

The Miami Herald

Lunetta was facilitator, defense says

TRIAL, FROM 1B
forma investment banker Calvin Grigby, 33, whose company, Fiscal Operations, ran the gantry crane operation until last year, and Neal Harrington, 73, a veteran Miami shipping agent.

Both sides in Port of Miami trial can boast high-profile legal teams

The lawyers who represent the U.S. government and the three defendants in the Port of Miami corruption trial have years of experience in trying complex, high-profile cases.

13-year Miami lawyer William Moran, accused of providing illegal assistance to the Cali, Colombia drug cartel.
■ Ted Wells of the Rosenfeld, Katz, Fisher & Berman law firm of Lewiston, S.D. Wells successfully defended former U.S. Agriculture Secretary Mike Espy in a corruption case brought by a federal independent counsel.
■ Scott Strickhoff of Miami, affiliated with Krueger's firm. He participated in the defense of former Justice Department official Michael Abbott, a co-defendant of Moran's in the Cali cartel case.
■ For Neal Harrington:
■ Richard Kuehne of the Miami firm of Sale & Kuehne is president of the Dade County Bar Association. He specializes in white-collar, corporate and complex crimes litigation.
■ Kendall Coffey of the Miami firm of Coffey, Diaz & O'Naughten, Coffey is a former U.S. Attorney for the Southern District of Florida. His firm specializes in general civil litigation and commercial matters.
■ Miami Mayor Joe Carollo in the civil vote-fraud case that overturned the mayoral election of 1991.
— DAVID LYONS

The Miami Herald

Port case acquittals raise 'what ifs'

BY DAVID LYONS
Herald Staff Writer

Even one of the defense lawyers in the Port of Miami-Dade corruption trial admits he was a little surprised that the U.S. attorney's office chose to try as a theft case. "I fully expected a succeeding indictment alleging straight-out mail fraud or wire fraud," said Albert Krueger, a prominent Miami criminal defense lawyer.

County OKs plan to manage port cranes

CRANES, FROM 1B

fic Fiscal Operations. The county has cleared \$3 million on crane operations since May 1993 — the same amount it earned from Fiscal Operations over 10 years.

Under the county's 1988 contract with Fiscal Operations, Lunetta and others created a personal slush fund, tapping into the crane revenues collected by the company to make political contributions and pay personal expenses.

U.S. District Judge Donald Middlebrooks accused the defendants for their misconduct — and the county for its lax oversight.

"Much of what happened at the port could have been prevented by financial controls and oversight," the judge said in his ruling dismissing the case.

Towley assured the commission that a not-for-profit company created and controlled by the county would provide better oversight. "We will be creating an organization that is essentially an extension of the county," he said.

U.S. District Judge Donald Middlebrooks found that more than \$1.5 million alleged to have been stolen by Lunetta, Grigby, and Harrington was not public money. While condemning what he found to be evidence of widespread corrupt practices by past and present Miami-Dade officials, he acquitted the defendants, who had been charged with embezzlement and money laundering in a 10-count indictment.

The U.S. attorney's office in Miami did not need to a phone message Tuesday.

But two former Miami federal prosecutors who declined to be identified suggested that other charges might have been pursued by mail or wire fraud charges.

"The government could have brought mail and wire fraud charges against the defendants, one of them said.

"You could bring a public corruption case as mail fraud or wire fraud these days," said the prosecutor, now in private practice in Miami.

A second former prosecutor said that in past public corruption cases in Miami, the government has raised a number of alternate theories to safeguard against weaknesses.

In U.S. v. Lunetta, the also extensive testimony

The company would be governed by a seven-member board, including Towley and another member employee, two members appointed by the commission, two by the county manager, one by a crane contractor and one by the board itself.

The concept was backed by Miami-Dade Mayor Alan Frenkel, who said the plan would help the county restore fiscal order at the port.

"The proposed business plan reflects a sound and comprehensive blueprint," the mayor said in a memo delivered to commissioners.

The cases are currently being managed by a company hired on an interim basis. With Tuesday's vote, county officials said the not-for-profit company could assume control of the cranes in December.

Miriam Alonso was the only commissioner to vote against the proposal.

Alonso asked to defer the measure — a move backed by one of the three companies competing for the contract — but the commission refused.

defrauded?" Bierman asked. "If you can't steal from yourself, you can't defraud yourself."

