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Hand Delivered

December 17, 2004

San Diego City Employees Retirement System
Board of Administration
401 B Street, Suite 400
San Diego, CA 92101

Dear Board Member:

On Wednesday, December 15, 2004, I informed your system administrator, Mr. Grissom, that I was assuming the role of chief legal advisor to the System effective immediately. I have taken this action on behalf of the citizens of San Diego and the Beneficiaries of the Retirement System in accordance with the powers of the City Attorney's office under Section 40 of the City Charter and Section 24.0910 the Municipal Code.

The people of the City have a legitimate interest in having its elected City Attorney serve in this capacity as the funds of this System are all sourced from public funds, and the Board's compliance with applicable laws and regulations are not inconsistent with the preservation of System assets or delivery of its benefits. I have directed your former in house counsels to report to my office. That notice remains effective today and I will appreciate the Board acting in accord.

The City Attorney will attend all sessions of this Board in an official capacity, including all closed sessions, and will advise when closed sessions are lawful.

With regard to the actions of the Board at its November 19th closed session meeting, you are advised that the actions you took regarding the performance of Ms. Shipione were not properly noticed and not in compliance with the Ralph M. Brown Act. In fact, they appear from the agenda to not be noticed at all. Among other deficiencies, the suggestion that the actions taken just came up during the closed session and were not pre-planned for purposes of giving notice, have obviously been proven completely false. As a result, from a civil law standpoint, your actions in that closed session are void in their entirety. Specifically, your vote to exclude Ms.

Shipione from future closed sessions is void, as are any other related actions taken with respect to her in this illegally conducted closed session meeting.

Further investigation is underway regarding this matter.

Yesterday, I received a response from Mr. Pierce and Mr. Grissom summarily rejecting my directions regarding legal counsel found in my letter. They will be held legally accountable for their actions.

As of 15 December, 2004, your Board's legal relationship is with my office, and any advice from your previous Board counsels no longer constitutes advice upon which you can rely for compliance with municipal protocols. Such advice, if given, is not provided to you on behalf of a government entity and such individuals will act independent of the law and outside its immunities. They will be held accountable for such actions.

We have much to do together to address the legal issues facing this Board that weigh so heavily on the City, our employees and retirees. I am committed to working with you to straighten out the problems and correct any legal deficiencies.

I invite any Trustee or staff member with information or materials that could be of assistance to me in addressing the important legal issues concerning this Board to provide me that information and send me those materials for my review. I promise to respond to you promptly. I ask for the cooperation of all Board and staff members for the good of all the people of San Diego.

Very truly yours,

Michael J. Aguirre
San Diego City Attorney