



Council Agenda Report

To: Mayor Pierson and the Honorable Members of the City Council

Prepared by: John Cotti, City Attorney

Date prepared: February 24, 2021 Meeting date: March 8, 2021

Subject: Proposals for Legal Services Related to the Investigation of Allegations Set Forth in an Affidavit filed by Former Malibu City Councilmember, Jefferson Wagner

RECOMMENDED ACTION: Review the proposals for Legal Services related to the investigation of allegations set forth in the Affidavit of former Malibu City Councilmember Jefferson Wagner and provide direction to staff.

FISCAL IMPACT: There is no fiscal impact associated with the recommended action at this time.

WORK PLAN: This item was not included in the Adopted Work Plan for Fiscal Year

DISCUSSION:

At the Malibu City Council meeting on December 14, 2020, the City was made aware of an affidavit from outgoing councilmember Jefferson Wagner that contains allegations of wrongdoing. On December 18, 2021, the Interim City Attorney forwarded the affidavit to the Los Angeles District Attorney's Public Integrity Unit. That Unit has not issued any decision on the investigation.

As the Council directed at its January 25, 2021, meeting, a request for a proposal to investigate the allegations in Wagner's statement was sent to each firm identified by a council member. The complete list of firms to which a request was sent is as follows:

Evan Jenness, Attorney-at-Law
Werksman Jackson & Quinn, LLP
Vedder Price, PC
Crowell & Moring, LLP
Michelle Reinglass

Nancy Bornn, A Law Corporation
Citron & Deutsch
Munger Tolles & Olson
Quinn Emanuel Urquhart & Sullivan
Freeh Group International Solutions, LLC
Cader Adams, LLP
Isaacs Friedberg LLP

On February 22, 2021, the City received five proposals from separate firms. Below is a summary of each proposal, and the qualifications and billing rates of personnel that will assist in the investigation. The full proposal submitted by each firm is attached as Attachments A-E of this staff report.

A. Isaacs, Friedberg (Attachment A)

This proposal identifies Councilman Wagner's primary allegations of misconduct as follows: (1) alleged attempt by a contractor to bribe him in connection with a City construction project; and (2) the allegedly improper approval of a crosswalk by City staff acting under the direction of the City Manager. The firm's investigation strategy would be a two-step process. First, it calls for the production of specified categories of records relevant to the investigation. Second, it plans to interview witnesses likely to have pertinent information. At the conclusion of its investigation, the firm will provide the City with a report summarizing the findings of its investigation and provide recommendations. The firm has discounted its normal rates for specified personnel that will work on this proposed investigation. Below is a brief summary of the qualifications and billing rates of personnel that will assist in this matter:

1. Jeffrey B. Isaacs, *Partner*.
 - a. Billing Rate: \$550 per hour (discounted from \$700 per hour).
 - b. Education: J.D., University of Southern California, Gould School of Law (1984); A.B., Colgate University, (1980).
 - c. Experience: Served as an Assistant U.S. Attorney in the Los Angeles U.S. Attorney's Office (USAO) for 15 years, including as Deputy Chief of the Major Frauds Section and after as Chief of the Criminal Division of the City of Los Angeles City Attorney's Office for six years, overseeing 300 criminal prosecutors. As a private practitioner, he has handled numerous state and federal criminal and civil cases, representing public and private individuals, and has conducted internal investigations involving a variety of organizations.

2. Jerome H. Friedberg, *Partner*
 - a. Billing Rate: \$550 per hour (discounted from \$700 per hour).
 - b. Education: J.D., University of California Berkeley School of Law (1986) order of the coif (Top 10% of graduating class); B.A., University of Santa Barbara (1982).
 - c. Experience: Worked for five and a half years as an Assistant U.S. Attorney in the Los Angeles USAO. Has extensive experience in conducting investigations of alleged criminal activity and has led investigations of alleged criminal misconduct on behalf of a prominent university and the executive office of a nationwide fraternity, among others.

3. Margarett Mow, *Of Counsel*
 - a. Billing Rate: \$350 per hour (discounted from \$425 per hour).
 - b. Education: J.D., University of La Verne College of the Law (2005); B.A., California University (2002).
 - c. Experience: Has over 15 years of experience as a criminal defense attorney. She has investigated several cases involving white collar crime. She has successfully litigated felony and misdemeanor criminal cases of individuals charged with crimes in both state and federal courts.

4. Amy Yeh, *Of Counsel*
 - a. Billing Rate: \$350 per hour (discounted from \$425 per hour).
 - b. Education: J.D., Harvard Law School (2003); B.A., University of California Berkeley (2000) High Distinction.
 - c. Experience: Is an experienced litigator who has handled sophisticated litigation in both state and federal courts. Her practice focuses on white collar criminal defense and complex civil litigation matters, and she has represented clients in a broad range of matters, including financial institution fraud, money laundering, wage theft, healthcare fraud, environmental crimes, civil and criminal RICO cases and actions under the False Claims Act.

5. Other personnel will bill at the following rates:
 - a. Other Partners: \$400 per hour (discounted from \$500 per hour).
 - b. Associates: \$250-\$350 per hour (discounted from \$325-\$400 per hour).
 - c. Paralegal: \$150 per hour (no noted discount).
 - d. Legal Clerk: \$100 per hour (no noted discount).

B. Werksman Jackson & Quinn, LLP (Attachment B)

This proposal will focus on the allegations that individuals offered financial and other valuable inducements to City officials in exchange for favorable treatment by the City as set forth in the Affidavit. In so doing, it plans to interview all involved and related

individuals and review all relevant reports, documents and communications in the possession of the City and produced by witnesses. It also proposes to gather and review all relevant public records available. The firm anticipates it will take approximately six (6) months to complete the investigation. It will prepare a comprehensive report synthesizing its factual findings, and, if the City desires, provide legal analysis on particular issues specified by the City. The cost of Werksman Jackson & Quinn's (WJQ) services will be an initial retainer of \$250,000, which the firm will bill against at 75% of hourly regularly rates. The initial retainer will be refundable if not expended. If the initial retainer deposit is expended and the matter is not completed, the firm will bill the City for time thereafter. Below is a brief summary of the qualifications and billing rates of personnel that will assist in this matter:

1. Mark Werksman, *Managing Partner*

- a. Billing Rate: 75% of normal hourly rate of \$1,100, which equals \$825.
- b. Education: J.D., University of Southern California Law Center (1985); B.A., Yale University (1981).
- c. Experience: Former Deputy District Attorney in the Los Angeles County District Attorney's Office and an Assistant United States Attorney in the Central District of California. He has been Managing Partner of WJQ since 1994.

2. Alan Jackson, *Partner*

- a. Billing Rate: 75% of normal hourly rate of \$1,100, which equals \$825.
- b. Education: J.D., Pepperdine University School of Law (1994); B.A., University of Texas (1991).
- c. Experience: Former Assistant Head Deputy of Major Crimes in the Los Angeles County District Attorney's office and was a candidate for District Attorney in the 2012 election. He is also an adjunct professor at Pepperdine Law School.

3. Caleb Manson, *Partner*

- a. Billing Rate: 75% of normal hourly rate of \$850, which equals \$637.50.
- b. Education: J.D., Georgetown University (2005); Ph.D., Columbia University (2001); B.A., Colby College (1995).
- c. Experience: Former Assistant United States Attorney in the Southern District of California and is a Judge Pro Tempore in the Los Angeles County Superior Court and a Commissioner on the City of Claremont Police Commission.

4. Joshua Ritter, *Partner*

- a. Billing Rate: 75% of normal hourly rate of \$850, which equals \$637.50.
- b. Education: J.D., Loyola Law School (2007); B.A., University of California Los Angeles (2001).

- c. Experience: Former Los Angeles County Deputy District Attorney who was named Outstanding Prosecutor of the Year in 2015.

5. Michael Freedman, *Partner*

- a. Billing Rate: 75% of normal hourly rate of \$850, which equals \$637.50.
- b. Education: J.D., University of California, Hastings College of the Law (2011); A.M., Harvard University (2008); B.A., University of California, San Diego (2005).
- c. Experience: Former Assistant United States Attorney.

6. Other personnel will bill at the following rates:

- a. Elizabeth S. Little, *Attorney*. 75% of normal hourly rate of \$650, which equals \$487.50. Education and experience not provided.
- b. Jacqueline M. Sparagna, *Attorney*. 75% of normal hourly rate of \$600, which equals \$450. Education and experience not provided.
- c. Mehru Ranjha, *Attorney*. 75% of normal hourly rate of \$500, which equals \$375. Education and experience not provided.
- d. Kimberly E. Barreto, *Attorney*. 75% of normal hourly rate of \$400, which equals \$300. Education and experience not provided.

C. Crowell Morning (Attachment C)

This proposal's primary focus will be to assess the potential violations of the following "key legal issues" implicated by the Affidavit: (1) bribery; (2) conflict of interest; (3) misappropriation of public funds; (4) honest services fraud; (5) money laundering; (6) conspiracy and aiding and abetting; (7) failure to discharge powers and duties; and (8) procurement and contract award violations. In so doing, it has developed a five-phase investigative process set out in paragraphs (I)-(V) below. This firm has provided an "estimated range of fees" based on what it may charge for each phase of the investigation. These estimated fees may change once it learns more facts including the scope of work.

- I. Phase I: Initial Assessment, Development and Strategy (\$5,000-\$15,000);
- II. Phase II: Document Collection and Review (TBD depending on volume of documents);
- III. Phase III: Witness Interviews (\$15,000-\$37,500);
- IV. Phase IV: Investigation Report and Recommendations (\$25,000-\$37,500); and
- V. Phase V: Interface with Government Agencies (if needed) (\$0-TBD).

Below is a brief summary of the qualifications of personnel that will assist in this matter:

1. Paul Rosen, *Partner*
 - a. Education: J.D., University of Southern California, Gould School of Law, order of the coif (2005); B.A., University of Colorado at Boulder, summa cum laude, phi beta kappa (2000).
 - b. Experience: Former federal prosecutor and chief of staff at the Department of Homeland Security (DHS) under President Obama, represents corporate and individual clients in federal and state criminal and civil investigations and enforcement actions, internal investigations, and litigation matters.

2. Michal Atkinson, *Partner*
 - a. Education: J.D., Cornell Law School (1991); B.A., Syracuse University (1986).
 - b. Experience: Former Inspector General of the U.S. Intelligence Community who led dozens of high-profile investigations including the investigation of the Ukraine whistleblower complaint that led to the first impeachment trial of then-President Trump, as well as high-profile, public corruption-related investigations and prosecutions.

3. Nimi Aviad, *Partner*
 - a. Education: LL.M., University of California, Berkeley School of Law (2005); L.L.B., Tel Aviv University, magna cum laude (2004).
 - b. Experience: Has been involved in several matters focusing on domestic public corruption in California, including an investigation into allegations of corruption in a municipality. He has also represented individuals in matters alleging embezzlement and misappropriation of public funds.

4. Mana Elihu Lombardo, *Partner*
 - a. Education: J.D., University of California, Los Angeles School of Law (2003); B.A., University of California, Berkeley, with honors (2000).
 - b. Experience: Authority on government procurement who serves on the Steering Committee for the firm's False Claims Act working group and concentrates her practice on government contracts litigation and counseling. She conducts internal investigations and counsels on public sector contract compliance and procurement fraud.

5. Laura Schwartz, *Of Counsel*
 - a. Education: J.D., Emory University School of Law, Order of the Coif (2012); M.A., Columbia University (2007); B.A., University of Pennsylvania (2004).
 - b. Experience: Represents corporate and individual clients in criminal litigation and related civil matters in both state and federal courts. She has handled investigations and defenses of municipalities, city councilmembers, lobbyists, and government contractors, including representing a former City Councilmember in the State of California in connection with a public

corruption investigation into his acceptance of gifts (including cash) from a businessman.

6. *Mariam Sarwar, Associate*

- a. Education: J.D., Loyola Law School (2019); B.A., Kalamazoo College,(2009).
- b. Experience: Litigation associate focused on complex corporate and organizational matters, and her experience has focused on internal investigations and compliance matters. Prior to joining the firm, Mariam served as a law clerk in the Los Angeles City Attorney's Office's Civil Litigation Department.

7. *Gabrielle Trujillo, Associate*

- a. Education: J.D., Loyola Law School (2018); B.A., University of California, Santa Cruz (2015).
- b. Experience: Member of the firm's Government Contracts and White Collar and Regulatory Enforcement groups who frequently works on civil and criminal investigations, including providing guidance regarding procurement regulations, practices, and compliance. Gabby's clients include municipalities and some of the countries' largest government contractors.

D. Cader Adams,LLP (Attachment D)

This firm's investigation would be led by Yasmin Cader and Christine Adams with the support of their team of investigators, which includes attorneys, forensic auditors, and licensed private investigators. The firm did not provide a specific investigative proposal. The cost of its services will be charged at a blended rate of \$550 per hour for attorneys and \$125 per hour for paralegals. This is a discount from its normal hourly rates of \$895 for Ms. Cader and Ms. Adams and \$500 for supporting attorneys. Below is a brief summary of the qualifications of personnel that will assist in this matter:

1. *Christine Adams, Founder of Firm*

- a. Billing Rate: Blended rate of \$550 per hour
- b. Education: J.D., Yale Law School (graduation year not provided); B.A., University of California, Santa Barbara, summa cum laude, phi beta kappa (graduation year not provided).
- c. Experience: Spent 11 years as a federal prosecutor in the U.S. Attorney's Office in Los Angeles, where she led complex, high stakes government investigations. During her tenure, she served as the Defense Contractor Fraud Coordinator for the Central District of California. In that role, she coordinated and directed investigations by federal law enforcement agencies throughout the entire Central District.

2. Yasmin Cader, *Founder of Firm*

- a. Billing Rate: Blended rate of \$550 per hour.
- b. Education: J.D., Yale Law School (graduation year not provided); B.A., Howard University, magna cum laude (graduation year not provided).
- c. Experience: Handles high profile civil rights, harassment, discrimination, and employment investigations for colleges and universities, non-profits, and private sector entities, particularly in the entertainment industry. In addition to investigations, she is regularly sought out to advise on workplace culture assessments and diversity and inclusion initiatives.

E. Law Offices of Evan A. Jenness (Attachment E)

This firm's proposed investigation would consist of seven steps: (1) assessing the issues implicated in the Affidavit; (2) planning the investigation; (3) collecting and evaluating the information obtained from witnesses, including identification of additional witnesses and documents that may shed additional light on the factual and legal issues raised; (4) researching and assessing potential remedial measures for any issues that may warrant action; (5) preparing an objective (and privileged) report to the City; (6) assuring confidentiality and the protection of attorney-client privileged matters so there is minimal outside disclosure of our findings (unless the City so directs); and (7) delivering the results of the investigation to the Council. Because an investigation is an ongoing process, some of these steps would be repeated when warranted based on new information.

The firm's normal hourly rates range from \$700-\$800, but the firm would be agreeable to work at a reduced rate of \$400 per hour for attorney's fees plus costs related to expenses billed at the amount incurred. This firm also requests the City provide a retainer payment of \$50,000, which would be fully refundable at the conclusion of its services. Below is a brief summary of the qualifications of personnel that will assist in this matter:

1. George Newhouse

- a. Education: J.D., University of California, Berkeley School of Law, order of the coif, (1982); M.A., Oxford University (1983); A.B., Harvard University, cum laude.
- b. Experience: Has thirty-seven (37) years of experience, which includes criminal investigations and approximately 40 trials in a variety of white-collar criminal and complex civil trials and arbitrations, both as a prosecutor and defense lawyer.

2. Evan A. Jenness, *Principal of Law Firm*

- a. Education: J.D., Columbia University Law School (1988); B.A., Brandeis University (1984).

- b. Experience: Served for eight (8) years as a deputy federal public defender, defending and investigating similar alleged crimes. He specializes in the defense of white-collar cases, and regularly handled matters involving alleged corruption.

OPTIONS:

After reviewing the above information, the Council has the following options available to it:

1. Select from among the proposing firms and schedule interviews;
2. Solicit further proposals from additional investigating firms;
3. Take no action;
4. Provide alternative direction to staff.

ATTACHMENTS:

- A. Isaacs, Friedberg Proposal (February 22, 2021).
- B. Werksman Jackson & Quinn, LLP Proposal (February 22, 2021).
- C. Crowell Moring Proposal (February 22, 2021).
- D. Cader Adams, LLP Proposal February 22, 2021).
- E. Law Offices of Evan A. Jenness Proposal (February 22, 2021).

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CIVIL AND CRIMINAL LITIGATORS

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February 22, 2021

VIA EMAIL

Heather Glaser
City Clerk
City of Malibu
Email: hglaser@malibucity.org

Re: *Proposal for Independent Investigation in Response to the Affidavit filed by Former Malibu City Councilmember, Jefferson Wagner.*

Dear Ms. Glaser:

Isaacs | Friedberg LLP (“the Firm”) is pleased to present its proposal to conduct an independent investigation of the allegations made by former Malibu City Councilmember, Jefferson Wagner. We believe that we have the qualifications, experience and expertise to conduct a fair and thorough investigation on behalf of the City of Malibu.

The Firm

The Firm was founded in 2011 by Jeff Isaacs and Jerry Friedberg, both former Assistant U.S. Attorneys in the Los Angeles U.S. Attorney’s Office (“USAO”), who collectively have over 60 years of criminal and civil litigation experience, including extensive experience in public corruption cases, conducting internal investigations and representing public entities.

Over the past ten years, we have achieved outstanding results in a broad array of cases, and expanded their ranks by attracting exceptionally well-qualified, hard-working and talented attorneys. We are also proud of the diversity among our attorneys and staff, and are enriched by the broad spectrum of backgrounds and legal and life experiences reflected in our attorneys and staff.

Attorneys Proposed for This Investigation

We anticipate that the attorneys with primary responsibility for this matter will be Jeff Isaacs, Jerry Friedberg, Margarete Mow and Amy Yeh. The biographical profiles of these attorneys are attached as **Exhibit A**.

Qualifications and Experience

1. Jeffrey B. Isaacs

Mr. Isaacs served as an Assistant U.S. Attorney in the Los Angeles U.S. Attorney's Office for 15 years, including as Deputy Chief of the Major Frauds Section. He investigated and prosecuted high profile cases that included the payment of bribes and kickbacks, money laundering, tax evasion and obstruction of justice, including cases involving government officials.

While a federal prosecutor, Mr. Isaacs was appointed as a Special Attorney to the U.S. Attorney General to investigate and prosecute corruption in Arizona state government. The investigation resulted in the indictment and later conviction of the sitting Governor of Arizona at the time (J. Fife Symington, III) for extortion, bank fraud and making false financial statements to financial institutions.

