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To: Brett Watson
From: John Garretson, Baker Street Investigations
Date: 09/23/2022
Re: Investigative findings

****This report was prepared for the Client's information and is not intended for public release. Any and all redactions that may be reasonably necessary for compliance with Local, State, and Federal laws are the responsibility of the Client and associated legal team(s) ****

ORIGIN:

Based on your request to review the Kramer Workplace Investigations (KWI) report and conduct follow-up interviews, I obtained a copy of the published City of Arcata, Special City Council Meeting minutes dated May 17, 2022. These published minutes contained the KWI report in addition to other materials.

SUMMARY:

Upon conclusion of this investigation, it appears that a friendship existed in which the scope and direction was unclear. Boundaries, both social and professional were set and disregarded by both parties. Circumstances where any degree of power and authority were exerted upon this relationship are not proven.

DEFINITIONS:

Expectation Bias - A well-established phenomenon that occurs in scientific analysis when investigator(s) reach a premature conclusion without having examined or considered all of the relevant data. Instead of collecting and examining all of the data in a logical and unbiased manner to reach a scientifically reliable conclusion, the investigator(s) uses the premature determination to dictate investigative processes, analyses, and, ultimately, conclusions, in a way that is not scientifically valid. The introduction of expectation bias into the investigation results in the use of only that data that supports this previously formed conclusion and often results in the misinterpretation and/or the discarding of data that does not support the original opinion. Investigators are strongly cautioned to avoid expectation bias through proper use of the scientific method.

Scientific Method - The systematic pursuit of knowledge involving the recognition and definition of a problem; the collection of data through observation and experimentation; analysis of the data; the formulation, evaluation and testing of hypotheses; and, where possible, the selection of a final hypothesis.

METHODOLOGY:

- 1 – Watson interview.
- 2 – Witness interviews.
- 3 – Documents review.
- 4 – Analysis of collected data.
- 5 – Hypothesis.
- 6 – Test hypotheses against available data.
- 7 – Select final hypothesis.

WITNESS INTERVIEWS:

SUBJECT - [REDACTED]

Perception:

Brett Watson had a relationship (definition unknown) with a [REDACTED] employee of the City of Arcata. There was an investigation done without his knowledge where the employee said that the relationship was or became inappropriate. Because he was Mayor and is City Council, it was inappropriate to hold a relationship with another City employee, because he had leverage in that role. I saw that there was quite a bit of information released in the form of text messages between the two. At the conclusion of the investigation, he was asked to step down. I have since seen much tension at the City Council meetings. Brett refused to step down to finish out his term. Brett was arrested for DUI which Chavez believes compounded the negative feelings towards Watson.

Perception origin:

Published information in the local press as well as "public journalism" on social media outlets . Brett had not told [REDACTED] directly about the contents of the relationship.

Conflicts addressed:

[REDACTED] in not employed by the City of Arcata.

[REDACTED] is an HR director for an [REDACTED].

Watson is not now, nor has he ever been an employee or financial partner in this venture.

Relationship to Watson:

Friends. Formerly Rotary members together. "I wouldn't call him a best friend" and not the type that is seen on a regular basis. Acquaintance began in 2018.

Interviewee stated facts:

During COVID, [REDACTED] "hung out" with Watson a few times during Rotary business, possibly 4 or 5 times. No social interactions with Watson during COVID.

Text/telephone communications with Watson re life difficulties?

Yes, passing of his father and the circumstances surrounding was shared by Watson with [REDACTED].

Watson ever mention the relationship with [REDACTED]?

Perhaps yes? Brett isn't the type to talk about other people like that though. In mentioning [REDACTED], she was referred to by her title and about City business, not the personal relationship which may have existed.

Any inkling a relationship was forming between the two?

No, no, not at all. I wasn't even sure who the employee was until recently. That was not public information.

Were you aware of anything concerning about Brett at all?

I was concerned for Brett when his father passed away. He was certainly more irrational than normal. Making jokes about suicide when his father had just done so. Concern was for him not the people around him. He was not a threat.

Did Brett reach out via text, email, etc too often during this time?

Volume of correspondence with Brett was not increased or alarming. The content of the communications changed and expressed a disregard for his own personal situation. We talked a lot about financial markets, crypto currency, but nothing too crazy.

Did you read the Kramer report?

600 pages was a lot. I did read through to see what he could have done that would have been so offending and in my

personal view, I was shocked that anybody who read the messages could feel that he was out of line. I saw someone who was really struggling at the time and had reached out for some friendship, experienced reciprocation, and then at some point in time the other party decided “no I don’t want to do this anymore” and was almost setting him up. Changed her entire attitude suddenly.

Characterized as Conspiracy Theorist. Accurate?

I don’t like that phrase at all. That label is overused and is used often times to control or embarrass people. I don’t think he is such. In respect to his job with the city, I think he does a very good job and nothing about that should be considered conspiracy theory. I don’t agree with all his policies, and we are politically different, but I appreciate his idealism.

