Busting the Mob

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Introduction

*United States v. Salerno* aimed to fell all of New York City's Cosa Nostra leaders with a single stroke. The indictment charged the bosses of New York City's Cosa Nostra crime families and several of their subordinates with constituting and operating a "commission" that served as a board of directors and supreme court for the mob. In proving its case, the government sought to place the defendants within the history of Cosa Nostra. In a real sense, the case was about whether it is a crime, meriting life imprisonment, to be a Cosa Nostra boss. Ultimately, the jury, the judge, and the appellate court answered that question in the affirmative.

Background

The background of the Commission case is the history of Cosa Nostra itself. For many years, law enforcement personnel asserted the existence of a commission that coordinated the activities of the mob. This theory seemed to be confirmed when Joseph Bonanno, the former boss of the Bonanno crime family, published *A Man of Honor.*

According to Bonanno's romanticized account, the commission was founded in 1931 as a mechanism for resolving interfamily conflicts ranging...
from economic disputes to bloody struggles such as the Castellammarese War of the late 1920s. The commission was comprised of prominent bosses who were elected to five-year terms at national meetings of Cosa Nostra leaders from around the country. The last such meeting, according to Bonanno, occurred in Apalachin, New York, in 1956; since then, the commission has been composed of the five New York bosses. Rudolph Giuliani, then U.S. attorney for the Southern District of New York, has been quoted as saying, “If Bonanno can write about a Commission, I can indict it.”

Investigation

*United States v. Salerno* began in 1980, when the FBI’s New York City office initiated operation GENUS, assigning teams to build RICO cases against each of the five New York crime families. Ultimately, over two hundred agents were involved in this operation, aided by a number of assistant U.S. attorneys.

Operation GENUS coordinated federal, state, and local agencies: FBI agents, New York City detectives and officers, assistant U.S. attorneys, as well as New York State Organized Crime Task Force attorneys and investigators. It utilized electronic surveillance on a scale previously unknown. Investigators gathered over four thousand hours of conversations pursuant to 171 court-authorized bugs and wiretaps. Agents planted bugs in locations ranging from Genovese crime family boss Anthony Salerno’s headquarters, the Palma Boy Social Club in East Harlem, to automobiles driven by defendants Ralph Scopo and Anthony Corallo, to the home of Paul Castellano, Gambino family boss and reputed head of the commission. These bugs were extraordinarily productive. Over the Castellano bug, two agents listened around the clock for four months to discussions of criminal activity, Gambino family internal politics, Cosa Nostra interventions in the construction industry, and turf disputes among the families involved in garment industry racketeering. Over the Corallo bug, agents of the New York State Organized Crime Task Force listened for four months to sensitive discussions of Lucchese crime family and commission activities.

Infiltration and intensive surveillance of the Bonanno family proved particularly fruitful. FBI Agent Joseph Pistone passed along extensive information about the disorder within that family, which had caused its earlier takeover by the commission.

Over five years, the investigators obtained sufficient information to fill in the structure, hierarchy, and activities of each of the crime families. While law enforcement officials had previously obtained glimpses of Cosa Nostra’s
organization, the information had never before been as thoroughly and systematically collected, assembled, and analyzed.

The intelligence information generated by operation GENUS resulted in separate RICO prosecutions of each of the five New York crime families and in the Commission case. Each family RICO case indicted the leaders of a crime family, charging that they had participated in the affairs of an enterprise (their mob family) through a pattern of racketeering activity. *United States v. Salerno* indicted in one case the bosses and underbosses of the four New York families represented on the commission, along with their key underlings, for running the commission. (The Bonanno family was not represented on the commission at this time because it was in the throes of civil war.) According to Giuliani, “The [Commission] case should be seen as the apex of the family cases…. It is an attempt, if we can prove our charges, to dismantle the structure that has been used since the beginning of organized crime in the United States.”

The Indictment

The indictment, unsealed on February 26, 1985, named as defendants more Cosa Nostra leaders than had ever before been indicted at one time. The defendants were Paul Castellano, boss of the Gambino family (dropped after he was murdered on December 16, 1985); Aniello Dellacroce, Gambino underboss; Anthony Salerno, boss of the Genovese family; Anthony Corallo, boss of the Lucchese family; Carmine Persico, boss of the Colombo family; Gennaro Langella, Colombo underboss; Ralph Scopo, Colombo soldier; Salvatore Santoro, Lucchese underboss; Christopher Furnari, Lucchese consigliere; and Anthony Indelicato, Bonanno capo. Although they had never represented their respective families on the commission, Scopo and Indelicato were named as defendants because they executed the commission’s orders.

The theory of the government’s case was that the Cosa Nostra commission constituted a criminal enterprise; that each defendant was a member or functionary of the commission; and that each defendant had committed two or more racketeering acts in furtherance of the commission’s goals. According to the prosecution, the defendants’ predicate racketeering acts fell into three categories: first, management of a multifamily bid-rigging and extortion scheme in the New York concrete industry; second, conspiracy to organize loansharking territories in Staten Island; and, third, the murders of Bonanno family boss Carmine Galante and two of his associates in furtherance of the commission’s effort to resolve a Bonanno family leadership dispute.
The indictment charged these defendants both with operating the commission through a pattern of racketeering activity and with conspiring to operate it as a racketeering enterprise. The government alleged that the commission's raison d'etre was to "regulate and facilitate the relationships between and among La Cosa Nostra families." Through the enterprise, the defendants were alleged to have engaged in or aided and abetted authorization of murders, narcotics trafficking, loansharking, and infiltration of labor unions. The indictment also charged that the commission "maintained its authority by identifying itself with threats and violence."

In support of the commission's existence, the indictment included a history of the commission's membership and activities. It named the leaders of the five families that had been represented on the commission since its formation in 1931, including, among others, Vito Genovese, Thomas Lucchese, Joseph Colombo, Carlo Gambino, and Albert Anastasia.

The indictment charged all of the defendants except Indelicato with utilizing their dominance over the District Council of the Concrete and Cement Workers Union to organize and oversee a "concrete club," a cartel of concrete contractors. The operation of the concrete club was the basis for thirteen counts of extorting money from contractors and six labor bribery counts. In addition, Corallo and Santoro were charged with participating in a Staten Island loansharking conspiracy, and Indelicato was charged with furthering the purposes of the commission by murdering Carmine Galante, Leonard Coppola, and Giuseppe Turano, three mob figures who opposed the commission's chosen candidate during its reorganization of the Bonanno crime family.

Thus, the government painted organized crime as a sprawling criminal conglomerate whose activities ranged from garden-variety vice racket to murder, labor racketeering, bid rigging, and unfair competition in the construction industry. It also presented a vague picture of the commission as a Cosa Nostra court and as a board of managers pursuing its own criminal enterprises.

The Prosecution

The trial began on September 8, 1986. Assistant U.S. Attorneys Michael Chertoff, John Savarese, and John Childers conducted the prosecution. Federal district judge Richard Owen presided at the trial. Carmine Persico represented himself, a strategy that enabled him to address the jury directly without exposing himself to cross-examination; some of the nine-week-long trial's most dramatic moments involved Persico's cross-examinations.
of former mob associates and members who were testifying for the government.

The prosecution took advantage of the requirement under RICO that it prove the existence of an organization in fact. The prosecutors put into evidence a history of organized crime and of the commission. They began their case with evidence of the Apalachin meeting that had occurred thirty years previously and they adduced testimony about infamous mobsters who had died long before the events charged in the case. Not surprisingly, the defendants strenuously, but unsuccessfully, objected to the recitation of the history of Cosa Nostra and its commission, arguing that such evidence was irrelevant and prejudicial.

The government’s first witnesses were several state troopers who had conducted the famous 1959 Apalachin raid. The prosecution’s best witness on Cosa Nostra history and customs was Angelo Lonardo, the underboss defector from the Cleveland crime family. His testimony touched on the lives and careers of legendary gangsters—Vito Genovese, Thomas Lucchese, Joseph Colombo, Carlo Gambino, Albert Anastasia. His vivid testimony provided exquisite detail on the Mafia’s traditions, codes, structure, and activities. Further, Lonardo identified each of the defendants and named his organizational status within the Cosa Nostra hierarchy.

In addition to Angelo Lonardo, the government called Fred DeChristopher, a cousin with whom Carmine Persico had lived while he was a fugitive from November 1984 to February 1985; Joseph Cantalupo, a former Colombo family member; and Joseph Pistone, the FBI agent who had infiltrated the Bonanno family. They also testified as to the traditions and methods of Cosa Nostra and its commission, the Mafia’s initiation rituals, and the intrafamily politics of the New York families. These rules and customs of Cosa Nostra, which traditionally insulated the bosses from prosecution, now were offered as evidence proving the existence of an enterprise that passed on its structure, rules, and criminal franchises from generation to generation. Assistant U.S. Attorney John Savarese described the defendants as “[t]he board of directors of a vast criminal enterprise”; the jury cannot have helped being impressed by such references and testimony.

Moving from a historical exposé of Cosa Nostra, the prosecution proceeded to establish the defendants’ violations of RICO by proving their membership on the commission and their predicate acts: the authorization of the 1978 murders of Carmine Galante, Giuseppe Turano, and Leonard Coppola; the aiding and abetting of Staten Island loansharking; and the management of a cartel that controlled the New York concrete industry. The case against Scopo was proved by showing his collection of “extortionate”
payments on behalf of the commission from concrete contractors. The government’s case against Indelicato hinged upon evidence that the commission had authorized his murder of Carmine Galante.

The prosecutors sought to prove that the concrete cartel permitted only its seven members to bid on concrete contracts in New York City that were worth more than $2 million. The District Council of the Concrete and Cement Workers Union enforced the cartel by refusing to carry out (or by subverting) unauthorized contracts. This enabled the club to allocate contracts among its members, contracts that were especially profitable because the cartel could name its own price. In exchange for this lucrative opportunity, the contractors had to kick back to the commission 2 percent of the contract prices. For purposes of federal criminal law, the government cast this scheme as an extortion of contractors. As the New York State Organized Crime Task Force reported, in reality the contractors were willing participants who passed the 2-percent surcharge on to their customers.9

The club’s operations were extensively detailed through direct testimony and dozens of taped conversations. Stanley Sternchos of Technical Concrete Construction Company and James Costigan of X.L.O. Concrete Company, contractors who had both been charged with Taft-Hartley Act violations (making payoffs to a labor official, Ralph Scopo, bagman for the cartel) and had been granted immunity in exchange for their testimony, described the operation of the club.10

In making its case against Corallo and Santoro, the government argued that they had facilitated loansharking by resolving a territorial dispute between the Lucchese and Gambino families. This was a RICO predicate act because it (1) constituted aiding and abetting of loansharking, and (2) furthered the goals of the commission as an enterprise.

