Attorney.

THE CHAIRMAN: Commissioner Magavern.

COMMISSIONER MAGAVERN: What, in your opinion, was the effect of what you described as political request, political pressure, the feeling that promotions were not made on merits?

How did that affect the function of the office?

THE WITNESS: I don't know if it affected the function of the office. I know we were quite
disillusioned by it. As Mr. Everett stated, several people left early on in their careers.

We just became disenchanted. We had just started, we were ready to prosecute all those criminals and put them in jails, and here we are just starting and we are being requested to do exactly what we were told we couldn't do.

We were upset, disenchanted, although I do not think that it came out in the functioning of the office.

COMMISSIONER MAGAVERN: Do you think it affected the long-term career plans of these young assistants?

THE WITNESS: For some of them, perhaps. I can't say for certain.

COMMISSIONER MAGAVERN: Thank you.

THE CHAIRMAN: Tom Schwarz, please.

MR. SCHWARZ: When you state that you were being asked to do what you thought you weren't supposed to do, I think those were your exact words, what was it that you thought you were not supposed to do?

THE WITNESS: Well, with Tommy Santucci's campaign, I remember being told that we could not
be involved in political campaigns whatsoever. I remember that because I wanted to get involved in some campaigns. I remember having had to resign from a Democratic club, I remember that I couldn't do that.

Here we were being asked -- I felt even pressured -- to work on Tom Santucci's campaign.

MR. SCHWARZ: But you declined, is that correct?

THE WITNESS: I did not work on the campaign. However, I don't want to misguide the Commission in any way, I did attend a fundraiser for Tom Santucci.

MR. SCHWARZ: Let's separate the two. First of all did you decline to participate in the campaign?

THE WITNESS: Absolutely.

MR. SCHWARZ: As a result of that declination, did you at any time, feel that there was a recourse taken against you?

Did you ever feel any, first of all?

THE WITNESS: No, sir.

MR. SCHWARZ: With respect to the fundraiser that you just testified to, who asked
you to go to that?

THE WITNESS: As I referred to earlier, Brad Wolk, who had started with me, had asked me, asked by Joan Beilensen, to attend, to work on the campaign. The beginning of it started with a fundraiser at Tom Santucci's headquarters. We were asked to come down there and meet people.

MR. SCHWARZ: Why did you do that? Did you think that was something you were not supposed to do?

THE WITNESS: I thought it wasn't working on a campaign, I wasn't making phone calls, licking envelopes. I thought -- I felt that that was something that we were really being not asked, but being told that we should do.

MR. SCHWARZ: I'm not trying to create any mystique here. It seems to me it is very unclear what you were asked -- what you were told you were not supposed to do. I'm not criticizing you. I would like to get your understanding.

Was it your understanding that you could give money, but you couldn't participate in respect to phone banks, licking envelopes, the usual things that are involved in political...
campaigns?

THE WITNESS: I don't think it was ever made specific that you can lick an envelope, but you can't make a phone call. My understanding was that you should not be involved in political campaigns.

MR. SCHWARZ: Did anyone tell you what that means?

THE WITNESS: No.

MR. SCHWARZ: Did you get any guidelines, aside from the one statement that apparently you signed upon your acceptance of the position?

THE WITNESS: Let me first clarify that. When I started as a C.L.I., I don't know if I signed the same exhibit as 3 or 3a that is signed by an Assistant District Attorney. I was told not to work on a campaign.

MR. SCHWARZ: Did anyone give you any printed guidelines?

THE WITNESS: I don't recall.

MR. SCHWARZ: Did anyone tell you that you should look at a specific statute?

I assume you're a lawyer, you could look at a statute. Did anyone tell you to look at a
statute?

THE WITNESS: I do not believe so.

MR. SCHWARZ: When you went to this fundraiser, did you pay any money?

THE WITNESS: No.

MR. SCHWARZ: Why did you go to the fundraiser?

THE WITNESS: Because it was told to me that it would be in our best interest to attend it, and that it really wasn't campaigning or being involved in a campaign, so it wouldn't hurt to come.

I think it was a way for us to, perhaps, get started as working on the campaign, or at least that was the way it was put to me.

MR. SCHWARZ: You testified that's stepping up the ladder to the Supreme Court. Do you remember that?

THE WITNESS: Yes, sir.

MR. SCHWARZ: Just to make the record clear, that is the ladder of those who appear in the Supreme Court for felony matters, not in the Criminal Court, misdemeanors?

THE WITNESS: Correct.
MR. SCHWARZ: That determination was supposed to be made only on longevity, or was it supposed to be made on merit as well?

THE WITNESS: I cannot say how the District Attorney made those determinations.

MR. SCHWARZ: I'm not asking that question, I'm asking you as a former assistant, what were you told was the basis for that determination?

THE WITNESS: I don't think we were ever specifically told the way to get up the ladder.

MR. SCHWARZ: Was there an understanding, in the office, at the time that you were employed there, as to how one moved to the Supreme Court, to felony matters, and away from the Criminal Court, from misdemeanor matters?

THE WITNESS: I guess the understanding in the office at the time, as far as I can recall, was that it was based on time in the office, perhaps merit, and whether or not the District Attorney liked you, new you, would promote you.

It was not put to me that you had to be in the office three years and had had to do X amount of Grand Jury presentments.

MR. SCHWARZ: There was no clear guideline
as to how you are progressed?

THE WITNESS: If anything it was unclear.

MR. SCHWARZ: Just one other question.

When you refer to these parties that Mr. Communiello asked you to go to, that Mr. Vance asked you whether they were political fundraiser, were these social parties, Christmas parties?

THE WITNESS: Just an office party. It was not political.

MR. SCHWARZ: Someone would say to you, "Come, it costs $50," and you didn't feel like you wanted to go, is that what you were testifying to?

THE WITNESS: Yes, I did not want to go.

MR. SCHWARZ: Were these parties at Douglaston Manor?

THE WITNESS: Some of them were, yes.

MR. SCHWARZ: To the extent that they were not political, they were just -- was there any other function for them other than to simply be a social office party?

THE WITNESS: Perhaps for morale. Beyond that, I do not know of one, no.

MR. SCHWARZ: Thank you.

THE CHAIRMAN: Thank you very much.
THE WITNESS: Thank you.

(Witness excused.)

Raise your right hand.

WILLIAM NAVAS, called as a witness, having been first duly sworn by the Chairman, testified as follows:

THE CHAIRMAN: Please proceed.

THE WITNESS: This is a correction, Commissioner, my name is Bill Navas, not William.

THE CHAIRMAN: Bill Navas.

I would like to recognize Diane Archer.

EXAMINATION BY

MS. ARCHER:

Q Good morning Mr. Navas. Where are you currently employed?

A I'm currently employed as an Assistant District Attorney in Queens County.

THE CHAIRMAN: Can I ask the witness to get a little closer to the microphone? It's a little hard to hear the witness.

Q How long have you been employed at the Queens District Attorney's office?

A A few days short of five years.

Q So you began in 1984; is that correct?
A August 6, 1984.
Q And when did you graduate from law school?
A 1984 as well, St. John's Law.
Q I would like to direct your attention to the
spring of '85 and efforts to assist John Santucci in his
campaign for reelection. What position did you hold in
the office at that time?
A During that particular period that you're
speaking of, I was also a C.L.A, criminal investigator,
and I was also rotating two weeks in the Intake Bureau
and four weeks in Criminal Court.
Q Were you aware of any efforts in the office
at that time, to assist John Santucci in his campaign for
reelection?
A I became aware through general office talk,
or a particular statement that I read.
Q Let's focus in, first, on the office talk.
Who spoke to you about efforts and what did the person
say, person or persons, say?
A See, the first thing is that it is very
difficult for me to pinpoint a time. Like I said, I was
rotating between the Intake Bureau and Criminal Court.
It's in that period, it's springtime. It's a big office
and there's a lot of Assistants speaking.
During that time, it could very well have been speaking with the particular Bureau Chiefs of the Criminal Court or Intake, or it could have just been the indians, C.L.A.s or A.D.A.s, and there was just general talk about a discussion regarding a fundraiser, and of the Assistants being required to purchase a plate of -- I guess the figure was, more or less, $250 a plate.

Q You mentioned you also saw a document to that effect; is that correct?

A Yes ma'am.

Q Could you describe what you saw, when you saw it, where you were?

A During the time that I was rotating through the Criminal Court section, the Assistants were -- on one particular day you would have a calendar, you were in charge of having the ninety case or so calendar that would be called.

The next day that particular system would be back in G-3, which was the office for the Assistants and the C.L.A.s. They would be handling the calendar writing subpoenas to process it further to the people who needed the calendar for statistical purposes. So I believe the next day, this particular day, I came back and on our desks, or on my desk, was a sheet of paper. That was a
standard way that we would receive any type of
statements, memorandums from various Bureau Chiefs or
various -- either the assistant Bureau Chief or the
Bureau Chief regarding policies or anything that was
going on in the office.

One particular day I came back to the office
and the statement was there, and I remember reading
something to the effect that it was being proposed that
each assistant be in charge of a table of ten at $250 a
plate.

Q You said you saw this memo on your desk?
A It was a sheet of paper that I turned over,
and it had that particular information. That was the
contents that I recall reading, yes ma'am.

Q How many desks were there in G-3 for the
Assistant District Attorneys?
A I would like to, more or less, imagine it
like a newspaper room. It's a small room, but they have
a lot of desks either perpendicular or parallel to each
other. I would approximate it to be 12 desks.

Q And there were memos on all twelve desks?
A There were sheets of paper. I went to my
particular one and turned it over, and that's the
information I read, yes, ma'am.
Q Do you recall who the memo was from?
A No, ma'am.
Q Do you know if it was on District Attorney letterhead?
A No, ma'am.
Q Do you recall whether it was from someone in your Bureau as opposed to an Executive Assistant?
A No, ma'am, I didn't -- I went right to the source of it. I have a vague recollection of what I read, but I don't have any recollection as far as where it was from.
Q What happened after you read the memo?
A During the time that I was sitting at my desk after reading the memo, or reading the statement that I just referred to, a Deputy Bureau Chief came into the room and picked those papers up.
MR. SCHWARZ: Just repeat that.
THE WITNESS: The Deputy Bureau Chief of Criminal Court at that time, came by and picked those papers up.
Q Who was the Deputy Bureau Chief at that time?
A His name was Ira Schreiber. I'm sorry.
Yes, it was Ira Schreiber.
Q Did he say anything to you?

A My recollection is something to the extent of a mistake, this was a mistake or it was a mistake.

Q That was a mistake?

A That was the statement, he said, as he picked up my sheet. If I had to say what he was referring to, I couldn't tell you for sure. I would be assuming.

Q Are you saying that he said something like putting this on paper is a mistake?

A This was a mistake, or it was a mistake. The word mistake was said in some context. It's my recollection that he was alluding to something else outside of that, I can't swear to what it was.

Q And he was picking the memos off of the various desks and he took the memo away from you; is that correct?

A He took the memo from my desk, yes, ma'am, I have that recollection.

Q Did he also say something like, "It would be best if you just forgot it ever happened?"

A No, ma'am.

Q Are you sure he didn't say that?

A I have no recollection of him having said
that, ma'am.

Q    Do you recollect him saying something to
that effect?

A    No, ma'am. I can't swear to anything like
that.

Q    Well, do you recall telling me just the
other day that he did say something to that effect?

A    No, ma'am. I recall saying to you that
there was a lot of things that may have been said, but I
have to remember a particular period of time in '85.
It's very difficult to remember particulars, especially
something that was said that quickly.

I remember hearing something as far as a
mistake, but I cannot swear to what you just asked me. I
can only say no, ma'am.

Q    Can I ask you this: Did you get the
impression, when you picked up the paper, that it would
be best if you forgot that it had ever happened?

A    It's difficult for me to say what impression
I had in '85. I'm sorry, ma'am.

Q    Do you recall who else saw this memo?

A    No, ma'am. As I said, it was a skeleton
crew because of the other Assistants were in the
particular all purpose parts doing the calendar.
Q Do you remember discussing the matter with anyone else?
A I don't remember any particulars. I'm sure I made my feelings known, or I discussed it with someone else.
Q What were those feelings?
A I was making $20,000 a year. It was a financial crunch at that time to even consider. I'm sure I wasn't comfortable with the particulars, but it never came to fruition and made me very happy.
Q If I told you that Ira Schreiber denied under oath that he knew anything about this memo, would it change your testimony?
A No, it would not.
Q Have you spoken to Ira Schreiber since you were deposed by the Commission the other day?
A No, ma'am, I did not.
MS. ARCHER: I have no further questions.
COMMISSIONER EMERY: How many Assistants and criminal law -- what's the lawyer staff of the Queens District Attorney's office? Do you know, offhand, how many are there?
THE WITNESS: Total, sir?
COMMISSIONER EMERY: Yes.
THE WITNESS: We approximate at 250.

COMMISSIONER EMERY: We're talking something like -- in this memo, if you total it up, something like 6 or $700,000?

THE WITNESS: I'm not good at math, sir. I'm not sure.

COMMISSIONER EMERY: Thank you.

THE CHAIRMAN: I think we are trying to deal with the math of it, and I don't know --

COMMISSIONER EMERY: 2500 times 250 is something like 600 some odd thousand dollars.

MR. SCHWARZ: Was it your understanding that each assistant was given this, or each assistant in the Bureau?

THE WITNESS: All I can speak of, sir, is the fact that I came that particular day and opened it and read the statement.

My understanding was that we were being given some information at that time, and it was all as to a discussion. I soon found out afterwards that it was not going to be exercised.

COMMISSIONER MAGAVERN: Mr. Navas, after the memorandum and statement or paper I guess was picked up by Mr. Schreiber, did you hear anything
further about this subject from anyone else in the office?

THE WITNESS: No, sir.

COMMISSIONER MAGAVERN: In the initial discussion within the office about the proposal that each assistant sell a table of ten tickets, was there any discussion as to who the tickets might be sold to?

THE WITNESS: No, sir.

COMMISSIONER MAGAVERN: Thank you.

THE CHAIRMAN: Tom Schwarz.

MR. SCHWARZ: When the memo was taken away, you testified, that you felt relieved, in substance, you didn't have to deal with it.

THE WITNESS: I felt relieved that I did not have to, in fact, have to get a table and sell ten tickets.

MR. SCHWARZ: That is what I meant. But what you testified to was the financial circumstance. You were making $20,000, you were going to have to either buy a table or find others to buy the tickets; is that correct?

THE WITNESS: Yes, sir.

MR. SCHWARZ: Did you have any -- did you
think whatsoever, one way or the other, about the political implications?

THE WITNESS: No, sir, not at the time.

I'm not -- at the time, and possibly now, I'm not well versed in the political machinery, and I didn't think of it at that time.

MR. SCHWARZ: Did you think, "Is this consistent with what I'm supposed to be doing, or this is not consistent with what I'm supposed to be doing?"

THE WITNESS: I didn't think it came to a period of time where I had to consider it because it came so quickly, the discussions, and then it was squashed so quickly.

MR. SCHWARZ: You didn't have any immediate reaction that, "I'm not supposed to be involved in politics," or, "They told me I'm not supposed to be involved in politics"?

THE WITNESS: No, sir.

MR. SCHWARZ: Your reaction was, "This is going to cost me too much."

THE WITNESS: My reaction was purely financial.

COMMISSIONER VANCE: Did you sign one of
those pieces of paper which we have been talking
about earlier called "Conditions of Employment,"
which referred to the fact that you could not be
involved in any political matters.

THE WITNESS: In my particular case, I
signed that sheet of paper after I had started. I
don't remember the exact date, but I remember
being called and saying this is missing from your
jacket.

COMMISSIONER VANCE: Soon after you were
hired?

THE WITNESS: Exact date, I'm not sure,
sir. I would have to refer back to personnel
records.

COMMISSIONER VANCE: Soon, or did a long
time take place?

THE WITNESS: I'm not sure.

MR. BELLINGER: Mr. Vance, Exhibit 23 --

THE CHAIRMAN: The witness can inspect it.

It's in that black book.

COMMISSIONER VANCE: Thank you.

MR. BELLINGER: As a matter of fact,
Commissioner Vance, and commissioners, as well as
the witness, you'll see Mr. Navas has executed

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three documents, "Conditions of Employment," the
first one, I believe, is dated April 5th, 1983,
the second April 20th, 1985, and the third, May

COMMISSIONER VANCE: Do those refresh your
recollection?

THE WITNESS: That is my signature, yes,
sir.

COMMISSIONER VANCE: Thank you.

THE CHAIRMAN: Thank you very much. That's
it.

THE WITNESS: Thank you, Commissioner.

Have a good day, gentlemen.

(Witness excused.)

THE CHAIRMAN: We will take a brief recess
at this point.

(Short recess taken.)

THE CHAIRMAN: Commission calls Stanley
Pruszynski as the next witness.

Raise your right-hand.

STANLEY PRUSZYNSKI, called as a
witness, having been first duly sworn by the
Chairman, testified as follows:
THE CHAIRMAN: Please be seated.
I recognize Michael Bellinger.

EXAMINATION BY

MR. BELLINGER:

Q Good morning, Mr. Pruszynski.
A Good morning.

Q Sir, by whom are you employed?
A I'm currently employed by the New York City Health and Hospitals Corporation and Office of the Inspector General.

Q In what capacity are you employed there?
A I'm currently employed as a Deputy Inspector General.

THE CHAIRMAN: I don't know if it's my hearing or the microphone. Good. So it may be my hearing.

Q In what capacity are you employed there, sir?
A As a Deputy Inspector General.

Q Mr. Pruszynski, at some point in time, did you work for the Queens County District Attorney's office?
A Yes, I was employed at the Queens District Attorney's office from May, 13 through January of 1987.
Q Do you recall in the fall of 1984, what bureau you were assigned to?

A Yes. I was assigned at that point in time, to the Homicide Investigations Bureau.

Q And who was your supervisor at that time?

A I don't recall whether Tom Russo, who was the bureau chief, had been appointed Acting Executive Assistant at that point in time; if he had, then it would have been Gregory Lasak.

Q Mr. Pruszynski, in the fall of 1984, did you have occasion to work on the political campaign of Tom Santucci?

A I did work on the campaign of Tom Santucci, although I don't recall whether it was the summer or the fall.

Q Do you recall how many times you worked on the campaign, approximately?

A Approximately three or four.

Q Mr. Pruszynski, was it your understanding that it would be beneficial to ones career if one were to work on the campaign of Thomas Santucci?

A Well, no such expression was ever related to me. However, I assumed, for whatever that assumption is worth, that it would not hurt ones career by working on
Q And was that assumption based on implications or impressions given to you by other employees of the Queens District Attorney's office?

A I can't recall who may have said something in relation to working on the campaign, but I would have to admit that there was a general aura, if you will, that it would help one's career to work on the campaign.

Q Mr. Pruszynski, what type of work did you do when you were at Tom Santucci's campaign headquarters?

A Well, at the headquarters, I believe it was merely licking envelopes and stuffing envelopes, and at a subsequent point in time, which I don't know whether it was considered the headquarters, also making telephone calls.

Q And those were telephone calls made from a phone bank?

A That's correct.

Q Do you recall the procedure involved in requesting the assistance of A.D.A.s to work on the campaign?

A I recall, vaguely, that a call would come in to some contact within a particular bureau, indicating that a certain number of people would be requested or be
Pruszynski

asked to a serve in the campaign on a particular evening.

Q What was your understanding as to where that
call would emanate from?

A It was my understanding that it emanated
from the third floor, which was Mr. Santucci's office.

Q And would it be reasonable to assume that
the contact point in your bureau would be the Bureau
Chief?

A It would be reasonable to assume that,
although I don't necessarily believe that to be true,
because I believe that on one occasion, that I vaguely
recall, I received a phone call directly, or I had
contact directly, with someone on the third floor. So it
would not necessarily be the Bureau Chief.

Q Do you recall from whom you received that
direct telephone communication?

A I don't recall whether it was Carol Williams
or Joan Beilenson, but the likelihood is it was one of
the two.

Q And both Joan Beilenson and Carol Williams
are the District Attorney's personal secretaries?

A They are secretaries. I don't know what
their specific title is.

MR. SCHWARZ: What's the third floor?
THE WITNESS: The third floor is the floor where the executive office is, where the District Attorney has his office.

Q Mr. Pruszynski, with respect to Carol Williams, you had other interaction with her with regard to the Tom Santucci campaign, isn't that true?

A Yes, on one or two other occasions.

Q And what were those occasions?

A Those were occasions where, as I indicated earlier, telephone calls were made. And at that particular point in time, on those one or two occasions, I recall her being present at the phone bank location.

Q Mr. Pruszynski, I would like you to briefly describe this phone bank procedure, but before you do that, I would like to know, did Carol Williams maintain a log of people's names that would work at the phone bank on a particular evening?

A I don't know if Carol maintained them personally. However, it -- upon entry to the premises where the phone bank was located, there was -- I believe it was just a composition notebook as one would use in school with a number of names indicated on it.

Q Mr. Pruszynski, I'm going to direct your attention to sworn testimony you gave to the Commission.
on Government Integrity on May 3rd, 1989, specifically at
the bottom of page 9, line 19, sir, were you asked these
questions an did you give these answers:

"Question: Do you recall Tom Russo telling
you that the District Attorney would take notice
of individuals who worked on the phone banks?

"Answer: I don't recall Tom Russo
mentioning about the phone banks. I know that at
the point at the fundraiser, Mr. Russo had
indicated that the District Attorney would
remember the people that supported his son's
campaign."

Continuing on page ten:

"As far as working on the phone banks, that
was a different situation, with Ms. Carol Williams
keeping a long or notebook of names of people that
worked on the phone solicitation campaign, and, in
conjunction with that, it was indicated, at least
on one occasion, that the District Attorney would
be made aware of the people that would be working
on the campaign.

"Question: Was this, again, a communica-
tion from Carol Williams?

"Answer: Yes."
Pruszynski

Mr. Pruszynski, were you asked those questions and did you give those answers?

A Yes.

Q Thank you. Would you describe the phone solicitation campaign?

A It was a situation whereby Assistant District Attorneys, as well as staff members, made phone calls with a small script in front of them, which was a brief message designed to solicit support for Tom Santucci's campaign.

Q Who would give you the script, if you recall?

A I recall the script being on the table when we made the calls.

Q And would it be a procedure such that, "Hello, this is A.D.A. Pruszynski, I'm calling you for the benefit of Tom Santucci"? To the best of your recollection, what type of spiel were you using?

A Well, I don't recall the spiel, as you put it, however, I do recall the fact that we were never using our names, nor our titles.

Q That was communicated to you as something you should avoid doing?

A Yes.
Q Mr. Pruszynski, did you ever attend a campaign fundraiser for Tom Santucci?
A Yes, at the Villa Russo.
Q And do you recall who solicited you to attend that fundraiser?
A No, I don't recall who mentioned it to me. I do recall, however, the fact of becoming aware of it and attending.
Q Do you recall, again, discussing with Mr. Russo what would be an appropriate contribution given your salary level at that time?
A Yes, I do as matter of fact, because I was somewhat perplexed at being on a paltry salary, is the term we used in our previous discussion, what would be appropriate to make as a campaign contribution, and I sought out Tom Russo. I discussed it with him, and after discussing it, we agreed that the amount of approximately $50 would be appropriate.

MR. SCHWARZ: Is this to Tom or to John?
MR. BELLINGER: This is to Tom, I believe.
Q Is that correct?
A To Tom, right.
Q At the time that you were deposed in the offices of the Commission on Government Integrity, do you
recall stating that at the time that you worked on Tom Santucci's campaign it was important to be perceived in the office as a team player?

