

NEWS

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STATEMENT BY THE BOARD OF SUPERVISORS UPON THE RELEASE OF "THE INVESTIGATION OF COUNTY ASSESSOR BILL POSTMUS – REPORT OF FINDINGS"

Based on its review of the Hueston report on the investigation of former Assessor Bill Postmus and on the advice of Special Counsel John C. Hueston and County Counsel, the Board of Supervisors today authorized the filing of a lawsuit against six former employees of the Assessor's Office, including Postmus.

The county will seek damages against Postmus, former assistant assessors Adam Aleman and Jim Erwin, former Assessor employees Greg Eyler and Rex Gutierrez, and former Assessor contractor Mike Richman in connection with findings that they were paid for time they did not work and used county resources to conduct political work.

The report concludes that Postmus sought the position of Assessor with the intention of operating a political operation from within the office, and did so at taxpayer expense.

"As a taxpayer and as a public official, I find the activities detailed in the report deeply disturbing," said Board of Supervisors Chairman Gary C. Ovitt. "There is certainly enough information in this report to compel the Board of Supervisors to pursue legal action against these individuals and seek damages for the taxpayers."

Attached to this statement is the complete and unredacted report resulting from the County's investigation into activities in the County Assessor's Office under the leadership of now-former Assessor Bill Postmus.

This report is the only written information the Board has received and has seen from Mr. Hueston.

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On January 29, 2009, the Board of Supervisors retained the services of Mr. Hueston to serve as Special Counsel to the Board of Supervisors to assist the board in determining whether grounds existed for the removal from office of Postmus.

Postmus announced his resignation on February 6 and vacated his office on February 13. Information gathered during the investigation prompted the Board of Supervisors to direct Mr. Hueston to continue looking into matters at the Assessor's Office. The purpose of the Hueston investigation was to give the Board of Supervisors enough information to determine whether it should initiate litigation against Postmus and others. For this purpose, the report is thorough and complete.

Unlike a criminal investigation, which when completed serves as a full and thorough statement of facts backed by evidence and intended to prove guilt beyond a reasonable doubt, civil investigations such as the type conducted by Mr. Hueston, are intended to provide the basic information necessary to support the initiation of litigation. The balance of information is gathered during the extensive discovery phase of the litigation.

The Hueston report is based solely on witness statements. The Board of Supervisors extends thanks on the county's behalf to the county employees who gave their time to cooperate with the investigation.

It is important to note that the normal, day-to-day activities and duties of the Assessor's Office were never affected by the activities detailed in the Hueston report. Likewise, the litigation planned by the county will not affect the normal, day-to-day activities and duties of the Assessor's Office.

The Board of Supervisors also wants to thank and commend the faithful employees of the Assessor's Office who suffered as the reputation of their department was called into question, but who never allowed the Office's public service mission to be compromised. The Board of Supervisors has full confidence in the highly professional staff of the Assessor's Office.

Because anything that is said by board members could become evidence in the litigation, board members are very limited in the public comments they can make related to this report or the impending litigation. It would be a disservice to the public for the board to jeopardize the county's ability to recover damages by making comments that could compromise the county's case in court.

LAW OFFICES

IRELL & MANELLA LLP

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From: John Hueston, Irell & Manella LLP – Special Counsel
To: San Bernardino Board of Supervisors
Date: April 28, 2009
Re: Investigation of County Assessor Bill Postmus – Report of Findings

**CONFIDENTIAL: ATTORNEY-CLIENT
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I. Introduction

A. Executive Summary

Bill Postmus went to the Assessor's Office intending to develop a political operation and, with the assistance of a small group of employees, succeeded in doing so. The predictable result was a personal political operation fully funded by San Bernardino taxpayers.

A small group of individuals in the County Assessor's Office, led by Mr. Postmus and Mr. Aleman, engaged in blatant misconduct and abused County resources. Among other things, individuals received jobs for which they were unqualified, submitted timecards for more hours than were actually worked, and engaged in inappropriate activities on the rare occasion they appeared at work. Although it is difficult to quantify the cost of these abuses, the number clearly exceeds hundreds of thousands of dollars.

Much of the misconduct is legally actionable, and we recommend civil litigation to recoup some of the money improperly taken from the County. Proposed defendants are Bill Postmus, Adam Aleman, Greg Eyler, Rex Gutierrez, and Mike Richman. Other potential defendants are Ted Lehrer and Jim Erwin. Action against other personnel is not recommended at this time.

B. The Investigation

On January 22, 2009, the San Bernardino County Board of Supervisors (the "Board") moved to appoint special independent counsel to investigate the allegations against County Assessor Bill Postmus. If, after conducting a full investigation, special counsel deemed removal of Mr. Postmus appropriate, special counsel would recommend removal to the Board and prosecute the matter in a special hearing before the Board, sitting in a quasi-judicial role. On advice of County Counsel, the Board appointed John Hueston of Irell & Manella LLP (collectively, "Irell") to serve as special counsel.

Between January 28, 2009 and February 5, 2009, Irell conducted ten interviews of current and former employees of the Assessor's Office,¹ prepared a procedural framework by which to conduct its investigation and collected documents and records for review. Irell intended to conduct approximately ten more interviews, review all documents in its possession and, if necessary, prosecute removal.

However, on February 5, 2009, Irell was informed that Mr. Postmus intended to resign his office effective 12:00 p.m. on February 13, 2009. Irell was instructed to complete summaries for the ten completed interviews, but to suspend any further investigation pending Mr. Postmus' resignation and reassessment by the Board. As of February 8, 2009, Irell's work product included a procedural due process plan, an investigation plan, and ten interview summaries. On February 12, 2009, County Counsel informed Irell to prepare a report of its findings to date.

The Board then directed Irell to resume and complete its investigation into misconduct in the Assessor's Office.

From March 12, 2009 to April 28, 2009, Irell conducted seventeen additional interviews² and reviewed thousands of documents including emails, purchase orders and calendar entries.³ Two additional witnesses, Adam Aleman and William Postmus, declined to be interviewed.

We should note at the outset that, while reviewing emails normally yields significant information, such was not the case in this investigation. Significantly, Mr. Postmus and his allies were adept at the e-discovery process and were familiar with the County's public records policy. Mr. Postmus and others utilized the Blackberry messenger process, whereby they could communicate and bypass the County servers. In dozens of emails between employees of the Assessor's Office, Postmus and others avoided substantive messages and merely exchanged Blackberry pin numbers, which are necessary for Blackberry messenger communication. Many witnesses testified that the messenger process was utilized to avoid record retention.

¹ Nine of the witnesses were, at the time of their interview, employees of the County. The tenth witness was no longer employed by the County but spoke to us voluntarily.

² Two interviews were follow-ups on earlier interviews. Of the remaining fifteen, eleven were, at the time of their interview, employees of the County. Three were former employees of the County and spoke to us voluntarily. One never worked for the County and spoke to us voluntarily.

³ We also fielded many calls and emails from purported whistleblowers. Most of the issues raised by the whistleblowers were beyond the scope of our investigation. However, we received one letter containing many allegations, some of which are squarely within the scope of our investigation. The whistleblower alleged, among other things, that Mr. Postmus was involved in a broad pay-to-play scheme involving San Bernardino land deals and assistance with planning and assessment issues. Our receipt of this letter on April 22, 2009, precludes exhaustive inquiry for purposes of this investigation. Recommended civil litigation, however, may permit additional investigation of these issues.

C. Findings

The Assessor's Office was plagued by serious, rampant misconduct. Most misconduct fit one of the following three categories: problems with personnel, including erratic attendance and minimal Assessor-related duties and responsibilities; broad abuse of County resources; and extensive political activity conducted by employees of the Assessor's Office while on County time. While some of the issues overlap, they are categorized so as to develop a comprehensive, clear narrative of what went wrong in the Assessor's Office. Misconduct not fitting one of the three categories – including a discussion of Mr. Postmus' involvement and drug use, the inappropriate hiring and firing of employees, and retaliatory actions taken against grand jury witnesses – are discussed in another section.

II. Uncovered Misconduct

A. Personnel Issues

The Assessor's Office employed over 200 people. Most of these employees have been with the Assessor's Office prior to Mr. Postmus' election and continued to conduct legitimate Assessor-related work during and after his administration. Many are career employees and honorable public servants.

Some joined the Assessor's Office after Mr. Postmus took over. Many of these individuals had prior dealings or connections with Mr. Postmus or his top lieutenants and were hired, in some cases, to fill positions for which they did not qualify and which were not Assessor-related. Many of these executive positions were created by Mr. Postmus with Board approval at the end of 2006, when Mr. Postmus was Chairman of the Board and also Assessor-elect.

Some of these individuals collected County paychecks and either did not appear at work regularly or, when they did appear, performed little Assessor-related work. Although it is very difficult to quantify with precision how much money these employees cost the taxpayers of San Bernardino County, the number clearly is in the hundreds of thousands of dollars. Some of the problematic individuals include the following:

1. *Adam Aleman*

Adam Aleman was appointed assistant assessor for support, one of two assistant assessor positions, shortly after Mr. Postmus became Assessor. Mr. Postmus knew Mr. Aleman from many years of working together in Mr. Postmus' Board office and in the San Bernardino Republican Party. Various witnesses described Mr. Aleman as Mr. Postmus' political point person.

At the time of Mr. Aleman's appointment to the position of Assistant Assessor, at least two people complained to Mr. Postmus that Mr. Aleman, who was in his early-to-mid 20's when appointed, was too young, inexperienced and unqualified to hold the high position of assistant assessor. Mr. Postmus was undeterred and Mr. Aleman was appointed his top lieutenant. Many employees were unhappy with Mr. Aleman's appointment because he was viewed, among other things, as an abusive supervisor. He cursed a lot, slammed doors and broke things. When Sheila Raines, special assistant to the Assessor who was

brought over from Mr. Postmus' staff with the Board, was notified that Mr. Aleman was her immediate supervisor, she sought another position but found nothing. Others were uncomfortable with such a young, inexperienced person getting that appointment. Chief Appraiser Dan Harp said Mr. Aleman came to the office without a clear understanding of the responsibilities of the Assessor's Office.

Mr. Postmus was absent from the Assessor's Office for days or weeks at a time, and Mr. Aleman ran the Assessor's Office in his absence. Mr. Aleman's annual salary started in the \$120,000 range.

Mr. Aleman was abusive of County resources in several ways. First, although he collected full-time pay, his work schedule was described consistently as less than full-time. His schedule was described as late arrivals, long lunches, and early exits. Mr. Aleman was quite lax about employment in the Assessor's Office. In fact, when Ted Lehrer, former communications officer in the Assessor's Office, was offered a position by Mr. Aleman, the Assessor's Office was described by Mr. Aleman as a place where Mr. Lehrer could "come and go as [he] please[d.]" Also, according to Mr. Lehrer, Mr. Aleman opined that if Mr. Aleman took his County laptop on vacation, he could perform some work and get paid for traveling.

Second, his primary duties and responsibilities were not Assessor-related. Mr. Aleman oversaw the executive staff and, as described by several witnesses, created a full-time political operation with little to no Assessor-related duties. Mr. Lehrer said much of his and others' time was spent on political work as directed by Mr. Aleman.⁴ Bob Smith, former facilities/safety manager in the Assessor's Office, said Mr. Aleman was blatant about doing political work, as politics – not Assessor work – was his forte. Other witnesses corroborated this sentiment, saying Mr. Aleman focused mostly on political work and did little or no Assessor-related work. As detailed below, Mr. Aleman spearheaded a political operation including (1) editing a political website named redcounty.com, (2) directing County employees to assist with political fundraisers, and (3) providing political support to various local and national candidates. Jim Erwin, former assistant assessor for operations, observed campaign contributions unrelated to the Assessor in Mr. Aleman's office.

Third, Mr. Aleman routinely signed off on timecards and authorized paying employees for more hours than the employees actually worked. Numerous witnesses described Mr. Aleman's knowledge of the partial schedules of executive staff employees at the time he authorized pay for full-time schedules.

Fourth, Mr. Aleman was highly involved in authorizing and pushing for the so-called "Richman Contract," which will be discussed below. For example, Rachel Anolin, a fiscal clerk in the Assessor's Office, said Mr. Aleman contacted her several times regarding Mr. Richman's delayed payments. Mr. Aleman inquired as to various holdups and wanted payment processed more quickly for a consultant whom he understood would perform almost no work on behalf of the Assessor's Office.

⁴ The political work will be detailed below.

Fifth, Mr. Aleman was at least partially responsible for initiating and developing the Assessor's Office Annual Report. The report, which is discussed below, cost the County enormous resources and was unrelated to legitimate Assessor work.

Sixth, Mr. Aleman was reimbursed \$8,280 by the Assessor's Office for undergraduate tuition-related expenses. This reimbursement may have violated County policy insofar as Mr. Aleman's courses were not towards an advanced degree.

Seventh, Mr. Aleman caused the County to purchase subscriptions for internet domain names. These domain names were likely not used for County business; otherwise, there would have been no need to purchase subscriptions above what the County already owned.

An anecdote recounted by Ms. Anolin sums up Mr. Aleman's attitude to County resources. Ms. Anolin was to schedule an out-of-town conference for a number of employees including Mr. Aleman. For various reasons, scheduling was delayed and, as a result, the accommodations were abnormally expensive. When informed of the higher expense, Mr. Aleman's response was: "Oh well, it's just County money." Mr. Aleman had blatant disregard for County resources. Indeed, Wanda Nowicki, former executive secretary to Mr. Aleman and Mr. Erwin, said Mr. Aleman and Mr. Postmus ordered DIRECTV satellites for their offices *after* they knew the Assessor's Office was being investigated for improper spending.

In June 2008, Mr. Aleman was arrested and charged with, among other things, preparing and offering false evidence. It is alleged that Mr. Aleman falsified records submitted to the grand jury in response to a subpoena for records relating to Mike Richman's work in the Assessor's Office. Mr. Richman received a consulting contract by the Assessor's Office for \$49,200. Mr. Aleman, witnesses have said, was concerned that the grand jury was investigating Mr. Richman's work and, as a result, Mr. Aleman tried to increase Mr. Richman's stature in the Assessor's Office. One way he did so was by instructing Wanda Nowicki to change minutes of meetings that occurred months earlier and which had been previously approved by Mr. Aleman. The change was meant to increase the apparent involvement of Mr. Richman by listing him as responsible for certain tasks and responsibilities. At least four witnesses have confirmed the allegations against Mr. Aleman, and Mr. Aleman reportedly admitted to changing the content of meeting minutes.⁵

In sum, Mr. Aleman worked partial hours, devoted most if not all of his time to unauthorized political activities, and abused County resources.

2. *Jim Erwin*

Jim Erwin was assistant assessor for operations from January 2007 until November 2007. In November 2007, Mr. Erwin had a disagreement with Mr. Postmus, left the

⁵ Mr. Aleman is also alleged to have destroyed the hard drive of a County-owned laptop when working in Mr. Postmus' Board office. Because that allegation is not within the scope of our investigation, it is not addressed in this report.

Assessor's Office and entered into a settlement agreement related to his employment providing six months salary.