The government argued that the Carmine Galante murder was ordered by the commission in order to resolve a power struggle within the Bonanno family. Fred DeChristopher, Carmine Persico’s cousin by marriage, testified that Persico had told him that he had voted against the murder in a commission meeting. From this, the jury was asked to infer that the commission had voted to kill Galante.

Joseph Pistone also testified on the commission’s involvement in the Galante murder. He had been informed, while undercover in the Bonanno family, that the family had been taken under commission control because of instability resulting from a leadership dispute between Carmine Galante and Philip Rastelli. After the murder, he was told that the commission had reorganized the family under Rastelli, returning it to autonomous control for the first time in a decade.
Indelicato's palm print was found on the Galante murderers' getaway car, firmly linking him to the crime. Further, the prosecution showed a surveillance video of Indelicato being congratulated at the Gambino family headquarters, the Ravenite Social Club, by Bonanno family consigliere Stefano Canone and Gambino family underboss Aniello Dellacroce less than half an hour after the murders. The government offered this after-the-fact approval to show that the commission had authorized Indelicato to kill Galante.

The Defense Case

The scope and depth of the prosecution case confronted the defendants with a difficult task. The defendants' primary trial strategy was to attempt, through cross-examination, to discredit the witnesses who testified against them, and to argue that the government's electronic surveillance demonstrated only the existence of an organization, not its involvement in any criminal activities. The defense conceded the existence of a concrete club, but argued that its members were contractors.

Corallo's attorney admitted the existence of Cosa Nostra and its commission, the first such admission in the history of Mafia defendants. The defense argued, however, that the commission was not involved in any criminal activity and that membership in either Cosa Nostra or the commission alone was not proof of criminality. The defendants argued that the commission's only roles were the mediation of internal Cosa Nostra family conflicts and the approval of new members; they denied any involvement in loansharking, murder, or extortion. Further, they denied any connection between the commission and the concrete club, arguing that the latter was an industry cartel operating on its own.

Ralph Scopo's attorney, John Jacobs, admitted in his closing arguments that his client had accepted payoffs from employers, but he denied that they were extortionate or collected on the commission's behalf. The defendants argued that the contractors were willing participants in an extremely profitable cartel and should themselves have been prosecuted for bid rigging. According to Anthony Cardinale, the lawyer for Anthony Salerno,

It is a club of contractors, not of commission members ... the commission had nothing to do with the concrete payments. ... Listen to the words that are actually being spoken, they do not contain any threats or any pressure. ... The concrete companies gladly paid to gain an advantage in the industry.¹¹

Further, the defendants argued that there was a long tradition of bid rigging in New York's construction industry, predating the alleged influence of a
The Commission Cosa Nostra commission. Later, in their appeals, the defendants would argue that life sentences for bid rigging were cruel and unusual.

The defendants attempted to discredit Lonardo and the government’s other Cosa Nostra witnesses as traitors looking to even old scores and save themselves from long prison terms. Lonardo was branded a turncoat who had promised to serve the government in any way possible to get himself out of prison. Persico, representing himself, argued that Joseph Cantalupo, a former Colombo associate, had a grudge against him because of a beating by Persico’s brother over an unpaid loansharking debt. “You was angry because you was beat up, and you was beat up because you didn’t pay back the money,” argued Persico. This argumentative “question” may have backfired by revealing Persico’s own involvement in loansharking, rather than discrediting Cantalupo. Persico ran into similar difficulties in his cross-examination of Sternchos, who, according to Persico, had demonstrated his untrustworthiness by failing to make necessary payoffs to Ralph Scopo, an argument that the jury may have found more inculpatory than exculpatory.

Unfortunately for the defense, the multitude of government photographs of gatherings of the Cosa Nostra defendants, combined with intercepted references to commission meetings, provided convincing evidence of the commission’s activities. Recordings of Scopo explaining the commission’s rules for the concrete club and of Corallo discussing his plans to murder Cosa Nostra drug dealers, were equally hard for the defendants to rebut. Ultimately, the prosecution’s overwhelming evidence was too much for the defense to overcome.

The Verdict and Sentence

On November 19, 1986, after six days of deliberation, the jury found the Salerno defendants guilty of all seventeen racketeering acts and twenty related charges of extortion, labor payoffs, and loansharking. The verdict was hailed by law enforcement officials and commentators: Rudolph Giuliani announced, “The verdict reached today has resulted in dismantling the ruling council of La Cosa Nostra.”

In pronouncing sentence on the Salerno defendants, Judge Owen stated that “the sentence has to be fashioned to speak to [future crime bosses].” Despite the fact that Salerno’s predicate crimes were “extortion” (in reality, bid rigging), Judge Owen excoriated him at sentencing: “You have spent your lifetime terrorizing your community.” He then sentenced all of the defendants, except Anthony Indelicato, to one hundred years in prison; Indelicato received forty years. In addition, he imposed fines on Corallo and Santoro
of $250,000, on Indelicato of $50,000, and on the other defendants of $240,000 each.

Although some organized-crime bosses in the past have retained their leadership positions while imprisoned, running family business through trusted subordinates, the life sentences in *Salerno* have almost certainly ended these defendants’ careers.¹²

The Appeal

The defendants appealed their convictions on numerous grounds. Among their many arguments, they claimed that the evidence was insufficient to prove (1) the extortion of five concrete companies whose principles did not testify; (2) Corallo’s involvement in the concrete club; (3) the existence of a loansharking conspiracy; and (4) the commission’s involvement in the murders of Carmine Galante, Giuseppe Turano, and Leonard Coppola. Anthony Indelicato appealed his RICO conviction for participation in the 1978 Galante murder on the ground that the five-year RICO statute of limitations had expired.¹⁴ All of the defendants challenged the admissibility of the extensive evidence on the history of Cosa Nostra, and all of them challenged the severity of their sentences.

The Second Circuit Court of Appeals rejected all of the insufficiency-of-evidence arguments. It held that there was sufficient evidence to prove the existence of the concrete club, as well as systematic bribery and extortion in the concrete industry. While there was no direct evidence of Corallo’s participation in the cartel, the court found him to be a cartel member because he was a member of the commission that managed the cartel and because his subordinate, Lucchesi family consigliere Christopher Furnari, had participated in the cartel’s allocations of concrete contracts.

The Second Circuit also rejected the argument that there was insufficient evidence to prove that the defendants’ loansharking and murder conspiracies were carried out in furtherance of the commission’s objectives. With respect to the loansharking charge, the court held that

> [t]he jury could reasonably conclude that the efforts of Corallo and Santoro were not only related to the Commission’s activities, but actually furthered the Commission’s goal of arbitrating interfamily disputes and coordinating criminal activities among the families.¹⁶

Similarly, with respect to the relationship between the commission and the Galante murders, the Second Circuit held that
The Commission had established a “death penalty” for anyone who might murder a boss without prior Commission approval. After the Galante murders, however, Indelicato was not eliminated, but was promoted by the Commission. The murders were a product of multifamily coordination, which is one of the functions of the Commission. The jury could reasonably conclude that the Commission approved the murder of Galante in order to resolve the Rastelli-Galante dispute and to restore order and autonomy to the Bonanno family.

The Second Circuit’s opinion could be interpreted to mean that all the commission members are responsible for crimes that fall within the commission’s jurisdiction, broadly defined, without proof of direct participation or even aiding and abetting. If so, Cosa Nostra leaders would face expansive RICO liability simply for their status in organized crime. As the Salerno dissent argued,

That the Commission’s role as peace-keeper among the families should subject its officers to criminal liability for all crimes engaged in by any individual or family member of the Mafia would eviscerate the requirement of improper intent in our conspiracy laws.

It is not clear, indeed it is unlikely, that the commission enforces its rules so automatically that criminal liability should follow without specific proof of commission action in particular instances. As the dissent observed, “testimony that the ‘common law’ of La Cosa Nostra requires Commission authorization before a family boss can be killed does not prove that the law was observed in Galante’s case.” In several other cases where bosses have been killed, including Paul Castellano, a prior commission vote has not been shown.

The defendants further argued that the admission of evidence of Cosa Nostra’s history was reversible error because it had no relevance to the charges and was highly prejudicial. The appellate court disagreed, holding that Cosa Nostra’s history and traditions were relevant because they tended to show the purposes the commission served for Cosa Nostra:

Discussions of Commission rules and structures . . . served the Commission conspiracy by educating family members concerning Commission policy and control, thus insuring obedience and knowledgeable participation within the highly structured and secretive criminal network.

Cosa Nostra’s traditions and methods, which had served as means of insulating the bosses from prosecution, were here used as proof of both Cosa Nostra’s existence and the commission’s managerial role.

Finally, the Second Circuit acknowledged the severity of the 100-year
sentences but concluded that the judge acted well within his discretion in handing them down. Judge Owen’s “message to future bosses” was affirmed.

Conclusion

As late as 1983, defendants in a major Chicago organized-crime trial had dismissed “Cosa Nostra” as a fictional construction of media and government. Many sociologists and other academics continued to deny the existence of a coordinated organized-crime group in the United States. In Salerno, the government conclusively rebutted these denials. As Giuliani stated, “If we can prove the existence of the Mafia in court beyond a reasonable doubt, we can end this debate about whether the Mafia exists. We can prove that the Mafia is as touchable and convictable as anyone.”

After nearly five decades, U.S. law enforcement had addressed a phenomenon long taken for granted by Hollywood and popular folklore. Salerno exhaustively proved Cosa Nostra’s existence, organization, rules, and involvement in criminal activities as diverse as loansharking, murder, and labor and corporate racketeering.

In proving the concrete club cartel, the government revealed how entrenched and sophisticated Cosa Nostra has become in exploiting opportunities in the legitimate economy. After the commission case, Cosa Nostra’s control of more than a dozen trade unions in the New York construction industry was exposed in the New York State Organized Crime Task Force report Corruption and Racketeering in the New York City Construction Industry and in many criminal and civil RICO cases. The upper tier of the concrete cartel, controlling concrete contracts in excess of $5 million, was later targeted in a prosecution of S & A Concrete and its chief operating officer, and several subsequent government racketeering suits and criminal prosecutions have attempted to break Cosa Nostra’s control over New York’s construction unions.

