

*State of New Jersey*  
*Office of the Inspector General*

Mary Jane Cooper, Inspector General



**Investigation into Conduct of  
Former Assistant Commissioner of  
Division of Addiction Services**

**November 20, 2006**



State of New Jersey

OFFICE OF THE INSPECTOR GENERAL  
PO Box 208  
TRENTON NJ 08625-0208

JON S. CORZINE  
*Governor*

MARY JANE COOPER  
*Inspector General*

November 20, 2006

Honorable Jon S. Corzine  
Governor, State of New Jersey  
State House  
P.O. Box 001  
Trenton, New Jersey 08625

Dear Governor Corzine:

Enclosed is a copy of the report the Office of the Inspector General (OIG) has prepared in regard to allegations against the former Assistant Commissioner of the Division of Addiction Services in the Department of Human Services.

As required by OIG statute, a copy of this report has been sent to Senate President Richard J. Codey, Assembly Speaker Joseph J. Roberts, Acting Commission of Human Services Clarke Bruno, and Acting Director of the Division of Addiction Services Raquel Jeffers.

I am available to discuss this report with you at any time.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Mary Jane Cooper".

Mary Jane Cooper  
Inspector General of New Jersey

Enclosure

cc: Senate President Richard J. Codey, New Jersey State Senate w/ enclosure  
Speaker Joseph J. Roberts, New Jersey State Assembly w/enclosure  
Acting Commissioner of the Department of Human Services Clarke Bruno w/enclosure  
Acting Director of the Division of Addiction Services Raquel Jeffers w/enclosure  
Kenneth Zimmerman, Chief Counsel to the Governor w/enclosure

**State of New Jersey Office of the Inspector General  
Division of Addiction Services Report**

*Table of Contents*

I.	INTRODUCTION .....	1
	A. Scope of Investigation .....	1
	B. Investigative Process .....	2
	C. Standards .....	3
	D. Format of Report .....	4
II.	SUMMARY OF CONCLUSIONS .....	5
III.	BACKGROUND .....	13
	A. Division of Addiction Services .....	13
	B. Addiction Treatment Providers of New Jersey, Inc. ....	14
	C. Associated Treatment Providers Management Services Network, Inc. ....	15
	1. Created by ATP to Win DAS Managed Care Contract .....	16
	2. ATP-MSN Obtains DAS Funds Through Sub-Grant .....	17
	3. ATP-MSN – Alter Ego of ATP .....	19
IV.	ANALYSIS OF EVIDENCE OF CONFLICTS OF INTERESTS .....	22
	A. Kane-Cavaiola’s Relationship with ATP and ATP-MSN .....	22
	B. ATP Efforts to Change DAS Administration .....	23
	1. ATP Hostility Toward Prior DAS Administration .....	24
	2. Efforts on Behalf of Kane-Cavaiola .....	25
	3. ATP Members Take Credit for Kane-Cavaiola’s Appointment .....	26
	C. Continuing Efforts by ATP Representatives on Behalf of Kane-Cavaiola .....	29
	D. Kane-Cavaiola Acknowledges Potential Appearance of Conflict of Interest .....	30
V.	ANALYSIS OF EVIDENCE OF UNWARRANTED BENEFITS .....	32
	A. Non-Financial Benefits .....	32
	1. Monthly Meetings with ATP Board and Executive Director .....	32
	2. ATP Recommendations Adopted .....	34
	a. Hiring Decisions Influenced .....	34
	b. Ability to Influence DAS Policy .....	35
	c. Establishing a “Collegial” Relationship .....	36
	d. Mechanism for Increasing ATP Membership .....	36
	e. Opportunity to Influence DAS Staff .....	37
	B. Financial Benefits .....	38
	1. 2003-2004 Grant Year Total Award \$293,000 .....	39
	a. DAS Pays ATP Conference Expenses .....	39
	b. Professional Development Initiative .....	43
	(1) Grant Transferred to ATP-MSN .....	43

(2) No Oversight of PDI .....	45
c. Modifications Increase Amount of 2003-2004 Grant .....	48
d. Request for “Rollover” of Unused Funds .....	48
2. 2004-2005 Grant Year Total Award \$1,093,957 .....	51
a. April 1, 2004 Initial Grant Amount \$343,000 .....	51
b. June 26, 2004 Modification Adds \$574,000 to Grant .....	52
c. Additional Modifications .....	53
d. Kane-Cavaiola Alerted to ATP Misuse of Grant Funds .....	54
3. 2005-2006 Grant Year Total Award \$4,100,000 .....	58
a. Initial Grant and Modifications .....	58
b. Kane-Cavaiola Changes Commissioner’s Spending Plan .....	60
c. Kane-Cavaiola’s Explanation for the \$2,800,000 Grant .....	62
(1) Commissioner Denies Knowledge of Barrier Free Spending Plan .....	64
(2) DAS Could Have Distributed the Funds .....	66
(3) Sufficient Time for the RFP Process .....	66
(4) No Legitimate Basis for Confidence in ATP-MSN ...	66
(5) Urgent Need for Barrier Free Renovations .....	67
d. ATP-MSN Training Center .....	68
e. Capital Improvement Funds for ATP Members .....	69
(1) Notice of Funds Favored ATP Members .....	69
(2) Distribution Skewed in Favor of ATP Members .....	71
(3) Award Process Flawed .....	72
4. 2006-2007 Grant Year Initial Award \$2,748,083 .....	74
VI. RECOMMENDATIONS .....	76
A. Internal Controls Review .....	76
B. Staff Training .....	77
C. Personnel Action .....	77
D. Recovery of Funds .....	77
E. ATP/ATP-MSN Oversight Failure .....	78
F. Recusal Policy .....	78
G. Additional Risk Audits .....	78
H. Referral for Review by the Division of Criminal Justice .....	79
Appendix A .....	i
Appendix B .....	v
Appendix C .....	vi

## I. INTRODUCTION

### A. Scope of Investigation

Shortly after Governor Jon S. Corzine appointed Kevin Ryan Commissioner of Human Services in January 2006<sup>1</sup>, Commissioner Ryan received an anonymous letter<sup>2</sup> containing allegations that Carolann Kane-Cavaiola, the Assistant Commissioner<sup>3</sup> of the Division of Addiction Services (DAS) in the Department of Human Services (DHS), had conflicts of interest with several organizations receiving DAS grants and that she bestowed unwarranted benefits on those entities. Commissioner Ryan gave the letter to then Governor's Chief Counsel Stuart Rabner, who forwarded it on March 10, 2006 to the New Jersey Office of the Inspector General (OIG) for appropriate action.

After interviewing Kane-Cavaiola about the contents of the letter, OIG's investigation focused on the allegations involving Kane-Cavaiola's relationship with two closely connected organizations with whom she had a longstanding professional relationship: Addiction Treatment Providers of New Jersey, Inc. (ATP)<sup>4</sup> and the Associated Treatment Providers Management Services Network, Inc. (ATP-MSN). ATP is a trade/advocacy organization that represents the interests of its members who are some of New Jersey's addiction treatment providers. ATP is not a charitable organization eligible to receive DAS grants, not all licensed New Jersey addiction treatment providers are members of ATP, and some but not all ATP members are eligible to and do receive DAS grant funds. ATP-MSN is an organization that was formed by ATP members, controlled by ATP representatives, and has the legal structure to be eligible to receive DAS grant funds. Since 2001, ATP-MSN received approximately \$8,100,000 in grant funds from DAS. All

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<sup>1</sup> On July 11, 2006, Ryan was named Commissioner of the newly formed Department of Children and Family Services, and James Smith was named Acting Commissioner of the Department of Human Services (DHS). On September 18, 2006, Clarke Bruno was named Acting Commissioner of DHS.

<sup>2</sup> The letter, dated April 5, 2005, was addressed to an Inspector General in another jurisdiction; it was not received by the New Jersey Office of the Inspector General until it was forwarded by Rabner in March 2006.

<sup>3</sup> In early 2006, as part of a DHS reorganization, most Assistant Commissioner titles, including Kane-Cavaiola's, were changed to Director.

<sup>4</sup> During its existence, ATP has had several name changes. Throughout this report, we refer to it as ATP.

but a small portion of these funds were awarded in direct grants to ATP-MSN during Kane-Cavaiola's tenure at DAS between 2003 and 2006.<sup>5</sup>

OIG was advised by DHS that Kane-Cavaiola's employment has been terminated.

B. Investigative Process

In conducting the investigation, OIG interviewed 27 people, some of them multiple times, including the prior Assistant Commissioner of DAS, past and present DAS employees, ATP and ATP-MSN employees, and employees of other DAS grant recipients. Kane-Cavaiola was interviewed on several occasions: for several hours on two days at the beginning of OIG's investigation, mid-way through the investigation<sup>6</sup>, and again as the investigation was nearing an end. At each interview, Kane-Cavaiola was given an opportunity to address the evidence gathered by OIG to that point, and her explanations were incorporated into OIG's analysis.

Representatives of several organizations provided us with information. These included ATP and ATP-MSN consultants; employees of the Department of Health and Senior Services (DHSS)<sup>7</sup> and DHS; and representatives of 81 DAS licensed addiction treatment provider facilities that supplied information to OIG about a 2005 distribution of DAS capital improvement funds. Throughout OIG's investigation, current DAS administrators and employees provided requested documents, information, and guidance in understanding DAS programs, policies, and procedures.

OIG gathered over 45,000 pages of documents that were logged into a database. These included DAS grant files and other DAS files; e-mail retrieved from the DAS system; DHSS and DHS policies and procedures that govern the awarding of DAS funds; documents requested from ATP and ATP-MSN, including grant files, financial documents, and Board and General

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<sup>5</sup> In both 2001 and 2002, ATP-MSN received \$200,000 in DAS funds by means of a sub-grant with an agency that was a direct recipient of DAS grant funds. The sub-grant was negotiated before Kane-Cavaiola's appointment.

<sup>6</sup> After the initial interviews, Kane-Cavaiola retained counsel who thereafter attended her interviews.

<sup>7</sup> Prior to April 2004, DAS was a part of the Department of Health and Senior Services.

Membership meeting minutes (those provided date back to 1996); documents from the State Ethics Commission (SEC); and information regarding campaign contributions from the Election Law Enforcement Commission database.

Auditors from OIG and DHS and other OIG staff are in the process of conducting a detailed review of DAS, ATP, and ATP-MSN financial records to determine whether the DAS funds awarded to ATP-MSN were used in accord with DAS and other State and federal requirements, and whether their use was properly reported to DAS. That review indicates misuse of a substantial amount of DAS funds by ATP/ATP-MSN. The results of that review will be reported separately when it is completed.

C. Standards

Provisions of State ethics requirements are relevant to determine whether there is a conflict of interest between a State employee and a third party, whether a State employee has received something of value for the purpose of influencing the discharge of official duties, and whether a State employee used his official position to secure unwarranted privileges for others. Relevant provisions of the New Jersey Conflicts of Interest Law provide:

No State officer or employee or special State officer or employee should use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others. NJSA 52:13D- 23(e)(3).

No State officer or employee ... should accept any ... thing of value under circumstances from which it might be reasonably inferred that such ... thing of value was given or offered for the purpose of influencing him in the discharge of his official duties. NJSA 52:13D-23(e)(6).

No State officer or employee or special State officer or employee should knowingly act in any way that might reasonably be expected to create an impression or suspicion among the public having knowledge of his acts that he may be engaged in conduct violative of his trust as a State officer or employee or special State officer or employee. NJSA 52:13D- 23 (e)(7).

D. Format of Report

This report contains the results of OIG's investigation into the allegation that there was a conflict of interest between Kane-Cavaiola and ATP, ATP-MSN and their representatives and that Kane-Cavaiola provided unwarranted benefits to ATP and ATP-MSN. The report is divided into six sections: Section I is this Introduction; Section II is a summary of OIG's conclusions; Section III contains relevant background information; Section IV contains an analysis of the evidence relevant to conflicts of interest; Section V contains an analysis of the evidence relevant to unwarranted benefits to ATP and ATP-MSN; and Section VI contains recommendations for corrective actions. This report also contains appendices.



## II. SUMMARY OF CONCLUSIONS

The analysis of the evidence gathered during OIG's investigation resulted in the following conclusions:

- There was a longstanding professional relationship between Kane-Cavaiola and ATP, ATP-MSN, and their representatives that created an appearance that Kane-Cavaiola had a conflict of interest when exercising her official duties as Assistant Commissioner of DAS regarding matters affecting ATP or ATP-MSN.
- The relationship that continued between Kane-Cavaiola and ATP, ATP-MSN, and their representatives after Kane-Cavaiola was appointed Assistant Commissioner of DAS, created an appearance that Kane-Cavaiola had a conflict of interest when exercising her official duties regarding matters affecting ATP, ATP-MSN, and their representatives.
- Kane-Cavaiola did not perform her official duty to protect DAS funds when providing benefits to ATP, ATP-MSN, and their representatives, and a substantial amount of DAS funds were misused by ATP/ATP-MSN representatives during Kane-Cavaiola's tenure as Assistant Commissioner of DAS.
- As Assistant Commissioner of DAS, Kane-Cavaiola used her official position to provide unwarranted benefits to ATP and ATP-MSN, and her conduct could reasonably result in the conclusion that she was acting in violation of her public trust as a State employee.
- During the course of her tenure as Assistant Commissioner of DAS, Kane-Cavaiola allowed representatives of ATP and ATP-MSN to aggressively promote her career thereby providing benefits to her that appeared to be given for the purpose of influencing her in the discharge of her official duties.

- As Assistant Commissioner of DAS, Kane-Cavaiola was responsible for the erosion of DAS internal controls that were in place to protect DAS funds thereby weakening the award, monitoring, and oversight functions of DAS.

Kane-Cavaiola's relationship with ATP (a trade, advocacy, and lobbying group that represented the interests of its paid members -- addiction treatment providers), ATP-MSN (ATP's charitable alter ego), and their representatives was substantial, of long duration, and did not end when she was appointed Assistant Commissioner of DAS. For more than twenty years before her appointment as Assistant Commissioner of DAS, Kane-Cavaiola was active in ATP and was one of the ATP representatives responsible for ATP's operations, activities, policies, and financial matters. ATP did not have sufficient funds to hire staff, and member representatives, including Kane-Cavaiola, carried out ATP's operational functions. She participated in all aspects of the organization, including holding positions as a Board member, as an officer, serving on important committees, developing and promoting policies, and in other capacities.

In 1997, ATP representatives formed ATP-MSN, an alter ego with the legal structure to be eligible to obtain grant funds. Kane-Cavaiola was a founding ATP-MSN Board member. She was aware that ATP-MSN was a separate entity only on paper; that ATP-MSN was controlled by ATP members; and that a grant to ATP-MSN was essentially a grant to ATP. As joint Treasurer of ATP/ATP-MSN she had used DAS funds provided in a sub-grant to ATP-MSN to pay ATP expenses.

After ten years of dealing with a prior DAS administration that adhered to requirements and procedures intended to assure that DAS funds were properly used, ATP representatives worked to have Kane-Cavaiola appointed to a position in government where she could influence policies affecting ATP and its members and even assure less onerous but more generous treatment to ATP members seeking DAS funds. Kane-Cavaiola was aware that ATP representatives took credit for getting her the job of Assistant Commissioner of DAS. Further, after her appointment, Kane-Cavaiola allowed ATP representatives to continue their efforts on her behalf. They made her aware of, and she did not object to, their aggressive campaign with

government officials to have her promoted from Assistant Commissioner to Deputy Commissioner of DAS and to have her speak for the Governor on addiction issues, a change that would have heightened her power and status and her ability to benefit ATP, ATP-MSN, and their representatives.

During OIG's interviews, Kane-Cavaiola acknowledged that at the time she became Assistant Commissioner of DAS, she was aware of the possibility of an appearance of a conflict of interest between her role as Assistant Commissioner of DAS and her relationship with ATP, ATP-MSN, their representatives, and ATP member organizations with whom she had a prior relationship. The evidence reveals that she did nothing to dispel that appearance. On the contrary, she provided favorable treatment to ATP, ATP-MSN, and their representatives. She gave representatives of ATP (the trade/advocacy organization) extraordinary and unequalled access to her and her staff. She met privately with key ATP representatives at least monthly. She also held monthly meetings with ATP representatives and her top level staff. She allowed ATP representatives to control the agenda and external invitation list for these meetings. The evidence indicates that Kane-Cavaiola took direction from ATP representatives, discussed internal and external policy with ATP representatives, and funded ATP's annual conference freeing up income that ATP had used to pay for these conferences to be spent on ATP's lobbying and other activities.

While Assistant Commissioner of DAS, Kane-Cavaiola did not recuse herself from DAS financial decisions involving ATP's alter ego, ATP-MSN. Instead, throughout her tenure, she remained in direct control of decisions providing ever increasing amounts of DAS funds to ATP-MSN. Although awarding DAS funds to ATP-MSN, she understood that it was ATP that controlled the DAS grant funds and that benefited from the DAS grants. DAS grants to ATP-MSN were discussed at the monthly DAS staff-ATP meetings.

The evidence gathered during OIG's investigation indicates that Kane-Cavaiola did not treat ATP-MSN objectively when awarding grants of DAS funds; and that ATP-MSN was not required to comply with procedures that had been required of other grant recipients in the past, procedures that were intended to assure that DAS funds were awarded for appropriate projects

and properly expended on those projects. For instance, the services described in grants to ATP-MSN should have been subjected to the public bidding process that would have provided some assurances that services were provided for the DAS funds expended, but they were not. The evidence indicates that \$7,700,000 was provided to ATP-MSN during the three years of Kane-Cavaiola's tenure as Assistant Commissioner of DAS based solely on her decision. Her decisions to award grants of DAS funds to ATP-MSN or to increase the dollar amount of grants throughout the grant year were often made and announced to her staff at the monthly DAS-ATP meetings and before ATP-MSN submitted an application describing the intended use of the funds.

Kane-Cavaiola's disregard for DAS procedures resulted in the erosion of DAS internal controls to the point that they were ineffective in protecting DAS funds from misuse by ATP/ATP-MSN. The normal processes for awarding grants were not followed, there was essentially no programmatic monitoring of the ATP-MSN grant, and there was minimal fiscal monitoring. The evidence reveals substantial misuse of DAS funds by ATP-MSN but does not reveal obvious benefits to DAS and its clients in return for the DAS funds Kane-Cavaiola provided to ATP/ATP-MSN.

ATP, on the other hand, benefited substantially as a result of Kane-Cavaiola's conduct. Through grants to ATP-MSN (the charitable alter ego), ATP (the trade/advocacy organization) had access to and used DAS funds to pay its expenses; ATP dues and other income, previously spent on its expenses, was freed up to be spent on other projects; including its lobbying projects, and ATP's membership almost quadrupled during the years of Kane-Cavaiola's tenure. It is reasonable to conclude that ATP's ability to boast of its influential relationship with the Assistant Commissioner of DAS contributed to that growth. ATP/ATP-MSN moved from a small office in Trenton to a new spacious headquarters in Cranbury, hired staff, leased vehicles, bought expensive office furnishing and equipment, and started a training business.

The financial awards to ATP and ATP-MSN grew steadily from an initial amount of \$75,000 to \$4,100,000 in the third grant year, 2005-2006. In awarding the 2005-2006 ATP-MSN grant, Kane-Cavaiola exhibited an arrogance of power and a complete disregard for the

structures in place to assure that public funds are properly utilized. The then Commissioner of DHS had authorized the use of the \$2,800,000 for an expansion of treatment programs for indigent intoxicated drivers. Without telling the Commissioner, Kane-Cavaiola re-directed the \$2,800,000 to the ATP-MSN 2005-2006 grant. She authorized ATP-MSN to keep for its own use at least \$224,000 of the \$2,800,000 without guidelines or restrictions for its use. She also authorized ATP-MSN to distribute the remainder (\$2,576,000) to treatment providers of ATP-MSN's choice, in amounts determined by ATP-MSN, for projects broadly described as barrier free or life safety capital improvements, also selected by ATP-MSN, all the while realizing that ATP was in control of ATP-MSN.

The grant to ATP-MSN contained no guidelines or parameters for how ATP-MSN was to distribute the funds to treatment providers, and there was no oversight of ATP-MSN's decisions. ATP-MSN did not comply with even the only criterion for distributing the \$2,576,000, that the funds be used to pay for barrier free and life safety improvements. Treatment providers were authorized by ATP-MSN to use the funds for construction of a group room, a workout room, and a laundry room, and one was authorized to purchase trailers for additional administrative space.

