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**John C. Cotti**  
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December 18, 2020

*Via electronic mail*

Head Deputy District Attorney Alan Yochelson  
Public Integrity Division  
Los Angeles County District Attorney's Office  
211 West Temple Street, Suite 1000  
Los Angeles, CA. 90012  
ayochelson@da.lacounty.gov

Dear Mr. Yochelson:

I serve as the Interim City Attorney for the City of Malibu. At the Malibu City Council meeting on December 14, 2020, we were first made aware of a signed statement from outgoing councilmember Jefferson Wagner that contains various allegations of wrongdoing.

After reviewing the affidavit, we felt it appropriate to refer it to your Public Integrity Division. A copy of the Affidavit of Jefferson Wagner is attached. While I have no firsthand information regarding the allegations, I am available to answer any questions that you may have.

Sincerely,

  
John C. Cotti  
of BEST BEST & KRIEGER LLP

JCC:wsh

## **AFFIDAVIT OF JEFFERSON WAGNER**

I, Jefferson Wagner, being duly sworn according to law, do hereby depose and state on personal knowledge as to my own actions, and on information and belief as to the actions of others, as follows:

1. My name is Jefferson Wagner. I am a Member of the Malibu City Council, currently serving out the final days of my second four-year term, during which I also was twice elected by the Members of the Malibu City Council to serve as the Mayor of Malibu.

2. During the eight years on which I have served as a Member of the Malibu City Council, the additional year that I served on the Civic Center Task Force appointed by Councilmember John Sibert, and at other times, I have seen, been told of, and heard of many activities that have been very disturbing to me – some of which I believe to be unlawful.

3. Because I lack legal training, I have not known what, if anything, I could do about the activities I have witnessed and heard about, and the Malibu City Attorney has not provided such guidance when I have raised two of these matters with her.

4. Over the course of the past two years, I have been encouraged by the community activism I witnessed by Bruce Silverstein, who I understand to be an experienced lawyer and who has seemed to me to be someone who would be interested and willing to follow up on the disturbing matters I have witnessed and heard about. Accordingly, when the nomination process for the election of Members of the Malibu City Council commenced in July of this year, I encouraged Mr. Silverstein to run for office in the hope that he would, among other things, press to have these matters reviewed, investigated, and pursued in a legally appropriate manner if he were elected to the Malibu City Council.

5. What follows is a relatively high-level summary of some of the more egregious activities I have witnessed and/or heard about, which have been disturbing to me over the course of my nine years of public service for the City of Malibu.

### **Attempted Bribery of City Council Member**

6 During the remodeling and renovation of the current Malibu City Hall, I was offered (but did not accept) valuable personal “incentives” to approve a specified vendor / contractor who was bidding to perform various services in connection with the construction project.

7. Specifically, I was offered the following “incentives”:
  - a. An all-expense-paid three-day weekend in Las Vegas, which would include my choice of a “Flower Basket” or a “Fruit Basket” upon arrival.
  - b. An all-expense-paid trip for two to Costa Rica.
  - c. Re-stuccoing and painting of my personal property.

8. It was explained to me that the two alternative “baskets” would contain casino chips, and that the difference between the two baskets is that “Fruit” lasts longer than “Flowers.” In other words, the Fruit basket has “a higher chip count.”

9. It was explained to me that the casino chips would be mine to do with as I please – which could include cashing them out and pocketing the cash. Additionally, I understand that casino chips from one casino can be cashed in at any of multiple casinos, and that the casino chips in the baskets could be divided up into groups that could be cashed-in at several casinos in a manner that may be impervious to detection and would not need to be reported to the I.R.S. if done in amounts under \$10,000.

10. I was told that I could choose one of (i) the re-stucco and painting option, (ii) the trip to Las Vegas option with the Fruit Basket, or (iii) the Trip to Costa Rica and the Trip to Las Vegas with Flower Basket.

11. It was explained to me that the three options each had approximately the same value. At the time that the described offer was made to me, it was my understanding that the cost to re-stucco and paint my property would be approximately \$50,000 if I were to have that work done by a private contractor.