Mr. Isaac's thereafter served as the Chief of the Criminal Division of the City of Los Angeles City Attorney's Office for six years, overseeing 300 criminal prosecutors. In that capacity, he was responsible for bringing a wide range of innovative criminal and civil enforcement actions under state and local laws against both individuals and corporations, and worked closely with local police forces, the Sheriff's Department, the Los Angeles District Attorney's Offices, the California Attorney General's Office and other law enforcement agencies and prosecutor's offices.

Upon leaving the City Attorney's Office, Mr. Isaacs founded Isaacs | Friedberg with Jerry Friedberg, a colleague from his days in the U.S. Attorney's Office. As a private practitioner, he has handled numerous state and federal criminal and civil cases, representing public and private individuals and individuals, and has conducted internal investigations involving a variety of organizations.

2. Jerome H. Friedberg

Mr. Friedberg worked in the public sector for five and a half years as an Assistant U.S. Attorney in the Los Angeles USAO. He has extensive experience in conducting investigations of alleged criminal activity and has led investigations of alleged criminal misconduct on behalf of a prominent university and the executive office of a nationwide fraternity, among others. He has also represented defendants, subjects and witnesses in public corruption investigations and ethics commission inquiries, some of which have received widespread attention in the

media. He has represented public entities in a wide variety of disputes, including disputes involving allegations of bribery and extortion involving public officials.

3. *Margarette Mow*

Margarette Mow has over 15 years of experience as a criminal defense attorney. She has investigated several cases involving white collar crime. She has successfully litigated felony and misdemeanor criminal cases of individuals charged with crimes in both state and federal courts.

In addition, Ms. Mow worked with Mr. Friedberg in investigating allegations of sexual assault of university students by the past chapter president of a national fraternity and on a federal case involving an individual alleged to have coordinated the payment of bribes to an elected city official.

4. *Amy Yeh*

Amy Yeh is a graduate of Harvard Law School and an experienced litigator, who has handled extremely sophisticated litigation in both state and federal courts. Her practice focuses on white collar criminal defense and complex civil litigation matters, and she has represented clients in a broad range of matters, including financial institution fraud, money laundering, wage theft, healthcare fraud, environmental crimes, civil and criminal RICO cases and actions under the False Claims Act.

Ms. Yeh also has experience counseling businesses in developing and implementing strategies to resolve complex legal issues, both before and after litigation. She has provided advisory services to businesses, from individual entrepreneurs to multinational corporations, on a wide array of legal matters, including internal investigations, due diligence and corporate governance and compliance issues.

Investigation Strategy

Councilman Wagner's primary allegations of misconduct involving Malibu city officials are (1) the alleged attempt by a contractor to bribe him in connection with a city construction project, and (2) the allegedly improper approval of a crosswalk by city staff acting under the direction of the City Manager, which he suggests was part of a larger arrangement leading to the amendment of the Malibu City Manager's contract. In order to investigate these allegations, it will be necessary to obtain the relevant documents and then interview the witnesses likely to have pertinent information.

With respect to the alleged bribe, the relevant documents include: (a) any documents reflecting Councilman Wagner's alleged discussion with the Malibu City Attorney regarding the bribe, including the documents he allegedly provided to

the Malibu City Attorney which identified the vendor who attempted to bribe him, (b) documents reflecting any investigation into these allegations conducted the Malibu City Attorney's office, (c) minutes or other records reflecting the City

Council's vote on any contracts involving the vendor, including documents reflecting any recommendations to the City Council, (d) records reflecting the City's customary process for selecting vendors for construction projects, including the criteria applied in the selection process, and (e) records reflecting any competing bids by other vendors for the construction job in issue. Other records may also be relevant, particularly if we cannot readily identify the vendor who allegedly attempted to bribe Councilman Wagner. However, we recommend a targeted search for relevant records in order to limit costs and ensure that the investigation is completed in a timely fashion.

The relevant interviews should include: (a) Councilman Wagner, (b) the Malibu City Attorney, (c) persons affiliated with the vendor who allegedly offered to bribe Councilman Wagner, and (d) members of the City Council and others who were involved in the decision of whether to select the vendor for the construction project.

With respect to Councilman Wagner's allegations regarding the approval of the crosswalk and the amendment of the City Manager's contract, the relevant documents include: (a) records pertaining to the City's approval of the crosswalk in issue, (b) records which set forth the typical approval process for the addition of crosswalks, including the circumstances under which approval from the Malibu Planning Commission, the Malibu Public Works Commission and/or the Malibu City Council is required and the showing ordinarily required to obtain approval, (c) records relating to the negotiation and approval of the amendment to the Malibu City Manager's contract, including minutes or other records reflecting to the City Council's vote on the contract, and any recommendations made to the City Council, (d) handbooks or guidelines setting forth any pertinent legal or ethical standards that would apply to the City Manager and the City Manager's staff.

The relevant interviews would likely include: (a) Councilman Wagner, (b) the Mani brothers, who allegedly pushed through the addition of the crosswalk, (c) city officials and staff members involved in the decision to approve the crosswalk, (d) city officials and others involved in the negotiation and approval of the City Manager's amended contract, and any decision to recommend the amended contract to the City Council, (e) the City Manager, and (f) members of the City Council who voted to approve the City manager's contract. Wherever possible, members of the city council and others would be interviewed only once, with the interview covering all pertinent topics.

After concluding our investigation, the Firm would be pleased to prepare a report setting summarizing the investigation, and setting forth its findings and recommendations.

Billing Rates

The Firm has substantially discounted its rates for this matter. The Firm's proposed hourly billing rates in this matter are as follows:

- Jerome Friedberg and Jeffrey Isaacs:.....\$550 per hour (discounted from \$700 per hour)
- Other Partners:.....\$400 per hour (discounted from \$500 per hour)
- Margarett Mow:.....\$350 per hour (discounted from \$425 per hour)
- Amy Yeh:.....\$350 per hour (discounted from \$425 per hour)
- Other Of Counsel:.....\$350 per hour (discounted from \$425 per hour)
- Associates:.....\$250 - \$350 per hour (discounted from \$325-\$400 per hour)
- Paralegal:.....\$150 per hour
- Legal Clerk:.....\$100 per hour.

No Conflict

The Firm has never represented Jefferson Wagner and has confirmed that it would not have a conflict of interest in representing the City of Malibu in this matter.

Heather Glaser
City Clerk
February 22, 2021
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Conclusion

Isaacs | Friedberg would welcome the opportunity to conduct an independent investigation into Councilman Wagner's allegations on behalf of the City of Malibu. Please do not hesitate to contact me with any questions, or if you require additional information about our Firm or our proposed approach to this investigation. I can be reached at (310) 880-8860 or jfriedberg@ifcounsel.com.

Yours truly,

ISAACS | FRIEDBERG LLP



Jerome H. Friedberg, Esq., Partner

cc: Jeffrey B. Isaacs, Esq.
Margarette Mow, Esq.
Amy Yeh, Esq.

EXHIBIT A

Jeffrey B. Isaacs



Partner

JIsaacs@ifcounsel.com

213-929-5533

Jeffrey Isaacs' practice focuses on a broad array of complex civil, and criminal and regulatory matters. His clients have included government entities, publicly-traded corporations, privately-held businesses, unions, executives, licensed professionals, athletes and entrepreneurs.

As an Assistant U.S. Attorney in the Los Angeles U.S. Attorney's Office, Mr. Isaacs prosecuted cases of national and international significance involving financial institution, securities, healthcare, pension, insurance and tax fraud, cybercrime, racketeering, public corruption and money laundering. In addition to securing many notable convictions, he recovered close to \$1 billion in criminal fines and victim restitution, and received commendations from federal, state and local law enforcement agencies for this work. In the *Credit Lyonnais* case, he headed a six-year investigation that led to the prosecution of a French state-owned bank, its present and former Chairmen, and other senior bank officials for fraud involving Executive Life Insurance Company, in which he obtained corporate and individual convictions and a record \$775 million in criminal settlements.

During his career as an Assistant U.S. Attorney, Mr. Isaacs served as:

- Deputy Chief of the Major Frauds Section
- Special Attorney to the Attorney General to prosecute corruption in Arizona
- Securities Fraud Coordinator
- Financial Institution Fraud Coordinator
- Pension and Benefit Plan Fraud Coordinator.

Immediately prior to co-founding the firm, Mr. Isaacs served as the Chief Assistant City Attorney for the City of Los Angeles. In that position, he supervised the 300-attorney Criminal Division and built the premier public affirmative litigation unit in the state. During his six-year tenure, the unit obtained multi-million dollar recoveries for the City in a number of high profile cases involving homeless patient dumping, unlawful health insurance rescissions, hazardous waste disposal, wage theft, false advertising and bank owned foreclosed nuisance properties.

Representative Matters

- Investigation and prosecution of \$1.5 billion fraud relating to 1990 takeover of MGM Studios; conviction of former MGM Chairman; pending extradition of former MGM President from Italy upheld by Italian Supreme Court.

Awards & Distinctions

- America's Top 100 Criminal Defense Attorneys, 2020
- 10 Best Criminal Law Attorneys for Client Satisfaction by the American Institute of Criminal Law Attorneys, 2018-2020
- Chambers USA, 2018 - 2020
- Top Lawyers in California, The Legal Network, 2017 - 2020
- Top Attorneys in Southern California, Selected by Peer Recognition and Professional Achievement as Published in Los Angeles Magazine, 2016 - 2020
- Southern California "Super Lawyers," 2006, 2007, 2008, 2009, 2016, 2017, 2018, 2019, 2020, 2021
- Honored as one of the "Attorneys of the Year" by California Lawyer, 2009
- Selected as one of the "Top 100 Lawyers in California" by Daily Journal, 2008
- Twice awarded prestigious Department of Justice Director's Award for superior performance as a federal prosecutor
- Former lecturer at U.S. Department of Justice National Advocacy Center and the FBI Academy at Quantico, Virginia
- Instructor at the University of California at Los Angeles School of Law, Grand Jury Practice and Procedure
- Profiled in 2009 California Lawyer article, "Coverage in Tatters," highlighting success in combating the practice of unlawful rescission of health insurance policies in California.

Education

- J.D., University of Southern California, Gould School of Law, Los Angeles, California, 1984
- A.B., Colgate University, Hamilton, New York, 1980

- Investigation and prosecution of former Arizona Governor Fife Symington, III for bank fraud and extortion; conviction following 3-month jury trial.
- Investigation and prosecution of investment company executives for securities fraud and international money laundering; convictions of two former company presidents following 10-week jury trial.
- Successfully represented defendant in what the Los Angeles District Attorney's Office had termed the largest healthcare fraud prosecution in California, resulting in the dismissal of nearly all charges against the defendant and a sentence of time-served.
- Successfully represented a large hospital system in complex civil litigation against a health plan involving over 40,000 claims for medical services, including emergency services and alleged post-stabilization care rendered to members of a non-contracting health plan. The hospital system's alleged compensatory damages were approximately \$160 million.
- Successfully represented a chain of mental health outpatient treatment centers in Southern California in an action for breach of contract, insurance bad faith, violations of the California Unfair Competition Law, violations of the Unruh Act and equitable relief against medical groups and plan providers. He also represented the outpatient treatment centers against the California Department of Managed Health Care in a Writ of Mandate action for routinely violating and disregarding deadlines set by law for the processing of urgent appeals of denials of mental healthcare coverage.
- Successfully represented owners of pharmacies, compounding pharmacies and related entities and individuals in several criminal, civil and administrative proceedings, achieving a number of highly favorable results.
- Successfully represented future hall of fame football player in litigation against nationally known bank and securities firm, in action alleging civil RICO, fraud and related claims.
- Investigation and prosecution of real estate company president for securities, mail and bankruptcy fraud involving misappropriation of \$40 million from thousands of elderly victims; conviction following 12-week trial.
- Investigation and prosecution of top executives of insurance service provider for benefit plan fraud, illegal kickback payments, and money laundering; convictions of President, Vice-President and Chief Financial Officer following 10-week jury trial.
- Investigation and prosecution of civil False Claims Act litigation by the City of Los Angeles against the world's largest plastic and PVC pipe manufacturer.
- RICO prosecution of massive loan fraud scheme that artificially inflated real estate values in two densely populated Southern California regions; 20 convictions, including real estate brokers, mortgage bankers, attorneys, appraiser and escrow officers.
- Prosecution of executives and sales force of large Orange County boiler room operation for selling worthless precious metals investments to the public; convictions of Chairman and top salesman following 8-week jury trial.
- Defense of General Dynamics and senior executives against fraud charges relating to development of advanced mobile gun system; pretrial dismissal of all charges, Senate resolution apologizing to company and executives, and recovery of attorney's fees from government.
- Defense of Sears Roebuck against fraud charges relating to alleged dumping of Japanese televisions; pretrial dismissal of all charges.

Jerome H. Friedberg



Partner
JFriedberg@ifcounsel.com
213-929-5541

Jerry Friedberg is a former Assistant U.S. Attorney in Los Angeles. His practice focuses on white collar criminal defense and complex civil litigation. Mr. Friedberg represents government entities, publicly-traded corporations, pension plans, corporate officers and directors, former public officials and high-level executives and professionals in the financial, medical, healthcare and real estate fields. His international representation has included clients hailing from Belgium, Brazil, Canada, China, France, Japan, the Netherlands and Sweden.

During his tenure as an Assistant U.S. Attorney of the Los Angeles U.S. Attorney's Office, Mr. Friedberg successfully tried cases involving both violent and white collar offenders. He directed a two-year undercover investigation of an outlaw motorcycle gang which resulted in over fifty convictions and was chronicled in a New York Times best-selling book, receiving commendations from federal and state law enforcement agencies for this work.

In private practice since 2000, he has litigated civil RICO, federal and state False Claims Act, financial institution fraud, unfair business practices and business tort cases. His over 30-year practice has included criminal and civil healthcare litigation, securities, antitrust, trade secrets, insurance, environmental. In addition, he has successfully argued multiple appeals before the Ninth Circuit Court of Appeals and the California Court of Appeal.

Mr. Friedberg previously served as the National co-chair of the Healthcare Fraud Subcommittee of the American Bar Association's Litigation Section's Criminal Litigation Committee.

Representative Matters

- Obtained defense verdict after a six-week civil jury trial on claim for more than \$10 million in damages by construction general contractor, and obtained multimillion verdict on cross-complaint for fraud and False Claims Act violations on behalf of client government agency.
- Represented health plan in arbitration against hospital in complex payment dispute; defended plan against hospital's claim that the plan had violated the California False Claims Act.
- Successfully represented health plan in Medi-Cal payment dispute against hospital chain, obtaining summary judgment on plaintiffs' claims for over \$100 million and affirmance on appeal.

Awards & Distinctions

- America's Top 100 Criminal Defense Attorneys, 2020
- International Advisory Experts Award, Litigation Law Award Winner in California, 2020
- *Los Angeles Business Journal*, Nominee for Leaders in Law Award, 2018 - 2019
- Best of the Best, 2015 - 2020
- America's Most Honored Professionals, Top 1%, 2016 - 2020
- Top Lawyers of Southern California, Selected by Peer Recognition and Professional Achievement as Published in Los Angeles Magazine, 2013 -2020
- Southern California "Super Lawyers" in 2008 - 2021
- Selected as one of the Top Attorneys in Southern California for 2013, 2015 - 2020 by Los Angeles Magazine
- Lawyers of Distinction, 2017-2021
- "AV" highest possible rating from Martindale-Hubbe
- Outstanding Pro Bono Attorney of the Year Award from the Disability Rights Legal Center
- Wiley W. Manuel Award for pro bono legal services from the Board of Governors of the State Bar of California
- Extensive [interview on white collar crime](#) featured in Smart Business

Legal Publications

"U.S. v. Houser: Bellwether for Civil FCA Theories in Criminal Prosecutions?," *American Bar Association Section of Litigation*, Vol. 14 No. 3, pp. 8-10, 2014; (read [PDF](#) or on americanbar.org)

Education

- J.D., University of California at Berkeley, Boalt Hall School of Law, 1986
- Graduated Order of the Coif (top 10% of graduating class)
- B.A., University of California at Santa Barbara, 1982

- Successfully represented a convalescent hospital in a False Claims Act investigation conducted by the Department of Justice and the California Bureau of Medi-Cal Fraud and Elder Abuse.
- Successfully represented medical devices company in federal criminal investigation alleging FDA violations in use of medical devices; no charges were filed.
- Obtained probation for physician CEO of Knox-Keene licensee indicted for alleged Medi-Cal fraud and related crimes.
- Obtained probation for healthcare worker who admitted participating in multi-million dollar fraud related to the provision of home health services.
- Successfully represented Knox-Keene licensee in multi-million dollar payment dispute against two hospital chains.
- Successfully represented county in False Claims Act litigation against nationally known data records and management company.
- Obtained dismissal of antitrust action filed against well-known apparel retailer.
- Successfully represented French national in largest parallel criminal and civil proceedings in the history of the Central District of California. No criminal charges were filed against the client; the civil case against him was dismissed for a nominal settlement.
- Part of litigation team that obtained \$14 million arbitration award for Public Agency.
- Part of litigation team that represented high-level manager of supermarket chain that was indicted for federal offenses arising from activities conducted during a grocery worker's strike; the manager was acquitted following a month-long jury trial.
- Obtained dismissal of civil claims stemming from the acquisition of business for more than \$50 million.
- Successfully represented lead defendants in case alleging securities violations, fraud and related torts arising from sale of more than \$30 million in real estate interests.
- Obtained defense verdict and prevailed on cross-complaint after three-week jury trial in case involving competing allegations of fraud with respect to a closely held corporation.
- Successfully prosecuted civil RICO action, obtaining recovery in excess of victim's total losses.
- Part of the defense team that successfully represented the owner of the Angeles Major League Baseball team in litigation that arose when the team changed its name to the Los Angeles Angels of Anaheim.

ISAACS | FRIEDBERG

CIVIL AND CRIMINAL LITIGATORS

Margarette Mow



Of Counsel
MMow@ifcounsel.com
213-929-5538

Margarette M. Mow is an accomplished lawyer with over fifteen years of professional experience in criminal law. Ms. Mow was raised in Los Angeles and is fluent in English and Spanish.

As a criminal defense attorney, Ms. Mow is extremely passionate about her work. She has successfully defended clients who have been charged with felony and misdemeanor crimes in federal and state courts. In defending immigrants, Ms. Mow has been able to avoid adverse immigration consequences that can stem from convictions deemed aggravated felonies and/or crimes of moral turpitude by federal immigration courts. Ms. Mow has won several complex post-conviction relief motions which have allowed her immigrant clients to receive relief in immigration court and avoid removal (formerly deportation) from their home in the United States.

Ms. Mow has successfully represented college students facing University-led investigations and disciplinary actions. She has also represented a national fraternity in conducting an internal investigation involving allegations of sexual harassment and assault.

Since 2017 Ms. Mow has served as a Judge Pro Tem for the Los Angeles Superior Court. She has also been a legal commentator on Nancy Grace, Prime Justice with Ashleigh Banfield, CNN/HLN, Dr. Drew's Midday Live, iHeart Media, Univision America Network, Telemundo Chanel 52 News and Telemundo Responde.

