

## *NEW YORK CITY RETIRED TRANSIT POLICE OFFICERS ASSOCIATION*

*P.O. Box 345*

*East Rockaway, NY 11518-0345*

*[www.beyondtheline-tpa.org](http://www.beyondtheline-tpa.org)*

### Justification for Support of this Bill

The VSF legislation for the Transit and Housing Police Departments was signed into law by Governor Mario Cuomo in July 1987 on what he said, were the merits of parity between forces, collective bargaining and the intent of their employers, the MTA and the NYC Housing Authority.

The VSF is an annuity type investment funded by "skims" coming from NYCERS on the basis of a ratio amount times each member of the forces who were the eligible beneficiaries after twenty years for service as so written. (See Exhibit C)

After five years on July of 1992 the two Transit Police trustees, (Ronald Reale and Thomas Zichettello) along with the Trustee from New York City violated their fiduciary responsibilities of trust to the beneficiaries. They vigorously supported legislation in Senate bill 8811A and Assembly 12195 to amend the New York City Administrative Code to exclude senior beneficiaries of the VSF, who retired prior to July 1987 as eligible without compensation. This was to achieve a defined benefit for others and prepare for a merger of the three police forces without New York State Legislative approval. Furthermore, the NYC Transit Police Department were employees of the MTA not the City of New York in 1992. The intent of the MTA was always parity between police forces.

On July 13, 1994 Mayor Guiliani issued a press release #310-94 stating that the city and the PBA's agreed to jointly support legislation to equalize the VSF benefit between all three police forces. NEVER HAPPENED! (See Exhibit #B)

In 1997 the Transit Police trustees were indicted by the Federal Southern District Attorney of New York. RICO charges of conspiracy/corruption/bribery, with Transit Police Benevolent Association business from 1991 thru 1996. In 1998, Ronald Reale and Thomas Zichettello were convicted. (See Exhibit #A)

Conclusion:

Invested "skims" from NYCERS were already in the fund, as they were invested when received.

Letters to Deputy Mayor Milton Mollen dated 12/16/91 places a value on the VSF (12/16/91) denied beneficiaries. (See Exhibit #'s C & D).

A handwritten signature in cursive script, reading "Edward Russo", followed by a long horizontal flourish.

Edward Russo  
President  
New York City Retired Transit Police  
Officers Association

# 208 F3d 72 United States of America v. Thomas Zichettello Frank Richardone Ronald Reale Richard Hartman James J Lysaght Peter Kramer

208 F.3d 72 (2nd Cir. 2000)

UNITED STATES OF AMERICA, Appellee,

v.

THOMAS ZICHETTELO, Defendant,

FRANK RICHARDONE, RONALD REALE, RICHARD HARTMAN, JAMES J. LYSAGHT,  
and PETER KRAMER, Defendants-Appellants.

Docket Nos. 98-1376 (L), 98-1377, 98-1378, 98-1379, 98-1380  
August Term, 1998

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

Argued: June 8, 1999

Decided: March 30, 2000

Appeal from convictions and sentences in a multi-defendant, RICO conspiracy case entered in the Southern District of New York (Deborah Batts, Judge). The government moves to amend the trial transcript on the ground that someone in the chambers of the trial judge incorrectly altered a portion of the transcript of jury instructions. The government's motion is granted. Appellants' arguments on the merits are rejected. We therefore affirm.

MICHELE HIRSHMAN, Special Assistant United States Attorney, and CHRISTINE H. CHUNG, Assistant United States Attorney (Mary Jo White, United States Attorney for the Southern District of New York, Ping C. Moy, Michael S. Schachter, Alexandra A.E. Shapiro, Lewis J. Liman, Assistant United States Attorneys, of counsel), New York, New York, for Appellee.

TERRANCE G. REED, Reed & Hostage, P.C. (Christopher A. Hostage, of counsel),





THE CITY OF NEW YORK  
OFFICE OF THE MAYOR  
NEW YORK, N. Y. 10002

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

**FREE OFFICE**

FOR IMMEDIATE RELEASE

DATE: Wednesday, July 12, 1994

第 10 章 数据库系统

**செய்திகள்:**

|                        |       |          |
|------------------------|-------|----------|
| சுற்றுலா துறை அமைச்சர் | (212) | 788-2956 |
| மாநிலப் பேரவைத் தலைவர் | (211) | 788-2955 |

MAYOR GIULIANI ANNOUNCES TENTATIVE DEEDS ACCORDS  
WITH BOTH THE NYC'S FBA AND CPBA

Mayor Rudolph W. Giuliani announced this evening tentative settlements were reached with both the 22,300 member Patrolmen's Benevolent Association and the 3,500 Transit Police Benevolent Association, thus avoiding invoked impasse proceedings. Subject to ratification by the respective executive boards and members, the settlements would be retroactive to October 1, 1991 and run through March 31, 1995.

