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ORANGE COUNTY, CALIFORNIA

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August 4, 2008

**VIA FAX AND U.S. MAIL**

Mr. Thomas G. Mauk, County Executive Officer  
County Executive Office  
333 W. Santa Ana Blvd., Third Floor  
Santa Ana, CA 92701

Re: Grand Jury Investigation Related to Orange County Treasurer-Tax Collector Chriss Street

Dear Mr. Mauk:

In conjunction with the 2007-2008 Orange County Grand Jury, our office conducted an investigation into various allegations of misconduct involving Orange County Treasurer-Tax Collector Chriss Street. The nature of those allegations and results of the investigations into each are numerically summarized and discussed below.

## **1. Signing of Memo Containing False Information**

An investigation was conducted into allegations that fraudulent documents involving the retention of an architect to produce a design study of potential renovations to the exterior of the building occupied by the Treasurer-Tax Collector (Building 12) had been prepared and signed. Specifically, this office reviewed allegations suggesting that Mr. Street knowingly and intentionally signed such a fraudulent document in violation of Penal Code section 470, et seq, or Penal Code section 115. The document in question was a memorandum dated June 22, 2007, which was authored by employees at the Orange County Resource and Development Management Department (RDMD) indicating a formal evaluation process had taken place on April 12, 2007. Based upon that evaluation process, architect Ware Malcomb was selected for the remodeling project.

The following items were examined: The investigative reports of the Orange County District Attorney's Office; transcripts of interviews conducted by District Attorney Investigators; the twenty-three page letter dated December 5, 2007, which was addressed to Carl Crown, Director of Human Resources and Employee Relations regarding the Ware Malcomb contract, and the June 22 memo and a letter to the County Executive Officer (CEO), dated November 16, 2007, pertaining to the selection of Ware Malcomb. In addition an overall review of county contracting procedures; and relevant statutory and case law authority was conducted.

REPLY TO: ORANGE COUNTY DISTRICT ATTORNEY'S OFFICE

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This investigation revealed that the evaluation form signed by Mr. Street, falsely listed the date of the review as April 12, 2007, when the review actually occurred in mid-June of 2007. It was also determined that the evaluation form was drafted in such a manner that Ware Malcomb would likely receive the contract, as opposed to the other two competing vendors listed on the form.

The particular memo involved, was part of a written process under the County's Contract Policy, called a *Request for Proposal* (RFP). This RFP involves a formal evaluation process that is to consist of written proposals and oral presentations subject to specified evaluation criteria. The use of this RFP process, however, is not required for architectural and engineering services costing less than \$200,000, as was the case here. Therefore the use of the RFP process, of which the memo in question was a part, was not required and therefore had *no legal significance*, irrespective of the truth or falsity of the memo's contents, or the intent with which it was prepared. California Penal Code Sections governing fraudulent documents or instruments (including Sections 470 and 424) are *not* applicable to written memorandums that possess no legal significance or effect.

Beyond the question of the memo's legal significance, the evidence did not establish, beyond a reasonable doubt, that Mr. Street had actual knowledge of the falsity of any information contained within the memo. According to Mr. Street, he had limited involvement in the project once he asked the Assistant Treasurer-Tax Collector to handle it. Although Mr. Street admitted reviewing and signing the June 22, 2007, memorandum, he indicated he did so when it was presented to him as a required procedure that RDMD needed for the project. This statement was corroborated by the Treasurer-Tax Collector Purchasing Manager, who was the individual who presented the memo to Mr. Street for his signature. Additionally, the actual author of the fraudulent memo never implicated Mr. Street as having actual knowledge that the dates in the memo were false.

## **2. Separation of Public Projects for the Purpose of Evading Public Contract Code Provisions**

A complaint was made that Mr. Street unlawfully subdivided the work orders for renovation of Building 12 in order to avoid competitive bidding as required by the applicable sections of the Public Contract Code (Govt. Code §§ 22030-22045). The Public Contract Code provides that "public projects" in excess of one hundred twenty-five thousand dollars (\$125,000) must be contracted out using a formal bidding process. Public projects of \$125,000 or less need not be. A "public project" includes construction, reconstruction, erection, alteration, repair, painting or repainting of a "publicly owned, leased or operated facility." "Facility" includes any plant, building or structure. Routine, recurring or usual maintenance on a facility is not a "public project."