It was unprecedented in DAS history that a third-party was authorized to oversee the award of capital improvement funds to providers. Moreover, only a few months before making the decision to award the capitol improvement funds to ATP-MSN to distribute, Kane-Cavaiola had been warned in another matter by the Attorney General's office that she should not allow a grantee to participate in the process of awarding DAS funds to other grantees.

Given the lack of guidelines and oversight of the grant and ATP's control of the DAS funds provided to ATP-MSN, it was foreseeable that the DAS funds would be distributed almost solely to ATP members. Although at the time, ATP members represented less than one-half of the State's licensed treatment providers, ATP-MSN distributed 97% of the \$2,576,000 to ATP members. Of that amount, at least \$1,078,514 was committed to facilities of influential ATP members, including representatives who served on ATP and ATP-MSN Boards and those representatives who had taken part in the effort resulting in Kane-Cavaiola's appointment as Assistant Commissioner of DAS.

As Assistant Commissioner of DAS, Kane-Cavaiola did not do her duty to protect DAS funds, even when she had reason to believe that the funds were being misused by ATP-MSN, ATP, and their representatives. Prior to her appointment as Assistant Commissioner of DAS, she was aware of, and as joint Treasurer of ATP/ATP-MSN had participated in the misuse of DAS funds awarded to ATP-MSN (in a sub-grant) to pay ATP expenses. When appointed Assistant Commissioner of DAS, Kane-Cavaiola did not take steps to assure that the ATP/ATP-MSN practice ceased.

Further, on at least two occasions after her appointment as Assistant Commissioner of DAS, she was confronted with evidence that ATP/ATP-MSN representatives may have misused DAS funds. On both of those occasions, she failed to take any action to determine the extent of misuse and to prevent the misuse from recurring, and in one case, she appeared to sanction the misuse of ATP-MSN funds to pay ATP expenses by authorizing ATP-MSN to retain the misused funds. Information that should have caused an alarm at DAS about ATP/ATP-MSN's misuse of DAS funds to pay the lobbying group's expenses caused no reaction. Kane-Cavaiola's staff, who could have been alerted to react to the information had been misled about the true nature of ATP/ATP-MSN's conduct and the extent of it, and there were no negative consequences for ATP, ATP-MSN, or their representatives from their misuse of DAS funds. The investigation revealed that during Kane-Cavaiola's tenure as Assistant Commissioner of DAS, the misuse of DAS funds awarded to ATP's alter ego (ATP-MSN) continued, and substantial amounts of those DAS funds were used to pay ATP's -- the trade group -- expenses. The amount of the misuse will be reported in the OIG/DHS financial report issued separately.

The evidence gathered during OIG's investigation indicated that after Kane-Cavaiola's appointment, she may have been the only person at DAS who knew the true nature of ATP and ATP-MSN and the connection between them, who understood that DAS funds provided to ATP-MSN were vulnerable to misuse by ATP/ATP-MSN representatives, and who understood the extent of her relationship with and continuing connection to ATP, ATP-MSN, and their representatives. The evidence gathered during OIG's investigation indicates that Kane-Cavaiola

did not make this relevant information known to DAS staff that could have alerted DAS staff to the need to protect DAS funds from misuse by ATP/ATP-MSN representatives.

The degree to which her failure to take appropriate action was affected by ATP representatives' promotion of her self-interest and a desire that ATP continued to promote her career is difficult to know. She was made aware by ATP representatives of an aggressive campaign to promote her to Deputy Commissioner and give her more power. She did not object to the efforts because she wanted the job. It is reasonable to conclude, however, that ATP's conduct was aimed, at least in part, at influencing Kane-Cavaiola in discharging her official duties.

Kane-Cavaiola told OIG that she had a very different perspective than that of her predecessor on how DAS should be run and how addiction treatment providers should be treated by DAS. She called his the "no" administration and hers the "yes" administration. She described him as a bureaucrat mired in red-tape and described herself as "the bureaucracy buster".

Kane-Cavaiola's philosophy helps to explain the complete erosion of DAS internal controls during her administration that allowed the abuse of DAS funds to go unchallenged by DAS career employees in her Department. However, her philosophy does not explain the benefits she bestowed on ATP, the trade organization/advocacy group, including funds essentially awarded to ATP through its alter ego, ATP-MSN. Kane-Cavaiola's actions financially benefited ATP as an organization and helped it to achieve its goals: control of a DAS funded training program, establishing a training business, and expanding its membership and influence, all without any readily apparent return to DAS or its clients. It is not obvious that as a result of the DAS grants to ATP-MSN, there were any benefits to those suffering from addiction -- who should have been the ultimate beneficiaries of DAS funds -- that would not have otherwise been received.

The continuing symbiotic relationship between ATP/ATP-MSN representatives and Kane-Cavaiola had the potential to create the appearance of a conflict of interest between Kane-

Cavaiola's position as Assistant Commissioner of DAS and her relationship with ATP, ATP-MSN, and their representatives. Her actions in granting benefits to them could reasonably be expected to create an impression or suspicion among the public having knowledge of her acts that she might be engaged in conduct violative of her trust as a State employee.

The evidence indicates that the benefits to ATP and ATP-MSN were not warranted, that Kane-Cavaiola used her official position to secure these unwarranted benefits for ATP and ATP-MSN, and that she allowed ATP representatives to further her career, all conduct that could reasonably be perceived to have been intended to influence her official conduct. The weight of the evidence supports a conclusion that Kane-Cavaiola engaged in conduct violative of her trust as a State employee.

OIG's investigation focused on the relationship between Kane-Cavaiola and ATP, ATP-MSN, and its representatives and the unwarranted benefits provided to them. OIG did not conduct a comprehensive examination of the other grants awarded during Kane-Cavaiola's tenure. In the spring of 2006 a new DAS administration was put in place. Members of that administration have informed OIG that many of the grants awarded during Kane-Cavaiola's tenure reflect lack of accountability. It would not be surprising that Kane-Cavaiola's philosophy and her failure to value DAS procedures would result in unwarranted or improper benefits to other DAS funds recipients.



### III. BACKGROUND

#### A. Division of Addiction Services

DAS is responsible for coordinating and implementing the State's addiction related services and programs and for supporting and monitoring a wide variety of substance abuse prevention programs and treatment services. DAS budgets and distributes State and federal funds to many addiction programs and treatment providers that rely on government funds to operate and provide services. DAS is tasked with reviewing applications, preparing grant documents, and monitoring treatment provider expenditures and compliance with required State and federal regulations as well as other grant requirements. A treatment provider agency may have more than one facility but each facility must be licensed separately by DAS in order to receive DAS funds, and DAS is responsible for conducting licensure inspections and re-inspections to determine compliance with licensure standards for all residential substance abuse treatment facilities.

At the time of Kane-Cavaiola's appointment as Assistant Commissioner on September 16, 2002, DAS was a Division in the DHSS. Effective April 5, 2004, DAS was transferred to DHS. As OIG began its investigation, DAS employed 130 full time employees and 12 temporary employees. For fiscal year 2006, the DAS operating budget was \$130,000,000. We were told by DAS staff that after the transfer, they continued to operate as they had before the transfer. One major difference was that while DAS was in the DHSS, final approval of grants was at DHSS; and after the transfer to DHS, Kane-Cavaiola was the highest level official approving DAS grants.

DAS is not the only State entity charged with distributing State and federal funds to treatment providers. However, in the first six months of 2006, DAS had awarded approximately \$151,000,000 in 307 contracts to treatment providers and 49 Letters of Agreement for prevention services. As the lead officer in DAS, Kane-Cavaiola was entrusted with the responsibility to properly distribute DAS funds and had the duty to protect them.

B. Addiction Treatment Providers of New Jersey, Inc.

For more than 25 years, ATP has been a trade/advocacy organization whose members have included some but not all of New Jersey's treatment provider agencies who each have one or more licensed treatment facilities. ATP's stated mission "is to represent the interests of [its] members so they may meet the needs of all individuals affected by alcohol, tobacco and other drug abuse and addiction in New Jersey." Its activities include advocacy, lobbying, providing information to members, training, and conferences. At least as far back as 1996, ATP held general membership meetings several times a year attended by member organizations' representatives.<sup>8</sup> ATP's Board of Directors, elected by and from among these member representatives, met separately and more frequently; and ATP officers -- President, Secretary, and Treasurer -- were elected from among the Directors.

Kane-Cavaiola's employer<sup>9</sup> had been a longstanding member of ATP, and Kane-Cavaiola was her employer's representative to ATP beginning in 1979 and ending when she resigned her private sector position to take a position in State government in February 2002. During the years she represented her employer at ATP, Kane-Cavaiola held many ATP Board, officer, and committee positions.

ATP records indicate that for many years before Kane-Cavaiola's appointment as Assistant Commissioner of DAS, ATP struggled financially. ATP did not have staff because of a lack of funds to pay them and operational functions were performed by the member representatives or ATP hired consultants, such as public relations and lobbying firms, attorneys,

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<sup>8</sup> ATP members were almost all treatment provider organizations, each of whom was represented at ATP by an employee.

<sup>9</sup> According to Kane-Cavaiola's résumé, she is a licensed addictions treatment professional who began her career in 1975, shortly after earning her M.A. from Kean University. She was a longstanding employee of a Woodbridge municipal substance abuse program for adolescents, starting as a Day Program Supervisor and advancing to Executive Director. Following a 1986 merger of the program into JFK Medical Center, Edison, NJ, Kane-Cavaiola became Executive Director of the JFK Center for Behavioral Health. Later, following JFK's merger with Muhlenberg Regional Medical Center, she remained at JFK as Division Director, Outpatient Behavioral Health.

and accountants. ATP's operations, advocacy, and other activities were funded from two sources: membership dues and income from ATP annual conferences.

As of 2000, ATP dues for member agencies were increased from \$500 and \$1,000 per year to \$600, \$1,200, or \$2,400 per year depending on the size of the member organization. According to DAS records, the number of licensed treatment providers in New Jersey varied from year to year, but there has been a general increase in the number of licensed treatment facilities. In 2002, there were approximately 104 agencies representing one or more licensed treatment providers; and as of 2005, there were 125 agencies, each representing one or more licensed facilities. ATP records indicate that its paid membership numbered only about 28 agencies in 2000 and 24 agencies in 2001. In 2002, the year that one of ATP's officers, Kane-Cavaiola, was appointed Assistant Commissioner of DAS, ATP's membership more than doubled to 53 of the then existing 104 agencies; and during Kane-Cavaiola's tenure at DAS, ATP's paid membership continued to increase: 62 agencies in 2003; 70 in 2004; and 86 in 2005.

ATP supplemented dues income by holding an annual three-day conference for which ATP charged attendance fees and also received related income. OIG was told that the three-day conference in spring 2006 was the 29th annual multi-day conference. ATP records indicate that prior to 2003, the first year that conference expenses were fully funded by DAS, the conferences were, at best, only somewhat but not always profitable for ATP.

C. Associated Treatment Providers Management Services Network, Inc.

The evidence gathered during OIG's investigation demonstrates that ATP-MSN was conceived and structured by ATP representatives solely to allow ATP, an organization ineligible to receive DAS grants, to obtain DAS funding. The impetus was a DAS request for proposals that would award millions of dollars to the successful bidder.

1. Created by ATP to Win DAS Managed Care Contract

For many years, it has been DAS policy that grant recipients be charitable organizations (for federal income tax purposes, “501c(3)” organizations), and ATP, a trade organization (a federal tax “501c(6)” organization), was therefore not eligible to receive DAS grants. While both types of organizations are “tax free” under federal law, there are some important differences. A 501c(3) entity must serve a public purpose, its assets must be dedicated to a charitable purpose, it may engage only in an insubstantial amount of legislative activity, and it is prohibited from engaging in political activity. On the other hand, a 501c(6) entity can serve the business purpose of its members, there is no requirement that its assets be dedicated to a public purpose, it can engage in unlimited legislative activity as long as the activity furthers an exempt purpose, and it is allowed to pursue political activity. Having 501c(6) status allowed ATP to more freely pursue its lobbying, legislative, and political goals while changing its structure to a 501c(3) charitable status would have severely limited those activities.

In 1997, DAS requested proposals to provide managed care services -- evaluation of addicted clients and treatment referrals -- pursuant to Work First New Jersey legislation. The grant represented millions of dollars in operational funding and if ATP controlled the referrals, its members could hope to be the recipients of at least some of the treatment referral funds. Reportedly, twenty-three ATP members contributed between \$6,000 and \$10,000 each, for a total of \$182,000, as initial capital to fund an ATP effort to take advantage of the Work First grant and other potential managed care opportunities in the addiction treatment field.

Some of the ATP investors’ capital was used to create ATP-MSN, a charitable entity eligible to receive DAS grant funds. Kane-Cavaiola’s employer was one of the initial investors in ATP-MSN, and according to her résumé, she was a founding member of ATP-MSN’s Board.

ATP representatives submitted a proposal to win the Work First grant in the name of ATP-MSN. However, in April 1998, during the last stages of the competitive bidding process, DAS added an addendum to the bid requirements that disqualified ATP-MSN from competing for the grant. During interviews, the only explanation provided to OIG for the disqualification

was that DAS officials at the time considered ATP-MSN to be too closely associated with ATP, and therefore not truly a charitable entity. We were also told that DAS administration was concerned that such a provider agency would have a conflict of interest when providing prior authorizations for treatment by its membership agencies. The ATP investor representatives were disappointed and angry, and the dual ATP/ATP-MSN President sent a letter to the then DAS Assistant Commissioner criticizing him for misleading ATP into thinking that ATP-MSN was eligible for the grant.

The remaining investor capital was used to fund largely unsuccessful efforts to obtain grant funds (none from DAS) in the name of ATP-MSN, and ATP members received essentially no return on their investment.

## 2. ATP-MSN Obtains DAS Funds Through Sub-Grant

The initial capital was almost entirely exhausted when, as described immediately below, in 2001, ATP's then President negotiated a sub-grant through a DAS direct grantee to run a small program, the Professional Development Initiative (PDI). This sub-grant has significance to OIG's investigation for several reasons, and therefore, a brief description of the PDI sub-grant and other relevant facts follows.

In 1998, DAS recognized that a large number of addiction treatment providers were not in compliance with a requirement that 75% of their counselors be Certified Alcohol & Drug Addiction Treatment Counselors (CADCs).<sup>10</sup> Training was available, but treatment providers' staff counselors were not taking advantage of it. The then Assistant Commissioner of DAS funded the PDI to provide "scholarships" to pay for the 270 hours of classroom instruction required for certification for counselors working in DAS-funded residential treatment agencies.

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<sup>10</sup> Licensure as a CADC is governed by the Alcohol and Drug Counselor Licensing and Certification Act, NJSA 45:2D-1 et seq. An individual must have (1) 300 hours of supervised practical training; (2) two years of supervised work experience; (3) 270 hours of alcohol and drug addiction specialized training pursuant to an established curriculum; (4) attend alcohol and drug abuse self-help group meetings; (5) successfully complete an oral examination; and, (6) successfully complete a written examination. There was a three year grace period in which licensed providers could meet the 75% requirement.

ATP representatives saw this as an opportunity to enter the training business as a source of income and asked DAS for a grant of \$345,000 to administer the PDI. DAS did not award the PDI grant to ATP or ATP-MSN. Instead, in mid-2001, the PDI program was added to an existing DAS contract with another agency that had been a direct recipient of DAS funds and with whom DAS had an ongoing relationship. The then Assistant Commissioner of DAS did agree to a sub-grant between that organization and ATP-MSN allowing ATP-MSN to administer the PDI.<sup>11</sup> The sub-grant was for \$200,000: \$85,000 in administration fees and \$115,000 in program expenses (chiefly scholarships).

The terms of the sub-grant contained detailed performance and reporting requirements. ATP-MSN did not conduct the actual training. Instead, it was responsible for administrative functions: promoting the scholarship program; establishing and maintaining a database to track the progress of each student; and in order to justify the grant, submitting progress reports on the courses taken by each student, the dates and locations of those courses, the number of credit hours earned by each student, and the number of credit hours needed to complete the requirement. ATP-MSN was also responsible for paying with sub-grant funds the invoices submitted by the organization that DAS had designated to conduct the training. ATP-MSN was required to assure that 40 students each receive 270 hours of required training per year (a total of 10,800 hours).

The then ATP President asked an ATP Board member, who had recently lost his job with a treatment provider, to take the job as the Executive Director of ATP-MSN and administer the PDI.<sup>12</sup> The sub-grant limited the Executive Director's salary to \$66,000 from the \$85,000 in PDI funds designated for grant administration.

There was no direct relationship between DAS and ATP or ATP-MSN. The DAS funds were paid to ATP-MSN through the direct grantee, and ATP-MSN reports were submitted to the

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<sup>11</sup> The former DAS Assistant Commissioner told OIG that he agreed to the sub-grant to ATP-MSN because ATP had an ongoing relationship with a number of the treatment providers, and he was hopeful that ATP's support for the program would likely cause treatment providers to urge their counselors to take advantage of it.

<sup>12</sup> He remained Executive Director of ATP and ATP-MSN until after OIG's investigation began and a new DAS administration terminated the grants to ATP-MSN.

direct grantee. The evidence indicates, however, that during the two years of the sub-grant, there was little if any oversight of ATP-MSN's performance under the sub-grant or of its expenditure reports.

### 3. ATP-MSN – Alter Ego of ATP

The evidence gathered during our investigation indicates that from its inception, ATP-MSN functioned as an alter ego of ATP, and the distinctions between ATP and ATP-MSN were few and existed only on paper. This relationship was the mechanism by which ATP, an entity ineligible to receive DAS grants, gained access to DAS grant funds and misused them to pay ATP expenses. A grant to ATP-MSN, the on-paper-charitable entity eligible to receive grants, was, in essence, a grant to ATP, the non-grant-eligible organization. The evidence also reveals that Kane-Cavaiola was aware of the misuse of DAS funds to pay ATP expenses both before and after her appointment as Assistant Commissioner of DAS.

ATP Board and general membership meeting minutes make clear that ATP representatives controlled ATP-MSN, and that ATP representatives continued to exercise the same control over ATP-MSN and its sub-grant funds that it had when the latter was run using ATP investor funds.

ATP-MSN did not have members or membership meetings, and it did not hold separate Board meetings until October 2003. ATP and ATP-MSN business was discussed at ATP meetings. Even as late as 2005, there was substantial overlap in the composition of the two Boards; the two organizations regularly held joint Board meetings; and ATP and ATP-MSN business continued to be discussed at the meetings of both Boards as well as at the ATP general membership meetings. Although ATP and ATP-MSN meeting minutes reveal discussions, particularly in more recent years, about the necessity to separate the two organizations, and some steps were taken in that direction, the evidence indicates that ATP representatives were reluctant to relinquish control of ATP-MSN. Even as OIG's investigation began, the two entities were not truly separate.

While the organizations had separate bank accounts and tax returns, the accounts for both entities were at the same bank, and most of the authorized signatories of ATP checks were also authorized to sign ATP-MSN checks. The organizations retained the same accountants, lawyers, and public relations firms. For several years, the same individuals served simultaneously on the ATP and ATP-MSN boards and held the same officer positions with each entity.

When the ATP-MSN Executive Director was hired in the spring of 2001 to administer the PDI sub-grant, he was also named Executive Director of ATP. He worked for both entities and reported on his work for both entities to the ATP Board and General Membership. Most importantly, there was no effort to separately track the time he spent working on the PDI from the time he spent working on ATP projects, and his entire salary was paid with sub-grant funds. At the time, Kane-Cavaiola was joint Treasurer responsible for financial matters for both organizations, and she used the DAS sub-grant funds to pay ATP and ATP-MSN expenses -- including the shared Executive Director's entire salary.

During OIG's investigation, Kane-Cavaiola acknowledged that she had paid the shared Executive Director's salary entirely with DAS funds even though she had understood that ATP expenses should not have been paid out of grant funds. Her explanation for using the sub-grant funds to pay ATP expenses was that she thought of the two organizations as one organization and that no one told her not to use sub-grant funds to pay ATP expenses. The evidence indicates that Kane-Cavaiola's misuse of DAS funds to pay ATP expenses was not made known to DAS until uncovered during OIG's investigation.