"I want to congratulate Presidents Caruso and Reale, as today's settlements are the culmination of old fashioned hard bargaining between the City and these two unions," said Mayor Giuliani. "I believe these settlements reflect the City's commitment to fiscal prudence and the union's commitment to ensure fair treatment for their members. These settlements also reflect the City's desire to consistently compensate its uniformed workers for the critical work they perform while maintaining my commitment to not spend what the City cannot afford."

If verified, the 42 month contracts, which include three month extensions and are consistent with the cost of both uniformed and civilian agreements covering over 260,000 employees previously established for this round of bargaining, will provide wage increases of 2 percent on April 1, 1993, a 2 percent increase on April 1, 1994, and a 3 percent increase on September 1, 1994. The agreements also provide for one-time lump sum payments of \$4,000 for those police officers on payroll during calendar year 1992. However, there are no wage increases for the first eighteen month period of the contracts and there are no increases to the welfare funds. The contracts also provide for a lump sum payment of \$800 to annuity funds, and \$375 salary schedule enhancement.

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Exhibit # B  
(1 of 2)

any of the provisions of the two agreements have been or will be violated by the City or the Union.

- The City and the Union have jointly agreed to standardize and equalize benefits with other uniformed forces units, for example, they jointly agreed to support legislation to equalize benefits provided to all members from a variable supplement fund, which is an annuity type benefit provided upon retirement, and agreed to a salary schedule enhancement to continue the equalization of the salary schedule among the uniformed forces. The City and the UFA also agreed to jointly support legislation to merge an antiquated pension fund with other pension benefit funds to equalize benefits among all members. The City and the UFA agree to increase the number of occasions an officer can be re-scheduled without the payment of overtime from three to six named occasions to mirror the VFA contract and help fund the agreement. This standardization of benefits reflects the Mayor's intent on merging the three police forces and his overarching commitment to fiscal prudence.

The agreement also provides for a night shift differential enhancement effective January 1, 1985, for police officers hired after June 30, 1981, and a provision that prescription drugs and other expenses from line of duty injuries will be provided through the welfare funds.

The City and the Union have jointly agreed to standardize and equalize benefits with other uniformed forces units, for example, they jointly agreed to support legislation to equalize benefits provided to all members from a variable supplement fund, which is an annuity type benefit provided upon retirement, and agreed to a salary schedule enhancement to continue the equalization of the salary schedule among the uniformed forces. The City and the UFA also agreed to jointly support legislation to merge an antiquated pension fund with other pension benefit funds to equalize benefits among all members. The City and the UFA agree to increase the number of occasions an officer can be re-scheduled without the payment of overtime from three to six named occasions to mirror the VFA contract and help fund the agreement. This standardization of benefits reflects the Mayor's intent on merging the three police forces and his overarching commitment to fiscal prudence.

EXhibit #B  
(2 of 2)



SKIM

S.3217-A

Year

Cost to City

1987  
1988  
1989  
1990  
1991  
1992  
1993  
1994  
1995  
1996

\$ 350,000  
700,000  
1,050,000  
1,400,000  
1,750,000  
2,100,000  
2,450,000  
2,800,000  
3,150,000  
3,500,000

Beneficiaries  
87-92

"1994"

Summended

( 15,000,000 to Defund )

Benefit

Given to NYC

Total over first 10 years

\$19,250,000

Bills identical with or similar to this bill have been consistently opposed by the Permanent Commission on Public Employee Pension and Retirement Systems and the City of New York, and were vetoed in 1974, 1975, 1981, 1982, 1983, 1984, 1985 and 1986.

In your 1983 Veto Message you summed up a number of the arguments against variable supplements funds legislation as follows:

"The existence of variable supplements funds works against the interests of the retirement system members by encouraging the investment funds assets in high yield, high risk investments in order to produce high levels of excess yields. The funds drain the assets of the retirement systems resulting in increased employer contributions.

\* \* \* \* \*

Enactment of this measure would establish a special benefit for a limited number of employees and would establish an undesirable precedent. In view of the negative effect these supplements funds have on the funding of the retirement systems, I am constrained to disapprove the bills." (Veto Memo #77).

Accordingly, I urge your disapproval of this bill.

Very truly yours,

EDWARD I. KOCH, Mayor

By

James Brennan

Legislative Representative

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Exhibit # C  
( 1 of 2 )

FROM Bill Jacket



STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER  
ALBANY, NEW YORK  
12236

EDWARD V. REGAN  
STATE COMPTROLLER

July 30, 1987

REPORT TO THE GOVERNOR ON LEGISLATION

TO: The Honorable Evan A. Davis, Counsel to the Governor

RE: Senate 1290-A

INTRODUCED BY: Senator Spano

TITLE: AN ACT to amend the administrative code of the city of New York, in relation to establishing variable supplements funds with respect to beneficiaries of the plan for optional retirement after twenty or twenty-five years of allowable service rendered in the uniformed transit police force.

EFFECTIVE DATE: Immediately

RECOMMENDATION: Disapproval

DISCUSSION:

This bill would amend the New York City Administrative Code to establish two variable supplements funds (hereinafter the "funds"), one for patrolmen in the transit police force and the other for transit police superior officers. These funds would be used to pay supplements to the retirement allowances of transit police retirees and their beneficiaries.