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With respect to this matter, the following items were examined: The investigative reports of the Orange County District Attorney's Office; the remodeling costs submitted by the Treasurer-Tax Collector; the Contract Policy Manual for the county; the two page memorandum dated October 1, 2007, regarding purchasing review; and the relevant statutory and case law authority.

The work on the building occupied by the Treasurer Tax Collector was determined to be a "public project" as defined in the Public Contract Code. While the *total* amount of *all* the work on the building exceeded \$125,000, this work involved separate and differing jobs such as carpeting, painting, electric, office reconstruction and remodeling (i.e. dry walling and doors), windows and mirrors, each done *by* independent and individual contractors. All of the contracts involved were *well* under the \$125,000 limit, and *no* individual contractor had multiple contracts, the total of which exceeded the \$125,000 limit. Under these facts therefore competitive bidding was *not required* by the Public Contract Code. Accordingly, the evidence did not establish a violation of the Public Contract Code.

### **3. Misappropriation of Public Funds**

Two separate allegations regarding misappropriation of public funds in violation of Penal Code section 424 were received and investigated. The first allegation involved Mr. Street's appearance at multiple depositions in Los Angeles on August 1 – 3, 2006, and September 13, 2006, during his normally scheduled business hours. The depositions related to on-going civil litigation involving his prior employment as trustee for "The End of the Road Trust," a trust for the bankrupted *Fruehauf Trailer Corporation*. Mr. Street's participation in those did not involve any Orange County business. On the four dates, during which Mr. Street was involved in the depositions, he did not take vacation or leave time from his salaried position as the Assistant Treasurer-Tax Collector. Accordingly, he was paid his full salary by the County for those days.

The following items were examined in relation to this matter: The investigative reports of the Orange County District Attorney's Office; records pertaining to the depositions in Los Angeles; time cards and employee timesheets for Mr. Street; email; travel itineraries; other documentation pertaining to Mr. Street's work schedule; Human Resources Policies and Procedures applicable to both the County as well as the Treasurer-Tax Collector's office; the memorandum of understanding for the administrative management unit; the Fair Labor Standards Act; federal regulations pertaining to salaried employees; and relevant statutory and case law authority.

Although Mr. Street did not work his typically scheduled work hours, on those dates, there was credible evidence that in the hours either before, or after, his deposition, on the dates in question, he in fact performed work for the County of Orange, in his capacity as the then Assistant Treasurer-Tax Collector. Both County policy and federal regulations unequivocally establish that a salaried employee must receive the full salary for any week or day in which the employee performs work or renders services, without regard to the specific number of days, or hours, actually worked. (There are some exceptions which are not applicable in this case). Since Mr. Street was a salaried

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employee, at the time he performed, at least some work or services, during those days and/or weeks in question, Mr. Street was entitled to be paid his full salary and was not required to request vacation or leave for those days. The evidence therefore does not establish a violation of Penal Code Section 424.

A second allegation of misappropriation of public funds, in violation of Penal Code Section 424, was made in relation to the "Report to the Public" notebooks which Mr. Street had his staff prepare, and provide to the press during a press conference held on August 27, 2007. In examining this allegation, statutory and case law authority, investigative reports and transcripts of interviews conducted by District Attorney investigators were reviewed.

The evidence adduced showed that but a small portion of the materials was prepared utilizing County resources; a majority of the notebooks were printed offsite and were paid for using non-public funds. Although a small portion of the notebooks were copied utilizing public materials, the materials contained in the notebooks could credibly be considered related to the business of the Treasurer-Tax Collector's Office and thus the use of public funds would be justified. Moreover, considering the small extent to which public resources were used, that use would appear to fall under the category of "incidental and minimal use of public resources," thereby exempt from a claim of misappropriation under Penal Code Section 424. A violation of that statute based on this allegation is therefore not established.

As a result of this investigation, our office has concluded that a finding that Mr. Street violated any law concerning the matters investigated, as outlined herein, is not established by the evidence. This office therefore now considers these matters closed.

Respectfully,



WILLIAM J. FECCIA

Senior Assistant District Attorney

Special Projects

*WJF:vlb*

cc: John M. W. Moorlach, Chairman, Board of Supervisors  
Chriss Street, Treasurer-Tax-Collector, County of Orange