12. It was explained to me that I would receive the alternative of my choice (i.e., the “pay-off”) if the specified vendor was selected for the project based on a vote of the Malibu City Council in which I had voted in support of the vendor’s selection / nomination.

13. Today, it is my understanding that the Las Vegas offer is the same type of offer that was identified by the United States Attorney for the Central District of California in connection with the indictments of Los Angeles City Councilmembers Jose Huizar and Mitch Englander, as well as certain city staff members.

14. In addition to explaining the three alternatives, how they worked, and what I would need to do to “earn” the proposed incentive, I was provided with literature identifying the vendor I was being asked to vote to approve.

15. After the described offer was made to me, I met with the Malibu City Attorney at my retail store, recounted the terms of the offer, and gave her the literature I had been provided. I distinctly recall the Malibu City Attorney saying that what I described to her was a “bribe,” and that I responded by stating that is why I brought it to her.

16. I do not know what, if anything, the Malibu City Attorney did to follow up on this matter. To the best of my knowledge and recollection, the Malibu City Attorney did not bring this matter to the attention of the full Malibu City Council in my presence.

17. I also do not know whether other Members of the Malibu City Council and/or any employees of the City of Malibu received and/or accepted similar offers, but I would be surprised if I were the only person who received such an offer because it requires at least three favorable votes for contracts of the magnitude at issue.

18. I no longer recall the name of the vendor I was asked to approve, but the name is on the literature I provided to the Malibu City Attorney, and I am hopeful that the Malibu City Attorney has retained that literature in her files.

### **Apparent Misuse and Abuse of Governmental Authority**

19. Sometime in late 2017 or early 2018, the “Mani Brothers” (owners of, among other properties, the Malibu Beach Inn and the “Hertz Property” on the other side of Pacific Coast Highway) were looking to have a crosswalk installed in the vicinity of their hotel in order to facilitate the possible addition of a pool to the hotel and accommodate required additional parking for the 40 plus rooms. There were numerous impediments to the installment of the desired crosswalk – as was well known to the Malibu residents who live on the land side Pacific Coast Highway along La Costa Beach, who had been seeking the same benefit in the vicinity of their community beach club for ten years. In order to be able to use the Hertz Property for hotel parking, the Mani Brothers also required permission to use the property as a stand-alone parking lot, which was not then permitted (and still is not permitted) by the Malibu Zoning Code.

20. During the same time as the Mani Brothers were seeking a crosswalk and stand-alone parking for their hotel, the Malibu City Manager had made known

openly her desire to have her contract amended and to provide for an extended term and an increased salary.

21. During the same time as the foregoing matters, Antonio Villaraigosa was running to obtain the nomination of the Democratic Party as its candidate for the office of the Governor of California in 2018. During the campaign leading up to the June 5, 2018 primary, I received a telephone call from Mr. Villaraigosa. During that call, Mr. Villaraigosa addressed two topics.

22. The first topic Mr. Villaraigosa addressed was the Malibu City Manager's contract. With respect to that topic, it is my recollection that Mr. Villaraigosa said that he wanted to make sure everything was "good" with me on the amendment to the Malibu City Manager's contract. Mr. Villaraigosa also said that he had spoken with Councilmember Peak (who Mr. Villaraigosa referred to as "Skylar") and would be speaking with Councilmember Mullen (who Mr. Villaraigosa referred to as "Rick"). I was disturbed by Mr. Villaraigosa's remarks, and I told Mr. Villaraigosa that he would see how I vote on the Malibu City Manager's contract when the issue comes up for discussion and vote of the Malibu City Council.

23. The second topic Mr. Villaraigosa addressed was the Mani Brothers' crosswalk. Mr. Villaraigosa stated that the Mani Brothers had contributed to his campaign (which I later learned to be an indirect but lawful contribution of \$50,000) and to my campaign as well – for which I had publicly disclosed and expressed my appreciation. As with respect to the topic of the Malibu City Manager's contract, I made no commitment of any sort to Mr. Villaraigosa. Although Mr. Villaraigosa did not state the reason for his interest in the City Manager's contract, it has been publicly reported that the Malibu City Manager has a relationship with a close relative of Mr. Villaraigosa.

