

Subject: [REDACTED]

Date: Thursday, October 28, 2021 at 6:28:27 PM Pacific Daylight Time

From: Len Simon

To: Ankcorn, Mark

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Personal note to you.

I would like to sit down and talk to you and Mara about why the criminal referral is mistaken. Many of the "facts" you rely on are not facts, and if the matter becomes public, it will only embarrass your office, while unnecessarily disparaging a former City Council Person.

I know you are a good lawyer, and I have supported Mara over the years, and I would like to try to convince you that your take is wrong and is unfortunate for all concerned.

Len

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Subject: [REDACTED]
Date: Wednesday, November 3, 2021 at 5:20:34 PM Pacific Daylight Time
From: Len Simon
To: Ankcorn, Mark
CC: Shaun Rosenthal

The act of referral itself is a decision, and we think you are making a bad one. Some of the agencies you are talking about referring it to operate in the public, so it may have an immediate reputational impact. As to the others, there is always the possibility of leaks. Is reckless to make a referral without thinking it through fully.

As to the proposed order, I think the guys in DC are finaling it out as I send this, or have gone home by now and will send it out in the morning. Let us know if you propose any changes, maybe we can work them out, but we will send it to the clerk at the same time as we send it to you.

On Nov 3, 2021, at 3:42 PM, Ankcorn, Mark <MAnkcorn@sandiego.gov> wrote:

EXTERNAL SENDER

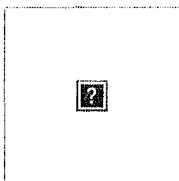
We continue to believe that our Office should not make any decision on this matter because to either act or decline to act would create the appearance of a conflict, even though none exists in fact.

[REDACTED]

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Mark Ankcorn
Chief Deputy City Attorney
Affirmative Civil Enforcement Unit

Office of the City Attorney
1200 Third Avenue, Suite 1100
San Diego, California 92101
(619) 533-5800



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From: Len Simon <LenS@rgrdlaw.com>
Date: Wednesday, November 3, 2021 at 2:37 PM
To: Ankcorn, Mark <MAnkcorn@sandiego.gov>
Cc: Ed Chapin <echapin@sanfordheisler.com>, Vince McKnight <vmcknight@sanfordheisler.com>, 'Shaun Rosenthal' <srosenthal@sanfordheisler.com>, 'Neil Senturia' <neil@blackbirdv.com>, Barbara Bry (bbry@blackbirdv.com) <bbry@blackbirdv.com>
Subject: [REDACTED]

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Mark:

We continue to think that your desire to make a criminal referral is off base. Several of your underlying facts have been disproved, we have advised you that there is a pre-nup, and your theories are crumbling.

We would like to sit down and talk with you and/or Mara, and explain to you why any referral here would be a mistake, and an abuse of your office. We can walk you through the chronology of events, and I think any fair person would walk away at that point. If you listen and disagree, so be it. But not listening seems inappropriate in the circumstances, and will suggest to any fair person reviewing the case that you are acting out of personal feelings, rather than legal theories.

Len

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Elliott, Mara

From: Akerson, Sarah <Sarah.Akerson@btlaw.com>
Sent: Wednesday, November 17, 2021 6:05 PM
To: Elliott, Mara
Cc: La Bella, Chuck; Ankcorn, Mark
Subject: [EXTERNAL] Letter Re: Barbara Bry
Attachments: Barbara Bry Letter to City Atty (11.17.2021).pdf

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Dear Ms. Elliott,

Attached please find a letter from Mr. Chuck La Bella regarding Ms. Barbara Bry, a former member of the San Diego City Council. The purpose of this letter is to insure that you are aware of the accurate, material facts in connection with a potential, investigative referral of Ms. Bry.

Please reach out should you have any questions or wish to discuss.

Thank you,

Sarah Akerson | Legal Administrative Assistant
Barnes & Thornburg LLP
655 West Broadway, Suite 1300, San Diego, CA 92101
Direct: (619) 321-5017 | Mobile: (619) 866-5202



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November 17, 2021

(Via email: melliott@sandiego.gov)

Honorable Mara W. Elliott,
San Diego City Attorney
San Diego City Attorney's Office
1620 Civic Ctr Plz
San Diego, CA 92101

RE: Barbara Bry

Dear Ms. Elliott:

I represent Ms. Barbara Bry, a former member of the San Diego City Council. I understand from Mr. Leonard Simon that you have made, or are in the process of making, an investigative referral to several agencies relating, as we best understand it, to her failure to disclose to the City Council certain information to the City Council, while she was a Councilmember. I understand that a company Ms. Bry's husband was affiliated with was working on an investigation, and later a lawsuit, that could potentially benefit the city of San Diego. I also understand that you are making the referral, and declining to consider Mr. Simon's suggestions that you are in error, based on the fact that you have identified a conflict of interest, and thus have recused yourself and your office from any investigation of the matter. After discussing the matter with Ms. Bry and Mr. Simon, it is evident that some of the basic facts you cited to him, as justification for a referral, are wrong. I am writing to insure that you are aware of the accurate, material facts, are aware that certain facts your office has put forward are in error, and that any referral take account of these factual discrepancies and provide any agency to which a referral is made the information provided here so that an accurate factual picture is provided.

