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## Corrupt judges facing prison; Luzerne pair admit to \$2.67M kickback scheme

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The two judges who led the Luzerne County Court for the last seven years took \$2.67 million in payoffs for helping a private juvenile detention center reap millions from county contracts, with one of the judges going so far as to sentence children to detention over the objections of juvenile probation officers to benefit the center, federal prosecutors alleged Monday.

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President Judge Mark A. Ciavarella Jr. and his predecessor, Michael T. Conahan, will serve 87 months in federal prison, resign from the bench and bar, and pay restitution if plea agreements released Monday are approved after a hearing before a federal judge. Their pensions could also be in jeopardy, as state law bars retirement benefits to judges convicted of a felony while in office or removed for conduct that "brings the judicial office into disrepute."

Judges Ciavarella and Conahan, who were instrumental in closing a county-owned center in 2003 and directing business to the private Pennsylvania Child Care LLC center in Pittston Twp., accepted payments from one of the center's owners and the contractor who built the center, according to U.S. Attorney Martin C. Carlson. The judges falsified business records and financial disclosure forms filed with the state Supreme Court and made rulings that benefited the center without disclosing their financial interests, prosecutors allege.

"I think for everyone who serves in our justice system, everyone who serves in our courts, everyone who serves the public, that this is a sad event when individuals who took an oath violate that oath and violate the law," Mr. Carlson said.

The two individuals who allegedly paid the judges were not named in court documents. But information in the documents indicates they are Robert J. Powell, a Butler Twp. attorney who was co-owner of Pennsylvania Child Care until June, and Robert S. Mericle, owner and president of Mericle Construction Inc.

It's unclear if those individuals, called "Participant 1" and "Participant 2" in the documents, will be charged.

Mr. Carlson said the charges against the judges were "the first developments in an ongoing investigation" that began about two years ago, but he declined to comment on additional arrests or say if Judges Ciavarella and Conahan would cooperate in the investigation. Their plea agreements do not address such cooperation.

Judge Ciavarella, 58, and Judge Conahan, 56, who was president judge from 2002-06 and is now a senior judge, were not in their chambers Monday and could not be reached for comment. They remain free until their arraignment, which has yet to be scheduled.

Judge Ciavarella attorney, Albert J. Flora Jr., stressed the charges filed Monday were just "allegations" and the plea agreements are "conditional" on the two judges accepting the facts that will be laid out by federal prosecutors at a plea hearing, which has yet to be scheduled.

Judge Conahan attorney, Philip Gelso, declined comment.

The wire fraud and conspiracy to commit tax fraud charges against each of the judges carry a maximum sentence of 25 years in prison.

The payments to the judges from "Participant #1" and "Participant #2" began around January 2003, shortly after Judge Conahan announced that juveniles would no longer be sent to a county-owned detention center in Wilkes-Barre, which Judges Conahan



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and Ciavarella argued was decrepit and unsafe, prosecutors said. Once the private center opened in Pittston Twp. a month later, Judge Ciavarella, who presided over juvenile court, established new procedures that "created the potential for an increased number of juvenile offenders to be sent to juvenile detention centers" owned by Pennsylvania Child Care, according to court documents filed by prosecutors. Judge Ciavarella also pressured court staffers and probation officers to recommend detention and on "numerous occasions" sent juveniles to the center despite probation officers' recommendations that detention was not warranted.

The judges also assisted in securing a controversial 20-year, \$58 million county lease of the Pennsylvania Child Care facility that was approved by the Luzerne County Commissioners in 2004, according to prosecutors, but the documents do not offer details. The lease was criticized as a "bad deal" for the county by state auditors and the commissioners negotiated their way out of the agreement last year. The company sued to stop the public release of state audit documents and Judge Conahan granted an order sealing the documents and the suit itself, only to be overturned later on appeal.

The documents outlining the federal charges do not name "Participant #1" and "Participant #2," but say "Participant #2" was the contractor who built the Pennsylvania Child Care Facility in Pittston Twp. and the company's other detention center in Butler County near Pittsburgh. Both were built by Mericle Construction Inc., one of the region's largest commercial developers.