According to Ted Lehrer, Mr. Erwin engaged in political activities while in the Assessor's Office. Mr. Lehrer said that, while Mr. Erwin was assistant assessor, he also was a leader in Neil Derry's campaign to become the Third District Board Supervisor. According to Mr. Lehrer, Mr. Erwin spent at least one hour every day, on County time, discussing Mr. Derry's campaign with Mike Richman – who, in addition to his position in the Assessor's Office, was a paid consultant of Mr. Derry's campaign. Mr. Lehrer said Mr. Erwin had Mr. Aleman write positive information about Mr. Derry on Mr. Aleman's political websites. This occurred in late August to October 2007, with emphasis on September. Bob Smith made similar observations. Mr. Smith said Mr. Erwin talked politics with Mr. Postmus, especially around the time of the Derry campaign. Mr. Smith said Mr. Erwin and Mr. Postmus discussed ways for Mr. Derry to win his election.

Mr. Lehrer added that Mr. Erwin's disagreement with Mr. Postmus in late 2007 related to Mr. Postmus' lack of involvement with Mr. Derry's campaign. According to Mr. Lehrer, Mr. Postmus previously promised Mr. Derry and Mr. Erwin that he would assist Mr. Derry's campaign, but Mr. Erwin felt Mr. Postmus did not live up to this promise. Sheila Raines confirmed this part of Mr. Lehrer's testimony – she said Mr. Erwin's fight with Mr. Postmus prior to Mr. Erwin's leaving the Assessor's Office related to Mr. Postmus' lack of support for Mr. Derry. Ms. Raines said Mr. Postmus decided to flip and support Dennis Hansberger, Mr. Derry's opponent in the race, which angered Mr. Erwin. Mr. Smith said that shortly *after* Mr. Erwin left the Assessor's Office Mr. Postmus reversed and supported Mr. Hansberger. Regardless as to whether Mr. Postmus' decision to support Mr. Hansberger came before or after Mr. Erwin left the Assessor's Office, clearly Mr. Erwin and Mr. Postmus had issues involving Neil Derry's campaign. Jeff Burum, a San Bernardino resident, said Mr. Erwin's problems with Mr. Postmus were broader than the Derry campaign. Mr. Burum said Mr. Erwin and Mr. Postmus had clashing personalities. Although Mr. Burum did not think Mr. Erwin left the Assessor's Office due to Mr. Postmus' lack of support for Mr. Derry, Mr. Burum did say Mr. Postmus withdrew his support for Mr. Derry after Mr. Postmus' and Mr. Erwin's issues intensified. Mr. Derry was elected to the Board and appointed Mr. Erwin his chief-of-staff.

Mr. Lehrer also said Mr. Erwin focused much energy and time on union politics and other local races, and strongly disliked Supervisor Paul Biane.

Many witnesses, however, described Mr. Erwin as one of the very few executive employees who appeared at work on a regular basis and attempted to pursue work related to the Assessor's Office.

3. *Greg Eycler*

Greg Eycler has known Mr. Postmus since 2002, when they met in a Riverside restaurant managed by Mr. Eycler and visited by Mr. Postmus. Since that time Mr. Eycler has held various positions working for or under Mr. Postmus, including stints at the San Bernardino Republican Party and in Mr. Postmus' office at the Board, where, according to

two witnesses, Mr. Eyler was paid but did not show up even once. When Mr. Postmus became Assessor, Mr. Eyler was appointed Taxpayer Advocate.

Most witnesses described Mr. Eyler's attendance at the Assessor's Office as sparse at best. He was described as coming and going as he pleased. Mr. Eyler worked significantly fewer hours than he was scheduled to work at the Assessor's Office. As a full-time employee, Mr. Eyler was required to fulfill forty hours of service, from 8:00 a.m. to 5:00 p.m., Monday through Friday. Many witnesses said he did not satisfy that requirement once. Three witnesses said he was never in the office at 8:00 a.m. Four additional witnesses said Mr. Eyler worked a maximum of twenty hours per week. Most witnesses said they rarely saw him in the office. Several witnesses expressed surprise at hearing that he declared forty hours on his timecards.

Mr. Eyler often submitted, and was paid for, timecards declaring forty hours of service. The timecards were approved by his supervisors, including Mr. Aleman.

Not only was Mr. Eyler submitting inaccurate timecards and in the office for fewer hours than was required of him, but, witnesses have said, Mr. Eyler did no work even when present in the office. Sheila Raines described Mr. Eyler's rare office time as exclusively social. She said Mr. Eyler walked around the office with coffee and socialized. When asked to do something, Mr. Eyler's response was, "Give it to Talli [Simmons, the other Taxpayer Advocate]," or "Take a message." Several witnesses said Mr. Eyler would go into his office, close the door, and sneak out of the area through a backdoor so no one knew he was gone.

Mr. Eyler was responsible for handling email inquiries from taxpayers. Dennis Draeger, who was appointed assistant assessor in November 2008 and has been serving as interim Assessor since Mr. Postmus' resignation, sometimes saw a backlog of such inquiries, meaning that Mr. Eyler was doing little or nothing. Mr. Draeger explained that handling those emails was not a full-time daily responsibility, since Mr. Draeger personally handled a whole week's worth of emails in half a day. When Mr. Eyler chose to answer taxpayer emails, he did so in an unprofessional manner. According to Sally Hill, Chief of Assessment Services, Mr. Eyler exhibited no knowledge of the issues, nor any interest in helping anyone, and instead referred people elsewhere.

Many witnesses said Mr. Eyler was a full-time student and attended classes while on the clock at the Assessor's Office. Several witnesses said he often performed personal errands for Mr. Postmus, such as retrieving new cell phones for him, delivering mail, and getting his cars serviced. Sheila Raines said Mr. Eyler once returned to the office during working hours and declared that he and Mr. Postmus had taken in a movie.

According to Jim Erwin, when Mr. Postmus was approached about Mr. Eyler's attendance, Mr. Postmus' instructions were to leave Mr. Eyler alone and to continue approving the timecards. When people asked Mr. Eyler about his hours, he claimed to have a special arrangement with Mr. Postmus. According to several witnesses, Mr. Eyler and Mr. Postmus were romantically involved, and therefore Mr. Eyler was allowed carte blanche license in his position.

Eventually, and after many complaints, Mr. Eyler's hours were reduced to twenty-seven or twenty-four hours per week. Mr. Erwin stated that at one point Mr. Postmus arbitrarily raised Mr. Eyler's hours to allow him to earn more money because, Mr. Postmus said, "Greg needs this money to make his budget work."

In addition, Mr. Eyler received a \$1,000 reimbursement for tuition-related expenses to attend undergraduate courses.

Two witnesses described an incident in September 2007 when Mr. Eyler came to work drunk. These witnesses said alcohol could be smelled on his breath and he was clearly inebriated. Two other witnesses said they did not smell alcohol on his breath, and a third witness was unsure. Sheila Raines said that, although she did not notice Mr. Eyler's breath on this occasion, she smelled alcohol on Mr. Eyler's breath regularly because, she figured, he drank beer at lunch. Mr. Erwin sent Mr. Eyler home the day of the alcohol incident. When Mr. Postmus discovered that Mr. Eyler was expelled from the office, he was upset with Mr. Erwin and admonished him that if he had an issue with Mr. Eyler, it was to be taken up directly with Mr. Postmus.

Mr. Eyler was interviewed and asked about each of the above allegations. He denied the following: regularly working less than the required hours, though he admitted that on some occasions perhaps he did not work exactly forty hours in a week; attending school while scheduled for forty hours in the Assessor's Office; and ever coming to work drunk. In addition, Mr. Eyler said he had no knowledge of Mr. Postmus' drug use. He also said he did no political work in the Assessor's Office and could not recall anyone else doing political work. Mr. Eyler also denied a romantic relationship with Mr. Postmus.

4. *Ted Lehrer*

Ted Lehrer has known Mr. Postmus since 2000 and Mr. Aleman since 2003. In 2003, Mr. Lehrer encouraged Mr. Aleman to work for an up-and-coming member of the San Bernardino Board of Supervisors. That member was Mr. Postmus. As a result of this connection, Mr. Aleman rose in political ranks, eventually becoming assistant assessor under Mr. Postmus. Shortly after Mr. Postmus became Assessor, Mr. Aleman contacted Mr. Lehrer and offered him a "surprise." Mr. Lehrer, whom we interviewed, said Mr. Aleman offered him a communications position in the Assessor's Office with an annual salary of \$66,000. This amount was more than twice as much as Mr. Lehrer had earned in his prior job. According to Mr. Lehrer, Mr. Aleman offered him the position to show appreciation for the connection Mr. Lehrer made between Mr. Postmus and Mr. Aleman. Mr. Lehrer believes the position was created for him, though he was never told this. Mr. Lehrer initially declined the offer and remained in his then-current position, but in August 2007 he accepted Mr. Aleman's offer, which was held open for Mr. Lehrer. On his first day in the Assessor's Office, Mr. Lehrer was informed that his salary was raised to \$73,000. Mr. Lehrer claimed he still did not know why he unilaterally received a 10% pay raise before starting work.

According to various witnesses, Mr. Lehrer's work attendance was erratic and less than the requisite forty hours. Two witnesses said he worked six to six-and-a-half hours a day. Another witness, Sheila Raines, said it was more like three to four hours a day, not including two hour lunch breaks. Talli Simmons, who, along with Greg Eyler, was a

taxpayer advocate, said Mr. Lehrer arrived at 10:00 or 11:00 a.m. everyday. Sally Hill said he was not an eight-to-five guy and sometimes did not show up at all. Dennis Draeger took it upon himself to keep Mr. Lehrer on track. Mr. Draeger said it was very hard to make Mr. Lehrer arrive on time and stay all day. Mr. Draeger added that Mr. Lehrer had little to do and disappeared if not watched. Mr. Lehrer, Mr. Draeger said, often claimed to have been doing work for Mr. Postmus from outside the office, but Mr. Draeger was skeptical about whether Mr. Lehrer was actually doing so each time he said he was. Mr. Lehrer's payroll data revealed that he almost always declared forty hours of service.

As communications officer Mr. Lehrer was responsible for issuing press releases. The Assessor's Office, it seems, issued less than twenty-five such releases over Mr. Lehrer's entire tenure.

In addition, Mr. Lehrer was highly involved in Mr. Aleman's political operation. Mr. Lehrer admitted that he spent at minimum ten to twenty hours per week, on County time, doing political work. The political work included writing content for political websites; assisting on various political campaigns for local, state and national candidates; and attending and promoting political fundraisers for local candidates. Mr. Lehrer described the executive staff of the Assessor's Office as Mr. Aleman's political operation and said any Assessor-related work was incidental to political activities.

5. *Rex Gutierrez*

Rex Gutierrez was hired in March 2007 by the Assessor's Office to serve as an intergovernmental relations officer. In addition to working in the Assessor's Office, Mr. Gutierrez has been since 2002 a member of the Rancho Cucamonga City Council. Mr. Gutierrez, whom we interviewed, was paid an annual stipend of \$20K for his work on the City Council. Hence, Mr. Gutierrez said, he needed a day job.

Josh White, former special assistant to Mr. Aleman, said Mr. Gutierrez was hired at the urging of Jeffrey Burum. According to Mr. White, Mr. Gutierrez was known in the office as a "Burum hire" and was hired to supplement his low-paying, but influential, position on the City Council.

We found support for this assertion in Mr. Gutierrez's emails and in an interview with Mr. Burum. Mr. Gutierrez's position in the Assessor's Office was eliminated, but he was allowed to stay on for a while longer. On October 7, 2008 Mr. Postmus sent an email to Michelle Mix, a payroll specialist in the Assessor's Office, and cc'd Harlow Cameron and Mr. Gutierrez. The subject line was "Hi." The email states, "Pls [sic] be advised that Rex Gutierrez is going to stay on our office payroll for one add'l week. Thanks -- BP[.]" By October 2008 Mr. Gutierrez had been looking for, but had yet to receive, a position elsewhere in the County, so his only job (aside from the City Council stipend) was with the Assessor's Office. On October 10, 2008 Mr. Gutierrez sent an email to Jeffrey Burum with the subject line "Hey!" The email states the following: "Jeff: I need you to prevail upon Bill P. to extend my position for up to 3 weeks. HR is taking quite a while reviewing everything. I believe I am OVER qualified for the ECD Specialist I position. I deserve a shot because I'm the best candidate. Could you give Bill a call?"

Mr. Burum agreed to be interviewed and was asked about his relationship with Mr. Gutierrez. Mr. Burum said he was a consistent supporter of Mr. Gutierrez, beginning in the mid-1990's. Mr. Burum recalled twice intervening on behalf of Mr. Gutierrez's employment with the Assessor's Office. Mr. Burum contacted Jim Erwin soon after Mr. Erwin assumed his position with the Assessor's Office. Mr. Burum asked Mr. Erwin whether the office had any positions for someone like Mr. Gutierrez. According to Mr. Burum, Mr. Erwin said Mr. Gutierrez should print a résumé and come interview. Shortly thereafter, Mr. Gutierrez was hired.

Later, when Mr. Gutierrez's position was being eliminated, Mr. Burum again intervened on his behalf. Mr. Burum recalled the above email. He said Mr. Gutierrez had applied for another position with economic development and asked Mr. Burum if he would support Mr. Gutierrez in staying on for a little longer with the Assessor's Office. So Mr. Burum contacted Mr. Postmus. Mr. Burum did not recall Mr. Postmus making any specific commitments during that conversation. Mr. Burum made his case for Mr. Gutierrez, but Mr. Postmus said he needed the position eliminated.⁶ Ultimately, Mr. Gutierrez's position was extended until December 2008, nearly three months after the October 2008 email.

Harlow Cameron, who was chief appraiser until serving one year as assistant assessor for operations from November 2007 until his retirement in November 2008, said he was told to extend Mr. Gutierrez's stay on payroll by Matt Brown, chief-of-staff to Supervisor Paul Biane. Mr. Cameron said Mr. Brown made these comments in a meeting attended by Mr. Biane, Mr. Brown and Mr. Cameron.

In sum, Mr. Gutierrez's position was eliminated in the summer of 2008, and yet his stay on the Assessor's Office payroll continued for nearly six more months.

While Mr. Gutierrez was employed by the Assessor's Office, many witnesses described his office attendance as irregular. Sometimes he came to work, and sometimes not. According to Ted Lehrer, there were times when Mr. Postmus or Mr. Aleman spent days trying to get a hold of Mr. Gutierrez, but were unable. Mr. Lehrer said Mr. Postmus and Mr. Aleman would get frustrated, but did nothing about it, and Mr. Gutierrez did not explain his whereabouts or absences. Mr. White said Mr. Gutierrez regularly came to work at 11:00 a.m. Many other witnesses said Mr. Gutierrez was in and out of the office all day. Ms. Hill described Mr. Gutierrez's work schedule as follows: for the first 3-6 months, he was in from around 9:00 a.m. until the early afternoon; as time went on he came in later, took longer lunches, and left earlier. Eventually, Ms. Hill said, he was in the office for 10-15 hours per week. 15-20 hours, Ms. Hill added, would be a generous assessment. This trend was confirmed by Rachel Anolin, who heard that once he figured out what was going on in the office, Mr. Gutierrez stopped coming in as often and for as long.