A Oh, yes, exactly.

Q Mr. Pruszynski, I would like you to examine Commission Exhibit 1, and if you would, indicate for the record those Assistant District Attorneys that you observed working at either campaign headquarters or the phone banks on the evenings that you were present.

A In reviewing the Commission's list, I specifically recall working with Cathy Lecetti, who I was also working with at the Homicide Investigations Bureau.

The other names, of course, are familiar to me, however, in terms of the individuals who may have been at the phone banks or at the envelope stuffing location, I do not recall -- or let me put it this way -- I cannot, in my mind's eye, recall the faces attached to any of those names.

Q You certainly can recall the face of Carol Williams though?

A I'm sorry. I was looking at the Assistant District Attorneys. Absolutely. Ms. Williams. I believe Ms. Beilenson as far as the secretaries. But as far as the Assistants district attorneys, my memory is
specifically locked on Cathy Lecetti, but not
sufficiently so as to the other names.

Q Do you recall ever seeing any of the
Executive Assistant District Attorneys at campaign
headquarters?

A Not the campaign headquarters. I recall at
least one of them being at the fundraiser, but not faces
that I can recall at the headquarters.

Q Which fundraiser do you recall observing one
of the Executive Assistant District Attorneys and which
assistant was that?

A Well, that was Tom Russo at the campaign
fundraiser at the Villa Russo of which we spoke.

Q Again, that was a fundraiser for Tom
Santucci?

A That's correct.

Q Do you ever recall observing the District
Attorney, John Santucci, at campaign headquarters or at
the phone banks?

A Never at the phone banks. He may have been
there at the envelope stuffing location, but I have no
recollection of having any contact with him, or anything
else that would provide me with any vivid recollection.

Q Mr. Pruszynski, this was the first political
campaign that you ever personally worked on; is that correct?

A That's correct.

Q Are you aware of any policies that were in existence at the Queens County District Attorney's office at the time that you were employed there?

A I was aware of a policy whereby Assistant District Attorneys were forbidden to become members of political clubs, and that's a recollection that I have had consistently. From reviewing the Commission's exhibits, I realize and recognize now that in addition there was a policy in effect that we were not to be engaged in political activities.

Q And with respect to your last response, I would direct your attention to Commission Exhibit 4 and ask you if you recognize that document.

A I certainly recognize the signature as having signed and acknowledged that document.

Q Apparently, sir, the date is somewhat incorrect?

A Yes, that's correct. As with the last Commission witness, the date of 1982 is incorrect because I was not in the office in 1982.

Q That is your handwriting with respect to the
8/1, however?

A Yes, it is.

Q And would that August 15th date be consistent with when you started in the office of the Queens County District Attorney?

A No, actually I was hired in April and started the first workday of May of 1983.

Q Do you recall what year you signed this document, sir?

A No, I do not. It may have been the summer of '83. It may have been the summer of '84. I'm really not sure.

Q Would it be fair to say that if you had signed this document in the summer of '83 or the summer of 84, that you would have been in violation of Section No. 2, which says that Assistant District Attorneys may not be involved in any campaign?

A Yes. I believe a reading of that by any reasonable person would find us -- find all of us in violation of that.

Q Were you ever cautioned by either your Bureau Chief or an Executive Assistant District Attorney or the District Attorney himself with respect to whether or not A.D.A.s were to be involved in political
campaigns?

A Not by any particular person. I believe at one point in time, a memo had come around, which I believe I referred to earlier, which indicated that members of the D.A.'s office were not to be involved in political clubs and also not to run for certain office while working for the District Attorney's Office. Beyond that, I don't recall any proviso.

Q In closing, Mr. Pruszynski, would it be fair to say that the prevailing atmosphere in the office was such that you thought it was okay to participate or to work for Tom Santucci's campaign?

A Well, I think that goes without saying, gentlemen, because, but for the fact that we were there and we were doing the work that we were doing, I couldn't conceive of any situation whereby we would be allowed to do such work on one hand and be forbidden by another.

MR. BELLINGER: Mr. Pruszynski, I have no further questions.

THE CHAIRMAN: Commissioner Vance.

COMMISSIONER VANCE: I would like to explore a little bit further the general atmosphere. Am I correct in assuming that there was a general understanding, or a general
atmosphere within the office, that if you wanted
to get ahead, one of the ways to do it was to work
on Tom Santucci's campaign?

THE WITNESS: Well, Commissioner, I cannot
speak for, obviously, the mindset of anyone other
than myself. However, as I indicated earlier, and
I believe as counsel has indicated, it was
important to be known as a team player, as one
who, within the office, would be responsive to the
office, involved in the office, other than a mere
9 to 5 workday.

COMMISSIONER VANCE: Thank you.

THE CHAIRMAN: Commissioner Emery.

COMMISSIONER EMERY: Just to follow-up on
Commissioner Vance's question for a moment about
"team player." I take it that -- what was your
understanding of what the team was and what the
purposes of the team were?

THE WITNESS: It's a --

COMMISSIONER EMERY: As best you can. I
realize it is an amorphous concept. Describe it
as best you can.

THE WITNESS: One of the things I found
while working at the D.A.'s office, was a close
Pruszynski

knit group, a very strongly -- I guess, perhaps, the best word is a strong sense of comradery throughout the office. And during that time, people within that group did things together connected with the office, although not directly connected with the work of the office, and that included going to functions, some happy, some sad, and doing things together within the office to show that we were people that cared about, I guess, where we worked and what we did, and we tried to show that caring, exemplified by the ways it could be done, and the campaign was one of those ways.

COMMISSIONER EMERY: In that regard, I take it that John Santucci would be considered the head of this team; is that correct?

THE WITNESS: I would assume so, yes.

COMMISSIONER EMERY: What role, if any, did Tom Santucci play with this team? Did he have any connection with the office itself?

THE WITNESS: None other than by his relationship.

COMMISSIONER EMERY: So the team was working for one of the relationships of the team's
Pruszynski

leaders?

THE WITNESS: Exactly.

COMMISSIONER EMERY: It was a family thing based on John Santucci familial relationship with his son?

THE WITNESS: Exactly.

COMMISSIONER EMERY: What was the name of the place the fundraiser was held at?


COMMISSIONER EMERY: Is Villa Russo any connection to the District Attorney's office?

THE WITNESS: George Russo was an Assistant District Attorney whose family owned the Villa Russo.

COMMISSIONER EMERY: Is that the George Russo who is on that chart?

THE WITNESS: I see a G. Russo. I believe that represents George Russo.

COMMISSIONER EMERY: Any relation to Tom Russo?

THE WITNESS: None that I know of.

COMMISSIONER EMERY: Do you know if George Russo had anything to do with providing his

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families restaurant for the purposes of this fundraiser?

THE WITNESS: It was made available, obviously. Under what conditions, however, I'm not qualified to testify.

COMMISSIONER EMERY: With respect to your participation in Tom Santucci's campaign, as you testified to, I know that you've testified that it was part of a team and that you saw it as one way, perhaps, to advance, I think that was the inference of your testimony. I just wonder, in your own mind, if you feel that you were volunteering. Did you feel coerced? I mean, how would you characterize your own state of mind with respect to taking on these extra duties?

THE WITNESS: I think, commissioner, that if there had been any indication to me that there was something that one had to do or suffer dire consequences, perhaps, by my own nature, I would have refused to have done it.

There was never, to the best of my recollection, any pressure, at least as it related to myself personally, to work on the campaign. So I don't think it would be accurate to say there
was pressure, in that sense. However, I can also see, perhaps, the implication that in an attempt to be known as a member of the team, or a team player, that there was, perhaps, subliminal pressure to do certain things.

Introspectively, I don't know that I was subject to such pressure, but it certainly is possible.

COMMISSIONER EMERY: Thank you.

THE CHAIRMAN: Commissioner Magavern.

COMMISSIONER MAGAVERN: Mr. Pruszynski, when was it first suggested that you might make a contribution to Tom Santucci's campaign?

THE WITNESS: I don't recall the exact date, obviously, but I believe --

COMMISSIONER MAGAVERN: What were the circumstances?

THE WITNESS: I recall discussion of it, but by whom, I can't vouch for. Any particular person involved that initially suggested it or mentioned it, I can't recall.

COMMISSIONER MAGAVERN: Was it someone in the office in the District Attorney's office.

THE WITNESS: It had to be. But as far as
the circumstances surrounding it, I believe that within a day or two prior to the fundraiser, that it was discussed, at which time I had do something about the appropriate amount and I had the discussion with Mr. Russo. Further than that, you know, I can't honestly say.

COMMISSIONER MAGAVERN: How did you actually make the contribution?

THE WITNESS: By check.

COMMISSIONER MAGAVERN: Who did you give the check to?

THE WITNESS: It was given at the fundraiser held at the Villa Russo. It was given to someone at the fundraiser. I don't know if it was personally to Tom Santucci.

COMMISSIONER MAGAVERN: Have you since become aware of any legal prohibition against a solicitation of campaign contributions on public premises?

THE WITNESS: Yes, I was aware because of the brouhaha that erupted over the attempts to garner support for the District Attorney's personal reelection campaign, and I believe in some meeting held on the Criminal Court premises.
raised some questions as to propriety. So, from that, I was aware or had become aware of the impropriety of soliciting funds on public premises.

COMMISSIONER MAGAVERN: Were you then aware, or have you since become aware, of any opinions of the Ethics Committee of the State Bar Association holding that it is ethically improper for a District Attorney or an Assistant District Attorney to participate in the campaign of some other political candidate?

THE WITNESS: Well, I have since that fundraiser, I don't recall whether it was within the last year or two, but I've become aware subsequent to that event of the mention that you make.

COMMISSIONER MAGAVERN: Mr. Pruszynski, the question I'm about to ask you is not directed at you personally, and it's also purely hypothetical, but the aim of my question is to try to get at what the more subtle effects of this activity may be on public service and integrity of public officers.

My question, with that introduction is:
Would your participation in Tom Santucci's campaign make it more difficult for you, psychologically, in subsequent jobs, either as a prosecutor or a Deputy Inspector General, to pursue aggressively any cases of improper political activity that may come to your attention, might you feel hypocritical, for example, and might you therefore be somewhat reluctant to press aggressively?

THE WITNESS: I think not. As you've indicated hypothetically, and based upon the feeling, if you will, that I wasn't working on a political campaign per se, we were doing something as a group, as a team, and that function happened, obviously, to be related to a political campaign.

But the fact of it being a political campaign, I don't think, affected me or has affected me to the point of refraining from doing a job that I have, or that I may have as it relates to persons of a political nature.

COMMISSIONER MAGAVERN: What it did, though, is got the whole Queens District Attorney's office engaged in partisan politics of some unrelated candidate, right.
THE WITNESS: Absolutely.

COMMISSIONER MAGAVERN: It created an entanglement between the District Attorney's office and certain political forces.

THE WITNESS: Absolutely.

COMMISSIONER MAGAVERN: And those political forces, at some future time, might have some stake, might be affected by something the District Attorney's office might have power over.

THE WITNESS: Entirely possible.

COMMISSIONER MAGAVERN: Looking back on it, would you agree that that's an unhealthy situation to have happen?

THE WITNESS: In light of the Commission's work, put in those terms, I would have to agree.

THE CHAIRMAN: Mr. Schwarz.

MR. SCHWARZ: What did you mean by the words "general aura"?

THE WITNESS: What is that in context with?

MR. SCHWARZ: You said you assume it would not hurt your career to work on Tom Santucci's campaign, but there was a "general aura" that it would help. What did you mean by that?

THE WITNESS: I think, perhaps, as one may
best be able to explain one's own feelings, that, as other witnesses have testified before the Commission, the length of time that one was in the office was not necessarily the determining factor as to where one was assigned, what salary one made, and so on.

So that the engaging in this activity, of which the D.A. was, obviously, concerned, would not -- certainly not hurt one's career, nor would it do anything but help one's career within the office.

MR. SCHWARZ: Let's dissect that. You say the length of time that somebody was in the office wouldn't affect it, what cases you have, what Bureau you were in; is that correct?

THE WITNESS: I'm sorry?

MR. SCHWARZ: You say the length of time that you were in the office didn't affect your position.

THE WITNESS: That's correct.

MR. SCHWARZ: What do you mean by that?

THE WITNESS: There are some excellent attorneys that were and are in the District Attorney's office that had taken an extremely long
period of time to rise from the ranks of Criminal
Court or complaint room or investigative bureaus,
to go to the Supreme Court Trial Bureau, and that,
in essence, is what I have in mind.

MR. SCHWARZ: And that affected the salary
and the cases that they had as well; is that so?

THE WITNESS: I don't know because I have no
personal knowledge of what their salary level was
a that point in time. But, obviously, there was
some affect by their assignment as to how far they
advanced.

MR. SCHWARZ: Most people, am I correct,
who came to the District Attorney's office would
come for some period of time, three, four years,
and then go out on their own in private practice;
isn't that correct?

THE WITNESS: Well, that is what happened,
yes.

MR. SCHWARZ: To the extent there was a
perception that in order to advance to the Supreme
Court and get the felony cases or the homicide
cases -- I believe you testified you got homicide
cases -- that one would have to play on this team,
so to speak?
Pruszynski

THE WITNESS: I would like to clarify that.

I'm not saying it was necessary to play on the team.

MR. SCHWARZ: It made it easier?

THE WITNESS: Obviously.

MR. SCHWARZ: Were there any guidelines for how long somebody would be in the Criminal Court, how many Criminal Court trials they would have before they would be eligible to move up?

THE WITNESS: None to my knowledge.

MR. SCHWARZ: Any guidelines at all as to what was expected of you in terms of merit and success and quality of the work?

THE WITNESS: Well, to the extent that any employer would expect his employee to be diligent, do his best, yes, there was. To the extent where I could say there was a sheet of paper or a stated guideline as to what one needed to do to move on to another bureau, there was none to my knowledge.

MR. SCHWARZ: So that was also ambiguous as to what somebody -- that criterion would be used with respect to somebody's advancement?

THE WITNESS: That was one of the many ambiguous things in the office.
MR. SCHWARZ: More than being an ambiguous criterion, it was more important you would be perceived as a team player?

THE WITNESS: If one did not believe one could achieve advancement by merit, then there was something in addition required.

MR. SCHWARZ: Thank you.

THE CHAIRMAN: Thank you very much.

THE WITNESS: Commissioner, I mentioned to counsel that I have a very brief statement.

THE CHAIRMAN: You can read it.

THE WITNESS: While I applaud the goals and efforts of the Commission, and believe that by virtue of your work here today that those in position of power and elected offices will reflect upon the findings of this Commission before permitting their subordinates to champion their own causes or candidates, the reality remains that until fundamental changes are made concerning the provisional status of public servants, such as Assistant District Attorneys who serve at the pleasure of one individual and whose salary and position are similarly dependent, the ability of such employees, such as those who have testified
here today who feel that such activities may be improper, their ability to decline to participate in such activities when requested, will continue to be substantially impaired. Thank you.

THE CHAIRMAN: Thank you.

Commissioner Magavern has a question.

(Continued on next page.)
COMMISSIONER MAGAVERN: Following up on your statement, it was quite incisive.

I wonder if there is one other step that might be taken to help to give a degree of insulation to Assistant District Attorneys, and that is whether a very flat legal prohibition against solicitation by one public employee of political participation, or political contributions from another public employee might not be very useful.

First, because the superiors, in most cases, would obey the law, you would get away from this gray area; and secondly, because the subordinates would feel very confident when being requested to point out that it's against the law; it is not that I don't support the team or anything, but I have to obey the law.

I think such a flat prohibition might be a useful device to get us where you think we ought to be.

THE WITNESS: I think it is headed in the right direction, Commissioner.

As the Commission is aware from the
exhibits placed before it as to the provisos in effect against political involvement that were in place at the District Attorney's office at the time, I think until a time is reached whereby there is some perhaps impartial and fair arbiter of salary level, of position in office, of those things which affect the employees of the office, that the regulation itself, alone might, by itself, will have only that effect, where someone else can come and perhaps enforce it.

COMMISSIONER MAGAVERN: Agreeing with the thrust of your conclusion, your testimony this minute raises another question, and that is whether in your opinion it was understood at the time these activities were taking place that they were, in fact, illegal, or was it just that people really weren't aware of it, legality or illegality?

THE WITNESS: There was never, to my knowledge, any feeling, perception, or understanding, that any of the activities in which we engaged were illegal.

In listening to the Commission's witnesses earlier, I understand that there were people who
thought it was certainly improper.

COMMISSIONER MAGAVERN: Doesn't that suggest, though, the need for a good clear, legal prohibition?

THE WITNESS: I absolutely agree, Commissioner, to the extent that there is something to enforce it.

COMMISSIONER MAGAVERN: Thank you.

THE WITNESS: Thank you.

THE CHAIRMAN: Thank you.

(Witness excused.)

THE CHAIRMAN: Joseph Girardi.

J O S E P H G I R A R D I, called as a witness, having been first duly sworn by the Chairman, testified as follows:

THE CHAIRMAN: Please be seated.

THE WITNESS: Thank you.

THE CHAIRMAN: I recognize Diane Archer.

EXAMINATION BY

MS. ARCHER:

Q Mr. Girardi, would you like to make a brief statement?

A Yes. Thank you very much, Miss Archer.

I would just like to say at the outset that
at any time that I worked on Tom Santucci's campaign it
was on my own time, and not on the time of the City of
New York. I was not in any way using time where I should
have been performing my functions as an Assistant
District Attorney.

I never used my position as an Assistant
District Attorney to officially endorse Tom Santucci as a
candidate. I never let it affect and color my duties as
an Assistant District Attorney, nor did I let it
compromise myself.

I would like to state at the outset that
when I worked as an Assistant D.A. for more than three
years and seven months, I constantly arrived early,
consistently stayed late, brought work home with me,
brought work home on weekends, and kept abreast of the
law.

I want to thank Miss Archer for giving me
this opportunity to make this statement.

THE CHAIRMAN: Thank you.

EXAMINATION

BY MS. ARCHER:

Q Where are you currently employed?

A I'm currently employed as an attorney in
Queens County. I do criminal defense cases.
Q How long have you been employed there?
A I have been in my own practice since March 14, 1988.

Q Where were you employed prior to that?
A Prior to that I was employed as an Assistant District Attorney in the Queens County D.A.'s office.

Q When did you begin as an Assistant District Attorney there?
A I began on August 6, 1984, as what is known as a C.L.A., or a C.L.I. I think it means Criminal Law Intern or investigator, or assistant.

I conducted all the functions of an Assistant District Attorney, but I was not officially one because I had not yet been notified that I had passed the Bar exam.

I was notified on December 11th that I passed the Bar, was sworn into the New York Bar on May 1st of 1985, was sworn in as an Assistant D.A. on May 13, 1985.

Q Now, as you know, in the fall of 1984 Tom Santucci was running for a seat on the State Senate.
A Yes.

Q Did you work on his campaign?
A I did.
Q How did you come to work on that campaign?
A Well, it was in the fall of 1984, perhaps late September or early October. The exact date and month I can't state with clarity. But, I was in the hallway in the court complex, located at 125-01 Queens Boulevard, Kew Gardens.

I was walking toward room G3, which means ground floor number 3. It was located in that complex. It was an office donated by the court to the D.A.'s office. We had Assistant D.A.'s, secretary, photostat machines, and the like.

I was walking toward it, and coming out of the vestibule outside of G3 was Joan Beilensen, who was one of the District Attorney's personal secretaries.

Q Approximately what time of day was this?
A It was in the afternoon some time. I really don't know when.

I may have been finishing up, but I'm just guessing.

Q What was the substance of your conversation with Miss Beilensen?
A Miss Beilensen approached me and stated -- I know I spoke to you earlier about this, I know I spoke to you earlier at my office about this, and it's in my prior
statement.

She stated something to the effect, as you know, Tom Santucci is running for State Senate. She was soliciting Assistant District Attorneys to help work on the campaign.

Q Did she say anything else in terms of your advancement in the office?

A Okay, she stated something to the effect -- excuse me, Miss Archer, what page of my prior testimony?

Q Turn to page 8 of your transcript.

A Thank you. All right.

She stated they were going to have people help on the campaign, meaning Assistant D.A.'s. She stated it would be a good thing for us to do because it would show our loyalty to the District Attorney, it would show that we were a team player, and it would help our advancement in the office. She stated to me that the District Attorney appreciated loyalty.

Q Did she indicate that it would be especially good for you to participate in the campaign, since you hadn't yet passed the Bar?

A Well, she indicated to me that it would be specifically good for me to participate in the campaign.

She said you should understand something like that, like
loyalty. I don't know why that came in.

Afterwards, while in the same conversation, she added that we hadn't passed the Bar exam yet, and it would be good for us to show our loyalty to the D.A., given the position that we had not yet passed the Bar.

Q Now, you say that she said it would be good for us. Had she spoken to other C.L.A.'s, as well?

A She indicated to me that she had spoken to others, yes. I did not observe her speak to any other Assistant D.A.'s or C.L.A.'s.

Q When Miss Beilensen spoke to you, did you believe she was speaking on behalf of the District Attorney?

A As I stated to you earlier, that calls for some speculation on my part. I would really be guessing.

Q But you believe Miss Beilensen to be an influential individual in the District Attorney's office?

A Absolutely.

One thing I should clarify in the interest of fairness. When I was hired by John Santucci, I was told by him, at the final interview, that passing the Bar is not necessarily a guarantee of being hired as an Assistant D.A. He, likewise, said failing the Bar exam would not necessarily be a guarantee of being fired.
Whether you pass or fail, your performance would be evaluated, and then a decision would be made after that as to whether you were kept on or asked to leave.

Q After Miss Beilensen asked you to participate in the Tom Santucci campaign, how did you respond?

A Well, at the time I said sure, okay. I wasn't going to say no to her face, or anything.

Q Did you --

A Well, I thought about it, and I thought that was the end of that at the time.

Q Did you want to work on the campaign?

A I had no real desire to. I certainly had better things to do with my time.

Q Do you support Tom Santucci's political positions?

A No, I do not.

Q It is a fact that you're a conservative Republican?

A That would be fair to say.

Q Well, what happened after you said okay to Miss Beilensen?

A Nothing for awhile. I forgot about it until
I was contacted by other members of the D.A. staff and given a location, a time and a place where it would be good for us to go.

Q  Do you recall who contacted you?
A  It was one of the D.A.'s secretaries. It may have been Joan Beilensen. It may have been Rose Cipolla; it may have been Carrol Williams.

As to who contacted us as to going to the opening of headquarters, I don't remember.

Q  Now, did there come a time when you were asked to provide particular dates on which you would be available to work to someone in the office?
A  Yes.

Q  Could you describe what happened.
A  There came a time in the office where I received a call to go up to Carrol Williams' office, and Carrol Williams was one of the D.A.'s personal secretaries.

I went up, I gave her a list of dates in the evening that I would be available to work on Tom Santucci's campaign.

Q  Do you know whether other Assistant District Attorney's in the office also provided Miss Williams with dates on which they were available to work?
A Not of my own knowledge, but Miss Williams stated to me that they had.

Q And you went up there during the workday; is that correct?

A Yes, I got a call, I took the elevator up to the third floor, gave her the list of dates. She said thank you. I came down. It couldn't have taken more than thirty seconds. It was very brief.

Q Aside from the District Attorney's three secretaries, did any other individuals from the District Attorney's office request your assistance on the campaign?

A Well, could you be more specific?

Q Well, did you have any discussions with any bureau chiefs about working on Tom Santucci's 1984 campaign?

A Yes, I did.

Q Can you describe that conversation, or those conversations?

