Prosecutors allege biggest corruption scandal in San Bernardino County history

Joe Nelson, Staff Writer San Bernardino County Sun

Prosecutors charged two former county officials with conspiracy, bribery and extortion on Wednesday in what was described as the "biggest corruption scandal in San Bernardino County's history."

Former Assessor Bill Postmus, 38, of Victorville and former Assistant Assessor Jim Erwin, 47, of Highland were arrested by district attorney's investigators early Wednesday morning and booked into jail in lieu of $225,000 bail and $380,000 bail, respectively.

At a news conference at the District Attorney's Office, District Attorney Michael A. Ramos and state Attorney General Edmund G. "Jerry" Brown Jr. described a wide-ranging conspiracy to secure a $102 million legal settlement to a land-use dispute between the county and Rancho Cucamonga developer Colonies Partners LP in November 2006.

"What is significant here is the most appalling corruption case in decades, certainly in the history of San Bernardino County and maybe California itself," Brown said at the news conference. "Individuals corrupted public office and were able to grab more than $100 million of the taxpayers' money through this scheme."

Prosecutors also identified as uncharged co-conspirators five John Does: two general partners of Colonies Partners LP, a public relations consultant for the developer, a county supervisor and a chief of staff for a county supervisor.

The complaint alleges that Colonies Partners bribed Postmus and the unnamed county supervisor with promises of $100,000 contributions in exchange for approving a settlement offer to end a four-year legal battle.

Prosecutors also allege the developer promised $100,000 to the unnamed chief of staff for delivering Supervisor Gary Ovitt's vote and vowed to take care of Postmus for the remainder of his political career if he voted for the settlement, according to the 19-page criminal complaint.

Postmus, Ovitt and Supervisor Paul Biane voted to approve the settlement in November 2006, ending an acrimonious legal battle over land rights and responsibility for flood-control improvements on the Colonies retail-residential development in Upland.

An attorney for Colonies co-managing partner Jeff Burum dismissed the complaint as baseless and said Wednesday that the settlement was fair and appropriate.

Erwin is charged with one count of conspiracy to commit a crime, two counts of corrupt influencing, two counts of offering a bribe to a supervisor, two counts of extortion, one count of misappropriation of public funds and one count of forgery. He faces a maximum of 12 years in prison.

His attorney, Rajan R. Maline, called the allegations "baseless" and an act of "political grandstanding."

"I think that everyone's aware that these allegations are baseless, and they chose to do a press conference, coordinate it with the Attorney General's Office and arrest Erwin all in the same day," Maline said. "But at the end of the day, we're still left with these baseless charges, and we're going to contest these charges."

He said he was working to post bond on Erwin's bail, and expected Erwin to be released from custody by midnight Wednesday.

In March, Erwin was charged with 10 felony counts of perjury and failing to report about $15,000 worth of gifts he allegedly received from Burum in January 2007.
Postmus was charged Wednesday with five new felony counts, one count of conspiracy to commit a crime, two counts of bribery, one count of conflict of interest and one count of misappropriation of public funds. He faces up to eight years in prison if convicted. He posted bail about 6 p.m. Wednesday and was released.

His attorney, Stephen Levine, could not be reached for comment Wednesday.

On Jan. 15, 2009, Postmus was charged with grand theft, misappropriation of public funds, perjury and drug possession in connection with a scandal at the Assessor’s Office in which he was accused of running a taxpayer-funded political operation on county time.

At the time of his arrest Wednesday, Postmus was allegedly found in possession of methamphetamine, an addiction he said he has been battling for the past four years.

District attorney’s spokeswoman Susan Mickey said prosecutors will await a lab analysis of the suspected methamphetamine before deciding whether to add another drug possession charge to Postmus’ criminal case.

The criminal complaint listed 45 overt acts, beginning in 2005 with a trip Postmus took to China during which he met with a Colonies partner, and ending with a forgery allegedly committed by Erwin in 2008.

"The overt acts will detail the threats, the extortion, the inducements and the bribery," Ramos said.

None of the five unnamed co-conspirators have been charged because prosecutors do not feel they have gathered enough evidence to prove those cases beyond a reasonable doubt, Ramos said.

The investigation, however, is far from over, he added.

"I want to make this very, very clear today: This is an ongoing investigation and things can change as to those uncharged co-conspirators," Ramos said.

In a statement issued Wednesday, attorney John Vandevelde, who represents Burum, said Ramos and Brown have failed to present any evidence of wrongdoing on his client’s part.

"While today’s press conference was long on insinuation and long on political posturing, it was woefully short of evidence or supporting facts. This is baseless character assassination fueled by political ambition and masquerading as legal argument," Vandevelde said. "Jeff Burum has done absolutely nothing wrong and there isn’t a shred of evidence to the contrary."

According to the complaint:

In September 2005, Postmus met with a Colonies executive during a trade mission to China, where Postmus was provided with meals, entertainment and the services of a prostitute. The Colonies executive promised to take care of Postmus for the rest of his political career if he would support a settlement of the Colonies lawsuit.

