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Kelly C. Bowers
Senior Assistant Regional Director
Securities and Exchange Commission
Los Angeles Regional Office
11th Floor
5670 Wilshire Boulevard
Los Angeles, CA 90036-3648

Dear Mr. Bowers:

This letter is to inform you of developments in the City of San Diego which negatively impact the ability of City Attorney's office to ensure compliance with the federal securities laws.

Changes to the Disclosure Practices Working Group

On January 22, 2008, the City Council voted to change the composition of the City's Disclosure Practices Working Group (DPWG). As you may recall, the DPWG is an internal working group of the City that was implemented in response to a recommendation by Vinson & Elkins LLP ("V&E") in its September 16, 2004, report entitled "The City of San Diego, California's Disclosures of Obligation to Fund the San Diego City Employee's Retirement System and Related Disclosure Practices 1996-2004 with Recommended Procedures and Changes to the Municipal Code" (the "V&E Report"). V&E found that the City lacked necessary internal controls to ensure compliance with the federal securities laws. In response, the DPWG was created to foster communication between City departments and to serve as a check against the dissemination of false and/or misleading information to the securities markets, intentionally or otherwise. Because of DPWG's oversight function, the group was composed of representatives from a variety of departments responsible for City financial information with a majority of representatives from the City Attorney's Office.

Pursuant to V&E's recommendation, the original composition of DPWG was as follows: the City Attorney; three Deputy City Attorneys with expertise in financial disclosure; the Deputy City Manager for Finance; the City Treasurer, the City Auditor & Comptroller, and the City's outside disclosure counsel. On April 30, 2007, the City Council voted to amend the Municipal Code pursuant to a recommendation contained in the August 8, 2006 report of Kroll Inc., entitled "Report of the Audit Committee of the City of San Diego: Investigation into the San Diego City

Employees' Retirement System and the City of San Diego Sewer Rate Structure" (the "Kroll Report"), with certain modifications recommended by the Independent Consultant appointed pursuant to the City's November 14, 2006 Cease and Desist Order (the "Order"). The Kroll Report offered no persuasive rationale for their recommendation and the City Attorney's office opposed it because it represented an erosion of the DPWG's oversight function.

The composition of the DPWG the City Council approved on April 30, 2007, was as follows: the City Attorney; the Deputy City Attorney for finance and disclosure; the Chief Financial Officer; the Director of Debt Management; and the City Auditor. The City's outside disclosure council remained as a non-voting member and the Independent Budget Analyst was added as a non-voting participant. Our objection to this composition was based, in significant part, on the increased management representation on the group, particularly in light of the then-recent departure of the City's last Auditor & Comptroller, who resigned in protest over management interference with his official duties. Mayoral staff had objected to the Auditor & Comptroller's reporting on continued weakness in the City's internal controls, particularly the control environment or "tone at the top".

Subsequently, the City Attorney's office dropped its objection to this composition based on assurances that the City was going to appoint a truly independent City Auditor. However, when an ordinance codifying this structure was brought before the City Council on January 15, 2008, the Chief Operating Officer offered an amendment to the ordinance replacing the City Auditor with himself, the Chief Operating Officer, as a voting member of the DPWG. The following week, on January 22, 2008, the City Council approved the ordinance making the Chief Operating Officer a voting member of the DPWG. As a result of this action, the DPWG now consists of three management officials: the Chief Operating Officer; the Chief Financial Officer; and the Director of Debt Management. The City Attorney and the Deputy City Attorney for finance and disclosure remain on what has become a group tilted decidedly towards management.

As it is currently constituted, the DPWG has become little more than a management working group composed of mayoral appointees. Because the group charged with overseeing representations made by management concerning financial disclosure is now dominated by management, we believe its oversight function has been eroded to the point of irrelevance. Inasmuch as the SEC cited the creation of the DPWG as an important component of reforming the City's financial disclosure apparatus and a check on the abuses of the past, we believe that the group can no longer serve that function.

Failure to Renew City Actuary

Another worrying development is the failure of the City Council to renew the City's contract with the City's independent actuary, which lapsed approximately eight months ago. As you are aware, the financial condition of the San Diego City Employees' Retirement System ("SDCERS") lies as the heart of nearly all of the City's financial and disclosure issues. Central to this is the apparent inability of SDCERS to fully disclose to the City the full extent of the City's liabilities. As identified in the Kroll Report, much of this stems from the manipulation of the actuarial assumptions used to calculate the City's liabilities related to the pension system. Moreover, among the City's most serious disclosure omissions was the failure to disclose its

ballooning retiree healthcare obligations. To remedy this, the Kroll Report recommended that the City retain its own actuary to test the numbers provided by SDCERS and to calculate the retiree healthcare liability. Despite the fact that both the City Council and the Mayor's office approved this recommendation, the City Council declined to renew the independent actuary's contract when it was brought before the City Council on January 22, 2008. Without the services of an independent actuary, the City will be unable to verify and accurately disclose these two significant liabilities.

We believe these are developments of sufficient importance that you should be aware of them as you continue to monitor the City's compliance with Order. Should you need any further information, please feel free to contact me.

Sincerely yours,

MICHAEL J. AGUIRRE, City Attorney

By



Michael J. Aguirre
City Attorney

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cc: Audit Committee
Andrea Tevlin, Independent Budget Analyst
Jay Goldstone, Chief Operating Officer
Stan Keller, Independent Consultant