A There came a point in October of 1984, and I believe it was the 21st of October. The reason I say that is it was the day after my Uncle Vinnie passed away. I was on the phone with Greg Lasak, who was the Bureau Chief from Homicide Investigations. I was
speaking with Greg on matters unrelated to the campaign.

This calls for a little bit of background.

I always looked up to him when I was an Assistant District Attorney, and I still do now. I learned a lot from him. I would go sometimes to the Homicide Investigations office, when I had time, to speak to him about a case.

I remember in the fall of 1984 he gave us a lecture on how to conduct WADE hearings, which were hearings to determine the veracity of out-of-court identifications by witnesses or victims to crimes.

Greg often took me under his wing, kind of looked after me at the D.A.'s office.

We were on the phone. He just happened to mention in passing that some of us are going to Tom Santucci's headquarters to stuff envelopes; why don't you go along. I viewed that as a request to get together, shoot the breeze, have a beer. Not so much as any coercion or threats to go work on the campaign. It was more said in passing.

Q Now, how often do you recall working on Tom Santucci's campaign?

A I think I went four or five times. Again it is a while back; it's an estimation on my part.
Q And where did you perform campaign work?
A Well, there were two locations. I believe one was on Liberty Avenue, and the other was on Jamaica Avenue.
Q Did you ever see the District Attorney at either of these locations?
A Yes, I did.
Q How often did you see him?
A I believe I saw him at least twice. I saw him at the opening, which I think was on Liberty Avenue; I'm not sure. They had a wine and cheese, and a bunch of people gave a speech. I was there. I remember seeing the District Attorney there. I then saw him on another occasion, when people were stuffing envelopes.
Q Did you speak with him on that occasion?
A Yes, every time I saw the District Attorney, when humanly possible, I made an effort to say hello, Chief, or hi, Mr. Santucci, how is it going.
You have to realize one thing, I was just out of Georgetown Law School, I was heavily into criminal law. I thought being an Assistant District Attorney was the greatest thing on earth since canned beer. I still think it's a great position to aspire to, and I don't regret one moment of it.
I was very young, enthusiastic. It was the kind of thing if the D.A. said the moon is made of green cheese, that is good enough for me; he said so. I was young, gung ho and impressionable.

Q Did he ever suggest to you that it was improper for you to be at campaign headquarters?

A No, he did not.

Q Do you recall another occasion when the D.A. was at campaign headquarters?

A Well, there was the opening, and then there was a second one when we were stuffing envelopes. I recall that one because I was asked by Sharon Pollack if I had a car. I said I did. I had my mother's LTD. She said, will you come with me and pick up the D.A.'s wife. We left -- I guess the headquarters, and drove somewhere in Queens. She gave me directions. She picked up, I believe, the D.A.'s wife and drove back.

That event sticks in my memory, because I remember there were a lot of potholes, and I have a tendency to drive too fast, and she made a remark that I was driving like a cowboy.

Q Who was Sharon Pollack?

A A secretary employed by the D.A.'s office, who worked in the Appeals Bureau.
Q And what was her role in the campaign?
A Well, I saw her at the campaign a couple of times, and she seemed to me to be taking a very active role in the campaign.

Q Now I believe you testified that you worked at two campaign locations?
A Yes.

Q One of those was the phone bank location; is that correct?
A That is correct.

Q When you worked at the phone bank, to whom did you report?
A Well, it would depend who was there. I remember on at least one or two occasions reporting to Carrol Williams, who was one of the D.A.'s secretaries. Sometimes it would be a different secretary there. Whoever was there we would generally report to, and they would ask us to sign our names on a piece of yellow or white paper.

Q But it was generally one of the D.A.'s personal secretaries whom you reported to?
A Yes. I don't ever recall having reported to an Assistant D.A.

Q Were you ever solicited to attend
in political activities beyond membership in an organization?

A Yes.

For the record, this was while I was at the interview stage that I was requested to sign this. I was not yet an Assistant D.A. at the time.

Q My question to you is, why is it that, despite the fact that you signed this agreement, you worked on Tom Santucci's 1984 campaign?

A Because I thought it would be a good thing to do, because I was told it would help my advancement in the office, and that the D.A. respects those kind of things. I thought that since D.A. employees were initiating it, it was okay.

I didn't view the New York State Senatorial race as that important, although the State Senate is a great office to aspire to. I didn't think it was that important.

I don't even know if I remember signing this at that point.

Q So, essentially you're saying that it was your belief that the office wanted you to participate?

A Yes.

Q And it was in your best interest to
fundraisers for Tom Santucci?

A Yes. And I attended one of them.

Q By whom were you solicited?

A I don't remember.

Q Where were you solicited?

A At the D.A.'s office, or in the courthouse.

Q And do you recall whether the person who solicited you was an employee of the District Attorney's office?

A I can say with almost complete certainty that it was an employee of the D.A.'s office.

Q When you joined the District Attorney's office, do you recall signing a document setting forth the conditions of employment there?

A I may have. I'm sure you have one in evidence. If you do, just direct me to it.

Q Okay.

If you would look at Exhibit 22.

(Witness complying.)

A Yes, that's my signature, and it looks like the document that I signed.

Q And you will notice Paragraph 2 provides that there is a limitation on your political involvement, and that as an D.A. you are not permitted to participate
participate?

A   Yes.

At the time, like I said, I was kind of young, eager, and a lot of us were trying to impress people. Looking back at it now, I see it was a mistake and I shouldn't have done it.

At the time I thought it was the thing to do, because there was such an atmosphere of everyone wanting you to be a team player, doing things for the common good. I just felt it would be a good thing to do.

MS. ARCHER: I have no further questions.

THE CHAIRMAN: Commissioner Vance, please.

COMMISSIONER VANCE: My question has been asked.

I wanted to ask him whether he didn't have some pause to enter into that campaign, working on the campaign, in light of the direct prohibition.

I assume you're a bright young lawyer, you read this document before you signed it.

Anybody ever tell you that you could ignore this?

THE WITNESS: At the time I was working on the campaign I didn't think about this document. I don't know if I recall signing it.
No one told me I could ignore it, no one told me I had to abide by it.

I knew of many Assistant District Attorneys who are members of political parties, members of political groups, members of clubs such as Kiwanis. I know of Assistant District Attorneys, such as myself, who are members of the National Rifle Association, members of the National Organization of Women, members of the United Jewish Appeal.

I didn't think it mattered.

Looking now, Mr. Vance, I wouldn't do it again, but at the time, swept up in the emotion, and swept up in the feeling of gung ho, doing whatever you think the office wants you to do; I worked on the campaign.

COMMISSIONER VANCE: Thank you.

THE CHAIRMAN: Commissioner Magavern?

COMMISSIONER MAGAVERN: When you attended the fundraiser did you buy a ticket, did you make a contribution in connection with that?

THE WITNESS: I bought a ticket.

COMMISSIONER MAGAVERN: And when you were solicited at the District Attorney's office, or in
the courthouse to attend the fundraiser, did that include the idea that you buy a ticket?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: Thank you.

THE CHAIRMAN: Commissioner Emery, please?

COMMISSIONER EMERY: Where was that fundraiser?

THE WITNESS: I don't remember if it was at the Douglaston Manor or Villa Russo.

I only went to one, and for some reason right now I can't discern the two.

COMMISSIONER EMERY: Have you been to the Villa Russo?

THE WITNESS: Yes, I have been to both. I have been to the Douglaston Manor on a number of occasions.

COMMISSIONER EMERY: Do you know of any connection between the Villa Russo and anyone who works in the office?

THE WITNESS: Only through hearsay in that I have heard people say that the son of the owner of the Villa Russo was an Assistant D.A. I don't know that from firsthand knowledge.

COMMISSIONER EMERY: Do you know the G.
Russo who was apparently associated with the Villa Russo, by family or otherwise?

THE WITNESS: I met George Russo, I met an Assistant D.A. named George Russo. I know that George Russo left the D.A.'s office, and I had occasion to meet him again when he was a private counsel on a case.

COMMISSIONER EMERY: Now, in conjunction with this spirit that you described, team spirit, the gung ho quality that you were engaged in, and I take it others were --

THE WITNESS: I was a prosecutorial lunatic when I first started there; I was gung ho.

COMMISSIONER EMERY: From your observations, can you describe the role that politics played in the office on a daily basis, or in the cycle of politics during the years that you were there?

THE WITNESS: Well, as my tenure in the office grew, I began to realize that merit and seniority meant very little, and it was more a question of who you knew, as opposed to what you did, how long you put in, and what type of job you did.
If I may give you a case in point. Toward the end of my career as an Assistant D.A. in the winter months of 1988 I was in the Felony Screening Bureau. We evaluated all felonies coming in.

In Court Part AP 6 I had a great deal of discretion of offering plea bargains, be it felonies, misdemeanors, jail, probation, restitution, the whole gamut; I had a great deal of discretion.

I had three Assistant D.A.'s under me and a couple of paralegals. Two of the three under me, whom I had been at the office longer, were getting between five and seven thousand dollars more than me.

I saw Assistant District Attorneys in the Queens office not more than a year out of law school get promoted to a Supreme Court Trial Bureau, when only weeks before, perhaps, or months before, I was teaching them how to do a MAPP hearing.

COMMISSIONER EMERY: In that regard did you associate those people who were either paid more, or advanced faster than either you or other people
that you knew, with politics? Did you associate
that, did you correlate the two things?

THE WITNESS: At this point, Mr. Emery, I
think I would be speculating.

I know I was angry, I know I didn't like
it. I can't say -- I can't make that connection
you're talking about the. At this point I don't
remember anything that would make that connection.

COMMISSIONER EMERY: Do you have any view,
other than what you have just expressed about
being angry, you didn't like it, of the general
effect within the office on morale from this sort
of observation you described?

THE WITNESS: What sort of observation?

COMMISSIONER EMERY: That certain people
got ahead faster than others for no reason, or had
higher salaries than others who may have deserved
more.

THE WITNESS: Absolutely.

COMMISSIONER EMERY: What's your opinion,
or your observation as to the general effect on
morale in the office?

THE WITNESS: It was a severe detriment,
and it struck an almost lethal blow to morale in
We had in the past year a mass exodus from the D.A.'s office. Attorneys with good trial experience, who can keep dangerous criminals off the street, are leaving because they are either given assignments that are completely inapposite and not compatible with their abilities, by the fact that they are not paid, by the fact that the District Attorney's office in Queens, I believe, pays the lowest of the five boroughs of New York City.

I think it has had an effect on law enforcement, in that competent, qualified and experienced people are leaving in droves.

My entering class of 1984, there is at least five or six of us who have left the D.A.'s office. It is because of the morale. It is because of the constant looking over one's shoulder and having transfers made without any continuity, without any consistency whatsoever.

COMMISSIONER EMERY: During your period, who was responsible, to your knowledge, for the decisions about number one, salary, number two, transfers; and number three, advancements?
Girardi

THE WITNESS: I would like to think that the District Attorney was responsible for those things. I don't know.

There were rumors going around, and they are just rumors, that some people said Joan Beilenson made the decisions.

That is like a rumor, like any other rumor.

Based on the way things were done, there were times when I felt I didn't know who was in charge.

COMMISSIONER EMERY: Did Mr. Mahoney have anything to do with those sorts of decisions, to your knowledge?

THE WITNESS: I don't know.

COMMISSIONER EMERY: How about Mr. Rosen, did he have anything to do with those decisions to your knowledge?

THE WITNESS: I know Mr. Rosen at the time was an Executive Assistant District Attorney, and I would imagine he had a degree of clout, a degree of influence, the degree to which I would just be speculating.

COMMISSIONER EMERY: That's all I have.

THE CHAIRMAN: Commissioner Magavern,
COMMISSIONER MAGAVERN: You referred to several instances in which subordinates of yours received greater salaries, were promoted, other cases where people were promoted in ways that didn't seem to make much sense.

Do you believe that the fact that people were promoted over you, or received more money than you had something to do with your own political position in the office, your political activities, or lack of political activities?

THE WITNESS: No.

Wait a minute, let me take a step back.

Did it have anything to do with the fact that I was a conservative? I don't think so.

Did it have anything to do with the fact that I was not involved in any of the D.A.'s son's campaigns, or any other campaign work for the D.A.? That I can recall, at least, I don't recall having been involved in anything since 1984; I don't know.

COMMISSIONER MAGAVERN: Do you think you would have done better had you been more politically active?
THE WITNESS: That calls for a guess, and I am really not in a position to make that.

COMMISSIONER MAGAVERN: In view of your experience, do you believe that clearer and more rigorous laws are necessary in order to avoid putting people in the kind of position you found yourself in back in 1984?

THE WITNESS: Well, let me just clarify one thing. And I'm glad you raised this.

I did not feel in any way coerced or threatened to work on any campaign. I just felt that it was the right thing thing to do and it would inure to my benefit. I'm being honest here, I thought that it would curry favor with the D.A.

Let me bring out two points. My father owned a dry cleaning business. My brother owns two dry cleaning plants. Regardless of the fact that I graduated law school, I always had a standing offer to go into the family business, and I would have generated a great deal more income than the small salary I was getting working at the D.A.'s office.

Secondly, I work in the same suite of offices as Morris Mirsky, who has been a criminal
attorney in Queens for about 35 years. I have had
a standing offer with him before I became a D.A.,
during the time I was a D.A., afterwards, and I'm
there with him now. He says Joe, any time you
want you can come work with me. We are very, very
close. The fellow was at my baptismal.

I didn't feel that the D.A. had anything to
hold over my head. I knew I was marketable, I
knew I had other jobs out there if I wanted them.

Since I left the D.A.'s office the
transition into private practice has been a very
nice one.

So, I don't want to give you gentlemen or
anyone else here the impression that I was coerced
in any way

COMMISSIONER MAGAVERN: Taking the
situation where you described it as part of the
atmosphere of the office to attempt to curry
favor, and one of the ways to do that was to
become involved in Tom Santucci's campaign, would
you consider that to be a healthy situation for
the office?

THE WITNESS: Could you rephrase that?

COMMISSIONER MAGAVERN: Is it fair to
summarize your description of the atmosphere in the office in the fall of 1984 as being one in which people were eager to curry favor with the District Attorney by becoming involved in his son's campaign; is that a fair description?

THE WITNESS: I think that would be a fair description.

COMMISSIONER MAGAVERN: Do you think that was good for the office to have that atmosphere?

THE WITNESS: I never really thought about it before.

COMMISSIONER MAGAVERN: In retrospect?

THE WITNESS: In retrospect I don't think it's a good thing for the office. It's not a good thing, because prosecutors should be doing the job of prosecuting crime.

Loyalty is important. In retrospect now I don't think it is the right thing to be done. I don't think it's right to ask support people or Assistant D.A.'s to work on the campaign.

COMMISSIONER MAGAVERN: You testified that you believe that your involvement in that campaign, looking back at it, was a mistake; correct?
THE WITNESS: That is correct.

COMMISSIONER MAGAVERN: Putting all of that together, do you think that we need a clearer, more rigorous set of laws to avoid that kind of situation in the future?

THE WITNESS: I do. And I do because there may be some people who, when confronted with that situation, did not have the options and possibilities that I have, and there may be people in that situation who are very concerned and frightened about losing their job. I was not one of them, but I believe legislation in that area, as Miss Archer indicated to me, may be the result of all these hearings. I think legislation would be a good idea.

COMMISSIONER MAGAVERN: Isn't it true, also, it's not just fear of losing your job that may influence people, it's also a desire for advancement? You may not get advanced as quickly as otherwise? That is a form of pressure, too. It is pressure, isn't it?

THE WITNESS: In my case, not as much; but in most other people's case I would say yes.

COMMISSIONER MAGAVERN: Thank you.
THE CHAIRMAN: Mr. Tom Schwarz, please?

MR. SCHWARZ: When you were told that passing the Bar was not necessarily a guarantee of you being hired as an Assistant District Attorney from the provisional position you were in, the preliminary position you were in, did you inquire as to what were the determining factors as to whether you would be hired?

THE WITNESS: Well, the District Attorney did make it clear to me that our performance is continually evaluated, and he expected us to perform. He said to me words to the effect, like in a highly competent and professional manner.

He did make a point of saying passing is not a guarantee of being hired, nor is failing a guarantee of being fired.

I know of assistants who have failed and were kept on.

MR. SCHWARZ: My question was, were you told what criteria would be used in determining whether or not you would be hired, aside from professional and competent?

THE WITNESS: I can't recall any specific guidelines given to us by the D.A, himself, or any
of the executive assistants.

The only person, especially at that initial stage, who gave us any type of effective guidelines on how to conduct ourselves, was my Criminal Court Bureau Chief, Mr. Everett.

MR. SCHWARZ: Thank you.

Nothing further.

THE CHAIRMAN: Commissioner Emery has one further question.

COMMISSIONER EMERY: At the time you worked on Tom Santucci's campaign, were your political views the same, your personal views the same as those you have expressed here today?

THE WITNESS: In terms of being a conservative?

COMMISSIONER EMERY: Conservative Republican.

THE WITNESS: Largely. I had worked in 1984, in the fall of 1984, as an intern; I did work on some Democratic campaigns.

Generally, my political philosophy, you can characterize me as a conservative Republican.

COMMISSIONER EMERY: Did your political views differ from what your understanding was of
Tom Santucci's political views?

THE WITNESS: I imagine they -- again I'm speculating, they must have differed somewhat. Being a New York City Democrat, I would imagine his views on some subjects would be a little more liberal than mine are.

COMMISSIONER EMERY: Did you take his views into account in any way in determining whether you should work there?

THE WITNESS: No, I don't think I did.

COMMISSIONER EMERY: It had nothing to do with his political views?

THE WITNESS: No, I don't even live in his district.

COMMISSIONER EMERY: All right.

THE CHAIRMAN: Thank you very much.

THE WITNESS: Thank you.

(Witness excused.)

THE CHAIRMAN: Before we declare a luncheon recess, there is an additional document to be entered into the record, and part of that document is to be read at this time.

Mr. Bellinger?

MR. BELLINGER: Thank you, Mr. Chairman.
Mr. Chairman, there are a couple of witnesses that the Commission was desirous of calling. However, they are outside of its jurisdiction. One of those witnesses is a David Keisman, who was deposed in the offices of the Commission on Tuesday April 25, 1989.

I'm now going to introduce the transcript of his deposition into the record, and read in pertinent part from a number of pages, beginning with page 8.

Pardon me, Mr. Chairman, that would be Exhibit 18.

Commencing at page 8, line 7. These are questions posed, again, to David Keisman.

"Question: In March of 1984, was there an initial organizational meeting to discuss the strategies and tactics of the Thomas Santucci campaign?

"Answer: Yes, there was.

"Question: Do you recall where that meeting was held, and who was present?

"Answer: Yes. The meeting was in, I believe, to the best of my recollection, in March of '84. It was at a restaurant, the Waterfront
Crab House. Those in attendance were Frank Sanzillo, Thomas Santucci, John Santucci, and Fred Ohrenstein and myself.

"Question: For the record, would you identify Fred Ohrenstein?

"Answer: Fred Ohrenstein is Senator Manfred Ohrenstein, the Democratic Majority Leader."

Mr. Chairman, continuing on page 10, line 20.

"Question: Was an understanding reached that you would have hands-on daily responsibility for directing the Senate bid of Thomas Santucci?

"Answer: Yes, and there was probably a kicker, that that is, indeed, what would happen, provided everybody lived up to the responsibility that they were supposed to."

Again, Mr. Chairman, on page 11 starting at line 9.

"Question: And you were to be at the campaign headquarters every day?

"Answer: Starting at a point in time, yes.

"Question: What point in time would that have been?
"Answer: That point in time wound up being, I believe, June of that year.

"Question: Were you assisted in this effort by any other State employees?

"Answer: Tens of them at different points in time."

Finally, Mr. Chairman, page 11, commencing at line 4.

"Question: Now, from that point in time in June, 1984, until your involvement in the campaign terminated, did John Santucci know by whom you were employed?

"Answer: It's my belief he did, yes.

"Question: Certainly, during this organizational meeting in March of 1984, Mr. Santucci was aware of who Manfred Ohrenstein was and Frank Sanzillo?

"Answer: I would assume so, yes.

"Question: And who you were?

"Answer: I would assume so, yes.

"Question: Since you were designated at that meeting to serve as point man, or campaign manager?

"Answer: I have spoken before in regard to...
this campaign and any campaign. There are very few secrets here. Everybody from every campaign, to every Senator, to everybody wherever, basically understood how the system worked, and nobody is hiding anything from anybody."

Thank you, Mr. Chairman.

THE CHAIRMAN: Thank you.

I will also file with the record of these proceedings a letter dated July 27, 1989, received from Harold Harrison as attorney for Joshua Sussman, advising the Commission that Mr. Sussman would invoke his privilege against self-incrimination should he be called to testify before this Commission pursuant to a subpoena which he had served upon him.

We are now at the point of declaring a luncheon recess and we will resume these proceedings at 1:30.

(Luncheon recess taken.)
AFTERNOON SESSION

July 27, 1989

THE CHAIRMAN: At this point in the proceeding today we will take a witness out of order.

Our next witness was scheduled to be Carrol Williams. She has not yet been present.

MR. MONDESIR: I hate to interrupt. I'm Carrol Williams' husband.

THE CHAIRMAN: Please have a seat.

MR. MONDESIR: Carrol Williams is not available today. She is available -- she avails herself of a right to appear with an attorney. Her attorney informed me that he is not available to come here today.

He provided me with several dates when he will be available, but she would like to avail herself of the opportunity to state publicly what she has stated behind closed doors, especially given the fact that she felt that her testimony, which was taken by Mr. Bellinger, and Miss Archer, was given under a climate of intimidation, coercion and abuse.

She would like to have the opportunity to
set the record straight on several matters. She
would like to do that with her attorney present.

THE CHAIRMAN: Let me once again ask you to
repeat your name.

THE WITNESS: Alix Mondesir.

THE CHAIRMAN: Are you here, and have you
made the statement that you did as her attorney?

MR. MONDESIR: Sir, I have indicated to you
that she is not available to you; she would like
to appear with her attorney. Consequently I can't
be speaking as her attorney.

THE CHAIRMAN: What's your relationship to
the witness under subpoena?

MR. MONDESIR: She is my wife.

THE CHAIRMAN: I see. I wasn't aware of
that.

MR. MONDESIR: I have good dates from the
attorney, if you would care to hear them.

THE CHAIRMAN: I think we need to
communicate with the witness and her attorney
concerning the fact that she is not here today,
and she was served with a subpoena.

I don't think this is the appropriate way
for us to communicate.
MR. MONDESIR: I agree.

To set the record straight, I'm not so certain; I don't want to get into it; I think it's best left with her attorney. As far as a subpoena is concerned, I know she was given a subpoena. I don't know if she was served.

THE CHAIRMAN: Again, I don't know if we ought to pursue that at this point.

It's my understanding that all the witnesses, with the exception of District Attorney Santucci, were served with subpoenas, but --

MR. MONDESIR: I agree with you, I don't think we should pursue it, I think we should wait for Mrs. Carrol Mondesir, or as you refer to her as Carrol Williams, to appear with her attorney, so everything could be stated for the record.

THE CHAIRMAN: I said there needs to be communication between our Commission and the attorney for the witness.

MR. MONDESIR: Would you like the name of the attorney?

THE CHAIRMAN: I will take it for the record.

MR. MONDESIR: Russell C. Morea. He is
located at 13-60, 83rd Avenue, Kew Gardens, New York, 11415, Suite 2R. His office number is Area Code 718 - 263-2400; evening phone, 516 - 791-7414.