In 2006, county voters were presented with Measure P, which, if passed, would impose term limits for supervisors and raise the salaries of county supervisors from $99,000 to $152,000. Colonies Partners bankrolled a campaign against the measure.
to coerce a county supervisor to support a settlement.

Between January 2006 and November 2006, a Colonies co-conspirator hired private investigators to go through Postmus' trash to find incriminating information that could be used to pressure Postmus to vote in favor of the settlement.

Between January 2006 and November 2006, at the Colonies' direction, Erwin created political mailers for the assessor's race depicting candidate Postmus' addiction to drugs and homosexuality. The mailers were an attempt to influence Postmus, who at the time was still chairman of the Board of Supervisors, to vote in favor of the settlement.

Between January 2006 and November 2006, Erwin created political mailers in opposition to Measure P that asserted a county supervisor had excessive debt and was unable to pay his bills. The mailers were to be used to influence the supervisor to vote in favor of the settlement.

While he is not named in the complaint, it was Supervisor Paul Biane who authored Measure P and led the campaign for supervisor term limits and pay raises.

In a statement Wednesday, Biane said the district attorney's allegations about "some type of threat against me influencing the outcome of the election doesn't add up.

"Ultimately, the voters approved the initiative. There has not been and never will be any threat or inducement that has been or can be used to influence my decisions and actions as (an) elected official," Biane said.

Within six months of the Colonies settlement, Colonies contributed $400,000 to political action committees tied to the three supervisors who voted in favor of the settlement and to a political action committee operated by Erwin, who served as an intermediary on behalf of Colonies and helped shepherd the settlement, according to the complaint.

Mark Kirk, Ovitt's chief of staff, ran one of the political action committees and took a $20,000 consultant fee once the contribution was received, according to campaign finance records.

Kirk on Wednesday referred questions to Ovitt and his attorney, Paul Grech.

Ovitt refused to answer reporters' questions Wednesday, opting instead to issue a prepared statement.

"My decision to support the Colonies settlement was based entirely on my own analysis of the facts presented by the county's attorneys. No one at any time, including my chief of staff, attempted to influence my decision or had any influence over my decision," Ovitt said. "I supported the Colonies settlement because I believed and still believe that continuing to fight in court could very well have resulted in a judgement against the county far beyond the settlement."

He said he has the "utmost confidence" in Kirk, that Kirk did not engage in any improper activities and would continue to serve as his chief of staff.

Grech gave Ramos and Brown credit for proceeding cautiously and not identifying the suspected co-conspirators by name.

"In cases where the proof is sketchy, it's very easy to name people who are innocent," Grech said. "The evidence is going to play out as it's going to play out."

In his statement, Biane said the size of the Colonies settlement was "daunting" and one of the most difficult things he's had to do as a county supervisor.
"However, I could not justify continuing to pay legal fees and risk additional unfavorable court rulings that could result in a judgment the San Bernardino County Flood Control District could not afford to pay," he said.

County spokesman David Wert said Ramos and Brown presented a lot of information on Wednesday that will take the county some time to digest. However, he said the county has a proven track record of suing to recover funds lost due to corruption.

For example, the county recovered more than $35 million from the fallout of the scandal in the late 1990s involving former county administrative officers James Hlawek, Harry Mays and Norcal Waste Systems.

"The county will continue to aggressively pursue instances in which taxpayer money has been lost to corruption," Wert said.

San Bernardino County supervisors react

Paul Blane 2nd District (statement)
"The size of this settlement was daunting, and agreeing to it was one of the most difficult things I’ve had to do as a county supervisor. However, I could not justify continuing to pay legal fees and risk additional unfavorable court rulings that could result in a judgment the San Bernardino County Flood Control District could not afford to pay.

"After the last appeal, which some say the county may have won, the question of the existence or scope of easements was remanded back to the Superior Court for clarification. The tentative ruling by the Superior Court in the Colonies case virtually eliminated all of the Flood Control District’s easements. Based on that impending ruling the Board of Supervisors reached a settlement with the Colonies partners.

"Measure P was a well thought out reform initiative to bring term limits to the county Board of Supervisors. The measure limits the power of incumbency for supervisors as well as modified board member compensation to attract highly qualified candidates to run for the Board of Supervisors. The initiative would have to be approved by the voters.

"Even though the midpoint of the election, after the Colonies spent over $300,000 to defeat Measure P, the measure was still polling positively among 60 percent of the county’s voters.

"The district attorney’s allegations about some type of threat against me influencing the outcome of the election doesn’t add up. Ultimately, the voters approved the initiative.

"There has not been and never will be any threat or inducement that has been or can be used to influence my decisions and actions as an elected official.”

Gary Ovitt 4th District (statement)
"My decision to support the Colonies settlement was based entirely on my own analysis of the facts presented by the county’s attorneys. No one at any time, including my chief of staff, attempted to influence my decision or had any influence over my decision.

"I supported the Colonies settlement because I believed and still believe that continuing to fight in court could very well result in a judgment against the county for beyond the settlement.

"Regarding my Chief of Staff Mark Kirk, I have the utmost confidence in Mark. He did not engage in any improper activities, and he will continue to serve me and the people of the 4th District as my full-time chief of staff.”

