

MARYLAND TAX EDUCATOR

GETTING BACK OUR \$1.1 BILLION

Taxpayers will not be surprised to learn that the case between Peter Angelos and the State of Maryland, represented by Joseph Curran, the Attorney General of Maryland, through a former Assistant now with Hogan and Hartson, a multi-attorney, multi-office firm based primarily in Washington, D.C., is now delayed for a long time.

When the Maryland Court of Appeals, the highest court in the Maryland, sent the case

back to the Maryland Board of Contract Appeals in early June 2001, there was no action for weeks. The Contract Appeals people did not even get a copy of the decision of the Court of Appeals for weeks.

Finally in August, the Board of Contract Appeals asked for information from the two parties about the case the Court of Appeals had sent back to them. After a conference call between the attorneys – Curran's offices are in Baltimore, Angelos'

lawyer Scott Livingston and his many partners have offices in Baltimore. And Ralph S. Tyler, of Hogan & Hartson, also has offices in Baltimore.

Here is what was agreed to according to a letter to the Board of Contract Appeals from from Livingston to the Board, Motions would be heard on October 11, proof of costs would be named by December 14, 2001 and January 25, 2002. Discovery in the case — depositions, requests for documents, and the like, would be

Continued on page 2...

INSTITUTE ON STATE BUDGET ANALYSIS

MTEF and the Maryland Taxpayers Association have jointly invited nearly 2,000 people to its November 10 program that will review the Maryland State Budget. The site for the 1:00 P. M. to 5:00 P.M. program is the Howard County Business Training Center in the Gateway Industrial area off Maryland 175,

west of I-95, in Columbia.

Co-chairmen for the event are former Maryland Senate President Jim Clark (D-Howard) and former Delegate Ray Beck (R-Montgomery) who served a term on the House Ways and Means Committee.

Speakers include Warren Deschaneaux, head of the fiscal policy staff of the Department of Legislative Services, Delegate Robert Flanagan (R-Howard), Jeff Hooke, who has taught finance at two local universities, and Chris Edwards, fiscal policy at the Cato Insti-

Continued on page 3...

Inside this Issue:

Project \$1.1 Billion Recovery 1

Budget Institute Nov. 10 in Columbia 1

Dates to Pass on to Interested Citizens 1

Important Dates October 23, 2001

Appropriations Committee, 4:00 P.M. in Room 130, Lowe Building, Annapolis, to receive briefings on Medicaid Funding and Implementation of Prescription Drug Legislation.

October 30, 2001

Spending Affordability Committee, 6:00 P.M. receives first briefing this year at Room 110, Lowe Building, Annapolis. Revenue and Expenditure forecasts for current and future fiscal years will be made by Legislative Services staff.

November 10, 2001
Institute on State Budget Analysis. See article in this issue.

Project \$1.1 Billion Recovery — continued from page 1

would be closed by April 2, 2001 (sic) and the parties could continue to make discovery until April 2, 2002. However, all Circuit Court discovery would be used before the Board.

The hearing on the merits would be held May 6, 2002, after which or near the end of which, the Board will establish a schedule for post-hearing briefs.

Thus, the decision of the Board of Contract Appeals will not occur until sometime in the summer or fall of 2002. Because elections are held in September and November of 2002, one only needs to look at previous decisions of such political import in Maryland, to determine that it is very likely no decision will be reached by the politically appointed members of the Board until early in 2003.

MTEF does not take positions on political issues. The Maryland Taxpayers Association does. While this litigation is not a political case, it certainly has many political overtones for all of Maryland's voters and Taxpayers.

Who is behind the continuing struggle between the Peter Angelos law firm and the Attorney General of Maryland over the fee Angelos should get for his "work" on the case against the Tobacco Companies?

No one knows anything about the real issue here except two people. Peter Angelos, a major stockholder

In the Orioles baseball team, the plaintiffs attorney in hundreds of asbestos-related personal injury cases, and one of the largest contributors (4th of 5th) to one of the major political parties and Joseph Curran, attorney general of Maryland, father-in-law to Mayor Martin O'Malley, and friend of many of the same people in the same political party.

