

## VIRGINIA:

**IN THE CIRCUIT COURT OF LOUDOUN COUNTY**

**CITIZENS OF STERLING,**

**PLAINTIFFS,**

**v.**

**EUGENE DELGAUDIO**

**DEFENDANT.**

**CL85754**

**MOTION TO DISMISS**

On June 24th, 2014, at 11:00 a.m., or as soon thereafter as counsel may be heard, the Commonwealth will move this Court to dismiss Plaintiffs' Petition to Remove Supervisor Delgaudio from Office. In support thereof, the Commonwealth states the following:

## STANDARD OF REVIEW

The Plaintiffs' removal petition was brought pursuant to Virginia Code § 24.2-233. Under § 24.2-233 an elected officer can be removed from office "for neglect of duty, misuse of office, or incompetence in the performance of duties when that neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse effect upon the conduct of the office." An official may only be removed for misconduct that occurred in his *present term of office*. However, evidence of previous misconduct may be admissible if relevant and connected to a current allegation. Opinion of the Attorney General 1989 Va. AG, 22 (1989). Because such a removal proceeding is "highly penal in nature," it is a quasi-criminal proceeding. Commonwealth ex.rel. Davis v. Malbon, 195 Va. 368, 375 (1953); Warren v. Commonwealth, 118 S.E. 125, 130 (1923). In such a quasi-criminal proceeding, the law is clear that the burden is

on the Commonwealth to prove by *clear and convincing evidence* at least one of the statutory grounds for removal.<sup>1</sup> Davis 195 Va. at 379.

Specifically, in *this* proceeding, the Commonwealth must prove by clear and convincing evidence that: (1) Supervisor Delgaudio neglected his duty, misused his office, or was incompetent in the performance of his duties; *and* (2) such neglect, misuse, or incompetence had a *material adverse* effect upon the conduct of the office. *Material* means “having influence or effect.” Black’s Law Dictionary (9th ed. 2009). *Adverse* means “opposed” or “contrary” to what should otherwise be happening. Id. Thus, the Commonwealth must demonstrate by clear and convincing evidence that Supervisor Delgaudio’s actions not only constituted neglect, misuse, or incompetence, but that they also impacted the proper functioning of his office. The Commonwealth can demonstrate neither on any of the seven allegations included in the Plaintiffs’ petition.

### **THE PETITION**

On March 25, 2014, this Court granted a Motion to Partially Strike the Pleadings. The Court held that the “scope of the issues in this case” would be limited to the seven allegations specifically stated in the Plaintiffs’ petition. While the allegations are clear, the facts upon which they rely are not. This ambiguity stems from both the time period in which the vast majority of the endorsees signed the petition and also from the endorsees’ counsel’s obstructionist attitude to the investigation.

To begin with, the vast majority of the petition endorsees signed the document *prior to* June 24, 2013. June 24, 2013 is relevant, because the Special Grand Jury empanelled to

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<sup>1</sup> As a procedural matter, the issuance of the rule to show cause is simply a mechanism to begin the removal proceedings. It does not shift the burden of proof in any way to the defendant. See Heacock v. Commonwealth, 228 Va. 235, 241 (1984) (“The movant in a show-cause proceeding has the burden of proving the premise of the show-cause order...”); see generally Keselica v. Commonwealth, 34 Va. App. 31 (2000). In such a removal proceeding,

investigate Supervisor Delgaudio did not release the report of its findings *until* that date. As such, the overwhelming majority of the endorsees did not have access to the details contained in the Special Grand Jury's report at the time they signed the petition.<sup>2</sup> Likewise, the individual or individuals who originally drafted the allegations in the petition could not have read the Special Grand Jury's report.

The Commonwealth did attempt to speak with the petition endorsees in order to better understand what they relied upon when making their allegations. The Commonwealth's efforts were stymied by the endorsees' counsel, John Flannery. Mr. Flannery, in hyperbolic response after hyperbolic response, declared, for example, that

“[p]erhaps the Commonwealth Attorney would enlarge upon her assertion as to how the Citizens have any evidence at all, as to the ‘material adverse effect upon [Mr. Delguadio’s] conduct of the office [of Supervisor Delguadio]’. Presently, this vague formulation sounds like a request to talk to citizens who circulated a petition – and nothing more – and is therefore calculated to vex and harass them for doing so...” [EXHIBIT 1, pg. 3, paragraph 6].

This could not be further from the truth. In all criminal proceedings, the complainant – often a police officer, but occasionally a civilian – provides the probable cause for the summons or warrant. This individual is vital to any prosecution. Without their proffer of facts, a charge is not brought. The Commonwealth is at a complete loss as to why her natural inclination to speak with the petitioners would be seen as a form of harassment.

The Commonwealth is forced to conclude that the majority of the “complainants” relied chiefly upon nothing more than what they read in the media. To that point, Mr. Flannery candidly stated that “[t]he persons you identified circulated the petition and are not ‘witnesses’ themselves to anything that happened that is the subject of the petition they circulated, principally obtaining their information from the grand jury report and the board of supervisor’s censure

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the Commonwealth is the moving party. Johnson v. Woodard, 281 Va. 403, 411 (2011).

proceedings and what they read in the papers.” [EXHIBIT 2, Pg. 1]. While the Commonwealth appreciates Mr. Flannery’s candid admission, it also prompts a number of legitimate concerns about the credibility of the “charging document,” which in this quasi-criminal investigation is the petition itself.

### **THE ALLEGATIONS**

The Commonwealth will respond to each of the individual allegations contained in the Petition. When appropriate, the Commonwealth will respond with specific facts. As previously stated, the Commonwealth did not have access to the complainants. At times, this forced the Commonwealth to speculate as to the grounds for their allegations. Nonetheless, all possible theories supporting each allegation were thoroughly explored.

In coming to its conclusions the Commonwealth has relied upon the large body of investigatory work created both during the Special Grand Jury investigation and subsequently in the course of this investigation. That body of investigatory work includes dozens of hours spent by the Virginia State Police Department investigating Supervisor Delgaudio, the more than 31 different witnesses and 36 items of evidence examined by the Special Grand Jury, and the numerous depositions and discussions that make up this current investigation. Over the past 15 months, The Commonwealth’s Attorney and her assistants have literally spent hundreds of hours investigating Supervisor Delgaudio.

**ALLEGATION #1: “That the Southern Poverty Law Center has declared that Supervisor Eugene Delgaudio heads a “hate group,” called Public Advocate of the United States, and has merged his function as an elected official of this County with his advocacy for this “hate group.”<sup>3</sup>**

Eugene Delgaudio did not merge his function as a Loudoun County Board Supervisor

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<sup>2</sup> 557 endorsees signed *before* the release of that Special Grand Jury’s report.

<sup>3</sup> The Commonwealth will address the specific allegation that Public Advocate’s executive assistant Hannah Scoggins “supervised” Supervisor Delgaudio’s county- paid staffers in the next section.

with his advocacy for the entity known as Public Advocate, of which he serves as President.<sup>4</sup> There were interactions and overlap between his county staffers and his staff at Public Advocate. However, these moments of commonality did not constitute a merging of the two; they arose chiefly out of a need to coordinate schedules, not policy. Furthermore, there is no evidence that these interactions had a material adverse impact on the proper functioning of his supervisor's office.

The Commonwealth again notes that had she had a chance to speak with petitioners, she would have been able to better understand their theory behind this allegation. Regardless, the whole sum of the evidence "supporting" this allegation appears to be that (1) staff assistant Fred Klein occasionally responded to inquiries about Supervisor Delgaudio's involvement in Public Advocate's homophobic antics; (2) Mr. Klein appeared in at least two videos produced by Public Advocate; and (3) Supervisor Delgaudio's county staff occasionally met with him at the Public Advocate office to discuss scheduling and other issues.

Fred Klein, a loyal supporter of Supervisor Delgaudio, was employed as a staff assistant during 2012. While working in Supervisor Delgaudio's office, he occasionally responded to emails received by the office concerning Supervisor Delgaudio's involvement in Public Advocate. For example, on July 24, 2012, Klein responded from his county address to an email from "Montyzenm@aol.com." [EXHIBIT #3]. In his response he defended his boss and commented on Public Advocate. The email makes clear that he supported and was familiar with the positions of both.

Klein was working as a staffer for a politician. He is permitted and probably expected to respond to emails. He certainly can respond with his own views, those of his boss, or those of

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<sup>4</sup> Public Advocate is an arch-conservative advocacy organization with a strident anti-gay, anti-immigrant, and anti-

the organization his boss is in charge of, especially if there is a unity of the three. Nowhere is it suggested that Klein was responding *on behalf of* Public Advocate. This is not evidence of a merging of Public Advocate with Supervisor Delgaudio's office.

Klein also appeared in at least two videos produced by Public Advocate.<sup>5</sup> When these videos were created, he was a part-time employee of Loudoun County. Both he and Eugene Delgaudio testified under oath that he was not being paid by the County when the videos were filmed and that he received compensation only from Public Advocate. Klein was a part-time employee and free to do what he wanted when not working. Regardless of how intolerant and incendiary the videos are, this is not evidence of a merging of Public Advocate with Supervisor Delgaudio's office.

Finally, The Report of the Special Grand Jury empanelled to investigate Supervisor Delgaudio stated that:

“[a]ccording to testimony, staff meetings to discuss County business were often conducted during normal business hours at the Public Advocate office as a matter of convenience. During these meetings, the BoS [Board of Supervisors] aides, Supervisor Delgaudio and the Public Advocate staff discussed Supervisor Delgaudio's calendar as well as County and Public Advocate business.”  
[EXHIBIT 4, pg. 6]

Transcripts of the witness's examinations were not available when the Special Grand Jury wrote their report, so they were operating entirely by memory. The Commonwealth has subsequently received and reviewed those transcripts and believes that the Special Grand Jury has slightly misremembered the testimony that arose during the investigation. The testimony was that occasionally county-paid staffers would meet with Delgaudio at his Public Advocate office. The Special Grand Jury was accurate in describing those encounters as “a matter of convenience.”

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abortion policy portfolio.

<sup>5</sup> These videos can be found online at:

[https://www.youtube.com/watch?v=ZwRL\\_VIW1Qc&fmt=6&autoplay=0&fs=0](https://www.youtube.com/watch?v=ZwRL_VIW1Qc&fmt=6&autoplay=0&fs=0)

Certain staffers testified that they lived closer to the Falls Church-based Public Advocate office than they did to Supervisor Delgaudio's Loudoun office. And, on a few occasions, knowing that Delgaudio would be at the Falls Church office, they would drive there to meet with him to discuss county business. If a Public Advocate aide was at a meeting when county affairs were discussed, their involvement would be limited to discussions about scheduling. Convenience, not coordination, was the apparent reason for these joint meetings.

The Commonwealth notes that this type of behavior is certainly not best practices. County-related meetings really ought to take place at county locations, or at least at non-political sites, so as to avoid the appearance of impropriety. Nonetheless, there is nothing intrinsically improper about meeting outside of the Supervisor's office, whether that meeting took place at a Starbucks or Public Advocate. Since being a Loudoun County Supervisor is only a part time job, there is nothing surprising about county staffers occasionally having to track down Supervisor Delgaudio at the site of his other job, the Public Advocate office in Falls Church. The only issue is what, if any, involvement did Public Advocate have with Supervisor Delgaudio's affairs as an elected official.

The testimony is clear in that regard: staff at Public Advocate were chiefly concerned with Supervisor Delgaudio's calendar. There is nothing in the record that suggests Public Advocate was advising Supervisor Delgaudio, that Public Advocate was actively managing his affairs as a supervisor, or that meetings held at the Public Advocate office were held there for any reason other than convenience.<sup>6</sup>

The Commonwealth does not believe that the "facts" supporting this allegation come

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<https://www.youtube.com/watch?v=KQpA4wO9Ais&fmt=6&autoplay=0&fs=0>

<sup>6</sup> Likewise, Rachel Sergeant, one of Supervisor Delgaudio's staff aides, testified before the Special Grand Jury that, during the 2011 election year, the Supervisor repeatedly instructed his staff to avoid conflicts between the Supervisor's office and the Supervisor's campaign.

anywhere close to clear and convincing evidence that Supervisor Delgaudio “merged” the functioning of the two offices. Certainly overlapping staffs has the potential to appear improper. And, if Supervisor Delgaudio himself and his county staff were not part time, there might exist an inference that, at times, they were being paid by the county and actually working on behalf of Public Advocate. However, that is not the case here. The Commonwealth does not believe that Supervisor Delgaudio merged his elected office with Public Advocate and does not believe that the moments of commonality between the two had a material adverse effect on the proper functioning of his office.<sup>7</sup>

**ALLEGATION #2: “That Hannah Scoggins, an employee of Public Advocate, reportedly supervises Mr. Delgaudio’s County-paid staffers, despite the fact that she is not herself employed by the county.”**

Ms. Scoggins, an employee of Public Advocate, did not supervise county-paid staffers. This allegation appears to be born solely and entirely out of a claim made by an employee who Supervisor Delgaudio testified that he fired for poor performance: Donna Mateer. The claim is entirely without merit and even Ms. Mateer, during her deposition, eventually conceded that she never had any interaction with the person she claimed was her supervisor. Further, while Scoggins does appear cc’ed on a few emails, there is no evidence that she ever responded by email or telephone to those communications or visited the Supervisor’s office. In short, there is no evidence that Scoggins was supervising county-employees.

On March 9, 2012, Ms. Mateer submitted a grievance letter to Loudoun County.

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<sup>7</sup> The Commonwealth also investigated the impact of Supervisor Delgaudio’s association with Public Advocate. In response to direct questioning, Loudoun County County Administrator Tim Hemstreet stated that:

“I am not aware of any business, or prospective business, making a decision regarding locating in Loudoun County specifically due to Supervisor Delgaudio’s position with The Public Advocate of the United States. Similarly, all of the senior staff with whom I spoke, which are noted above, state to me that they have no knowledge of any business making a decision to not locate in Loudoun County, or to leave Loudoun County, due to Supervisor Delgaudio’s position with the Public Advocate of the United States.” [EXHIBIT # 5].



[EXHIBIT 6]. In her eight-page letter, she never mentioned that Public Advocate executive assistant Hannah Scoggins had been her supervisor. On January 10, 2013, Mateer was interviewed by Senior Special Agent William A. Royall of the Virginia State Police Department. During that interview she stated that, two weeks before she was fired, Supervisor Delgaudio left a message for her instructing her that “[she] was not to answer the phone or talk to people. That Hannah Scoggins was [her] office manager and her boss, and anything [she] did had to go through [Scoggins].” In an email dated February 27, 2012, Mateer emailed Supervisor Delgaudio and relayed the various voice mails that had been left on the office phone line. She included the following: “Hannah is now in charge of this office...In response to your last voice message, I find it very strange that Hannah would be placed in charge of this office.” [EXHIBIT 7].

Some time prior to July 30, 2013, Petitioners’ counsel created an “affidavit” containing all of Mateer’s “statements”; Mateer had no apparent involvement in the creation of this document. On July 30, 2013, she signed the “Affidavit of Donna Mateer.” It is unclear if she ever read the document, as it was in the name of Donna Mateer, yet, by that time she had legally changed her name to Donna Boschen.<sup>8</sup> The document made no mention of her belief that Hannah Scoggins was her supervisor.

The entirety of this allegation appears to rest on Mateer’s understanding of a lone voicemail message that she received two weeks before she was fired. It was Mateer’s belief that Supervisor Delgaudio was instructing her to treat Hannah Scoggins as her direct supervisor and to call her if she had any questions. During Mateer’s deposition in this investigation, she admitted that she never communicated with Scoggins either by email or phone. Further, she had

previously stated, during her interview with the Virginia State Police, that Scoggins never came to the Loudoun county office. Even if Mateer did believe that she was being supervised by Scoggins in the final two weeks before she was fired, it is clear that, in fact, she was not.

During Supervisor Delgaudio's deposition in this matter, he was specifically asked about the message he left for Mateer on February 27, 2012. Supervisor Delgaudio explained that the language and the intent of the message was to remove Mateer from her daily interactions with constituents; by that point, he had determined he was going to fire Mateer for gross incompetence. He conceded that he instructed Mateer to call Scoggins if she had questions, but he testified that he meant for her to do so for guidance on *how* to do things related to being a staffer, no *what* politically or practically she should be doing on behalf of Loudoun County. Supervisor Delgaudio was emphatic that he never told Mateer that Scoggins would be her boss. From the Commonwealth's perspective, the language is not particularly relevant. The facts are that Mateer was never supervised by Scoggins in person, by email, or by telephone.

The next question is whether other county employees were supervised by Hannah Scoggins. Four separate staffers who were interviewed by the Special Grand Jury or later questioned during this investigation specifically commented on their relationship with Scoggins: Fred Klein, Lauren Avey, Thomas Herrera, and Joe Patton.

Fred Klein was quite clear, during his appearance before the Special Grand Jury, in stating that Scoggins never had anything to do with the Supervisor's office. He further stated that he had never seen her at that office.