THE CHAIRMAN: Thank you.

MR. MONDESIR: Would you like the dates that he indicates are available?

THE CHAIRMAN: Not at this point.

Thank you.

MR. MONDESIR: Thank you.

MR. BELLINGER: Mr. Chairman, if I might be heard for a minute?

THE CHAIRMAN: Yes, Mr. Bellinger.

MR. BELLINGER: At this time, Mr. Chairman, I would like to introduce into evidence the deposition of Miss Carrol Williams' sworn statement as an exhibit of the Commission.

I would also like to indicate for the record that on page 2 of her sworn statement it reads, at line 8, "By Miss Archer", the first question:

"Question: Could you state your name for the record.

"Answer: Carrol B. Williams."
Mr. Mondesir said we are unclear as to her name. If that is so --

MR. MONDESIR: My wife's middle name is Elaine. It doesn't start with a "B", it starts with an "E".

I would question, as her husband, the accuracy of that record, even in terms of her name.

THE CHAIRMAN: You are excused at this point, and I believe we will receive the document that you indicated, and that document will be available --

MR. MONDESIR: I object to it being put into evidence without my wife having an opportunity to comment on it.

If it's being put into evidence, I would like it noted that she has not been given an opportunity to comment about the contents of that transcript.

Besides that, I have no other objections. I speak as her husband, and of course I'm an attorney, and I do have legal knowledge, which I just can't shun.

THE CHAIRMAN: You are excused at this
point.

MR. MONDESIR: Thank you.

THE CHAIRMAN: What you said is part of the
record of this proceeding, and the document is
received as part of the record of this proceeding,
as well. And that document is available, since it
is part of a public record of this proceeding, to
anyone who requests access to the document.

Mr. Bellinger?

MR. BELLINGER: Mr. Chairman, at this time
I would like to introduce into the record the
sworn testimony of another individual the
Commission was desirous of calling as a witness,
but is outside the jurisdiction.

That individual's name is Richard
Rosenfeld, and he was deposed in the offices of
the Commission on Government Integrity on July 23,
1989.

Mr. Chairman, I'm going to read, in
pertinent part, from Mr. Rosenfeld's sworn
testimony.

THE CHAIRMAN: That is part of the document
to which you made reference?

MR. BELLINGER: Mr. Chairman, I'm going to
read from the document I have just introduced into the record, and for the purposes of this hearing it is Commission Exhibit 17.

THE CHAIRMAN: I would like the record to note that that document has been received, and that you have permission to read from it.

MR. BELLINGER: On page 4 commencing at line 13.

"Question: In the fall of 1984, were you aware that Thomas Santucci was running for a seat on the State Senate?

"Answer: Let me answer the question in this way. I was not aware that he was running until or shortly before I went to his campaign headquarters.

"Question: How did you come to go to his campaign headquarters?

"Answer: One evening, I believe it was Halloween Eve, I was asked by Josh Sussman if I wanted to go over to Tom Santucci's headquarters to help out in his campaign.

"Question: Mr. Rosenfeld, on that evening what was your work schedule, what hours were you working that day?
"Answer: Some sort of evening schedule, probably three to nine, or some sort of swing shift, we used to call it, anything after nine to five.

"Question: Approximately what time in the evening did Mr. Sussman ask you whether you were interested in going there?

"Answer: About 5:00 or 6:00, something like that."

Mr. Chairman, I now direct your attention to page 6, line 20.

"Question: To the best of your recollection, what did Mr. Sussman say to the group, and what conversation ensued between yourself and Mr. Valovage?

"Answer: Well, Mr. Sussman said anyone who wants to go over there can; it's a slow night, it is not busy here.

"And then he said something; I don't remember the exact words, because it was many years ago, something to the effect that it would be appreciated by the higher-ups in the office if some people from the Bureau went over there."

Finally, Mr. Chairman, from page 8 starting
"Answer: That is about all I remember, that we walked into a store front which was the Tom Santucci's headquarters. We introduced ourselves, and that is how we knew where we were."

Farther down,

"Question: What exactly did you do? 
"Answer: We stuffed envelopes for approximately two hours. That is all we did."

Thank you, Mr. Chairman.

THE CHAIRMAN: Mr. Bellinger, I would like you to include in the record of this proceeding wherever information is available to you as to why the particular witness, whose testimony you read from, is not present today, as well as the witness whose testimony you made reference to shortly before the luncheon break.

Do you have that information that you can provide as part of record of this proceeding, why those two witnesses are not available today, why they are beyond the jurisdiction of this Commission?

MR. BELLINGER: At this particular juncture, Mr. Chairman, I would hesitate to say
anything further than the Commission was unable to
serve these two individuals.

THE CHAIRMAN: If you obtain any additional
information, or any additional information comes
to your attention, I would like to have that
included as part of the record of these
proceedings.

MR. BELLINGER: Yes, sir.

THE CHAIRMAN: The Commission now calls its
next witness Richard Valovage.

R I C H A R D   V A L O V A G E, called as a witness,
having been first duly sworn by the Chairman,
tested as follows:

THE CHAIRMAN: Please be seated.

I recognize Mr. Bellinger.

MR. BELLINGER: Just a moment, sir.

EXAMINATION BY

MR. BELLINGER:

Q Good afternoon, Mr. Valovage.
A Good afternoon.
Q Pardon the delay.

Will you please spell your name for the
record?

A V-a-l-o-v-a-g-e.
Mr. Valovage, where are you currently employed?

A The District Attorney's office in Queens County.

Q Was that in Queens County, sir?

A Yes, that is right.

Is my voice loud enough?

THE CHAIRMAN: If you can come a little closer to the microphone, or bring it closer to you.

THE WITNESS: How is that?

THE CHAIRMAN: Fine.

Q How long have you been so employed, sir?

A Since the spring of 1983.

Q And you are employed as an Assistant District Attorney?

A Yes.

Mr. Valovage, will you please describe for the record the events that led to your working in Tom Santucci's campaign in the fall of 1984.

A In the fall of 1984 I was assigned to the Intake Bureau, and the Bureau Chief, who was Josh Sussman, I believe, asked if anyone wanted to go down. And in response to that I went down there one evening,
that I was there for a period of, let's say, 45 minutes to an hour-and-a-half.

Q Do you recall generally what time of year this was?

A It was in the autumn.

Q And do you recall what shift you were working that particular day?

A It was an evening shift, four to twelve.

Q The four to twelve shift?

A Yes, sir.

Q And Mr. Sussman approached you during this shift?

A I don't recall if he approached me personally, or if he approached a group of people. I remember him saying words to the effect --

Q Again, what do you remember him saying?

A It would be a good idea, it would be appreciated, if some of us went down there.

Q Approximately how many Assistant District Attorney's were working on this shift at the time Mr. Sussman made this statement, to the best of your recollection?

A Four, six, maybe, half a dozen.

Q And Mr. Valovage, what type of work did you
perform at Tom Santucci's campaign headquarters when you went down there?

A I believe I stuffed some envelopes.

Q I beg your pardon?

A I believe I stuffed some envelopes. What I did specifically, I don't recall.

Q Other than the instance to which you testified, did you ever work on Tom Santucci's campaign?

A No, sir, that was the one and only time.

Q Mr. Valovage, do you know what the Queens County District Attorney policy is with respect to political involvement by Assistant District Attorneys?

A I believe we aren't supposed to actively campaign or belong to -- or be active members of political clubs.

Q Mr. Valovage, I'm going to extend my apologies to you at this time, because I believe we conferred before, and I told you that we would show you the exhibit. Unfortunately we didn't have time. If you would turn to it now, please. It's Exhibit 25.

A Where is it?

Q The binder to your right.

A Here?
Q. I believe that is it. It should be Exhibit 25.

Mr. Valovage, although the signature in the duplication is somewhat illegible, do you recognize it?

A. Yes.

I would ask you to note, however, that it is dated April 26, 1985, which was some time after the events we are discussing occurred.

Q. And by your taking note of the date, sir, is it your opinion that perhaps this policy was not in effect prior to you signing this document?

A. I'm not sure as to whether it was or wasn't.

MR. BELLINGER: Mr. Chairman, I have no further questions.

THE CHAIRMAN: Thank you. No further questions.

(Witness excused.)

THE CHAIRMAN: I'm not sure if Mr. Rosen is here.

Is he here?

MR. ROSEN: Mr. Rosen is here.

THE CHAIRMAN: Are you available at this time, Mr. Rosen? We had you scheduled for 2:15.

MR. ROSEN: I have received my testimony.
I'm otherwise available.

THE CHAIRMAN: Mr. Rosen, will you raise your right hand.

NORMAN ROSEN, called as a witness, having been first duly sworn by the Chairman, testified as follows:

THE CHAIRMAN: Please be seated.

THE WITNESS: Thank you.

I would like to recognize Diane Archer.

EXAMINATION BY

MS. ARCHER:

Q Good afternoon, Mr. Rosen.

A Good afternoon.

Q Mr. Rosen, where are you currently employed?

A I'm a partner in the firm of Previte, Farber and Rosen, located on Queens Boulevard in Rego Park.

Q Were you ever employed at the Queens District Attorney's office?

A Yes.

Q In what capacity?

A I was employed in the capacity of Executive Assistant District Attorney of Queens County.

Q And when was that?

A January 1, 1982, through -- I'm not quite
certain of the precise termination date, but I believe it was May 20th, or it could have been a few days prior to that, 1986.

Q What were your responsibilities as an Executive Assistant in the Queens County District Attorney's office?

A I was in charge of management, budget. I was the Queens County liaison representative to many government agencies, including the City Council, Board of Estimate, the Coordinator of Criminal Justice for the City of New York, for the State of New York, and a whole host of other related government agencies.

I was also in charge of what might be generally described as the day-to-day operations of that office.

Q Did that include personnel matters?

A It included personnel matters. But I must qualify that by saying it did not include the direct supervision of Assistant District Attorney's who were under the direct supervision of their bureau chiefs, and there was a separate Executive Assistant District Attorney charged with the responsibility of supervising the bureau chiefs.

Q What were your specific responsibilities?
A Well, I was in charge of budget, I was in charge of developing budget, developing creative programs. I was in charge of recruitment, I was in charge of expenses, I was in charge of the computer system and the network of computer systems for that office. Again I was in charge of negotiations with other government agencies.

That kind of general responsibility and specific responsibility.

Q And with regard to personnel matters, can you elaborate on the areas which were directly under your supervision?

A Well, all support staff personnel were directly under my supervision. That is to say the ultimate supervision.

The support staff would be immediately supervised by their bureau chiefs.

Q And with regard to recruitment, was that only with regard to support staff, or in regard to Assistant District Attorneys?

A Recruitment efforts were both professional and support staff.

Q What did you do in that regard?

A I had been involved in the interviews of
candidates for jobs, I had been involved in the recruitment of candidates for jobs, contacting the law schools and otherwise developing an area of interest for our office in candidates that might be deemed otherwise qualified for the job.

Q Did you have any responsibilities in that office with regard to the prosecutorial activities of the office?

A Only in terms of developing facilities for prosecution, in terms of developing creative programs for prosecution, not with the direct involvement of cases.

Q Did you prosecute any cases while you were in the office?

A No. I believe the only prosecution I was involved in in the office was supervisory — excuse me, was personnel prosecution.

There may have been one or two instances of employees who were brought up on charges. The charges would have been framed by me, and I would have otherwise been deemed the staff prosecutor for that kind of activity.

Q Now, would these be employees who were Assistant District Attorneys, as well as support staff?

A No, because employees who are Assistant
District Attorneys are hired at will and fired at will, at the total discretion of the District Attorney. This would, rather, relate to support staff who otherwise enjoyed Civil Service status, or who were placed on a provisional basis.

Q Before you became Executive Assistant District Attorney in Queens, had you been a prosecutor?
A Yes, I was the Executive Assistant District Attorney of Kings County for a period of approximately thirteen years.

Q And while you were a prosecutor in Kings County, did you prosecute criminal cases?
A Well, yes. I not only prosecuted some criminal cases, but I also was involved in special investigations.

For example, the riots at the Brooklyn House of Detention, where correction officers were taken hostage and over a million dollars in damage committed by inmates; I handled that Grand Jury investigation, as a result of which 28 indictments were issued for inciting a riot, attempted murder.

There were other investigations that I was charged with. I was involved in the prosecution, in the active prosecution of all obscenity matters in Kings
County, including supervising undercover operations which resulted in the busting of many factories that were producing and manufacturing that kind of illegal material, among other prosecutions.

Would you like me to elaborate more fully on the prosecutions that I was involved with?

Q  No, thank you.

A  Thank you.

Q  Now, when you were the Executive Assistant District Attorney in Queens, were you aware of a policy in place with regard to the political activity of Assistant District Attorneys?

A  Yes. There was a general prohibition against that. I believe Assistant District Attorneys were obliged to sign that kind of understanding at the time of their hiring. And also while I was in that office I believe there was an opinion rendered by the Ethics Committee of the New York State Bar Association, which equated District Attorney, a District Attorney as a judicial officer, as a judge, and proscribed political activities on the part of the District Attorney. And I believe that ethics opinion extended to the staff, to the professional staff, Assistant District Attorneys, except for the District Attorney's own reelection.
Q Are you saying that it was permitted, in your office, for Assistant District Attorneys to participate in the reelection efforts of the District Attorney?

A I'm saying that the District Attorney was permitted to be involved in political activity as it related to his own reelection efforts.

To that extent, it would seem to me that there was a general understanding that if the District Attorney, who was otherwise proscribed from all political activity, except in his own reelection campaign, that those prohibitions, and exclusions and exceptions extended to the professional staff.

Q Was it your understanding that they did extend to the professional staff?

A That was my understanding, yes.

Q Now with regard to the political activity of Assistant District Attorneys on political campaigns other than that of the District Attorney's own reelection, what was the policy?

A I don't believe there was any written policy, except for the general contractual relationship that the Assistant District Attorney had entered into when he was first hired, that he would not be involved in
any political activity.

So, the general understanding was that it was prohibited for an Assistant District Attorney to be involved in that kind of political activity.

Q Are you saying that other than the document that the Assistant District Attorney signed saying that, as a condition precedent to his employment, he would be prohibited from engaging in political activities, there was no document in the office prohibiting such conduct?

A I believe that when the ethics opinion -- when the opinion of the Ethics Committee was rendered, I believe there may have been a District Attorney memorandum circulated to the professional staff, advising of that -- of those restrictions, and the restrictions, of course, being consistent with that opinion.

Incidentally, that precluded a prohibition on the part of Assistant District Attorneys for running, or being elected to community school boards.

Q Now, what was your understanding of the policy in the Queens District Attorney's office with regard to Criminal Law Investigators, or Criminal Law Associates and their political activities?

A I don't believe there was any prohibition. As you undoubtedly are aware of, Criminal
Law Investigators were personnel not admitted to the Bar.

Criminal Law Investigators were not Assistant District Attorneys.

Criminal Law Investigators had a different payroll status, had different salary structures, and they were prohibited by the Appellate Division from engaging in law responsibilities that otherwise could have been properly undertaken by Assistant District Attorneys in that office.

Q But it certainly was the case that criminal Law Investigators were empowered, and did indeed, prosecute misdemeanor cases in the office; is that correct?

A Sure they did. They were prohibited from most other Assistant District Attorney responsibilities, not having been admitted to the Bar. They could not prosecute felony cases, they could not present to a Grand Jury, they could not argue appeals before appellate jurisdictions. By definition, by title, they were not lawyers.

Q I would like to direct your attention to Commission Exhibit No. 8, if you would open that black book.

(Witness complying.)
A Yes.

Q Do you recognize this document?

A Not really. I see the date on the document is 1982. That is approximately seven years ago. I just do not recognize it offhand. This is the first time I have seen it that I could recall.

Q Do you recognize the name at the bottom of the document?

A It looks like Steven Denkberg.

Q Mr. Rosen, do you know who Steven Denkberg is?

A Yes.

Q And what his position was in the office in 1984?

A I can't be precisely accurate in my recollection, but it would seem to me he was a C.L.I. in that office; again, a C.L.I. meaning a Criminal Law Investigator.

Q Now, the date on the top of this document is not completed, the year is typewritten in, 1982. If you look then -- if you look now at Exhibit 8-A, there is a date of April 25, 1985, and again the signature, Steven Denkberg.

Is it your position that if he was a
Criminal Law Investigator in 1984 and as late as April of 1985, and he signed this document, that he would not have been bound by the requirements of this document?

A I don't know what the expectation was on behalf of the District Attorney.

This is an application -- this is headed "Application for Position as an Assistant District Attorney."

Now, I'm sure you understand that when a C.L.I., a Criminal Law Investigator, is appointed on staff of a District Attorney, he anticipates, and hopefully expects, to ascend and be appointed to the position of Assistant District Attorney at some later date upon his passing of the Bar, and upon his successful discharge of duties up to that point in time.

To that extent, I believe that the processing of a candidate, whether he be a C.L.I., or an Assistant District Attorney, is pretty much similar or the same.

Q So, are you saying, then, that even if Steve Denkberg signed document 8 or 8-A when he was a Criminal Law Investigator, that he would not have been bound by the conditions of employment contained in these documents until he became an Assistant District Attorney?
That would be my understanding.

Okay.

I would like now to focus your attention on the fall of 1984, and Tom Santucci's campaign for election to the State Senate.

Did you work on that campaign?

Yes.

Absolutely not.

Were you aware of Assistant District Attorneys in the Queens District Attorney's office who worked on that campaign?

Not at all. I was aware of support staff that worked on that campaign.

Excuse me; if I might further elaborate.

But not during working hours. I was not aware of anybody working on that campaign during working hours.

Mr. Rosen, did you ever go down to Tom Santucci's campaign headquarters in 1984?

Yes, indeed.

And on what occasion did you go down?

Well, I don't recall the precise date, or the precise occasion, but I do know that at least on one occasion my secretary, of some eighteen years, had
volunteered to do some campaign work in an evening, and I went down to pick her up and safely take her home. That was a high risk area, where the campaign headquarters was located.

Q What was your secretary's name?
A Janet Nickolauk.

As I said, she had been my secretary in Brooklyn and in Queens for a period of almost eighteen or nineteen years.

Q What time of the evening was it that you went down to campaign headquarters to pick her up?
A I can't recall, but I believe it was dark outside. I can't recall the precise time, but it was in the evening.

Q She couldn't have gone down until at least 5:00 or 5:30 in the evening; is that right?
A I don't know what time she went down. She could have gone down at six or seven in the evening.

Q So it was --
A I did not take her down; I just went down to pick her up.

Q Did you see any Assistant District Attorneys at Tom Santucci's campaign headquarters on the evening you went down?
A: Yes, I did.

Q: Who did you see?

A: Again I can't be exactly positive, but I believe I saw Barry Schreiber, I believe I saw Josh Sussman, I believe I saw Ira Schreiber. And there could have been others, but I just cannot really recall.

Q: I would like to direct your attention to Commission Exhibit 1. The names of Assistant District Attorneys who Commission evidence reflects worked on the campaign are framed in red.

Did you see any of those persons down at Tom Santucci's campaign headquarters?

A: Are you calling attention to Assistant District Attorneys who have a red square around their names?

Q: Yes, and bureau chiefs.

A: Not that I recall.

I don't recall any one of those Assistant District Attorneys framed either in red or in blue who were down at the campaign headquarters on the occasion that I have described.

Q: You have stated --

A: Excuse me, I do see the names of some nonprofessionals, or support staff, who were down there
on the occasion that I had described.

Q Who are they?

A I believe John Mahoney was down there, I believe Joan Beilensen was down there, Carrol Williams was down there, and I believe Elizabeth Diorio was down there.

Q Now, you previously testified that you saw Ira and Barry Schreiber and Josh Sussman down there.

A I previously testified that I believe they were down there. I cannot be precise in my recollection.

Q Were they working on the campaign?

A No.

Q Do you know for a fact that they were not working on the campaign?

A No.

I only know that on the occasion that I was down that they were not working on the campaign, if, in fact, they were there.

Q How do you know that?

A Because I have a vague recollection of the table; there was a large, rectangular table in the center of the room, where people who were working on the campaign were seated, and stuffing envelopes, and folding literature.
Rosen

It seems to me, in terms of my recollection, that I saw them standing up and holding a cup of coffee, as I was, during the brief time that I was there.

Q Do you know whether they had been working on the campaign before you arrived?

A I do not know.

Q Did you ask them if they had been working on the campaign?

A No. The occasion didn't lend itself to that kind of inquiry on my part.

Q What were they doing; sitting around, talking to people?

A Social chatter. Mostly everybody in the room knew each other and had worked with each other. So it wasn't a formal environment, it was a rather informal, social environment.

Q It's your testimony, though, that the Assistant District Attorneys, as well as yourself, who were down at Tom Santucci's campaign headquarters, were there socializing with the support staff from the office who were working on the campaign?

A Well, socializing to the extent that they were talking with them, yes. I would say that would be a fair and accurate description.
Q  Is that why they were down there?
A  Is that why who was down there?
Q  At campaign headquarters?
A  Who are you referring to?
Q  Assistant District Attorneys?
A  I don't know why they were down there.
Q  Now, I believe you said that you didn't see it was your place to ask them whether they had been working on the campaign. Whose responsibility, in the office, was it, to determine whether the conditions of employment in the office prohibiting political activity were enforced?
A  I don't believe it was anybody's responsibility in the office.

I think usually the way that kind of office works -- and you must understand the number of personnel in the Brooklyn District Attorney's office, and in the Queens District Attorney's office. I believe when I was in Brooklyn there were well over 300 Assistant District Attorneys in that office. That is exclusive of support staff.

During my tenure as Assistant District Attorney in Queens there was almost 300, some number close to 300, District Attorneys in that office. That is
a high number of professional staff; and no one is charged with the responsibility of monitoring their activities.

Usually the way those matters develop is when information is brought to the attention of the District Attorney, or some other high level executive, that an assistant is doing something that might be deemed otherwise prohibited, that is when there is an effort to look into the question of compliance of professional ethics and conduct on the part of the assistant.

Q Mr. Rosen, you were a high-level executive in the office at that time; is that correct?
A That is correct.

Q Did you think that there was a possibility that Assistant District Attorneys were working on Tom Santucci's 1984 campaign, given that you saw some Assistant District Attorneys down at campaign headquarters?
A Well, there was no evidence, or information that would lead me to believe that.

You also must understand that it was customary for Assistant District Attorneys, not only in Queens, but in Brooklyn, during the length of my experience, it's customary for Assistant District

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Attorneys to gravitate around the District Attorney, or around those close to him, for the purpose of making themselves visible.

Each assistant is one of 300 or more, and it is just human nature for an assistant to want to, again, be part and parcel of the District Attorney's company, so he can make himself known to the District Attorney, for reasons that are totally obvious.

Q Had it come to your attention that A.D.A.'s were working on Tom Santucci's 1984 campaign, would you have brought that to the attention of John Santucci?

A Yes, I would have brought that to the attention of John Santucci, or would have had a conversation with him concerning it.

Q You did deem it your responsibility, to the extent that you were aware that A.D.A.'s were working on the campaign, if you had been aware, to have told the District Attorney about it?

A Yes.

I think, as an Executive Assistant District Attorney, it was my responsibility to make the District Attorney aware of matters that he should have been aware of, if he wasn't.

Q Did you have any reason to believe that the
District Attorney approved of Assistant District Attorneys working on his son's campaign?

A During my experience in the Queens County District Attorney's office I have known the District Attorney, John Santucci, to be a very modest, and a very withdrawn sort of a person. He was a bashful type; and I don't believe the District Attorney would have ever imposed, I don't believe he, himself, would have ever imposed any kind of obligation like that on the part of any of his staff, professional or nonprofessional.

