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

15 The County's actions constitute an unfair labor practice and injunctive relief is necessary
16 to stop irreparable harm to the Union. The Court of Appeal decision in *Public Employment*
17 *Relations Board v. Modesto City Schools District* (1982) 136 Cal.App.3d 881, 896, sets out a
18 two-prong test used by courts and PERB to determine whether injunctive relief is appropriate:

- 19 (1) "reasonable cause" must exist to believe an unfair practice charge has been
20 committed, and
21 (2) the relief sought must be "just and proper."

22 **Notice was given more than 24 hours in advance to this filing**
23 (affidavit attached, and also filed separately)

24 **SUMMARY OF ARGUMENT**

25 There is no doubt "reasonable cause" exists to believe an unfair practice charge has been
26 committed. The facts in the case are relatively simple.

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

1 The current CBA Section 2.3 a., “[t]he County recognizes and agrees to deal with
2 designated officers and representatives of the Union ...” Under the SCDSA Constitution, Article
3 V, Section 1, [t]he President **shall** be the spokesperson for this organization.” See Fisk Decl.,
4 **Exhibit “1”**. This is mandatory language, and therefore no other agent, officer or director of the
5 SCDSA is permitted to be the “spokesperson” of the SCDSA unless designated by President Fisk,
6 and there is no doubt that the County is well aware of this. Regardless, the County has
7 intentionally rejected each and every demand of the SCDSA, through its sole and exclusive
8 spokesperson, President Fisk.

9 For instance, “[t]he President and up to two (2) officers appointed by the President under
10 Section 2.3-c. shall each receive eighty (80) hours' release time per pay period without loss of any
11 benefits or rights.” See Fisk Decl., **Exhibit “6”**. [emphasis added] After a Superior Court Judge
12 reinstated President Fisk back into office due to the illegal and *ultra vires* acts of a rogue Board of
13 Directors¹; June 1, 2007, President Fisk designated to the County of Sacramento that William
14 Barnsdale and Andrew Weitnauer to be the two full time release agents. See Fisk Decl., **Exhibit**
15 **“5”**. Till this day, neither one of these employees of the SCDSA have been recognized by the
16 County of Sacramento. This constitutes an unfair labor practice since it is the intent of the County
17 to stall and impede the efficient operation of the union by financially sustaining a group of
18 individuals power base since the County is diverting all collected union dues to a recalled board of
19 directors.

20 If the County were to comply with the mandate of the SCDSA membership and President,
21 Polete and Meggars would have to be removed from the SCDSA’s payroll and reassigned as
22 regular officers in the Sheriff’s Department and no longer authorized full time union release hours
23 and pay. In essence, the County is maintaining these two individuals economic and political power
24 base by continuing to pay them with SCDSA funds, though they are not authorized to receive
25 union pay. In turn, this prevents President Fisk and the newly appointed interim Board of
26 Directors from carrying out pressing union business, such as running the day-to-day operations

27
28 ¹
See Fisk Decl., **Exhibit “4”** and Charge Two below for Recall issues.

1 and challenging the current CBA in court.

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

5 **CHARGE TWO: the County has deliberately ignored the**
6 **recall election of the SCDSA membership, and has taken sides**
7 **with recalled officers and directors, thereby ignoring the will**
8 **of President Fisk and the SCDSA as a whole.**

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

13 Upon President Fisk's reinstatement, President Fisk formed a disciplinary committee that
14 voted to remove this board from office and to mail out recall ballots per the SCDSA Constitution.
15 This is why they were immediately suspended from office on June 1, 2007, pending the recall
16 election – whereby the members voted 89.2% to remove these individuals from the rolls of
17 officers and directors. See Fisk Decl., **Exhibit "8"**.

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

26 Third, and most importantly, on June 21, 2007, Schutten points out in his letter (last
27 sentence, last paragraph, page 1, See Fisk Decl., **Exhibit "10"**.) that "[a]ccording to the SCDSA
28 Constitution, the recall of any Officer or Director requires a two thirds majority of the
membership. To our knowledge, such a recall has not occurred."

On July 13, 2007, the County of Sacramento was placed on notice of the recall election as

1 noted in the July 16, 2007, letter. See Fisk Decl., **Exhibit “11”**. The election results well
2 exceeded the 2/3rds majority required for recall – of returned ballots, 648 (89.2%) for recall, and
3 70 (10.8%) not for recall. See Fisk Decl., **Exhibit “8”**. These election results have never been
4 challenged in any court or in any other manner.

