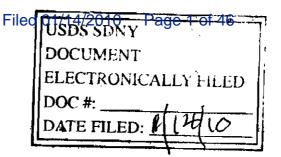
Case 1:08-cr-01238-NRB Document 24

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----X
UNITED STATES OF AMERICA,



MEMORANDUM

- v.-

S1 08 Cr. 1238 (NRB)

ANTHONY SEMINERIO,

Defendant.

_____X

NAOMI REICE BUCHWALD UNITED STATES DISTRICT JUDGE

"What the [expletive deleted] does it mean [to be an] elected official[]?" Former New York State Assemblyman Anthony Seminerio's pre-sentence hearing, held pursuant to <u>United States v. Fatico</u>, 579 F.2d 707 (2d Cir. 1978), (the "Hearing"), provided in-depth insight into Seminerio's answer to his own question: "It doesn't mean shit." Gov. Ex. 3. The Hearing also provided insight into how incomplete Seminerio's answer was, for it exposed how Seminerio used his office to earn over a million dollars in "consulting fees."

On June 24, 2009, Seminerio pleaded guilty to one count of a Scheme to Defraud the Public of Honest Services under 18 U.S.C. § 1341 and § 1346. The government contends, as described in the Superseding Indictment, that Seminerio accepted bribes

¹ The Hearing spanned two and a half days: October 20, 21, and 30, 2009.

and engaged in extortion as part of a decade-long scheme to use his office -- both literally and figuratively -- for personal gain and at the expense of the public trust. Defendant maintains in his pre-sentence submissions that he is only accountable for a "single, isolated, criminal act" -- an "extremely aberrant and atypical episode" in which defendant failed to disclose a conflict of interest. Def's Mem. 146. The dichotomy between these two portraits necessitated the <u>Fatico</u> hearing.

Anthony Seminerio became a member of the New York State Assembly in 1978. During his career in the Assembly, he lobbied on behalf of entities that served his district in Queens, particularly for certain hospitals whose agenda he helped advance in Albany. In 1996, Seminerio began working as a consultant with Neighborhood Marketing Services ("Neighborhood Marketing"), a company run by a local community leader named Arlene Pedone, whom Seminerio had known for many years. The business relationship between Pedone and Seminerio broke down in 1998, and Seminerio sought to continue earning money as a consultant on his own. He formed a sole proprietorship called

² Many members of the New York legislature earn additional income in connection with work performed outside their role as elected officials, for example as lawyers or consultants.

Marc Consultants and, over the next eight years, received over a million dollars of "consulting fees" through that entity.3

In a conversation with a former colleague in the Assembly, Brian McLaughlin, Seminerio explained that after many years of watching hospital executives get rich in part as a result of his efforts in Albany, he decided: "Screw you, from now on . . . I'm a consultant." Gov. Ex. 1. Seminerio then described how he structured certain consulting arrangements in conjunction with a business partner, General Bernard Gordon Ehrlich (also a convicted felon): "We charge a consulting fee, he charges the consulting fee to the hospital, and I work for his consulting firm . . . It's perfect, it works out nice . . . And we don't have to do nothing . . . I mean I don't have to do nothing." Gov. Ex. 2. Seminerio further predicted: "[T]he day I leave the Assembly . . . I'll lose maybe 60 percent of my business." Gov. Ex. 1.

Seminerio asserts that he provided bona fide consulting services to his clients. Although Seminerio's clients defined his value to them in terms of "opening doors" or "making introductions," Gov. Exs. 52, 56, several clients admit that Seminerio provided substantially the same services for them

³ We note that there is a distinction between the total amount of fees that Seminerio received through Marc Consultants and the "loss amount" relevant for sentencing guidelines purposes.

⁴ McLaughlin had himself pleaded guilty to corruption charges and, unbeknownst to Seminerio, was recording their conversations as part of McLaughlin's cooperation with the government.

before he became a paid consultant. Indeed, the record is devoid of any bona fide consulting services that fall outside the scope of activities an elected official could readily be expected to perform on behalf of his or her constituents. The entities that paid fees to Seminerio include a hospital, a college and a business lobbying organization, all of which serve the constituents of Seminerio's Assembly District. Not only were certain of defendant's services or introductions something that any diligent assemblyman might do as part of his role as a public servant, but in Seminerio's case, many of his so-called introductions were made between parties who already knew one another or to entities that were also paying for the privilege of Seminerio's influence and contacts.

Based upon defendant's plea and the conduct established by a preponderance of the evidence at the Hearing, we conclude, for the reasons discussed below, that Section 2C1.1(b)(2) of the United States Sentencing Guidelines applies in this case. We further conclude, applying Section 2B1.1(b)(1) of the guidelines and based on our findings below, that the conduct established at

⁵ <u>See Fatico</u>, 579 F.2d at 707 (discussing the appropriate standard for presentence evidentiary hearings). Conduct for the purposes of sentencing need only be proved by a preponderance of the evidence to satisfy due process. <u>United States v. Guerra</u>, 888 F.2d 247, 251 (2d Cir. 1989). The rules of evidence, other than those involving privileges, do not apply in sentencing proceedings. Fed. R. Evid. 1101(d)(3). In this connection, certain evidentiary objections arose during the hearing, at which time we reserved judgment. Our rulings with respect to these outstanding objections are noted below.

the hearing supports a loss calculation of at least \$1,000,000. Accordingly, the applicable advisory guidelines range, before any potential departures, is 135 to 168 months.

DISCUSSION

To put our factual findings in context, we turn first to the scope of criminal liability for honest services fraud under 18 U.S.C. § 1346 and address defendant's argument that the statute is unconstitutionally vaque. In Part II, we turn to the evidence presented at the Hearing and summarize our factual findings with respect to defendant's corrupt relationships relevant to the "loss amount" to be factored into his quidelines sentence under U.S.S.G. § 2B1.1(b)(1). In Part III, we address Seminerio's two remaining legal arguments, namely (a) that his sentencing guidelines range should not be determined under Section 2C1.1, but rather under the "Conflict of Interest" Section, 2C1.3, which would result in a lower guidelines range, and (b) that he was entitled to rely on an Advisory Opinion he obtained from the New York Legislative Ethics Committee and which permitted Seminerio to provide consulting services in certain circumstances.

I. Scope of Criminal Liability for Honest Services Fraud

Section 1346 of Title 18 of the United States Code makes it a crime to devise a "a scheme or artifice to deprive another of the intangible right of honest services." The "important

factor" that must be proved is that a defendant "engaged in conduct 'for the purpose of executing a scheme to deprive another of the right of honest services.'" <u>United States v. Middlemiss</u>, 217 F.3d 112, 120 (2d Cir. 2000) (citing <u>United States v. Sancho</u>, 157 F.3d 918, 921 (2d Cir. 1998) (per curiam), <u>cert. denied</u>, 525 U.S. 1162 (1999)). In the Second Circuit, the scheme to deprive another of honest services need not implicate the defendant's official duties. <u>Id</u>.

The violation of a state statute or a duty imposed by state law can be used to establish federal criminal liability for honest services fraud, although a majority of Circuits do not require proof of a state law violation. See United States v. Weyhrauch, 548 F.3d 1237, 1244 (9th Cir. 2008), cert. granted, 129 S.Ct. 2863 (June 29, 2009) (collecting Circuit cases on this issue). In the absence of specific Second Circuit authority on this issue, the District of Connecticut rejected the argument that a deprivation of honest services must be grounded in state law, noting Second Circuit cases that declined to impose restrictions on the source of the legal duty to provide honest services. United States v. Triumph Capital Group, 260 F. Supp. 2d 444, 461 (D. Conn. 2002). See Middlemiss, 217 F.3d at 120; Sancho, 157 F.3d at 920.

⁶ The Supreme Court's grant of certiorari in <u>Weyhrauch</u> and two related honest services fraud cases is discussed further below.

Under this framework, the state law duties owed by a member of the New York State legislature inform part of the analysis of Seminerio's duty of honest services. New York Public Officers Law § 74(2) prohibits legislators from "hav[ing] any interest, financial or otherwise, direct or indirect, or engag[ing] in any business or transaction or professional activity or incur[ring] any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest."

New York Public Officers Law § 77 states:

A member of the legislature . . . who asks or receives or consents or agrees to receive any emolument, gratuity or reward or any promise of emolument, gratuity or reward or any money, property or thing of value or of personal advantage, except such as may be authorized by law, for doing or omitting to do any official act, or for performing or omitting to perform any act whatsoever directly or indirectly related to any matter in respect to which any duty or discretion is by or in pursuance of law imposed upon or vested in him, or may be exercised by him by virtue of his office, or appointment or employment or his actual relation to the matter including, without limiting the generality of the foregoing, approving or promoting the passage of legislation or resolutions or the confirmation of appointees, or the conduct investigations, . . . shall be guilty of a felony punishable by imprisonment for not more than ten years or by a fine of not more than five thousand dollars, or both.

Following from these state statutes, a legislator's intentional failure to disclose a conflict of interest or his acceptance of any payment in connection with his official duties, or acts

"indirectly related" to those duties, falls within the federal crime of honest services fraud under § 1346.

Beyond duties grounded in state law, courts have found that the honest services fraud statute prohibits the corrupt use of a public official's influence over matters outside the narrowest description of his formal duties or jurisdiction. The First Circuit has held that "the obligations [of § 1346] attach not only to formal official action like votes but also the informal exercise of influence on bills by a legislator, and that it prohibits influence-buying short of formal bribes." States v. Urciuoli, 513 F.3d 290, 294 (2008) (internal citations omitted). This Court recently held that "the misuse of office (more broadly, misuse of position) for private gain is the line that separates run of the mill violations of state-law fiduciary duty . . . from federal crime." United States v. Kerik, 615 F. Supp. 2d 256, 265 (S.D.N.Y. 2009). In Kerik, the Court rejected the defendant's argument that § 1346 did not prohibit a public official from influencing independent agencies over which the defendant did not have official control:

While the Court desires to cabin the breadth of section 1346 due to potential abuse of honest services fraud prosecutions, Kerik's position is inconsistent with binding case law in this circuit -- namely, Middlemiss -- and would create an imprudent precedent for public officeholders. Moreover, it is unlikely that Congress intended to permit an official to receive surreptitious payments and, in exchange, use his official status -- with all its access and

influence -- to steer the direction of government business so long as that official did not abuse one of his official, enumerated duties.

Id. at 265-66. Seminerio's duty to render honest services to the public can be succinctly described as the "performance of his duties free from deceit, favoritism, bias, conflict of interest and self-enrichment." See Triumph Capital, 260 F. Supp. 2d at 459.

In his pre-sentencing submissions, Seminerio argues for the first time -- and in a somewhat cursory fashion -- that he did not have proper notice that the conduct alleged by government was illegal, because 18 U.S.C. § 1346 is vaque on its face and as applied. Def's Mem. 204-05; Def's Post-Hr'g Mem. 8. Insofar as Seminerio attacks the facial validity of § 1346, this argument has been rejected by the Second Circuit. United States v. Rybicki, 354 F.3d 124, 144 (2d Cir. 2003) (holding that § 1346 is not unconstitutionally vague on its face). We note that the Supreme Court has granted certiorari in three cases involving honest services fraud, each of which presents an argument by the petitioner that § 1346 is unconstitutionally See Weyhrauch, 129 S.Ct. at 2863; Black v. United vaque. 129 S.Ct. 2379 (May 18, 2009); Skilling v. United States,

While we share a concern, expressed by courts in this district and others, about the potential for abuse of honest services fraud prosecutions in certain circumstances, defendant's numerous corrupt relationships and breaches of the public trust established at the Hearing and outlined below, make it clear that this is not one of those cases.

States, 130 S.Ct. 393 (October 13, 2009).8 Nonetheless, Seminerio's facial constitutional challenge is unavailing under current Second Circuit law.

Seminerio's contention that § 1346 is unconstitutional as applied to his case is also unavailing. A statute is vague as applied if it either fails to "give the person of ordinary intelligence a reasonable opportunity to know what 1s prohibited, so that he may act accordingly" or fails to "provide explicit standards for those who apply them." Grayned v. City of Rockford, 408 U.S. 104, 108 (1972). Seminerio's conduct, as described in Part II, violated state laws that prohibit legislators from failing to disclose conflicts of interest and from receiving payments for acts related directly or indirectly to their official duties. See New York Public Officers Law §§ 74(2), 77. An ordinary person could understand that (1) it was wrong for a fiduciary, including a public official, to accept such payments and to conceal such conflicts, and that (2) Section 1346 prohibits schemes to do so. See United States v.

⁶ Aside from the issue of whether \$ 1346 is unconstitutionally vaque on its face, each of these cases is clearly distinguishable from that of Seminerio. The defendants in Skilling and Black are private individuals, as opposed to public or elected officials who owe duties to the public by virtue of their office. In Weyhrauch, the Supreme Court granted certiorari to address "[w]hether, to convict a state official for depriving the public of its right to the defendant's honest services through the non-disclosure of material information, in violation of the mail-fraud statute (18 U.S.C. §§ 1341 and 1346), the government must prove that the defendant violated a disclosure duty imposed by state law." 129 S.Ct. at 2863. This issue is not presented here, as Seminerio's conduct violated his duties as a legislator under the New York Public Officers Law, as described below.

Bruno, slip op., 2009 WL 2601249 at *3 (N.D.N.Y. 2009) (denying motion to dismiss indictment).

addition to being substantively unpersuasive, defendant's constitutional arguments are unpreserved. Seminerio entered into a valid, counseled and voluntary guilty plea, and failed to preserve any issues for appeal. "A defendant who pleads quilty unconditionally admits all elements of the formal charge and, in the absence of court-approved reservation of issues for appeal, waives all challenges to prosecution except those going to the court's jurisdiction." United States v. Lasaga, 328 F.3d 61, 63 (2d Cir. 2003). In Lasaga, the Second Circuit held that the defendant's guilty plea waived his right to challenge the constitutionality of a pornography law on Commerce Clause grounds. Similarly, Seminerio's post-plea constitutional challenge to § 1346 on vagueness grounds is not jurisdictional in nature, and therefore under the law of this Circuit and a number of others, he has waived this argument by pleading guilty. See United States v. Martinez-Martinez, 69 F.3d 1215, 1224 (1st Cir. 1995) (guilty plea waived right to challenge drug conspiracy statute as unconstitutionally vague), cert. denied, 517 U.S. 1115 (1996); United States v. Allen, 24 F.3d 1180, 1183 (10th Cir. 1994) ("[Defendant] contends that because the statutes are unconstitutionally vague when applied to his conduct as he characterizes it, the court had no

jurisdiction. However, [defendant] cannot prove this claim without contradicting the admissions in his guilty plea, namely that he committed the conduct alleged in the indictment and that in so doing he committed the crime charged."), cert. denied, 513 U.S. 992 (1994).

II. Findings of Fact

We find by a preponderance of the credible evidence that Anthony Seminerio solicited and received payments from a number of organizations and used his elected office to lobby state legislators and agency officials on behalf of those paying Neither defendant's 230-page Sentencing Memorandum, clients. nor the evidence presented on his behalf at the Hearing, has squarely rebutted the substance of the government's evidence against him. Rather, defendant focused his factual arguments on just a few instances of potentially relevant conduct, particularly defendant's alleged extortion of Arlene Pedone and his alleged efforts to obtain a \$25,000 grant for Jamaica Hospital as part of the 2001-2002 New York State Budget. respect to the latter, the government no longer contends that Seminerio took any steps to obtain this particular grant and we do not consider this conduct or grant amount for the purposes of our loss calculation. Hr'g Tr. 370. Similarly, we do not

include any amount in our loss calculation that stems from defendant's alleged extortion of Arlene Pedone.9

We now review Seminerio's relevant offense conduct, specifically Seminerio's corrupt associations with several entities and his related activities involving state matters.

a. Jamaica Hospital Medical Center

Jamaica Hospital Medical Center ("Jamaica Hospital") is a hospital in Queens, New York, and one of three hospitals that together comprise the Medisys Health Network ("Medisys"). David Rosen is the CEO of Jamaica Hospital and of Medisys. Both entities are largely dependent on Medicaid reimbursements at rates set by the New York State Legislature each year. Between April 2000 and March 2008, Jamaica Hospital paid Anthony Seminerio, through Marc Consultants, approximately \$310,000.

In the mid-1980s, Seminerio played a large role in the Assembly's passage of the Secured Hospital Financing Program, through which Medisys obtained \$105 million in state financing.

⁹ An issue arose at the Hearing regarding the admissibility of an affidavit that defense counsel offered into evidence for the purpose of attacking Pedone's credibility and proposing an alternative version of the breakdown of Seminerio's relationship with Pedone. Hr'q Tr. 314-24. Since we are not including any amount related to this situation in our loss calculation, we need not resolve this evidentiary issue, as it is now moot. However, even if Pedone's conduct were relevant to our calculation, we would not permit the use of such an affidavit, nor the use of the live testimony that defense counsel offered to provide in their letter to the Court, dated November 5, 2009. We see no reason to permit extrinsic evidence to be used to attack the credibility of a live witness whom defense counsel had ample opportunity to cross examine at the Hearing -- and whom defense counsel does not propose to recall and cross-examine. To the extent that defense counsel characterizes the affidavit as containing new evidence that was not available at the time of Pedone's testimony, we reject this argument. Clearly, the facts alleged in this affidavit, if true, would have been known to the defendant himself.

As Seminerio suggested to FBI informant Brian McLaughlin, after watching hospital executives "making thousands" as a result of his "favors," Seminerio decided: "Screw you, from now on, you know, I'm a consultant." Gov. Ex. 1.

The nature of Seminerio's relationship with Jamaica Hospital is revealed in several intercepted phone calls between Seminerio and Rosen in which they discuss New York State matters such as the annual Medicaid budget and Seminerio offers to talk to a state executive official on Rosen's behalf. Gov. Exs. 4, 5. During these same calls, Seminerio asked Rosen for money he was owed under their arrangement, Gov. Ex. 4, 5, and sought to impress upon Rosen the value of Seminerio's political connections in Albany, including his relationship with the former Senate Majority Leader Joseph Bruno: 10

"Let me tell you something, you know, and I can tell it to you . . . I walk into Bruno's office like I walk into your office . . . And I talk to Bruno like I talk to you . . . So that, that kind of relationship you can't buy for a million dollars."

Gov. Ex. 5.

i. Seminerio Sponsored Legislation in 2006 to Provide Financing for Jamaica Hospital

In June 2006, Jamaica Hospital lobbied for a bill in the New York State Legislature that sought to reduce "debt services costs" for several eligible hospitals. Gov. Ex. 461. Defense

¹⁰ On December 7, 2009, Bruno was convicted of two counts of honest services fraud under 18 U.S.C. § 1346, following a jury trial in the United States District Court for the Northern District of New York.

counsel conceded at the Hearing that the benefits of this bill to Jamaica Hospital were well known to the defendant. Hr'g Tr. 372. Seminerio was one of five co-sponsors of the Assembly's version of the bill. Gov. Ex. 462.

The defendant argued in his Sentencing Memorandum and at the Hearing that his sponsorship of this legislation was permissible because (a) he was not the lead sponsor of the bill, and (b) the bill would have benefited other institutions as well as Jamaica Hospital. Def's. Mem. 218; Hr'g Tr. 371. argument is wholly unpersuasive because it misstates the line between the legitimate work of a legislator and criminally corrupt conduct. The law cannot be read so technically that an elected official may receive payments from an entity and then sponsor legislation benefiting that "client," so long as the official simply refrains from becoming the lead sponsor of the In fact, something far less formal than lead sponsorship of an Assembly bill can result in criminal liability. Kerik, 615 F. Supp. 2d at 266. As for the suggestion that Seminerio may defend himself against bribery charges by showing that the proposed legislation would have benefited multiple entities, such a rule would similarly undermine the substance of anticorruption laws ignore the and reality legislative process, which requires compromise, consensus,

intended benefit to more than one entity or group. Hr'g Tr. 378.

ii. Seminerio Assisted Medisys in Obtaining \$19 Million in Loan Forgiveness in 2006

On June 26, 2000, Medisys assumed management of Brookdale Hospital at the request of several state agencies, union leaders, and elected officials. Brookdale Hospital had fallen severely into debt and Jamaica Hospital lobbied the New York State legislature to provide \$19 million in loan forgiveness to Brookdale, which was Jamaica Hospital's sister entity within the Medisys network. Seminerio assisted Jamaica Hospital with this effort and arranged for Rosen to meet the Chief of Staff to former New York Governor George Pataki. Gov. Exs. 452-53. While we do not include the \$19 million obtained by Medisys in our loss calculation, Seminerio's involvement in this effort further establishes his involvement in state legislative matters on behalf of the Medisys hospitals.

iii. Seminerio Supported Jamaica Hospital's Drive for Discretionary Funding from the New York State Assembly in April 2008

In April 2008, internal Jamaica Hospital documents, describing Jamaica Hospital's "discretionary funding agenda" in the New York State Assembly, suggest that such funding was "supported by Seminerio," although "spearhead[ed]" by another member of the Assembly. Gov. Ex. 741. This evidence

corroborates the corrupt nature of the relationship between Jamaica Hospital and Assemblyman Seminerio: having provided the defendant with a reliable source of income for many years, the hospital had a reliable ally in Albany.

iv. Seminerio Lobbied a New York State Executive Office on behalf of Jamaica Hospital's Efforts to Acquire New Hospitals

In or about July 2008, two financially struggling hospitals in Queens (collectively, the "Target Hospitals") were up for sale. The Target Hospitals had recently sought emergency funding from New York State and therefore it was understood that the New York State Department of Health would have considerable sway in structuring a deal to acquire them. Jamaica Hospital was bidding for these entities, and Anthony Seminerio lobbied a New York State healthcare official, Dennis Whalen, in support of these acquisition efforts. In an intercepted phone call on July 10, 2008, defendant spoke to Whalen in glowing terms about Jamaica Hospital while disparaging the competing acquirer, Parkway Hospital. Gov. Ex. 7. Seminerio stated plainly that with regard to this acquisition, "[he]'d rather see Jamaica

Seminerio told Whalen: "I hate, hate Parkway Hospital." Gov. Ex. 7. He also made comments apparently in reference to Robert Aquino, the CEO of Parkway: "This guy never went for 10 cents of his own money . . . This guy never went for three cents out of his own pocket." Id. These remarks can be explained by additional evidence that Seminerio attempted to extort Aquino into entering a consulting agreement in 2004 and 2005. Gov. Ex. 50. Although we do not calculate a loss estimate reflecting this alleged extortion attempt, we find sufficient evidence that Aquino refused to become Seminerio's client, which provides further context to Seminerio's disparaging comments regarding Parkway during his call with Whalen.

Hospital get it," and at the end of the call Whalen indicated his agreement. Id. At no point in this call, or in any other conversation with Whalen, did Seminerio disclose that he was a paid consultant of Jamaica Hospital.

Defendant does not contest these facts and has admitted in his plea allocution and presentencing memoranda that the failure interest on this conflict of occasion disclose his to constituted honest services fraud. However, defendant does not offer a distinction between this incident and his numerous other undisclosed conflicts when acting on behalf of Jamaica Hospital and other clients. Moreover, Seminerio's conversation with Whalen establishes conduct that went beyond mere nondisclosure of a conflicting interest: Seminerio was actively using the influence of his office in an attempt to benefit his paying client -- and himself. Indeed, the day before this call, Rosen spoke to Seminerio about the fact that Whalen had "not been such a great friend" to Jamaica Hospital. Gov. Ex. 6. Seminerio replied: "[Y]ou gotta tell me these things . . . Now when I break his balls, I know what to break his balls about." Id. The intercepted phone calls also show that only minutes after the conversation with Whalen, Seminerio called Rosen to report back on what had happened. Gov. Ex. 8.

v. Seminerio Advocated on Behalf of Jamaica Hospital's Interests in August 2008 Budget Deliberations

Seminerio's actions in connection with Governor David Paterson's proposed healthcare budget cuts in August 2008 are further evidence of defendant's involvement in state matters on behalf of Jamaica Hospital. On August 11, 2008, Seminerio spoke to the Speaker of the Assembly, Sheldon Silver, to express his view that funding health care was more important than funding education: "[P]eople's education, my ass . . . You walking the street a cripple and you're not being treated, go tell me about your education." Gov. Ex. 9. Seminerio then called Rosen to relay what Seminerio regarded as inside news from Silver that there would not be any cuts affecting Jamaica Hospital. Gov. Ex. 10.

The following day, Seminerio spoke to Jamaica Hospital's outside counsel in preparing for an emergency meeting of Assembly Democrats to discuss budget cuts. Gov. Ex. 12. On this call, the lawyer coached Seminerio on "introducing the concept that safety-net hospitals . . . cannot endure any further cuts." Id. Seminerio reassured the lawyer by describing his conversations with Speaker Silver: "And I told him, 'Shelley, I don't give a [expletive deleted] ya close every hospital in the city. You leave my hospitals alone.'" Gov. Ex. 12.

b. Neighborhood Health Providers

Neighborhood Health Providers ("NHP") is a healthcare maintenance organization ("HMO") that provides Medicaid health insurance to its enrollees. NHP was set up within the Medisys hospital network in the mid-1990s and was owned in part by Jamaica Hospital. Hr'q Tr. 67-68. Seminerio's relationship with NHP began when he was working with Arlene Pedone's consulting company, which had been hired to assist NHP with enrolling members of the community in Medicaid. 12 Hr'g Tr. 17, Following the termination of Seminerio's business 49-53. dealings with Pedone, NHP continued to pay Seminerio through Marc Consultants. 13 In total NHP paid approximately \$80,834 to Seminerio through his firm, in monthly installments continuing for almost a decade. When Stephen Bory, CEO of NHP, was asked at the Hearing what "consulting" services Seminerio provided to NHP to earn his fees, Bory could recall only the following: (1) Seminerio once provided NHP with a "list of contacts" to help with marketing; (2) Seminerio set up a meeting between Bory and the CEO of Elmhurst Hospital (with whom NHP already had a contractual relationship); (3) Seminerio introduced Bory to

¹² Seminerio's conduct during that period is not relevant to our loss calculation.

Stephen Bory, CEO of NHP, testified at the Hearing that he contracted with Seminerio's consulting firm in November 1998 at the direction of David Rosen. Hr'g Tr. 74-75. Rosen was effectively Bory's boss because of his position as CEO of Medisys, which owned NHP at that time. <u>Id</u>. Bory also testified that he was following the directions of the lawyer who served as Jamaica Hospital's outside counsel and who attended the meeting at which NHP retained Seminerio. <u>Id</u>. at 77-78.

another hospital executive at either a fundraiser or a holiday party. Hr'g Tr. 82-84. The disparity between these isolated acts and the scope of payments made to Seminerio, both in amount and length of time, supports the government's allegation that this relationship was another means by which the Assemblyman received payments from Medisys for his political favor and influence in Albany. Furthermore, confronted with Bory's sworn testimony as to the paucity of services Seminerio actually provided, the defense could not muster additional evidence of other bona fide services provided by Seminerio to NHP or otherwise challenge the substance of Bory's testimony.

c. Jamaica Chamber of Commerce

The Jamaica Chamber of Commerce ("JCC") is a membership-based organization involved in economic development in Queens, New York. The JCC receives a large part of its funding from monies allocated by the New York State Legislature. The President of the JCC, Robert Richards, lobbies the State legislature and used to visit Seminerio's legislative office in

Bory's testimony also mentioned that Serminerio introduced NHP to Tricare, an entity controlled by General Bernard Ehrlich. However, this introduction cannot properly be considered among Seminerio's potentially bona fide consulting services because Seminerio received a percentage of the revenues resulting from Tricare referrals and his efforts to persuade hospitals to do business with Tricare might well be considered within the ambit of honest services fraud. In any event, the introduction did not lead to any business for NHP since NHP is not licensed to do commercial health insurance. Hr'g Tr. 85.