A review of some of Mr. Gutierrez's payroll data revealed that Mr. Gutierrez regularly declared forty hours of service.

⁶ Aside from this conversation, Mr. Burum said he likely had many non-work related conversations with Mr. Postmus about Mr. Gutierrez, as Mr. Postmus and Mr. Gutierrez were friends.

Witnesses stated that when Mr. Gutierrez did show up for work, he spent the vast majority of his time on activities unrelated to the Assessor's Office, including City Council work, political activities, and social conversations. For example, he often called city officials and fellow councilmen to discuss city business and could often be heard on his cell phone saying, "Hi, this is Rex Gutierrez, City Councilman for Rancho Cucamonga." Some claimed he also spent significant time on political work. Mr. White recalled Mr. Gutierrez filling out campaign disclosure forms from his desk in the Assessor's Office. Mr. Lehrer, echoing Ms. Anolin's observation about Mr. Gutierrez figuring things out, said that once Mr. Gutierrez saw others tending to political work, Mr. Gutierrez began tending to his own political needs.

Various witnesses said Mr. Gutierrez's devoting time to non-Assessor work was blatant. In fact, Ms. Anolin said she warned Mr. Gutierrez that he could get himself, Mr. Postmus and the Assessor's Office in trouble for what he was doing. This did not stop him, Ms. Anolin said. Ms. Hill said she never saw Mr. Gutierrez perform one task necessary to the mission of the Assessor's Office. She added that in 2007 less than 10% of his time was spent on Assessor-related activities; in 2008 she said it was more like 0% of his time. Instead, Ms. Hill said, he could be heard having excessive personal conversations and having discussions regarding Rancho Cucamonga business.

Mr. Gutierrez's work habits were so irregular that he was labeled with the nickname "Intergalactic Officer." This tongue-in-cheek nickname, witnesses said, captured his convoluted title and how obscure and irrelevant his activities were within the context of the Assessor's Office. Mark Mosher, manager of IS and administrative services, said no one knew what Mr. Gutierrez did. Sally Hill said the nickname may have preceded Mr. Gutierrez and stemmed from the irrelevance of Mr. Gutierrez and his position.

When Mr. Gutierrez was hired in March 2007, his annual salary was \$59,883.20. He immediately received a 10.3% raise and received two other raises exceeding 5% over the next six months. By September 2007 his annual salary was \$71,448. Mr. Mosher said three raises of 5% or more within a six month period seemed extraordinary. He could not recall anyone receiving such raises. It is unclear why Mr. Gutierrez received such preferential treatment.

As discussed above, Mr. Gutierrez's position was deleted, and yet Mr. Gutierrez stayed on for a few more months. When Dennis Draeger was appointed assistant assessor in November 2008, he inquired as to Mr. Gutierrez's employment. He had not seen very much of Mr. Gutierrez and did not know what he did for the office. Mr. Draeger concluded that Mr. Gutierrez was serving no function and had to be removed from the Assessor's Office's payroll, so he had Mr. Gutierrez sign or acknowledge that he would resign his position effective December 2008 or January 2009. Mr. Draeger said he saw Mr. Gutierrez in the office maybe once between November 2008 and when Mr. Gutierrez left his post.

Mr. Gutierrez submitted to an interview. He said he got the job at the Assessor's Office through the normal interview process and, consistent with Mr. Burum's recollection, said his main contact was Jim Erwin. Mr. Gutierrez said he received one raise as part of the normal process of completing the probationary period of employment. Another raise, he said, was given because he asked for it after he reviewed his tasks and concluded that he was

worth more than he was being paid. Mr. Gutierrez also discussed in great detail many of the assignments he claimed to have completed while in the Assessor's Office. In his interview he provided various documents listing his work product, very little of which included written material, he said. Significantly, he admitted that there were times he had no work and added that on some occasions – though he called them rare occasions – he took phone calls unrelated to Assessor work. He admitted attending political fundraisers, but said it occurred at lunchtimes. He also said that he asked employees of the Assessor's Office to volunteer at his own fundraisers. He said he may have reviewed personal campaign forms during working hours at the Assessor's Office, but denied filling out such forms while at work. Mr. Gutierrez also said he was asked to do political work, including drafting entries for redcounty.com and assisting Mitt Romney's campaign. He claimed that he declined to perform work for redcounty.com and said his work for the Romney campaign occurred on non-Assessor time. Mr. Gutierrez also said he was asked, and agreed, to contribute money to Political Action Committees (PAC) run by Mr. Postmus and by Mr. Erwin. He felt pressured to make the contributions given his employment, he said.

Mr. Gutierrez conceded that he engaged in political work "a little bit." He also said all the tasks outlined in his interview did not require forty hours of work week after week after week. He claimed that although he may not have been precise with his timekeeping, "it balanced out" over time.

Mr. Gutierrez is still employed by the County.

6. *Mike Richman*

Mike Richman is a political consultant in San Bernardino County. When Mr. Postmus was chairman of the San Bernardino Republican Party, the Party hired Mr. Richman to do consulting work. In March 2007, Mr. Richman was hired by the Assessor's Office as a consultant. According to Ted Lehrer, during the few months beginning in March 2007, Mr. Richman worked concurrently at the Republican Party and at the Assessor's Office. In early summer 2007 Mr. Richman lost his position with the Republican Party and was given a consulting contract with the Assessor's Office. This contract, known as the "Richman Contract," will be discussed in more detail below. Mr. Richman was hired, in part at least, to assist on the annual report.

According to numerous witnesses, Mr. Richman's attendance in the office was sporadic. Mr. Richman, it should be noted, was an independent contractor, not a regular employee. So his hour requirement may not have been the same as for other employees. In any event, four witnesses said he was around 4-5 hours for one day a week.

The executive staff of the Assessor's Office held weekly meetings to discuss, among other things, progress on the annual report, which was Mr. Richman's primary responsibility. According to numerous witnesses, Mr. Richman rarely attended these meetings and, when he did attend, contributed nothing of substance to the conversation. Bob Smith, who was with the Assessor's Office only for a few months, said Mr. Richman was at the meetings to track Mr. Postmus' schedule and for the political angle of things, not for Assessor work. Many witnesses said Mr. Richman did little or no work for the annual report: four witnesses said he contributed nothing to the annual report; Mr. Lehrer said his

total contribution to the annual report was less than one hour of work; and Sheila Raines said Mr. Richman was tasked with setting up meetings for the annual report, but did not do so. Ms. Raines said it took Mr. Richman one year to set-up one single meeting.

Mr. Richman was available for consultation on press releases and community outreach, Josh White said. Mr. Richman did some of this work, but 90% of the work he performed was not County-related, Mr. White added. This was supported by at least three other witnesses who said Mr. Richman was often on his cell phone doing political work. Mr. Smith said he would be surprised if Mr. Richman spent even 10% of his time on legitimate Assessor-related work.

Mr. Lehrer said Mr. Richman was retained as a political consultant by campaigns while he worked in the Assessor's Office and spent significant time working on those campaigns. One of those campaigns was that of Neil Derry. Mr. Lehrer said that, when Mr. Richman was supposed to be working on the annual report, he was strategizing for the Derry campaign instead. Mr. Lehrer added that 90% of Mr. Richman's day was spent on political activities. Others said he was disruptive in the office, constantly walking around humming, singing and drumming on things.

At least three witnesses said Mr. Richman was blatant and open about doing political work from the Assessor's Office.

Bob Smith related similar observations and described a typical Richman workday as captured on tape. Mr. Smith said he accidentally left a tape recorder in his desk in an office he shared with Mr. Richman. The tape recorder ran for its entire duration and captured many of Mr. Richman's conversations. The conversations were all political in nature and included discussion about Michelle Steel, a member of the California Board of Equalization, and other candidates. Not for one second of the tape, Mr. Smith said, could Mr. Richman be heard discussing anything related to Assessor work. Mr. Richman was hired for political purposes and it was just accepted, Mr. Smith added. That tape was turned over to the grand jury and the DA's office. We requested, but did not receive, a copy.

Dennis Draeger said that after the time period for Mr. Richman's purchase order expired, Mr. Richman submitted time sheets for more money. Mr. Draeger instructed that Mr. Richman not be paid anything more.

We attempted to speak with Mr. Richman. However, his attorney refused our request for an interview.

7. *Josh White*

Josh White was hired in the summer of 2007 as an executive secretary. According to two witnesses, this position, it was agreed, would be left open to save \$30,000 for the budget. Nevertheless, Mr. Aleman decided to hire Mr. White to assist on the annual report. According to two witnesses and Mr. White, Mr. White did contribute content towards the annual report. But, Mr. Lehrer said, Mr. White's role was to serve as Mr. Aleman's assistant.

The allegations involving Mr. White were twofold. First, witnesses complained that he did not complete the requisite forty hour workweeks. These witnesses said he came to work later and later as his tenure progressed, and took long lunches with Mr. Aleman, Mr. Lehrer, Mr. Gutierrez and Mr. Richman. Sally Hill said she was not sure what constituted Mr. White's work responsibilities. But, she said, it seemed like Mr. White worked for Mr. Aleman, meaning that Mr. Aleman directed Mr. White's day-to-day activities and tasks.

Second, Mr. White was accused of doing political work on County time, including updating content onto political websites and sending email blasts from political websites to County employees at their County email addresses. Mr. White confirmed these allegations. Mr. White said that on his first day of work Mr. Aleman instructed him to send daily emails from a political website. Mr. White complied. According to Mr. Lehrer, Mr. White was hired, in part, to help with the political website.

Mr. White resigned his position in the Assessor's Office in April 2008. According to Mr. White, he resigned as an act of conscience and because he wanted to distance himself from the criminal allegations and investigation surrounding the Assessor's Office.

B. Misuse of County Funds

The Assessor's Office engaged in various activities that unnecessarily cost the taxpayers of San Bernardino County an inordinate amount of money. As discussed above, some of these activities included the hiring of, and paying salaries to, employees that were unnecessary, deceptively worked inadequate hours and/or performed little to no Assessor-related work. Unfortunately, funds used to pay these employee salaries were not the only County funds misused by the Assessor's Office. There were at least six other instances of such misconduct:

1. *The Richman Contract*

As discussed above, Mr. Richman was a political consultant who was hired by the San Bernardino Republican Party and by the Assessor's Office. Later, his position with the San Bernardino Republican Party was terminated. At around the same time, Mr. Richman was given a \$49,200 consulting contract by the Assessor's Office. Originally, his consulting contract was valued at \$37,000. However, according to two witnesses, this number was increased once Mr. Richman lost his position with the local Republican Party because Mr. Aleman and Mr. Postmus wanted to get Mr. Richman more money to make up for the lost income. Mr. Erwin described the Richman Contract as compensation to take care of a buddy. He heard Mr. Aleman say, "We need to get Mike more money."

The contract was initially valued at \$37,000. After Mr. Richman's position with the Republican Party was terminated, the contract was raised to \$49,992. This number was crossed out and the contract was re-valued at \$49,200. San Bernardino County has a policy whereby contracts over \$50,000 must be approved by the Board. Numerous witnesses heard Mr. Aleman explain the rationale behind the contract's value – Mr. Aleman explained that the number was set in order to achieve the maximum contract value without needing Board approval, *i.e.* to circumvent Board approval. Mr. Lehrer was asked why Mr. Aleman and Mr. Postmus did not first seek Board approval and, only if the Board rejected the contract,

re-value the contract at less than \$50,000. He said Mr. Aleman considered this option but decided against it because it would have created public relations difficulty.

Jim Lindley, who at the time was in the purchasing department, was contacted by Mr. Aleman about getting a contract with Mr. Richman for \$75K. Mr. Lindley said the Board would need to approve the contract. Mr. Aleman was unhappy and concerned that the Board would not approve a contract with a political consultant. Mr. Lindley said the Assessor's Office did not go through the RFP process and did not hire a media consultant – Mr. Richman's supposed purpose – from the County approved list. Also, Mark Mosher said the so-called Richman Contract was not actually a contract. Rather, it was a purchase order (PO). The reason for using the PO process, Mr. Mosher said, was because it offered the path of least resistance for hiring Mr. Richman. In other words, it was the easiest way to get him the money.

Even after the contract had expired Mr. Richman was trying to get more money. Dennis Draeger said that, when he joined the Assessor's Office in November 2008, he heard that Mr. Richman submitted timecards for which he sought payment. Mr. Draeger instructed that no payment be made.

The grand jury investigated the Richman Contract and Mr. Richman's activities in the Assessor's Office. They issued subpoenas and elicited sworn testimony. According to three witnesses, Mr. Aleman worried that the grand jury was targeting Mr. Richman, so he sought to enhance Mr. Richman's status and perceived accomplishments in the office. Mr. Aleman ordered Ted Lehrer to produce a binder describing all of Mr. Richman's duties and responsibilities. The binder was delivered to the grand jury. Mr. Lehrer said he did not intend to deceive anyone and that the binder was honest but flattering. In addition, as mentioned above, Mr. Aleman instructed Wanda Nowicki to change minutes of meetings so as to include Mr. Richman in more activities. Ms. Nowicki said the original minutes were approved by Mr. Aleman, but months later, when the grand jury sought those minutes, Mr. Aleman had her alter the minutes to make it seem as though Mr. Richman did more work than he actually performed.

Mr. Richman declined through an attorney to grant an interview.

2. *Annual Report*

Prior to Mr. Postmus becoming Assessor, the Assessor's Office did not produce an annual report. When Mr. Postmus became Assessor, Mr. Aleman suggested that the office produce an annual report to enhance the Assessor's image and publicity. According Mr. Lehrer, the annual report was a glossy package no one was expected to read, but which was put together so that recipients knew about the office and about Mr. Postmus. At least six employees – including Adam Aleman, Ted Lehrer, Rex Gutierrez, Mike Richman, Josh White and, for a few weeks, Wanda Nowicki – worked on the annual report. Parts of it, according to several witnesses, were also outsourced. Two witnesses said printing cost over \$30,000 and, after receiving bids from various firms, the job was given to Kent Beiber, an alleged friend of Mike Richman and a connected Republican. Many witnesses described the annual report as unnecessary for the mission and operation of the Assessor's Office and as serving primarily to increase the political profile of Mr. Postmus. It is unclear exactly how

much money the annual report cost the County, but, given payroll dedicated to the annual report and the cost of printing, the figure likely exceeded \$100,000.

3. *Unnecessary Personnel*

According to Michelle Mix, who has served in the Assessor's Office prior to Mr. Postmus' taking over, the prior Assessor had an executive staff of four – himself, an assistant and two secretaries. When Mr. Postmus took over, this number increased to ten or twelve. Many of the positions were created by the Board in December 2006 when Mr. Postmus was on the Board and, at the same time, was Assessor-elect. Andrew Lamberto, head of HR for the County, said Mr. Postmus wanted Mr. Lamberto to create positions for the Assessor's Office that never existed before. Mr. Lamberto thought it was odd that Mr. Postmus insisted on establishing novel positions before joining the office or recognizing a need. Mr. Lamberto found it equally puzzling that Mr. Postmus insisted on keeping then-Assessor Don Williamson out of the loop. The folks who filled the newly-created positions caused many of the problems that later plagued the Assessor's Office.

