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COURT OVERTURNS CONVICTIONS OF 3 IN WEDTECH CASE

PERJURY IN TRIAL AT ISSUE

Associate of Meese Is Among Those Whose Racketeering Sentences Are Upset

By CONSTANCE L. HAYS

Saying prosecutors "should have been aware" that a crucial witness in the Wedtech bribery case lied, a Federal appeals court yesterday overturned the racketeering convictions of three men, including a close associate of former Attorney General Edwin Meese 3d, in the case.

The collapse of the Wedtech Corporation, a Bronx military contractor, became a scandal that reached to Congress and the White House during the Reagan Administration and led to the convictions of former Representative Mario Biaggi of the Bronx and the former Bronx Borough President, Stanley Simon, among others.

The ruling by the United States Court of Appeals for the Second Circuit in Manhattan, which may be appealed by the Government, ordered a new trial for E. Robert Wallach, a San Francisco lawyer who is a close friend of Mr. Meese, and two of his advisers, Rusty Kent London and Wayne Franklyn Chinn. **Illegal Payments**

All three were accused of receiving illegal payments from Wedtech, a company that won huge Government contracts under a program that made minority-owned businesses eligible for such contracts without competitive bidding. The work was secured with help from Mr. Wallach, who agreed to contact Mr. Meese and promised further help once Mr. Wallach was appointed to a Justice Department post, which never materialized.

At issue in the appeals court decision was

the testimony of Wedtech's former president, Anthony Guariglia, who the court said was one of two witnesses who "directly linked the defendants with the illegal conduct of Wedtech." Mr. Guariglia had pleaded guilty to reduced charges and agreed to testify against Mr. Wallach and the others.

In February, Mr. Guariglia was convicted of lying at the trial about whether he had stopped his compulsive gambling. While the perjury conviction did not deal with his testimony about the Wedtech bribes, the court decided that if the jury had known about his lies, it would have subverted the rest of his testimony.

Mr. Guariglia also testified in Congressman Biaggi's trial. The perjury conviction and the reversal of the Wallach trial convictions do not directly affect the verdicts in other trials, lawyers said, although the appeals court's ruling could be cited in motions filed by the defendants. **Not Telling the Truth**

In their ruling yesterday, Judges Thomas J. Meskill and John F. Keenan wrote, "We fear that, given the importance of Guariglia's testimony to the case, the prosecutors may have consciously avoided recognizing the obvious — that is, that Guariglia was not telling the truth."

They added: "Had it been brought to the attention of the jury that Guariglia was lying after he had purportedly undergone a moral transformation and decided to change his ways, his entire testimony may have been rejected by the jury."

In a concurring opinion, Judge Frank X.

Altamari said, "I cannot subscribe to the notion that the assistant United States Attorneys who represented the Government in this case should have known that Anthony Guariglia was committing perjury at the time of trial." He agreed, however, that the perjury warranted overturning the convictions.

The indictments were brought by the office of the United States Attorney in Manhattan when Rudolph W. Giuliani held that position. Mr. Giuliani declined to comment last night, saying that he had left the office by the time the trial began and Mr. Guariglia testified.

A spokesman for his successor, Otto G. Obermaier, insisted yesterday that the United States Attorney's office had no idea that Mr. Guariglia was lying in his testimony.

"We absolutely and categorically deny that the Government was aware of any false testimony or knowingly used such testimony," Gerard E. Lynch, chief of the office's criminal division, said yesterday. "When the allegations came up, the assistants sought to investigate the truth of them and when they found he had lied, they had Guariglia prosecuted for perjury. To the extent that the court thinks we should have done more, we regret not having done more."

He said the Government could appeal the ruling by bringing it before the full court for the Second Circuit or the Supreme Court. "We'll consider it," he said.

Mr. Wallach said yesterday that he was "very grateful" and that he had been

confident all along that the system would exonerate him. "The bright lining in the dark cloud of the past four years," he said, "has been the way my friends and people in the profession have understood and believed in me and realized the system had become skewed by a set of circumstances that elevated politics and ambition to heights that caused the system to malfunction."

A lawyer for Mr. Chinn, Penelope Cooper, said, "We're just ecstatic. We hope that justice will finally be done."

Dr. London said he was "delighted and very relieved," and added that the Government might now realize that "a lot of the information they were getting was totally inaccurate."

Mr. Wallach, 57 years old, had been sentenced to six years in prison and fined \$250,000 for his part in the scandal. Mr. Chinn, 49, was sentenced to three years in prison and ordered to pay \$100,000, and Dr. London, 48, was sentenced to five years in prison and a \$250,000 fine. None of the three had served any time or paid any money, pending the outcome of

the appeals.

Others who stood trial on charges stemming from their involvement with

Prosecutors 'should have been aware' of perjury, a ruling says.

Wedtech include Lyn Nofziger, the former White House aide whose conviction on illegal lobbying charges was later reversed, and former Representative Robert Garcia and his wife, Jane, who were convicted of extortion but whose convictions were also reversed.

Mr. Meese, who resigned in 1988, was the subject of an investigation that found that he and his staff had been instrumental in helping Wedtech obtain contracts but that there was no evidence of criminal wrongdoing.

Mr. Guariglia's testimony in the case against Mr. Wallach included a description

of a \$200,000 bribe to Mr. Wallach as something that put Mr. Meese in Wedtech's "corner" during a Justice Department investigation of the company.

Mr. Guariglia also told of attending a ball in Washington in 1985, where he met Mr. Meese. The Attorney General asked him how a pontoon contract that had recently been awarded to Wedtech was going. That, Mr. Guariglia testified, convinced him that Mr. Wallach was "as close to Ed Meese as he could get," and would be able to "fix this case."

The testimony that became critical to Mr. Guariglia's credibility was in response to questions about whether he had gambled during a period when he was under a court order, from a bankruptcy judge overseeing Wedtech's affairs, not to do so. Mr. Guariglia said he had not.

The defendants' lawyers produced \$65,000 worth of markers from casinos in Atlantic City that Mr. Guariglia had signed. On re-direct examination, the witness contended that he had exchanged the markers for cash and had obtained chips for a friend.