Brad Mitzefelt 1st District (phone interview)
"I’m really shocked and disturbed by the charges and the seriousness of those charges. I want to make sure the Board of Supervisors does everything we can to cooperate and ensure a just outcome in any way we can on the criminal side by supporting the district attorney and ensuring he gets full cooperation.

"I think on the civil side, we have a lot of work to do. We have to make several decisions as to what our next steps should be in respect to any civil litigation we should initiate or expand.

"I don’t know all the facts the board had before it at the time (of the vote on the Colonies settlement). I didn’t know a lot about the case until I joined the board. ... I took part in none of the alleged discussions with the developers or anyone associated with them. I think that’s borne out by the fact that I’m not a focus of scrutiny here.”

Josie Gonzales 5th District (statement)
"The criminal complaint released today is shocking and appalling. I was alarmed to learn how far this web of conspiracy is alleged to have reached into county government.

"I am determined to address these very serious new allegations. I will request that the board broaden the civil investigation of the former chairman of the Board of Supervisors to look into this alleged criminal conspiracy.

"The county has the responsibility to proceed expeditiously with our review of this new case. If the district attorney and (state) attorney general win convictions, the county must stand ready to recover the $102 million paid to Colonies.”

Nell Derry 3rd District (Interview)
"I encouraged the district attorney to uncover corruption, and I continue to do so.

"There is a taint in the county government ... and there has been for a very long time.

"I’m not going to make judgments on my colleagues. That’s what we have the court system for.”

Who is John Doe?

The complaint filed against former county supervisor-turned-assessor Bill Postmus and former assistant assessor and supervisory chief of staff Jim Erwin alleges a widespread conspiracy in which executives of Rancho Cucamonga-based Colonies Partners LP conspired with top county officials to secure a $102 million settlement to a Colonies lawsuit against the county.

Who is John Doe? While Bill Postmus and Jim Erwin are the only individuals charged with crimes on Wednesday, the complaint against them includes allegations involving five others who are not identified by.
name and who are not charged with any crimes:

John Doc No. 1 and John Doc No. 2 are described in the complaint as general partners of Colonies Partners LP. The allegations involving them include bribery, extortion and other inducements to secure a settlement to the Colonies lawsuit against the county. Doe No. 1 is alleged to have hosted Erwin on a trip to New York in January 2007.

Implication: In a separate complaint, prosecutors have charged Erwin with perjury for failing to properly report the trip in his statements of economic interest as a gift from Colonies co-managing partner Jeff Burum. Burum's attorney dismissed Wednesday's complaint as "baseless character assassination" and said Burum has done nothing wrong.

John Doc No. 3 is described as a media consultant for John Doe No. 1 and John Doe No. 2 who traveled with Erwin and Doe No. 1 on the trip to New York in January 2007.

Implication: In a previous interview, public relations specialist Patrick O'Reilly acknowledged being present on the New York trip but denied any wrongdoing.

John Doe No. 4 is described as a county supervisor's chief of staff who allegedly accepted a $100,000 bribe via a political action committee in return for delivering Supervisor Gary Ovitt's vote for the Colonies settlement.

Implication: Ovitt's chief of staff, Mark Kirk, was involved with a PAC that received $100,000 from Colonies. Kirk on Wednesday referred questions to Ovitt, who said he has the "utmost confidence" in Kirk, and that Kirk did not engage in any improper activities.

John Doe No. 5: A county supervisor who voted with Postmus and Ovitt to approve the Colonies settlement in November 2006.

Implication: The only other supervisor to vote in favor of the settlement was Paul Biane, who said in a statement Wednesday that the Colonies settlement "was one of the most difficult things I've had to do as a county supervisor." However, Biane said, he could not justify continuing the legal battle after the county had suffered several setbacks in court.
FOLLOW THE MONEY

Dino Defazio
- Postmus's business partner
- PAC Chairman

Inland Empire PAC

Mike Richman
- Postmus' former political consultant
- Helped set up PAC

$43,450
Aug. 17, 2007

$50,000
July 5, 2007

Conservatives for a Republican Majority

Mark Kirk
- Ovitt's chief of staff

Gary Ovitt
Chairman, San Bernardino County
Board of Supervisors
- Voted in favor of Colonees settlement

$20,000

Brian Johsz
- Ovitt staffer

$5,000

Anthony Riley
- Ovitt staffer

$5,500

The Colonies
Settlement with San Bernardino County reached in November 2006.

$100,000
May 23, 2007

Alliance for Ethical Government

$11,000
Contribution made to SB County Sheriff's union

$10,000
Contribution made to Neil Derry campaign

$100,000
March 28, 2007

Committee for Effective Government

Jim Erwin
Served as arbitrator during Colonies settlement negotiations with the county
- Ran Committee for Effective Government PAC

Matt Brown
- PAC Chairman
- Paul Biane's chief of staff

San Bernardino County Young Republicans

$50,000
July 12, 2007

Paul Biane
San Bernardino County Supervisor, 2nd District
- Voted in favor of Colonies settlement