People expressing discomfort around him. Have you felt this way?

Not uncomfortable per se, but there was an awkwardness when he was going through his mental problems. It could have also been from him trying not to conform to everyone else’s norms. Maybe a somber attitude, but nothing that I would describe as uncomfortable. He certainly wouldn’t do or say things that were extraordinarily strange.

In Rotary, did he adhere to the Rules, Regulation and Best Practices of the organization?

Yeah, yes.

Allegation – “Brown Act v Brett Act” meaning that rules did not apply to him. Did you experience this attitude ever?

No. Certainly not. I would say that I’m less likely to follow rules than Brett.

Have you experienced Watson losing his temper?

No, gosh. I can’t say that I have. That’s one thing about him, he’s pretty even keeled. He was seeing a psychiatrist and was working really hard.

Exhibiting bizarre behavior that was not explainable?

No, certainly not. But there was a clinginess. He wanted to be around people. He needed friends and he needed people. Now that all this information has come out about his failing marriage it is pretty obvious that his wife couldn’t be there for him and he needed people. Especially with COVID making it more difficult.

How would you describe Brett?

He’s a pretty analytical and nice guy, has his quirks about him, and I think some of that stems from the fact that he doesn’t have a huge network. A lot of his network is superficial. When you’re a public servant, you have to make these relationships but they’re superficial. He’s a good guy trying to find more solid friends. He keeps to himself and is pretty private. Not the type to have a bunch of friends over on the weekend for the game. He’s a good guy with honest intentions who went through a rough patch.

END.

SUBJECT - [REDACTED]

Perception:

When I first heard about the allegations, they made no sense to me. They did not fit my understanding of who Brett is. Some of the local media appeared to have a political agenda in their reporting of this story. They had already made decisions about who Brett is. For all I know, those editors may know more than I do though. I don’t know a lot of details. I have never spoken [about this] to anyone really involved in this case. I can’t dispute the allegations either way I just know that I saw no evidence of it in his behavior or what he shared with me. I don’t want to say that it didn’t occur, but I

have no evidence that it did.

Perception Origin:

Media coverage only. Saw KWI report, knew it is available, but did not read it. Watched some council meeting coverage on local television.

Conflicts Addressed:

Does not live in Arcata. Is not a voter in that city. No longer engaged in any professional relationships with the City of Arcata or Watson.

Relationship to Watson:

Known Watson for 11 or 12 years. We were co-founders of a non-profit and board members (Zero Waste Humboldt).

Interviewee stated facts:

Brett I consider a friend. Intelligent, thoughtful, and concerned about the issues. He's a successful businessman. I have been to his shop and met his employees and am impressed with that side of him. He has tech skills that I am often in need of, and he almost always offers this assistance as a friend. Although he has a business where he charges for this service, he offered it to me for free. One time, during a particularly difficult tech task, I offered him money for his time, and he accepted.

How many people on that board and what was the gender split?

5 people were on this board, and it was mixed genders of both men and women.

Describe the chain of command for this board.

There was no real chain of command for the board despite the formal roles. Brett served as Secretary and Treasurer initially. We rotated roles annually and Brett served in all roles except for President. We did not consider one person any more important than the others. We had different tasks, responsibilities, and titles. We were equal partners in the endeavor. Brett and I were tasked early on with hiring an independent bookkeeper. This would be the only presence that could be considered a subordinate.

Was Brett the type to adhere to the Board rules?

Yes, absolutely.

Exhibit concerning behaviors?

Not at all.

Any relationships with board members that were inappropriate for the position?

Not at all. On one occasion, I was at his home, met his wife, and considered her a friend as well. I would see them out together in public. This was a standard relationship type for the work relationship that turned into a friendship.

Allegation of "Unstable" and "Conspiracy Theorist" and believes rules don't apply to him. Do you find that to be true?

Not at all. I've never experienced any of that behavior in my interactions with Brett. I will say that over the past few years since we've not been serving on the board together and most of my internet issues have been sorted out, I haven't seen as much of Brett lately. In even recent interactions, I have not experienced that behavior.

Last time you talked to Brett?

Earlier this summer related to internet problems. When Brett comes to our door, I give him a hug and greet him as a friend. This was mostly business, but I expressed concern for his wellbeing and offered support. I don't press him, and I don't want to pry.

Did you ever hear him speak about coworkers in an overly fond way?

No. One time, he came over and after he had been there a while trying to figure out how to get streaming service into my bedroom television, he did say that his father had died recently via suicide. It was just sorta coming out in drips and drabs. I realized that he was dealing with some very big emotional issues in his life. He did not make mention of any coworkers.

Is your relationship with Brett the kind where you two talk about life, etc?

Maybe if we had longer visits we might have gotten around to that. I always hoped that he felt he could confide in me, but I would say that he hasn't. I don't know anything about the allegation from his perspective. He told me when he separated from his wife and told me where he was staying with mutual friends. Later he told me that he and his wife had reconciled which made me very happy for them both. We talked about that kind of thing. There was never any mention of any other person that had his attention. If we had the time to chat, we would eventually get around to personal subjects like that.