Q I don't believe I understood your answer. Are you saying that the District Attorney wouldn't have obligated his staff to work on his son's campaign?

A He would not have imposed any obligation on his staff to work on his son's campaign.

Q My question is different; it is whether the District Attorney approved of his staff working on his son's campaign voluntarily.

A If he did, I'm not aware of it one way or the other.

Q I just want to --

A But in all fairness, I must say that if the District Attorney disapproved of that policy, I don't
imagine anyone would have violated his wishes.

Q Disapproved of the policy prohibiting political activities?

A No, disapproved of the quality of work of his support staff on behalf of the son's campaign.

Q I just want to go over your responsibilities one more time.

How many people did you supervise as an Executive Assistant in the District Attorney's office?

A I don't quite understand your question.

Q Well, were there people under your supervision in the Queens District Attorney's office?

A Certainly.

Q And how many people were under your supervision?

A I don't know what the number was, but I think I had already testified to the effect that I was generally in charge of the support staff.

Q So, the bureau chiefs and Assistant District Attorneys were not under your supervision?

A They were under the -- well, the Assistant District Attorneys were under the immediate supervision of their respective bureau chiefs. The bureau chiefs were under the immediate supervision of the Executive

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Assistant District Attorneys who were in charge of those
particular bureaus.

For example, there was an Executive
Assistant District Attorney in charge of investigation
bureaus only. So, those bureau chiefs, who headed up
investigation bureaus, were responsible to that Executive
Assistant District Attorney.

There was an Executive Assistant District
Attorney who was responsible for trial bureaus in the
office, and those bureau chiefs who were in charge of
trial bureaus, were responsible immediately to that
Executive Assistant District Attorney.

In short, there was a division of
responsibilities.

Q Were any bureau chiefs responsible to you?
A They were not responsible to me, but there
were certain areas of their official duties that were
under my supervision. For example, if they wished to
incur certain expenses in connection with their bureau,
that would have had to be approved by me.

If they wished to acquire additional
personnel for their bureau, that would have had to be
approved by me.

If they wished to acquire equipment for their
bureau, that would have had to be approved by me.

Q Let me ask you one more question on this line. Did you testify, just a minute ago, that if the District Attorney disapproved of persons working on Tom Santucci's campaign, the Assistant District Attorneys would not have worked on the campaign?

A I never said that, I never referred to Assistant District Attorneys, because my testimony was I have no information of any Assistant District Attorneys who worked on that campaign. They may have; I don't know, but I had no such information.

My statement was rather to the effect that I think it would be logical and fair to assume that those members of the support staff who had volunteered their efforts to work in Tom Santucci's campaign, if the District Attorney had disapproved of that type of involvement, I think it's only fair that they would have discontinued that kind of activity. They certainly would not have violated his wishes.

Q And if I told you that there were a number of people who have testified this morning, as well as additional persons, who worked on that campaign, is it your testimony that they would have worked on it because John Santucci would have approved of it?
1 Which persons are you referring to, Counselor?
2 Assistant District Attorneys.
3 I have no information of any Assistant District Attorneys who worked on that campaign.
4 Earlier today Assistant District Attorney's testified that they worked on that campaign.
5 My question to you is, given that they have testified to it, are you saying that the only way they would have worked on that campaign is with the approval of the District Attorney?
6 No, I haven't said anything like that at all. But if you wish me to speculate about that, I'll be more than happy to.
7 Please do.
8 If Assistant District Attorneys were working on the campaign, and if the District Attorney was aware of the fact that Assistant District Attorneys were working on that campaign, if he was aware of that theoretical or hypothetical situation, then certainly Assistant District Attorneys would have discontinued those efforts if the District Attorney had registered his disapproval.
9 There is no doubt in my mind about that.
Now, you are aware that Sharon Pollack worked on Tom Santucci's 1984 campaign; is that correct?

Yes.

Do you recall her taking a leave of absence from the office to work on that campaign?

No.

Do you recall her taking a leave of absence from the office in the fall of 1984?

Yes.

Let me direct your attention to Exhibit 7. Do you recognize this, Mr. Rosen?

Yes, indeed.

What is it?

It's a request for a leave of absence for health reasons.

And it's from Sharon Pollack to you?

Yes, it is.

And is that your signature at the bottom?

Yes, it is.

Now, when she submitted this memorandum for a leave, commencing October 1, 1984, through November 12, 1984, were you aware that she was taking a leave of absence to work on Tom Santucci's campaign?

No, I was not. The memorandum recites
health reasons. I believe her attendance, prior to the submission of this report for the leave, was rather poor. That is my vague recollection. I believe her punctuality was rather poor up until the submission of this request. I believe it was my general understanding that she was not in the best of health. I also believe that somewhere along the line I required a doctor's note or certification, attesting to the need for that leave of absence.

I might also add, for the record, that this leave of absence was granted without pay to this employee. She did not receive any salary during the period of this leave.

Q Would you have granted a leave of absence without -- for health reasons -- without a medical statement?

A If I would have done that, then it would have been a departure from what I should have done.

Q Well, I can tell you that a medical statement corroborating the need for Miss Pollack to take a leave for health reasons is not presently in the files of the Queens District Attorney's office.

Do you know what role Sharon Pollack played in Tom Santucci's 1984 campaign?

A No, I don't.
Q Would it refresh your recollection if I told you that she was Campaign Manager?

A No, that would not refresh my recollection. I could not believe that she would be a Campaign Manager.

May I suggest this and may I state for the record that Sharon Pollock was a clerical employee, she was a filing clerk, she would have those kind of responsibilities.

Her involvement in prosecutorial responsibilities was not even minimal. She was not deemed to be an essential employee. As matter of fact, I have a recollection from her Bureau Chief, who complained bitterly about her lack of productivity and her poor record of attendance.

So that there was no reason --there was no reason to investigate with any full -- with any full purpose, her request for a very brief period of leave, which was granted without pay. She was a totally unessential person in that office, and I cannot believe she could have acted in the capacity as Campaign Manager, because I don't believe she had the experience, the intellect or the wisdom to conduct herself in that area of responsibility.

Q Who was Miss Pollock's supervisor, who was

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complaining about her productivity?

A Malvina Nathanson, who was the Chief of the Appeals Bureau.

Q Do you know what Ms. Nathanson was told -- withdrawn.

Let me direct your attention to page 12 and 13 of Malvina Nathanson's sworn testimony to the Commission on Government Integrity.

This is beginning on line 22.

THE CHAIRMAN: Would you identify the person who is testifying.

MS. ARCHER: Malvina Nathanson.

THE CHAIRMAN: Who is she?

MS. ARCHER: Bureau Chief in the Appeals Bureau directly supervising Sharon policy.

EXAMINATION CONTINUING

BY MS. ARCHER:

Q "Question: Did you have a conversation with the Executive Assistant Norman Rosen about Miss Pollock's general overall performance and your general displeasure with her overall performance?

"Answer: Yes.

"Question: Would it be fair to say that
the reason for your expressing your concern with this employee was with a view toward, perhaps, transferring her or relieving your bureau of her presence?

"Answer: Yes.

"Question: And were you successful?

"Answer: No.

"Question: And were you given a reason, or what is your current impression as to why you were not successful in transferring Miss Pollock?

"Answer: Norman said there was nothing he could do about it. He may, at that point, have promised to give me an extra person to make up for her deficiencies. There was nothing he could do about it.

"Question: Would it be fair to say that you were troubled by his response to your request?

"Answer: As one of a whole lot of things in the office that trouble me, I wasn't surprised that Sharon was Carol Santucci's best friend, and I believed that the reason she had a protected position was because she was the best friend of the D.A.'s daughter."

Do you recall having a conversation with Ms.
Nathanson where she asked you if she could replace Miss Pollock?

Q    And do you recall your response?

A    Not precisely, but I do know that in a District Attorney's Office that has so many hundreds and hundreds of personnel, it is commonplace for Bureau Chiefs to request the removal of some people assigned to their bureau, as it is commonplace for the employees, themselves, to request a transfer out of a bureau to which they are assigned, and I don't believe it is consistent with office efficiency or productivity to simply laterally transfer problems throughout the office or to approve the many, many requests that are made for personnel reassignments.

Q    Could you have fired Miss Pollock?

A    Could I have fired Miss Pollock? No. The District Attorney is in charge of hiring and firing in the Queens County District Attorney's Office.

Q    Do you know whether she was a Civil Service employee?

A    I believe she was a provisional appointee.

Q    Now, you granted her a leave of absence
because you said she was a problem in the office. Why did you hire her back?

A Well, when you grant somebody a leave of absence, you don't hire them back; they are granted a leave for a specific period.

I believe the document in evidence that you referred me to indicates that she would be granted a leave for a six week period. It is not a question of hiring her back. It's that when the leave that was granted expires, she has a right to return to her former position.

Q I would like now to direct your attention to the spring of 1985 and efforts to assist the District Attorney in his campaign for reelection.

Do you recall attending a luncheon regarding the District Attorney's campaign for reelection and efforts that you might provide to assist him in that regard?

A I recall attending a luncheon which had a general agenda as to how Assistant District Attorneys -- or as to how those persons in attendance could be helpful in generating some political support for the District Attorney in his reelection effort.

Q Who were the persons in attendance?
A I believe it was Mike Sganga, who was not an Assistant District Attorney; Executive Assistant District Attorney Tom Russo; Executive Assistant District Attorney James Robinson; and if there were any other persons there, I just don't have a precise recollection as to their identity.

Q Who was Mike Sganga?

A Mike Sganga was a support person in the office, an employee of the office, and a personal friend of the District Attorney.

Q Was he a close personal friend of the District Attorney?

A I don't know how close he was, but I would think he was associated. He was socially involved with the District Attorney, or had been at some earlier point of time.

Q Would it be fair to say that he had a closer relationship with the District Attorney than, virtually, anyone else in that office?

A I don't think so. I would like to believe that I had a closer relationship with the District Attorney than he did.

Q Mr. Rosen, do you recall providing sworn testimony to the Commission the day before yesterday?
A  Yes, indeed.

Q  I would like to direct your attention to page 67 of the transcript of that testimony, and I will read from line 22.

"Ms. Archer:  Mr. Rosen, you testified previously that Mr. Sganga was a close personal friend of the District Attorney.

"The Witness:  That was my understanding.

"Ms. Archer:  How did you come to that understanding?

"The Witness:  I can't give you a specific answer to that.  It was just a general understanding.  He traveled with the District Attorney and that, in itself, was an indication of a close relationship because the District Attorney is the kind of a person that does not travel with other people unless he has a close relationship to the people.

"By Mr. Bellinger:  Question:  You mean vacations?

"Answer:  No, I mean traveling in his car with him, for example, so -- and he was in and about the District Attorney's Office, and not many people have that kind of access, at least during
my employment there, not many people had that kind
of personal access, in and out of his office that
Mike Sganga had. And it was a general consensus
of belief in the entire office that that there was
a prior personal relationship existing between the
two of them."

Is that correct or incorrect?

A    That is absolutely correct.

Q    If you now turn to page 69 of the tran-
script, I'm going to read from line 10.

"Question: Did anyone on the staff, in
your opinion, did anyone on the staff have the
same access to the District Attorney that Mr.
Sganga had?

"Answer: Yeah, but he is no longer there.
There was a Chief of the Investigators by the name
of -- how can -- I forget his name. I have his
face right before me, he is retired.

"Ms. Archer: John Mahoney?

"The Witness: You see that -- " -- and you
go on to say that is the man.

Is that correct or incorrect?

A    Absolutely correct.

Q    So, is it fair to say, then, other than John
Mahoney, Mike Sganga had the closest relationship to Mr. Santucci of anyone in the office?

A Well, I said staff, and I also would qualify that, except -- in terms of access, the secretaries would have had greater access to him. When I say "staff", I mean staff people other than Executive Assistant District Attorneys who had the ability to have total access to the District Attorney for reasons that are so obvious so as to not even belabor the point.

Q Turning back to the luncheon, who arranged the luncheon, who initiated it, who set the agenda?

A I don't know who set the agenda, but I do have a recollection that Mike Sganga was the one that initiated the agenda.

Q Do you know whether he had the consent of the District Attorney to discuss his reelection efforts?

A No, I do not know that. No, I do not know that for a fact.

Q Did you believe he did when you sat down with him?

A I just don't recall whether I considered that aspect or whether or not he was doing that with the approval of the District Attorney at the time I sat down with him.
You have to understand, at the time I sat down with him, I didn't realize precisely what the ensuing conversations would have been all about.

Q I'm sorry, I didn't catch your whole answer. Are you saying that you assumed he would have the consent of the District Attorney or not?

A No. I said I didn't know for a fact that he had the consent of the District Attorney.

Q Would it have been the prevailing judgment that he would have that consent?

A Whose prevailing judgment?

Q Yours and the prevailing judgment of the other assistants?

A I don't know what their judgment would have been. Ordinarily, I would think that a person in his capacity would have had to have the consent of the District Attorney in order to initiate that kind of agenda.

However, knowing the person, Mike Sganga, who is an aggressive and, otherwise, decisive person, I mean, he would have the personality to undertake matters on his own. He is that kind of a person.

Q But it wasn't likely that he did?

A I would say that's a fair and accurate
statement. It was not likely that he did.

Q What, specifically, was discussed at this luncheon?

A I don't know what was specifically discussed, but I do have a general recollection that the agenda was: How could Executive Assistants be helpful in generating support from amongst the ranks for the District Attorney's reelection bid?

Q When you say "the ranks", did you mean the Bureau Chiefs and the Assistant District Attorneys?

A Yeah, I think that would be fair.

Q Is it your testimony that you did not discuss having a fundraiser for John Santucci at this luncheon?

A I don't have any recollection of that.

Q You don't recall Mr. Sganga saying that he had checked out a number of different facilities for a fundraiser for Mr. Santucci?

A I don't recall that, but I don't preclude the possibility of that having been discussed. I must be very honest with you, I never really paid too much attention to what Mr. Sganga said. I don't think I listened to him with the utmost attentiveness, I never did.
Q After this luncheon, do you recall learning that Jim Robinson held a meeting with the Bureau Chiefs working under him in a City courtroom at which he discussed a fundraiser for the District Attorney?

A Yes. Yes, I do recall that.

Q Do you recall discussing the propriety of that activity with the District Attorney?

A Yes. I might add, for the record, that I did not know about that meeting in advance. Had I known about it, I would have aborted it immediately. The way I found out about it was reading an article or having an article published in a newspaper called to my attention regarding that particular event.

Q And what was the substance of the conversation you had with the District Attorney about that event?

A I believe the substance was that I was absolutely amazed and flabbergasted that that kind of a meeting could or would be held for that purpose in municipal premises.

MS. ARCHER: I have no further questions.

THE CHAIRMAN: Commissioner Magavern.

COMMISSIONER MAGAVERN: If you had known that Assistant District Attorneys were, in fact,
working on the Tom Santucci campaign, would you
have considered that improper under the standards
that existed at that time?

THE WITNESS: Yes, sir.

COMMISSIONER MAGAVERN: You felt that it
was your responsibility to bring to the District
Attorney's attention things that he should know?

THE WITNESS: Yes, sir.

COMMISSIONER MAGAVERN: And you just
testified that if you had known about the meeting
arranged by Mr. Robinson, you would have aborted
it immediately?

THE WITNESS: I would have tried to abort
it, absolutely.

COMMISSIONER MAGAVERN: How would you have
done that?

THE WITNESS: I would have brought that to
the attention of the District Attorney. I believe
that is a violation of law, to conduct such
meetings for political purposes in government
offices.

COMMISSIONER MAGAVERN: When you saw the
Assistant District Attorneys at Tom Santucci
headquarters, I think you described them as
drinking coffee; is that right?

THE WITNESS: Yes, on the one occasion that I believe I was there.

COMMISSIONER MAGAVERN: On that occasion, you explained their presence there as arising from the fact that it was customary for the Assistants to gravitate around the D.A. and those close to him?

THE WITNESS: Yes, sir, I think that's a fair and accurate statement.

COMMISSIONER MAGAVERN: And to try to ingratiate themselves with the District Attorney and those close to him?

THE WITNESS: I believe so.

COMMISSIONER MAGAVERN: You think there would be a tendency for them to ingratiate themselves, to help out when they were down there, not to just sit around and drink coffee?

THE WITNESS: It could have been.

COMMISSIONER MAGAVERN: You have been investigating crime for how many years now?

THE WITNESS: I have been associated with the District Attorney's Office for 18 years. I have not been investigating crime during all of
that period.

COMMISSIONER MAGAVERN: Have you come to follow up on sketchy information that may lead to inferences that there may be further information indicating some violation of the law?

THE WITNESS: That, I don't believe would have been a violation of law, Mr. Magavern. I believe that may have been a violation of some ethics or a violation of a contractual undertaking.

COMMISSIONER MAGAVERN: If they were working on the campaign, you just testified you would consider it improper?

THE WITNESS: Yes, but I would not consider it a violation of law.

COMMISSIONER MAGAVERN: Would you have considered it your responsibility to bring to the District Attorney's attention that there was a possibility that such impropriety was taking place.

THE WITNESS: Would I consider that my responsibility?

COMMISSIONER MAGAVERN: Would you consider that your responsibility?
THE WITNESS: I beg your pardon. Yes, I believe I would have considered it my responsibility, if I was aware of that fact.

COMMISSIONER MAGAVERN: Didn't it occur to you that the presence of several District Attorneys at campaign headquarters might suggest that they were probably helping out?

THE WITNESS: No, I had no reason to come to that conclusion.

COMMISSIONER MAGAVERN: If you were investigating a crime, would you follow the same standard?

THE WITNESS: No, sir, I probably would not.

COMMISSIONER MAGAVERN: Would you have followed up -- if you were investigating a crime, would you have followed up on that occasion, having seen them there, and asked some questions?

THE WITNESS: I believe so. If I were investigating a crime, yes, I think that would have required a more searching effort. Again, I was there for a short period of time, and my observations of those in attendance covered a brief period of time, and I saw no evidence of any
wrongdoing, either criminal or ethical.

COMMISSIONER MAGAVERN: But if you did see enough indication of possible impropriety, and if it would have been a crime, you would have followed up, you told us.

THE WITNESS: If there was criminal activity, yes. There's nothing in terms of the questions propounded to me today concerning the matter of that occasion at Tom Santucci's campaign headquarters which in any way tended to connect anybody there with any criminal activity.

COMMISSIONER MAGAVERN: But, impropriety -- there was a tendency to show impropriety, right?

THE WITNESS: Not for going down to campaign headquarters and having a cup of coffee.

COMMISSIONER MAGAVERN: It didn't occur to you that if they are there drinking coffee and trying to ingratiate themselves with the other people there, that they will probably help out and pitch in?

THE WITNESS: I don't think, in terms of my thinking, that would be a fair and logical judgment to be made on that basis.

COMMISSIONER MAGAVERN: It's fair to say,
isn't it, that you did not follow the same
standard of vigor in following up on an indication
of a possibility of an impropriety that you would
observe in your law enforcement functions as an
assistant District Attorney; is that fair?

THE WITNESS: I really don't understand
your question, sir. I don't understand the
connection between a speculative impropriety and
an investigation of a crime. I don't see the
analogy. I don't see the comparison. I say that
to you most respectfully, sir.

COMMISSIONER MAGAVERN: I think the point
has been made. I'll go on.

I would like to turn to page 39 of your
deposition, Mr. Rosen.

In fairness to you, Mr. Rosen, I want to
recognize that at page 41, you did say you were
not aware of the fact that assistants were working
on behalf of Tom Santucci's campaign. However,
can you read me Miss Archer's question on line 22
and your answer to that question on page 39.

Will you read that aloud for the record?

THE WITNESS: Yes, but, for the record,
sir, that had been corrected at a subsequent point
of my testimony.

COMMISSIONER MAGAVERN: And that was the point that I just mentioned, isn't it, at page 21?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: I would like to pick up this line of questioning. I think it's important.

Would you read that for the record, please?

THE WITNESS: From where?


THE WITNESS: "Were you aware that there were people, Assistant District Attorneys in your office, working on the campaign?"

"Yes."

COMMISSIONER MAGAVERN: Can you read your statement at line 14 on page 40, please?

THE WITNESS: "My interpretation of that is that if an Assistant District Attorney was not involved as a member of the political -- " -- that relates to the prior question.

Would you like the prior question read?

COMMISSIONER MAGAVERN: If you wish.

THE WITNESS: Thank you.
"Ms. Archer: And your position is that the conditions precedent to being an Assistant District Attorney is that you cannot engage in any political activity during the workday, but in the evening you are perfectly free to do so.

"The Witness: My interpretation of that is that if an Assistant District Attorney was not involved as a member of the political organization or contributed money on behalf of the political organization, if he was doing ministerial work like sealing an envelope or stuffing an envelope on his spare time then I do not see any real flagrant violation of any law or anything else like that."

COMMISSIONER MAGAVERN: Mr. Rosen, was that the standard you were following at that time to determine whether something, some actions within your office were flagrant violations of law or anything like that?

THE WITNESS: Not at all. I think the question is unfair, sir, because of the fact that that testimony was corrected in terms of the subsequent pages.

COMMISSIONER MAGAVERN: I'm focusing now on
the use of the word "flagrant". Did you consider it okay if there were little, minor violations of the law or improprieties?

THE WITNESS: There were no violations of law.

COMMISSIONER MAGAVERN: Are you prepared to say that?

THE WITNESS: I'm saying that.

COMMISSIONER MAGAVERN: You're saying there was never --

THE WITNESS: I'm saying political activity on the part of an Assistant District Attorney is not deemed a violation of law.

COMMISSIONER MAGAVERN: What about that or anything else like that that were you referring to?

THE WITNESS: Just a statement.

COMMISSIONER MAGAVERN: Impropriety or the District Attorney's own policies?

THE WITNESS: Possibly.

COMMISSIONER MAGAVERN: Was the standard you were then following in guiding your own conduct one of flagrancy?

THE WITNESS: No, there were no standards
because that testimony was corrected, and so that

testimony is more fully explained at the

subsequent pages.

COMMISSIONER MAGAVERN: You had testified

later that you were not aware that they were

working in campaign headquarters.

THE WITNESS: Exactly.

COMMISSIONER MAGAVERN: But you've just --

in the testimony you've given, that you just read,

you used the word "flagrant" and you've also

admitted that had you been following up a criminal

prosecution, a criminal investigation, you would

have seen people at campaign headquarters and

simply let it go at that; isn't that right?

THE WITNESS: I don't know what a criminal

investigation would have to do with seeing people

at campaign headquarters. I can't understand the

analogy.

COMMISSIONER MAGAVERN: Were you then aware

that it would be a crime to solicit from public

employees on public premises, campaign

contributions.

THE WITNESS: I've stated that before the

Commission today.
COMMISSIONER MAGAVERN: Will you turn, then, to page 18 of your transcript?

If you read for yourself, first, and refresh your recollection on this, your answer, starting at line 20 at page 18 and then carrying over onto the next page.

THE WITNESS: What is your question, sir?

COMMISSIONER MAGAVERN: My question now is -- first, you're referring in that answer to the luncheon meeting at which it was agreed that the Executive Assistants would test the waters with the Bureau Chiefs to see what kind of support the Assistants might be prepared to lend to the District Attorney's reelection campaign; right?

THE WITNESS: Correct, those Executive Assistants who had Bureau Chiefs under their command.

May I just state for the record that I did not have any Bureau Chiefs under -- directly under my command, so I was not involved in that area of activity.

COMMISSIONER MAGAVERN: Mr. Rosen, I'm not suggesting that you were.