Curran, not a real major litigator himself, and his long-time staff people who were also not experienced in major tort cases, but skilled in the internecine appellate court warfare in Maryland, turned to Angelos in 1996 to represent the people of Maryland in a case against the Tobacco Industry. The Tobacco Industry had sold products that caused damages to people that in turn, caused Maryland Taxpayers, out of decency and sympathy, and as decided by its elected officials, to pay for the personal sickness and illness caused to Maryland residents by tobacco.

In one sense, it seems Curran wanted to keep an arms length from these tobacco people, in case they gave political contributions to his fellow politicians, and in another sense, Curran simply did not have the competence to conduct a major trial against several major tobacco corporations. One can imagine it was hard to smile and shake hands with people who gave money to candidates and then sue them the next day. So he sent out a request for bids on a contract to represent the state in the case.

have the competence to conduct a major trial against several major tobacco corporations. One can imagine it was hard to smile and shake hands with people who gave money to candidates and then sue them the next day. So Curran sent out a request for bids on a contract to represent the state in the case.

There is much more that could be explained, but this risks MTEF getting political. So we prefer to just keep you informed and ask that you deal with the politics yourself in your own way.

Lawyers on both sides of this case are supposed to be honest. There are rules of professional conduct that they are supposed to follow. One of those rules is Rule 1.5 that says attorneys fees must be reasonable. MTEF agreed to help the individuals and the Maryland Taxpayers Association in this case in order to push for utilization and application of Rule 1.5 by the Courts. After all Rule 1.5 is an attorney disciplinary rule that only the Court of Appeals can enforce against attorneys.

MTEF has spent most of the money it has raised to keep this issue before the public. MTEF needed \$100,000 or more to pay the cost of intervening with an attorney in the case at the Board or Court levels. We simply have not raised that amount of money, so the case will go forward without us, unless something happens

Continue to page 3...

Budget Institute — Continued from p. 1

tute. Other invited, but unconfirmed, speakers at this time include Speaker Casper Taylor (D), a member of the Senate Budget & Taxation Committee, and Delegate Pete Rawlings (D), chairman of the House Appropriations Committee.

Reservations are required for the program and should be made in writing to the MTEF. There is no charge for the program, but since MTEF is a non-profit, non-partisan organization that accepted tax-deductible on-

gram, but since MTEF is a non-profit, non-partisan organization that accepted tax-deductible contributions, any support for the program will be appreciated.

In the aftermath of Terrible Tuesday on September 11, many states are working on reductions in spending plans for next year as revenues are not coming in as expected. Maryland spent a great deal of surplus moneys during the last session of the General Assembly at the request of Governor Glendening.

The first fiscal briefing on revenues will occur before the Spending Affordability Committee on October 30th at 6:00 P.M. in Annapolis. From October 30 to mid-December, the Committee will hear additional economic data and then decide what level of spending limits to impose as recommendations for FY 2003. The Budget Institute will hear about the revenue forecasts during its program on November 10.

For the past few years, the spending

Continued on page 4...

Status of Project \$1.1 Billion Recovery — continued from page 1

soon.

Picture this. The Board in represented or advised in every case by the Office of the Attorney General. A former Assistant Attorney General also represents the Attorney General in the Board case because Joseph Curran recognizes at least an appearance of impropriety. And Peter Angelos, who signed a contract in March 1996 that mentions the Code of Professional Responsibility (now called the Code of Professional Conduct) twice in two separate paragraphs, is arguing, in effect, that the Codes does not apply to him. And the legislature in 1998 passed a law saying that Angelos could have a 12.5% legal fee, but it was subject to the Court's review under Rule 1.5.

Decide for your self the ethics of this situation and whether An gelos is subject to Rule 1.5.

The \$1.1 Billion in legal fees

that Peter Angelos and his hired law firm of Rifkin, Livingston, Levitan, and Silver, LLC are fighting over could be used to fund the needs of tobacco victims if it were decided that most of the money belonged to the people of Maryland. Rifkin is a former assistant to the Governor of Maryland, and a lobbyist, while Levitan is the former Senate Budget and Taxation Committee, who was defeated some time ago, in part, for lobbying for clients who appeared before his committee.

