

Councilman Brian T. Stalter
140 First Street
Keyport, NJ 07735

July 30, 2002

State of New Jersey
Department of Community Affairs
Division of Local Government Services
P.O. Box 803
Trenton NJ, 08625-0803

Dear Mr. Turner:

I am writing to bring to the Board's attention whether there were incidents involving Mayor Kevin Graham from the Borough of Keyport in which myself am questioning his ethics. Pursuant to N.J.S.A. 40 A: 9-22.5 which states, No government official or employee, member of his immediate family in which he has an interest, shall solicit favors, services, promise of future employment or other things of value based upon an understanding that the services, favor or promise was offered for the purpose of influencing him directly or indirectly, in discharge of his official duties.

First charge:

On January 1, 1999 Mayor Kevin Graham announces the appointment of John R. Fiorino as the Borough Prosecutor. (See exhibit marked G-1).

On January 1, 2000 Mayor Kevin Graham announced the appointment of John R. Fiorino as the Borough Prosecutor. (See exhibit marked G-2)

Sometime in late 2000 new legislation was passed stating that a prosecutor cannot practice law in the town in which he prosecutes. He submitted a letter stating he would not like to be appointed to prosecutor in 2001. (See exhibit G-3)

January 1, 2001 Mayor Graham announces the appointment of Pasquale Menna as Borough Prosecutor (see exhibit G-4), at the time Mr. Menna declined his appointment and wanted to stay as the planning board attorney in which he did. Then Patrick Healy who at the time was our public defender became our prosecutor.

On January 28, 2001 Elizabeth Graham daughter of Kevin Graham entered into a real estate contract hiring John R. Fiorino to represent her in the closing of the property. (See exhibit G-5) Nine days later Mayor Kevin Graham announces the appointment of John R. Fiorino as the Borough's Public Defender. (See exhibit marked G-6) I feel this is a serious ethics violation and conflict of interest.

Second Charge:

Sometime in mid 2000 The Borough of Keyport was put on notice that Magic Touch Construction Company Keyport, NJ, was suing members of the Borough Council past and present including our Borough Clerk. Mr. Burlew President of this company located at 59 West Front Street in Keyport is suing Mayor Kevin Graham, Councilman Robert Bergen, Former Councilman George Walling and Borough Clerk Judith Poling.

Borough Council passes a resolution awarding counsel fees up to \$5000.00 per defendant.

Most recently Borough Council members who could vote on this expense passed a resolution awarding defendants the attorney of choice, the taxpayers of Keyport are funding this expense.

Mayor Graham selected Keith Jones of Hill, Wallack (see exhibit marked G-7). Keith Jones is the brother in law of Councilman and co-defendant Robert Bergen.

As you will notice Mayor Graham selected Mr. Jones before Borough Council approved his attorney and expenses. (See exhibit marked G-7 and G-8) Note date of enclosed voucher and resolution of July 16, 2002.

I feel Mayor Graham's selection of Keith Jones shows a conflict of interest and violates N.J.S.A. 40A: 9-22.5 section (D).

Third Charge:

Mayor Kevin Graham used his official position to secure unwarranted privileges or advantages for himself.

Mayor Kevin Graham held up an appointment for 30 days of the new administration's choice for borough attorney. On January 31, 2002 a special meeting to pass resolution 65-02 (see exhibit G-9) to appoint Wesley M. Kain Esq. and his contract as borough attorney. At this special meeting Mayor Graham tried unsuccessfully to keep former attorney Gordon Littwin. Councilman Robert Bergen even made a motion to keep Mr. Litwin, the motion died due to lack of a second.

I as a Borough Councilman could not figure out why Mayor Graham tried so hard to keep Mr. Litwin.

On or about January 30, 2002 Councilman John Merla A senior member of the Borough Council received a letter from Pasquale Menna (see exhibit marked G-11) which is self-explanatory. However a personal note, which indicates, and I quote " I think you know they wanted me to resign to make a place for Litwin." Which to me clearly explains why Mayor Graham tried to keep Litwin on as the borough attorney, for some reason it seemed that he owed him for something.

Then comes a political contribution in excess of \$400.00 (marked exhibit G-12) to Mayor Graham on his unsuccessful run for Assembly in 2001.

I feel that Mayor Graham has violated several ethics statues as well as recommended and later used his official position to secure privileges. I am requesting a full investigation on the above matters and will make myself available to you at anytime.

I can be reached at home, my number is 732-335-9799, and I can also be reached during the day at 973-614-9200 ext. 236.

