Teamster Fund to Cite Kleindienst As Defendant in Insurer Fraud Suit

NYTimes

By A. H. RASKIN

NOV 12 1976

The principal welfare fund of the International Brotherhood of Teamsters decided yesterday to name Richard G. Kleindienst as an individual defendant in a $14 million damage suit that it filed last August alleging fraud by five life insurance companies.

The decision, disclosed by a spokesman for the Central States, Southeast and Southwest Areas Health and Welfare Fund in Chicago, followed unsuccessful efforts by the fund's attorneys to obtain voluntary return of a $250,000 fee shared by the former Attorney General and another Washington lawyer for helping steer millions of dollars in fund premiums to the companies involved in the alleged plot.

In testimony before the Securities and Exchange Commission on Sept. 3, Mr. Kleindienst reported that his role as middleman in the insurance transaction involved five to seven hours of work in late April and early May of this year.

This was three years after he left the Justice Department in the wake of the Watergate scandals, but the contacts on which his intercession was based were made during his service in the Nixon Administration.

According to the Kleindienst deposition, the fee-splitting deal was broached to him by Thomas Webb Jr., a lawyer, whom he had met originally at the Burning Tree Country Club near Washington when he was Deputy Attorney General.

Mr. Kleindienst's principal function was to make contact with Frank E. Fitzsimmons, president of the truck union, and tell him that he would "appreciate" any help that the union chief could give in swinging the fund's life insurance business.

In a civil suit filed in the Federal District Court in Washington six weeks ago, the S.E.C. charged that the result of the deal was an elaborate swindle under which four men switched permiums from the lead company in the combine—the Old Security Life Insurance Company of

Continued on Page D13, Col. 5

TEAMSTER UNIT CITES KLEINDIENST IN SUIT

Continued From Page A1

Kansas City—to two smaller companies under their personal control and illegally diverted at least $3 million. According to the S.E.C., one check for $1.1 million wound up in a Swiss bank.

The commission, which did not name Mr. Kleindienst as a defendant in its action, described the illegal plot as a "textbook case" in insurance looting.

Joseph Hauser, a California insurance consultant, to whom Mr. Webb introduced the teamster bid, was described by the S.E.C. as a central figure in the alleged fraud. He was indicted by a Federal grand jury in Los Angeles two weeks ago on charges of racketeering arising out of the bankruptcy of a prepaid health plan that had mulcted California physicians and union welfare funds.

Disclosure Barred by Law

Commission attorneys said that they were forbidden by law to disclose whether the S.E.C. had referred any of the evidence in their injunction case against Mr. Hauser and his alleged co-conspirators over to the Justice Department for possible criminal prosecution.

Informed yesterday that the teamster fund was in the process of amending its own Federal Court complaint in Chicago to add his name to those of Mr. Hauser and others already cited as individual defendants, Mr. Kleindienst said: "That surprises me."

He declined further comment until the papers were actually filed. He stressed, however, that the $125,000 for his part in the transaction had gone to his law firm, Welch, Morgan & Kleindienst, rather than to him personally. He withdrew from the three-man partnership at the beginning of this month and is now engaged in what he would describe as "a private business organization" in Fairfax, Va.

In his S.E.C. testimony Mr. Kleindienst said he first came to know Mr. Fitzsimmons, who is chief union trustee of the welfare fund, at the Burning Tree club during his service as Deputy Attorney General from January 1969 to March 1972. He described their relationship as "very warm, friendly" but essentially social.

However, through all of the Nixon period, utmost cordiality prevailed between the Administration and the Fitzsimmons-led teamsters. The truck union was the first union to endorse President Nixon for re-election in 1972 and it contributed $25,000 to Rabbi Baruch N. Korff's National Citizens Committee for Fairness to the Presidency in the spring of 1974 when George Meany and other labor leaders were clamoring for the President's resignation or impeachment.

Two Key Decisions

The Justice Department was at the center of many developments directly affecteamsters throughout the Nixon period. Two specific decisions of special interest to Mr. Fitzsimmons were made during the 15 months in which Mr. Kleindienst headed the department after John N. Mitchell resigned as Attorney General in February 1972 to head the Nixon second-term campaign.

Early in the Kleindienst regime the department decided not to prosecute a case involving alleged misuse of union funds by Mr. Fitzsimmons's son, Richard, an officer of Teamster Local 299 in Detroit. The decision was made over objections by the Labor Department, whose investigators had spent nearly a year developing evidence to support charges that the younger Fitzsimmons had illegally used union funds for personal expenses.

Two months before Mr. Kleindienst's resignation as Attoeney General in May 1973 the Justine Department turned downfa request by the Federal Bureau of Investigation for permission to continue electronic surveillance that the bureau reported in an affidavit had begun to penetrate tiies between the teamstes and the underworld.

The affidavit, based on 40 days of wiretaps installed under the Crime Control and Safe Streets Act of 1968, told of a plot by Mafia elements in Los Angeles and Chicago to defraud teamster welfare funds of huge sums in return for kickbacks to union officials.

Included in the F.B.I. affidavit were reports of alleged meetings between Mr. Fitzsimmons and mob figures in Palm Springs, Calif., and the La Costa Country Club, a resort built with teamster pension funds nea San Diego. The Justice Department's explanation for overruling the F.B.I. on renewal of the bugging was that it had not proved sufficiently "productive."