U.S. Senator John McCain of Arizona asked the General Accounting Office to tell him what the states were doing with the settlements. Here is what they reported on June 29, 2001 in a 70-page document available from the GAO as GAO 01-851. Ask your Congressman or woman for a copy.

The GAO report says \$205 Bil-

lion will be paid over 25 years from the master settlement. Florida, Minnesota, Mississippi and Texas got their settlement earlier and they are not included, but they will get \$40 Billion over 25 years.

Only \$13.5 Billion has been received by 45 states by April 2001. A third of the states passed laws requiring the funds to supplement state funds, and two thirds of the states earmarked the money for future use. Missouri, Oregon, Pennsylvania, and Tennessee established special commissions to decide how to use the money.

While the money can be used for anything, the Maryland Taxpayers Association, we note, asked years ago that the money be put in a trust fund to pay for illness and sickness from tobacco. GAO reported that Maryland dedicated 100% of the money for special purposes. Maryland's money so far has been

Continued on page 4...

Maryland Tax Education
Foundation, Inc.
103 North Adams Street
Rockville, MD 20850-2217
Phone: 301-762-3784
President's Office
E-mail: MDTAXES@AOL.COM



TO GOVERN THEMSELVES A
PEOPLE MUST HAVE KNOWLEDGE

MTEF

\$1.1 Billion — Continued from page 3...

allocated 53% for health, 16% for educational and social services, 25% for general purposes, 5% for tobacco control, and 3.5% for assistance to tobacco farmers and economic development.

California put all of its money into health, Massachusetts 90%, Georgia 32%, North Carolina 25%, Nebraska 80% for health, Oklahoma 64% in health, South Carolina 99% in health, West Virginia in 95% health, and Virginia 50% for economic development and 40% for general purposes.

Maryland's 3.5 to 4% goes directly to tobacco farmers and Maryland is the only state reported

to be paying farmers to stop growing tobacco. Kentucky and Virginia provided subsidies with no strings attached. North Carolina had not decided what to do by April, but will not require farmers to reduce tobacco production.

New York counties and New York City have used the money to pay down debt. New York City used the money to create the Tobacco Settlement Asset Securitization Corporation which issued bonds to finance capital projects including school construction. New York City has been constrained by state debt limits for some time and has capital needs greater than the debt limit allows. [Remember this was all before September 11, 2001.]

www.marylandtaxeducation.org

MESSAGE FROM THE PRESIDENT

MTEF operates mostly with volunteers and needs to find a way to raise significant sums to work effectively to educate Taxpayers.

As a non-profit, MTEF is allowed to pay salaries, but is must have contributions to do that. There are many, many non-profits in Maryland that pay staffs of several people who end up lobbying the General Assembly for more money to support their causes.

We seem to like to support causes that want money until it comes to Taxpayer organizations, then we get cold feet.

National think tanks raised tons of money last year, much of it from Maryland. We are jealous and proud

of the Heritage Foundation that topped \$100 million last year. Heritage has recently assisted another Maryland non-profit develop an analysis of health care proposals.

But there is so much more that we could do to educate Maryland Taxpayers about what is going on. Can you help us?

The information in this newsletter has not been reported in the media.

William J. Skinner, R. Ph., Esq., President

P.S. Contributions to MTEF are deductible from Federal and Maryland income taxes. If you have already given, or for any reason, cannot afford to give again, please pass this newsletter on to your neighbor or friend..



MTEF will work hard to educate Maryland Taxpayers about state spending.

BUDGET INSTITUTE — from page 3

limits have been voted at higher levels than the expected growth in personal incomes, with some expected growth projections being discounted as unreliable.

The legislature has expanded spending in the recent past, using the justification that it must have leeway to get at increased revenues in capital gains taxes, about half which are earned in Montgomery County, and the balance from around the state. Recently, Comptroller Schaefer criticized the spending affordability vote by those setting the capital debt limits.

Send in your reservation form if you want to attend this important program this year.