Albany almost every day that the Assembly was in session. At the Hearing, Richards testified that Seminerio asked him to become a consulting client in the summer of 1999. Hr'g Tr. 131. It is undisputed that Richards began to pay Seminerio \$700 per month from 2000 to 2002, totaling \$21,000. However, the defense has not adduced any evidence of legitimate consulting services performed by Seminerio for the JCC. These facts alone are sufficient to include the \$21,000 in our loss calculation.

What is more, Richards also testified that Seminerio extorted these payments from him by threatening to block legislation that Richards proposed if Richards would not enter a consulting agreement with the Assemblyman. Such threats would be consistent with the allegations of Robert Aquino, the CEO of Parkway Hospital, that Seminerio similarly attempted to extort him into a consulting arrangement in 2004 and 2005. According to Aquino's statements to the FBI, Seminerio asked Aquino if he knew how miserable Seminerio could make Aquino's life. Gov. Ex. 50. While we do not include a loss amount for the alleged extortion of Parkway Hospital, the similarity between the testimony of Aquino and that of Richards -- two independent

¹⁵ At the Hearing, defense counsel sought to enter exhibits DD-27 and UU as evidence to impeach the credibility of Richards' testimony. To the extent our ruling from the bench needs clarification, we hereby sustain the government's objection to these exhibits, which are irrelevant and which relate to collateral issues that defense counsel failed to raise during cross-examination of Richards. See Hr'g Tr. 401-402.

witnesses who are unacquainted -- supports the credibility of each with respect to defendant's extortion attempts. 16

The defense contested Richards' allegations of extortion by presenting evidence that Seminerio and Richards maintained a close friendship during and after the period when the allegedly extortionate payments were being made. We need not resolve this dispute to conclude that Seminerio's guidelines calculation should reflect these payments from Richards. Whether Seminerio accepted payments from Richards for using his office to advocate on the JCC's behalf (i.e., bribery) or to refrain from using his office to harm the JCC's interests (i.e., extortion), the relationship and accompanying payments are part of Seminerio's scheme to deprive the public of his honest services.

d. Winston Financial

Winston Financial provides insurance brokerage services to hospitals. Winston Financial paid Seminerio 25 percent of the fees that it earned from its contracts with two hospitals, Jamaica Hospital and Wyckoff Heights Medical Center ("Wyckoff Heights"). Seminerio used his office and influence as an Assemblyman to urge those hospitals to retain Winston Financial

documents that defense counsel offered into evidence for the purpose of attacking Aquino's credibility — purportedly by providing a motive for Aquino to falsify his statements to the FBI. Hr'g Tr. 397-98. We hereby receive defense Exhibits DD-17, DD-18 and OO into evidence. However, when weighed against all the evidence, especially Seminerio's own statement that Aquino "never went for three cents out of his own pocket," we find Aquino's account of the alleged extortion to be credible. Gov. Ex. 7.

and ultimately to protect the income he derived from those contracts. Winston Financial paid Seminerio approximately \$176,512, through Marc Consultants, between April 2000 and March 2008, even though there is no suggestion -- let alone evidence -- that Seminerio had any expertise in the insurance field. Since Seminerio's fees represented one fourth of the value of the fees Winston Financial derived from the hospital contracts Seminerio facilitated, the proper amount to be included in the loss calculation is four times the amount Seminerio was paid, or \$706,048. This amount represents the "value . . . obtained . . . by others acting with a public official," here Winston Financial, in connection with the honest services fraud. U.S.S.G. § 2C1.1(b)(2).

i. Seminerio Used His Office and Influence To Ensure That Wyckoff Heights Continued To Be Winston Financial's Client

As noted above, Seminerio provided no bona fide consulting services to Winston Financial and had no expertise whatsoever in

This aspect of defendant's scheme is seemingly more complicated than other relationships because Seminerio took action with respect to state officials and matters not on behalf of the entity that paid him, Winston Financial, but on behalf of Winston Financial's clients, Wyckoff Heights and Jamaica Hospital. Notably, Seminerio had similar arrangements with several entities controlled by General Bernard Ehrlich, an associate of Seminerio's who had previously been convicted of federal bribery and extortion charges. Seminerio's role was to persuade state-funded hospitals to retain Ehrlich's services, for which he was paid a percentage of the resulting contract. Discussing these deals with Brian McLaughlin, Seminerio explained, "We charge a consulting fee, [Ehrlich] charges the consulting fee to the hospital, and I work for his consulting firm . . . It's perfect, it works out nice . . . And we don't have to do nothing . . . I mean I don't have to do nothing . . . [A]t least the last six times they accepted the package." Gov. Ex. 2.

insurance brokerage. Rather, Seminerio's role was to ensure that Winston Financial got paid by Jamaica Hospital and Wyckoff Heights and to use his influence over these hospitals to prevent Winston Financial from losing its contracts with them. For example, in 2004, Wyckoff Heights hired a new executive who raised concerns about deficiencies in Winston Financial's services. Seminerio called this executive's cell phone, identifying himself as "Assemblyman Seminerio," and asked "What the [expletive deleted] is the problem with Winston?" Gov. Ex. 54. When the Wyckoff executive told Seminerio that he would look into the situation, Seminerio told him unequivocally to "fix it." Id.

After this incident, Winston Financial did indeed maintain their contract with Wyckoff Heights, until 2007, when the hospital ran into financial difficulties and brought on a Chief Restructuring Officer (the "CRO") at the direction of the New York State Department of Health. The CRO made it known that he favored replacing Winston Financial with a different brokerage firm (a Tennessee-based firm called The Hanback Group). When the CEO of Winston Financial, Robert Bradley, learned of this, he sent an email to an associate of Seminerio's asking what was going on, why the Tennessee firm was being considered, and "[d]o we need Tony's involvement in this from an Albany perspective?" Gov. Ex. 731. In a follow-up email minutes later, Bradley

wrote: "I don't expect with the investment of time and energy Winston has spent over the years building political relationship [sic] in New York, I do not expect to lose New York business, in which we done a superb, loyal job, to some hokeys from TN . . ."

Id. Insofar as Bradley viewed Seminerio as willing and able to apply political pressure on Wyckoff Heights to protect their contract, Seminerio's conduct confirmed that perception. At Bradley's request, Seminerio contacted a New York State healthcare official, Dennis Whalen, to set up a meeting between Whalen and the current CEO of Wyckoff Heights. Gov. Exs. 13-17. The phone calls make clear that the purpose of Seminerio's intervention was to preserve the job of the current Wyckoff Heights CEO, who was a friend of Seminerio's and had helped to protect the Winston Financial contract for many years.

In May 2008, Seminerio asked a salesperson at Winston Financial about a check he was expecting: "What is happening with Wyckoff? Do I have a check coming?" Gov. Ex. 19. When the Winston Financial salesperson said that Wyckoff Heights were having financial difficulties and were not paying their bills, Seminerio replied, "[w]e [i.e., the State legislature] just got them some money to keep them alive." Id. This conversation illustrates the interconnection between Seminerio's work in the Assembly, which yields considerable influence over hospital budgets, and the personal benefit Seminerio derived from the

financial health of particular hospitals -- "[his] hospitals" -- which contracted with Winston Financial and ultimately generated sizable percentage payments to Seminerio.

ii. Seminerio Guaranteed that Jamaica Hospital Would Continue To Be Winston Financial's Client

Seminerio played a similar role in Jamaica Hospital's dealings with Winston Financial. In February 2008, Seminerio left a message for David Rosen thanking him for his help retaining Winston Financial's services and conveying to Rosen the importance of the Winston-Jamaica contract to Seminerio's personal finances: "This will be my annuity when I retire." Gov. Ex. 751. When viewed in conjunction with the other acts Seminerio took on behalf of Jamaica Hospital on state matters and the payments he received from that hospital, it appears that maintaining the contract with Winston Financial was another way for Jamaica Hospital to curry the Assemblyman's political favor.

In early 2008, Seminerio grew frustrated with the way Winston Financial was structuring the payments from the Jamaica Hospital contract. Seminerio's business associate had been receiving part of the proceeds from that deal, but Winston Financial began to make payments to the business associate in lieu of Seminerio. On February 22, 2008, Seminerio called a salesperson at Winston Financial and complained, "[e]verybody made [expletive deleted] money but me on that Jamaica Hospital

thing." Gov. Ex. 22. On a separate call with Robert Bradley, Seminerio reiterated what he perceived as his ability to maintain and protect Winston Financial's relationship with Jamaica Hospital: "Jamaica Hospital and those you'll always have, as long as I'm alive . . . Jamaica Hospital is Tony Seminerio's piece. Nobody'll touch that thing." Gov. Ex. 21. Seminerio viewed his value, for which he was compensated, as his ability to influence, and indeed to pressure, Jamaica Hospital to remain a client of Winston Financial.

e. Plaza College

Plaza College is a college in Queens, New York. Charles Callahan III, the Vice President and Provost of Plaza College, is also the CEO and sole employee of Collegiate Management Associates ("CMA"), a consulting agency whose only clients are Plaza College and members of the Callahan family (who themselves are part-owners of the College). Gov. Ex. 52. CMA paid Seminerio \$170,350, through Marc Consultants, between June 1999 and September 2007.

While receiving these payments from Callahan/CMA, Seminerio used his role in the Assembly to benefit Plaza College. In

We note that Seminerio also used his influence to advocate for Callahan's appointment to various New York State positions, including membership on the New York State Board of Regents, the New York Workforce Investment Board, and the New York State Work Force Investment Act Government Board. For the latter position, Seminerio formally nominated Callahan in a letter to former Governor George Pataki dated August 23, 1999. Gov. Ex. 801.

particular, Seminerio advanced a piece of legislation, known as the "Candidacy Bill," which was of particular value to Plaza College. This bill effectively increased the barriers to entry for competitors of Plaza College by introducing a three-year "review period" before colleges could begin to confer Associate Degrees, the type of degree Plaza College was already authorized to confer.

Although Callahan had hired a lobbyist to push for the Candidacy Bill as far back as 1997, Gov. Exs. 802-03, CMA also entered into a consulting agreement with Marc Consultants effective June 15, 1999. Gov. Ex. 75A. On August 5, 1999, after being retained by CMA, Seminerio wrote to the Deputy Commissioner of the New York State Education Department emphasizing his sponsorship of the Candidacy Bill:

As a member of the Higher Education Committee of the New York State Assembly I am concerned . . . that your office has been inundated with requests for degree-granting powers by a variety of schools . . . As you are aware, I am the Assembly sponsor of a candidacy bill that is designed to protect the students of New York State . . .

Gov. Ex. 804. In his letter, Seminerio went on to request a list of all entities applying for such degree-granting powers.

Seminerio introduced a version of the Candidacy Bill to the Assembly in 1996, 1997, 1999, 2001, 2003, 2006, 2007 and 2009. Def. Exs. B1-B13. Defendant argues that his actions were permissible because he sponsored this bill both before and after

the period in which Seminerio was paid as a consultant by CMA. Hr'q Tr. 406. We reject this argument. Seminerio may have supported this bill in part because he genuinely felt it benefited his constituents, but this plainly does not permit him to accept payments from an entity with a vested interest in legislation he continued to sponsor. Criminal liability for accepting bribes does not require but-for causation. See United States v. Panarella, 277 F.3d 678, 680 (3d Cir. 2002) ("[W]e hold that where a public official conceals a financial interest in violation of state criminal law and takes discretionary action in his official capacity that the official knows will directly benefit the concealed interest, the official has deprived the public of his honest services, regardless whether the concealed financial interest improperly influenced the official's actions."); United States v. Espy, 989 F. Supp. 17, 26 (D.D.C. 1997), rev'd in part on other grounds, 145 F.3d 1369 (D.C. Cir. 1998) (finding allegations of quid pro quo or selling of one's office unnecessary to support charges of honest services fraud).

Callahan told the FBI that prior to paying Seminerio through CMA, Seminerio essentially did the same things for Callahan, only on a less frequent basis. Gov. Ex. 52. Callahan apparently paid the Assemblyman because he did not want to "wear out his welcome."

Id. This characterization of their

relationship echoes Seminerio's own recorded statement to Brian McLaughlin that after years of seeing others profit from his assistance as an Assemblyman, Seminerio decided "Screw you, from now on . . . I'm a consultant." Gov. Ex. 1. In other words, Seminerio was not satisfied with being paid his legislator's salary for lobbying, making introductions, and otherwise using his influence as an assemblyman; as a "consultant" he received a bigger piece of the "action" he felt he had been missing in those prior years.

f. Long Island Rail Road

Seminerio's corrupt relationship with the Long Island Rail Road ("LIRR") was distinct because the LIRR was never a client of Seminerio or of Marc Consultants. Nevertheless, by his own account Seminerio used his position as an Assemblyman to secure jobs for friends at the LIRR in exchange for his securing state funds for the railroad:

You know how many people I got jobs in the Rail Road? Any time that I would, uh, give them a two-hundred-fifty thousand contribution, or five-hundred thousand, for repairs on the rail in there, I need two jobs. Even if I didn't have anybody, then I find two people and get them jobs . . . I always did tell them, . . . "your human resources person takes care of their own. I need two jobs, you got two jobs." You know. "We got two jobs for me, you got five-hundred thousand."

Gov. Ex. 3 (statement to Brian McLaughlin). Seminerio's own description of this arrangement is corroborated by other credible evidence. In April 2007, Seminerio obtained \$250,000

in State funding for the LIRR through a discretionary member item in connection with a painting project. Gov. Ex. 1001. In February 2008, Seminerio's son asked the Assemblyman to help out a friend who was applying for a job at the LIRR. Gov. Ex. 32. Seminerio called an LIRR employee, identified himself as Assemblyman Anthony Seminerio, and talked about a "dear friend of the family" who was applying for a job as a machinist at the LIRR. Gov. Ex. 33. Seminerio then said:

[N]ow do me a favor . . . At your leisure, if you guys have got a proj-, cause usually in the old days when you've had projects I've funded them for you guys . . . So if you got something going, I'd be more than glad to meet with you over a cup of coffee or anything.

Id. Later that day, Seminerio met with the family friend who was seeking a job at the LIRR and explained: "What will probably happen, they'll come up with a project and I'll fund it for 'em and you should get the job." Gov. Ex. 34.

Thus, the evidence shows that defendant sought at least one job at the LIRR in return for securing at least \$250,000 in state funding for the railroad. We therefore include the amount of that funding, \$250,000, in our loss calculation.

g. Schemes Involving an FBI Undercover

From January, 2008, until September, 2008, an FBI agent working in an undercover capacity (the "Undercover") retained Seminerio's consulting firm, Marc Consultants, and paid

Seminerio a total of \$25,000. Seminerio first assisted the Undercover with a plan to invest in probation services, which would have required New York State legislation to privatize probation supervision. When Seminerio initially confirmed that this would require legislation, he stated that he could not work as a consultant on State matters and offered to put the Undercover in touch with a lobbyist. Gov. Ex. 35.

However, as in other contexts, any initial ethical concerns Seminerio may have had regarding State involvement with the Undercover's proposal soon vanished. During the period in which the Undercover gave Seminerio monthly checks, Seminerio set up a meeting between the Undercover and Assemblyman Jeffrion Aubry, the Chair of the Assembly Corrections Committee, Gov. Exs. 36-37, and Seminerio himself attended the meeting with Undercover and Assemblyman Aubry at an Albany restaurant on April 15, 2008 -- where the three discussed legislation that would privatize probation services in New York State. What is more, Seminerio did not disclose to Aubry that the Undercover was a paying consulting client. The connection between Seminerio's facilitating the meeting and receiving Undercover's monthly payments was abundantly clear since, the day before this meeting, Seminerio asked the Undercover when he would be paid, noting that he had not received "anything for March, and April's almost gone." Gov. Ex. 36. When the Undercover offered to bring a check to Seminerio's office, Seminerio said: "[Y]ou can't give me the check in the building. It's against protocol. It has to be in the restaurant." Gov. Ex. 37. The Undercover eventually gave Seminerio a check for \$5,000 at the restaurant after Assemblyman Aubry had left. Seminerio remarked that the check was "none of [Aubry's] business." Gov. Ex. 38.

Seminerio assisted the Undercover with a second proposed project involving redevelopment of certain environmentally contaminated sites known as "brownfields." A New York State program provides government assistance for cleaning up and developing such sites. On June 10, 2008, Seminerio set up a meeting between the Undercover and Assemblyman Vito Lopez, Chair of the Assembly Housing Committee. Lopez met the Undercover in his legislative office in Albany. While Seminerio did not attend that meeting, he brought the Undercover to the Assembly a week later and had a folding chair set up for his quest on the floor of the Assembly Chamber. Seminerio also introduced the Undercover to the Chair of the Assembly Environmental Conservation Committee and the two discussed brownfield redevelopment. That same day, Seminerio took the Undercover to the Chamber of the State Senate and introduced him to the Chair of the Senate Environmental Conservation Committee. The two discussed brownfield redevelopment and agreed to meet at a later

date. At no point did Seminerio disclose to these other legislators that the Undercover was a paying consulting client.

III. Defendant's Additional Legal Arguments

As noted above, while defendant failed to rebut the facts described in Part II, which we find were established by a preponderance of the evidence, he does advance certain legal arguments which relate to his guidelines calculation and the scope of conduct for which he may be held accountable at sentencing. These arguments, however, are ultimately unpersuasive.

a. The Applicable Sentencing Guidelines

Section 2C1.1 of the Sentencing Guidelines is the applicable provision for the crime of mail fraud under 18 U.S.C. § 1341, which, pursuant to 18 U.S.C. § 1346, includes "a scheme or artifice to deprive another of the intangible right of honest services." Seminerio argues that his sentencing guidelines range should be determined not under Section 2C1.1 but under the "Conflict of Interest" Section, 2C1.3, which requires no loss calculation and, accordingly, would result in a far lower advisory guidelines range. We reject defendant's argument for two reasons. First, the Commentary to Section 2C1.1, which lists the statutory provisions to which that section applies, includes 18 U.S.C. § 1341 "if the scheme or artifice to defraud was to deprive another of the intangible right of honest

services of a public official."¹⁹ The Commentary to Section 2C1.3 makes no such reference to § 1341. This contrast makes it clear that the Sentencing Commission intended Section 2C1.1 to apply to the crime to which Seminerio pleaded guilty.

Second, Section 2C1.3 contains a cross reference to 2C1.1 "if the offense involved a bribe or gratuity." As discussed above, the defendant's criminal conduct was far broader than mere nondisclosure of a conflict of interest: Seminerio used his office to act on behalf of clients who were paying him for that privilege. Accepting such payments fits squarely within the ambit of Section 2C1.1. See United States v. Jennings, 487 F.3d 564, 587-88 (8th Cir. 2007) (holding that Section 2C1.1 is the appropriate provision where defendants have an undisclosed conflict of interest and also use their official positions to "lobby for their personal interest and to influence their colleagues").²⁰

b. Reliance on the Legislative Ethics Opinion

Seminerio's remaining legal argument is that, with the exception of a single incident (the July 10, 2008 telephone call with Whalen during which defendant admittedly failed to disclose

¹⁹ The Statutory Index to the Guidelines Manual also lists Section 2C1.1 as the applicable provision for a violation of 18 U.S.C. § 1341.

²⁰ Because we find that defendant's conduct involved the acceptance of bribes or gratuities, we need not address defendant's arguments regarding the applicability of Section 2C1.3 to honest services fraud involving only an undisclosed conflict of interest, nor his discussion of <u>United States v.</u> Hasner, 340 F.3d 1261, 1267 (11th Cir. 2003). See Def's. Mem. 151-57.

his conflict of interest), he is shielded from criminal liability because in conducting his "consulting" activities, he was relying on an Advisory Opinion issued to him by the New York Legislative Ethics Committee in 1996. Def. Ex. L; Def's Mem. 137-139; Def's Post-Hr'g Mem. 5-8. Advisory Opinion 96-06 concludes, inter alia, that "as long as the services rendered by [Seminerio] do not involve matters before a New York State agency, he may be compensated to identify and access grant applications which are directed to federal, city or private entities." Def. Ex. L. However, Seminerio's failure to provide full disclosure of material facts to the committee that rendered this opinion -- and his failure to comply with the opinion itself once it was issued -- make his arguments ultimately unavailing.

As noted above, Seminerio began working as a consultant with Arlene Pedone's Neighborhood Marketing Services. Seminerio's work with Neighborhood Marketing Services related specifically to a single client, NHP, which is an HMO that provides health insurance through Medicaid. On March 20, 1996, Seminerio wrote a letter to the Counsel to the Assembly Majority Leader which stated that (1) Seminerio planned to work as a consultant for a marketing firm, (2) one of the firm's clients was an HMO, and (3) "if any legislation concerning HMOs came before the Assembly, [Seminerio] could not vote on that

legislation." Def. Ex. EE. Seminerio did not disclose that the HMO client was an entity that exclusively provided services to Medicaid recipients. This omission was material because such an entity stood to benefit from votes that Seminerio made as a legislator on the scope and amount of Medicaid reimbursement.

In April and May of 1996, Seminerio wrote to the co-chairs of the Legislative Ethics Committee. Def. Exs. FF, GG. These letters disclosed Seminerio's consulting position and the existence of an HMO client, but did not suggest that Seminerio would refrain from voting on legislation concerning HMOs (in contrast to his earlier letter to the Assembly Counsel). More importantly, Seminerio once again did not disclose that the HMO client was a Medicaid-funded entity. Seminerio wrote that he had "discussed the matter with Assembly Counsel . . [and] [i]n his opinion, no conflict was presented. Id. In response to these letters, the Legislative Ethics Committee issued Advisory Opinion 96-06, which stated that Seminerio was allowed to work as a consultant, but could not provide consulting services in connection with any New York State matter. Def. Ex. L.

On January 9, 2001, a few years after Seminerio formed Marc Consultants, he wrote to another assemblyman and member of the Ethics and Guidance Committee, stating that he had terminated

²¹ There is no evidence that defendant did, in fact, refrain from voting on legislation concerning HMOs that came before the Assembly.

his position with Neighborhood Marketing and established his own consulting firm. Def. Ex. Y. Seminerio provided no description of the consulting work his firm would be doing, but stated that he had "discussed the matter with Assembly Counsel . . . [and] [i]n his opinion, no conflict was presented." Id. Although the letter requested a formal written opinion, none was ever issued by the Legislative Ethics Committee.

Under New York Legislative Law § 80(7)(n), a legislative ethics opinion can in certain circumstances provide a defense in a criminal proceeding:

A formal opinion rendered by the [Legislative Ethics] commission, until and unless amended or revoked, shall be binding on the commission in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person, and may be introduced and shall be a defense in any criminal or civil action . .

Id. (emphasis added). However, Seminerio's effort to rely on the 1996 Advisory Opinion is unavailing for two main reasons. First, as indicated above, Seminerio's omission of material facts in requesting that opinion compromises both its integrity and its corresponding force as a legal defense. In other words, and as we noted at the Hearing, the opinion process provides a classic illustration of "garbage in, garbage out." Hr'g Tr. 379. Seminerio prevented the Legislative Ethics Committee from

reaching a fully informed decision on the propriety of Seminerio's arrangement with a Medicaid-funded entity and provided no further disclosure about the nature of his consulting work or the other clients of his new business, either in 2001 or at any time thereafter.²²

Second, while Seminerio argues that he relied on the ethics opinion in good faith, the preponderance of credible evidence simply does not support such a charitable characterization of defendant's state of mind. Having pleaded guilty to a fraudulent scheme to deprive the public of honest services, and having been confronted with credible evidence -- including in particular his own recorded statements -- that the scheme involved his corrupt relationships with paying clients with respect to various State and non-State matters, Seminerio chose not to testify at the Fatico hearing or to offer any alternative explanation for his conduct, much of which demonstrably breached the terms of the very ethics opinion on which he now purports to rely. In this context, Seminerio's mere dependence on the

We recognize that establishing Marc Consultants — a sole proprietorship of which Seminerio was the only employee — essentially shielded Seminerio from having to identify his clients on his annual disclosures of outside income. State legislators must report annually the "nature and amount of any income in excess of \$1000," including "consultant fees," but may report income earned from a business "by the name of the entity and not by the name of the individual customers, clients or tenants . . ." N.Y. Pub. Officers L. §§ 73-a(2)(a) and (3). Thus, creating Marc Consultants allowed Seminerio to list only that business on his annual disclosure, without having to reveal the names of his consulting clients and the particular fees they paid.

assertions and arguments of his counsel to establish his good faith reliance proves wholly unpersuasive.

Advisory Opinion 96-06 contemplates that Seminerio "does not participate in any way with applications for state grants or other activities involving New York State." Def. Ex. L. The opinion concludes, inter alia, that the Assemblyman should "abstain from participating in legislative matters which specially benefit clients of the firm he serves" and "refrain from identifying his position with the legislature while working as a marketing representative of the firm." Id. However, as discussed in the findings of fact above, Seminerio did participate in "activities involving New York State" on behalf of his paying clients -- and threatened to use his influence against those who refused to pay him. Such conduct was plainly inconsistent with the ethics opinion.

Furthermore, Seminerio repeatedly violated the opinion's prohibition against "identifying his position with the legislature" while working as a consultant. On the contrary, Seminerio emphasized his position. For example, when speaking with hospital executives on behalf of Winston Financial or General Bernard Gordon Ehrlich, defendant repeatedly introduced himself as "Assemblyman Seminerio." Gov. Exs. 23, 54; see Part II.d.i, supra. Seminerio not only used his official title in his purportedly private "consulting" role, but also encouraged

well. <u>See, e.g.</u>, Gov. Ex. 24 (telling Ehrlich to explain to Wyckoff Heights hospital executives that "the Assemblyman . . . made a commitment to Wyckoff").

For the foregoing reasons, Seminerio's argument that he relied on the 1996 ethics opinion -- and should be entitled to that defense with respect to his non-State consulting services -- is unpersuasive. What is more, defendant's reliance argument somewhat academic in light of the evidence becomes applicable guidelines provisions in this case. Even if we assume, arguendo, that defendant is entitled to the benefit of the ethics opinion -- and further omit from our loss calculation amounts that could reasonably be attributed to his those arguably permissible consulting services related to federal, city, or local agencies, 23 the applicable guidelines range would not change. Following our factual findings discussed above, the calculation under total loss Sections 2C1.1(b)(2) and 2B1.1(b)(1) of the sentencing quidelines would potentially include:

- \$310,000 relating to Jamaica Hospital;
- \$80,834 relating to Neighborhood Health Providers;

²³ While we assume for purposes of this discussion that Seminerio is entitled to the benefit of his <u>reliance</u> on the ethics opinion to the extent that he provided consulting services on non-state matters, we do not address the purported legality of an arrangement that would allow a state legislator to be paid for federal, local, or city lobbying while at the same time utilizing his official title and without disclosing the consulting arrangement.

- \$21,000 relating to the Jamaica Chamber of Commerce;
- \$706,048 relating to Winston Financial;
- \$170,350 relating to Plaza College;
- \$250,000 relating to the Long Island Rail Road; and
- \$25,000 relating to the undercover FBI agent.

These items would result in a total loss amount of \$1,563,232. To give Seminerio the benefit of his argument, we would subtract any fees that Seminerio may have been paid in return for what he argues was permissible consulting regarding federal, city, or local matters.