Education

- J.D., University of La Verne College of Law, 2005
- B.A., California State University, 2002

Amy Yeh



Of Counsel
AYeh@ifcounsel.com
213-929-5557

Amy Yeh's practice focuses on federal and state white collar criminal defense and complex civil litigation matters. Ms. Yeh has represented clients in a broad range of matters, including healthcare fraud, environmental crimes, financial institution fraud, money laundering, wage theft, civil and criminal RICO cases, actions under the False Claims Act, forfeiture actions, commercial contract and real estate disputes, intellectual property issues, breach of fiduciary duties, unfair competition, insurance coverage disputes and toxic torts.

Ms. Yeh also has experience counseling businesses in developing and implementing strategies to resolve complex legal issues, both before and after litigation. Ms. Yeh has provided advisory services to businesses, from individual entrepreneurs to multinational corporations, on a wide array of legal matters, including corporate governance and compliance issues, commercial real estate acquisitions, landlord-tenant matters and contract disputes.

Ms. Yeh has previously practiced at the Los Angeles offices of two international law firms: Morgan, Lewis and Bockius and Skadden, Arps, Slate, Meagher & Flom. She has also worked at a boutique law firm specializing in real estate litigation and counseling. While in law school, she clerked for the U.S. Attorney's Office in Boston and the Los Angeles District Attorney's Office and represented indigent defendants in criminal matters through the Harvard Defenders and Criminal Justice Institute.

Education

- J.D., Harvard Law School, 2003
- B.A., University of California, Berkeley, 2000, High Distinction

Awards & Distinctions

- "Southern California Rising Stars"
2015 – 2018
- Top Attorneys: Outstanding
Young Women Lawyers in
Southern California 2018.

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MICHAEL G. FREEDMAN
ELIZABETH S. LITTLE
MEHRUNISA RANJHA
JACQUELINE M. SPARAGNA ***
KIMBERLY E. BARRETO

* CERTIFIED SPECIALIST — APPELLATE LAW
THE STATE BAR OF CALIFORNIA
BOARD OF LEGAL SPECIALIZATION
** ADMITTED IN CALIFORNIA AND ILLINOIS
*** ADMITTED IN CALIFORNIA AND WASHINGTON D.C.

February 22, 2021

To: Heather Glaser, City Clerk
City of Malibu
hglaser@malibucity.org

From: Caleb Mason, Werksman Jackson & Quinn, LLP
cmason@werksmanjackson.com

Re.: Request for Proposals, Investigation Re. Councilmember Wagner Affidavit

Dear Ms. Glaser,

I write in response to your Request for Proposals for an independent investigation of allegations made by former City Council member Jefferson Wagner in his affidavit dated December 12, 2020. Werksman Jackson & Quinn, LLP (“WJQ”) proposes to investigate the allegations made in Mr. Wagner’s affidavit, and prepare a report on its findings, for an initial retainer of \$250,000, and at 75% of our regular hourly rates.¹ While it is impossible to provide a definitive timetable for completion of an investigation, because it is impossible to know in advance where the facts may lead, WJQ believes that the investigation and report would likely be completed within six months.

¹ Our regular hourly rates are as follows: Mark Werksman, \$1100/hr; Alan Jackson, \$1100/hr; Caleb Mason, \$850/hr; Josh Ritter, \$850/hr; Michael Freedman, \$850/hr.

SCOPE OF WORK

We will complete a thorough, timely, and professional investigation, conducted just as we would conduct it at the prosecutorial agencies where we were trained. The investigation will focus on the allegations that individuals offered financial and other valuable inducements to City officials in exchange for favorable treatment by the City, as set forth in Council member Wagner's affidavit. The investigation will include conducting voluntary interviews with all involved and related individuals; reviewing all relevant reports, documents, and communications in the possession of the City and voluntarily produced by interview subjects; obtaining and reviewing all available public records; and preparing a comprehensive report synthesizing our factual findings and, if the client desires, legal analysis on particular issues as specified by the client.

KEY PERSONNEL

Our partners Mark Werksman, Alan Jackson, Caleb Mason, Joshua Ritter, and Michael Freedman will conduct and supervise all aspects of the investigation, including interviews, document review and analysis, and drafting, utilizing our team of associates and investigators in appropriate support roles.

The biographical details of each of the partners can be found on the WJQ website, and are attached here for review as **Attachment A**. Mr. Werksman is a former Deputy District Attorney in the Los Angeles County District Attorney's Office and an Assistant United States Attorney in the Central District of California. He has been Managing Partner of WJQ since 1994. Alan Jackson is a former Assistant Head Deputy of Major Crimes in the Los Angeles County District Attorney's office, and was a candidate for District Attorney in the 2012 election. He is also an adjunct professor at Pepperdine Law School. Caleb Mason is a former Assistant United States Attorney in the Southern District of California, and is a Judge Pro Tempore in the Los Angeles County Superior Court, and a Commissioner on the City of Claremont Police Commission. Josh Ritter is a former Los Angeles County Deputy District Attorney who was named Outstanding Prosecutor of the Year in 2015. Michael Freedman is a former Assistant United States Attorney. Collectively, the WJQ partners have more than a century of legal practice, including hundreds of investigations, trials, and appeals involving all areas of the law.

RELEVANT FIRM EXPERIENCE

We have extensive experience with conducting internal investigations, and prosecuting and defending cases of alleged public corruption. Examples include:

- Councilmember alleged to have violated conflict-of-interest laws in connection with vote.
- Internal investigation of media leaks at large corporation.
- Public employee union and union official investigated for alleged improper campaign activities.
- Public employee union alleging political retaliation by city.
- Internal investigation of environmental compliance issues for large corporation.
- Chief of staff of prominent politician, accused of participating in bribery scheme.
- Family member of prominent politician, accused of participating in bribery scheme.
- Lobbyist alleged to have bribed councilmember.
- Corruption investigation of TSA agents at LAX.
- Corruption investigation of LA Sheriff's Department deputies.
- DHS agent accused of taking bribes.
- Police officers charged in JSID investigation.
- Business executive accused of corruption and bribery scheme with foreign government.
- Scientific researchers accused of corruption in connection with government research grants.
- Numerous public figures and celebrities accused of misconduct.

We have handled many high-profile cases involving public figures and media scrutiny. We have well-established protocols for handling large, document-intensive investigations and maintaining the confidentiality of sensitive materials. And we have a network of investigators, retired law-enforcement personnel with whom we have worked for years, who support our investigations diligently, reliably, and discretely.

Finally, we can perform this work in a more efficient and cost-effective manner than could a large national firm, because we will devote our partner-level resources directly to the investigation and report. We will plan on being available to appear at the March 8, 2021 City Council meeting to address any questions the Council may have. And we are available at the Council's convenience to answer any questions the Council may have in advance of the meeting. I have enclosed a draft retainer with detailed proposed terms as **Attachment B**.

I look forward to hearing from you. I can be reached by phone and email as set forth below.

A handwritten signature in cursive script that reads "Caleb Mason".

Caleb Mason
Partner
Werksman Jackson & Quinn LLP
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Los Angeles CA 90017
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www.werksmanjackson.com

ATTACHMENT A

Partner Biographies



[Home](#) » [Attorneys](#) » Mark Werksman

Mark Werksman | Managing Partner

ABOUT

Criminal Defense Attorney Mark J. Werksman is a former Deputy District Attorney and former Assistant United States Attorney who has been practicing criminal law since 1986.

Mark has successfully represented numerous high-profile individuals from all walks of life, including the entertainment industry and professional sports, as well as leaders in the business community and major multi-national corporations. When faced with potential criminal consequences, whether in the investigation stage or if charges have already been brought, the "go-to" attorney is Mark Werksman.

EDUCATION



University of Southern California Law Center, Los Angeles, California | J.D. - 1985



Yale University | B.A. - 1981

AWARDS & MEMBERSHIPS

Honors and Awards

- Rated AV by Martindale-Hubbell (the highest possible rating for ethical standards and legal ability)
- Selected by Super Lawyers in the field of white collar criminal defense, 2005 - 2017

Professional Associations and Memberships

- American Bar Association
- Los Angeles County Bar Association
- State Bar of California, Executive Committee Criminal Law Section, 1991 - 1994
- National Association of Criminal Defense Lawyers
- California Attorneys for Criminal Justice

BAR ADMISSIONS

- U.S. District Court Central District of California, 1985
- U.S. District Court Northern District of California, 1993
- U.S. District Court District of Arizona, 1997
- U.S. District Court Eastern District of California, 1999
- U.S. District Court District of Colorado, 2010
- U.S. District Court Eastern District of New York, 2010
- U.S. Court of Appeals 9th Circuit, 1985

RECENT CASE RESULTS

- **Complete Dismissal of Molestation Charges**

Attorney Mark Werksman's 29 year old client was falsely accused of molesting two neighborhood children and was subsequently charged with felony child molestation, with a significant prison sentence hanging over his head should he be convicted. Instead, at the preliminary hearing Werksman was able to convince the court to grant his client a complete dismissal of any charges.

- **Not Guilty on All Counts for Corruption Charge**

Longtime Los Angeles lobbyist and a former Los Angeles City Council aide, along with his wife, were accused of corruption in an alleged scheme to help an elected official siphon thousands of dollars in public money for their own personal use. After a very difficult trial and more than two days of deliberation, jurors found Mark's client not guilty on all counts.

- **Probation with No Jail Time for Drug Money Laundering Charge**

Wilmington man accused in New York federal court of laundering drug money through the sale

of laptop computers. Mark was able to get the case transferred to federal court in Los Angeles, where he convinced the United States Attorney to reduce the charges. His client was sentenced to probation with no jail time on a misdemeanor conviction.

■ **No Conviction for Hacking U.S. Government Computers Charge**

Burbank man accused of hacking into sensitive United States Government agency computers. Facing serious federal felony prosecution. Mark persuaded the government to allow the young man to have a pre-filing "diversion" agreement, which means he will not be convicted of any offense or have a criminal record of any sort.

■ **No Prosecution for Securities Fraud Charges**

Los Angeles securities trader and hedge fund manager facing federal prosecution for securities fraud. If indicted, he would have been stripped of his securities licenses and was facing five years in a federal prison. Mark convinced the United States Attorney's office to decline prosecution. Case closed.

[+ More Case Results](#)

FEATURED ON:





[Home](#) » [Attorneys](#) » Alan Jackson

Alan Jackson | Partner

ABOUT

Alan Jackson is one of the country's most sought-after criminal defense attorneys. A former prosecutor and Assistant Head Deputy for the Major Crimes Division at the Los Angeles County District Attorney's Office, Alan tried some of California's most consequential criminal cases, including prosecuting the murder case against music legend, Phil Spector. Because of that experience, Alan understands criminal cases from every angle. He has tried more than 85 cases to jury verdict with a career success rate of 96 percent, and he was named one of California's Top 100 Lawyers in 2009. Alan specializes in high-stakes criminal cases that demand the absolute best.

Alan recently won the exoneration of a high-profile Venice Beach hotel owner accused of murder. The case garnered national attention because of the rising tensions between the homeless population and the surrounding businesses. In a stunning turn of events, Alan won his client's freedom not at trial, but at the *preliminary hearing*, an almost unheard of feat.

Just a few months before, Alan was called upon by a foreign royal family to represent an heir who was accused of rape and other sex crimes. After an exhaustive investigation by Alan and his trial team, he presented his findings to the District Attorney's office which rejected all criminal charges.

Alan is also in high demand as a legal analyst who regularly makes guest appearances on national news programs discussing the latest issues in criminal law. Alan's client list includes Hollywood actors, NBA stars and other professional athletes, billionaire investors, corporate CEOs and foreign royal family members. Alan is constantly called upon to lead his trial team in "must win" criminal cases.

Alan is a veteran of the U.S. Air Force, where he served honorably as a jet engine mechanic. He is also an adjunct professor of law at Pepperdine University Law School and Loyola Law School.



Kevin Spacey and his attorney Alan Jackson

The Boston Globe

Here's what you need to know about Kevin Spacey's lawyer, Alan Jackson

By Sarah Wu, Globe Correspondent, July 9, 2019, 12:20 p.m.



Photo: JOSEPH PREZIOSO/AFP/GETTY IMAGES

Alan Jackson, a veteran attorney based in Los Angeles, has a track record of winning his cases, as a prosecutor and as a criminal defense lawyer.

Jackson's courtroom skills were on display Monday in a Nantucket hearing, where he aggressively defended Hollywood star Kevin Spacey, who has been accused of sexual assault. The bearded, sharply dressed lawyer could soon notch another victory – the case against Spacey appears to be in jeopardy.

[Read More](#)

IN THE NEWS

■ **April 7, 2020 - Los Angeles Times**

Sex-Abuse Case Dismissed Against Naason Joaquin Garcia, leader of La Luz del Mundo. [Read More](#)

■ **April 7, 2020 - New York Times**

The case against Naason Joaquin Garcia, leader of La Luz del Mundo, was dismissed. [Read More](#)

■ **April 7, 2020 - BBC**

Alan Jackson represented Naason Joaquin Garcia, a leader of a Mexico-based Megachurch, accused of sex-abuse crimes. [Read more](#)

■ **April 7, 2020 - Washington Post**

In a case that garnered international attention, Alan Jackson represented a revered Megachurch leader accused of sex crimes. [Read more](#)

■ **September 23, 2019 - U.S. News**

Alan Jackson and his legal team appear in court for Naason Joaquin Garcia, leader of La Luz del Mundo. [Read More](#)

■ **July 17, 2019 - Daily Mail**

A\$AP Rocky's Congressman Urges Us State Department to Do More to Get Rapper Released from Swedish Jail [Read More](#)

■ **July 17, 2019 - USA Today**

Kevin Spacey Criminal Groping Case Dropped by Prosecutors Due to Accuser's 'Unavailability' [Read More](#)

■ **July 17, 2019 - CBS News**

Criminal Charges against Actor Kevin Spacey Have Been Dropped in Nantucket Trial [Read More](#)

■ **July 17, 2019 - Boston Magazine**

Prosecutors Drop Kevin Spacey Nantucket Assault Case [Read More](#)

■ **July 17, 2019 - Vanity Fair**

Kevin Spacey's Criminal Case Has Been Dismissed [Read More](#)

■ **July 17, 2019 - Washington Post**

Prosecutors Drop Criminal Case against Kevin Spacey [Read More](#)

■ **July 17, 2019 - Reuters**

Prosecutors Drop Sex Assault Case against Actor Kevin Spacey [Read More](#)

■ **July 17, 2019 - Los Angeles Times**

Kevin Spacey Charges: Prosecutors Drop Groping Case [Read More](#)

■ **July 17, 2019 - NPR**

Prosecutors Drop Criminal Charges Against Actor Kevin Spacey In Sexual Assault Case [Read More](#)

■ **July 17, 2019 - Huffpost**

Kevin Spacey Groping Case Dropped By Massachusetts Prosecutors [Read More](#)

■ **July 17, 2019 - NBC News**

Massachusetts Prosecutors Drop Sex Assault Case against Actor Kevin Spacey [Read More](#)

■ **July 17, 2019 - ABC News**

Sex Assault Charge Dropped against Actor Kevin Spacey [Read More](#)

■ **July 17, 2019 - CBS Boston**

Prosecution Drops Groping Case Against Kevin Spacey In Nantucket [Read More](#)

■ **July 17, 2019 - CNN**

Charge against Kevin Spacey Dropped after Alleged Victim Pleads the 5th [Read More](#)

■ **July 17, 2019 - NY Times**

Prosecutors Drop Sexual Assault Case Against Kevin Spacey [Read More](#)

■ **July 17, 2019 - CNBC**

Prosecutors Drop Groping Case against Actor Kevin Spacey after Accuser Becomes Unavailable [Read More](#)

■ **July 9, 2019 - The Boston Globe**

The Boston Globe profiled attorney Alan Jackson in a recent article. Read more to see some highlights of Mr. Jackson's career, including his work in the defense of Kevin Spacey. [Read More](#)

■ **July 8, 2019 - ABC News**

Kevin Spacey's accuser pleaded his Fifth Amendment right partway through questioning by Alan Jackson. Mr. Jackson asked for an immediate dismissal of the felony sexual assault charges brought upon Mr. Spacey. [Read More](#)

■ **July 5, 2019 - The New York Times**

Justin Gimelstob, former ATP Player Council president, is being represented by Alan Jackson following a charge of felony battery. His relationship with current president Novak Djokovic and other players has been causing contention at this year's Wimbledon tournament. [Read More](#)

■ **June 10, 2019 - Daily Mail**

A British billionaire, known for involvement in successful retail chains such as TopShop, has recruited Alan Jackson as his defense attorney against allegations of groping a Pilates instructor in 2016 and 2018. [Read More](#)

■ **June 5, 2019 - The Sun**

British businessman Sir Philip Green has hired Alan Jackson to represent him in the US after being charged with assaulting an Arizona woman. Mr. Green "denies any inappropriate misconduct." [Read More](#)

■ **June 3, 2019 - Boston Herald**

At a pretrial hearing, Alan Jackson argued that state attorneys have hidden evidence in the groping case against his client, Kevin Spacey. Mr. Jackson has requested to obtain the defendant's cell phone, in order to access allegedly deleted text messages. [Read More](#)

■ **June 3, 2019 - Wall Street Journal**

Alan Jackson's client, Kevin Spacey, made an appearance at a pretrial hearing in Nantucket, Massachusetts. The actor has pleaded not guilty to a charge of indecent assault and battery from an incident that occurred at a bar in 2016. [Read More](#)

■ March 4, 2019 - USA Today

Attorney Alan Jackson is representing Kevin Spacey, who is accused of sexually assaulting a busboy in 2016. Mr. Jackson was recently granted expanded access to the accuser's cellphone data concerning Mr. Spacey for the time period following the alleged assault. [Read More](#)

RECENT CASE RESULTS

- Alan Jackson recently defended a 22-year-old Bakersfield man accused of first degree murder in the 2015 stabbing death of his brother. Alan and his team took over the case on the eve of trial, and announced ready in 90 days. Notwithstanding the short time for preparation, Alan's team undertook an exhaustive investigation, which revealed that the tragic death was in self-defense. During the trial, Alan's vigorous and relentless cross-examination of the prosecution's two main witnesses established that they were actually complicit in viciously attacking Alan's client, which attack led to the decedent's death. That revelation resulted in both prosecution witnesses invoking their 5th Amendment privilege against self-incrimination on the stand, refusing to answer further questions. The prosecution's case quickly crumbled and the DA dismissed the murder charges. Alan's client, previously facing life in prison, walked out of court with probation with no time in jail. Case over.
- Alan Jackson and Elizabeth Little recently took over the defense of a young speech therapist who, under prior counsel's representation, had been ordered by a court to pay a staggering \$1,066,708.64 in restitution to the victim of a DUI hit-and-run collision, who falsely claimed debilitating injuries to his neck and back. Based on information uncovered through an exhaustive and thorough investigation, Alan and Elizabeth presented evidence that established that the complaining witness grossly exaggerated his claims of injury and wage loss, prompting the court to vacate its original order and set a new restitution hearing. At that hearing, Alan undertook a withering multiple-day cross-examination of the complaining witness, which damaged the witness's credibility so thoroughly that the court rejected his testimony entirely. The result was that the court ordered Alan and Elizabeth's client to pay a mere \$4,770, saving her more than \$1 million.
- Alan Jackson's client, a commercial real estate owner with extensive holdings, was criminally charged by the Los Angeles City Attorney for multiple violations of city municipal codes based on tenant medical marijuana dispensary's alleged violations of city regulations. Based on a complaint filed by the City Attorney, Alan's client faced more than a year in jail and tens of thousands of dollars in fines. Alan and his team aggressively fought the charges, and following extensive legal and factual evaluation, exposed significant legal problems with the City Attorney's case. After meeting with Alan and being presented with his arguments, the City Attorney dismissed all charges against his client. Proceedings terminated.
- Alan Jackson recently fought for and won his client's freedom after being falsely accused of murder. Following a month-long preliminary hearing, Alan Jackson's client, Venice Beach hotel owner, was exonerated when a superior court judge dismissed all charges against him. The nightmare for Alan's client, a prominent Venice community leader, came to an end after Alan and

broke down the government's key witnesses on cross-examination and then he and his team presented their own witnesses to counter the false allegations. Alan and his trial team are also noted for their recent representation of a Saudi Arabian prince, who last summer was fully exonerated of rape charges.

