

JUNIOR THEATRE OVERSIGHT GROUP

www.jtoversightgroup.org

March 15, 2017

The Honorable Xavier Becerra
Attorney General of California
Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814-2919

**Re: COMPLAINT TO THE CALIFORNIA ATTORNEY GENERAL
REGARDING THE SAN DIEGO JUNIOR THEATRE AND
REQUEST FOR LEGAL INTERVENTION**

Dear Attorney General Becerra,

I write to you on behalf of the Junior Theatre Oversight Group (JT Oversight Group), an all-volunteer community advocacy organization.¹ We formed in late 2016 in response to serious legal, ethical, and financial controversies that have arisen at the San Diego Junior Theatre, a beloved 70 year-old, tax-funded youth arts institution located in the heart of San Diego's Balboa Park.

JTOG hereby makes its complaint and urgently requests your office investigate the actions of the current Junior Theatre Board of Trustees (the "Board") and take appropriate legal measures to safeguard the organization's assets and operational ability, both of which we believe are at grave risk. Attached to this letter is a formal complaint and 55 exhibits documenting the Board's malfeasance.

Please understand that we are not requesting assistance to resolve a labor dispute, nor is this a situation of overbearing "stage parents" bickering about the organization's casting decisions. This is a very serious matter affecting the safety and well-being of the children served by the organization, as well as the near and long-term viability of the organization.

By all appearances and available evidence, the Board's past and current actions amount to egregious abuses of authority, unjustified and preventable losses of the organization's charitable assets, and ongoing gross mismanagement of the organization's day to day operations. Among other financial irregularities, it appears that at least \$34,000 to \$40,000 of the organization's funds may have improperly inured to the benefit of two trustees through self-dealing transactions. An even greater, though unknown amount, has been needlessly wasted on self-created legal liabilities, as well as a campaign of illegal intimidation which the Board waged against its own stakeholders.

¹ The mission of the JT Oversight Group is "To ensure the members of the San Diego Junior Theatre Board of Trustees are competent, ethical, transparent, and accountable to the Junior Theatre community, and place the interests and safety of the children of the community first."

This loss of charitable assets is especially troubling considering the Junior Theatre is funded in large part by tax-dollars allocated through the San Diego Commission on Arts and Culture, which has awarded the organization more than \$250,000 over the last three fiscal years.

Most importantly, however, we also have serious, ongoing concerns about the Board's actions related to the safety and well-being of the children and community served by the organization.

The Board acted negligently and recklessly in ensuring the safety of the children in response to an incident in which the male Executive Director allegedly battered a child in the girls' dressing room. Rather than properly investigate the incident and appropriately discipline him, the Board instead chose to conduct a predetermined whitewash designed to provide cover for the firing of two whistle-blowing staff members.

These actions were intensely shocking and disturbing to the stakeholders of the organization, including its children, families, staff, donors, and patrons. Until last fall, very few had any idea of the profoundly unethical culture prevailing on the current Board.

The most glaring example of that unethical culture is that of the Board's president, a cabinet installer who first became a trustee in 2008, the same year he was charged by the San Diego District Attorney's office with felony contracting without a license in a declared disaster area. (Based on civil court records it appears he has made a career of targeting homeowners who were the victims of wildfires. He would plead guilty to a lesser offense and be put on three years' probation, but was later accused of contracting without a license once again in a civil court case.) At a time when the organization's finances were already in trouble, the president orchestrated a self-dealing transaction in which Junior Theatre paid his company \$4,000 to \$5,000 to renovate the organization's administrative office, despite the fact that he appears to have done so without a valid contractor's license.

Another example of the unethical culture of the current Board is a highly questionable transaction between the organization and its immediate past-President, who was given a \$30,000 to \$35,000 contract for part-time consulting while she was a trustee. Neither this contract nor the renovation and cabinetry contract were disclosed on the organization's annual registration renewal fee (RRF-1) forms filed with your office.

And the financial mismanagement and self-dealing isn't even the worst of the Board's impropriety. In order to protect what appears to be a social club among childhood friends, the Board conducted a concerted campaign of intimidation and retaliation against the community it is entrusted to serve. Among other things, the Board hired plainclothes, concealed gun-carrying security guards to follow and intimidate staff and community members, including children. And the Board's president made a false police report of burglary and theft against two staff members who were witnesses to the executive director's alleged battery. (Both were quickly cleared of any wrongdoing by the SDPD, which determined the police report was "unfounded.")