While the record contains credible evidence of Seminerio's consulting on city matters for two of these entities, namely, Jamaica Hospital and Plaza College, see Gov. Exs. 52, 56; Def's Mem. 219-22, defendant has not adduced evidence of arguably permissible consulting on federal, local, or city matters for any of the other entities. Thus, even excluding the monies Semineric received from Jamaica Hospital and Plaza College in their entirety — a generous and plainly over-inclusive subtraction that should not be construed in any way to condone Seminerio's otherwise corrupt relationships with these entities — the loss amount of \$1,563,232 is only reduced to \$1,082,882. Because even this more conservative estimate still exceeds \$1,000,000, the resulting enhancement to defendant's quidelines

range, according to the table of loss amounts provided by U.S.S.G. § 2B1.1(b)(1), is the same.

CONCLUSION

Anthony Seminerio breached the public trust not only by failing to disclose his conflict of interest, but also by receiving payments for certain actions that plainly would be expected of a reasonably diligent legislator. What is more, Seminerio received payments for actions that would not be expected of a diligent public servant, such as collecting debts, using official clout to maintain contracts that were lucrative to the Assemblyman, and even trading state funding for jobs. Accordingly, defendant's advisory guidelines range is calculated as follows:

The Base Offense Level is 14, pursuant to § 2C1.1(a)(1), because defendant was a public official at the time of the offense. Two levels are added, pursuant to § 2C1.1(b)(1), as the offense involved more than one bribe or extortion. For the stated above, the aggregate total loss reasons attributable to defendant's criminal conduct is in excess of \$1,000,000 (but less than \$2,500,000), resulting in an increase of 16 levels, pursuant to §§ 2C1.1(b)(2) 2B1.1(b)(1)(I). Four more levels are added, pursuant to § 2C1.1(b)(3), because defendant was an elected public official. The Adjusted Offense Level is therefore 36. The offense is reduced three levels, pursuant to § 3E1.1(a) and (b), because defendant has shown recognition of responsibility for the offense by pleading guilty. This results in a Total Offense Level of 33. In light of this Total Offense Level and defendant's Criminal History Category of I, the applicable advisory guidelines range, before any departures potentially to be determined at sentencing, is 135 to 168 months.

The sentencing of Mr. Seminerio will be held in Courtroom 21A on February 4, 2010, at 11.00 AM.

Dated: New York, New York January 14, 2010

> NAOMI REICE BUCHWALD UNITED STATES DISTRICT JUDGE

Copies of the foregoing Memorandum have been mailed on this date to the following:

Pery D. Krinsky, Esq. Michael S. Ross, Esq. Law Offices of Michael S. Ross 60 East 42nd Street, 47th Floor New York, NY 10165

William J. Harrington, Esq. U.S. Attorney's Office Southern District of New York 1 Saint Andrew's Plaza New York, NY 10007

Date	of	transcription	03/	13.	/2008

On 03/05/2008, An Undercover Agent (UCE) engaged in a consensually recorded conversation with New York State Assemblyman ANTHONY SEMINERIO as well as New York State Assemblyman Jeffrion Aubry.

The UCE spent approximately five minutes in Assemblyman SEMINERIO's office. During that period of time, SEMINERIO set up the meeting between the UCE and Assemblyman Aubry.

Jodie LNU escorted the UCE to Assemblyman Aubry's office. The UCE spent approximately eleven minutes in Assemblyman Aubry's office. Assemblyman Aubry started the discussion by going over the points contained on the UCE's fax, which the UCE sent on 03/04/08 to SEMINERIO. A copy of the contents from the fax is contained in a 1A envelope.

The UCE left Assemblyman Aubry's office and returned to SEMINERIO's office. The UCE and SEMINERIO remained in SEMINERIO's office for approximately 15 minutes. SEMINERIO agreed to arrange to have the UCE down to the New York State Assembly Floor. SEMINERIO had an unknown male take the UCE down to the Assembly Floor, where SEMINERIO met up with the UCE. SEMINERIO had the UCE get a folding chair and sit next to him on the Assembly Floor. The UCE remained there for approximately fifteen minutes, during which time SEMINERIO introduced the UCE to various individuals and discussed various topics.

The original recording will be maintained as evidence at the Federal Bureau of Investigation.



Investig	gation on	03/05/08	at	New	York,	New	York		
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An Undercover Agent (UCE) engaged in a consensually recorded conversation with New York State Assemblyman ANTHONY SEMINERIO as well as New York State Assemblyman Jeffrion Aubry in a restaurant, Lombardo's, located at 121 Madison Avenue, Albany, New York 12202.

The UCE discussed various topics, including the privatization of misdemeanor probation, with Aubry and SEMINERIO. The UCE provided Aubry and SEMINERIO with a packet of reference materials, which is maintained in a 1A envelope.

After the meeting ends and Abury leaves, the UCE provides SEMINERIO a check in the amount of \$5,000, a copy of which is maintained in a 1A envelope. During the presentation of the check to SEMINERIO, the UCE indicates that he was not going to present the check to SEMINERIO in front of Aubry. SEMINERIO replies, "it is none of his business."

The original recording will be maintained as evidence at the Federal Bureau of Investigation.

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Date of transcription 06/23/2008	Date (
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UCE 3427 arrived at New York State Assemblyman ANTHONY SEMINERIO (SEMINERIO)'s office in the State Legislative Building in Albany, New York at approximately 10:43 a.m. for a prearranged meeting. SEMINERIO's secretary advised the UCE that SEMINERIO had left for session and asked if the UCE would like her to take UCE to Assembly Chambers. The secretary accompanied the UCE to Chambers and UCE met with SEMINERIO outside Chambers at approximately 11:05 a.m. SEMINERIO introduced the UC to a security guard who was posted outside the Assembly Chambers and requested that he allow the UCE through when the UCE returns.

At approximately 11:11 a.m., SEMINERIO introduced the UCE to New York State Senator, CARL MARCELLINO (MARCELLINO), Chairman of the Senate Environmental Conservation Committee in the sitting area of the Senate Chambers. UCE thanked MARCELLINO for taking time out of his schedule to meet. MARCELLINO advised UC that Tony is an old friend. UCE discussed Brownfield Redevelopment with MARCELLINO. MARCELLINO provided the UCE with his business card and agreed to meet UC at a later date.

At the conclusion of the meeting with MARCELLINO, the UCE went back to SEMINERIO. UCE thanked SEMINERIO for setting up the meeting with MARCELLINO. SEMINERIO asked other Assemblymembers, who is the Chairman of the Environmental Conservation in the Assembly. One of the Assemblymembers advised SEMINERIO that BOB SWEENEY was Chairman. SEMINERIO asked the UCE "would you like to speak to him". UCE stated yes and SEMINERIO stated he would send him right out.

SEMINERIO introduced the UCE to Assemblyman ROBERT SWEENEY (SWEENEY), Chair of the Assembly Committee on Environmental Conservation. The UCE and SWEENEY discussed Brownfield Redevelopment. SWEENEY advised that the Assembly was currently working on a brownfield reform package. SWEENEY provided the UCE with one of his business cards.

Prior to these meetings, at approximately 10:32 a.m. SA Brown activated the recording device. SA Brown provided the recording device to UCE 3427 at approximately 10:33 a.m.

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The meetings adjorned at approximately 11:47 a.m. The recording device was deactivated at approximately 12:06 p.m. and the tape was secured as evidence.

Date of transcription 09/09/2008

ANTHONY SEMINERIO, residing at

interviewed at his extende. After being advised of the identities of the interviewing agents and the purpose of the interview, SEMINERIO provided the following information:

SEMINERIO claimed ownership of MARC CONSULTANTS ("MARC") and stated "that's me" in response to a question regarding SEMINERIO's connection to MARC. SEMINERIO named MARC after the initials of SEMINERIO's four grandchildren. MARC has been in existence for approximately ten (10) years. SEMINERIO received permission from SHELDON SILVER and the Assembly Ethics Committee to form MARC, and SEMINERIO received a document from the Assembly Ethics Committee approving the formation of MARC. SEMINERIO advised that his only restriction is that he is not permitted to deal with any state agency in connection with his consulting business. All of SEMINERIO's clients have "an agreement" with him and he tells them that he cannot get involved at the state level. Any contact with state agencies on behalf of clients would constitute an ethics violation. SEMINERIO later stated that he is permitted to ask a state agency a question on behalf of his client, or to set up a meeting with a state agency. However, SEMINERIO cannot attend the meeting with his client and the state agency.

SEMINERIO may only deal with and appear before city agencies and federal agencies. SEMINERIO advised that his consulting business consists mainly of SEMINERIO setting up meetings for clients, making introductions and "steering people in the right direction." SEMINERIO does not "put a gun to anyone's head" regarding his consulting business. SEMINERIO's clients have never made an unreasonable request of SEMINERIO. SEMINERIO never has, and never will, attend a meeting between a client and an assembly member regarding legislative issues.

SEMINERIO speaks with his clients but does not meet with them. SEMINERIO does not produce any written work product, and he never gets any faxes or letters from his clients. If SEMINERIO were to get a fax from one of his clients requesting something, SEMINERIO would throw the fax in the garbage after handling the matter. SEMINERIO does not have any other outside business interests. SEMINERIO stated that he "tries not to let anyone up

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•	Anthony Seminerio	09/05/2008	2
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there (Albany) know my business." SEMINERIO has heard that other assembly members may have consulting companies, but does not know who specifically.

SEMINERIO formed his consulting company because SEMINERIO felt that he should get paid for performing these services. Over the years, SEMINERIO "did a million things for a million people," and SEMINERIO felt that he should be compensated for this. SEMINERIO also set up this consulting company because he wanted to show how he earned his money. SEMINERIO wanted to keep his income separated in case each required different tax treatment.

MARC is operated out of SEMINERIO's house, and SEMINERIO uses his home phone and cell phone to communicate with MARC clients. MARC is a registered corporation, and SEMINERIO includes MARC income on SEMINERIO's personal income tax returns. SEMINERIO is the only employee of MARC. MARC does not have a website. The state employees that work in SEMINERIO's district office do not perform any work on behalf of MARC.

MARC only has one bank account. SEMINERIO always deposits client checks, and never cashed them or negotiated them with another entity. SEMINERIO receives his MARC CONSULTANTS checks by mail at his house. SEMINERIO stated "that may be a problem, I don't know."

When asked how SEMINERIO's legislative duties are different from what he charges for as a consultant, SEMINERIO responded "I don't charge my constituents." SEMINERIO advised that his actions taken as an assemblyman are generally the same as those taken as a consultant, with few exceptions. SEMINERIO's clients hire him for "advice" and to "get something done." SEMINERIO would do these things for free if the requestor was his constituent.

SEMINERIO takes phone calls from his clients while in his Assembly office, but will never hold a meeting with a client in his Assembly office. If he needs to meet with a client, they will meet in a restaurant.

SEMINERIO has contracts with his clients that he keeps in a suitcase. When asked about the current location of the contracts, SEMINERIO became nervous and responded "I got it. I got them, I'll get it when I can." When asked if the contracts were currently inside his Assembly office, SEMINERIO shrugged his shoulders. SEMINERIO stated that he took the briefcase out of his

	Anthony Seminerio	09/05/2008		3
Continuation of FD-302 of		, On	, Page	

car trunk because his car is at the mechanic being repaired, and that it will be returned to the trunk as soon as the vehicle is returned.

When asked what records are maintained on MARC CONSULTANTS, SEMINERIO stated that he has "one sheeter" consulting contracts. Income records are kept for one year for tax purposes, and are then discarded. SEMINERIO does not produce any written reports or correspondences because he is "not that intelligent." Any written correspondence that may be generated is thrown away.

When asked to give examples of activities SEMINERIO is not permitted to engage in, SEMINERIO provided the following: if JAMAICA HOSPITAL needed a million dollars in state funding, this would constitute a conflict. SEMINERIO cannot get involved in legislation at the request of his clients. SEMINERIO stated "I try to be careful in this area but I may have made mistakes."

SEMINERIO'S clients include an entity that deals with hospital care for veterans, and a college that has education programs connected to hospitals. SEMINERIO has also intervened with the New York City Buildings Department on behalf of a hospital. SEMINERIO also has a client, WINSTON FINANCIAL, that puts together healthcare and benefit packages. SEMINERIO connects them with area hospitals and SEMINERIO gets a fixed percentage from this client. JAMAICA HOSPITAL is also a client of SEMINERIO'S (Agent note: SEMINERIO initially stated that WINSTON FINANCIAL and JAMAICA HOSPITAL were his only two clients).

SEMINERIO deals with DAVID ROSEN, who is the Chief Executive Officer at JAMAICA HOSPITAL. SEMINERIO got ROSEN connected with TRICARE, and SEMINERIO also assists ROSEN if ROSEN has a problem with a city agency. SEMINERIO added that "if I can't do it, I tell them that I can't do it." JAMAICA HOSPITAL pays SEMINERIO a quarterly retainer of ten thousand dollars (\$10,000.00). SEMINERIO has been receiving payments from JAMAICA HOSPITAL for approximately six (6) years. If JAMAICA HOSPITAL officials requested to meet with a state official, SEMINERIO would set up the meeting but would not attend the meeting. SEMINERIO is only permitted to attend meetings at the city or federal level, but not at the state level. SEMINERIO cannot help his clients get state funding. The Governor, the Speaker of the Assembly, and the Senate Minority Leader determine who will receive state funding. If one of SEMINERIO's clients requested state funding, SEMINERIO could only make a recommendation to one of these three individuals.

SEMINERIO obtains additional business for ROSEN, mainly with military veterans through TRICARE. SEMINERIO's relationship with ROSEN has nothing to do with funding or legislation that benefits JAMAICA HOSPITAL.

WINSTON FINANCIAL is also a client of SEMINERIO'S. SEMINERIO deals with BOB BRADLEY at WINSTON FINANCIAL. WINSTON FINANCIAL puts healthcare packages together. SEMINERIO puts BRADLEY in touch with people and "finds leads."

PLAZA BUSINESS COLLEGE is also a client of SEMINERIO's. SEMINERIO deals with CHUCK CALLAHAN at PLAZA COLLEGE. just recently started being paid two thousand dollars (\$2000.00) per month. This has occurred over the past year. Prior to that, SEMINERIO was not paid by CALLAHAN. In consideration for the payments, SEMINERIO made himself available to help CALLAHAN with problems, school renovations involving the city building departments, and education programs. CALLAHAN never asked for state funding, and SEMINERIO never obtained state funding for SEMINERIO never went to SHELDON SILVER, the Governor or the Senate Majority Leader to discourage them from cutting funding for educational institutions, nor did SEMINERIO ever encourage them to fund educational institutions. SEMINERIO never funded any of PLAZA COLLEGE's projects and never intervened on any legislative matters effecting PLAZA COLLEGE. If CALLAHAN were to ask SEMINERIO to push legislation, all SEMINERIO is permitted to do is to notify CALLAHAN "if it passes or not."

SEMINERIO also has a "new guy" named "Matty" as a client. MATTY is with a finance company looking to invest in brown fields. SEMINERIO led him to people in the health field, as well as WINSTON FINANCIAL. MATTY pays SEMINERIO five thousand dollars (\$5000.00) per month. SEMINERIO will do anything MATTY wants, as long as it does not involve the state. SEMINERIO provided introductions, and set MATTY up with a state assemblyman. SEMINERIO initially refused to disclose the identity of this assemblyman, but later identified him as JEFF AUBREY. SEMINERIO made this introduction because MATTY was interested in privatization of corrections institutions. SEMINERIO was not permitted to attend this meeting.

As a State Assemblyman, SEMINERIO perceives his job as "The Godfather." People come to SEMINERIO, and SEMINERIO tries to help them out. While in Albany, SEMINERIO's work is routine. Many bills are passed. SEMINERIO stated that "Eighty percent of the bills I vote for, I don't know what the hell it is." SEMINERIO

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Continuation of FD-302 of		, On , Page	

also disburses approximately one hundred ninety thousand dollars (\$190,000.00) in member item money annually. Most of this money goes to the RICHMOND HILL BLOCK ASSOCIATION. SEMINERIO also receives approximately two million dollars for "CCAP repairs," and an additional two million dollars for the Parks Department and the Long Island Rail Road. SEMINERIO stated that he "does not have that much power" because there are hundreds of assembly members.

The "HCRA" fund was established approximately twenty-five (25) to thirty (30) years ago from a pool of funds benefitting distressed hospitals. SEMINERIO helped start this program with ALAN HEVESSEY. The program grew from six (6) hospitals to fifty (50) hospitals. SEMINERIO does not get any of this money to disburse. SILVER, JOE BRUNO, and the Governor disburse these funds. SEMINERIO will not lobby SILVER or anyone else for HCRA funding for any hospitals. The only time that SEMINERIO has lobbied the Governor for funding was for the ONE STOP RICHMOND HILL BLOCK ASSOCIATION.

In or around 1985, SEMINERIO entered the catering business at LA BELLA VITA. SEMINERIO withdrew from the catering business in or around 1990 or 1991. There were four (4) partners, and they dissolved their partnership. SEMINERIO may have told people that he still had an interest in the restaurant, but SEMINERIO only said this "for perception." SEMINERIO stated that he "fed into false perception." SEMINERIO was never a partner at CAFÉ ITALIA, although he did provide a loan to the owner to "get it started." SEMINERIO has never had any financial interest in the ATLANTIC DINER.

SEMINERIO would use his campaign funds to take his official staff out to dinner. SEMINERIO would also reimburse the state out of his campaign funds for auto expenses paid by the state, since SEMINERIO's campaign owns the vehicle he drives. Every two (2) years, SEMINERIO's campaign will purchase a new vehicle. Prior to four (4) years ago, SEMINERIO's campaign leased the vehicle rather than purchase it. The Campaign Finance Board in Albany approves of this practice. SEMINERIO pays the car off by the end of the second year and will trade it in at the current Blue Book value. SEMINERIO went to POPULAR FORD in Brooklyn for his vehicles. However, HARRY RIZZO died and STEVE RIZZO recently sold this dealership.

SEMINERIO is a District Leader in the Queens Democratic Party. SEMINERIO's office staff does not circulate SEMINERIO's

Continuation of FD-302 of , On , Page , Page	

nominating petitions, except for FRANK DUNN, who circulates petitions on his own time. No other members of SEMINERIO's office staff perform campaign-related work.

SEMINERIO stated "I don't think I've committed anything serious." SEMINERIO further stated "that's why I pay my taxes, so I don't have no trouble." At the conclusion of the interview, SEMINERIO advised that he was nervous, and stated "I never thought I did anything wrong, but you never know."

Date of transcription 09/12/2008

ROBERT BRADLEY, CEO of Winston Financial Services Inc.

, was interviewed at the Federal Bureau of Investigations office located at 26 Federal Plaza, New York, New York. After being advised of the identities of the interviewing agents and asked if he would be willing to answer some questions pertaining to an investigation, BRADLEY provided the following information:

BRADLEY advised that when he originally heard from a Special Agent from the Federal Bureau of Investigation on the telephone, he believed it was someone posing as an Agent. BRADLEY explained that he is in the middle of a bitter divorce and believed it was someone trying to get his blood pressure up. BRADLEY stated that is why he originally told the Special Agent to speak with his attorney. BRADLEY advised that he was referring to his divorce attorney. BRADLEY apologized for the way he handled the initial conversation on the telephone and stated that he was willing to answer any questions the Special Agents had. BRADLEY asked how long the interview would take and stated that if it went more than thirty minutes, he would likely get an attorney to represent him.

Winston Financial Services Inc is a third party benefits administrator for various businesses including: Tommy Hilfiger Inc, 1199 (hospital union), Monmouth County, District Council 37, Medisys, Wyckoff Heights, Continuum, St. Vincents as well as other entities. Winston Financial Services Inc. serves as an interface between the insurance company and the company requiring insurance. Winston Financial Services Inc. tries to take all of the administrative aspects of this relationship by properly managing the data.

BRADLEY indicated that they obtain new business through their sales force of seven people, including CRAIG BUTLER. They get new business from multiple channels. They have a staff of seven sales people that interface with clients and prospective clients. They gain new business through referrals and friends of friends. They pay up to \$40,000 to attend seminars that guarantee meetings with company executives that are responsible for their respective company's benefit package. They utilize lobbyists and politicians to help them gain new business as well.

Investigation on 09/10/08 at New York, New York

File # 194B-NY-296800
SA Scott McDonough
by SA Christopher E. Kelly

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Winston Financial Services Inc. works with New York State Assemblyman Anthony SEMINERIO and the former New Jersey Governor RICHARD CODEY. BRADLEY stated that they had their arrangements with the above politicians reviewed by attorneys, which deemed the business to be legitimate. BRADLEY further stated that there were no kickbacks. Winston Financial Services Inc used the services of Pat Lynch, a lobbyist, in an effort to obtain meetings with the companies listed on LYNCH's client listing. They paid her approximately \$6 thousand to \$10 thousand per month. They did not have any meetings with her clients and after approximately six months terminated the relationship.

They work with RICHARD CODEY through the insurance agency named Olympic Agency. They have worked with CODEY for approximately ten years in the state of New Jersey. On any business gained by Winston Financial Services, Inc. when working with the Olympic Agency, they get a split commission as long as the contract remains in place.

Winston Financial Services Inc. has worked with Anthony SEMINERIO's firm Marc Consultants for approximately twelve years. They pay SEMINERIO a retainer fee of approximately \$2,000 per month. SEMINERIO provides introductions for Winston Financial Services Inc. representatives and various hospital executives.

SEMINERIO provided an introduction to STANLEY BREZENOFF of Continuum. SEMINERIO set up a meeting with DOMINIC GIO, Wyckoff Heights Medical Center's former president, approximately seven to eight years ago, which resulted in a client for Winston Financial Services Inc. SEMINERIO provided an introduction to Medisys, which has approximately eight hospitals under their umbrella, approximately six years ago, which also resulted in a client for Winston Financial Services Inc.

BRADLEY indicated that there was a great deal of change at Wyckoff Heights Medical Center. Wyckoff purchased two hospitals and then a few weeks later asked the state for \$11 million to enable the hospital to fund their operating needs. Wyckoff Heights Medical Center had not been paying their bills recently, and that they were approximately 120 days late. Wyckoff Heights Medical Center may be put into receivership. Wyckoff Heights Medical Center recently had a turnaround specialist, TOM SINGLETON, in to make a number of changes. One of the changes that SINGLETON pushed for was to rebid the benefits packages for employees to go from the

	ROBERT BRADLEY	09/10	/08 3
Continuation of FD-302 of		, On	, Page

existing programs provided to a much more stripped down version, which Winston Financial Services Inc. did. SEMINERIO did not have anything to do with the rebidding process directed by TOM SINGLETON. SEMINERIO set up the initial meeting with Wyckoff eight years ago, but he hasn't done anything since then.

When asked if Winston Financial Services Inc. would get paid in the event a hospital falls apart, BRADLEY stated that there would be no further business with that hospital and that they may get 10 cents on the dollar for any receivables. BRADLEY acknowledged that hospitals are funded by the state and that they would prefer a financially strong hospital over a weak one. BRADLEY never asked SEMINERIO or any other politician to intervene from a funding perspective to help any of the hospitals.

BRADLEY indicated that he viewed SEMINERIO as a grandfather figure that was a nice guy and doesn't do anything nefarious.

Date of transcription 11/14/2008

ROBERT BRADLEY, CEO of Winston Financial Services Inc.

was interviewed at the Southern District of New York office located at One St. Andrews Plaza, New York, New York by Assistant United States Attorney William Harrington. Also present for the interview was BRADLEY's attorney, Robert Scrivo, and Assistant United States Attorney Daniel Stein, Special Agent Christopher E. Kelly and Special Agent Scott McDonough. After being advised of the identities of the interviewers and signing a standard proffer agreement, BRADLEY provided the following information:

Winston Financial Services Inc (Winston) was formed in 1984 and offers services which include voluntary benefits, core benefits, bill processing, and third party benefits administration for approximately 64 clients.

BRADLEY runs the company and is the Chief Executive Officer, yet spends much of his time marketing his business.

Approximately eighty to ninety percent of Winston's business is with Unions. BRADLEY prefers working with Municipal Unions because of the automated payroll deduction systems normally inherent in these organizations. When doing business with these types of Unions, Winston earns approximately three percent of the price of the benefits package sold. This percentage is always negotiable with Winston's clients.

Winston's competition in the market place charges about the same rates as they do, but Winston is successful because of their experience, skill set, and systems.

Some time in 1999 BRADLEY met with ANTHONY SEMINERIO at an office of the accounting firm Deloitte, Haskins, Sells and Beck. Also at this meeting was GEORGE KALKINES. BRADLEY recalls this meeting being a group of men getting together to see how they could work together to gain business. Shortly after this meeting, Winston signed a contract with MARC Consultants, aka ANTHONY SEMINERIO. SEMINERIO knew the top management of several hospitals and this was valuable to Winston. Over the years, SEMINERIO has made approximately seventeen business referrals of which two

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actually resulted in a business agreement. SEMINERIO was paid by Winston based on performance.

SEMINERIO introduced DOMINIC GIO, former president of WYCKOFF HEIGHTS MEDICAL CENTER (WHMC), to BRADLEY. GIO allowed BRADLEY to offer voluntary benefits packages to Wyckoff employees.

At some point, WHMC appointed a new Human Resources Director, FRED ISGRUB (phonetic). ISGRUB decided that the services Winston was providing to WHMC would have to be rebid so that Winston's competition had an opportunity to challenge for the business. BRADLEY was not happy with ISGRUB's decision and contacted GIO. GIO was not always easy to get ahold of and this is how SEMINERIO helped. GIO, BRADLEY, and ISGRUB met to discuss the rebid process along with SEMINERIO and KALKINES. SEMINERIO told BRADLEY that KALKINES was his partner. KALKINES would usually attend all meetings which SEMINERIO was a part of. SEMINERIO would normally sit in the corner and remain relatively quiet in meetings like this one. Eventually, Winston held onto its business with WHMC.

At another point in the Winston/WHMC business relationship, WHMC brought in a guy named TOM SINGLETON who was under the impression that everyone was corrupt within WHMC and this was not true. SINGLETON wanted to replace many of the people within WHMC with his own people from Tennessee. This concerned BRADLEY because he knew it could effect his business with WHMC.

BRADLEY did not ask for SEMINERIO's assistance regarding the concerns he was having with SINGLETON's actions at WHMC.

BRADLEY had a meeting with SINGLETON and began to form new business relationships and did not have a need to get SEMINERIO involved.

BRADLEY knew that GIO was having some health concerns and offered to manage his health benefits. This is the only way in which BRADLEY attempted to help GIO amidst the turmoil he, GIO, was in at WHMC. BRADLEY stated that he believed that he made a call to GIO to discuss what was happening with the person(s) from Tennessee which SINGLETON was considering bringing to Wyckoff to manage employee life insurance benefits, etc.

GIO retired or was bought out of his contract by WHMC.

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BRADLEY is unaware if WHMC did any other business with SEMINERIO.

GIO did not like DAVID ROSEN, CEO of MEDISYS, because he and ROSEN were competitors in the same business. SEMINERIO introduced BRADLEY to ROSEN. ROSEN subsequently allowed BRADLEY to go into all the hospitals in the MEDISYS Network and offer voluntary benefits to its employees. BRADLEY only recalls this one occasion when he met with ROSEN and SEMINERIO together. BRADLEY met with MOUNIR DOSS, JAMAICA HOSPITAL, at some point to discuss the possibility of offering core benefits to Jamaica's employees. SEMINERIO did not help BRADLEY arrange this meeting with DOSS.

At some point, KALKINES tells BRADLEY that he is a lawyer and will be charging Winston fees rather then be paid on commission. BRADLEY regrets allowing KALKINES to get away with this, but at the time, BRADLEY was unsure how significant KALKINES was to the JAMAICA/WHMC executives. BRADLEY essentially paid KALKINES more out of a fear of losing the business with MEDISYS Network Hospital business than anything else.

In 2007, BRADLEY speaks to SEMINERIO about the MEDISYS commission and tells SEMINERIO that he has been paying KALKINES. BRADLEY felt like he was being screwed as he was paying both KALKINES and SEMINERIO.

