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April 26, 2019

The Hon. Xavier Becerra
Attorney General of California
Department of Justice
Office of the Attorney General
1300 "I" Street
Sacramento, CA 95814

Division Chief Fiona Dunleavy
Special Operations Division
San Diego County District Attorney's Office
Hall of Justice, Suite 1020
330 West Broadway
San Diego, CA 92101

**Re: Evidence of a Conspiracy to Obstruct Justice by San Diego City Attorney
Mara Elliott and San Diego Convention Center Trustee Gil Cabrera**

Hon. Attorney General Xavier Becerra and Division Chief Dunleavy:

I am writing to report what appears to be a conspiracy to obstruct justice and a pattern of other crimes in furtherance of covering up child abuse, committed by several San Diego city officials, including City Attorney Mara Elliott, San Diego Convention Center Trustee Gil Cabrera, City Attorney Chief of Staff Gerry Braun, Deputy City Attorney Joan Dawson, and Deputy City Attorney Catherine Morrison. Enclosed with this letter is significant evidence substantiating my allegations.

I. Mara Elliot illegally disclosed evidence related to three ongoing law enforcement investigations.

On April 13, 2017 I mailed and emailed Elliott a cover letter and copy of my complaint to the Attorney General detailing evidence of a child abuse coverup at the city-funded San Diego Junior Theatre, where my daughters had been longtime students and my wife and I were volunteers. At the time this information was confidential and non-public, and the Attorney General's office, the San Diego Police Department, and the San Diego District Attorney's office had open investigations into child sexual abuse and other crimes at Junior Theatre.

The next day Elliott forwarded the email and attachments to Gil Cabrera—who was the prime subject of the allegations in my complaint. Elliott wrote: "Hi Gil, I haven't read it yet, but remembered his name from our prior conversations. Mara."¹

Minutes later Cabrera replied: "Thanks for letting me know."²

¹ Attachment 1. (This and all other attachments Bates-stamped COSDPROD were obtained in discovery through my ongoing public records act lawsuit, *Valenti v. City of San Diego*, Case No. 37-2017-00044069-CU-MC-CTL)

² Attachment 2.

At the time of Elliott's unlawful disclosure to Cabrera there were three separate law enforcement investigations related to Junior Theatre, each involving Cabrera. The first, by the Attorney General's Charitable Trusts Section, which had opened an investigation after receiving my complaint on March 15. The second, by the San Diego District Attorney's Office, which received a copy of the complaint and my cover letter to DA Bonnie Dumanis on March 22.³ The third investigation was by the San Diego Police Department, which was investigating sexual abuse by a Junior Theatre teacher named Eric Von Metzke (as detailed below).

At a minimum, Elliott's disclosure appears to be a violation of Penal Code §182(a)(5) (conspiracy with Cabrera to pervert or obstruct justice); Penal Code §11167(d)(1) (unlawful disclosure of the identity of a person who reports suspected child abuse); and San Diego Municipal Code §27.3564(e) (unlawful disclosure of confidential information acquired in course of official duties).

II. The unlawful disclosure was part of a larger effort to conceal from parents, SDPD, and the public a pattern of physical and sexual abuse of children at the San Diego Junior Theatre.

By conspiring to disclose my complaint to Cabrera, Elliott joined a larger effort to hide evidence related to the physical and sexual abuse of children at Junior Theatre, an effort that has been ongoing since at least June 2016.

My complaint centered on the admission by Junior Theatre's Executive Director Jimmy Saba that he had entered the girls dressing room in June 2016 and violently hit a girl. I also documented the subsequent efforts by Saba's friends on the board—including Cabrera's wife Krista and the two deputy city attorneys, Dawson and Morrison—to silence witnesses and potential whistleblowers, while shielding Saba from any consequences.⁴

But Saba's battery of the girl in the dressing room was not the only child abuse the board of trustees conspired to hide. Evidence I have obtained since March 2017 paints a disturbing picture of the way this group concealed reports of a 36 year-old sexual predator working at Junior Theatre named Eric Von Metzke.