Mark Mosher also shed some light on the new positions. Mr. Mosher said Mr. Postmus contacted him prior to becoming Assessor and inquired into whether the Assessor's Office needed new positions. Mr. Mosher requested line employees. Instead, Mr. Mosher said, Mr. Postmus created executive positions, none of which were mentioned as necessary or requested by Mr. Mosher. Sally Hill said everyone was uncomfortable when the executive positions were filled because those individuals had no work to do.

Further, according to many witnesses, people were hired in excess and with little to do, often with overlapping responsibilities. Echoing a common sentiment, Rachel Anolin said the executive staff was of no value to the Assessor's Office and their presence made no sense. For example, two witnesses said there was no need for Josh White, as all the administrative duties he was to assume were already being handled by others. Mr. Erwin said the budget was exhausted that year on unnecessary spending. Wanda Nowicki said Mr. Aleman and Mr. Postmus were constantly hiring and looking for more ways to spend money.

Harlow Cameron said that in his thirty-five years of experience, the Assessor's Office never had, nor did it need, the positions created by Mr. Postmus.

Not only were many more positions created, but many of these individuals did little or no essential Assessor-related work. As outlined above, many of these individuals came late (*i.e.*, 10:00 or 11:00 a.m.), worked few hours, and were involved in an extensive political operation. None were described by even *one* witness as performing important Assessor-related work.

In addition, most of those hired had long relationships with Mr. Postmus or Mr. Aleman. Thus, many hires may have been acts of cronyism or political payback.

Finally, many members of the executive staff were given higher-than-average salaries. For example, Mr. Lehrer earned less than \$40,000 in a position immediately prior to his employment with the Assessor's Office. When he joined the Assessor's Office, he was under the impression that his salary was \$66,000 plus benefits. On his very first day he

found out that, for reasons unknown to him, his salary was raised to \$73,000 plus benefits. Mr. Aleman earned over \$120,000 per year.

4. *Scott Becker Contract*

Mr. Becker was a longtime friend of Mr. Postmus. According to Mr. Erwin, Mr. Becker did some work for Mr. Postmus when Mr. Postmus was on the Board, including electrical work for Mr. Postmus' home. After taking over as Assessor, Mr. Postmus wanted to replace all official framed photographs of himself. The facilities department could have performed this task for Mr. Postmus at no additional charge to the County, so Sheila Raines contacted them. However, according to three witnesses, Mr. Postmus insisted on hiring Mr. Becker to do this work for the Assessor's Office. According to two witnesses, the original contract value was even changed to a higher number at the direction of Mr. Aleman. Rachel Anolin said there may even have been two purchase orders. Ms. Raines said that the job entailed hanging fourteen pictures and that the amount Mr. Becker was paid was "irresponsible," especially considering the County had people to do this work. Ms. Raines even offered to do it for free, but Mr. Postmus refused.

A review of County records revealed that on March 28, 2007 Mr. Becker was paid \$299.45 and on October 30, 2007 he was paid an additional \$1,135.18, bringing his total payments for 2007 to \$1,434.63.⁷ Per one of Mr. Becker's invoices, the 2007 work performed for the Assessor's Office included hanging framed photographs of Mr. Postmus (plus reimbursements for mileage and materials).

We attempted to interview Mr. Becker. He was contacted on March 31, 2009 by an assistant in County Counsel's office. His interview was scheduled for 2:00 p.m. on April 1, 2009. At 1:45 a.m. on April 1, Mr. Becker left a voicemail for the assistant who contacted him. Mr. Becker sounded angry, used numerous expletives, said he would not appear for his interview, and warned that if anyone showed up at his property he would shoot their heads off with a 12 gauge shotgun. The matter was referred to the San Bernardino County Sheriff's Department. Mr. Becker did not show up for his interview and no further contact had been made.

5. *Tuition Reimbursements*

There were at least two discretionary tuition reimbursements that potentially violated County policy: Mr. Aleman received \$8,280 to complete his undergraduate degree, and Mr. Eyler receiving \$1,000 to complete his. Mr. Eyler admitted receiving \$1,000 for undergraduate courses and said Mr. Postmus knew about his reimbursements. Rachel Anolin said Mr. Eyler inquired with her about the maximum amount of tuition reimbursement he could receive. Soon as Ms. Anolin provided the maximum amount, Mr. Eyler asked how he could receive more. Ms. Anolin said he could not; Mr. Eyler asked what if a supervisor approved the payment. Eventually Mr. Eyler sought and received such approval from Mr. Aleman.

⁷ As a side, in 2006 Mr. Becker was paid a total of \$937.25 for "picture hanging," "paint touch-up" and to "re-finish [a] computer stand [and other office furniture]." All the work was performed for then-First District Board Supervisor Bill Postmus.

Mr. Erwin said he saw the expense forms for Mr. Aleman's tuition reimbursement and confronted Mr. Postmus about it. Mr. Postmus said he was the Assessor and could pay for everything if he wanted it that way.

6. *Misuse of County Equipment*

San Bernardino County adopted a cell phone allowance program. Several witnesses indicated that Mr. Postmus and Mr. Aleman abused this policy by breaking their cell phones and charging new ones to the County. Equipment purchase records will be reviewed if litigation is pursued. Wanda Nowicki said Mr. Aleman broke a number of phones by throwing the phones against the wall in his office in a fit of rage. Multiple witnesses also described the executive staff as frequently using their County-subsidized cell phones and blackberries for political activities during working hours at the Assessor's Office. Indeed, Dennis Draeger said the Assessor's Office is still searching for a laptop issued to Mr. Aleman and is still waiting for Mr. Eyler and Mr. Lehrer to pay large phone bills. Mr. Lehrer's bill is in the \$1,600-\$1,900 range, Mr. Draeger said.

C. Political Activity in the Assessor's Office

Most witnesses were knowledgeable about political activities in the Assessor's Office and described an extensive political operation conducted by Mr. Aleman and including Ted Lehrer, Rex Gutierrez, Mike Richman and Josh White. Multiple witnesses described these individuals as conducting a political operation primarily, with Assessor work being ancillary.

We uncovered hundreds of politically-oriented emails just in the small sample of emails to which we had access. Mr. Postmus, Mr. Aleman and others received daily emails from political blogs, commentators and campaigns. Often times these emails were circulated and discussed. Employees often used email to make specific requests of a political nature, such as requests to transfer campaign money, to obtain political proxies, or to discuss upcoming political events. Although email traffic reflected comprehensive political work unrelated to the mission of the Assessor's Office, witnesses described significant political activities including the following:

1. *Redcounty.com*

Redcounty.com is a website dedicated to "grassroots politics from the center-right," as described by the site. Individuals in the Assessor's Office engaged in two types of activities involving the website: content input and email blasting. Bob Smith said activities on the site were predominant in the Assessor's Office and an everyday thing. He added that it was constantly discussed.

Mr. Lehrer described Mr. Aleman as an editor of the website. Mr. Lehrer admitted that, upon joining the Assessor's Office, Mr. Aleman instructed him to regularly input content onto the site. Mr. Lehrer said Mr. Aleman wanted positive information written about people loyal to Mr. Aleman and negative information about people Mr. Aleman did not like. Mr. Aleman thought, according to Mr. Lehrer, that if he wrote nice pieces about possible rivals to his potential 2010 bid for office, he could later convince those people not

to run against him. Mr. Gutierrez said he too was asked to draft materials for the site, though he refused the request.

The purpose of the site, according to Mr. Lehrer and others, was to raise the public profiles of certain individuals and to harm those of others. Mr. Lehrer spent ten to fifteen, sometimes as many as twenty hours per week on the website. Although he spent some personal time working on the website, most of the work occurred on County time and from various computers in the Assessor's Office. Mr. Lehrer said there were times when he and Mr. Aleman sat and inputted information together. Mr. Postmus was aware of what was going on, as Mr. Lehrer and Mr. Aleman sometimes informed Mr. Postmus of plans for the website and Mr. Postmus encouraged them to "keep it up."

In addition, Mr. Aleman had Josh White put together daily mailings and the "Daily News Roll," a collection of newspaper clippings from the region. The "Daily News Roll," and everything else Josh White collected, was sent daily to thousands of people, including County employees at their County email addresses. Mark Uffer, County Administrative Officer, called to complain that County email addresses were receiving political emails. As a result, Mr. White said, Mr. Aleman had Mr. Uffer's name removed from the list. Mr. White said that was Mr. Aleman's general practice – when someone complained, remove their name from the list, but leave everyone else's. Mr. Erwin said he complained to Mr. Postmus about the emails, and Mr. Postmus said he could do whatever he wanted because he was the elected official and because the emails were legal.

Mark Mosher said Mr. Aleman had him purchase, with County money, tools for the site, including a device for mass emailing and for hiding the sender of an email.

2. *Political Fundraisers*

Two witnesses recalled being asked by Mr. Aleman to assist, on County time, at fundraisers for local politicians. The first is Wanda Nowicki. She was asked – but perceived it as more of an "obligation" – to work at political fundraisers for Mr. Postmus, Rex Gutierrez and perhaps Steve Poizner. Ms. Nowicki was unsure about the Poizner fundraiser but was certain about the other two. She said there were at least two fundraisers for Mr. Postmus. She worked the doors at the fundraisers, giving tickets to and collecting money from those attending. She said Mr. Postmus saw her at the fundraisers. Ms. Nowicki felt Mr. Aleman had her work at Mr. Gutierrez's fundraiser so Mr. Aleman could get closer with Mr. Gutierrez. Ms. Nowicki said the fundraisers occurred during working hours, and she received no compensation other than her paycheck at the Assessor's Office – that is, she was paid by the County to work at political fundraisers.

The second employee was Ted Lehrer. Mr. Lehrer said he drafted invitations, promoted and attended fundraisers for Mr. Postmus and his political allies. At the fundraisers, Mr. Postmus instructed Mr. Lehrer to find wealthy donors, get their contact information and give the information to Mr. Aleman for input into a database. Mr. Lehrer said most, if not all, of his work on fundraisers was done on County time.

Mr. Gutierrez said he attended lunchtime fundraisers for various politicians and held a fundraiser for himself on one occasion. Some employees of the Assessor's Office attended

Mr. Gutierrez's fundraiser. At the request of Mr. Gutierrez, Talli Simmons worked the tables at the event. The fundraiser lasted 2-3 hours, Mr. Gutierrez said.

3. *Assistance for Mitzelfelt Campaign*

Mr. Lehrer said he was asked by Mr. Aleman to help the Mitzelfelt campaign in various ways. Mr. Lehrer wrote letters to editors, wrote blog entries, walked precincts, and drove Mr. Postmus to meet with constituents and to strategy sessions with Mr. Mitzelfelt. Mr. Lehrer heard Mr. Aleman call Mr. Mitzelfelt during working hours to tell Mr. Mitzelfelt that certain tasks had been completed.

We interviewed Paula Nowicki (chief-of-staff to Mr. Mitzelfelt until her recent retirement) and Michael Orme (formerly deputy chief-of-staff to Mr. Mitzelfelt) about these allegations. Both disputed Mr. Lehrer's characterization. Ms. Nowicki said she would be surprised to hear that people in the Assessor's Office were actively campaigning for Mr. Mitzelfelt. If they were, she added, they were doing it on their own and with no instruction from the campaign. Mr. Orme went even further. He said he was not aware of any help provided to the Mitzelfelt campaign by Mr. Aleman. He further asserted that he never read emails from redcounty.com and never visited the site, even though it was an important Inland Empire political site and Mr. Orme and the campaign had been paying redcounty.com. Mr. Orme also said he had not spoken to Mr. Aleman since Mr. Postmus left the Board. However, an email exchange from March 2008 undercuts that assertion. On March 11, 2008 Mr. Orme emailed Mr. Aleman saying, "What's your pin[?]" In response Mr. Aleman provided his Blackberry pin number, which is used for Blackberry pin messages, and asked Mr. Orme for Mr. Orme's pin number. Because we had no access to Blackberry pin messages, we do not know what the two discussed.

One incident was discussed by numerous witnesses. According to Mr. Lehrer, Paula Nowicki, then-chief-of-staff to Mr. Mitzelfelt, left a message for Mr. Aleman. Mr. Aleman returned the call but Ms. Nowicki was unavailable. The call was redirected to Michael Orme. Mr. Orme asked Mr. Aleman to pull property records for someone in the Vogler family; Rita Vogler was a political opponent of Mr. Mitzelfelt. The property records were to be used as political ammunition against Ms. Vogler. Mr. Aleman called Josh White and Ted Lehrer into his office, and asked Mr. White to pull the records because, of the three, only Mr. White knew how to use the system. Mr. White felt uncomfortable pulling the records and refused. Mr. Aleman got angry and pushed him to do it, but Mr. White still declined. Mr. Aleman started yelling and said, "Fine, I'll get it myself." Mr. Lehrer and Mr. White confirmed this incident, though Mr. White was unsure whether the request was made by Michael Orme or David Zook, who was Mr. Mitzelfelt's communications director until his recent appointment to serve as chief-of-staff to Mr. Mitzelfelt. Sheila Raines recalled the meeting in Mr. Aleman's office and hearing Mr. Aleman yell at Mr. White and Mr. Lehrer, demanding that one of them get Mr. Aleman something. She was unsure what Mr. Aleman requested, however. Neither Mr. Lehrer nor Mr. White knew whether the property report was ever pulled.

Paula Nowicki, Michael Orme and David Zook were asked about the Vogler property report. Ms. Nowicki said a request to pull the Vogler property records was made and directed to the Assessor's Office. However, she said the request was directed to Harlow

Cameron, not Adam Aleman (as Josh White and Ted Lehrer said). Ms. Nowicki also said she made the request while on vacation time from her job with Mr. Mitzelfelt's Board office. The request was made for political purposes – the Voglers were attempting to paint Mr. Mitzelfelt as pro developer. The Mitzelfelt campaign wanted to show that the Voglers owned many properties. Eventually, Ms. Nowicki said, a complaint was lodged with the FPPC regarding inaccurate campaign disclosures by the Voglers relating to property ownership.

Mr. Orme said he was not involved with the request. He said Ms. Nowicki made the request while on vacation time and gave the reports to Mr. Orme. He added that Ms. Nowicki raised the issue with the campaign and handled the request. Mr. Orme said Ms. Nowicki never mentioned where she got the reports or from whom, but that she did say she did it while on vacation time. Mr. Zook said he had no recollection about the reports and knew nothing about the request.

Harlow Cameron confirmed Ms. Nowicki's and Mr. Orme's account. He said Ms. Nowicki contacted him while on vacation time and requested the report, which Mr. Cameron provided. It bears noting that three separate witnesses volunteered the same unremarkable detail – that Ms. Nowicki said she made the request while on vacation time.