Have you ever witnessed any concerning behaviors from him?

I was concerned for him when I learned about his DUI. Otherwise, no. I am concerned for his wellbeing when I read what people are saying about him in the newspaper.

In his response to world events, have you noticed any concerning behaviors?

No. We generally had similar responses to world events. Politically we were pretty aligned. Although I'm much older than him so I have a different perspective.

Alleged difficulties with Mental Health. Have you seen this?

Not in my personal interactions with him.

Note: Visitation timeframes overlap misconduct allegations yet no recounting of this subject between these parties.

END.

SUBJECT - [REDACTED]

Perception:

I just don't see that he would do something like this, harass people, he's so kind. To me, it takes 2 people to get into an argument and if they're going to blame Brett, they should blame this other person too. It's a bunch of baloney.

Perception Origin:

Arcata Paper. Read the whole KWI report. Watches council meetings.

Conflicts Addressed:

[REDACTED] of Watson.

Relationship to Watson:

I met Brett 6-8 years ago when I rented a shop on my property to him. I don't see much of him. He and [REDACTED] would take me out to breakfast once a month at the beginning. When Brett's mother would visit, she and I would talk about flowers and things that ladies talk about. Now we interact related to IT tasks and rent payments.

Interviewee stated facts:

Allegation that he developed an obsession. Have you found him to be obsessive about any topic?

No, not really, I don't think. To me, he seems to know a lot, is highly educated, he's a young person and I always thought he could go really far in government. I was so happy when he was elected Mayor. Right now, sometimes, I cannot stand the City government. Those women, they treat him like I don't know what and I don't think it's right.

Who are "Those women"?

██████████ and ██████████ I thought Alex was Brett's friend. He used to take her down to the shop and show her the inside.

What treatment type are you talking about?

Like when they're sitting there at their council, and they lean way away from him like they don't want to be any close to him and I think that's horrible. I could have a heart attack over the way they act.

Has Brett told you what's going on?

He has said some things, but I don't think he's said everything. I read a lot of it in the paper, but it depends on who's the person writing it and how they feel about Brett. They make a mountain out of a mole hill.

Do you know who the adverse person is?

No, I don't.

Spontaneous:

I know Brett misses his father a lot. There was a long time after his father passed that I didn't see Brett for months. When he would pay his rent he would leave it on the table and text me that the check was there. I just let him have his space because I know he was hurting.

Does Brett call you to talk about his life?

No, not really. I get his Facebook things on my phone, and I see little things there.

Do you have any opinions about anyone else in the city government?

No, all I watch is the council meetings when Brett is on there because I believe what he says and not what the other people say.

END.

SUBJECT - ██████████

I do not want to comment on this. I think it is more likely that they both crossed a line and then it became uncomfortable. The prior ██████████ may have a similar history, maybe he will talk to you.

END.

SUBJECT - ██████████

I am not able to speak about this. There are too many attorneys involved.

END.

ATTEMPTED, UNSUCCESSFUL CONTACTS:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DOCUMENTS REVIEW:

Kramer Workplace Investigations report with attachments.
Email exchanges between Kramer and Watson's legal counsel(s).

ANALYSIS OF COLLECTED DATA:

KWI Report Analysis

CLAIM:

KWI Report Section titled "**I. INTRODUCTION**" states in part that *"The City retained Kramer Workplace Investigations on or about December 14, 2021, to investigate allegations brought to the City's attention by [redacted] . Specifically, [redacted] reported that Watson engaged in sexually harassing conduct towards [redacted] while [redacted] and Watson were in Sacramento attending the [redacted] Conference in September 2021.*

ANALYSIS:

The scope of this investigation is stated as September 2021 and is limited to a conference in Sacramento wherein Watson and [REDACTED] attended jointly. The actual scope of this investigation spans from June 2017 through the date of KWI assignment and includes other locations near to and within City of Arcata property.

CLAIM:

KWI Report Section titled "**II. SUMMARY OF FINDINGS**" states *"It is undisputed that Watson engaged the conduct attributed to him by [redacted] and that his conduct was motivated by his romantic interest in [redacted]. It is also undisputed that Watson abused his power as a City Councilmember by expecting [redacted] to spend time with him outside of City Hall; to respond to his calls and text messages outside of regular work hours; to engage in communications of a personal nature with him; and to hug him each time they met in his capacity as a Councilmember and her capacity as the [redacted] The credible evidence presented during the investigation establishes by a preponderance of the evidence that the allegations against Watson are sustained.*

ANALYSIS:

After reading the witness statements, the assertions made by the KWI report are not disputed, they are not corroborated either. Although no witness statement memorialized in the report contradicts or refutes the claims made, they do not strictly support it either. It is also *"undisputed that Watson abused his power as a City Councilmember by expecting [redacted] to spend time with him outside of City Hall"* but I was not able to uncover any City of Arcata policy or State Law that prohibits an individual's expectations. Witness statements, including Complainant, fail to show that Watson used his position of authority to leverage compliance with his requests for ongoing contact of a personal nature. The nature of the extraprofessional relationship was established as "friendship" early in KWI report section IV and the ongoing nature of this friendship appears to be reciprocal based on the provided text/email printouts.

