Corruption Among the Palms

By Janyce C. Katz

On a beautiful day in Palm Beach, the Lake Worth Lagoon glistens. When no clouds mar the sky and the temperature in Columbus is 15 below zero, Palm Beach is paradise. Across South Ocean Boulevard, the Atlantic Ocean pounds the shore, and birds of all types decorate the sky and the waters.

But, Palm Beach’s perfection is a partial illusion based upon tropical climate and easy access to beaches. Worth Avenue, now a street lined by some of the most expensive stores in the world, allegedly was once an alligator path. A different kind of predator now walks the street on two legs, wearing expensive, handmade suits. In January 2009, Time magazine called Palm Beach “the new capital of Florida corruption,” naming not only winter resident and Ponzi scheme leader Bernie Madoff but also two city and four county commissioners convicted of federal corruption charges.

Since Palm Beach became an enclave for the wealthy, it developed a good and a bad side. The good is that a man named Henry Flagler, who saw the wisdom of running a train track from St. Augustine to Key West and building resorts along the way, also decided Palm Beach was the perfect spot to locate an exclusive resort for the world’s wealthiest people. The bad part involves some of the tactics he used, many of which may have landed him in jail under today’s legal and ethical standards. Unless, of course, he had the right team of lawyers or some of the corrupt judges that have tainted the Florida judiciary.

Flagler, who made his considerable fortune by partnering with John D. Rockefeller to build Standard Oil into a powerful monopoly, discovered Florida when his first wife was told to try the state’s beach air to cure her lung disease. While Flagler’s trip to St. Augustine did not save his first wife’s life, Flagler did see the potential to develop a playground for the wealthy.

In 1894, Flagler opened the Royal Poinciana Hotel in Palm Beach, extending a trunk line of his railroad there during the hotel’s construction. The Royal Poinciana Hotel, the first completely electrified hotel, had every convenience available and could accommodate 1,700 guests. Soon the country’s wealthiest citizens were wintering there, traveling directly to Palm Beach in their private railroad cars.

The creation of Palm Beach as a playground for the very wealthy had a dark side. Flagler had the homes of the Royal Poinciana’s construction workers burned just weeks before the hotel was to open because they were black. He thought having these workers living on the island would prevent him from charging the highest possible price for the hotel’s rooms. The workers were told he and his staff tried to save their homes. Then, he encouraged the workers to buy land he owned in what is now West Palm Beach, build new homes there and commute across Lake Worth to work at his new hotel.

Flagler paid the legislature and governor to create a law allowing him to divorce his second wife and used the newspapers he owned to publicize the importance of a broader divorce law. After Flagler divorced his second wife and had her committed, the law was allowed to expire and was not renewed.

A good example of judicial corruption is former Judge Joseph Alexander Peel, Jr., remembered not for his work on the bench, but for the murder of highly respected Senior 15th Judicial Circuit Judge Curtis E. Chillingworth and his wife, Marjorie. Judge Chillingworth served for three decades and was contemplating retirement in 1955 when he learned that Peel, who had represented both a husband and a wife in a divorce, failed to finish the paperwork for the woman, remarried with a baby, which Peel’s negligence made illegal. Judge Chillingworth had only reprimanded Peel in 1953, for representing both parties in the divorce action. Peel was concerned that Chillingworth might remove him from his lucrative judicial position; Peel received money by alerting certain people when he signed warrants authorizing raids against them. He also hoped to use the position, along with his corrupt friends as a political powerbase, to run for first attorney general and then governor. To protect his current position, income and future plans, Peel decided to murder Judge Chillingworth. He called two men, Floyd “Lucky” Holzapfel and Bobby Lincoln; both men were in the racket protection business with Peel. Peel told them Chillingworth was trying to ruin them and had to be killed. The two men agreed. One night, they dragged Judge Chillingworth and his wife at gunpoint from their cottage into a boat, taking them far out into the ocean. Saying “ladies first,” Holzapfel tossed Marjorie, loaded with weights, into the water. The judge called out “I love you” as she quickly sank. He jumped into the ocean, swimming around while the murderers tried to hit him with their gun handles. After tying an anchor around his neck, he too sank.

The Chillingworth’s bodies were never found, but five years later, the murderers were exposed. Peel, no longer a judge, tried to have others murdered. First, he sought the murder of the state attorney. Then, Peel bought insurance for an employee, making himself the beneficiary. He asked “Lucky” Holzapfel to beat the man to death but the man survived, and both Peel and Holzapfel were arrested for attempted murder. Holzapfel claimed the attorney had insulted him, and the jury acquitted him. Peel’s case was dismissed. Holzapfel’s involvement in another murder and Peel’s later attempt to have Holzapfel murdered led to the arrest of both men for murder of the Chillingworths.

During the trial, Holzapfel confessed and implicated Peel on the record. Lincoln, who was given immunity, testified against Peel and Holzapfel. The defense attorney attempted to discredit Lincoln because of his race and Holzapfel because he was a notorious criminal. The jury found Peel guilty of being an accessory before the fact in the murder of Chillingworth and recommended mercy. Peel received life in prison. He pled nolo contendere to Mrs. Chillingworth’s death and received a second life sentence. He was paroled Dec. 23, 1979 and was immediately transferred to federal prison to serve 18 years for an unrelated mail fraud crime. He was released from federal prison in 1982, nine days before he died of cancer. He confessed involvement in the murders of the Chillingworths just before his death, but did not admit
responsibility for their organization. Holzapfel was sentenced to death, but that was commuted to a life sentence. He died in 1996. Having changed his name, Lincoln died a free man in 2004.

