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9 SACRAMENTO COUNTY DEPUTY) Unfair Practice Charge (SA-CE-485-M)
10 SHERIFFS' ASSOCIATION)
11 Charging Party,) AFFIDAVIT OF STEVEN D. FISK IN
12 vs.) SUPPORT OF PRELIMINARY INJUNCTION
13 COUNTY OF SACRAMENTO)
14 Responding Party)

15 **I, STEVE FISK, declare as follows:**

- 16 1. I make this declaration in support of the unfair labor practice charge, and amendments
17 thereto, brought by me in my individual and official capacity as President of the
18 SACRAMENTO COUNTY DEPUTY SHERIFFS' ASSOCIATION, Inc. (SCDSA or
19 Union); AND on behalf of the SACRAMENTO COUNTY DEPUTY SHERIFFS'
20 ASSOCIATION, Inc. (SCDSA or Union) and each and every voting member of the
21 SCDSA.
22 2. The information contained herein is of my own personal knowledge, and if called up to
23 testify, I can do so competently.
24 3. This Declaration supports all previous filed charges, by both me and the SCDSA.
25 4. During my career with the Sheriff's Department, I have been active in the leadership of the
26 SCDSA serving as a past member of the SCDSA Board of Directors and then elected
27 President over the last ten years.
28 5. This action is brought against the County of Sacramento by the SACRAMENTO

1 COUNTY DEPUTY SHERIFFS' ASSOCIATION, INC. (hereafter alternatively,
2 "SCDSA," or "the Union") to rid the Union of domination and influence by the employer.
3 6. Consequently, the rights of the members of the union to control the affairs of the union
4 have been eliminated.
5 7. The remaining portions of this affidavit may be in the third person, for ease of reference.
6 8. SCDSA was formed as a non-profit mutual benefit corporation on 9/4/1951, with
7 California Corporation Number C0256617.
8 9. SCDSA's Chief Executive Officer, President, and Agent for Service of Process is Steve
9 FISK.
10 10. By majority vote, the rank and file membership of the SCDSA elected Steve FISK as
11 SCDSA President for a term of four years, effective January 1, 2004.
12 11. SCDSA's Constitution under Article V, Section 1, that "[t]he President shall coordinate
13 and manage the organization. The President [not the Vice-President] shall exercise
14 powers not specifically excluded in the Constitution and By-Laws. The President shall be
15 the spokesperson of the organization." All documents referenced herein were previously
16 provided. A true and correct copy of the Constitution is attached hereto as **Exhibit "1"**,
17 and Robert's Rules of Order as **Exhibit "2"**.
18 12. The purpose of SCDSA, as set forth in its Constitution and By-Laws, is to provide a wide
19 range of benefits and services to its members, including paid insurance benefits,
20 negotiating a collective bargaining agreement (hereinafter "CBA") covering wages, hours
21 and other terms and conditions of employment with the employer, the County of
22 Sacramento.
23 13. SCDSA, a non-profit mutual benefit corporation, is founded on the principle that the
24 ultimate authority rests with the voting membership ("one person, one vote" rule), and that
25 the elected President (Steven FISK) is designated to carry out the will of the membership
26 and the sole and exclusive spokesperson of the SCDSA. The President is the steward of
27 the Corporation, with a wide range of powers that are President's alone, such as to call
28 and cancel meetings, personally responsible for running the day-to-day operations of the

- 1 SCDSA, including the power to hire office staff and appoint paid full time release officers
2 and four board members, to fill vacancies on the board of directors as they may occur, and
3 to discipline board members for breach of fiduciary duties and *ultra vires* acts.
- 4 14. Under the provisions of Robert's Rules of Order, 10th Edition, Newly Revised ("RONR"),
5 which is incorporated by specific reference into SCDSA's Constitution under Article IX,
6 the Board of Directors are "... an instrumentality of the society's full assembly, to which it
7 is subordinate." Robert's Rules of Order, 10th Edition, Newly Revised, page 9, lines 5-10.
- 8 15. Based upon past custom, practice and usage, the purpose and intent of SCDSA's
9 governing documents is the placement of the ultimate authority over the internal workings
10 of SCDSA in the hands of the general membership (i.e., "the society as a whole") based
11 upon the "one person, one vote" rule.
- 12 16. SCDSA is recognized as the collective bargaining representative for the Non-Supervisory
13 Law Enforcement Unit (hereinafter "NSLEU") regarding employment issues with the
14 County of Sacramento.
- 15 17. The NSLEU consists of employment classifications covering over 90% of Sacramento
16 County employees assigned to the Sheriff's Department.
- 17 18. This labor union represents approximately 1700 covered employees.
- 18 19. Out of 20+ employee classifications, at least 12 employee classifications fall under PERB's
19 jurisdiction (i.e. Community Service Specialist 1, 2, and 3; Identification Technician 1 and
20 2; 911 Call Dispatcher; Dispatcher 1 and 2; Records Officer 1, 2, and 3; Security Officer).
21 See **Exhibit "6"**, CBA.
- 22 20. At the time of contract negotiations for the current CBA (i.e. "Collective Bargaining
23 Agreement"), the President as chief negotiator for the Association, was removed from his
24 position as President by unlawful actions of the Board of Directors. The County has
25 supported this action.
- 26 21. This illegal act was reversed by a Superior Court judge, who reinstated President Fisk.
27 This Court order has previously been provided. Attached hereto is a true and correct
28 copy of that order is attached hereto as **Exhibit "4"**.

