

Tuesday, October 11, 2011

George Jepson  
CT State Attorney General  
55 Elm Street  
Hartford, Connecticut 06106

Re: Protecting New Haven Taxpayers

Dear Attorney General Jepson,

The taxpayers and citizens of New Haven, Connecticut need your guidance and almost certainly legal protection as a result of the decision in Ricci v DeStefano. To be sure, there is growing consternation and concern with regard to New Haven taxpayers being forced to pay millions of dollars in damages as a result of this decision.

As you are most likely aware Ricci v DeStefano was recently settled by the United States Supreme Court. The Court found DeStefano's defense claims to be specious distractions to the core issue – political gain for Mr. DeStefano.

At issue in this case is Mr. DeStefano's action relative to a firefighter promotional examination given in 2006. The court found ample evidence that DeStefano and his top lieutenants conspired and "worked behind the scenes to sabotage" the results because the outcomes would have angered and endangered a key DeStefano ally - Boise Kimber, who happens to be black. For years, DeStefano has depended on Kimber to rally black voters during elections, and in the off seasons, has helped Kimber during his criminal trial, granted him city land, and given him a plumb assignment on the City of New Haven Fire Commission.

This behind the scenes posturing is the basis for the lawsuit which after years of working its way through the courts is finally behind us. That's the extent of the good news. The settlement could total as much as \$10 million - \$2 million to the plaintiffs; \$3.75 million to the lawyers including outside counsel; and millions more in pension sweeteners for the affected firemen.

While public officials acting in that capacity are generally immune from personal liability in such lawsuits, provided their decisions on behalf of the public is done in good faith and honest representation of the best interests of their citizens, state law indicates this is not a blanket indemnification. I draw your attention to Connecticut General Statutes Section 7-420 which makes it illegal to "willfully defeat, deceive or obstruct any person in respect to his right of taking any examination."

Further, Connecticut General Statutes Section 7-101a provides immunity to city employees except in cases of "willful, malicious, wanton or ultra vires act are not so protected." Additionally, Mr. DeStefano just obtained approval from the Board of Alders to borrow funds to pay this settlement, I ask that you review whether pursuant to Conn. Gen. Stat. Sec. 7-374b it prohibits the City from bonding to fund judgments or settlements "arising out of an employment contract". As the case in point involves the union "employment" contract and its examination provisions that the firefighters have with the city, I think bonding is illegal absent special legislation by the Legislature. There may be other Statutes

that are germane, which I respectfully ask you to research.

Making matters worse, at the height of the litigation, Mr. DeStefano apparently felt the need to protect his assets from being seized in the case of an adverse judgment on appeal. In April 2008, he transferred all his real property to his wife. This included a multi-family property on Brownell Street that was sold this year for \$237,000 as well as the family home on Judwin Avenue, both in New Haven. This move made him judgment proof even as he protected himself from paying the required property taxes needed to pay an eventual settlement.

Hiding assets with a spouse to avoid losing them to a court judgment is unacceptable and unseemly if not fraudulent.

Frankly, if he and his executives were more concerned with doing what's right than doing what's politically advantageous for Mr. DeStefano, we would not be in the position of having to pay this steep cost in damages with money we can ill-afford and certainly don't have. At the very least, the case could have been settled years ago before we rang up millions of dollars in legal fees.

I am formally requesting you investigate and advise on the possibility of holding Mr. DeStefano personally liable for this judgment as well as the apparently fraudulent transfer of assets in 2008. Since \$2 million in taxpayer money has already been released to the plaintiffs, and Mr. DeStefano has just been given the green light to borrow millions more to pay the balance, it is clear that time is of the essence.

I trust you will use a sense of urgency in your review.

Respectfully,

Jeffrey Kerekes