CLAIM:

KWI Report Section titled “III. METHODOLOGY OF THE INVESTIGATION” states in part

“The undersigned did not interview all witnesses mentioned in the course of the investigation if, in the assessment of the undersigned, the witness did not have direct, relevant or significant information related to the specific incidents within the scope of the investigation, or if the undersigned obtained the information from a different credible witness or source.

Watson was not interviewed as part of the investigation. Efforts to secure his participation began on January 21, 2022, when the undersigned sent Watson’s attorney, Amelia Burroughs, an email requesting to schedule Watson’s interview at a mutually convenient date and time. On February 8, 2022, Burroughs advised that she was no longer representing Watson. On February 14, 2022, Watson’s new attorney, Linda Mitlyng contacted the undersigned and on March 1, 2022, after exchanging several emails in an effort to schedule Watson’s interview, Mitlyng notified the undersigned that she no longer represented Watson. On March 8, 2022, the undersigned learned that Watson was represented by attorney Elan Firpo. Counsel for the City communicated directly with Firpo to attempt to secure a date for Watson’s interview, but on March 25, 2022, Firpo notified the City’s attorney that she was no longer representing Watson.”

City of Arcata Zero Tolerance Policy Against Discrimination and/or Harassment.

ANALYSIS:

Witnesses C, D, and E did not appear to have direct, relevant or significant information related to specific incidents, yet their accounts of information were included in this report.

Watson provided me with an email exchange between his attorney Amelia Burroughs where he was made available for interview. KWI declined to engage in the interview format offered by legal counsel stating the method was insufficient. Legal counsel told KWI that Watson would respond to KWI questions in writing. The response back to Watson’s attorney indicated that KWI was aware of Watson’s disability workplace accommodations and that this response method was not an acceptable mechanism of communication. Copy of this correspondence attached.

City of Arcata Zero Tolerance Policy Against Discrimination and/or Harassment does not appear to contain a definition of prohibited actions congruent with those that allegedly occurred between Watson and [REDACTED].

CLAIM:

KWI Report Section titled “IV. DESCRIPTION OF THE ALLEGATIONS – INTERVIEW OF [REDACTED]”

ANALYSIS:

Plausible but not corroborated by outside sources.

CLAIM:

Witness interviews contained in KWI report Section “V. WITNESSES’ INTERVIEWS” support the findings of KWI.

ANALYSIS:Witness A

KWI report page 14 begins to document the statement of [REDACTED] that alleged misconduct of a romantic and/or sexual nature was not observed by [REDACTED] in relation to this complaint. [REDACTED] also did not witness any inappropriate physical contact between Watson and [REDACTED]. [REDACTED] witnessed [REDACTED] in emotional distress which [REDACTED] credited to this situation.

[REDACTED] was not a direct witness to the alleged actions and does not provide an example of Watson exerting managerial control over a subordinate to further a romantic interest. [REDACTED] recitation of the sequence of policy violation events largely relies on hearsay. The preponderance of [REDACTED] complaints against Watson appear to be outside the scope of this investigation.

Witness B

KWI report page 14 begins to document the statement of [REDACTED] that an alleged misconduct of a romantic and/or sexual nature was not observed by [REDACTED]. Watson “never made any comments of a romantic nature.” Complainant [REDACTED] reported to [REDACTED] that “she and Watson developed a personal relationship in addition to being colleagues on the city council. She stated they sometimes talked about City Council-related matters and other times about personal things.

On page 15 [REDACTED] mentions that prior to the conference in Sacramento, she realized that a relationship existed between Watson and [REDACTED] that was “beyond professional.” This realization was not described further.

[REDACTED] also goes into great detail on pages 15-17 recalling the contents of the evening while attending the mentioned conference in Sacramento. It appears from this interview portion, that all parties involved were consuming a meal and alcohol together, after conference hours, in a social setting. [REDACTED], [REDACTED], and Watson appear to be friends in this narrative.

At a later point in the evening, Watson became more intoxicated than the rest of the involved parties and exhibited some concerning behaviors pointing towards self-harm. [REDACTED], who had [REDACTED] invited Watson to her hotel room, alerted [REDACTED] to his mental state. [REDACTED] then staged an intervention that made [REDACTED] uncomfortable.

The care for Watson exhibited by [REDACTED] in this situation, as described by [REDACTED]’s first person account, infers a reciprocal extraprofessional relationship.

Witness C

KWI report page 18 begins to document the statement of [REDACTED] that an alleged misconduct of a romantic and/or sexual nature was not observed by [REDACTED]. [REDACTED] stated that she never observed Watson and [REDACTED] together. [REDACTED] did not provide an example of Watson exerting managerial control over a subordinate to further a romantic interest but recalled having warned him that the amount of time spent with [REDACTED] was unreasonable.