THE WITNESS: Thank you.
COMMISSIONER MAGAVERN: Now, you under --
well, with that preface, read your answer at line 23.

THE WITNESS: What page?

COMMISSIONER MAGAVERN: Page 18.

THE WITNESS: "I do not recall, but I did register my astonishment that such a meeting would have taken place during the day. It was my understanding that, at the conclusion of that luncheon, that the waters would be tested by the respective Executive Assistant District Attorneys and their Bureau Chiefs, but I thought -- my concept, my understanding was that it would be informal. That there would be either a telephone call made, or maybe the Executive Assistants might stop down and chat with Bureau Chiefs, but it was never my understanding that there would be a meeting called to address that matter."

COMMISSIONER MAGAVERN: Did you understand that if the Executive Assistants might stop down and chat with the Bureau Chiefs, that that might happen during the working day?

THE WITNESS: Could happen during lunch hour.
COMMISSIONER MAGAVERN: When did you expect it to happen?

THE WITNESS: At lunch hour.

COMMISSIONER MAGAVERN: What does "stop down" mean, stop down in a restaurant or in someone's office?

THE WITNESS: Stop down in an office, in an office with a view toward discussing whatever matter they would have discussed.

COMMISSIONER MAGAVERN: Mr. Rosen, I want to see if I understand your testimony. When you so testified, did you mean that it was your understanding that they would stop down specifically during lunch hour and at no other time; is that what you would have expected in the normal course of human nature?

THE WITNESS: I would have expected Executive Assistant District Attorneys to know that it would be a violation of law to discuss political activity in government offices.

I would concede that they should have that information, and, therefore, it would not be my expectation that Executive Assistants would violate the law.
COMMISSIONER MAGAVERN: Would it have been your expectation, when you said they will "stop down", that that referred to any place other than the offices?

THE WITNESS: I really was thinking in terms of stopping down and possibly inviting the Bureau Chiefs out to lunch or whatever. Incidentally, that was not the exception, but, rather, the rule. Executive Assistant District Attorneys would meet with Bureau Chiefs on occasion to have lunch or to have some other outside social event with them.

COMMISSIONER MAGAVERN: Did you feel quite confident that any such meetings would take place other than on the -- in the District Attorney's Office?

THE WITNESS: I could not expect or anticipate or imagine Executive Assistant District Attorneys committing a violation of law.

COMMISSIONER MAGAVERN: What does that mean for my question?

THE WITNESS: It means for your question that I would not anticipate that they would discuss political activity in government offices
Rosen during the working day.

COMMISSIONER MAGAVERN: Did you expect that they might do so in the elevator or at the water fountain?

THE WITNESS: Possibly.

COMMISSIONER MAGAVERN: And that would be in the District Attorney's Office wouldn't it?

THE WITNESS: I'll say that would be in the District Attorney's Office, if you you consider the elevator a part of the District Attorney's Office, yes.

COMMISSIONER MAGAVERN: Would you?

THE WITNESS: Would I?

COMMISSIONER MAGAVERN: I think you're proposition that you alluded to earlier was that any political meeting on public premise, whether or not it's the District Attorney's Office, was illegal; is that right?

THE WITNESS: Yes, except for one thing. You have to understand, Mr. Magavern, in that office, there are only three floors and that elevator is a very short ride from the first floor -- down to the first. There's very little you can discuss on an elevator during that kind of
a short trip.

COMMISSIONER MAGAVERN: How about around the water fountain? You can discuss it around the water fountain.

THE WITNESS: I don't know how many water fountains were operating in that office at that time.

COMMISSIONER MAGAVERN: Was that the kind of thing you expected might happen?

THE WITNESS: Not really.

I must be very honest with you, Mr. Magavern. I really didn't anticipate or expect anything. I really didn't give that too much thought. Again, we are dealing here not with subordinates but with people of my equal level, Executive Assistant District Attorneys, and I did not anticipate the kind of conduct that they would manifest in following through on that luncheon agenda. I just never gave it much thought. I just didn't think it was my responsibility to anticipate just how they would address the problem. I mean, they were on equal and -- on equal lateral levels of authority as I was.

COMMISSIONER MAGAVERN: Given human nature
and given the fact that people see each other every day within the office, wouldn't you expect, then, the natural thing to do, if they wanted to talk to each other, would be within the office?

THE WITNESS: Well, I had no expectations with that at all, Mr. Magavern.

COMMISSIONER MAGAVERN: Will you turn to page 20 of your deposition? I call your attention precisely to the sentence starting on line 18.

Will you first read that to yourself and then I'll ask you to read it aloud.

THE WITNESS: Uh-huh.

COMMISSIONER MAGAVERN: Will you read that sentence?

THE WITNESS: Sure, there is a difference, because, I mean, I don't think there is any prohibition about conversations.

"There is still a First Amendment that is abound in this country. I could meet someone in an elevator or at the water fountain in the corridor -- by the way, would you be anxious or willing to help the District Attorney -- but to call a meeting, to call a formal meeting in government offices during working hours to discuss
a political agenda is, to my understanding,
against the law and otherwise impermissible, and
that is the reason why I made that distinction
between a formal meeting."

COMMISSIONER MAGAVERN: Mr. Rosen, my final
question is whether your attitude toward what
might be done -- to follow up on that luncheon
meeting -- to establish some political support for
the District Attorney, and the attitude shown when
you saw the Assistant District Attorneys down in
Mr. Santucci's campaign headquarters, but did not
follow-up on, doesn't that indicate a certain
tolerance for some breaches of the standards of
the District Attorney's own office and for the
proposition of law, as you understood it, when it
comes to political campaign activity?

THE WITNESS: No, there was no such reason
for that at all.

I most respectfully suggest to you, sir,
and to this Commission, that seeing two or three
Assistant District Attorneys down at the campaign
headquarters sipping a cup of coffee does not lend
itself, for any reason or speculation, to suggest
that there is any impropriety being committed or
intended to be committed.

I just don't think that that is a proper basis for any kind of follow-up investigation, if you will.

COMMISSIONER MAGAVERN: And that's true even if you understand that if they go beyond drinking coffee and start stuffing envelopes, that that's a violation of District Attorneys' policies.

THE WITNESS: You're suggesting facts that were not present. They were not stuffing envelopes. I had no reason to believe that they would be stuffing. They were simply standing by and sipping a cup of coffee, and I don't think that's prohibited, ethically or under the law.

COMMISSIONER MAGAVERN: And, finally, then, you had no hunch at all that they might, in fact, be helping out in that effort?

THE WITNESS: Absolutely not, that there would be no legitimate basis or any evidence for me to come to that kind of conclusion.

THE CHAIRMAN: Commissioner Vance.

COMMISSIONER VANCE: One question, Mr. Rosen.
I'm not clear as to what the policy of the Queens County District Attorney's Office was with respect to what was permissible concerning C.L.I.s and working on political campaigns or political matters.

Would you restate for me what that policy was?

THE WITNESS: Well, sir, I'm not sure that there was any formal policy at all. The exhibit that is in evidence regarding the signing by an applicant for a job as Assistant District Attorney is something that is not necessarily city-wide or was not city-wide at the time of its inception, but, rather, a District Attorney, a John Santucci, developing that, is his memoranda.

That was not replicable, necessarily, in all of the District Attorney offices. So, this was his policy, that he did not want Assistant District Attorneys to be involved in political activity.

Again, I respectfully call to your attention, Mr. Vance, that at the inception of this memorandum, there was no opinion of the Ethics Committee of the New York State Bar
Association, which I believe came out at a later
time proscribing certain political activity on the
part of Assistant District Attorneys.

So, this was his contract, if you will,
between the District Attorney's Office and an
applicant for a job as an Assistant District
Attorney as to what would be deemed permissible
and impermissible.

And, again, the distinction I've drawn is,
that a C.L.I. was a support staff person who was
not an Assistant District Attorney; he was a
graduate of law school, to be sure, in some case
he had not taken the Bar exam, in other cases, he
had failed the Bar exam. In all other cases, he
was not authorized to practice law to the extent
that Assistant District Attorneys were authorized.

And even the City requirement for payroll
distinguishes a C.L.I. from that of an Assistant
District Attorney. Certainly, the salaries were
different. In fact, he was not an Assistant
District Attorney. Whatever policy was addressed
to Assistant District Attorneys, I think would be
logical to state, would not be applied to other
employees of that office.
COMMISSIONER VANCE: What was the policy in, say, in 1984, was it the policy of your office, the D.A.'s Office, that there were no constrictions, no restraints on what C.L.I.s could do with respect to working on political campaigns.

THE WITNESS: I don't think there was any specific policy as it related to C.L.I.s, or to support staff, for that matter.

COMMISSIONER VANCE: What about when people had signed that document that you asked people to who were hoping to be Assistant District Attorneys, weren't they supposed to follow that?

THE WITNESS: No, I believe that the document they signed, the application for a job as an Assistant District Attorney, would obtain once the appointment of Assistant District Attorney was made by the District Attorney.

COMMISSIONER VANCE: So what your saying is, that they could sign the piece of paper and not have to abide by it until they became formally an A.D.A.?

THE WITNESS: Up until they were appointed as an A.D.A., even their identification read differently. When people were employed in the
Office of the District Attorney in Queens County, they were given a certain identification card, and that card, of course, they were required to carry on their person during working hours. Even the card was different.

And when the C.L.I.s were appointed as Assistant District Attorneys, they assumed different payroll status; they had to turn in their C.L.I. identification. They were in an entirely different employment situation.

COMMISSIONER VANCE: You think that was a good policy?

THE WITNESS: What policy are you referring to, sir?

COMMISSIONER VANCE: The policy whereby the C.L.I.s didn't have to abide by a piece of paper which they had signed and which, generally, you thought was good and proper for the office for A.D.A.s?

THE WITNESS: Well, I think that people that sign papers should abide by the conditions of the papers. I don't know whether or not it was generally understood by those people who signed an application for a job as Assistant District
Attorney, that conditions for that job would apply in advance of such an appointment.

COMMISSIONER VANCE: Were you aware of the New York State Bar Association Committee on Professional Ethics, Opinion No. 272, which was in effect in 1981, and following that, until it was amended in 1985, which said it was improper for a prosecuting attorney to campaign actively for other candidates for public office? That applied to people across the board working in the office.

THE WITNESS: You mean to Assistant District Attorneys?

COMMISSIONER MAGAVERN: Yes.

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: You draw a distinction even if it didn't apply to people who weren't Assistant District Attorneys.

THE WITNESS: Also, that earlier opinion that you have addressed, Mr. Vance, I believe uses the word "to campaign actively." I think, of course, the amendment, the amended opinion, forbids any sort of political activity, whether active or otherwise. I believe that amendment, which came down later on --
COMMISSIONER VANCE: What do you mean by "campaigning actively".

THE WITNESS: Again, I don't know. I answered the question.

Mr. Vance, would you mind repeating the question?

THE CHAIRMAN: I'll ask the reporter to read the question, please.

THE WITNESS: I believe I answered that question, Mr. Vance. I said, yes, I was aware of that, and I said the distinction to be drawn is that the earlier opinion prohibited an Assistant District Attorney, as the question is stated, any District Attorney or an Assistant District Attorney to actively campaign for candidates for public office.

COMMISSIONER VANCE: Let me ask you what "actively campaign" means.

THE WITNESS: I would think becoming actively involved, if you want my understanding of that, that would mean either to make speeches on behalf of a candidate, attend political fundraisers, perhaps accompany a candidate while he is out making speeches. I would distinguish
that from sealing envelopes.

   COMMISSIONER VANCE: What about work on a

   phone bank?

   THE WITNESS: I would think that's active

   political campaigning, absolutely, sir, yes.

   COMMISSIONER VANCE: From the standpoint of

   the public, I find it hard to find any distinction

   between an Assistant District Attorney and a

   C.L.I. who stands up and argues in criminal court

   on behalf of the State or the City or whatever it

   may involve.

   What is the distinction in terms of

   perception of what we are concerned about, isn't

   it how the court -- how the system is perceived?

   THE WITNESS: I believe that the only

   distinction is the perception of the person

   himself. It was my belief and general

   understanding that the rules that the District

   Attorney of Queens County applied to his office

   for Assistant District Attorneys related only to

   the Assistant District Attorneys.

   If, in fact, the District Attorney of

   Queens County would have thought or, in fact, did

   think that he would have wanted those rules to
apply to his entire staff, he certainly would have
been in a position to make that clear by
propounding such policy in the usual routine
office ways for his entire staff to be made aware
of, rather than have the gray areas involved.

I think if the District Attorney felt that
he wanted an absolute blanket prohibition for all
personnel, he certainly had the wherewithal to
implement that kind of policy, to initiate and
implement that kind of policy in his office.

This was not done at the Queens County
District Attorney's Office. It was simply unclear
as to what policies, if any, extended to staff
other than Assistant District Attorneys.

THE CHAIRMAN: Mr. Schwarz.

MR. SCHWARZ: One brief question.

You said you were charged with management
budget, liaison, personnel, all support staff,
recruitment efforts. Why didn't you ask these
people if they were involved in political
campaigns when you saw them drinking coffee?

THE WITNESS: There would be no reason for
that.

MR. SCHWARZ: Didn't it occur to you to say
Rosen

to them, "Hey, Joe, I don't know, but you shouldn't be involved in politics, if you are involved in politics"?

THE WITNESS: I believe I knew that Barry Schreiber was not involved in any political activity. I believe I knew that Ira Schreiber was not involved in any political activity. Seeing them there, drinking a cup of coffee, just did not lend itself at that time to delve into the thing, into the matter with any greater intensity. There just was no evidence or reason at the moment for thinking anything that would suggest any impropriety on their part.

MR. SCHWARZ: Just one other thing.

You're an at-will employee?

THE WITNESS: Yes, sir.

THE CHAIRMAN: Thank you. No further questions.

(Witness excused.)

THE CHAIRMAN: The Commission calls the final witness today, John Santucci.

(Continued on next page.)
THE CHAIRMAN: Mr. Santucci, if I can swear you in, please.

JOHN SANTUCCI, called as a witness, being first duly sworn by the Chairman, was examined and testified as follows:

THE CHAIRMAN: Please be seated.

At the very outset, I would like to note for the record that our staff has mentioned to the Commission that it has received the fullest and most complete cooperation from you with respect to all of the issues involved in this hearing today. I would like the record to note that.

THE WITNESS: Thank you.

THE CHAIRMAN: Mr. Bellinger, I believe you will be doing the questioning of the witness?

MR. BELLINGER: That is correct, Mr. Chairman.

EXAMINATION BY

MR. BELLINGER:

Q Mr. Santucci, would you like to make a statement?

A No, I would sooner waive the statement in the interest of time, and allow more time for questioning.
THE CHAIRMAN: That would be fine.

If, after the proceeding this afternoon, you wish to submit an additional statement, we will be happy to receive it.

THE WITNESS: Thank you.

THE CHAIRMAN: Mr. Bellinger?

Q Good afternoon.

A Good afternoon.

Q How long have you been a public official?

A Counting time as Assistant District Attorney, about 30 years.

Q How long have you been the District Attorney for the County of Queens?

A Just about twelve and a half years.

Q Despite the fact that you're an elected official, do you perceive a difference between most elected officials and District Attorneys?

A The role of the District Attorney.

Q Insofar as partisan politics are concerned?

A Yes, I do.

Q What is that difference?

A We are not to be partisan in the carrying out of our duties. That is simplifying it very much.

Q Pardon?
To avoid partisanship in the performance of the duties of the District Attorney.

Q Mr. Santucci, do you have a current office policy with respect to the political involvement of your Assistant District Attorneys?

A Yes, I do.

Q What is that policy, sir?

A That is, that they may not be members of political clubs; that they may not actively engage in political campaigns.

Q And how do you interpret that phrase, active in political campaigns?

A Okay. If I may just depart a little bit, and if I abuse your question, please stop me, of course.

You're looking at an agreement which you have characterized as an employment contract. It is not an employment contract, as such. People don't get hired or fired based on that paper.

If you look at the very first one, the candidate must reside in New York City.

That would have you --

Q Could I direct everyone's attention to Exhibit 19, which is one of these "conditions of employment" documents?
A Which one is that? I don't have it.

Q Exhibit 19. It's in the black binder to your right.

A This is testimony; is that what you're talking about?

I assume you're referring to the application for position as Assistant District Attorney form?

Q Yes.

There are several?

A Yes, different dates.

If I may, while we are looking for it, Mr. Chairman, and Commissioners, we propounded this form with various changes over the years, back around 1978. I became District Attorney of Queens County in 1977, January 1st, by appointment of the Governor.

I inherited an office that was a totally political office, all the appointments there were derived from the clubhouse; it was an adjunct clubhouse.

We began trying to straighten things out by getting our lawyers in, telling them what the new rules of the game would be. We devised this kind of a form.

Many of the things that were in the form at the outset were not lived by. They were there just to show the people there that we meant business, we were
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going to try to change things.

There were times, over the years, where
people came to me and said -- particularly people from
minority backgrounds -- and said to me, I would like to
work in the campaign for a candidate in the Bronx, a
Hispanic candidate; can I do it?

I said, you cannot actively campaign.

This assistant D.A. said, what can I do? I
said, you can work, lick envelopes, but I don't want you
on the streetcorner campaigning; use good judgment. I
don't want you sticking your chest out, saying I'm an
Assistant District Attorney and I'm working for him.
If you want to do it, do it in a benign sort of way.

Ultimately, this Assistant D.A. left the
office and broke her commitment, because she felt
compelled to do more for candidates of her background.

I had flexibility built into this.

As late as last year, people came to me and
asked if they could work for Jesse Jackson, and I gave
them the same lecture: I don't want you on street-
corners, I don't want you going out saying I'm an
Assistant D.A. and I believe Jesse is tough on crime. I
want you to do what good judgment demands. Help if you
have to, but do it in a way that will not embarrass us.
The rules were there. The rules weren't anything that I fired anyone on account of. They were there to give them a guide as to what I expected.

There is a requirement that they work at least eight hours a day. Some of my assistants are on 12-hour shifts. We run the D.A.'s Office 24 hours a day, 365 days a year. I have the only complaint room in this City that never shuts down. I have to work out deals with my assistants to have them cover those night hours when they don't want to work.

It says in here, no payment for overtime; that is not true.

COMMISSIONER SCHWARZ: Mr. Chairman, is there a pending question?

THE WITNESS: I beg your pardon; I'm sorry.

Q Mr. Santucci, the pending question is:

Could you define for the Commissioners what constitutes active campaigning as opposed to, I would suppose, passive campaigning?

A If they went out making speeches, if they said to groups of people, I endorse the candidate, I'm an Assistant District Attorney. If they -- I guess that would pretty much be it. Upfront roles in a public light.
I would like to direct your attention again to Exhibit 19, which is now located at your right. That is a blank document that begins, I believe, by saying, "The following are conditions of employment."

A Yes.

Q I'm going to read to you the second condition. It reads as follows: "There is a limitation on political involvement. A.D.A.'s are not permitted to participate in political activities, including town or school boards. They may not be officers, directors or members of a political organization, or involved in any political campaigns or political events."

A Yes, that is correct.

Q Mr. Santucci, would you consider the development of campaign material, mailing out of campaign material, the using of telephones to call to endorse a candidate, would you consider that active political involvement, or passive political involvement?

A Totally passive, unless you pick up the phone and say, my name is Bellinger, I work for the Committee on Ethics, I'm supporting Santucci. That is active.

If you're just a voice on the telephone, and
you're saying, I'm calling from the Santucci campaign headquarters, will you vote for Mr. Santucci; that, to me, is passive.

Q Let me ask you a hypothetical, sir.

If I come from a neighborhood in Queens, and most of the neighbors in that particular neighborhood know that I have done good, and I have become an A.D.A., now I'm an attorney, and they live in the neighborhood, and that is the location of the phone bank, and my neighbors see me entering the storefront to work on the phone bank, isn't that, in fact, though I never talk to them, all I'll do is telephone --

A That is too far out to answer. If your neighbors see you going into a place.

Q Is that not endorsing a candidate, sir?

A These phone banks are largely in commercial areas; people don't see people going in. If they do see them going in there, they don't know what they are going in there for.

If someone knew you were going to go in there, would that give them a message that you're supporting the candidate? I suppose they could interpret it that way.

Q What is the theory behind your policy that
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would proscribe one of your A.D.A.'s from involvement in political campaigns?

A Flagrant violations.

Q What is the theory, sir?

My question wasn't clear. What is the theory behind the policy?

A Why do I have it at all; is that what you're asking me?

Q I'm asking you, what is the theory behind proscribing involvement in politics by Assistant District Attorneys?

A When I first became Assistant District Attorney, the abuses were so great. I had people going to political meetings, they would come back from the meetings, they would tell me that they wanted transfers.

They would go to a District Leader and a District Leader would call me up and say to me, so and so is in my club, he would like to be in Supreme Court, can you do it?

I called a meeting of my Assistant District Attorneys, and I said, the guys whose leader calls get fired. It didn't endear us to the leaders. This then followed. We had to go step by step.

Q Isn't part of the theory behind this whole
policy, to avoid an appearance of impropriety?

A I was more concerned with the reality. I didn't want impropriety, period; appearance or otherwise.

Q So, then -- I believe that you were sitting right there when Mr. Rosen testified?

A I heard part of his testimony; I couldn't hear all of it.

Q Did you hear the portion of his testimony relating to his stopping by your son's campaign headquarters?

A Some parts of that, yes.

Q You heard him say that he stopped by there, and there were other individuals in the room, both members of your staff, whether A.D.A.'s, C.L.I.'s, support staff, as well as other individuals?

A I didn't hear him say that, but that is probably true.

Q I ask you, sir, do you believe that that could be construed, by those members of the public that were in your son's headquarters that night, as A.D.A. Rosen's endorsement of your son's candidacy, and is that an appearance of impropriety?

A I doubt if the persons in my room know what A.D.A. Rosen is. They don't know him, they didn't know
the assistants.

Q Were you there that particular evening?

A That night, you're talking about?

I may have been. I was there several nights.

Q Would there be the possibility that there would be non-Queens County District Attorney employees in the room on any particular evening?

A No, not at all.

Q That is not likely?

A Not even possible, not even remotely.

Now, what these campaigns are, Mr. Bellinger -- I'm afraid the Committee may not have a perspective on what a campaign is.

It's generally a young man, young lady, who wants to be elected to the legislature, who gets a group of friends from his neighborhood, kids he grew up with, oldtimers in the neighborhood, opens up a storefront and begins his campaign; that is what it is.

Sometimes, just to make work for the people -- and I have done this in my own campaigns over the 31 years -- I would go out and buy a box of envelopes and bring them to the old-timers, and have them address it. When they left at night, I would tear them up. We
couldn't afford to send the mailing. We needed something
to keep the people busy.

Q In 1984, your son's opponent, that gentlemen
was in his seventies, wasn't he?
A I'm sorry?
Q Your son's opponent in 1984, he wasn't a
young man, was he?
A No. He was the incumbent, in his eighties,
as a matter of fact.
Q Who is Steven Denkberg?
A He was a member of my staff, and is a friend
of my son's. Now his law partner.
Q Now your son's law partner; is that correct, sir?
A Yes, that is correct.
Q Do you know whether Mr. Denkberg signed one
of these conditions of employment?
A He probably did.
Q Do you know whether or not Mr. Denkberg
assisted your son in your son's campaign?
A Yes, he did, with my permission.
Q In both 1982 and 1984?
A '82 he wasn't an Assistant D.A. '84 he was,
and he assisted, with my permission.
Q And he worked on the campaign on hours outside of his working hours; is that correct?