4. *Mitt Romney Campaign*

Mr. Lehrer was instructed by Mr. Aleman to write favorable content about Mr. Romney on redcounty.com and in letters signed by Mr. Postmus and published in local newspapers. Mr. Lehrer said this instruction definitely came from Mr. Postmus.

Mr. Lehrer also said he and others had to staff Romney headquarters in San Bernardino and were actively campaigning for Mr. Romney. According to Josh White, Mr. Aleman asked Mr. White to assist Tim Johnson, district director to Supervisor Paul Biane, run Mr. Romney's campaign in the Inland Empire. Mr. White did this during business hours. Mr. White also designed templates for emails sent by the group – which named itself Inland Empire Volunteers for Romney – and signed by Tim Johnson.

Mr. Gutierrez said he was asked to assist the Romney effort, but refused to do so on vacation time. As a result, Mr. Gutierrez said, there were several hours "lost" from his County position while assisting the Romney campaign. In other words, he spent County time on the Romney effort. He added that, during this period "[His County job] was not [receiving] a fair eight hours a day," but that he did not spend full days on the Romney effort.

We interviewed Tim Johnson about his involvement with Inland Empire Volunteers for Romney. Mr. Johnson said he volunteered to run the operation because it was an important area for Mr. Romney and Mr. Johnson figured he was the best person to handle it. Mr. Johnson also discussed the involvement of Bill Postmus, Adam Aleman, Rex Gutierrez, Ted Lehrer, Josh White and Jeffrey Burum.

Mr. Johnson said that, other than seeing Mr. Postmus' name on certain emails, he did not recall Mr. Postmus doing very much for the effort. Clearly, Mr. Johnson said, Mr. Postmus was aware of what was going on and who was involved.

Mr. Aleman was “coordinating his troops,” Mr. Johnson said. Mr. Johnson planned a meeting for the Saturday prior to opening Inland Empire Volunteers for Romney headquarters. At the meeting Mr. Johnson planned to discuss who would be responsible for what tasks. One day prior to the meeting Mr. Johnson made phone calls to invite specific people to the meeting. Mr. Aleman was the only person Mr. Johnson recalled with certainty that he called.⁸ Mr. Aleman agreed to come, but said nothing about Mr. Lehrer, Mr. White and Mr. Gutierrez – all of whom assisted the effort and, except for Mr. Gutierrez, attended the Saturday meeting.⁹

Mr. White assisted with getting the message out. He set up email templates, Mr. Johnson said. Mr. Johnson recalled that Mr. White was a technical guy and could do that type of work, so he was assigned that task. Mr. Lehrer assisted with drafting messages on behalf of the group.¹⁰ Mr. Johnson did not recall how many messages Mr. Lehrer drafted, but said it was more than one. The messages were approved by the group and then blasted out by Mr. White. Mr. Johnson did not know what email list they used, but said it probably was the redcounty.com list.

Mr. Gutierrez came into the headquarters and helped out with various tasks, made and received phone calls and recruited volunteers, Mr. Johnson said. Mr. Johnson did not know when Mr. Gutierrez made or took phone calls, though he assumed at least some of the times it happened during the day because Mr. Gutierrez disseminated his cell phone number. Mr. Johnson said that, of the two week period, Mr. Gutierrez was in the Romney office most evenings and about three mornings. Mr. Johnson said he never asked the Assessor’s Office employees on what time they were doing their Romney work – “That’s their job. They showed up, and I asked them to help and that was it,” Mr. Johnson said.

Jeffrey Burum assisted Mr. Romney’s efforts in the Inland Empire, Mr. Johnson said. Mr. Burum helped get phones for Mr. Johnson’s operation and was one of the main individuals recruiting support for Mr. Romney from Inland Empire officials and donors. Mr. Johnson said that, when he could not get a return call from the official Romney campaign, Mr. Burum handled it.

Mr. Burum said Mr. Postmus and Mr. Biane were influential Republicans in the area, so Mr. Burum reached out to both of them on behalf of Mr. Romney. Mr. Burum recalled that Mr. Postmus expressed a desire to involve Mr. Aleman, though Mr. Burum said Mr. Aleman ultimately did little to assist the Romney campaign.

⁸ He said he may have also called Brian Johsz of Supervisor Gary Ovitt’s office.

⁹ Two others also attended: Brian Johsz and another volunteer whose name Mr. Johnson did not recall.

¹⁰ When asked, Mr. Johnson said he assumed all the volunteers were supporting Mr. Romney because volunteers tend to be political supporters or else they would not volunteer. Interestingly, however, Mr. Lehrer said he personally was not supporting Mr. Romney. It seems, then, that Mr. Lehrer (and others, perhaps) was asked or instructed to assist the Romney effort and did not do so on his own choosing.

Collectively, the evidence indicates that Mr. Postmus offered the services of his County-subsidized political team to assist the Romney campaign. Several of his employees indicated that they were pressured to do so by Mr. Postmus and were asked to contribute time during normal working hours at the Assessor's Office.

5. *Shawn Steel and Michelle Steel Campaigns*

Mr. Richman was a political consultant hired by various politicians. One such client was Shawn Steele, a candidate for the Board of the Republican National Committee. The election was in the last week of February 2008. Mr. Lehrer said he spent much of February collecting support for Mr. Steele. Mr. White said he spent significant time picking up proxies for Mr. Steele's campaign. Both were acting at the urging of Mr. Aleman and Mr. Richman.

Shawn Steel is married to Michelle Steel, another of Mr. Richman's political clients.¹¹ In 2006 Ms. Steel was a candidate for the California Board of Equalization. Ms. Steel's name came up in numerous interviews. In addition to her connection to Mr. Richman, Ms. Steel was also closely aligned with Mr. Postmus. The two supported each other in recent elections. As a result, Bob Smith said, Ms. Steel was constantly discussed in political conversations and strategy sessions at the Assessor's Office.

6. *Other Personnel Activity*

As alluded to above, some members of the executive staff engaged in political activities while on County time. Mr. Aleman, for example, increased his profile and political stature through activities on political websites. In addition, he instructed members of the Assessor's Office to work at campaign events and to assist political candidates with various obligations. He held strategy discussions with other political operatives and, Mr. Lehrer said, met with prospective and actual candidates to strategize ways to win and increase his visibility. Mr. Aleman also seemed to have approached many Assessor issues from a political angle. Sally Hill said that during one meeting Mr. Aleman got excited about an issue, referred to taxpayers as constituents, and said the issue would be very good politically. Ms. Hill said these statements made the career employees very uncomfortable. She added that "constituents" was political jargon, not Assessor jargon. Ms. Hill said she never felt as much political influence in the Assessor's Office as she did that day.

When Rex Gutierrez was present in the Assessor's Office, he was no different. According to two witnesses, not only did Mr. Gutierrez perform Rancho Cucamonga work while on County time, he also partook in political activity. He attended fundraisers for himself and others, filled out campaign forms from his desk at the Assessor's Office, made phone calls regarding city politics, and had strategy discussions with other members of the Assessor's Office. By the end of 2007 Mr. Gutierrez was focusing almost exclusively on politics, according to Mr. Lehrer. Mr. Lehrer said that, once Mr. Gutierrez saw others working on political matters, he did the same.

¹¹ In fact, Mr. Richman currently serves as Ms. Steel's chief-of-staff and reportedly earns close to \$125K per year.

Mike Richman was also involved in politicking from the Assessor's Office. According to two witnesses, Mr. Richman walked around the office discussing political campaigns and strategy on his cell phone. Mr. Lehrer said Mr. Richman, a political consultant, had clients while working at the Assessor's Office. One client, Shawn Steele, was running for the Board of the Republican National Committee. According to Mr. Lehrer, Mr. Richman spent almost all of February 2008 collecting support for Mr. Steele. In addition, Mr. Richman was a paid consultant of the Derry campaign and, according to Mr. Lehrer, spent significant time strategizing and discussing ways for Mr. Derry to win. Both Mr. Lehrer and Josh White said 90% of Mr. Richman's time was spent on politics.

Ted Lehrer edited content for redcounty.com, arranged and attended political fundraisers, strategized for various politicians, and did various other political tasks at the direction of Mr. Aleman. Mr. Lehrer described the Assessor's Office, including his duties and responsibilities, as a full-time political operation where Assessor work was secondary or incidental.

Josh White was assigned the task of disseminating daily political emails to County employees at their County email addresses. He did this from his desk at the Assessor's Office and on County time. He also assisted with Mitt Romney's campaign, Mr. Steele's campaign for the Republican National Committee, and any other political work Mr. Aleman needed done. Because Mr. White was hired to do work already being done by others, one can safely assume he was hired to expand Mr. Aleman's political operation.

Bob Hunter, who was intergovernmental relations officer until being fired in March 2007, saw and heard people going into Greg Eyler's office to discuss issues relating to the Republican Central Committee and a political newsletter. Mr. Hunter said that, soon as they noticed he was around, they started closing the door to Mr. Eyler's office.

A quote from Mr. Mosher captured how employees seemed to feel. Mr. Mosher said members of the executive staff were constantly in meetings behind closed doors, and he asked the following rhetorical question: "They don't know what we do, so what's the likelihood that they're doing something business related?"

7. *Other Political Activity*

Various witnesses described other miscellaneous political activity that occurred in the Assessor's Office and on County time, including the following: strategizing with various candidates as requested or as the need arose; working with Mike Richman on helping candidates find placement for mailings; working with Mr. Richman on trying to find press opportunities for Steve Poizner; recruiting candidates to run for the local Republican Party's governing body; helping candidates for city clerk, including Joseph Turner, who was a friend of Mr. Aleman and Mr. Postmus; and searching for press opportunities for candidates, so Mr. Postmus could collect favors from these candidates down the road.

D. Bill Postmus

1. *Involvement in Misconduct*

At the outset of the investigation it was unclear to what extent Mr. Postmus could be connected to some of the misconduct because he was absent from the office so often and, in all likelihood, did not give directions in the presence of others. As our picture of the Assessor's Office became clearer, it was evident that Mr. Postmus not only was aware of improper activities, but also directed the activities and, perhaps, deliberately hid his involvement by putting others at the forefront.

As would be expected, some witnesses were unsure whether Mr. Postmus was involved in much of the misconduct because he was rarely heard directing activities, though these witnesses assumed that he, like any manager, knew what was happening and was behind it.

On some occasions, Mr. Postmus' involvement was clear. For example, Ted Lehrer said Mr. Postmus knew about and encouraged activities on redcounty.com. Jim Lindley said that when Mr. Aleman contacted him about the Assessor's Office hiring Mike Richman, Mr. Aleman said he had to get it done because Mr. Postmus instructed him to do so and because Mr. Postmus wanted it done. On another occasion, Mr. Lindley was contacted by one of Mr. Postmus' lieutenants and was asked to hire Gerry O'Reilly into Mr. Lindley's department – that too, Mr. Lindley said, came from Mr. Postmus. Bob Smith heard Mr. Postmus give specific instructions on several occasions, including some covert tasks to Mr. Aleman and Mr. Richman. Clearly Mr. Postmus was running the show, witnesses said.

In addition to specific instances of clear direction, there were also general circumstances clarifying that Mr. Postmus was quite involved. On several occasions Mr. Smith was conversing with Mr. Postmus, when Mr. Postmus closed the door and started discussing political matters at the Assessor's Office. Dan Harp observed that Mr. Postmus held meetings with operations staff and then additional meetings with executive staff. "You don't have to be an MBA to figure out that that did not make sense," Mr. Harp said. He added that double meetings seemed redundant, so the executive staff and Mr. Postmus had to have been discussing non-operations matters.

Further, Mr. Postmus' personality and modus operandi suggest that he deliberately obscured his involvement. Several witnesses said Mr. Postmus sought "plausible deniability" in everything he did and deliberately sought to act through intermediaries. For example, several witnesses said Mr. Postmus always had Mr. Aleman do his dirty work for him. Jim Lindley said it was "vintage" Bill Postmus to put someone else between himself and the improper act.

2. *Drug Use*

Some of Mr. Postmus' employees thought something may have been wrong with Mr. Postmus, but did not suspect drugs. They said he seemed lazy, disinterested or tired. Others thought, based on his appearance, he may have had a drug problem. Many described him as always very hyperactive. Various instances clarify that Mr. Postmus is and has been battling a drug addiction.

On March 12, 2007, according to Jim Erwin, Mr. Postmus was scheduled to appear at a noon fundraiser for Brad Mitzelfelt and deliver introductory remarks. Mr. Postmus did

not show up. Mr. Erwin wondered about Mr. Postmus' whereabouts, so someone was sent to Mr. Postmus' home. Mr. Postmus later showed up at the event and Mr. Erwin, who had previously served as a sheriff and was trained as a narcotics expert, said Mr. Postmus appeared "stoned." Mr. Postmus' pupils were dilated, he was stuttering and his hair was messed up. Mr. Erwin said, "Bill looked like he fell off a park bench." People were asking, "What's wrong with Bill? Is he stoned again?" Mr. Erwin said Mr. Postmus was scheduled to meet with two businessmen at the March 12 fundraiser, but left without meeting them. Mr. Aleman was sent to get Mr. Postmus and bring him to the meeting.

After this incident Mr. Erwin, Mr. Aleman and Bob Smith met Mr. Postmus outside his home. Mr. Erwin demanded that Mr. Postmus attend rehab immediately. Mr. Postmus complied, collected some belongings and attended a facility for two weeks. Bob Smith said he took Mr. Postmus to rehab twice, including the March occasion. The first time was in 2005 or 2006 – Mr. Smith did not recall the exact date, but said it happened during some type of disaster in San Bernardino when Mr. Postmus was missing and could not be located.

After the March 2007 rehab stint, Mr. Erwin said Mr. Postmus seemed better. He was coming to work and gained weight. But in the summer of 2007, Mr. Erwin noticed that Mr. Postmus had very bad breath, which Mr. Erwin associated with drug use. In September 2007, Mr. Postmus began looking disheveled again, so Mr. Erwin sent Mr. Aleman to search Mr. Postmus' apartment. Mr. Aleman did not find drugs but did find canisters of DVD cleaners. Mr. Erwin associated the canisters with bad breath and thought Mr. Postmus was "huffing" the chemicals in the canisters. Mr. Erwin compared this to snorting glue.

Mr. Smith said Mr. Postmus' drug use was evident inside and outside the Assessor's Office. Mr. Smith added that, even after the interventions, Mr. Postmus seemed to continue heading down the path to self-destruction.

There was another disturbing incident in mid-2008. According to Sheila Raines, Mr. Postmus came in to the office looking blue with white foam around his mouth. One of his arms was not moving and he was dry heaving and convulsing. Ms. Raines walked Mr. Postmus to his office where he laid down for a nap on his couch. He later woke up and went to lunch with his Pastor, who Ms. Raines, due to her concern for Mr. Postmus, summoned to the Assessor's Office. After returning from lunch, Mr. Postmus was taken by Ted Lehrer to a press interview. The interview was with a reporter from "The Sun." The reporter recorded the interview and put the audio recording on the internet. According to Ms. Raines, the article contained information about Mr. Postmus hiccupping and dry heaving, and Mr. Postmus did not sound good on the tape. Describing the situation, Ms. Raines said, "It was bad."