Mericle Construction Chief Operating Officer Lewis Sebia released the following statement Monday:

"Neither Rob Mericle nor Mericle Construction has been charged with any offense. Mr. Mericle has cooperated with all authorities with respect to this investigation and will continue to do so in the future without exception. At no time did Rob Mericle or Mericle Construction ever make any payment to influence a decision to secure a contract to build any PA Child Care facility. Mr. Mericle's participation to construct these facilities was sought out because of his demonstrated expertise in construction and development."

"Participant #1" is described in court documents as a Luzerne County lawyer who was a partner in Pennsylvania Child Care. Until last June, the company was owned by Mr. Powell, a Butler Twp. attorney, and Gregory Zappala, a Pittsburgh-area investment banker who is now sole owner of the firm.

Efforts to reach Mr. Powell were unsuccessful Monday.

An attorney for Mr. Zappala issued a statement saying his client had no "knowledge whatsoever of the actions described in the indictment" and did not anticipate being charged in the case. Mr. Zappala bought Mr. Powell's interest in Pennsylvania Child Care and a related management firm in June. About a week later, federal agents seized county records dealing with juveniles detained at the center.

Prosecutors allege "Participant #1" and "Participant #2" tried to mask the payments to the judges by drawing agreements for broker's and other fees supposedly paid by "Participant #2" to "Participant #1."

But, prosecutors say, the money actually passed to companies and bank accounts controlled by the judges, most of it going to Pinnacle Group of Jupiter LLC, which owns an exclusive condominium at the Jupiter Yacht Club in Palm Beach County, Fla. Pinnacle Group was owned by the judges' wives, according to financial disclosure forms the judges filed with the state, but it was actually controlled by the judges, according to prosecutors.

Judges Ciavarella and Conahan tried to conceal the payments to Pinnacle by reporting them on the company's books as income from rental fees for the condominium and a related boat dock, prosecutors allege.

Pinnacle Group purchased the 2,958-square-foot, three-bedroom, waterfront condominium for \$785,000 in February 2004. It has been for sale for several months, with its asking price recently lowered from \$1.1 million to \$995,000.

Michael P. Buffer, Kristen Gaydos and Bob Kalinowski, staff writers, contributed to this report.

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**Reader Comments**

The following are comments from the readers. In no way do they represent the view of thetimes-tribune.com.

**Joann** wrote on Jan 27, 2009 8:51 AM:

" they ought to be jailed for the rest of their lives,abusing their job,  
Sad.REMOVE them from the bench.their license as lawyers. "

**RJM** wrote on Jan 27, 2009 9:05 AM:

" First of all, the worst part isn't even the fact that they abused their power, it is the fact that they did so by using CHILDREN to make money. They made MILLIONS of dollars off of CHILDREN, how disgusting and despicable is that. I hear people commenting on the news about their tax dollars, not one person commented about how many children were adversely affected by what these 2 judges did to them to make a buck. See this is what I mean, people care if their tax dollars are mentioned, but the fact that children were wrongly incarcerated in these facilities doesn't seem to bother too many people. It is shameful to say the least. "

**Tommy** wrote on Jan 27, 2009 9:17 AM:

" Bobby Cordaro and Chuck Costanzo...your next !!!!!!! "

**The Man in the Yellow Hat** wrote on Jan 27, 2009 9:40 AM:

" Why do corrupt politicians in Luzerne County get indicted, while the corrupt politicians in Lackawanna County and Scranton are ignored? If you think there aren't kickbacks, corruption, cronyism, etc. in Scranton city hall and Lackawanna County, you're kidding yourself. But what, or who, is keeping the feds away from investigating? "

**RJM** wrote on Jan 27, 2009 10:55 AM:

" The Man in the Yellow Hat:

I have to wonder the same thing. I recall back in 2004 the Warden at the county prison was in trouble for the goings on he allowed and condoned at the prison. I can say this, NOTHING has changed there and if people think because a few people were fired and there is a new warden the same things aren't going on, they are wrong and sadly mistaken. Just ask anyone who has spent time in the county prison, just because a person broke the law and ended up in the prison, doesn't mean they aren't telling the truth about what goes on in there on a daily basis. Trust me, money will buy an inmate anything in there. Let me say this, they are all guilty of some form of corruption, and in some cases the people who are supposed to be the ones who uphold the law are worse than those they incarcerate. Lackawanna county is just as bad as Luzerne county. It is just a waiting game to see when it will come around this way. It will..... some day I suppose but when one mess is cleaned up, another is swept under the rug. It is an ongoing problem with no signs that it will ever change, just every now and then someone will get into trouble. "

**Claire** wrote on Jan 27, 2009 11:00 AM:

" If I were a parent of one of these poor children sent to these detention facilities, you better believe I'd be on the phone with a lawyer preparing a lawsuit against Luzerne County, the two judges, Rob Mericle and Robert Powell. They should all be charged and thrown in jail for their DISGUSTING actions!!! Shame on Luzerne County for ALLOWING this to go on! I really hope that Rob Mericle and Robert Powell are charged next! Lessons need to be learned about greed!! "

**Greg** wrote on Jan 27, 2009 11:07 AM:

" They are only going to spend 7 years in prison? Are you kidding me? If this was anyone else you better believe they would be thrown in jail for a lot longer. I think these two yahoo's and Mericle and Powell should all be prosecuted to the fullest extent of the law. The two judges should be charged with child abuse also for what they did to the kids they sentenced wrongly. "

**Dana** wrote on Jan 27, 2009 11:14 AM:

" My husband used to work for Mericle Construction. I've personally met Rob Mericle and let me tell you, he's about as crooked as they come. He drives around in his nice Range Rover and brags about his million dollar house, well I hope it is all taken away from him!!!! It would be a public injustice for Rob Mericle and Robert Powell to NOT be charged. They were in it up to their necks just like the two corrupt judges, I agree with Claire, lessons DO need to be learned about greed! "

**RICO** wrote on Jan 27, 2009 1:18 PM:

" Questions I would like to see answered:

Why weren't these judges charged under the RICO ACT?? (Plea Bargain??)

Are there children currently inappropriately incarcerated because of this?

Are these detention centers involved in this kickback scheme still in operation?

Are the owners of the detention centers being charged? "

**jimmy** wrote on Jan 27, 2009 1:33 PM:

" Bubba is waiting to meet these two Corrupt- Democrat Dummies. Hello Scranton ! Don't you know Corruption is Rampant in your Area ? "

**vvv** wrote on Jan 27, 2009 2:49 PM:

" isnt this called modern day slavery? "

**Hal** wrote on Jan 27, 2009 3:16 PM:

" Mark Ciavarella is a good man. He just got caught up in the Fraud Triangle. Every year he comes up to our hunting cabin the first week of buck. God bless him in his situation now. "

**Joe** wrote on Jan 27, 2009 5:33 PM:

" Ha....figures Repub Hal knows this guy...Whats wrong Hal I haven;t seen you post anything about McCain- Palin lately... "

**Eric Bradway** wrote on Jan 27, 2009 8:18 PM:

" As Head of J.A.I.L.4Judges this is why we need Judicial accountability Legislation in Pennsylvania These Judges Unlawfull took the freedom from these Kids They should never be allowed to see the light of day again "

**Doug** wrote on Jan 27, 2009 8:56 PM:

" Are you serious Hal? He's a corrupt thief who abused his power and should be shown no mercy by the justice system! I wonder if he was thinking about the poor innocent children's lives he ruined while he was hunting for buck. I'm sure their parents were thinking about them day and night while Ciavarella, Conahan, Powell, and Mericle were counting their millions! Poor Ciavarella, getting caught up in a Fraud Triangle my tush, he is about as corrupt as they come! He's going to need God to bless him when he gets sent to federal prison! Show these thieves no mercy! They should be prosecuted to the fullest extent of the law! "

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