5 Nevertheless, though Schutten implicitly agreed that the County would only recognize the
6 removal of officers and directors if successfully recalled; however, in a letter dated July 16, 2007,
7 the County does a complete reversal of their previous position by stating that **“it is status quo in**
8 **the current SCDSA officers and directors will continue to be recognized by the County”**.

9 See Fisk Decl., **Exhibit “11”**. Thus, the recall election results have been completely ignored, and
10 President Fisk’s as the sole spokesperson for the SCDSA is being prevented from carrying out his
11 duties.

12 Rather, the County has established a clear pattern of refusing to recognize the lawful
13 authority of the SCDSA and violate the CBA, but instead, continues to deal with individuals who
14 have absolutely no authority to conduct SCDSA business.

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

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

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

26 On June 1, 2007, Brannon Polete, Andrew Crowley, Marlan Meggers, Kate Adams,
27 Lucius Winn, Wayne Ebe, Janet Roberts, Michael Freeworth, Ralph Rodriguez, Scott Gurnaby,
28 Anthony Costanzo, Bruce Wanner, Kevin Mickelson, Melody Lafond, and Greg Coauette were
suspended from office pending recall. The suspension was to prevent further waste, abuse and

1 harm to the SCDSA and its membership.

2 President Fisk, in his powers, appointed an interim Board of Directors and full time release
3 agents. The County was given notice of this on June 1, 2007, whereby the County rejected these
4 appointments *in toto*. (See Lakich letter of June 1, 2007, See Fisk Decl., **Exhibit “9”**). Instead,
5 the County continued to dominate and interfere with the SCDSA by ignoring the simple fact that
6 there can only be one “spokesperson” for the union – the President.

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

10 **CHARGE FOUR: the County has collected SCDSA members**
11 **dues money, and diverted this money to suspended and**
12 **recalled officers and directors, and terminated full time release**
13 **agents.**

14 Since June 1, 2007, President Fisk has not received an accounting nor notified about the
15 whereabouts of collected dues money, though requested on numerous occasions to either send
16 President Fisk the money directly (through direct deposit to the SCDSA established financial
17 institution - the Union Bank, See Fisk Decl., **Exhibit “12”**) or freeze the money in an interest
18 bearing account. This money is being diverted to a secret bank account controlled by recalled
19 officers and directors, thus equally interfering and financially supporting the domination and
20 control over union affairs.

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

24 **RELIEF SOUGHT**

25 The relief sought is “just and proper” so that the SCDSA can continue with its business,
26 without domination and control by the County of Sacramento.

- 27 1. The County of Sacramento is to recognize that President Fisk as the exclusive
28 “spokesperson” of the SCDSA.
2. The County of Sacramento is to cease its domination and interference with the
administration of the SCDSA .

- 1 3. The County of Sacramento is to cease its financial support of recalled officers and
2 directors of the SCDSA.
- 3 4. The County of Sacramento is to recognized the appointments, made by President Fisk,
4 retroactive to June 1, 2007.
- 5 5. The County of Sacramento is to recognized the recall election results of July 13, 2007.
- 6 6. The County is to reimburse the SCDSA for all funds paid to former union officials after
7 June 1, 2007.
- 8 7. The County is to pay Barnsdale and Weitnauer, the lawful appointments of President Fisk
9 under the CBA, retroactive to June 1, 2007, as full-time release agents.
- 10 8. The County is to pay the SCDSA, with a cashiers check, for all dues collected, but not
11 paid to the SCDSA (care of President Fisk), retroactive to June 1, 2007. [Contrary to the
12 County's anticipated assertion, the SCDSA is not responsible for collecting this money
13 from suspended and recalled officers and directors as the County had the option of just
14 freezing the money in an interest bearing account, or the currently frozen account at Union
15 Bank (See Fisk Decl., **Exhibit "12"**). The County can seek reimbursement of this money
16 from the recalled officers and directors.]
- 17 9. Interim attorney fees and costs for maintaining this action.