In July 2008 Mr. Postmus took a ten week medical leave of absence and entered a rehab facility. Mr. Postmus, according to several witnesses, is suffering from an addiction to methamphetamines.

Mr. Lehrer said that on January 6, 2009, the day Mr. Postmus appeared before the Board to discuss his drug problem, Mr. Postmus contacted him to borrow \$100 at 9:00 p.m. Mr. Postmus said he needed the money so he could repay a debt owed to a schoolteacher. Mr. Lehrer was summoned to Mr. Postmus' house, where he handed the cash to Mr.

Postmus that night. Mr. Lehrer concluded that Mr. Postmus needed the money to purchase more drugs.

On January 15, 2009 Mr. Postmus was arrested at his home for possession of methamphetamines and drug paraphernalia.

E. Other Misconduct

1. *Changing Employees' Status to Unclassified*

In December 2006 the Board, at the direction of then-Chairman and Assessor-elect Postmus, changed the status of some employees in the Assessor's Office from classified to unclassified (*i.e.*, protected to unprotected). The change was to be prospective, such that it applied to new employees and old employees were grandfathered in. The reasons for the change, according to Mr. Erwin, were to foster loyalty to Mr. Postmus and to replace career employees with friends of Mr. Postmus.

Sally Hill held a position whose status was changed. She, together with other managers, met with Mr. Postmus prior to his taking over the Assessor's Office to discuss the change. Despite being grandfathered into classified status, Ms. Hill was concerned about the change because it meant managers served at the whim of the Assessor and could be terminated whenever the Assessor felt like it. Mr. Postmus told Ms. Hill and the managers that the change was all about loyalty. Mr. Postmus said he valued and wanted to foster loyalty among his employees. Andrew Lamberto confirmed Mr. Erwin's and Ms. Hill's observations. Mr. Lamberto said Mr. Postmus knew he had complete control over unclassified positions and, therefore, wanted to change the status of some current positions and insisted that all newly created positions also be unclassified. Other witnesses also sensed Mr. Postmus' emphasis on loyalty.

Further, Mr. Erwin said that, once Mr. Postmus became Assessor, Mr. Aleman and Mr. Postmus planned to move a 60-year old career employee, Sylvia Cooper, to an at will position so they could fire her and bring in others. It does not appear that this plan was carried out.

2. *Bob Hunter Firing*

Bob Hunter worked for Mr. Postmus when Mr. Postmus was on the Board. When Mr. Postmus became Assessor, he intended to bring Mr. Hunter to the Assessor's Office. According to Ms. Raines, early in 2007 Paula Nowicki, who later was appointed chief-of-staff to Supervisor Brad Mitzelfelt, told Mr. Postmus that Mr. Hunter intended to run against Mr. Mitzelfelt. In light of this, Ms. Raines said, Ms. Nowicki urged Mr. Postmus to fire Mr. Hunter.

By the time Mr. Postmus had this conversation with Ms. Nowicki, he had publicly announced his staff and Mr. Hunter could not be let go immediately. So, according to Ms. Raines, Mr. Hunter was terminated during Mr. Postmus' first week as Assessor. Ms. Raines said Mr. Hunter was fired for one reason: by planning to run against Mr. Mitzelfelt, Mr. Hunter was being politically disloyal. Mark Mosher confirmed part of Ms. Raines' account. Mr. Mosher said Mr. Hunter's termination had something to do with Mr. Hunter's

application for the First District Supervisor's seat. Mr. Mosher said Mr. Postmus favored Mr. Mitzelfelt for the seat and was unhappy by Mr. Hunter's application.

Ms. Nowicki was asked about Mr. Hunter's termination. She said she never told Mr. Postmus to fire Mr. Hunter, but added that Mr. Hunter's application for Mr. Postmus' vacated seat may have been part of the reason he was fired. Ms. Nowicki also mentioned being puzzled by Mr. Hunter's being hired in the first place, given the difficult history Mr. Postmus had with Mr. Hunter.

We interviewed Mr. Hunter and discussed with him the circumstances surrounding his termination. Prior to Mr. Postmus' running for Assessor, Mr. Postmus hired Mr. Hunter to join Mr. Postmus' staff with the Board. Mr. Hunter's hiring surprised some, including Mr. Mitzelfelt and Ms. Nowicki, because Mr. Hunter previously had a falling out with Mr. Postmus. Mr. Hunter said his relationship with Mr. Mitzelfelt was strained from the beginning.

Some time after Mr. Hunter joined Mr. Postmus' staff, Mr. Postmus announced his intentions to run for Assessor. After Mr. Postmus won that election, Mr. Hunter was brought over to the Assessor's Office. By the time Mr. Hunter was brought over, he had submitted papers and applied for the recently-vacated seat. Mr. Hunter received Blackberry pin messages from Mr. Postmus questioning why Mr. Hunter submitted his name. Mr. Hunter said Mr. Postmus' messages included, "Why are you doing this?" and "This is not what you want to do." Mr. Hunter interpreted the messages to mean that Mr. Postmus was planning to take some adverse action against him. Because Mr. Postmus already brought Mr. Hunter to the Assessor's Office, however, Mr. Hunter could not be fired immediately. Instead, Mr. Hunter said he was isolated. Mr. Postmus did not speak to him, did not tell him about his start date, and did not inform him of his job description or duties and responsibilities. Mr. Hunter felt ostracized. Around March 2007, Mr. Erwin walked into Mr. Hunter's office and said Mr. Postmus wanted Mr. Hunter fired. Mr. Erwin never explained the reasons, and Mr. Hunter was given no explanation for his release.

Mr. Hunter mentioned that Jim Lindley had a similar experience surrounding Mr. Postmus' vacated seat. We spoke to Mr. Lindley. Mr. Lindley also sought appointment to the vacated seat. When he did so, Mr. Postmus went "ballistic," Mr. Lindley said. Mr. Lindley was accused of being disloyal for going against the "Postmus organization." Mr. Lindley received pin messages from Mr. Postmus, who questioned why he submitted his name, said he was being disloyal and even threatened that "things can happen." Mr. Lindley said it got back to him that one of Mr. Postmus' staff members said Mr. Lindley better be careful or else he could lose his job with the County. Mr. Lindley said the staff member was Michael Orme, with whom he has since established a good working relationship. Mr. Lindley was disturbed by the treatment he received.

3. *Scott Becker Property Appraisal*

As discussed above, Mr. Becker was a friend of Mr. Postmus. According to Jim Erwin, in September or October 2007 Mr. Becker contacted the Assessor's Office and demanded a lower assessment value on his property, but would not let anyone from the Assessor's Office onto the property. The appraisers – who, according to Mr. Erwin, were

Rhonda Pfeiffer (principal appraiser, real property) and Dan Harp (then-principal appraiser, real property; later promoted to chief appraiser) – refused Mr. Becker’s request. Mr. Becker again requested a lower assessment and mentioned his relationship with Mr. Postmus. According to Mr. Erwin, the appraisers went to Mr. Postmus and he returned Mr. Becker’s file to them. The appraisers then went to Mr. Erwin and complained that Mr. Postmus’ friend wanted help on his assessment. Mr. Erwin said he discussed the matter with Mr. Postmus, and Mr. Postmus got angry that the appraisers went to Mr. Erwin. Given Mr. Postmus’ reaction and comments he made suggesting the appraisers should have known Mr. Becker was Mr. Postmus’ friend, Mr. Erwin believed Mr. Postmus wanted the appraisers to lower the valuation on the property.

We interviewed Rhonda Pfeiffer and Dan Harp. Ms. Pfeiffer was contacted by Mr. Becker about his assessment. Because he allowed no one on the property, Ms. Pfeiffer said nothing could be done. About one year later Mr. Postmus gave her Mr. Becker’s file and explained that Mr. Becker was having a problem and asked her to look into it. Ms. Pfeiffer said Mr. Postmus never pressured her to change an assessment value, though she recalled no other time Mr. Postmus personally asked her to look into a property appraisal. Ms. Pfeiffer contacted Mr. Becker. He was rude and Ms. Pfeiffer got upset, so she discussed the matter with Mr. Erwin. She said nothing happened after that, and Mr. Becker’s property value remains unchanged to this day.

Mr. Harp said he never spoke to Scott Becker.

4. *Influencing New Hires*

In addition to the executive staff discussed above, Mr. Postmus intervened on at least two occasions in decisions to hire line employees in the Assessor’s Office. Mark Mosher described Mr. Postmus as “heavily suggest[ing]” that certain individuals be hired even though better-qualified candidates were available.

a. Mark Sheppard

Dan Harp said the Assessor’s Office interviewed six people for an appraisal technician position in the Twin Peaks district office. Mark Sheppard was one of the six candidates, and was ranked fifth or sixth. Mr. Harp said Mr. Sheppard was not going to be hired, because his prior experiences did not qualify him for the position. Then, Mr. Harp said, Harlow Cameron called and said Mr. Postmus instructed that Mr. Sheppard be hired. Mr. Cameron, whom we interviewed, recalled making the phone call and said he was directed to do so by Mr. Postmus. Neither Mr. Harp nor Mr. Cameron knew why Mr. Postmus intervened in favor of Mr. Sheppard. One possible reason is Mr. Sheppard’s association with a former California politician named Jim Brulte, with whom Mr. Postmus may have been associated. Mr. Harp said Mr. Sheppard previously worked for Mr. Brulte and emphasized that association on his resume and in his interview.

Dennis Draeger said that, just before resigning his position, Mr. Postmus asked that Mr. Sheppard be transferred to the main office. Mr. Postmus said he wanted Mr. Sheppard around in case he needed any public relations assistance, which was considered Mr. Sheppard’s strong suit. Mr. Draeger said the transfer was made, though not because Mr.

Postmus requested it, but because Mr. Sheppard was, by coincidence, to be imminently transferred to the main office. Mr. Sheppard is still employed in the Assessor's Office.

b. Gerry O'Reilly

Mr. O'Reilly's hire was different from, and perhaps more egregious than, the hiring of Mr. Sheppard. Mr. O'Reilly was not a candidate for any position, nor was any position looking to hire him. Rather, Mr. Postmus approached Dan Harp and instructed him to find a position in which to place Mr. O'Reilly, *i.e.* to create a position in order to give Mr. O'Reilly a job. Mr. Harp, together with a few others, helped scrape together money from the budget and created a temporary position for Mr. O'Reilly. Mr. O'Reilly was paid \$50,000 to \$60,000 per year with no benefits, Mr. Harp said. Dennis Draeger said Mr. O'Reilly's salary about equaled the salary for an auditor/appraiser position (including benefits). Various witnesses said Mr. O'Reilly's employment diverted resources from other legitimate needs.

Prior to Mr. O'Reilly's hire being finalized, Mr. Harp went to Mr. Postmus to protest the hire. Mr. Postmus interrupted Mr. Harp and said, "I did not ask for your opinion." Mr. Harp wanted, but was not permitted, to relay a story about Mr. O'Reilly's previous employment stint with the Assessor's Office, which included misbehavior by Mr. O'Reilly.

Several witnesses described a political basis for the hiring of Mr. O'Reilly. Gerry O'Reilly's brother, Patrick O'Reilly, owns and operates a public relations firm in Riverside. Patrick O'Reilly has been described as a well-connected individual.¹²

Gerry O'Reilly is still employed in the Assessor's Office and still occupies the temporary position created for him.

5. *Retaliation Against Wanda Nowicki*

Wanda Nowicki, a former executive secretary to Mr. Aleman, witnessed much of the misconduct and was allegedly asked by Mr. Aleman to change meeting minutes submitted to the grand jury. Hence, her testimony to the grand jury and DA was important. Ms. Nowicki provided information critical of some Assessor's Office employees, including the information that ultimately led to Mr. Aleman's arrest and resignation. Ms. Nowicki even wore a wire to the Assessor's Office at the request of the DA. During that time period Ms. Nowicki, whom we interviewed, felt uncomfortable with her continued employment at the Assessor's Office. She felt as though Mr. Postmus and others hated her for blowing the whistle and were plotting a way to retaliate, which eventually happened. She was transferred to the Victorville office.

¹² Jim Lindley said that, when he was purchasing director, people in the Assessor's Office contacted him and asked whether he could hire Gerry O'Reilly into the purchasing department. Mr. Lindley had no budget room and did not hire Mr. O'Reilly.

Paula Nowicki, Wanda Nowicki's mother-in-law, heard that Mr. Postmus and Mr. Aleman said they wanted to fire Wanda, Wanda was not a team player, and she should have omitted some information from her testimony. Mr. Postmus reportedly wanted Wanda fired or moved. Paula also heard that Mr. Postmus contacted Andrew Lamberto to remove Wanda, but Mr. Lamberto said there was no department with an opening for her. As a result, Paula said, Mr. Postmus moved her to the Victorville office and out of his sight. Paula heard that Mr. Aleman complained and said Wanda should have been moved to the Twentynine Palms office, a seemingly larger demotion and more cumbersome commute. Paula heard complaints from Wanda that Mr. Postmus sometimes sat and stared at her.

Mr. Lamberto said Wanda Nowicki called him to complain about trouble at work and about being told to omit certain information from her grand jury testimony. Mr. Lamberto instructed her to be honest to the grand jury and to contact him if a superior instructed her to do something contrary to instructions from the grand jury. Ms. Nowicki said she felt like an outcast and a potential victim for retaliatory actions. Mr. Lamberto informed her that she could not be retaliated against or written up for insubordination for not adhering to an order contrary to grand jury instructions.

Shortly after that conversation, Mr. Lamberto said, Mr. Postmus contacted him. Without providing reasons or details, Mr. Postmus said things with Ms. Nowicki were not working out and he wanted her moved out. Mr. Lamberto did not tell Mr. Postmus about his prior conversation with Ms. Nowicki. At first, Mr. Lamberto said, Mr. Postmus indicated that he intended to terminate Wanda. He then wanted to see if she could be moved to another department. Mr. Postmus wanted Mr. Lamberto to handle that move, but Mr. Lamberto said moves between departments are negotiated between department heads. Mr. Lamberto said that was the last time he heard from Mr. Postmus on the issue of Wanda's employment.

Wanda Nowicki provided damning information to the grand jury and the District Attorney about Mr. Postmus and others. As a result, they discussed and contemplated taking severe retaliatory actions against Wanda. Ultimately, Mr. Postmus decided on a more measured response and moved Ms. Nowicki to another location.

III. Potential Civil Causes of Action Against Problematic Personnel

A number of the abuses orchestrated by Mr. Postmus and members of his executive staff are legally actionable. For example, falsely declaring hours or content of work to inflate a County paycheck may constitute tortious conduct. Further, engaging in political activities from work while on County time violates the County's Personnel Rules and may constitute misappropriation of County resources.

Even if the County cannot fully recoup its losses, filing civil suits against corrupt employees sets a powerful precedent for all current and future County employees. Specifically, that the County will vigorously pursue those who violate the trust of the public by abusing their powers and funding personal political agendas with public funds.

