
Whitewater

Case grows for removal of Starr

by Edward Spannaus

In July 1994, ten Republican congressmen wrote to the special federal court panel which oversees independent counsels, and asked for the removal of then-Whitewater special prosecutor Robert Fiske. Prominent among the reasons for which they sought Fiske's removal was that his law firm had previously represented the International Paper Co., which had once sold land to the Whitewater Development Corp. The congressmen also complained about Fiske's "long-standing" ties to White House Counsel Bernard Nussbaum. A few weeks later, the judicial panel removed Fiske, saying that the fact that he had been appointed by the Clinton administration could give rise to a "perception" of a conflict of interest.

Today, Fiske's replacement, Kenneth Starr, stands accused of far more serious conflicts of interest, which demand his dismissal as Whitewater independent counsel.

Under the independent counsel statute, 28 U.S.C. 596, the Attorney General may remove a court-appointed independent counsel "for good cause." In Starr's case, not only is he using an admitted perjurer (David Hale) to attack the President of the United States, but he has real, not merely "perceived," conflicts of interest, some of which were not disclosed or known at the time of his appointment in August 1994.

Starr's continued legal representation of clients who have an interest in the downfall of the Clinton administration, plus his direct involvement with some of President Clinton's most bitter adversaries, are more than sufficient cause for his removal. In terms of standard "legal ethics," perhaps the most significant case is that of his law firm's scrape with the Resolution Trust Corp. (RTC). An editorial in the *Nation* magazine recently characterized this as "a far more serious ethical breach than anything so far proven against Hillary Rodham Clinton or the President." An article in the March 18 *Nation* by Joe Conason and Murray Waas described how, at the same time that Starr was investigating the RTC's conduct, the RTC was suing his own law firm, Kirkland and Ellis. A week before the RTC settled the case with his law firm, Starr began a grand jury investigation of the RTC. The ultimate settlement of the civil suit was extremely favorable to Kirkland and Ellis, saving the firm an estimated \$700,000 over initial estimates of the likely final settlement.

The *Nation* article noted that the RTC "had good reason to be intimidated" by the grand jury investigation. "In effect, Starr had put himself in a position to exercise the leverage

of possible criminal sanctions against the group of federal officials who would decide whether and how the RTC's case against his Kirkland and Ellis partnership would be settled."

The April 22 issue of the *New Yorker* magazine catalogued Starr's conflicts of interest. Not only is Starr politically ambitious and ideologically opposed to Clinton, but "in the outside organizations with which he continues to be associated, he has allied himself with Clinton's enemies," author Jane Mayer wrote. Among the conflicts described:

- Starr is on the legal-policy advisory board of the Washington Legal Foundation, which in turn receives funds from the tobacco industry and the John M. Olin Foundation; also on the advisory board is attorney Theodore Olsen, who represents Starr's top anti-Clinton witness, former Little Rock judge David Hale.

- Starr serves as a consultant to the Lynde and Harry Bradley Foundation, whose grant recipients include the *American Spectator* magazine and the Free Congress Foundation, both of which have been major promoters of Whitewater. Another recipient is the Landmark Legal Foundation, which has provided free legal representation to Jean Lewis, the RTC "whistleblower" who hyped allegations against the Clinton administration, in her dealings with Starr's office.

- Starr represents two tobacco companies, Brown and Williamson, and Philip Morris, which are locked in legal battles with the Clinton administration.

- Starr represents Chiquita Brands, whose chairman Carl Lindner "is one of Sen. Bob Dole's oldest and biggest supporters."

- Prior to taking on the Whitewater special prosecutor position, Starr was researching a possible *amicus* brief on behalf of Paula Corbin Jones, who is suing Clinton for alleged sexual harassment.

- At the time of his appointment, Starr was personally representing International Paper Co. (Fiske had not handled any matters for the paper company for years.)

Conflicts 'begin to add up'

Writes Mayer: "It wouldn't matter much if Starr only had a past record as a Republican partisan, or only represented tobacco interests, or only served on the board of the occasional anti-Clinton organization in his spare time, or only had been involved in helping Paula Jones's lawsuit just days before his appointment, or only remained active in private practice while serving as independent counsel, or only cherished Presidential ambitions incompatible with Clinton's. But when these things are piled on top of each other they begin to add up."

To provide cover, Starr hired former Watergate chief counsel Sam Dash as his "ethics adviser," at the modest fee of \$3,200 a week. Dash defends Starr from the allegations of conflicts of interest, but he does concede that "it does have an odor to it." It would be better described as a stench, and the Attorney General should clear it out as rapidly as possible.