A Yes.

Q Did you communicate your assent to his assistance to your son, in person?

A He asked me for permission, and I gave it to him. The permission I gave him was that I didn't want my son going out at night by himself making all these campaign stops. I felt he had to have company.

Over the years, I have been threatened on a regular basis.

I could have assigned a detective from my squad to accompany my son. I didn't want to do that. I was afraid of the criticism, I was afraid of the cost. I had lots of concerns.

I couldn't go with him; I didn't know just how to do it.

When Steve indicated he would like to travel with him, just ride with him, not even give out a leaflet, that was okay with me, I thought it was great.

Q In other words, you waived Mr. Denkberg's agreement so that he could assist your son; is that correct?

A Yes, that is correct.
Q Sir --

THE CHAIRMAN: What was his position in the office at the time?

THE WITNESS: Assistant District Attorney.

Q Were you concerned about the signal that this might have sent out to the other A.D.A.'s in the office?

A No, I made it clear to everyone in that office. When I went to that campaign headquarters, if there was someone there who I recognized as an Assistant D.A. in my office, I told them to leave.

You have had witnesses tell you that repeatedly.

I don't know if they testified here today, but witnesses have come to you and told you that I chased them from the campaign headquarters when I learned that they were Assistant D.A.'s.

Q Mr. Santucci, we also have had witnesses that have come in here who said you thanked them for coming down.

A I thanked everyone I saw in the headquarters, whether I knew them or not. I'm in politics for 31 years.

Q Sir --
When I leave here, I'll thank you, because that is what you do, you thank people.

Mr. Santucci, how many waivers of your employment policies did you execute in the summer and fall of 1984?

I have never executed any, but I have allowed people to do things that are not covered, or are covered under that agreement, if you call it that. I told you I allowed someone as late as last year in the Jackson campaign, I allowed some in my son's campaign.

Mr. Santucci, since we are not focusing on Jesse Jackson's campaign --

That is the latest one.

I would like you to indicate to me which individuals -- and if you could refer to Commission Exhibit 1, if that will assist you -- which individuals on that exhibit did you waive the provision that they not be involved in political activities, so that they could work on your son's campaign?

Which ones did I not waive?

Did you waive Mr. Denkberg?

I waived none but Denkberg.

Denkberg was the only one in your office?
A  Let me see who else is on there.
There were people that I didn't have to
waive, that they didn't come under the agreement. I
don't see them on there. I assume he is the only one.
Q  If you look to the far left of the chart,
half-way down, you will see the name, the last name of
A.D.A. George Aletras?
A  Aletras, yes, I see that.
Q  You were well aware that Mr. Aletras was
working on your son's campaign?
A  Yes, I was aware of Aletras, Kantor.
I don't think they were Assistant D.A.'s.
Q  Is that to say they were C.L.I.'s?
A  Yes.
They are now called C.L.A.'s; they were
called C.L.I.'s.
Q  Will you articulate what you believe to be
the difference in having a C.L.A. assisting your son, and
an A.D.A.?
A  One is an Assistant District Attorney,
public official, appointed by me to act in my stead, my
name.
The other fellow, the C.L.A., can only do it
under supervision. Far different.
The C.L.A., if he doesn't pass the bar exam, he is out of a job, or he is relegated to a clerical role.

The A.D.A., he is there to stay, as long as he does his job.

Q So, sir, would it be fair to say, then, that an individual who joined your office, and signed this document, could, on one day, work on your son's campaign, the next day be appointed an A.D.A., and from then on they would be precluded from working on your son's campaign?

A The next day they would get a $5,000 raise as well, yes.

Q So, then, we can safely assume if the next day they would be proscribed, they would be proscribed from then on from any political activity, unless they received a waiver from you?

A In accordance with the agreement.

Mr. Bellinger, I know you're not out to trap me, you want to know what the agreement is about. I want to tell you what it is about.

There are lots of provisions in there that are just not ironclad. Like the residence in New York City. So many of them move out of the City, and we can't
keep up with them. They move into Nassau County.

The overtime, we now pay overtime. It says

in here we don't; we do.

We now give night differential; it says we
don't in there, but we do now.

The three-year commitment, it is broken
regularly.

You're looking at it as though it's made of
steel; it is not. It is a guide.

Q Mr. Santucci, were there any enforcement
policies with respect to this policy; were there any
penalties?

A Yes. If I found out something that there
was a violation -- and I can't really think of one
offhand -- if there was one, I would have probably sent
for that person and discussed it with them, and made sure
they didn't do it again.

Q I would refer you, again, to Commission
Exhibit 1, Mr. Santucci.

A Yes.

Q The Commission has developed sworn testimony
that virtually every individual on that exhibit --

A Right.

Q -- violated that policy.
My question to you is --

A I would have called them up and said to
them, don't do it.

Q My question to you is: Do you recall ever
calling any of those individuals up to your office to
discuss with them the violation of your policies?

A Forgive me for overreacting.

What it is, it's picking away at a small
thing that has happened.

When I went to the headquarters, and I saw a
fellow named Lasak there, I said: What are are you doing
there? He said: I'm here to see if I can help out. I
said: Go home.

Another night, I saw Mr. Sussman; the same
conversation.

Several of those people on there were there,
and I told them to go home. I didn't want to see them
there.

I must confess to you, at the moment there
are 265 A.D.A.'s, I don't know how many we had then, but
I don't recognize all of them everytime I see them.

Q Mr. Santucci, are you aware that the
Commission has heard testimony today, that more than one
individual went down to your son's headquarters to work
Santucci on his campaign during work hours?

A I did not hear that, and I did not know that, and this is the first time I hear it.

Q Mr. Santucci, who is Sharon Pollock?

A Sharon Pollock is a close friend of my sons in particular, my three sons. At this point, a friend of the family.

Q And she was a member -- when was she hired in the Queens County District Attorney's office?

A I don't know the date, but I guess it was around '83. If you tell me the date --

Q I believe that is close enough.

Q You are aware that Ms. Pollock worked on your son's '82 and '84 campaigns?

A Yes. I think I met her at the '82 campaign.

Q Are you aware of the fact that she falsified her reasons for a leave of absence to work on your son's campaign?

A This is the first time I heard of that allegation.

Q I would like to direct your attention to Commission Exhibit 7.

A That will be in here, too?

Q Yes, sir.
Mr. Santucci, this document reads: To E.A.D.A. Norman Rosen from Sharon Joy Pollock, Appeals Bureau, Subject: Leave of Absence.

It reads: "For health reasons, I hereby apply for a leave of absence for the period commencing October 1 through November 12, 1984."

Mr. Santucci, you were well aware that during that entire time, Sharon Pollock was at your son's campaign headquarters virtually every day; isn't that true?

A I would have no way of knowing that, but I assume she was there most of that time.

Q You assume she was there most of the time?

A Yes.

Q You would agree that Ms. Pollock falsified this request; isn't that true?

A You think you can't have a health reason and still do something different?

Suppose I tell you that her health was the fact that her family is Jewish, she was going out with an Italian kid, and they were having all kinds of problems, and it was creating emotional problems for her.

She took a leave because she couldn't go to work.
Q That can be a health reason?

A I don't know that is true, but my wife just told me today.

Q I understand. If I were in Norman Rosen's position, I would ask for a medical statement to that effect, and as you well know --

A Rosen should have, and I would have.

Q As you well know, we conferred with Mr. Fisch, and there is no medical statement in her records.

A And I had Mr. Fisch look, at our request, and we couldn't find one. I agree there is none there.

The fact of the matter is, had she written "for personal reasons" on there, if I were approving it, I would have approved it.

The fact she said health reasons, perhaps they are not, perhaps they are.

Q You are aware that Sharon Pollock solicited a number of Queens County District employees to work on phone banks, to work in campaign headquarters, and to attend fundraisers; are you aware of that?

A No, I'm not.

Q If that is, in fact, true, would you think that perhaps that might send out an adverse signal to the members of your staff?
Mr. Bellinger, if I knew it was happening, I would have stopped it immediately.

Q Mr. Santucci, if you would look at Commission Exhibit 1.

We have had sworn testimony to the effect that all three of your personal secretaries, Beilenson, Carrol Williams, and Ms. Cipolla, called various professional members of your staff to inquire of them to work on your son's campaign.

Did you know that, sir?

A That you have those statements?

No, I didn't know you had those statements.

Q Hypothetically, Mr. Santucci, if that in fact occurred, would that be a violation of your policy?

A Yes, it would be.

Q Sir, we have also had sworn testimony to the effect that your former Chief of Investigations, or Chief of Detective Investigators, I'm sorry, Mr. Mahoney, also made those types of calls.

If that sworn testimony is true, sir, would you consider that a violation of your policy?

A Absolutely.

COMMISSIONER SCHWARZ: Will you ask the District Attorney if he was aware of those
facts, before you leave that subject?

Q Were you aware of the fact, Mr. Santucci, that Rose Cipolla, Carrol Williams, Joan Beilenson, and Mr. Mahoney, were making these phone calls to various members of your staff?

A Mr. Bellinger, you know what the most frustrating part of this kind of an experience is, I actually said to those four people, among others, I don't want people in this office to participate. I actually said that.

Now, how can I -- what can I get to corroborate me on that?

I don't know. I did that. I couldn't stop them.

THE CHAIRMAN: I think maybe -- I think you have answered the question, but not precisely.

THE WITNESS: The answer is no, I was not aware of it.

Q Mr. Santucci, this morning one of your current Bureau Chiefs, Andrew Worgan, testified under oath that he received a call from John Mahoney looking for campaign workers for your son Tom Santucci. He also testified that he received phone calls from Joan Beilenson. He also received phone calls from Carrol
Sir, were you aware of those facts?

A No.

Q If those facts are, in fact, true, would you say that was a violation of your policy?

A Absolutely.

Q Has Mr. Worgan, to this date, been a competent employee in your office?

A He is one of my Supreme Court Bureau Chiefs.

Q Has he been a competent employee?

A I would say so.

Q Mr. Santucci, did you attend a meeting in early 1984 to discuss your son's senatorial campaign with Senator Ohrenstein, Frank Sancillo, David Keisman, your son, and yourself?

A Yes, I did. I don't recall the date, but I did attend such meeting.

Q What was the substance of that meeting, sir?

A The substance of the meeting -- it took place at the Waterfront Crab House, I think.

Q That is correct.

A The subject of the meeting was how the State Democratic Committee could be involved with my son in running a campaign for the senate.
They had regarded the senate seat as a swing seat, one that might be won. They talked about raising money and putting money into the campaign.

I disagreed with them as to how the money would be raised, or how much my son had to raise.

At some point, it was suggested that my son sign a note for $75,000, and they would put up that amount of money, and they would run the campaign.

I left the meeting with no agreement.

Q Is that the first time that you met David Keisman?

A I don't think so.

Did you say that was '83?

Q That was '84.

A No, I think I met him in '82 the first time.

Q He assisted your son's campaign in '82?

A I think he came in at the tail-end of the campaign, but I didn't really get to know him, at all.

Q Were any agreements reached in that meeting with regard to David Keisman's role in your son's campaign?

A No, the only agreement that I recall being reached, is that we tried to get together to agree, but we didn't agree on anything.
Q Mr. Santucci, are you aware of the fact that Mr. Keisman has testified under oath that he spent approximately two months, on a daily basis, at your son's campaign headquarters in the capacity of a point man, or campaign manager?

A I must tell you the truth: If he did, I'm not aware of it.

My son is here, and he is in agreement to be a witness, if you want to ask him that question.

Q You're unaware of his role in the campaign?

A I said I'm unaware that he spent every day for two months down there.

I understood -- he was introduced to me, I believe, by Fred Ohrenstein, as a Downstate Coordinator. Meaning he was coordinating a number of different campaigns.

Q Mr. Santucci, what exactly did Mr. Ohrenstein tell you about David Keisman, in addition to the information you just related?

A I think that is about it. Keisman was not the subject of the meeting, other than that he would be the Downstate Coordinator.

Among the campaigns he was coordinating would be my son Tom's campaign. The rest was just who
was going to make policy decisions. We just couldn't agree.

I know Fred Ohrenstein a long time, I served with him in the senate, I was there for nine years before becoming D.A. I served with him, I have known him well. I like him. I still like him. I'm sorry he has his problems. I respected him.

Q Mr. Santucci, is it your testimony today that Mr. Ohrenstein never told you that David Keisman was a State employee?

A Yes, that is my testimony.

Q Mr. Santucci, did you read in the newspapers the account of Mr. Robinson's alleged meeting with the Bureau Chiefs in the courtroom in 1985?

A Yes, I did.

Q And did you discuss that with Mr. Rosen, sir?

A I discussed it with Robinson, as well.

Q You did, sir?

A Yes.

Q What was the nature of your discussion with Mr. Robinson?

A What had happened is -- okay, I'll just answer your question, I'm sorry.
My discussion with Robinson is: What happened; why did you do it; what did you meet about; what did you talk about.

Jim Robinson told me that his discussions centered around if we did certain things, for example, if we asked the Assistant D.A.'s in the office to pick up the tab for the election, how would they feel about it.

He said there was no agreement with regard to wanting to do that, and he just abandoned it.

I said: Did you ask anyone for money; did you solicit any funds?

He said: No, all we talked about was the general principle.

Q Did you ask him about the meeting that led to his meeting in the courtroom?

A Yes, I asked him then, and again just the other day when he called me to tell me that he had been interviewed by the committee.

Q Did he indicate that he had been interviewed by me, sir?

A I think he said a man and a woman, but I don't know if he gave me names.

Q Mr. Santucci, what did he tell you about that meeting, not the meeting in the courtroom, but the
meeting that led to the meeting in the courtroom, the
meeting involving Mr. Rosen, et cetera?

A  He said such a meeting took place.

Q  Did he tell you what the substance of that
meeting was, sir?

A  I think he did.

Q  Could you communicate that to us?

A  That they would check out with the people in
the office whether or not they would be willing to pick
up the tab for the campaign.

Q  Did he tell you --

A  Contribute to the campaign.

Q  Did he tell you who convened that meeting,
sir?

A  Pardon me?

Q  Did he tell you who had convened that
meeting?

A  I don't think he was certain.

Q  Approximately --

A  I know how it came about, if you want to ask
me.

Q  Why don't you tell us?

A  The whole background?

Q  Yes.
Some years ago, we read in the New York Times that a District Attorney in New York State actually engages in that kind of fundraising. In fact, it was in the papers just again the other day, and he is doing it this year.

Some years back, I asked Joe Fisch, who is now one of my Executive Assistants, to please call that District Attorney's office and find out how the procedure works, why they did it, what is behind the whole thing.

Q Who is that District Attorney, sir?
A Mr. Vergari in Westchester county. It was in the Westchester papers yesterday, I believe.

So, we checked with them as to why they did it, how they did it, and all the rest.

The feeling was, that it's better to get your assistants to put in money to a campaign than having to go out to lawyers where the conflicts are readily available, or to go out to the business community where you never know exactly what's going to happen.

So, he felt better that way.

We kept the idea on ice, as it were.

I had a minor challenge in '81. In '85, we didn't know if I was going to have a challenger or not.

One day I was talking to Mike Sganga. He is
an old friend of mine, he retired because of health, and
I asked him to come in and be an expediter for me. He
has been there ever since, about four years now.

   I said to him -- when he came in to see me,
he said, what are you going to do about the '85 election.
I said, I don't know if I'm going to get a primary; if I
get one, we will have to do something about fundraising.

   He said, let me get started doing something
now. I said, we have to consider a lot of ideas, let's
let it wait.

   I said, what do you think we will do? I
said, maybe we will try Vergari's system, let's let it
wait.

   The next thing I know, he called a meeting.
That is exactly what happened.

Q     Mr. Santucci, did you ever discuss what
happened at that meeting with Mr. Russo?

A     Only after this started, I believe. I don't
think Russo and I --

Q     When you say "this started" --

A     The investigation part, the hearing part,
and everything else.

   During -- around the time it happened, I
don't think we ever discussed it.
I must tell you, that in 1985 it turned out I didn't have a primary, we did no fundraising. I had received in the mail some $5,000, all which I returned to the contributors, because I had no need for the money.

Q Mr. Santucci, do you believe that there is a New York State Bar Association Committee on Professional Ethics opinion that allows your Assistant District Attorney's to either work on, or contribute to, your campaign?

A There is -- I know there is a State Bar Association opinion as to their working in politics. I'm not familiar with the contribution part.

Q So, it's your own policy, then, that A.D.A.'s who work in your office, can both work on your campaign and contribute to your campaign?

A I didn't say that at all. I said it's the State Bar Association opinion that they may not work, and I don't know what the policy is on contributions.

As I recall, the State Bar Association -- I may be wrong -- I seem to recall that they could work in the campaign of the incumbent D.A. because, I think it was stated by the Bar Association, that they make the record on which the D.A. runs, so they should be able to
be called upon to defend that record.

Q    Now, what is your organizational policy with

respect to your A.D.A.'s working on your campaign, sir?

A    I haven't had an election since '81, so I

have no policy, no committee; nothing of that sort.

Q    You do have an election this year, don't

you, sir?

A    Yes, but I have no opposition.

Q    You have no policy?

A    I have no committee, no nothing.

MR. BELLINGER: Thank you, Mr. Chairman, I

have no further questions.

THE WITNESS: I apologize, Mr. Chairman, if

I got carried away. I guess, you know, I have

been thinking about this for a few days.

THE CHAIRMAN: Thank you.

Commissioner Emery, please?

COMMISSIONER EMERY: Mr. Santucci?

THE WITNESS: Yes, sir?

COMMISSIONER EMERY: I'm confused about

your office policies, quite frankly, after hearing

your testimony.

I believe you testified that your policies

on health leave, with respect to Ms. Pollock, were
they violated in the instance of Ms. Pollock, or were they just -- was she permitted to take a leave without a doctor's statement?

THE WITNESS: That request didn't come through me. Had it come through me, I would have inquired about it. I didn't know that I would need a doctor's note. I'm not aware of the personnel things.

If she had said to me, Mr. Santucci, I would like a leave so I can work on a campaign, I probably would have granted it to her anyway.

We get leave requests every day in the office.

The only reason people ask for leave is so they can leave without getting paid, and know they have a job when they come back.

COMMISSIONER EMERY: With respect to residences, is it your office policy that people have to live in New York City, or don't they have to live in New York City?

THE WITNESS: Mr. Emery, if I could guarantee that they all live in New York City, life would be sublime for me. I'm better off with Queens County individuals as A.D.A.'s; they know
the people, the County.

The problem is, that young people find it difficult to locate, upwardly mobile lawyers move into Nassau, better school district, and they leave.

Just the other day, I'm talking to a Bureau Chief who I thought lived in Staten Island. He has one of these on file. I said to him, you're going to get a toll raise now, it will cost you more to get to work. He said no, I moved out to Nassau several months ago. I had no idea.

COMMISSIONER EMERY: You don't realistically enforce the rule on residence in New York City?

THE WITNESS: No, I don't realistically enforce it, in that I don't fire them.

When I hire people, however, they must state that they are New York City residents.

COMMISSIONER EMERY: With respect to campaigning, not being involved in campaigns, you specified on these forms that people sign, you don't enforce the rule with respect to whether they are involved in campaigns; isn't that what you testified to here today?
Santucci

THE WITNESS: Yes.

Mr. Emery, would you mind if I made a brief statement?

COMMISSIONER EMERY: As long as it's brief.

There are a number of things people want to go into.

THE WITNESS: I'll try not to do that.

Shall I?

THE CHAIRMAN: Yes; okay.

THE WITNESS: I have been greatly concerned about this problem, even before the committee began to look into it, about A.D.A.'s and their role vis-a-vis politics.

You know, and I know you know, that judges' secretaries, who are much closer to the decision-making power than A.D.A.'s are, are permitted to belong to political clubs; judges' law secretaries.

When it comes around to appointing judges, or making judges, it's always those people who are the secretaries, in the clubs, getting the jobs.

Becoming an Assistant District Attorney is coming into a job that is a dead-end, and that is not healthy for the system.
I'm very much concerned about all these things, and I try to bring a balance where I get the best work product.

That is why I waive on some of these requirements.

COMMISSIONER EMERY: You may or may not be aware, since you apparently weren't here this morning, that a number of people who worked in your office testified that it was their view -- and I'm paraphrasing their testimony -- that people were advanced in your office, got raises in your office, and got desirable transfers in your office, because of who they knew, and not because of the kind of work they did.

THE WITNESS: Mr. Emery, if there was some secret word that I could utter to make you believe me, I tell you that is absolutely untrue. I tell you that with every ounce of sincerity in my body.

No one got favors in that office, and people who used intermediaries to try to get favors generally got punished.

COMMISSIONER EMERY: Let me ask you about that. Are you saying that Sharon Pollock did not get any favors in that office because she was
a friend, or associated with your family, and
therefore she didn't get any special favors with
respect to leaves and lateness and other matters?

THE WITNESS: No.

COMMISSIONER EMERY: Let me --

THE WITNESS: Sharon Pollock was, I think,
about a 14, 15-thousand-dollar-a-year employee.

COMMISSIONER EMERY: I'm asking you --

THE WITNESS: Attendance, punctuality, is
not too prominent in that pay line.

COMMISSIONER EMERY: Are you also saying
that for people who were associated, in fact, law
school classmates of your son, who worked on your
son's campaign, who were ultimately hired by your
office -- do you know who I'm referring to?

THE WITNESS: Kantor and Aletras, Denkberg.

COMMISSIONER EMERY: The people you
identified earlier as working on your son's
campaign, I believe.

Are you saying that they didn't get any
special favoritism because they were your son's
friends, they worked on your son's campaigns?

THE WITNESS: Absolutely not, Mr. Emery.

They made application for the job, they
were interviewed by the panel, the panel recommended them to me, I interviewed them, we hired them. They went up the same pay steps as everyone else. Denkberg quit because he wasn't moving fast enough.

COMMISSIONER EMERY: Are you also saying that a District Attorney named G. Russo, whose parents provided a place for fundraising for your families campaigns, the Villa Russo, that G. Russo never got any favoritism because of that?

THE WITNESS: His name is George Russo. He never got any favoritism because of that. Every fundraiser, we paid for. We even used to do our staff dinners there. There may have been some confusion on the fact that I required A.D.A.'s to go to staff dinners.

COMMISSIONER EMERY: I want to refer you to Exhibit 1 over here, which I barely can see. Can you see it clearly?

THE WITNESS: Yes.

COMMISSIONER EMERY: I take it there are approximately -- and you can take my word for it -- about 50 employees, a little over 50 employees on that exhibit of your office. Is that
about correct?

THE WITNESS: Yes.

COMMISSIONER EMERY: And the ones that are outlined in red in this exhibit, are people about whom we have sworn testimony in our investigation, that they participated in the campaign of your son in 1984. Do you see that?

Do you see the indicator of that on this chart?

Take my word for it, the people in red are people who we have testimony from.

THE WITNESS: Right.

COMMISSIONER EMERY: Who participated in some form or another in your son's campaign in 1984.

THE WITNESS: Yes.

COMMISSIONER EMERY: The people who have blue around their names, or around half their names, are people who solicited for, apparently -- we have testimony -- solicited for your son's campaign in 1984.

THE WITNESS: Right.

COMMISSIONER EMERY: Do you see that?

THE WITNESS: Yes.
COMMISSIONER EMERY: What I'm asking you, sir, is, how many of those people do you see on a regular basis, or did you, at that time, see on a regular basis, in your office, in the course of your duties during the fall of 1984, during your son's campaign?

THE WITNESS: I would have seen my three secretaries -- and they are not actually secretaries -- but those three people on that level.