- Alan Jackson recently defended an NBA player facing serious domestic violence accusations. As a result of Alan's early, vigorous and tenacious representation (including a thorough independent investigation), Alan was able to convince the prosecutor to reject criminal charges against his client. Case closed.
- A foreign royal family member was arrested by LAPD in September 2015 and accused of sexual assault at his Beverly Hills area mansion. From the beginning Alan's client maintained his innocence. Alan conducted an extensive investigation and presented his findings to the District Attorney's office. It was only through Alan's diligence, perseverance and relentless pursuit of the truth did the District Attorney's office ultimately conclude that criminal charges were inappropriate, clearing his client's name.
- Successful registered nurse (R.N.) specializing in dermal filler procedures, (such as Botox, Restylane, *et al.*) charged with four felony counts in a very high-profile case, including battery with serious bodily injury and practicing medicine without a license. She was facing a maximum of 14 years in state prison. Following Alan Jackson's presentation at the preliminary hearing the battery and bodily injury charges were thrown out. Alan then won a reduction of the remaining charges to misdemeanors, with his client receiving probation and no jail time.
- Former police officer was accused of battery. Notwithstanding that the incident was caught on videotape, Alan Jackson secured a dismissal of all charges in favor of an infraction with no jail time and no fine.
- Alan Jackson recently represented the high profile 23-year-old son of a Middle Eastern Sheikh, accused of assault, kidnapping and torture. After Alan conducted an exhaustive investigation lasting more than four months his client was completely exonerated and all charges were dismissed. And, in a highly unusual ruling, the presiding judge made a *factual finding of innocence* for Alan's client. Additionally, and in a surprising twist, Alan's preparation and presentation of the case led to the arrest of the complaining witness and her two attorneys on charges of extortion and bribery. All three are currently awaiting trial.

AWARDS & MEMBERSHIPS

Professional Associations and Memberships

- American Bar Association
- Federal Bar Association

- Los Angeles County Bar Association
- Criminal Courts Bar Association
- National Association of Criminal Defense Lawyers
- California Attorneys for Criminal Justice



EDUCATION

PEPPERDINE
UNIVERSITY

BAR ADMISSIONS

Pepperdine University School of Law, Malibu, California | J.D. - 1994 California, 1994



University of Texas | B.A. - 1991

FEATURED ON:

Los Angeles
Times

CBS
NEWS

CNN

abc NEWS

CNBC



[Home](#) » [Attorneys](#) » Joshua Ritter

Joshua Ritter | Partner

ABOUT

Criminal attorney and Los Angeles native Joshua Ritter worked as a prosecutor with the Los Angeles District Attorney's office for close to a decade and was awarded the 2015 Outstanding Prosecutor of the Year by the Association of Deputy District Attorneys. During his career as a prosecutor Joshua specialized in complex and high profile cases culminating in more than 40 cases brought to verdict with a felony conviction rate over 90%.

Upon joining the firm, Joshua has continued to devote his talents to the tenacious and zealous defense of his clients. With a proven track record of resolving issues quickly and to the great satisfaction of his clients in no small part because of the continued strong relationship Joshua has with the District Attorney's office. Specializing in matters of the utmost seriousness and complexity that often times garner significant media attention, Joshua is well equipped to manage whatever concerns his clients might be confronted with.

Joshua received his Bachelor of Arts (with Honors) from UCLA in 2001 and his Juris Doctorate from Loyola Law School in 2007.



EDUCATION



Loyola Law School | J.D. - 2007



University of California, Los Angeles B.A. - 2001

IN THE NEWS

- **January 29, 2020 - Los Angeles Times**

Joshua Ritter secures \$18 million in damages for his client who was a victim of a hit-and-run accident that killed her mother. [Read More](#)

- **January 29, 2020 - KTLA**

A jury ordered a Malibu woman pay \$18 million and serve a year in prison after committing a hit-and-run that injured Joshua Ritter's client and killed her mother. [Read More](#)

- **August 27, 2019 - The New York Times**

Lori Loughlin Appeared in Court as Admissions Scandal Looms Over New School Year. [Read More](#)

- **July 16, 2019 - Los Angeles Times**

Following the college admissions scandal, USC has interviewed 33 students about whether they knowingly lied on their applications. Some of the students have hired attorneys to be present during the hearings. Joshua Ritter is representing one such student. [Read More](#)

- **December 26, 2018 - Los Angeles Times**

As a former L.A. County prosecutor, Joshua Ritter was asked to comment about the rise in fatal street racing incidents in Los Angeles. "On both sides, you've got families that have been torn apart." [Read More](#)

AWARDS & MEMBERSHIPS

Honors and Awards



BAR ADMISSIONS

California State – 2008

U.S. District Court Central District of California – 2015

- The National Trial Lawyers: Top 100
- Outstanding Prosecutor of the Year, 2015
- Association of Deputy District Attorneys

Professional Associations and Memberships

- American Bar Association
- State Bar of California, Criminal Law Section
- Los Angeles County Bar Association
- National Association of Criminal Defense Lawyers

FEATURED ON:





[Home](#) » [Attorneys](#) » Caleb Mason

Caleb Mason | Partner

ABOUT

Caleb Mason has a long track record of success in complex cases, in federal and state courts, from investigation and trial through appeal. He's also a widely-cited commentator on criminal justice and legal affairs. Caleb was formerly a federal prosecutor in the Southern District of California, and has practiced here in Los Angeles for the past decade.

EDUCATION



Georgetown
University

Georgetown Law | J.D. - 2005

Colby



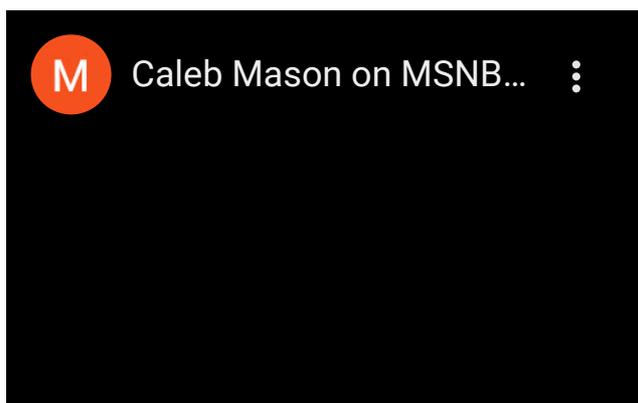
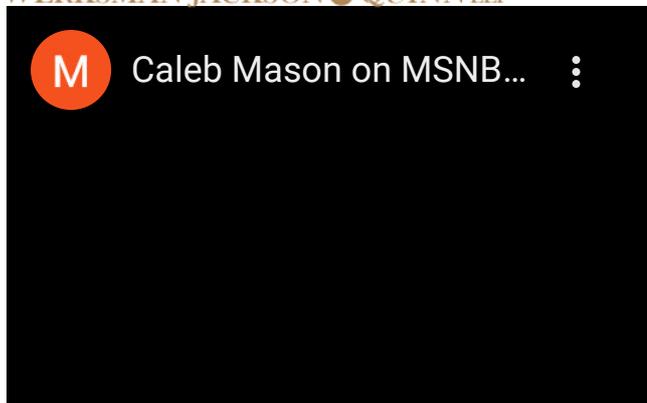
Colby College | B.A. - 1995



COLUMBIA UNIVERSITY
IN THE CITY OF NEW YORK

Columbia University | Ph.D. - 2001

MEDIA APPEARANCES



RECENT CASE RESULTS

- *Acquittal in federal case alleging drug trafficking conspiracy.* On April 23, 2020, Werksman, Jackson & Quinn partner Caleb Mason obtained an acquittal for our client, a private charter pilot, on all charges in a federal criminal trial on drug trafficking charges in the U.S. District Court in Lexington, Kentucky. Our firm represented a private jet charter pilot who was charged by the U.S. Attorney's Office in Kentucky after one of his former charter clients was caught smuggling drugs on a private plane in Lexington, Kentucky. Our client had nothing to do with that flight, but the government charged him, and the owner of the charter company he flew for, on conspiracy charges, claiming that all of this charter client's prior flights had been drug flights, and the pilot and company owner must have known about it. A second pilot, and a business associate of the drug smuggler were also charged. The government claimed that the defendants were part of a massive multi-year conspiracy to smuggle huge quantities of drugs around the country using private planes. The trial lasted seven weeks, continuing all through the coronavirus lockdown, with more than 50 witnesses. The jury deliberated for eight days, and then acquitted our client of all charges. He is now free to return home to his wife and young daughter.
- *Conviction vacated, case dismissed.* Caleb's client was serving a 14-year sentence for drug trafficking when Caleb took on the case for appeal. Caleb attacked the evidence underlying the identification of the client and the credibility of the case agent. After protracted litigation in the Ninth Circuit and the District Court, the government agreed to vacate the conviction and dismiss the case. The client walked free and went home to his wife and three young children.
- *\$.2.26 million judgment for false arrest.* Caleb's client had been falsely accused by her neighbor, a sheriff's department detective, of attempting ~~42~~ run over the neighbor's daughter with her car.

innocence in favor of Caleb's client. Caleb then filed a civil rights lawsuit under 42 U.S.C. section 1983, alleging that the accusation was malicious and retaliatory, and part of a long-running dispute between the neighbors after Caleb's client had complained to the sheriff's department that the detective was parking her cars in the client's driveway, and driving across her driveway and lawn, so she wouldn't have to move her cars in her own driveway. Caleb's client was so afraid of her neighbor after the false accusation that she was driven out of her own house and forced to relocate. The evidence at trial showed that the detective had intervened with a sheriff's department sergeant after the initially responding deputies had determined that no arrest was necessary—a fact which had not been mentioned in the arrest reports. After trial in federal district court, the jury found that the detective had maliciously used her official authority to procure Caleb's client's wrongful arrest, and awarded damages of \$2.265 million, one of the largest civil rights judgments of the year.

- Charges dropped, client declared factually innocent by court. Caleb is one of only a few lawyers in California who have won multiple contested motions for a judicial determination of factual innocence under Penal Code section 851.8. Being accused of a crime brings a lot of collateral consequences, even if the charges are dropped or the defendant is acquitted. Section 851.8 is the only way for a person accused of a crime to obtain a final court order finding that he or she is *actually innocent* of the charges. But the motions are very rarely granted, because the law sets a very high standard, essentially the converse of the “beyond a reasonable doubt” standard in a criminal prosecution: the petitioner has to prove based on the evidence that no reasonable person could believe he committed the offense alleged. Courts very rarely grant the motions, particularly when the prosecution opposes them. And the prosecution almost always opposes them, even when it drops the charges or loses at trial. Caleb is one of only a few lawyers in California who has prevailed in factual innocence motions over government opposition, and he's done so in high-profile cases. Here are two examples:

- Caleb's client was a high-profile entertainer accused of sexual assault. Caleb investigated the case and coordinated with the DA's office and the LAPD, urging them to drop the case based on evidence of factual innocence. The DA ultimately agreed. Caleb then sought, and won, a judicial determination of factual innocence under Penal Code section 851.8.
- Caleb's client was a retired police officer accused of sexual assault and kidnapping, and facing a possible life sentence. Caleb investigated the case and was able to prove—based on analysis of street-surveillance-camera footage he was able to obtain from the city—that the allegations were not consistent with the facts. He attacked the DA's case at a day-long preliminary hearing, following which the DA decided to drop the case. Caleb then marshalled that forensic evidence and sought, and won, a judicial determination of factual innocence under Penal Code section 851.8.
- Client acquitted on First Amendment defense. Caleb's client was a political blogger charged with making threats against FBI officials on his blog. The FBI arrested him in a predawn raid and held him in custody for a year before trial. His alleged crime was his political speech. Caleb

took on the case and mounted a First Amendment defense at trial. He put on evidence, including expert-witness testimony from a tech-industry journalist, showing that the types of statements and images that the government charged as “threats” were in fact ubiquitous in social media political discussions. He cross-examined multiple FBI agents, and established that they hadn’t closely or fully read the client’s blog, or placed it in context, and that the client had never done anything “threatening” other than post the blog. Caleb argued to the jury that the First Amendment has to protect speech we don’t like to hear—vulgar, unpopular, rude, and offensive speech. Constitutional rights protect the marginalized and outcasts, the least among us. The jury acquitted Caleb’s client on some counts, and deadlocked on the remaining ones. The judge ordered the client released immediately, and the government dropped the remaining charges.

Coverage: <https://www.cnn.com/2016/09/01/politics/orange-county-blogger/index.html>

- *Improper supervised release violation sentence reversed, clear rule established for all releasees.* Caleb’s client was finishing a period of federal supervised release. On the last day before the term expired, her probation officer called her in and told her he was going to try to have her sent back to custody for allegedly violating the terms of her supervised release. He filed his petition that day, and then, weeks later, filed another petition making dozens of new allegations. Caleb was appointed to represent the client on appeal, and he challenged the probation officer’s actions. He argued—in a case of first impression in the Ninth Circuit—that the government could not bring new and unrelated violation charges after the supervised release term had ended. He argued the case before a panel of Ninth Circuit judges, and the court agreed, in a published decision that now protects the rights of all federal defendants throughout the western United States.

Published decision: <http://cdn.ca9.uscourts.gov/datastore/opinions/2018/02/28/17-50140.pdf>

- *Firefighters’ First Amendment rights vindicated in high-profile retaliation cases.* Caleb has represented firefighters’ unions around Southern California, including two high-profile civil-rights lawsuits alleging that city officials retaliated against the unions and their members for exercising their First Amendment rights to engage in political speech and organization. City officials were alleged to have instituted meritless, retaliatory disciplinary investigations against union leaders, cancelled promotions and promotional exams, refused (during a major wildfire season) to allow firefighters to deploy with wildfire crews, and secretly surveilled and video-recorded union members around the firehouse. Both cases settled on the eve of trial after a long and hard-fought discovery process. In one case, the City of Downey settled with the union and its members for \$3.7 million. In the other case, the City of La Verne settled with the union and its members for \$5.5 million.

Coverage: <https://www.dailybulletin.com/2018/12/21/la-verne-firefighters-allege-fire-chief-top-officials-knew-about-secret-recordings/>

- *Felony threat charges dropped in high-profile case.* Caleb represented a client in a high-profile case involving alleged death threats phoned into a mosque, just before the 2016 election. Caleb

Coverage: <https://www.cnn.com/2018/01/26/us/hate-crime-prosecution-dropped-invs/index.html>

- *Complete defense judgment in large financial fraud case.* Caleb defended a major financial institution in a multi-million dollar fraud case. After a lengthy trial, the court found in favor of Caleb's client on all counts.
- *Settlement for family of jail inmate who committed suicide.* Caleb represented the family of a jail inmate who hung himself in a holding cell while a jailer sat in the next room on the other side of a glass window. The case alleged that the City and the private company that was contracted to run the jail failed to properly monitor the inmate and provide him with proper protection and treatment. The case settled for a confidential amount.
- *Negligent homicide cases.* Caleb has represented multiple clients charged with negligent homicide after being involved in fatal car accidents. He has secured dismissals or no-custody probation dispositions for every one.
- *Case dismissed in fraud and embezzlement case.* Caleb represented the family members of a business executive who was alleged to have embezzled money from her company. The company sued the family members for receipt of stolen property, alleging that the executive had used company money to pay credit card bills for various expenses that benefited the family members. Caleb challenged the legal grounds for the suit, arguing that even if the allegations were true, the facts couldn't support tort liability for the family members. After Caleb filed his brief, the company dropped all its claims against his clients.
- *Case dismissed in inheritance dispute.* Caleb represented a client who was embroiled in an inheritance dispute with a sibling. The sibling demanded a bigger share of the inheritance, and then filed a lawsuit accusing Caleb's client of sexually assaulting him more than forty years earlier. Caleb challenged the suit in court, arguing that it was a transparent attempt to extort more money from the inheritance. The court agreed, dismissed the suit with prejudice, and imposed monetary sanctions on the sibling.
- *Supervised release term reduced, entire fine returned by government.* Caleb took on the appeal for a client who had been given a lifetime term of supervised release and a large fine for a non-violent offense. Caleb challenged the sentence on appeal, and during the proceedings, the government agreed to return the fine payment to the client, reduce the supervised release term to ten years, and allow the client to emigrate to Israel, where he is a citizen, immediately upon his release. The money is now waiting for the client, to support his fresh start and new life.
- *Sentence vacated where court did not allow client to speak at sentencing.* Caleb took on the appeal for a client charged with minor participation in a white-collar crime. The sentencing judge interrupted the client when he began his sentencing statement by apologizing to the court, and told the client that his apology was "b.s." The client stopped speaking. Then the prosecutor stood up and made additional accusations. The client never got another chance to speak for himself. Caleb took the appeal and argued that the client had been deprived of his

constitutional and statutory right to speak on his own behalf at sentencing. The Ninth Circuit agreed with Caleb's argument, vacated the sentence, and remanded the case for resentencing before a different judge. The client received a reduced sentence on remand, and is now free and back with his family.