18 **IRREPARABLE HARM**

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

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

27 The County is providing money to recalled board members with the specific intent to
28 prevent the SCDSA from challenging the current CBA with fraudulently procured provisions

1 regarding the removal of jobs from the Jail system and abolishment of civil service appeal rights.
2 The current recalled board members were the ones that allowed those two provisions to pass,
3 without providing notice to the members. Please see attached Contract-At-A-Glance, which was
4 mailed out the members, and compare with two key provisions in the attached CBA which were
5 not disclosed to the members.

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

- 8 • The County does not communicate with President Fisk regarding any labor issues, but
9 instead, always goes directly to the recalled Board of Directors. This is affecting President
10 Fisk's ability to respond to members needs on disciplinary matters.
- 11 • The County has not provided President Fisk with access to union funds, but instead
12 provides that money to a secret account established by the recalled Board of Directors, an
13 account that is not disclosed to the Union, President Fisk or the members.
- 14 • The union finances, utilities, and insurance payments, are being disrupted to the extent
15 where President Fisk has to pay for simple items out of his own pocket, such as telephone
16 service (previously paid by the Union), copy costs, postage, and legal fees.
- 17 • In sum, without immediate PERB action, the union membership will suffer as follows: 1)
18 waste and abuse of members dues money; 2) Latches will be raised as a defense if SCDSA
19 does not immediately commence legal action to overturn the current CBA; 3) members
20 dues money is not being accounted for, and the County refuses to assist in the tracking
21 down of funds paid out to unauthorized recalled individuals for which the union will seek
22 reimbursement; 4) members are facing discipline without the full rights that they
23 previously enjoyed that were given away in the current CBA that they had no knowledge
24 of losing at the time of CBA ratification. 5) Because the County deals with recalled Board
25 members, Union Bank has frozen the union's accounts. See June 19, 2007, letter from
26 Union Bank.
- 27 • These recalled board members are maintained in power by the County because the County
28 is using SCDSA member funds to keep them in power, and in turn, reducing President

1 Fisk's ability to effectively carry out the will of the membership. The President, as the
2 highest ranking official of the Union, has no control or knowledge as to how money is
3 being spent, where is it going, and in fact, cannot carry out SCDSA operation until such
4 time when he has access to the funds.

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

8 **HISTORICAL BACKGROUND FACTS**

9 Even though the rank and file membership of the SCDSA elected Steve FISK as SCDSA
10 President for a term of four years, effective January 1, 2004, the County has ignored his status as
11 the exclusive spokesperson for the union, and instead, has been dealing directly with, and behind
12 his back, the recalled Vice-President Polete in order to sustain the County's position of influence
13 over union affairs.

14 SCDSA's Constitution under Article V, Section 1, that "[t]he President shall coordinate
15 and manage the organization. The President [not the Vice-President] shall exercise powers not
16 specifically excluded in the Constitution and By-Laws. The President shall be the spokesperson of
17 the organization." All documents referenced herein were previously provided, and are attached.
18 SCDSA, a non-profit mutual benefit corporation, is founded on the principle that the ultimate
19 authority is suppose to rest with the voting membership. Under the provisions of Robert's Rules
20 of Order, 10th Edition, Newly Revised ("RONR"), which is incorporated by specific reference into
21 SCDSA's Constitution under Article IX, the Board of Directors are "... an instrumentality of the
22 society's full assembly, to which it is subordinate." Robert's Rules of Order, 10th Edition, Newly
23 Revised, page 9, lines 5-10.

24 At the time of contract negotiations for the current CBA (i.e. "Collective Bargaining
25 Agreement"), the President as chief negotiator for the Association, was removed from his position
26 as President by unlawful actions of the Board of Directors. The County has supported this action.
27 This illegal act was reversed by a Superior Court judge, who reinstated President Fisk. This Court
28 order has previously been provided. Attached hereto is copy of that order.

1 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 fact,
3 specifically stating under CBA section 2.3 that the County "shall" recognize officers and
4 representatives designated by the SCDSA. This designation can only be made by the sole and
5 exclusive "spokesperson" of the SCDSA, the President. (i.e. Article V, Section 1, dealing with
6 Presidential powers, specifically states that "[t]he President shall coordinate and manage the
7 organization. The President shall exercise powers not specifically excluded in the Constitution
8 and By-Laws. The President shall be the spokesperson for this organization.")