- 1 22. Under Article IV, Section 1 ("Officers and Directors") of the SCDSA Constitution, the
2 highest ranking individual is the elected "President". The current CBA recognizes this
3 fact, specifically stating under CBA section 2.3 that the County "shall" recognize officers
4 and representatives designated by the SCDSA. Attached hereto is a true and correct copy
5 of the relevant portions of the CBA, marked as **Exhibit "3"**.
- 6 23. This designation can only be made by the sole and exclusive "spokesperson" of the
7 SCDSA, the President. (i.e. Article V, Section 1, dealing with Presidential powers,
8 specifically states that "[t]he President shall coordinate and manage the organization. The
9 President shall exercise powers not specifically excluded in the Constitution and By-Laws.
10 The President shall be the spokesperson for this organization.")
- 11 24. Under CBA section 2.3e, "[t]he President and up to two (2) officers appointed by the
12 President under Section 2.3-c. shall each receive 80 hours of release time ..." Under the
13 CBA, President Fisk terminated the two full time release officers who were involved in
14 ultra vires acts (including breach of fiduciary duty) and replaced them. Regardless of
15 clearly contractual and SCDSA constitutional language, the County has ignored this
16 obvious right of President Fisk to run the day-to-day operations of the bargaining unit.
- 17 25. Under Article IV, Section 2, the Board of Directors consists of 18 members, including
18 three Presidential appointees, plus an additional one for the past President who is no
19 longer sitting on the Board.
- 20 26. That means President Fisk has a total of four appointees that he can remove at-will. The
21 County of Sacramento refuses to recognize this simple fact by intermeddling in Union
22 affairs by refusing to deal with the sole and exclusive elected union official who is in fact
23 the designated spokesperson for the union under both the CBA and SCDSA's governing
24 documents.
- 25 27. Under SCDSA Constitution, Article IV, Section 8, any Board member who misses 3
26 scheduled meetings without cause can and shall be removed by the President only, with
27 vacancies filled by the President. There were a total of six board members who also fall
28 into this category.

- 1 28. In sum, forgetting about disciplinary proceedings, President Fisk has the absolute sole and
2 exclusive authority to remove a total of ten board members without any form of review by
3 any individual or entity, especially the County of Sacramento. (Note: the President also
4 sits as "Ex officio" member of the Board of Directors under Article IV, Section 3.)
- 5 29. President Fisk has removed and/or replaced a total of 10 Board members (including two
6 full time release officers) under his sole and exclusive power as President prior to any
7 discipline to the remaining Board Members once he was returned to office by the court.
- 8 30. As can be seen from the County's intermeddling, it is the County who is telling employees
9 who it recognizes by its own "interpretation" of the SCDSA governing documents. Those
10 recognized by the County also happen to be the same individuals who allowed two critical
11 provisions of the CBA to be passed WITHOUT notice to the members and an informed
12 union vote. As noted on the CBA, the former "Vice-President" signed the CBA, and not
13 the duly elected President; hence, the rush to get the CBA signed while the President was
14 kept from his duties as President with the support of the County employer. Attached
15 hereto and marked as **Exhibit "6"**, is a true and copy of the CBA ratified, based upon the
16 Contract at a Glance, **Exhibit "3"**.
- 17 31. The Board of Directors essential function is to monitor, not run the SCDSA. SCDSA
18 Constitution, Article V, Section 3, states, "[t]he Board of Directors shall govern the
19 organization as to matters of **policy** and **other specific responsibilities as specified in**
20 **the Constitution and By Laws.**" (emphasis added)
- 21 32. Article V, Section 1, dealing with Presidential powers, specifically states that "[t]he
22 President **shall** coordinate and manage the organization. The President shall exercise
23 powers not specifically excluded in the Constitution and By-Laws. The President shall be
24 the spokesperson for this organization." Nevertheless, the County has been dealing
25 exclusively with the former Vice-President (who was suspended by the President's powers
26 and the memberships recall vote) since it is the former Vice-President who orchestrated
27 the current fiasco with the blessing and assistance of the County. **Exhibit "1"**.
- 28 33. As noted, the County recognizes that the General Manager is Marlin Weinberger, and not

1 labor relations consultant Mr. Wendell Phillips. First, the "General Manager" position is
2 created under the President's plenary powers under Article V, Section 1 (The President
3 shall coordinate and manage the organization. The President shall exercise powers not
4 specifically excluded in the Constitution.").