- *Judgment against MySpace for illegally sharing client's data.* Caleb represented a client who had filed a pro se lawsuit against MySpace alleging that it illegally shared his private data with the government without a warrant. Instead of defending itself in the suit, MySpace argued that it wasn't liable because its parent company had shifted its assets around through a series of shell companies, and that the "MySpace" that the client had sued had, in the interim, ceased to exist. Caleb investigated and researched a host of corporate records and public filings, and laid out for the court the whole history of the company's maneuverings. The company, the court ultimately stated, had acted like "an 8-year-old playing hide and seek," and entered a judgment for Caleb's client.

Coverage: <https://www.techdirt.com/articles/20170512/01141837345/myspace-tries-to-play-dead-to-avoid-lawsuits.shtml>

- *Pro bono cases.* Caleb has taken on numerous pro bono cases over the years, and achieved significant results for his clients. For example:
 - Caleb successfully challenged the deportation of a Chinese man who had converted to Mormonism and feared persecution in China.
 - Caleb took on the appeal of a woman whose husband and three children were U.S. citizens, but who had not become a citizen herself. After her husband died, the government sought to deport her to Mexico, despite the fact that her three minor children were U.S. citizens who had never lived in Mexico. Caleb successfully challenged the deportation order in the Ninth Circuit, and the client was granted residency.
- In another case, Caleb successfully challenged a deportation order against an Indonesian woman who sought asylum due to religious persecution. The government had changed her hearing date in a letter sent by regular mail, moving it to an earlier date. Like most immigrants, she didn't have a lawyer, and when she appeared for the originally set hearing date, she was told that she'd already been ordered deported. The immigration court then rejected her written statement that she didn't receive the notice, for failure to follow technical pleading requirements. Caleb took her case pro bono to the Ninth Circuit, and won, establishing a precedent that the if the government sends immigrants notices by regular mail, it is not entitled to a presumption of receipt, and that the government cannot reject *pro se* submissions based on technical pleading rules.

Published decision: <http://cdn.ca9.uscourts.gov/datastore/opinions/2007/08/24/0474076.pdf>

government claimed there weren't enough dentists available in the area to call anyone in—despite the fact that the prison was located just outside Las Vegas, a major city with plenty of dentists. The trial court sided with the government, but Caleb took the case on appeal in the Ninth Circuit and won.

- *Workplace discrimination and harassment cases.* Caleb has also represented plaintiffs alleging workplace discrimination—including, for example, a female electrician who was the only woman at a large construction site and alleged that she was sexually harassed by her supervisor; female creative employees at a large ad agency who alleged harassment and discrimination in pay—and has represented and advised companies responding to discrimination and harassment claims. And he has represented companies and business owners in numerous contract and business-litigation disputes.
- *Victim's rights cases.* Caleb has represented crime victims as a Marsy's Law attorney, defending their rights and interests in criminal proceedings, including multiple victims in a high-profile torture and abuse case. And he has represented numerous plaintiffs in section 1983 civil-rights cases, challenging abuses of power by government officials, including cases of excessive force, sexual assault by law enforcement officers, and retaliation against public employees.
- *Expert witness and legal scholarship.* Caleb has also served as an expert witness in drug smuggling cases, and has published dozens of articles on criminal law and procedure, including the first empirical study of the labor market for cross-border drug mules, based on a large-scale analysis of data drawn from thousands of arrests and prosecutions along the U.S.-Mexico border. And his article applying the second verse of Jay-Z's "99 Problems" as a Fourth Amendment training tool has been adopted by educators and agencies across the country, in high school and college curricula, casebooks and textbooks, bar review and continuing legal programs, and law enforcement academies and training programs. Caleb also serves as a commissioner on the police commission (civilian oversight panel) for the City of Claremont, California.

PUBLICATIONS

Scholarly Publications

-*The Market for Mules: Risk and Compensation of Cross-Border Drug Smugglers*, (with David Bjerk), 39 INTERNATIONAL REVIEW OF LAW AND ECONOMICS 58 (2014) (peer-reviewed)

-*Fractured Group Speech Acts and the Holding of NFIB v. Sebelius*, THE AFFORDABLE CARE ACT DECISION, Routledge 2014 (Fritz Allhoff & Mark Hall, eds.) (peer-reviewed)

-*Inter-Judge Sentencing Disparity on the Federal Bench: An Examination of Drug Smuggling Cases in the Southern District of California*, 25 FEDERAL SENTENCING REPORTER 190 (2013) (with David Bjerck) (peer-reviewed)

-*New Police Technologies, the Good-Faith Exception, and the Development of Fourth Amendment Law: Warrantless GPS Tracker Evidence After United States v. Jones*, 13 NEVADA LAW JOURNAL 60 (2012)

-*The Confrontation Clause and the Border Patrol: Applying the "Primary Purpose" Test to Multifunction Agencies*, 96 MARQUETTE LAW REVIEW 793 (2013) (with Jessica Berch)

-*Framing Context, Anonymous Internet Speech, and Intent: New Uncertainty About the Constitutional Test for True Threats*, 41 SOUTHWESTERN LAW REVIEW 43 (2011)

-*Blind Mules?: New Caselaw and New Data on the Border Smuggling Industry*, CRIMINAL JUSTICE Vol. 26, No. 3, at 16 (Fall 2011)

-*Jay-Z's "99 Problems," Verse 2: A Close Reading With Fourth Amendment Guidance for Cops and Perps*, 56 ST. LOUIS UNIVERSITY LAW REVIEW 567 (2011)

-Reprinted in HIP-HOP AND THE LAW: THE KEY WRITINGS THAT FORMED THE MOVEMENT, Palsgrave-Macmillan, 2015 (D. Cummings, ed.)

-Reprinted in *Slate: Longform*, Sep. 12, 2012

-*International Cooperation, Drug Mule Sentences, and Deterrence: Preliminary Thoughts from the Cross-Border Drug Mule Survey*, 27 SOUTHWESTERN JOURNAL OF INTERNATIONAL LAW 189 (2011)

-*The Police-Prosecutor Relationship and the No-Contact Rule: Conflicting Incentives After Montejo v. Louisiana and Maryland v. Shatzer*, 58 CLEVELAND STATE LAW REVIEW 747 (2010)

-*A Rational Post-Booker Proposal for Reform of Federal Sentencing Enhancements for Prior Convictions*, 31 NORTHERN ILLINOIS LAW REVIEW 339 (2011) (with Scott Lesowitz)

-*The Use of Immigration Status in Cross-Examination of Witnesses: Scope, Limits, Objections*, 33 AMERICAN JOURNAL OF TRIAL ADVOCACY 549 (2010)

-Reprinted in: 31 IMMIGRATION & NATIONALITY LAW REVIEW 923 (2010)

-*What is Truth? Setting the Bounds of Justiciability in Religiously-Inflected Fact Disputes*, 26 JOURNAL OF LAW AND RELIGION 91 (2010) (Peer-reviewed).

-*An Aesthetic Defense of the Nonprecedential Opinion: The Easy Cases Debate in the Wake of the 2007 Amendments to the Federal Rules of Appellate Procedure*, 55 UCLA LAW REVIEW 643 (2008).

-*Faith, Harm, and Neutrality: Some Complexities of Free Exercise Law*, 44 DUQUESNE LAW REVIEW 225 (2006).

-*Doctrinal Considerations for Fast Food Obesity Suits*, 40 TORT TRIAL AND INSURANCE PRACTICE LAW JOURNAL 75 (2004) (Peer-reviewed).

-*Conciliatory Eclecticism and the Philosophy of Kenelm Digby* (2001) (Ph.D. dissertation, Columbia University) (on file with Butler Library, Columbia University) (Study of the philosophical works of Sir Kenelm Digby in the context of seventeenth-century intellectual developments such as the promulgation of Cartesianism and corpuscularianism, the impact of science on religion, and the foundation of the Royal Society.)

-*Economic Rights and Global Capitalism: A Reply to Shue and Pogge*, in CULTURAL INTEGRITY AND WORLD COMMUNITY 245 (Yeager Hudson & Cheryl Hughes eds., 2000) (peer-reviewed).

Caleb's scholarship is widely cited by courts and commentators. He is ranked among the top 3% of authors in the Social Science Resource Network (SSRN), ranked by number of downloads. Many of his papers are available on SSRN at: <http://ssrn.com/author=610079>.

Popular and Practitioner-Oriented Publications

-“Don't Pretend the Kavanaugh Facts Are Unknowable,” *The Atlantic*, Sep. 28, 2018

-“On Criminal Justice, Kavanaugh Might Be More Centrist than Kennedy,” *The Crime Report*, July 24, 2018

-“Can Steve Bannon Claim Executive Privilege? Absolutely Not.” Op-Ed, *Los Angeles Times*, January 19, 2018

-“Jeff Sessions Can't Shut Up,” Op-Ed, *Los Angeles Times*, June 16, 2017

-“Why Did South Carolina Punt on the Slager Case?” *The Crime Report*, May 8, 2017

- “Will Gorsuch Be Another Scalia on Criminal Justice Issues? Not Likely,” *The Crime Report*, Feb. 1, 2017

- “*Utah v. Strieff*. No Consequences for an Admittedly Illegal Seizure,” *The Crime Report*, Aug. 8, 2016

- “Why Is California Thumbing Its Nose at a Federal Court?” *The Crime Report*, March 17, 2016
 - Reprinted in *Prison Legal News*, May 5, 2016.

- “Gang Validation, Good Time Credit, and the Ex Post Facto Clause in the California Prison System,” *The Crime Report*, Jan. 14, 2016

- “Challenging the Reliability of Drug-Dog Alerts After *Florida v. Harris*,” *CaseText*, Aug. 17, 2015

- “Was the Ferguson Grand Jury Misled?” *The Crime Report*, Feb. 19, 2015

- “What DAs Across the Country Can Learn from Ferguson,” *The Crime Report*, Jan. 6, 2015

- “Lender Liability to Guarantors: Doctrine, Pitfalls and Strategy,” *Los Angeles Daily Journal*, Nov. 24, 2014

- “Crime and ‘Religious Immunity’: Congress Needs to Set Limits,” *The Crime Report*, October 15, 2014

- “Refusing to Testify Against Your Church,” *The Crime Report*, October 14, 2014

- “The Real Fourth Amendment Problem: Getting Substantive Issues Decided at All,” *The Crime Report*, July 9, 2014

- “Cell Phone Ruling Is No Threat to Effective Policing,” *The Crime Report*, July 8, 2014

- “The Myth of ‘Activist’ Judges,” *The Crime Report*, Dec. 10, 2013

- “Can the Fourth Amendment Protect You from NSA Snooping?” *The Crime Report*, July 16, 2013

- “Searches and DNA: The Court Gets It Right,” *The Crime Report*, June 11, 2013

- “Drug Sniffing Dogs and 18th Century Justice,” *The Crime Report*, April 2, 2013

-“Plain View Computer Searches: General Petraeus’ Waterloo,” *The Crime Report*, Jan. 8, 2013

-“Drug Traffickers: Is Prison Time a Deterrent?” *The Crime Report*, Dec. 11, 2012

IN THE NEWS

- NPR News, Nov. 19, 2018 (on the use of politicians’ rhetoric as evidence in criminal cases)
- MSNBC News, Dec. 26, 2017 (on White House attacks on the FBI)
- Law & Crime Network, Nov. 17, 2017 (on the Adam Matos murder trial)
- MSNBC, “Hardball,” Aug. 11, 2017 (on the Russia investigation developments)
- MSNBC News, Aug. 4, 2017 (on government leaks and DOJ subpoenas to journalists)
- MSNBC News, July 15, 2017 (on the Russia investigation and Trump campaign meetings)
- MSNBC News, June 10, 2017 (on the Russia investigation and Comey testimony)
- MSNBC News, May 20, 2017 (on the Russia investigation)
- Cheddar TV, January 12, 2017 (on conflicts of interest created by Trump family businesses)
- Cheddar TV, Dec. 23, 2016 (on constitutional issues raised by Palantir and government data-mining)
- CNN, Aug. 31, 2016 (on *United States v. Wexler*, internet threats case)
- Multiple networks, Aug. 2016-present (Joseph A. Bank suit commercial)
- MSNBC News and “Alex Witt Show,” July 2, 2016 (on the H. Clinton email investigation and the B. Clinton / L. Lynch meeting)
- MSNBC, “Alex Witt Show,” June 18, 2016 (on the Orlando shooting investigation)
- BBC News, Jan. 11, 2016 (on the Sean Penn-Chapo Guzman interview)
- MSNBC News, Nov. 3, 2015 (on the Houston anti-discrimination ordinance)
- MSNBC News, Sep. 9, 2015 (on the Kentucky gay-marriage standoff)
- MSNBC News, Sep. 8, 2015 (on the Kentucky gay-marriage standoff)
- MSNBC News, Sep. 3, 2015 (on the Tom Brady Deflate-Gate decision)
- MSNBC, “The Cycle,” July 30, 2015 (on the U. of Cincinnati shooting)
- MSNBC, “The Cycle,” July 20, 2015 (on the Bill Cosby deposition)
- *Associated Press*, July 11, 2015 (on contraband watch in California prisons)

- MSNBC, "The Cycle," June 24, 2015 (on the Boston bombing case)
- MSNBC, "The Cycle," June 5, 2015 (on the Dennis Hastert investigation)
- MSNBC, "The Cycle," May 15, 2015 (on the Boston bombing case)
- *San Diego Union-Tribune*, May 2, 2015 (on border drug smuggling)
- MSNBC, "The Cycle," May 4, 2015 (on the Freddie Gray case in Baltimore)
- MSNBC, "The Cycle," Apr. 13, 2015 (on the South Carolina police shooting)
- MSNBC, "The Cycle," Apr. 8, 2015 (on the Boston bombing case)
- MSNBC, "The Cycle," Apr. 7, 2015 (on the Boston bombing case)
- MSNBC, "The Cycle," Feb. 17, 2015 (on the Chris Kyle murder trial)
- MSNBC, "The Last Word with Lawrence O'Donnell," Dec. 4, 2014 (on the police-prosecutor relationship)
- MSNBC, "The Cycle," Dec. 4, 2014 (on Eric Garner case)
- MSNBC, "The Cycle," Dec. 3, 2014 (on Eric Garner case)
- MSNBC, "The Cycle," Nov. 25, 2014 (on Ferguson grand jury decision)
- MSNBC, Nov. 24-25, 2014 (on Ferguson grand jury decision)
- MSNBC, "The Cycle," Nov. 21, 2014 (on Ferguson grand jury deliberations)
- MSNBC, "The Cycle," Aug. 19, 2014 (on Ferguson investigation)
- *USA Today*, June 16, 2014 (on GPS tracking and *United States v. Jones*)
- *The Guardian*, June 2, 2014 (on contraband watch in U.S. prisons)
- *St. Louis University Law Journal* online, April 30, 2014 (on the 10-year anniversary of "99 Problems")
- NBC News, May 30, 2013 (on cross-border drug trafficking)
- SFGate, February 6, 2013 (on the *Chappell v. Mandeville* case)
- *Christian Science Monitor*, April 4, 2012 (on the George Zimmerman case)
- *Christian Science Monitor*, March 29, 2011 (on the Barry Bonds case)
- KPCC, Madeleine Brand Show, July 13, 2012; *Huffington Post*, July 10, 2012; *Slate*, July 11, 2012; *Gawker*, July 11, 2012; *Above the Law*, July 11, 2012; *Wall Street Journal*, July 19, 2012; *Hollywood Reporter*, July 13, 2012; *Riverfront Times*, July 30, 2012 (on my "99 Problems" article)

FEATURED ON:





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Michael Freedman | Partner

ABOUT

Michael G. Freedman is an experienced trial lawyer and former federal prosecutor who vigorously defends clients against criminal charges in state and federal court and in related civil litigation. He has been practicing criminal law for nearly a decade and has won accolades from judges and peers for his trial skills. Michael also has won numerous appeals, including reversing lengthy sentences, drawing on his experience as a law clerk for the United States Court of Appeals for the Ninth Circuit.

From 2016 to 2020, Michael served as an Assistant United States Attorney in the Central District of California, where he was lead and co-lead counsel on eight trials and a multitude of investigations. Before the U.S. Attorney's Office, he worked at leading defense firms Bird Marella and Riordan & Horgan.

As a prosecutor and defense lawyer, Michael has handled cases in the following areas: mail, bank, and wire fraud; health care fraud, kickbacks, and the False Claims Act; hazardous waste and environmental regulations; bribery; identity theft; elder and dependent abuse; medical board proceedings; money laundering and structuring; drug trafficking by gangs, mafia, and cartels; cannabis, bitcoin, and the dark web; opioids and counterfeit pharmaceuticals; sex offenses and human trafficking; national security threats; firearms offenses; college disciplinary proceedings; and non-profit regulation. He is well-versed in every step of criminal procedure, including electronic surveillance and wiretaps, grand jury proceedings, bail, trial and evidentiary hearings, plea bargaining, sentencing, asset forfeiture, and appeals and habeas review.

Michael is actively involved in a variety of legal and community organizations. He serves as National Co-Chair of the Young Lawyers Division of the American Bar Association Criminal Justice Section's White Collar Crime Committee and is a member of the Federal Bar Association and National Association of Criminal Defense Lawyers. He has spoken on and moderated numerous panels and written many articles on various topics in criminal law and trial practice. Michael has also served on the Bet Tzedek New Leaders' Council, the Jewish Federation's Legal Division, and

the Board of Governors of UC Hastings, where he obtained his juris doctorate, cum laude. Before law school, Michael obtained a Master's degree from Harvard University in Middle Eastern Studies and graduated phi beta kappa and magna cum laude from UC San Diego with honors in history.