However, while Salerno undoubtedly proved the existence of Cosa Nostra and some sort of commission made up of the bosses of the New York families, it raised as many questions as it answered. At times, the prosecution referred to the commission as a national board of directors for the mob, but its membership was said to be limited to the New York City crime families, and all of the predicate acts charged in the case involved New York mobsters. The prosecution offered testimony concerning commission influence in Cleveland and Buffalo and historical evidence of commission representation for families outside of New York, but it did little to develop a thorough picture of Cosa Nostra as a national organization or of the commission as a
nationwide court and/or board of directors. In our view, there is not sufficient
evidence to conclude that there exists a national decisionmaking body with
authority to adjudicate disputes among all of the Cosa Nostra families in the
United States, much less direct their criminal activities.

The mechanisms of commission and Cosa Nostra decisionmaking are
similarly obscure. The case leaves us in doubt about how the commission
makes decisions—for example, by unanimity or majority rule—and how
the commission enforces its judgments. We are also left wondering how the
commission goes about voting (if it does) to assassinate one of its own
members. Did John Gotti obtain approval from the commission to assassinate
Paul Castellano? If so, how was it that three members of the commission
would have voted, if they did, to kill a fourth? If Gotti did go to the
commission, how could he have been confident that his intentions would
not have been communicated to Paul Castellano? And what about the
plot by members of the Genovese family to kill John Gotti, which the
FBI overheard?

Neither the authority nor the power of the commission was made clear in
Salerno. Can the commission take jurisdiction over disputes on its own or is
its jurisdiction conferred by parties (families) to a dispute? Does the commis-
sion act on its own initiative to “punish” rule violations or conduct not in the
best interest of Cosa Nostra as a whole, or does it wait for a complaint?
When does the commission intervene in intrafamily disputes? In cases where
rival factions vie for control of a family, on what basis does the commission
decide which party to support?

Taken at its broadest, Salerno stands for the proposition that Cosa Nostra
leaders can be convicted of committing RICO offenses at any time. The
government need only show (1) that the defendant participated in an enter-
prise, namely a crime family, the commission, or Cosa Nostra generally, and
(2) that he did so through a pattern of racketeering activity—in effect, any
two crimes committed (a) by himself or (b) by his underlings if he “conspired”
in, “authorized,” or “aided and abetted” those crimes. Proof of this “authori-
zation” can be satisfied by proof of the defendant’s status in the hierarchy.
The use of RICO in this case and in the family RICO cases came close to
convicting mobsters simply for being mobsters, if it did not actually cross
that line.

Despite the questions it left unanswered, Salerno’s expansion of RICO
liability—and the prominence of its defendants—supports the claim that it
was the most ambitious, and among the most successful, of the hundreds of
federal Cosa Nostra prosecutions during the 1980s. Professor G. Robert
Blakey, the principle draftsman of RICO, summed it up well:
The Commission case is to RICO what the Standard Oil case was to the Sherman Act. The Sherman Act was written in 1890 to get at the Standard Oil trust, and that case wasn’t brought until twenty years later. So we’re five years ahead.\textsuperscript{27}

Notes

6. In an interlocutory ruling, the Second Circuit, sitting en banc, issued a holding that significantly expanded the scope of the RICO statute. Indelicato had appealed from the RICO charges against him, arguing that three simultaneous murders could not support RICO’s requirement of pattern of predicate acts. The Second Circuit disagreed, holding that “acts may constitute a pattern even though they are nearly simultaneous.” The court reasoned that, although the three murders were nearly simultaneous, they constituted more than one act, were related by design, and were part of the activities of the commission and Bonanno family enterprises and thus were part of continuing racketeering activity. \textit{United States v Indelicato}, 865 F2d 1370 (2d Cir 1989).
7. During the eighteen months between indictment and trial, several of the defendants were held without bail, pursuant to the Bail Reform Act. In ruling on the challenge to this detention (\textit{United States v Salerno}, 481 US 739 [1987]), the Supreme Court upheld the constitutionality of the Bail Reform Act provision that permits judges to detain defendants without bail upon a finding that they present “a danger to the community.”
9. The Commission prosecution did not address the highest tier of the concrete club, which assigned contracts worth more than $5 million exclusively to S & A Concrete, which was jointly owned by the Genovese and Gambino families. See testimony of Vincent Cafaro before the Permanent Subcommittee on Investigations of the Committee on Government Affairs, 100th Cong., 2d session, 11, 15, 21, 22, 29 April 1988. In another case called \textit{United States v Salerno}, the RICO convictions
of Salerno and several other defendants for managing the upper tier of the cartel were ultimately reversed by the Second Circuit; *United States v Salerno*, 937 F2d 797 (2d Cir 1991) (reversing convictions), 1125 S Ct 2503 (1992) (reversed and remanded), 952 F2d 623 (2d Cir 1992) (reversing convictions on remand).

10. The government’s efforts to purge the mob from New York’s concrete industry continued after the *Salerno* trial (see *Quadrozzi v City of New York*, 1989 US Dist LEXIS 8119 [SDNY 1989]; *United States v Salerno*, supra note 9), and the larger effort to remove the mob from New York’s construction industry continued into the 1990s.


12. There have been reports that convicted Gambino boss John Gotti retains influence within the Gambino family; *From Prison, Gotti Reportedly Keeps Control of Mafia Group*, New York Times, 13 November 1993, 27.

13. The Second Circuit listed the arguments it considered for reversal:

The ones which merit consideration are: (a) claims of insufficiency of the evidence as to (1) extortion, (2) Corallo’s involvement in the Club operations, (3) loansharking conspiracy, and (4) the nexus of the predicate acts of murder to the Commission; (b) Indelicato’s claim that his prosecution for substantive RICO and RICO conspiracy violations is barred by the applicable statute of limitations; (c) challenges to the admissibility of certain evidence; (d) claims by Corallo, Salerno and Santero that certain exculpatory tape recordings were erroneously excluded; (e) double jeopardy and jurisdictional claims asserted by Persico and Langella; (f) a claim by Persico that the jury should have been sequestered for the entire trial, rather than only during the deliberations; (g) a claim by Furnari that his counsel was burdened by a conflict of interest; (h) a claim by all appellants that certain *Brady* material was improperly withheld by the government, necessitating a new trial; and (i) challenges by all defendants to the severity of their sentences. Indelicato also raised a substantial question whether the simultaneous murders of Carmine Gallante, Leonard Coppola and Giuseppe Turano constituted a “pattern of racketeering activity” within the meaning of 18 U.S.C. sect. 1962(c)(1982). . . . this question was determined by the Second Circuit in banc, rather than by this panel. (*United States v Salerno*, 868 F2d 524, 529 [2d Cir 1989])

14. Following its own decision in *United States v Persico*, 832 F2d 705 (2d Cir 1987), cert. denied, 486 US 1022 (1988), the Second Circuit reversed Indelicato’s predicate RICO convictions but affirmed his RICO conspiracy conviction, holding:

A RICO conspiracy offense is complete, thus commencing the running of the five-year statute of limitations, only when the purposes of the conspiracy have either been accomplished or abandoned . . . but a substantive RICO charge is barred by limitations as to any defendant unless that defendant committed a predicate act within the five-year limitations period. (*United States v Salerno*, 868 F2d 524, 534 [2d Cir 1989])
15. In his partial dissent, Judge Bright argued that the government had presented insufficient proof to convict Corallo and Santoro for the loansharking conspiracy, and that it had failed to prove the connection between the commission and the Gallante murders.

17. Id. at 533.
18. Id. at 545.
19. Id.
20. Id. at 537.
25. See United States v Salerno, supra note 9.
Appendix A

United States v. Salerno, Indictment

Count One

The Grand Jury charges:
That at all times material to this Indictment:

The Enterprise

1. ANTHONY SALERNO, a/k/a “Fat Tony,” PAUL CASTELLANO, a/k/a “Paulie,” a/k/a “Mr. Paul,” a/k/a “Big Paul,” ANIELLO DELLACROCE, a/k/a “Neil,” a/k/a “O’Neil,” GENNARO LANGELLA, a/k/a “Gerry Lang,” ANTHONY CORALLO, a/k/a “Tony Ducks,” SALVATORE SANTORO, a/k/a “Tom Mix,” CHRISTOPHER FURNARI, a/k/a “Christie Tick,” PHILIP RASTELLI, a/k/a “Rusty,” and RALPH SCOPO, the defendants, and others known and unknown to the Grand Jury who are not named as defendants in this Indictment, constituted an enterprise as defined in Title 18, United States Code, Section 1961(4), that is, a group of individuals associated in fact, which enterprise is often described as the “Commission” of La Cosa Nostra (“The Commission”), and which operated in New York and other locations in the United States and other countries.

2. From in or about 1900 up to and including the date of the filing of this Indictment, there existed in the United States a criminal society known by various names, including “La Cosa Nostra” and “the Mafia,” which society operated through entities known as “Families.” Each such Family had as its leader a person known as “Boss,” or “Father,” or “Acting Boss,” a deputy leader known as “Underboss” or “Second,” and a high ranking official known as “Consigliere.” Each Family further operated through the participation of officers known as “Capos” or “Group Leaders,” and members known as “Soldiers” and “Associates.”

3. The Boss of each Family, with the assistance of the Underboss and Consigliere, supervised, promoted, and protected the criminal activities of the Capos, Soldiers and Associates of the Family, and, in return, received a part of the illegal earnings of those Capos, Soldiers and Associates.

4. Five of the La Cosa Nostra Families had their principal headquarters in New York City, although they operated throughout the United States and abroad. The Families were often identified by the name of their Boss or of a former Boss. From 1931 up to and including the date of the filing of this Indictment the succession of Bosses or Acting Bosses of the five New York City La Cosa Nostra Families included the following individuals:
Throughout this Indictment, the five Families headquartered in New York will be described respectively as the Genovese Organized Crime Family ("The Genovese Family"), the Gambino Organized Crime Family ("The Gambino Family"), the Colombo Organized Crime Family ("The Colombo Family"), the Lucchese Organized Crime Family ("The Lucchese Family"), and the Bonanno Organized Crime Family ("The Bonanno Family").

5. Each La Cosa Nostra Family was a separate organization. Normally, the Boss and ruling officers of each Family possessed the full authority to supervise, regulate, and direct all illegal activities which involved or affected the interests of officers and members of that particular Family exclusively. However, illegal activities involving or affecting the interests of officers or members of two or more La Cosa Nostra Families exceeded the jurisdiction of any single Family. To avoid "wars" between Families, disputes between and among Families over the control of illegal activities had to be resolved by a supreme leader or body. In or about 1931, the Bosses of the New York and other La Cosa Nostra Families associated to form the "Commission" to serve as the council for La Cosa Nostra Families. From 1931 up to and including the date of the filing of this Indictment, the Commission had the power to resolve disputes and to regulate relations between and among La Cosa Nostra Families. Furthermore, from in or about the mid-1950's up to and including the filing of the Indictment, the Commission occasionally assumed the power to intervene in Family leadership disputes that could not be resolved within a particular Family.
6. The Commission was an enterprise distinct from the individual Families, but it was comprised of Bosses and Acting Bosses—acting in concert with other high ranking officers—from the five La Cosa Nostra Families which had their headquarters in New York City. At different times the Commission also included influential Bosses from a number of La Cosa Nostra Families with their headquarters elsewhere in the United States, including, but not limited to, Families in Chicago, Illinois, Buffalo, New York, Detroit, Michigan, Philadelphia, Pennsylvania and New Jersey.