5 34. No one else has the authority to hire or fire Mr. Weinberger except for the President.
6 Regardless, even though the County has been placed on notice about Mr. Weinberger's
7 termination, the County continues to treat Mr. Weinberger as though he is still an agent of
8 the union. This is especially disturbing since Mr. Weinberger is employed at the will of the
9 President, and Mr. Weinberger has in fact been fired and replaced by Mr. Phillips.

10 35. Even though the Constitution and CBA are replete with mandatory language granting the
11 President sole and exclusive powers on the management and operation of the union, the
12 County has ignored each and every presidential act, and instead continuously and
13 systematically exercised dominion and control over the day-to-day operations of the union
14 through removed and suspended officers and directors.

15 36. While on union paid release time (UTO), each Board Member, Officer and Director is paid
16 by funds withheld from SCDSA members' paychecks by the employer, the County of
17 Sacramento.

18 37. For part time Board Members, each receives an average of 10 to 12 hours pay for each
19 "official" Board or membership meeting attended during any regularly scheduled work
20 hours for such board member.

21 38. Membership meetings are called by the President.

22 39. Only the President or the members may call general and special meetings.

23 40. The President, and two full time agents designated by the President, are paid 80 hours bi-
24 weekly from funds withheld from SCDSA members paychecks by the employer, the
25 County of Sacramento.

26 41. Under Article IV, Section 1 ("Officers and Directors") of the SCDSA Constitution, the
27 highest ranking individual is the elected "President". The current CBA recognizes this
28 fact, specifically stating under CBA section 2.3 that the County "shall" recognize officers

- 1 and representatives designated by the SCDSA.
- 2 42. This designation can only be made by the sole and exclusive "spokesperson" of the
3 SCDSA, the President. (i.e. Article V, Section 1, dealing with Presidential powers,
4 specifically states that "[t]he President shall coordinate and manage the organization. The
5 President shall exercise powers not specifically excluded in the Constitution and By-Laws.
6 The President shall be the spokesperson for this organization.")
- 7 43. The Board of Directors essential function is to monitor and review policy, not run the
8 SCDSA.
- 9 44. SCDSA Constitution, Article V, Section 3, states, "[t]he Board of Directors shall govern
10 the organization as to matters of policy and other specific responsibilities as specified in
11 the Constitution and By Laws." (emphasis added)
- 12 45. By-Laws Article I, Section 7, states, "[t]he Board of Directors shall review all business on
13 behalf of the membership." (emphasis added)
- 14 46. Under CBA section 2.3e, "[t]he President and up to two (2) officers appointed by the
15 President under Section 2.3-c. shall each receive 80 hours of release time ..." See CBA,
16 **Exhibit "6"**.
- 17 47. Individuals who were suspended under a disciplinary committee established by the
18 President, then recalled by the membership are former directors and officers of the
19 SCDSA, and their former legal titles and names are as follows: VICE-PRESIDENT
20 BRANNON POLETE; TREASURER ANDREW CROWLEY; ASSISTANT
21 TREASURER MARLAN MEGGERS; SECRETARY KATE ADAMS; BOARD
22 MEMBER LUCIUS WINN; BOARD MEMBER WAYNE EBE; BOARD MEMBER
23 JANET ROBERTS; BOARD MEMBER MICHAEL FREEWORTH; BOARD
24 MEMBER RALPH RODRIGUEZ; BOARD MEMBER SCOTT GURNABY; BOARD
25 MEMBER ANTHONY COSTANZO; BOARD MEMBER BRUCE WANNER; BOARD
26 MEMBER KEVIN MICKELSON; BOARD MEMBER MELODY LAFOND;
27 SERGEANT-AT-ARMS GREG COAUETTE (hereinafter collectively known as
28 "FORMER BOARD MEMBERS")