As Kane-Cavaiola was appointed Assistant Commissioner of DAS, ATP and ATP-MSN representatives made some minor adjustments in their banking procedures -- apparently in anticipation of ATP-MSN being awarded direct grants of DAS funds. However, the distinctions between ATP and ATP-MSN were still not clearly drawn, and the entities continued to operate as one. There was never an effort to track the amount of time the Executive Director spent working for each entity, and all or a disproportionate share of his salary continued to be paid from grant funds. When additional staff was hired, they too worked both on ATP and on ATP-



MSN projects, but no effort was made to distinguish how their time was spent, and all or a disproportionate share of their salaries were also paid with grant funds.

There continued a general blurring of the two organizations even up to the time of OIG's investigation. The two organizations were often referred to as if they were one and the same by member representatives, DAS staff, and outsiders as well. During OIG's interviews, the grantee organization, ATP-MSN, was very often referred to as "ATP". Some DAS employees responsible for the ATP-MSN grants told OIG that they did not understand that ATP and ATP-MSN were two separate entities. As recently as spring 2006, the ATP/ATP-MSN Executive Director stated publicly that there was considerable "confusion" between the two organizations, attributing the confusion to their similar names. However, OIG's investigation revealed the far more significant reasons, described above, for the lack of perceived distinction between the two organizations. Moreover, the resistance of the ATP member representatives to separating the two organizations and the benefit that ATP derived from its control of ATP-MSN indicates that the blurring of the organizations was intended by the member representatives.

#### IV. ANALYSIS OF EVIDENCE OF CONFLICTS OF INTERESTS

There were several circumstances that could have created the appearance of a conflict of interest between Kane-Cavaiola's duties as Assistant Commissioner of DAS and any decisions she made while in that official position that benefited ATP and ATP-MSN. These included her longstanding professional and controlling relationship with ATP and ATP-MSN; efforts by ATP/ATP-MSN representatives resulting in her appointment as Assistant Commissioner of DAS; and the continuing efforts by ATP/ATP-MSN representatives to promote Kane-Cavaiola's career while she served as Assistant Commissioner of DAS. Kane-Cavaiola acknowledged that there was the potential for an appearance of a conflict of interest when, as Assistant Commissioner of DAS, she was involved in making decisions benefiting ATP, ATP-MSN and their representatives.

##### A. Kane-Cavaiola's Relationship with ATP and ATP-MSN

Kane-Cavaiola's relationship with ATP, ATP-MSN, and their representatives was substantial and of long duration. As described earlier, beginning in 1979, Kane-Cavaiola was her employer's representative to ATP and actively involved in the operations of the organization and in formulating policies until she resigned in February 2002 to take a position in State government. Documents gathered during OIG's investigation, including Kane-Cavaiola's résumés, ATP and ATP-MSN tax returns, and ATP and ATP-MSN meeting minutes indicate that at a minimum, she held the following leadership positions with ATP and with ATP-MSN:

- Member of the ATP Board of Directors for many years including at least from 1995 through 1997, and again from 2000 until early 2002.
- President of ATP from 1979 to 1982 and again from 1986 to 1987.
- One of five founding Board members of ATP-MSN in 1997.
- Member of the ATP-MSN Board from 1997 until early 2002.
- Vice-President and Chief Operating Officer of ATP-MSN from 1997 to 2000.
- President of ATP-MSN in 2000.
- Treasurer and Secretary of both ATP and ATP-MSN from 2000 until early 2002.
- Authorized signer of checks drawn on ATP and ATP-MSN checking accounts for many years, including her years as Treasurer.
- Chairperson or member of several important ATP committees including:
  - Committee to investigate and seek managed care opportunities for ATP.
  - 2001 Committee to hire Executive Director for ATP/ATP-MSN.

- Legislative Committee.

- Contact person with ATP's lobbying and public relations firms drafting position papers and promoting legislation and policies favorable to ATP's members.
- ATP representative at meetings with the then DAS Assistant Commissioner, legislators and other government representatives.
- Drafter of proposed legislation for which she estimated she was paid, at most, about \$20,000 by ATP.

This list is likely incomplete since we were provided only a partial record of ATP meeting minutes dating from 1996, and Kane-Cavaiola's résumés and the ATP and ATP-MSN tax returns provided do not list all of her leadership positions with the organizations.

The evidence, including meeting sign-in sheets and minutes, indicates that Kane-Cavaiola attended ATP General Membership meetings as well as ATP/ATP-MSN Board meetings and was present when goals -- including seeking increased membership, obtaining DAS funding, becoming more influential in the addiction treatment field, establishing a training/conference business, taking over the PDI, and others -- were discussed and that she was influential in developing those goals.

The duration and nature of Kane-Cavaiola's relationship to ATP, ATP-MSN, and their representatives had the potential to create the appearance that she had conflicts of interests when, in her official capacity as Assistant Commissioner of DAS, she made decisions that benefited those organizations.

B. ATP Efforts to Change DAS Administration

An allegation in the anonymous letter was that ATP representatives contributed to the gubernatorial campaign fund of James McGreevey and when McGreevey won the election, they used their support as leverage to have Kane-Cavaiola appointed Assistant Commissioner of DAS. The letter stated that after it was known that Kane-Cavaiola would be appointed Assistant Commissioner of DAS, ATP representatives publicly stated that ATP representatives were responsible for her appointment. The letter concluded that in return for the support of various ATP representatives, Kane-Cavaiola provided unwarranted benefits to ATP/ATP-MSN.

Therefore, OIG attempted to determine whether ATP representatives undertook efforts to have Kane-Cavaiola appointed Assistant Commissioner of DAS.

1. ATP Hostility Toward Prior DAS Administration

The evidence gathered during OIG's investigation revealed a strong motivation on the part of ATP/ATP-MSN representatives to campaign to have Kane-Cavaiola appointed Assistant Commissioner. Kane-Cavaiola told us that she, as well as most of the addiction treatment provider community, did not believe that they were well-treated during the decade of DAS administration prior to her appointment.<sup>13</sup> ATP meeting minutes corroborate that many influential ATP member representatives shared her views and were increasingly angered and frustrated by the previous DAS administration.<sup>14</sup>

Some ATP members held a grudge against the prior Assistant Commissioner of DAS believing that he had unfairly interfered with ATP's efforts to raise funds and to become influential in the addiction treatment field and that he had actually caused ATP members to lose money. Most significant was the belief that he had unfairly interfered with the effort of ATP members to win the Work First grant. Some ATP members believed that he also unfairly limited the amount of ATP's sub-grant to administer the PDI. The joint ATP/ATP-MSN Executive Director told us that he believed that the then DAS Assistant Commissioner was throwing ATP "a bone" by allowing ATP-MSN to administer the PDI sub-grant after causing ATP-MSN to lose out on the Work First grant.

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<sup>13</sup> Kane-Cavaiola described the prior administration as the "gottcha" and "punishing" administration that would rather find providers breaking rules and have them suffer the consequences than help providers comply and continue to receive funding; focusing on "red tape" and bureaucracy rather than the best way to serve the needs to the addicted clients; and the "no" administration that would prefer not to provide funding to the treatment providers.

<sup>14</sup> The references to the perceptions of ATP representatives regarding the prior DAS administration are included to demonstrate the strength of their dissatisfaction since they are significant to ATP representatives' actions leading to a change in DAS leadership. They are also significant to Kane-Cavaiola's conduct after she became Assistant Commissioner of DAS. OIG does not comment on the validity of the perceptions.

## 2. Efforts on Behalf of Kane-Cavaiola

Some ATP representatives worked to bring about a change in the DAS administration and have “one of their own,” appointed to a position of influence in the State’s addictions treatment infrastructure, perhaps even into the position of Assistant Commissioner of DAS. Some thought that the best hope of achieving that change was to elect McGreevey governor since ATP representatives had a reasonable chance of access to him, including through Kane-Cavaiola.

Kane-Cavaiola told us that she met McGreevey in the early 1980’s and because they had much in common, they “connected”. When he served in the New Jersey State Assembly she always had access to him and during his term as mayor of Woodbridge, he appointed her to several addictions-related committees. She further stated that because ATP member representatives were aware of her relationship with McGreevey, when at an event that McGreevey attended, they always pushed her to the front of the crowd so that McGreevey recognized her, approached her, and engaged her in conversation.

According to Kane-Cavaiola, after the years of frustration dealing with the difficult DAS administration, several ATP member representatives agreed that it was time to let McGreevey know that they supported him, and to make the statement as a group at a breakfast gathering with the hope of influencing his decisions about DAS if he was elected. At the November 2000 event, seventeen ATP representatives contributed a total of \$20,000 to McGreevey’s gubernatorial campaign. At the request of the McGreevey campaign, ATP sponsored another breakfast for McGreevey in April 2001, and in ATP meeting minutes, the breakfast was described as a “full house” with substantial turnout from the membership entities.<sup>15</sup>

Shortly after McGreevey won the gubernatorial election, it was announced at the November 2001 ATP Board and General Membership meetings that an influential ATP member had been named to McGreevey’s transition team for DHSS. ATP Board meeting minutes reveal

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<sup>15</sup> ATP meeting minutes reveal that ATP representatives had approached McGreevey’s opponent to arrange a similar event, but do not reflect that the candidate accepted the invitation.

that the ATP Board selected Kane-Cavaiola to be the contact person with the transition team member. Kane-Cavaiola told OIG that she did not recall being appointed contact person, but that the transition team member had her résumé and that during the months after the election, she frequently spoke to him about any number of matters, including changes in DAS administration.

Kane-Cavaiola told OIG that she had been interested in becoming the Assistant Commissioner of DAS, but did nothing to obtain the job. She claimed that her first contact with the new administration about a position in government was when she was approached by the Director of McGreevey's transition team at a pre-inauguration party on January 14, 2002, and he asked for her résumé. Shortly thereafter, he told Kane-Cavaiola that if she would set up a family advocate program, after six months, she would be appointed Assistant Commissioner of DAS.

Kane-Cavaiola agreed and told ATP representatives about her appointment. She resigned from her private sector job, probably on February 8, 2002, and later that month, she resigned as ATP and ATP-MSN Treasurer and from the ATP and ATP-MSN Boards. Kane-Cavaiola told us, however, that she continued to meet with ATP member representatives during the six months prior to being appointed Assistant Commissioner, and, as described below, her conduct as Assistant Commissioner of DAS indicates that she never fully severed her ties with ATP and ATP-MSN.

### 3. ATP Members Take Credit for Kane-Cavaiola's Appointment

The ATP/ATP-MSN Executive Director told us that ATP member representatives made an effort to put Kane-Cavaiola in an influential government position in State government, if not Assistant Commissioner of DAS, some position where she would have a "voice". As for the Assistant Commissioner position, the Executive Director told us that he believed that Kane-Cavaiola had the ability to do the job, that she wanted it, and that there was no one in ATP more qualified or who had a better chance of getting it.

Reportedly, two ATP member representatives, both of whom had contributed to McGreevey's campaign, including the ATP member described above who had served on the

DHSS transition team, publicly stated that ATP representatives had been responsible for Kane-Cavaiola's appointment to the position of Assistant Commissioner of DAS. The ATP/ATP-MSN Executive Director told us that "every time" he heard the transition team member make this statement, he told him to "shut up" because it demeaned Kane-Cavaiola's abilities.

However, the ATP/ATP-MSN Executive Director himself furthered the perception that ATP representatives were responsible for her appointment. In a letter to ATP members a year after her appointment to Assistant Commissioner of DAS, the Executive Director wrote about Kane-Cavaiola's appointment saying that for the first time, there was a treatment professional in the office of Assistant Commissioner of DAS and that "Governor McGreevey kept his promise to us to recognize the consummate professional." Further, in a February 9, 2006, e-mail urging that Kane-Cavaiola remain in the position of Assistant Commissioner of DAS in the new administration, the ATP/ATP-MSN Executive Director wrote: "we worked hard to get her into that position".

The actual efforts that ATP representatives made on Kane-Cavaiola's behalf are not as important to this analysis as what Kane-Cavaiola knew of their efforts and a belief on her part that she owed or even might have owed her position to those efforts. The evidence indicates that the Executive Director and the ATP representatives wanted her to believe that they were responsible for her appointment. Copies of both letters described immediately above were found in Kane-Cavaiola's files in her office. Kane-Cavaiola told OIG that she was aware that ATP representatives were taking credit for her appointment, but she dismissed their claims as bragging and puffery.<sup>16</sup> She acknowledged that she had heard from a member of her staff that

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<sup>16</sup> During our investigation, Kane-Cavaiola gave us a copy of a letter that purported to be written by an individual who had publicly taken credit for her appointment as Assistant Commissioner of DAS and who is reported to have been a friend of the prior Assistant Commissioner. The letter, dated January 28, 2002, was written to the newly appointed Commissioner of DHSS, the Department that included DAS at the time. The writer praised the then Assistant Commissioner of DAS and recommended that he be retained in the position in the McGreevey administration. Kane-Cavaiola told us that she believed that this letter discredited reports that the letter writer had taken credit for her appointment. She could not recall when she first saw the letter, but claimed that she was aware at the time that individuals were campaigning on behalf of the then Assistant Commissioner to retain his position.

If in fact, the letter is what Kane-Cavaiola represented it to be and it preceded her appointment (it appears that it may have been written after Kane-Cavaiola had been told that she had the job), there is more than one inference that can reasonably be drawn from the contents and timing of the letter. For instance, the letter writer could have been hedging his position by supporting two candidates for Assistant Commissioner; maintaining his friendship by this

an ATP member representative had told him that ATP was responsible for her appointment, and she dismissed the possibility. She also told OIG that both before and after her appointment was announced, she believed that ATP representatives were bragging to her staff that after Kane-Cavaiola's appointment was effective, the ATP representatives would be in a position of power at DAS and that there would be changes in the way DAS was treating ATP members. Another DAS staff member told us about having heard two ATP representatives take credit for Kane-Cavaiola's appointment as Assistant Commissioner.

Kane-Cavaiola told us that she believed that she obtained the Assistant Commissioner position based on her own merit and not at all because of the efforts of ATP representatives. Her statement is self-serving and not credible in the face of the evidence that efforts were made by ATP representatives on her behalf, that she was aware of their efforts on her behalf, and the manner in which her appointment materialized in spite of her claim to have done nothing to bring it about -- not even applying for the job. Her assertion would be more credible if she simply said that she could not be certain what factors contributed to the decision to appoint her, including the efforts of her co-ATP representatives.

That having been said, Kane-Cavaiola's knowledge that ATP representatives had used their efforts to have her appointed Assistant Commissioner of DAS as well as her staff's knowledge that ATP representatives might have been somewhat responsible, both had the potential to create the appearance that she had a conflict of interest when making decisions as Assistant Commissioner of DAS that benefited ATP, ATP-MSN, and their representatives.

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show of support for the then Assistant Commissioner; or attempting to influence the then Assistant Commissioner's decision making while he remained in the position until September 2002. The existence of the letter does not alter the point that Kane-Cavaiola could reasonably believe during her tenure at DAS that ATP members had influenced the decision to appoint her Assistant Commissioner.



C. Continuing Efforts by ATP Representatives on Behalf of Kane-Cavaiola

ATP representatives' efforts to promote Kane-Cavaiola's career continued after she was appointed Assistant Commissioner of DAS, and their efforts had the potential to affect her objectivity when she made official decisions regarding ATP and ATP-MSN. Documents from Kane-Cavaiola's office files at DAS and from ATP files indicate that ATP conducted an aggressive and extensive campaign to promote her position and to enhance her power. They reveal efforts to have all addiction treatment funding (including that then currently handled by other government agencies) moved to her control, to have her and her position elevated from Assistant Commissioner to Deputy Commissioner reporting directly to the Commissioner, and to have the Commissioner and the Governor recognize her as their voice on addiction issues. Excerpts of some these letters are found in Appendix A of this report.

It is not unusual that representatives of an entity like ATP would attempt to influence government leaders regarding issues important to the group's members. Indeed, that was part of their advocacy/lobbying role and presumably a reason why members paid dues to the organization. It is even foreseeable that ATP members would want to campaign to solidify Kane-Cavaiola's power because they viewed her as treating them favorably and understanding their perspective. However, other evidence tends to indicate that ATP representatives may have had an additional motivation.

Numerous written ATP efforts were directed at promoting Kane-Cavaiola personally, referring to her by name and urging that *she* be promoted. OIG found many of ATP's written efforts to advance Kane-Cavaiola's career in her files at DAS, indicating that ATP took steps to provide them to her and to assure that she was aware of ATP's efforts on her behalf. Kane-Cavaiola was even asked to edit some of them. The fact that Kane-Cavaiola was made aware that so many written praises were sent to influential government representatives -- the Governor, the Commissioner of her Department, Legislative representatives -- who had control over her career reasonably gives rise to an inference that ATP representatives also hoped to influence her in the performance of her official duties. ATP's efforts on behalf of Kane-Cavaiola continued throughout her tenure.

During an OIG interview, Kane-Cavaiola told us that she was aware of some of ATP's efforts, but did not believe that she was aware of them all. Although she told OIG that she only saw the writings after they were sent and denied that she was given an opportunity to edit them, e-mails from the writer found in her files show that she was asked to edit some before they were sent. Kane-Cavaiola also told OIG that she considered the number of letters using her name to be "unseemly" and she initially asked the ATP representative to stop using her name. However, she acknowledged that she ceased her objections to the use of her name. She explained that she believed that the head of DAS should have greater status than that of Assistant Commissioner, and she supported the effort to change the title to Deputy Commissioner. She said that if the position was elevated, she did not want to be out of a job or have a new boss and she wanted to be the Deputy Commissioner.<sup>17</sup>

D. Kane-Cavaiola Acknowledges Potential Appearance of Conflict of Interest

During an interview, Kane-Cavaiola told OIG that when she was appointed Assistant Commissioner of DAS, she was aware of the possibility of the appearance of favoritism or lack of objectivity in her conduct toward entities like ATP and ATP-MSN with whom she had a prior relationship. She told OIG that in order to dispel the appearance that her decisions regarding organizations with whom she had a prior relationship were the result of favoritism, she instructed her chief fiscal officer to be extra vigilant in enforcing DAS procedures for any grants for those groups, including ATP-MSN. She also said that she made certain that the chief fiscal officer was aware that she had a prior relationship with ATP and ATP-MSN, that ATP was a trade/lobbying entity separate from ATP-MSN (the grant recipient), and the relationship between the two entities.<sup>18</sup> The evidence indicates, however, that these assertions about what she had told her chief fiscal officer were fabricated.

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<sup>17</sup> As noted earlier in this report, the lead position in DAS was not elevated to "Deputy Commissioner", and under the administration of Commissioner Ryan, it was changed from "Assistant Commissioner" to "Director".

<sup>18</sup> Kane-Cavaiola told OIG that she did not inform the DAS Service Director who was responsible for programmatic oversight of ATP-MSN grants about the relationship between ATP and ATP-MSN because she did not believe that it was something that the Service Director would have to know to perform her job.

During an OIG interview, the DAS chief fiscal officer during most of Kane-Cavaiola's tenure (to whom she was referring and who had retired several months prior to OIG's investigation) denied that Kane-Cavaiola had ever told him to be extra vigilant regarding grants to ATP or ATP-MSN. He said that Kane-Cavaiola had never said anything like that to him. The former chief fiscal officer said that he understood that ATP and ATP-MSN were separate organizations but closely related and that he had this understanding from the prior Assistant Commissioner who preceded Kane-Cavaiola in the job. He said that from the prior Assistant Commissioner, he had learned that both organizations were non-profits but he did not understand why ATP-MSN was a grant recipient and ATP was not.

Kane-Cavaiola's (now retired) chief fiscal officer also told OIG that while working for Kane-Cavaiola, he was aware that she had been a "member" of ATP/ATP-MSN, but he did not know the degree of her connection with the organizations until during our interview. More particularly; he said that he had never been told that she had been an officer and a Board member of the organizations for a substantial period of time and the Treasurer of both organizations when ATP-MSN was receiving sub-grant funds. He volunteered that perhaps it would have been better if Kane-Cavaiola had recused herself from DAS decisions involving ATP and ATP-MSN.