What makes these acts even more shocking is the fact that most trustees on the Board are well-educated professionals who could have and should have put a stop to the pattern of unethical and likely illegal activities. Yet they apparently stood by and did nothing, or else actively supported it.

These include two Deputy City Attorneys for the city of San Diego and an employment litigator at Foley & Lardner LLP. The latter helped the organization retain her husband, Gil Cabrera, a local politician who recently ran for City Attorney. They also brought in their friend, the Managing Partner of the San Diego office of Duane Morris, who conducted an “investigation” of the alleged battery in the girls’ dressing room but neglected to interview either the alleged victim or a single one of the numerous eyewitnesses.

None of these attorneys seemed to recognize the tangle of conflicts of interest they had created. Nor do they appear to have been willing or able to ensure the organization was operating in an ethical manner and within the law. Nor did they fulfill their obligation under California’s mandatory child abuse reporting law. They all apparently ratified the firing of whistleblowers who were trying to protect the safety of the children. And at least one of them, Gil Cabrera, apparently aided the Board’s president in his toxic and illegal campaign of intimidation against the Junior Theatre community.

These are serious allegations, and as such require credible and substantial evidence. For that reason I have taken great care in conducting my research and preparing the complaint attached to this letter, and its accompanying Exhibits 1-55. The complaint is as thorough and particular as reasonably possible under the circumstances, and I believe you will find it to contain ample and credible evidence supporting its allegations.

Please note the following about this complaint:

- I am an attorney admitted to practice in California (State Bar No. 253978). I submit this letter and its attached complaint as a volunteer member of JTOG and a long-time parent volunteer at the Junior Theatre, and not in any representational capacity. I have no attorney-client relationship with any entity, individual, or group related to this complaint. No one has paid me or in any way compensated me for preparing this complaint. I have no financial interest in the Junior Theatre or in any entity that transacts with the Junior Theatre, nor do I have any other kind of potential conflict of interest to disclose.
- Due to my own involvement as a Junior Theatre parent volunteer and community advocate I am a personal eyewitness to some of the incidents described in the complaint. In important respects, I and my family members are also some of the many innocent victims of the Board’s unethical acts. Where it was necessary in the complaint to refer to myself in my capacity as an individual Junior Theatre parent volunteer and community advocate, I have utilized the third person.
- I have refrained from naming some of the sources of information used in this complaint, and have also redacted names and identifying information on certain documents attached as exhibits. This was done to protect the privacy of minors and/or to protect Junior Theatre community members who have reason to fear reprisal by the Board, which has a documented history of retaliatory acts against community members (as detailed throughout the complaint.) I believe that all of my confidential sources are willing to speak to members of your staff and other law enforcement officials under appropriate safeguards, and upon request I can provide you with their identifies and un-redacted documents for such a purpose.

- Many well-informed and credible Junior Theatre community members have contributed to and fact-checked this complaint, including eyewitnesses to some of the incidents. However, I am the sole author of the complaint and I take full and sole responsibility for its contents.
- The Board has a history of threatening legal action against community members who have spoken out on the controversies at the Junior Theatre. Therefore I find it prudent to state the following:

This letter and the attached complaint contain opinion and fair comment. Factual assertions or allegations made against the Junior Theatre, its Board, or individuals are directly related to the organization's or individuals' capacity as public figures or as limited-purpose public figures, and are made in response to such organizations' or individuals' voluntary participation in controversies of significant public interest and media exposure. No malice is intended whatsoever. Every reasonable effort has been made to verify the substantial truth of all factual assertions.

- I respectfully reserve the right to amend, correct, and/or supplement this complaint as necessary based on newly discovered information or further Board activities that warrant your office's attention.

In closing, please know that for 70 years the Junior Theatre has been a cherished civic institution, beloved by generations of San Diegans, and was once renowned as one of the finest children's theaters in the world. Its educational programs and performances serve thousands of children every year, and their interests and safety must be protected. Furthermore, the city of San Diego and its taxpayers also have an important stake in this matter.

For all these reasons I believe this complaint and our respectful request for intervention by your office should be given prompt and careful consideration.

Thank you for your attention to this matter. Should you have any questions please do not hesitate to contact me.

Sincerely,



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Enclosures