7. The Commission reached decisions and issued orders through votes of all or some of the Commission members, or through the action or decisions of an individual Commission member or members. From time to time, an individual Commission member or Commission members (or delegates) adjudicated disputes or acted as spokesman in authorizing action on behalf of the Commission.

**Purposes of the Enterprise**

8. The general purpose of the Commission enterprise was to regulate and facilitate the relationships between and among La Cosa Nostra Families. Specific purposes of the Commission included the following:

   a. Promoting and carrying out joint ventures between and among La Cosa Nostra Families to obtain money through illegal activities. These Commission joint ventures included a joint venture among several La Cosa Nostra Families which controlled and dominated certain concrete contractors and allocated payoffs on certain concrete contracts in New York City.

   b. Resolving actual and potential disputes and regulating among the several La Cosa Nostra Families regarding the operation, conduct, and control of illegal activities. These illegal activities included interference with interstate commerce through extortion; extortionate extentions of credit, commonly called “loansharking” or “shylocking”; gambling or “bookmaking”; infiltration and control of labor unions and labor organizations; and narcotics trafficking.

   c. Extending formal recognition to newly elected Bosses of La Cosa Nostra Families, and, from time to time, resolving leadership disputes within a Family.

   d. Taking such steps as were necessary to preserve order in, between and among the La Cosa Nostra Families, including authorizing acts of murder of certain La Cosa Nostra Family members.

   e. Approving the initiation or “making” of new members or soldiers in the several La Cosa Nostra Families.

   f. Controlling relations between La Cosa Nostra and members of the Sicilian La Cosa Nostra, also variously described as the “Sicilian Mafia,” an enterprise distinct from La Cosa Nostra of the United States.

   g. Establishing certain rules governing the Families, officers and members of La Cosa Nostra.
h. Keeping persons inside and outside La Cosa Nostra in fear of the Commission by identifying the Commission with threats, violence, and murder.

**Means and Methods of the Enterprise**

9. Among the means and methods whereby the said defendants and others conducted and participated in the conduct of the enterprise’s affairs at all times relevant to the Indictment were the following:

   a. The Commission established a “Club” of certain construction contractors who poured concrete. The Commission controlled the allocation of contracts to pour concrete on construction jobs where concrete costs exceeded two million dollars. The Commission and its co-conspirators and agents would designate which contractor would be permitted to make the successful bid on a particular contract. Often other concrete contractors would be directed to submit bids higher than that of the designated winner. The Commission enforced the rules of the “Club” with the threat of punishing disobedient contractors, by causing the contractors’ supplies of cement to be stopped, or by causing certain labor union leaders to create “labor problems” for the contractors. The Commission exploited its control over these concrete pouring contracts in order to demand and receive payoffs from concrete contractors. Among the illegal ways in which the Commission implemented and exploited its control over these concrete pouring contracts were the following:

      (1) The defendants and their co-racketeers and agents would and did extort, and conspire and attempt to extort money and property from certain concrete contractors who sought to bid for, who bid for, and who obtained concrete pouring contracts in connection with certain construction projects.

      (2) The defendants and their co-racketeers and agents would and did exercise control over and influence the decisions of the Concrete Workers District Council and would and did agree to the payment of bribes to an official thereof to wit, defendant RALPH SCOPO.

   b. The Commission resolved a leadership dispute within the Bonanno Family, and between the Bonanno Family and other La Cosa Nostra Families, by authorizing the murders of Carmine Galante, a/k/a “Lilo,” who was Boss of the Bonanno Family, and Leonard Coppola, and by later authorizing the murders of Bonanno Family Capo Alphonse Indelicato, a/k/a “Sonny Red,” Dominic Trinchera, a/k/a “Trin,” Philip Giaccone, a/k/a “Philly Lucky,” and the attempted murder of Bonanno Family Soldier Anthony Indelicato, a/k/a “Bruno.”

   c. The Commission authorized certain other murders.

e. The Commission approved the admission of new members to the La Cosa Nostra society of criminals.

f. The Commission promoted and encouraged a climate of fear to enhance the ability of the Commission and its members to control La Cosa Nostra and to obstruct justice.

Roles of the Defendants

10. The defendants played the following roles, among others, in furthering the affairs of the enterprise:

a. At times relevant to this Indictment, the defendant ANTHONY SALERNO, a/k/a “Fat Tony,” was Consigliere, Acting Boss and Boss of the Genovese Family, and was associated in fact with and a member of the Commission.

[Similar statements about each of the other defendants have been omitted.]

The Racketeering Conspiracy

11. From in or about 1970 up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, ANTHONY SALERNO [and the other defendants] did combine, confederate, conspire, and agree together and with each other to conduct and participate, directly and indirectly, in the conduct of the affairs of that enterprise through a pattern of racketeering activity.

a. The defendants each participated in the conduct of the affairs of the enterprise through the commission of multiple racketeering acts, as set forth in Paragraphs 12 through 21 below.

The Pattern of Racketeering

12. The pattern of racketeering activity consisted of the following acts:

Conspiracy to Extort Payoffs From Certain Concrete Companies

Racketeering Act # 1

13. It was a part of the pattern of racketeering activity that from in or about 1981 up to the date of the filing of this Indictment, in the Southern District of New York and elsewhere, the defendants and others known and unknown to the Grand Jury, unlawfully, willfully, and knowingly would and did combine, conspire, confederate, and agree together and with each other to obstruct, delay, and affect commerce by
extortion, in that they would and did combine, conspire, confederate, and agree together and with each other to obtain property, to wit, sums of money, from and with the consent of certain New York City area construction companies engaged in interstate commerce in the concrete-pouring business, to wit, members of a group called the "Club," and others, and their officers, employees and representatives, which consent had been induced by the defendants' wrongful use of actual and threatened force, violence, and fear of economic loss, in violation of Title 18, United States Code, Section 1951.

Concrete Extortions and Payoffs

Racketeering Act # 2

A.

14. It was a part of the pattern of racketeering activity that in or about May, 1983, in the Southern District of New York and elsewhere, the defendants and others known and unknown to the Grand Jury, unlawfully, wilfully, and knowingly would and did obstruct, delay, and affect commerce by extortion and would and did attempt to do so, in that they would and did obtain and attempt to obtain property, to wit, money in the approximate amount of $326,000 from and with the consent of the X.L.O. Concrete Corporation, which company was engaged in interstate commerce, and its officers, employees and representatives, which consent had been induced by the defendants' wrongful use of actual and threatened force, violence, and fear of economic loss, in violation of Title 18, United States Code, Section 1951.

B.

15. It was a part of the pattern of racketeering activity that in or about May, 1983, in the Southern District of New York and elsewhere, the defendant RALPH SCOPO, president and business manager of the Concrete Workers District Council, being a representative of, and being an officer of a labor organization which represents and would admit to membership the employees of the X.L.O. Concrete Corporation, who are employed in an industry affecting commerce, aided and abetted by the [other] defendants and others known and unknown to the Grand Jury, unlawfully, wilfully, and knowingly would and did request, demand, receive, and accept, and agree to receive and accept the payment of money in the approximate amount of $326,000 from the X.L.O. Concrete Corporation in violation of Title 29, United States Code, Section 186(b)(1) and Title 18, United States Code, Section 2.

[Racketeering Acts 3–10 parallel Racketeering Act 2 except that different companies are named as the victims of the alleged extortion.]
Murder of Carmine Galante

Racketeering Act # 11

26. It was a part of the pattern of racketeering that from in or about January 1979 up to and including July 31, 1979, in the Southern District of New York and elsewhere, the defendants ANIELLO DELLACROCE, a/k/a "Neil," a/k/a "O'Neil," PHILIP RASTELLI, a/k/a "Rusty," and others known and unknown to the Grand Jury did unlawfully, wilfully, and knowingly conspire to murder and solicited, facilitated, and aided and abetted the murder of Carmine Galante, a/k/a "Lilo."

Murder of Leonard Coppola

Racketeering Act # 12

27. It was a part of the pattern of racketeering that from in or about January 1979 up to and including July 31, 1979, in the Southern District of New York and elsewhere, the defendants ANIELLO DELLACROCE, a/k/a "Neil," a/k/a "O'Neil," PHILIP RASTELLI, a/k/a "Rusty," and others known and unknown to the Grand Jury did unlawfully, wilfully, and knowingly conspire to murder and solicited, facilitated, and aided and abetted the murder of Leonard Coppola.

Murder of Alphonse Indelicato

Racketeering Act # 13

28. It was a part of the pattern of racketeering that in or about April and May, 1981, in the Southern District of New York and elsewhere, the defendants PAUL CASTELLANO, a/k/a "Paulie," a/k/a "Mr. Paul," a/k/a "Big Paul," ANTHONY CORALLO, a/k/a "Tony Ducks," PHILIP RASTELLI, a/k/a "Rusty," and others known and unknown to the Grand Jury did unlawfully, wilfully, and knowingly conspire to murder and solicited, facilitated, and aided and abetted the murder of Alphonse Indelicato, a/k/a "Sonny Red."

[In Racketeering Acts 14–16, the government alleged that the defendants conspired to murder Dominic Trinchera, Philip Giaccone, and Anthony Indelicato.]

[Counts 2–15 realleged the extortions having to do with the concrete club.]
Appendix B

Testimony of FBI Agent Joseph Pistone

[By Mr. Savarese]

Q. Did he [Benjamin Ruggiero, Bonanno family] tell you anything about a process that would go on concerning what he would tell you about the Bonanno family?
A. Yes, he said that from this point on that he would, as I said, start schooling me in things that I would have to do and things that I would have to know now that I was associated with the family.

Q. And that phrase that you just used, "schooling," was that one that Mr. Ruggiero used on any other occasions?
A. He used that phrase right up until the end of the operation.

Q. In the course of Mr. Ruggiero's explaining to you his having gone on record, did he tell you anything with respect to his being responsible for you?
A. Yes, he said that since he had gone on record with me, or with the family, that I was going to be under him, that he was now responsible for any actions that I took and that I had a responsibility to him to show that I conducted myself in the proper manner.