9 Under CBA section 2.3e, "[t]he President and up to two (2) officers appointed **by the**
10 **President** under Section 2.3-c. shall each receive 80 hours of release time ..." Under the CBA,
11 President Fisk terminated the two full time release officers who were involved in ultra vires acts
12 (including breach of fiduciary duty) and replaced them. Regardless of clearly contractual and
13 SCDSA constitutional language, the County has ignored this obvious right of President Fisk to
14 run the day-to-day operations of the bargaining unit.

15 Because of *ultra vires* acts detrimental to the union, President Fisk mobilized recall efforts
16 to have the previous Board of Directors removed from office. Though the membership voted to
17 recall, the County has ignored this mandate by the members and instead has completely ignored
18 the SCDSA elected President and its members rights to manage their own union.

19 As can be seen from the County's intermeddling, it is the County who is telling employees
20 who it recognizes by its own "interpretation" of the SCDSA governing documents. Those
21 recognized by the County also happen to be the same individuals who allowed two critical
22 provisions of the CBA to be passed WITHOUT notice to the members and an informed union
23 vote. As noted on the CBA, the former "Vice-President" signed the CBA, and not the duly
24 elected President; hence, the rush to get the CBA signed while the President was kept from his
25 duties as President with the support of the County employer.

26 Article V, Section 1, dealing with Presidential powers, specifically states that "[t]he
27 President shall coordinate and manage the organization. The President shall exercise powers not
28 specifically excluded in the Constitution and By-Laws. The President shall be the spokesperson

1 for this organization." Nevertheless, the County has been dealing exclusively with the former
2 Vice-President (who was suspended by the President's powers and the memberships recall vote)
3 since it is the former Vice-President who orchestrated the current fiasco with the blessing and
4 assistance of the County.

5 As noted, the County recognizes that the General Manager is Marlin Weinberger, and not
6 labor relations consultant Mr. Wendell Phillips. First, the "General Manager" position is created
7 under the President's plenary powers under Article V, Section 1 (The President shall coordinate
8 and manage the organization. The President shall exercise powers not specifically excluded in the
9 Constitution and By-Laws.").

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

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

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

22 The President, and two full time agents designated by the President, are paid 80 hours bi-
23 weekly from funds withheld from SCDSA members paychecks by the employer, the County of
24 Sacramento. Under Article IV, Section 1 ("Officers and Directors") of the SCDSA Constitution,
25 the highest ranking individual is the elected "President". The current CBA recognizes this fact,
26 specifically stating under CBA section 2.3 that the County "shall" recognize officers and
27 representatives designated by the SCDSA. This designation can only be made by the sole and
28 exclusive "spokesperson" of the SCDSA, the President. (i.e. Article V, Section 1, dealing with

1 Presidential powers, specifically states that "[t]he President shall coordinate and manage the
2 organization. The President shall exercise powers not specifically excluded in the Constitution
3 and By-Laws. The President shall be the spokesperson for this organization.")

4 The Board of Directors essential function is to monitor and review policy, not run the
5 SCDSA. SCDSA Constitution, Article V, Section 3, states, "[t]he Board of Directors shall
6 govern the organization as to matters of policy and other specific responsibilities as specified in
7 the Constitution and By Laws." (emphasis added) Under CBA section 2.3e, "[t]he President and
8 up to two (2) officers appointed by the President under Section 2.3-c. shall each receive 80 hours
9 of release time ..."

10 Individuals who were suspended under a disciplinary committee established by the
11 President, then recalled by the membership are former directors and officers of the SCDSA, and
12 their former legal titles and names are as follows: VICE-PRESIDENT BRANNON POLETE;
13 TREASURER ANDREW CROWLEY; ASSISTANT TREASURER MARLAN MEGGERS;
14 SECRETARY KATE ADAMS; BOARD MEMBER LUCIUS WINN; BOARD MEMBER
15 WAYNE EBE; BOARD MEMBER JANET ROBERTS; BOARD MEMBER MICHAEL
16 FREEWORTH; BOARD MEMBER RALPH RODRIGUEZ; BOARD MEMBER SCOTT
17 GURNABY; BOARD MEMBER ANTHONY COSTANZO; BOARD MEMBER BRUCE
18 WANNER; BOARD MEMBER KEVIN MICKELSON; BOARD MEMBER MELODY
19 LAFOND; SERGEANT-AT-ARMS GREG COAUETTE (hereinafter collectively known as
20 "FORMER BOARD MEMBERS")

21 These individuals whose names appear as above in the preceding paragraph are the former
22 members of the Board of Directors of SCDSA, whose offices are established by the SCDSA
23 Constitution. County of Sacramento Sheriff McGinness, Steve Lakich and Terry Schutten,
24 executive employees of the County of Sacramento responsible for labor relations with the
25 SCDSA, and responsible for the reason why the County of Sacramento refuses to recognize the
26 lawful office of President Fisk to police the internal workings of the union.