- 1 48. These individuals whose names appear as above in the preceding paragraph are the former
2 members of the Board of Directors of SCDSA, whose offices are established by the
3 SCDSA Constitution.
- 4 49. County of Sacramento Sheriff McGinness, Steve Lakich and Terry Schutten, executive
5 employees of the County of Sacramento responsible for labor relations with the SCDSA,
6 and responsible for the reason why the County of Sacramento refuses to recognize the
7 lawful office of President Fisk to police the internal workings of the union.
- 8 50. Attached hereto as **Exhibit "5** is a true and correct copy of a letter President Fisk hand-
9 delivered to the Sheriff and Lakich, dated May 31, 2007, and delivered on June 1, 2007.
10 This letter was ignored.
- 11 51. The SCDSA President is the only union official authorized to make nominations and
12 appointments of union officers, directors and committee members.
- 13 52. The SCDSA President is the only union official granted "plenary" powers under SCDSA's
14 governing documents (i.e. "shall exercise all powers not specifically excluded...").
- 15 53. Further, under the collective bargaining agreement, the SCDSA President is the only
16 identified union official with whom the employer, the County of Sacramento, may deal
17 except by designation of and by the SCDSA President.
- 18 54. No one else has the authority to hire or fire Weinberger except for the President.
- 19 55. Regardless, even though the County has been placed on notice about Weinberger's
20 termination by the President, the County continues to treat Weinberger as though he is still
21 an agent of the union even though Weinberger is employed at the will of the President, and
22 Weinberger has in fact been fired as of June 1, 2007.
- 23 56. Recalled Board members are using Union funds to pay Weinberger, even though the
24 President fired him.
- 25 57. Even though the Constitution and CBA are replete with mandatory language granting the
26 President sole and exclusive powers on the management and operation of the union, the
27 County has ignored each and every presidential act, and instead continuously and
28 systematically exercised domination and control over the day-to-day operations of the

- 1 union through removed and suspended officers and directors.
- 2 58. Conspiring with FORMER BOARD MEMBERS County officials (Lakich, Schutten,
3 McGinness), Lakich, Schutten, and McGinness all authored and circulated through the
4 regular U.S. Mail and via fax the attached letters, falsely identifying FORMER BOARD
5 MEMBERS as current board members in good standing, with the specific intent to
6 defraud the general membership into believing that their dues money is being legally spent
7 paying removed and suspended officers, directors and board members. Attached hereto
8 and marked as **Exhibit "7"**, is a true and copy of the Sheriff's letter to management
9 stating that President Fisk's letter marked as **Exhibit "5"** is to be ignored.
- 10 59. These same false and misleading letters identify Weinberger as the business agent too,
11 though he has been terminated.
- 12 60. Exhibit "7" was never retracted, and has been the operative memo to date, even though
13 the membership also overwhelmingly voted to recall FORMER BOARD MEMBERS as
14 of July 13, 2007.
- 15 61. A special mail-out ballot was issued by the President, per the verified and valid petition
16 signed by over 150 members for which FORMER BOARD MEMBERS refused to call a
17 special meeting pertaining to their own recall.
- 18 62. Because of this failure, the current interim Board, through its disciplinary committee,
19 mailed-out recall ballots to remove FORMER BOARD MEMBERS from the permanent
20 rolls of the SCDSA leadership.
- 21 63. Attached hereto is a true and correct copy of the ballot count for the removal of
22 FORMER BOARD MEMBERS from the ranks of officers and directors of the SCDSA;
23 **648 for recall and 70 not to recall.** This constitutes an 89.2% of the returned ballots to
24 recall, obviously a very powerful message to both the rogue board of directors and the
25 County of Sacramento. Attached hereto and marked as **Exhibit "8"**, is a true and copy of
26 the SCDSA membership recall vote, removing (suspended at the time) Vice-president
27 Brannon Polete; Treasurer Andrew Crowley; Assistant Treasurer Marlan Meggers;
28 Secretary Kate Adams; Board Member Lucius Winn; Board Member Wayne Ebe; Board

1 Member Janet Roberts; Board Member Michael Freeworth; Board Member Ralph
2 Rodriguez; Board Member Scott Gurnaby; Board Member Anthony Costanzo; Board
3 Member Bruce Wanner; Board Member Kevin Mickelson; Board Member Melody
4 Lafond; Sergeant-at-arms Greg Coauette (hereinafter collectively known as "FORMER
5 BOARD MEMBERS")

6 64. On May 31, 2007, the County has been placed on notice that recalled Board of Directors
7 are not to be paid or recognized. This was done by way of letter and personal meeting
8 with Lakich. See **Exhibit "5"**.