Witness D

KWI report page 19 begins to document the statement of [REDACTED] that alleged misconduct of a romantic and/or sexual nature was not observed by [REDACTED]. [REDACTED] did not provide an example of Watson exerting managerial control over a subordinate to further a romantic interest.

Witness E

KWI report page 19 begins to document the statement of [REDACTED] that alleged misconduct of a romantic and/or sexual nature was not observed by [REDACTED]. [REDACTED] did not provide an example of Watson exerting managerial control over a subordinate to further a romantic interest. [REDACTED]’s statement appears focused on the amount of time Watson and [REDACTED] spent together was inequitable as compared to the time [REDACTED] spent with other City employees.

Witness F

KWI report page 21 begins to document the statement of [REDACTED] that alleged misconduct of a romantic and/or sexual nature was not observed by [REDACTED]. [REDACTED]’s statement outlines 2 occasions where Watson visited her office in her capacity as [REDACTED].

Occasion 1 occurred prior to the March 2020 onset of COVID restrictions. In summary, Watson asked [REDACTED] for training assistance with Councilmember duties and responsibilities including workplace conduct. [REDACTED] voiced her disapproval of the combining of a work relationship with a friendship and warning of the power dynamics.

Occasion 2 occurred in Sept/Oct 2021. In summary, was [REDACTED] expressing concern over the amount of time Watson spent at City Hall, specifically with [REDACTED]. This came after a complaint to HR from [REDACTED] that Watson made her uncomfortable and she needed space. [REDACTED] did not observe [REDACTED] appearing uncomfortable with Watson. [REDACTED] also documented the presence of hugging between the two during greeting and parting salutations. [REDACTED] was not told at this time, of any concerns about the personal aspect of [REDACTED]'s relationship with Watson per this statement. It appears that the sole uninvolved witness to an action that could be considered a violation of policy was [REDACTED] during the course of the joint trip to Sacramento.

CLAIM:

KWI report section titled "**VI. FINDINGS OF FACT**" subsection **A.** titled "**Credibility Assessment**" states in part *"Most importantly, presented as a credible witness. Although much of what she reported could not be corroborated by anyone because most of her objectionable interactions with Watson occurred when they were alone, as discussed in greater detail below, there was sufficient corroboration to lend reliability to what she reported regarding interactions that occurred when others were present."*

ANALYSIS:

[REDACTED] presents as a credible witness, and much of what she reported cannot be corroborated by independent third party witnesses.

CLAIM:

KWI report section titled "**VI. FINDINGS OF FACT**" subsection **B.** titled "**Findings of Fact**", paragraph 1, states in part *"For the most part, the incidents reported by are undisputed. Although many of the incidents reported occurred outside the presence of any independent witnesses, Watson's conduct was observed by others on a few occasions. In addition to third party observations, most of the witnesses reported having communications with Watson that caused them to believe he had an inappropriate relationship with [Redacted]"*

ANALYSIS:

Observation without context, with personal perceptions after the fact, does not equal corroboration. The only third party observer was [REDACTED] whose observation was that of a mutual extraprofessional encounter. Witnesses who perceive/believe and then comment without further corroborative efforts by the investigator should not be considered reliable/credible under KWI report section VI subsection B.

CLAIM:

KWI report section titled "**VI. FINDINGS OF FACT**" subsection **B.** titled "**Findings of Fact**", paragraph 2, states *"At the outset, during all times relevant to this investigation, Watson was a member of the City Council, and therefore, in a position of authority over [Redacted] the [Redacted]. Thus, it is not surprising that when Watson made demands of [Redacted] time, she acquiesced and gave him the time he demanded. [Redacted] credibly reported, and no evidence to the contrary was presented, that when she attempted to limit her one-on-one time with Watson or asked him to stop communicating with her on weekends and while she was on vacation, Watson got angry with her and threatened to call a closed session of the City Council to discuss her performance."*

ANALYSIS:

The only direct mention of a threat to call a closed session of the City Council regarding [REDACTED]'s performance, was located within the text based attachment to the KWI report. These pages do not contain KWI report page numbers. They were assigned "Packet" page numbers due to their inclusion in the City of Arcata agenda packet.

Packet Pg. 43: Mentions performance discussions under closed session. This issuance of a threat to call a closed session appears to have to do with a disagreement related to correspondences about a local elected taskforce that were sent without Watson's knowledge. There is no mention of an expectation for personal time with [REDACTED].

CLAIM:

KWI report section titled “**VI. FINDINGS OF FACT**” subsection **B.** titled “**Findings of Fact**”, **paragraph 3**, states “*Although [Redacted] knew four [Redacted] needed to vote to terminate her employment, and assumed that Watson did not have the votes he needed to terminate her, she was understandably concerned about her performance being reviewed by the Council. If Watson carried through with his threats to discuss [Redacted] performance in closed session, other staff members and members of the public would be notified that the Council was reviewing her performance. To the extent this occurred more than annually, it would be embarrassing for [Redacted] to know that everyone knew her performance was the frequent topic of conversation by her superiors, since City Councils do not typically review a performance more than once a year.*”

ANALYSIS:

Refer to previous claim analysis for remarks about a “closed session.”