Although the underlying litigation that gave rise to your concerns is and remains sealed, we believe that, based upon the accurate material facts, there is no basis for an investigative referral. If, nonetheless, you decide to proceed with a referral, we respectfully request that you include the accurate material facts recited below.

First, my client has been married to Neil Senturia since November 5, 2000. Prior to their marriage, the couple entered into a Pre-Nuptial Agreement ("PN Agreement") on September 8, 2000. While Mr. Simon has advised your office of the PN Agreement and its relevant paragraphs, I want to make certain there is no confusion on this point. The PN Agreement, which I have reviewed in relevant part, designated separate and non-community property and makes clear that Ms. Bry would have no interest (marital or community property interest) in any current or future

Letter to Mara W. Elliott
Re: Barbara Bry
November 17, 2021
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business interests of Mr. Senturia. The PN Agreement expressly identified Blackbird Ventures, Inc. (“Blackbird Ventures”) as Mr. Senturia’s sole and separate property. Deckard Technologies, Inc. (“Deckard”) was formed on May 29, 2018, after execution of the PN and after Ms. Bry was on the City Council. In short, Blackbird Ventures was and remains Mr. Senturia’s separate property. Ms. Bry has never had any interest, financial, spousal, communal, direct, or indirect, in any of Mr. Senturia’s business interests, including Blackbird Ventures and Deckard. Barbara Bry’s employment with Blackbird Ventures ended before she began with the City Council.

In addition, both Blackbird Ventures and Deckard are prominently disclosed on each of Ms. Bry’s post-marital disclosure forms, while serving on the City Council. The only administrative error she made in her disclosures was that she did not check the box indicating that these were **spousal interests and income rather than her own**. This administrative error was corrected in a series of amendments, in which the spousal box was properly checked. Thus, even though both companies were fully disclosed and made available for public review, the “omission” was simply not checking the box that identified the interests (and incomes) of her husband’s separate property. It is our understanding that even separate property or income of a spouse, such as we have here, must be disclosed on those disclosure forms.

The legal and factual reality is that, while serving on the City Council, Ms. Bry disclosed both entities, had no financial or ownership interest in either company, and inadvertently didn’t check the box indicating that it was her husband’s interest or income. That is compliance with the spirit and intent of the law, albeit with an administrative omission by failing to check a box, which was corrected before the instant controversy began. The fact of the relationship of those entities was fully and publicly disclosed.

As for Blackbird Special Projects, LLC, another company with some connection to a sealed litigation, that company was not even formed until March 11, 2020—just six months before Ms. Bry left the City Council – and she has never had any involvement or connection with that company at all. Ms. Bry only became aware of the existence of the entity recently, in October 2021, **after** she left the City Council.

Ms. Bry was on the City Council from December 2016 to December 2020. Her original Form 700 Statements reflect all assets known to her. The amendments clarify that any income realized from Blackbird Ventures or Deckard was income of her spouse. The PN Agreement confirms that any income was and remains her husband’s sole and separate property, including prospective income from the sealed lawsuit.

While on the City Council, Ms. Bry received no income, nor was she formally or informally a financial beneficiary of Blackbird Ventures, Deckard, or Blackbird Special Projects, LLC. The relevant tax returns for Ms. Bry and Mr. Senturia make this absolutely clear.

After leaving the City Council in December 2020, Ms. Bry became an employee of Blackbird Ventures. She is currently listed on the firm’s web page. However, reliance upon this relationship to create the impression that Ms. Bry was **previously** associated with Blackbird Ventures during her tenure with the City Council is simply misleading. To be sure, a screen shot of Blackbird’s 2018 web page—while Ms. Bry was on the City Council—has no mention of Ms.

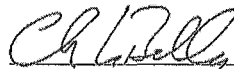
Letter to Mara W. Elliott
Re: Barbara Bry
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Bry and accurately reflects that she had no position with or interest in the company at that time. The historic link is below for your convenience:

- <https://web.archive.org/web/20180330020535/http://blackbirdv.com/>

We urge you to reconsider these proposed referrals, and we would be pleased to discuss the matter. Should you have any questions or concerns, or need additional information, please do not hesitate to contact me.

Very truly yours,



Charles G. La Bélla

Cc: Mark Ankcorn, San Diego Deputy City Attorney (*Via email: mankcorn@sandiego.gov*)