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Attorneys contracted by South Gate, from left, Adrian Barton, and Maurice Suh, South Gate City Manager Gary Milliman and South Gate City Attorney Raul Salinas gather around South Gate Mayor Henry C. Gonzales, seated.

City Seeks Millions From Law Firms

By Ryan Oliver
Daily Journal Staff Writer

Buoyed by successes recouping legal fees paid to Sheppard Mullin Richter & Hampton, the city of South Gate is attempting to reclaim millions more from some of the city's largest law firms, the Daily Journal has learned.

The city plans to negotiate with, and if necessary, take to court four other firms, including Paul Hastings Janofsky & Walker; Gibson Dunn & Crutcher; Thelen Reid & Priest; and Beck, De Corso, Daly & Kreindler, sources said.

The city also may go after fees billed by its former contract city attorney, Salvador Alva.

The city also is suing Albright Yee & Schmit claiming violations of the Racketeer Influenced and Corrupt Organizations Act. The Albright firm,

South Gate Wants Return of Fees It Claims Were Too High for Work Done

however, won an arbitration ruling against the city in an earlier fee dispute.

City officials contend that the fees, approved by three recalled City Council members allied with indicted former city treasurer Albert Robles to defend against a series of public corruption investigations, were improperly authorized.

The \$8 million legal spending spree was a huge increase over previous years' outlays and represents 28 percent of the city's annual \$28 million budget.

The bills have left the city on the verge of bankruptcy and forced it to cut back on basic services, officials say.

However, the outside lawyers maintain that they were hired by duly elected government officials and that they charged fair fees for the rush of legal work when state and federal investigators piled on South Gate City Hall.

An attorney with one of the law firms that South Gate hired said spending public money to defend against corruption charges is not unusual. The size of the legal fees is, however, he acknowledged.

"They hired lawyers for all of the folks involved," said the attorney, who asked his name not be used. "I don't think that's unusual. I think this happens all the time."

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"When the city hires the law firm, the law firm helping the city looks for lawyers to represent individuals involved, and [the city] pays for the fees. It works that way in corporations all the time.

"I think the reason this is made an issue is because of the sheer size of the fees."

Both Los Angeles District Attorney Steve Cooley and the U.S. attorney's office investigated South Gate for public corruption.

The investigations culminated in November, when a federal grand jury indicted Robles on 39 counts of money laundering, public corruption, bribery and wire fraud, alleging he used his influence to bilk the city treasury out of \$12 million for family, associates and himself. Three associates were also charged in the schemes.

Robles is free on \$500,000 bail while awaiting an April 5 trial date. Cooley continues to investigate South Gate public figures for possible election fraud and misuse of public funds, sources said.

Sheppard Mullin no longer represents Robles. He is paying for his own lawyer, Ellen Mary Berry. Berry did not return phone calls for comment.

South Gate in the past year has won two legal judgments over Sheppard Mullin Richter & Hampton's billings.

In a global settlement deal announced Tuesday, Sheppard Mullin agreed to pay South Gate \$2 million.

The settlement will resolve all claims against the law firm and is pending final approval Tuesday night by the City Council.

"This settlement compensates this city roughly double what the city actually paid out to Sheppard Mullin," Amador said. "Essentially, this gives the city the funds it needs to go after the remaining firms that were improperly paid while the city was under control of Robles' allies."

Sheppard Mullin partner Fred Puglisi said the settlement was done for economic reasons.

"This is simply no longer worth fighting about," Puglisi said. "We were hired to defend Mr. Robles, and the South Gate

said. "We haven't foreclosed any possible remedies."

South Gate's legal bills began to skyrocket in October 2001, when Cooley began subpoenaing many top officials for his grand-jury probe, including council members, in the city of 95,000 residents.

Cooley's newly formed public integrity unit became interested after citizens complained Robles ran the city as his personal fiefdom, investigators said.

Allegations were made that he stacked the five-member City Council with three of his allies after spreading false allegations about their opponents and that he used the City Council to award his associates city contracts, federal loans and other perks.

In the middle of October 2001, Robles asked Thomas Brown, a former assistant U.S. attorney now with Sheppard Mullin, to represent him in Cooley's grand-jury investigation, according to Amador.

In the following days, Newhouse was asked to provide legal defense for the city as a whole, Amador said.

City Councilmembers Raul Moriel and Maria Benavides, both part of Robles' majority slate, asked lawyers from the firms of Gibson Dunn and Paul Hastings, respectively, to represent them as individuals, Amador said.

Later that month, the three majority City Council members voted to have the city pay for their law firms under an indemnity contract, Amador said. Out of disgust, the two City Council members in the minority left the meeting before the vote, he said.

The council majority voted to hire Beck De Corso to defend Alva and approved paying Robles' legal bills from Sheppard Mullin. The council members recused themselves from voting for their own lawyers but cast a ballot for their colleagues' attorneys.

Amador says Thelen Reid was representing council member Xochilt Ruvalcaba, the third member of the pro-Robles' faction, which created a conflict of interest that invalidated the contract. Newhouse said he couldn't comment on the allegations.

sonally benefiting financially from their votes.

Because the law firms allegedly shared information, all council members benefited from their votes, even if they recused themselves from hiring their own lawyers, Amador said.

Attorney Fred Woocher agreed the recusals do not necessarily put the former council members in the ethical clear.

"A 1090 issue is not solved by your personal recusal," Woocher, a political and government affairs partner with Strunwasser & Woocher, said. "One individual may recuse himself, but it does not absolve the board from engaging in a conflict. I think it's a legitimate claim. It's certainly something to be litigated."

Robles and his three City Council allies were recalled from office in 2003 after voters became alarmed by the swarm of corruption investigations.