The evidence shows that if the board of trustees had followed the law and acted on the multiple, credible warnings they received about Von Metzke in August 2016, they could have prevented his subsequent brutal rape of a sixteen-year old student in October 2016. Instead, they actively covered up his abuse along with Saba's, and continued to allow him to teach at Junior Theatre.

Fortunately, thanks to the courage of his victim in coming forward (despite attempts by a Junior Theatre staff member to silence her) Von Metzke was eventually arrested and prosecuted. In June 2017 he was sentenced in San Diego County Superior Court to three years in state prison after pleading guilty of violating Penal Code §261.5(c)(unlawful sexual intercourse) and Penal

³ Attachment 3.

⁴ <http://jtoversightgroup.org/complaint-to-the-attorney-general/>

Code §288a(b)(1)(oral copulation of a person under eighteen). Though neither the SDPD nor the DA's office appear to have publicized the case, I notified local media.⁵

A. Gil Cabrera, Joan Dawson, and Catherine Morrison conspired to hide evidence of sexual abuse by Von Metzke as well as physical abuse by the Executive Director Jimmy Saba.

There is extensive evidence that the majority of the trustees on the board of Junior Theatre, aided by Cabrera, engaged in a prolonged coverup of Saba's abuse (as detailed extensively in my complaint) and also conspired to conceal the fact that Von Metzke was targeting teen girls in the program.

The DA's Sentencing Memorandum in *People v. Von Metzke* indicates that Junior Theatre's executive director Jimmy Saba (who admitted to attacking a girl in the dressing room) called the police to report Von Metzke for sexual abuse on January 9, 2017.⁶ The Junior Theatre board met a week later and discussed Von Metzke, and the minutes of that meeting state they decided on that date that "JT will conduct [a] full investigation of [the] allegation."⁷

But Saba, his friends on the board, and Cabrera knew that Von Metzke was targeting teen girls for sexual abuse long before January 2017, yet did absolutely nothing to stop him.

B. SDPD's investigation uncovered evidence Junior Theatre had prior knowledge of Von Metzke's abuse.

The DA's sentencing memorandum itself indicates that Junior Theatre was aware Von Metzke targeted girls before he was reported, and in particular that he had been "dating" a sixteen-year-old in the program.

The memorandum states, "Detective Margolis told the defendant that he had spoken with several people at Junior Theatre and several people told him that he and "Maddy" were dating and had been since she was sixteen years old."⁸

C. Junior Theatre was specifically warned about Von Metzke in late 2015 and again in early 2016.

A director in another theater program named Shaun Evans called Junior Theatre twice in late 2015 to report inappropriate grooming texts he had found in the cell phone of one of his sixteen-year-old students.⁹ He was never contacted by anyone at Junior Theatre for follow up information.

⁵<http://www.sandiegouniontribune.com/news/watchdog/sd-me-junior-theatre-20170621-story.html>
<http://www.10news.com/news/san-diego-junior-theatre-eric-von-metzke-sex-with-minor>
<https://www.sandiegoreader.com/news/2017/jun/22/ticker-sd-junior-theatre-teacher-going-prison/>
<https://www.sandiegoreader.com/news/2017/jun/25/ticker-von-metzke-groomed-underaged-girls-texting/>

⁶ Attachment 4, p. 2.

⁷ Attachment 5, p. 3.

⁸ Attachment 4, p. 11.