Klein said the question would always be the same: Whose money is it?

"No matter how many ways they try to skin the cat, the same issue always comes up," Klein said. "Our basic position is on matter what charges they would have brought, they would have run into the same stone wall. That was always our theory from the moment we were in the case."

Just as adamantly, the prosecutors stuck with their theory — that the money belonged to Miami-Dade County.

"We will show by their conduct in this case that they [the defendants] were not innocent."

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Former port boss acquitted of corruption

LUNETTA, FROM 1A

that justice has been done," Lunetta said.

But one of the most powerful figures in county government before resigning in 1993, Lunetta said everything he ever did as a public servant was for the port's benefit.

His lawyers, Donald Bierman and Ted Klein, called the judge



IN HIS DOMAINS: This 1995 photo shows Carmen Lunetta posing at the port against a backdrop of the gantry cranes. He is prominently in no indictment on corruption charges.

unjustly charged," he said. "This ruling is a vindication and I feel that I will be vindicated in the other trial."

His lawyers, Ted Wells and Albert Krueger, found the judge's ruling "inspirational."

"I just want to commend Judge Middlebrooks for having the courage to dismiss this case given its high profile and political pressure," said Wells.

"It hasn't sunk in," said Harrington, a former co-owner of Continental Stevedoring & Terminals, once one of the port's biggest

Miami lawyers Kendall Coffey and Ben Kuehne, who represented Harrington, called the prosecution "misplaced." But Coffey, a former U.S. attorney for South Florida, said he still supports government efforts to snuff out public corruption.

Two jurors interviewed by the Herald expressed surprise and disappointment that they did not get to deliberate, even though the judge explained his actions and distributed copies of his order to the panel.

The jurors indicated that once inside the jury room, there have been an argument.

"I'm only sorry, after having spent six weeks, that we didn't get to have an opportunity to finish the process," said Rochelle S. Rubin. "I was very surprised about the judge's decision based on what we had seen from the prosecution, but I'm not familiar with the law."

She said the government showed the money was used for personal gain, "basically out of the normal business mode would be."

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"The defendants . . . used Fiscal Operations Inc. and its collection of crane user fees as a punch bowl, into which they could dip at will . . . [But] a reasonable jury could not find beyond a reasonable doubt that Miami-Dade County owned the crane user fees alleged to have been stolen."
— U.S. District Judge Donald Middlebrooks

Port case crumbles



C.M. GUERREIRO / El Nuevo Herald

FREE TO GO: Carmen Lunetta, center, flanked by his attorneys Theodore Klein, left, and Donald Bierman, leaves the federal courthouse Monday after the case against him was dismissed.



AFTER DISMISSAL: Defendant Neal Harrington tells reporters he is relieved the case is over.

Judge acquits Lunetta, two others

BY DAVID LYONS
Herald Staff Writer

In a stunning blow to the government, a Miami federal judge Monday acquitted former port director Carmen Lunetta and two contractors of stealing up to \$1.5 million in public money and diverting it for illegal campaign donations and personal use.

While declaring that prosecutors had presented "substantial evidence" of mail and wire fraud, U.S. District Judge Donald Middlebrooks ruled the defendants were acquitted because the money in question belonged not to Miami-Dade County, but to Fiscal Operations, a private firm that operated the port's huge gantry cranes for 16 years.

After the judge ended the port case, the defendants and their attorneys embraced, kissed and dropped each other on the back.

"I ordered on justice, and I feel

PLEASE SEE LUNETTA, 1A

Kendall Coffey of the Miami firm of Coffey, Diaz & O'Naughten. Coffey is a former U.S. Attorney for the Southeast District of Florida. His firm specializes in general civil litigation and commercial matters.

Miami Lawyer Kendall Coffey, a former U.S. attorney for South Florida who helped defend Harrington, said that the government is "reluctant" to use mail and wire fraud a "general catch-all" charges to snare offenders.

"If you simply open the flood-gates and say anything is chargeable, you have created an undefined landscape," he said.

Coffey also said it is rare for the federal government to become involved in local election cases — particularly when there are state laws to cover them. No state charges were filed against the men.

Miami lawyers Kendall Coffey and Ben Kuehne, who represented Harrington, called the prosecution "misplaced." But Coffey, a former U.S. attorney for South Florida, said he still supports government efforts to snuff out public corruption.