Lauren Avey worked for Supervisor Delgaudio for nearly six years, from 2006 until 2012. In response to direct questioning, she responded that she had never seen Hannah Scoggins at the

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<sup>8</sup> Though her name is now Donna Boschen, for ease of understanding and because during the period in question her name was still Donna Mateer, Ms. Boschen will be referred to as Donna Mateer throughout this document.

Loudoun office; she never met Supervisor Delgaudio at Public Advocate's office once she formally became a Loudoun County employee; and that she knew of no time where Public Advocate employees were working out of the Loudoun office. She expressly denied that Scoggins was ever her supervisor.

Thomas Herrera worked for Supervisor Delgaudio as a college intern from February 2011 until the end of that year. Mr. Herrera advised the Commonwealth that he never interacted with Scoggins, was unfamiliar with any aides for Public Advocate, and never went to that organization's office.<sup>9</sup>

Joe Patten began working for Supervisor Delgaudio in April of 2012. At the time of the Special Grand Jury, he was still employed by Supervisor Delgaudio. In response to direct questioning, Patten stated that since he began working for the Supervisor, he had never seen Hannah Scoggins in the Loudoun office. Patten never indicated he was being supervised by Scoggins.

The sworn testimony of five separate staffers who worked for Supervisor Delgaudio over the years is clear and consistent: Hannah Scoggins was never their supervisor. Donna Mateer's candid admission that she never spoke to, emailed, or actually ever met Scoggins entirely negates her allegation that Scoggins was her boss and supervisor. The Commonwealth does not believe there are any facts that support this allegation.

**ALLEGATION #3: "That Mr. Delgaudio has reportedly conducted inappropriate and unlawful job interviews for County staff positions, by impermissibly asking job applicants about their religious beliefs, in violation of the First Amendment of the United States Constitution."**

Supervisor Delgaudio did ask potential staffers their views on a number of politically

sensitive subjects. The issue before this court is not whether that happened. Rather, the burden on the Commonwealth is to prove by clear and convincing evidence not only that asking such questions constitutes “neglect of duty, misuse of office, or incompetence in the performance of duties” but also that such neglect, misuse or incompetence “impacted the proper functioning of his office.”

The Commonwealth does not believe that probing about an individual’s political and religious beliefs during an interview for a political appointment constitutes misuse of office. In fact, there is persuasive case law indicating that political aides can be terminated for exercising their right to free speech on certain political issues. See Gordon v. Griffin, 88 F. Supp. 2d 38, 45 (E.D.N.Y. 2000) (“Because positions as legislative assistants are inherently political, consideration of loyalty to the views and agenda of an elected legislator are relevant to staff.”). In the Gordon case the court granted a motion for summary judgment, dismissing a former aide’s claim that she had been wrongly terminated for expressing a position on police brutality. Id. By denying her claim the court balanced the petitioner’s First Amendment concerns with the need for effective legislative communication and opined that there is a small category of political jobs whose occupants are not entitled to First Amendment protection from dismissal. Id. at 57-58. If a politician can fire his or her staff for exercising their First Amendment rights, then certainly he or she can also inquire about their views on certain political topics when making hiring decisions.

Nonetheless, Supervisor Delgaudio’s questions did not impact the proper functioning of *his* office, because he ultimately hired all the individuals who have testified that they were asked such questions. There is not even a scintilla of evidence that the individuals who were asked

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<sup>9</sup> Mr. Herrera was identified by Mateer in her March 9, 2012 grievance letter as an individual who would support her original allegations. However, his testimony before the Special Grand Jury belies that. Mr. Herrera did view Mr. Delgaudio as a difficult boss who ultimately turned off Mr. Herrera to politics. But it is also clear from his Special Grand Jury testimony that he “never saw anything unethical” take place in the Loudoun office.

these questions were somehow less able to function as a result of the questions themselves. During his deposition, Supervisor Delgaudio explained that, because of his highly conservative views, he needed to ensure that his staff aides understood his views and additionally shared his views on various issues. In short, the Commonwealth is aware of no evidence that demonstrates that Supervisor Delgaudio's questioning had any impact on the proper functioning of his office at all.

**ALLEGATION #4: "That Mr. Delgaudio has made it a condition of employment for several of his staff to raise money for his political and/or "charitable" campaigns while working on County time and being paid by public taxpayer funds, a matter which is currently being investigated by the Commonwealth's attorney to determine whether Mr. Delgaudio's actions merit criminal prosecution"**

The Commonwealth cannot demonstrate by clear and convincing evidence that Supervisor Delgaudio forced his staffers to help him fundraise for political campaigns. The evidence that the Commonwealth is aware of indicates that Supervisor Delgaudio had Donna Mateer set up meetings with "community leaders." Those "community leaders" were well-known republican donors. However, neither the call script nor the various letters sent to these donors suggest that the meetings were politically motivated. Supervisor Delgaudio's explanation that these meetings were chiefly aimed at raising large sums of money from proven donors for the Lower Loudoun Boys Football League (LLBFL) cannot be disproved. This explanation, in fact, accords with staffers' testimony about Supervisor Delgaudio's zeal for the effort.<sup>10</sup> Additionally, the Commonwealth was able to locate and speak with a few of these donors; they all confirmed that issues concerning Loudoun were discussed during the meetings. Supervisor Delgaudio subsequently explained that creating long term relationships was his focus with the

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<sup>10</sup> The Commonwealth also obtained records indicating that Supervisor Delgaudio sought out legal advice as to how to best solicit donations for the LLBFL in 2012 and previously in 2007. [EXHIBIT #8].

hope that one day the donor would make a large donation to the LLBFL or other charitable causes he supported, which also benefited his constituents. Finally, the Commonwealth feels compelled to note some concerns about the accuracy of Mateer's claims.

This allegation initially arose from Donna Mateer's March 9, 2012 grievance letter. Specifically, she claimed that Supervisor Delgaudio:

"became obsessed with me working on something called the "Igor" list. He had me create a Gmail account, and make it so I could add "appointments" to his google calendar. These "appointments" were made from calling the names or companies on the Igor list, which he often referred to as his "favorite" list. I was given a script to say on the phone, and was to make calls, all day, every day, even on the weekends. He often told me to 'bill him or the County ... it didn't matter as long as the calls were made.'" [EXHIBIT #6, Pg. 3]

Later, Mateer described an interaction she had with Lauren Avey about her work on "Igor" list:

"[w]hen [Ms. Avey] came across the Igor list, she said 'Donna, what is this?' I told her about the 'project Eugene had me doing. She got a confused look on her face and asked me to explain the whole thing and exactly what I was supposed to do with the Igor list. I told her about the calls I was making, and about his new plan for the Igor list, which was to send each person/company a letter from him and that he was drafting it up as we spoke. She shook her head and said, 'Donna, I don't think this has anything to do with the Loudoun County, or Sterling.'" Id. at pg. 5.

Mateer went on to add that:

"Eugene told me that the Igor list was a list compiled by a man named Igor, especially for Eugene. It was one of the top Donor lists. I really didn't understand much of it at first. He told me that making him appointments to meet with the people on the Igor list, and the other lists, would be very "beneficial." He brought up my being a single-mom and told me that he knew I was struggling. He said 'Donna, when you get me an appointment with one of the people on the Igor list, that is extremely important.' He told me that each one of those 'appointments' could end up in him receiving a lot of money. He pointed out the list on the Google Document he sent me. It listed names, addresses, phone numbers for some, some company names which he told me they were usually the CEO's, or owners, and their 'donation.' He never explained the 'donation' part completely to me. He said that if he walked away from one of these appointments with a \$500.00 or above, he would give me 5%. He said if I could get the person I was making the appointment for him to give me five more names for more appointments, he would give me 10% of whatever he made. I didn't really

understand the whole thing. I just did my job, and did what I was told to do.” Id.  
at pg. 6.

These claims guided the Commonwealth’s original, six-month-long Special Grand Jury investigation of Supervisor Delgaudio. After an exhaustive reexamination of the facts, the Commonwealth believes that sufficient and specific evidence does not exist to substantiate Mateer’s claims.

As a general proposition staff aides may be instructed to make phone calls all day, every day. Staffers can respond to constituent calls. They can be instructed to reach out to constituents to learn what issues are important to the community. The only types of calls staffers cannot be instructed to make are “non-county” calls. “Non-county” calls, for the purposes of this matter, would consist of political calls – whether they be directly related to a political campaign or simply for political fundraising purposes – or personal calls. Mateer never stated that she was making political or personal calls. Nonetheless, the Commonwealth explored both possibilities during its initial Special Grand Jury Investigation of Supervisor Delgaudio and during this subsequent matter.

On January 10, 2013, during an interview with the Virginia State Police, Mateer stated that “all she did” was call individuals off of the “Igor list.” The “Igor list” was created by Igor Kyrylenko. Kyrylenko testified before the Special Grand Jury that over the years he had met Supervisor Delgaudio five or six times at different functions around Loudoun County. At one of those functions he and Supervisor Delgaudio discussed fundraising. Kyrylenko suggested that the Supervisor could use online databases to obtain the names of people who might make donations. The Supervisor eventually asked Kyrylenko to create a list of such names. The resulting spreadsheet was the Igor list.

The list was populated with data from VPAP.org, a publicly accessible website that tracks

donor history in Virginia. The finished list included contact information for donors; information about who they had previously donated to, when, and how much; and columns titled “1<sup>st</sup> Attempt at Contact” and “2<sup>nd</sup> Attempt at Contact.” In short, the Igor list was a list of proven donors.

This allegation states that staffers were making fundraising calls for Supervisor Delgaudio’s political campaigns. Mateer acknowledged to the Virginia State Police that she never specifically asked for a donation when she was calling people; rather, all she did was set up meetings.<sup>11</sup> During her Special Grand Jury testimony, Mateer again conceded her requests were general and made no reference to politics or donations.

Mateer told a state police investigator that she was “spending 100% of her time working on these calls and letters.” Mateer elaborated that in addition to calling individuals on the Igor list, she would also send a letter from Supervisor Delgaudio requesting a meeting. In those letters, Supervisor Delgaudio would refer to the recipient as a “community leader” and ask to meet up in order to “make sure I am on the right track.” [EXHIBIT #9]. He would further state that “[g]etting opinions or new information is how I conduct myself during my term in office in order to be informed of what involved community leaders such as you are thinking or already know.” Id. The letter’s request was general and non-political.

Mateer also sent out “follow up” letters thanking individuals for meeting with Supervisor Delgaudio that were similarly non-political. The letters included the following language:

“I am grateful for the opportunity you afforded me to discuss your goals and visions for Sterling, Loudoun, and America...Your devotion to your principles is very much taken to heart by me and will not be forgotten. I will hold them close in my deliberations and am grateful you would all me to hear them and to include me as your champion in the future as the need arises at any time day or night.” [EXHIBIT #10].

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<sup>11</sup> Fred Klein testified that he was also involved in the Igor list effort, but that his participating was exclusively limited to calling individuals to ensure the accuracy of the list. He neither asked for donations, nor did he try to set up meetings.



The letters included no mention of politics or fundraising.

Even if the calls and letters were innocuous, it is possible that Supervisor Delgaudio was using general language to set up meetings specifically intended for his own political purposes. The Commonwealth investigated this possibility by cross-referencing the many names on the Igor list with the “follow up” letters it had access to. The Commonwealth was able to speak with a few individuals who met with Supervisor Delgaudio. Most observed that they sensed that Supervisor Delgaudio was seeking a donation for something. Three individuals indicated that Supervisor Delgaudio actually asked for a donation. Two suggested he may have mentioned his campaign or the work of Public Advocate.<sup>12</sup> One gentleman specifically recalled Supervisor Delgaudio mentioning “some kids’ sports team.” All the individuals the Commonwealth spoke to confirmed that Supervisor Delgaudio spoke about issues relating to Loudoun.<sup>13</sup>

Without further evidence the Commonwealth believes that these meetings were not set up for political purposes. Certainly, Supervisor Delgaudio indirectly benefited from meeting and creating a relationship with a proven political donor. Even if he was soliciting funds for the Lower Loudoun Football League, it would be naïve to conclude that he was not also simultaneously raising his own profile. Elected officials routinely meet with and help promote causes that will in turn help promote themselves. Nonetheless, without further, specific proof the Commonwealth cannot meet its burden of proving by clear and convincing evidence that these meetings were set up with the specific objective of aiding Supervisor Delgaudio’s political fortunes.

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<sup>12</sup> One of these two individuals described the request as very general. Though the Commonwealth does not dismiss the fact that Supervisor Delgaudio may have directly asked one individual for a political donation, she observes that a non-political meeting can subsequently turn into a political one.

<sup>13</sup> By way of example, a January 28, 2012 email from Supervisor Delgaudio to Donna Mateer presents his reaction to a meeting with an individual who he describes as a “tremendous source of information” in relation to a “program for Fathers to be part of the security of elementary schools in America.” [EXHIBIT #11].

The Commonwealth additionally has concerns about Mateer's credibility that impact its view of the allegation as a whole. This and the preceding investigation were both prompted by the claims made by Mateer in her post-firing, grievance letter. In relationship to this allegation Mateer claimed that she was instructed to make "calls, all day, every day, even on the weekends," and that Supervisor Delgaudio told her to "devote all my time to [it]." [EXHIBIT #6, pg. 4]. When Mateer spoke with the Virginia State Police she stated that, in reference to the Igor list, "the phone calls were all that [I] did and it was of the utmost importance," and that "after the November 2011 election she "was spending 100% of her time working on these phone calls and letters." In her Affidavit, Mateer stated that "I spent all my time on these calls from January 3, 2012 until March 2, 2012." [EXHIBIT #12, Pg. 4, paragraph 22]. The Commonwealth had some concerns about the accuracy of these claims.

Mateer did not spend "all of her time on these calls." Mateer spent some of her time listening to, relaying messages from, and dealing with constituents. [EXHIBIT #7]. Mateer spent some of her time making phone calls to wish Supervisor Delgaudio's constituents a "Happy New Year" and to inform them of his efforts to "toughen overcrowding laws." [EXHIBIT #13]. Mateer spent some of her time training Fred Klein and ensuring he was attending certain training workshops. [EXHIBIT #14]. Mateer spent some of her time tracking down maps for Supervisor Delgaudio. [EXHIBIT #15].

Indeed Mateer's own handwritten notes undermine her assertion that she spent all of her time making calls. They indicate that, at least on some days, she was spending very little time making calls. For example, on January 18, 2013, it appears that, over the course of the entire day, Mateer left only 32 phone messages. [EXHIBIT #16]. Even assuming that her notes were not comprehensive of her efforts that day, the phone logs from Supervisor Delgaudio's office

corroborate the infrequency of her calls: only 28 phone calls were apparently made.<sup>14</sup> Over the course of the entire day – assuming Mateer made every call herself – she spent a total of less than 35 minutes on the phone. Mateer billed the county for 8 hours of work. [EXHIBIT #17].

Mateer was clearly treated poorly. There are numerous emails between her and Supervisor Delgaudio that attest to this fact. Having also interviewed his other staffers, the Commonwealth finds *entirely credible* Mateer's claims that Supervisor Delgaudio constantly put her and other aides down verbally. The Commonwealth believes Mateer when she says that Supervisor Delgaudio berated and degraded her, emotionally and mentally abused her, and was demanding, impatient, and verbally abusive. The testimony of the more than 30 individuals who testified during the Special Grand Jury investigation painted a vivid picture of the Supervisor that the Commonwealth finds consonant with Mateer's description of her working conditions. However, because the Commonwealth believes Mateer really was treated so poorly, the Commonwealth also has concerns that she may be attributing more nefarious motives to the various tasks she was instructed to perform as a staff aide in Supervisor Delgaudio's office.

The Commonwealth cannot prove by clear and convincing evidence that Supervisor Delgaudio was forcing staffers to set up political fundraising meetings as a condition of their employment. The nature of the calls, the substance of the meetings, and the tone of the letters sent before and after the meetings negate the allegation that these meetings were set up to further Supervisor Delgaudio's political campaigns. Supervisor Delgaudio's explanation of what was happening during these meetings is credible and cannot be seriously undermined by the Commonwealth, and, in fact is corroborated by the testimony of his staffers. Finally, the Commonwealth has concerns about the accuracy of Mateer's statements in regards to what she

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<sup>14</sup> The Commonwealth reviewed the phone logs associated with the land-lines located in Supervisor Delgaudio's

was actually made to do. Therefore, without further specific proof, the Commonwealth cannot meet its burden of proving by clear and convincing evidence that these meetings were set up with the specific objective of aiding Supervisor Delgaudio's political fortunes.

**ALLEGATION #5: "That there are emails, contribution lists, and documents that support these charges and witnesses have come forward to confirm these charges."**

This is not a separate allegation requiring further investigation. It is unclear if it relates simply to ALLEGATION #4 or all of the preceding allegations. In any event, as the previous allegations have been responded to, this specific allegation requires no further response.

