

## Defense: Zucchet no help to lobbyist | Councilman said to have given Malone a brushoff

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### Document Text

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Just one hour before the FBI searched his City Hall office, Councilman Michael Zucchet told an aide he intended to inform Las Vegas lobbyist Lance Malone that he wouldn't help repeal the no-touching rule at strip clubs.

Zucchet's lawyer, Jerry Coughlan, told the jury during his opening statement yesterday that Zucchet became suspicious of Malone after a meeting with San Diego police vice Lt. Bob Kanaski.

Kanaski had told Zucchet the opposite of what Malone was telling him: Police supported the no-touch law. Malone had insisted that his contact, vice officer Russ Bristol, said police would rather be fighting street crime.

"About that time, Mr. Zucchet began to wonder what's going on. He thought something fishy was going on," Coughlan said. "He was puzzled by Mr. Malone. What's the relationship between Malone and the police (vice) officer?"

Zucchet and Councilmen Ralph Inzunza and Charles Lewis were indicted on charges they accepted money from Malone, strip club owner Michael Galardi and club manager John D'Intino in a scheme to abolish no-touching rules in strip clubs. David Cowan, a council aide, is accused of making a false statement to the FBI.

Galardi and D'Intino have admitted they bribed the councilmen and Bristol -- who pretended to be corrupt -- and are cooperating with the government. The councilmen and Malone have pleaded not guilty and say any money received was in the form of legally reported campaign contributions. Cowan also has pleaded not guilty. Lewis died in August.

With the conclusion of opening statements yesterday, the defense strategy for the councilmen and Malone is clear: They were doing their jobs, interacting as politicians and lobbyists with similar political goals. They were aware of no bribery plot -- it was hidden from them -- and all were duped into believing that the police wanted to get rid of the no-touching law because cops would rather be fighting crime on the streets.

The government called its first witness yesterday, San Diego police Capt. Chris Ball, in part to establish that police supported the no-touch rule because it is clear and easier to enforce. The previous standard was vague and required police to make a subjective determination of what constituted lewd and lascivious conduct by dancers and patrons.

Ball was head of the vice unit when the no-touch rule was adopted and later became head of the criminal intelligence unit that assisted in the corruption investigation. He also testified about the rules in the clubs, and that Cheetahs was known to have broken them routinely before the no-touch rule was enacted in 2000. After that, Galardi paid Bristol, the vice officer, to warn him of upcoming vice inspections at the Kearny Mesa club.

In his opening statement Tuesday, Assistant U.S. Attorney Paul Cook said the councilmen sold their integrity to Galardi for a few thousand dollars and tried to hide their efforts to change the no-touching law. If touching were permitted, the club would make more money.

Cook said the councilmen were devious, requiring Malone to disguise the source of Galardi's campaign contributions to avoid media scrutiny and keep their plan to repeal no-touch a secret. To get adult entertainment matters on a committee agenda, the conspirators devised a phony e-mail campaign to create imaginary public interest, Cook said.

They sent a Las Vegas strip club employee to pose as a concerned citizen at the council's public safety committee meeting, he said. The employee asked for tighter restrictions on clubs, but the real goal was to sneak the no-touching matter onto the agenda, Cook said.

At the meeting, committee member Zucchet said he was interested in strengthening the restrictions, and he referred the matter to the city attorney's office. Cook said the evidence will show that Zucchet was aware of the plan to bring in the "concerned citizen."

Zucchet's lawyer Coughlan gave the jury a different version.

He said the meeting with Kanaski on March 21, 2003, was Zucchet's attempt to find out for himself what police thought about the no-touching law.

During the meeting, Zucchet made no effort to hide his interest in the no-touching law, telling Kanaski he "has been approached by people in the industry about strengthening some things and loosening others" in the adult entertainment ordinance, Coughlan said.

Kanaski told Zucchet the San Diego Police Department likes the no-touching law and would not support a change. The meeting was secretly recorded by the government.

After the meeting with Kanaski, Zucchet surmised there was a dispute going on between lower-level vice detectives who didn't like enforcing the no-touching law, and police administrators who supported it, Coughlan said.