9 65. On June 1, 2007, the County responded that it will deal with the suspended/recalled Board
10 of Directors exclusively. Attached hereto and marked as **Exhibit "9"**, is a true and copy
11 of the letter from Lakich dated June 1, 2007, ignoring the fact that the then Board of
12 Directors were suspended, pending the recall election.

13 66. On June 19, 2007, the Undersheriff publishes a letter that directs management to deal with
14 suspended/recalled Board of Directors exclusively. See **Exhibit "7"**.

15 67. Then, on June 21, 2007, County Exec Schutten states that the County will deal with the
16 suspended/recalled Board of Directors *until* there is an election to recall them, which is
17 what happed to them on July 13, 2007. Attached hereto and marked as **Exhibit "10"**, is a
18 true and copy of Schutten's letter dated June 21, 2007, wherein it was stated:

19 **"According to the SCDSA Constitution, the recall of any Officer or Director**
20 **requires a two-thirds majority of the membership. To our knowledge, such a recall**
21 **has not occurred."**

22 68. I placed the County on notice of the election results, and until this day, the County refuses
23 to recognize this election by the membership. Specifically, I specifically mailed and faxed
24 a certified copy of the election results to the County Executive, Terry Schutten, on July
25 13, 2007, attached as **Exhibit "8"**.

26 69. Nevertheless, though Schutten implicitly agreed that the County would only recognize the
27 removal of officers and directors if successfully recalled; however, in a letter dated July
28 16, 2007, the County does a complete reversal of their previous position by stating that **"it**

1 **is status quo in the current SCDSA officers and directors will continue to be**
2 **recognized by the County**". Attached hereto and marked as **Exhibit "11"**, is a true and
3 copy of Lakich's letter dated July 16, 2007, wherein the recall election was totally
4 ignored.

5 70. Till this day, even after a recall election, the County has been using union dues funds to
6 pay recalled elected officials and a terminated full time business manager (i.e. Weinberger).

7 71. Meanwhile, interim Vice-President and the Business Agent are not being paid, and are
8 entitled to back pay with interest, which the Union will be liable for.

9 72. Moreover, the attached June 19, 2007, letter from Union Bank indicates, all accounts have
10 been frozen, which is about \$250,000.00, including funds to be used for emergencies in
11 officer shootings and to assist family in times of crisis.

12 73. In addition, the County has not provided an accounting, though requested, of exactly how
13 much money has been turned over to the recalled Board Members. In essence, the County
14 has completely ignored each and every act of my administration of the day-to-day
15 operations of the union, and most importantly, the vote of the membership to recall all
16 formerly suspended board members.

17 74. Because of this, I cannot ensure that disability insurance premiums are being paid, or to
18 shop for better insurance, and that my secretarial staff is not being paid.

19 75. In sum, the County is providing money to recalled board members with the specific intent
20 to prevent me from challenging the current CBA with fraudulently procured provisions
21 regarding the removal of jobs from the Jail system and abolishment of civil service appeal
22 rights. The current recalled board members were the ones that allowed those two
23 provisions to pass, without providing notice to the members. Please see attached
24 Contract-At-A-Glance, which was mailed out the members, and compare with two key
25 provisions in the attached CBA which were not disclosed to the members. Attached
26 hereto as **Exhibit "3"**, is a true and correct copy of the Contract-at-a-Glance, mailed out
27 the SCDSA membership by the recalled Board of Directors, specifically not mentioning
28 items CBA Section 18.15 (elimination of Civil Service and Superior Court review of

- 1 disciplinary appeals) and CBA 17.9 (replacing sworn personnel with security guards)
- 2 76. The membership elected me to run the union, not the Board of Directors. The
- 3 membership has overwhelmingly requested that I remove the tainted provisions of the
- 4 CBA by any means necessary, including court action.
- 5 77. However, because of the County's intermeddling, I have been impeded in every step I
- 6 have taken to clean up the CBA and union as follows:
- 7 78. The County does not communicate with me regarding any labor issues, but instead, always
- 8 goes directly to the recalled Board of Directors.
- 9 79. The County has not provided me with an accounting of money paid to the recalled Board
- 10 of Directors.
- 11 80. The County has not provided me with access to union funds, but instead provides that
- 12 money to a secret account established by the recalled Board of Directors, an account that
- 13 is not disclosed to me or the members and the county was informed of this as well when I
- 14 instructed the County (i.e. Schutten) to stop payments and to place the money in an
- 15 interest bearing account until PERB ruled or the members voted.
- 16 81. The union finances, utilities, and insurance payments, are being disrupted to the extent
- 17 where I have to pay for simple items out of my own pocket, such as telephone service
- 18 (previously paid by the Union), copy costs, postage, and legal fees.
- 19 82. The County knows all too well that by cutting off funds to me, I cannot effectively
- 20 challenge the CBA on behalf of my membership.
- 21 83. Hence, the County's motive for maintaining control of the SCDSA through a puppet
- 22 Board of Directors who have been recalled.
- 23 84. In sum, without immediate PERB action, the union membership will suffer as follows: 1)
- 24 waste and abuse of members dues money; 2) Latches will be raised as a defense if I do not
- 25 immediately commence legal action to overturn the current CBA; 3) members dues money
- 26 is not being accounted for, and the County refuses to assist in the tracking down of funds
- 27 paid out to unauthorized recalled individuals for which the union will seek reimbursement;
- 28 4) members are facing discipline without the full rights that they previously enjoyed that