Winston paid KALKINES \$50,000/year. This money was paid directly to KALKINES' two kid's bank accounts. BRADLEY stated this was unusual and does not pay any other client of his this way. KALKINES's kids do not perform any work for Winston.

BRADLEY does not have a personal relationship with ROSEN, GIO or SEMINERIO.

BRADLEY never conducted any state business with SEMINERIO.

To: DAVID ROSEN[drosen@jhmc.org]

Subject:

TONY SEMINERIO

Sent:

Thur 2/14/2008 4:18:01 PM

From:

OLGA CENDROSKI

Called to thank you for your help with bringing on Winston. They treated him well. He said that "this will be my annuity when I retire."

Olga Cendroski Assistant to the President Executive Office Jamaica Hospital Medical Center Tel: (718) 206-6290 Fax: (718) 657-0545 ocendros@jhmc.org



Date of transcription

09/09/2008

FEDERAL BUREAU OF INVESTIGATION

DAVID P. ROSEN was interviewed at his home located at Harrison, New York 10528, cellular telephone number and work telephone number and work telephone number advised of the identities of the interviewing agents and asked if he would be willing to answer some questions pertaining to an investigation, ROSEN provided the following information:

ROSEN is the Chief Executive Officer (CEO) of Medisys an the CEO of a number of Medisys subsidiaries including, Jamaica Hospital Medical Center (JHMC) and Brookdale University Hospital Medical Center (BUHMC).

In the mid 80's, SEMINERIO was instrumental in orchestrating the passage of legislation that created the Secured Hospital Financing Program. The Secured Hospital Financing Program created a bonding capacity for hospitals, which enabled distressed hospitals to raise funds through bonds that were ultimately backed by the state. ROSEN stated that they would have never been able to get a meeting with Governor CUOMO's Chief Counsel FABIAN PALOMENO, who was critical in the program moving forward, without SEMINERIO. SEMINERIO is not one of the guys that could debate a complex bill such as the one proposed in this situation, but SEMINERIO was the person that introduced ROSEN to the individuals that could debate such a bill, which in this case was JIM TALLON. SEMINERIO was also instrumental in other introductions to various Assemblymen that became sponsors of the bill. ROSEN used the lawfirm KALKINES, ARKY, ZALL, BERNSTEIN to work on the technical aspects of the case including putting it into legislative language. Ultimately, the bill had 130 sponsors and was passed by both houses creating a \$1.6 billion pool of funds available to distressed hospitals including JHMC, Wyckoff Heights Medical Center, Brookdale, North General as well as four to five others. JHMC obtained \$105 million in financing and used the funds for a new hospital building, equipment and the repayment of debts.

When asked how he or his organization impacts the budget process in New York State, he stated that Medisys typically use the Greater New York Hospital Association and HANYS (believed to be in reference to Healthcare Association of New York State). In addition, Medisys uses American Hospital Association on a national level. Representatives from Medisys do not use lobbyists to push

Investigation on 09/05/08	at Harrison, New York	GOVERNMENT
File # 194B-NY-296800	Date dictated	EXHIBIT
SA Scott McDonough by SA Julie S. Brown		56 (10)

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Continuation of FD-302 of			, On	, Page	

their agenda, as they can make their issues known through direct channels, which include the organizations listed above as well as their contacts with their representatives. Sometimes, they will write a letter to the Chair of the Health Committee and they have, in the past, met directly with the Assembly Health Committee Chair RICHARD GOTTFRIED.

ROSEN stated that he did not go to Assemblymen or Senators on an individual basis. ROSEN keeps them in the loop but never goes directly to them to get to GOTTFRIED or others regarding budgetary issues. ROSEN has been in contact with the following politicians: Assemblyman ANTHONY SEMINERIO, Assemblyman NICK PERRY, Senator CARL KRUGER, Senator SERPHIN MALTESE, former Assemblyman WILLIAM BOYLAN, Assemblyman RICHARD GOTTFRIED, Senator KEMP HANNON, Assemblyman SHELDON SILVER or former Senator JOSEPH BRUNO. keeps the various politicians updated on a group basis. ROSEN specified that he never went through Assemblymen or Senators to get to Assemblyman GOTTFRIED, Senator KEMP HANNON, Assemblyman SHELDON SILVER and former Senator JOSEPH BRUNO regarding any of his hospital's issues. ROSEN stated that he has possibly contributed to the campaigns of some or all of the individuals mentioned above. Assemblyman SEMINERIO has served as a paid consultant, through Marc Consulting, for Medisys for approximately 10 years. Approximately four to five years ago, Assemblyman BOYLAN was a paid consultant for Medisys or Medisys affiliate for a number of years as well. Assemblyman BOYLAN performed similar duties to that of SEMINERIO and was paid roughly what SEMINERIO is currently paid.

When asked what SEMINERIO did for Medisys, ROSEN replied that he doesn't do anything specific in nature but that he provides guidance on issues, tells him about the political landscape, makes introductions to the New York State Assemblymen and New York State Senators as well as others outside of the legislative body. Effectively, ROSEN keeps him appraised of Medisys's situation and SEMINERIO tells ROSEN what is going on in Albany.

SEMINERIO helps Medisys as an Assemblyman and as a consultant. ROSEN does not make any distinction in his request, as he does not see the need to make such a distinction. They have never discussed any potential conflict of interest. SEMINERIO has never refused to perform any request, and ROSEN could not recall any situation that he deemed tricky or touchy in terms of a conflict of interest. ROSEN stated that it was very clear the distinction between SEMINERIO's work as an Assemblyman and SEMINERIO's work as a consultant. If SEMINERIO does work that

	DAVID P.	ROSEN	09/05/08	3
Continuation of FD-302 of			, On, Page	

involves legislation or the New York Assembly, then that work is deemed to be as his Assemblyman. If SEMINERIO does an introduction to someone outside of the New York State Legislation, then it is deemed to be as a consultant.

When asked what SEMINERIO did for Medisys as a consultant, ROSEN replied that SEMINERIO made introductions to people outside of the New York State Legislature. For these introductions, SEMINERIO earns approximately \$40,000 annually, which is probably paid through JHMC. ROSEN did not know if a contract existed between Medisys and SEMINERIO.

When asked for specifics regarding SEMINERIO's consulting work for Medisys in the last six months to a year, ROSEN stated that SEMINERIO made a number of introductions outside the New York State Legislature. SEMINERIO made introductions to people that are beneficial to the hospital. During the last quarter, SEMINERIO introduced ROSEN to a lender/potential investor. SEMINERIO introduced ROSEN to General GORDON EHRLICH regarding healthcare for veterans needing traumatic brain services, but ROSEN could not recall when that introduction occurred. ROSEN was introduced to EHRLICH some time within the last two years. SEMINERIO introduced ROSEN to a medical officer at WestPoint during the past year, but ROSEN could not recall the person's first or last name. ROSEN recalled an instance where SEMINERIO made an introduction to a local individual that was instrumental in enabling JHMC pursue an expansion project for a parking lot.

SEMINERIO started his consulting relationship with the hospital approximately ten years ago. ROSEN could not recall who brought up the idea for SEMINERIO becoming a consultant of Medisys, but he did recall that SEMINERIO asked for \$40,000/annually as the fee. SEMINERIO is paid quarterly and ROSEN approves the payments. ROSEN categorized the payment as a small amount that enables him to speak with SEMINERIO on generic stuff and to have access to SEMINERIO's network, which would include things such as seeking SEMINERIO's input on who's who on a zoning board. ROSEN has never asked SEMINERIO for a bill that specifically benefits Medisys. ROSEN stated that any request would certainly have a positive impact on the Medisys related hospitals, otherwise they would not be doing it, but any request would have a positive impact on a class of hospitals.

When asked if SEMINERIO has ever proposed legislation that benefited a Medisys related entity, ROSEN reiterated that

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Continuation of FD-302 of			, On		, Page	

SEMINERIO was instrumental in the passage of legislation that resulted in the previously mentioned Hosptal Funding Act approximately 20 years ago that ultimately resulted in Medisys obtaining \$105 million and the industry obtaining \$1.6 billion in financing through bond issuances. This bill was introduced and enacted into law years prior to SEMINERIO starting his consulting business. ROSEN indicated that SEMINERIO had not proposed any legislation impacting hospitals since becoming the hospital's consultant. When asked exactly how the relationship changed from the time before SEMINERIO was a consultant to the time SEMINERIO became a paid consultant, ROSEN indicated that SEMINERIO probably did not do introductions in the past as he does currently.

When asked if ROSEN thought there could be a conflict of interest given the work SEMINERIO does as an Assemblyman and as a consultant for Medisys, ROSEN indicated that there was probably not a conflict of interest. All New York State Legislators are part-time, therefore it is expected they have outside businesses, such as SHELDON SILVER who works as an attorney. The only legislation that SEMINERIO ever proposed in terms of legislation was the Secured Hospital Financing Program, which happened approximately twenty five years ago. ROSEN would check with SEMINERIO on various things, and often times, SEMINERIO was not in the position to provide useful information. ROSEN indicated that any thing that he has talked about with SEMINERIO was very generic. ROSEN stated that one person can only put you in front of people and can not accomplish anything on his/her own. ROSEN went on to say that, in some instances, SEMINERIO's involvement can be a detriment, as SEMINERIO is not a very articulate individual.

SEMINERIO helped Medisys on an industrywide basis on a number of things over the last few decades. ROSEN stated that in 1983 SEMINERIO supported them in a program to promote bad debt & charity for hospitals. SEMINERIO has impacted the budget bills opposing any cuts. He has testified at hearings, and he worked on the Primary Care Development Corp.

Approximately four to five years ago, ROSEN worked with New York State Assemblyman BOYLAND from Brooklyn, whereby BOYLAND served as a consultant for a Medisys related entity. ROSEN could not recall the amount paid to BOYLAND but stated that it was modest ranging between \$10 thousand and \$50 thousand. ROSEN could not recall the exact timeframe he worked with BOYLAND but believed it to be between five and ten years. BOYLAND provided ROSEN with similar services to that provided by SEMINERIO, including making

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Continuation of FD-302 of	***************************************		, On	, Page	

introductions to city council types, for example. ROSEN noted that BOYLAND was not as active in the New York Assembly. ROSEN clarified that BOYLAND was not as active in the New York Assembly in general, not specific to the entities under ROSEN's control. When asked how the relationship started with BOYLAND, ROSEN stated that BOYLAND suggested to ROSEN that he could be hired as a consultant.

Date of transcription 01/29/2009

ROBERT AQUINO (AQUINO), M.D. was interviewed at the United States Attorney's Office for the Southern District of New York (SDNY), One St. Andrews Plaza, New York, New York by Assistant United States Attorney (AUSA) William Harrington. Also present was AQUINO's attorney, ALFREDO MENDEZ, Special Agent Julie S. Brown and Financial Analyst Vinesh Manglavil. After being advised of the identity of the interviewers and the purpose of the interview AQUINO provided the following information:

AQUINO graduated from medical school in 1983. He completed his residency at Mount Sinai Hospital. He then spent two years at Brookdale Hospital. He was a physician at Astoria General from 1989 through 2001. In the early 1990's, AQUINO received a Masters in Health Care Management at New York University. He formed a professional corporation (PC) with a group of physicians in 1993. Mount Sinai took over the PC in 2000. In 2000, AQUINO was part of a group of physicians who formed Boro Medical, which is a multiple specialty practice. He was also part of a group that opened Queens Surgery Center in Long Island City. He received a contract to run the emergency room at Parkway Hospital in 2001.

In 2004, AQUINO and a group of physicians and investors planned to purchase Parkway Hospital from twenty two older physicians. They initially signed a management contract with the intent to purchase and purchased Parkway in July 2004. Parkway Hospital filed for bankruptcy due to debt to vendors and unions. Also in 2005, the Berger Commission began compiling information for its report. In 2006, Aquino and others from Parkway Hospital made a presentation to the state for the Berger Commission. Parkway Hospital hired DAVID WEINRAUB (phonetic) as a WEINRAUB's office is located at 79 Columbia Street, Albany, New York 12210, telephone number (518)427-7350. informed AQUINO that there were no Queens hospitals on the Berger Report. However when the report came out two days later, Parkway Hospital was on the list as one of the hospitals slated to be WEINRAUB indicated to AQUINO that it was a political move (referring to Parkway being placed on the list). AQUINO advised that both DAVID SANDMAN, Executive Director and MARK USTIN, Deputy Director and General Counsel of the Berger Commission are now employed with Manatt, Phelps and Phillips, LLC, which is the law

Investigation	on <u>01/29/2009</u>	at	New	York,	New	York		GOVERNMENT
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	Robert Aguir	no, MD	01/2	29/2009 2
Continuation of FD-302 of	1100010 114		, On	, Page

firm that JHMC uses. AQUINO provided a copy of the summary of major recommendations of the Berger Commission which is attached.

AQUINO advised that after taking over Parkway he began to hear from others that Jamaica Hospital Medical Center (JHMC) and North Shore Hospital were unhappy when the group of physicians took over Parkway Hospital because they wanted it to close. Parkway Hospital is located in Forest Hills, which is an affluent neighborhood. It was founded in 1964 and has always been a private hospital. It was the last for-profit hospital in New York. JHMC and North Shore felt they were losing patients to Parkway Hospital.

Parkway Hospital received an extension from the Berger deadline but was forced to close on November 7, 2008. They went back into bankruptcy court but were not allowed to remain open. AQUINO heard a rumor at this time, that JHMC got what they wanted.

AQUINO stated that in 1987, he and a group of physicians tried to buy Deepdale Hospital for \$17.5 million. They had an agreement with the Deepdale Hospital Board of Directors. KeyBank approved them for financing and the following day they were told that CHARLIE PENDOLA was buying the hospital. AQUINO felt that he was wronged and filed a lawsuit. BOB BORSITY, FABIAN PALOMINO, and GEORGE KALKINES were involved in the PENDOLA deal. AQUINO received a telephone call from GLORIA D'AMICO, the Chief County Clerk in Queens advising him to rethink the lawsuit because it would ruin his career. He dropped the lawsuit and a few months later the legislation for distressed hospitals was signed. This legislation provided money to Wyckoff Heights Medical Center (WHMC) to acquire Flushing, Mid-Island, Deepdale, Physicians Hospitals. It also provided financing to JHMC to build a new facility. All of the hospitals purchased by PENDOLA later closed.

After the Berger Commission Report was released, AQUINO began to work on a proposal to acquire beds from another facility. He put together a proposal to take over the Caritas hospitals (St. John's and Mary Immaculate). AQUINO's group had invested \$60 million into Parkway Hospital and he did not want it to close.

AQUINO was told by the Department of Health that Parkway Hospital was not eligible for HEEL grants because it was a forprofit hospital. A HEEL grant is money provided to a facility if it is closing or morphing into another type of facility. During a conference call in bankruptcy court, Judge Beatty questioned Deputy Health Commissioner, JAMES CLYNE about Parkway's eligibility for

	Robert Aquino, MD	_ 01/29/2009 _	3
Continuation of FD-302 of	4	, On, Page	

HEEL grants. CLYNE advised that Parkway was eligible for HEEL grants, even though he previously told AQUINO the opposite.

AQUINO approached Caritas and met with TOM SINGLETON to discuss his desire to take Caritas over. AQUINO's plan was to put the hospitals through bankruptcy and then obtain financing through their lender in California. AQUINO went to the Department of Health and met with NEIL BENJAMIN and CLYNE and laid out this plan. The Department of Health were not enthusiastic about this deal. He then spoke to Mount Sinai and they were willing to take over the Caritas hospitals with Parkway. AQUINO also spoke to DAVID ROSEN (ROSEN), CEO of JHMC, who was also willing to work with Parkway in this capacity. The Department of Health still did not agree to this plan.

Approximately six weeks ago, AQUINO received a telephone call from MR. RUCIGAY, Chairman of the Board of Directors at Caritas. RUCIGAY was in the Dasne Bond office and was told there was no more money for Caritas. RUCIGAY told AQUINO that he needed to meet with him right away. AQUINO met RUCIGAY about twenty minutes later with his other investors, attorneys, RUCIGAY and JOHN LAVIN (who replaced SINGLETON). They outlined the same plan regarding what they planned to do if they took Caritas over. They discussed filing for bankruptcy, conducting due diligence and then allowing the investors to decide if they wanted to acquire Caritas. His plan would include some downsizing and reallocation of services.

Two weeks after this meeting. AQUINO's sister received a letter from RUCIGAY thanking them for meeting with them but stating that they decided to go with North Shore Hospital. New York State gave North Shore twelve weeks to conduct due diligence while the state paid. Halfway through the due diligence period, North Shore decided they couldn't do it and backed out. Two weeks ago, AQUINO received a call from First Name Unknown (FNU) CONSTANZA stating that the Caritas Hospitals would be closing and that they planned to sell the empty buildings to North Shore. A total of 464 hospitals beds will be lost with the closure of St. Johns and Mary Immaculate. St. Johns receives 70,000 patients to the emergency room each year while Mary Immaculate, which is also a trauma hospital receives 30,000.

AQUINO advised that the Queens hospitals are all screaming with this news of the Caritas hospitals closing. They are already strapped due to medicaid cuts. AQUINO reached out to

	Robert Aguino, MD	01/29/2009	4
Continuation of FD-302 of		, On,,, ,, ,, ,	Page

New York State Senator MALCOLM SMITH about the closure of the hospitals and SMITH is working to keep them open. AQUINO stated the following politicians worked to help Parkway Hospital remain open: SHIRLEY HUNTLEY, VIVIAN COOK, GREGORY MEEKS, ED TOWNS, DARRYL TOWNS, and MALCOLM SMITH. He further stated that NYS Senator KRUGER has not really been helpful regarding Parkway Hospital. AQUINO advised that AUBRY and HEVESI have taken a back seat. HELEN MARSHAL, Queens Borough President is having a rally, to keep the hospitals open, today at 2 p.m.

AQUINO stated that CLYNE, BENJAMIN and DENNIS WHALEN pay favor to certain hospitals. When the Berger Commission Report first came out he went to a meeting with WHALEN and BENJAMIN with NYS Senators MALCOLM SMITH and GEORGE ONORATO. When the Senators pointed out the need for review of the commission, WHALEN and BENJAMIN said if they were worried about the Berger Commission they should have come back into session and changed the law. Another time he met with them with DARRYL TOWNS and they gave TOWNS the third degree telling him that he should change policy.

Queens County will lose approximately 700 beds with the closure of Parkway, St. Johns and Mary Immaculate hospitals. North Shore plans to buy St. Johns and Mary Immaculate for \$40 Million and in four to five years build a new tower in place of these hospitals.

AQUINO met ANTHONY SEMINERIO (SEMINERIO) in the mid 1980's at a fundraiser for SEMINERIO at La Bella Vita restaurant. AQUINO met several other politicians at this event. He would run into SEMINERIO at county dinners over the years.

In July 2004 AQUINO and partners took over Parkway Hospital. They filed for bankruptcy in 2005 and were out of bankruptcy by 2008. In the fall of 2004, SEMINERIO called AQUINO and asked to meet him in Manhattan for dinner. AQUINO could not recall the name of the restaurant but did meet with SEMINERIO. GORDON EHRLICH was also present at this dinner. AQUINO advised that they spoke mostly of family and small talk during dinner but toward the end of the meeting, SEMINERIO and EHRLICH began discussing SEMINERIO's consulting firm. SEMINERIO advised AQUINO that he could be of help to him and he would only charge AQUINO "a couple of bucks" per month. AQUINO thought the amount was in the range of \$4000 - \$7000 per month. SEMINERIO told AQUINO that you never know when you'll need help for the hospital but didn't give specifics as to what help he could provide. AQUINO told SEMINERIO he would need to think about it. A few days later AQUINO received

194B-NY-296800

	Robert Aguino, MD	201/29/2009	5
Continuation of FD-302 of	<u> </u>	, On, Page	

a consulting contract from SEMINERIO. AQUINO immediately threw the contract into the trash container without reading it. He did this because he thought that having an elected official as a consultant was a bad idea. AQUINO also stated that once when he was in his office, he witnessed SEMINERIO screaming and yelling on the telephone to someone and he did not what to deal with someone like that on a consistent basis.

In 2005, AQUINO received a telephone call from SEMINERIO asking to meet with him in his office. AQUINO went to SEMINERIO's district office for a meeting and EHRLICH was present also. SEMINERIO told AQUINO that he heard that he was struggling. AQUINO told him that he was having issues with the bankruptcy court. SEMINERIO again advised AQUINO to hire him as a consultant. AQUINO told SEMINERIO and EHRLICH that Parkway Hospital was in Federal Bankruptcy Court and that he could not hire a consultant without the approval of the bankruptcy trustee. SEMINERIO told him that was bull.

AQUINO advised that SEMINERIO is friendly with ROSEN. ROSEN was not happy with Parkway Hospital because he felt that they were taking business away from JHMC.

AQUINO sees EHRLICH from time to time. AQUINO described EHRLICH as a somewhat senile man who must drink bourbon in his coffee. EHRLICH will talk for hours but never accomplishes anything. EHRLICH has never asked AQUINO for money.

In July 2005, Parkway Hospital was struggling and still in the middle of bankruptcy proceedings. AQUINO received a call from SEMINERIO. SEMINERIO sounded angry and annoyed and told AQUINO that he told him to sign with him because he could have helped him. AQUINO told SEMINERIO that he did not think it was appropriate to hire a public official. During this conversation, SEMINERIO advised AQUINO that he told him to sign a consulting agreement with him and asked him if he [AQUINO] knew how miserable he [SEMINERIO] could make his life. This was the last time AQUINO took one of SEMINERIO's telephone calls until March 2008. AQUINO also stopped donating to SEMINERIO's campaign at this time.

In March 2008, things were looking better for Parkway Hospital. They were out of bankruptcy and had received an extension of the Berger Commission deadline. AQUINO received a telephone call from SEMINERIO. SEMINERIO was friendly and stated that he heard Parkway Hospital's commercials on the radio and asked how things were going. SEMINERIO asked to meet AQUINO for lunch.

194B-NY-296800

Continuation of FD-302 of Robert Aquino, MD

On 01/29/2009

AQUINO advised SEMINERIO that nothing had changed, but SEMINERIO persisted and told him that he just wanted to get together to catch up. AQUINO agreed to meet and arrived at a diner on Liberty Avenue. EHRLICH was inside the diner and told AQUINO that SEMINERIO was busy and couldn't make it. AQUINO hasn't heard from SEMINERIO since. He ran into SEMINERIO in Albany approximately six weeks ago and said hello.

A friend of AQUINO's, who is a patient of the Chief of Medicine at JHMC, SYED Last Name Unknown (LNU), heard from SYED LNU that ROSEN is apolectic that Parkway was still open. After the Berger Commission Report came out with Parkway Hospital on it, this friend heard from SYED LNU that ROSEN was singing and dancing.

AQUINO suspects that Parkway Hospital was not originally on the Berger Commission list of hospitals to be closed. He also suspects that ROSEN and MIKE DOWLING of North Shore Hospital called SEMINERIO regarding the Berger Commission and had Parkway Hospital added. AQUINO believes that SEMINERIO had the influence to have Parkway Hospital moved onto the Berger Commission list.

AQUINO stated that during meetings with NYS Department of Health officials whenever something of consequence was discussed, they would all take out their telephones and/or blackberries and start texting. He further stated that by the time he returned to Queens from Albany, politicians and other hospitals knew the substance of what occurred at the meeting.

AQUINO stated that CLYNE once told him that he wished all Queens hospitals would close because they were a hassle to him and Albany.



AQUINO advised that he met with former NYS Assemblyman BRIAN MCLAUGHLIN once when he first acquired Parkway Hospital and was having issues with the union. He discussed his problems with MCLAUGHLIN and his secretary PHYLLIS LNU but he never heard back from them. He called MCLAUGHLIN after this meeting, however, MCLAUGHLIN never returned the calls.

FITZPATRICK_001

Date:

September 21, 2007

Time:

9:59am

Location:

Atlantic Diner - Richmond Hill, South Ozone Park, NY

Participants:

Brian McLaughlin [BM]

Anthony Seminerio [Seminerio]

[Excerpt 1 begins at 34:56]

1	Seminerio	All I know, all I knew is I couldn't deal with the state agency.
2 3	ВМ	Right. Make sure you don't choke on taking them all at once. I hate taking, I hate taking an aspirin.
4	Seminerio	I got, I got the idea from, from the two senators [U/I].
5	ВМ	Yeah, plenty of people do it.
6	Seminerio	Exactly. And- so I don't deal with the state.
7 8	вм	Would you take, can you take referrals, then? Like, if somebody wants a meeting with, uh, Hillary or Schumer, you could take the meeting and set that up, right?
9 10 11	Seminerio	Sure. You, you understand? I can do But the, see, it's uh, uh, and then, like, I What I deal now is a lot with health care, hospitals. I learned that 25, 30 years ago I did a health bill with Alan Hevesi, God bless him, and I gained a big reputation there.
12	ВМ	In that field.
13 14	Seminerio	And I was doing, I was doing favors for these sons-of-bitches there, you know, they were making thousands. "Screw you, from now on, you know, I'm a consultant."

[Excerpt 1 ends at 36:05]

[Excerpt 2 begins at 41:51]

15	the day I leave the Assembly, I'll keep my percentage clients that I'll be holding for me, the ones I've
16	told you I get a percentage of their fee, that's it, everybody else I'll lose. I'll lose maybe
17	60 percent of my business but I don't give a shit – by that time, I've got a pension, I've
18	got my Social Security

[Excerpt 2 ends at 42:13]



Guinness-AS 9.28.07 September 28, 2007

Date:

12:51pm

Time:

Location:

Atlantic Diner, 112th St and Atlantic Ave, Richmond Hill, NY

Participants:

Brian McLaughlin [BM]

Anthony Seminerio [Seminerio]

Waitress [Waitress]

[Excerpt 1 begins at 32:05]

1	вм	You know, like you were saying, you don't start off scoring home-runs right off the bat.
2	Seminerio	No.
3 4	вм	And I'm not up there, which, everybody's passing through your door, so I could feed it if I was up there. So you're not gonna have the advantage of that. But yeah
5 6	Seminerio	You gotta understand I can only deal with, uh, city or federal [U/I]. I can't go to any state agencies.
7	вм	Mh-hmm.
8	Seminerio	Yeah.
9	BM	'Cause you're in the Assembly.
10 11 12 13 14 15	Seminerio	Right. So, but it's good, because, uh, I deal with a lot of hospitals, you know, and, uh, like, for instance, I hooked up with this, a former partner of, uh, Mario Biaggi and he's a retired general. So we had dinner one night in Manhattan, I did, I did him a nice favor for his daughter. So we're talking, he says, "You know," he says, "the Army is going, this is like [U/I], for TriCare." TriCare is a branch of the services — Army and Navy — that takes care of wounded veterans. It's like, it's like the Veterans Administration, [U/I]. Except they're a different entity.
17	BM	Is it a not-for-profit or is it?
18	Seminerio	Yeah, no, it's a not-for-profit.
19	вм	Yeah.
20	Seminerio	But they still U/I in other words, it's like, uh, health care.
21	вм	Yeah, mh-hmm.
22 23	Seminerio	And, so he says, "What I need, I [U/I]know what hospitals I" I say, "General, I work there, I, I know" And we start, we set up a U/I.



