

Court Asks Probe in Case Of Pottinger, Decorator

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The U.S. Court of Appeals here directed federal prosecutors yesterday to examine a financial agreement between former U.S. assistant attorney general J. Stanley Pottinger and a Washington interior decorator in which the court said Pottinger received a \$5,000 promissory note in part for dropping a fraud claim against the decorator in a bankruptcy proceeding.

Pottinger had hired the contractor, Shelly Grant Gambler, to decorate his home, but Gambler did not complete the work. Gambler went into bankruptcy and Pottinger was one of several creditors.

Pottinger asked that his case take precedence over others on grounds that Gambler had defrauded him. Pottinger subsequently dropped the fraud claim, however, after Gambler gave him the note, according to an unsigned memorandum handed down by the court yesterday.

The court took the unusual step yesterday of asking the U.S. Attorney's office here to examine the agreement, citing a federal law that forbids private agreements in bankruptcy proceedings, an area in which disposition of financial resources is decided by the court. Violation of the law is a felony carrying a maximum penalty of five years in prison and a \$5,000 fine.

Carolyn Dye, a lawyer in Pottinger's firm, Troy, Malin & Pottinger, said

last night that Pottinger's decision to drop the fraud claim was not related to the \$5,000 promissory note. She said that the note was part of a settlement agreement that resolved civil claims between Pottinger and Gambler that were separate from the bankruptcy proceeding.

Dye, who said she helped represent Pottinger in his legal disputes with Gambler, said she believed the decision to withdraw the fraud claim in the bankruptcy proceeding was approved by bankruptcy Judge Roger M. Whelan.

She said attorneys representing Pottinger in the bankruptcy case had reviewed the law cited by the appeals court and felt that the decision to withdraw the fraud claim was proper.

Dye insisted that Pottinger's decision to withdraw the fraud claim was not related to the \$5,000 note, and added that Pottinger felt that pursuing the claim would be costly and time-consuming.

The note was intended to settle Pottinger's contention that his reputation had been damaged by a slander suit filed against him by Gambler, Dye said. She said Pottinger also agreed not to file a malicious prosecution suit against Gambler.

Last May, after the settlement was reached, Pottinger was the chief government witness against Gambler in a criminal trial before U.S. District Judge Harold H. Greene, according to the appeals court.

Gambler was convicted of charges that he obtained money under false pretenses and converted his clients' money to his own use. He was placed on probation and ordered to make restitution.

Gambler is appealing his conviction. In reviewing his appeal, the appeals court issued yesterday's memorandum asking federal prosecutors to determine what action, if any, should be taken concerning the settlement agreement between Gambler and Pottinger.

Pottinger was head of the Justice Department Civil Rights Division during the Ford administration.