## V. ANALYSIS OF EVIDENCE OF UNWARRANTED BENEFITS

The evidence indicates that rather than take steps to avoid the appearance of a conflict of interest, Kane-Cavaiola never truly severed her ties with ATP, ATP-MSN, and their representatives. Instead, she continued an ongoing symbiotic relationship with ATP/ATP-MSN representatives. She provided unwarranted benefits to the organizations and conducted herself in a manner that invited criticism that she was not acting in the best interests of DAS in her dealings with ATP or its alter ego, ATP-MSN.

### A. Non-Financial Benefits

Some of the benefits Kane-Cavaiola afforded ATP, ATP-MSN, and their representatives were non-financial.

#### 1. Monthly Meetings with ATP Board and Executive Director

Kane-Cavaiola afforded ATP and ATP-MSN representatives unequal access to her and her staff. Starting within a month of her appointment and continuing throughout her tenure as Assistant Commissioner of DAS, Kane-Cavaiola invited ATP leadership to meet monthly with her. During interviews, Kane-Cavaiola described these meetings as a continuation or a resumption of the ATP meetings with DAS started by the prior Assistant Commissioner.

The evidence, however, indicates that her predecessor's meetings with ATP representatives were significantly different from the meetings she had with them. Although the evidence indicates that in 1999, the then Assistant Commissioner of DAS agreed to meet regularly with ATP representatives, ATP meeting minutes reveal that the meetings were generally unsatisfactory from ATP representatives' perspective. The meetings were often canceled, they were attended only by the Assistant Commissioner and one or two of his top level managers, ATP representatives often felt that decisions made at these meetings were later rescinded without notice, and there was a sense that the meetings were a meaningless waste of

time. Minutes from the August 2001 ATP General Meeting demonstrate the frustration of ATP leadership regarding these meetings with the prior Assistant Commissioner of DAS:

The ATP-DAS meeting of August was unsatisfactory, as we spent considerable length of time on DAS monitoring issues, especially counting issues .... [DAS's] insistence on micromanaging programs on grant issues continues to take up significant amounts of time and energy that could be spent on finding ways to better treat our clients.

\* \* \*

There was a general sense of anger and frustration as ATP continually fights with DAS over the same issues, such as indigency, salaries and bonuses, licensure standards, DAS micromanagement. The stress on the system because of underfunding and micromanagement is becoming more acute.

The DAS-ATP meetings held by Kane-Cavaiola were decidedly more favorable from ATP's point of view. They were regularly scheduled, rarely canceled, took place in the DAS conference room, were attended by all of Kane-Cavaiola's top level DAS managers and other DAS staff who might be relevant to the agenda. Kane-Cavaiola allowed ATP to control the external invitation list and the agenda. Matters relevant to the addiction treatment field as well as to ATP-MSN grants were discussed.

A very significant difference between the meetings the prior DAS Assistant Commissioner had with ATP representatives and those Kane-Cavaiola had with them was that Kane-Cavaiola's were preceded by an early morning private meeting attended only by her, the ATP Executive Director, and two other influential ATP representatives. Kane-Cavaiola admitted to OIG that at these private meetings, she discussed matters with the ATP representatives that would then be communicated to her staff at the DAS-ATP meeting<sup>19</sup>, but there was apparently no record kept of matters discussed at these early morning private meetings.

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<sup>19</sup> According to Kane-Cavaiola, this indicated that there was "nothing secret" about what was discussed at the breakfast meeting, but her argument is flawed. There was no record of what was discussed at the breakfast meeting and no way to be sure that there were not secret discussions, and that decisions were not made or influenced "in secret", outside the presence of her staff and with only the beneficiaries' input.

Kane-Cavaiola also told OIG that as Assistant Commissioner of DAS she met monthly only with the ATP leadership because they were the voice of the treatment providers. However, ATP counted less than one-third of the licensed treatment provider agencies as dues paying members at the time her appointment was announced.<sup>20</sup> In addition, the Commissioner's Professional Advisory Committee (PAC) was available for this purpose.<sup>21</sup>

While relevant to demonstrate the continuing relationship between Kane-Cavaiola and ATP representatives, these meetings also provided a significant benefit to ATP.

## 2. ATP Recommendations Adopted

### a. Hiring Decisions Influenced

The evidence indicates that at the DAS-ATP monthly meetings, ATP was able to influence DAS policy. According to August 2002 ATP meeting minutes, when ATP representatives learned that Kane-Cavaiola's appointment as Assistant Commissioner of DAS would be official on September 16, 2002, they prepared suggestions for her administration. One suggestion was influencing the reorganization of DAS, especially encouraging the hiring of "treatment-experienced people."

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<sup>20</sup> As discussed, *infra*, the number of paid ATP members grew during Kane-Cavaiola's tenure as Assistant Commissioner of DAS, but it is likely that the growth was at least in part the result of Kane-Cavaiola's treatment of ATP that the organization was able to use in its promotional efforts.

<sup>21</sup> According to the bylaws in effect during the time that Kane-Cavaiola served as Assistant Commissioner of DAS, the purpose of PAC was to: (i) "make recommendations pertinent to alcoholism drug abuse and other addictions to the Commissioner of Health through DAS;" (ii) "assist and advise DAS in the development of annual statewide and regional comprehensive planning, based on needs assessment and priorities for alcoholism, drug abuse and addiction services;" and, (iii) "gather information from consumers, professional groups and the public-at-large, provide client advocacy, help assure appropriate linkages between various components of the service delivery systems, [and help] to advance the 'State of the Art.'" PAC consists of members who are representatives of the primary state-wide alcoholism/drug abuse organizational associations, *e.g.*, long term residential and halfway houses. Members were appointed by the Commissioner of Health and the bylaws provide that meetings were to be monthly. DAS personnel report that the PAC was formally organized in 1993 by Bruce Siegel, MD, MPH, who served as Commissioner of Health at that time, but that the PAC existed as an informal body prior to that time. The "newly constituted PAC" held its first meeting on April 2, 1993 and adopted bylaws on July 23, 1993.

Kane-Cavaiola told us that at the start of her term as Assistant Commissioner of DAS, she met monthly with PAC but unlike her meetings with ATP representatives, attendance at these meetings dropped off and she recognized that the members were not interested in attending. Therefore, she told them she would meet with them less often.

Kane-Cavaiola was immediately responsive to the suggestion. One of her first official acts was to hire the then President of ATP/ATP-MSN (who was also the Executive Director of a treatment provider agency) as her Deputy Director in charge of Treatment Services. She announced the appointment immediately even though it was not effective until January 2003 when he would resign from the ATP and ATP-MSN boards. The early announcement enabled the ATP Executive Director to reference the appointment in a December 2002 letter to ATP members urging them to renew memberships. He wrote:

The [ATP] successes in 2002 include seeing the appointment of two officers of [ATP] to the highest positions in [DAS]. Carolann Kane-Cavaiola, Assistant Commissioner, was the treasurer of ATP for many years and ... the new Deputy in charge of treatment, is President of ATP until he takes his new position at DAS in January.

The evidence indicates that during her tenure, Kane-Cavaiola hired other ATP representatives to positions in DAS.

b. Ability to Influence DAS Policy

In the December 2002 letter, the ATP/ATP-MSN Executive Director also listed some of the changes that “Carolann has approved” in her three month tenure “with the urging of [ATP]”, including changes that ATP members had been promoting for years. Evidence that these meetings were an opportunity for ATP to influence Kane-Cavaiola’s decision making was found in an April 2005 memorandum she wrote to the Commissioner of DHS:

[DAS] formulated a blue print during the first six (6) months of my tenure (September 2002 – March 2003) in collaboration with key stake holders at six (6) monthly meetings.

Further supporting the conclusion that ATP was instrumental in helping to shape Kane-Cavaiola’s “message [that] became the basis for all of [my] talking points from that time forward”, was her acknowledgement that she presented this “blueprint” at the annual ATP conference in April 2003.

c. Establishing a “Collegial” Relationship

Another ATP suggestion for Kane-Cavaiola at that first monthly meeting was: “Encouraging a more collegial and collaborative relationship [with DAS].” This goal was also quickly met. In the December 2002 letter, the ATP/ATP-MSN Executive Director wrote, “We ... are pleased to report that the personal relationship between [DAS] and [ATP] is strong.”

The minutes of the ATP-MSN Board meeting on September 29, 2004, reflect that the collegial relationship was so strong that it was attracting adverse attention. At that meeting, “There was a lengthy discussion about the perception that ATP and ATP-MSN were too closely aligned with DAS and Carolann.” Someone at the meeting responded: “... the goal of our field was to re-establish greater cooperation and collegiality with DAS after 10 years of the previous leadership. This has been accomplished and we ought not be apologetic about it.” Kane-Cavaiola told OIG that no one from ATP/ATP-MSN made the criticism known to her and that she was unaware of it.

d. Mechanism for Increasing ATP Membership

ATP representatives obviously considered these meetings with Kane-Cavaiola a powerful mechanism to benefit their members and bragged about the access ATP had to the Assistant Commissioner in the December 2002 letter sent to members encouraging them to continue their membership. The ATP Executive Director wrote:

Most importantly, [Kane-Cavaiola] has recognized ATP as the single voice representing treatment in New Jersey and, as such, has requested to meet with ATP monthly.

In addition to publicizing the appointment of ATP leaders to important positions in DAS and the immediate changes in policy that ATP had thus influenced, the Executive Director also pointed out in the December 2002 letter that membership in ATP had almost doubled from 28 paid members in 2000 to 53 in 2002 (the year Kane-Cavaiola’s appointment was announced). In fact, ATP paid memberships had decreased to 24 in 2001, and thus, ATP’s paid membership had more than doubled in the year that Kane-Cavaiola’s appointment was announced.



It is reasonable to conclude that statements in the trade/advocacy organization's December 2002 letter to potential dues payers as well as ATP's continuing ability to boast of a strong relationship between ATP and the Assistant Commissioner of DAS, the unique monthly meetings with her, and the ability of ATP leadership to influence the Assistant Commissioner's policies all had a significant impact on the decisions of treatment providers to join or continue membership in ATP. During Kane-Cavaiola's tenure at DAS, ATP membership almost quadrupled to 86 in 2005 (the last year for which ATP provided us with paid membership data).

Kane-Cavaiola told us that she had not seen the December 2002 ATP letter before we showed it to her during an interview but said that that the ATP Executive Director's representations in it were accurate. She said that her only change to the letter would have been that instead of representing that the "personal relationship" between DAS and ATP was strong, she would have preferred that the ATP/ATP-MSN Executive Director had written that the "personal respect" between them was strong.

e. Opportunity to Influence DAS Staff

Kane-Cavaiola did not appear to have a concern about the impact these meetings had on her staff. The deference that Kane-Cavaiola showed to ATP representatives at these meetings could not have been anything but obvious to her staff. ATP's access to Kane-Cavaiola and ATP's involvement in developing policies and decision making led some DAS employees to tell us that they felt that ATP was running DAS. As described in the Section of this report discussing financial benefits to ATP and ATP-MSN, these meetings likely contributed to the lack of oversight of the ATP-MSN grants, particularly since staff assigned responsibility for ATP-MSN grants did not know the difference between ATP and ATP-MSN.

B. Financial Benefits

Kane-Cavaiola had several reasons to be concerned that her prior and current relationships with ATP, its alter ego ATP-MSN, and their representatives created the appearance of conflicts of interest when making decisions affecting those organizations. However, she did not take steps to avoid the appearance of a conflict of interests. Instead, the evidence indicates that she alone made the decisions to provide funds to ATP-MSN and in making those decisions, she ignored DAS processes that were in place to protect DAS funds. The evidence indicates that:

- She did nothing to assure that funds awarded to ATP-MSN would not be used to pay ATP expenses (as had been the practice during her tenure as joint ATP/ATP-MSN Treasurer).
- She did not assure that DAS procedures for awarding and monitoring grants were followed for grants to ATP-MSN. Although the types of services that ATP-MSN was supposed to provide in return for grant funds were the types of services that should have been subjected to the public bidding process, they were not.<sup>22</sup>
- All grants to ATP-MSN were awarded based on Kane-Cavaiola's direction and were often agreed to by Kane-Cavaiola before ATP-MSN even submitted an application for the funds indicating how the funds were intended to be used by the grantee.<sup>23</sup>

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<sup>22</sup> The Office of Contract Policy and Management ("OCP&M") directs contracts compliance for DHS. OCP&M has developed numerous training materials relied upon by DHS's various divisions and offices when obtaining items and services. Briefly, OCP&M materials distinguish between two types of contracts and contracting processes: those for services utilized by the State of New Jersey and those for services of benefit to DHS clients in the community. Contracts used by DHS to procure goods and services that are consumed by the divisions and offices to support their operational and administrative needs must be made in accordance with public contracting procedures. OCP&M notes that such contracts include the purchase of State vehicles, food for the institutions, training for staff, and consulting services.

In contrast, contracts to provide to DHS clients in the community can be awarded directly; that is, DHS need not issue an RFP. Such contracts are considered "third party" contracts, because the client, not the State is the consumer; the three parties involved are the client, the service provider, and the State acting as a third party on behalf of the client. Examples of third party contracts include group home care, respite services, day care services, mental health services, and addiction treatment services.

This direction is consistent with an Attorney General opinion in force for almost thirty years.

<sup>23</sup> Only one recent grant to ATP-MSN (the Drug Court grant), distinct from the recurring grant described *infra*, was subjected to the public bidding procedure.

- The DAS Service Director responsible for monitoring the ATP-MSN grants told OIG that every award to ATP-MSN was initially authorized by Kane-Cavaiola, often before the Service Director prepared a spending plan indicating how the recipient would use the funds, budget, or other documents.
- DAS procedures intended to ensure that DAS funds were properly used by the recipient (i.e., performance monitoring and performance reporting), were also ignored for ATP-MSN grants.
- Kane-Cavaiola did not act to protect DAS funds even when confronted with evidence that the same abuse that had occurred while she was joint Treasurer of ATP and ATP-MSN was continuing. In the face of evidence of abuse of DAS funds by ATP and ATP-MSN, Kane-Cavaiola did not take steps to investigate the abuse, to determine the full extent of it, and to assure that it did not continue. Instead, her actions indicated that she sanctioned the misuse.

1. 2003-2004 Grant Year Total Award \$293,000

a. DAS Pays ATP Conference Expenses

Kane-Cavaiola's appointment as Assistant Commissioner of DAS was effective in September 2002. At the January 2003 monthly DAS-ATP meeting, Kane-Cavaiola announced to her staff that she wanted to provide DAS funds to pay the expenses of the annual ATP conference to be held in April 2003 and the expenses for three other one-day ATP conferences throughout the year. This was the first direct grant of DAS funds to ATP-MSN<sup>24</sup>, and it was the

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<sup>24</sup> During OIG's investigation, it was learned that in fall 2005, the State Ethics Commission (SEC) investigated an allegation that Kane-Cavaiola, having been a long time member of and having served as an officer in ATP and ATP-MSN, had used her official position as Assistant Commissioner of DAS to provide large amounts of no-bid funding to ATP/ATP-MSN. The evidence we gathered during our investigation indicates that Kane-Cavaiola made false exculpatory statements to SEC investigators.

For instance, Kane-Cavaiola told the SEC investigators that DAS had had a contractual relationship with ATP/ATP-MSN since 2001, before Kane-Cavaiola became Assistant Commissioner of DAS and thus, in awarding ATP-MSN DAS funds, she was only continuing the relationship established by her predecessor. The evidence OIG gathered during its investigation demonstrates that when making these statements, Kane-Cavaiola was aware that the NJTI (conference) grant she awarded to ATP-MSN, was the first direct relationship between DAS and ATP/ATP-MSN. She was also aware that prior to her administration, DAS had only an indirect relationship with ATP's alter ego, a sub-grant through another service provider and that sub-grant was for the PDI, and not to fund ATP

first time that DAS had paid ATP conference expenses.<sup>25</sup> Kane-Cavaiola's decision to provide the ATP conference expense funding was made without a request for proposal or application from DAS, the bidding process was not implemented, and no application for grant funds had been submitted by ATP or ATP-MSN for this or any other purpose.

After Kane-Cavaiola announced the conference funding, the ATP/ATP-MSN Executive Director filled out the application for the funds. In the application, he represented that the annual cost of the ATP conferences was \$160,000 but that the proceeds from fees and other sources was \$85,000. The amount he requested was \$75,000 in DAS funds to cover part of the cost of holding six conference days -- the annual three day conference to be held in spring and three one-day conferences during the year. He also requested that ATP-MSN be permitted to keep the anticipated \$85,000 in conference income to pay the remainder of conference expenses.<sup>26</sup>

ATP's financial records for 2001 and 2002 indicate that ATP's conference expenses had not recently approached \$160,000 and in 2002 they were approximately half that much. As former Treasurer of ATP/ATP-MSN, Kane-Cavaiola should have known that these figures were not accurate representations of conference costs. However, she did not question the amount of funds requested for the 2003 conferences and ATP-MSN was not required to provide documentation to support their alleged costs.

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conferences. (The evidence further indicates that Kane-Cavaiola was aware that the Assistant Commissioner who preceded her had deliberately designed the DAS-ATP relationship so as not to be a direct one.) Moreover, Kane-Cavaiola knew at the time she was interviewed by SEC investigators that the grant funds she provided to ATP-MSN were for purposes beyond both the NJTI (conferences) grant and the PDI grant. Increasing ATP-MSN's recurring grant funds from \$75,000 for the NJTI grant and \$200,000 for the PDI grant to well over a million annually.

In an attempt to explain to the SEC investigators the reason for the tremendous increase in the dollar amount of the ATP-MSN grants during the three years of Kane-Cavaiola's tenure, she told the SEC investigators that ATP and its alter ego were among a limited number of addiction treatment providers, and as a result, DAS was required to return to them for services. When making those statements, Kane-Cavaiola was well aware that neither ATP nor ATP-MSN provided addiction treatment, and her rationale was neither the reason for nor a legitimate basis for the significant increases in no-bid funding she authorized to ATP-MSN.

<sup>25</sup> The evidence gathered during OIG's investigation revealed that in the past, DAS had provided minimal support for ATP annual conferences: perhaps a few thousand dollars for a page in the conference brochure. The prior DAS Assistant Commissioner had also allowed some unused PDI funds to be used to pay for the attendance of PDI students at the annual conference.

<sup>26</sup> According to DAS procedures, income generated by grant funds was considered grant funds, and thus the total grant was considered to be \$160,000, \$75,000 in direct funding and the remainder in conference income.

The request was approved by Kane-Cavaiola, and ATP-MSN's 2003-2004 grant year began on April 1, 2003 and ended on March 31, 2004. The grant for the conference expenses was a totally new grant labeled the "New Jersey Training Initiative" (NJTI) grant.

ATP-MSN's performance requirements contained in the grant "Attachment C" were so vague as to be non-existent and not measurable. ATP-MSN was merely required to provide six conference/training days that would increase knowledge and skills of treatment and prevention specialists, and grant documents contained no programmatic reporting requirements for ATP-MSN.

The first of the DAS funded ATP annual three-day conferences was held in Atlantic City on April 29 and 30, and May 1, 2003. Each annual renewal of the ATP-MSN NJTI grant during Kane-Cavaiola's tenure contained funds for ATP conference expenses, but the conference grant was never subjected to any DAS programmatic requirements for performance monitoring.

When OIG asked Kane-Cavaiola what benefits she believed DAS would receive as a result of paying for the ATP conferences, she responded that she expected that the conferences would be bigger and better with more attendance and better speakers. However, the evidence gathered during OIG's investigation does not indicate that this was her intent at the time of the grant. This goal was not stated in grant documents; DAS did not impose any requirements on the content of the conference material, the quality of speakers, or the subject matter; DAS did not exercise control over the conferences in any way to assure that they were bigger and better; and no procedures were put in place to measure whether there was any improvement in the conferences as a result of DAS funding.

The benefits to DAS and/or its clients obtained by DAS paying the entire expense of the annual ATP conference are not readily apparent. The evidence indicates that essentially the same conferences that ATP had provided in the past at the trade organization's expense were now paid for by DAS grant funds, but neither DAS nor its clients gained any obvious additional benefit by DAS paying the cost of the annual ATP conferences.

On the other hand, ATP benefited substantially from Kane-Cavaiola's decision to provide DAS funds to pay ATP conference expenses. Initially, this grant was the first step in the establishment of the organization's training business, one of its long term goals.<sup>27</sup>

Moreover, as Kane-Cavaiola was well aware, although the award of DAS funds for the NJTI grant was to ATP-MSN, it was ATP (the trade/advocacy group) that was the real beneficiary of the grant funds. For years, ATP had been sponsoring these conferences paying for them with dues, conference fees, and related conference income. Going forward, since DAS was paying the conference expenses, ATP dues and conference income was available to pay ATP's expenses for advocacy efforts, or however else ATP representatives decided.