Q. Did he explain anything to you further about your responsibilities and about your conduct?
A. Well, he said that there were certain things that I would have to know regarding individuals in the family and who to treat with respect and that how to act around a made guy and how to act around individuals that had status in the family.

Q. And what did Ruggiero tell you in conversation when he was schooling you about the Bonanno family?
A. Well, he told me that the first thing I had to learn is that, again, the respect for made guys. He said, if you ever get in an argument with a made guy, don't ever raise your hand to him. He said don't ever get in a argument with a made guy. Also said that anything—any monies that I made from any activities I would have to share with him and then also again with whoever the captain was at that time.

Q. Did he discuss with you anything concerning the operations of the family business and how you should conduct yourself with respect to that?
A. Yes.

Q. What did he tell you?
A. Well, he said one thing that I should learn not to get involved in any businesses or don't worry about business that another family member's involved in and if you
don't have any stake in it. He said just mind your own business if it doesn't concern you.

Q. What, if anything, did Lefty Ruggiero tell you about the manner in which people would be introduced to other individuals within the family?

A. Well, he said that when there's two made guys and one of the made guys is making an introduction of an individual, that if the individual being introduced is a made guy, he says he's a friend of ours. And what that does is clues in the person that he is being introduced to another made guy.

Q. Was there any other way of introducing that he told you about with respect to someone who is not a made guy?

A. If he's not a made guy, the way you introduce him is he's a friend of mine. That means he's just a friend of mine, not a friend of ours, not a made guy.

Q. Did he explain anything else to you about the significance of saying somebody was a friend of mine?

A. That clues the other individual in that not to be talking about any kind of business if you don't want, you know, family business because this individual isn't made.

Q. And did you have any conversations with Mr. Ruggiero about the general responsibility to share the proceeds that you would get from your various activities?

A. Yes, he said that I would have to share with him and he would have to share with Mike and in reality Mike as a captain, or any captain, would—is supposed to share with the boss of the family.

Q. Did Lefty Ruggiero ever discuss with you the consequences of not following the rules?

A. Yes, he did.

Q. What did he tell you about that?

A. Well, he said if I ever messed up—he put it in other words—but what would happen was that we'd both be killed.

Q. Did he have any particular phrase that he used?

A. Yes; the phrase that he liked was that we'd be going bye-bye.

Q. Did you understand from the context of your conversations what he meant by going bye-bye?

A. He meant that we'd be killed.

Q. Did Mr. Ruggiero ever personally discuss with you your chances of actually becoming a made member within the Bonanno Family?

A. Yes.

Q. What did he tell you?

A. Again, if I kept my nose clean, did what I was supposed to do, continued to demonstrate that I was an earner, and loyal-type guy, that I had a good shot at it.

Q. As part of your undercover activities for the FBI, did you take any steps to show that you were a good earner in this period?

A. Yes, I did.

Q. And could you just briefly describe to us in general how you went about doing that.
A. Well, one of the methods was by showing Ruggiero that I was involved in obtaining stolen property; by becoming involved in Ruggiero's bookmaking operation, and also during the course of the whole undercover operation, introduced Ruggiero and other members of the Bonanno Family into a couple of other FBI undercover operations that they were able to earn some money from, and they thought that I had moved in on these operations and took them over for them.

* * *

Q. Now, sir, let me direct your attention to the month of July, 1979. Do you recall having a telephone conversation with Lefty Ruggiero during that month?
A. Yes, sir.
Q. And what was said in the first conversation?
A. Well, in the first conversation Ruggiero had asked me if I had read the New York papers, and I told him no, I didn't. I had not at that point. And he instructed me to go buy a New York paper, he said "You'll be in for a surprise."
Q. What did you do after that first conversation?
A. I went and I bought the New York paper.
Q. And did you come to have a second telephone conversation with Mr. Ruggiero soon after that?
A. Yes.
Q. Would you tell us what you said and what he said?
A. I told him I had bought the paper and I was surprised.
Q. What if anything did he tell you?
A. He said he wanted to see me in New York.
Q. Following that conversation did you go to New York?
A. Yes, I did.
Q. When was that?
A. It was the latter part of July of '79, cause those conversations were the middle part of July.
Q. And did you meet with Ruggiero when you got to New York?
A. Yes, I did.
Q. And where did that meeting take place?
A. I went down to his club on Madison Street.
Q. Who was present for this conversation?
A. Myself and Ruggiero.
Q. Would you please tell the ladies and gentlemen of the jury what you had and what Mr. Ruggiero told you in that conversation?
A. I told Lefty that I was really surprised that Carmine Galante had gotten murdered. That was why he had instructed me to buy the newspaper because it was in the newspaper about Galante getting murdered, and he said that due to Galante
getting murdered there were some changes in the Family, that he was going to
make me aware of that I should know of.

Q. What were the changes that he specifically told you about in the Bonanno
Family?
A. Well, he said now that Galante had gotten whacked out that Rusty Rastelli was
going to be the boss of the Family and he said that Nicholas Marangello and
Sabell were due to get hit with Galante, but individuals intervened on their
behalf and instead of getting killed that Mike was knocked down as captain,
reduced to the rank of soldier and Marangello was knocked down, he was no
longer the underboss.

Q. You just used two phrases that Mr. Ruggiero told you, “whacked out” and “hit.”
What did those phrases mean?
A. Got killed.

Q. Now, what if anything else did Ruggiero tell you in this conversation as he
was explaining what would happen in the Bonanno Family after Galante had
been killed?
A. Well, he told me that Sonny Black Napolitano was now a captain and that’s who
Ruggiero was—and myself were going to be under. That Joey Messino had been
elevated to the rank of a captain and that Cesare had been made a captain and
that he said at the time that Cesare was the youngest captain in the Family.

Q. When you say Cesare, who are you referring to?
A. Cesare Bonventre.

Q. That same individual that you identified in the photograph?
A. That’s correct.

Q. Did he tell you anything else?
A. He told me that Sal Catalano—he said Sal had been elevated to the position of
street boss of the Zips.

Q. When he said street boss of the Zips, what did you understand that to mean?
A. Well, that he was the boss of the Sicilian faction within the Bonanno Family.

* * *

Q. When Ruggiero came down to [Tampa, Florida, to] discuss the situation with
Rossi, what happened?
A. Well, we went out to dinner and over dinner I told Rossi to explain to Ruggiero
what his problems were with these wise guys from Chicago and New York, and he
did, and then we went to the club, showed Ruggiero around the club, introduced
him to some of the individuals that were from New York and were from Chicago,
and—

Q. Would you describe, please, what you mean by the phrase “wise guy”?
A. Wise guy is another term for made guy.

Q. And these were other made guys from New York or Chicago who were in Florida
and you were meeting with Ruggiero, correct?
A. Individuals who claimed they were wise guys, that's correct.
Q. Now, what happened as a result of these discussions?
A. Well, as a result of on-going discussions between Ruggiero and Rossi, what it came down is that Ruggiero made himself a 50 percent partner in Kings Court, being that this was going to be Rossi's protection from the other wise guys moving in and taking over the Kings Court.
Q. Now, you testified before that you met Sonny Black Napolitano in Florida in April of 1980, correct?
A. Correct.
Q. And how was it that he came to Florida on that occasion?
A. Well, since he was our captain at the time, and that the Kings Court was a club that was supposedly making money, a lot of money, Sonny came down to look it over and help us engage in other activities in the area.
Q. When Mr. Napolitano came down to speak with you at the club, did you have a specific conversation with him?
A. Yes, I did.
Q. And where did that occur?
A. Well, that occurred inside the nightclub. Myself, Ruggiero, Napolitano and Rossi and a couple of other individuals were at the club that evening, and at one point during the conversation we were having, Sonny Black said that he wanted to speak to me in private.
So we moved to another table and held a discussion in private.
Q. In that private discussion with Napolitano what did he tell you?
A. Well, Sonny said that he had been talking to Ruggiero about me and Ruggiero had given him a good rundown about me. He had been talking to other people in New York that knew me and he liked what he had heard from these people and the fact that I was a good earner, I was always out hustling, I minded my own business, I stayed out of people's way if I didn't have to get—wasn't involved with them, and that I was basically an all right guy.
He went on to inquire what we wanted to get started down there, so I told him that I think we should get possibly some gambling, shylock going, and he said that that was a good idea because gambling was a good source of income.
He said that he would have—we would have all the backing from his people in New York that we needed and that I should start in right away and get a gambling operation, bookmaking and shylock operation going.
Q. And those operations would be working out of the club that you had established with the FBI down there, correct?

Q. During that dinner conversation on December 18, 1980, did you have a conversation with Mr. Napolitano?
A. Yes.
Q. Would you please tell us what he told you during the course of that dinner conversation?
A. Well, during one portion of the conversation Sonny mentioned that he was pleased with the way I was handling things in Florida, that I was earning money and wasn’t always running to him for money like other members of his crew. And he said that shortly that the Commission was going to open up the books for membership in the family and that he was—he could nominate five individuals and the number one guy was going to be John Sarisante and the other four slots he was obligated to either sons or relatives of members, other members in the family.

Q. Did he tell you anything else with respect to you and your chances for membership?
A. He said that the books would open up again, were going to open up again next year and that he was going to propose me for membership in the family.

Q. When he used the phrase “the Commission is going to open up the books,” what did he mean?
A. That the Commission had given permission for families to induct members.

Q. Was he referring to families in the New York area?
A. That’s what I understood him to mean, yes.

Q. What if anything else did Sonny Black Napolitano say to you about your possible membership in the Family?
A. He said that when the books opened up next year he was going to propose me for membership.

Q. Did he ask you any information about yourself in connection with that?
A. Yes, he asked me if I had had any drug arrest, and I told him no, I didn’t.

Q. What if anything did he say in response when you told him that you had no drug arrests?
A. Well, he said that was good and the reason being that the cops, you know—would be less heat I would take, less heat from the cops, they wouldn’t be looking at me as strong if I didn’t have any drug arrests.

Q. You remained in the New York City area through December, is that correct?
A. Through the new year, that’s correct.

Q. And did you continue to meet with Mr. Ruggiero and Mr. Napolitano during the time that you were there?
A. Yes, we would meet every day at the Motion Lounge.

Q. In particular, let me direct your attention to December 24 of that year, 1980, did you have occasion to have any conversations on that day?
A. Yes.