I would have seen Mahoney, more or less on a daily basis.

I would not see Caroleo. I would see Dooley every couple of days, because he was a driver. Rosen, Robinson and Russo, virtually every day.

I saw McCarthy, I guess, almost every day.

Diorio, rarely.

Communielo, Rovin, Stavin, Lasak, they are Bureau Chiefs. I saw them maybe once a week.

COMMISSIONER EMERY: What about the --

THE WITNESS: The assistants, virtually not at all, unless I took a walk around the building.

COMMISSIONER EMERY: Is it your testimony,
that during the course of your son's campaign,
none of these people that are on this chart talked
to you about working on your son's campaign?

THE WITNESS: With the exception of
Denkberg. I saw Denkberg, and I told you the
circumstances.

COMMISSIONER EMERY: Yes.

THE WITNESS: Aletras, I saw there.
I saw -- I think I saw Kantor now and then.
I think Kantor was there.
Those are the names that I remember.

COMMISSIONER EMERY: It is your testimony,
that to your knowledge, none of the other people
worked on your son's campaign?

THE WITNESS: No.

COMMISSIONER EMERY: None of the other
people indicated to you that they were involved in
soliciting other people to work on your son's
campaign?

THE WITNESS: That is correct.

COMMISSIONER EMERY: Do you have any
recollection of any one of your three secretaries
having a list of employees of the Queens District
Attorney's Office who worked on your son's
campaign?

THE WITNESS: I have no recollection of that, and this is the first time I hear it.

COMMISSIONER EMERY: Today is the first time you hear of a list that was prepared for people working on your campaign, who were told that if they worked on your son's campaign -- excuse me -- that would be good for them in the office, and that would help their chances of advancement, by implication?

You have no knowledge of that until today?

THE WITNESS: Mr. Emery, I understand that there is a fellow named Girardi who testified today, and he made it a point to stumble every time I turned around, to know he was there. He claimed he was there four, five times. Then he said he quit because people newer in the office moved ahead of him.

If that doesn't tell you that they didn't get promoted for working in the campaign, nothing else will.

COMMISSIONER EMERY: I'm not asking you that question. I'm asking you if you knew of lists that were prepared by secretaries for people
whose names are on the lists, who worked for you, volunteered to work for your son's campaign, and who believed by that they would get advanced within your office in the hierarchy by virtue of working and volunteering for the campaign.

THE WITNESS: No.

COMMISSIONER EMERY: You know of no such list?

THE WITNESS: No.

COMMISSIONER EMERY: None of your secretaries ever reported to you that such a list existed?

THE WITNESS: No.

COMMISSIONER EMERY: You never saw such list?

THE WITNESS: No.

COMMISSIONER EMERY: Now, during your son's campaign in the fall, there came a time when you took a trip to Barbados, didn't you?

THE WITNESS: Yes.

It was the same year, yes.

COMMISSIONER EMERY: Where did you stay in Barbados?

THE WITNESS: I stayed at Sam Lord's
COMMISSIONER EMERY: During that time, you called your son's campaign headquarters on numerous occasions, probably at least daily, didn't you?

THE WITNESS: I don't know if that is so. I really don't know if that is so. But it would not have been unusual, because I do that when I go away. I always keep in touch.

COMMISSIONER EMERY: Do you remember calling there and asking who is working on your son's campaign, who was working there while you were away?

THE WITNESS: I don't know if I would have done that.

I'm not sure it was '85 that I was away. That is my son the doctor who I went to see.

Were you there in '84?

I guess I was.

COMMISSIONER EMERY: How much were you involved in your son's campaign; how often were you down at headquarters?

THE WITNESS: I was embarrassed that I
couldn't do what I should do. This is an old neighborhood, Richmond Hill. People would ask Tom, where is your father; is your father going to stop around?

I really wanted to be there, but I really didn't have the time to be there.

I felt as though I owed a duty to my son to try to stop there.

Once in awhile, I would stop at night, sometimes if I went by in the daytime, I would run in if it was open. Usually it was closed.

How many times was I there?

I guess if the campaign ran three months or so, maybe five or six times.

COMMISSIONER EMERY: Your testimony is, you were in there five or six times?

THE WITNESS: Yes.

COMMISSIONER EMERY: Did you talk to your son on a regular basis?

THE WITNESS: My son tells me he was not in there in '84.

THE CHAIRMAN: I don't think we can do it this way.

THE WITNESS: I apologize.
THE CHAIRMAN: It's really --

COMMISSIONER EMERY: You can correct your testimony later, if you would like to.

THE WITNESS: I wasn't sure of the date in Barbados.

COMMISSIONER EMERY: Now, your testimony is, that you were there on five or six occasions. Did you have discussions with your son during the campaign about how his campaign was structured, who was his staff, who was being paid on the campaign, and who was working for him?

THE WITNESS: No. Discussions more were -- there was a great deal of pressure on him to get into the gutter in the campaign. His opponent was an elderly man, and much was trying to be made of that issue.

I had known him because I served with him in the senate, also.

My son and I would, largely, talk about what do you say when you go out on the road, what kind of literature do you put out, how do you handle a campaign against someone like him.

COMMISSIONER EMERY: Did you discuss with your son the finances of the campaign?
Santucci

THE WITNESS: Only that it would be foolish
to sign a note for $75,000.

COMMISSIONER EMERY: Were there discussions
about who were his paid employees?

THE WITNESS: No; I had no knowledge or
concern.

COMMISSIONER EMERY: Did you have knowledge
of the fact that Mr. Keisman was working on the
campaign during that period?

THE WITNESS: Only that I had heard that he
had been there on and off, but I don't know how
much work he did or didn't do.

I think he was fired at some point.

COMMISSIONER EMERY: Did you have knowledge
of who was paying him while he was working on the
campaign?

THE WITNESS: No.

COMMISSIONER EMERY: Your testimony is, the
only people who you know who were working on the
campaign who were in your employ were Denkberg,
Kantor, I believe, and -- how do you pronounce his
name?

THE WITNESS: Aletras. They are the only
ones on that list that I know.
There is a name Caroleo there; he was there.

I mentioned Dooley. Dooley drives me around; he is my driver. He was my driver. Dooley worked like two days on, and two days off. So, I would see him every couple of days.

I think that is it.

COMMISSIONER EMERY: We have had testimony here that there was a good deal of esprit de corps in your office; that it operated much like a team; people felt, in many respects, it was a team effort. That part of that team effort was, in fact, during this period of 1984, extended to helping John Santucci's son.

Did you know of that?

THE WITNESS: No. Totally unaware of that.

I do talk about team effort in my office, but I talk about team in terms of response to the public.

I tell the assistants, when someone calls on a case, don't say the man who has got the case isn't here; get out of your seat, find the file and give an answer.

The case has to be moved, and the person to
move it isn't here to do it, you do it. You step up and answer the calendar, whatever you have to do. That is teamwork.

Beyond that, I never had a discussion on that subject.

COMMISSIONER EMERY: Did you feel, though, that this team concept, given the fact that it was clearly -- you must have known that people in your office knew your son was running for the State Senate.

THE WITNESS: Very often they would ask me how he was doing.

COMMISSIONER EMERY: Did you feel that that may cause people to -- who were working for you -- to go out and try and help him politically, Assistant District Attorney's in particular?

THE WITNESS: They would say, can I help. Some asked me if they can help.

COMMISSIONER EMERY: They knew, in all likelihood, did they not, of your policy of, on occasion, waiving any rule concerning prohibition of District Attorney's working --

THE WITNESS: No, because I said to them -- when anyone said, can I help, I said, vote for him
if you live in the district.

COMMISSIONER EMERY: Why didn't you say, go out and help him?

THE WITNESS: I didn't want their help.

COMMISSIONER EMERY: Why not?

THE WITNESS: I had rules; I tried to adhere to it.

COMMISSIONER EMERY: Why did you break the rules for the other three?

THE WITNESS: They were not A.D.A.'s; the rules didn't apply to them.

Denkberg, I told you before, I made the exception because I wanted someone to accompany Tom at night when he was out. Those were the reasons. They are not romantic, but they are real.

COMMISSIONER EMERY: Kantor and Aletras couldn't accompany Tom when he was out?

THE WITNESS: He wasn't as close to them. He and Denkberg are now law partners.

COMMISSIONER EMERY: In fact, you didn't think that that would set an example for other people who might say, well, Denkberg is working for John Santucci's son, maybe I can get ahead by
working for John Santucci's son as well?

THE WITNESS: It might have, yes. Now that you say that, someone could have thought that.

COMMISSIONER EMERY: I have no further questions.

THE CHAIRMAN: Commissioner Magavern?

COMMISSIONER MAGAVERN: Were you aware that an Assistant District Attorney, Mr. Arena, worked on other campaigns during his tenure as an Assistant District Attorney?

THE WITNESS: No, I wasn't aware that he worked in other campaigns, but I do know, Mr. Magavern, that I would be invited to a dinner or something, and I would, on occasion, find an assistant there. I would get him on the side and say, you shouldn't be here.

I don't know if he was one of those.

COMMISSIONER MAGAVERN: If he did, it would have been in violation of your policy?

THE WITNESS: Yes. I never fired anyone for that; I just talked to them.

COMMISSIONER MAGAVERN: Just to confirm -- I think I understand your testimony, but I want to be sure that I understand it properly.
If, in fact, some of your subordinates were requesting volunteers for your son's campaign, you would have considered that a problem?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: Did you --

THE WITNESS: May I add something?

COMMISSIONER MAGAVERN: Yes.

THE WITNESS: I would have stopped it.

COMMISSIONER MAGAVERN: You did know your subordinates were testing the waters with the Bureau Chiefs, and then perhaps they were going to test out the assistants to see if they could provide the financial funding for the campaign, by each taking a table?

THE WITNESS: We were going to find out -- that meeting came about without my consent, that just happened. I heard Mr. Rosen, before, describe Mike Sganga.

Michael Sganga, someone might describe him as a loose canon. You say something, and he runs with the ball. He did that in this case. He went off on his own, and called this meeting, and started it.

COMMISSIONER MAGAVERN: I'm not talking so
much about the meeting, but you did know that he
was going to find out whether it might be feasible
to use the party approach?

THE WITNESS: I didn't know he was going to
do that.

I said I would never consider it unless the
staff agreed. I was not ready to move with it,
because I didn't know if I would have a primary.
It developed that I didn't have one.

COMMISSIONER MAGAVERN: You didn't know
that he would find out whether the staff would
agree?

THE WITNESS: I didn't know he called that
meeting, got the thing started. I didn't know
until after the fact.

COMMISSIONER MAGAVERN: You did ask -- let
me refer to Exhibit 27, if you will, a Newsday
article dated June 19, 1984. It should be in your
exhibit book.

THE WITNESS: Which one is that?

COMMISSIONER MAGAVERN: 27.

THE WITNESS: I had heard about it before
the article. I had heard about it before the
article, because the reporter called me.
COMMISSIONER MAGAVERN: You're quoted in that article, and you're quoted down about the sixth paragraph: "'I asked some of the guys to look into it,' Santucci said. 'Yes, they're probably just shooting high to feel them out.'"

That would be if the assistants can sell a table.

Do you see that?

THE WITNESS: Yes, I see that.

COMMISSIONER MAGAVERN: Were you accurately quoted there?

THE WITNESS: No.

COMMISSIONER MAGAVERN: Were you inaccurately quoted there?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: Where is the inaccuracy?

THE WITNESS: "I asked some of the guys to look into it."

The fact is, I talked to Mike Sganga, saying we would look into it if we thought it was the way to go, if I had a primary.

I might have said "one of the guys."

COMMISSIONER MAGAVERN: Okay.

You had discussed, at least with Mr.
Sganga, the possibility of fundraising by that technique?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: Did you --

THE WITNESS: I must tell you that I thought, until two weeks ago, I might have a primary this year, and this would have been on the agenda again.

We were watching what the Westchester County experience was going to be.

Fundraising is a terrible thing. It is especially hard for District Attorneys.

COMMISSIONER MAGAVERN: We have had testimony to that effect, and we recognize it, and, indeed, are trying to make it less difficult for the public, as well as for the candidates.

Did you know, at that time, whether any -- well, did you expect that any meeting might be conducted in your office to test the water?

THE WITNESS: No, I didn't think any meetings were called at all. It was after the meeting was called, the second in the series, I suppose, that the reporter on this called me.

COMMISSIONER MAGAVERN: Would you have
considered any meeting within the office to have been illegal?

THE WITNESS: I don't know about illegal; but, unnecessary.

If I might draw a distinction, improper at least. I would not have recommended it.

COMMISSIONER MAGAVERN: And if Mr. Rosen testified at deposition that he understood there might be some casual chats within the office to test the waters, so to speak, in this context, would you have considered that proper?

THE WITNESS: I don't know; I truly don't know.

COMMISSIONER MAGAVERN: Would you have considered it illegal?

THE WITNESS: Illegal, no. Improper, questionable; I don't know.

I heard Rosen say discussion of politics in the office is not proper. I think that is nonsense.

If you came up to see me, we had a cup of coffee, we would probably -- I don't know if you would, I might talk about the mayoral race for ten minutes before we get into another subject.

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There is false virtue, true virtue. Who are we kidding? Of course we talk politics. We are all wondering who is going to be the Mayor.

COMMISSIONER MAGAVERN: Recognizing a real problem -- I think you put your finger on it -- do you think, if we took it a step further, that it would be proper, and unavoidable, even, for any of your subordinates to go to their subordinates with a suggestion that they might want to contribute?

THE WITNESS: If they went to them and said: This is the rule, everyone is going to be tapped for $100, whatever the amount of money, that would be absolutely wrong.

I think it may have occurred in the office in 1977, '78 where we got a flood of donations from the assistants, running anywheres from $100 to $1,000.

When I learned of it, I had my Treasurer refund that money to all those people. We gave the money back.

COMMISSIONER MAGAVERN: Do you think it would have been proper, within your office, to have people within the office organizing a fundraiser during office hours, on office...
THE WITNESS: I think if we were going to it, then we would call a meeting of the interested parties, outside the office somewhere, and would sit down and say, this is what we are going to do; what do you think about it. We would write to the assistants, not at the office, but at their homes. If we were going to do it.

Realizing this, just as you are today, we never did it.

I wanted to explore the desirability of it vis-a-vis the other alternatives to raise money.

COMMISSIONER MAGAVERN: There has been testimony that it happened on occasion, whether you knew about it or not.

THE WITNESS: In my office? No.

COMMISSIONER MAGAVERN: We had testimony today that a suggestion was made to an Assistant District Attorney that he purchase a ticket to a fundraiser at your son's campaign.

THE WITNESS: That is without my knowledge and consent.

Had I known, I would have stopped it.

COMMISSIONER MAGAVERN: We had a good deal
of testimony, you know because you followed up on it with Mr. Robinson, people in your office systematically set out to test the waters about a very systematic fundraising effort from within the office, right?

THE WITNESS: Yes.

Mr. Magavern, I don't know if you are aware of our office, and I hope you don't get a picture of it that its a building such as this. The Queens County District Attorney's Office is located in five different geographic locations. We have offices in Long Island City, two in Jamaica, two places in Kew Gardens. Now we are about to open a sixth one on Union Turnpike.

These are district locations.

The administration is a nightmare. You don't see what is happening all the time.

COMMISSIONER MAGAVERN: Did you, at any time, take any steps to prevent the organization of fundraising activities, and the communication of fundraising requests within your office?

THE WITNESS: Only that I told people not to do it, constantly; at meetings where they had to pay to attend, staff meetings, I would tell
them about politics and all the rest.

If I had to do it over, knowing what I know now, I probably would have sent a memo around, or tacked something up on the bulletin boards. I didn't think of it then.

COMMISSIONER MAGAVERN: In your public statement, you said that you considered contributions by the staff okay, provided they were voluntary.

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: You made the point: Better to get contributions from your own staff than from people outside who might have an interest.

THE WITNESS: That is my current thinking, yes.

COMMISSIONER MAGAVERN: I want to focus on the term "provided it was voluntary."

If a request comes to a subordinate, from a boss, or someone closely associated with a boss, can you really be sure that that contribution is going to be voluntary?

THE WITNESS: I haven't worked it out, because I never had to.
As we sit here, and I think about it, probably what you could do is have a contribution less than $100 where you don't need the name of the contributor. In that way, it would be anonymity that you would be conferring on these people. That might be.

I'm not sure, you see. It is something that we have to explore.

COMMISSIONER MAGAVERN: You recognize it is a serious problem?

THE WITNESS: It's a terrible problem

COMMISSIONER MAGAVERN: Do you think that a flat rule prohibiting solicitation by a public employee from public employees, or from those they do business with, would be in the public interest?

THE WITNESS: Sometimes it could be harder than the problem, the cure could be more difficult than the problem, because what do you do when you seek -- Countywide office, two million people, you're talking about $100,000 as a minimum campaign. What would you do for that $100,000?

Forget John Santucci, two younger lawyers want to run for the job, what do they each do for the $100,000?
COMMISSIONER MAGAVERN: The person who isn't the incumbent would have to find a way to do it without using any authority of superior to subordinate, and without using any public facilities.

Do you think it would be fair to level the field a bit by applying restrictions to prohibit the incumbent from doing that?

THE WITNESS: To both, yes. By all means. I just don't know which is the better avenue.

If you allow us to take contributions from staff, then perhaps you have to give an equal amount, through public financing, to the other fellow.

COMMISSIONER MAGAVERN: When you were considering the possibility of asking your assistants to each take a table, and to raise $2500, did you think about imposing any restrictions on to whom they could sell the ticket?

THE WITNESS: When we first talked about it, and we only talked about it in passing -- I hope you can picture this -- their families. Do
things within your own home, as it were, because if they were going to go to lawyers, we could have gone to lawyers ourselves. We didn't want to go to the legal community for contributions.

COMMISSIONER MAGAVERN: You are aware that Mr. Keisman was helping out your son in his campaign?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: You knew that Senator Ohrenstein made him available first in 1982 and then in 1984?

THE WITNESS: Yes.

COMMISSIONER MAGAVERN: Who did you understand Mr. Keisman was being paid by?

THE WITNESS: I assumed by the State Committee.

One of the things they discussed was the amount of work the State Committee does to raise this money that goes into campaigns.

So, I assumed it was that.

In fact, I think at one point, I think it was Dave Keisman -- I only learned it the other day -- he said to Tom, you have to contribute to the State Committee, that is where the money is
coming from. He had to give a contribution of $350. I assumed it was all the State Committee. Nobody said that to me.

COMMISSIONER MAGAVERN: Let me ask you if you see a problem in a situation in which you go to a prominent political figure, Senator Ohrenstein, for assistance. He makes someone available to help in your son's campaign. Then many people, whether you knew about it or not, many people in your own office worked in your son's campaign, and at various times other of your assistants worked in other political campaigns.

Do you see a problem there, in creating an entanglement between your office and certain political forces who may be affected by decisions of your office someday, and who therefore -- well, in such cases, that a question may be raised then as to whether the law is being vigorously enforced, when it comes to these people, that your office has become entangled?

THE WITNESS: I understand.

COMMISSIONER MAGAVERN: You now know what happened in the campaign between your office and the campaign for your son, and given what you know
about Mr. Keisman and Senator Ohrenstein's involvement, do you believe that, in fact, an unhealthy entanglement developed there?

THE WITNESS: I don't know if it developed, because Keisman was dropped out of the campaign, there were no agreements reached. Knowing what I do now, yes.

COMMISSIONER MAGAVERN: He worked two months?

THE WITNESS: A month or two. Two months.

COMMISSIONER MAGAVERN: If there are even minor transgressions of law, or impropriety in your own office when it comes to political fundraising, do you think that might impair the ability, the willingness of you and your assistants to vigorously prosecute violations by other people, political fundraising, or political activity; do you think it might make them feel everyone is doing it, we have done it ourselves, how can we go after these people?

THE WITNESS: I accept the danger; I accept your point. I would hope that it would never happen.

Yes, I can see the danger. Certainly that
impression could be created.

That is why I think, with 20/20 hindsight, I would do it differently.

At that same time, sir, it was in 1985 that we even tightened up this agreement, such as it is, with this additional concern.

COMMISSIONER MAGAVERN: You spoke, in your submitted statement, of your efforts to de-politicize your office.

Do you believe that it is time for a further step, and, specifically, do you think it is time for some new laws that would prohibit people -- well, public employees, generally, from soliciting from other public employees?

THE WITNESS: I have no problem with that kind of law.

COMMISSIONER MAGAVERN: Do you think it would be, in fact, in the public interest, it would help to avoid the kind of problems that we have seen develop in your office?

THE WITNESS: I have no trouble with that; I think that is okay.

I think you have to be careful if you want to pass a law saying, for example, that no public
employee may engage in politics.

I don't know, and I don't remember, has the Hatch Act been declared unconstitutional?

COMMISSIONER MAGAVERN: It has been sustained.

THE WITNESS: You could have a Hatch Act that would be appropriate. I don't know.

The contribution aspect, definitely I have no problem with that.

COMMISSIONER MAGAVERN: Thank you, Mr. Santucci.

THE WITNESS: Thank you.

THE CHAIRMAN: Commissioner Vance, please.

COMMISSIONER VANCE: I would like to try to straighten out the record.

As I recall your testimony, you said it was your understanding that there was an opinion of the Ethics Committee, I guess of the State Bar Association --

THE WITNESS: Yes.

COMMISSIONER VANCE: -- that said it was permissible for Assistant Attorneys, District Attorneys, to assist in the District Attorney's campaign?
THE WITNESS: Yes.

COMMISSIONER VANCE: I believe you are incorrect. I think I have read all the opinions that have been issued by the State Bar's Commission on Professional Ethics, and there is no such exception.

THE WITNESS: Sir, I would defer to you, absolutely.

It is just that I have a slight recollection that I read something in the front page of law journals dealing with a case, if I remember correctly, in Rensselaer County, where the Bar Association rendered an opinion that an Assistant District Attorney can only work in the campaign of the employer.

I don't know if we have that.

COMMISSIONER VANCE: Something like that might have happened in Rensselaer county.

THE WITNESS: The State Bar Association said it, though.

I think it was the State Bar that rendered the opinion.

I thought it was the State Bar that rendered that opinion.
nothing has happened that has raised the issue in
your mind, that you ought to deal with it?

THE WITNESS: What has happened -- we were
going to deal with it more closely this year,
because we had an election year this year.

What we do at the end of each election
year, is have the entire staff fill out new papers
similar to a re-employment. We have been toying
with the idea of making this into some sort of
contract.

The only problem I have is, you don't rush
to fire someone for violating it.

COMMISSIONER SCHWARZ: I'm not talking
about firing anybody; I'm raising the question --
our job is to make recommendations to the Governor
for legislative changes. One of the things that
occurs to me, is that there must be some reason,
on your part, why you have not enunciated a clear
policy among your employees.

That gives me some pause, because if you
can't figure out how to write a clear policy, then
how is the Governor and Legislature going to
figure out how to write a clear policy?

What you're saying is, you haven't dealt
with the issue at all.

THE WITNESS: I hate to admit it, but that is probably what it is.

COMMISSIONER SCHWARZ: Thank you.

I have nothing further.

THE CHAIRMAN: If there are no further questions, I will just simply restate what I mentioned in the opening statement this morning, that any person whose name has been mentioned in the testimony has a right to submit a sworn written statement to the Commission, and if Mr. Thomas Santucci wishes to provide the Commission with additional information with such a statement, we would be happy to receive it, in light of the fact that there was some communication between you and he during the course of the hearing.

This hearing is ended.

(Time noted: 4:35 p.m.)