Unfortunately, Palm Beach has not been the only Florida county seeped in corruption. Even the Florida Supreme Court became involved, with one justice asking the attorney on a case before him to write the opinion and the Chief Justice accepting a trip to Las Vegas from a dog track owner with a case before the Court. For these and other reasons, Integrity Florida has ranked Florida as the most corrupt state in the country.

Attempting to limit the abuses by Florida’s judges, the Florida Bar established the Judicial Code of Conduct. Part of the restrictions, Canon 7C, designed to prevent direct solicitation of money by a judicial candidate running for office, was challenged by Lanell Williams-Yulee, a candidate for judge, who among other violations of the Florida code, sent out written requests for contributions, which she claimed were part of her First Amendment speech rights. When the Florida Supreme Court found the Canon constitutional, Yulee appealed to the U.S. Supreme Court. The Court accepted the case, perhaps because of the split in the decisions of the Circuit Courts on whether a limit on direct solicitation is constitutional.

On April 29, 2015, writing for a five justice majority of the U.S. Supreme Court, Chief Justice Roberts held that Canon 7C “advances the State’s compelling interest in preserving public confidence in the integrity of the judiciary, and it does so through means narrowly tailored to avoid unnecessarily abridging speech, thereby withholding strict scrutiny.” The Court decision is quite interesting in that it has Chief Justice Roberts siding with the Court “liberals” and, as Justice Scalia points out in his dissent, constitutes a reversal of the Court’s very broad application of the speech principle.

Citing Tumey v. Ohio, 273 U.S. 510, 532 (1927), the Chief Justice wrote that a judge’s personal solicitation of money could result in a possible unknowing sway of the balance of a case toward the donor, who usually is a lawyer or a litigant. He distinguished judges from other elected officials, saying they are not politicians even when they run for office.

Justice Breyer concurred in the majority opinion, but opined that “the tiers of scrutiny should be used as guidelines.”

Justice Ginsberg, joined by Justice Breyer, concurred in part with the decision, but dissented from Part II. She would not apply an “exacting scrutiny test” to differentiae elections for administrative offices from those for judicial offices. But, she argued that where politicians should be responsive to the electorate, judges should follow the law, and, as a result, different campaign-finance rules may be imposed on judges. She would have applied a broader standard to protect judicial integrity, because judicial elections have become politicized, with judges targeted because their decisions differed from what certain individuals wanted. She seemed to argue that the Court should have expanded on its decision in Caperton v. A.T. Massey Coal Co. 556 US 868 (2009) to allow states to develop rules to limit the influence of outside groups politicizing judicial elections.

In his dissent, Justice Scalia, joined by Justice Thomas argued that “[f]aithful application of our precedents would have made short work of this wildly disproportionate restriction upon speech.” He agreed with the premise that judicial integrity must be preserved, noting a compelling interest to ensure judges “are seen [sic] to be impartial.” Justice Scalia would have held that Canon 7C(1) was too broad, preventing those not appearing before a judge as well as lawyers and litigants from speaking through their financial contributions. He finds the majority’s compelling interest in judicial integrity to be vague, as written thank you notes from judges and committee fundraising for judicial elections are permitted under the Florida Canon, but a judge’s direct solicitation of funding is not. He found no proof that what Yulee did swayed opinions of the judicial system. He failed to find that Florida’s ban restricted no more speech than necessary to meet its objective. Justice Scalia accused the majority of not liking elections of judges and of “mowing down” one First Amendment right after another.

Justice Kennedy filed a separate dissent. He found it ironic that the Court limited speech in an area, political speech, that should be the freest area of speech. By limiting a judge’s ability to speak by raising money directly, the Court is cutting off the debate between candidates.

Justice Alito also filed a separate dissent in which he described Canon 7C(1) as “narrowly tailored as a burlap bag” and implied that such a designation destroys the meaning of narrow scrutiny. Justice Alito decried the holding of the Florida Supreme Court that “stained” Yulee’s record by “finding she had engaged in unethical conduct.” If either Flagler or Peel were alive now, neither Canon 7C(1) nor the Court’s decision would have protected the public from these men’s actions. The image of judicial impartiality would still be hindered by the antics of Judge Peel, because Peel represents pure corruption, not just the perception of justice purchased in exchange for a contribution directly solicited. Flagler, who operated without restrictions in creating wealth for himself, opening Florida to the world but also destroying the lives of many, would remain untouched by any provision of the Canons. But, the Canons would have limited his impact on a judge, had anyone dared to bring a case against him.

Would stronger restrictions have lessened the evil actions of Flagler, Peel and the many others like them? I can’t say for sure. However, I believe that a good regulatory system and proper enforcement of said would have limited their ability to harm the general public.

2. Murray Weiss and Bill Hoffmann, Palm Beach Babylon: Sins, Scams and Scandals (Birch Lane Press, 1992).

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