

Band attorney: Manager called club owner about pyrotechnics

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NEW YORK (CNN) -- Officials in Rhode Island have subpoenaed members of the band Great White to talk to a grand jury investigating last week's deadly nightclub fire.

The wooden building burned in just three minutes, killing 97 people including the band's guitarist, Ty Longley. The band was using fireworks which ignited the sound proofing material behind the stage.

Attorney Ed McPherson is representing the band and he joined CNN's Connie Chung to discuss the legal blame game.

CHUNG: You said that the band's tour manager called Mike Derderian, one of the owners, a week before the concert. Did they talk about using pyrotechnics?

MCPHERSON: Absolutely. That's one of the important reasons that Dan Beakly, the tour manager called Mike Derderian to do what's called advancing of the show. And as part of that advancing, Dan asked Mike -- first of all, he told Mike what was going to be involved with the particular special effects that the band wanted to use, and asked specific permission from Mike Derderian to use these particular special effects. Mike Derderian gave that permission, and so they were used.

CHUNG: Did either of them talk about a special permit or license to use the pyrotechnics?

MCPHERSON: I'm not sure if they talked about that specifically, although I'll tell you that the custom and practice of the band and particularly the tour manager was to discuss it sufficiently in advance of each venue with the venue owners, so that the venue owners could obtain the proper permits, have time to obtain the proper permits, so by the time the band got there, for that particular show, they would either be in place or they could meet with fire marshals or do whatever was necessary in that particular state.

CHUNG: So what you're suggesting is the band members through the tour manager or someone who represents the band would always call ahead, tell about the pyrotechnics that would be used so that the clubs or the band itself would get the permits necessary?

MCPHERSON: That is absolutely correct. And they essentially relied on the club, number one, to know what was inside the club as far as fire retardant, as far as sprinklers, as far as fire extinguishers.

And number two, the clubs would know the local authorities, would have dealt with them on literally a daily basis and known what kind of permits were necessary so that the clubs could get them from the local authorities.

CHUNG: But officials at clubs in four different states have said that Great White appeared at their clubs and did not give prior notice to using pyrotechnics. One of them was in Bangor, Maine and that was two days before this tragedy occurred.

MCPHERSON: Connie, all I can say, is I have a few things in response to that. Number one, as I said, it was the custom and practice of the tour manager for every single venue that the band was going to, to get this prior permission.

Number two, it's my understanding that in every venue in which this band played for this tour, in which they used special effects they had permission from the club owner the or promoter or whoever was designated as the club representative.

It's also my understanding that just as many clubs have come out and said, wait a second, I had this very conversation with Dan Beakly, I told Dan Beakly with respect to our particular club he could not use the special effects that the band wanted to use, and Dan said fine, that was it, end of story.

CHUNG: You just suggested in your earlier answer that the club -- that the band would always check and see if there were sprinklers there. There in fact were no sprinklers at the Station.

MCPHERSON: No, no, no. I didn't suggest that the band would check to see if the sprinklers were there. What I said was that the band would check with the venue to make sure it was OK to use these particular type of special effects because the venue was in an unique position, in fact, an exclusive position to know whether it had sprinklers, to know whether it had fire extinguishers.

CHUNG: Don't the band members concern themselves with the safety in the club once they get there? I mean whether or not there's foam insulation, whether there are flame retardant walls, whether or not there are sprinklers, I mean, for their own safety?

MCPHERSON: They're certainly concerned with it, Connie. But they go through a venue a night and expect the venues keep the place safe. They expect the fire inspectors to keep these places safe.

Unfortunately, when the band saw there was a fire, the lead singer tried to find a fire extinguisher on the stage. There is always a fire extinguisher to the right generally to the left as well. There was none in this case.

And in fact, my understanding is there was one fire extinguisher in the entire club, and that was approximately 40 feet away from the stage at sound board.