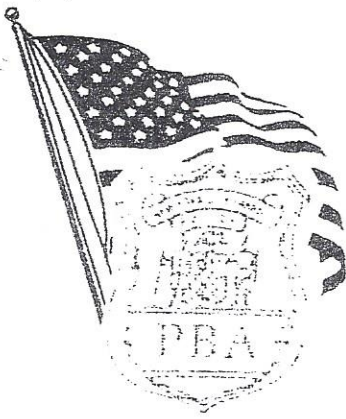
The bill establishes a separate board of trustees to administer each fund. These boards would be composed of a Mayoral representative, the City Comptroller, and two employee union representatives. In the event that a proposed resolution does not win the votes of at least three board members, the bill provides that such "dispute" shall be referred to binding arbitration. All payments from these funds would be discretionary with the boards, and the bill does not prescribe any benefits formulas or eligibility standards. However, the bill would require the variable supplements boards, in exercising their discretion, to "give consideration to equity, fairness and principles of prudent management."

EXhibit #C

(2 of 2)

000025





*Police Benevolent Association*  
**NEW YORK CITY TRANSIT POLICE DEPARTMENT**  
299 BROADWAY (SUITE 505), NEW YORK, N.Y. 10007  
TEL. (212) 964-6953 • FAX (212) 732-2749

December 16, 1991

RON REALE  
President

TOM ZICHETTELO, ESQ.  
1st Vice President

JAY LYNCH  
2nd Vice President

EDWARD CHERRY  
Executive Secretary

FRANK RIVERA  
Financial Secretary

PATRICK TOWNSEND  
Recording Secretary

RAYMOND MONTORO  
Treasurer

FREDERICK CRANSTON  
Executive Assistant

RONALD BUTTACAVOLI  
Executive Assistant

**DELIVERED BY HAND**

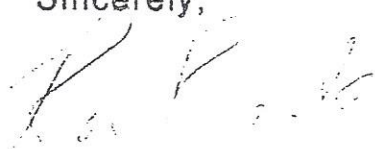
Dear Deputy Mayor Milton Mollen:

This letter will serve to acknowledge the cost analysis as prepared and presented to you in a document issued by the office of the President, Phil Caruso, New York City Police Department PBA on December 13, 1991.

The Transit Police Benevolent Association was represented by financial experts during this process, and we are in complete agreement with the financial representation made to your office in the document with respect to the cost savings which the City would benefit from by consolidating the three New York City Police Departments.

I urge your timely review and hope for your favorable findings which the Mayor is awaiting before his approval.

Sincerely,

  
Ron Reale,  
President





# *Patrolmen's Benevolent Association*

Of The City Of New York, Incorporated  
250 Broadway • New York, N.Y. 10007-2580 • (212) 233-5531

OFFICE OF THE PRESIDENT

December 13, 1991

TO: Hon. Milton Mollen, Deputy Mayor  
FROM: Phil Caruso, President  
SUBJECT: Fiscal impact of merger

## Analysis of Cost Impact of Merger

- (1) Potential Liability attributable to Variable Supplements Fund is as follows:

|  |                      |
|--|----------------------|
| Housing and Transit Superior Officers        | \$100 million        |
| Housing and Transit Police Officers          |                      |
| Retired 10/1/68 - 6/30/87                    | 75 million           |
| Housing and Transit Police Officers who      |                      |
| Retired or Will Retire 7/1/87 and thereafter | <u>100 million</u>   |
| Total (Present value basis)                  | <u>\$275 million</u> |

This \$275 million could potentially generate an annual cost of \$27.5 million. In fact, it generates no cost for the following reasons:

- (A) Superior Officers will not receive a guaranteed VSF benefit.
- (B) Police Officers retired prior to 7/1/87 will not receive any VSF benefits.
- (C) The liability for Housing and Transit Police Officers who retired or will retire on or after 7/1/87 is self-funding, i.e., the sum of (i) existing VSF assets plus (ii) expected future skims is more than sufficient to provide these benefits.
- (2) The "extra" 1% from NYCERS pension savings attributable to Housing and Transit Police and Superior Officer members amounts to at least \$2.5 million per annum.
- (3) Therefore, our conclusion is as follows:

|   |                       |
|---|-----------------------|
| Annual savings from eliminating VSF cost: | \$27.5 million        |
| Annual savings due to "extra" 1%:         | <u>2.5 million</u>    |
| Total annual savings                      | <u>\$30.0 million</u> |
| Total savings (present value basis)       | <u>\$300. million</u> |

*Exhibit # D (2 of 3)*

Therefore, aside from the tremendous savings derived from an elimination of the duplication of services, managerial personnel, contract negotiations, etc., it is clear that, on this aspect alone, rather than a cost of \$300 million on a net present value basis or \$30 million annually, there would be a savings of \$25 million on a net present value basis or \$2½ million annually.

Exhibit #1 (3 of 3)