

AFFIDAVIT IN SUPPORT OF ARREST WARRANT

YOUR AFFIANTS are Investigator Norman Hale, an investigator with the Miami-Dade County State Attorney's Office and Inspector Edward A. Fortune, an Inspector with the Florida Department of Law Enforcement. Your Affiant, Investigator Norman Hale, has been a police officer for thirty-four years. Your Affiant Norman Hale, has been an investigator in the Criminal Investigations Division of the Miami-Dade County State Attorney's Office for ten years. During this time he has conducted numerous investigations related to public corruption. Your Affiant, Inspector Edward A. Fortune, has been a police officer for thirty-one years. Your Affiant Edward A. Fortune, is currently assigned to the Executive Investigations Unit of the Florida Department of Law Enforcement and has been assigned to the Public Corruption Unit for the past two and one half years.

On the morning of March 16, 2004, North Bay Village City Manager, Dr. James Vardalis contacted Investigator Norman Hale of the Miami-Dade County State Attorney's Office to advise that several sources had warned him that Mayor Alan Dorne was conspiring with at least two North Bay Village city commissioners to vote to fire him at the March 16, 2004, North Bay Village Commission meeting ("the Commission meeting"). Dr. Vardalis is a witness in a Florida Department of Law Enforcement (FDLE) investigation into the alleged harassment of a criminal defendant by North Bay Village Police Chief Irving Heller. Furthermore, Dr. Vardalis alleged the mayor and two commissioners conspired to remove him from office because of his cooperation in the FDLE investigation. He identified Mayor Alan Dorne, Vice-Mayor George Kane and Commissioner Armand Abecassis as the involved elected officials.

On that very same morning, Investigator Hale, contacted Vice-Mayor George Kane, and Commissioners Armand Abecassis and Tzvi Bogolmisky and arranged to speak with them. All three commissioners were interviewed. All three commissioners denied any knowledge of a conspiracy to terminate Dr. James Vardalis at the Commission meeting scheduled for later that date.

At approximately 6:30 P.M. on March 16, 2004, Investigator Hale interviewed Dr. Vardalis who advised that he had just met with the President of the Police Benevolent Association (PBA), and Mayor Alan Dorne and they had told him that if he resigned he could save himself a lot of embarrassment.

The Commission meeting took place as scheduled at approximately 7:30 P.M. However, Vice-Mayor George Kane never appeared for the meeting and the motion to terminate the manager was never made.

On March 18, 2004, Vice-Mayor George Kane was subpoenaed to the Miami-Dade State Attorney's Office to provide a sworn statement. During the sworn statement, Vice Mayor Kane admitted that on March 16, 2004, between 8:30 AM and 9:15 AM, he had met with Mayor Alan Dorne at Jimmy's Eastside Diner at 7201 Biscayne Boulevard, Miami, Florida. ("Jimmy's meeting") Shortly after his arrival, Commissioner Armand Abecassis also joined the meeting. The Jimmy's meeting occurred the morning of the Commission meeting.

Although Vice Mayor Kane thought the topic of the meeting was to be in reference to some private real estate business he and Mayor Dorne were conducting. Vice-Mayor Kane told investigators that he started to ask about the property and quickly realized that it was not something Mayor Dorne and Commissioner Abecassis wanted to discuss. Instead, Mayor Dorne initiated a conversation during which he was blaming City Manager, James Vardalis for Chief Irving Heller's problems. He was referring specifically to an investigation being conducted by the Florida Department of Law Enforcement. Vice-Mayor Kane stated that Mayor Dorne and Chief Heller are life-long friends.

Mayor Dorne's plan was to orchestrate a vote of no confidence to get rid of Dr. Vardalis at the Commission meeting scheduled for later that date. Dorne continued by stating that the PBA would be at the Commission meeting to show support. Vice-Mayor Kane said it appeared that Commissioner Armand Abecassis had knowledge of the plan because he didn't seem surprised about it when the discussion continued.

During this same Jimmy's meeting, Mayor Dorne stated to Kane, "I've got the three votes here with me," referring to the number of votes need to terminate City Manager James Vardalis. He stated the mayor went on to say, "I'm sure, you know, Bogomilsky will vote with us and probably DiMaggio will join us, so we'll probably get all five".

In his sworn statement, Vice-Mayor Kane went on to explain that on several occasions even before the Jimmy's meeting and particularly a trip he and Mayor Dorne had taken to the Florida Keys sometime in late February 2004, or early March 2004, the mayor had engaged him in conversation about the issue of Dr. Vardalis contacting FDLE to conduct an investigation into the allegations against Chief Heller. Mayor Dorne made comments that something had to be done about the City Manager. Vice-Mayor Kane understood that Mayor Dorne was suggesting that Dr. Vardalis should be fired because of the FDLE investigation of Chief Heller and Dr. Vardalis' role in it.

