

## 2 councilmen want talk of accepting cash bribes barred | Lawyers: Right to fair trial threatened [Corrected 01/16/05]

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### Document Text

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**CORRECTION: FOR THE RECORD** | The surname of attorney Frank Ragen was misspelled "Regan" yesterday in a story about councilmen who were indicted by a grand jury in 2003 on charges they schemed with others to repeal a no-touching law in strip clubs. Ragen was the attorney for the late Councilman Charles Lewis, one of three councilmen indicted. The Union-Tribune regrets the error. (Jan. 15, 2005, B-2:1,2,7)

San Diego City Councilmen Ralph Inzunza and Michael Zucchet asked a judge yesterday to bar prosecutors from saying the councilmen accepted cash bribes, according to court documents.

Such comments could jeopardize the defendants' right to a fair trial and "could constitute witness tampering," according to the documents, filed by attorneys for the councilmen. "The court should order the government attorneys and agents to cease making misrepresentations . . . particularly that Mr. Inzunza and Mr. Zucchet accepted cash payments."

Assistant U.S. Attorney Robert Ciaffa, one of four prosecutors on the case, said he had not seen the motions and would have no comment.

The councilmen, along with the late Councilman Charles Lewis, were indicted by a grand jury Aug. 28, 2003, on charges they schemed with strip club owner Michael Galardi, club manager John D'Intino and consultant Lance Malone to try to repeal a no-touching law in strip clubs in exchange for money and favors.

Galardi and D'Intino have pleaded guilty and are cooperating with the government; the councilmen and Malone, a Las Vegas resident, have pleaded not guilty. The councilmen have said any money they received was properly reported as campaign contributions. The trial is set to begin May 3.

The subject of cash bribes has been a point of contention for more than a year. Defense attorneys have repeatedly asked prosecutors to pinpoint details of cash bribes and of quid pro quo in the volumes of evidence, but they have declined to do so.

In a second indictment issued in October, the government disclosed for the first time the amount of bribes allegedly paid to public officials: More than \$70,000. The second indictment did not indicate if that money was in the form of campaign contributions, cash, gifts, or a combination.

To bolster their contention that prosecutors are behaving improperly, the defense attorneys filed declarations describing conversations with Assistant U.S. Attorney Michael Wheat.

Wheat "represented to me on more than one occasion that Councilman Lewis had kept cash payments as opposed to reported campaign contributions," said a declaration by Michael L. Crowley, a lawyer who represents David Cowan, a defendant who is charged with making a false statement.

A declaration by Frank Regan, who was Lewis' lawyer in the case until the councilman's death in August, wrote: "In essence, Mr. Wheat told me the councilmen had received cash, not simply campaign contributions. I asked whether it was his information Mr. Lewis specifically had received cash payments. He replied it was. My review of transcripts and discovery (prior to Lewis' death) did not reveal evidence of the type of payments described by Mr. Wheat." Michael Pancer, attorney for Inzunza, filed a similar declaration.

Wheat could not be reached for comment yesterday.

The councilmen are charged not with bribery but with extortion, which the statute describes as "the obtaining of property from another, with his consent, induced . . . under color of official right."

The lawyers asked that the government be required to pinpoint any evidence among the mass of documents and audiotapes that could prove their clients' innocence, "including information that tends to impeach government witnesses or evidence," the motion said.

"Giving a defendant access to voluminous discovery and then inviting him to find the exculpatory 'needle in the haystack' is inconsistent with the fundamental constitutional protections," the lawyers wrote.

"This case involves recordings of conversations spanning over several years. If defense counsel were to review each and every recording, this case would never get to trial."

U.S. District Judge Jeffrey T. Miller will hear arguments on the motions March 7.

The issue of cash payments was one of many pretrial motions the defense filed yesterday.

The attorneys also asked that the government be required to turn over evidence that could help them discredit Malone, including any information that Malone took bribes when he was an elected official in Las Vegas, or that he was involved in bribing other public officials after he left office.

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#### **Abstract** (Document Summary)

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