27 The SCDSA President is the only union official authorized to make nominations and
28 appointments of union officers, directors and committee members. The SCDSA President is the

1 only union official granted “plenary” powers under SCDSA’s governing documents (i.e. “shall
2 exercise all powers not specifically excluded...”). Further, under the collective bargaining
3 agreement, the SCDSA President is the only identified union official with whom the employer, the
4 County of Sacramento, may deal except by designation of and by the SCDSA President. No one
5 else has the authority to hire or fire Weinberger except for the President.

6 Regardless, even though the County has been placed on notice about Weinberger's
7 termination by the President, the County continues to treat Weinberger as though he is still an
8 agent of the union even though Weinberger is employed at the will of the President, and
9 Weinberger has in fact been fired as of June 1, 2007.

10 Union funds are being paid directly to Weinberger, even though the President fired him.
11 Even though the Constitution and CBA are replete with mandatory language granting the
12 President sole and exclusive powers on the management and operation of the union, the County
13 has ignored each and every presidential act, and instead continuously and systematically exercised
14 domination and control over the day-to-day operations of the union through removed and
15 suspended officers and directors. Conspiring with FORMER BOARD MEMBERS County
16 officials (Lakich, Schutten, McGinness), Lakich, Schutten, and McGinness all authored and
17 circulated through the regular U.S. Mail and via fax the attached hereto letters, falsely identifying
18 FORMER BOARD MEMBERS as current board members in good standing, with the specific
19 intent to defraud the general membership into believing that their dues money is being legally spent
20 paying removed and suspended officers, directors and board members. These same false and
21 misleading letters identify Weinberger as the business agent too, though he has been terminated.

22 These letters were sent out, even though the membership also overwhelmingly voted to
23 recall FORMER BOARD MEMBERS as of July 13, 2007.

24 A special mail-out ballot was issued by the President, per the verified and valid petition
25 signed by over 150 members for which FORMER BOARD MEMBERS refused to call a special
26 meeting pertaining to their own recall. Because of this failure, the current interim Board, through
27 its disciplinary committee, mailed-out recall ballots to remove FORMER BOARD MEMBERS
28 from the permanent rolls of the SCDSA leadership. On May 31, 2007, the County has been

1 placed on notice that recalled Board of Directors are not to be paid or recognized. This was done
2 by way of letter and personal meeting with Lakich. On June 1, 2007, the County responded that it
3 will deal with the suspended/recalled Board of Directors exclusively.

4 On June 19, 2007, the Undersheriff publishes a letter that directs management to deal with
5 suspended/recalled Board of Directors exclusively. Then, on June 21, 2007, County Exec
6 Schutten states that the County will deal with the suspended/recalled Board of Directors until
7 there is an election to recall them, which is what happened to them on July 13, 2007. President Fisk
8 placed the County of notice of the election results, and until this day, the County refuses to
9 recognize this election by the membership.

10 Till this day, even after a recall election, the County has been using union dues funds to
11 pay recalled elected officials and a terminated full time business manager (i.e. Weinberger).
12 Meanwhile, interim Vice-President and the Business Agent are not being paid, and are entitled to
13 back pay with interest, which the Union will be liable for.

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

17 In addition, the County has not provided an accounting, though requested, of exactly how
18 much money has been turned over to the recalled Board Members. In essence, the County has
19 completely ignored each and every act of President Fisk's administration of the day-to-day
20 operations of the union, and most importantly, the vote of the membership to recall all formerly
21 suspended board members.

22 Because of this, President Fisk cannot ensure that disability insurance premiums are being
23 paid, or to shop for better insurance, and that President Fisk's secretarial staff is not being paid.

24 In sum, the County is providing money to recalled board members with the specific intent to
25 prevent the Union from mounting a recall of the CBA or from challenging the current CBA with
26 fraudulently procured provisions regarding the removal of jobs from the Jail system and
27 abolishment of civil service appeal rights. The current recalled board members were the ones that
28 allowed those two provisions to pass, without providing notice to the members. Please see

1 attached Contract-At-A-Glance, which was mailed out the members, and compare with two key
2 provisions in the attached CBA which were not disclosed to the members.