Sincerely,

Brian T. Stalter
Borough of Keyport Councilman

CC: File
Councilman John Merla
Councilman Robert Hyer
Council President June Atkins
Councilwoman Susan Ashmore-Montanti

State of New Jersey
Department of Community Affairs
Division of Local Government Services - Local Finance Board
101 S Broad St – PO Box 803
Trenton, NJ 08625-0803
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March 24, 2006

Mr. Kevin Graham
25 Myrtle Avenue
Keyport, New Jersey 07735

Re: Local Government Ethics Law
Complaint #LFB-02-024
NOTICE OF DISMISSAL

Dear Mr. Graham:

The Local Finance Board (Board) issued a NOTICE OF DISMISSAL regarding its findings on the matter of Complaint #LFB-02-024 against you. Enclosed is the NOTICE issued by the Board.

Should you have any questions regarding this matter, please contact David Nenno at (609) 292-0479.

Sincerely,

.Susan Jacobucci, Chairperson
Local Finance Board

SJ:DN:la
Enclosure

c: Brian T. Stalter

Editor's Note: In order to make these determination letters text searchable, I have scanned and converted them into "live-text" PDF documents. John Paff

STATE OF NEW JERSEY
LOCAL FINANCE BOARD
NOTICE OF DISMISSAL

In Re: [Kevin Graham, Former Mayor, Borough of Keyport, Complaint #LFB-02-024]

This matter having come before the Local Finance Board (Board) pursuant to the Local Government Ethics Law, N.J.S.A. 40A:9-22.1 et seq., upon complaint that Former Mayor Kevin Graham was involved in three conflicts of interest, the allegations being as follows:

- 1) On January 1, 2000, Former Mayor Kevin Graham announced the appointment of John R. Fiorino as the Borough Prosecutor despite legislation passed in late 2000 that a prosecutor is prohibited from practicing law in the town in which he prosecutes, and again on February 6, 2001, Former Mayor Graham appointed John R. Fiorino as the Borough Public Defender, confirmed by Resolution #73-01, nine days after Mayor Graham's daughter, Elizabeth Graham, entered into a real estate contract hiring John R. Fiorino to represent her in the closing of the property; and
- 2) In mid-2000, Former Mayor Kevin Graham selected Keith Jones, the brother-in-law of Graham's fellow Councilman and co-defendant, before Borough Council approved his attorney and expenses, to represent him in a lawsuit filed against members of the Borough Council by Magic Touch Construction Company with the taxpayers of Keyport funding this expense; and
- 3) Former Mayor Kevin Graham used his official position to gain an unwarranted privilege or advantage when he held up an appointment for 30 days of the new administration's choice for borough attorney (Wesley M. Kain Esq.) in order to attempt to secure this appointment for someone he owed a favor, Gordon Litwin, who had also contributed \$1,000 to Graham's election campaign on October 5, 2001. On January 31, 2002, Mayor Graham tried unsuccessfully to thwart Resolution 65-02 appointing Wesley Kain in order to keep former attorney Litwin, and

WHEREAS, all three allegations are potential violations of N.J.S.A. 40A:9-22.5(c) and (d) which state:

N.J.S.A. 40A:9-22.5(c) No local government officer or employee shall use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others; and

N.J.S.A. 40A:9-22.5(d) No local government officer or employee shall act in his official capacity in any matter where he, a member of his immediate family, or business organization in which he has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment; and

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WHEREAS, the Board, having previously determined that allegation items #2 and #3 were to be dismissed as having no reasonable factual basis and that allegation item #1 was within its jurisdiction, was not frivolous and was based upon a reasonable factual basis, authorized an investigation of a portion of allegation item #1 of this complaint; and

WHEREAS, the Board, having considered the matter and the relevant statements and information presented and having considered Former Mayor Kevin Graham's written response to the allegations, and

WHEREAS, it is understood that Former Keyport Mayor Kevin Graham's daughter was not residing with him at the time of his appointment of the Borough's Public Defender, John R. Fiorino and that the extent of his business relationship with Fiorino was that Fiorino handled the closing on Graham's daughter's home and nothing more, and that Graham never had any conversation with Fiorino regarding the work for his daughter before or after she retained him,

It is therefore,

DETERMINED that Former Mayor Graham did not violate the Ethics Law when he announced on January 1, 2000, the appointment John R. Fiorino as the Borough Prosecutor, or when, on February 6, 2001, he appointed John R. Fiorino as the Borough Public Defender.

This NOTICE is considered a Final Decision of the Board and this complaint is now closed.

SUSAN JACOBUCCI,
CHAIR LOCAL FINANCE BOARD

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