⁹ <https://www.sandiegoreader.com/news/2017/jun/25/ticker-von-metzke-groomed-underaged-girls-texting/>

There was also frequent talk within the Junior Theatre community about Von Metzke's relationship with Maddy. As one commenter states:

I know for a fact that in spring 2016 this behavior was brought to the attention of JT management, after enough teenagers at JT got the same weird feeling about Eric....Apparently some JT employees were ethical enough to try to do something about Eric's inappropriate outreach to teenage girls. But top management blocked them, and didn't take the issue seriously.¹⁰

In fact, it was an open secret in the Junior Theatre community that Von Metzke was "dating" the girl referred to as Maddy, as well as making inappropriate grooming remarks to other teen girls in the program.¹¹

All evidence points to the likelihood that the whistleblowing employees who attempted to stop Von Metzke were Rayme Sciaroni and Tony Cuccuzzella—the same two who were fired in September 2016 after trying to report Saba's abuse. Rather than take action against Von Metzke, either by firing him or reporting him to law enforcement, the board's response was instead to fire Maddy from her part time position as teacher's aide, where she worked directly under Von Metzke's supervision. The pretense for her firing was that she missed too much work, and when her family complained to Junior Theatre about her firing, she was rehired and put back under the direct supervision of Von Metzke.

D. A whistleblowing trustee raised concerns about Von Metzke at a board meeting on August 3, 2016 and the board's president Darien Webster responded: "We are currently looking into it." But no action was taken and two months later Von Metzke raped Jane Doe.

On August 3, 2016 the Junior Theatre board held a critical meeting. In attendance were Krista Cabrera, Dawson, and Morrison, in addition to several other board members and Saba. The main purpose of the meeting was to discuss the organization's response to Saba's admission of abuse, which the board did in closed session.

Notes taken at that board meeting by a whistleblowing board member indicate she raised the issue of Von Metzke targeting teens. From her notes: "Final question for Jimmy [Saba] before closed session: I've heard talk about a certain student having an inappropriate relationship with a staff member/teacher. This possibly being the reason she was recently fired. She being the student. [Board president] Darien [Webster]: We are currently looking into it."¹²

But it is clear that Webster did not in fact "look into" the many allegations against Von Metzke, nor did any other members of the board. Nor, did Gil Cabrera, who was by that time

¹⁰ Ibid. See Jun 25 comment by "YetAnotherConcernedParent"

¹¹ Ibid.

¹² Attachment 6, p. 2.

retained by his wife Krista (also an attorney) despite the conflict of interest. (“Krista found someone to handle this pro bono.”)¹³

E. Cabrera and Dawson gave Junior Theatre unethical legal advice designed to silence witnesses and whistleblowers.

The notes of the August 3 board meeting also indicate several of the ways the board acted to silence whistleblowers in the summer and fall of 2016. Joe Marron, one of the only two board members who acted ethically (both of whom were soon voted off the board), reported Saba’s incident to board president Webster. The response: “Joe got a text saying not to discuss with other board members. Board attorney sent a letter re: defamation.”¹⁴

That “board attorney” was Gil Cabrera, who would later send more cease and desist letters, one to a 15 year-old-student who posted a petition online, and another to a longtime Junior Theatre contract makeup artist who was speaking out. Cabrera helped Webster file a false police report against this makeup artist, alleging she burglarized Junior Theater, a report the SDPD determined to be “unfounded.” These were among several actions Cabrera took to threaten and silence witnesses and whistleblowers, as detailed extensively in my complaint.

Deputy city attorney Joan Dawson also took a lead role in silencing potential whistleblowers. In July 2016 she drafted and introduced as an amendment to the bylaws a confidentiality clause which would effectively serve as a nondisclosure gag-order to her fellow board members.¹⁵ The amendment states in part:

In the course of conducting the business and affairs of the Board, each Trustee will receive or gain access to information that is proprietary and sensitive, including budget and financial information, personnel information, and other organizational information, whether or not the information is identified as proprietary or sensitive. Each Trustee must maintain the confidentiality of information and records...No Trustee may publish or disclose information to any person, including Junior Theatre staff members and other constituents, regarding the business and affairs of the Board, unless the Trustee has been designated by the full Board to serve as a spokesperson for the Board or as required by law.¹⁶

Despite authoring this amendment and advising the board to enact it in the bylaws, Dawson would later assert to Elliott in May 2017 that she and Morrison did not provide legal advice for Junior Theatre, stating:

Neither of us serves as an attorney for the organization, which would violate Charter section 40. I have made it clear from the time I submitted an application to serve on the Board of Trustees in 2014 that I am an attorney

¹³ Ibid.