I was unable to locate in this document any threats by Watson claiming abilities to rally Councilmember votes for termination proceedings against [REDACTED].

The City of Arcata policy on Performance Reviews was not an attachment to this packet.

CLAIM:

KWI report section titled “**VI. FINDINGS OF FACT**” subsection **B.** titled “**Findings of Fact**”, **paragraph 4**, states “*It is undisputed that in approximately May or June 2020, and on multiple occasions thereafter, Watson told a subordinate employee, that he had romantic feelings for her. At this point, [REDACTED] was aware from that Watson had “strong feelings for her.” rebuffed Watson’s romantic overtures, and when he got upset with her for telling him she would not “cross the line” with him, he said, “We can do the employer/employee thing if you want . . . it’s easy for me to tell you everything you’re doing wrong,” or words to this effect, which reasonably construed as a threat.*”

ANALYSIS:

It is undisputed that Watson told [REDACTED] he had extraprofessional feelings for her. [REDACTED]’s documented messages with Watson infer a level of extraprofessional feelings for Watson as well. A non-comprehensive list of examples of [REDACTED] providing Watson with marriage advice and suggesting he leave his wife are memorialized on Packet Pages 275, 285, 287, 290, 293, and 322. This level of involvement is not typical of coworkers abiding by a strict policy against fraternization.

CLAIM:

KWI report section titled “**VI. FINDINGS OF FACT**” subsection **B.** titled “**Findings of Fact**”, **paragraph 5**, states “*Watson also got upset with [Redacted] in approximately June 2021 when she refused to be his “jogging buddy.” [Redacted] was able to rationalize her Monday and Friday walks with Watson as being “work-related,” even though they spent most of their time talking about Watson’s personal life or his feelings for her, but she was unable to rationalize engaging in a recreational activity with one of her bosses. [Redacted] reported that after she told Watson that she was not going to go jogging with him, he called her and told her she was his best friend and it hurt him that she did not want to jog with him. This incident is another example of Watson refusing to accept [Redacted] attempt to create boundaries, and his effort to manipulate her into doing something she was not comfortable doing.*”

ANALYSIS:

Watson’s assertion that [REDACTED] was his best friend predated this request for recreational jogging. I see no fact pattern contained within the testimonial evidence which would support this claim that this is “*another example*” of an attempt at disregarding boundaries. Throughout the text exchanges, both adults appear to be generally consenting to the conversations. The assertion of boundaries were equally disregarded by both parties.

CLAIM:

KWI report section titled “**VI. FINDINGS OF FACT**” subsection B. titled “**Findings of Fact**”, paragraph 6, states “*Despite [Redacted] repeatedly telling Watson to stop communicating with her regarding non-City matters on the weekends and while she was on vacation, he continued to do so. As [Redacted] indicated during her interview, any other City employee who engaged in repeated communications with someone who made it clear that the employee’s communications were unwelcome would have been disciplined in some manner.*”

ANALYSIS:

Packet Pg 566 (Fri Aug 06, 2021) shows a back and forth text conversation between both parties where no request is made by [REDACTED] for a pause in communications due to her engagement in a vacation. It appears that [REDACTED] sent several unsolicited photographs of her vacation to Watson. This is contrary to the assertions made in this claim.

Packet Pg 579 (Fri Sept 03, 2021) shows a text communication wherein [REDACTED] states in part:

“Of course it will all be okay – this will pass. You can text know there will be times I am not or can not check my phone so don’t panic about a response.”

Typically, non-city matters should only be discussed after office hours. Speaking to a co-worker, who is perceived as a friend, about matters that are not City related, outside of work hours, seems reasonable and should not result in disciplinary actions by the City.

Requiring work related conversations outside of work hours or while on a scheduled vacation would be improper without a contractual agreement where compensation is arranged for this purpose. I do not have a copy of [REDACTED]’s employment contract to verify this nor do these conversations appear to be strictly business related.

CLAIM:

KWI report pages 25 and 26 document only Watson’s text messages to [REDACTED] and a claim that this offers proof of an obsessive compulsion for contact in a one sided relationship.

ANALYSIS:

The text message attachment pages refute this claim by their reciprocal nature of text then response initiated by both parties.