ATP/ATP-MSN records indicate that the \$75,000 payment in DAS funds plus the conference income exceeded the conferences expenses, and the excess funds were controlled by ATP. The evidence gathered during OIG's investigation revealed that conference proceeds were put into an ATP-MSN account, but that grant funds, including the conference income, was spent on both ATP and ATP-MSN expenses. By merely shifting many of ATP's operating expenses to ATP-MSN on paper, those expenses were thereafter paid with DAS funds.<sup>28</sup>

ATP benefits associated with DAS funding its conference were not limited to shifting ATP expenses to ATP-MSN to be paid with DAS funds. Non-financial benefits were also significant. Although the grant was to ATP-MSN (the charitable organization), ATP (the trade/lobbying organization desiring to attract new membership) continued to take credit for the conferences. All conference documents referred to the conferences as "ATP" conferences, and instructed that checks for attendance fees be made payable to ATP. There was no reference to

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<sup>27</sup> The Executive Director announced at the January 2003 ATP Board meeting that as a result of the DAS grant and a grant from another agency, ATP members would "find [themselves] in the training/conference business." The request from the other agency was for \$132,000: \$60,000 in funds and \$72,000 in anticipated registration fees. The evidence shows that the other grant was approved for only one year and for a grant amount of only \$47,500 rather than the \$60,000 requested.

<sup>28</sup> ATP also controlled an additional \$50,000 in DAS funding during the final quarter of the PDI sub-grant beginning on April 1 and running to June 30, 2003.

ATP-MSN in the three-day annual conference brochure. However, that brochure did proclaim that the three-day conference was “co-sponsored” by DAS and two other organizations.

Kane-Cavaiola was aware that ATP was the named sponsor of the event. The 2003 conference brochure announced that Kane-Cavaiola, Assistant Commissioner of DAS, would be a featured speaker (where she presented her blueprint for DAS).<sup>29</sup> Kane-Cavaiola’s personal, professional, and financial support for the conference likely enhanced ATP’s status in the addiction treatment field and increased addiction treatment provider interest in ATP’s conferences (potentially increasing conference income) and in ATP, an organization seeking members and membership dues. Kane-Cavaiola did not direct ATP-MSN representatives to change the name of the event from ATP’s conference to ATP-MSN’s conference, and she allowed the presenters to associate DAS as a co-sponsor of the trade/lobbying group event.<sup>30</sup>

b. Professional Development Initiative

(1) Grant Transferred to ATP-MSN

ATP meeting minutes reveal that in 2001, after ATP-MSN was awarded the sub-grant for the PDI funds and while Kane-Cavaiola was still on the ATP/ATP-MSN Boards, ATP representatives adopted a strategic plan that included taking over the PDI and creating a training institute as an income producing venture. Seven months into the first year of her tenure, Kane-Cavaiola assisted ATP in accomplishing that goal, allowing ATP to take control of the PDI. As the PDI sub-grant came up for renewal after her appointment, she directed that the PDI funds be

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<sup>29</sup> In her April 2005 memorandum to the Commissioner of DHS explaining the source of her 2003-2004 blueprint for DAS, Kane-Cavaiola referred to the April 2003 conference, where she presented her blueprint, as “ATP’s annual conference”.

Although Kane-Cavaiola did not require ATP to change the name of the event to an ATP-MSN event, ATP’s consultants eventually advised ATP to begin attributing the conferences to ATP-MSN. For the first time, the documents for the 2005 conferences reflected that they were ATP-MSN conferences.

<sup>30</sup> Also speaking was Kane-Cavaiola’s husband, whose last name is Cavaiola. We were told that he is a recognized expert in the addictions treatment field, that he spoke at each annual conference, and that he was always paid for his appearance.

awarded directly to ATP-MSN rather than to the other agency that had the sub-grant relationship with ATP-MSN.

At the time, ATP-MSN had not submitted an application requesting the direct award of the PDI grant. The only document in DAS files explaining the award was a letter dated April 21, 2003 written by a DAS Service Director to the ATP/ATP-MSN Executive Director stating: “[A]s discussed, we would like Associated Treatment Providers (ATP) [sic], to facilitate the [PDI] and the [NEATTC] Project.”<sup>31</sup> The Service Director told OIG that the decision had been discussed at the monthly DAS-ATP meeting. The letter to the ATP/ATP-MSN Executive Director stated that the grant requirements were in an attached description of the grant performance requirements -- the “Attachment C”. The enclosed Attachment C mirrored the detailed Attachment C of the sub-grant.

This award was not a separate grant but was treated as a \$168,000 modification of the NJTI (the conference) grant begun on April 1, 2003.<sup>32</sup> Thus, in less than three weeks, ATP-MSN’s first grant had increased from \$75,000 to \$243,000 in actual DAS funds and ATP-MSN was permitted to keep an estimated additional \$85,000 in conference fees.

When the grant modification was processed and signed by the DAS Service Director on June 13, 2003, the “Attachment C” with the detailed description of ATP-MSN’s requirements was not part of the grant. In fact, continuing the precedent of the earlier NJTI grant, and completely ignoring the proposed detailed criteria, this PDI funding added to the NJTI grant contained no performance criteria whatsoever.

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<sup>31</sup> The NEATTC work was done by the ATP Information Specialist prior to this grant.

<sup>32</sup> Since the fiscal year for the NJTI grant ran from April 1, 2003 to March 31, 2003, and only three-quarters of the grant year remained at the time the PDI was added to the NJTI grant, the amount of DAS funds added to the ATP-MSN grant for the PDI for the 2003-2004 grant year was \$150,000. In subsequent years, the full \$200,000 was awarded to ATP-MSN. DAS also added \$18,000 to ATP-MSN’s grant to pay for one-half the salary of an information specialist (the NEATTC project).



(2) No Oversight of PDI

We asked Kane-Cavaiola why she had decided to award the PDI funds directly to ATP-MSN rather than to continue funding the PDI through the other agency as a sub-grant. She responded that it was so that DAS would have more control and oversight. In fact, oversight of ATP-MSN's performance with the PDI funds was warranted. OIG's investigation revealed that ATP-MSN did not submit performance reports to DAS. For example, ATP-MSN did not report to DAS who was trained as a result of DAS funding, how much training was received by each student, and whether any students whose tuition was paid with DAS funds actually completed that 270 hour requirement or were thereafter certified. All of this information had been required in the Attachment C that was eliminated from the grant.<sup>33</sup>

The evidence indicates that the organization conducting the actual training had provided ATP-MSN with data that could have been analyzed to document the results obtained with DAS funds. The ATP/ATP-MSN Executive Director told OIG during interviews that maintaining an accurate student database with this information was possible but that he did not do the work. The ATP/ATP-MSN Executive Director further acknowledged that as of OIG's interviews of him, he still had not done the assessment and could not provide the number of students who had received 270 hours of training as a result of the PDI scholarships that he was supposed to monitor.

If Kane-Cavaiola had wanted to assure oversight of ATP-MSN's performance with PDI funds, she would be expected to assign programmatic oversight of the grant to a staff member who had some experience with the subject matter of the grant. Instead, she assigned programmatic oversight of the PDI to the Director of Prevention, who was an expert in "prevention" but who knew little about training, conferences, and the general area of services that ATP-MSN was supposed to provide. The name of her unit was changed to Prevention and Training to accommodate the ATP-MSN grant, but that did not alter the fact that she did not have the expertise to evaluate ATP-MSN's performance, leaving open the question of whether

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<sup>33</sup> During an interview, ATP/ATP-MSN's attorney told OIG that although these requirements had been eliminated from the grant Attachment C, they were still part of the grant performance requirements.

Kane-Cavaiola's decision to appoint the unqualified Service Director to monitor the NJTI grant was deliberate and was intended by Kane-Cavaiola to alleviate ATP-MSN's performance monitoring requirements.

The evidence revealed that the DAS Service Director did not monitor ATP-MSN's performance under the grant. She admitted to OIG that she did not oversee the ATP-MSN grant and during interviews, she acknowledged her failure to perform her job. She said that although ATP-MSN was not offering any performance reports, she assumed that ATP-MSN was performing under the PDI because she knew that some training was occurring and the ATP/ATP-MSN Executive Director was representing that the amount of training that was taking place was more than would have been required under the original Attachment C.<sup>34</sup>

The monthly DAS-ATP meetings and the special treatment that Kane-Cavaiola afforded ATP may have compromised the DAS Service Director's ability to do her job and contributed to the lack of oversight of the ATP-MSN grants. The Service Director was one of the DAS staff who thought of ATP and ATP-MSN as one. She attended the monthly DAS-ATP meetings where addiction treatment issues as well as ATP-MSN grants were discussed and decisions were made or announced by the Assistant Commissioner regarding those grants. The Service Director was placed in the difficult position of overseeing a grant for services about which she knew little for an agency whose Executive Director was treated with great respect and deference by the Assistant Commissioner. The Service Director told us that she believed that it was her responsibility to remain unaffected by such circumstances but that her objectivity may have been overcome by a perception that positive work in the addictions treatment field was being accomplished by DAS under Kane-Cavaiola's administration and that therefore, it was permissible to allow DAS monitoring requirements go by the wayside. It would have been

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<sup>34</sup> The Executive Director's statements in this regard (statements that were also made publicly during OIG's investigation) were disingenuous. He was aware that the intent -- and specific language in the Attachment C associated with the sub-grant -- of the PDI was to gain more certified counselors by assuring that a PDI scholarship trainee participated in the 270 hours of classroom training required. Rather than pay individual scholarships, the Executive Director decided to pay for classes taught, regardless of how many students were present. He did not assure that any student actually received the required amount of training. Under his methodology, a student could sign up for the scholarship and attend one class or even several but never complete the training to be certified. He took credit for students who signed up and the number of classes that he paid for with PDI funds, but he did not know how many hours of training an individual student had taken or whether any student ever completed the 270 hours.

difficult for the Service Director to demand performance reports from the ATP/ATP-MSN Executive Director who would have avoided providing the reports that he did not care to prepare and that would have shown that the number of students receiving the certification training as a result of DAS funds was less than represented.

In an attempt to justify the large dollar amounts of grants to ATP-MSN, Kane-Cavaiola told us that professional development of addiction counselors was a nationwide issue and that she intended that increased opportunities for professional development would be one of the accomplishments of her administration. However, other evidence raises questions about the credibility of her rationale for awarding more and more funds to ATP-MSN under the NJTI. For example, throughout her administration, Kane-Cavaiola never hired someone with expertise in the training field who could design and monitor training grants. Kane-Cavaiola explained her failure to hire a training expert by asserting to OIG that she did not have the ability to hire any staff because of budget considerations. However, her claim was contradicted by the evidence that throughout her tenure as Assistant Commissioner of DAS, she hired several individuals (many of them former colleagues). Kane-Cavaiola's failure to hire appropriate staff belies her assertion that she awarded ever increasing funds to ATP-MSN in order to increase the number of certified treatment counselors, as does her failure to assure that any of the training grants to ATP-MSN accomplished their goal of adding certified counselors to the field.

Converting the sub-grant into a direct grant did not result in more control and oversight of ATP-MSN. The DAS files reveal that little justification was submitted to support the budget for or expenditure of DAS funds under the NJTI grant. There was essentially no oversight of the PDI performance during Kane-Cavaiola's administration, and absence of oversight continued until the time of OIG's investigation.

The benefit DAS received for the \$200,000 PDI funds awarded to ATP-MSN is not readily evident. It is not clear even whether the former Assistant Commissioner's hope that ATP's involvement might encourage treatment providers' staff to take advantage of the training

was realized.<sup>35</sup> The evidence also indicates that whatever service was provided or was supposed to be provided by ATP-MSN under the grant could have just as easily been provided by the agency that provided the training. (The agency representative told OIG, and their records demonstrated, that the agency kept records to substantiate the amount of training provided and who received it, and in fact that agency was performing some of the other administrative functions that were required of ATP-MSN under the terms of the original Attachment C.) However, ATP benefited as a result of the direct award of PDI funds. ATP-MSN received additional operating funds, and the assignment was another step forward in establishing ATP's training business.

c. Modifications Increase Amount of 2003-2004 Grant

In September 2003, the ATP/ATP-MSN Executive Director wrote a letter to DAS requesting that another \$50,000 in DAS funds be added to the NJTI grant. He represented that the money was to be used for opening training centers in Atlantic City and Trenton "that will each train 40 students in all 270 educational hours needed for initial certification as [CADCs]" -- a statement that the ATP/ATP-MSN Executive Director knew was at best, only a hoped for result and one he would not document; \$3,000 for travel to eight "sites for monitoring purposes" -- he did not indicate conference sites or PDI sites; and \$10,000 for scholarships for "50 new students to attend the annual 3 day conference" -- more conference income that would go directly into ATP-MSN accounts. No supporting documentation was submitted. Between April 1 and November 24, 2003, the first ATP-MSN grant had increased from \$75,000 to \$293,000 in addition to at least \$85,000 in retained conference fees for the year.

d. Request for "Rollover" of Unused Funds

ATP-MSN's final budget report for the first grant year indicated that ATP-MSN had unused grant funds of \$16,821, and the Executive Director submitted a request to DAS that ATP-MSN be permitted to keep the funds. Although the amount of this request for a rollover of funds

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<sup>35</sup> The ATP/ATP-MSN Executive Director represented near the end of the first grant year that not all of the scholarship funds had been used to pay tuitions, apparently because he had not convinced a sufficient number of counselors to take advantage of the training with DAS funding.

was for a relatively small amount of funds, it was a signal of events to come, and it has significance in the future handling of the ATP-MSN grants. Therefore, in this section we describe some of the relevant factors about rollovers and this particular rollover.

DAS fiscal officers told OIG that it was fairly rare that an entity did not expend its grant funds during the grant year and that they considered a report of unused funds as a “red flag” indicating that the grantee was having a problem managing the grant funds. They also said that it was even more unusual for a grantee to request that the grantee be permitted to rollover unused funds into the next grant year rather than return them to DAS.

The DAS fiscal officer responsible for the ATP-MSN grants as well as the chief DAS fiscal officer during most of Kane-Cavaiola’s administration told us that DAS relied on self-reporting for most grants<sup>36</sup> and did not request back-up documentation unless the grantee’s expenditure reports raised “red flags”. Potential red flags were identified as: late or incomplete expenditure reports; failure to properly allocate funds on reports; reporting ineligible or non-allowed expenses; over or under expenditure of grant funds during the grant year; and end of year requests for revisions allowing funds to be used for other than their original purposes. In the case of a red flag, the fiscal officer should request an explanation from the grantee and take whatever steps necessary at that point, including requesting documentation, a site visit, or a complete audit to assure that DAS funds are being properly used.

The DAS fiscal officer responsible for the ATP-MSN grants told us that in the first year of the ATP-MSN grants, he saw several potential red flags: expenditure reports were late, incomplete, or needed correction; there was an end of the year request to change the use of grant funds, and at the close of the grant year, there were unused funds and a request to rollover those funds into the next grant year. He told us that because this was ATP-MSN’s first year as a grantee, he blamed the difficulties on ATP-MSN’s inexperience. He contacted the ATP/ATP-MSN Executive Director about the various problems and explained the procedures and fiscal

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<sup>36</sup> The DAS grants provide funds for an accountant to conduct an independent end of the grant year audit, a “single audit”. That audit should require the submission of supporting documentation. As of the time of OIG’s investigation, DAS files contained only one such audit for the ATP-MSN grants. When OIG reviewed the audit report, it was evident that it was not useful since it covered more than one year and was conducted based on a calendar year rather than the grant year.

requirements associated with receiving DAS grants. The fiscal officer told us that as a result of all of the problems ATP-MSN was encountering, he suggested to the Executive Director that the grantee hire an accountant to help them properly prepare their financial reports. The responsible fiscal officer also told us that because of the number and amount of modifications to the ATP-MSN grants, he had reached a conclusion that the organization was favored by Kane-Cavaiola, and therefore was to be afforded greater latitude.

The DAS fiscal officer responsible for the ATP-MSN grant instructed the Executive Director that funds unused by the end of the grant year were normally returned to DAS and an exception would have to be requested in writing and approved by Kane-Cavaiola. Such requests to “rollover” unused funds into the next year’s grant were essentially for modifications increasing the amount of the following year’s grant. The ATP/ATP-MSN Executive Director wrote to Kane-Cavaiola requesting that ATP-MSN be permitted to rollover the unused funds into the next grant year and be permitted to use them to purchase equipment for a “state of the art” conference center “at our new site in Cranbury.” On July 1, 2004, Kane-Cavaiola approved the request.

At first Kane-Cavaiola told us that she played no role in approving rollovers of unused funds, but when shown documents indicating that the process required her approval and that she had approved rollovers of ATP-MSN funds, she acknowledged that she did approve them. Kane-Cavaiola then told us that in approving rollovers she relied on the Service Director (the Director of Prevention and Training) and her chief DAS fiscal officer to indicate whether rollover of the funds was appropriate.

However, the Service Director told OIG that she took direction from Kane-Cavaiola when approving awards of DAS funds. The chief DAS fiscal officer said that he did not typically see the letter requesting a rollover of unused funds, he did not necessarily know that a request for a modification increasing a grant was the result of rolling over unused funds from a prior year’s grant, and he would not know how the funds were intended to be used if rolled over. He said that his responsibility for grant modifications increasing the amount of a grant, including rollovers, was only to inform Kane-Cavaiola that funds were available to do what she wanted to

do. He said that he did not recall this request for a rollover, but that the amount requested was so small, that he might not have been asked about it.

2. 2004-2005 Grant Year Total Award \$1,093,957

a. April 1, 2004 Initial Grant Amount \$343,000

For the second ATP-MSN grant year, beginning on April 1, 2004, the ATP/ATP-MSN Executive Director applied for a renewal of the NJTI grant, including funds for conferences and the PDI. Kane-Cavaiola approved the renewal for \$343,000. The only requirements in the Attachment C were that ATP-MSN provide six training/conference days and vague statements about providing training for counselors regarding co-occurring disorders, but with no stated methods and measurable goals. The ATP annual three-day conference was held at the end of April 2004, and again it was funded by DAS and identified as the annual ATP conference with no reference to ATP-MSN.

According to the original budget submitted by ATP-MSN, the Executive Director's salary had increased to \$100,000 paid entirely from grant funds, two other staff members' salaries were \$38,500 and \$27,500, and they all received 25% of their salaries in fringe benefits. Although they all worked on ATP projects at least part of the time, the ATP-MSN documents submitted to support the grant indicated that all three ATP-MSN employees worked 100% of their time, 40 hours per week, on ATP-MSN projects and their salaries were paid entirely from grant funds.<sup>37</sup>

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<sup>37</sup> DAS grant recipients are required to submit certified expenditure reports quarterly as well as a close-out expenditure report. The language on the certification reads: "I certify that this report is true and correct and all expenditures reported herein have been made in accordance with the terms and conditions of this grant and are properly reflected in the grantee's accounting records." The evidence indicates that unbeknownst to the DAS fiscal officer, on more than one occasion, the ATP/ATP-MSN Executive Director knowing signed and certified to the accuracy of grant expenditures in quarterly reports knowing that the reports were not accurate. The report of OIG/DHS financial review will include the findings relevant to inaccurate expenditure and close-out reports.

b. June 26, 2004 Modification Adds \$574,000 to Grant

Less than three months into the grant year, on June 26, 2004, Kane-Cavaiola approved a modification to the NJTI grant increasing it by \$574,136. She thereby had increased the amount of ATP-MSN grant funds for the 2004-2005 grant year to \$917,136. This was more than triple the funds awarded to ATP-MSN the year before and almost triple the amount of the grant funds originally awarded in the 2004-2005 grant year. The justification in the Attachment C for the increase was a general statement that agencies providing services for women and children would receive training on substance abuse and agencies providing substance abuse treatment will receive tobacco treatment training. The Attachment C did not indicate how this goal was to be achieved, and again, the goals were not measurable and program performance reports were neither required from ATP-MSN nor provided to DAS by the organization.

