

October 9, 2014

To the Central Basin Water District Board of Directors and Mr. Alvarez-Glasman:

It has come to our attention that the current Board of Directors for the Central Basin Water District ("District") is meeting on October 9, 2014 to vote whether to waive the District's attorney-client privilege with respect to privileged communications between the District and our clients, the Buchalter Nemer law firm and Douglas Wance. We write to advise you that, if the current Board votes to waive the attorney-client privilege, it is our view that such a waiver would be ineffective and that Leticia Vasquez's participation in such a vote (as well as the participation of certain other board member(s)) would violate California law.

We believe waivers of privileges held by a government entity are not effective unless validly obtained from authorized and disinterested representatives of the entity. *See, e.g.,* Cal. Gov't Code §87100 ("No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest."). "Public official" includes every member and officer of a state or local government agency. Cal. Gov't Code § 82048. A public official has a "financial interest" in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official. Cal. Gov't Code § 87103.

Ms. Vasquez, a current District board member, is currently prosecuting a complaint in state court against my clients alleging violations of the California False Claims Act ("CFCA"). Under the CFCA, Ms. Vasquez stands to receive monetary remuneration in the event she prevails. The Court recently sustained my clients' demurrer to Ms. Vasquez's initial CFCA complaint on the ground that my clients could not defend themselves against Ms. Vasquez's allegations because of my clients' ethical obligations to preserve the confidentiality of their privileged communications with the District. At the hearing on the demurrer, the Court expressed serious doubt as to whether Ms. Vasquez could plead around the privilege issue. Subsequently, Ms. Vasquez filed a first amended complaint ("FAC"), and my clients demurred again on the same privilege



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grounds; that demurrer is set for hearing on October 14, 2014. Accordingly, Ms. Vasquez has a direct personal and financial interest in advocating and voting to cause the District to waive its attorney-client privilege in an attempt to oppose our clients' demurrer and save her lawsuit prior to the October 14 hearing date. That personal and financial interest would invalidate the current Board's vote, and potentially subject Ms. Vasquez to liability, under California law.

Ms. Vasquez's FAC also names various "Doe Defendants." Based on the specific allegations in the FAC, it is apparent that at least some of these Doe Defendants are District board members who participated in the June 2010 closed session meeting described in the FAC. It is our understanding that three of the five District board members who participated in that 2010 closed session meeting remain on the Board today. If any one of those three District board members votes to cause the District to waive its attorney-client privilege, and if such board member(s) do so in order to avoid being named as defendants in Ms. Vasquez's lawsuit, that too would invalidate the current Board's vote, and potentially subject those individual board members to liability, under California law.

Accordingly, in the event the current Board proceeds with the referenced vote, we will take the position in the Vasquez lawsuit that the Board's actions are invalid under California law, and that our clients are duty-bound to continue to preserve the confidentiality of their privileged communications with the District. Additionally, such an unlawful and invalid vote would require our clients to bear the burden and expense of protecting the District's attorney-client privilege, and we would seek indemnification from the District for all fees and expenses associated with that litigation.

This letter is not intended to be a full enumeration of my clients' rights, claims, remedies, or damages, or the factual and legal bases thereof, all of which are expressly reserved. Nothing in this letter should be construed as a waiver, relinquishment or election of rights or remedies by my clients, all of which are expressly reserved.

Sincerely,



Paul S. Chan

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