**ALLEGATION #6: "That in consideration of Mr. Delgaudio's unethical and immoral conduct, the Board of Supervisors voted unanimously to remove Mr. Delgaudio from all Committee assignments, rendering the Sterling District without representation at the Committee level"**

The Board of Supervisor's decision to remove Supervisor Delgaudio from all committee assignments was a response to the previous allegations. It, by itself, is not a separate cause of action to remove Supervisor Delgaudio from office; if it were, partisan governing bodies could simply remove members from committees in order to later remove them from office. Virginia Code § 24.2-233 creates a specific cause of action to remove an elected official from office for neglect, misuse, or incompetence when that neglect, misuse, or incompetence has a material adverse effect upon the conduct of their office. Even a strained interpretation of § 24.2-233 would not allow the *actions of a board* to be used against an individual committee member as grounds for *his* removal.

Notwithstanding the fact that this allegation does not contain a separate ground for removal, the allegation itself is incorrect; the residents of Sterling were never without a voice at the Committee level. On July 23, 2013, following Supervisor Delgaudio's removal from all

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office. The Commonwealth additionally later reviewed the "soft-line" located in the nearby conference room. A

committee assignments, Loudoun County Board of Supervisors Chairman Scott York sent a letter to the residents of Sterling with the following statement: “[a]s your Chairman, as the former Supervisor from the Sterling District, and as a fellow resident of Sterling, you have my promise and the commitment of my fellow Board colleagues that your interests will be protected.” [EXHIBIT #18]. Moreover, despite his removal, Supervisor Delgaudio stated, during his deposition, that he still attended his committee meetings and was permitted to address the committees as an audience member. Perhaps most importantly, the Commonwealth has been informed by Loudoun County Attorney Jack Roberts that “[g]enerally, the committees make recommendations to the Board and have no independent authority to take any binding action.” As such, insofar as the committees were anything more than bodies created to enable greater dialogue, the residents of Sterling were represented by Chairman York, his board colleagues in a fiduciary capacity, and Supervisor Delgaudio as an “audience” member. Finally, because the committees have no independent authority to take binding action, Supervisor Delgaudio was ultimately able to represent and vote on behalf of his constituents on any matter that came before the full board for discussion or for a vote. The citizens of Sterling District were never without a voice during committee meetings.

**ALLEGATION #7: “That as a result of these various forms of official misconduct by Mr. Delgaudio, the Sterling District and the County of Loudoun have sustained and continue to sustain considerable damages...”**

This is not a separate allegation requiring further response.

### **CLOSING CONCERNS**

As the Virginia Supreme Court stated unequivocally in Johnson v. Woodward, “[t]he Commonwealth’s Attorney’s duty is to further the best interest of the Commonwealth, not the

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“soft-line” is only capable of making out-going calls; incoming calls need to be routed through a switchboard.

interests of the respective petitioners.” 281 Va. 403, 411 (2011). The petitioners have tried to achieve through this misbegotten removal process what they could not achieve at the ballot box – namely the political defeat of Mr. Delgaudio. They have asked a Circuit Court of this Commonwealth to remove from office a duly elected member of the Board of Supervisors based almost entirely on the grievances of a former staff aide and some newspaper accounts that repeated those grievances. The Commonwealth cannot rely on conjecture, speculation, suspicions, and assumptions to support this extraordinary statutory procedure.

The statute invoked by the petitioners and the case law interpreting the statute rightfully set a high bar for the invocation of its use. The Rules of Professional Conduct prohibit a prosecutor from filing *or maintaining* a charge the prosecutor knows *is not supported by probable cause* (Rule 3.8(a)). To continue along the path to a trial on this matter, in the Commonwealth’s view, presents the risk of running afoul of that rule.

### CONCLUSION

Two years, hundreds of hours, and thousands of dollars have been expended investigating this matter. A much better use of petitioners’ time – and that of the lawyers who represent them – might well be to identify and recruit a candidate from Sterling to run against Mr. Delgaudio in the next election. In the meantime, the Commonwealth moves this Court to dismiss the Plaintiffs’ Petition to Remove Supervisor Delgaudio from Office.

Respectfully Submitted,  
Commonwealth of Virginia

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Theophani K. Stamos  
Commonwealth’s Attorney for  
Arlington and the City of Falls Church

# EXHIBIT 1

**VIRGINIA:**

**IN THE CIRCUIT COURT OF LOUDOUN COUNTY**

**In re:**

The Citizens of Sterling Magisterial  
District petition this Honorable Court to  
Remove Supervisor Eugene Delgaudio,  
who presently represents these same  
citizens in Sterling.

Case No. CL00085754-00

**REPLY**

COME NOW the PETITIONERS ("the Petitioners"), the CITIZENS  
OF STERLING MAGISTERIAL DISTRICT ("the Sterling citizens"), by undersigned  
counsel, John P. Flannery, II,<sup>1</sup> in reply to the response by the Commonwealth Attorney  
in the above-captioned matter, to state as follows:

1. Even assuming the Commonwealth Attorney didn't get the second e-mail  
(that AOL indicates was delivered), it doesn't change the most basic proposition set forth  
in our original objection - - that the Commonwealth Attorney said she knew undersigned

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<sup>1</sup> The Sterling Citizens appointed an Executive Committee comprised of Al Nevarez (Chair), Jeanne West (Co-Chair), and Joan Kowalski (Co-Chair), and authorized that Executive Committee "to represent the interests of the petitioners should matters arise after we file our petition for removal in Court." The Sterling Citizens decided that this was "the best representative mechanism that [they] could devise to consult with [counsel] on behalf of all petitioners should anything arise that requires our input and guidance." This Reply is with the knowledge and at the initiative of the Executive Committee and the Sterling Citizens.

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counsel represented the Citizens and asked permission to talk to the Citizens; this is irrefutable.

2. Nor is there any confusion that undersigned counsel withheld permission for the Commonwealth Attorney to speak with the Citizens, with any of them, unless and until she gave any reasonable indication "why" the petitioners might have any evidence.

3. While the Commonwealth Attorney underscores the word "obscure" in her (letter) response, I must confess that I wrote "obscure", in a moment of weakness, as "sarcastic", believing that our first response was clear beyond any possible confusion.

4. I was surprised at the assertion by the Commonwealth Attorney of the evidential burden she proposes for this matter. I respectfully submit that the burden of proof in these removal proceedings is by "a preponderance of the evidence" - - as there is nowhere any indication, either in statute or case law, that it is anything else than a preponderance; thus the burden is not "clear and convincing evidence" as asserted by the Commonwealth Attorney who transparently seeks a higher burden than is required in order to compromise the outcome for the Citizens and to favor Supervisor Delgaudio.

5. In addition, this removal proceeding is a rule to show cause, served on Mr. Delgaudio, and there are particular procedural rules as to the conduct of these proceedings that appear to have been ignored by the Commonwealth Attorney.

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703-771-8344, Fax 703-777-1485,

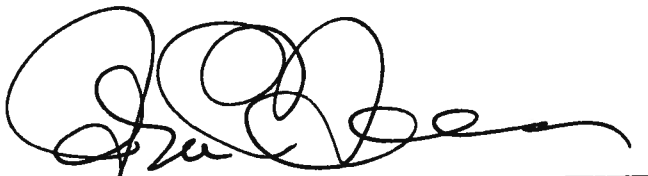
[JonFlan@aol.com](mailto:JonFlan@aol.com), [www.johnpflannery.com](http://www.johnpflannery.com)

6. Perhaps the Commonwealth Attorney would enlarge upon her assertion as to how the Citizens have any evidence at all, as to the "material adverse effect upon [Mr. Delgaudio's] conduct of the office [of Supervisor Delgaudio]". Presently, this vague formulation sounds like a request to talk to citizens who circulated a petition – and nothing more – and is therefore calculated to vex and harass them for doing so – kind of like what happened to Donna Mateer for blowing the whistle on Supervisor Delgaudio. The Commonwealth Attorney purports to have "investigated" this before so she might do better to prepare those actual "witnesses" for the trial of this matter – who have evidence.

7. While the Court may find this harsh, it appears that the Commonwealth Attorney is focused exclusively on that information that may arguably discredit the petition, and, otherwise, Ms. Stamos lifts not a finger to confirm what is self-evident to almost everyone else in this County - and especially the Citizens of Sterling who filed this petition.

WHEREAS, based on the pleadings herein, we respectfully insist that the Commonwealth Attorney refrain from contacting any represented person, meaning any of the Sterling Citizens, unless and until we grant permission.

**RESPECTFULLY SUBMITTED,  
THE STERLING CITIZENS, PETITIONERS**  
By Counsel



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703-771-8344, Fax 703-777-1485,

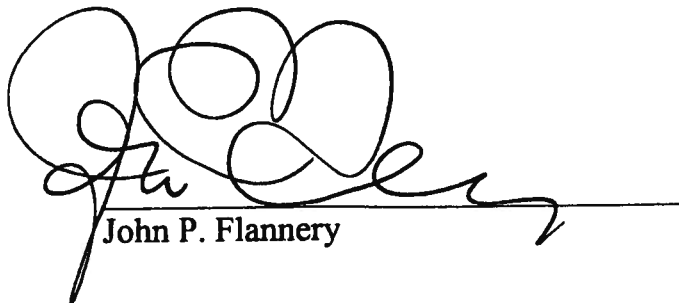
[JonFlan@aol.com](mailto:JonFlan@aol.com), [www.johnpflannery.com](http://www.johnpflannery.com)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing was delivered this

16th day of May 2014,

- (1) by regular mail to Charles L. King, Esq., with offices located at 116-G Edwards Ferry Road, Leesburg, VA 20176 (tel. no. 703-669-3500), Fax: 703-669-3525, Email: [charleskingesq@verizon.net](mailto:charleskingesq@verizon.net), counsel for Supervisor Eugene Delgaudio, and
- (2) by regular mail to the Honorable Theo Stamos, Commonwealth Attorney for Arlington County, with offices located at 1425 North Courthouse Road, #5200, Arlington VA 22201, Telephone: 703-228-4410, Fax: 703-228-7116, Email: [tstamos@vacao.com](mailto:tstamos@vacao.com), appointed by the Court to prosecute this matter.



John P. Flannery

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# **EXHIBIT 2**

## Theo Stamos

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**From:** jonflan@aol.com  
**Sent:** Tuesday, April 08, 2014 1:00 PM  
**To:** Theo Stamos  
**Cc:** Joshua Katcher; phall@campbellflannery.com  
**Subject:** Re: Contacting Petitioners  
**Attachments:** Delgaudio\_expert\_op\_Matteer\_calls.pdf; Copy\_of\_2014Phone\_log\_703-737-8089-1.xlsb; Copy\_of\_2014Phone\_log\_703\_771\_5819.xlsb

Dear Theo,

I'm sorry I haven't responded sooner.

I know you said you wanted to interview the individuals identified in your e-correspondence to obtain "evidence" but it would be helpful if you could expand upon what you mean by "evidence."

The persons you've identified circulated the petitions and are not "witnesses" themselves to anything that happened that is the subject of the petition they circulated, principally obtaining their information from the grand jury report and the board of supervisors' censure proceedings and what they read in the papers.

None of the individuals you've identified worked in Mr. Delgaudio's office, nor raised funds for him, or, as far as I can see, had or have anything to say as eye-witnesses or actors relating to any of the 7 specifications that make up the petition.

In addition, and I know you appreciate this fact, the Citizens asked that I file the motion to disqualify for the reasons stated in the petition. I am not now litigating the matter. It has been resolved by the court. But the citizens believe, rightly or wrongly, notwithstanding the court's ruling, that you don't want to do this investigation and instead will reach the same result you did twice before.

In addition, Mr. Stevens Miller, who represents Donna Matteer, plainly a principal witness in these proceedings, conveyed to me the impression that, in a conversation you had with him, you were crediting the comments by Mr. Delgaudio's retained consultant and discouraging Ms. Matteer from pressing forward and testifying in this matter.

Mr Delgaudio's counsel had a similar conversation with Mr. Miller about Ms. Matteer.

I believe you received a copy of Mr. Delgaudio's "analysis" in court and may have the call list he references from the earlier grand jury proceedings. You may see this "e-mail report" from a different perspective but I think it's a thin argument, even as it concedes that she was calling to raise funds from the Igor list - obviously, a defense with somewhat of an identity crisis, that is, Mr. Delgaudio had her making such calls but not as many or as long as she claims. As to the latter, I don't think this analysis makes that case - that she only made slightly more than a hundred calls.

In any case, what I'm told as a preliminary matter by the Citizens is that you have to explain what you're really after, what "additional evidence" you possibly expect to adduce from these individuals, in these proposed conversations with persons who are not really witnesses as to anything that "happened," but citizens who circulated a petition citing the 7 specifications they did based on the information I've referenced above. Otherwise, it appears to the Citizens, you are poking at them rather than probing after the real evidence that supports the specifications in the petition.

Again, sorry I couldn't get back sooner but I needed some feedback so that I could represent what the Citizens actually thought they wanted to do.

Thank you for your time and kind attention to this matter.

Warmest regards,

*John*

John P. Flannery  
CAMPBELL FLANNERY PC

[jonflan@aol.com](mailto:jonflan@aol.com)  
[www.johnpflannery.com](http://www.johnpflannery.com)  
cell: 202-365-5060  
office: 703-771-8344

-----Original Message-----

From: Theo Stamos <[Tstamos@vacao.com](mailto:Tstamos@vacao.com)>  
To: jonflan <[jonflan@aol.com](mailto:jonflan@aol.com)>  
Cc: Jkatcher <[Jkatcher@vacao.com](mailto:Jkatcher@vacao.com)>  
Sent: Sun, Apr 6, 2014 1:12 pm  
Subject: Contacting Petitioners

Hello John,

I would like an opportunity to call individual petitioners who might be able to provide additional evidence to support the allegations set out in the removal petition. Since you represent them and so as not to run afoul of the Rules of Professional Conduct, I would like your permission to do so. I would like to begin contacting them by phone. If necessary, a face-to-face meeting might be in order. If you would be able to furnish me with contact numbers, that would be greatly appreciated. I would like to begin by contacting the following individuals:

Eileen Bartels Hadden ( I believe Ms. Hadden has moved to Roanoke)  
Jeanne West  
Jay Conner  
Joan Kowalski  
Alfonso Nevarez  
John Wilson  
Pamela Smith  
Koran Saines  
Lori Rothman

Thank you in advance for your cooperation and I look forward to hearing from you soon.

Kind regards,  
Theo

Theophani K. Stamos  
Commonwealth's Attorney  
Arlington County/City of Falls Church, Virginia  
1425 N. Courthouse Road, Suite 5200  
Arlington, VA 22201  
DL: 703/228-4548

# **EXHIBIT 3**



**From:** [Klein, Fred](#)  
**To:** [eugenedelgaudio@erols.com](mailto:eugenedelgaudio@erols.com); [Delgaudio, Eugene](#); [Supervisor Delgaudio](#)  
**Subject:** FW: Conservative Hate Group Facing Legal Action  
**Date:** Tuesday, July 24, 2012 2:26:57 PM

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This was in response to his post of a Pravda article referring to the SPLC legal against against Public Advocate.

Fred G Klein  
Staff Assistant to Eugene A. Delgaudio  
Board of Supervisors  
1 Harrison Street., SE 5th Floor  
Leesburg, VA 20175  
703-771-5819 (w)  
571-331-6105 (m)  
[Fred.Klein@loudoun.gov](mailto:Fred.Klein@loudoun.gov)

From: Klein, Fred  
Sent: Monday, July 23, 2012 1:55 PM  
To: 'Montyzenm@aol.com'  
Subject: RE: Conservative Hate Group Facing Legal Action

You will see that this effort will end like all the rest:

Public Advocate will still be around,

a large enough of a majority of Eugene's Sterling constituents will still love him, whether because or in spite of this, and send him back to the Board of Supervisors for a fifth term,

Public Advocate will be even more popular than before,

the Southern Poverty "Law" Center will STILL be an "internationally recognized" "civil rights" organization, which simply means that some big wigs in foreign countries appreciate the work that SPLC does on behalf of their pet causes.

Reader's Digest version: all that exists now stays the same, BUT Public Advocate gets yet another publicity boost, boosting its revenues as well as its street cred for fighting progressive groups like SPLC.

The leftists observing this chain of events will be further convinced that the U.S. is a country full of incurable bigots, and this reinforced negative opinion of America will only further alienate these leftists and their institutions from the rest of us, who will give people like Eugene and HIS institutions a little more of a listen each time groups like the SPLC take after him.

:)

Fred G Klein  
Staff Assistant to Eugene A. Delgaudio  
Board of Supervisors  
1 Harrison Street., SE 5th Floor  
Leesburg, VA 20175  
703-771-5819 (w)  
571-331-6105 (m)  
[Fred.Klein@loudoun.gov](mailto:Fred.Klein@loudoun.gov)<<mailto:Fred.Klein@loudoun.gov>>

From: [Montyzenm@aol.com](mailto:Montyzenm@aol.com)<<mailto:Montyzenm@aol.com>>  
[<mailto:Montyzenm@aol.com>]<[mailto:\[mailto:Montyzenm@aol.com\]](mailto:[mailto:Montyzenm@aol.com])>  
Sent: Thursday, July 12, 2012 8:29 PM  
To: Klein, Fred

Subject: Re: Conservative Hate Group Facing Legal Action

Civil rights group to represent same-sex couple in complaint against Delgaudio - The Washington Post <[http://www.washingtonpost.com/local/civil-rights-group-to-represent-same-sex-couple-in-complaint-against-delgaudio/2012/07/10/gIQAfBzEdW\\_story.html](http://www.washingtonpost.com/local/civil-rights-group-to-represent-same-sex-couple-in-complaint-against-delgaudio/2012/07/10/gIQAfBzEdW_story.html)> [<http://cdn-cf.aol.com/se/smi/0201e05fca/08>]

I must say, Fred, that it couldn't have happened to a nicer group of bigots.