A separate memorandum analyzing the merits of potential causes of action has been provided to County Counsel. The causes of action include, but are not limited to, civil

conspiracy, restitution, improper expenditure of public funds, negligent misrepresentation and intentional misrepresentation.

A. Potential Defendants

The list of potential defendants includes: Bill Postmus, Adam Aleman, Jim Erwin, Greg Eyler, Ted Lehrer, Rex Gutierrez, Mike Richman, Josh White and Scott Becker. Deciding whom to sue must take into account the applicable factual and legal elements, and may also take into consideration the egregiousness of that individual's circumstances and their truthfulness when speaking to us. We recommend the following:

Proposed Defendants	Potential Defendants	Declined Defendants
Bill Postmus	Ted Lehrer	Joshua White
Adam Aleman	Jim Erwin	Scott Becker
Greg Eyler		
Rex Gutierrez		
Mike Richman		

Mr. Postmus and Mr. Aleman are most responsible for the misconduct in the Assessor's Office. They condoned, authorized or directed much if not all of the conduct that wasted so much of the County's resources. It is difficult to imagine filing any suits without including the two primary offenders.

Mr. Eyler and Mr. Gutierrez ought to be sued. Their cases are egregious. Mr. Eyler and Mr. Gutierrez did little or no work and were constantly absent, and yet their timecards state the opposite. Furthermore, much of what Mr. Eyler and Mr. Gutierrez said in their interview was clearly untrue.

The Richman Contract may be most disturbing. Mr. Richman was given a contract for doing absolutely nothing. Not one person knew what Mr. Richman did or was supposed to do for the Assessor's Office. Mr. Postmus and some associates conspired to and executed a plan by which to defraud the County of \$50,000.

Mr. Lehrer was implicated in much of the political operation run by Mr. Aleman. Two factors weigh against suing him, however. First, his work hours were not as egregiously deficient as some of the others. Second, Mr. Lehrer seemed sincere in his interview. Aside from implicating himself and describing his own misconduct, much of Mr. Lehrer's testimony has been corroborated.

Mr. Erwin, by most accounts, was an adequate employee. Although he was implicated in some misconduct, most of his work seemed legitimate. Some witnesses said he even tried to rid the Assessor's Office of some problems. Also, while it seems Mr. Erwin

was not entirely honest in his interview, most of his testimony was corroborated. On the other hand, Mr. Erwin was a high-level employee in an office with rampant corruption. Aside from his direct involvement, he bears some responsibility for not stopping the misbehavior.

Mr. White likely should not be sued. As an initial matter, Mr. White, who is 20 years old, had little discretion in his position and acted on the instructions of others. Mr. White was honest and forthright in his interview, and also exhibited remorse by voluntarily resigning his position in April 2008.

Although Mr. Becker's name arose only in circumstances suggesting he too abused or attempted to abuse County resources, Mr. Postmus bears the responsibility for the money paid to Mr. Becker. Mr. Becker was hired to do work, which, by all accounts, he did. That his hiring was wholly unnecessary does not appear to be Mr. Becker's responsibility.

IV. Conclusion

Two early moves demonstrate that Mr. Postmus went to the Assessor's Office with intent to develop a political operation – creating the executive staff (which he did while Chairman of the Board), and appointing Mr. Aleman, his political point person, assistant assessor. The predictable result was a personal political operation fully funded by taxpayers.

A small group of individuals in the County Assessor's Office, led by Mr. Postmus and Mr. Aleman, engaged in blatant misconduct and abused County resources. The individuals received jobs for which they were unqualified, submitted timecards for more hours than were actually worked, and engaged in inappropriate activities on the rare occasion they appeared at the office. It is difficult to quantify the cost of these abuses to the County. The grand jury analyzed the County Assessor's budget in 2005-2006 and 2006-2007 and concluded that the budget increased by nearly \$1.3M or 10.8%.

Equally damaging is the harm bestowed upon the hundreds of honorable employees of the Assessor's Office, who, by their mere association, suffered besmirched reputations and countless disruptions and distractions while trying to perform their jobs.

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15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 FOR THE COUNTY OF SAN BERNARDINO
17

18 COUNTY OF SAN BERNARDINO,)	Case No.
19 Plaintiff,)	CIVIL COMPLAINT FOR
20 vs.)	1) CALIFORNIA FALSE CLAIMS ACT
21 WILLIAM POSTMUS;)	2) BREACH OF FIDUCIARY DUTY
ADAM ALEMAN;)	3) FRAUD
22 GREGORY EYLER;)	4) IMPROPER EXPENDITURE OF
REX GUTIERREZ;)	PUBLIC FUNDS
23 JAMES ERWIN;)	5) UNJUST ENRICHMENT
MPR STRATEGIES, a California LLC;)	6) CIVIL CONSPIRACY
24 MICHAEL RICHMAN; and)	DEMAND FOR JURY TRIAL
DOES 1-25, inclusive)	
25 Defendants.)	
26)	

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28

1 Plaintiff County of San Bernardino, by and through its attorneys, based on the
2 investigation of counsel and upon information and belief, alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff, the County of San Bernardino ("Plaintiff," or the "County"), a
5 political subdivision of the State of California, is comprised of various departments,
6 including the County Assessor's Office. The Assessor's Office performs the
7 statutory duties of the County Assessor, an elected official, who is charged with
8 running the office and providing independent oversight of all its duties and
9 responsibilities.

10 2. Upon his election as Assessor in late 2006, William Postmus
11 commenced a series of actions as Chairman of the County Board of Supervisors, and
12 later as Assessor, to create and operate an "executive staff" of superfluous positions
13 within the Assessor's Office to act as his personal political machine funded by
14 County taxpayers. Under the direction of Postmus, this group spent the majority of
15 their time engaged in inappropriate political activities on the job using County
16 resources, and performed virtually no legitimate Assessor-related work. Despite this
17 behavior, the staff represented themselves as legitimate employees and deceitfully
18 declared full- or near-full- time hours on their timecards for time spent performing
19 impermissible political tasks and in vast excess of time actually worked.

20 3. In addition, Postmus and his deputy, Adam Aleman, orchestrated
21 further fraud on the County by awarding an excessive contract to their crony,
22 Michael Richman, a political consultant. The contract's value was manipulated to
23 provide Richman as much County money as possible – nearly \$50,000 – without
24 Board oversight. In exchange, Richman provided the County with virtually no
25 services related to the Assessor's Office.

26 4. The County brings this lawsuit to redress the damages caused by
27 Postmus and the Defendants. The County seeks compensatory damages according
28 to proof at trial; per the California False Claims Act, an amount equal to three times

1 the amount of damages sustained by the County as a result of the Defendants'
2 actions, a civil penalty of \$10,000 for each violation of Cal. Gov't Code § 12651,
3 and attorney's fees; punitive damages; and any other relief this Court deems just and
4 proper.

5 PARTIES

6 5. The County of San Bernardino is a charter county in the State of
7 California, spreading over 20,000 square miles and consisting of twenty-four cities.
8 The County and its various departments, including the Assessor's Office, are
9 managed by the Board of Supervisors (the "Board"), which is comprised of five
10 officials elected from different geographical County districts. The County's
11 operations are funded entirely by taxpayers' dollars.

12 6. Defendant William "Bill" Postmus was elected to the Board in 2000.
13 He was reelected in 2004. He served as Chairman of the Board for two years
14 beginning in January 2005. In November 2006 he was elected San Bernardino
15 County Assessor, and assumed that office in January 2007. He resigned as County
16 Assessor on February 13, 2009. Postmus was arrested in January 2009 and remains
17 under criminal investigation for conduct that allegedly occurred while he was
18 County Assessor. Postmus is, and during all times mentioned herein has been, a
19 resident of San Bernardino County.

20 7. Defendant Adam Aleman was appointed by Postmus as Assistant
21 Assessor for Support in the Assessor's Office, and served in that capacity from
22 January 2007 until his resignation on July 11, 2008, when he was arrested for
23 alleged conduct that occurred while he was at the Assessor's Office. Aleman is, and
24 during all times mentioned herein has been, a resident of San Bernardino County.

25 8. Defendant Gregory Eyler was appointed by Postmus as Taxpayer
26 Advocate in the Assessor's Office, and served in that capacity from January 2007
27 until January 2009, when he was transferred to another department in the County.

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1 His employment with the County was terminated in February 2009. Eyler is, and
2 during all times mentioned herein has been, a resident of San Bernardino County.

3 9. Defendant Rex Gutierrez was appointed by Postmus as
4 Intergovernmental Relations Officer in the Assessor's Office, and served in that
5 capacity from March 2007 until December 2008, when he was transferred to another
6 department within the County. Gutierrez is, and during all times mentioned herein
7 has been, a City Councilman in Rancho Cucamonga. Gutierrez is, and during all
8 times mentioned herein has been, a resident of San Bernardino County.

9 10. Defendant James Erwin was appointed by Postmus as Assistant
10 Assessor for Operations, and served in that position from January 2007 until being
11 placed on paid leave in November 2007. His employment was terminated in May
12 2008. Erwin is, and during all times mentioned herein has been, a resident of San
13 Bernardino County.

14 11. Defendant MPR Strategies, LLC ("MPR"), a California limited liability
15 company, is a political consulting firm based in Commerce, California. MPR is
16 owned and operated by Defendant Michael Richman, who is its principal or
17 president and its agent for service of process. MPR is, and during all time
18 mentioned herein has been, a domicile of Los Angeles County.

19 12. Defendant Michael Richman is principal of MPR. Richman is and,
20 during all times mentioned herein, has been a resident of San Bernardino County.

21 13. Plaintiff alleges that the fictitiously named defendants sued herein as
22 Does 1 through 25, inclusive, and each of them, were in some manner responsible or
23 legally liable for the actions, events, transactions and circumstances alleged herein.
24 The true names and capacities of such fictitiously named defendants, whether
25 individual, corporate, associate or otherwise, are presently unknown to Plaintiff and
26 Plaintiff will seek leave of Court to amend this Complaint to assert the true names
27 and capacities of such fictitiously named defendant.

28

1 **POSTMUS CREATED SUPERFLUOUS "EXECUTIVE STAFF"**
2 **POSITIONS TO USE COUNTY TIME AND RESOURCES TO ENGAGE IN**
3 **POLITICAL ACTIVITIES**

4 14. From his election in November 2006 until he took over the Assessor's
5 Office in January 2007, Postmus inquired from career employees of the Assessor's
6 Office as to what positions the Assessor's Office needed, and was informed that the
7 office needed more operational employees (*e.g.*, appraisers). Instead of creating the
8 needed operational positions, Postmus, then wielding influence as Chairman,
9 pressed the Board to create more executive positions, including Communications
10 Officer, Intergovernmental Relations Officer, and Assessor's Project Administrator.

11 15. These positions were wholly unnecessary to the operation of the
12 Assessor's Office. The Assessor's Office never had, nor did it ever need them. Don
13 Williamson, Postmus' predecessor, had an executive staff of three. Postmus
14 expanded his staff to ten or twelve lieutenants. And there was no increased
15 workload to justify the additions. The career employees in operations performed the
16 entirety of the day-to-day duties of the Assessor's Office prior to and during the
17 Executive Staff's tenure. The County acted to remove these positions in the summer
18 of 2008.

19 16. Postmus caused these positions to be created for the primary purpose of
20 using County time and resources to engage in impermissible political activities.
21 This was in direct contravention of the obligation that County employees remain
22 apolitical on the job. The County Personnel Rules and Sections 54964 and 84607 of
23 the California Government Code prohibit using public funds or resources for
24 political or campaign work.

25 17. As Assessor, Postmus filled the positions with objectively unqualified
26 political cronies, and appointed the similarly unqualified Aleman to orchestrate the
27 group, which became known as the "Executive Staff." Executive Staff members
28

1 spent most of their County time engaged in political activity, and had little if any
2 meaningful Assessor-related duties during their tenure:

3 a. Aleman strictly conducted and oversaw political activity – he
4 had virtually no business-related responsibilities or duties.

5 b. Eyler was responsible for handling email inquiries from
6 taxpayers. This was a part-time task at best that Eyler would either delegate to
7 others or perform in an amateurish and unprofessional manner. His remaining time
8 was devoted to political activities.

9 c. Gutierrez performed virtually no work necessary to the mission
10 of the Assessor's Office during his tenure. He spent the vast majority of his time on
11 Rancho Cucamonga City Council business, and other political and personal
12 activities.

13 d. Theodore Lehrer, a Communications Officer appointed by
14 Postmus and Aleman, was responsible for issuing press releases and handling media
15 inquiries. The Assessor's Office issued fewer than twenty-five press releases over
16 Lehrer's tenure. At Aleman's instructions, the rest of Lehrer's time was devoted to
17 political activities.

18 e. Another executive employee, who was hired as Aleman's
19 Special Assistant, was tasked with disseminating daily political emails to the
20 Redcounty.com email list, with designing and developing templates for political
21 emails, and, per Aleman's instructions, with various other miscellaneous political
22 tasks as the need arose.

23 18. Postmus was aware of, condoned and encouraged the political activities
24 and the continued use of County time and resources to advance a political agenda.
25 The activities in which members of the Executive Staff engaged include the
26 following:

27 a. *Operating and contributing to the website Redcounty.com.*

28 Aleman was an editor of the influential Inland Empire political website

1 Redcounty.com. Aleman directed Lehrer and others to regularly input content onto
2 the site and assemble daily mailings that were sent to thousands of individuals. At
3 Aleman's direction, employees spent at least fifteen or twenty hours per week on
4 activities related to Redcounty.com. Aleman also had the Assessor's Office use
5 County funds to purchase equipment or software to be used in conjunction with the
6 website's activities, such as tools for facilitating mass emailing and suppressing
7 certain information embedded in emails.

8 b. *Assisting with political fundraisers.* For example, Aleman
9 directed Lehrer to draft invitations for, promote and attend political fundraisers on
10 County time. Other employees were told to and did, on County time, work the
11 doors at such fundraisers, which entailed giving tickets to and collecting checks
12 from those attending.

13 c. *Assisting local and national politicians with campaign needs.*
14 Postmus, Aleman, Lehrer, Gutierrez, Eyler and Erwin provided support on multiple
15 campaigns during County time. Examples include the following:

- 16 • Aleman instructed Lehrer to provide support for Brad Mitzelfelt's
17 campaign for Board Supervisor. Lehrer drafted letters to editors, wrote
18 blog entries, walked precincts and drove Postmus to meet with constituents
19 and to strategy sessions with Mitzelfelt.
- 20 • Postmus, Aleman, Lehrer and Gutierrez assisted a local volunteer effort on
21 behalf of Mitt Romney's presidential campaign. Much of their work –
22 including drafting letters, making phone calls, and recruiting volunteers –
23 occurred on County time. Postmus volunteered the Executive Staff's
24 support to the Romney campaign.
- 25 • Erwin was a leader in Neil Derry's campaign to become Third District
26 Board Supervisor. On County time, Erwin discussed campaign strategy
27 with Postmus and Richman – who, in addition to his position in the
28 Assessor's Office, was a paid consultant of Derry's campaign. Erwin also

1 had Aleman write positive information about Derry on Aleman's political
2 websites.