Q. With whom did you speak?
A. Well, on the 24th we were at the Motion Lounge and it was myself, Napolitano, Ruggiero, Santura, Sarisante and other individuals who were—who hung out and were members of Sonny’s crew.
Q. In the course of that conversation did the subject of Neil Dellacroce come up?
A. Yes, it did.
Q. What was said?
A. There was a lot of conversation going on about different activities and at one point Napolitano said that Neil Dellacroce was a power and that—on the Commission—and that he was the one that was designated to settle disputes among the families.
Q. Directing your attention to three days later, December 27, 1980, did you have occasion to have any conversation on that day?
A. Yes, I did.
Q. Again, would you tell us where that conversation took place?
A. Well, again, we were at the Motion Lounge doing what we normally did, hanging out, playing cards, discussing the various activities that we are currently involved in or activities that we had participated in in the past. And at one point Ruggiero was relating a story about Milwaukee, back in '78.

* * *

A. We were involved in a vending machine business in Milwaukee, Wisconsin, and we were partners with Frank Balistrieri who was the boss of the Milwaukee family.
Q. Let me ask you this. The discussion that he was referring to in Milwaukee, had that also been a part of your ongoing undercover operation?
A. That's correct.
Q. And what was the operation that was going on out in Milwaukee, just briefly?
A. It was a vending machine business that we had.
Q. What was the arrangement that was attempting to be made with Mr. Balistrieri, the boss of Milwaukee?
A. To become partners with Balistrieri in this vending machine business in which Ruggiero succeeded in doing.
Q. Going back to this conversation in December of 1980, what did Mr. Ruggiero tell you?
A. As he was relaying this conversation at one point he said that the initial sit-down that we had with Balistrieri regarding the vendings machine business was arranged by Tony Ducks, the New York end of it.
Q. When he said Tony Ducks, did you know who he was referring to?
A. Tony Ducks Corallo.
Q. Had you at any point ever met Mr. Corallo in the course of your undercover operation?
A. Sure did.
Q. Who did you understand Mr. Corallo to be at that time?
A. At that time I understood him to be a boss.
Q. Did you know then which specific family?
A. Lucchese family.

* * *

Q. In the course of your visits and meetings did you ever have him pointed out to you by any of the people that you were meeting with, such as Ruggiero or Napolitano?
A. Not that I can recall.

Q. Let me back up for one moment, sir, and direct your attention back to the conversation that you had in July of 1979 after Carmine Galante had been killed. Do you recall you testified that you had been told that Salvatore Catalano had been promoted to be the street boss of what you described as the Zips, do you recall that?
A. Yes.

Q. Do you recall whether there was any further conversation concerning the role of the Zips within the Bonanno family?
A. Yes, I had had conversation regarding their role within the Family.
Q. What was their role, what was the—
A. That prior to that, that they were close with Galante and that they were involved with drug traffic with Galante.

Q. Directing your attention back again to March of 1981 did you have any conversation or further discussion with Mr. Ruggiero concerning both the Zips and any factions that were developing within the Bonanno family at the time?
A. During March of when?

Q. March of 1981. Or just simply with respect to any factions that were developing in that period of time.
A. Yes, he had discussion with me regarding a split that had developed in the Family regarding Sonny Black Napolitano and Rusty Rastelli and other individuals in the Family.

Q. During these discussions concerning the factions within the Bonanno family did Mr. Ruggiero ever describe to you who the principal persons were on each side of that factional dispute?
A. Yes.

Q. Was there a particular side that Lefty Ruggiero identified himself with?
A. Well, he had identified himself of course with Napolitano and Napolitano was on the side of Rusty Rastelli.

Q. Did he describe to you who was on the other side of the factional dispute?
A. Yes.

Q. Who was that?
A. Well, Sonny Red Indelicato, Dominic Trincher and Philip Giaccone.
Q. What position did those three persons, Indelicato, Trinchera and Giaccone, have at that time?
A. I was told they were captains.

* * *

Q. Now, Mr. Pistone, again I had asked you about a conversation that you had with Lefty Ruggiero on April 2, 1981. Could you tell us what that conversation was about, in substance?
A. Well, basically Ruggiero was discussing a confrontation or sit-downs that had occurred regarding whether I belonged to him or Tony Mirra. Mirra had brought up this problem with the Family and other individuals, and Ruggiero was relating the outcome of the sit-down and also relating Sonny Black's position, how he had risen in the Family.

Q. Did you have any conversation concerning Rusty Rastelli at that point?
A. Well, he said that everything—as long as Rusty was in jail we'd have to wait until Rusty got out of jail and that there had been orders that nobody starts any trouble or any problems until—while Rusty's away.

Q. Did he explain to you who it was that had made that order?
A. The Commission.

* * *

Q. Did you meet with Mr. Napolitano?
A. Yes, I did.
Q. Did you have occasion at that time to speak with Mr. Napolitano, again concerning the same issues of resolving the factional disputes within the Bonanno Family.
A. Yes, I did.
Q. What if anything did Mr. Napolitano tell you at that time?
A. Well, after our discussion regarding the situation that he wanted me to handle, Napolitano made the statement that it's the first time in ten years that the Bonanno Family is running itself and not the Commission running it.
Testimony of Angelo Lonardo

Q. What does "button" mean?
A. He is a member of the Mafia.

Q. What about the term "made guy?"
A. That he is a member.

Q. What about the term "wiseguy"?
A. That he is a member.

Q. Can you tell us how decisions are made within a La Cosa Nostra family?
A. In the city you belong to?
Q. Yes.
A. Well, the boss, the underboss, they get together—
Q. You say the boss and the underboss within a family?
A. Right, capos and consiglieri, counselor.
Q. Who has the final authority within a family to make a decision?
A. The boss has.

Q. What is the job of the consigliere or counselor?
A. Well, when a soldier does something wrong he usually brings it up to the underboss or the boss and he kind of defends him, straightens everything out for him.
Q. When you say he brings it up, you mean the consigliere brings it up?
A. Yes, he does.

Q. How does the soldier get orders?
A. Through the capo.

Q. Now, you testified there are families in a number of cities. Is it possible to transfer from one family to another?
A. Yes.

Q. Can you explain how that is done?
A. Well, you go to your boss and you tell him that I am moving away from here. I am going to, say, San Francisco and can I have permission to leave. So the boss says it's okay but as long as you know somebody there. Go meet the boss and tell them what you are doing there and that you are going to live there and become a soldier in his family.

Q. Now, you indicated there are 5 families in New York. Can you tell us the names of those families?
A. Yes.
Q. What are they?
A. Well, there is the Lucchese family, Colombo family, the Gambino family, the Genovese family and the Bonanno family.
Q. Of which of these families do you know Anthony Salerno to be the boss?
A. Genovese family.
Q. Who is the Genovese family named after?
A. Vito Genovese.
Q. Is there anybody which controls the Cosa Nostra families in many cities?
A. Yes, there is.
Q. What is that called?
A. The Commission.
Q. Who sits on The Commission?
A. The 5 bosses of New York.
Q. Do you know of any other people who have sat on The Commission who have not been bosses of New York?
A. Well, years ago I know Frank Milano was, Al Polizzi, Angelo Bruno.
Q. Who were Frank Milano and Angelo Polizzi?
A. They were the ex-bosses of Cleveland.
Q. Who is Angelo Bruno?
A. He was a boss of Philadelphia.
Q. What are The Commission's functions within La Cosa Nostra?
A. Well, if there is a dispute about anything they get together and iron it out.
Q. Are there any other functions The Commission performs?
A. Well—
Q. Are there any other functions The Commission performs?
A. They make all the rules and regulations, what you can do, what you can't do.
Q. Can you tell us any rules or regulations, as you sit here now; that you are aware of The Commission having made concerning La Cosa Nostra?
A. That they have made?
Q. Yes.
A. For instance, nobody can sell narcotics.
Q. What was the reason for that rule?
A. That would bring too much heat on everybody.
Q. Is there another rule you are familiar with?
A. Well, you always have to do the right thing. You can't have no prostitutes.

* * *

A. Well, the rules are that they can't kill a boss in other cities or in New York City without them knowing anything about it.
Q. When you say "without them knowing anything about it," who is the "them" you are referring to?
A. The Commission.
Q. Incidentally, you mentioned earlier that members must do the right thing. What do you mean by "the right thing"?
A. Well, before they do anything they got to get permission.
Q. From whom do they have to get permission?
A. From their capo and the capo takes it up with the underboss and the boss.
Q. Now, sir, when you were the underboss or acting boss in Cleveland did you ever personally sit with The Commission?
A. I never did.
Q. Did you ever meet the entire Commission?
A. No, I never did.
Q. How did the Cleveland family communicate with The Commission?
A. We used to communicate with the Genovese family.
Q. And was there anybody in this courtroom that you communicated with in order to be in touch with The Commission?
A. Yes.
Q. Who is that?
A. Tony Salerno.
Q. I am sorry, you said Anthony Salerno?
A. Anthony Salerno.
Q. And what was his position on The Commission, if you know?
A. He was a member.
Q. Now, sir, I would like to direct your attention back to the 1920's when you first became associated with La Cosa Nostra. Who was the boss at that time?
A. My father.
Q. What was his name?
A. Joseph Lonardo.
Q. Did there come a time something happened to him?
A. Yes.
Q. What was that?
A. My father got killed.
Q. As a result of that did you do something?
A. Yes, I did.
Q. What did you do?
A. I killed the man that was responsible for killing my father.
Q. And what was that man's name?
A. Sam Todaro.
Q. What position, if any, did he have in the Cosa Nostra?
A. I found out he was the counselor.
Q. Can you describe how you killed him?
A. Well, one day my cousin said to me "the best way to get Sam Todaro is to talk to your mother and tell her that we need—that your family needs money and if Sam
Todaro would help her with some money, but don’t tell her why you are going down there to talk to him.” So I said, “okay, I will talk to my mother and tell her that.” So I told my mother. I said, “Ma, we have to go see—”

Q. What did you tell your mother?
A. I told my mother “let’s go see Sam Todaro, maybe he can help us with some money,” and I said, “would you come along,” and so she said “yes.” And we got in the car and we drove down to 110th Street and I told somebody there on the corner if he would call Sam Todaro, that my mother would like to talk to him. So he said, “yes, I will.” So he went, got Sam Todaro, and Sam Todaro came over and as he got close to the car I pulled out a gun and shot him.

Q. Were you arrested?
A. No, I was not at the time.

Q. Did there come a time you wound up getting tried for that murder?
A. I gave myself up, yes.

Q. Were you involved in planning this murder with any other people?
A. Yes.

Q. Who were you involved with?
A. With my cousins.

Q. What were your cousins’ names?
A. John DeMarco, Dominic DeMarco, Dominic Esprado.

Q. What position if any did John DeMarco have in the Cosa Nostra?
A. He was a member.

Q. Now, sir, were you tried for killing Sam Todaro?
A. Yes, I was.

Q. Did you testify?
A. Yes, I did.

Q. Did you deny killing him on the witness stand?
A. Yes, I did.

Q. Were you convicted?
A. Yes, I was.

Q. Was your conviction reversed?
A. Yes, it was.

Q. How long during this period were you in jail?
A. 23 months.

Q. During this period did the other people who you had agreed with to kill Sam Todaro, did they kill any other people?
A. While I was in the county jail 2 others died, yes.