¹⁴ Ibid. at 3.

¹⁵ Attachment 7.

¹⁶ Attachment 8.

for the City, and can't and will not provide legal advice. The Board has relied on advice from outside law firms, including Foley and Lardner [Krista Cabrera's firm] and the Cabrera Firm. I have recused myself from all Board decisions involving the City of San Diego.¹⁷

F. Dawson and Morrison concealed the fact they received free legal services from Gil and Krista Cabrera, and failed to report those services in their Form 700 disclosures.

The email in which Dawson asserted she did not provide legal services to Junior Theatre also included her request that Elliott send Mayor Faulconer and the members of the City Council a memorandum rebutting the charge I had made that Dawson and Morrison had a conflict of interest due to their dual representation of Junior Theatre and the City.¹⁸

Dawson cited guidance she'd been given in the Fall of 2016 by the San Diego Ethics Commission in response to her and Morrison's query about whether the pro bono legal services provided by the Cabreras constituted reportable gifts.¹⁹ This guidance however had nothing to do with my specific allegation that she and Morrison had a conflict of interest under Rule 3-310 of the State Bar's Rules of Professional Responsibility.

The Ethics Commission's guidance, though irrelevant to the analysis of Dawson's and Morrison's conflicts of interest, did however indicate that Dawson and Morrison would need to report the Cabreras' legal services as a gift in their annual Form 700 disclosures. In an email to the two of them an Ethics Commission staffer stated:

[Y]ou are receiving a "gift" if you are provided with personal representation on a pro bono basis from an attorney who is a reportable source under your conflict code (anyone located in or doing business with the City). In other words, you may not accept pro bono services valued in excess of \$460 per year... This restriction does not apply to legal services donated for purposes of representing Junior Theatre or its Board of Trustees, but does apply to any legal services you receive in your personal capacity.²⁰

The legal services provided by Gil and Krista Cabrera are very likely to be worth significantly more than \$460, and were apparently provided at least in part to Dawson, Morrison, and the other trustees in their personal capacities, since malfeasance such as a non-profit board conspiracy to conceal child abuse would subject individual trustees to personal civil and criminal liability.

Nevertheless, neither Dawson nor Morrison disclosed the Cabreras' free legal services as required on their 2016 Form 700.²¹ And though there is evidence they continued to receive free

¹⁷ Attachment 9, p. 2.

¹⁸ Ibid.

¹⁹ Attachment 10.

²⁰ Ibid at 7.

²¹ Attachments 11 and 12.

legal services from Krista Cabrera at least as recently as May 2018 (see below), Dawson and Morrison also failed to disclose those services in their 700 Forms for 2017 and 2018.²²

III. Elliott, Gerry Braun, Dawson, and Morrison deliberately misled Mayor Faulconer and the City Council about Dawson’s and Morrison’s involvement in the child abuse coverup.

The records indicate that Elliott and her chief of staff Gerry Braun assisted Dawson and Morrison in an effort to avoid an investigation by the City Attorney’s office, or an internal inquiry into Dawson’s and Morrison’s conflicts of interest. Instead, the records indicate that she and members of her office seemed only concerned with negative press coverage and damage control. It appears her office failed to take any action to investigate my complaint whatsoever.

Rather than conduct a full investigation of my complaint—or even a cursory investigation followed by a referral to another agency—it appears the City Attorney’s office instead conspired with Junior Theatre board members to hide the true nature of my complaint from the mayor, city council, and the public.

