

Prosecutor tells jurors Lomelo led conspiracy

By Michael Romano
Staff Writer

After more than four hours of jury selection, John Lomelo's corruption trial quickly swung into action Monday with a detailed presentation of the government case against the suspended Sunrise mayor.

Federal prosecutor Kevin R. March characterized Lomelo as the leader of a three-man conspiracy team, allegedly approving \$42,000 in fraudulent invoices billed to Sunrise.

March said Lomelo also tried to extort \$30,000 from a Maryland firm that wanted permission to build a nursing home in the city.

In a 35-minute opening statement, March charged the money was supposed to have been funnelled to co-defendant Marvin L. "Spike" Leibowitz, 54, a lobbyist and Lomelo friend described in grand jury testimony as a "bagman."

March also outlined a purportedly essential element of the prosecution's case — the Oct. 3, 1983, meeting at a Banana Boat bar involving Lomelo, lobbyist Emerson Allsworth and Stephen S. Silver, secretary of Manor Healthcare Inc. of Silver Springs, Md.

"Steve Silver wanted assurances that no more money would be required and that it was the mayor who demanded [a \$30,000 lobbying fee to Leibowitz]," March told the jury. "Testimony will show that [Lomelo assured Silver] that there is no way anyone else would 'hit him up' for any more money."

"Lomelo stated that it was absolutely necessary that they pay Spike Leibowitz or [Manor]



John Lomelo

wouldn't get the project approved."

A jury of six men, six women and three alternates were questioned for much of the opening day by four defense attorneys, two federal prosecutors and U.S. District Judge James C. Paine, who will preside over the trial in the Federal Building in Fort Lauderdale.

The jurors, who have not been sequestered despite extensive publicity surrounding the case, include three housewives, four retirees, a Hollywood truck driver, a Publix supermarket employee, a shop foreman, a dietary technician at a hospital and the housekeeper for the mayor of another Broward County city.

The most extensive education of any of the jurors is a high-school degree with a single year of college. Only six of the jurors, who range in age from 37 to 72, have high school degrees.

One scheme, according to the indictment, involved payments to Leibowitz of \$42,000 for lobbying that allegedly was never done. The payments allegedly were funnelled through an independent consulting firm, Craig A. Smith and Associates of Coral Springs, according to the indictment.

"In July of 1982, Spike Leibowitz told Craig Smith that henceforth he was now on his payroll," March charged. "He said, 'Don't worry, you won't be paying the money. The city of Sunrise will.'"

He alleged that the fraudulent invoices were directly approved by Lomelo and later sent for routine approval to city Finance Director Tom Mullen, who is required by law to sign such invoices.

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Lomelo, 57, sat impassively during the first day of the trial, occasionally wiping his brow and the back of his neck with a white handkerchief. He faces charges of extortion, interstate commerce violations and mail fraud along with two co-defendants — Leibowitz and John E. Montgomery, 48, the suspended president of the Sunrise City Council.

Leibowitz, according to March, originally demanded \$50,000 from Manor Healthcare through Allsworth, a prominent attorney who was representing the firm. Allsworth, whose indictment in the case was dismissed last week on grounds he was granted immunity, is expected to testify during the trial.

"Allsworth told [Manor Healthcare official Joseph Buckley] that Spike Leibowitz wanted \$50,000 or the project was dead," March said. "Mr. Buckley said he would not pay \$50,000 to anyone. The price was reduced."

Not surprisingly, defense attorneys for both Lomelo and Montgomery sought to quickly distance their clients from co-defendants — especially from Leibowitz, the slight, rail-thin lobbyist whose name is most frequently mentioned.

"The whole thing is a fallacy," said Lomelo's attorney, Joe Varon. "No one has ever discussed anything with Mr. Lomelo about consulting fees, and no one will be able to show that Mr. Lomelo received one penny from Mr. Leibowitz or anything from anyone else."

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The method of payment was described to the court by the first witness, John C. Patten Jr., trust manager for the First American Bank and Trust in Palm Beach County.

He said the bank, as trustee of the proceeds from a 1981 bond indenture approved by Sunrise voters, pays construction invoices only if signed by the city's finance director and an independent contractor. He said Mullen's signature was on each invoice paid by his bank. A second bank in Alabama also paid invoices.

In the second case of purported public corruption by the three defendants, Manor Healthcare, which sought to construct a \$3.6 million nursing home in Sunrise, allegedly was forced to change its initial plans and select a building site

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Kenneth Lipman, who represents Montgomery, tried to separate his client from the two co-defendants seated around a crowded defense table.

"He did absolutely nothing whatever — absolutely nothing," Lipman told the jurors. "You'll very rarely hear the name of Mr. Montgomery. Please keep focus on that — this man is depending on you not to be influenced by the others."

Lawrence "Chris" Roberts, who represents Leibowitz, did not make an opening statement.

The 12-count indictment against the three defendants charges there were two instances of official corruption during a sweeping, 13-month grand jury investigation directed by March and FBI Special

listed for sale through Nob Hill Realty, a firm directed by then-council member Montgomery.

The firm also reportedly was expected to hire Leibowitz at a fee of \$30,000 in exchange for favorable treatment from Montgomery and Lomelo, who vetoed Manor's first proposed building site in May 1983.

In September 1983, Lomelo welcomed the new site and approved the plans, which were then rejected by Silver. Instead, he went to federal authorities, who launched the intensive probe.