# **EXHIBIT 4**

## **Report of the Special Grand Jury on the Investigation into the Potential Misuse of Loudoun County Resources**

June 2013

We the members of the Special Grand Jury of Loudoun County operating in the Loudoun Circuit Court and impanelled by the Commonwealth's Attorney for Arlington County and the City of Falls Church from February 2013 to June 2013 submit the below report to document our findings.

### **Executive Summary**

The Special Grand Jury (the "Jury") was impanelled by the Commonwealth's Attorney (CA) for Arlington County and the City of Falls Church, Ms. Theophani (Theo) Stamos, on February 5, 2013, after a typical jury selection process involving only residents of Loudoun County, Virginia, and was granted authority by the Loudoun Circuit Court. At the outset, the Jury was told that an allegation had been made against Loudoun County Board of Supervisor Eugene A. Delgaudio that he improperly used Loudoun County resources for personal gain. The Jury was cautioned that there was no determination that these allegations were in fact true, and that the purpose of the Jury was to investigate these allegations as well as any other issues that may come to light during the course of the investigation.

The Jury heard hours of witness testimony over several months, questioned witnesses and reviewed all material entered into evidence. Based upon testimony, the Jury also requested additional witnesses and evidence to further investigate both the original allegation as well as related issues that arose. At the conclusion of the investigation, the CA informed the Jury that she would not ask the Jury to consider any indictments. As such, the Jury never deliberated to consider whether it would indict Supervisor Delgaudio, the original focus of the investigation, or any other individual.

While the Jury cannot speak for the CA, we believe that at least one significant reason that the Jury was not asked to return an indictment is a result of limitations imposed by the Code of Virginia. This report summarizes evidence that suggests the misuse of public assets may have occurred within Supervisor Delgaudio's office between Fall 2011 and Spring 2012 and explains why such misuse may not be criminal in this instance. This report further summarizes evidence and testimony of other related and questionable activities, and the report concludes with several recommendations aimed at the Virginia State Legislature, Loudoun County and the voting public.

### **Purpose for Convening**

Donna Mateer, a staff aide to Loudoun County Board of Supervisor (BoS) Eugene A. Delgaudio of the Sterling District, was fired in March 2012, and she subsequently filed a complaint that ultimately reached the office of the Commonwealth's Attorney for Loudoun County. The complaint alleges that

Loudoun County Special Grand Jury Report  
June 2013

Supervisor Delgaudio directed Ms. Mateer to spend time while being paid by Loudoun County to set up fundraising meetings to benefit Delgaudio's campaign efforts, and she also claims that Supervisor Delgaudio created a hostile and abusive environment in the office. To bolster her claim, Ms. Mateer provided copies of numerous documents that were entered into evidence. Due to the potential for a conflict of interest, the Commonwealth's Attorney for Loudoun County referred the matter to the Commonwealth's Attorney for Arlington County and the City of Falls Church who was appointed as special prosecutor in November 2012 to conduct an investigation into allegations that Supervisor Delgaudio improperly used county resources to benefit his political campaign. The CA determined there was sufficient evidence to warrant an investigation and in February 2013 convened this Jury to evaluate the evidence against Supervisor Delgaudio and to pursue any related avenues of investigation that may arise in the conduct of its business.

It is worth quickly comparing and contrasting from a procedural standpoint a special grand jury versus a criminal trial jury (petit jury) for those that may not be familiar with a special grand jury. During special grand jury proceedings no judge is present nor is any defense present. Each witness may have a lawyer of their choosing present. However, this lawyer has no standing to object to questions and may only opt to delay questioning to confer with their client in private. Unlike criminal trials in many jurisdictions, special grand jurors are permitted to ask questions and there are virtually no bounds on the type of question the CA or special grand jurors may ask. Because there is no defense present, there is no cross examination of witnesses. The Fifth Amendment of the U.S. Constitution naturally applies at all times, and no witness need answer questions that may incriminate him/her. Like a criminal trial, all testimony is recorded by a court reporter, and witnesses provide sworn testimony that is subject to pertinent perjury laws.

## **Purpose of this Report**

Under Virginia statute, a special grand jury impanelled by the CA is not required to produce a report. However, in light of the fact that the investigation centers around a prominent and long-serving Loudoun County Board of Supervisor, and because this case has generated media interest both before the Jury was impanelled and during the course of its investigation, the Jury believes it is in the public's best interest to understand the Jury's findings. We further believe that the parties involved deserve to know why no indictment is forthcoming. Finally, based on our findings we have discovered several recommendations that we believe could be implemented to improve the Code of Virginia and Loudoun County policies.

With the desire to produce a written report at the conclusion of this Special Grand Jury, the Jury discussed whether a report could be produced and whether such a report would be made public. The CA ultimately referred the matter to the Chief Judge of the Loudoun Circuit Court who produced an order authorizing the issuance of this report.

## **Summary of Investigation**

Loudoun County Special Grand Jury Report  
June 2013

This section contains an overview of key witness testimony and evidence from the investigation into the allegations that Supervisor Delgaudio misused county resources. The Jury elected to arrange the information according to several overarching themes that emerged during the course of our investigation. In this case, Supervisor Delgaudio did not testify before the Jury.

**Atmosphere of Office**

Multiple witnesses testified that there was behavior within Supervisor Delgaudio's Loudoun county office, particularly between Fall 2011 and Spring 2012, that resulted in a hostile work environment. These incidents included acts of verbal abuse that on multiple occasions brought his aides to tears and led to the departure of several employees. These actions are in direct violation of the Board of Supervisors Code of Conduct which reads: "Avoid, during either public or private meetings and during the performance of public duties, the use of abusive, threatening or intimidating language or gestures directed at colleagues, citizens, or personnel." Additionally, the Supervisor isolated his staff by strictly forbidding their interaction with other BoS aides and attendance at regular BoS staff aide meetings. However, the Jury found no criminal acts related to this behavior.

**Potential Misuse of County Resources**

Witness testimony revealed that an individual volunteered to help Delgaudio in 2010 or 2011 compile a list of campaign contributors from publicly available information utilizing the Virginia Public Access Project website (vpap.org). The individual who created the list testified that the list, referred to within Supervisor Delgaudio's office as the Igor list, was intended to identify potential campaign donors. While this witness could not easily imagine another purpose for this list, the witness ultimately did not know how this list was actually used or if it was used by Supervisor Delgaudio or any of his staff or volunteers.

One of Delgaudio's BoS aides, Donna Mateer, testified that Delgaudio instructed her to call people on the Igor list with a prepared script and schedule what he called Loudoun appointments or Loudoun County meetings, presumably to discuss concerns about the future of Loudoun County. Frequently, those that were contacted lived outside the Sterling District and even outside of Loudoun County. According to testimony, Delgaudio told Mateer she would get five percent of any large donations he received as a result of the meetings or calls. She was also promised a bonus for expanding the list or collecting additional donors. However, while she did receive her regular Loudoun County salary for her efforts, she never actually received any of the aforementioned bonus compensation.

After the start of 2012, Mateer was told to dedicate more time to the Igor list and draft letters in addition to making calls. Testimony indicated that she was unsure of the purpose of the list, but several other witnesses testified that they believed the Igor list was used to reduce Delgaudio's campaign debt. Additional witness testimony indicates that Delgaudio claimed the

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calls made from the Igor list and letters were designed to raise money for the Lower Loudoun Boys Football League (LLBFL), but separate testimony from one of Delgaudio's long time aides who had extensive experience supporting the LLBFL fundraising efforts indicates this aide was prohibited from working on the Igor list project. This aide also indicated she contacted LLBFL and discovered that they had no fundraising projects on-going at the time that the Igor list was in use. The aide was very concerned about what was actually transpiring and was told by Delgaudio to stay away from this activity. The aide further testified that numerous red flags were observed at this point in time ultimately leading to her resignation. Despite the suspicions, the aide has no absolute proof of wrongdoing. Further, the Jury heard testimony from several individuals who had been contacted from the Igor list and none of them said they had been asked about the LLBFL during their meetings with Delgaudio.

The witnesses who had been contacted from the Igor list testified that they met with Supervisor Delgaudio after receiving a call from his office to set up the meeting. One witness said that during their meeting, Delgaudio provided a pamphlet of his campaign and supervisor activities and discussed both county and more controversial issues unrelated to Loudoun County. Toward the end of the meeting Supervisor Delgaudio turned to the back of the pamphlet where there was an envelope and card soliciting money to "Retire Delgaudio Campaign Debt" and said that no amount is too small. Another such witness testified that after meeting with Delgaudio this individual believes the only purpose for the meeting was for Supervisor Delgaudio to solicit a campaign contribution.

While there is testimony that supports at least a circumstantial assertion of misuse of public assets, the Code of Virginia criminalizes such action only for "full-time" employees. Because Loudoun County pays a nominal salary to the members of the BoS there is a general expectation that BoS have another source of income. BoS members are not required to work a certain number of hours nor do they submit timecards. However, based on testimony that most BoS members do not frequent their offices during the day and only have a limited number of BoS and committee meetings to attend on a monthly basis, it would be difficult to claim that any supervisor is a "full-time" agent or officer of Loudoun County. Consequently, additional avenues of potential investigation were ultimately dropped when it was determined that criminal charges would not be filed based on the use of the term "full-time" in the Code of Virginia. In the Recommendations section, the Jury strongly urges a change to this statute.

#### Potential Unreported Campaign Funds

Among the evidence presented to the Special Grand Jury was a copy of an envelope from a retired pastor of a prominent Loudoun County community church in which Supervisor Delgaudio (according to multiple witnesses familiar with his handwriting) wrote \$5,000 donor and instructions to \_\_\_\_\_. Upon reviewing Delgaudio's campaign finance report, the Jury did not find any claim for \$5,000 from the retired pastor (or anyone else). However, a member of the BoS testified that he had spoken with the retired pastor who had confirmed that he had

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provided that money in cash to Delgaudio.

When called upon by the Grand Jury to testify, the retired pastor denied having provided \$5,000 to Delgaudio and vehemently claimed he had never donated any money to any politician. Further review of campaign disclosure forms and testimony from other members of the Loudoun County BoS revealed that the retired pastor and members of his family had donated money to several members of the Board. Additionally, another Supervisor testified that during a telephone conversation with the retired pastor subsequent to the pastor's testimony to the Jury, the pastor told this Supervisor that the Jury had asked the wrong questions during his testimony. Specifically, it was reported that he said he was acting as a conduit for other parties in delivering money to Delgaudio and therefore based his testimony on the strict interpretation that he did not give *his* money to Delgaudio, and that because he was not asked if he gave money to Delgaudio that originated from other sources he felt comfortable in answering in the negative to the Jury. This witness further claims that the pastor said that his lawyer advised him to never give money to a politician in that fashion again.

After uncovering evidence that the retired pastor had provided money to members of the BoS and testimony that indicated he may have committed perjury, the Jury summoned him to testify again. The retired pastor again denied donating to politicians and then was presented with a copy of a cashed check from his private bank account to a supervisor's campaign. The retired pastor admitted that it is his check and signature but claimed that he did not recall providing it, citing memory problems. He likewise claimed no memory of a check entered into evidence showing that his spouse had donated to a supervisor's campaign. When asked about the telephone conversation related to his misleading the Jury he stated that he could not remember that telephone call. He also could not remember talking to the other Supervisor on the phone. When asked if he gave money to Delgaudio regardless of the source of the money, he said he could not remember. Another witness close to the retired pastor testified that he had seen the retired pastor provide envelopes to members of the BoS with what he assumed were donations, though he was unaware of the amount. In general, whenever this pastor was presented with evidence that contradicted his original sworn testimony, he would change his testimony to indicate that he then had no recollection. Although perjury charges were considered, no action was ultimately taken in regard to this individual due to his change of testimony and another extenuating circumstance.

The Jury found another envelope in evidence that also had \$5,000 donor written on it and called several witnesses to address the issue. Again, the \$5,000 was not listed on Delgaudio's campaign finance report, and the witness denied providing a donation. However, some of the circumstances surrounding the alleged donation raised questions for the Jury. The individual who may have given a \$5,000 donation had been conferring with various BoS members to prevent the construction of a Loudoun County building. Around the timeframe of the postmark on the envelope in which Supervisor Delgaudio wrote \$5,000 donor, the BoS voted for a second time on this land use decision. Supervisor Delgaudio supported this project in the original BoS



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vote. However, at this time Supervisor Delgaudio voted against the construction.

In the end, while there is some circumstantial evidence that Supervisor Delgaudio collected money for his campaign (or other private use), there is no solid evidence that would be required to pursue criminal charges. Further, while the aforementioned land use vote raised the specter of the "Herring Law," ultimately there was insufficient evidence to pursue charges under this law, which is a Virginia statute that applies only to Loudoun County and is aimed to minimize the opportunity for business relationships or gifts to influence votes on land use matters. However, the Jury did learn of specific limitations associated with both campaign finance laws and the Herring Law, and recommendations related to these laws are presented in the Recommendations section.

Lack of Focus on Constituent Services

Witness testimony indicated Delgaudio specifically instructed his aides not to answer the phones or address constituent concerns and instead focus on other priorities, to include calling and creating mailings derived from working with the Igor list. The Supervisor in at least one instance reprimanded one of his aides for trying to resolve a constituent issue instead of concentrating on the Igor list. On multiple occasions, the lack of attention to constituent concerns resulted in the Chairman of the Board as well as another supervisor to take action to address these constituent concerns, even though the constituents did not live in their district. Several additional witnesses provided similar testimony, stating that there is general knowledge among the supervisors' aides of the unresponsiveness from the Sterling office.

Although such testimony may be compelling to the constituents of the Loudoun County Sterling District, the Jury does not find that such action amounts to any criminal act.

Indistinct Association Between Public Advocate of the United States & Loudoun BoS

Supervisor Delgaudio is the founder and president of a non-profit 501(c)(4) organization known as Public Advocate of the United States ("Public Advocate"). Several of Supervisor Delgaudio's BoS staff aides, who are Loudoun County employees, also periodically worked for Public Advocate. Multiple aides testified that when they were interviewed for their position with Loudoun County they were asked their views on religion, same sex marriage and related topics.

According to testimony, staff meetings to discuss County business were often conducted during normal business hours at the Public Advocate office as a matter of convenience. During these meetings, the BoS aides, Supervisor Delgaudio and the Public Advocate staff discussed Supervisor Delgaudio's calendar as well as County and Public Advocate business. It is unclear to the Jury whether the county employees were paid with county funds for the meetings in which both county and Public Advocate business were discussed, blurring the lines between the two, especially when Supervisor Delgaudio was the one responsible for certifying time and attendance records for his BoS aides.

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The same BoS aides who attended meetings at Public Advocate also worked for Public Advocate to produce several controversial videos with Delgaudio. These satirical videos were created for Public Advocate's use and show Delgaudio's BoS aides and others dressed in costume or with bags over their heads during daytime hours. The Jury was unable to determine the exact date and time that each video was filmed, limiting our ability to conduct a comparative analysis of county time and attendance records. The Jury heard conflicting testimony from those aides as to the filming timeframe and their county time sheets. Because county time and attendance records include the start and end time of work for a given date, if a precise timeframe could be developed of when the films took place one could determine if Loudoun County taxpayer dollars were used to produce these films. These videos along with still photography can be seen at <http://www.publicadvocateusa.org/photogallery/> and [http://www.publicadvocateusa.org/media\\_library/videos.php](http://www.publicadvocateusa.org/media_library/videos.php) (videos are hosted by YouTube).

Additionally, witness testimony indicates that at times Delgaudio's BoS aides were directed to report to the executive assistant for Public Advocate, who was never a county employee, and routinely cc'd her on county emails.

While some individuals may be concerned about the degree to which Supervisor Delgaudio permitted these two diverse entities to intermingle, the Jury did not find sufficient evidence that would support criminal charges.

## Recommendations

This section contains several recommendations the Jury is making as a result of investigating the allegations against Supervisor Eugene Delgaudio of improperly using county resources for campaign or other non-official activities. The Special Grand Jury believes all these recommendations are important and worthy of discussion and action where appropriate. These recommendations are listed in no particular order.

**Recommendation 1:** Amend "misuse of public assets" statute (Virginia § 18.2-112.1) so that it applies to anyone that works for or is elected to any government body in the Commonwealth of Virginia.

