

## Citizens attorney dealings under scrutiny

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BY BEATRICE E. GARCIA AND MARY ELLEN KLAS

[bgarcia@herald.com](mailto:bgarcia@herald.com)

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The main lawyer for Citizens Property Insurance represented clients seeking Citizens' business, raising concerns about a possible conflict of interest.

Michael Colodny, former North Miami mayor turned insurance industry insider, has built his Fort Lauderdale law practice on representing insurance companies -- from household names like Allstate and Nationwide to small startups that cover homes in high hazard areas.

His long-time association with Chief Financial Officer Tom Gallagher brought him his most prized assignment: an appointment as outside general counsel for Citizens Property Insurance, the state-run insurer for homeowners who can't find coverage in the private market.

Serving Citizens and its predecessor insurance pool since 1993 has helped catapult Colodny and his partner Fred Karlinsky to top-dog status among lobbying firms in Tallahassee who steer millions in campaign contributions from insurance clients to candidates. But the way Colodny has handled his business is now raising questions.

As Citizens found itself caught up in allegations of self-dealing, employee conflicts of interest and lax oversight, Citizens' new board chairman Bruce Douglas asked Colodny to make a choice: End his firm's relationship with start-up insurers that sought business with Citizens, or step down as Citizens' general counsel.

Although Colodny and Karlinsky say their firm's work for Citizens and these fledgling insurers presents no conflict of interest, Colodny decided to drop the start-ups that wanted Citizens' policies.

"It's a very visible prestigious position," says Colodny, whose firm collected more than \$1 million in fees in the past 21 months from Citizens. "But we have worked hard to develop" this practice.

Colodny, 63, now has turned to his client roster again, this time to help Citizens as it faces a criminal investigation. Citizens has hired Lewis B. Freeman & Partners, a Miami-based forensic firm that Colodny's firm represents, to conduct an internal investigation of the allegations now being lobbed at the insurer.

Colodny, Fass, Talenfeld, Karlinsky & Abate, has offices in Fort Lauderdale and Tallahassee. It currently represents eight takeout companies as well as two claims adjusting firms that have worked for Citizens this year.

### DECLARING CONFLICT

The minutes of one board meeting last year show Colodny did say his firm had worked with one of the insurers presenting its takeout plan to the board.

William O'Neil, Citizens' former board chairman who worked with Colodny and Gallagher at the Residential & Property Casualty Joint Underwriting Association for more than a decade, recalls Colodny declared five or six times during board meetings that he had a conflict with a takeout company.

CFO Gallagher said he is not bothered by the association, noting that Florida Bar rules require lawyers to disclose their conflicts and he is confident that was done.

But Professor Tony Alfieri, director of the Center for Ethics and Public Service at the University of Miami law school, says disclosing a conflict, even a potential one, often isn't enough because the ability to adequately represent one client can be limited when the same law firm is representing the other.

"And the idea that a firewall will cure a conflict is pure folly," he said.

The only insurance lobbying client Colodny had in 1996 was the residential JUA. His firm now represents more than 70 insurers before the executive and legislative branches. Meanwhile, he and his partners have become active fundraisers for the Florida Republican Party and its favored candidates.

Since 1998, Colodny and his firm have contributed \$183,066 to the Republican Party. Karlinsky and his family have kicked in another \$16,050.

They also have been long-term supporters of Gallagher, who is seeking the Republican bid for governor in 2006. Colodny and Karlinsky were among the hosts of a \$500-per-person fundraiser in Fort Lauderdale two weeks ago for Gallagher.

Colodny, Karlinsky and their respective families have added \$8,932 to various Gallagher campaigns since 1998. In the first nine months of 2005, clients of Colodny and Karlinsky contributed \$231,990 to the Republican Party and \$17,500 to Gallagher's campaign.

Political connections aside, Colodny maintains he did nothing wrong. Colodny says he never represented these new takeout companies before Citizens and made it known to the board of directors that his firm had done work for some of the takeout companies. Karlinsky, who formerly worked at the Department of Insurance under Gallagher, shepherds the fledgling firms through the process of gaining approval from the Office of Insurance Regulation.

"In the five or six times it has come up [at board meetings], I have disclosed those conflicts. I have gotten up and walked out of the room," Colodny said.

## FIRMS INVOLVED

However, at the March meeting when five start-ups -- including two represented by Colodny's firm -- made presentations to the board, Colodny didn't mention the firm's involvement, according to the minutes. The minutes don't indicate that Colodny left the room. But they indicate that he made no comments during the company presentations.

"We absolutely haven't gotten [the takeout companies] any special treatment or advantages," says Karlinsky, 38, who has worked with Colodny's firm since 1993.

Colodny adds that none of the companies approved by state regulators to take policies out of Citizens has been turned down by the insurer. Also, all companies have signed the same standard contract and all have participated in whatever bonus program was available at the time.

Douglas -- who had been a Citizens board member since 2002 and was reappointed by Gov. Jeb Bush in August -- says even the perception of a conflict was unacceptable. He says he didn't know that Colodny's firm represented any of the takeout companies until after he succeeded O'Neil as chairman. When he asked Colodny to drop the business, he knew of only one or two firms that were represented by Colodny's firm, he said.

Douglas noted that he's been meeting with some of the professional firms that work for Citizens -- and hopes to meet with all of them -- to be sure there are no other potential conflicts.

Though Colodny agreed to represent only Citizens and no takeout firms, he says he is amazed there's even a perception of a conflict of interest.

"We help companies get approved to depopulate Citizens," he says.

Indeed, state law requires Citizens to shrink. However, despite this mandate, the state-run insurer has ballooned in recent years, with more than 775,000 policies on its books, more than half of that exposure is risky coastal property in South Florida. Last year's hurricanes caused insurers to shy from new business and more homeowners ended up with Citizens.

For a new company, Citizens' takeout program lets them acquire a chunk of policies and save the upfront acquisition costs.

Young firms willing to take on riskier policies get paid a bonus if they keep the policies on their books for at least three years.

Some clients aren't phased by even the possibility of a conflict in having the Colodny firm represent them.

"Everyone knew that Colodny worked for Citizens," says W. Lockwood Burt, a former state senator and president and investor in Security First, a new company that began taking policies out of Citizens this year.

Security First did hire Karlinsky to shepherd the company's application through the insurance regulators. Karlinsky is currently working with the company on its rate application, says Burt.

"Fred Karlinsky and Rhett O'Doski have a good relationship with the folks at the [OIR]. They've represented more start-up companies than any other firm," Burt adds.

Burt says he didn't ask for special treatment when he went before Citizens. He adds his company didn't qualify for a takeout bonus because it chose policies in the central section of state, rather than in South Florida.

Ironically, while Citizens has two conflict of interest policies -- one for employees and another for board members -- neither one applies to Colodny as the insurer's outside general counsel.

According to Suzanne Murphy, Citizen's chief corporate counsel, Colodny is more like an outside vendor or contractor.

However, Rep. Dennis Ross, R-Lakeland, says, "We can't be so concerned about the problem and lose sight of the big picture. We have to [take action] to depopulate this carrier of last resort."