24	ВМ	Yeah.
25 26	Seminerio	We charge a consulting fee, he charges the consulting fee to the hospital, and I work for his consulting firm
27	вм	Mh-hmm.
28	Seminerio	It's perfect, it works out nice.
29	ВМ	Perfect, yeah.
30 31	Seminerio	And we don't' have to do nothing. [Talks to waitress] And we don't have to do nothing. I mean I don't have to do nothing except
32	вм	Yeah.
33 34	Seminerio	Let's say you're, you're the CEO of the hospital Brian, calling Seminerio, "Frank, do me a favor. I got, got this guy, this, this, this."
35	ВМ	Yeah.
36	Seminerio	"I would appreciate it [U/I]"
37	вм	You don't have to have [U/I] in charge and all that.
38	Seminerio	Yeah. I, I, I take you to lunch. The worst that can happen, you walk away with a great
39 40 41		lunch and you learn what's going on. And I'll, I'll, you know He says, "Sure!" So at least the last six times they accepted the package, and so we've been moving right along.
40	ВМ	least the last six times they accepted the package, and so we've been moving right
40 41 42		least the last six times they accepted the package, and so we've been moving right along. And, and, hypothetically I do it. Am I better off to try to get like a, a retainer agreement
40 41 42 43	вм	least the last six times they accepted the package, and so we've been moving right along. And, and, hypothetically I do it. Am I better off to try to get like a, a retainer agreement and have like a retainer agreement employee so?
40 41 42 43 44	BM Seminerio	least the last six times they accepted the package, and so we've been moving right along. And, and, hypothetically I do it. Am I better off to try to get like a, a retainer agreement and have like a retainer agreement employee so? Yeah, well yeah. But see, we don't have no contract, we have handshakes.
40 41 42 43 44 45	BM Seminerio BM	least the last six times they accepted the package, and so we've been moving right along. And, and, hypothetically I do it. Am I better off to try to get like a, a retainer agreement and have like a retainer agreement employee so? Yeah, well yeah. But see, we don't have no contract, we have handshakes. Mh-hmm.
40 41 42 43 44 45 46	BM Seminerio BM Seminerio	least the last six times they accepted the package, and so we've been moving right along. And, and, hypothetically I do it. Am I better off to try to get like a, a retainer agreement and have like a retainer agreement employee so? Yeah, well yeah. But see, we don't have no contract, we have handshakes. Mh-hmm. You know, so thank God, but everybody's been good.

[Excerpt 2 begins at 51:10]

51	Seminerio	My people like for instance, Winston, you met him.
52	вм	Right.
53	Seminerio	When we were in Albany [U/I]
54	ВМ	What was his name, he's [U/I]?
55	Seminerio	[U/I] downstairs.
56	ВМ	Yeah.
57	Seminerio	Remember those guys?
58	ВМ	Yeah.
59 60	Seminerio	Okay. I give them the lease. Brian McLaughlin Yeah, you, I took them up for you, I'm pretty sure, I think.
61	ВМ	No we did, we met twice.
62	Seminerio	Yeah.
63	ВМ	Yeah.
64 65	Seminerio	Brian And then we go, and then they handle it from there, they try to sell the product. If they sell you the product
66	ВМ	Then you have to work out a commission [U/I].
67 68	Seminerio	Every three months you give them a check for eighty-thousand, a hundred-thousand, I get five percent.
69	ВМ	So it just, see it's a commission that keeps [U/I]
70 71 72	Seminerio	I just picked up a twelve-thousand dollar check two months ago, a month and a half ago. I got another one coming for Christmas. That's from that crew, they're from George Kalkines [U/I] and, you know U/I.
73	ВМ	But that's better than a retainer. If you can land something
74	Seminerio	Yeah.
75	ВМ	That's [U/I] more like a commission than a retainer, right?

76 77	Seminerio	Don't you understand, like I said to you earlier and I said to my wife: whatever we make is so small, there's gonna be a day when it closes down.
78	ВМ	Take your wallets there.
79	Seminerio	Take your wallets there!

[Excerpt 2 ends at 52:20]

MCDONOUG 11.15.07

Date:

November 15, 2007

Time:

9:53am

Location:

Participants:

Brian McLaughlin [BM]

Anthony Seminerio [Seminerio]

[U/I] with the Long Island Rail Road. You know how many people I got jobs in the Rail

[Excerpt 1 begins at 41:03]

Seminerio

1

2		Road?
3	вм	[laughs]
4 5 6	Seminerio	Any time that I would, uh, give them a two-hundred-fifty thousand contribution, or five-hundred thousand, for repairs on the rail in there, I need two jobs. Even if I didn't have anybody, then I find two people and get them jobs.
7	вм	[laughs]
8	Seminerio	U/I, forget about it.
9	вм	[laughs]
10	Seminerio	Like, eh
11	вм	They were asking for something, let me tell 'em I got somebody-
12	Seminerio	Yeah
13	вМ	Then I'll go out find who it is. Yeah.
14 15 16	Seminerio	I never, I, I always did tell them, "[U/I] you people," you know, "your human resources person takes care of their own. I need two jobs, you got two jobs?" You know. "We got two jobs for me, you got five-hundred thousand."
17	BM	That's a good way to do it.

[Excerpt 1 ends at 41:49]

[Excerpt 2 begins at 48:36]

18 Seminerio Think of what I'm saying to you. What the fuck does it mean that we're elected officials? It doesn't mean shit.



1	ВМ	It's true.
2	Seminerio	U/I, what was the guy that you replaced?
3	ВМ	That's true, you almost forget after a while.
4	Seminerio	Who was the guy that you replaced?
5	BM	I guess Doug Prescott was there in the beginning.
6	Seminerio	But who the fuck even remembers?
7	вм	Yeah.
8 9	Seminerio	Who remembers anyone? Tell me one good thing that he ever did for anybody. And he must have did a lot of good things.

[Excerpt 2 ends at 49:03]

718-847-0770 Verizon (.9 CALEA) 2008-04-23 15-13-57 07960-001.wav

Date:

April 23, 2008

Time:

15:13 hrs

Location:

tel. call from 718-206-6000 (David Rosen) to 718-847-0770 (Seminerio)

GOVERNMENT EXHIBIT

(ID)

Participants:

David Rosen [Rosen]

Anthony Seminerio [Seminerio]

[Excerpt begins at 0:22]

1	Rosen	Hello?
2	Seminerio	Hi, David.
3	Rosen	Hey, Tony. How are you?
4	Seminerio	How is everything?
5	Rosen	Okay.
6	Seminerio	Happy holiday, by the way.
7	Rosen	Thank you.
8	Seminerio	What's happening?
9	Rosen	Nothing.
10	Seminerio	Why, I was calling, uh, you know, for my check.
11	Rosen	Okay. Let me, uh, follow up, l'II, uh, go rattle some cages.
12	Seminerio	Okay. Now, Dave
13	Rosen	Yeah.
14	Seminerio	I ju-, I can't believe, this never happened to me in 30 years.
15	Rosen	Yeah?
16	Seminerio	Eleven ninety-nine, I'm gonna send it to you.
17	Rosen	Yeah.
18 19	Seminerio	Sent out a thank you to me and Serph. I mean, it was just that, this, this is really like, worth all kinds, it's unbelievable.
20	Rosen	Yeah? What, what are they thanking you for?
21 22	Seminerio	For, uh, "Thanks, Assemblyman Seminerio, uh, Serph Maltese, on this new State budget protects the things that matter most to New York middle-class families: healthcare,

23 24 25		investing in our children and grandchildren and education, uh, Medicaid costs, lower-income Medicaid and, uh, to slow the growth of, uh, lo-, the growth of property tax." I thought that was phenomenal.
26	Rosen	Someone's getting smart, you know?
27	Seminerio	It's the first time in 30 years any of those unions ever took the time to thank us.
28	Rosen	Yeah, so they're smart on the one hand, on the other hand
29	Seminerio	Well
30	Rosen	They're busy working for Obama.
31	Seminerio	[laughs] Listen, I, I gotta tell you I'll fax it up
32	Rosen	Alright.
33	Seminerio	Attent-, attention
34	Rosen	Let me go find you a check.
35	Seminerio	Yeah, in the meantime, I, I'll, give me your fax number.
36	Rosen	Um 6-5-7, 0-5-4-5.
37	Seminerio	Okay. Just look it over. It's the first time. In fact, I, I tried to reach Serph
38	Rosen	Yeah.
39	Seminerio	I'm gonna have Nathalie send him a thank-you letter.
40	Rosen	Okay, that's a, that's a good thing.
41	Seminerio	Thank you, thank you.
42	Rosen	Uh
43	Seminerio	Uh
44	Rosen	You're still, you're still looking okay on the upcoming election, right?
45	Seminerio	Well, I got the conservative endorsement, I got the Republican endorsement
46	Rosen	Yeah.
47	Seminerio	I'm pretty sure County'll give me the endorsement
48	Rosen	Yeah.

49 50	Seminerio	And Wednesday the Independence Party will have a decision on who's gonna take control. But I happen to be very close to the three guys that are fighting
51	Rosen	Yeah.
52	Seminerio	I, you know, I, I, I always took care of the three of them.
53	Rosen	Right.
54	Seminerio	So, you know, I'm in good shape there.
55	Rosen	Yeah. And, uh, Serph is gonna have his hands full, huh?
56	Seminerio	Well, Serph is gonna have a tough race. I really think he's gonna win
57	Rosen	Yeah.
58	Seminerio	But he's gonna have a tough race, and I'm gonna work for him.
59	Rosen	Yeah.
60	Seminerio	I'm gonna go against County and work for him. I have no choice.
61	Rosen	You have no choice is right. You know
62 63	Seminerio	And, you know, hey, listen. Dave, let me tell you something, you know, and I can tell it to you I walk into Bruno's office like I walk into your office.
64	Rosen	Right. That's
65 66	Seminerio	And I talk to Bruno like I talk to you, like I say, "Come on, Joe. What are you, breaking my balls? You know I need this." And he laughs.
67	Rosen	Yep.
68	Seminerio	You know?
69	Rosen	Yep.
70	Seminerio	So that, that kind of relationship you can't buy for a million dollars.
71	Rosen	That's absolutely right.
72	Seminerio	You know?
73	Rosen	And people don't even understand
74	Seminerio	Well
75	Rosen	You know, what a value that brings to Queens.

76 77 78	Seminerio	For, for all, for the, since Serph Maltese was elected, and I have, I, I, I've been like the, forget about it, I, I get things moved that, members come to me to help them get their bills out of the Senate.
79	Rosen	[laughs]
80	Seminerio	You think I'm kidding, yeah?
81	Rosen	Yeah.

[Excerpt ends at 3:22]

718-847-0771 Verizon (.9 CALEA) 2008-06-20 11-11-48 04344-001.wav

Date:

June 20, 2008

Time:

11:11 hrs

Location:

tel. call from 718-847-0771 (Seminerio) to David Rosen

Participants:

Anthony Seminerio [Seminerio]

David Rosen [Rosen]

[Excerpt begins at 2:53]

1	Seminerio	Dave.
2	Rosen	Hi.
3	Seminerio	Listen, I heard Whalen is looking to retire.
4	Rosen	Yeah, I keep hearing stories, uh
5 6	Seminerio	Yeah, no, he wants to go to, uh, Paterson is asking him to please stay on until he gets it in order
7	Rosen	Right.
8 9	Seminerio	And I heard that the New York Hospital, Paterson is dumping a lot of money into there, he don't want it to close.
10	Rosen	He don't want it to what?
11	Seminerio	He don't want it to close.
12	Rosen	You don't mean New York Hospital.
13	Seminerio	Uh, Harlem Hospital.
14	Rosen	Oh, uh, North General.
15	Seminerio	North General. Where, where
16	Rosen	Yeah.
17	Seminerio	Gene McCabe used to be.
18	Rosen	Yeah, yeah, Yeah, that's a
19	Seminerio	Yeah, well, but it only, it's got only about, what, a hundred-thirty beds, if I remember?
20 21	Rosen	It's a small, uh, place and, uh, you know, it's understood that he's gonna be throwing money in there. I think the reality is that Mount Sinai needs to take it over.
22	Seminerio	Yeah, well, that, that's what they, uh



23	Rosen	And Mount Sinai doesn't wanna take on the debts. So it's a classic story, you know.
24	Seminerio	Well, hey, listen, it's nice to have a Governor in your corner.
25	Rosen	It, it's very nice to have a Governor in your corner
26	Seminerio	[laughs]
27	Rosen	And, uh, you know, that's, the world needs to be able to do these kinds of deals.
28 29	Seminerio	First of all, no hospital: I, honest to God, no hospital should close. Because every hospital serves a purpose in their community.
30	Rosen	Yeah, but I mean, there are, you know, some stuff that, uh, needs to
31	Seminerio	Dave, let me ask you a question.
32	Rosen	Yeah.
33	Seminerio	Parkway.
34	Rosen	Yeah.
35	Seminerio	What is, uh, Aquino scheming now?
36	Rosen	[sighs] I've been working with him. He's, uh
37	Seminerio	Oh.
38	Rosen	I've been working with him and actually Carl Kruger has been, uh
39	Seminerio	Who?
40	Rosen	Kruger, the Senator.
41	Seminerio	Carl Kruger?
42	Rosen	Yeah.
43	Seminerio	I didn't know that. See, I, I, me, I, and me, to me, the fucking, he's a swindler.
44	Rosen	Who is?
45	Seminerio	Uh, uh, Aquino.
46	Rosen	Is he?
47	Seminerio	I wouldn't fucking trust him as far as I can throw him.
48	Rosen	Ahh

49	Seminerio	He's got Arlene Pedone with him up there.
50	Rosen	Yeah?
51	Seminerio	You know?
52	Rosen	Yeah.
53 54	Seminerio	He, he don't go for noth-, never goes for money out of his pocket, makes everybody else carry the tab.
55 56 57	Rosen	Well, he's looking to take over, uh, Mary Immaculate and Saint John's. He's got some finance company in California to bankroll it. They need me in this mix to provide the, uh, you know, the public face for it.
58	Seminerio	I, by the way, if, I have a finance guy if you're interested.
59	Rosen	Do you?
60	Seminerio	One of my clients, yeah.
61	Rosen	Okay. We're always interested.
62	Seminerio	Well Uh, the next time I speak with him, I'll run it by him.
63	Rosen	Okay.
64	Seminerio	Wonderful.
65 66	Rosen	So Aquino is looking to do it in. Meanwhile, North Shore wants to come in and take over Saint John's.
67	Seminerio	What about you?
68	Rosen	Well, we wanted to do it too, but without any state money I can't, you know
69	Seminerio	Yeah.
70	Rosen	I'm gonna wind up
71	Seminerio	Yeah.
72	Rosen	being the next Dominick Gio. I'm gonna go promise something I can't deliver.
73	Seminerio	Right.
74 75 76 77	Rosen	So, I'm, I'm riding both of these horses right now. I had, uh, Mike Dowling here yesterday telling me what he wants to do, and Aquino on the phone, uh, all night, and Honestly, what I'm trying to do is, you know, make these two proposals work together and then I would be in the middle of it. But, uh

78	Seminerio	Well, listen. God bless you, U/I, you know
79	Rosen	If, if, well, if I could pull it off, fine.
80	Seminerio	But just remember what I tell you.
81	Rosen	Yeah.
82	Seminerio	Aquino don't go into his pocket for nothing.
83	Rosen	Yeah, I know that. Listen, uh, I would rather not be doing business with him.
84	Seminerio	Alright.
85	Rosen	But he's, uh
86	Seminerio	He needs you.
87	Rosen	He's stoking the flames here.
88	Seminerio	[laughs]
89 90	Rosen	And, uh, the target is the Wyckoff Board, which, you know, has always shunned me but now they're be-, beginning to pay some attention.
91	Seminerio	By the way, I have a good relationship with the guy, Tom Singleton.
92	Rosen	Yeah.
93	Seminerio	So, you know
93 94	Seminerio Rosen	So, you know Yeah. Now, he, uh, he may be getting out of the picture, uh
94	Rosen	Yeah. Now, he, uh, he may be getting out of the picture, uh
94 95 96	Rosen Seminerio	Yeah. Now, he, uh, he may be getting out of the picture, uh Yeah, he, he don't like it up there. Yeah, so, um, you know, I'm looking to be involved in that thing, which we'll see if we
94 95 96 97	Rosen Seminerio Rosen	Yeah. Now, he, uh, he may be getting out of the picture, uh Yeah, he, he don't like it up there. Yeah, so, um, you know, I'm looking to be involved in that thing, which we'll see if we can pull that off.
94 95 96 97 98	Rosen Seminerio Rosen Seminerio	Yeah. Now, he, uh, he may be getting out of the picture, uh Yeah, he, he don't like it up there. Yeah, so, um, you know, I'm looking to be involved in that thing, which we'll see if we can pull that off. Want to set up a lunch?
94 95 96 97 98 99	Rosen Seminerio Rosen Seminerio Rosen	Yeah. Now, he, uh, he may be getting out of the picture, uh Yeah, he, he don't like it up there. Yeah, so, um, you know, I'm looking to be involved in that thing, which we'll see if we can pull that off. Want to set up a lunch? Well, I've been meeting with all of these guys already.
94 95 96 97 98 99	Rosen Seminerio Rosen Seminerio Rosen Seminerio	Yeah. Now, he, uh, he may be getting out of the picture, uh Yeah, he, he don't like it up there. Yeah, so, um, you know, I'm looking to be involved in that thing, which we'll see if we can pull that off. Want to set up a lunch? Well, I've been meeting with all of these guys already. Oh, good.

104	Seminerio	With who?
105	Rosen	Uh, Jim Klein.
106	Seminerio	Klein, Klein
107 108	Rosen	He's, yeah, he came out of Shelly's shop after 25 years. They, now they dumped him in the Health Department. So he's the, uh
109	Seminerio	Well, then I must know him.
110	Rosen	Yeah, you know him. He's a small guy with big glasses.
111	Seminerio	Uh, let me know what you want to do there and I'll go see Shelly and set it up.
112	Rosen	Okay.
113	Seminerio	Okay?
114 115	Rosen	Well, now, now he's not answering to Shelly anymore, now he's, uh, you know, on the Governor's staff.
116	Seminerio	Well, does he answer to Whalen?
117	Rosen	Yeah, he answers to Whalen.
118	Seminerio	Then I'll speak to Whalen.
119	Rosen	Okay. Well, so far so good. Let, uh
120	Seminerio	You let me know what you wanna do.
121	Rosen	I'll let you know when I need help.
122	Seminerio	Okay, my friend.
123	Rosen	Alright. So, let's see if we can take care of your friend Chuck, alright?
124	Seminerio	Hey, listen.
125	Rosen	Yeah.
126	Seminerio	Uh, I'm due for payment.
127	Rosen	I'll follow up. [laughs]
128	Seminerio	Please, would you? Make a notation.
129	Rosen	Okay.

130	Seminerio	Alright?
131	Rosen	I'll follow it right up.
132	Seminerio	Thank you.
133	Rosen	I'll put Special Agent Olga on it.
134	Seminerio	Thank you.
135	Rosen	She takes care of business.
136	Seminerio	Alright.
137	Rosen	Alright.
138	Seminerio	Bye-bye.
139	Rosen	Bye.

[End of call]

718-847-0771 Verizon (.9 CALEA) 2008-07-09 13-08-11 05110-001.wav

Date:

July 9, 2008

Time:

13:08 hrs

Location:

tel. call from 718-847-0771 (Seminerio) to 718-206-6290 (Rosen)

Participants:

Anthony Seminerio [Seminerio]

David Rosen [Rosen]

[Excerpt begins at 0:48]

22

Rosen

No, no, it...

1	Rosen	Hello?
2	Seminerio	David.
3	Rosen	Hi, Tony.
4	Seminerio	Fast I, I, I got a call late last night. Dennis Whalen is not retiring
5	Rosen	Yeáh
6	Seminerio	He just became the Director of State Operations. That's
7	Rosen	Right.
8	Seminerio	like second or third in command.
9	Rosen	Right. I know that.
10	Seminerio	Oh. I mean, that's good. As long as you know it, and, uh
11	Rosen	Yeah.
12	Seminerio	So
13	Rosen	The question is, where does it go from here?
14 15	Seminerio	Well, when I spoke to Dennis not too long ago he told me he's gonna retire. He's got his thirty years in
16	Rosen	Right.
17 18 19	Seminerio	He's gotta get out. I said, I said, "Dennis, you gotta do what suits your fancy." You know, "And, remember, after six months of retirement, what are you gonna do with yourself?"
20	Rosen	Right.
21	Seminerio	But, anyway, I just want you to know.
	_	



23	Seminerio	And, and he's a dear friend of mine.
24	Rosen	Okay, I mean, that's very good.
25	Seminerio	You know
26	Rosen	'Cos he has, he, frankly, he has not been such a great friend to us.
27	Seminerio	Well
28	Rosen	Over the years, he has not helped us an iota.
29	Seminerio	Okay.
30 31	Rosen	Even though, you know, we know him, we talk to him all the time, he has not really been, uh, um, helpful to me.
32	Seminerio	Well, you see, you gotta tell me these things.
33	Rosen	Yeah, I know.
34	Seminerio	Now when I break his balls, I know what to break his balls about.
35	Rosen	Well, now, you know, now we'll talk about that one.
36	Seminerio	Alright.
37	Rosen	I appreciate the heads-up.
38	Seminerio	Take care, son.
39	Rosen	Very good. Bye.
40	Seminerio	Bye.

[End of call]

2

718-847-0770 Verizon (.9 CALEA) 2008-07-10 14-16-52 13461-001.wav

Date:

July 10, 2008

Time:

14:16 hrs

Location:

tel. call from 718-847-0770 (Seminerio) to 518-486-9871 (Whalen)

Participants:

Anthony Seminerio [Seminerio] Dennis Whalen [Whalen]

Abbreviations: [U/I] = Unintelligible

[Excerpt begins at 1:52]

1 2 3	Whalen	The, um, and I've been talking to Carl also about the, uh, you know, Wyckoff, Caritas, that whole thing, Parkway. And, you know, hopefully, hopefully we can move all that in the right direction.
4	Seminerio	Wyck-, with who?
5	Whalen	Carl Kruger.
6	Seminerio	Yeah.
7	Whalen	You know? About, uh, Wyckoff
8	Seminerio	No, you mean Parkway.
9 10	Whalen	Parkway, but he's got Parkway interested in Caritas, uh Which is those other facilities that
11	Seminerio	Uh, Saint, yeah, the, uh
12	Whalen	The old, uh, Saint John's and
13	Seminerio	Saint John's and yeah.
14	Whalen	Mary Immaculate.
15 16	Seminerio	But I'd rather see Jamaica Hospital get it because you could walk from Jamaica Hospital to Mary Immaculate.
17	Whalen	Mary Immaculate. Yup. That is true.
18 19	Seminerio	I mean, come on, you know, you know Dennis, I don't want you to get mad at me, please.
20	Whalen	I'm not. He's, he's using your name, though.
21	Seminerio	Who?
22	Whalen	Carl.
23	Seminerio	Tell him he can go fuck himself. I hate, I hate Parkway Hospital.



24	Whalen	Okay, good.
25	Seminerio	You kno-, they're nothing but a The guy never went for ten cents of his own money!
26 27	Whalen	Well, they're throwing around a number, like saying, "Oh, we'll put fifty million dollars up" but
28	Seminerio	On my mother's grave. Dennis, you know me, you know, I, I'm a street guy.
29	Whalen	Well, I'm with you. I've got the same feelings about these guys.
30	Seminerio	I'm a street guy. This guy never went for three cents out of his own pocket.
31	Whalen	Good. Then you and I
32 33	Seminerio	And the nerve of Carl Kruger using my name! I'm gonna call him now and tell him. I tho-, I never, I'll never do nothing for Parkway.
34	Whalen	Got it.
35	Seminerio	But Dennis, in all due respect, now that I calmed down.
36	Whalen	Yep.
37 38	Seminerio	You know Look. I, I don't know, you, you've been dealing with Dave Rosen a lot of years.
39	Whalen	Sure, yep.
40 41	Seminerio	And, merely, you know, I, I never said nothing to you, but, you know The guy, give him a break. He want, he wants Mary Immaculate
42 43 44 45	Whalen	Tony, he's Look, he's talk—you know, the other people that are interested is, um, North Shore LIJ, Mike Dowling, and he wants, David as part of that. And Dave—David did talk to me and said, "Look, I, you know, if that's what it is, me working with them to get Mary Immaculate" he's, David's entirely fine with that kind of approach.
46	Seminerio	Okay. But I, I, I'm saying. You know
47 48	Whalen	But, but, part of that has gotta be To make that work, we gotta get rid of this Parkway deal somehow.
49	Seminerio	Well, I don't know who made the deal but I, I, ta-, ta
50	Whalen	Well, there is, there is no deal, but
51	Seminerio	They don't have three cents.
52 53	Whalen	Yeah. They keep come-, the reason that all of a sudden you have Caritas interested is, 'cos Mike Dowling is saying, "Look, I'm not gonna give you guys a shitload of money,

54 55 56		because look what happened." They think, these Parkway folks, 'cos they're throwing around numbers that it, they're serious. But I'm with you. The money has never materialized for anything else, so why is this any different?
57 58	Seminerio	Did, if you visualize and go back with, with the, what's his name, uh, I can't even think of his, I, I Um Christ's sake, of, of, the, the, the CEO of Parkway.
59	Whalen	Aquino?
60	Seminerio	Aquino.
61	Whalen	Yep.
62	Seminerio	Never went for three cents in 20 years I know him.
63	Whalen	Well, he's got some business guy who's backing him? I, I don't know.
64	Seminerio	Ah, that's bullshit.
65	Whalen	Okay. Good. Then, you know
66	Seminerio	But, and, that's, you know, I just But, uh, the nerve of Carl Kruger using my name!
67	Whalen	Yeah.
68	Seminerio	And I'm, when I see him, I'm gonna tell him, too.
69	Whalen	That's okay with me.
70	Seminerio	But, listen, again. Now that I calmed down for the third time.
71	Whalen	[laughs]
72 73 74	Seminerio	[laughs] I love Let me tell you this. Okay? I've been an Assemblyman for 30 years. And had—there's never been a more community-minded and more benevolent people than Jamaica Hospital.
75	Whalen	Oh, absolutely. They are in, they are not
76	Seminerio	If I'd say to him, "Dave"
77	Whalen	They're not in it, they're not in it for the money, clearly.
78 79 80 81	Seminerio	If I say to Dave, "Dave, there's a woman across the street, that need—bo-boom, bo-boom, she needs care" "Give me the address, I'll send somebody over." You know? Never once asked me if she has anything, he says, "Tony, you called, it's gotta be important."
82	Whalen	Yep.

83	Seminerio	And, that's all I can say.
84	Whalen	No, he's got, they have, uh They have soul [laughs] over there, you know, right
85	Seminerio	Well, I, I, I'm hoping you would consider them.
86	Whalen	Yep, absolutely. I
87	Seminerio	And, uh
88 89	Whalen	I would like nothing better than to see, uh, Dave Rosen get Mary Immaculate and do what he wants to do there. He wants to use it for long-term care
90	Seminerio	Okay.
91	Whalen	It makes sense. [U/I].