Finally, Vice-Mayor Kane also stated that Mayor Dorne talked about replacing Dr. Vardalis with former county manager Steve Shiver, and bringing back Chief Heller as a consultant to the city.

In a sworn statement given to the Miami-Dade State Attorney's Office, Commissioner Tzvi Bogomilsky stated that he first became aware of Mayor Dorne's plan to remove City Manager Vardalis from office on Monday, March 15, 2004, about 10:00 AM, the day before the Commission meeting. While enroute to his business office in Lauderhill, Mayor Dorne contacted him by telephone. During the telephone conversation, Mayor Dorne told Commissioner Bogomilsky that he needed to meet with Commissioner Bogomilsky right away. Commissioner Bogomilsky agreed to the meeting and met the mayor at the Bagel Cafe, 1736 Kennedy Causeway, Miami, Florida. ("the Bagel Cafe meeting")

During the Bagel Cafe meeting, Commissioner Bogomilsky and Mayor Dorne were having small talk about private business when Mayor Dorne's business partner Manny Taracido, approached and sat down at the table. During this meeting, Mayor Dorne stated that the PBA was coming to remove the city manager the following night during the Commission meeting. Commissioner

Bogomilsky thought that Mayor Dorne was orchestrating the removal of Dr. Vardalis because Mayor Dorne expressed that Dr. Vardalis should have handled the problem with Chief Heller in-house instead of going to FDLE. Commissioner Bogomilsky has overheard Mayor Dorne making those same comments in the past with other people.

During the same Bagel Cafe meeting, Mayor Dorne went on to tell Commissioner Bogomilsky that he had the three votes he needed to get rid of Vardalis and that he really didn't need Commissioner Bogomilsky's support. Mayor Dorne said the other commissioners were Vice-Mayor Kane and Commissioner Abecassis. Commissioner Bogomilsky said that he listened to Dorne's plan but he did not indicate whether he would support the move and he himself did not initiate any discussion of the issue.

In his same sworn statement, Commissioner Bogomilsky advised that he contacted Commissioner Abecassis by telephone prior to the Commission meeting, to confirm Commissioner Abecassis' anticipated participation in the planned removal of Dr. Vardalis. Commissioner Abecassis told Commissioner Bogomilsky there was no truth to what Mayor Dorne had told him. Commissioner Abecassis told Commissioner Bogomilsky there was no reason to terminate Vardalis, because he has done nothing wrong.

Commissioner Bogomilsky also advised that on prior to the Commission meeting he met with Vice-Mayor George Kane. During this meeting, Vice-Mayor Kane admitted to having knowledge of the plan to terminate Dr. Vardalis at the Commission meeting. Vice-Mayor Kane told Commissioner Bogomilsky that Mayor Dorne is a wimp and would not agree to make the motion at the Commission meeting to terminate Dr. Vardalis so it was planned that Vice-Mayor Kane was supposed to make the motion. According to Bogomilsky, Vice-Mayor Kane also advised that the plan called for Commissioner Abecassis to second the motion to terminate Dr. Vardalis.

As part of this investigation, Lieutenant James McCready of the North Bay Village Police Department provided a sworn statement. Lieutenant McCready said that during a brief three to four minute meeting on March 15, 2004, the day prior to the Commission meeting, Mayor Dorne approached him in the parking lot of the North Bay Village Police Department. Mayor Dorne told Lieutenant McCready, "We have the three votes to get rid of him (Dr. Vardalis) tomorrow night." Mayor Dorne also told Lieutenant McCready that he already made arrangements for Steve Shiver to assume the role of City Manager. Before the meeting ended Mayor Dorne told Lieutenant McCready that Lieutenant McCready had his vote for Chief of Police.

Detective John Costa of the North Bay Village Police Department has also provided a sworn statement as part of this investigation. Detective Costa said that a couple of days before the Commission meeting, Officer Steve McVay, the PBA representative for the North Bay Village Police Department, told him that the PBA was coming in to do the same thing to Dr. Vardalis as they did to former North Bay Village City Manager Ralph Casals. Officer McVay went on to say that the Commission (mainly Mayor Dorne and Vice Mayor Kane) had already reached out to the PBA and that former Miami-Dade County Manager Steve Shiver had been contacted to act as a temporary replacement for Dr. Vardalis.