Audience: Virginia State Legislature

### Rationale

As currently written, any government employee or elected official who is not serving in a *full time* capacity can utilize public assets and other employees for private or personal purposes without any criminal liability. We the Jury believe that that the misappropriation or misuse of public assets for personal or private gain should be illegal regardless of the employment status of any public servant with or in the state of Virginia.

### Discussion

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Paragraph B of § 18.2-112.1 limits the applicability of misuse of public assets to “any *full-time* officer, agent, or employee of the Commonwealth...” Because of this language the Commonwealth’s Attorney stated that no criminal charges could reasonably be filed in this case since Loudoun County Board of Supervisors are typically considered part time employees, and most Supervisors maintain another job as supplemental or primary income.

The term “full-time” is not explicitly defined, and one could attempt to make the argument that an elected official is full-time in that they can and do represent their office at any time, and they are never on the clock in the traditional sense. However, since any ambiguity is likely to be interpreted in favor of the defendant, we feel that this argument will likely not prevail. We further believe that many people would likely interpret “full-time” based on whether or not an individual is required to work a specific number of hours each week (e.g., 40 or something close to 40 hours/week). As such, we believe that amending this statute is the best course of action, especially in the view that no state or local employee or agent should misuse public resources.

Lastly, it is worth noting that the parent statute, § 18.2-112, which addresses embezzlement, notably does not contain the “full-time” clause and would appear to apply to all government employees and elected officials regardless of how frequently they work. As such, a court is likely to focus on the term “full-time” and interpret it in the defendant’s interest.

**Recommendation 2:** Create a written process by which aides to the Loudoun County Board of Supervisors can inquire as to the legality of any tasks assigned to them or report potential illegal activities; educate every new aide on this process.

Audience: Loudoun County Administration Staff

Rationale

As a result of this investigation it appears that there is no HR or other official policy that outlines how a Loudoun BoS aide can ascertain if their supervisor’s actions or directions may be illegal or how to best report activity that they believe may be illegal.

Discussion

It is apparent that aides to the BoS live largely if not entirely outside the normal HR policies and protections that apply to other county employees. Since their employers are elected officials and Virginia is an employment-at-will state, we appreciate the complexities. However, we believe it is beneficial to provide a clear path by which an aide can report activities that may be illegal or ask questions about the legality of an activity without notification to their supervisor. By providing an avenue to report potential illegal activities without having to notify their supervisor, aides are more likely to come forward in the event that inappropriate actions take place without having to be worried about being fired. While it may not be possible to shield their identification if actual illegal activities are found, in the event that no illegal acts are found their identity and reporting of an issue should be kept in confidence.

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**Recommendation 3:** Amend “disclosure of land use proceedings” statute (Virginia § 15.2-2287.1) to apply to all Virginia Counties and to simplify the enforcement of the statute.

Audience: Virginia State Legislature

Rationale

There may be some historical and political reasons why this statute, intended to prevent members of the BoS and other specific employees from participating in zoning and land use proceedings when an applicant has a business relationship or has given significant and recent contributions to the member, applies only to Loudoun County. However, the Jury believes the possibility exists for inappropriate influence to occur within any county within Virginia, and consequently this statute should not single out any one county. Further, while well intentioned, because of the complexity of the language and a one-year statute of limitation associated with Class 1 misdemeanors, prosecution appears unlikely.

Discussion

During this investigation, testimony was introduced that brought to light a law that is sometimes referred to as the “Herring Law” (named after Virginia Senator Mark Herring who introduced the law via Senate Bill 532 in 2008). Further testimony introduced the possibility that a violation of that statute may have occurred. As a result, the Special Grand Jury investigated this topic; ultimately, there was insufficient evidence to pursue an indictment. Further, the Commonwealth’s Attorney advised the Jury that essentially all misdemeanors in Virginia have a one-year statute of limitations (unless a statute says otherwise) which further restricted the possibility of pursuing this issue.

Because land use proceedings can be very involved, by the time any potential violation is highlighted and researched, it may be difficult to pursue charges within one year. As such, the state legislature should consider extending the statute of limitations for this statute to some longer period of time (perhaps two or even up to five years). The approach for campaign finance issues may provide a good model wherein potential violations must be discovered within three years of occurrence, and charges must be filed within one year of discovery.

What struck the Jury was that the language involved in this statute is very convoluted and difficult to read. The Commonwealth’s Attorney assigned an Assistant Commonwealth’s Attorney (ACA) to research this statute just to better understand what was involved, and this ACA eventually reported to the Jury what was discovered including the apparent fact that no prosecutions have ever been sought under this statute. While this Jury does not speak for the Commonwealth’s Attorney, we were left with the distinct impression that from a prosecutor’s viewpoint enforcing this statute is difficult at best.

Let’s examine the following hypothetical example:

- Entity A wants to construct a structure in Loudoun County that would require a zoning change such as named in this statute.
- Entity A hires Entity B to perform the construction.

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- Entity B alone applies for the zoning change to Loudoun County.
- Entity A contributes \$1,000 to the re-election campaign of a current member of the BoS one month before the BoS votes on the matter.

In this hypothetical example, the member of the BoS may not even realize that there is a connection between A and B (or at the very least could claim ignorance). However, even realizing the connection, it is not clear that any violation has occurred since Entity A has not applied for any change to the zoning.

Consider making the following changes to § 15.2-2287.1. Disclosures in land use proceedings:

- Apply the statute to all counties in Virginia.
- Increases the statute of limitations for this one offense.
- The statute should apply to the specified individuals when 1) any member receives a gift or donation of more than \$100 (singularly or in aggregate) or 2) has a business relationship (or had one within 12 months prior) with any party that is either applying for the change or has a stated or otherwise obvious vested interest in the change.
  - If necessary “vested interest” could be defined to include having ownership rights in the land in question or having a substantial interest in any business that plans to build as a result of the change. It could also include specific relationships between the entity applying for the land use change and any entity providing gifts to named members of the county or having a strong business relationship.
- List any exceptions in a separate paragraph for ease of understanding.

Ultimately we understand the intent of this law and we also appreciate the complexities associated with trying to articulate legal language to enforce the intent. However, to be truly effective it is worthwhile to revisit this statute and improve its language.

**Recommendation 4:** Form a committee to research and amend the Virginia Campaign Finance Disclosure Act of 2006.

Audience: Virginia State Legislature

Rationale

After reviewing the Virginia Campaign Finance Disclosure Act of 2006, comprising Virginia § 24.2-945 through § 24.2-953.5, it appears difficult to criminally prosecute a candidate who fails to report significant campaign donations. The Jury can imagine a situation in which a candidate may inadvertently fail to report a single \$100 contribution, and that such a situation likely is best handled via civil fines. Conversely, the Jury believes that a candidate receiving a significant donation (e.g., \$5,000, especially when no other single donation comes close to that amount) has no standing to claim forgetfulness.

Discussion

Because this Act is lengthy, the Jury is not prepared to provide a specific recommendation on language change. However, in consulting with the Commonwealth’s Attorney, it does appear that pursuing

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criminal charges for even flagrant violations that likely are intended to deceive the public are difficult to prosecute. The Jury does find, however, that language in § 19.2-8 ("Limitation of prosecutions") does expand the statute of limitations to a reasonable degree.

The Jury recommends the legislature form a committee or other appropriate body to review this Act. If such body believes that maliciously disguising campaign contributions is deserving of criminal liability, then appropriate language should be modified and as part of the review process current or former prosecutors should be consulted to ensure changes are enforceable. As a few examples of possible changes to consider:

- Is there a threshold (either in terms of an absolute dollar amount or percentage of the total campaign funds received) that if not reported within a reasonable time period that such failure to report would automatically trigger criminal liability?
- Consider if a sliding scale is appropriate such that a lesser offense such as a Class 2 misdemeanor could be used for serious but less than egregious offenses.
- Consider removal or modification of the term willful such as in § 24.2-953 ("General Provisions"). The burden of proof short of a candidate's confession may be too high. The current rebuttable presumption focuses on a candidate who refuses to make a report even after being told to make such a report. However, consider the instance where the omission is so significant or where extraordinary measures were used to hide the funds that it can be presumed the omission was intentional.
- Consider in the case of § 24.2-953.3 ("Incomplete Reports") whether there are instances that should trigger penalties automatically and do not afford notification of the candidate in order for the candidate to avoid a penalty.
- Consider whether all campaign donations should be reported regardless of the amount of money donated. This would in some ways simplify the process as candidates would not have to consider whether a \$20 donation from someone puts them over the aggregate threshold or not. It likewise removes the ability of a candidate to claim that a simple oversight in tracking total donations from each entity was the reason why they did not report an aggregate contribution threshold.
- Consider whether to prohibit the donation of cash to a campaign fund in any amount instead requiring that all donations be made via a traceable monetary instrument (e.g., check or credit card), with significant civil penalties for accepting small amounts (e.g., a civil penalty equal to the donation itself) and criminal penalties for large amounts.
- Consider criminal penalties for falsifying reports (e.g., falsifying a donor's name to avoid acknowledging an association with a particular individual or group).

While this Jury does not know the legal feasibility, consider whether serious infractions could nullify an election result in the instance that a candidate won an election and was later found guilty of some threshold, such as a Class 1 misdemeanor under this Act.

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**Recommendation 5:** Modify policies for Loudoun BoS staff aides to ensure an unbiased third-party review occurs of any outside employment or political activities.

**Audience:** Loudoun County BoS/Administration Staff

**Rationale**

The Special Grand Jury investigation revealed several instances that appeared to present a conflict of interest among Delgaudio's BoS staff activities, Public Advocate and his campaign that created the potential for perceived malfeasance and unintentional cross-over between county business and the supervisor's private activities. Presently there is no mechanism to ensure transparency of BoS staff aides outside employment or involvement in political activities.

**Discussion**

To avoid a situation where the perception of misconduct or conflict of interest arises and increase transparency, the Jury proposes that non-political Loudoun County staff serve as a third-party review of outside employment or political activities for Loudoun County BoS aides. Aides would need to notify the Loudoun County administrative staff of their intention to take outside employment or participate in political activities (volunteer or paid), especially when it relates to the partisan interests of their supervisor. The process is not intended to prohibit outside activities but designed to ensure general awareness and a record of BoS aide actions to prevent the appearance of misconduct and reduce the likelihood of a conflict of interest.

While the simplest solution would be to add a statement into the BoS "Standards of Conduct" preventing BoS aides from working for their Supervisor's private business, organizations or other political activities, the Jury recognizes that such a prevention might be too stringent. However, there should be some oversight to prevent the perception that Loudoun County aides are being used for anything other than Loudoun County business.

The May 19, 2009, BoS Code of Ethics, signed by every member of the BoS except for Supervisor Delgaudio, states, "Adopt policies and programs that are in accordance with the County's EEO policy, and that support the rights and recognize the needs of all citizens regardless of race, sex, age, religion, creed, country of origin, or handicapping conditions." Every effort should be made to keep Loudoun County business in line with the BoS Code of Ethics. Should Loudoun County aides be used for outside interest groups, they could be seen as losing their objectivity for the citizens of Loudoun County, whether paid by the interest group or not. Moreover, the BoS should take care to prevent BoS aides from participating in business ventures, organizations, or any outside activities for which a Supervisor of the Loudoun County BoS is responsible that could discredit the Board. Every effort should be made to prevent any perception that the employees who are paid via taxpayer money are doing anything other than Loudoun County business. By having an objective third party the Board can better provide transparency while maintaining the trust of Loudoun County residents. Finally, by utilizing a responsible third party representative to examine the merits of BoS aide outside activities for which their Supervisor is also involved, the BoS can protect individual Board members from unwittingly putting the BoS in a situation

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that casts a shadow on Loudoun County BoS business.

In the instance where Loudoun County staff disapproves of a request for an outside activity, an appeal process such as promoting the issue to a full and binding vote of the BoS could transpire. Further, Loudoun County staff should be authorized to terminate employment of any aide found to contradict the uncontested Loudoun County staff decision or the vote of the full BoS when appealed.

**Recommendation 6:** Individual voters need to increase their awareness of and involvement in local politics and elections.

**Audience:** The Voting Public

**Rationale**

While national elections historically tend to generate greater interest, news, debate, etc., local elections can significantly impact one's life on a wide range of matters such as property taxes, education, local transportation and community services to name a few.

**Discussion**

This investigation has been an eye-opening experience for this Jury. As a result we expect to all spend more time learning about our respective supervisor and other local politicians. We likewise strongly encourage every other individual who is eligible to vote to learn about his or her local representatives and candidates and to participate in voting when the time comes.



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### Appendix A: References to Virginia Statutes

In this document we reference several Virginia statutes. This section contains the text of these statutes as obtained in June 2013 from the Virginia General Assembly Legislative Information System (<http://leg1.state.va.us/>).

**Reference 1: § 19.2-213. Report by special grand jury; return of true bill.**

This statute indicates that a special grand jury impanelled by the court must file a report of its findings. In this case, the Special Grand Jury was impanelled by the Commonwealth's Attorney for Arlington County. However, there is no exclusion preventing such an impanelled special grand jury from writing a report. Further, the special grand jury received an order from the Chief Judge of the Loudoun County Circuit Court specifically authorizing this report.

§ 19.2-213. Report by special grand jury; return of true bill.

At the conclusion of its investigation and deliberation, a special grand jury impanelled by the court on its own motion or on recommendation of a regular grand jury shall file a report of its findings with the court, including therein any recommendations that it may deem appropriate, after which it shall be discharged. Such report shall be sealed and not open to public inspection, other than by order of the court.

A majority, but not less than five, of the members of a special grand jury convened upon request of the attorney for the Commonwealth must concur in order to return a "true bill" of indictment. A "true bill" may be returned upon the testimony of, or evidence produced by, any witness who was called by the grand jury, upon evidence presented or sent to it.

**Reference 2: § 18.2-112.1. Misuse of public assets; penalty.**

Recommendation #1 references this statute, suggesting elimination of the term "full-time" from the beginning of paragraph B.

§ 18.2-112.1. Misuse of public assets; penalty.

A. For purposes of this section, "public assets" means personal property belonging to or paid for by the Commonwealth, or any city, town, county, or any other political subdivision, or the labor of any person other than the accused that is paid for by the Commonwealth, or any city, town, county, or any other political subdivision.

B. Any full-time officer, agent, or employee of the Commonwealth, or of any city, town, county, or any other political subdivision who, without lawful authorization, uses or permits the use of public assets for private or personal purposes unrelated to the duties and office of the accused or any other legitimate government interest when the value of such use exceeds \$1,000 in any 12-month period, is guilty of a

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Class 4 felony.

**Reference 3: § 18.2-112. Embezzlement by officers, etc., of public or other funds; default in paying over funds evidence of guilt.**

Although there was no testimony or evidence related to embezzlement encountered during the course of this investigation, it is useful to compare the language of this statute to Reference 2, which adds the term “full-time” to the population of people to which this statute applies.

§ 18.2-112. Embezzlement by officers, etc., of public or other funds; default in paying over funds evidence of guilt.

If any officer, agent or employee of the Commonwealth or of any city, town, county, or any other political subdivision, or the deputy of any such officer having custody of public funds, or other funds coming into his custody under his official capacity, knowingly misuse or misappropriate the same or knowingly dispose thereof otherwise than in accordance with law, he shall be guilty of a Class 4 felony; and any default of such officer, agent, employee or deputy in paying over any such funds to the proper authorities when required by law to do so shall be deemed prima facie evidence of his guilt.

**Reference 4: § 15.2-2287.1. Disclosures in land use proceedings.**

Sometimes called the “Herring Law,” this statute appears intended to limit the ability of business relationships or gifts to influence land use decisions in Loudoun County.

§ 15.2-2287.1. Disclosures in land use proceedings.

A. The provisions of this section shall apply in their entirety to the County of Loudoun.

B. Each individual member of the board of supervisors, the planning commission, and the board of zoning appeals in any proceeding before each such body involving an application for a special exception or variance or involving an application for amendment of a zoning ordinance map, which does not constitute the adoption of a comprehensive zoning plan, an ordinance applicable throughout the locality, or an application filed by the board of supervisors that involves more than 10 parcels that are owned by different individuals, trusts, corporations, or other entities, shall, prior to any hearing on the matter or at such hearing, make a full public disclosure of any business or financial relationship that such member has, or has had within the 12-month period prior to such hearing, (i) with the applicant in such case; or (ii) with the title owner, contract purchaser or lessee of the land that is the subject of the application, except, in the case of a condominium, with the title owner, contract purchaser, or lessee of 10 percent or more of the units in the condominium; or (iii) if any of the foregoing is a trustee (other than a trustee under a corporate mortgage or deed of trust securing one or more issues of corporate mortgage bonds), with any trust beneficiary having an interest in such land; or (iv) with the agent, attorney or real estate broker of any of

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the foregoing. For the purpose of this subsection, "business or financial relationship" means any relationship (other than any ordinary customer or depositor relationship with a retail establishment, public utility, or bank) such member, or any member of the member's immediate household, either directly or by way of a partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10 percent or more of the outstanding bonds or shares of stock of a particular class, has, or has had within the 12-month period prior to such hearing, with the applicant in the case, or with the title owner, contract purchaser, or lessee of the subject land, except, in the case of a condominium, with the title owner, contract purchaser, or lessee of 10 percent or more of the units in the condominium, or with any of the other persons above specified. For the purpose of this subsection "business or financial relationship" also means the receipt by the member, or by any person, firm, corporation, or committee in his behalf, from the applicant in the case or from the title owner, contract purchaser, or lessee of the subject land, except, in the case of a condominium, with the title owner, contract purchaser, or lessee of 10 percent or more of the units in the condominium, or from any of the other persons above specified, during the 12-month period prior to the hearing in such case, of any gift or donation having a value of more than \$100, singularly or in the aggregate.