[Excerpt ends at 5:50]

718-847-0770 Verizon (.9 CALEA) 2008-07-10 14-23-26 13462-001.wav

Date:

July 10, 2008

Time:

14:23 hrs

Location:

tel. call from 718-847-0770 (Seminerio) to 718-206-6290 (Rosen)

Participants:

Anthony Seminerio [Seminerio]

David Rosen [Rosen]

Abbreviations: [U/I] = Unintelligible

[Excerpt begins at 2:22]

1	Rosen	Helio?
2	Seminerio	Dave.
3	Rosen	Yeah, Tony.
4	Seminerio	Okay. I just called to wish Whalen, uh, congratulate him, the whole nine yards.
5	Rosen	Yeah, good.
6 7 8 9	Seminerio	And then, I, they, then I says, "You know, Dennis, I don't know, what's going on with you?" I says, you know, "Jamaica Hospital is looking for Mary Immaculate, and you're still fucking around with Parkway, that, that don't have three cents, they never gave, they never put up a dime for anything in their lives" So you know what he says to me?
10	Rosen	What?
11 12	Seminerio	He says, "I thought you were for Parkway. Carl Kruger told me, he mentioned your name." And that, that's Senator Kruger.
13	Rosen	Yeah.
13 14	Rosen Seminerio	Yeah. I said, "That son of a bitch."
14	Seminerio	I said, "That son of a bitch."
14 15 16 17 18	Seminerio Rosen	I said, "That son of a bitch." Hah. I says, "Listen," I said, "You know, Dennis," I says, "you and I go back over 20 years, and I never bullshitted you. If anybody deserves that hospital," I says, "Dave Rosen deserves it." He says, "Tony, they're trying to work, we're trying to work out something with
14 15 16 17 18 19	Seminerio Rosen Seminerio	I said, "That son of a bitch." Hah. I says, "Listen," I said, "You know, Dennis," I says, "you and I go back over 20 years, and I never bullshitted you. If anybody deserves that hospital," I says, "Dave Rosen deserves it." He says, "Tony, they're trying to work, we're trying to work out something with Dave Rosen and North Shore." Is that right?
14 15 16 17 18 19	Seminerio Rosen Seminerio Rosen	I said, "That son of a bitch." Hah. I says, "Listen," I said, "You know, Dennis," I says, "you and I go back over 20 years, and I never bullshitted you. If anybody deserves that hospital," I says, "Dave Rosen deserves it." He says, "Tony, they're trying to work, we're trying to work out something with Dave Rosen and North Shore." Is that right? They are. Now, here's, [chuckles] here's what you [U/I].



24 25	Rosen	And, in fact, I'm meeting with the Wyckoff, Mary Immaculate crowd. They're in my conference room next door here.
26	Seminerio	Right.
27	Rosen	Um North Shore has a proposal to buy Saint John's.
28	Seminerio	But would you, you was, you was part of the action.
29	Rosen	Well, arguably we would get Mary Immaculate, which
30	Seminerio	Right.
31	Rosen	I need to close.
32	Seminerio	I know.
33 34	Rosen	Um But what I'm talking to these guys about is putting all of these places together, Wyckoff, uh, Mary Immaculate, Saint John's, Jamaica, Brookdale, and Flushing.
35	Seminerio	Well, Wyckoff's on the balls of their ass financially.
36	Rosen	Yeah, I know. Except I'm gonna try to step in there and, uh, and do something there.
37	Seminerio	Alright, then I, I, I won't interfere. If you
38	Rosen	No, no, no, well, I, I, I need your help with it.
39	Seminerio	If you need me, you tell me.
40 41	Rosen	I need your help with that, but we can actually, uh, you and Kruger together are my two, uh, my two guys who know what to say.
42	Seminerio	Alright.
43	Rosen	So, I'll, I'll prep you, I'll prep you
44	Seminerio	That's what I'm here for.
45	Rosen	But I'm glad, I'm glad you're [U/I].

[Excerpt ends at 4:19]

718-847-2848 Verizon (.9 CALEA) 2008-08-12 11-27-19 01857-001.wav

Date:

August 12, 2008

Time:

11:27 hrs

Location:

tel. call from 718-847-2848 (Seminerio) to Silver

Participants:

Anthony Seminerio [Seminerio]

Sheldon Silver [Silver]

Abbreviations: [U/I] = Unintelligible

[Excerpt begins at 2:00]

1	Seminerio	Good. Everything's good. What's happening with the hospitals?
2	Silver	Uh, nothing, you know The Governor put [U/I].
3	Seminerio	I mean, you think it's gonna happen?
4	Silver	No.
5 6 7	Seminerio	I mean, Shelly, for Christ sake. You, you, you know something? Honest to God, if I'm wrong, say, "Tony, you're wrong." You know, it, I don't give a fuck how educated you are, if you're not in good health, what good is it gonna do you?
8	Silver	You got it.
9 10	Seminerio	You knowPe-, people's education, my ass. You, you, you, you walking the street a cripple and you're not being treated, go tell me about your education.
11	Silver	Mh-hmm.
12	Seminerio	Well, that's common sense, you know, that's not, uh [laughs]
13	Silver	[U/I].

[Excerpt ends at 2:40]



718-847-0771 Verizon (.9 CALEA) 2008-08-12 11-31-52 05681-001.wav

Date:

August 12, 2008

Time:

11:31 hrs

Location:

tel. call from 718-847-0771 (Seminerio) to Rosen

Participants:

Anthony Seminerio [Seminerio]

David Rosen [Rosen]

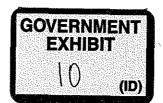
[Excerpt begins at 0:48]

22

Seminerio

	texcerpt begins at 0.46j	
1	Rosen	Hello?
2	Seminerio	Dave.
3	Rosen	Hey, Tony.
4	Seminerio	I just got off the phone, yelling and screaming to Shelly about the cuts
5	Rosen	Yeah.
6	Seminerio	He said there isn't gonna be any. He said don't worry about it.
7	Rosen	That's very good.
8	Seminerio	So, I just want you to know.
9	Rosen	Okay. That's very good.
10	Seminerio	Okay?
11	Rosen	I, I wasn't intending to get too aggravated.
12 13	Seminerio	Well, no, I said to him, I says, "What fucking good is if I'm the most educated bastard in the world and I can't get health treatment?"
14	Rosen	Right.
15 16	Seminerio	And, no, you know, "What good is it gonna do anybody?" He says, "You're right. Alright, don't get excited, it's not gonna happen."
17	Rosen	Okay.
18	Seminerio	Okay?
19	Rosen	I can actually like this guy again.
20	Seminerio	You like him.
21	Rosen	He's pissing me off most of the time.

You like him. Anything, you, listen to me.



1 Rosen Yeah.

2 Seminerio You go through me, you won't be pissed off.

3 Rosen There you go.

4 Seminerio Okay?

5 Rosen Alright.

6 Seminerio Take care.

7 Rosen I appreciate it, Tony. Thanks.

8 Seminerio Bye.

[End of call]

Call #14990 on cellphone (718) 847-0770

Date:

August 13, 2008

Participants:

Diane (last name unknown)
Anthony Seminerio [Seminerio]

Abbreviations: [U/I] = Unintelligible

[Excerpt begins at 0:50]

1	Seminerio	Diane.

2 Diane

Yes.

3 Seminerio

Where's the meeting? In his office?

4 Diane

Uh, It's down the hall, in another attorney's office here.

5 Seminerio

Now listen to me, Diane.

6 Diane

Yeah.

7 Seminerio

I'm goin' fax you some information pertaining on the Governor Paterson's cuts.

8 Diane

Okay.

9 Seminerio

What I would appreciate, as soon as you get it, tell me you got it and make sure

you put it in George's hands and to ask him to call me.

11 Diane

10

Okay.

12 Seminerio

I am at 7-1-8-8-4-7-2-8-4-8

13 Diane

Alright. Okay.

14 Seminerio

Now, what is your fax number?

15 Diane

It's 2-1-2-8-3-0-7-3-3-9.

16 Seminerio

Now, you'll get it directly?

17 Diane

Yes.

18 Seminerio

And I'll put it attention: Diane?

19 Diane

20

You don't even have to do that, it will come right to the computer. I'll print it out

as soon as I get it.



21 22 23	Seminerio	Thank you. It's very important he reads it. All right now. I'll explain it to him. It's uh, what Paterson is proposing. We're meeting tomorrow to see what we're going knock him out off.
24	Diane	Oh, okay.
25	Seminerio	Thank you love.
26	Diane	Sure. Bye bye.
	[Call ends]	

718-847-2848 Verizon (.9 CALEA) 2008-08-13 12-17-30 01868-001.wav

Date:

August 13, 2008

Time:

12:17 hrs

Location:

tel. call from Kalkines to 718-847-2848 (Seminerio)

Participants:

George Kalkines [Kalkines]

Anthony Seminerio [Seminerio]

Abbreviations: [PH] = Phonetic Spelling

[Excerpt begins at 0:13]

24

Seminerio

1	Seminerio	George.
2	Kalkines	Hi, Tony. How are you?
3	Seminerio	Get that break-down?
4	Kalkines	l did.
5 6	Seminerio	It's, uh, I don't, I looked it over three times already. It doesn't hit New York City as much as it hits the other boroughs.
7	Kalkines	Uh Well, on the healthcare cuts, okay?
8	Seminerio	Yeah.
9 10	Kalkines	Varying with where they're distributed, uh, I would just simply make the point that, uh, uh, the outer-borough facilities, all of which are facing major financial problems
11	Seminerio	Now, right.
12	Kalkines	Um
13	Seminerio	Especially Rome, New York.
14	Kalkines	It, well it, I'm sorry?
15	Seminerio	The hospital in Rome, New York, he's looking to cut also.
16 17	Kalkines	Yeah, no, I understand. He's cutting across the board. But, what I'm also saying is that the safety-net hospitals, like Jamaica and Brookdale
18	Seminerio	Right.
19	Kalkines	Uh, can't afford these cuts.
20	Seminerio	Now, I spoke to Shelly yesterday and this morning.
21	Kalkines	Right.
22	Seminerio	He says it's not gonna happen.
23	Kalkines	Hm, I, I kind of, I would hope not, right.
24	Constant	Wall and the Color of the Color

Well, you know... So he called an emergency meeting for tomorrow...



25	Kalkines	Good.
26 27	Seminerio	And, uh, that's, I'm, I'm, uh, yellowing-out the things I'm gonna be yelling and screaming about.
28 29	Kalkines	Alright. Well, you gotta start introducing the concept that safety-net hospitals, hospitals that serve poor communities, cannot endure any further cuts. And then track
30	Seminerio	Safe-net hospitals.
31 32	Kalkines	Safety nets. All of the hospitals that serve poor communities are called safety nets. There are public hospitals, and then there are non-for-profit hospitals.
33	Seminerio	Right. Safety-net hospitals cannot endure cuts.
34	Kalkines	That's exactly right.
35	Seminerio	Okay.
36	Kalkines	Okay?
37	Seminerio	Yeah. So, look it over
38 39	Kalkines	Yeah, no, I just was And thank you for it, by the way. It's very helpful for me to see what kind of logic they're using.
40	Seminerio	Well, that he's using.
41	Kalkines	That he's using, right.
42	Seminerio	You know, and, uh, I think he's running scared.
43	Kalkines	Oh, I think he's trying to make himself a fiscal conservative. [laughs]
44 45	Seminerio	And, uh So I don't think it's gonna happen because I think Shelly I don't know so much about Dean Skelos. Shelly's got everything in place.
46	Kalkines	That's exactly right.
47	Seminerio	You understand? Now, I spoke to him yesterday and again this morning
48	Kalkines	Yeah, none of this crap is gonna go down.
49 50	Seminerio	And I told him, "Shelly, I don't give a fuck ya close every hospital in the city. You leave my hospitals alone."
51	Kalkines	[laughs]
52	Seminerio	You know

718-847-2848 Verizon (.9 CALEA) 2007-12-18 13-08-15 00111-001.wav

Date:

December 18, 2007

Time:

13:08 hrs

Location:

call from 917-617-7417 (Bob Bradley) to 718-847-2848 (Seminerio)

Participants:

Secretary to Seminerio [Secretary]

Bob Bradley [Bradley]

Anthony Seminerio [Seminerio]

1	Secretary	Assemblyman Seminerio's office.
2	Bradley	Hi, this is Bob Bradley. I'm trying to get in touch with Tony.
3	Secretary	Uh, just a minute.
4	Bradley	Okay. You keep hanging up on me.
5	Seminerio	Seminerio.
6	Bradley	Tony, it's Bob Bradley. How are ya?
7	Seminerio	How are you, Bob?
8	Bradley	Good.
9	Seminerio	Happy holiday.
10	Bradley	Well, same to you. I'm sorry I missed your party the other day.
11	Seminerio	Well, the weather was U/I.
12 13 14	Bradley	We had crap weather and, uh, we got stuck in here and made a run down to Jersey at the end of the night. Um, Tony, we're having major, major, major issues over at Wyckoff.
15	Seminerio	[U/I].
16 17 18	Bradley	And I talked to Dominick. And Dominick says the only way out of this thing is for someone to lift the veil with Whalen, so Whalen will have a meeting with him. And he kind of asked me to call you, to see if you can intervene on behalf of him and Wyckoff.
19	Seminerio	Okay. I'll do that now.
20	Bradley	Because, quite honestly, this guy over there is a disaster. This Singleton guy
21	Seminerio	Yeah.
22	Bradley	He's trying to take us out aft We've done so much work over there since July



23	Seminerio	Alright So what I'll do
24	Bradley	And
25 26	Seminerio	What I'll do is this, Bob. I'll call the Governor's office now and speak to, who's that? Dan Whalen, right?
27	Bradley	Right. Yeah, he's gotta do— get in here, because this guy's tearing this hospital apart.
28	Seminerio	Alright. Uh
29 30	Bradley	I mean, he really is. I gotta tell you, just, I Whether Dominick did anything wrong or not, I don't know, but $[U/I]$.
31	Seminerio	Dominick, wait, wait, Dominick Gio, right?
32	Bradley	Right.
33	Seminerio	You got his telephone number?
34	Bradley	Dominick's number? Yeah, I can call you back with it.
35	Seminerio	Alright. In the meantime I'll call Whalen up now.
36 37 38	Bradley	Yeah, because, you know what? What this guy is doing is ripping apart the infrastructure of the hospital. And he's threatening the Board, with any, any move he tries to make the damn check to, he threatens them.
39	Seminerio	Alright.
40 41 42	Bradley	I mean, I, you know, and I think that, uh, what he's doing to the employee benefit plan there in, in his, he is replacing all the managers. And bringing in people from Tennessee and Georgia, run this up
43	Seminerio	Bob, let me ask you a question, Bob.
44	Bradley	Right.
45 46	Seminerio	You know better, even better than me, that when new people come in, they look to wheel and deal their own business stuff.
47	Bradley	Right.
48	Seminerio	Okay? So, let's see if we can help him. And I'll, I'll get Whalen now
49	Bradley	Yeah.
50	Seminerio	To help, to take care of that, so call me back
51	Bradley	And we need to help Dominick here.

52 Seminerio ...in 15 minutes.

53 Bradley I will.

54 Seminerio Thank you.

55 Bradley Thank you.

[End of call]

718-847-2848 Verizon (.9 CALEA) 2007-12-19 13-25-33 00131-001.wav

Date:

December 19, 2007

Time:

13:25 hrs

Location:

tel. call from 518-408-2599 (Whalen) to 718-847-2848 (Seminerio)

Participants:

Receptionist to Seminerio [Receptionist]

Anthony Seminerio [Seminerio]

Dennis Whalen [Whalen]

[Excerpt begins at 0:43]

1	Whalen	So how you doing?
2	Seminerio	Everything's good. Dennis, I need a favor.
3	Whalen	Sure.
4	Seminerio	And if it's, if it's against your grain, I don't want you to do it.
5	Whalen	Okay.
6	Seminerio	Dominick Gio.
7	Whalen	Yep.
8 9	Seminerio	He says he can't get a meeting with you. Now I don't, if, if, if you do have this meeting, I don't wanna interfere whatever the subject matter is and you use your own judgment.
10	Whalen	Sure. Um, as far as I know, he hasn't called here for a meeting
11	Seminerio	Alright.
12	Whalen	But I'm happy to meet with him.
13 14	Seminerio	Alright. So then I can say to him I spoke to Don, Den-, uh, Dennis Whalen and he said just give her a call, ask for Susan, and they'll set something up.
15	Whalen	Absolutely.
16	Seminerio	I love you.
17	Whalen	You tell him that and, uh, I'll take care of that for you.
18 19	Seminerio	It makes me feel import He, I'll tell you one thing, Dennis, I ain't bullshitting you, he's good for my indigent constituents.
20	Whalen	Yep.
21	Seminerio	You, you know what I'm saying to you?
22	Whalen	Sure, absolutely.



23 24	Seminerio	If I say to him I have a, a, a family here with two kids or something, he says, "Tony, send them in, tell them see so-and-so, you know
25	Whalen	Yep, exactly.
26	Seminerio	So, he's good, he's you know, he treats my people good, he treats me good.
27	Whalen	Understood.
28	Seminerio	So But again, Dennis Nothing against the grain, you follow me?
29 30	Whalen	Hey, if I didn't, if I said, "Tony, I can't meet with him," that'd be great, but that's no problem.
31	Seminerio	No, this is wonderful. And I got one other question to ask you.
32	Whalen	Sure.
33	Seminerio	What's the fate of Parkside? Has it been decided?
34	Whalen	Um, not yet
35	Seminerio	You don't have to tell me.
36	Whalen	They're in bank-, they're in bankruptcy court still
37	Seminerio	Yeah, they're still fighting it.
38	Whalen	So, I mean, I don't know what Health is gonna do with them
39	Seminerio	[laughs]
40	Whalen	Because they're supposed to they have till June 08
41	Seminerio	Okay.
42	Whalen	To do something in regard to the Burger recommendation.
43	Seminerio	Right.
44 45	Whalen	So, they got time, but I don't know how long the court, I mean the creditors are pretty patient there, I don't know
46	Seminerio	You know they, they don't, he never worked for spit in his whole life.
47	Whalen	[laughs]
48 49	Seminerio	Between you and me. And I ain't bullshit- You know what, you know I call that, I call the, the, the, the, the card like it is.
50	Whalen	Yeah, exactly.

51	Seminerio	You understand?
52	Whalen	Yep.
53	Seminerio	So, anyway I love you, my friend.
54	Whalen	Alright.
55	Seminerio	Have a wonderful holiday and I will tell Gio to call you.
56	Whalen	Great. And I'll see you when you're up here for [U/I].
57	Seminerio	I love you

[Excerpt ends at 2:43]

718-847-0770 Verizon (.9 CALEA) 2008-01-04 13-31-34 01653-001.wav

Date:

January 4, 2008

Time:

13:31 hrs

Location:

tel. call 718-847-0770 (Seminerio) to 718-963-7272 (Gio)

Participants:

Dominick Gio [Gio]

Anthony Seminerio [Seminerio]

[Excerpt begins at 3:06]

22

Gio

1	Seminerio	Seminerio.
2	Gio	Hey, Tony?
3	Seminerio	Hello, Dominick. How was your vacation?
4	Gio	Very nice, my friend, and you?
5	Seminerio	Good.
6	Gio	Yeah. Tony, are you gonna be going to Albany?
7	Seminerio	Ah, January 9 th I got the State of the State.
8	Gio	What, what day is that?
9	Seminerio	That's a Wednesday.
10	Gio	Alright. I have a meeting scheduled with Dennis for Thursday morning.
11	Seminerio	I know, at 10 o'clock.
12	Gio	10 o'clock. Are you gonna come with me?
13	Seminerio	I'll be there if you want.
14	Gio	Absolutely, Tony.
15	Seminerio	Okay.
16	Gio	Hey, Tone, what I was thinking of doing is taking the train Wednesday night
17	Seminerio	Alright.
18	Gio	And then meeting with you Thursday morning?
19	Seminerio	Well, yeah, I could meet you on the second floor.
20	Gio	By Dennis's office?
21	Seminerio	Yeah.

Okay, that would be great.



1	Seminerio	Alright. Have you ever contacted George Kalkines?
2	Gio	I'm meeting George Tuesday morning.
3	Seminerio	Alright, ask him to go with you.
4	Gio	Ah, he doesn't think that's a good idea.
5	Seminerio	Alright, then it'll be just you and me.
6	Gio	Beautiful. Tony, I really appreciate it.

[Excerpt ends at 4:00]

718-847-0770 Verizon (.9 CALEA) 2008-01-16 12-19-42 02279-001.wav

Date:

January 16, 2008

Time:

12:19 hrs

Location:

tel. call from 718-847-0770 (Seminerio) to 732-899-0990 (Craig Butler)

Participants:

Anthony Seminerio [Seminerio]

Craig Butler [Butler]

[Excerpt begins at 1:48]

1 2 3	Seminerio	Tell Bob that I took, uh, Dominick Gio to meet the head people in, in uh, Albany, the Health DepartmentThey was very happy with the meeting and they're gonna, uh, they, they're, uh, gonna call him back for another review.
4	Butler	They're gonna call, call Dominick back.
5	Seminerio	For another review.
6	Butler	Okay.
7	Seminerio	You know, so,I, I—he was happy.
8	Butler	Okay.
9	Seminerio	So uh He thought he was dead, but I brought him back to life.
10	Butler	Okay.
11 12 13 14	Seminerio	So, he's happy. And I'm, I don't know the outcome yet, but, you know, uh, he finally told that story and from what I, it looked like to me, is that they, uh, you know, that they told him they're gonna have another meeting with his Board of Directors and the whole nine yards.
15	Butler	Okay.
16	Seminerio	Okay?
17	Butler	Okay. Good deal.
18 19	Seminerio	Please, give Brian McLaughlin a ring, let Bob know that, you know, I, I took Gio to Albany.
20	Butler	Okay.
21	Seminerio	And, the other thing. Is there a, there's a fourth quarter with the
22	Butler	Yes.
23	Seminerio	Okay.
24	Butler	Yeah, yeah, absolutely.



	25	Seminerio	Alright. Take care of me, my friend. I'm getting old, I got, you know, and feeble.
	26	Butler	Yeah, we, we understand, we You know, I won't forget about you.
	27	Seminerio	I love you.
٠	28	Butler	Okay, my man.
	29	Seminerio	Just one more thing.
	30	Butler	Take care. Buh-bye.
	31	Seminerio	Craig, could I ask you a question?
	32	Butler	Sure.
	33	Seminerio	And this is you and me.
	34	Butler	Yeah.
	35 36	Seminerio	You know, what was, what was the [picks up receiver from speakerphone], what was the outcome with the those three hospitals? Jamaica, Flushing, and, uhm, Brooklyn?
	37	Butler	When you say the outcome?
	38	Seminerio	I mean, I, I haven't seen a nickel from 'em. I mean it's over three years, four years now.
	39	Butler	[laughs]
	40	Seminerio	What, what are you you see, that's what I'm saying. Uh, you know
	41	Butler	This, this is all screwed up between George and you and us.
	42	Seminerio	But, I don't have an inkling what's going on.
	43 44	Butler	And so, uh, we're supposed to, George wants to meet on the 5^{th} or 6^{th} , I forget which it is, of February.
	45	Seminerio	I'd like to be in on that meeting.
,	46 47	Butler	So, uh, I forget what day it is, so I don't really know, but, they'll, we'll, we'll, we'll, uh, contact you again on it.
	48	Seminerio	Please.
	49	Butler	Okay.
	50	Seminerio	I mean, uh, I, you know, uh you know, there's something not kosher here.
	51	Butler	Yeah.

52	Seminerio	Okay?
53	Butler	Okay.
54 55	Seminerio	And, uh, you know, I don't wanna hurt nobody's feelings, but, you know, I, I, I, there's something definitely wrong.
56	Butler	Yeah.
57	Seminerio	Okay?
58	Butler	Alright.
59	Seminerio	Thank you, sir.
60	Butler	Alright. Take care.
	[End of call]	

917-741-7962 ATT 2008-01-22 14-15-42 01507-001.wav

Date:

January 22, 2008

Time:

14:15 hrs

Location:

tel. call from 917-741-7962 (Seminerio) to 518-455-4621 (Gio)

Participants:

Anthony Seminerio [Seminerio]

Dominick Gio [Gio]

Abbreviations: [U/I] = Unintelligible [PH] = Phonetic Spelling

[Excerpt begins at 1:22]

1	Seminerio	Tell him we got them i	n ſl	J/I	Dominick!

2 Gio How you doing, buddy?

3 Seminerio How you doing?

4 Gio I'm hanging in there, Tony.

5 Seminerio Uh, did they call you back for more, uh, for any, any more interview-, any more, uh,

meetings?

7 Gio

6

No. What happened was... Not good news, Tony.

8 Seminerio What do you mean, no good news?

9 Gio Well, we had a great meeting with Dennis...

10 Seminerio Right.

11 Gio ...And then on Tuesday, we went up on Thursday.

12 Seminerio Right.

13 Gio

14

17

20

On Tuesday, Singleton and his group went up to ask the State for more money. You

know, to move ahead with Mary Immaculate...

15 Seminerio Right.

16 Gio ...And Saint John's. And basically was told, and Rick Zole [PH] was there, my lawyer, you

know Rick.

18 Seminerio Yeah.

19 Gio He was told, they were told that unless I get terminated, they are not gonna help the

hospitals.

21 Seminerio Well, who, who... Let me ask you a question.

22 Gio Uh-huh.



23	Seminerio	Who's? Nobody's terminating you
24	Gio	Yeah, they are, Tony.
25	Seminerio	Who?
26 27	Gio	The Board! The Board is being faced with the position that unless I'm gone, the State's not gonna help them.
28	Seminerio	What does Whalen say?
29 30	Gio	Uh, I haven't spoken to him directly, but he knows. Because, uh, you know, they were very upset that I went to Albany. Uh, Wayne Benjamin and, I mean Neil Benjamin
31	Seminerio	Why? Uh, if you don't take care of yourself, who's gonna take care of you?
32	Gio	Uh, I don't know, Anthony, I don't know what to do anymore.
33	Seminerio	Okay, I'll, I'll
34	Gio	Because I don't want to be in the way of Wyckoff growing.
35 36	Seminerio	I'll call, that's bullshit. I'll call Wayne, I'll call, uh, what's-his-name up myself. And I'm having dinner with him Tuesday, uh, February 4 th .
37	Gio	Who, Dennis?
38	Seminerio	Yeah.
39	Gio	Alright, Tony, if you could just find out, but
40	Seminerio	1 am! I'm gonna find out what the hell's going on. Number one.
41	Gio	Alright. I just
42	Seminerio	Number Number two, the other reason I called, ugh Bob Bradley, from Winston
43	Gio	I spoke to Bob. I'm gonna try to help him out.
44	Seminerio	What, he, yeah, he wants an introduction to Sam and Brooklyn Hospital.
45	Gio	Not a problem. I told him that.
46	Seminerio	Okay. Just let him know that I called you.
47	Gio	I, I will.
48	Seminerio	Alright.

50 In the meantime, I'll get... Seminerio 51 Okay. Gio 52 Seminerio ...I'm gonna call Whalen up, I'll get back to you. 53 Okay. Gio Bye. 54 Seminerio -55 Bye-bye. Gio

[Excerpt ends/end of conversation]

Call #1133 on (718) 847-0771

Date:

January 25, 2008

Participants:

Linda Loughlin [Loughlin]

Dominick Gio [Gio]

Anthony Seminerio [Seminerio]

1	Loughlin	Seminerio's Office.
2	Gio	The Assemblyman please.
3	Loughlin	Who's calling?
4	Gio	Dominick Gio.
5 6	Loughlin	One moment Mr. Gio, hold on, he's on another conference call, hold on one second please.
7	Gio	No, No, that's ok, I'll call him back.
8	Loughlin	No, no, hold on one second.
9	Gio	[Talking in background] No.
10		[pause]
11	Seminerio	Dominick.
12	Gio	Hey Anthony, how you doing?
13	Seminerio	Okay, I,I called up, Dennis Whalen.
14	Gio	Uh Huh.
15	Seminerio	He don't know nothing about it.
16	Gio	No, no, Anthony, let's Just leave it alone, okay.
17	Seminerio	He said he would set up a meeting with some guy Dean or something, Dannen?
18	Gio	Daines, Daines
19	Seminerio	Daines
20	Gio	No Anthony, I appreciate it but let's just leave it alone now, I am going just leave.