The reform slate of officials began efforts to recover legal fees.

The city won a ruling in October 2004 from Los Angeles Superior Court Judge Alarcon, who ordered Sheppard Mullin to pay back \$500,000 for representing Robles in the corruption probes.

Alarcon said the city's mayor at the time never signed an agreement to represent Robles. *South Gate v. Sheppard Mullin, Richter & Hampton*, BC304634 (L.A. Super. Ct. October 2004).

Then in January, Superior Court Judge John Shook found Sheppard Mullin's \$1 million in fees to defend Robles in the threats case "more than excessive and unreasonable transcending beyond the stratosphere into deep outer space."

The firm was ordered to pay back \$850,000. The suit was brought against the former administration by two city taxpayers. *Salazar v. South Gate*, BC280158 (L.A. Super. Ct., filed Aug. 22, 2002).

Margolis said the bar defines unconscionable fees as "fees that would shock the conscience of a lawyer," he said.

"If you're just charging too much, that's not unreasonable," he said. "It's an unconscionable fee if it's so far above what the community would charge or there's an element of overreaching, fraud or con-

City Council agreed to pay our fees. ... In the meantime, a new City Council was elected and this new council disagreed with this first City Council's decision."

"From our standpoint, this is nothing more than a politically motivated billing dispute," he said. "We are extremely proud of the extraordinary legal services provided to Mr. Robles by our firm. But further pursuing payment of our fees does not make economic sense."

J. Michael Hennigan, name partner with Hennigan Bennett & Dorman, represented Sheppard Mullin.

City Attorney Raul Salinas, who is joined by several contract attorneys hired by the city in going after the fees, said the money from the settlements is helping to fund more battles over billings.

"The money is all going back into the city's general fund and allows us to use some of it to support our legal efforts," Salinas said.

Lawyers from the firms being pursued defend their fees, saying current city officials are on a vendetta against their political predecessors — or simply not ready to pay up.

"The city owes money, and they just don't want to pay it," name partner Clifton Albright of Albright Yee, who has filed a cross-complaint disputing the city's allegations against his firm, said earlier this year.

George Newhouse, a former federal prosecutor now with Thelen Reid, which billed the city \$750,000, suggested that the city got its money's worth.

"We were advising the city with respect to several criminal investigations," Newhouse said. "On two occasions, the city of South Gate was searched by agents of the Los Angeles district attorney's office, and documents were seized. That's just an example of what we were dealing with."

Attorney Richard Amador, during a series of interviews since January, said the city is reviewing several strategies to retrieve money it contends was wrongfully taken.

"Right now we're looking at the law firms on a case-by-case basis," Amador

Amador also said the city has sent Thelen Reid written notice that South Gate wants all of its money back, but Newhouse disputed that characterization.

"Thelen Reid & Priest is aware the city is conducting an investigation related to attorney fees," Newhouse said. "We have not received what we would view as a request for the fees."

Mark Byrne, whose former firm, Paul Hastings, charged the city \$123,084 to represent Benavides, has started his own firm and said he could not comment on his previous work.

A representative of Paul Hastings did not return calls for comment.

Attorney Marcellus McRae with Gibson Dunn, who represented Moriel for \$146,000, declined to comment. A representative confirmed that the firm has received a letter from the city requesting money back.

Alva declined comment, and his attorney, Bryan Daly of Beck De Corso, also declined an interview. City officials say Beck De Corso has refunded \$100,000 of its \$586,071 billing.

Legal ethicist Art Margolis said cities can use tax dollars to defend public officials only if their suspect actions fall within the course and scope of their employment.

"The whole thing does look bad, particularly taking into account the judge's recent decision on [Sheppard Mullin's] fees," says Margolis, a partner at Margolis & Margolis, who defends attorneys going before the State Bar.

But from the law firms' perspective, he said, "you can see them saying, 'We were hired to take the case, and we don't care who pays. The ethical issues are a political thing for the city to figure out.'"

Amador said the City Council members had no idea whether their questioned actions fell within the scope of their employment because grand-jury investigations are secret.

He said that, even though council members recused themselves from voting to hire their individual attorneys, the votes are a conflict of interest under state Code 1090, which prevents officials from per-

cealment.

"It is the responsibility of the attorney to make sure those fees aren't there."

South Gate suffered a setback last year when Albright Yee was awarded \$400,000 of \$500,000 for its legal work for the city. The award came in a voluntary arbitration.

The city has since sued the firm for \$1.8 million claiming it went beyond the scope of its contract to handle general litigation and personnel matters. The city suit claims the firm was protecting Robles and the majority council members through campaign work and legal challenges to the recall. *City of South Gate v. Albright Yee & Schmit, BC311784 (L.A. Sup. Ct., filed Dec. 15, 2004).*

"The City Council voted and approved all the work that our firm did. And the allegations of corruption aren't justified because no City Council member has been charged or alleged to have conducted any inappropriate conduct while on the City Council" Albright said.

Legal ethicist Diane Karpman said in the corporate world, the decision to criminally defend organization leaders would have been made by disinterested board members. Here, there was no body providing oversight, she said.

"If the public officials are accused, they're entitled to the indemnification like any other employee," Karpman said. "But it's too much mutual back-slapping in this case, that's what's stinky about it."

Amador said it has taken the city several years to finally go after the law firms because of the city's limited resources and the complexity of the problems spawned by the previous administration.

"Justice moves slowly," Amador said. "There's so much stuff we're investigating, it's taken two years. We're also not going to be able to fight every fight. We just selected certain ones and we're going with them."

"The road's been bumpy but I'm happy to say we're seeing the light at the end of the tunnel. We're recouping a little money here and there."