ATP-MSN's request for the additional funding indicated that \$177,000 was to be spent on salary and fringe benefits for four new positions. OIG's review revealed that three of the positions remained vacant for many months into the grant year (and therefore, the funds attributed to salary expenses were not used for that purpose). The review further revealed that although not an authorized use for the funds permitted in the grant documents, a significant portion of the \$574,000 was intended by ATP/ATP-MSN representatives to be used to lease, furnish, and build out a much larger ATP/ATP-MSN shared headquarters in Cranbury, NJ: \$63,000 for rent; almost \$47,000 for the new office set-up (including \$22,000 to purchase a color copier that had been leased a few months earlier), and \$7,000 for office expenses. Of the remainder, \$89,000 was spent on consultant fees (public relations and advocacy for "stigma reduction"), \$21,000 was for travel expenses, and \$110,000 was allegedly for the ATP/ATP-MSN Executive Director to attend ten "advocacy conferences", but neither DAS files nor ATP/ATP-MSN files contain evidence indicating that the funds were used for this purpose.

The ATP/ATP-MSN Executive Director told OIG that the new larger office space was necessary because his grant responsibilities were increasing and requiring extra staff. However, other evidence disputes his representations. More particularly, on September 29, 2004, the



Executive Director wrote to ATP/ATP-MSN Board members that while grant funds had increased substantially in 2004, his work load had not.

Kane-Cavaiola told OIG that at the time, she was aware that ATP/ATP-MSN representatives intended to use the grant funds for a new joint headquarters for ATP/ATP-MSN as well as a location for a training facility to support the training business they wished to establish. Although the grant documents do not indicate that the use of the funds for a new headquarters was authorized, Kane-Cavaiola told us that she thought that the new headquarters/training space was an appropriate use of DAS funds. Going forward, both ATP and ATP-MSN held their Board meetings in a boardroom included in the new office build-out and both ATP and ATP-MSN business was conducted from the offices located there. However, the evidence indicates that little if any ATP funds were allocated to pay its share of the expenses and no training occurred at the location.

Again, the documents do not make clear the benefit to DAS or its clients from this award of funds to ATP-MSN and from the new ATP/ATP-MSN headquarters.

c. Additional Modification

On September 23, 2004, the 2004-2005 grant was increased by \$16,821 (the unused funds rolled over from the prior year). It was increased again by \$100,000 for consultant fees in October 2004<sup>38</sup> (for which ATP-MSN was a pass through), and again in January 2005 by \$60,000 for alleged nicotine replacement therapy. The evidence indicates that the grant was modified again and the \$22,000 color copier was again used to justify this increase. Therefore, the total grant for the 2004-2005 grant year was \$1,093,957.

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<sup>38</sup> The evidence indicates that the consultant was hired to work for DAS but that he was hired through ATP-MSN so that Kane-Cavaiola could avoid using the bidding process to hire him. The chief DAS fiscal officer noticed that the contract with the consultant required Kane-Cavaiola's signature and he communicated his concern to Kane-Cavaiola's chief administrative officer that the contract appeared to be an effort to avoid the bidding process. He told us that the language in the contract was altered, and the consultant was hired through ATP-MSN. The evidence indicates that the main change in the contract was that Kane-Cavaiola's signature was no longer required but that the consultant nonetheless performed services for DAS.

d. Kane-Cavaiola Alerted to ATP Misuse of Grant Funds

At some point after the conclusion of the first grant year, Kane-Cavaiola was alerted to potential improprieties in the first ATP-MSN grant (the 2003-2004 NJTI grant). More particularly, she was alerted to the possibility that ATP-MSN had requested and received duplicate funding from another agency for some of the one-day conferences for which DAS had provided funding. During an interview, Kane-Cavaiola told OIG that having been apprised of the possibility that ATP had duplicate funding for the conferences for which DAS paid, she did nothing to determine whether DAS funds had been improperly sought or used by ATP-MSN. Nor did she take steps to assure that there was not misuse of this type in the future.

On July 1, 2005, three months after the end of ATP-MSN's second grant year, Kane-Cavaiola was again alerted to potential misuse of DAS funds by ATP-MSN when the organization submitted a final close-out report of expenditures including "unused" funds of \$122,176. A letter from the ATP/ATP-MSN Executive Director to Kane-Cavaiola, requesting to rollover the funds into the third grant year, explained that approximately \$60,000 of the unspent funds represented ATP expenses -- portions of the Executive Director's and one staff person's salaries -- that had been improperly paid with ATP-MSN DAS funds. The Executive Director further wrote that the improper payment had been discovered while preparing the close-out report and "repaid" to ATP-MSN by ATP.

The evidence gathered during OIG's investigation and the OIG/DHS financial review indicate that since 2001, ATP had been using ATP-MSN grant funds to pay ATP expenses. The evidence further indicates that in late 2004, perhaps as a result of the DAS fiscal officer's suggestion, ATP-MSN retained the services of an attorney and an accountant, and the ATP "repayment" to ATP-MSN was the result of directions from ATP/ATP-MSN's consultants to rectify ATP's misuse of DAS funds. Time records were not kept to justify the amount of time ATP/ATP-MSN employees spent on grant projects and the amount of time they spent on the trade group's projects. Therefore, the attempt to rectify the misuse of DAS funds to pay ATP salaries was based on an estimate by the Executive Director that he spent 20% of his time on

ATP matters and that one staff person spent 10% of her time on ATP matters (although in 2004 their entire salaries were paid with ATP-MSN funds).

During OIG's investigation, it was learned that ATP/ATP-MSN Executive Director knew at the time that he wrote the letter that his estimate was sorely under-stated. The evidence indicates that a few months before the estimate was prepared, the Executive Director had represented in an attachment to ATP-MSN board meeting minutes, that were sent to several ATP members as well, that during the 2004-2005 grant year, he had been spending 60% of his time on ATP matters. In addition, the estimate did not allocate the cost of ATP's use of other assets paid for with DAS funds provided to ATP-MSN -- such as rent, equipment, mileage, etc. -- and other evidence indicates that the allocation of other employees' time was also incorrect.

The July 1, 2005 letter was not the first time that Kane-Cavaiola was alerted to the misuse of ATP-MSN grant funds. As joint Treasurer of ATP/ATP-MSN, she had used the 2001 sub-grant funds to pay the ATP/ATP-MSN Executive Director's entire salary although she knew that he was working on projects for both the trade organization and the charitable organization. As stated, when appointed Assistant Commissioner, she did nothing to assure that the practice had ceased. In 2004, she had done nothing in response to an alert to the possible duplicate funding for DAS funded ATP conferences. Once again, in 2005, upon learning about the misuse of DAS funds to pay ATP salaries, Kane-Cavaiola did nothing to protect DAS funds: she did not request an audit to assure that the amount of improperly used DAS funds was accurately reported; nor did she takes steps to assure that the misuse did not recur. Her only response to the July 1, 2005 information that ATP had misused grant funds to pay ATP expenses was to authorize the rollover of the "unused" funds that ATP "paid" to ATP-MSN adding them to ATP-MSN's third year grant.

Thus, there was no penalty for ATP/ATP-MSN's misuse of DAS funds. The "repayment" by ATP to ATP-MSN was merely a paper transaction. At most, it would have been a shift of funds from an ATP bank account that ATP controlled to an ATP-MSN bank account that ATP also controlled, and the ATP/ATP-MSN accountant would have been satisfied that as far as he knew, the organizations had complied with requirements for accurate reporting and use

of DAS funds. Rather than sending a message to ATP and ATP-MSN representatives and to ATP members (treatment providers, many of whom were recipient of DAS grants) that improper use of DAS funds would not be tolerated, Kane-Cavaiola appeared to sanction the misuse of grant funds. At most, her conduct sent the message that during her tenure as Assistant Commissioner of DAS, misuse of DAS funds was not a serious error to be carefully avoided.

Kane-Cavaiola's statements to OIG explaining her reaction to ATP/ATP-MSN's misuse of DAS funds did not reflect that she was concerned about the message she sent to DAS grant recipients by her response. She told OIG that when she first saw the letter requesting the rollover in July 2005, as well as when she read it again during the OIG interview, she did not view the information in it as a "red flag"; she did not view it as requiring any further action; and instead she viewed it as proof that "the system worked" because the problem had come to light and had been rectified. She also told OIG that her chief fiscal officer had been aware of the issue and approved the rollover of the funds, and if further action were required, he would have alerted her to what was necessary.

When told that it appeared that the system had not worked all that well since the OIG/DHS financial review revealed that there was significantly more misuse of DAS funds by ATP/ATP-MSN than self reported by ATP-MSN, Kane-Cavaiola claimed that the OIG/DHS review was "premature" and that eventually the other misused funds would have been returned to DAS. She did not make clear how the abuses would have come to light, and it is likely that only an unusual effort, such as the line-item review done by OIG and DHS auditors, would have brought the full extent of the misuse to light.

The then chief DAS fiscal officer to whom Kane-Cavaiola referred as having approved the rollover of the misused funds did not corroborate Kane-Cavaiola's representations about his role in this matter. He told OIG that at the time of the grant modification of \$122,176, he did not know that it was a rollover of unused funds; nor did he know that part of the reason for the rollover was the misuse of DAS funds to pay ATP expenses. He said that if he had known even the amount of the rollover -- 10% of the grant -- that information would have been sufficient to cause him to look into the reason for the unused funds. The evidence that we gathered during our

investigation supports the then chief DAS fiscal officer's assertion that he did not know that the \$122,176 modification was partially the result of unused funds from the prior year's grant including repayment of misused grant funds. As stated above, he did not typically see the letter requests for rollovers, and by the time this modification was requested, Kane-Cavaiola's requests for large modifications to the ATP-MSN grant had become commonplace and would not have caused him to think that the modification for the grant required further action on his part.

The DAS fiscal officer responsible for the ATP-MSN grant told OIG investigators that he did not realize that the \$122,176 rollover modification represented misuse of funds to pay expenses of a non-grant-eligible organization or that he should take any action other than that directed by Kane-Cavaiola prior to his review of the letter. By the time he received a copy of the letter request, it contained authorizations by the Assistant Commissioner and the Service Director allowing ATP-MSN to roll over the funds. Although the letter stated that ATP-MSN was reimbursed by ATP for portions of ATP salaries paid with ATP-MSN grant funds, the fiscal officer did not understand that ATP and ATP-MSN were separate entities. He said that he thought that "ATP" was simply shorthand for the full name of the entity and that the entity was reporting an error in allocating funds, a less serious concern. He was aware that ATP-MSN had hired an accountant, he assumed that a corrective action plan was in effect, and as stated above, he believed that ATP-MSN was to be afforded latitude because of the Assistant Commissioner's interest in the organization.

Consequently, what should have been an alarming notice of serious misuse of DAS funds to pay a private entity's expenses did not result in negative consequences to ATP or ATP-MSN for the misuse, there was no corrective action taken, and there was no reason for ATP/ATP-MSN to take steps to assure that the abuse did not continue. Kane-Cavaiola's failure to take appropriate action was possibly motivated by her continuing alliance with ATP/ATP-MSN. It also demonstrates her disregard for her duty to protect DAS funds.

3. 2005-2006 Grant Year Total Award \$4,100,000

The 2005-2006 grant was a highpoint in Kane-Cavaiola's conduct providing unwarranted benefits to ATP and ATP-MSN. It demonstrated an arrogance of power and a disregard of the processes intended to protect public funds and assure that their use was appropriate. This grant included \$2,800,000 that the then Commissioner of DHS had directed to be awarded for a specific purpose -- the treatment of indigent intoxicated drivers. Kane-Cavaiola ignored the Commissioner's directions and instead awarded this money to ATP-MSN. She allowed ATP-MSN to retain \$224,000 without any directions or restrictions for how the organization was to use those funds, and directed that ATP-MSN distribute the remainder of the \$2,800,000 to treatment providers for "barrier free" or "life safety" capital improvements to their facilities. Since there were no requirements on how ATP-MSN was to distribute the capital improvement funds to treatment providers, it is not surprising that ATP-MSN set up the distribution process assuring that all but a small amount of the remainder went to ATP members.

a. Initial Grant and Modifications

On April 1, 2005, Kane-Cavaiola renewed the ATP-MSN NJTI Grant for the 2005-2006 grant year. The amount of the original grant was \$3,833,957, but it was modified on September 23, 2005, to add the \$122,176 rollover from the previous grant year. (In the 2005-2006 grant documents, this amount was incorrectly called a "COLA Modification", that is, a Cost Of Living Allowance to ATP-MSN staff salaries.<sup>39</sup>) The grant was again modified on January 18, 2006, to add \$218,486 (\$80,000 for "program" expenses; \$79,000 for salaries and fringe benefits, \$16,000 for equipment, \$12,000 for consultants, and \$11,000 for office equipment) making a total award for the 2005-2006 grant year of \$4,174,619.

Of the original grant amount, \$1,033,957 was for "Training/Technical assistance", the recurring NJTI grant described as for conference expenses, for the PDI, and apparently the cost of the new headquarters and growing ATP/ATP-MSN staff. The remainder, \$2,800,000, was for

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<sup>39</sup> The evidence that was gathered during our investigation did not reveal how this "error" came about, but one reasonable inference was that the rollover amount was deliberately mislabeled by DAS staff to disguise the real reason for the modification.

“Renovations”. Although the grant documents provided sparse information about how and for what the renovations funds were to be used, OIG was told by Kane-Cavaiola and the ATP/ATP-MSN Executive Director that ATP-MSN was provided the funds to distribute to treatment providers. They said that the funds were to be used to pay for allegedly much needed capital improvements to bring treatment facilities into compliance with Americans with Disabilities Act (“ADA”) requirements (e.g., ramps, wheelchair accessible bathrooms and other “barrier free” accommodations) and secondarily for making “life safety” repairs (broken door locks and stairways, leaking roofs, etc.) if the “barrier free” renovations did not exhaust all of the money.

Kane-Cavaiola’s decision to award the grant funds to ATP-MSN to distribute to other grantees was extraordinary for a number of reasons including:

- It was unprecedented in DAS history that a grant recipient (ATP-MSN) was given discretion to determine how to distribute DAS capital improvement funds, to determine who the recipients of the funds would be, and to determine how much each recipient would receive.
- In awarding the grant to ATP-MSN, Kane-Cavaiola acted in disregard of then recent advice of the Office of the Attorney General that the practice of allowing grant recipients to evaluate requests for DAS funds from other grant recipients is “extremely troubling” and “should be discontinued.”<sup>40</sup>
- The purpose of the grant was to provide services to DAS but it was not subjected to the public contract bidding procedures.
- Although the amount of the “renovation” funds was almost three times the amount of the NJTI award and it had nothing to do with training, it was not treated as a separate grant and the amount was added to the training grant.
- Unbeknownst to the Commissioner of DHS, Kane-Cavaiola redirected the funds from the purpose for which he had authorized them to be used -- treatment for the indigent intoxicated drivers -- to ATP-MSN for capital improvements.

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<sup>40</sup> Although this advice was rendered in connection with another DAS initiative, it was equally applicable to the capital improvement barrier free/life safety grant awarded to the ATP-MSN. Kane-Cavaiola told us that at the time she authorized the renovations grant to ATP-MSN, she did not connect her actions and the Attorney General opinion.

- Kane-Cavaiola authorized ATP-MSN to keep at least \$224,000 or 8% of the \$2,800,000 portion of this grant without imposing any requirements for how the funds were to be used.
- The remainder of the grant after ATP-MSN's portion was deducted -- \$2,576,000 -- was distributed almost entirely to ATP members -- only 3% of the remainder was distributed to non-ATP members.

b. Kane-Cavaiola Changes Commissioner's Spending Plan

The evidence gathered during OIG's investigation indicates that in spring, 2004, soon after DAS was transferred to DHS, the newly appointed Commissioner of DHS became aware of a legislatively created non-lapsing, revolving fund with a specific purpose: to be used by DAS to treat indigent intoxicated drivers (the Fund).<sup>41</sup> At the time, the Fund had a balance of \$9,000,000, but shortly thereafter, at the beginning of Fiscal Year 2005 (commencing July 1, 2004), the balance increased to \$15,000,000.

The then Commissioner of DHS told OIG that he was concerned when he learned that there was \$15,000,000 not being used and that he remembered discussing the Fund with Kane-Cavaiola. His main focus was to use the money to increase capacity, and he told Kane-Cavaiola to develop a spending plan with that in mind. Kane-Cavaiola developed the spending plan in August 2004.

The August 2004 plan was found in a memorandum in DAS files in Kane-Cavaiola's office. The memorandum was addressed to the then DHS Commissioner from Kane-Cavaiola. There was no provision for barrier free spending in it. It allocated \$2,800,000 for treatment of indigent intoxicated drivers and the rest of the money to individual treatment providers to

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<sup>41</sup> The purpose of the Fund is to make grants to programs that provide treatment for alcoholism, alcohol abuse and other conditions related to the excessive consumption of alcoholic beverages, especially among drunk drivers. The Fund is both non-lapsing and revolving and receives monies provided from balances in the "Division of Motor Vehicles Surcharge Fund," a fund created in 1994 to receive funds from surcharges levied for drunken driving convictions and other motor vehicle violations. The Act specifies the amount the Fund is to receive each year; Fiscal Year 2002 (ending 6/30/02) - \$1.5 million; Fiscal Year 2003 (ending 6/30/03) - \$3.0 million; Fiscal Year 2004 (ending 6/30/04) - \$4.5 million; Fiscal Year 2005 (ending 6/30/05) - \$6.0 million; Fiscal Year 2006 (ending 6/30/06) and thereafter - \$7.5 million.



improve capacity. Handwritten in the upper right hand corner was a note indicating that it had been presented to the Commissioner and approved by him to be forwarding to the DHS Assistant Commissioner of Budget Finance.<sup>42</sup> The August 2004 plan was then forwarded to the Office of Budget Management so that the funds could be earmarked for the purposes in the plan.

DAS files reveal that ATP members had been aware of the availability of the funds at least as early as spring 2004, and had discussed them with Kane-Cavaiola and among themselves. The following is a chronology of events, several months after the Commissioner approved the August 2004 spending plan, ending in Kane-Cavaiola's re-direction of the funds from treatment of the indigent intoxicated driver to ATP-MSN for "renovations":

- The ATP-MSN Executive Director submitted an application dated January 10, 2005 for the NJTI grant of \$1,033,957 for the 2005-2006 grant year. His application did not request barrier free or renovation funds.
- The agenda for the monthly DAS-ATP staff meeting on January 13, 2005, indicates that a discussion about the Fund was planned.
- January 13, 2005 - Kane-Cavaiola and the ATP/ATP-MSN Executive Director met for breakfast.
- January 13, 2005 - DAS-ATP meeting included a discussion of the status of the use of the Fund.
- During the week following the DAS-ATP meeting, Kane-Cavaiola took steps to change the purpose for which the \$2,800,000 would be spent.
- On January 20, 2005, Kane-Cavaiola modified the August 2004 spending plan and approved a revised spending plan that re-allocated the \$2,800,000 to barrier free renovations instead of treatment of the indigent intoxicated driver. The evidence indicates that the then Commissioner of DHS was not sent this new spending plan and he was not made aware of the changes.
- During the following week, ATP-MSN was notified by the DAS Service Director that the \$2,800,000 would be added to its 2005-2006 grant to dole out to treatment providers for barrier free and life safety renovations to their facilities.

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<sup>42</sup> His full title was Assistant Commissioner of Budget Finance, Real Estate, and Information Technology.

