

Starr off the hook in Scaife 'payola' scandal

by Edward Spannaus

As could be expected, John Shaheen, the former Justice Department official who was hand-picked by independent counsel Kenneth Starr to conduct an investigation into allegations of witness-tampering involving Starr's key Whitewater witness David Hale, has concluded that no one should be prosecuted. Shaheen had headed the Justice Department's Office of Professional Responsibility (OPR) for more than 20 years; during his tenure, the OPR was notorious for its cover-ups of DOJ prosecutorial misconduct.

The Shaheen probe was launched after various journalistic investigations had showed that Hale—who was the only witness who gave testimony linking Bill Clinton to the 1980s "Whitewater" real estate deals—was meeting with operatives of the Richard Mellon Scaife-bankrolled *American Spectator's* "Arkansas Project" during the same period in which Hale was a Federally protected witness for the Whitewater independent counsel.

After the stories about the payments to Hale surfaced, more than a year ago, the Justice Department allowed Starr to select his own investigator to probe the allegations. In May 1998, Starr picked Shaheen—a sure indication that a cover-up would be the end result.

Using a Federal grand jury in Fort Smith, Arkansas—to which Scaife himself was summoned last September—Shaheen claims to have contacted more than 160 persons, and to have taken testimony from many of them. He then prepared a 168-page report, which is being kept secret. On July 28, Starr's office issued a statement announcing the conclusion of the Shaheen investigation, and the decision not to prosecute.

Significantly, the statement released by Starr's office does not say that no wrong-doing was found. It states that "many of the allegations, suggestions and insinuations regarding the tendering and receipt of things of value [by Hale] were shown to be unsubstantiated, or, in some cases, untrue." The statement is careful not to say that *all* of the allegations were unsubstantiated, which can only lead to the conclusion that, in fact, *some* of the allegations *were* substantiated.

Additionally, the Starr statement says that no prosecution will be brought because "there is *insufficient* credible evidence to show that a thing of value was provided or received with the criminal intent defined by any of the applicable statutes." Again, the statement doesn't say that money and/or

other gratuities were not given to Hale out of the Scaife funds, but only that Shaheen determined that there was no "criminal intent." Since the notion of criminal intent pertains to the state of mind of the perpetrator, it is naturally a very elastic concept—which prosecutors can stretch or shrink depending on their whims.

The Arkansas Project

Had the Shaheen probe been competently pursued, it would have shown that Kenneth Starr was a "plant" from the beginning, and that Starr was placed in his position as independent counsel by the same circle of people who were responsible for creating the Whitewater and Paula Jones cases in the first place.

The central figure in all of this is Theodore Olson, Starr's longtime friend and former law partner, who is also closely associated with both Starr and with Judge David Sentelle (the judge who heads the three-judge panel that appointed Starr), in many endeavors financed by Richard Mellon Scaife, including the mis-named Federalist Society.

Already in late 1993, Olson was representing David Hale, and he was also the lawyer for the *American Spectator's* tax-exempt Educational Foundation and its Arkansas Project—which was organized at meetings in Olson's law office.

It was the *American Spectator*—the British-linked monthly magazine financed by the Anglophilic Mellon Scaife—that launched the "Troopergate" sex scandals against the President at the end of 1993. Those articles mentioned a woman named "Paula." Largely at the instigation and encouragement of the London *Sunday Telegraph's* Ambrose Evans-Pritchard, himself closely linked to the *American Spectator*, Paula Jones was located and induced to file a sexual harassment suit against President Clinton. At the time, Pritchard described the Paula Jones suit as a "ticking time bomb" under the Presidency.

Through illegal collusion between Federalist Society-linked lawyers working both with Paula Jones's lawyers and Starr's office, Starr was eventually able to contrive a pretext (i.e., alleged obstruction of justice and perjury) for taking over the Paula Jones case and for opening his Monica Lewinsky investigation. As a result of that illegal collusion, which also involved Linda Tripp and her illegal tapes (for which Tripp is now being prosecuted), Starr set a trap for the President in his Paula Jones case deposition on Jan. 17, 1998. This became the basis for Starr's "impeachment" referral to Congress.

The Scaife-Olson nexus—which provided the funds for the Arkansas Project and for the payments to Hale, and which also deployed the operatives who regularly met with Hale while he was the independent counsel's witness—is what should have been the target of investigation. Had it been, there would have been plenty of crimes, including conspiracy, for Shaheen to prosecute.