After that, Zucchet didn't return Malone's calls, Coughlan said.

Galardi and his associates, meanwhile, became increasingly irritated that Zucchet met with Kanaski, despite Malone's efforts to have the meeting canceled, Coughlan said. And they were frustrated that Zucchet was not going to bat for them.

Eventually Zucchet called Malone back, but Coughlan said the councilman gave him the brushoff.

"Zucchet was not willing to put it on the agenda. When councilmen want to placate someone who's being a pest they tell them to show up in public comment (period of the city council meeting)" and then the matter is referred to the city attorney, what is often referred to as "Death Valley or the black hole," Coughlan said. "Mr. Malone had clearly made a pest of himself."

Then came the morning of May 14, 2003, when, an hour before the FBI raid at City Hall, Zucchet told his aide, Anthony Wagner, "I want to tell Malone and Inzunza we can't help out on this. We're going to tell them we can't help them," Coughlan said.

Zucchet agreed to a voluntary 3 1/2 -hour interview with the FBI that day.

"It's not the conduct of somebody who has a guilty conscience," Coughlan said. "He thought he was doing his job."

The indictment lists a call between Malone and Lewis on April 9, 2003 -- after the Kanaski meeting but before the committee meeting - - in which "Lewis said he had spoken to Inzunza and learned that defendant Zucchet was told by the SDPD that `they don't have any problem with the ordinance the way it is.' "

Malone responded: "That is just their official stance, but you know me, I don't do anything official," the indictment said.

Also yesterday, the jury got its first sampling of secret recordings, which were played by defense lawyer Michael Crowley, who represents Cowan. Jurors listened intently and showed little reaction as the voices of lobbyist Lance Malone and council aides Cowan and Patrick Schott shared friendly conversation about adult entertainment matters and other subjects.

Crowley tried to show the jury that Cowan never discussed the no-touch law with Malone. Malone mentioned no-touch twice to Cowan, briefly, and no discussion followed.

"Although no-touch is mentioned a couple of times by Mr. Malone, there's no discussion of no-touch because Mr. Cowan was out of the loop concerning that part of the overall picture," Crowley told the jury.

Crowley said Cowan was candid during voluntary interviews with the FBI. Among other things, he disclosed that his former boss, the late Councilman Charles Lewis, had accepted free tickets to a Las Vegas show from Malone.

Dominic Gentile, Malone's attorney, told the jury during his opening statement that the strip-club associates kept Malone in the dark about their corrupt activities, and that Malone was fed false information by an FBI informant and the undercover vice detective.

Malone, like the councilmen, was only doing his job when he raised funds for candidates and pushed his agenda, Gentile said. "What he wanted from those councilmen are the same things anyone who supports a candidate wants: Access."

Gentile disclosed an exchange between D'Intino, the Cheetahs club manager, and FBI agent Henry Nembach. D'Intino first met Nembach in October 2001, when Nembach visited Cheetahs to investigate tips that two Sept. 11 hijackers had visited the club while living in San Diego. At that time, the corruption investigation was in the early stages.

Not long after that, D'Intino found what he considered suspicious documents in a house he planned to rehabilitate, and he called Nembach to report it. The call was made from a tapped line at Cheetahs. In that call, D'Intino tells Nembach: "We donate to the city council. There's nothing wrong with it." Nembach replies: "Yeah, it's a free country."

D'Intino tells him about the no-touch rule, and that San Diego police "don't even want to enforce it."

Nembach replies: "We're not interested in that. We're interested in trying to track" the terrorists.

D'Intino is to testify that he and Galardi bribed the councilmen.

City hall trial

The defense strategy becomes clear: Councilmen Ralph Inzunza and Michael Zucchet and lobbyist Lance Malone were doing their jobs and were unaware of a bribery plot.

Prosecutors call police Capt. Chris Ball to help establish that police supported the city law that prohibits touching between dancers and patrons in strip clubs.

Credit: STAFF WRITER

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**Abstract** (Document Summary)

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