- On January 26, 2005,<sup>43</sup> the ATP/ATP-MSN Executive Director announced at the ATP General Membership meeting that DAS “announced the \$2.8 million will be going through ATP [sic] for the Barrier Free Program.” He advised members to begin preparing their applications for the capital improvement funds.
- On January 31, 2005, the ATP/ATP-MSN Executive Director submitted a revised application for NJTI grant funds for the 2005-2006 grant year. It added a request for \$2,800,000 for “renovations” and referenced the “Barrier Free and Life Safety Improvement Initiative.”
- According to ATP general membership meeting minutes for the February 2005 meeting, the ATP/ATP-MSN Executive Director reminded members that the barrier free funds would soon be available and their applications would be due soon.
- In a letter dated March 15, 2005, ATP/ATP-MSN sent out notice to treatment providers (ATP-MSN was provided a list of treatment provider facilities by the DAS Service Director, but there was no record kept by ATP-MSN to demonstrate who was provided the only written notice) that up to \$150,000 of DAS funds would be available through ATP-MSN for “barrier free” and “life safety” renovations as of April 1, 2005. Recipients were advised to hurry their applications.
- The NJTI grant including the \$2,800,000 for barrier free/life safety renovations was approved by Kane-Cavaiola and awarded effective April 1, 2005. The Attachment C for the grant was devoid of any requirements for the use of the funds.
- The meeting minutes for the joint ATP and ATP-MSN Board meeting on April 6, 2005 reflect that the ATP/ATP-MSN Executive Director announced at the meeting that the new grant would enable ATP-MSN to “find new training space.”
- At that same meeting, the ATP and ATP-MSN Boards voted a \$12,000 incentive payment to the ATP/ATP-MSN Executive Director for “his efforts and successes during the past year” including “obtaining Barrier Free grant funds”.<sup>44</sup>

c. Kane-Cavaiola’s Explanation for the \$2,800,000 Grant

During an OIG interview, Kane-Cavaiola provided an elaborate but apparently contrived explanation of how and why she awarded the \$2,800,000 renovation grant to ATP-MSN. In summary, she said that the then Commissioner of DHS, had approved the distribution of the

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<sup>43</sup> The meeting minutes are dated January 23, 2005, but other documents including e-mail sent the day of the meeting indicate this date is an error and that the meeting occurred on January 26.

<sup>44</sup> Other activities mentioned were “location of a new office and moving operations to it, expanding the staff ... and his overall contribution to organization during this period.”

funds for barrier free renovations after they had been advised by the DHS Assistant Commissioner of Budget Finance that if they did not use the funds before the end of the fiscal year, June 30, 2005, the funds would be usurped by Treasury. She denied that she had prepared the August spending plan for the Fund, but acknowledged preparing the January 2005 spending plan including funds for “barrier free” improvements.<sup>45</sup>

Kane-Cavaiola said that she designated funds for barrier free improvements because she was aware of a tremendous need for them at treatment provider facilities. She also said that she distributed the funds to treatment providers through ATP-MSN because she knew that ATP-MSN would accomplish the task in an efficient manner while her DAS staff could not, and that she did not use the bidding process to select the agency to distribute the funds because there was not sufficient time to complete the process before June 30, 2005. Kane-Cavaiola claimed that granting the funds to ATP-MSN would immediately encumber them, protecting them from being usurped by Treasury. She said that while the former Commissioner of DHS knew that funds were designated for barrier free/life safety improvements, he might not have been aware that she was going to distribute the funds through ATP-MSN. As for the \$224,000 that ATP-MSN was able to use for its own purposes, she said that she believed it was appropriate to provide 8% of the grant to the administrator even if the 8% did not represent the direct cost of administering the grant.

The great weight of the evidence indicates that Kane-Cavaiola’s explanation for awarding the renovation funds to ATP-MSN is not credible. Her failure to provide a reasonable explanation supports a conclusion that she provided the funds to ATP-MSN in order to benefit ATP and its representatives.

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<sup>45</sup> Despite the designation on the August 2004 memorandum indicating that it was a plan for the Fund, Kane-Cavaiola denied that it was prepared for the Fund. She claimed that the August 2004 spending plan must have been prepared for some other funds, although during the interview she could not recall which funds. She asked for time to research the issue and we provided copies of the spending plan memoranda to her attorney as requested. During an interview several weeks later, she said that she was not prepared to provide any information about the August 2004 spending plan.

(1) Commissioner Denies Knowledge of Barrier Free Spending Plan

The former DHS Commissioner told OIG that no one had ever alerted him that there was a concern that DAS might lose the \$15,000,000 accumulated in the Fund to Treasury, neither his Assistant Commissioner of Budget Finance, nor Kane-Cavaiola, nor anyone else. He said, however, that if he had been told that taking the \$15,000,000 fund away from DAS was under consideration by the Treasurer, he would have fought to protect the funds by talking to the Governor, the Treasurer, legislators, and whoever else might help to retain them for DAS. However, he did not have to fight to protect the funds because he had not been presented with a concern that they might be lost. Other evidence corroborated the former DHS Commissioner's version.

During an interview, the then DHS Assistant Commissioner of Budget Finance denied that he had told the former DHS Commissioner or Kane-Cavaiola that the Fund might be usurped by the Treasurer if not spent before the end of the fiscal year. He said that he had no reason to believe that the Fund was vulnerable.

OIG showed the former DHS Commissioner the August 2004 spending plan for the Fund in which the \$2,800,000 was allocated for treatment of the indigent intoxicated driver rather than for barrier free improvements. The former Commissioner of DHS said that he did not recognize the specifics but the timing and the content of the spending plan fit with his general recollection of the spending plan that he had received from Kane-Cavaiola.

OIG also showed the former DHS Commissioner the January 2005 spending plan that appeared to be a plan for the \$15,000,000 from the Fund but allocated \$2,800,000 to the barrier free improvements instead of to indigent intoxicated driver treatment, and contained several other changes from the distributions outlined in the August 2004 plan. The former DHS Commissioner said that he left to Kane-Cavaiola to determine where the funds should be spent but noted that the January 2005 plan had not been addressed to or copied to him and that he did not recognize the barrier free allocation aspect of it. He said that Kane-Cavaiola had never told him that she wanted to spend the money for barrier free projects and although he was aware that

some treatment provider facilities were bleak and in need of improvements, he was not made aware of an urgent need for barrier free improvements. His main objective for the funds was to build capacity, and that was the goal of the spending plan he approved.

The former DHS Commissioner told OIG that the first time he heard Kane-Cavaiola speak of “barrier free” was in the fall of 2005, months after the grant had been awarded to ATP-MSN. He happened to be passing an office where Kane-Cavaiola was talking to a member of his staff. Kane-Cavaiola was obviously upset, and told him that there had been an ethics complaint about her handling of “barrier free”. He said that he focused on the “ethics complaint” part of what she said and did not think much about what the “barrier free” part was. He told Kane-Cavaiola to meet with the DHS Chief Ethics Officer and respond to the complaint. The former Commissioner of DHS said that the first time he learned that Kane-Cavaiola had changed the spending plan for the Fund was after OIG’s investigation began.

Thus, the evidence indicates that the decision to give \$2,800,000 to ATP-MSN -- allowing ATP-MSN to keep \$224,000 of it -- was not driven by the former DHS Commissioner’s fear that the funds would be usurped by the Treasury Department at the end of the fiscal year. The evidence indicates that the only urgency to devise a spending plan for the Fund was the former DHS Commissioner’s desire to see the money utilized for increased capacity; that he did not approve a spending plan to use \$2,800,000 of the Fund for barrier free improvements at treatment provider facilities because he had not been asked to; and that his decision was made in August 2004, not January 2005, giving Kane-Cavaiola almost a full year to carry out the plan he approved.<sup>46</sup>

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<sup>46</sup> The evidence indicates that Kane-Cavaiola also made false exculpatory statements to SEC investigators about the \$2,800,000 “barrier free” grant. When asked about the appropriateness of this extraordinary grant of funds to ATP-MSN, she told the SEC investigators that the former Commissioner of DHS had authorized the use of the funds for barrier free improvements. As discussed *supra*, during OIG’s interview, the former DHS Commissioner denied that he had authorized the use of the funds for this purpose and other evidence corroborated his version. Kane-Cavaiola also misled the SEC investigators by describing the \$2,800,000 grant as a “pass through” indicating that ATP-MSN received no monetary benefit from the grant funds, when in fact, ATP-MSN was provided \$224,000 for its own use.

(2) DAS Could Have Distributed the Funds

The chief DAS fiscal officer during most of Kane-Cavaiola's tenure at DAS told OIG that while distributing \$2,800,000 in capital improvement funds to numerous providers (assuming that DAS decided on the same distribution that ATP-MSN had) would have required a considerable amount of work, DAS staff could have completed the project in a timely fashion. In fact, DAS had accomplished similar projects in the past. An internal DAS accomplishments report for the period from January 2002 – September 2003 states that DAS awarded \$824,569 to 21 facilities to fund renovations necessary to meet licensure requirements. In addition, that same report states that DAS awarded \$6,000 to each treatment provider receiving DAS funds for improvements to their patient areas, for a total award of \$600,000. If DAS had handled the renovation fund distribution process, the total \$2,800,000 would have been distributed to treatment providers for improvements rather than only \$2,576,000, the remainder after ATP-MSN's 8% (\$224,000) was deducted.

(3) Sufficient Time for the RFP Process

DAS officials told OIG that the typical RFP process, from drafting to contract award, takes approximately five months, but that exigent circumstances can speed up the RFP process. Therefore, there was ample time to implement the public bidding process, and Kane-Cavaiola's rationale did not justify her failure to use it.

(4) No Legitimate Basis for Confidence in ATP-MSN

The evidence gathered during OIG's investigation demonstrates that Kane-Cavaiola did not have a legitimate basis to believe that ATP-MSN could get the barrier free project done quickly and efficiently, and therefore, that part of her rationale for providing the funds to ATP-MSN to distribute was not credible. As described herein, there was no DAS oversight of the ATP-MSN grants and no one at DAS could say with any certainty what ATP-MSN was accomplishing and whether it was what DAS grants required ATP-MSN to accomplish with DAS money. Moreover, Kane-Cavaiola was aware that on more than one occasion, ATP-MSN

had mishandled DAS funds. A sense of confidence that ATP-MSN could quickly and efficiently accomplish the intent of the grant was not a legitimate basis for awarding it to that entity. Indeed, as it turned out, ATP-MSN was given unbridled discretion to distribute the funds, but ATP-MSN mismanaged the project, was not able to distribute all of the funds within the grant year, and did not adhere to even its own requirements for distribution of the funds.

OIG's review of ATP-MSN's files for the projects revealed that ATP-MSN failed to maintain basic records. The files lacked a number of fundamental documents in addition to evidence that notice of the available funds was sent and received. Although the notice letter said that payment would be made in thirds -- one-third upon award, one-third upon substantial completion, and one-third upon issuance of a certificate of occupancy -- ATP-MSN did not adhere to this payment structure. Although three bids were supposedly required for a successful application, the files of several successful applicants contained only one bid. The ATP/ATP-MSN Executive Director told OIG that as of our interview of him in April 2006, he had conducted only two site inspections, but even these were not recorded in the files.

(5) Urgent Need for Barrier Free Renovations

During OIG's most recent interview of Kane-Cavaiola, she was told that the review of the distribution of the funds by ATP-MSN revealed that 97% of the funds distributed by ATP-MSN were distributed to ATP member treatment providers and that many providers had told us that they did not apply for the funds because they did not need the barrier free or life safety renovations. Kane-Cavaiola responded that it was possible that there was not need among all treatment providers for barrier free/life safety renovations and that the need for them about which she was aware at the time was among ATP members. Kane-Cavaiola's explanation supports a conclusion that part of her original intent in providing the renovation funding was to benefit ATP members.

d. ATP-MSN Training Center

The 2005-2006 grant documents indicate that Kane-Cavaiola authorized ATP-MSN to keep \$224,000 of the renovations funding without requirements that the funds be spent on administering the grant, or on anything else for that matter. The ATP-MSN Executive Director told OIG that the \$224,000 did not represent direct expenses for administering the grant, but rather was an amount ATP-MSN was permitted to keep and apply to ATP-MSN's "program".<sup>47</sup> In fact, ATP-MSN's direct expenses associated with administering the "renovations" funds are generously estimated to be less than \$60,000: including a part-time bookkeeper's salary of \$20,000, the expense of a few mailings, and consulting advice from ATP/ATP-MSN's lawyer and accountants.

The ATP/ATP-MSN Executive Director told OIG, and ATP-MSN Board meeting minutes reflect, that from the outset, the ATP-MSN's funds were intended to be used, and were used, by ATP-MSN to lease an additional large space in the same Cranbury building where the ATP/ATP-MSN headquarters was located. The additional space was to be used as a training facility that could accommodate a large number of people for training sessions. (When we saw the training facility, the room was set up with several rows of tables and chairs, a podium, and audio-visual equipment.) In addition, ATP-MSN's \$224,000 portion of the renovations grant was used to purchase equipment for addressing large groups and to hire two trainers. During an interview, Kane-Cavaiola told OIG that although the grant documents did not authorize the use of the funds for this purpose, she considered leasing the additional space for a training facility to be appropriate.

Although with DAS funds, ATP-MSN established its training business, the evidence does not indicate that DAS or its clients received any benefit as a result of the award of DAS funds to ATP-MSN that would not have been obtained in any event. Training had been provided by another agency that had experience in training, had facilities in locations convenient for trainees, and had kept records to report performance to DAS. On the other hand, ATP-MSN had little or

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<sup>47</sup> DAS documents show that ATP-MSN administrative expenses -- salaries, travel, office space, and equipment -- were included in the \$1,033,957 for renewal of the conference and PDI grant funds.



no experience in running a training facility, its location forced many students to travel to an inconvenient location, and it had failed to keep track of the records of trainees even when data was provided to ATP-MSN in a useful format.

e. Capital Improvement Funds for ATP Members

The evidence indicates that in addition to benefiting ATP-MSN, the renovation grant was used to benefit ATP members. There were no procedures imposed by DAS to assure that the renovation funds were fairly distributed among all non-profit treatment providers. In fact, they were not fairly distributed.

The renovations grant funds were distributed almost exclusively to ATP members, and almost one-half of the funds were distributed to those ATP members whose representatives actively supported ATP and ATP's efforts that resulted in the appointment of Kane-Cavaiola to the position of Assistant Commissioner. After ATP-MSN's portion was deducted from the \$2,800,000 "renovation" funds, \$2,576,000 -- as well as almost another \$100,000 in funds from a grant modification later that year -- was left to be distributed to treatment providers. Although a near equal amount of ATP member and non-ATP member agencies were on the original mailing list provided to ATP-MSN, 97% of the money (the \$2,595,085) was distributed to ATP members and only 3% (\$83,000) was distributed to non-ATP members. The methods used by ATP-MSN to distribute the funds and the skewed results tend to indicate that this result was intended by those in control.

(1) Notice of Funds Favored ATP Members

The notice of the availability of capital improvement funds and the need to apply for them was weighted in favor of ATP members. They were notified several times and well in advance of the date on which funds would be available, therefore providing ATP members with sufficient time to get their applications together. ATP members were notified about the availability of the funds at the January and February 2005 ATP General Membership meetings, and the announcement of the availability of the funds was also included in the minutes of those

meetings sent to all ATP members. Therefore, ATP representatives could have received four early advisories about the funds, and even if ATP members' representatives had not attended either the January or February 2005 meetings, they received early notice through the two mailed meeting minutes.

Non-ATP members were notified once and only weeks before the completed time-consuming application was due. The ATP/ATP-MSN Executive Director represented to OIG that in mid-March 2005, ATP-MSN mailed a one page letter on ATP-MSN letterhead to all of the facilities on the list provided to ATP-MSN by DAS.<sup>48</sup> Thus, ATP members had another opportunity to learn of the availability of the funds and non-ATP members learned about them for the first time.

If the offer had gone out under DAS letterhead, more non-ATP members might have at least considered applying for the funds. Some non-ATP members told OIG that they considered mail from ATP/ATP-MSN to be promotional materials and may have discarded the letter unopened without knowing that it announced the availability of DAS grant funds.

According to the ATP/ATP-MSN Executive Director, the ATP-MSN employee responsible for mailing the March 2005 notice letter did not keep records of the mailing and also said that ATP-MSN only kept files for those agencies that applied for funds. Therefore, there is no way to determine whether all non-ATP treatment providers had actually been advised that funds were available, and as described below, the evidence gathered by OIG indicates that a number of agencies may not have received the notice.

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<sup>48</sup> The letter, signed by the ATP/ATP-MSN Executive Director, advised that funds were available for improvements for non-profit providers; that barrier free improvements would be given priority; that if funds were left, they could be awarded for life safety improvements; that a maximum award would be \$150,000; that three bids were required for each application; that there might be a requirement for photographs; and that those wanting to obtain the funds should hurry and apply because the decision would be made soon.

(2) Distribution Skewed in Favor of ATP Members

Of the ATP member agencies on the list, 38 responded with a request for funds. Of the ATP members who applied, 37 applicants were approved for funds, and only one was denied.<sup>49</sup> The one denial of an ATP member's request was for work that had been completed before the application was submitted.<sup>50</sup>

OIG contacted all but five<sup>51</sup> of the agencies on the mailing list who did not apply for renovation funds. The ATP member agencies who did not apply told us they were either not eligible (usually because they were for-profit agencies) or they chose not to apply (most said that they did not have a need for the renovations).

Only four non-ATP members applied for grants. Of these, one did not follow through on the application and another's application was denied (apparently because the applicant was expected to move soon). Thus, only two non-ATP members received grants, accounting for the 3% (\$83,000) of the funds to non-ATP agencies. The OIG review found the following information about the non-ATP member treatment providers on the DAS list provided:

- The analysis indicated that 16 of the non-ATP member agencies on the list allegedly notified were not eligible to receive the funds (either because there were for-profit agencies or for another reason). Several of them told us, however, that they did not recall receiving the notice from ATP-MSN.
- Of the remaining non-ATP members allegedly notified by ATP-MSN of the availability of the funds but who did not apply for them, seven said they did not need ADA improvements; one did not apply because of time constraints, and 21 said that they did not recall receiving a letter from ATP-MSN announcing the availability of the funds.

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<sup>49</sup> Of the 37 ATP member applicants approved for grants, three failed to submit bids and their grants were not funded. The 34 successful ATP member applicants received a total of 40 distinct awards (six ATP members were given two awards each).

<sup>50</sup> The evidence indicates that a DAS employee was aware that the work had been completed before the notice was provided and objected to the retroactive funding of the project.

<sup>51</sup> Despite repeated attempts, we were not able to contact these five treatment providers on DAS list.

(3) Award Process Flawed

The documents gathered during OIG's investigation indicate that the process that the ATP/ATP-MSN Executive Director set up to "select" the agencies that would receive the funds was a sham. It was intended to convince potential critics that the process was fair and that all providers had equal opportunity to obtain the funds. However, OIG's investigation revealed that the process was not intended to distribute the funds equally to ATP and non-ATP members, and the resulting distribution indicates that it did not. Non-ATP members were excluded by the flawed notice process. It was only left to the ATP/ATP-MSN Executive Director, perhaps with the advice of other ATP representatives, to decide how much of the funds those agencies would receive and for what purpose.

The ATP/ATP-MSN Executive Director held a single meeting on May 18, 2005 of a so-called "committee", a group selected without an obvious rational basis that included three DAS representatives, three ATP member representatives, the Executive Director and his staff, and a few others. ATP-MSN had not included an architect or an expert on disability accommodations in the group, and notably absent from the committee was a representative of the Commissioner's Advisory Council on Disabilities. When we asked the ATP/ATP-MSN Executive Director why he did not include someone from the Council, his response was that he did not think of it. However, in later attempts to justify the selection process, the ATP/ATP-MSN Executive Director made much of the fact that an employee of the Division of Disabilities -- who was a last minute attendee replacing his supervisor -- provided valuable insights at the meeting. It is just as likely that the ATP/ATP-MSN Executive Director and other ATP/ATP-MSN representatives involved in the distribution process did not want knowledgeable individuals involved who could have objected to predetermined distribution to ATP members or could have publicly complained about the skewed distribution.

Although the ATP/ATP-MSN Executive Director stated that DAS representatives were an integral part of the process in selecting projects to receive the barrier free and life safety improvement funds, the DAS representatives consistently disputed the level of their involvement, universally stating that their involvement was limited to attending one meeting,

where they attempted to provide correct factual information and guidance on technical issues for those applications that were available. Only one of them had been provided copies of the applications prior to the meeting, and he and another complained to their supervisors about the process after the meeting. One of the attendees was a DAS fiscal officer who replaced his co-worker at the last minute. He was there as an observer and had nothing to offer to the process; and his co-workers who attended the meeting did not recall him being there. The DAS Service Director responsible for ATP-MSN grants, although on the “committee” and invited to attend the May 18th meeting, did not attend. She did not send a representative, and never inquired of the DAS people who did attend what had occurred at the meeting.