3 The membership elected President Fisk to run the union, not the Board of Directors. The
4 membership has overwhelmingly requested that the SCDSA remove the tainted provisions of the
5 CBA by any means necessary, including court action.

6 However, because of the County's intermeddling, the members are denied their rights to
7 challenge the CBA.

8 The County does not communicate with President Fisk regarding any labor issues, but
9 instead, always goes directly to the recalled Board of Directors. The County has not provided an
10 accounting of money paid to the recalled Board of Directors. The County has not provided
11 President Fisk with access to union funds, but instead provides that money to a secret account
12 established by the recalled Board of Directors, an account that is not disclosed to the President or
13 the members and the county was informed of this as well when President Fisk instructed the
14 County (i.e. Schutten) to stop payments and to place the money in an interest bearing account
15 until PERB ruled or the members voted.

16 The union finances, utilities, and insurance payments, are being disrupted to the extent
17 where President Fisk has to pay for simple items out of President Fisk's own pocket, such as
18 telephone service (previously paid by the Union), copy costs, postage, and legal fees. The County
19 knows all too well that by cutting off funds to President Fisk so that he cannot effectively
20 challenge the CBA on behalf of the membership. Hence, the County's motive for maintaining
21 control of the SCDSA through a puppet Board of Directors who have been recalled.

22 In sum, without immediate PERB action, the union membership will suffer as follows: 1)
23 waste and abuse of members dues money; 2) Latches will be raised as a defense if the Union does
24 not immediately commence legal action to overturn the current CBA, which said action requires
25 access to union funds paid to a secret account; 3) members dues money is not being accounted
26 for, and the County refuses to assist in the tracking down of funds paid out to unauthorized
27 recalled individuals for which the union will seek reimbursement; 4) members are facing discipline
28 without the full rights that they previously enjoyed that were given away in the current CBA that

1 they had no knowledge of losing at the time of CBA ratification.

2 CONCLUSION

3 Wherefore, irreparable harm will happen if immediate PERB action is not taken.

4 DATED: August 15, 2007 LAW OFFICES OF GARY GORSKI

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6 By: _____
7 Gary Gorski
8 Attorneys for SCDSA and President Fisk
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1 **CERTIFICATE OF NOTICE**

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, On July 31, 2007 and August 3rd, I faxed the**
5 **notice of request to seek injunctive relief (copies of faxed confirmation attached) to the to the persons named**
6 **below at the address(es) shown in a sealed envelop with postage thereon fully prepaid in the designated area**
7 **for outgoing mail.**

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

13 **Krista Whitman, Esq.**
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**

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 following documents:**

6 **AFFIDAVIT OF STEVEN D. FISK IN SUPPORT OF PRELIMINARY
7 INJUNCTION**

8 **SACRAMENTO COUNTY DEPUTY SHERIFFS' ASSOCIATION, INC.
9 ARGUMENT IN SUPPORT OF PRELIMINARY INJUNCTION**

10 **COPY OF UNFAIR PRACTICE CHARGE FILED JUNE 6, 2007**

11 **COPY OF UNFAIR PRACTICE CHARGE FILED JULY 2, 2007**

12 **COPY OF UNFAIR PRACTICE CHARGE FILED AUGUST 6, 2007**

13 **COPY OF UNFAIR PRACTICE CHARGE FILED AUGUST 6, 2007 filed in the morning,
14 but a copy cannot be located.**

15 **by depositing with the US mail service a true copy thereof to the persons named below at the
16 address(es) shown in a sealed envelop with postage thereon fully prepaid in the designated area for outgoing
17 mail.**

18 **Wendi L. Ross, Esq. (Also Hand Delivered and Faxed)
19 Deputy General Counsel
20 CALIFORNIA PUBLIC EMPLOYMENT RELATIONS BOARD
21 1031 18th Street
22 Sacramento, CA 95814-4174**

23 **Krista Whitman, Esq.
24 SACRAMENTO COUNTY COUNSEL
25 700 H Street, Suite 7650 (Also Faxed)
26 Sacramento, CA 95814
27 fax 874-8207
28 874-5100**

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

**/s/ Gary W. Gorski
Gary W. Gorski**