

Ethics Prosecutor in Pivotal Role

Thomas Scheffey
The Connecticut Law Tribune
08-02-2002

Low-profile Hartford lawyer Jill Hartley was interviewed by the state Ethics Commission for a special counsel role in 1999, and she says she secretly hoped the staff wouldn't remember her.

Five years earlier, she was defending a client before the commission in a highly contentious hearing. Although she lost, "I gave them a hard time," she admitted.

Indeed, the commission staff vividly remembered Hartley-for deftly getting its executive director and general counsel, Alan S. Plofsky, to shut up.

She'd been nervy, but effective. And when Plofsky's commission hired her, she was paid the particularly gratifying compliment of having an ex-opponent ask to be a client.

The job was to prosecute state ethics laws in a case involving some of the most prominent political figures ever tangled in the commission's web.

Big Fish

In the wake of the 1990s state treasury bribery scandals, two venture capital partnerships created by West Hartford businessman George C. Finley have been the most visible of 15 ethics prosecutions of contingent-fee agency lobbying. Finley's partners in Truro Ventures and St. James Ventures were Peter G. Kelly and John F. Droney-two of the state's most influential lawyers with national-level Democratic Party status.

Kelly was only a partner in Truro; Droney was a partner in both. Both lawyers founded major Hartford-area law firms. They hooked up with Finley in his efforts to place hundreds of millions of venture capital fund investments through the state treasurer's office. They would be entitled to millions in finders fees-provided the transactions proved legal.

Although the Ethics Commission has its own staff lawyers, Plofsky said this high profile prosecution warranted outside counsel. After two years of discovery ending in a hard-fought probable cause hearing spanning six days from February through April, the three targets chose to settle for \$1.9 million in forfeited finders fees and legal bills, admitting no personal, intentional wrongdoing.

R. Bartley Halloran, Hartley's opponent in the five-day hearing, said the clash was intense and that Hartley was unnecessarily "denigrating" when she characterized defense motions as delaying tactics or "frivolous."

"Having said all that, I can't say that anything was done that was dishonest or unseemly in any manner, and she fought very hard for her cause." Droney, on the receiving end of Harley's persistent prosecution, politely complimented her competence. But as one prominent capitol area lawyer commented, with an indignant air, "Who the f — is she?"

Who She?

Hartley, of the six-year old Hartford firm of Sabia & Hartley, is a Hartford native whose practice focuses on employment law and products liability litigation, both on the defense side.

She received her undergraduate and legal education in Texas, earning a JD in 1989 from the University of Houston Law Center, and followed that with three years at a large Dallas firm, followed by litigation roles at Hartford's Cohn & Birnbaum and Halloran & Sage.

Hartley's registered as a Democrat in West Hartford, but she describes herself as "apolitical." That was a plus for the job she took on two years ago, which has just concluded with the \$1.9 million settlement -- a national record for any state ethics board in U.S. history, Plofsky said.

From the start, there were moments when Hartley, 38, appeared outmatched. Plofsky, after all, drew a bead on two major political movers and shakers. As chairman of the national Democratic Party, the personable Kelly conducted hugely successful telethons in the 1980s, and has divided his time between his Hartford law firm and Washington-based Black, Manafort & Kelly, a top national lobbying outfit.

Droney, of Farmington's Levy & Droney, has chaired the state Democratic central committee, is the older brother of U.S. District Judge Christopher Droney, and is both well-regarded and well-connected. Both men, and their lawyer R. Bartley Halloran, operate in a world of high-level politics and power brokering.

Building a detailed investigative record for her case, Hartley pursued facts from Minneapolis-based Crescendo Ventures. She documented that Finley was a constant presence in meetings between Crescendo executives and Connecticut treasury officials.

Crescendo agreed to pay millions in finders fees to Finley's company if it secured \$100 million investments from the state workers' retirement, pension and trust fund.

Hartley determined that Finley accompanied state treasurer Paul Silvester and another treasury official during due diligence meetings at Crescendo on June 12, 1997.

No less than four other meetings are documented, between Crescendo and Finley, and Droney went on a fishing trip with Silvester and other officials in August, 1998, while major Crescendo investments were pending.

Last December, the case against Finley dimmed when New Britain Judge Julia Aurigemma ruled that mere political "door opening" without making a qualitative statement to influence an agency official can not be willful contingent fee administrative lobbying. This meant a company couldn't incur more than a \$2,000 fine -- the penalty for contingent fee lobbying when no lawbreaking intent is proven. She also found that since a company was legally the only signatory to the contingent fee deal with the state, Finley and his partners weren't breaking any ethics rules personally.

It's a decision that Plofsky says guts state ethics law. It would give only a \$2,000 wrist slap for what he considers blatantly illegal multi-million dollar lobbying of state agencies.

Over a five-day probable cause hearing in Finley's case between February and April, Hartley presented a detailed case alleging his activities amounted to illegal lobbying, even under Aurigemma's stricter standards.

Hartley said Finley admitted lobbying from the start, when his lawyer recounted him meeting Silvester and noting the fund's strong track record. Halloran contends that Finley never actually endorsed the fund, and that it only looks like that in his letter.

Hartley also contended that Finley, by his constant presence at meetings between Treasury officials and Crescendo executives, communicated a constant, though silent, endorsement of the Crescendo fund. She built a case that non-verbal signals-such as Finley's frequent trips with Treasury officials to Crescendo's Minneapolis home base-can be illegal lobbying.

Halloran contends that would render the definition of lobbying absurdly subjective, since the silent message would vary wildly depending on what a person represented. Hartley also attacked four legal opinions Halloran says Finley and his partners relied upon. She spurned an opinion by a Washington, D.C., Securities and Exchange Commission expert as inapplicable to state lobbying law. A 1994 written opinion from lobbying ethics pro Paul McCormick, of Hartford's Updike, Kelly & Spellacy, was ambiguous. Hartley contends that two oral opinions McCormick allegedly made in 1997 and 1998 are fictional, and in her proposed findings of fact, boldly asked the commission to conclude the ethics expert's sworn testimony was untrue.

In late June, before deliberations began on the probable cause hearing, Halloran presented a settlement offer the Ethics Commission couldn't refuse. Its initial \$1.9 million may swell further. If fund growth targets are exceeded, the finders are paid half the promoters' bonus of 20 percent, which Halloran and Plofsky agree could add up to more millions returning to the pension fund.