At the meeting, it was apparent that some applicants for funds had assembled a complete set of bids and other documents that the ATP/ATP-MSN Executive Director’s letter had advised would be necessary, but it is undisputed that many applications discussed at the meeting were incomplete. The DAS representatives thought that it was agreed that those applications would be reconsidered at a later point. The DAS representatives told OIG that they believed that final decisions were not being made at the May 18th meeting and that subsequent meetings would be held. Although ATP/ATP-MSN representatives deny that they gave the impression that there would be further meetings, we note that the ATP/ATP-MSN Executive Director’s e-mail setting up the May 18th meeting stated that this would be the “first meeting”, leaving the impression that there would be a second and perhaps more, and the DAS Service Director’s schedules indicated that there would be continuing meetings of the “committee”.

The ATP/ATP-MSN Executive Director told OIG that he left the barrier free meeting with the impression that the “committee” had granted him the power to make all further decisions without the need to consult them. There never was another meeting. The evidence demonstrates that the ATP/ATP-MSN Executive Director assembled this “committee” only as a pretense to create the impression that his selection process was fair, open to all non-profit providers and not pre-determined. Not only did he not provide “committee members” with information from which they could have made reasoned decisions about the grants, but he did not give them the opportunity to make decisions. Within a week of the May 18, 2005 meeting of the “committee,” the ATP/ATP-MSN Executive Director sent an e-mail to those who attended

and those invited but who did not attend. Attached was the “final” list of those who would receive the barrier free/life safety funds. One DAS employee told OIG that approved projects were on the list about which he had made adverse comments and that he thought should have been rejected.

In the e-mail, the ATP/ATP-MSN Executive Director stated that all but a very small amount of the \$2,576,000 funds available had been committed to projects and that there was only about \$50,000 remaining. However, months after sending that list and without consulting the “committee,” the ATP/ATP-MSN Executive Director awarded \$614,307 for projects to an additional 11 ATP members. Of these 11 awards, four grants were given to facilities of officers of ATP and ATP-MSN. Two of those grants were for the facility of the ATP member who was part of the ATP/ATP-MSN Executive Director’s “barrier free committee.” It appears that the funds for these projects were to come from projects from the original group that were withdrawn by the applicant or from another \$1,000,000 in barrier free funds that Kane-Cavaiola told the ATP/MSN Executive Director in November 2005 that she would provide it in the 2006-2007 grant.

4. 2006-2007 Grant Year Initial Award \$2,748,083

Despite ATP’s failure to distribute all of the “barrier free” funds during the 2005-2006 grant year, Kane-Cavaiola agreed to provide ATP-MSN another \$1,000,000 in “barrier free” money in the NJTI grant for the 2006-2007 grant year, in addition to other grant funds. The total amount of the initial grant for 2006-2007 was \$2,748,083.

During our interview, we asked the ATP/ATP-MSN Executive Director what he had done to announce the availability of the additional barrier free funds. He told us that he had done nothing because he had not gotten around to it.

The evidence indicates that in distributing the prior year’s barrier free funds, the ATP/ATP-MSN Executive Director had committed more funds to treatment provider projects than available. The over commitment was largely the result of awards made to ATP member

facilities in the fall of 2005, long after the original funds had been committed to projects. Since Kane-Cavaiola had agreed in November 2005 to provide another \$1,000,000 for capital improvements, it is reasonable to conclude that Kane-Cavaiola specifically provided the additional \$1,000,000 to fund these ATP member facilities' capital improvements.

Although the 2006-2007 grant was awarded on April 1, 2006, as Kane-Cavaiola had directed, within a short time of the award, a new DAS administration canceled the ATP-MSN grant pursuant to its terms allowing DAS to terminate upon 60 days notice. The final expenditure report has been submitted by ATP-MSN, and DAS is waiting for the completion of the OIG/DHS financial review to determine whether to accept ATP-MSN's representations. DAS determined to honor the commitments of capital improvement funds to treatment provider facilities if those improvements were underway. However, DAS is reviewing the various projects to determine the propriety of the distributions.

## VI. RECOMMENDATIONS

During the course of OIG's investigation, the new DAS administration began implementing several corrective actions. In addition to those improvements, we recommend the following:

### A. Internal Controls Review

OIG's investigation revealed that in her two-and-one-half years as Assistant Commissioner of DAS, Kane-Cavaiola presided over the erosion of DAS internal controls -- at least in regard to the ATP-MSN grants.

The evidence indicates that in particular, during Kane-Cavaiola's tenure as Assistant Commissioner of DAS, the Division was organized in a structure that did not foster the sharing of information between the program staff and the fiscal staff. While the program staff designed programs and fixed budgets, the fiscal staff had little if any input about the appropriateness of budgets and expenditures. This isolation made it difficult for the fiscal staff to provide any meaningful monitoring of the grants. It was also evident that at least for the ATP-MSN grants, Kane-Cavaiola did not require programmatic monitoring, and little if any oversight was conducted by the DAS staff that would normally perform that function.

Given Kane-Cavaiola's philosophy regarding procedures that may slow down awards (but are in place to assure that funds are protected), it is unlikely that the erosion of internal controls during Kane-Cavaiola's tenure was limited only to the ATP-MSN grants. Moreover, OIG recognizes that even the best system of procedural protections can be circumvented, particularly if those in authority directly or indirectly communicate a desire to circumvent them.

OIG recommends that there be a complete review of DAS internal controls to assure that there is a system in place that is adequate to protect of DAS funds from misuse, and to assure DAS funds are awarded for projects benefiting DAS clients and are used for an appropriate



purpose. If any deficiencies in the procedures are discovered during that review, the procedures should, of course, be modified to correct the deficiencies.

B. Staff Training

OIG's investigation revealed that some DAS employees responsible for the ATP-MSN grants did not properly perform their job function designing and monitoring DAS grants. The evidence indicates that through the totality of Kane-Cavaiola's actions with regard to ATP and ATP-MSN, she created an atmosphere that discouraged generally conscientious employees from adhering to procedures intended to protect DAS funds. Therefore, OIG recommends that DAS staff receive training to assure that they understand the processes in place and the importance of adhering to the procedures regardless of the identities of the grant recipients.

C. Personnel Action

As outlined in this report, OIG's investigation revealed that certain DAS personnel who were responsible for properly administering DAS funds did not perform their duties with respect to the grants awarded to ATP-MSN. Granted, some of the failures were the result of the atmosphere fostered by Kane-Cavaiola and appeared to be sanctioned by her. We recommend that DAS administration perform an assessment of employee involvement in the abuses we reported regarding the monitoring the ATP-MSN grant and take appropriate corrective action where warranted.

D. Recovery of Funds

The report of the financial review conducted by OIG and DHS auditors will be released when it is completed. However, early indications are that a substantial amount of DAS funds were improperly used by ATP/ATP-MSN. OIG recommends that DAS and DHS undertake efforts to recover those funds.

E. ATP/ATP-MSN Oversight Failure

The evidence gathered during OIG's investigation revealed that several ATP/ATP-MSN representatives, including Board members, officers, and the joint Executive Director were directly involved in, were aware of, or were complicit in the misuse of DAS funds described in this report. In addition to their responsibilities as ATP/ATP-MSN representatives to assure that ATP/ATP-MSN properly used DAS funds, most of these representatives also occupied high level management positions at a treatment provider agency or facility. DAS relies on these representatives to self-police, and in their employment positions they are each entrusted with the proper use of DAS funds awarded to their agency or facility. Because of the obvious failure of ATP and ATP-MSN Board members, officers, and the Executive Director to perform their responsibilities to assure that the public funds provided to them were properly used and the broader scope of the responsibilities of these individuals, OIG recommends that all DAS grant recipient management employees and Board members who are responsible for spending DAS grant funds receive training in their responsibilities to assure compliance with grant requirements.

F. Recusal Policy

OIG recognizes that individuals with relevant experience can be a valuable resource and should be encouraged to participate and use their knowledge to benefit State government. Therefore, DAS should promulgate a policy whereby all DAS senior managers are required to disclose prior relationships with entities and recuse themselves from decisions having the potential to benefit those entities.

G. Additional Risk Audits

The evidence gathered during OIG's investigation substantiated the allegations in an anonymous letter regarding improprieties in the award and monitoring of grants benefiting ATP and ATP-MSN. The anonymous letter contained several other detailed allegations indicating that other DAS grant recipients received favored treatment and unwarranted benefits during

Kane-Cavaiola's tenure as Assistant Commissioner of DAS. Therefore, OIG recommends that DHS and DAS conduct risk audits for contracts referenced in the anonymous letter and other contracts awarded during Kane-Cavaiola's tenure to ATP members to determine whether they were properly awarded and administered and that the funds were used in accordance with State and federal requirements.

H. Referral for Review by the Division of Criminal Justice

OIG is referring this matter to the Division of Criminal Justice for its review and determination of whether any of the conduct described herein amounts to criminal conduct warranting prosecution.

## APPENDIX A

Included in the ATP written correspondence<sup>1</sup> to government officials and others urging Kane-Cavaiola's promotion and recognition, many of them found in Kane-Cavaiola's files, were:

- May 12, 2003 ATP letter to Governor McGreevey (found in Kane-Cavaiola's files): "We continue to applaud your appointment of Carolann Kane-Cavaiola as the Assistant Commissioner of DAS ... In her brief tenure she has re-established an excellent working relationship between [DAS] and the entire substance abuse industry, and she has implement several cost saving initiatives. \*\*\* we recommend that you elevate the [DAS] to a Deputy Commissioner level ...."
- May 19, 2003 ATP to Governor McGreevey (found in Kane-Cavaiola's files): "We continue to applaud your appointment of Carolann Kane-Cavaiola as Assistant Commissioner of DAS. \*\*\* We ask that your office also rely on the expertise in DAS as the state voice for alcoholism, drug abuse and related issues, and recommend that refer all substance abuse related matters to DAS."
- May 27, 2003 ATP letter to McGreevey referencing meeting him at the April 2001 breakfast ATP held for McGreevey during the campaign (found in Kane-Cavaiola's files): "We ... strongly recommend that you appoint your Assistant Commissioner for Addiction services, Carolann Kane-Cavaiola to [the Children's Task Force]. She is extremely knowledgeable ... has unwavering support from the treatment provider community, and she is loyal to your goals."
- September 11, 2003 ATP letter to McGreevey inviting him to attend an event with Assistant Commissioner Kane-Cavaiola (found in Kane-Cavaiola's files): "I guarantee your support will not be forgotten at election time."
- October 3, 2003 ATP letter to McGreevey: "... we ask that you acknowledge Carolann Kane-Cavaiola as your expert in substance abuse prevention and treatment matters. We'd like to see Assistant Commissioner Kane-Cavaiola recognized in NJ ... as the single State authority on substance abuse and related issues.... \*\*\* We ask that you publicly recognize her as your voice on these issues, and that she is free to speak without getting prior approval on non-political items."
- November 2003 ATP Thanksgiving Message to ATP members (found in Kane-Cavaiola's files): "For the first time we have a treatment professional in the office of the Assistant Commissioner and we are grateful for her appointment. Governor McGreevey kept his promise to us to recognize the 'consummate professional', and [the former Commissioner of DHSS]'s appointment of

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<sup>1</sup> Unless otherwise stated, the letters purport to be written by ATP/ATP-MSN Executive Director.

Carolann Kane-Cavaiola in September 2002 has resulted in extraordinary progress in the provision of services to our clients. The field rejoices in her appointment, supports her efforts wholeheartedly, and applauds both Governor McGreevey and [the former Commissioner of DHSS] for their recognition of her accomplishments in Woodbridge and their faith in her abilities to move the field forward.”

- December 8, 2003 memorandum from ATP/ATP-MSN lobbying firm to Governor’s Chief of Operations urging elevation of Assistant Commissioner of DAS to Deputy Commissioner (found in Kane-Cavaiola’s files).
- February 13, 2004, ATP-MSN letter to Governor inviting him to annual awards dinner where Assistant Commissioner of DAS Kane-Cavaiola will receive an award for lifetime achievement (found in Kane-Cavaiola’s files): “... the field is very gratified by ... your decision to move DAS to HS, especially with the Assistant Commissioner reporting directly to...” the former Commissioner of DHS.
- January 3, 2005 ATP letter to former Commissioner of DHS (found in Kane-Cavaiola’s files): “I want to thank you again for your support of Assistant Commissioner Carolann Kane-Cavaiola and her efforts to chair the intra-departmental task force on addictions.” Further urges that all additional addiction funds go through DAS. \*\*\* We pledge our support to you and Carolann.”
- January 6, 2005 ATP letter to Commissioner’s Chief of Staff inviting him to attend an ATP meeting on January 26, 2005: “We’re excited about the Commissioner’s appointment of Carolann to head the addictions task force.”
- January 27, 2005 ATP letter to Commissioner’s Chief of Staff (found in Kane-Cavaiola’s files): “I look forward to joining the discussion ... with Carolann ... and ... providers. I think this is an area where the management of this is better placed in Carolann’s shop, as ... mentioned yesterday.”
- February 11, 2005 ATP letter to the then Commissioner of DHS (found in Kane-Cavaiola’s files): “One of the recommendations, a long-standing one from the association, is to see the position of Assistant Commissioner elevated in profile to a deputy position..... we are very pleased with the location of the position in your department – that is a direct report to you. We are confident ... in Carolann’s ability to convey our needs to your listening ears.... And just to be clear, this is not about Carolann – we have held that position before she became the Assistant Commissioner.”<sup>2</sup>

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<sup>2</sup> Given their dissatisfaction with the prior AC of DAS, it is unlikely that before Kane-Cavaiola’s appointment as Assistant Commissioner of DAS, the ATP/ATP-MSN Executive Director and ATP members would have campaigned to have all addiction prevention and treatment funds funneled through DAS and to have the lead position in DAS elevated to Deputy Commissioner; and during our investigation,

- February 14, 2005, ATP letter to Chair of Governor's task Force on Mental Health (found in Kane-Cavaiola's files): "... we would like to see both leader positions [DAS and Mental Health] elevated to the Deputy Commissioner level."
- March 22, 2005 letter from ATP Treatment Provider to former Commissioner of DHS (found in Kane-Cavaiola's files): "It was certainly a great day for [my agency] when Kane-Cavaiola was appointed as your Assistant Commissioner." Praising her abilities and accomplishments, it closes: "You are most fortunate to have Ms. Cavaiola on your team, to assist you in her efforts to implement new initiatives, such as DYFS reform...."
- March 23, 2005 ATP letter to former Commissioner of DHS: expressing gratitude for opportunity to discuss Vision of Addiction treatment in NJ and closing (found in Kane-Cavaiola's files) "we are eager to continue this discussion with you and Assistant Commissioner Kane-Cavaiola."
- March 23, 2005 ATP paper (found in Kane-Cavaiola's files) "Vision of Addiction Treatment" discusses the need to raise the Assistant Commissioner of DAS to Deputy Commissioner and stating that "raising the position of the incumbent" is important.
- April 5, 2005 letter from ATP Treatment Provider who served on Governor McGreevey's Transition Team (found in Kane-Cavaiola's files): "Having a Division leader like Assistant Commissioner Kane-Cavaiola ... only improves upon our ability to help people in need."
- May 20, 2005 ATP letter to Commissioner (found in Kane-Cavaiola's files): "I ask only that you look at the cost of administering this project. Put it all in DAS and I guarantee you will find efficiencies in cost, client placement, and better outcomes."
- June 27, 2005 ATP letter to gubernatorial candidate's campaign leader: "We appreciate your listening to us regarding our support for Assistant Commissioner Kane-Cavaiola of DAS. She is the consummate professional in the field and we strongly and without any hesitation encourage [the gubernatorial candidate's] consideration that she is kept on in the new administration."
- October 11, 2005 ATP letter to gubernatorial candidate's campaign leader: "...main points we wish to make.... 1. Make the Assistant Commissioner of DAS as Deputy Commissioner and keep Kane-Cavaiola in that position; 2. Move all statewide substance abuse policy, practice and funding into DAS. \*\*\* New Jersey has made great strides during the tenure of Kane-Cavaiola as Assistant Commissioner. \*\*\* ATP strongly supports Assistant Commissioner Kane-

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we did not uncover evidence that ATP did make these recommendations to government officials before Kane-Cavaiola's appointment.

Cavaiola and her work and encourages the [gubernatorial candidate's] administration to retain her in her position as overseer of addiction services in New Jersey.”

- December 3, 2005 ATP letter to the former Commissioner of DHS: “... I ask that you please officially and in writing move all policy standards for addicts to DAS ... as a way to make all of our work more successful.”
- January 6, 2006 ATP position paper: “... there needs to be one person responsible for taking action, evaluating result, and readjusting based on evaluations.... We recommend that DAS be given full charge of all addiction treatment prevention services in DHS, with the title of Deputy Commissioner .... Keep Kane-Cavaiola in the position. Smart, professional, courageous, and takes on the DHS Bureaucracy.”
- January 6, 2006 ATP summary of 5 points discussed with Aide to State Senate Committee for Health, Human Services and Senior Services, Committee membership and others (found in Kane-Cavaiola's files). “1. To consolidate drug and alcohol prevention and treatment services within DHS and in the office of DAS. At present, addiction services are managed and funded through DOC, Parole, Health and DHS. We are recommending legislation that would coordinate all these services under a new Deputy Commissioner of DAS.”
- February 9, 2006 ATP talking points for State Senator, [the former Commissioner of DHS], and others (found in Kane-Cavaiola's files): “There are two critical issues: Keeping Kane-Cavaiola as Assistant Commissioner of DAS and she should be a direct report to the Commissioner and his sole source of information on all addiction issues.” Extols her experience. “She and DAS are the keepers of the science of addiction prevention and treatment.”
- February 9, 2006 e-mail (found in Kane-Cavaiola's files) from ATP's immediate past president, comments on attached to above talking points: “This is why we need one lead agency .... What better agency than DAS and what more experienced person than Kane-Cavaiola our present Assistant Commissioner.”
- February 21, 2006 ATP letter to the former Commissioner of DHS: “1. We recommend that DAS report directly to you ... that DAS should be placed at the highest level within state government .... 2. ....We believe, and have recommended that DAS be led by a Deputy Commissioner in keeping with the letter of [the law].”

## APPENDIX B

Barrier Free/Life Safety Program At-A-Glance	
Total Number of Grants Funded (representing 36 distinct providers)	42
Number of Grants Received by ATPNJ Trade Association Members (six members received two grants each)	40
Number of Grants Received by Nonmembers	2
Total Value of Grants	\$2,678,085
Value of Grants Awarded to ATPNJ Trade Association Members	\$2,595,085
Value of Grants Awarded to ATPNJ Trade Association Members Expressed as a Percentage	97%
Value of Grants Awarded to Nonmembers	\$83,000
Value of Grants Awarded to Nonmembers Expressed as a Percentage	3%
Number of Directors on the Boards of ATPNJ and ATP/MSN (2003-2005) Eligible for Grants	19
Number of Eligible Directors receiving grants	13
Number of Grants Received by Directors (4 directors received two grants each)	17
Total Value of Grants Awarded to Directors	\$1,471,283
Value of Grants Awarded to Directors expressed as a percentage	55%

Requests for Grants Received After the May 18, 2005 Meeting	
Number of Grants Awarded For Requests Received After May 18, 2005 Meeting	10
Total Amount of Grants Awarded (For Requests Received after May 18, 2005 Meeting)	\$540,687
Total Value of Grants Expressed as a Percentage (For Requests Received After May 18, 2005 Meeting)	20%
Number of Grants Awarded to ATP Members (For Requests Received After May 18, 2005 Meeting)	10
Number of Grants Awarded to ATP and ATPMSN Directors (For Requests Received After May 18, 2005 Meeting)	6



## APPENDIX C

Below is a listing of acronyms used in this report and their corresponding meanings:

<b><u>ACRONYM</u></b>	<b><u>TITLE</u></b>
ATP	Addiction Treatment Providers of New Jersey, Inc.
ATP-MSN	Associated Treatment Providers Management Services Network, Inc.
CADCs	Certified Alcohol & Drug Addiction Treatment Counselors
COLA	Cost of Living Adjustment
DAS	Division of Addiction Services
DHSS	Department of Health and Senior Services
DHS	Department of Human Services
DOC	Department of Corrections
DYFS	Division of Youth and Family Services
NEATTC	North East Addiction Technology Transfer Center
NJTI	New Jersey Training Initiative
OCP&M	Office of Contract Policy and Management
OIG	Office of the Inspector General
PAC	Professional Advisory Committee
PDI	Professional Development Initiative
RFP	Request for Proposal
SEC	State Ethics Commission