Q. Had you agreed to have those people killed?
A. Yes.

Q. And had you agreed with these people to have other people killed?
A. Yes.

Q. How many other people?
A. Well, there was the 5 Pirello brothers and Sam Tolocca.

Q. Of those 6 two of them were killed while you were in the county jail?
A. That's right.

Q. Did you personally participate in any of these other killings?
A. No, I did not.

Q. But you did agree to them?
A. Yes, I did.

Q. How, if at all, were these killings related to the matter of your father's death?
A. They were responsible for my father's death, all of them.

Q. Now, sir, did there come a time in the early to mid-1930's that you were familiar with a man by the name of Dr. Romano?
A. Yes, he was also involved in my father's death.

Q. Had he at one point occupied a position in La Cosa Nostra?
A. Yes.

Q. What had that position been?
A. He had been the boss.

Q. Of which city?
A. Cleveland.

Q. Did he retire at one point?
A. Yes, he did retire.

Q. Did there come a time you were involved in his death?
A. I didn't get the question.

Q. Did there come a time you were involved in his death?
A. Yes, I was.

Q. Can you explain what happened?
A. Well, my cousin Dominic DeMarco got sick. He had an appendicitis attack and his brother wanted to rush him to the hospital and my cousin Dominic said to his brother, he said, "let Dr. Romano operate on me. I want to show him that we want to be friends with him," and so there would be peace.

* * *

A. And my cousin Johnny insisted that he didn't want Dr. Romano to operate on his brother but his brother Dominic insisted and he said, "okay, I will let Dr. Romano operate on you." So he called up Dr. Romano and Dr. Romano says, "we will rush him to St. John's hospital." And he operated on him and he died.

Q. As a result of that did you and John DeMarco agree to do something?
A. Yes, we did.

Q. Would you tell us what you did?
A. We decided that Dr. Romano had killed my cousin and he was also responsible in the death of my father and we decided to kill him.

Q. Did you in fact do that?
A. Yes, I did.

Q. Now, did there come a time after you killed Dr. Romano that you heard something from a man by the name of Al Polizzi?
A. Yes, I did.

Q. Who was Al Polizzi?
A. He was the boss of Cleveland.

Q. Do you recall approximately when this conversation with Al Polizzi was?
A. It was the next day or 2.

Q. After the killing of Dr. Romano?
A. Yes.

Q. Do you remember where the conversation took place?
A. That I don’t remember now.

Q. Do you know the year that Dr. Romano was killed?
A. I know it was in the early 30’s, ’34, ’33, something like that. I don’t remember.

Q. Now, will you tell us what Al Polizzi told you a couple of days after Dr. Romano was killed?
A. "Jeez, you should have said something to me about this before you did anything." He said, "you got us in a spot now, you know," but Al Polizzi didn’t know at the time—

Q. Let me stop you there. What else did Al Polizzi tell you?
A. That we shouldn’t have done it the way we did it.

Q. What reason, if any, did he give you for that?
A. He says, "the way you did it, the way you guys did it, the same thing could happen to us."

Q. And did he have any other conversation with you concerning John DeMarco and your situation?
A. Well, yes, there was.

Q. Tell us about that.
A. There was a fellow by the name of Jim Mangano. He raised hell about it.

Q. Who was Jim Mangano?
A. He was a boss of a family here in New York.

Q. Tell us what Al Polizzi told you about Jim Mangano.
A. That he didn’t like it and Al Polizzi had to go to New York and tell them what happened and why it happened and they met with other people there.

Q. When you say other people, whom do you mean?
A. The Commission.

Q. Is this from Al Polizzi?
A. Yes.

Q. Al Polizzi was then the boss or acting boss of Cleveland?
A. That’s right.

Q. Would you tell us what Al Polizzi told you about this meeting in New York with Mangano and The Commission?
A. Jim Mangano raised hell about it and he wanted John DeMarco to be condemned
to death. And as far as for me he says, “Angelo didn’t know any better because he is not a member so he listened to his cousins, so we will exonerate him.”

Q. Did there come a time after this conversation with Al Polizzi that John DeMarco left the area?
A. Yes, he did.
Q. Then did there come a time he returned?
A. Yes, he did.
Q. Did you have any conversation with Al Polizzi concerning that return?
A. Yes.
Q. Tell us what he said to you.
A. That he had straightened Johnny DeMarco out to come back to Cleveland.
Q. And what if anything did he tell you about who he had straightened it out with?
A. Well, there was a meeting between New York and Chicago and between them they decided to exonerate him.
Q. When you say a meeting between New York and Chicago, can you be more specific as to what you mean?
A. Well, there were different fellows from Chicago and also from New York and they met in Miami Beach.
Q. In fact, were you present in Miami Beach at such a meeting?
A. I was but I was not in the meeting.
Q. Can you tell us where you were and what you saw?
A. I was in the living room and they were out in the backyard.
Q. Who was out in the backyard?
A. Fellows from New York and fellows from Chicago plus Al Polizzi.
Q. When you say fellows from New York, what positions, if any, did they hold in La Cosa Nostra?
A. They were some of the higher-ups from both cities.
Q. When you say higher-up, what do you mean?
A. Like the bosses or maybe underboss.
Q. Now, sir, did there come a time when you were proposed to become an actual member?
A. Yes.
Q. When were you proposed?
A. I remember I was proposed somebody told me in the 30’s, late 30’s but there was a freeze on after that. You couldn’t make any members.
Q. When you say a freeze, were you told who had imposed the freeze?
A. The Commission.
Q. Do you remember who it is that proposed you?
A. Proposed me?
Q. Yes.
A. Yes.
Q. Who was that?
A. Thomas Agenti.
Q. What position if any did he hold in the La Cosa Nostra?
A. At that time I believe he was the counselor.
Q. Did you have conversations with any member of La Cosa Nostra concerning the freezing at that time?
A. Well, they told me that “right now we can’t make you. There is a freeze on.”
Q. When you say “they” who are you referring to?
A. Like my cousin, cousins, and even Al Polizzi told me. He says “but in due time you will be made.”
Q. Did your cousins or Al Polizzi describe to you or tell you the reason why there was a freeze on?
A. I know one of the reasons was that they were making too many fellows in New York City and some of them weren’t the right fellows to be made and there were fellows buying their way into the Mafia, paying money out to an underboss or a counselor and they wanted to put a stop to it.
Q. Did there come a time that you actually were made as a member?
A. Yes.
Q. When was that?
A. The late 40’s.
Q. Was there a ceremony?
A. Yes.
Q. Where did it take place?
A. At the Statler Hotel in Cleveland.
Q. What location in the Statler Hotel?
A. The location?
Q. Where in the Statler Hotel?
A. In a suite.
Q. Was it a private suite?
A. Yes, it was.
Q. Can you tell us who was present that you remember?
A. At that time John Scalish, who was acting boss; Tony Milano, he was the underboss; my cousin Johnny DeMarco. I don’t remember if he was a capo or the counselor at the time.
Q. And were there other people being made along with you?
A. Yes, there were.
Q. Can you physically describe the setting of the ceremony?
A. Well, you walk into a room and they tell you to sit down and they ask you, “do you know what you are doing here,” and naturally you say no. So then they tell you. They say, “we want to make you a member of this family but before we make you a family we want to tell you different things about it.” He said, “do you understand that,” and I said “yes.”
So they went on and spoke and says, “you know, if you become a member you can’t sell no narcotics. You can’t have no girls working for you on the street. You can’t be a pimp. Before you do anything you always got to get permission, talk to
your capo and get permission for what you want to do, and if we ever need you to do something, no matter what time of the day, night, that we call you, even if there is somebody dying in your family you got to leave and do it.”

Q. Did he tell you the kind of thing you might be asked to do?
A. Well, to give you a contract to kill somebody.

Q. Was anything said concerning secrecy?
A. He said, “you can’t tell nobody anything about this to anyone.”

Q. As you were sitting there listening to this was there anything placed before you?
A. There was a table with a cloth over it.

Q. After you were told these rules and regulations what happened with respect to the cloth?
A. Well, they say to you “do you understand what we are talking about? Do you want to become a member? You still have a chance to refuse or to become a member.” So naturally I said, “yes, I will become a member.” Then they flipped the cloth over and there is a gun there with a dagger and they say, “that is the way you live from now on, with the gun and the dagger, and you die with the gun and the dagger, do you understand that,” and I said “yes.”

Q. Then what happened?
A. Then they give you a card with a picture of a saint and they light it up and you let it burn to ashes.

Q. Then what happens?
A. Then they pinch your finger and you kind of suck the blood and they all shake your hands and kiss you on your cheek and they say, “you are a member from now on.”

Q. Were you told by any member of La Cosa Nostra what the reason was for not being able to be involved with drugs?
A. They said it would bring too much heat.

Q. At the ceremony were you told what the penalty was for breaking those rules?
A. Yes, you could die.
Testimony of James Costigan