- 3 • Lehrer spent at minimum ten to twenty hours per week, on County time,
4 doing political work, including drafting and editing content for political
5 websites; assisting on various political campaigns for local, state and
6 national candidates; attending and promoting political fundraisers for local
7 candidates; strategizing for various politicians; and any other
8 miscellaneous political tasks Aleman needed done.

9 19. When these employees were not involved in the political operation,
10 they performed little to no legitimate Assessor-related work.

11 **EXECUTIVE STAFF MEMBERS MISREPRESENTED HOURS WORKED**
12 **AND SUBMITTED TIMECARDS FOR EXCESS HOURS AND TIME SPENT**

13 **ENGAGING IN IMPERMISSIBLE ACTIVITIES**

14 20. Executive Staff members were full-time employees of the County. As
15 such, they were required to work forty hours per week on Assessor-related activities
16 and submit timecards memorializing time worked. They were paid an hourly rate
17 for each hour submitted and approved on the timecard. Also, as full-time County
18 employees, they were entitled to benefits, including, but not limited to, retirement
19 system contributions, health and dental insurance contributions, paid vacation and
20 holidays, sick leave, life insurance, salary savings plan contributions, a medical
21 expense reimbursement account and a retirement medical trust.

22 21. When the Executive Staff members were not needed for political
23 activities, they were in the office irregularly during business hours. But, these
24 employees routinely declared, and were paid for, full-time (forty hours per week) or
25 near full-time service to the County despite unreasonable absence levels. Also, as
26 Executive Staff members effectively worked part-time hours, they should have been
27 ineligible to receive the benefits of a full-time employee.

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1 22. Aleman's attendance in the office was less than full-time. He arrived to
2 work late, took long lunches, and went home early. Nevertheless, Aleman routinely
3 declared full- or near-full- time hours. From January 2007 until his resignation in
4 July 2008, Aleman was paid \$283,950.00 (including benefits), making him one of
5 the highest-paid public employees in the entire County.

6 23. Eyler's attendance in the office was sparse at best. He came and went
7 as he desired, with no regard for the responsibility that came with a job. During his
8 tenure, Eyler was completing an undergraduate degree at a nearby university. He
9 attended classes during business hours, but reported those hours as time worked on
10 his timecard. Eyler regularly declared full- or near-full- time hours. He declared
11 full-time hours eighteen times from January to August 2007, but did not work forty
12 hours in any one of those weeks. Eyler's actual working hours totaled 10-15 hours
13 on most weeks, with most of this time spent on political activities. On several
14 occasions, Postmus was approached about Eyler submitting inaccurate timecards.
15 Postmus instructed that Eyler be left alone and that the timecards be approved. The
16 County paid Eyler \$203,212.00 (including benefits) from January 2007 to January
17 2009.

18 24. Gutierrez attended the office irregularly, and was regularly inexplicably
19 absent. For the first 3-6 months on the job, he arrived between 9:00 and 11:00 a.m.
20 and left in the early afternoon. As time went on, he came in later, took longer
21 lunches, and left earlier. Eventually, he was in the office for 10-15 hours per week,
22 engaging primarily in political or personal activities. Between November 2008 and
23 January 2009, Gutierrez was in the office only one time. However, he routinely
24 declared, and was paid for, full- or near-full- time hours. The County paid Gutierrez
25 \$200,409.00 (including benefits) from March 2007 until January 2009.

26 25. Erwin also devoted County time to political activities – at least one
27 hour every day, on County time. The County paid Erwin \$284,893.00 (including
28 benefits and a six-month severance pay) from January 2007 until May 2008.

1 26. Per the Assessor's Office's payroll rules, employees are to submit
2 timecards or input hours "worked" on an electronic system. A supervisor then
3 reviews the information submitted and approves the declaration or investigates
4 further. If approved, the employee is paid for the hours declared.

5 27. When employed by the Assessor's Office, Postmus, Aleman and Erwin
6 were primarily responsible for approving or investigating submitted timecards for
7 Assessor's Office employees, including those of Executive Staff members. Almost
8 every timecard submitted by the Defendants was approved by Postmus, Aleman,
9 Erwin, and/or by someone operating at their direction. They did not investigate the
10 validity of any timecards submitted by the Executive Staff, and approved the
11 timecards despite their knowledge of huge discrepancies between hours declared
12 and hours worked.

13 28. Essentially, Postmus, Aleman and Erwin acted as a rubber stamp
14 knowingly approving unfounded timecards thereby siphoning funds from the
15 County to compensate superfluous, part-time employees, who performed virtually
16 no business-related tasks, at the same rate as a full-time County employee.

17 **POSTMUS CAUSED THE COUNTY TO PAY NEARLY \$50,000 TO A**
18 **FRIEND WHO ENGAGED IN POLITICAL ACTIVITY ONLY**

19 29. Richman, through his company, MPR, is a political consultant in San
20 Bernardino County. When Postmus was Chairman of the San Bernardino
21 Republican Party, the Republican Party hired Richman and MPR to do consulting
22 work. In early summer 2007, after Postmus was unseated as Chairman, Richman's
23 position with the Republican Party was terminated. Richman was a personal friend
24 of Postmus.

25 30. In July 2007, Richman and MPR were contracted purportedly to furnish
26 communications and public relations consulting, and to directly communicate with
27 the California State Board of Equalization. But these tasks were already in the job
28 description for, and being performed by, Assessor's Office employees. The

1 Assessor's Office did not go through the requisite competitive procurement process
2 in contracting with Richman and MPR. Nor did Richman or MPR appear on the
3 County-approved list of media consultants. Instead, Postmus and Aleman had the
4 office contract with Richman and MPR directly.

5 31. To contract with Richman and MPR, the Assessor's Office was
6 obligated to prepare and submit a purchase order. The purchase order – which was
7 prepared and ultimately authorized by Postmus and Aleman – required a
8 justification for contracting with Richman and MPR. The memorandum justifying
9 Richman's and MPR's purchase order was prepared and authorized by Postmus and
10 Aleman. The memorandum not only provided purported justifications that were
11 unfounded, but also deceitfully listed prospective tasks and responsibilities whose
12 fulfillment was never intended, and never occurred.

13 32. Richman and MPR performed virtually no Assessor-related tasks
14 during the term of the contract with the Assessor's Office. For example, the
15 Executive Staff of the Assessor's Office held weekly meetings to discuss, among
16 other things, progress on the annual report, which was Richman's alleged primary
17 responsibility. Richman rarely attended these meetings and, when he did attend, did
18 so for political reasons, not Assessor-related work. Richman did virtually no work
19 related to the annual report.

20 33. Instead, Richman spent his time engaging in political activities. During
21 his time with the Assessor's Office, Richman was also retained as a political
22 consultant by various campaigns, including those of Neil Derry, Shawn Steel,
23 Michelle Steel and Curt Hagman. Richman spent the vast majority of his time
24 working on those campaigns from the office during business hours using County
25 resources.

26 34. Richman submitted monthly invoices billing the County \$4,166.00 per
27 month for consulting services, though consulting virtually never took place. The
28 invoices were approved, and payment was authorized, by Postmus and Aleman.

1 35. The civil grand jury investigated the MPR purchase order and
2 Richman's activities in the Assessor's Office. They issued subpoenas and elicited
3 sworn testimony. Worried that the grand jury was targeting Richman, Aleman
4 sought to enhance Richman's status and perceived accomplishments in the office.
5 Aleman ordered Lehrer to produce a binder describing all of Richman's duties and
6 responsibilities. In addition, Aleman allegedly instructed his executive secretary to
7 alter minutes of meetings so as to include Richman in more activities.

8 36. San Bernardino County has a policy whereby contracts over \$50,000
9 must be approved by the Board. The value of the purchase order with Richman and
10 MPR was set by Postmus and Aleman in order to achieve the maximum monetary
11 amount without triggering the need for Board approval. To avoid Board scrutiny,
12 the contract's value was initially set at \$49,992 (which happened when Richman
13 was terminated from the San Bernardino Republican Party) and later reduced to
14 \$49,200.

15 37. Richman submitted monthly invoices in the amount of \$4,166.00, until
16 the contract was terminated in July 2008. The invoices were approved by Postmus
17 and Aleman. From July 2007 through July 2008, the County paid Richman a total
18 of \$47,910.

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1 accountable for all advantages gained thereby and are liable to the beneficiary of the
2 duty. Aleman, Eyler, Gutierrez, Erwin, MPR and Richman were active participants
3 in Postmus' breach of the fiduciary duty he owed to the County.

4 54. Eyler and Gutierrez were active participants in the following ways:
5 They worked fewer hours than they were scheduled to work; performed little, if any,
6 legitimate Assessor-related work; partook in an extensive political operation on
7 County time and through County resources; and lied on timecards submitted to
8 supervisors.

9 55. Erwin was an active participant in the following ways: He engaged in
10 improper political activities from the Assessor's Office on County time; and he
11 knowingly authorized inaccurate timecards submitted by members of the Executive
12 Staff.

13 56. Aleman was an active participant in the following ways: He engaged
14 in, and led a group of others who engaged in, improper political activities from the
15 Assessor's Office on County time; he knowingly authorized inaccurate timecards
16 submitted by members of the Executive Staff; and he authorized the purchase order
17 and monthly payments to Richman and MPR.

18 57. MPR and Richman were active participants insofar as MPR and
19 Richman submitted monthly invoices and the initial purchase order, collected
20 monthly payments from the County, engaged in political activity from the
21 Assessor's Office, and performed virtually no legitimate Assessor-related work.

22 58. As such, each Defendant is liable for breach of fiduciary duty against
23 the County.

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1 Postmus', Aleman's and Erwin's authorizing the misrepresentations, the County has
2 been damaged in an amount not presently ascertainable in full and to be proven at
3 trial.

4 **FIFTH CAUSE OF ACTION**

5 **Fraud**

6 [Against Defendants Postmus, Aleman, MPR and Richman]

7 65. Plaintiff incorporates by reference each and every allegation contained
8 in paragraphs 1 through 37, inclusive.

9 66. As described above, Postmus and Aleman submitted and authorized a
10 purchase order and monthly invoices that were false and misleading. The purchase
11 order – authorized by Postmus and Aleman – listed purported justifications for
12 hiring Richman and MPR as an independent contractor, and listed Assessor-related
13 activities and responsibilities to be executed and managed by Richman. In fact,
14 there was no legitimate justification for hiring Richman and MPR, and Richman was
15 to execute or manage virtually no Assessor-related work. In addition, Richman and
16 MPR submitted monthly invoices listing services performed; Postmus and Aleman
17 authorized payment on these invoices. During his entire tenure Richman and MPR
18 provided virtually no consulting services to the Assessor's Office.

19 67. At the time the purchase order and monthly invoices were submitted
20 and authorized with materially false or misleading statements and information as
21 described above, Postmus, Aleman, Richman and MPR knew the purchase order and
22 monthly invoices were false and misleading.

23 68. Postmus, Aleman, Richman and MPR made or authorized the
24 materially false or misleading purchase order and invoices for the purpose of
25 inducing the County to pay fees in reliance upon the purchase order and monthly
26 invoices.

27 69. At the time Postmus, Aleman, Richman and MPR made or authorized
28 the false or misleading purchase order and monthly invoices, the County was

1 ignorant of the falsity of those documents, and believed them to be true. In
2 reasonable reliance upon those documents, the County was induced to take certain
3 actions, including the payment of fees to Richman and MPR. Had the County
4 known of the actual facts, it would not have acted as it did.

5 70. As a direct and proximate result of the County's reasonable and
6 justifiable reliance on Postmus', Aleman's, Richman's and MPR's
7 misrepresentations and authorized misrepresentations, the County has been damaged
8 in an amount equal to at least \$47,910.

9 SIXTH CAUSE OF ACTION

10 **Improper Expenditure of Public Funds**

11 [Against Defendants Postmus, Aleman, Eyler, Gutierrez, Erwin]

12 71. Plaintiff incorporates by reference each and every allegation contained
13 in paragraphs 1 through 37, inclusive.

14 72. Public officials are personally liable for improperly spending public
15 funds if the officials did not exercise due care in deciding to expend said funds.

16 73. At all material times stated herein, Postmus, Aleman, Eyler, Gutierrez
17 and Erwin were public officials.

18 74. Postmus, Aleman, Eyler, Gutierrez and Erwin expended exorbitant
19 public funds in improper ways, including the following: authorizing and seeking
20 salary payments for more hours than actually worked; authorizing and seeking
21 salary payments for time spent on political activities; and, in the case of Postmus
22 and Aleman, authorizing payments to and hiring an independent contractor who
23 performed virtually no legitimate work and who was hired improperly.

24 75. Postmus, Aleman, Eyler, Gutierrez and Erwin did not exercise due care
25 in authorizing and seeking to expend public funds in the above described improper
26 ways.

27 76. As such, Postmus, Aleman, Eyler, Gutierrez and Erwin are personally
28 liable for the funds improperly expended.

1 84. Defendants formed and operated a conspiracy. All defendants came to
2 the Assessor's Office with an understanding of what would transpire; specifically,
3 that the Executive Staff and Richman, led by Postmus and Aleman, would defraud
4 the County and engage in impermissible activities on the job.

5 85. Defendants performed acts in furtherance of the common design.
6 Every defendant engaged in or authorized others to engage in political activities;
7 submitted or authorized inaccurate timecards; submitted or authorized misleading
8 hiring justifications and invoices; and/or received the fruits of this fraud in the form
9 of taxpayer money.

10 86. Defendants knew of plans to defraud the County and to commit the
11 above actions and civil wrongs, and intended to aid the commission of the fraud and
12 civil wrongs.

13 87. The County was damaged by the conspiracy and the acts committed by
14 the Defendants.

15 88. Coconspirators are liable for the torts of other coconspirators. As such,
16 each Defendant is responsible as a joint tortfeasor for all damages ensuing from the
17 wrong.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays for judgment against Defendants jointly and
3 severally as follows:

- 4 A. On the First and Second Causes of Action, an amount equal to three
5 times the amount of damages sustained by the County as a result of the
6 Defendants' actions, a civil penalty of \$10,000 for each violation of
7 Cal. Gov't Code § 12651, and attorney's fees.
- 8 B. On the remaining causes of action, compensatory damages according to
9 proof at trial;
- 10 C. Exemplary and/or punitive damages as to Counts for which they are
11 available under applicable law in such amount as the Court deems just
12 and proper;
- 13 D. Prejudgment interest;
- 14 E. Restitution;
- 15 F. Disgorgement; and/or
- 16 G. Such other and further relief as the Court may deem just and proper.

17
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19 Dated: May __, 2009

Respectfully submitted,

20 IRELL & MANELLA LLP
21 John Hueston

22
23 By: _____
John Hueston

24 Attorneys for Plaintiff
25 COUNTY OF SAN BERNARDINO

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DEMAND FOR JURY TRIAL

Plaintiff County of San Bernardino hereby demands trial by jury.

Dated: May __, 2009

Respectfully submitted,

IRELL & MANELLA LLP
John Hueston

By: _____
John Hueston

Attorneys for Plaintiff
COUNTY OF SAN BERNARDINO