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POSSIBLE MISCONDUCT

Legal panel investigating lawyers in mayor scandal

BY DAVID ASHENFELTER AND JOE SWICKARD • FREE PRESS STAFF WRITERS • MARCH 26, 2008

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The Michigan Attorney Grievance Commission is investigating the conduct of at least 10 lawyers, including Detroit Mayor Kwame Kilpatrick, involved in last year's \$8.4-million police whistle-blower lawsuit settlement that hid damaging text messages between the mayor and his then-chief of staff, Christine Beatty.

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The commission, the state Supreme Court's legal watchdog, sent letters late last week to lawyers who represented the City of Detroit, Kilpatrick and the cops who sued the city.

Commission director Robert Agacinski confirmed Tuesday that letters went out but "to whom or about what, I cannot say." He called them "investigative rather than accusatory," but wouldn't elaborate because of confidentiality rules.

Kilpatrick and Beatty were charged Monday with perjuring themselves during the whistle-blower trial last summer in an elaborate scheme to cover up text messages showing that they lied under oath about having an affair and misled the jury about the firing of a deputy police chief, Gary Brown.

Since the Free Press revealed the text messages in January, some lawyers tied to the controversy have been harshly criticized for trying to conceal the messages.

Ethics experts have said the lawyers seemed more interested in protecting Kilpatrick's reputation than safeguarding the city's interests and keeping the Detroit City Council informed about the reasons for settling a multimillion-dollar case.

The investigation could lead to professional misconduct charges against some of the lawyers and possible suspension or

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WHO WAS SENT THE LETTERS

[These lawyers were sent letters from the state's Attorney](#)



revocation of their law licenses, legal experts said. But for now, the letters are part of an effort to gather information. No one has been accused of wrongdoing.

The Free Press has learned that letters were sent to lawyers including Kilpatrick; Samuel McCargo, who represented the mayor in the whistle-blower suit; assistant city attorneys Valerie Colbert-Osamuede and Ellen Ha; John Johnson, director of the city's Law Department, and Michael Stefani and partner Frank Rivers, who represented the former officers. Valdemar Washington, who helped settle the case, also received a letter. Wilson Copeland II, a private attorney who represented the City of Detroit in the whistle-blower suit, and William Mitchell III, the mayor's private criminal attorney, were sent letters, too.

Most of the lawyers couldn't be reached or declined to comment Tuesday. Judy Smith, a spokeswoman for Kilpatrick, said it was unclear whether the mayor had received the letter.

Stefani acknowledged Tuesday that he received a request for investigation from the commission, but said it was inappropriate to discuss it because attorney grievance matters are confidential.

"The fact that the Attorney Grievance Commission has initiated an investigation would be no surprise to me," said Larry Dubin, a University of Detroit Mercy legal ethics professor. "The conduct of the city attorneys, on its face, seems to raise several serious ethical questions -- conflicts of interest, impeding the administration of justice and possible criminal acts."

John Brennan, a legal ethics expert at Thomas M. Cooley Law School in Lansing, has said some of the lawyers "were acting like Kilpatrick's legal bodyguards."

"Practicing law is a privilege," Brennan said. "Lawyers take on the obligation to police themselves."

The lawyers have 21 days to respond to the letters.

The commission is expected to use the responses and subpoenaed documents to determine in coming months whether any of the lawyers should be cited with professional misconduct and referred to the Michigan Attorney Discipline Board.

The investigation stems from a police whistle-blower lawsuit that accused Kilpatrick and Beatty of forcing two cops out of their jobs in 2003, when the cops were tied to a police investigation of a never-proven wild party at the mayoral Manoogian Mansion and alleged misconduct involving the mayor's security team.

A jury awarded the cops \$6.5 million last September.

Kilpatrick vowed to appeal, but abruptly settled that suit and a second one for \$8.4 million on Oct. 17, hours after learning Stefani obtained a copy of the text messages.

The Oct. 17 deal swore the cops and Stefani to secrecy about the messages.

But when the Free Press sought a copy of that agreement two days later, the city voided that deal and then signed a second set of settlements that hid the existence of the messages.

The council approved the \$8.4-million payout, but wasn't told of the messages or the secret agreement.

Grievance Commission in connection with an inquiry into the text message scandal surrounding Mayor Kwame Kilpatrick and his former chief of staff Christine Beatty:

Kwame Kilpatrick

A defendant in police whistle-blower trial, charged Monday with perjury, obstruction of justice, conspiracy and misconduct tied to the trial and resulting \$8.4-million settlement. He has denied acting illegally.

Samuel McCargo

Kilpatrick's city-paid private attorney, helped craft deal to hide messages as part of \$8.4-million deal. Did not notify legal authorities of his client's possible perjury.

John Johnson Jr.

Detroit Corporation Counsel, approved \$8.4-million settlement that hid messages; approved memo to City Council urging settlement but not revealing damaging text messages.

Valerie Colbert-Osamuede

Chief assistant city attorney, signed deal to hide messages; authored settlement memo to the City Council and told Wayne County Circuit Court Judge Robert Colombo Jr. in January that she was "not aware of any confidential agreements."

Ellen Ha

Detroit city lawyer answered Free Press public-records request for settlement documents in October by saying there was no secret deal.

Michael Stefani

Lawyer for whistle-blower cops, he gave McCargo a sealed envelope that revealed he had a copy of the damaging text messages, which within hours led to the \$8.4-million deal that included a provision to keep the text messages a secret.

Frank Rivers (photo unavailable)

Stefani's partner. He signed initial \$8.4-million agreement. Valdemar Washington

The facilitator during October settlement negotiations.

By Joe Swickard

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Legal experts note that under the rules that govern attorney conduct, lawyers are required to notify legal authorities if they learn another attorney has lied in court, or engaged in other acts of misconduct.

Some legal experts have questioned whether Stefani's actions may have crossed the line from settlement tactic to extortion, which he has denied.

Contact **DAVID ASHENFELTER** at 313-223-4490 or dashenfelter@freepress.com.

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medicineman wrote:

Midlandlionfan: and the Oscar for Best Performance by an Actor in a Leading role goes to - Forest Whitaker for "The Last King of Detroit" !!!

3/26/2008 6:07:47 PM

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GrandpaM wrote:

I've noted that the FREEP previously reported obtaining the text messages under a Freedom of Information request - DID YOU ALSO HAVE A SUBPOENA? I've also read that FREEP obtained the messages by the Atty for the Officers. Is that right? Thank you for setting part of the record straight - \$8.4 million was awarded to two officers after trial, the settlement involved three officers and released the City from any liability, past, present and future. The Jury paid up to the end of the trial. Prudent move to obtain a full buyout while adding the 3rd cop - Simple math, cash to first 2 officers was reduced from \$4.2 million to under \$3 million per officer. The settlement is less than the Jury Award. Hats off to the Attorneys for the City. Now I see an attack on Dennis Archer, a distinguished jurist and former member of our State Supreme Court - lets hope one day we can finish what Justice Archer started.

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