Q. During the course of these meetings did Mr. Scopo inform you and give you more of the details about the Club?
A. A little bit more, yes.
Q. And did he explain the operation of the Club to you?
A. Yes.
Q. Tell us what he told you during the course of these meetings about the operation of the Club and who ran it and anything else he told you about the Club.
A. He said that, like I said, the Club was run by these heads—not the heads, representatives of the four families; that the work was going to be whacked up, that the contractors were in it.
Q. Did you have conversations with him during this series of meetings concerning what he meant by “families”?
A. I knew what he was talking about.
Q. Did you—did he use the word and you would respond and you would use the word and he would respond?
A. Yes.
Q. And based on that you had an understanding of what he meant, correct?
A. Yes.
Q. What did you understand him to mean by “families”?
A. The Mafia families in New York.
Q. Now, sir, you mentioned a two percent fee had to be paid. What if anything did he tell you about who it would go to?
A. He said it was going into a pot and it would be divided up amongst the families.
Q. And what if anything did he tell you about the category of jobs that was covered by this arrangement?
A. They were jobs over two million in price.
Q. What if anything did he tell you about jobs under two million dollars in price?
A. They were not allowed to sought by Club members.
Q. What if anything did he tell you about—
A. As to what?
Q. Why people in the Club would not be or shouldn’t be bidding below two million.
A. Well, there was a lot of small contractors, and he said they had to eat too.
Q. What if anything did he tell you about the geographical area within which the Club arrangement functioned?
A. Manhattan.
Q. What if anything did he tell you about who would actually decide the allocations on a job by job basis?
A. I don't know if he ever articulated that. My understanding was that these—
Q. Was your understanding based on what Mr. Scopo told you during these meetings?
A. Pretty much.
Q. Tell us what your understanding was?
A. It was that these four guys would meet and decide who was going to get what jobs.
Q. Incidentally, you mentioned two percent. Are you familiar with the term points?
A. Yes.
Q. And in your understanding what—in the industry, what does the term point mean?
A. A point? A percentage point.
Q. So two points would be two percent?
A. Yes.
Q. Now, sir, again directing your attention to this entire series of meetings, what, if anything, did Mr. Scopo tell you concerning how a company that was allocated a job would go about setting the price on the job?
A. The guy would figure out what his cost was. He would add 15 percent, a markup, and two percent for the Club.
Q. And what, if anything, did he tell you about the bidding process that would be followed by those companies that had not been allocated a particular job?
A. Well, they would put in inflated numbers.
Q. And what, if anything, did he tell you about the reason for that?
A. I don't know if he ever specifically outlined the reason. He just said that they would put in a higher number and I understood, you know, to help the guy get the job that was supposed to get it.
Q. What, if anything, did he tell you about how the contractors would get those inflated numbers?
A. They'd get their information through Al Chaitin. He was like the line of communication with the thing.
Q. Now, sir, what if anything during these conversations did Mr. Scopo tell you about what would happen if a company took a job that it wasn't allocated?
A. They'd have to pay a penalty.
Q. Would that penalty be in addition to the two percent?
A. Yes.
Q. During these conversations what, if anything, did Ralph Scopo say to you concerning his own role or his own activities concerning the Club?
A. As to what?
Q. In other words, what did Ralph Scopo tell you was his own role in the club arrangement, what was his function, if any?
A. Well, he'd go to the meetings, he'd speak for the people he represented.
Q. Did he tell you who he represented at these meetings?
A. He represented us, I believe he represented Century.

Q. And when you mentioned meetings, what, if anything, did he tell you about who attended these meetings he would go to?
A. The other three guys that were making, you know, the allocations and Chattin.

Q. When you say the other three guys making allocations, are you referring to the three guys from the families?
A. Yes.

Q. What, if anything, did Mr. Scopo ever tell you concerning his power to affect a contractor's ability to work on a job?
A. That's a tough question to answer, you know.

Q. Let me rephrase the question this way. Directing your attention to sometime later, like 1983 or 1984, did you ever have a conversation with Ralph Scopo concerning a strike at that point?
A. Yes.

Q. What did he tell you on that occasion?
A. I think one of his union was involved in the strike and there was talk of someone getting concrete on their job from a non-union supplier and he said, my guys won't handle the concrete if it comes. That's all, that is what I mean.

Q. Incidentally, can you tell us, sir, based on your experience, what the daily cost would be —would have been to XLO during the period from 1981 to 1984 had you had one day of stoppage on a job due to a labor dispute?
A. You mean what the overhead would be?

Q. Yes, what would be the cost to XLO of a one day stoppage?
A. Well, you mean on one job?

Q. On one job, one dispute, one day stoppage.
A. Could be any job.

Q. Tell us what would be the cost to the company, the loss.
A. I'd say in that time, from that five-year pull?

Q. Yes, during that time period.
A. Anywhere from five to ten thousand.

Q. And can you explain how it is that a company would sustain that kind of a cost?
A. Where that cost came from?

Q. Yes, how do you figure that cost?
A. There's about 20 odd people that get carried on a job.

Q. When you say "get carried" what do you mean?
A. They get paid no matter what.

Q. They are paid no matter what?
A. Yes. There's rentals that go on, like the crane rentals. Then there's some trades where the job stops they get paid the day anyhow. You know, it adds up.

Q. You indicated that until approximately May or June of 1981 you said no to Ralph Scopo's invitation to you to join the Club. What was your state of mind before May or June of 1981 concerning that invitation to join the Club?
A. You mean —
Q. What was your thinking?
A. What was my inclination?
Q. Yes.
A. I didn’t want to join it.
Q. Why not?
A. I didn’t want to do it, that’s all. I didn’t want to be controlled.
Q. And did there come a time in May or June of 1981 when you said yes to Ralph
Scopo about the Club?
A. Yes.
Q. And do you remember, where did you meet with Mr. Ralph Scopo on that oc-
casion?
A. In his office.
Q. Did he call you or did you call him?
A. Probably he called me.
Q. Would you tell us what he said to you and what you said to him on that occasion?
A. As to my decision to join the Club?
Q. Yes. What did he say to you?
A. He said, you know, like, — I’m trying to think. He said, look, I can’t hold these
guys back any more, you’re going to have to make up your mind, either you are
in or you are out. And I had discussed that with my partners, you know, all along,
you know, if we were put up against the wall, we didn’t want to go out of business.
Q. When he said he couldn’t hold these guys back any more, what, if anything, did
you understand him to mean about “these guys,” who these guys were?
A. What I understood?
Q. Yes, what did you understand?
A. I understood him to mean that even if he didn’t want to, he’d have to give me
labor problems, if I didn’t go along.
Q. What did you understand the effect that those labor problems would have on
your business?
A. Say it again.
Q. What did you understand would be the effect of labor problems like that on
your business?
A. Cost a lot of money, you know, to the point where you may as well not be
in business.
Q. How long did you remain a member of the Club after you joined in May or June
of 1981?
A. Till September of ’84.
Q. What happened then to change the situation?
A. Two FBI guys came into my office with a carton full of tapes and played them for
six or eight hours.
Q. Now, sir, during your time in the Club, did you have further meetings with
Ralph Scopo?
A. Yes.
Q. And did you meet Al Chattin?
A. Yes.
Q. And did you have numerous meetings with him?
A. Uh-huh.
Q. And did you have discussions with Mr. Scopo and Mr. Chattin concerning the Club?
A. Yeah.
Q. Did you learn from these conversations who the members of the Club were?
A. Yes.
Q. Who were they besides XLO?
Q. S & A, Cedar Park, Northberry, Century Maxim and G & G, that is as I recall.
Mr. Gaudelli said yesterday that the government threw in this Mafia stuff in order to prejudice you and inflame you and get you to thinking about things that you are not supposed to think about. Well, you know, the word "prejudice" means prejudge, and when you came into this courtroom eight weeks ago, almost to the day, and I gave you my opening statement, I said to you put out of your mind all the baggage, all the media stuff, everything you think you have heard about the Mafia, because that doesn't belong here. And that was before you came into the courtroom, because you had to listen to the evidence in the case and make up your mind based on what you heard here.

But you have listened to evidence for eight weeks, so it is not a question of prejudging anymore or preconceptions. It is a question of what you learned from the tapes, from the surveillances, from what these defendants said and did as you heard about it in this courtroom.

This isn't something that was designed by the government, as you heard in the opening. The government didn't make up the word "La Cosa Nostra" or the word "boss" or "captain" or all of the things you heard about that the Mafia does. The defendants did that. The defendants designed that. What the government did was present you with the evidence about that.

What did the evidence show you? The evidence showed you that because of this organization called La Cosa Nostra, these men were able to direct and to commit crimes on a vast scale, nationwide in scope.

You know, you have sat here for eight weeks and you have heard people talk about the Mafia and you have heard about killing and you have heard about extortion and you have heard about loan-sharking, and it is hard not to get a little numb. You sit in a courtroom and everything is nice and calm here. We all sit around tables. Generally speaking, we talk in low voices. But, remember, what the proof in this case is about is what happens on the street, out there, outside of the walls of this courtroom. You have to keep that sense of reality with you when you think about the evidence that you have seen and you have heard in this case, because that is what the case is about.

These crimes you have heard about here, whatever defense counsel would like you to think, were not isolated crimes that had nothing to do with each other. It is not just about an extortion here or an extortion there, or a killing here or a loan-sharking there. These crimes were connected. And they were connected to something
called the Commission of La Cosa Nostra, which is the enterprise in this case. These crimes were interdependent. The pattern of this criminal activity which you heard about was made possible only because of the organization of the Mafia, what that represents.

Mr. LaRossa told you, and this was true, he reminded you that when you came in to be sworn as jurors, you were asked whether you could accept the proposition that just because a person is a member of the Mafia, that alone does not make him guilty of the crimes here, and that is correct. Merely the fact that a person is a member of the Mafia does not make him guilty of the crimes. But, part of the crime charged here is being part of the Mafia and part of the Commission of La Cosa Nostra. That is one of the elements, that is one half of the crime, because the crime that is charged here is racketeering and what racketeering is about is setting up, joining, associating with a criminal enterprise, organized criminal activity, and using that organization to commit crimes like extortion and murder and loan-sharking.

So it is not true to say that this case has nothing to do with the Mafia or the Mafia is irrelevant. The Mafia is very relevant in this case. The Mafia is relevant because it is the Mafia that makes possible this kind of concerted criminal activity. The Mafia is relevant because what racketeering is, the evil that racketeering laws are designed to prevent, is people banding together in an organized and disciplined fashion for one purpose; to commit crimes.

You know that the organization we are talking about here was not the Kiwanis, it wasn't the Elks Club, and that is important too, because these men weren't just thrown together in this organization. No one just scooped them up off the street and labeled them Mafia and then sent them off on their way. They took oaths to join this organization. They joined an organization which was disciplined, which had rules that were enforceable by punishment, including the punishment of death.

You know something about the secret society and the rules and the principles that these men voluntarily adopted, that they embraced, because you heard them talk about it. You have heard a conversation, for example, in a Jaguar on June 14 of 1983, with three of the defendants here—Mr. Furnari sitting over there, Mr. Santoro and Mr. Corallo—and they were talking about the membership requirements for the Mafia, for La Cosa Nostra. What was one of the cardinal principles, the main rules, that they were interested in? You can't testify. If you testify, you can't be a member; in fact, you are lucky to be alive. That was the word that Mr. Furnari used and Mr. Corallo used. He is lucky to be alive because he testified.

What is the reason for having that rule? The reason for having that rule is so that the people who run this criminal organization can count on their subordinates. They know if they tell someone to go out and do something, he is going to do it, and he is going to keep his mouth shut. And that increases their power, because you could not take over an industry, you could not take over labor unions, if you didn't have the power to direct others to help you.

One man, even a conspiracy of short duration, a few men, they couldn't have taken over the concrete industry in New York, and you know that, ladies and
gentlemen. They couldn't have approved the selection of the president of the International Teamsters Union. They could not be making decisions about delegates for the Masons Union. They couldn't be getting $200,000 from the Carpenters Union. They couldn't be running the Concrete Workers Union. One man, a few men, couldn't do that. A disciplined criminal organization is what is necessary to do that.