24. The Mani Brothers' crosswalk was approved. The approval was not submitted to the Malibu Planning Commission, the Malibu Public Works Commission or the Malibu City Council. Instead, it is my understanding that the matter was handled by the City Staff, who perform under the supervision and direction of the office of the Malibu City Manager

25. On May 31, 2018, my home was raided by law enforcement officers who work for the L.A. County District Attorney, Jackie Lacey, a politician with known ties to Mr. Villaraigosa. The raid occurred just two days after I was the sole Member of the Malibu City Council to vote against the amendment to the Malibu

City Manager's contract, which extended the term of her employment and increased her salary.

26 While I lack personal knowledge of the full details of the secretive background to how the raid of my property came to occur, published opposition research respecting now-former D.A. Lacey states, among other things, that "Villaraigosa 'personally sought to persuade [Wagner] and two other council members to renew the City Manager's contract with the City,'" and that "[a] public corruption specialist spoke on the warrant issued against Wagner, stating that the DA's actions appear to 'be a clear exercise in intimidation and an excessive show of force or color of authority.'" The opposition research appears can be viewed at <https://static1.squarespace.com/static/5e1521faa9839d5293d21d61/t/5e29d60bc905d22289bfd2e5/1579800100176/Lacey+Research.pdf>, at 12-13, 19, 82, 90-92.

### **Other Actual or Potential Corruption**

27. Over the years in which I have been involved in Malibu's government, I have been told of multiple acts of actual or attempted corruption by at least one Member of the Malibu City Council.

28. Over the years in which I have been involved in Malibu's government, I have be told about members of the City Staff who solicited and received incentives to facilitate actions sought by residents willing to make a direct payment to members of the City Staff to obtain what the residents desire, and I have been told of at least one member of the City Staff who was caught receiving an incentive to expedite a property inspection and was discharged quietly without the incident being publicly reported. I also know of one other employee who suddenly resigned in the wake of talk of her having been caught soliciting or receiving an incentive.

29. Over the years in which I have been involved in Malibu's government, I have been told about various valuable "favors" (some at the expense of the City and its residents) done by various members of the City Staff for, among others, friends and/or supporters of the Malibu City Manager.

30. Over the years in which I have been involved in Malibu's government, I have been told of multiple incidents in which code violations have been deliberately overlooked for favored residents and/or favored residents have been alerted to surprise inspections by members of the City Staff.

31. Unlike the incidents about which I have personal knowledge discussed in the first two sections of this Affidavit, I have no personal knowledge of wrongdoing in these other situations, but there are too many examples of otherwise

exquisite coincidences to turn a blind eye to such matters. Only by conducting a proper investigation will the truth be known, and wrongdoing proven or disproven.

\* \* \*

32. It is my hope that my provision of the information in this Affidavit will spur a thorough and independent investigation that is both (i) led by Bruce Silverstein and one other Member of the Malibu City Council who has no current or prior business or other financial relationships with the City of Malibu, the Malibu City Manager or any member of the City Staff, and (ii) assisted by knowledgeable and disinterested Malibu residents.

33. It also is my hope that a proper investigation will establish that there is no corruption within Malibu's government beyond some rogue members of the City Staff who already have been identified and are no longer employed by the City of Malibu.

34. As I see things, there appears to be smoke swirling around Malibu City Hall. At a bare minimum, it is important to investigate whether this is smoke from a fire that needs to be extinguished, or simply a marine layer that drifted in from the Pacific Ocean.

**FURTHER AFFIANT SAYETH NOT**

\_\_\_\_\_  
Jefferson Wagner

STATE OF CALIFORNIA

SS

LOS ANGELES COUNTY

This \_\_\_ day of December, 2020, personally appeared before me, a Notary Public for the State of California, Jefferson Wagner, who, by me first sworn, deposed and said that the facts set forth in the foregoing Affidavit are true and correct to the best of his knowledge and belief.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires on \_\_\_\_\_