1 were given away in the current CBA that they had no knowledge of losing at the time of
2 CBA ratification. 5) Because the County deals with recalled Board members, Union Bank
3 has frozen the union's accounts. Attached hereto and marked as **Exhibit "12"**, is a true
4 and copy the **June 19, 2007, letter from Union Bank**, freezing approximately
5 \$250,000.00 of the SCDSA's treasury.

6 85. This would not happen but for the County ignoring recall election results that removed the
7 offending board members who were also responsible for the poison pill CBA contract
8 provisions.

9 86. These recalled board members are maintained in power by the County because the County
10 is using SCDSA member funds to keep them in power, and in turn, reducing President
11 Fisk's ability to effectively carry out the will of the membership.

12 87. **CHARGE ONE: Under the CBA, the County has**
13 **deliberately ignored President Fisk's powers to appoint**
14 **and/or remove officers, directors, and full time release**
15 **agents.**

16 88. The current CBA Section 2.3 a., "[t]he County recognizes and agrees to deal with
17 designated officers and representatives of the Union ..." Under the SCDSA Constitution,
18 Article V, Section 1, [t]he President **shall** be the spokesperson for this organization."
19 This is mandatory language, and therefore no other agent, officer or director of the
20 SCDSA is permitted to be the "spokesperson" of the SCDSA unless designated by
21 President Fisk, and there is no doubt that the County is well aware of this. Regardless, the
22 County has intentionally rejected each and every demand of the SCDSA, through its sole
23 and exclusive spokesperson, President Fisk.

24 89. For instance, "[t]he President and up to two (2) officers appointed by the President under
25 Section 2.3-c. shall each receive eighty (80) hours' release time per pay period without
26 loss of any benefits or rights." [emphasis added] After a Superior Court Judge reinstated
27 President Fisk back into office due to the illegal and *ultra vires* acts of a rogue Board of
28 Directors¹; June 1, 2007, President Fisk designated to the County of Sacramento that

¹
See Charge Two for Recall issues.

1 William Barnsdale and Andrew Weitnauer to be the two full time release agents. Till this
2 day, neither one of these employees of the SCDSA have been recognized by the County of
3 Sacramento. This constitutes an unfair labor practice since it is the intent of the County to
4 stall and impede the efficient operation of the union by financially sustaining a group of
5 individuals power base since the County is diverting all collected union dues to a recalled
6 board of directors.

7 90. If the County were to comply with the mandate of the SCDSA membership and President,
8 Polete and Meggars would have to be removed from the SCDSA's payroll and reassigned
9 as regular officers in the Sheriff's Department and no longer authorized full time union
10 release hours and pay. In essence, the County is maintaining these two individuals
11 economic and political power base by continuing to pay them with SCDSA funds, though
12 they are not authorized to receive union pay. In turn, this prevents President Fisk and the
13 newly appointed interim Board of Directors from carrying out pressing union business,
14 such as running the day-to-day operations and challenging the current CBA in court.

15 91. This constitutes a clear violation of PERB Regulation 32603(d) in that the County of
16 Sacramento continues to **dominate and interfere** with the administration of the SCDSA
17 and has in fact used union funds to **financially support** this domination and interference.

18 **CHARGE TWO: the County has deliberately ignored the**
19 **recall election of the SCDSA membership, and has taken sides**
20 **with recalled officers and directors, thereby ignoring the will**
21 **of President Fisk and the SCDSA as a whole.**

22 92. Though the acts of this rogue board are not subject to this action, their acts were
23 detrimental to the efficient operation of the union's business, and because their acts were
24 for their own political and personal gain (i.e. receiving promotions), they personally used
25 union funds to pay hundreds of thousands of dollars in attorney fees and mail-out
26 propaganda.

27 93. Upon President Fisk's reinstatement, President Fisk formed a disciplinary committee that
28 voted to remove this board from office and to mail out recall ballots per the SCDSA
Constitution. This is why they were immediately suspended from office on June 1, 2007,
pending the recall election – whereby the members voted 89.2% to remove these

1 individuals from the rolls of officers and directors.