If at the time of the hearing in any such case such member has a business or financial interest with the applicant in the case or with the title owner, contract purchaser, or lessee of the subject land except, in the case of a condominium, with the title owner, contract purchaser, or lessee of 10 percent or more of the units in the condominium, or with any of the other persons above specified involving the relationship of employee-employer, agent-principal, or attorney-client, that member shall, prior to any hearing on the matter or at such hearing, make a full public disclosure of such relationship and shall be ineligible to vote or participate in any way in such case or in any hearing thereon.

C. In any case described in subsection B pending before the board of supervisors, planning commission, or board of zoning appeals, the applicant in the case shall, prior to any hearing on the matter, file with the board or commission a statement in writing and under oath identifying by name and last known address each person, corporation, partnership, or other association specified in the first paragraph of subsection B. The requirements of this section shall be applicable only with respect to those so identified.

D. Any person knowingly and willfully violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

**Reference 5: Campaign Finance Disclosure Act of 2006 (§ 24.2-945 through 24.2-953.5)**

A recommendation is made related to this Act comprising a number of statutes. Due to the length of the statutes they are not repeated here. Please see Title 24.2, Chapter 9 of the Code of Virginia for details.

# **EXHIBIT 5**

## Theophani Stamos

---

**From:** Hemstreet, Tim <Tim.Hemstreet@loudoun.gov>  
**Sent:** Monday, May 19, 2014 2:53 PM  
**To:** Theophani Stamos  
**Subject:** Supervisor Eugene Delgaudio

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Ms. Stamos: On Friday, May 16, 2014, I received a telephone inquiry from you regarding Supervisor Delgaudio's recall petition. The purpose of your inquiry was to ask me the following question in my capacity as County Administrator, "Do you have knowledge of any business, or prospective business, deciding to leave Loudoun County or deciding not to locate in Loudoun County due to Supervisor Delgaudio being the Executive Director of The Public Advocate of the United States, which has been designated a "hate group" by the Southern Poverty Law Center?"

I have posed this question to my senior staff, including my Deputy and Assistant County Administrators, the Economic Development Director, the Planning Director, and the Building Director. I am not aware of any business, or prospective business, making a decision regarding locating in Loudoun County specifically due to Supervisor Delgaudio's position with The Public Advocate of the United States. Similarly, all of the senior staff with whom I spoke, which are noted above, stated to me that they have no knowledge of any business making a decision to not locate in Loudoun County, or to leave Loudoun County, due to Supervisor Delgaudio's position with The Public Advocate of the United States.

I hope this satisfies your inquiry to me. Please let me know if you need anything further.

Regards, Tim

Tim Hemstreet  
County Administrator  
County of Loudoun  
1 Harrison Street SE, 5th Floor, MSC#2  
Leesburg, VA 20175  
703.777.0200 (office)  
703.777.0325 (fax)  
[Tim.Hemstreet@Loudoun.gov](mailto:Tim.Hemstreet@Loudoun.gov)  
[www.loudoun.gov](http://www.loudoun.gov)

# **EXHIBIT 6**

**March 9, 2012**

**This is my statement:**

**On March 5th, 2012, Supervisor Eugene Delgaudio informed me that "as we had discussed Friday", he was terminating my employment. By Friday, I assumed he meant Friday, March 2<sup>nd</sup>, 2012.**

**On Friday, March 2<sup>nd</sup>, 2012, Eugene emailed me in the morning, and told me he was "coming to the office". He gave me no time in particular. Eugene would often say he was coming into the office, but never gave a time. We, (the people who worked for him in the office), never knew what to expect from Eugene.**

**When I began working at the office, I truly enjoyed working with Rachel. She knew my mom's neighbor, and had mentioned there was an opening in the office. I was happy to take the job.**

**Working with Rachel was relaxing and fun. I learned a lot about politics, government, and the way Loudoun County works. She was very experienced, and made learning easy.**

**I then had the pleasure of meeting Lauren. I met Lauren when she returned from a visit with her husband who is in the Army and was deployed for a year. He came back to see her for two weeks.**

**Lauren was just as nice as Rachel, and like Rachel, made learning easy about how the Loudoun County Government, and the Board of Supervisors work. Both women are truly dedicated, professional people, and it was my privilege to have worked with them.**

**When I began in August, Lauren was in college full-time, and working part-time. Some of that time she worked from home, so we didn't work in the office together at the beginning as much as Rachel and I did.**

**Rachel home-schools her daughter, and eventually cut her hours back so she could devote more time to that.**

During that time, Eugene constantly said to me "take as many hours as you need...40-50, whatever. Lauren is in school, and Rachel is at home more. You need the money. You are a single mother" many, many times.

Yes, I am a single mother, but Eugene began using that as a tool against me as time went on.

I was alone and running the office from the second week I was hired. Rachel had a trip to Russia, and with Lauren in school; I had to teach myself a lot in a very short time. Rachel left me lots of notes, and that was very helpful. Lauren texted me, and would help me via the phone if I needed it, but most of running the office, I learned myself.

It was during those later weeks, that I began to see a different side of Eugene. He became increasingly demanding, impatient and verbally abusive.

I figured out how to do a newsletter he put out, and ran it off, only to take a huge amount of criticism from Eugene over many small details. I thought I could deal with his sarcastic sense of humor, but over time, being alone in that office, it began to really weigh me down. While still new, he asked me to drop the stack of newsletters off at his house. I was trying to be nice and friendly, so I knocked on the door, ready to hand over the newsletters. Eugene opened the door just a crack and asked in a scary, hateful way, why I knocked and what did I want. Then he slammed the door. I waited a minute in shock, and he opened the door and squeezed out of it, like he was trying to keep me from seeing the inside of the house. He then began to verbally berate me for knocking on the door, and told me that I was never, ever to knock again. He told me that I was to leave anything I had for him on the doorstep and leave immediately. I felt humiliated as if I had done something wrong.

Eugene told me I was stupid, incompetent and would never "Measure up to Rachel", over and over again. He compared me to her every day. He put me down constantly, no matter how hard I worked.

I noticed the other aides went to Aide staff meetings. I asked Lauren why we didn't go, and she told me that, "Eugene didn't like us to attend those". I couldn't figure out why at that time.

He constantly put the other Aides down verbally, the other Supervisors down as well. He told me that due to their political views, they were all



idiots, and he was the only hope for Loudoun County. He told me that I was not to go to the Aides meetings. When I asked him why, he told me that I would be "insulted because of their knowledge and my ignorance". He then said that I "didn't do 99.99999% of anything the other aides did".

I learned that he was the Public Advocate for marriage and family, and that he was extremely against homosexuals at that time. He spoke about them with extreme hatred to me. He also made racial remarks about Asian people, making fun of the way they speak, mimicking them. He called them names, as well as he did with Hispanic people and Black people.

I remembered meeting him for the "Interview" at Chick-filet. I couldn't understand why he asked me the questions he did during that interview. Last week, going through an old file, I found the "questions" that were asked of me on that day. They were written down on an orange paper, and when I read them, I was reminded of the odd things that were asked of me. They included my religious beliefs, political choices, etc. I have retained that paper. I was questioned completely about how I felt about marriage and homosexuals. At that time, it made no sense to me.

Much verbal and emotional and mental abuse occurred in that office. Being a single mom, and trying to keep my house from going into foreclosure kept me from walking out many times. I was never rude. I did what I was told to do. Even though I did, it never seemed to stop Eugene's abuse.

Eugene got worse after the election. We all saw it. He became more controlling, more abusive verbally, and much more demanding. His lectures, his phone calls went on forever, and there was never anything accomplished because of them.

He became obsessed with me working on something called the "Igor" list. He had me create a Gmail account, and make it so I could add "appointments" to his google calendar. These "appointments" were made from calling the names or companies on the Igor list, which he often referred to as his "favorite" list. I was given a script to say on the phone, and was to make calls, all day, every day, even on the weekends. He often told me to "bill him or the County...it didn't matter as long as the calls were made". It went from demanding that I let him know in emails and on the phone how many calls I made, how many people I actually spoke to, how many messages I left, and each one had to have the time and date written beside them, with any notes

as well, i.e., if I spoke to a person or left a message, or if the number was no longer in use.

The script I was to say changed frequently. He told me that this was "my project", and I was to devote all my time to that. He didn't care about the phone calls coming in, people, including other Supervisors or their Aides, coming to the door or anything. "Nothing was to take me away from my Igor list project." It became frustrating because Rachel and I were told many times we were not to answer the phones. Then he would get mad at me if the phones weren't answered. I never knew what he wanted me to do.

One day, an Aide came to the door and asked me to email or call Eugene and ask him about an upcoming Public Hearing question. I emailed him, and then called him. For about an hour, he berated me for "taking time away from the Igor project", and made me repeat after him exactly what he was saying. This was something that he had begun to do frequently. It was extremely degrading. He told me to also write it down several times, on a piece of paper, and email it to him as well. It was this:

From: Mateer, Donna [Sent: Tuesday, February 07, 2012 4:56 PM] To: Delgaudio, Eugene; [eugenedelgaudio@erols.com](mailto:eugenedelgaudio@erols.com); Supervisor ([Delgaudio@gmail.com](mailto:Delgaudio@gmail.com)) Cc: Mateer, Donna Subject: To Do

Eugene,

I wrote down that:

When human beings come to the door of this office and say "I need -, or I want -, I am to say I will write the message down and send it to Supervisor Delgaudio.

Donna

He, once again, forbade me to answer the phone.

There were many times, even recently, that he was irate because I spoke to a constituent that called, took the information down in our call log, and forwarded it to him. He was furious if I did what he told me to do, and furious if I didn't do what he told me to do. There was no pleasing him.

When Lauren came back full-time after school was finally over for her, she and I decided to clean the office up. There were many very old files taking up space, and because of the change in the Board of Supervisors and Staff, everyone was told to archive anything before 2008, and we were directed to do it in a certa

Lauren and I re-arranged the office just a bit, and began to purge old files and documents. I let her do that part, and just helped her put them in boxes, and organize the shelves in the office. We had a huge to-be-archived pile, and the rest was very neat and we began a system of organization on the shelves of the current and/or recent publications, etc., of the BOS.

On Thursday of that week, Lauren and I sat down and she said she wanted me to catch her up on the latest work I was doing, and all the things that had gone on in the office while she was gone, and wanted to answer any questions I had with certain calls and correspondence.

When she came across the Igor list, she said "Donna, what is this?" I told her about the "project" Eugene had me doing. She got a confused look on her face and asked me to explain the whole thing and exactly what I was supposed to do with the Igor list. I told her about the calls I was making, and about his new plan for the Igor list, which was to send each person/company a letter from him, and that he was drafting it up as we spoke. She shook her head and said, "Donna, I don't think this has anything to do with Loudoun County, or Sterling". I didn't understand. I explained what he had told me about that list, along with other lists, i.e., "The Retired List", The VIP List", and some others.

I told her that Eugene had told me he wanted me to set meetings up with the people on these lists. He gave me places of where he would want to meet in certain cities. On the Igor list, there are many names that are not in Loudoun County, but rather, in Fairfax, and elsewhere. I told Lauren what I had explained to Rachel.

Eugene told me that the Igor list was a list compiled by a man named Igor, especially for Eugene. It was one of the top Donor lists. I really didn't understand much of it at first. He told me that making him appointments to meet with the people on the Igor list, and the other lists, would be very "beneficial". He brought up my being a single-mom and told me that he knew I was struggling. He said "Donna, when you get me an appointment with one of the people on the Igor list, that is extremely important". He told me that each one of those "appointments" could end up in him receiving a lot of money. He pointed out the list on the Google Document he sent me. It listed names, addresses, phone numbers for some, some company names which he told me they were usually the CEO's, or owners, and their "donation". He never explained the "donation" part completely to me. He said that if he walked away from one of those appointments with a \$500.00 or above, he would give me 5%. He said if I could get the person I was making the appointment for him with to give me five more names for more appointments, he would give me 10% of whatever he made. I really didn't understand the whole thing. I just did my job, and did what I was told to do. I made calls, made many appointments, and entered them in on his Google Calendar that I had access to.

He did go on appointments, but I do not know what the outcome of any of them were, except he would give the occasional comment that it was a good, or very good meeting.

I NEVER accepted any money, nor would I have.

The same night that Lauren saw the "Igor list" and found out about the calls, I got a call from Rachel, who at that time was on temporary medical leave. She told me that Eugene was going to fire Lauren. I didn't believe it, not after 7 years of hard work for him.

Rachel and I got together and called Lauren and Rachel told her what Eugene had said to her. We were all in shock and disbelief.

Later that night, I got a call from Eugene. He told me I "needed to be out of the office the next day (Friday) from 1 to 3. I asked him why and he yelled at me saying it was none of my business. He told me "take a sick day if you like, and charge the County for it, just be out of the office during that time". I said, "Eugene, are you going to fire Lauren?". He said in a very sarcastic way, "What would give you that idea?". I said, "Well, you are

asking only me to be out of the office during a specific time, but not Lauren". He told me that what he was doing during that time was none of my business. I said, "Okay, then, why does Rachel know?". He yelled at me and told me I "better be out of there during that time".

He came early, and I left. About thirty minutes later, I got a call from Lauren. She was crying. She told me he said if she didn't resign, he was going to fire her. She, in shock, resigned. She told me it was because she wants to go to law school, and was thinking that if she was fired, it wouldn't look good on her application. It was a very rough time for all three of us.

The following Monday, Eugene called me and also sent me an email. He basically told me to continue the "Igor list" appointment-calling. He told me that if I am ever sick, or not in the office, that I was not to give the Igor list job, in any part, to anyone else. It was strictly my job.

Shortly after that, Rachel resigned. She told me that she just couldn't work for him anymore. About a month before the election, Eugene told her on the phone, when we were in the office together, that she was a "Fucking Idiot". Things were never the same after that.

I have worked for rough people, mean people, grouchy people, but I have never worked for someone who I feel is so full of hate and evil. He doesn't seem to care who gets in his way, who he hurts or who he abuses.

After all that has gone on, and so many people have been abused by this man, along with what he has had me working on and how it is concerning me now that it is not related to Loudoun County, etc., I feel I have to come forward.

On Friday, before the Monday he fired me, Eugene waited until every single person was gone from our floor. He told me that I was pretty much useless, and didn't work hard enough. I couldn't get anything right.

It was then, that I finally started to cry. I asked him if he was going to fire me. He wouldn't give me an answer. He just kept telling me how incompetent I was.

He then said that I was "too nice...to nice to the other Aides, office workers, and most of all, the constituents. I would never know how to treat them. I would never know how to tell them to go away. To hang up on them."

Then he said that I wasn't "Political".

Monday, he fired me.

I thought that supervisors were elected to represent the people and the area they lived in. Eugene told me he didn't have time for any of that. He also said that he "didn't need that office". I thought that was really strange.

Robin, Chairman York's Senior Aide told me that she did all of Eugene's constituent work because if it was sent to him or his office, nothing got done. She said she even mentioned to him that he needs to pay her for all the work she does for the Supervisor of Sterling.

If you have any other questions, please feel free to ask.

Thank you,

Donna Mateer

703-444-2258 h

571-276-5835

Rachel Sargent, Lauren Quezada, our Intern from Patrick Henry, Thomas Herrera, Jr., are all willing to help in any way we can.

# **EXHIBIT 7**

**Mateer, Donna**

---

**From:** Eugene Delgaudio <eugenedelgaudio@erols.com>  
**Sent:** [REDACTED]  
**To:** Mateer, Donna  
**Subject:** Re: Office 2/27/12

On 2/27/2012 1:01 PM, Mateer, Donna wrote:  
Eugene,

I fell very hard on my hip this morning while getting ready for work. It hurt very badly, but I was able to do some work on the computer.

I opened the office at 11:00 today.

I retrieved the messages, and they are as follows:

Call from: Vic  
571-246-0159  
Re: he has questions about overcrowding and wants to speak to you directly

Staff: I will call him and verify the address

Eugene Delgaudio  
703-901-2247  
Re: TEST. I noted that you called. I have read all of the many emails on my County e-mail account. I noted your email regarding "all very urgent priorities...." And will begin working on them and letting you know who is responsible for what

Anonymous  
571-471-1812  
Wants to speak to you as soon as possible regarding her rent and cost of living increase. She lives in Chase Heritage, and feels that she and many other families are paying too much rent there.

Staff: I will call the lady back and retrieve more information from her.