EDUCATION



University of California, Hastings College of the Law | J.D. - 2011



Harvard University | A.M. - 2008



University of California, San Diego | B.A. - 2005

CASE RESULTS

FEDERAL CRIMINAL

As a defense lawyer:

- Convinced prosecutor to drop human trafficking charges against client and obtained no prison time
- Obtained probationary sentence for corporation and individual owner charged with endangered species act violations
- Represented numerous individuals at highly regulated companies in grand jury investigations, leading to no charges being filed
- Represented client facing child pornography charges, ultimately leading to no federal charges
- Represented entertainment company and executives in sensitive grand jury investigation, no charges filed
- Successfully moved to suppress voluminous evidence unlawfully seized from business of client facing money laundering charges
- Represented witnesses in bank fraud and health care fraud investigations
- Represented individual in contempt action brought by FTC

- Quashed subpoena to art gallery in forfeiture proceeding

As a prosecutor:

- Tried seven-week Mexican Mafia and MS-13 conspiracy case
- Lead counsel in week-long healthcare fraud trial
- Tried individual for threatening assassination of presidential candidates
- Tried case involving massive counterfeit pharmaceutical operation using fentanyl imported from China
- Resolved felony hazardous waste case against corporate defendant
- Successfully tried numerous firearms cases
- Led numerous investigations of health care fraud, kickbacks, and violations of the False Claims Act
- Led investigations of doctors, pharmacists, and other medical professionals for opioid diversion
- Led money laundering investigations, including on dark web and involving Bitcoin
- Resolved numerous cases of bank fraud and identity theft

STATE CRIMINAL AND RELATED PROCEEDINGS

- Won client's release on bail following multi-witness evidentiary hearing in fraud prosecution
- Member of trial team that won dismissal mid-trial of charges against licensed nurse
- Convinced district attorney to drop charges against physician accused of unlawful practice of medicine
- Represented college student facing disciplinary proceedings after being attacked by another student; won settlement from college
- Advised court-appointed receiver of cannabis dispensary
- Represented owners of a non-profit charity investigated by state attorney general; no charges filed
- Member of pro bono team that ultimately won client's release and overturned conviction and lengthy sentence for material support for terrorism
- Represented pharmacist in license revocation proceedings

APPEALS

- Overturned client's twenty-year federal sentence on appeal, convinced district court to impose far lower sentence on remand

- Won published opinion overturning lengthy sentence improperly imposed on law enforcement defendant
- Won published opinion interpreting pleading standards under Rule 12 of the Federal Rules of Criminal Procedure

CIVIL LITIGATION

- Defeated writ of attachment and then won full dismissal from federal court of \$6 million contract claim against apparel manufacturer
- Won anti-SLAPP motion, full dismissal of fraud lawsuit, and attorney's fees on behalf of large national bank
- Successfully represented hotel designer in partnership dispute arbitration proceedings
- Won \$100,000 award of back wages from Labor Commissioner
- Represented plaintiff corporation in trade secrets lawsuit
- Represented national industrial manufacturer in multi-million dollar breach of contract claim against longstanding supplier

FEATURED ON:

Los Angeles
Times

CBS
NEWS

CNN

abc NEWS

CNBC

ATTACHMENT B
Proposed Retainer Agreement

WERKSMAN JACKSON & QUINN LLP

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KELLY C. QUINN *
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MICHAEL G. FREEDMAN
ELIZABETH S. LITTLE
MEHRUNISA RANJHA
JACQUELINE M. SPARAGNA ***
KIMBERLY E. BARRETO

* CERTIFIED SPECIALIST – APPELLATE LAW
THE STATE BAR OF CALIFORNIA
BOARD OF LEGAL SPECIALIZATION
** ADMITTED IN CALIFORNIA AND ILLINOIS
*** ADMITTED IN CALIFORNIA AND WASHINGTON D.C.

February 22, 2021

VIA EMAIL

Ms. Heather Glaser
City Clerk
City of Malibu
hglaser@malibucity.org

Re: Representation Re. Internal Investigation

Dear Ms. Glaser:

Your signature below will confirm that you, the City of Malibu ("You"), have retained the law firm of Werksman Jackson & Quinn, LLP (hereinafter "the Firm") to represent you in connection with the above-referenced matter, as defined herein. It is expressly agreed by and between you and the Firm as follows:

1. The Firm will carry out an independent investigation regarding allegations made by former City Council member Jefferson Wagner in his affidavit dated December 12, 2020 ("Affidavit"), to include allegations that individuals offered financial and other valuable inducements to City officials in exchange for favorable treatment by the City, as set forth in the Affidavit, and relevant factual issues related thereto. The investigation will include conducting voluntary interviews with all involved and related individuals; reviewing all relevant reports, documents, and communications in the possession of the City and voluntarily produced by interview subjects; obtaining and reviewing all available public records; and preparing a comprehensive report synthesizing our factual findings and, if the client desires, legal analysis on particular issues as specified by the client. In the event you wish this firm's representation in any other matter or for any other purpose, it is understood that a separate Retainer Agreement will be required.

2. Our fee for the foregoing will be 75% of our normal hourly rates as set forth herein.¹ We will require a \$250,000 initial retainer deposit, which we will bill against and which will be refundable if not expended. If the initial retainer deposit is expended and the matter is not completed, we will bill you monthly for our time thereafter.

4. You have also agreed to be responsible for all out-of-pocket costs incurred in the Firm's representation of you. We will invoice you for these costs, which may include travel, messenger service, transcript fees, investigators, expert consultants, and any other costs incurred in the course of the representation. In the event that it is necessary to retain an investigator or an expert, a separate retainer between you and any such expert or investigator may be required. We will consult with you and obtain your approval prior to retaining an investigator or expert consultant.

5. We will provide you with a monthly invoice. You agree to promptly pay your invoice from this Firm. Failure to pay any invoice within 21 days of receipt will be grounds for the firm to immediately terminate its representation of you. You agree not to oppose the Firm's efforts to withdraw from its representation of you should this situation arise.

6. You acknowledge that all funds you have paid or will pay to the Firm are your own assets or money borrowed from friends, business associates and/or family. You further acknowledge that none of the funds paid to the Firm, or that will be paid to the Firm, have been associated in any way or derived in any fashion from any unlawful activity of any sort. If you would like to wire transfer the initial payment or

¹For your reference, the normal hourly fees for the Firm's attorneys are as follows:

| | |
|------------------------|-----------|
| Mark J. Werksman | \$1100.00 |
| Alan J. Jackson | \$1100.00 |
| Kelly C. Quinn | \$900.00 |
| Caleb E. Mason | \$850.00 |
| Joshua E. Ritter | \$850.00 |
| Michael G. Freedman | \$850.00 |
| Elizabeth S. Little | \$650.00 |
| Jacqueline M. Sparagna | \$600.00 |
| Mehru Ranjha | \$500.00 |
| Kimberly E. Barreto | \$400.00 |

future payments to us, please do so using the following information:

Werksman Jackson & Quinn
c/o Union Bank
70 S. Lake Avenue
Pasadena, CA 91101
Routing No. 122000496
Account No.0080672292
Swift Code: BOFCUS33MPK

If you use a credit card, you agree to be responsible for any fees we incur in connection with the transaction.

7. You agree to cooperate fully with the Firm by supplying promptly all information and documents requested of you in this matter.

8. You acknowledge that no result has been or can be guaranteed to you in this matter. We do pledge, however, our best efforts.

9. You are advised that the Firm maintains a professional liability insurance policy.

10. You agree that in the event you relocate to a new address or changes telephone number(s), you will notify the Firm within 24-hours of such a change.

11. You agree that this Agreement may be terminated at any time by either party, subject to the Firm's professional and ethical obligations.

12. After our services have concluded, the Firm will make available to you the file in this matter and any property in our possession. If you do not request the file for this matter or instruct otherwise, we will maintain the file for five years after the matter is closed. At the end of the five-year period, we will have no further obligation to retain the file and may, at our discretion, destroy it without further notice to you. If at any point as a result of our engagement we are required to produce documents or appear as witnesses in connection with any governmental or regulatory examination, audit, investigation or other proceeding or any litigation, arbitration, mediation or dispute involving you or related persons, you are responsible for costs and expenses reasonably

incurred by us. This provision survives termination of our representation of you.

13. In the event retainer fees or any other monies deposited into the Firm's accounts are returned for any reason, they will be returned to the source from which they were paid.

14. The parties agree that any dispute between you and the Firm relating to our representation of you as set forth herein shall be submitted to binding arbitration before JAMS at its downtown Los Angeles, California, offices. This provision covers any dispute, claim or controversy arising out of or relating to our representation of you as set forth herein, including without limitation the determination of the scope or applicability of this agreement to arbitrate. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. Arbitration costs shall be split evenly between the parties. Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

15. You acknowledge that the foregoing terms are not set by law but have been negotiated between you and the Firm.

We are pleased you have chosen the Firm to assist you in this matter. We look forward to representing you and working with you. If the foregoing conforms to your understanding of our agreement, kindly sign where indicated below. By signing below, you are affirming that you are retaining the Firm to represent you in this matter.

Very truly yours,

By: _____
Caleb E. Mason
Werksman Jackson & Quinn, LLP

The foregoing is approved this
_____ day of March, 2021.

By: _____

Mikke Pierson
Mayor, City of Malibu

Proposal for City of Malibu

Independent Investigation

February 22, 2021



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Introduction

Thank you for the opportunity to submit a proposal to the City of Malibu to conduct an independent investigation of the December 12, 2020 affidavit of former Malibu City Councilmember Jefferson Wagner (the “Affidavit”). This sensitive matter demands counsel with experience in the underlying legal issues, in running internal investigations for public and private entities, an understanding of the interworking of government and the obligations of holding a position of public trust, and a reputation for excellence, integrity, and transparency. Our proposed team embodies that blend of background and skillset, including representing California municipalities and experience on both sides of government investigations, particularly involving corruption and procurement fraud. We believe we are ideally suited to support the City in conducting this important and multi-faceted investigation.

Led by partner Paul Rosen, a former federal prosecutor and chief of staff at the Department of Homeland Security (DHS) under President Obama, our proposed team will work to uncover the facts through a comprehensive, yet efficient review of documentary and testimonial evidence, ensure transparency to the City, and dispassionately and professionally analyze the legal issues, risks, and any reforms that may be warranted.

As explained further below, Paul has led internal investigations for public and private sector organizations, including in the areas of health care compliance, #metoo and employee-related misconduct by senior employees up to and including the CEO, compliance with government contracting requirements, conflicts of interest in procurement, and quid pro quo arrangements and impermissible financial relationships between a public entity employee and a contractor. As a lawyer in private practice and in the government, Paul has interviewed and examined countless witnesses, including public company c-suite executives and government officials, before grand juries, at trial, and in connection with making credibility and charging determinations. Paul also has experience working directly for California municipalities and public institutions, and was recently recognized by the *Los Angeles Daily Journal* as one of the [top white collar lawyers in California in 2020](#).

In addition to the core team members proposed below, the matter would have available the resources and depth of a large international law firm, including partner [Michael Atkinson](#), the former Inspector General of the U.S. Intelligence Community who led dozens of high-profile investigations including the investigation of the Ukraine whistleblower complaint that led to the first impeachment trial of then-President Trump, as well as high-profile, public corruption-related investigations and prosecutions. Lawyers such as Michael will be available on an as needed basis should additional resources be required.

As to the instant investigation, one of our primary focuses would be to assess potential violations of state and federal procurement codes, which we discuss in greater detail in the “Key Issues” portion below. To support this review and analysis, our team would include a member of our premier Government Contracts group, one of the largest and [most reputable practices](#) in the United States and worldwide, to provide comprehensive support on any procurement fraud aspects uncovered by the investigation.

Crowell & Moring believes deeply in public service and doing our part to support our communities. Given our strong interest in assisting with this investigation, we’ve received approval to offer

extraordinarily discounted rates for this important work – without sacrificing the depth of experience on the team or the reach and resources of a large international law firm.

Below please find our proposal. We appreciate your consideration to perform this important work and encourage you to contact us with any questions.

Key Legal Issues

The Affidavit raises serious questions about whether City employees violated laws designed to ensure integrity and fairness in the provision of city services and government contracting. While they all center around the principles of fairness, transparency, and avoiding conflicts of interest, some of the provisions potentially implicated may include:

- **Bribery.** The law prohibits the offering, giving, or taking something of value, with corrupt intent, in order to unlawfully influence a person in any public or official capacity. California law specifically provides criminal penalties for those seeking to bribe or corruptly influence a legislator (Cal. Penal Code § 85) and for any California legislator who asks for or receives such a bribe (Cal. Penal Code § 86). Bribery offenses also implicate California Penal Code Sections 67, 68, 85, 86, 92, 93, 137, 138, 165, and 641.3. In addition, bribery can be a federal crime if certain jurisdictional and definitional predicates are met. *See* 18 U.S.C. § 201. The so-called “Pay-to-play” related aspects of the allegations in the Affidavit could give rise to such an offense.
- **Conflict of Interest.** Public officials and employees are prohibited from holding a financial interest in any contract made by them in their official capacity or by any body or board of which they are members. California Political Reform Act, Cal. Govt Code § 1090. Government officials with any potential personal interests in the selection or aware of contracts may run afoul of this provision.
- **Misappropriation of Public Funds.** The law provides that state and local officers shall neither appropriate public funds for their own use nor make a profit out of the funds, among other requirements. Cal. Penal Code § 424. Allegations that government officials may have used public funds to benefit themselves, family members or business associates could give rise to a violation.
- **Honest Services Fraud.** Under federal mail and wire fraud laws, public officials owe a duty of loyalty and honesty to members of the public. That duty is violated when a public official makes a decision that is motivated by his or her personal interests instead of the public interest. 18 U.S. Code §§ 1341, 1343, 1346.
- **Money Laundering.** The use of proceeds of specified unlawful activity (the definition of which includes “bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official”) can rise to money laundering, including the payment of bribes through alternative means such as casino chips. *See* 18 U.S.C. §§ 1956 and 1957. The allegations in the Affidavit that a bribe was offered in the form of casino chips that

“may be impervious to detection and would not need to be reported to the I.R.S.” could give rise to liability, as well as under federal tax laws. 26 U.S.C. § 7201.

- **Conspiracy and Aiding and Abetting.** The allegations that others knew and participated in the bribery schemes suggest that there may have been conspiracies or aiding and abetting any of the listed crimes. See *e.g.*, Cal. Pen. Code 182(a)(1) (criminal liability “[i]f two or more persons conspire ... [t]o commit any crime”).
- **Failure to Discharge Powers and Duties.** Local laws also require city personnel to see that all state laws and local ordinances are enforced, and they must appropriately supervise all departments of the city government. Municipal Code 2.12.070. To the extent that violations in the Affidavit prove true, they could implicate local laws designed to prevent such violations like this ordinance.
- **Procurement and Contract Award Violations.** City Code and California law provide a formal bidding procedure requiring that contracts be awarded to the lowest responsible bidder after public bidding. Cal. Public Contract Code §§ 10180; 20120 *et. seq.*; Malibu Municipal Code §§ 2.56.140 and 10180. The Affidavit suggests that may not have been the practice in awarding certain contracts, and the facts may implicate these provisions as well.

The facts of this investigation will drive the analysis about potential legal violations, which we understand the District Attorney is examining. This injects additional sensitivities that the City will need to keep front of mind. For example, the City will need to be prepared to respond to requests from the DA for cooperation, including the production of documents and related evidence, or making City employees available for potential interviews. This will raise questions about whether the City may need to, or should, provide City employees with separate counsel in connection with those potential requests. In addition, any investigation will need to carefully protect whistleblowers and advise the City on any potential retaliation concerns should they arise. Finally, the proposed investigation would be conducted under Attorney-Client Privilege to provide the City with legal advice in connection with this Affidavit. The City can later decide to waive the privilege, or to request the development of an un-privileged report, which we would analyze with the City. We have built some of these sensitive considerations into our phased investigative strategy below.

Investigative Strategy

As needed and appropriate, we would be prepared to engage in up to a five-phase investigative process and are prepared to conduct any/all of these phases remotely, having developed such protocols in response to the COVID-19 pandemic. In addition, certain phases, or aspects of certain phases, may prove unnecessary depending on the facts and needs of the City as we learn more. The work will be tailored to ensure maximum efficiency. The phases include:

Phase 1: Initial Assessment, Development, and Strategy

- Plan, coordinate, and manage investigative activities and privilege protocols
- Perform legal research/analysis of procedural and substantive issues implicated by investigation

- Develop work product to assist with investigation and analysis (timelines, list of relevant individuals, issue summaries, etc.)
- Communicate with client, identify agreed-upon strategy, and provide status updates as needed

Phase 2: Document Collection and Review

- Coordinate collection of materials (emails, policies, procurement documents, etc.) and analyze/organize key documents
- Perform extensive review and analysis of key documents
- Ensure City equities, including all applicable privileges, are preserved and asserted as appropriate
- Organize document review results for analysis and report
- Perform supplemental searches and review as warranted by results of initial document review, interviews, and other investigation findings
- Coordinate with and direct forensic email vendor if appropriate

Phase 3: Witness Interviews

- Identify and triage appropriate witnesses for interviewing and perform interview preparation
- Schedule, attend, and conduct exhaustive interviews of background and key witnesses; draft interview memoranda
- Prepare for and conduct follow-up interviews; draft follow-up interview memoranda

Phase 4: Investigation Report and Recommendations

- Draft investigation report or briefing, including government self-reporting considerations (understanding that a referral to the District Attorney has already been made)
- Finalize investigation report summarizing legal conclusion, findings, risks, and recommendations
- Deliver written and/or oral report to City
- **Develop recommendations for any appropriate remedial actions** (e.g., new policies, procedures, training materials)

Phase 5: Interface with Government Agencies (if necessary)

- Prepare for potential parallel investigation by the District Attorney (or potentially the U.S. Attorney's Office)
- Assist client in responding to follow-up questions from government agencies
- Prepare witness for interviews if and as appropriate
- Evaluate the appropriateness of separate counsel for City employees if and as appropriate

Proposed Team

Primary Team



[Paul Rosen](#) (Partner, Los Angeles) – Paul, a former federal prosecutor and chief of staff of the Department of Homeland Security under President Obama, represents corporate and individual clients in federal and state criminal and civil investigations and enforcement actions, internal investigations, and litigation matters. Since joining the firm in 2017, Paul has led numerous internal investigations on sensitive and momentous corporate and organizational issues. During his decade in the federal government, Paul led financial crimes-related investigations and prosecutions, including in connection with bribery, fraud, money laundering, and related crimes.

The *Daily Journal* recently named Paul to its 2020 list of “Top White Collar Lawyers,” which recognizes a small group of leading white collar lawyers in California. From 2006 to 2009, Paul served as counsel to then-U.S. Senator Joseph R. Biden, conducting oversight investigations and advising on civil and criminal law policies and legislation confronting the Senate Judiciary Committee.



[Laura Schwartz](#) (Counsel, Los Angeles) – Laura represents corporate and individual clients in criminal litigation and related civil matters in both state and federal courts. She has handled investigations and defenses of municipalities, city councilmembers, lobbyists, and government contractors, including representing a former City Councilmember in the State of California in connection with a public corruption investigation into his acceptance of gifts (including cash) from a businessman. Laura has also advised numerous public and private sector entities in internal investigations

in the State of California and regularly works on investigations involving public corruption, misappropriation of public funds, and false claims.



[Gabrielle Trujillo](#) (Associate, Los Angeles) – Gabby is a member of the firm’s Government Contracts and White Collar and Regulatory Enforcement groups who frequently works on civil and criminal investigations, including providing guidance regarding procurement regulations, practices, and compliance. Gabby’s clients include municipalities, Fortune 50 companies, and some of the countries’ largest government contractors.

