

Headline: LETTERS

Date: January 16, 1993 Edition: FINAL  
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Section: NATION/WORLD  
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This is in reference to the Jan. 4 article profiling former prosecutor Lee Atkinson. I find it unbelievable that Hillsborough County had more electronic surveillance (wiretap) cases than 47 states, including California.

The pressing question is, how many cases resulted in successful prosecutions from 1,150 days of wiretaps? Shades of KGB.

To any American who values the right to privacy, especially Hillsborough County residents, this information should raise an alarm, especially when the person responsible brags, "I've got everybody on tape." Maybe that's one of the problems with the Key Bank case, zealous prosecutors and cooperating judges. Thank goodness we can now call Atkinson a former prosecutor. WAYNE C. DASINGER Lithia

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Memo:  
LETTERS

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Headline: Mayor's husband wins second round in court

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Section: FLORIDA/METRO Dateline: TAMPA

Author: JEFF STIDHAM Tribune Staff Writer

Headline: Judge says Key Bank phone taps went too far

Date: April 21, 1993                      Edition: FINAL  
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Author: DAVID SOMMER Tribune Staff Writer

Index Terms: CLARENCE NEWCOMER  
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BANK FRAUD TRIAL  
TPH  
APPEAL

Text:

TAMPA - State and federal investigators trampled privacy rights without justification when they listened in on 65,000 telephone calls in the complex Key Bank fraud investigation, a federal judge said Tuesday.

In a written opinion that "further amplifies" his earlier decision to suppress all wiretap evidence in the federal case against two former Key Bank officials and a customer, U.S. District Judge Clarence Newcomer sharply criticized state and federal investigators.

"Approximately 65,000 calls and 1,123 hours of conversations were monitored. There appears to be no justification for such a massive invasion of so many individual expectations of privacy in confidential banking or personal telephone conversations," wrote Newcomer.

Judge Newcomer's oral ruling on March 26 effectively threw out all evidence in the federal case. It also dealt what may be the death blow to the investigation.

Meanwhile, U.S. Attorney Robert Genzman's office on Tuesday filed a notice of appeal in the case, but the notice did not state what was being appealed.

A Genzman spokesman said the notice was intended to preserve the right to appeal Newcomer's ruling; no decision on whether to appeal has been made.

Although Newcomer's ruling throws out virtually all evidence against former Key Bank president Frank Pupello, former assistant bank vice

president Shirley Williams, and Tampa businessman Howard Bernstein, the

charges have not been dropped.

The three are accused of avoiding reporting a \$30,000 cash deposit made by Bernstein by breaking it into sums less than \$10,000. Federal law requires all cash transactions of more than \$10,000 be reported to discourage money laundering.

In addition to the scope of the wiretap, Newcomer said agents from the Internal Revenue Service, U.S. Customs, the Drug Enforcement Administration, the Hillsborough State Attorney's Office and Tampa police

used "stale and often uncorroborated information" to persuade Circuit Judge Susan Sexton to approve tapping about 30 telephones at the bank.

Also, he faulted agents for using misleading information to get permission for the wiretap.

Finally, Newcomer said the Florida racketeering law under which the wiretap was approved does not provide for wiretaps when money laundering is suspected.

One of Pupello's attorneys, Joseph Ficarrota, said Tuesday the written ruling further proves Circuit Judge M. William Graybill was justified in suppressing the wiretap evidence in five state court cases.

Fifteen people were charged in 14 separate state court cases by former Hillsborough State Attorney Bill James after detectives raided the Key Bank office in August.

In November, after James was defeated by current State Attorney Harry Lee Coe III, Genzman took over the one case against Pupello, Williams and Bernstein, and moved it to federal court.

In January, Graybill dismissed state charges against Mayor Sandy Freedman's husband, Michael, and two others, a move Coe has appealed in state court.

In early February, Coe dropped state charges against seven of the 15 defendants. A few days later, Graybill ruled without comment that the wiretap was illegal, prompting a second appeal from Coe.

If Graybill's ruling is upheld, the only remaining case in state court would be a perjury charge against former Hillsborough sheriff's deputy Rickey Dawes, accused of leaking a list of targets of the investigation and lying about it.

James didn't return phone calls Tuesday, and ex-Assistant State Attorney Lee Atkinson, who led the wiretap effort, declined comment.

president Shirley Williams and Tampa businessman Howard Bernstein, when the 11th Circuit dismisses the appeal, Zitek said.

Attorneys for defendants in the state and federal cases applauded the government's decision.

"Finally, someone sat down and looked at the case and decided it was not worth the taxpayers' money to go forward with it," said Gary Trombley, who represents former Key Bank attorney Michael Freedman, husband of Tampa Mayor Sandy Freedman, in a state case.

"This vindicates our position," said Joseph Ficarrota, Pupello's attorney. "It makes our position that much stronger with the [state's] 2nd District" Court of Appeal in Lakeland.

Coe said he will evaluate whether to continue his appeals of rulings made by Circuit Judge M. William Graybill in five state cases.

Fifteen people were charged with bank fraud in 14 state cases by former Hillsborough State Attorney Bill James after detectives raided Key Bank in August following a lengthy investigation involving state, federal and local authorities.

In November, after James was defeated by Coe, then-U.S. Attorney Robert Genzman took over the one case against Pupello, Williams and Bernstein, and moved it to federal court.

In January, Graybill dismissed state charges against Freedman and two others in January, a move Coe appealed in state court. In early February, Coe dropped state charges against seven of the 15 defendants. A few days later, Graybill ruled without comment that the wiretap was illegal, prompting a second appeal from Coe.

The state appeals are pending.

Graphic: PHOTO

Caption:

Harry Lee Coe III said he will examine the cases. <FILED: COE, HARRY LEE>

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Headline: LETTERS

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EDITOR  
OPINION

Text:

I am worried. You ran a series on the Mafia in Tampa, and I'm afraid that I may have "connections" within your definition.

I went to school with a whole bunch of kids with Italian names, including Trafficante and Pupello. My father knew Nick Nuccio. Two of my husband's sisters are married to men of Italian descent, and he once represented a man who was actually born in Sicily.

The last time I went to Little Sicily (formerly Castellano & Pizzo), I bought three liters of Italian olive oil. I have Italian sausage at home in my freezer, and Italian peppers and Romano cheese in the refrigerator. Why, once I even rode in an Alfa-Romeo while wearing Schiaparelli perfume.

Tomorrow it could be me. LORA AYERS HOLT Tampa

I wanted to remark on the wonderful, large and informative spread about the "Trafficante legacy" and the "era of blood-stained Tampa."

I am a sixth-generation Tampa native and through the years I have heard stories and rumors about gangsters, yet I must admit the majority of my understanding comes from Hollywood.

Santo Trafficante is gone; let the man rest, for heaven's sake. And who cares where he shall be entombed? And here is the real clincher: the Key Bank, you have to keep mentioning, and how you think the bank had mob ties. The Key Bank is my bank; I love the bank and every one of its officers and employees. And the ones who are no longer with the bank, thanks to a bunch of gung-ho Hollywood-trapped gang busters, are truly missed.

I think the writers, Jim Ross and Tim Collie, need to focus on who the real crooks, liars and thieves are, such as the Internal Revenue Service and our government officials in Washington.

Get some guts, guys, and write some real informative history that could prove beneficial to the people who read the Tribune instead of grasping at straws and using the name of a worn-out case to enhance your little storybook. BRENDA S. SMITH Tampa

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