Eugene Delgaudio  
703-901-2247  
Messages are accumulating. We are to verify phone numbers, then delete msg. Hannah is now in charge of this office.

In response to your last voice message, I find it very strange that Hannah would be placed in charge of this office.

Donna



tell me phone number of lady who wants referral or simply send email with phone log containing that information.

thanks.


Eugene

# **EXHIBIT 8**

**COUNTY OF LOUDOUN  
OFFICE OF THE COUNTY ATTORNEY  
MEMORANDUM**

Date: August 10, 2012

To: Eugene Delgaudio, Sterling District Supervisor

From: Jack Roberts, County Attorney 

Subject: Support for LLBFL Fundraising to Renovate Bill Allen Field

Background

You have requested advice on your support for the fundraising efforts of the Lower Loudoun Boys Football League (LLBFL). You have explained that LLBFL is non-profit organization formed for the purpose of training and maintaining a football league and promoting programs of physical fitness. The fundraising effort of LLBFL is for the purpose of renovating Bill Allen Field, a football facility located in your district and owned by LLBFL. You have included an item in your district newsletter encouraging donations to LLBFL for the purpose of renovating Bill Allen Field. You have also sent individual letters soliciting donations directly to LLBFL for the renovations. You do not collect any funds through your office. Your support is provided as an individual member of the Board of Supervisors, and not on behalf of the Board or the County.

We discussed this matter in 2007, when you provided me a copy of the form of a letter you intended to send requesting donations directly to the LLBFL for the renovation project. At that time, you also provided me a copy of the Articles of Incorporation for Lower Loudoun Boys Football, Inc. The Articles stated that all assets and earnings of the organization are to be used exclusively for charitable and benevolent purposes and shall not inure to the benefit of any individual or shareholder.<sup>1</sup> I have no record of providing a memorandum or letter on the subject, but it was my advice at the time that you could send the letter as drafted. You have explained that your efforts with respect to the LLBFL renovations have been ongoing, and you have requested that I provide written advice at this time.

Discussion

1. In general, you are free to support any such group in your personal capacity.
2. In your official capacity as a Sterling District Supervisor, you may endorse the LLBFL fundraising efforts, subject to some general parameters or restrictions.

---

<sup>1</sup> The 2007 letter states that LLBFL is a tax exempt organization but that the donations are not tax deductible. Please let me know if there is any issue as to LLBFL's charitable non-profit status.

August 10, 2012

E. Delgaudio, Sterling District Supervisor

Page 2

A. The State and Local Government Conflict of Interests Act includes a list of prohibited conduct in § 2.2-3103 (copy attached). Subsection 1 prohibits you from soliciting money or other things of value for services performed within the scope of your official duties. Subsection 8 prohibits the acceptance of a gift from a person who has interests that may be substantially affected by the performance of your duties under circumstances where the timing and nature of the gift would cause a reasonable person to question your impartiality in the matter.

Arguably, the provisions dealing with the acceptance of gifts and the like would not apply in this situation because you are not accepting the donations. Nonetheless, I recommend that you avoid soliciting donations to LLBFL from those having business before the Board. This will avoid both the appearance of a conflict and any uncertainties in the interpretation of the prohibited conduct provisions of § 2.2-3103.

B. There should be no collection of funds for LLBFL through your district office or any other county offices. It is my understanding that your activity is limited solely to endorsing this community project and that any funds contributed are sent directly to LLBFL. If you have any involvement beyond this, please let me know.

C. There is no bright line on the use of county funds allocated to your district office for your activities in support of LLBFL. Adding an item to your regular district newsletter would not appear to me to be a problem. It does not involve any identifiable additional cost to include such an item. Writing letters of support for the LLBFL project as part of your district supervisor activities would appear to me to be in the normal course of business.

In 2002, the Attorney General provided some guidance related to the issue generally. At that time, he advised that a locality could not donate in-kind support for an event sponsored by a local non-profit organization. He interpreted Va. Code § 15.2-953 very narrowly, permitting only appropriation of public funds, personal property or real estate by a locality to a charitable institution or association as defined under that statute. In 2007, the statute was amended to expressly allow the donation of in-kind resources for any event sponsored by the donee, effectively reversing the 2002 Attorney General's opinion. The statute does not define "event."

Organizing a fund-raising campaign might be characterized as providing in-kind support, although that was not the factual situation addressed in the 2002 opinion. Again, sending letters in support of LLBFL appears reasonable as part of your district supervisor activities; however, I would exercise some discretion in level of county-funded resources you are devoting to this effort.

\*\*\*\*\*

I have addressed this advice only with respect to the LLBFL matter. The advice may vary if the entity is a for-profit group, an organization not specified in the statute authorizing donations by a locality to charitable institutions and associations, or an organization controlled in whole or part by a church or sectarian society.

JR

Attachment



**Supervisor Eugene A. Delgaudio**

Loudoun County Board of Supervisors – Sterling District  
Past Chairman, Finance & Government Services Committee  
MSC#01/One Harrison Street, S.E. 5th Floor Leesburg, VA 20175  
Email: [Eugene.Delgaudio@lodoun.gov](mailto:Eugene.Delgaudio@lodoun.gov)  
Phone: 703-771-5819

July 23, 2012

Jack Roberts  
County Attorney, Loudoun County, Virginia  
1 Harrison St. SE, MS #06  
Leesburg, VA 20175

Dear Mr. Roberts:

Attached please find copies of correspondence and newsletters from 2007, which marked the beginning of my fundraising for the LLBFL (Lower Loudoun Boys Football League).

You wrote me a letter telling me how to proceed, and I have followed that advice as evidenced by these publications. Could you please find that letter from 2007 to me? I am looking for it.

If you cannot find it, please issue a new one regarding my fundraising for LLBFL. Thank you.

I first raised approximately \$11,000 in the 2007-2008 timeframe and last year witnessed a presentation of \$35,000 to LLBFL.

It is a blur, but time goes quickly and some people forget the details of how this began.

Sincerely,

EUGENE DELGAUDIO  
STERLING DISTRICT SUPERVISOR

Enclosures

A: Copy of April 13, 2007 letter to Jack Roberts curtaining final draft of fundraising letter for LLBFL.

B: Copy of two eight-page newsletters from 2007-2008 timeframe (of many) pertaining to the LLBFL.

RECEIVED  
337  
AUG - 9 2012  
PM  
HJD

# EXHIBIT 9



## Loudoun County, Virginia

[www.loudoun.gov](http://www.loudoun.gov)

Board of Supervisors

1 Harrison Street, S.E., 5th Floor, MSC# 01, Leesburg, VA 20175  
703/777-0204 • Fax 703/777-0421 • e-mail: [bos@loudoun.gov](mailto:bos@loudoun.gov)

[REDACTED]

I am writing you and calling you on the telephone because you have been highly recommended as a community leader by a mutual friend.

For 12 years I have served in the position of a member of the Loudoun Board of Supervisors. I have now been elected and re-elected four times.

I frequently find myself in the middle of many discussions or political upheaval over nomination decisions, candidate recruitment, referendums, tax and budget decisions, land use and a hundred other proposals and even some wrongful policies that need to be reversed.

Getting opinions or new information is how I conduct myself during my term of office in order to be informed of what involved community leaders such as you are thinking or already know.

If you can meet me, just tell me or my assistant when we call. My cell phone is 703-901-2247. My office phone is 703-771-5819 and email is [eugene.delgaudio@loudoun.gov](mailto:eugene.delgaudio@loudoun.gov). Thank you.

I am flexible on time to hear your concerns.

My practice is to meet privately or publicly with key opinion makers and make sure I am on the right track.

My opinions are public and are based on a variety of facts, influences, beliefs and judgments. But your advice will be kept confidential if you wish and our meeting is private if you wish.

Sincerely,

EUGENE DELGAUDIO  
STERLING SUPERVISOR

# **EXHIBIT 10**





## Loudoun County, Virginia

[www.loudoun.gov](http://www.loudoun.gov)

### Board of Supervisors

1 Harrison Street, S.E., MSC #1, 5th Floor, P.O. Box 7000, Leesburg VA 20177-7000

Telephone (703) 777-0204 • Fax (703) 777-0421 • email: [bos@loudoun.gov](mailto:bos@loudoun.gov)

January 24, 2012



*Thank you for meeting with me. I am grateful for the opportunity you afforded me to discuss your goals and visions for Sterling, Loudoun, and America.*

*Thank you also for letting me explain my hopes as well. Your devotion to your principles is very much taken to heart by me and will not be forgotten. I will hold them close in my deliberations and am grateful you would allow me to hear them and to include me as your champion in the future as the need arises at any time day or night. My personal cell number is 703-901-2247, and my office number is 703-771-5819.*

*Sincerely,*

*Eugene Delgaudio  
Sterling Supervisor*

# **EXHIBIT 11**

**Mateer, Donna**

---

From: Eugene Delgaudio <eugenedelgaudio@erols.com>  
Sent: Saturday, January 28, 2012 12:20 PM  
To: Mateer, Donna  
Cc: Donna Mateer; Rachel Sargent; Sargent, Rachel  
Subject: Next week Jan. 27-Feb. 2

Donna  
copy to Rachel

Okay to read on Sunday night or Monday morning. (time to write 30 minutes)(time to read: ten minutes).

Met with Mr. [REDACTED] Tremendous source of information concerning program for Fathers to be part of the security of elementary schools in America. 30 new schools joined up in privately maintained Father staffed security in January 2012. Will meet with him again to fund youth sports facilities in Sterling and Loudoun. Thank you.

I have amended my calendar again for Friday and Saturday, please look at that are reschedule the Doctor that I missed.

Policy directive one

Please continue to write down messages from anybody and relay them twice a day by email. Call me on the telephone for news media or if you or Rachel needs something that prevents you from doing your assigned duty.

Policy directive two

Please continue to call me on the phone when letters are ready for my signature. ( I have looked at time sheets due Feb. 1 and they can be filled in -- in advance by you and Rachel-- so I can sign them. All blanks must be filled in. Okay to fill in advance. See my written note in desk).

Policy directive three (worst case 50 per cent of your hours, best case 70 per cent of your hours).

The first two directives are to make it easier to do this directive three.

There are lists to call and there are people that I must normally see. Lists are descriptive terms that are agreed to in advance

For Donna (category one)

"Government Reform Committee" Chamber of Commerce, Economic Development Commission, IGOR LIST, which are codes or simply made up titles) and a handful of people (Senator Richard Black, etc) that may become clear from my calendar schedule as it is used.

for Rachel: category two

Full voter list all nine precincts with organized, updated and verified list of HOA, Neighborhood watch, and their respective meeting schedules.

at present Rachel is sick for month of January but is to paid to work at home.

You (Rachel and Donna) will receive a cash bonus if you develop new lists from category one (remember even an average person like Mr. Hair represents a billion dollar idea-- worth his weight in gold many times over).

Yes, there are people not on that list -- about 299 million people are not on these lists. Please see policy directive one above if they call, visit or otherwise wave at you while on a scaffold or UFO outside the office window.

Policy Directive four

There is one or two tasks that I must have done each week. It will be clear from written emails (sometimes ten of them).

Earlier this week I wrote eight emails in one day requesting eight letters.

Earlier this year I wrote eight emails concerning "orientation day for the new supervisors".

It will be clear what I consider to be a top priority in writing.

(example: there are at least 8 emails from me concerning "chase letters to the Igor list")

Policy Directive five.

Try to break in a new staff person that I send to you.

Try to meet that by devoting a portion of your time as follows: worst case 50 per cent on policy dir. three, 40 per cent on policy direct four, five per cent on policy directives one and two, five per cent on other things not on the four policy directive list like answering the phone or learning new technologies at home and billing me (I am authorizing 2 to 5 additional hours at home each week for "technology training" not to be subtracted from 30 hours of office operations).

I would prefer best case 70 per cent on policy three, 20 per cent on policy dir. four (as you learn technology and or figure out how to do things faster).

Please allow for mistakes or simply forgetting on my part. But count on me attending 100 per cent of all board meetings and committees that I serve on. I have done that for 12 years and you can bring me a written note about something during those meetings.

If you wish for me to eliminate one of these 4 directives let me know.

Thanks.

Sincerely,

Eugene

# **EXHIBIT 12**

**VIRGINIA:**

**IN THE CIRCUIT COURT OF LOUDOUN COUNTY**

In re: :  
:   
The Citizens of Sterling Magisterial District :  
Petition for Removal from Office, their Supervisor :  
The Honorable Eugene Delgaudio, presently :  
Representing these Same Citizens, who Live and : Case No.: \_\_\_\_\_  
And Vote in the Sterling Magisterial District. :  
:

**AFFIDAVIT OF DONNA MATEER**

I, DONNA MATEER, being duly sworn, depose and state as follows:

1. I am Donna Mateer, a resident of Loudoun County, and a former part-time employee of Loudoun County Supervisor Eugene Delgaudio ("Mr. Delgaudio").
2. While I worked for Mr. Delgaudio, I was paid out of public funds that, as I understand it, were drawn from the tax payers of Loudoun County.
3. I am represented by Stevens Miller, Esq. and he has assisted me with legal advice and support including my grand jury appearances in Loudoun County.
4. I have reviewed this affidavit with Mr. Miller and am making this affidavit in support of the petition by Sterling residents and taxpayers who seek to remove Mr. Delgaudio from office as their Sterling Supervisor.
5. I wish that I had never been involved in this matter but I have cooperated with anyone who has asked what happened while I was working for Mr. Delgaudio and saw no reason to make an exception in connection with this petition.
6. I was and remain a single mother, who must work to support my family, and that was the case when Mr. Delgaudio interviewed me to join his staff. Having said

that, I hasten to add that I have received no compensation from anyone for giving the accounts I have of what happened.

7. The interview with Mr. Delgaudio occurred at Chick-filet. I did not question the venue. I wanted the job. Mr. Delgaudio asked what were my religious beliefs, my views on marriage and homosexuals, also my political views. Apparently, I gave satisfactory responses but, upon reflection, those questions were inappropriate. I was, however, focused on getting work.
8. In and around August 2012, shortly after that interview, I was employed as an Assistant to Mr. Delgaudio.
9. Mr. Delgaudio told me to "take as many hours as [I] need[ed], 40-50 [hours/week] whatever." He rightly said I "needed the money." He said, "You are a single mother," and he said this many times. I didn't appreciate at first that Mr. Delgaudio thought I therefore had no choice but to do what he said.
10. I was paid bi-weekly by the County based on my hours. It was about \$15.00 an hour at first, as of August 22, 2011, and rose to \$19.00 an hour, as of December 8, 2011, starting with 20 hours a week when I began and going up to 40 hours a week and sometimes more than that, and I worked until March 2, 2012 when I was fired by Mr. Delgaudio.
11. I worked with Rachel Sargent when I started part-time.
12. I didn't have any concerns about the work I did in the beginning, running the office. But, unlike other staffers, Mr. Delgaudio said we were not to attend staff meetings, meaning the three of us, Rachel Sargent, Lauren Avey, and myself. Mr. Delgaudio later put the other staffers down, and the other Supervisors as well. He

said the other Supervisors were “idiots” and he was “the only hope for Loudoun County.”

13. Mr. Delgaudio also made it clear he hated homosexuals. He made racial remarks about Asian people, making fun of the way they speak, calling them names, and he did as much with Hispanic and Black citizens.
14. He became increasingly abusive toward me – and I didn’t leave because I was concerned that I’d lose my home if I lost my job.
15. In and around Thanksgiving or early December, 2012, shortly after the November elections, Mr. Delgaudio became more controlling, demanding, and abusive.
16. It was then he had me identify prospects for Loudoun appointments.
17. He gave me a script to use to arrange meetings with “interested citizens.” Some of these “interested citizens” lived in Manassas, Chantilly, Centreville, and Gainesville. in Prince William County. It changed from time to time at Mr. Delgaudio’s direction.
18. The script was to set up meetings for Mr. Delgaudio for his “Loudoun appointments.”
19. When I made an appointment, it was recorded on a Gmail account that Mr. Delgaudio directed that I establish.
20. The source of names for the companies I called to make these appointments was a list that Mr. Delgaudio called “the Igor list.” I cannot explain the reference, except what I was told later, that the person who compiled the list was named, “Igor.” These contacts were not just in Sterling, nor even Loudoun County. They



were in Fairfax and other cities outside of Virginia. They were CEOs or owners, Mr. Delgaudio later explained.

21. Mr. Delgaudio insisted that I provided him with statistics of how many calls I made, and the date and time I made the calls, with the notes I made, reflecting whether I spoke to the person, or that I left a message, or the phone was out of use.
22. I spent all my time on these calls from January 3, 2012 until March 2, 2012.
23. During that period of time, when I was exclusively making these calls to schedule appointments, I was paid at the rate of \$19.00 an hour by the County for my "services." But my services were devoted entirely to setting up meetings for Mr. Delgaudio's "Loudoun appointments."
24. When I thought to take time from making Mr. Delgaudio's "Loudoun appointments," and to do office work, Mr. Delgaudio scolded me. When another staffer came to my door and asked that I email or call Mr. Delgaudio regarding an upcoming hearing, and I passed on the message by email, Mr. Delgaudio said, "Nothing was to take [me] away from my 'Igor list project'." That meant no call from citizens, other staffers, even other Supervisors or the Chair.
25. It was humiliating when he made me write, like I was a grade school student, "When human beings come to the door of this office and say, 'I need, and want,' I am to say I will write the message down and send it to Supervisor Delgaudio."
26. Mr. Delgaudio was furious if I actually did the job I thought I was hired to do for the County, to talk to constituents and to cooperate with other Staff or Supervisors.