2 94. As PERB will note, the County of Sacramento Executive, Terry Schutten, makes several
3 relevant statements in a letter dated June 21, 2007. The first is that all SCDSA board
4 members are “elected”. This is false; President Fisk gets to appoint/remove a minimum of
5 3 Board Members at-will under the powers of his office. Second, President Fisk has an
6 additional appointment if the former President does not sit on the Board; and since the
7 former President never sat on the Board, the President has the sole and exclusive authority
8 to make this appointment, which he did. Thus, a total of four Board members were
9 removed by President Fisk and replaced with new appointments that the County refused to
10 recognize.

11 95. Third, and most importantly, on June 21, 2007, Schutten points out in his letter (last
12 sentence, last paragraph, page 1) that “[a]ccording to the SCDSA Constitution, the recall
13 of any Officer or Director requires a two thirds majority of the membership. To our
14 knowledge, such a recall has not occurred.”

15 96. On July 13, 2007, the County of Sacramento was placed on notice of the recall election as
16 noted in the June 21, 2007, letter. The election results well exceeded the 2/3rds majority
17 required for recall – of returned ballots, 648 (89.2%) for recall, and 70 (10.8%) not for
18 recall. These election results have never been challenged in any court or in any other
19 manner.

20 97. Nevertheless, though Schutten implicitly agreed that the County would only recognize the
21 removal of officers and directors if successfully recalled; however, in a letter dated July
22 16, 2007, the County does a complete reversal of their previous position by stating that “**it**
23 **is status quo in the current SCDSA officers and directors will continue to be**
24 **recognized by the County**”. Thus, the recall election results have been completely
25 ignored, and President Fisk’s as the sole spokesperson for the SCDSA is being prevented
26 from carrying out his duties.

27 98. Rather, the County has established a clear pattern of refusing to recognize the lawful
28 authority of the SCDSA and violate the CBA, but instead, continues to deal with

1 individuals who have absolutely no authority to conduct SCDSA business.

2 99. In sum, the County has completely inserted themselves in a surrogate manner to dominate
3 and the control the SCDSA affairs by 1) paying SCDSA Business Agents who are not
4 authorized to be paid from union funds, 2) communicating, without the knowledge of
5 President Fisk, with recalled officers and directors, and 3) maintaining recalled officers and
6 directors in a position of authority in order to exercise their will over the internal
7 operations of the SCDSA.

8 100. This constitutes a clear violation of PERB Regulation 32603(d) in that the County of
9 Sacramento continues to dominate and interfere with the administration of the SCDSA
10 and has in fact used union funds to financially support this domination and interference.

11 **CHARGE THREE: the County has deliberately ignored the**
12 **appointment of an interim Board of Directors, Officers and**
full time release agents, especially after the recall election.

13 101. On June 1, 2007, Brannon Polete, Andrew Crowley, Marlan Meggers, Kate Adams,
14 Lucius Winn, Wayne Ebe, Janet Roberts, Michael Freeworth, Ralph Rodriguez, Scott
15 Gurnaby, Anthony Costanzo, Bruce Wanner, Kevin Mickelson, Melody Lafond, and Greg
16 Coauette were suspended from office pending recall. The suspension was to prevent
17 further waste, abuse and harm to the SCDSA and its membership.

18 102. President Fisk, in his powers, appointed an interim Board of Directors and full time release
19 agents. The County was given notice of this on June 1, 2007, whereby the County
20 rejected these appointments *in toto*. (See Lakich letter of June 1, 2007). Instead, the
21 County continues to dominate and interfere with the SCDSA by ignoring the simple fact
22 that there can only be one “spokesperson” for the union – the President.

23 103. This constitutes a clear violation of PERB Regulation 32603(d) in that the County of
24 Sacramento continues to dominate and interfere with the administration of the SCDSA
25 and has in fact used union funds to financially support this domination and interference.

26 **CHARGE FOUR: the County has collected SCDSA members**
27 **dues money, and diverted this money to suspended and**
28 **recalled officers and directors, and terminated full time release**
agents.

104. Since June 1, 2007, President Fisk has not received an accounting nor notified about the

1 Bank. The County can seek reimbursement of this money from the recalled officers and
2 directors.]

3 **IRREPARABLE HARM**

4 114. The County has not provided an accounting, though requested, of exactly how much
5 money has been turned over to the recalled Board Members. In essence, the County has
6 completed ignored each and every act of President Fisk's administration of the day-to-day
7 operations of the union, and most importantly, the vote of the membership to recall all
8 formerly suspended board members.