Additional Attorney Resources (if additional resources are needed)



[Michael Atkinson](#) (Partner, Washington, D.C.) is the former chief watchdog of the nation’s 17 intelligence agencies and served in senior Justice Department roles spanning two decades. He has led dozens of high-profile investigations and offers clients a rare combination of expertise in criminal defense and corporate compliance. Michael’s practice focuses on white collar defense, internal investigations, and related complex civil litigation. He was most recently the presidentially appointed and Senate confirmed Inspector General of the Intelligence Community in the Office of the Director of National Intelligence. In that role, he led teams of investigators, auditors, and examiners in conducting investigations and compliance reviews related to counterintelligence and cybersecurity matters, procurement fraud, unauthorized disclosures of classified information, intelligence oversight abuses, and other highly sensitive allegations. He also served as the Chair of the Intelligence Community Inspectors General Forum. Prior to his Inspector General role, he tried, prosecuted, and supervised high-profile criminal cases at the U.S. Department of Justice (DOJ) and served as the Acting Chief and the Deputy Chief in the Fraud and Public Corruption Section of the U.S. Attorney’s Office in the District of Columbia. There, and as a Trial Attorney with the DOJ’s Criminal Division, Fraud Section, he oversaw and was the lead prosecutor on several significant white collar matters involving procurement fraud, public corruption, and money laundering, among other offenses.



[Mana Elihu Lombardo](#) (Partner, Los Angeles) – Mana is an authority on government procurement who serves on the Steering Committee for the firm’s False Claims Act working group and concentrates her practice on government contracts litigation and counseling. She conducts internal investigations and counsels on public sector contract compliance and procurement fraud.



[Nimi Aviad](#) (Partner, Los Angeles) – Nimi is a member of the firm’s White Collar Crime and Regulatory Enforcement Group and Investigations Group whose practice focuses on representing and counseling clients in white collar criminal defense, grand jury investigations, internal investigations, and related complex civil litigation matters. He has been involved in several matters focusing on domestic public corruption in California, including an investigation into allegations of corruption in a municipality, and he has also represented individuals in matters alleging embezzlement and misappropriation of public funds.



[Mariam Sarwar](#) (Associate, Los Angeles) – Mariam is a litigation associate focused on complex corporate and organizational matters, and her experience has focused on internal investigations and compliance matters. Prior to joining the firm, Mariam served as a law clerk in the Los Angeles City Attorney’s Office’s Civil Litigation Department.

Relevant Representative Experience

Some of the team members' relevant experience includes:

- **City Councilman Corruption:** Representing a former City Councilman in California in a federal public corruption grand jury investigation. The matter involved an investigation into the Councilman's acceptance of cash and other gifts and scheming to cover up these gifts.
- **Fraudulent Contractor Awards:** Representing a university system in connection with a scheme to circumvent its procurement processes by a former university official who participated in the selection of contractors while receiving money and gifts from a contractor that was awarded several lucrative contracts over a multi-year period.
- **California Municipality Officeholders' Conflict of Interest:** Advising the City Attorney for a municipality in connection with an internal investigation into potential conflict of interest issues pertaining to former and current City office-holders and relating to potential environmental prosecution by a California regulator in connection with land owned by the municipality.
- **Misuse of Government Documents:** Conducting an internal investigation for one of the world's largest companies regarding the potential misuse of government documents by an employee.
- **Rigged Bid Investigation:** Representing a large California school meal provider and its owner in connection with a federal false claim and public corruption investigation alleging that the owner of the meal company had a connection to a member of the school board, the connection was not disclosed, and the bidding was rigged.
- **Violations of Lobbyist-City Official Gift Rules.** Representing a client in matter involving a prominent lobbyist and lobbying firm in California who allegedly violated city rules that restrict gifts from lobbyists to city officials in connection with an investigation being conducted by the United States Attorney's Office, Public Corruption Section.
- **Misuse of Campaign Funds.** Representing a premier political law firm in California and its employees in an investigation by the United States Attorney's Office into representation of a California elected official.
- **Improper Gifts to School District:** Conducting internal investigation for a large toy manufacturer into potential gift offered to school district employees.
- **Employee Harassment Misconduct Allegations:** Conducting interviews for a large health care services provider in connection with employee harassment misconduct allegations.

Fees

Our firm is pleased to offer the City of Malibu a fee proposal based on deeply discounted rates. We would be happy to have a conversation about this proposal and find a way to best tailor it to your needs. The below proposal offers an estimated range of fees by phase, which may change once we learn more facts including about the scope of work, such as the number of documents that may need to be reviewed.

| Name | Assumptions | Fees |
|---|---|--------------------------------------|
| <u>Phase 1:</u> Initial Assessment, Development, and Strategy | | \$5,000 - \$15,000 |
| <u>Phase 2:</u> Document Collection and Review | This phase is impossible to estimate without know how many documents are within the scope of a potential document review. That said, we have a team of discovery attorneys that we can use for this review, which can provide a review at rates that are 50% below what some associate attorneys would cost. | TBD depending on volume of documents |
| <u>Phase 3:</u> Witness Interviews | Includes up to five interviews. | \$15,000 - \$37,500 |
| <u>Phase 4:</u> Analysis, Investigation Report, and Recommendations | Development of one privileged report laying out the facts that were found, and analysis of legal issues implicated arising directly from the allegations in the Affidavit, and recommendations for the City. This workstream will depend on the findings and the City may decide to implement any recommendations on its own. | \$25,000 - \$37,500 |
| <u>Phase 5:</u> Interface with Government Agencies (if required) | This will depend on what if any interest the government takes with the Affidavit, and this may be handled by the City Attorney or others within the City, but we stand prepared to assist the City with any such engagement or presentation. | \$0-TBD |

* * *

Thank you again for considering Crowell & Moring for this investigation, and we look forward to hearing from you.

**RESPONSE TO REQUEST FOR PROPOSALS
CITY OF MALIBU: WAGNER AFFIDAVIT INVESTIGATION
FEBRUARY 22, 2021**

I. INTRODUCTION

Cader Adams LLP is pleased to provide the City of Malibu with the following response to its Request for Proposals for an independent investigation into the matters raised in former Malibu City Councilmember Jefferson Wagner's December 12, 2020 affidavit.

II. QUALIFICATIONS

Cader Adams is a boutique law firm that conducts independent, impartial, thorough, and timely investigations for businesses, institutions of higher education, local governments, and non-profits. Where appropriate, we also provide crisis management, media, and public relations strategies.

Our founders have served as an Assistant United States Attorney, Federal and State Public Defender, Department of Justice Civil Rights attorney, national law firm litigator, and judicial law clerk to renowned Federal District and Circuit Court judges. Through a combined 36 years in the Department of Justice and state and federal public defender systems, we have honed the highest level of skill in investigating allegations of fraud, corruption, employee misconduct, civil rights violations, securities and accounting fraud, insider trading, and environmental and other white-collar crimes.

Personnel

This investigation would be led by Yasmin Cader and Christine Adams, with the support of their team of investigators, which includes attorneys, forensic auditors, and licensed private investigators.

Christine Adams spent eleven years as a federal prosecutor in the U.S. Attorney's Office in Los Angeles, where she led complex, high stakes government investigations. During her tenure, Christine served as the Defense Contractor Fraud Coordinator for the Central District of California. In that role, she coordinated and directed investigations by federal law enforcement agencies throughout the entire Central District. She also led multiple complex investigations relating to Department of Defense contracts, aircraft testing, trade secrets, corruption, and other areas. Christine successfully prosecuted a major defense contractor for trade secrets violations in connection with launch services contracts worth billions of dollars, resulting in the largest criminal and civil penalties on record ever imposed on a defense contractor at the time for both

the Department of Defense and NASA. Christine served in the Government Fraud and Public Corruption and, subsequently, the Major Frauds sections of the U.S. Attorney's Office, where she specialized in complex fraud matters, including SEC investigations, tax, bank and mortgage fraud, and environmental crimes.

Christine has also served as an instructor in fraud training programs for federal prosecutors and for several law enforcement agencies. She has received commendations from the Federal Bureau of Investigation, the Department of Defense Criminal Investigative Service, the Army Criminal Investigation Command, the Department of Justice's Environmental Crimes Section, the NASA Office of Inspector General, and the Internal Revenue Service.

Yasmin Cader handles high profile civil rights, harassment, discrimination, and employment investigations for colleges and universities, non-profits, and private sector entities, particularly in the entertainment industry. In addition to investigations, she is regularly sought out to advise on workplace culture assessments and diversity and inclusion initiatives.

Yasmin brings more than 25 years of civil rights advocacy and trial litigation experience to this work: after graduating from Yale Law School and clerking for the Honorable Damon J. Keith of the United States Sixth Circuit Court of Appeals, she started her career at the Employment Litigation Section of the U.S. Department of Justice Civil Rights Division, where she litigated claims of sexual and racial harassment and discrimination. From there, she served as a public defender in the District of Columbia, and a federal public defender in the Southern District of New York and Los Angeles, where she tried more than thirty criminal cases to resolution before juries and judges in state and federal courts.

Yasmin currently serves on the Los Angeles Unified School District Task Force to reimagine school safety and the Los Angeles Police Department Advisory Committee. She is also a member of the faculty at Harvard Law School's Trial Advocacy Workshop and the National Criminal Defense College. She has served as a guest lecturer at local and national bar associations across the country, as well as at Yale Law School, Harvard Law School, New York University School of Law, UCLA School of Law, and Loyola Law School. She currently serves on the Yale Law School Executive Committee and is also on the board of a national non-profit dedicated to effective messaging for social justice issues.

Statement on Diversity, Equity, and Inclusion

Cader Adams is a minority- and women-owned law firm that is committed to advancing the principles of diversity, equity, and inclusion in all aspects of our work, from employment practices to institutional culture and community engagement. We are certified by the National Minority Supplier Development Council and the Women's Business Enterprise National Council.

Bar Memberships and Standing

Yasmin and Christine are members in good standing of the State Bar of California. Yasmin is also licensed in New York and Washington DC. Cader Adams holds all of its partners and employees to the highest ethical standards and no partner or employee of the firm has ever been the subject of a state bar disciplinary investigation or action.

III. FEES

For government and non-profit investigations, we typically charge a blended rate of \$550 per hour for attorneys and \$125 per hour for paralegals. This represents a significant discount from our usual hourly rates of \$895 for Ms. Cader and Ms. Adams and \$500 for supporting attorneys.

We do not charge for travel or for administrative costs such as printing, photocopying, legal research databases, and messenger services. This excludes fees we may incur for additional professionals such forensic auditors, should they be required. We would be happy to discuss the scope of additional professional services for that may be required for this investigation and anticipated costs.

While project-based billing is challenging for investigations, since the scope of the work is unknown at the outset, we understand the importance of cost consciousness for our public sector and nonprofit clients and we would be pleased to discuss the scope of the investigation and how we can achieve billing efficiencies.

IV. BILLING AND TIMING OF SERVICES

We appreciate the urgency of addressing allegations of this nature, and we are prepared to commence work immediately upon execution of a contract for services and devote substantial resources to conducting a prompt and thorough investigation and report our findings to City Council as soon as is practicable.

We bill all services monthly, and we provide detailed itemizations of services rendered, regardless of whether the services are paid on a retainer, flat fee, or hourly basis. Where the work is billed hourly, we bill in one-tenth (0.1) hour increments. We are happy to modify our invoicing methods to conform to the requirements of federal, state, or local programs as well as insurers.

V. STATEMENT ON CONFLICTS OF INTEREST

Cader Adams has not represented any clients or interests adverse to the City of Malibu, nor has it represented or acted adversely to former Councilmember Jefferson Wagner or any of the individuals and entities named in Mr. Wagner's December 12, 2020 affidavit.

VI. REFERENCES

1. Jina Choi, Former Director, SEC, San Francisco Regional Office: (415) 268-7000.
2. E. Martin Estrada, former Deputy Chief of the Violent and Organized Crime Section and International Organized Crime Coordinator, United States Attorney's Office, Los Angeles: (213) 683-9253.
3. Hon. Patrick J. Walsh (Ret.), Chief Magistrate Judge, United States District Court for the Central District of California: (213) 622-1002.
4. Roy Austin, VP of Civil Rights, Facebook, and former Deputy Assistant Attorney General, Department of Justice, Civil Rights Division: (240) 643-0691.

VII. CONCLUSION

We welcome the opportunity to speak with you and would be happy to provide additional information upon request in advance of the March 8, 2021 City Council meeting.

LAW OFFICES OF EVAN A. JENNESS

777 SOUTH FIGUEROA STREET, STE. 3800
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February 19, 2021

Heather Glaser, City Clerk
Malibu City Council
23825 Stuart Ranch Road
Malibu, California 90265
Via email to: hglaser@malibucity.org

Confidential Attorney-Client Communication

Re: Proposal for an Independent Investigation Regarding Allegations Raised in Affidavit of Former Councilmember Wagner

Dear Malibu City Council:

I write to submit a proposal for an independent investigation to be performed by attorney George Newhouse and me in connection with issues and allegations raised in the Wagner Affidavit referenced above. Both Mr. Newhouse and I are experienced white collar lawyers. Copies of our *curricula vitae* are attached. These materials reflect a combined experience of more than seventy years handling criminal, civil, administrative and sundry matters -- both from prosecution and defense perspectives. Mr. Newhouse, for example, spent seven of his twelve years as a federal prosecutor supervising the Public Corruption and Government Fraud section of the United States Attorney's Office in Los Angeles. I served for eight years as a deputy federal public defender, defending and investigating similar alleged crimes. Since opening my private office seventeen years ago, I have specialized in the defense of white collar cases, and regularly handled matters involving alleged corruption.

Together, we thus have significant professional experience investigating matters involving potential governmental corruption, "kick-backs," "pay-to-play" and bribery schemes. Our combined experience also includes numerous investigations involving the reliability of sworn statements, and assessments as to how to most effectively address, under the specific circumstances at hand, any adverse issues that an investigation may raise.

ATTACHMENT E

We possess the following attributes, which we view as essential for conducting a fair yet thorough investigation of the kind the City of Malibu seeks:

- Requisite skills and prior experience, and an intimate working knowledge of potentially applicable laws, both federal and state;
- Capability to investigate and evaluate objectively, and without bias;
- Professional reputations and experience needed to be perceived as neutral and fair in conducting an independent investigation of this nature;
- No personal or professional stake in the outcome of the investigation;
- Interpersonal skills and professional experience needed to develop an effective working relationship with any involved persons, and appropriate temperaments for conducting relevant interviews in a fair and objective fashion;
- Attention to detail, and the ability to assess 'big picture' issues, which are keys to evaluating sworn statements and the broader issues they may implicate;
- Communication skills needed to effectively and efficiently report (and discuss) the results of our investigation to the Council; and
- Experience handling media scrutiny in 'high profile' matters.

We believe that working as a team would both enhance our efficiency and the quality of our investigative product. Mr. Newhouse and I work together extremely well, and will produce a superior product consisting of an evaluation and assessment, and recommendations for any appropriate follow-up by the City.

In short, we have the experience and ability to proceed with expedition and discretion, which we assume is consistent with the City Council's duties to its residents and voters, and goals, given the seriousness of the allegations set forth in the Wagner Affidavit.

Our proposed investigation would consist of seven steps: (1) assessing the issues implicated in the Wagner Affidavit; (2) planning our investigation; (3) collecting and evaluating the information obtained from witnesses, including identification of additional witnesses and documents that may shed additional light on the factual and legal issues raised; (4) researching and assessing potential remedial measures for any issues that may warrant action; (5) preparing an objective (and privileged) report to the City; (6) assuring confidentiality and the protection of attorney-client privileged matters so there is minimal outside disclosure of our findings (unless the City so directs); and (7) delivering the results of our investigation to the Council. Because an investigation is an ongoing process, some of these steps would be repeated when warranted based on new information. In short, we would follow the evidence and facts wherever they lead, and report our

findings to the City. The City Council can then elect an appropriate course of action to preserve and protect the City's interests, as well as the interests of justice. Everything we do in that regard, including our ultimate advice to the City Council, will be handled with appropriate discretion, and treated confidentially.

While we generally work on an hourly basis -- our normal hourly rates range from \$700 to \$800 per hour -- we would be agreeable to work at a reduced rate in light of the fact that a municipality is the client and the public interest is impacted. We would propose a rate of \$400 per hour for attorneys' fees, plus costs and related expenses billed at the amount incurred. We would also ask that the City provide a retainer payment of \$50,000, which would be fully refundable at the conclusion of the undertaking.

Litigation and litigation-related activities, such as conducting an independent investigation, are all unpredictable by nature. Thus they are frequently resistant to precise estimation of time, labor and effort. The ultimate amount of our fees would depend on the number of witness interviews conducted and subpoenas issued, and the volume of responsive materials reviewed and evaluated, as well as the volume and complexity of other evidence which may be provided to us, and the format(s) in which our investigative results would be sought, whether written and/or oral.

The principal costs (as distinct from our fees) would be one or more private investigators to assist in conducting those witness interviews that reasonably could be delegated, and a paralegal to preliminarily review and organize relevant written and/or electronic materials obtained by subpoena or otherwise.

Beyond the requested investigation and report to the Council, we would respectfully request payment on an hourly basis for any further time and costs incurred as a consequence of the investigation and report. For example, we would seek to be compensated for our time and any costs incurred if, after we deliver our report and/or discuss the results of our investigation to the Council, we were asked to appear before another forum, or discuss the matter with law enforcement offices (such as the District Attorney's Public Integrity Section or the U.S. Attorney's Office with whom Mr. Newhouse maintains close connections).

We look forward to the opportunity to handle this matter, and are available to respond to any questions you may have about the preceding.

Best regards,

LAW OFFICES OF EVAN A. JENNESS

Evan A. Jenness

Evan A. Jenness

RICHARDS CARRINGTON

George B. Newhouse, Jr.

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George B. Newhouse, Jr. is a white collar criminal defense/commercial litigation attorney at Richards Carrington, LLC. Mr. Newhouse was formerly a partner at Dentons US LLP, and the chair of Thelen Reid & Priest LLP's white-collar criminal defense practice. Prior to re-entering private practice, Mr. Newhouse served as an Assistant United States Attorney in the Criminal Division of the United States Attorney's Office for the Central District of California (USAO) from 1986 to 1998. For seven years, Mr. Newhouse served as an Assistant Division Chief, supervising approximately 30 attorneys in the Public Corruption and Government Fraud Section of the U.S. Attorney's Office.

Mr. Newhouse's thirty-seven years of experience includes criminal investigations and approximately 40 trials in a variety of white-collar criminal and complex civil trials and arbitrations -- both as a prosecutor and defense lawyer. While a prosecutor, Mr. Newhouse tried several complex government fraud matters involving major defense contractors, in which he obtained convictions and multi-million dollar fines in cases involving Hughes Aircraft and Rockwell Corp. While a supervisor in the USAO, Mr. Newhouse also served as Chairman of the Southern California Defense Procurement Fraud Task Force, the Attorney General's Advisory Committee on Health Care Fraud, the Federal Emergency Fraud Task Force (following the Northridge Earthquake), the Los Angeles Campaign Financing Fraud Task Force and acted as the coordinator for terrorism and foreign counter-intelligence matters with the FBI in Los Angeles until 1998.