CLAIM:

KWI report page 27 states “*[Redacted] credibly explained that she initially agreed to schedule more time with Watson each week to accommodate his difficulty understanding and remembering information. She viewed this as part of her job to help Watson be a successful Councilmember. More likely than not, Watson took advantage of [Redacted] kindness and willingness to spend time with him by taking approximately six hours of her time each week, compared to each of the other Councilmembers’ spending one hour, at most, with her. It is not the [Redacted] job to exercise with a Councilmember, including walking in the forest or marsh during work hours twice a week, nor is it the [Redacted] job to communicate with Councilmembers regarding personal matters.*”

ANALYSIS:

KWI minimizes Watson’s documented disability and attributes his learning disability to a manipulation of [REDACTED]’s kindness. KWI also frames this interaction as strictly business and omits consideration of the already documented friendship.

Packet page 486 documents a text from [REDACTED] that states:

“Thanks – look forward to walking Friday- 10 hours of zoom today- maybe a personal record. I hope I never brag that record.”

This text communication is a clear illustration of the duality of this relationship containing friendship and business.

CLAIM:

KWI report section titled “**VII. CONCLUSION**” states in part “*Based upon the foregoing, the allegations against Watson are sustained. The preponderance of the evidence establishes that more likely than not, Watson engaged in the conduct attributed to him by [Redacted] and that this conduct was an abuse of his power as a City Councilmember. It is more likely than not that Watson’s conduct was motivated by his romantic feelings for [Redacted] and his desire to spend time with her in person or remain in constant communication with her via telephone and/or text message.*”

ANALYSIS:

Based on the evidence presented, it is only proved that [REDACTED] and Watson spent more time with one another than they did with others outside of their friendship. The preponderance of allegations appear to remain supposition, hypothesis, postulation, speculation, and/or assumption.

HYPOTHESES:

A: All allegations are true and factual as reported.

B: This was a mutual friendship that evolved through romance to remorse.

C: Watson actions explained by mental health difficulties.

D: [REDACTED] exaggerated her discomfort for some gain.

E: [REDACTED] was pressured to levy this complaint for some gain benefiting another employee.

F: The investigator experienced bias in reporting on this matter.

HYPOTHESIS TESTS:

The report, including attachments were re-considered with each motive individually in mind. Results as follows.

A: All allegations are true and factual as reported: **Unsubstantiated.**

Only allegations regarding an extraprofessional relationship and disparate amount of time spent were proven. The entirety of complaints against Watson were not proven beyond a doubt or by the preponderance of information.

B: This was a mutual friendship which evolved through romance to remorse: **Plausible.**

There existed a documented friendship. Text messages show an escalation in frequency of communications over time and a gradual replacing of work topics for personal topics. This appears to be a two sided engagement with an estimated 40/60 split, with Watson being a greater contributor.

C: Watson actions explained by mental health difficulties: **Plausible.**

Per the DSM-5, [REDACTED] can fall into four categories: 1) Impaired control of use; 2) Social problems; 3) Risky use; 4) Physical dependence. Based on a layperson’s opinion, Watson’s activities may fall under one or more of these categories, however, this opinion is no substitute for a medical opinion.

Per the DSM-5, [REDACTED] “otherwise known as major [REDACTED] disorder or clinical [REDACTED], is a common and serious mood disorder. Those who suffer from [REDACTED] experience persistent feelings of sadness and hopelessness and lose interest in activities they once enjoyed. Aside from the emotional problems caused by [REDACTED], individuals can also present with a physical symptom such as chronic pain or digestive issues.”

“The DSM-5 outlines the following criterion to make a diagnosis of [REDACTED]. The individual must be experiencing five or more symptoms during the same 2-week period and at least one of the symptoms should be either (1) depressed mood or (2) loss of interest or pleasure.

Depressed mood most of the day, nearly every day.

1) Markedly diminished interest or pleasure in all, or almost all, activities most of the day, nearly every day.

2) Significant weight loss when not dieting or weight gain, or decrease or increase in appetite nearly every day.

3) A slowing down of thought and a reduction of physical movement (observable by others, not merely subjective feelings of restlessness or being slowed down).

4) Fatigue or loss of energy nearly every day.

5) Feelings of worthlessness or excessive or inappropriate guilt nearly every day.

6) Diminished ability to think or concentrate, or indecisiveness, nearly every day.

7) Recurrent thoughts of death, recurrent suicidal ideation without a specific plan, or a suicide attempt or a specific plan for committing suicide.”

A combination of [REDACTED] could be attributed to the offending actions, however, this opinion is no substitute for a medical opinion.

D: [REDACTED] exaggerated her discomfort for some gain. Plausible.

KWI report page 11, paragraph 3, under the heading of

“IV. DESCRIPTION OF THE ALLEGATIONS – INTERVIEW OF [REDACTED]” reads in part:

“At some point during this timeframe, [Redacted] told Watson that they could not both continue working for the City and that he needed to take responsibility for his actions and step down. She explained to him that she was struggling as a woman leader in the community because she rid the City of a lot of harassment, but she continued to be subjected to his constant abuse and harassment because of his obsession with her.”

I was unable to locate further records of [REDACTED]’s efforts to “rid the City of a lot of harassment”. Should these records become known/available, this hypothesis will gain credibility. The hypothesis remains plausible due to [REDACTED]’s assertion to the KWI Investigator of these efforts and the inferred need to maintain local status as a champion for this cause.