9 115. Because of this, President Fisk and the SCDSA cannot ensure that disability insurance
10 premiums are being paid, or to shop for better insurance, and that secretarial staff is not
11 being paid.

12 116. The County is providing money to recalled board members with the specific intent to
13 prevent the SCDSA from challenging the current CBA with fraudulently procured
14 provisions regarding the removal of jobs from the Jail system and abolishment of civil
15 service appeal rights. The current recalled board members were the ones that allowed
16 those two provisions to pass, without providing notice to the members. Please see
17 attached Contract-At-A-Glance, which was mailed out the members, and compare with
18 two key provisions in the attached CBA which were not disclosed to the members.

19 117. Because of the County's intermeddling, the SCDSA has been impeded in every step
20 President Fisk has taken to clean up the CBA and union as follows:

21 118. The County does not communicate with President Fisk regarding any labor issues, but
22 instead, always goes directly to the recalled Board of Directors. This is affecting President
23 Fisk's ability to respond to members needs on disciplinary matters.

24 119. The County has not provided President Fisk with access to union funds, but instead
25 provides that money to a secret account established by the recalled Board of Directors, an
26 account that is not disclosed to the Union, President Fisk or the members.

27 120. The union finances, utilities, and insurance payments, are being disrupted to the extent
28 where President Fisk has to pay for simple items out of his own pocket, such as telephone

- 1 service (previously paid by the Union), copy costs, postage, and legal fees.
- 2 121. In sum, without immediate PERB action, the union membership will suffer as follows: 1)
3 waste and abuse of members dues money; 2) Latches will be raised as a defense if SCDSA
4 does not immediately commence legal action to overturn the current CBA; 3) members
5 dues money is not being accounted for, and the County refuses to assist in the tracking
6 down of funds paid out to unauthorized recalled individuals for which the union will seek
7 reimbursement; 4) members are facing discipline without the full rights that they
8 previously enjoyed that were given away in the current CBA that they had no knowledge
9 of losing at the time of CBA ratification. 5) Because the County deals with recalled Board
10 members, Union Bank has frozen the union's accounts. See June 19, 2007, letter from
11 Union Bank.
- 12 122. These recalled board members are maintained in power by the County because the County
13 is using SCDSA member funds to keep them in power, and in turn, reducing President
14 Fisk's ability to effectively carry out the will of the membership.
- 15 123. This constitutes a clear violation of PERB Regulation 32603(d) in that the County of
16 Sacramento continues to dominate and interfere with the administration of the SCDSA
17 and has in fact used union funds to financially support this domination and interference.

18 VERIFICATION

19 I have read the foregoing declaration and know the contents thereof. The same is true of
20 my own personal knowledge, except as to those matters which are therein alleged on information
21 and belief, and as to those matters, I believe them to be true.

22 I am the President, highest ranking officer, and CEO of the Sacramento County Deputy
23 Sheriffs' Association, Inc. and as such, I am authorized to make this declaration on corporations
24 behalf.

25 I make this verification because the facts set forth in said Declaration are within my
26 knowledge, and I am competent to testify to such matters if called upon to do so.

27 I declare under penalty of perjury under the laws of the State of California that the
28 foregoing is true and correct.

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Executed in the County of Sacramento, August 15, 2007.

STEVEN FISK
President SCDSA
Declarant

1 **CERTIFICATE OF SERVICE**

2 **I, the undersigned, declare as follows:**

3 **I am a citizen of the United States, over the age of 18 years and not a party to the within action; my**
4 **business address is 8549 Nephi Way, Fair Oaks, CA 95628**

5 **On August 15, 2007, I faxed and personally served the attached by depositing with the US mail**
6 **service a true copy thereof to the persons named below at the address(es) shown in a sealed envelop with**
7 **postage thereon fully prepaid in the designated area for outgoing mail.**

8 **Wendi L. Ross (Also Hand Delivered)**
9 **Deputy General Counsel**
10 **CALIFORNIA PUBLIC EMPLOYMENT RELATIONS BOARD**
11 **1031 18th Street**
12 **Sacramento, CA 95814-4174**

13 **Krista Whitman**
14 **SACRAMENTO COUNTY COUNSEL**
15 **700 H Street, Suite 7650**
16 **Sacramento, CA 95814**
17 **fax 874-8207**
18 **874-5100**

19 **I declare under penalty of perjury, under the laws of the United States of America, that the foregoing**
20 **is true and correct and that this is a declaration executed on August 15, 2007, at Fair Oaks, California.**

21 **/s/ Gary W. Gorski**
22 **Gary W. Gorski**