Foremost among them was Dawson, who was in close contact with fellow members of Junior Theatre’s board and communicated with them about my complaint and her office’s response to it, again contradicting her assertion to Elliott that she recused herself from board decisions related to the City. The records reveal that rather than cooperate with her office to allow a proper investigation, she was more concerned with her office being “troubled” by my complaint. On April 27 she wrote to Braun:

I was forwarded a text message from Jeff McDonald of the Union-Tribune to the Junior Theatre Board President, notifying the JT Board President that the Union-Tribune will not be doing a story on the complaint filed by Matt Valenti with the Attorney General “at this point.” I’m assuming you won’t be troubled on this topic.²³

Braun’s response: “Thanks. I hope this hasn’t discouraged you two from continuing to volunteer in the community.”²⁴

Elliott, Braun, Dawson and Morrison also conspired to withhold the true facts from Mayor Faulconer and the City Council. At Dawson’s request, Elliott issued a memo to the mayor and council, which Dawson herself drafted. The memo purported to exonerate Dawson and Morrison from my charge that they had attorney conflicts of interest.²⁵ The text of the memo Elliott issued was written in Dawson’s exact words:

By letter dated April 26, 2017 to you, a man named Matt Valenti has, among other things, alleged Deputy City Attorneys Joan Dawson and Catherine

²² Attachments 13-16.

²³ Attachment 17.

²⁴ Ibid.

²⁵ <http://jtoversightgroup.org/letter-to-mayor-and-city-council/>

Morrison “each likely has a serious conflict of interest related to their dual roles representing the city and apparently providing legal advice to Junior Theatre.”

Both City of San Diego employees serve as volunteers on the Board of Trustees of San Diego Junior Theatre, without compensation. Both employees have children in the program. Both employees sought out and received the attached correspondence from staff at the Ethics Commission regarding their service on the Board of Trustees.²⁶

The only significant change Elliott made to Dawson’s statement was the addition: “[Dawson’s and Morrison’s] professionalism and integrity is beyond question.”²⁷

IV. The City Attorney’s Office continues to conspire with Junior Theatre trustees by withholding critical emails related to its involvement and holding a secret meeting with Krista Cabrera.

In the weeks after I sent my complaint to Elliott, and especially after the complaint received press coverage in May 2017, there was a flurry of emails sent between Elliott, Braun, Dawson, Morrison, and other high-ranking attorneys in the City Attorney’s office regarding my allegations. Some of these were later produced in response to my initial public records requests, often heavily redacted.²⁸ And more records, also heavily redacted, have been produced in discovery in *Valenti v. City of San Diego*.²⁹ Dozens of interoffice emails, however, have not been produced in any form, though the City Attorney’s office admits they are relevant, as can be seen from their privilege log.³⁰

The small portion of these withheld records which are directly related to my lawsuit are properly withheld under the attorney work product privilege. The majority of these withheld and redacted emails, however, were exchanged before my lawsuit was filed, and even before my first public records request. Under the circumstances it is difficult to conceive how the City Attorney’s office can reasonably claim attorney work product or attorney client privilege. Who is the client?

The client cannot be Dawson or Morrison in their personal capacities. It cannot be Junior Theatre. It can only be the City of San Diego. As such, it appears to be improper and a form of malpractice on the part of the City Attorney’s office to withhold these records. No City should have a legal interest in concealing records related to child abuse at a city-funded non-profit operating on city property. Indeed, the City’s legitimate legal interests in such a scenario can only be to ensure the safety of the children at Junior Theatre (above all else), to protect taxpayer

²⁶ Attachment 10.

²⁷ Ibid.

²⁸ <https://sandiego.nextrequest.com/requests/17-1985>

<https://sandiego.nextrequest.com/requests/17-2567>

²⁹ Attachment 18.

³⁰ Attachment 19.

resources from abuse and fraud, and to investigate illegal or unethical behavior by city employees.

Furthermore, no personnel or privacy exemption makes sense in this context, other than minor redactions for items like the names of minors, Social Security numbers, or home addresses. Moreover, by asserting personnel and privacy exemptions *as well as* attorney work product over the same emails, the office appears to be admitting it is providing legal counsel to Elliott, Dawson, and Morrison, raising yet more major conflict of interest issues.