In private practice, Mr. Newhouse has represented companies, executives and professionals in a variety of criminal, complex civil and other enforcement proceedings, involving federal, state and municipal authorities. Named as a "Super Lawyer" in white collar criminal defense from 2005 through 2021, Mr. Newhouse is also rated A/V, Martindale Hubble's top ranking of qualified attorneys. His clients have included a physician and owner of a hospital in Long Beach under investigation for alleged health care violations, a rocket scientist at a major aerospace firm under investigation for violations of the Arms Export Control Act, a hospital in Ventura County accused of misbilling the federal government, a company and its president under investigation for Customs violations, and many clients including oil companies involved in alleged environmental violations. Mr. Newhouse also has experience representing various plaintiffs in civil qui tam lawsuits. Currently unbeaten as a criminal defense attorney, Mr. Newhouse's first acquittal as a defense attorney occurred in 2005 in U.S. District Court on behalf of Courtney D. Smith, a financial commentator. Smith was indicted for securities fraud in Los Angeles by a federal grand jury, and that was followed up with a trial victory over the Securities & Exchange Commission in the parallel civil case in federal district court in 2008. Mr. Newhouse then prevailed again over the SEC, in March 2015, when famed NFL and U.S. Olympian Willie Gault was cleared of all serious securities fraud charges after a trial in federal court in Santa Ana. Mr. Newhouse's most recent trial victory was on behalf of a federal agent (ICE) accused by the County of Riverside of brandishing his firearm in a trial concluded in November 2019.

Mr. Newhouse currently serves as an adjunct Professor of the Practice at the University of Southern California, Department of Political Science, where he has taught Criminal Justice for nearly twenty years (1998-2003, 2007-2021) and White Collar Crime (Fall, 2012). In a recent evaluation performed by a USC faculty member, Mr. Newhouse was described as a "dynamic speaker" who is a "devoted mentor" to his students. He also served in an advisory capacity to two Independent Counsels, Robert Ray, Esq. (In re: Whitewater) and Donald Smaltz (In re Espy). In 2000, he served as a Deputy General Counsel to the Los Angeles Police Commission's Rampart Independent Review Panel. Mr. Newhouse has also lectured extensively at various continuing education and legal conferences and wrote a chapter on "White Collar Crime" in a book published by Prentice Hall on the Construction Industry (January, 2004). Mr. Newhouse frequently provides legal insight on such matters in the major print and broadcast media. His comments have frequently appeared in *New York Times*, *USA Today*, *Wall Street Journal*, *Bloomberg Law*, the *Associated Press*, *The Los Angeles Times*, *The San Francisco Chronicle*, and he has been a guest on CNBC's "The News on CNBC", CNNfn's "Street Sweep" and most recently on a series of Bloomberg Radio broadcasts called "Bloomberg Law" with June Grasso.

Mr. Newhouse graduated from Harvard University with an A.B., cum laude, in psychology in 1976. Mr. Newhouse was a three-year starter on the Harvard University Football Team, attaining All-Ivy Honors twice. He received a Masters degree in politics, philosophy and economics from Oxford University in 1983, where he was a Rhodes Scholar. Mr. Newhouse received his law degree from Boalt Hall, University of California, Berkeley, where he graduated Order of the Coif in 1982. Following graduation from law school, Mr. Newhouse clerked for Chief Judge Thomas P. Griesa, United States District Court for the Southern District of New York. He then worked for Davis, Polk & Wardwell in New York principally in complex civil and white-collar criminal matters. Mr. Newhouse is a member of the Bars of the State of California and State of New York, and has argued appeals before the Second, Eighth and Ninth Circuit Courts of Appeal.

EVAN A. JENNESS

Evan A. Jenness is a tenured federal and state criminal defense attorney, and former Deputy Federal Public Defender. She is the principal of her own firm, and represents individuals and entities in criminal and regulatory investigations; pre-trial, trial and appellate proceedings; and administrative matters. She also is well-versed in professional responsibility, and often advises attorneys regarding ethics issues. She regularly represents members of law enforcement and lawyers.

Ms. Jenness has defended a broad array of matters, including those involving alleged securities, health care and bank fraud, public corruption, immigration violations, civil rights violations, obstruction of justice, false statements, money laundering, violent crimes, narcotics trafficking, and many other felony and misdemeanor offenses. She also has substantial experience representing individuals in extradition, treaty transfer, contempt and probation/supervised release revocation proceedings. She has handled over 500 docketed matters in the U.S. District Court for the Central District of California, in addition to numerous matters in California State courts and other federal courts. In addition to docketed cases, she has an extensive record of pre-charging representation, and regularly represents targets and subjects, as well as witnesses and other third parties in criminal and collateral matters. She is a periodic author and lecturer regarding criminal defense and professional ethics.

Ms. Jenness has substantial expertise in the area of attorneys' professional responsibility and ethics. She frequently represents lawyers in criminal and related matters, and advises lawyers and others on issues such as the duty to protect client confidences, conflicts of interest, the attorney-client privilege and work-product doctrine, ineffective assistance of counsel, contempt, the duty of candor, and other matters involving legal ethics. She also has a substantial ongoing practice representing law enforcement. As an advisor staffing the ethics hotline for the National Association of Criminal Defense Lawyers, she regularly assists criminal defense counsel regarding ethics issues. As a member of the Attorney Discipline Committee of the Central District of California, she participates as a team member in evaluating disciplinary referrals for consideration by the court. She also is a past-President of the L.A. County Bar Association's Professional Responsibility & Ethics Committee.

Ms. Jenness has a strong commitment to social justice, including individual rights and liberties, protection of the right to privacy, economic fairness, civil rights, disability rights, and gender, racial and orientation non-discrimination. As the daughter of a career United Nations employee, she grew up in various countries in Africa, as well as the East Coast of the United States. She has a multi-racial family whose members live in the United States and overseas. She has made her home in Southern California since 1988.

Ms. Jenness is a member of the Federal Bar Association (Board Member & Past-President, Los Angeles Chapter); American Bar Association (Board Member, West Coast Regional White Collar Crime Committee); Women's White-Collar Criminal Defense Association, L.A. Chapter; National Association of Criminal Defense Lawyers (Ethics Advisory

Committee Co-Chair; Attorney Advisor, Ethics Hotline; Editorial Board Member, *The Champion Magazine*; and Past-Board Member); and U.S. District Court, Central District of California, Standing Committee on Attorney Discipline. She is a former member and past-Chair of the Professional Responsibility & Ethics Committee of the Los Angeles County Bar Association, and an *Ex Officio* Lawyer Representative to the Ninth Circuit Judicial Conference (Past-Co-Chair, Central District of California Lawyer Representatives).

Ms. Jenness is a 1988 graduate of Columbia Law School, where she was a Harlan Fiske Stone Scholar and an Editor of the *Journal of Law and Social Problems*. Following law school, she served as a law clerk to the (late) Hon. Harry L. Hupp, United States District Judge, Central District of California. She previously served as a trial attorney in the Office of the Federal Public Defender in the Central District of California. She received her Bachelor of Arts degree, *Summa Cum Laude*, with Highest Honors in Economics, from Brandeis University, and was selected as a member of *Phi Beta Kappa*. She is designated annually in *Southern California Super Lawyers*® and *The Best Lawyers in America: White-Collar Crime*.

Ms. Jenness has been dubbed ‘Tenacious E’ based on her tireless pursuit of justice for her clients. She has strong leadership skills, works well with others, and enjoys taking on new challenges and developing improved ways to address longstanding issues. She is a particularly good oral and written advocate. She is team-oriented, and has a high degree of empathy and compassion. She has enjoyed positive relationships with clients and other lawyers throughout her professional life, and gained the respect of judges and others in the legal community.

During her free time, Ms. Jenness enjoys travel, collecting photographs (a passion she acquired from her mother, who published photo documentaries), following politics, financial analysis (an off-shoot of her undergraduate degree in economics) and outdoor activities.

EVAN A. JENNESS

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EDUCATION *Columbia University School of Law, Juris Doctor, 1988*
Harlan Fiske Stone Scholar
Columbia Journal of Law and Social Problems
Research & Writing Editor, 1987-88; Staff, 1986-87

Brandeis University, Bachelor of Arts, 1984
Highest Honors in Economics
Summa Cum Laude, Phi Beta Kappa, Dean's List
Recipient of Steinfield Prize in Economics, 1984

London School of Economics & Political Science
Junior year abroad, 1982-83

PROFESSIONAL *Law Offices of Evan A. Jenness, Los Angeles, California*
Criminal Defense Attorney, Fall, 2004 – Present

Office of the Federal Public Defender, Los Angeles, California
Deputy Federal Public Defender, June, 1996 - Fall, 2004

Law Offices of Barry Tarlow, Los Angeles, California
Criminal Defense Attorney, Winter, 1993 - June, 1996

Irell & Manella, Los Angeles, California
Litigation Associate, Fall, 1989 - Winter, 1993

United States Federal District Court, Central District of California
Law Clerk to the (late) Hon. Harry L. Hupp, Fall, 1988 - Fall, 1989

O'Melveny & Myers, Los Angeles, California
Summer Associate, Summer, 1987

Nutter, McClennan & Fish, Boston, Massachusetts
Summer Associate, Summer, 1986

MEMBERSHIPS & DESIGNATIONS

American Bar Association, Member

West Coast Regional White Collar Crime Committee, Board Member

Federal Bar Association, Member & Past-President, Los Angeles Chapter

National Association of Criminal Defense Lawyers, Member

Ethics Advisory Committee, Co-Chair

Ethics Advisory Hotline, Attorney Advisor

Editorial Board, *The Champion Magazine*

U.S. District Court, C.D. California Standing Committee on Attorney Discipline Member

Ex Officio Lawyer Representative to the Ninth Circuit Judicial Conference

Co-Chair of the Central District of California Lawyer Representatives (2010-11)

Los Angeles County Bar Association, Past Member

Member of Board of Trustees (2011-13)

Chair (2010-11), Committee on Prof. Responsibility & Ethics

Southern California Super Lawyers®

The Best Lawyers in America: White-Collar Crime

PUBLICATIONS

When Silence Isn't Golden: Misleading a Court by Omission, Vol. 35, No. 5, LACBA Update (May, 2015)

Elite Lawyers Before the Justices, published letter to the Editor, New York Times, Opinion (January 5, 2015)

The "Silver Tsunami" and Sentencing - Age and Health as Mitigating Factors, NACDL *The Champion Magazine* (publication pending Fall, 2013)

A New State Bar Ethics Opinion May Justify Improper Attorney-Client Communications, Vol. 124, No. 232, *Los Angeles Daily Journal* (November 30, 2011)

Representing the Individual in Internal Investigations, ABA CJS White Collar Crime Newsletter (Summer, 2011)

Being an Ambassador of the Federal Bar, Vol. 124, No. 65, *Los Angeles Daily Journal* (April 5, 2011)

Ethics & Advocacy Dilemmas - Possessing Evidence of a Client's Crime, NACDL, *The Champion* (Cover Feature, December, 2010)

Judicial Remembrance, The Hon. Florence-Marie Cooper, U.S. District Judge, Central

District of California, Federal Bar Association The Federal Lawyer (March/April, 2010)
(co-author)

Hot Potatoes - The Perplexing Problem of Evidence of Crime, Vol. 30, No. 3, LACBA
Update (March, 2010)

*Judicial Profile, The Hon. Audrey B. Collins, Chief U.S. District Judge, Central District
of California*, Federal Bar Association *The Federal Lawyer* (September, 2009) (coauthor)

Boomers in the Dock: Age and Sentencing Mitigation, ALM *Business Crimes Bulletin*
(December, 2008)

Bringing Sentencing Sanity to Operation Malicious Mortgage, ALM *Business Crimes
Bulletin* (September, 2008)

Gaining the Upper Hand in Arguing “Loss” in Securities Fraud Cases, NACDL *The
Champion Magazine* (September, 2008)

“Loss” in the Air Will Not Do, ALM *Business Crimes Bulletin* (April, 2008)

Attorney-Client Intimacy - Too Hot to Handle?, Vol. 27, No. 6, LACBA *Update*
(June/July 2007)

Supervising Outside Agents in a ‘Blame the Lawyers’ World, Vol. 26, No. 7, LACBA
Update (August, 2006)

Combating Governmental Interference With Witnesses, Vol. 33, No. 1, CACJ *Forum*
(2006)

No Duty to Rat in California, Vol. 25, No. 7, LACBA *Update* (August, 2005)

The Problem of Prosecutorial Vouching, Vol. 32, No. 4, CACJ *Forum* (2005)

*Ninth Circuit Affirms Prosecutors’ Plenary Duty to Investigate Potential Brady/Giglio
Evidence*, Vol. 28, No. 3, CACJ *Forum* (2001)

Shabazz Case Illustrates the Havoc Caused by Paid Informers, published letter to the
Editor, New York Times, Opinion (March 30, 1995)

LECTURES & APPEARANCES

Los Angeles CJA Indigent Defense Panel Appellate Training Program (5/2/15)
“Professional Responsibility & the Criminal Defense Function”

Federal Bar Association, Ninth Annual Bankruptcy Ethics Symposium (12/13/13) - "An Ethics Conversation With Evan Jenness"

Association of Federal Defense Attorneys Webinar (9/25/13) - "Ethical Issues in Criminal Defense Practice 2013"

Association of Federal Defense Attorneys Webinar (6/27/12) - "Ethical Issues in Criminal Defense Practice 2012"

American Bar Association Annual White-Collar Crime Conference - Miami, Florida (3/1/12) - "Ethical Pitfalls and Blunders in White Collar Practice" (panelist)

University of Southern California Law School - Los Angeles, California (2/13/12) "Ethical Issues in Criminal Defense Representation" (LLM program lecture)

Westlaw Webinar (1/24/12) - "Driving the Guidelines Off the Cliff: Issues for Tax, Securities and Mortgage Fraud, and Money Laundering Cases"

Federal Defender Services of Idaho - Boise, Idaho (9/23/11) - "Professional Responsibility & Ethics for Criminal Defense Counsel"

NACDL Annual Conference - Denver, Colorado (8/5/11) - "On the Edge of the Ethical Cliff: When Prosecutors Go Too Far" (co-speaker)

LACBA Annual Ethics Symposium (1/29/11) - "The Two C's - Conflicts & Confidentiality" (co-speaker Diane Karpman, Esq.)

LACBA, Protecting Client Confidences Against Homeland Security Searches of Laptop Contents When Traveling Across Borders (12/08/2010) - "Border Searches and Privacy Issues" (panelist)

Federal Bar Association, Sixth Annual Bankruptcy Ethics Symposium (12/03/10) "California's New Proposed Rules of Professional Conduct"

NACDL Annual White Collar Crime Conference (10/1/10) - "Making Ends Meet: Obtaining Insurance Advancement & Indemnity in White Collar Cases" (co-speaker)

Advanced Federal Criminal Law Seminar - St. Louis, Missouri (06/24/10) - "Federal Sentencing Update 2009-2010"

NACDL Winter Seminar - Aspen, Colorado (1/11/10) - "A Sentencing Update & a View From the Bench" (panelist)

LACBA Ethics 2010: Keeping Current in a World of Change (1/09/10) - “What to Do When the Attorney-Client Relationship Ends” (co-speaker)

Federal Bar Association, Sixth Annual Bankruptcy Ethics Symposium (12/18/09) "Issues in Client Confidentiality" (panelist, moderator)

Disability Rights Legal Center, Loyola Law School (10/13/09) - “Ethics and Professional Responsibility”

NACDL Annual White Collar Crime Conference (10/1/09) - “More Jail, Less Justice White Collar Sentencing Unhinged From Reality” (panelist)

NACDL Annual Meeting & Seminar (8/7/09) - “Ethical Post-Conviction in Light of Innocence” (panelist)

Los Angeles CJA Indigent Defense Panel Appellate Training Program (3/26/09) “Ethical Dilemmas and Post-Conviction Responsibilities”

LACBA Ethics Symposium (1/10/09) – “Termination of the Attorney-Client Relationship” (co-speaker)

Federal Bar Association, Fifth Annual Bankruptcy Ethics Symposium (12/12/08) “What’s Up With Ethics?”

Los Angeles CJA Indigent Defense Panel Annual Training Program (11/22/08) - “Ethical Dilemmas and Post-Conviction Responsibilities” (co-speaker)

Los Angeles County Bar Association/Federal Bar Association (10/22/08) – “Federal Court Practice in the Central District of California - Changes, Trends and Updates” (panel moderator)

Administrative Office of the U.S. Courts, Federal Defender Services, Mobile, Alabama (10/17/08) – “Resolving Ethics Issues in Federal Criminal Defense Practice”

Los Angeles County Public Defender Training Program (10/2/08) - “Professional Responsibility & Criminal Defense”

Administrative Office of the U.S. Courts, Defender Services, Los Angeles, California (9/6/08) – “Ethical Issues Confronting Criminal Defense Attorneys” (panelist)

Los Angeles Federal Public Defender, Training Program for New Defenders (4/17/08) – “Ethics & Federal Defense Practice”

NACDL Winter Seminar - Aspen, Colorado (1/25/08) – “Strategies for Resolving Ethical Issues in Criminal Law – Issues From the Trenches of Criminal Defense Practice” (panelist)

LACBA Criminal Justice Section: Navigating the Federal Criminal Court Maze - A Nuts & Bolts Primer (1/19/07) – “Ethics in Federal Practice” (co-speaker)

LACBA Ethics 2007: Keeping Current in a World of Change (12/14/07) - “Ethics in Criminal Defense Practice” (co-speaker)

ABA West Coast Regional White Collar Crime Committee Annual Meeting (12/11/07) “2007 Federal Sentencing Update”

NACDL Mid-Winter Conference - San Diego, California (2/23/07) – “Ethical Responsibility in the Technological Age”

LACBA CLE Seminar (2/15/07) – “Strategies for Managing Civil, Criminal and Ethical Risks for the Mid- and Large Sized Law Firm” (co-speaker)

NACDL Winter Seminar - Aspen, Colorado (1/25/07) – “Federal Sentencing Update” (panelist)

OTHER

Profiled in *Women Criminal Defense Attorneys*, “Women Criminal Defense Attorneys: Interview With Evan Jenness” (May, 2015)¹

Profiled in *California Super Lawyers*, “Tenacious E” (February, 2014)²

Speaker at the LACBA 2012 Outstanding Jurist Award Luncheon honoring the Hon. Audrey B. Collins, Chief Judge, Central District of California (5/11/12)

Featured lawyer in *Careers in Criminal Law*, by Ellen Brotman, “Criminal Defense isn’t Something You Practice / Evan Jenness” (American Bar Association, 2010)

¹ Available at:

<http://womencriminaldefenseattorneys.com/women-criminal-defense-attorneys-interview-with-evan-jenness/>.

² Available at:

<http://www.superlawyers.com/california-southern/article/tenacious-e/0bfb5be5-ccf5-4a84-84ed8888a7b7ca9d.html>.

REFERENCES

Available upon request.