21 22 23	Seminerio	Because he said to me, I swear to God, Tony I don't know nothing about it. I was setting a meeting up with Deanes (Daines). I already spoke to them and that was it.
24	Gio	Yeah. You know Anthony it's not worth fighting. I'm just
25	Seminerio	Alright.
26	Gio	I made a decision just to resign.
27	Seminerio	Ok my friend, I'm a phone call away.
28	Gio	I appreciate it Anthony.
29	Seminerio	Anything you need.
30	Gio	You got it buddy
31	Seminerio	Thank you
32	Gio	Bye, bye

[Call ends]

Call # 2876 on cellphone (917) 741-7962

Date:

May 22, 2008

Participants:

Craig Butler [Butler]

Anthony Seminerio [Seminerio]

Abbreviations: [U/I] = Unintelligible

1	But	or
.1.	17171	

Hello, it's Craig.

2 Seminerio

Craig, Tony Seminerio.

3 Butler

Hey, how are you man?

Seminerio 4

What's happening?

5 Butler

Not too much, how 'bout you, what's going on with you?

6 Seminerio

Nothing, everything is good, we've got a June, June luncheon with what's his

name, Brezenoff.

Butler 8

7

10

13

15

Stanley, yeah.

9 Seminerio

Yeah. Okay, one of the reasons I've called, Craig, I don't want to sound crazy to

you, whatever happened to my moneys from Jamaica Hospital?

11 Butler

From Jamaica Hospital?

12 Seminerio

Yeah Jamaica, uhh, Flushing, Brookdale... you know we've been doing them four

or five years now.

14 Butler

That was, that was the whole point of what happened with a, with a ,what's his

name, with a, come on I am having a senior moment here...

16 Seminerio

Take your time.

Butler 17

No, what's his name, come on, I um, with aaah George.

Seminerio 18

George Kalkines, George.

Butler 19

Yeah, with George.

20 Seminerio

What? He took the money?

Butler 21

22

Wh...I mean, I know, yeah, the shares, the shares, he didn't want to do the splits

on the shares as far as I can tell.

23 Seminerio

I don't understand.



24 25 26 27	Butler	Well in other words, in other words, George, we were saying to George: "Hey you know Tony gets the money from Wyckoff Hospital, on Jamaica Hospital, we can't give you a certain percentage and give Tony a percentage because then there will would be nothing left over", so that's
28	Seminerio	I don't understand. That's my contract, what does George got to do with it?
29 30 31	Butler	Well, that the whole purpose of our, uhh, real problem with George because George was saying that he had to be paid regardless of you because we had to view you as working under his contract.
32 33	Seminerio	No way, that, that, if you speak to Dave Rosen and Mounir they'll tell you that's my contract!
34	Butler	I know
35	Seminerio	They tell that to everybody.
36 37 38	Butler	That was the whole, that was the whole thing about it so I mean, when we do the enrollments this year we're not going, in fact we are scheduled to do them in a couple of months, I mean a couple of weeks.
39	Seminerio	Right. That's why I am calling you.
40 41	Butler	Yeah, I think in July. So I mean, you know we are not going to do anything with it, it is going to go to you.
42 43 44 45 46	Seminerio	Ok, because uhh, you know I got off the phone with Dave, and Dave says "how are you doing with that? I said, Dave, I didn't say I didn't get any money and I didn't want to start no bullshit. I said, Dave, you know, no their uhh you know, their uhh, well he said well I have the formula in front of me, we're doing the enrollments.
47	Butler	Yep.
48	Seminerio	So you know that's why I called.
49 50 51	Butler	Yeah, exactly. So, I mean. You know George never wants to recognize that as under the table on that, so that's why it is so frustrating to dobusiness with the guy
52	Seminerio	Oh, that's ok, but I mean it's just not fair.
53	Butler	Right.

54 55	Seminerio	Here I am, I thought he's looking out for my interests too, like I look out for his interests.
56	Butler	Yeah, right.
57	Seminerio	Alright Craig, what's happening with Wyckoff? Do I have a check coming?
58 59	Butler	Yeah, it's goin' be coming, but its Tony I've got to tell you this. They are not paying any of their bills, none of them.
60	Seminerio	Well, we just got them some money to keep alive
61 62 63	Butler	They owe three hundred and some thousand dollars back payment to Empire Blue Cross. They owe, I can't tell you how much money they owe, just from the first quarter this year. Both on their uhh
64	Seminerio	I know, the Indian guy took it over.
65	Butler	Yeah
66	Seminerio	Alright, I'll speak to Dr. Aria
67	Butler	Yeah, okay, that would be
68	Seminerio	Okay.
68 69	Seminerio Butler	Okay. Alright, my man,
69 70	Butler	Alright, my man, [laughing] You know these hospitals, they've got all the fucking glory, they don't
69 70 71	Butler Seminerio	Alright, my man, [laughing] You know these hospitals, they've got all the fucking glory, they don't go for the cash.
69 70 71 72 73	Butler Seminerio Butler	Alright, my man, [laughing] You know these hospitals, they've got all the fucking glory, they don't go for the cash. Oh yeah, they really don't. This is the worst I've ever seen it. Alright Craig, but please, on that thing with Jamaica, uh you know. What I don't
69 70 71 72 73 74 75 76	Butler Seminerio Butler Seminerio	Alright, my man, [laughing] You know these hospitals, they've got all the fucking glory, they don't go for the cash. Oh yeah, they really don't. This is the worst I've ever seen it. Alright Craig, but please, on that thing with Jamaica, uh you know. What I don't want to do is get angry with everybody. Right, exactly there is no reason to do that either. I mean so uhh, you have worked well with our organization for years and George has been a pain in the
69 70 71 72 73 74 75 76 77 78 79	Butler Seminerio Butler Seminerio Butler	Alright, my man, [laughing] You know these hospitals, they've got all the fucking glory, they don't go for the cash. Oh yeah, they really don't. This is the worst I've ever seen it. Alright Craig, but please, on that thing with Jamaica, uh you know. What I don't want to do is get angry with everybody. Right, exactly there is no reason to do that either. I mean so uhh, you have worked well with our organization for years and George has been a pain in the ass, you know, so I mean Well, I am surprised, you know, when I sit down with him, when I ever get a chance to sit down with him. I haven't had that chance. I am goin' give him a

83	Butler	Yeah. Okay.
84	Seminerio	He happened to mention it.
85	Butler	Okay.
86	Seminerio	Thank you.
87	Butler	Alright sir. Have a good holiday my man
88	Seminerio	You too, sir. Bye
89	Butler	Okay. Thanks.

[End of call]

917-741-7962 ATT 2008-01-29 17-34-42 01648-001.wav

Date:

January 29, 2008

Time:

17:34 hrs

Location:

tel. call from Bob Bradley to 917-741-7962 (Seminerio)

Participants:

Bob Bradley [Bradley]

Anthony Seminerio [Seminerio]

[Excerpt begins at 1:45]

1	Bradley	Number two, I got a meeting with George on Tuesday afternoon.
2	Seminerio	Okay.
3 4 5 6 7	Bradley	I told George that the relationship's not working out, and, uh, you know, I don't see how it's gonna work out. I, I, this, this whole convoluted process that we got into. I don't even know how we got into it. All I know is you brought him to us, we had a deal, you guys were gonna split commission, next thing I know, for a year, you know, he wants to get paid separately, and he's not under you, I, I That's not how it works.
8	Seminerio	Well, I don't know
9 10	Bradley	And that's not the deal, and I told him that, I says, "You gotta" And, and, how many times have I talked to him about bringing new business in?
11	Seminerio	A lot of times.
12	Bradley	You know, he A lot.
13	Seminerio	He's told me, he was work He to-, he honestly told me he was working on something.
14	Bradley	Yeah, no. It's It's all, you know There's nothing there.
15	Seminerio	Alright, you find, you find all out more Tuesday.
16 17	Bradley	So I'm gonna go meet him, and I'm gonna end it, and then you, me, and Craig have to sit down, get our stuff squared away, and go forward.
18	Seminerio	Alright.
19	Bradley	I mean, I just can't deal with all this stuff going on, Anthony, and different agendas.
20	Seminerio	No, you're right! You're right. Let's nip, let's nip everything in the bud.
21	Bradley	Yep, you got it. GOVERNMENT

[Excerpt ends at 2:46]



917-741-7962 ATT 2008-02-14 11-00-56 01766-00

Date:

February 14, 2008

Time:

11:00 hrs

Location:

tel. call from 917-741-7962 [Seminerio] to Bob Bradley

Participants:

Bob Bradley [Bradley]

Anthony Seminerio [Seminerio]

Abbreviations: [U/I] = Unintelligible

[Excerpt 1 begins at 0:36]

1	Bradley	Tony.
2	Seminerio '	Bob.
3	Bradley	How are ya?
4	Seminerio	How'd you do at that meeting with—Tuesday.
5	Bradley	Huh now, which Tuesday? Let me think, I had Monday[U/I].
6	Seminerio	I thought you had a meeting Tuesday with Kalkines?
7	Bradley	Uh, it was alright. Not great. It was pretty
8	Seminerio	Well what was the outcome?
9 10 11 12 13 14 15 16 17	Bradley	Well, you know, I mean the outcome at point—at one point was let's just end this thing. And he, and he was getting all—you know how George gets when you, when you confront him with things. I mean he doesn't like to hear that he's not doing a good job for us. And I said to him, I said "George, I just can't continue on this thing." I said, "It's unfair to everybody involved." I said, "You can't sit there and expect to get paid money with no performance." I said, "Everybody else in this industry gets paid on performance except for you." I said, "This just doesn't fly." And I said, and fir—he said, "Well I'm not under Tony." I said, "Well, well he, he met you through Tony, so that's how this all works." So, what we agreed to do was to go back and recast all the groups from [U/I] four years. Okay?
19	Seminerio	Okay.
20	Bradley	The last four years.
21	Seminerio	Right.
22 23	Bradley	And sit with him and see if we can work up a deal where, that makes sense for all four of us. Okay? And he
24	Seminerio	And what
25	Bradley	You and him.
26 27	Seminerio	Now where do I come in on this? I mean, his son's been gettin' the check. I've been gettin' nothin'.

. ,

28 29	Bradley	No, no ,no, no. We're gonna do all the accounting. We—you've been getting, I mean he's been gettinghe'swe only paid him like \$10,000 this year.
30	Seminerio	Alright.

[Excerpt 1 ends at 2:06]

[Excerpt 2 begins at 5:47]

31 32	Bradley	and I, and I wanna be upfront with you. This thing with George may not be headed to a good ending. Okay?
33 34	Seminerio	Let me tell you something. Jamaica Hospital and those you'll always have, as long as I'm alive.
35	Bradley	Okay. 'Cause he's
36	Seminerio	Nobody's gonna hurt you there.
37 38	Bradley	Yeah, well he kinda intimated that, you know, he'll have to take his contacts elsewhere. And I'm thinking
39	Seminerio	Where? Who? The what? Jamaica Hospital?
40	Bradley	Well that's the only one he's got, 'cause he doesn't have any at Wyckoff.
41 42	Seminerio	[U/I]You tell him, you tell him Jamaica Hospital is Tony Seminerio's piece. Nobody'll touch that thing.
43	Bradley	Well you know Tony, we really had these all before he came into the deal.
44	Seminerio	Without a doubt!
45	Bradley	And so
46	Seminerio	They're all, they're, they're my, they're obligated to me on that.
47	Bradley	Yeah. He's actually introduced us to no new business whatsoever.
48	Seminerio	Ah, but, but that's his fault.

[Excerpt 2 ends at 6:32]

917-741-7962 ATT 2008-02-22 15-33-13 01866-001

Date:

February 22, 2008

Time:

15:33 hrs

Location:

tel. call from 732-735-0621 (Butler) to 917-741-7962 (Seminerio)

Participants:

Craig Butler [Butler]

Anthony Seminerio [Seminerio]

[Excerpt begins at 1:40]

1	Seminerio	Okay?
2	Butler	Yeah, good.
3	Seminerio	So that's in order. And, uh, Bob told me he met with Kalkines
4	Butler	Yeah, we met with George and we're gonna go back with him in a, in a week or two.
5	Seminerio	I mean uh, ya, ya, ya know, I said to him, "Everybody made fucking money but me"
6	Butler	Right.
7	Seminerio	on that Jamaica Hospital thing.
8	Butler	Right.
9	Seminerio	It's not fair.
10 11 12	Butler	Right. No, exactly, and it was getting like crazy and out of hand. So, uh, so is it, you know, the first part of the meeting was pretty tough and then we agreed we would come back and, uh, and, and, and build, uh, the strategy, you know?
13	Seminerio	Well, I hope they do something because now I'm, now I'm hot.
14	Butler	Yeah.
15 16	Seminerio	When I found out that what's-his-name's son was on the payroll, what are they kidding me or what? Well, what do they, what do they produce?
17 18	Butler	Yeah, I know. He just, you know, he just passed it on to him, to, to the, the family member, right?
19	Seminerio	Well, all I know

[Excerpt ends at 2:35]



917-741-7962 ATT 2008-03-25 15-16-55 02300-001.way

Date:

March 03, 2008

Participants: Anthony Seminerio [Seminerio]

Dr. Aria

1 Seminerio Dr. Aria?

2 Aria Speaking.

3 Seminerio Mr. Seminerio, Assemblyman Seminerio.

4 Aria Oh, oh, oh [U/I]. How are you?

5 Seminerio: Okay. Doctor, listen.

6 Aria Yeah.

7 Seminerio Who's in charge of Wykoff now?

8 Aria: Dr. Nirmal Mattoo is the CEO.

9 Seminerio: Dr. Mattoo is the CEO?

10 Aria: Yeah.

11 Seminerio: Okay. Now, I just called the General up, he wasn't in.

12 Aria Huh?

Seminerio 13

But I wanna get this thing done. General Ehrlich-I just called him. I want him to go see

you-

15 Aria:

14

Okay.

16 Seminerio: To try to get this thing done for the, uh-

17 Aria: Tricare?

18 Seminerio For the Tricare.

19 Aria: Okay. Yeah.

20 Seminerio: So, what I would like, I'll ca- [U/I]. As soon as I reach the General, I'll tell him to call you

to set up an appointment.

22 Aria

21

23

No problem. Or you can give me his number, Assemblyman, and I'll call him and we'll

take care of everything.

24 Seminerio: Okay. I'll give you his number, you call him.

25 Aria: Okay.



26	Seminerio	I think it's 9-1-4
27	Aria	9-1-4
28	Seminerio	2-9-9
29	Aria	2-9-9
30	Seminerio	3-8-1-7
31	Aria	3-8-1-7. Okay. And what's his name?
32	Seminerio	I mean, I, I, when I spoke to what, what's his name? Tom?
33	Aria	Yeah.
34	Seminerio	He, they loved the idea. But nobody is getting off their ass to do anything.
35 36	Aria	Well, I, I [laughs]. Assemblyman, just, eh, give me a chance to do it, and I'll make sure everything will be done.
37	Seminerio	Okay. So I'll have, you speak to the General, set it up
38	Aria	Yeah.
39	Seminerio	And let's get it done.
40	Aria	No problem. I spoke to the General just about an hour ago.
41	Seminerio	Thank you sir.
42	Aria	And, uh, you know what's the name of the gentleman?
43	Seminerio	General Ehrlich.
44	Aria	General Ehrlich? Okay.
45	Seminerio	You know him.
46	Aria	I know, I know. Okay.
47	Seminerio	Okay?
48	Aria	I'll take care of it. No problem.
49	Seminerio	Thank you.

[End of call]

ASOFFICE 2008-03-25 09-13-41 00065-001

Date:

March 25, 2008

Participants:

Bernard Gordon Ehrlich [Ehrlich] Anthony Seminerio [Seminerio]

[Excerpt begins at 1:03:00]

1 Ehrlich Oh really? Oh, oh, I know, yeah...[laughs]

2 Seminerio

Now, you, you gotta tell Dr. Aria, listen, the Assemblyman told me this, he made a

commitment to Wyckoff, he wants to keep it. But either now we do it, or we don't do it.

4 Ehrlich

3

Gotcha. Exactly.

5 Seminerio

Because he's got other people that are interested...

[Excerpt ends at 1:03:20]



Office recording on 4/10/08

Date:

April 10, 2008

Participants:

Anthony Seminerio [Seminerio]

Gordon Ehrlich [Ehrlich

[Excerpt begins at 9:15]

1 Seminerio What did, uh, Wycoff tell ya, anything?

2 Ehrlich

No, I haven't heard a word, after you spoke to them.

3 Seminerio

Give Doctor Aria a ring.

4 Ehrlich

I will do that.

5 Seminerio

Say, Doctor Aria, I must come up with a decision, what do you want to do?

6 Ehrlich

I will do better than that. I will ask Doctor Aria if I can see him.

7 Seminerio

Right.

8 Ehrlich

[U/I]

9 Seminerio

And you make him understand that you got to come up with a decision.

10 Ehrlich

Okay.

[Excerpt ends at 9:39]



ASOffice 2008-04-17 09-14-46 00090-001.wav

Date:

April 17, 2008

Participants:

Gordon Ehrlich [Ehrlich]

Anthony Seminerio [Seminerio]

[Excerpt begins at 36:00]

Ehrlich

Are they gonna take over those two hospitals?

Seminerio

I don't know. See, Gordon, I did them a big favor during the budget time. I included them in... and I sent a letter to the head guy. I gave them the whole outline of the budget, which was voted on. And I said to Aria, see 'cause I was planning ahead, I said, I said, Doctor, I want you to read everything here, if there's something you think you you're not getting, let me know, and I'll get it included. So he was happy.

Ehrlich

Good.

Seminerio

You know. 'Cause we did a,a,a,a billion, 800 million back into that health package.

Ehrlich

[U/I]

Seminerio

Sure. Fuckin' Dave Rosen kisses my feet...you know.

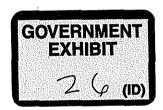
Ehrlich

I think Rosen appreciates you. I think [U/I]...

Seminerio

They all do. Without me they wouldn't have been in business [U/I]

[Excerpt ends at 36:55]



ASOffice 2008-05-02 10-13-24 00093-001.way

Date:

May 2, 2008

Participants:

Gordon Ehrlich [Ehrlic]

Anthony Seminerio [Seminerio]

[Excerpt begins at 57:03]

1 Seminerio We got to nail down Wy	ckoff.
------------------------------------	--------

2 Ehrlich I can do that. He'll be back May 15th. He said...How much of a fee should I quote

him?

4 Seminerio

\$5,000.

5 Ehrlich

3

\$5,000. Okay, now. He said I'll call you May 15th. He said, I'm gonna pay.

6 Seminerio

I don't, we don't care. But you gotta tell him one thing.

7 Ehrlich

What?

8 Seminerio

Anytime he feels he's not getting his money's worth, cancel us out.

9 Ehrlich

That's exactly what I said.

[Excerpt ends at 57:36]



718-847-0770 Verizon (.9 CALEA) 2008-06-20 12-23-35 11713-001.wav

Date:

June 20, 2008

Time:

12:23 hrs

Location:

tel. call from Bill Green to 718-847-0770 (Seminerio)

Participants:

Bill Green [Green]

Anthony Seminerio [Seminerio]

Abbreviations: [U/I] = Unintelligible

[PH] = Phonetic Spelling

[Excerpt begins at 0:26]

1	Seminerio	Bill.
2	Green	Hey! How are you doing, buddy?
3	Seminerio	Listen, Bill. I had the General go see Doctor Aria in regard to Tricare.
4	Green	Right.
5 6 7	Seminerio	And they're, they're fucking around like they always do, so, next week I set up a meeting with another hospital in, uh, downtown Brooklyn, and I'll give it to them. Fuck Wyckoff, I've had it with them.
8 9 10	Green	Well, I'll tell you what Aria told me. He has, he has been in the program for a while. And he doesn't get many referrals. And what he was trying to do is meet with the medical director and see if he could resolve some things. So he
11 12	Seminerio	Well, I, I don't know, you know, the only rea-, he got the leftovers, he didn't get the, the, the whole crust, you follow me?
13	Green	Yeah, I understand, right.
14 15	Seminerio	And, uh, you know, you know, when you and everybody else are trying to, uh, make, uh, uh, an end-turn on us
16	Green	Mh-hmm.
17 18	Seminerio	That's it. We cut him off completely. So But I want you to know. I, I, I owe you that courtesy.
19	Green	Alright. Is it, it can't, can it be salvaged?
20	Seminerio	So What?
21	Green	Can it be saved?
22	Seminerio	Of co-, I, I, of course. I don't have to rush down sou—I still got another week in Albany.
23	Green	Alright. Well, if, can I get, can I get Aria and have a meeting with you and the General?



24	Seminerio	Whenever you want!
25	Green	Alright. Okay. I'm, I'm at home now but I'm, I go in at 2 o'clock.
26	Seminerio	Alright.
27	Green	Can I reach you at 2?
28	Seminerio	I should be home from Albany Thursday or Friday next week.
29	Green	Oh, so it's, so where are you now? Are you in your office or, or in Albany?
30	Seminerio	I'm in the office.
31	Green	Okay. See, if I can get him today, how long will you be around today.
32	Seminerio	I'm gonna be here til 5 o'clock.
33	Green	Okay, why don't I do, why don't I get Aria and, and when, we
34 35	Seminerio	Tell Aria, and, you know, and I'm not being derogatory. I'm just tired of that bullshit. Uh, they $[U/I]$.
36	Green	Okay, it's not a problem. Not a problem. I'll take care of it.
37	Seminerio	You know how many other hospitals are out there who'd love to get it?
38 39	Green	Oh, I know, I know. Well now it's, times are tough, man. You know, you know Vito is gone, right?
40	Seminerio	Of course.
41	Green	Yeah, he's coming in on Sunday just for a few days.
42 43	Seminerio	I know he's gone. But that's not the point. You know, the, uh, the, the point is I tried to get $Giotodoit$, a $Iot[U/I]$
44	Green	I know. Well, that, well, you know who sat on it? That girl Karen Plinis [PH].
45	Seminerio	[U/1].
46	Green	She, she, she wouldn't do anything about it, so
47	Seminerio	You know something? Those veterans are coming back, they're gonna need service
48	Green	I know that, yeah.
49 50	Seminerio	And that district, you know, you, you're talking about that whole area that surrounds Wyckoff

51	Green	I know, I know.
52	Seminerio	veterans are there
53	Green	No, Tony, if I had my way, it'd be done tomorrow, but, you know, they
54	Seminerio	Oh, I mean
55	Green	They took me out of the program, so that was the problem.
56 57	Seminerio	Well, then, that, that's, you know, so make them understand that, you know, uh, uh, I'm, I'm, if I change, I've forewarned them.
58	Green	Okay, I got it. No problem.
59	Seminerio	Alright.
60	Green	Hey, Tony?
61	Seminerio	Yeah.
62	Green	Did you hear anything for Billy?
63	Seminerio	I thought I took care of it. Oh, no. You know what happened?
64	Green	No.
65	Seminerio	When I went to see Paterson, he had that eye opera-, he had two operations.
66	Green	Okay.
67	Seminerio	So let me, let me do it again.
68	Green	Okay. I appreciate that, Tony.
69	Seminerio	I take care of him.
70	Green	Alright.
71	Seminerio	Bye.
72	Green	No problem. Bye-bye.

[End of call]

ASOffice 2008-04-17 09-14-46 00090-001.wav

Date:

April 17, 2008

Participants:

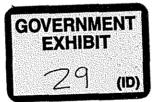
Gordon Ehrlich [Ehrlich]

Anthony Seminerio [Seminerio]

[Excerpt begins at 21:24]

1	Seminerio	Have you heard from Jamaica Hospital? [U/I] Did they send you anything?
2	Ehrlich	You gotta call somebody. You can't call Bill Lynch, maybe you can't call anybody, Bill you can't call.
4	Seminerio	Why?
5 6 7 8 9	Ehrlich	Let me just tell you, please understand, I happened to have been there when Bruce Flanz walked over to him and said uhh you know the Assemblyman is very concerned we're not doing anything. And Bill says you know the problems I've had here, I know what they are, he said I've got everything done and I'm going take care of it.
10	Seminerio	Alright.
11 12	Ehrlich	Ok but Bill says I uhh, I can't do anything with Mounir, why he, not a penny. Hey, I don't know.
13	Seminerio	Worse comes to worse I tell them to go fuck themselves.

[Excerpt ends at 22:43]



718-847-0770 Verizon (.9 CALEA) 2008-04-17 12-22-31 07429-001.wav

Date:

April 17, 2008

Time:

12:22 hrs

Location:

tel. call from 718-847-0770 (Seminerio) to 718-206-6290 (Lynch)

Participants:

Anthony Seminerio [Seminerio]

Bill Lynch [Lynch]

Abbreviations: [U/I] = Unintelligible

[Excerpt begins at 0:18]

4	Lynch
	# Whch

Hello?

2 Seminerio

Bill.

3 Lynch

Hey, how are you doing?

4 Seminerio

I was talking to the General.

5 Lynch

Yeah.

6 Seminerio

He says you're gonna take your kid out to the colleges...

7 Lynch

Yeah. [laughs] I'm heading...

8 Seminerio

I got, I got good connections in both the CUNY and the SUNY.

9 Lynch

10

Yeah, well, I'm heading up to, uh, believe it or not, well, actually, my daughter's just

finishing, finishing up at Stonybrook...

11 Seminerio

Okay.

12 Lynch

...But I'm heading up to Binghamton, Geneseo...

13 Seminerio

Right.

14 Lynch

...Albany...

15 Seminerio

You let me know...

16 Lynch

I'll let you know. [laughs]

17 Seminerio

...And I'll hook you in with the big guys.

18 Lynch

Yeah. He, he's, he's actually a pretty good student, so he's gonna do okay.

19 Seminerio

Well, no, you know...

20 Lynch

Yeah, no, I appreciate it, I said [U/I]...

21 Seminerio

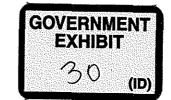
...If you got, you call me and I'll take, you know...

22 Lynch

Yeah. Well, you know I don't have a-, yeah.

23 Seminerio

...Because I do, I do it, well, then you're stupid.



24	Lynch	I know. [laughs]
25	Seminerio	Then you're dumb.
26	Lynch	I know, I'm a dumb Irishman. What am I gonna tell ya?
27	Seminerio	Well, you know, I, I, I don't wanna go into that.
28	Lynch	[laughs]
29	Seminerio	But, you know Uh, nah, I'm here.
30	Lynch	No, I appreciate it.
31 32	Seminerio	Listen to me. You know, you know the story, uh, uh, uh, I'm here, if you wanna use me, you use me.
33	Lynch	Yeah. I appreciate it, Assemblyman. It's, uh
34	Seminerio	But, you know, I, I give them a ton of money
35	Lynch	I would imagine.
36	Seminerio	And, and I, I've been on higher ed. for over 30 years. I've been on the committee.
37	Lynch	Oh, great. Great.
38	Seminerio	I just got off it this year. But, they all love me.
39	Lynch	[laughs]
40	Seminerio	I'm serious. You know I won't bullshit you.