The reasonable conclusion is that the contents of these withheld and heavily redacted emails contain further evidence of illegal acts by Elliott, Cabrera, Dawson, and Morrison, among others. And these acts appear to be ongoing.

Around May 2018 Krista Cabrera held a meeting with an unknown member or members of the City Attorney's office, as reported in the minutes of the May 23, 2018 Junior Theatre board meeting. ("3. Executive Director Report a. Meeting with City Attorney's Office – Krista".)³¹

The attendees, purpose, and topics of this meeting are unknown at this time, as the City Attorney's office has failed to provide any of its records of the meeting. It is possible the meeting was to discuss my public records lawsuit, in which Junior Theatre is implicated as a repository of records within the constructive control of the City. Even if that was the only purpose of the meeting, however, it is inappropriate considering the multiple conflicts of interest involved.

Again, the reasonable conclusion is the meeting, whether or not my public records lawsuit was discussed, was part of the larger effort to conceal child abuse and protect those who engaged in the conspiracy to conceal it. Considering Elliot's unlawful disclosure of the complaint to Gil Cabrera a year earlier, his wife's meeting with someone from Elliott's office—perhaps Elliott herself—indicates a continuation of their conspiracy.

V. The current president of Junior Theatre's board, David Braun, is under investigation for sexual abuse of a minor—underscoring the danger children at Junior Theatre still face.

Most critically, the children in Junior Theatre are still at high risk of physical and sexual abuse. The board of trustees is largely unchanged, and still controlled by the same people as in 2016. Jimmy Saba is still Executive Director. Two teachers I alluded to in my complaint, Desha Crownover and Erin Pedersen, were both rehired by Junior Theatre in November 2016 despite having been credibly accused of inappropriate relationships with teen students and sexual abuse of a minor, respectively.³²

Most distressing of all, an individual has recently come forward with credible allegations Junior Theatre's current board president David Braun³³ sexually abused him as a child.

³¹ Attachment 20.

³² Complaint to the Attorney General, pp. 60-61, 83-84.

³³ No known relation to Gerry Braun.

“John Doe” alleges (and has filed a police report with SDPD so alleging³⁴) that David Braun was the Vice President of his middle school, Marshall Middle School in the San Diego Unified School District, when he groomed John Doe for abuse. According to John Doe, David Braun took him on outings, including visits to Junior Theatre, and eventually took him on overnight trips where the abuse occurred. Some of that abuse, John Doe alleges, may have been videotaped by David Braun.

Because of John Doe’s specific allegation of David Braun’s abuse on overnight trips, it is important to note a line in Braun’s “Trustee Biography” on the Junior Theatre website: “In 2005 [Braun] led a group of JT families to New York on a theatre trip...”³⁵

David Braun was closely involved with all of the actions the board took in the summer and fall of 2016, and was present at the August 3, 2016 meeting when the concerns about Von Metzke were raised. At the time David Braun was still the Vice Principal of Marshall Middle School and therefore a mandated reporter, yet he apparently failed to report the suspected abuse of both Von Metzke or his longtime personal friend, Saba. Under the circumstances it is deeply troubling that he continues to lead an organization responsible for the safety of hundreds of children.

In conclusion, there is no doubt in my mind that the children currently attending Junior Theatre are under heightened risk of abuse. The independence and integrity of San Diego’s City Attorney’s Office is also in serious question. And the concerted effort by Elliott, Cabrera, Braun, Dawson, and Morrison to conceal the facts related to their and others’ roles in concealing evidence of child abuse continues.

For all these reasons I am hereby requesting a thorough and independent investigation by one or both of your agencies. Please confirm you have received this letter and will take appropriate action, and do not hesitate to contact me for further information.

Sincerely,



Matt Valenti, Esq.

Enclosures: Attachments 1-20

cc: San Diego County Grand Jury

³⁴ Case No. 19601879

³⁵ <https://juniortheatre.com/artists/david-braun/>