27. Mr. Delgaudio said that these appointments that I was making from the "Igor list" were "very beneficial" and that any appointment was "extremely important." He reminded me how precarious was my financial circumstance and said he'd pay me 5% for any appointment that resulted in a \$500.00 contribution. He promised if an appointment resulted in five more names, he'd give me 10% of whatever he made.
28. I never accepted any of the "bonus" money Mr. Delgaudio promised; and after the promise, he never offered any.
29. There are further details I could supply but I haven't been asked about matters beyond what I've discussed here and, as to these matters, I'm comfortable that this account is accurate and truthful.

  
DONNA MATEER

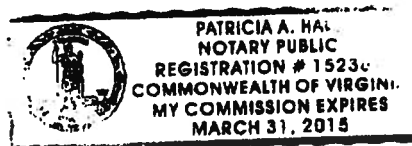
Date: July 30, 2013

Commonwealth of Virginia;  
Loudoun County:

The forgoing Affidavit of Donna Mateer was SUBSCRIBED AND SWORN to by Donna Mateer on this 30th day of July 2013.

My Commission Expires: 03/31/2015  
My Notary Registration No.: 152367

  
NOTARY PUBLIC



# **EXHIBIT 13**

## Request for call sheets and format for reports

Eugene Delgaudio [eugenedelgaudio@erols.com]

Sent: [REDACTED]  
To: Rachel Sargent [rachel.sargent@verizon.net]  
Cc: Sargent, Rachel; Mateer, Donna; Donna Mateer [dh3sons@aol.com]; Quezada, Lauren; Lauren [lauren.quezada@gmail.com]; Eugene Delgaudio [eugenedelgaudio@erols.com]; Donny Ferguson [donnyferguson@gmail.com]  
Attachments: TDRFall2011P5.pdf (156 KB); TDRFall2011P4.pdf (167 KB)

Staff:

Today Wednesday Jan. 4, 2012

Since Monday Dec. 5 and for months (months) I have been sending these memos on phone calling going back to September.

Staff

Lauren  
Rachel  
Donna  
donny

Regarding phone calls, I do not want calls being made outside the office for security and other reasons.

If you need additional phones in the conference rooms with the same security feature but a "Loudoun County Government" designation which is critical to my message.

IMPORTANT: Please change the greeting to Happy New Year . Thank you.

I have requested and again request copies of call sheets. I have signed time sheets tonight Wednesday January 4

In general I am expecting 50 to 60 per cent of your paid Supervisor time in 2012 to go to phone calling. This has been my expectation (in writing by me signed by me) for at least 3 months.

This overrides all other memos or conversations.

Eugene

TODAY

LAUREN: I have received NO reports on CALL SHEETS from you for months including this past 2 week period. (I understand you were away for 2 weeks but I am hopeful I will get call sheets soon)

RACHEL: NO CALLS SHEETS. Hopefully will get some this week.  
(Note: Welcome back from Vermont).

DONNA; NO CALL SHEETS but she did get me an appointment.

Please keep a file on the desk for my review and update me every 2 hours

importance of calling the new areas of Sterling ABOUT THE SURVEY (SEE AMENDED PHONE SCRIPT)

E. PLEASE continue to copy actual pages that you call with results and your name signed at the bottom of the page to indicate the calls made and the response for each day. I am coming in regularly for meetings, so put them in the box by my desk with a stapled cover sheet or large envelope.

EUGENE

January 4 2012

Here is re-write of phone script

Hello, HAPPY NEW YEAR this is (name of person) \_\_\_\_\_ calling. (NAME OF PERSON YOU ARE CALLING OR FAMILY NAME), your Sterling Supervisor Eugene Delgaudio asked me to call you, (NAME OF PERSON YOU ARE CALLING OR FAMILY NAME) to let you know that Loudoun County will be holding Public Hearings to toughen overcrowding laws with criminal penalties.

The Planning Commission has held its hearing and has sent the new laws to the new Board of Supervisors.

Your Supervisor Delgaudio has proposed that Loudoun County adopt an additional ordinance that punishes the landlord for overcrowding violations that go to the limit of civil enforcement. A Survey and Petition to support Criminal penalties is enclosed in the Delgaudio Report Newsletter or I can mail you a Survey and petition. Please consider writing or calling the Board of Supervisors at B as in Board, O as in Of, S as in Supervisor, BOS at loudoun dot gov to express your support for criminal penalties for overcrowding.

Repeating: please write the B as in Board, O as in Of, S as in Supervisor, BOS at loudoun dot gov to express support for criminal penalties for extreme cases of overcrowding, abandoned cars or health code violations. Supervisor Delgaudio wanted me to wish you a Happy New Year. Call Supervisor Delgaudio at 703-771-5819 and we will get you a petition if you wish. Call us at 703-771-5819 and we will mail you a petition. Good Bye.

# **EXHIBIT 14**

**Mateer, Donna**

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**From:** Eugene Delgaudio <eugenedelgaudio@erols.com>  
**Sent:** ~~Monday, February 27, 2012 9:55 AM~~  
**To:** Mateer, Donna  
**Subject:** Re: Fred's classes today

On 2/27/2012 9:15 AM, Mateer, Donna wrote:  
Eugene,

Fred just called me and told me they do NOT have him signed up for the Leadership class you wanted him to take.

He also told me that he tried to call you. He wanted me to email you because he may also need two checks from you versus one.

Donna  
if i tell somebody to sign up for a class i do not expect them to tell me to sign him up after I tell him to sign up.

that's geting stale here.

people at leadership institute will take care of all lost souls and the new staff need me like they need a hole in the head

the old staffers will take care of fred out of a normal and Godly fear that i will visit them.

that is if fred says he represents me or is just some homeless person off the street.

# **EXHIBIT 15**



**Mateer, Donna**

---

**From:** Mateer, Donna  
**Sent:** [REDACTED]  
**To:** Delgaudio, Eugene; eugenedelgaudio@erols.com; Supervisor (Delgaudio@gmail.com)  
**Cc:** Mateer, Donna; Klein, Fred  
**Subject:** Re-cap of Office Schedule

Eugene,

To re-cap what we discussed this morning in the office:

1. Number the computers 1, 2, and 3 / note on list which computer goes to which person.
2. Make a list of all passwords/codes for phones, computers, copiers, etc.
3. Get Fred's passwords for his computer and phone and incorporate those into the list.
4. E-mail the list to you, Fred and myself.
5. Hard copy it to the desktop.
6. Add it to the "Office Procedures" paper-version.

With regards to the IGOR list:

1. Continue to help Fred locate names belonging to companies.
2. I will work from the back of the document, while Fred works from the front.
3. Add those to the current IGOR list online.
4. Make and leave copies for EAD in office mailbox.
5. E-mail EAD with updates frequently.

Locate the current 2011 VOTER list and provide Fred with a copy

Call Mapping and get copies of new maps

Find out how to access Lauren and Rachel's Loudoun.gov email accounts

Tell Fred EAD took the invites

Donna

# **EXHIBIT 16**

1/13/12

Morn - afternoon

Left message for:

Erin McMahon

Joseph Miller

Elizabeth McIntire

Jon Staniskis

Tahki Nelson

Afternoon - evening

Left message for:

Theresa Pla.

Deborah Price

~~Steve Puck~~ Jason Robertson

Sylvia Ross

Edward Skelly

Peter Soh

Patricia Steggoda

Left message with wife of:

Steve Puckett

Not interested - Karen Reed

Meeting scheduled - Alan Robbins

1/24/12

12:30-1:30  
Roy Robbins, Pres.

1/18/12

morning - afternoon

Left message with wife of  
Douglas Kin Koph  
Darrel Lowery  
Dan Martin  
Larry Nordseth

Left message for:

Mary Kraseman

Paul Krelle

David Kushner

David Lewis

Greg Luczyk

Christina Mack

Stefan Mandanis

Jim Manning

Christian Marchetti

Louis Matrone

Eugene "Trey" Mauck (listed 3x)

Sandra McDonnell

Denis J. McFarlane

# **EXHIBIT 17**



COUNTY OF LOUDOUN, VIRGINIA  
Department of Financial Services  
Finance and Accounting  
P.O. Box 7000, 1 Harrison Street, S.E., 4th Floor  
Leesburg, Virginia 20177-7000  
(703) 777-0290

# EMPLOYEE WORK AND LEAVE RECORD

This Record cannot be accepted unless it has been signed by the employee, the Payroll Liaison, and either the Supervisor or Department/Organizational Head. Record must be submitted NO LATER than the last working day of the pay period.

Department BOARDS & COMMISSIONS Period End Date 01/18/2012 Location 170  
Employee Number 478792163 Grade UC Pos. No. 01778  
Employee Name MATEER, DONNA M Hourly Rate 19.0000 Salary .00  
Job Title UGAO 9000 APPOINTED OFFICIAL 01 01 01 010118 Reg. Hrs. 40.00  
DEPT/DIV/SECT/INDEX CODE  
☒ Exempt ☐ Non-Exempt Employees normal work schedule \_\_\_\_\_

## SECTION A: TO BE COMPLETED BY EMPLOYEE

DAY	Thurs.	Fri.	Sat.	Sun.	Mon.	Tues.	Wed.	Total
DATE	01/05	01/06	01/07	01/08	01/09	01/10	01/11	
Time In	9:00	9:00			9:00	9:00	9:00	
Time Out	5:00	5:00			5:00	5:00	5:00	
Time In *								
Time Out *								
Holiday-Hrs. Worked								
Meal Break Pay-Hrs.								
Other Pay-Hrs.								
Annual Lv. Used								
Sick Leave								
Exchange Time Earned								
Exchange Time Used								
Personal Lv. Used								
Workers Comp. Lv.								
Bereavement Leave								
TOTAL HOURS WORKED								
TOTAL LEAVE USED								
HOLIDAY / OTHER								
TOTAL	8.0	8.0	0	0	8.0	8.0	8.0	40

DAY	Thurs.	Fri.	Sat.	Sun.	Mon.	Tues.	Wed.	Total
DATE	01/12	01/13	01/14	01/15	01/16	01/17	01/18	
Time In		9:00			9:00	9:00	9:00	
Time Out		5:00			5:00	5:00	5:00	
Time In *								
Time Out *								
Holiday-Hrs. Worked								
Meal Break Pay-Hrs.								
Other Pay-Hrs.								
Annual Lv. Used								
Sick Leave	4.0							
Exchange Time Earned								
Exchange Time Used								
Personal Lv. Used								
Workers Comp. Lv.								
Bereavement Leave								
TOTAL HOURS WORKED								
TOTAL LEAVE USED								
HOLIDAY / OTHER								
TOTAL	4.0	8.0	0	0	8.0	8.0	8.0	30
FLSA ONLY: YES	NO							

## SECTION B: TO BE COMPLETED BY EMPLOYEE

01/09/2011	ACCUMULATIVE TOTALS				
	ANN.	SICK	PERS.	EXCH.	EXCH.
Prior Balance	4.00	2.00			
Earned/Accum.	2.00	2.00			
Long Personal					
SUB BALANCE					
Leave Used		4.00			
NEW BALANCE	6.00	0.00			
	215	225	245	255	258

VEHICLE USE: \_\_\_\_\_ DAYS

## SECTION C: TO BE COMPLETED BY PAYROLL LIAISON

RECONCILIATION		
Total Hours Paid	70	
Regular Hours Paid	66	001
o/t @ 1 x hrly rate		008
o/t @ 1 1/2 hrly rate		003
Leave Hours Used	4	

Signed Donna Mateer 1-13-12 DATE  
EMPLOYEE  
Signed Robyn Rai 01/18/12 DATE  
PAYROLL LIAISON  
Signed Eugene Delgado 1-18-12 DATE  
SUPERVISOR/DEPARTMENT HEAD

\* time worked beyond normal schedule

1.DEPARTMENT (RETAIN FOR YOUR RECORDS)

DFS/DPB/01

# **EXHIBIT 18**



## Loudoun County, Virginia

[www.loudoun.gov](http://www.loudoun.gov)

Loudoun County Board of Supervisors

1 Harrison Street, S.E., MSC #1, 5th Floor,

P.O. Box 7000, Leesburg, VA 20177-7000

Telephone (703) 777-0204 • Fax (703) 777-0421 • [bos@loudoun.gov](mailto:bos@loudoun.gov)

July 23, 2013

*Re: Action by the Board of Supervisors Regarding Sterling District Supervisor Eugene Delgaudio*

Dear Resident of the Sterling District:

The Loudoun County Board of Supervisors is your locally-elected body that makes policy for the operations of the Loudoun County Government. Among our responsibilities, we set the local tax rates, approve capital projects (such as fire stations, libraries, and parks), review and approve annual budgets for County operations and services, and recently have expanded our role in support of road improvements throughout Loudoun County. The Board is comprised of eight members from the eight election districts and a Chairman elected countywide, all elected every four years.

You may be aware of the recent investigation by a Special Prosecutor into the conduct and office operations of Supervisor Eugene Delgaudio, who represents the Sterling District on the Board. The Special Prosecutor convened a grand jury, took testimony from 31 witnesses, and extensively reviewed the allegations against Supervisor Delgaudio. Although the Special Prosecutor did not ask for the grand jury to consider an indictment, the grand jury took the uncommon step to request permission from the judge to issue a report on its findings. While no criminal charges have been filed, the grand jury report raised significant concerns about the conduct of Supervisor Delgaudio.

In response to the findings of this report and other known actions of Supervisor Delgaudio, the Board of Supervisors identified a number of concerns about his actions:

- Misuse of public assets
- Misuse of his staff aides by having them help with political fundraising
- Misuse of his staff aides by having them go door-to-door with political flyers
- Verbal abuse of his staff aides
- Verbal abuse of members of the public

During its regular public meeting on July 17, the Board of Supervisors deliberated on what response it should take in light of these concerns and the assertions by Supervisor Delgaudio. After much discussion, the Board took the following action:

- The Board formally censured Supervisor Delgaudio.
- The Board prohibited Supervisor Delgaudio from serving on any local or regional committee, board or commission for the remainder of this term.
- The Board restricted Supervisor Delgaudio's ability to spend funds allocated for his District Office and required that any significant expense be approved by the full Board.
- The Board removed direct funding for staff in Supervisor Delgaudio's District Office.

(over)



As a result of these significant actions, the Board believes it is important to communicate with the residents of the Sterling District right away so you know why our actions were taken, what this means for constituent services in the Sterling District, and how you can get assistance from the County for any matters of concern to you. We also want to make unequivocally clear that the actions taken to address the conduct of Supervisor Delgaudio will in no way harm the residents of Sterling District. As your Chairman, as the former Supervisor from the Sterling District, and as a fellow resident of Sterling, you have my promise and the commitment of my fellow Board colleagues that your interests will be protected.

Looking ahead, it is important to say that Supervisor Delgaudio was duly elected and continues to serve on the Board of Supervisors representing the Sterling District for the rest of his term. He will retain full voting privileges on items before the full Board, will still have access to funds to conduct business on behalf of the Sterling District, and has indicated that he will address constituent issues as they are brought to his attention.

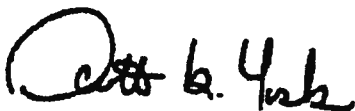
Supervisor Delgaudio will retain his official email address, office phone number, and office presence in the County Government Center. Also, although the Board has limited Supervisor Delgaudio's ability to have staff aides, there will continue to be staff resources available to assist residents of the Sterling District. As stated before, he will have sufficient funds to serve the Sterling District, although his ability to spend County funds will be subject to the oversight of the full Board.

Finally, the Board wants to emphasize that your needs will be met by the County Government. If you have an issue, and it is not being addressed by Supervisor Delgaudio, there are alternate means to request assistance. You may reach out to the full Board of Supervisors by calling 703-777-0204 or emailing [bos@loudoun.gov](mailto:bos@loudoun.gov). You may also contact me at the number above or reach out to another Board member who you may know personally. Further, the County Government has a Public Affairs Manager who is responsible for helping resolve constituent concerns on behalf of the County Administrator and can be reached at 703-777-0113.

In conclusion, the Board's actions last week were taken after long and difficult deliberations. While it is Supervisor Delgaudio's right to criticize our actions, we believe that his conduct required a firm, fair and meaningful response by the Board along with a reassurance to the residents of Sterling District that your interests will be looked after.

Should you have any questions about this letter or the Board's actions, please contact the Board office. We remain dedicated to making Loudoun County the best place in America to live, work and play.

Most Sincerely,



Chairman Scott K. York  
On behalf of the Loudoun County Board of Supervisors

CC: Loudoun County Board of Supervisors