[Excerpt ends at 1:20]

ASOffice 2008-05-02 10-13-24 00093-001.wav

Date:

May 2, 2008

Participants:

Gordon Ehrlich [Ehrlic]

Anthony Seminerio [Seminerio]

[Excerpt begins at 21:10]

1 2 3 4 5 6	Ehrlich	But let me tell you how lucky we are. I park the car, who's walking in the street, Fred Beekman. I said Fred, I'm so happy to see you, I said we got a meeting for the 22nd, Michael set up. He says yeah, he says what will we talk about. I told him. He says good, I'm all excited, I want to do it, I want to make it happen, he says on the 22nd I am taking you and Mike to lunch, you're not paying, I want to work with you. Fantastic. So, he said yes. Canedo
7 8	Seminerio	I'm going, I'm going let Bruce Flanz know that meeting. What about our friend Bill, is he going be there?
9 10 11	Ehrlich	Yeah, Bill, yeah. But alright let me tell you, Assemblyman, I'm not gonna, Mike says don't get mad at anyone because they'll kill you. I'm doing fine. If I can't go straight, I go around this way.
12	Seminerio	Alright.
13	Ehrlich	Canedo gave me his card, here's the deal I made.
14	Seminerio	IS he a general yet?
15	Ehrlich	Pardon me?
16	Seminerio	Canedo, did he become a general yet? He's a colonel, right?
17	Ehrlich	You're thinking of Kootz
18	Seminerio	Kootz.
19	Ehrlich	Canedo with the hospital
20	Seminerio	Oh, okay. I'm sorry, alright.
21	Ehrlich	This guy, Angelo Canedo, I've got it upside down.
22	Seminerio	That's a new name, isn't it?
23	Ehrlich	Huh, he was fabulous, he's the guy who runs the combat stress.
24	Seminerio	Very good.



25 26	Ehrlich	He said to me, he says let me tell you, with me there's no middle man, I like the idea, I'll take it up with Dave Rosen, I don't go to anybody.
27	Seminerio	When, uhm, I spoke to Stanley Brezenoff yesterday.
28	Ehrlich	Yes.
29 30	Seminerio	I mailed him an article about that thing in the Daily News, that little thing. I said, this is going be the biggest thing in the next few years. He says let me look at it.

[Excerpt ends at 23:00]

Call #4430 on (718) 778-0770

Date:

February 21, 2008 John Seminerio [John]

Participants:

Anthony Seminerio [Seminerio]

[Excerpt begins at 0:19]

1	Seminerio	Hello.
2	John	Daddy-o.
3	Seminerio	Yes sir.
4	John	My friend George Dilieto's gonna come by with a box of cookies.
5	Seminerio	What?
6 7 8	John	Just wanted to say hello. [U/I] This is the guy who at fifty, well I found out the whole story. I went to see him this week, this was the guy that got me my job in college, tooling.
9	Seminerio	Right.
10 11 12 13	John	Uh, cause his cousin who owns the company, after 24 years of marriage, comes out of the closet and now is basically taking his personal crisis out on everybody in the shop. So here's this guy who says for 35 years I was a loyal guy to my cousin, says and now he's flipping out.
14	Seminerio	But what does he want, is he looking for a job John?
15 16 17	John	Uhm, yes, but, but, he's got his test in and he went for a class, the whole nine yards with the Long Island Rail Road and I told him, I said George, man you know, you got to wait until those results, you know, you know, he said ok.
18	Seminerio	Let me see what I can do son. How old is he?
19	John	Alright. He's fifty.
20	Seminerio	Alright.
21	John	Him and Donald Bailey, I mean you know like, they decided to wake up today.
22	Seminerio	I know that. GOVERNMENT

23	John	Alright.
24	Seminerio	What I've been telling you for thirty years, they finally, everybody.
25 26	John	Well, you know what George, you know what George [U/I] and Bobby Dennis say everytime I see them, your dad is the smartest guy I know.
27	Seminerio	Yeah, I knowalright.
28	John	Love ya. Bye.
29	Seminerio	I hope you can think that.
30	John	l do.
31	Seminerio	I love you.
32	John	Bye.
33	Seminerio	Bye.
	[Call ends]	

Call #4432 on (718) 847-0770

Date:

February 21, 2008

Participants:

Joe Calderone [Calderone]
Anthony Seminerio [Seminerio]

Abbreviations: [PH]: Phonetic Spelling

[Excerpt begins at 2:41]

1	Calderone	Joe Calderone.
.2.	Calucionic	JUE Caluelone.

- 2 Seminerio Joe.
- 3 Calderone Yes.
- 4 Seminerio My name is Assemblyman Anthony Seminerio, I'm from Queens, New York.
- 5 Calderone I know you well Assemblyman by reputation.
- 6 Seminerio Oh God [laughing].
- 7 Calderone
- [laughs]
- 8 Seminerio

Ok, we'll put the boxing gloves.

- 9 Calderone
- [laughs]
- 10 Seminerio

Let me ask you a question.

- 11 Calderone
- How you doing?
- 12 Seminerio

I am doing good, you know and, uh, usually in the old days I used to deal with

- 13 uh...
 - Calderone Brian Dolan.
- 15 Seminerio

14

Brian and then I used to deal with, uh...

- 16 Calderone
- Susan.
- 17 Seminerio

Albert Casenza [PH]

18 Calderone

Ok, Al Casenza's still here.

- 19 Seminerio
- Oh really.
- 20 Calderone
- Oh yeah, he's a great guy.



21	Seminerio	Are you kidding me, he's one of the best.
22 23	Calderone	He is. We're very, we're very happy to have him, yes he's still here. What's the issue? How can I help you?
24	Seminerio	I have a dear friend of the family.
25	Calderone	Okay.
26 27 28 29	Seminerio	And, uh, he's helped me for many years, you know, when I run for office and everything. He's really never asked for anything but what happened is, his sister called me the other day and she said, my brother George, uh, took a test for machinist at the Long Island Rail Road.
30	Calderone	Ah
31	Seminerio	I says, why the hell don't George come in and see me?
32	Calderon	Okay.
33 34	Seminerio	She says, you know Mr. Seminerio he didn't, he don't want to bother you. You know me, I says that's bullshit.
35	Calderone	[laughing]
36	Seminerio	How do I know if he's got problems?
37	Calderone	That's what life is for, what?
38 39	Seminerio	You knowbut I told her I says I promise you that I would make a call on his behalf.
40	Calderone	Okay.
41	Seminerio	The kid's name is George Capital D-I-L-I-E-T-O
42	Calderone	D-I-L?
43	Seminerio	I-E-T-O
44	Calderone	I-E-T-O
45	Seminerio	He's been a machinist for over thirty years.
46	Calderone	Okay.
47	Seminerio	And he took the test just recently, last Friday, I believe.

48	Calderone	Okay, very good, alright D-I-L-I-E-T-O, George machinist test, got it
49	Seminerio	And my name is, my telephone number is 7188472848.
50	Calderone	2848, ok good, so 8472848.
51	Seminerio	Yeah, now do me a favor.
52	Calderone	Go ahead.
53 54	Semierio	At your leisure, if you guys have got a proj-, cause usually in the old days when you've had projects I've funded them for you guys.
55	Calderone	Yeah.
56 57	Seminerio	So if you got something going, I'd be more than glad to meet with you over a cup of coffee or anything.
58 59	Calderone	Okay, we'd appreciate that, I appreciate that very much. I've only been here since August and we have a new president Helena Williams
60	Seminerio	Oh Joe, let me tell you something, unless you try you never know.
61	Calderone	Right, that's true.
62 63	Seminerio	And you tell AI, say listen, Assemblyman Seminerio says he loves you and he is still alive.
64	Calderone	Okay [laughs] Okay, I will do that.
65	Seminerio	And tell him I am running one more time.
66	Calderone	I will do that.
67	Seminerio	And Joe, give me your number again.
68	Calderone	Sure it's 718, uh, 558 7301.
69	Seminerio	And spell your last name.
70	Calderone	C-A-L-D-E-R-O-N-E. That is half Napolitan and half Sicilian.
71	Seminerio	Oh my God that's the best.
72	Calderone	[laughs]
73 74	Seminerio	You know what I had yesterday Joe, I don't know if you remember. How old are you?

75	Calderone	I am going be 52 next month.
76	Seminerio	You remember, Pasta [U/I]
77	Calderone	Oh
78	Seminerio	[U/I] with the Sardines
79	Calderone	Oh, I think my father used to like that
80	Seminerio	Let me tell you, a friend of mine invited me.
81	Calderone	Yes, yes my father used to like that, yes.
82 83	Seminerio	I says you know, I go to the restaurant, and I says Charlie what'd you order, he says just sit down and wait.
84	Calderone	[laughs[
85	Seminerio	And they come out with a big platter of pasta gualavarde [PH] with sardines.
86	Calderone	Oh, I like that.
87	Seminerio	And the, uh, green capers, whatever they call them.
88 89	Calderone	Yes, yes, yes, no I know what you're talking about, I know what you're talking about, I love it, I love it, where'd you go, what restaurant?
90	Seminerio	La Bella Vita, the fried breadcrumbs
91	Calderone	Now, you know what, I should know. this but what areas do you have?
92	Seminerio	I have Richmond Hill, Ozone Park.
93	Calderone	Richmond Hill, Ozone Park.
94	Seminerio	And I just about make it up to 125th Street but I'm, I'mby your main office.
95	Calderone	Got you, got you.
96 . 97	Seminerio	But that don't make a difference because I did a lot of work on the railroad yards for you guys, I got a lot of capital funding money.
98	Calderone	Wonderful.
99 100	Seminerio	So Joe, please, this is a favor that I want to pay the family for being so good to me after 30 years.

101	Calderone	I understand.
102	Seminerio	Okay.
103 104	Calderone	I understand. I'll pass it on and it's ok to use your name and say that you know, you know this character.
105	Seminerio	Oh, I vouch for him a 100%
106	Calderone	Okay.
107 108	Seminerio	But the important thing, you tell AI, say hey I've got a message, the guy tells me he's still alive.
109	Calderone	[laughs] I will do that right now.
110	Seminerio	Go tell Al, I am running again.
111	Calderone	Alright, good.
112	Seminerio	And you know I'd love to meet with you guys just to have some lunch.
113	Calderone	Okay, good, good, good.
114	Seminerio	Thank you.
115	Calderone	Very good. Thanks for the call.
116	Seminerio	Bye.
117	Calderone	Bye.

[Call ends]

Recording in Seminerio's Office

Date:

February 21, 2008

Participants:

Anthony Seminerio [Seminerio]

George Dilieto [Dilieto]

[Excerpt begins 8:49]

1	Seminerio	What will probably happen, they'll come up with a project and I	'll fund it for 'em and
2		you should get the job.	

3 Dilieto

I want to know when you're running.

4 Seminerio

Get out of here.

5 Dilieto

No, I want to know.

6 Seminerio

Don't worry about it, I'll take care of me.

7 Dilieto

Appreciate it.

8 Seminerio

You take care and I, and I, kept that here and I'll call you and I promise you, I'll be

on it

10 Dilieto

9

I appreciate it.

11 Seminerio

Okay son.

12 Dilieto

Thank you very much.

13 Seminerio

Alright.

14 Dilieto

Have a nice day.

15 Seminerio

Take care...tell my son I took care of you.

[Excerpt ends at 9:13]



718-847-0770 Verizon (.9 CALEA) 2008-01-18 15-37-31 02499-001

Date:

January 18, 2008

Time:

Location:

phone call to Anthony Seminerio at 718-347-0770

Participants:

Secretary in Seminerio's office [Secretary]

Undercover agent [UC]

Anthony Seminerio [Seminerio]

Abbreviations: [U/I]: Unintelligible

1	Secretary	Seminerio's office.
2	UC	Hi, this is Matthew Gillis, I'm calling to speak to Assemblyman Seminerio.
3	Secretary	Yes, Mr. Gillis, hold on one moment, please.
4	UC	Thank you very much.
5	Seminerio	Seminerio.
.6	UC	Assemblyman! How are you? This is Matt Gillis.
7	Seminerio	How are you, Matt?
8 9 10	UC	I'm doing very well, very well. I just, I just wanted to give you a quick call, uh, I know it's a Friday but I wanted to give you a quick call to thank you so much again for getting together with me
11	Seminerio	My pleasure.
12	UC	And uh
13	Seminerio	Matt, let me ask you a question.
14	UC	Yes.
15 16	Seminerio	You know You have to, le, you know, I'm trying to go through all your [U/I] You wanna do legislation, is that, that your key?
17	UC	Yes, yes, that, that's our key.
18 19 20	Seminerio	Then I think what you really need, okay? Is I'll hook you in with a lobbyist and I'll work, you know, uh, I'll send you a contract, you can do what the hell you want with me. But I'll hook you in with a lobbyist, you follow me?
21	UC	Yeah.
22	Seminerio	And then we can meet
23	UC	Okay.



24	Seminerio	I'll probably be ba-, you know Because if that's what you wanna do, legislation
25	UC	Right.
26 27	Seminerio	Then that's the guy you should meet. They, they'll charge you a fee, I don't know if it's conducive or whatever
28	UC	Okay.
29 30 31	Seminerio	But, you know But, uh, and then we can go from there. You see? Because in my mind, I'm saying, you know, in the course of my conversation, I'm trying to retrol-, ret-, go back, Jesus, what is Matty looking for really?
32	UC	Right.
33	Seminerio	Then it dawned on me you were talking about legislation.
34	UC	Right, right.
35 36	Seminerio	Okay. So if that's the first key point, I would respectfully suggest I would hook, I'll hook you with a good kid, a good guy, young man, he's really sharp and I know you'd like him.
37	UC	Okay.
38	Seminerio	Okay?
39	UC	Okay.
40 41	Seminerio	And, uh, if you like, I could get him now on the phone and you can set up a meeting with him without me there. Or
42	UC	Okay, yeah. Yeah?
43	Seminerio	Whatever, you could come up to Albany, we could all have lun-, whatever.
44	UC	Okay.
45	Seminerio	Okay?
46 47	UC	Okay. Now, now, now, uh, this, this, uh, this individual, then, he's, uh, who is he, I mean?
48	Seminerio	He's a lobbyist.
49	UC	Right.
50	Seminerio	Good credentials in Albany.
51	UC	Okay.

52	Seminerio	He has people's ear, which is important.
53	UC	Okay.
54	Seminerio	And he's well-liked.
55	UC	Okay, okay.
56	Seminerio	And I think that's where it's at.
57 58	UC	Alright. Now, now, is, is he, is his specialty, um, would, would it, is he, he just specializes in everything to lobby, or does he have some sort of specialty in
59	Seminerio	No.
60	UC	Probation or
61	Seminerio	No, no, no.
62	UC	You don't need that, obviously.
63 64 65	Seminerio	Actually, what he needs is to sit with you, go over what you're looking for, and then he sits with his people and they find out what kind of a bill should be drafted on your be-, on your behalf.
66	UC	Right.
66 67 68 69	UC Seminerio	Once the bill is drafted and your people approve it, then he sells it, he tries to sell it to the Democrats who are in the Assembly, and the Senate is, the Republicans are in the Senate.
67 68		Once the bill is drafted and your people approve it, then he sells it, he tries to sell it to the Democrats who are in the Assembly, and the Senate is, the Republicans are in the
67 68 69	Seminerio	Once the bill is drafted and your people approve it, then he sells it, he tries to sell it to the Democrats who are in the Assembly, and the Senate is, the Republicans are in the Senate.
67 68 69 70	Semínerio UC	Once the bill is drafted and your people approve it, then he sells it, he tries to sell it to the Democrats who are in the Assembly, and the Senate is, the Republicans are in the Senate. Right, okay. And then, from there, if it gets past both, they try to get it past the governor, and if God
67 68 69 70 71 72	Seminerio UC Seminerio	Once the bill is drafted and your people approve it, then he sells it, he tries to sell it to the Democrats who are in the Assembly, and the Senate is, the Republicans are in the Senate. Right, okay. And then, from there, if it gets past both, they try to get it past the governor, and if God wants you to get lucky, you're on your way. Right. And see, and see, that's kind of what, where I, where I was hoping you could
67 68 69 70 71 72 73 74 75 76	Seminerio UC Seminerio UC	Once the bill is drafted and your people approve it, then he sells it, he tries to sell it to the Democrats who are in the Assembly, and the Senate is, the Republicans are in the Senate. Right, okay. And then, from there, if it gets past both, they try to get it past the governor, and if God wants you to get lucky, you're on your way. Right. And see, and see, that's kind of what, where I, where I was hoping you could help, with, with getting, you know, the Republicans and the Democrats on board. Well, it, it's, it's not, it's the idea Look, it's, believe me, I know a lot of people, I, I, I could either sponsor the bill, go on as a cold prime, but he has people he works with
67 68 69 70 71 72 73 74 75 76 77	Seminerio UC Seminerio UC Seminerio	Once the bill is drafted and your people approve it, then he sells it, he tries to sell it to the Democrats who are in the Assembly, and the Senate is, the Republicans are in the Senate. Right, okay. And then, from there, if it gets past both, they try to get it past the governor, and if God wants you to get lucky, you're on your way. Right. And see, and see, that's kind of what, where I, where I was hoping you could help, with, with getting, you know, the Republicans and the Democrats on board. Well, it, it's, it's, it's not, it's the idea Look, it's, believe me, I know a lot of people, I, I, I could either sponsor the bill, go on as a cold prime, but he has people he works with also, you follow me?

82	Seminerio	No, no, but you und-, you understand me?
83	UC	Absolutely. That's why [U/i]
84	Seminerio	I mean, I could lead you down the path
85	UC	Right.
86	Seminerio	But once I physically get involved
87	UC	Yes.
88	Seminerio	You know, that's why, when you gave me the check
89	UC	Yes.
90	Seminerio	A, a, a normal, another guy would've grabbed the check and ran
91	UC	Right.
92 93	Seminerio	But that's not my, see, my thing is, hey, let's do the right thing, 'cause I don't, I wanna go to sleep at night, I don't wanna worry somewhere
94	UC	Yeah, sure.
95	Seminerio	down the line where they, "Hey, this guy did this"
96	UC	Right, no, I, I, I understand that and I respect that
97	Seminerio	Okay, alright.
98	UC	and I hope it wasn't offensive
99	Seminerio	No, no, it wasn't
100	UC	to [U/I]
101	Seminerio -	of course it wasn't offensive. You kidding me?
102	UC	Okay.
103	Seminerio	I said, I says, "Imagine me coming down 10,000 dollars." [laughs]
104 105	UC	[laughs] And, and, you know, my, my business associates said, "What is this? Uh, are you meeting with a phantom?" They don't believe me that I've actually, uh, been[U/I[
106	Seminerio	Oh, I'll meet with them anytime they want, but I mean
107	UC	Okay.

108 109	Seminerio	that, look. I've always, I'm 73 years old, Matt, and I don't wanna sound like an asshole but I've always did the right thing. You follow me?
110	UC	Right.
111 112	Seminerio	I would never want anybody pointing to me and sees a typical politician, he's a fucking crook
113	UC	Absolutely.
114	Seminerio	I'd rather they walk away and say I'm an idiot, you follow me?
115	UC	Well, yes.
116 117	Seminerio	No, no, I'm just saying. But at least I know in my heart I never took nothing that I didn't work for.
118	UC	And I respect that
119	Seminerio	And, you know
120 121	UC	and, and, and just so you know, I, I, I wasn't looking to give you something that I didn't think you, you earned or deserved or anything else.
122 123 124 125 126	Seminerio	I didn't do nothing for it! That's what I said to myself, this is ridiculous. I would ne-, I always, you know, I, I have quite a few clients through my twelve, thirteen years doing this, and I, I always make the client make the decision because I never wanted to walk away and they say, they, you know, I'm a guy, you know, I'm a gluttonous bastard, which I'm not.
127	UC	But
128	Seminerio	But hang on the line, okay?
129	UC	Actually, Assemblyman, can I just ask you a couple of other things?
130	Seminerio	Yeah, sure.
131 132	UC	Well, well, can, can we, um, if I'm, if I'm hearing this clearly, and correct me if I'm wrong
133	Seminerio	Right.
134 135	UC	Can you stay involved with me? I understand you cannot be associated with your names [U/I]
136 137 138	Seminerio	Well, let, let me tell you this, let me say this: uh, I cannot, in other words, I cannot, uh, if it's a city agency or a federal agency, I can appear or go with you, on a state level, I could only make recommendations.

139	UC	Right.
140 141	Seminerio	That's why it, it's a state-level situation, you should get yourself a good lobbyist. There's two or three real good ones up there.
142	UC	Okay.
143	Seminerio	You follow me?
144	UC	Okay.
145	Seminerio	And the gentleman I'll introduce you to is a great guy.
146 147	UC	Okay, okay. Uh, that, that sounds good, that sounds good, um, but, but I really don't wanna, I don't wanna lose your, uh
148	Seminerio	You're not gonna, listen I'm a
149	UC	your, your, your advisory services.
150 151	Seminerio	Matty, listen to me. And, and I happen to like you personally, I think you're a nice guy.
152	UC	Thank you.
153	Seminerio	If I can help you, I will help you, okay?
154	UC	Okay.
155	Seminerio	And, uh, you know
156 157	UC	So, so Assemblyman, if we could, if you don't mind, um, can I hold off on speaking to the lobbyist at this point?
158	Seminerio	Sure!

[Excerpt ends at 6:30]

917-741-7962 ATT 2008-04-14 12-31-13 02518-001

Date:

April 14, 2008

Time:

12:31 hrs

Location:

tel. call between 917-741-7962 (Seminerio) and Matthew Gillis

Participants:

Anthony Seminerio [Seminerio]

Matthew Gillis

Abbreviations: [U/I] = Unintelligible

We're gonna settle that up.

Very good. Thank you.

[phone rings]

24

25

Gillis

Seminerio

	[6	
1	Seminerio	Hello? Hello?
2	Gillis	Hello, Assemblyman! Matt Gillis. How are you?
3	Seminerio	Matt. How are you?
4	Gillis	I'm doing great.
5	Seminerio	Okay I, I'm reaching out for, uh, Jeff Aubry. See if he's available for either lunch or
6		dinner tomorrow.
7	Gillis	Fantastic.
8	Seminerio	I'm waiting for his girl to call me back.
9	Gillis	Okay. Fantastic. Alright, um
10	Seminerio	So, uhexcuse me?
11	Gillis	Yeah, so—that's perfect. Because uh, you know, I'll just wait to hear back from you,
12		and uh, I'm in, uh, in Manhattan today and uh, what I'm, I'll do is maybe, uh, if it works,
13		I'll come up late tonight and get together, uh, tomorrow.
14	Seminerio	YeahWait a minute now, don't go. Let meOkay. Give me a number where I can
15		reach you. I know it's on my cell. But you give me, give me your number now.
16	Gillis	Sure. 5-1-6, 9-9-6, 0-0-3-8.
17	Seminerio	5-1-6MattGillis. Very good.
18	Gillis	Alrighty?
19	Seminerio	And uh, you know I haven't received anything for March. And April's almost gone.
20	Gillis	Yes, and we're gonna settle that up, uh, soon as I see you
21	Seminerio	Alright.
22	Gillis	to you um, on uh, tomorrow!
23	Seminerio	Okay.



26	Gillis	Alright.
27	Seminerio	So I'll call you as soon as I hear something.
28	Gillis	Yeah, and, and obviously no rush, at, at your own pace, but it'sYou know, when you,
29		you find out—
30	Seminerio	No, no! I want [U/I] because, what I wantOnce I'm finished with what you're looking
31		for, then I'm gonna look to go throughYou see this Commissioner Haughn [PH] been in
32		the business thirty years. Then I got a friend of mine that does prisons all over the
33		country, even Puerto Rico.
34	Gillis	Okay.
35	Seminerio	So I want you to meet him.
36	Gillis	Awesome. I, I, I will, I'm, that'll be great.
37	Seminerio	So these are the things, you know, but, and the, and the worst that can happen,
38		Matthew, is nothing happens, but you walk away a little more knowledgeable.
39	Gillis	Exactly. And then, you know what? And that's what I'm looking to do.
40	Seminerio	Yeah.
41	Gillis	Just build relationships right now and, and get people—
42	Seminerio	Definitely. But these people I'm introducing you to are active and they're in the
43		business.
44	Gillis	Right. That's fantastic. [U/I].
45	Seminerio	Okay. Alright.
46	Gillis	And, and Assemblyman, is there um, and I'll discuss this when I see you.
47	Seminerio	What?
48	Gillis	Is there anyone on the Senate side, um, involved in like, you know, probation and that
49		kind of thing?
50	Seminerio	Well, actually, actually, Aubry is the guy.
51	Gillis	He's the guy.
52	Seminerio	Now, Probation Commissioner Haughn, that was his whole life. The city commissioner.
53	Gillis	Right.
54	Seminerio	So we can set up lunch with him.
55	Gillis	Okay.
56	Seminerio	You follow me?

57	Gillis	Yeah, ab—absolutely. And I want to, first I wanna, um, make friends in the State and
58		then I'll make friends in—
59	Seminerio	Without a doubt. But Au—Aubry's the guy. If anybody can uh, uh, guide you around, or
60	explain	
61		to you what the, the situationHe's a hands-on person.
62	Gillis	Awesome. That's great. That's great.
63	Seminerio	Okay, sir? I'll see you tomorrow.
64	Gillis	Awesome. And, and I'll call—
65	Seminerio	Yeah.
66	Gillis	I'll talk to you tomorrow.
67	Seminerio	I'll call you soon as I hear from him. Thank you.
68	Gillis	Gotcha. Thank you. Buh-bye.
69	Seminerio	Bye.

[end of conversation]

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Date:

April 14, 2008

Participants:

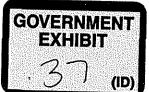
Anthony Seminerio [Seminerio]

Undercover [Gillis]

[Excerpt begins at 0:24]

[Phone rings]

1	Gillis	Hello Assemblyman.
2	Seminerio	Okay. Aubry said he's available for lunch, uh, 12:30.
3	Gillis	Okay.
4	Seminerio	And, uh, the name-
5	Gillis	Fantastic.
6	Seminerio	You got the name of the place, Lombardi.
7	Gillis	Lom-, Lombardi's, okay.
8 9	Seminerio	You can either come to my office and I'll take you, or you can meet us at Lombardi. They left two messages on your machine.
10	Gillis	Yes, yes. I, I just got out of a meeting and I just got them.
11	Seminerio	Alright. So now you're, you're, you're I'll expect to see you tomorrow.
12 13	Gillis	That's great. And, uhm, you know I, I have that check so maybe I'll justshould I come to your office first?
14 15 16	Seminerio	Whatever you wanna do. I don't care. But you know, you can't, you, you, Matthew, you can't give me the check in the building. It's against protocol. It has to be in the restaurant.
17	Gillis	Yep. Okay.
18	Seminerio	I'll explain to you better, okay?
19	Gillis	Yep. Absolutely. So, uh-
20	Seminerio	And, and thank you.
21	Gillis	Okay. I'll take to you tomorrow then.
22 23	Seminerio	Now do me a favor. I mean, I don't wanna sound like I'm a ball breaker. Write out the list of questions you're most interested in.



24	Gillis	Yep.
25 26	Seminerio	Because, you know what happens, Matthew? When you walk away you think, son-of-abitch, I never asked him about this.
27	Gillis	Right, right. Okay.
28	Seminerio	Okay, sir?
29	Gillis	That, that's good advice.
30 31	Seminerio	And then, then you and I will discuss what we wanna do because I'm off for almost two weeks after this week I think.
32	Gillis	Okay.
33 34	Seminerio	And so I'll be available to meet with the Commissioner from the city and if my friend is available, uh, Jim Garvey, we can meet with him. I know he'll be a great asset to you.
35	Gillis	Okay, so
36	Seminerio	Cause he goes all over the country.

[Excerpt ends at 2:00]

MCDONOUG.001 04.15.08.wav

Date:

April 15, 2008

Location:

Lombardi Restaurant in Albany, NY

Participants:

Brian McLaughlin [BM]

Anthony Seminerio [Seminerio]

UCE

[Excerpt begins at 1:11:55]

1 UCE:

Excellent, excellent, I, uhm...and, oh... [laughing] don't worry, I wasn't pulling that out

2

5

with him, with him here.

3 Seminerio

It is none of his business.

4 UCE

Oh, abso..., none of his business at all. I didn't know how, um, how, I didn't know how

we were gonna actually even address that with him.

[Excerpt ends at 1:12:07]

GOVERNMENT EXHIBIT

38 (ID)