

Lawyers seek hearing in extortion case

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Attorneys for Sunrise officials charged with extortion accused a

federal prosecutor Thursday of threatening witnesses, leaking secret information to newspapers and misusing subpoenas in the

grand jury investigation that led to the indictment of Mayor John Lomelo and four others.

A motion, filed in federal court by attorneys for indicted Sunrise Councilman John Montgomery and Planning and Zoning Board member Robert O'Keefe, said the investigation "was so tainted by misconduct at nearly every stage of its evolution . . . that return of an indictment would be guaranteed regardless of evidence presented to the grand jury."

The motion asks for a hearing to review the conduct of Assistant U.S. Attorney Kevin March and for the dismissal of indictments against Montgomery and O'Keefe.

The two were indicted Nov. 27 with Lomelo, attorney Emerson Allsworth and lobbyist Spike Leibowitz. The government charged them with trying to extort money from Manor HealthCare Corp. in exchange for city approval of the company's proposed 120-bed nursing home.

Defense attorney Kenneth W. Lipman said attorneys for the other defendants are considering joining the motion against the prosecutor.

Montgomery, O'Keefe and Leibowitz also were charged with extorting money from Richmond Health Care Inc. of Augusta, Ga., in exchange for city approval of another nursing home. The three were also charged with income tax evasion.

March did not return phone messages left at the U.S. Attorney's offices in Miami and Fort Lauderdale. March's boss, U.S. Attorney Stanley Marcus, said the complaint will be addressed in court.

The 37-page motion, which accuses March of "gross misconduct," includes allegations that:

- March threatened to prosecute grand jury witnesses "unless they provided testimony consistent with the government's theo-

ry" in the investigation.

- The government committed the most "egregious violation of grand jury secrecy in recent years" in South Florida by leaking information of the grand jury proceedings to the press.

- March met for drinks with a grand jury witness, hoping to convince him to change his testimony.

- March sarcastically referred to Montgomery before the grand jury as "All-In-One Montgomery," improperly "using his clever wit" in an attempt to prove Montgomery used his public position to close a real estate deal.

- March violated federal grand jury policies by subpoenaing O'Keefe — a grand jury target — knowing that he would refuse to testify by invoking his Fifth Amendment right.

March subpoenaed O'Keefe as a "custodian of records," and told O'Keefe he was a "target" only after he appeared before the grand jury, said Lipman and defense attorney Bruce A. Zimet.

"There are rules in place designed to protect people," Lipman said, "This was not done."

Lipman and defense attorney Bruce Zemet said their motion was not an attempt to draw attention away from the tax and extortion charges.

"This is too significant to pass off as a smokescreen," Lipman said. "It's much too significant."

The motion also includes excerpts from grand jury testimony given by O'Keefe, two affidavits and copies of two letters from Richmond Health Care officials.

One letter, from Richmond President William McKettrick to March, states that, "Since I did not agree to say things that were not true in order to support your case against Sunrise officials, you now threaten me with indictment for mail fraud."