Investigators have also obtained sworn testimony from a citizen of North Bay Village, Mitchell Edelstein that on Tuesday, March 16, 2004 around 1:15 P.M., earlier in the day of the Commission meeting, Mayor Dorne, Commissioner Abecassis, City Attorney Robert Switkes and an unknown male were all having lunch together at the Soyka Café & Bar, 5556 Northeast 4 Court, Miami, Florida. Edelstein asked his guest if he wanted to meet Mayor Dorne and they walked over to the table where Dorne was seated. Edelstein introduced his guest, they all shook hands, and “that was it” according to Edelstein. Other than a brief introduction, there was no substantive conversation before Edelstein and Williams returned to their table. The Mayor, Abecassis, and City Attorney stayed for approximately fifteen or twenty minutes longer and then all left together. Edelstein did not know if they were in the same vehicle or not.

North Bay Village City Attorney Robert Switkes has told Investigators in a sworn statement that he had arranged a meeting between the PBA President and Dr. Vardalis on March 16, 2004 before the Commission meeting. According to Switkes, it was his understanding that the issues to be discussed were in regards to the Florida Retirement System which was on the Commission agenda for the evening. Once the meeting started, it was apparent to Switkes that there was more to the meeting than the Florida Retirement System. Switkes described the meeting as very intense and the PBA President demanded that Dr. Vardalis resign. Switkes was embarrassed that he even set up the meeting.

In a follow-up interview with Investigators, Attorney Switkes acknowledged that a meeting had taken place at the Soyka Cafe and Bar. When asked about the meeting, Switkes acknowledged that Mayor Dorne, Commissioner Abecassis, and Manuel Taracido were all at the meeting. Switkes also stressed that he had taken the Mayor and Commissioner Abecassis aside to explain they could not speak of any City business.

As part of this investigation, former Miami-Dade County Manager Steve Shiver provided a sworn statement to Investigators. Shiver said on Saturday, March 13, 2004, three days before the Commission meeting, Mayor Alan Dorne and Commissioner Armand Abecassis traveled to Homestead, Florida together Michael Braverman, a lawyer representing the PBA, and Steadman Stahl, Vice President of the PBA, to meet with Steve Shiver at his home in the Redlands.

Before arriving at Mr. Shiver’s home, Steadman Stahl called Shiver to let him know that he, Commissioner Abecassis, Mayor Dorne and Braverman were having a pre-meeting at Denny’s Restaurant. When Stahl told Shiver he and Michael Braverman were in one vehicle and that Mayor Dorne and Commissioner Abecassis were in another vehicle, Shiver told Stahl that one of the elected officials had to stay outside when they arrived at his home because he didn’t need to get involved in a Sunshine Law violation.

Thereafter, both vehicles arrived at Shiver’s home at the same time and all four persons got out of the vehicles. Shiver asked Stahl to send Commissioner Abecassis across the street to get something to drink while he met with Mayor Dorne. Abecassis complied and Shiver, Braverman, and Stahl had a meeting on Shiver’s back patio.

According to Shiver, during this meeting Mayor Dorne stated to Shiver that he had the three votes to get rid of the manager. He talked about the Heller investigation and how Heller had done something stupid by drawing cartoons. When the meeting concluded, Commissioner Abecassis returned and spoke briefly to Shiver and then left with Mayor Dorne. Steadman Stahl and Michael Braverman left in their vehicle.

Dr. Vardalis has told Investigators in a sworn statement that he has received several visits from Mayor Alan Dorne regarding the way Dr. Vardalis handled the situation involving Chief Heller and the FDLE investigation. During these visits, Mayor Dorne criticized Dr. Vardalis for going to FDLE with the obscene cartoons allegedly sent by Chief Heller to a defendant with two pending misdemeanor cases. According to Dr. Vardalis, Dorne allegedly stated, "Whatever goes around comes around". Mayor Dorne continued to make comments that Dr. Vardalis did something wrong by going to FDLE.

Based upon the foregoing, it is submitted that Mayor Alan Dorne violated the Sunshine Law by illegally meeting with Vice Mayor-George Kane, Commissioner Armand Abecassis, and Commissioner Tzvi Bogomilsky and discussing a matter that would foreseeably come before the North Bay Village Commission.

Based upon the foregoing, it is submitted that Commissioner Armand Abecassis violated the Sunshine Law by illegally meeting with Mayor Alan Dorne and Vice-Mayor George Kane and discussing a matter that would foreseeably come before the North Bay Village Commission.

State Attorney Investigator Norman Hale
AFFIANT

FDLE Inspector Edward A. Fortune
CO-AFFIANT

Sworn to and subscribed before me this the _____ day of April 2004.

CIRCUIT/COUNTY JUDGE
Eleventh Judicial Circuit of Florida