[REDACTED] was married to [REDACTED] during the timeframe of these allegations. Extramarital encounters of a romantic nature are generally socially frowned upon. I have no knowledge of the status of the [REDACTED] marriage nor any knowledge of whether it is an open/poly relationship or not. If the [REDACTED] marriage is self-classified as “open” then this reduces the plausibility of this theory. If the [REDACTED] marriage follows a traditional model, then the plausibility remains the same. Without some additional interviews with the [REDACTED]’s and/or close associates, this theory cannot be

corroborated at this time.

E: [REDACTED] was pressured to levy this complaint for some gain benefiting another employee: **Plausible.**

Employees [REDACTED] as well as [REDACTED] were the only two City of Arcata employees who provided direct testimonial evidence to portions of the allegation. [REDACTED] rose to the position of [REDACTED] from [REDACTED] due to this complaint and [REDACTED] is [REDACTED]'s direct subordinate. [REDACTED] appears to have benefited from the issuance of this allegation in terms of prestige of title, but without additional benefit discovery, this theory is simply plausible.

F: The investigator experienced bias in reporting on this matter: **Plausible.**

Liberties were taken with respect to assigning feelings to statements and situations that were not documented either in testimonial evidence and/or text based attachments. Various examples of these liberties are noted in the previous pages of this document. Although outward appearances tend to indicate a dedication to thoroughness and professionalism, I believe the substance on which KWI conclusions were formed upon were insufficient for investigative use.

It appears that Karen Kramer experienced Expectation Bias (definition on page 1). Based on the presence of this bias, I conducted an inquiry into the investigator.

Karen Kramer is an "Immediate Past President" listed on the Board of Directors page of the website belonging to the Association of Workplace Investigators. In her biography it reads:

"Karen Kramer is an employment law attorney specializing in workplace investigations. Since forming Kramer-Wiese in 2000, Ms. Kramer's practice has focused primarily on conducting personnel investigations involving allegations of discrimination, harassment and retaliation, as well as misconduct and disciplinary matters. She previously litigated employment law matters with Porter Scott and worked as an employment law attorney with LexisNexis. Ms. Kramer's experience includes testifying during administrative and judicial proceedings regarding completed investigations. Ms. Kramer has conducted hundreds of workplace investigations for public agencies, and is well versed in the Public Safety Officers Procedural Bill of Rights and the Firefighters Procedural Bill of Rights. She has also conducted many complex and high profile investigations involving high level public employees and elected officials. Ms. Kramer is a graduate of the University of California, Irvine (1989) and University of the Pacific, McGeorge School of Law (1992)."

I then queried the California Department of Consumer Affairs, Bureau of Security and Investigative Services, license search webpage. I was unable to find a record for this Karen Kramer having held DCA/BSIS licensure for Private Investigation services.

California Code, Business and Professions Code - BPC § 7521 defines a Private Investigator. One portion of the duties described is *"(b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person."* Attached.

California Code, Business and Professions Code - BPC § 7522 states the Private Investigator licensing requirement does not apply under several stated circumstances including section *"(e) An attorney at law in performing his or her duties as an attorney at law."* Attached.

California Code, Business and Professions Code - BPC § 6068 lists the duties of an attorney, one of which is *"(f) To advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he or she is charged."* Attached.

Under KWI report heading “**I. INTRODUCTION**” it states in part that:

“This report is a fact-finding document created through the methodology described herein. The report contains factual conclusions based upon the information made available during the course of the investigation. It does not draw any legal conclusions or assess whether any City policies or State laws were violated. Furthermore, while several hours were spent interviewing witnesses and reviewing documents, this report does not purport to include every detail as described by the individuals involved. Rather, it assesses the important facts as they pertain to the allegations of sexual harassment made against Watson.”

Based on BP 7521 outlining that a Private Investigator is someone who obtains specific information, and that BP 7521 lists an exemption for “(e) An attorney at law in performing his or her duties as an attorney at law.”, coupled with the duties of an attorney as outlined in BP 6068 having ambiguous verbiage, and the clearly stated intentions by KWI in the introduction to not render any legal opinions, I would urge Mr Watson to seek legal representation to determine whether Karen Kramer was acting within or outside of the course and scope of her state licensing permissions.

Regardless of whether state permissions were adhered to, it appears that the KWI report was influenced by expectation bias and that bias had an effect on the stated conclusion.

FINAL HYPOTHESIS:

Based on the reasonability of the hypotheses determined to be plausible, I find it likely that a combination of hypotheses may be related to this event.

- B: This was a mutual friendship that evolved through romance to remorse.
- C: Watson actions explained by mental health difficulties.
- D: ██████████ exaggerated her discomfort for some gain.
- F: The investigator experienced bias in reporting on this matter.

Further investigation and witness participation would be needed to confirm any hypothesis singularly or in combination.

ADDITIONAL FACTS:

A Public Records Act (PRA) request was sent to the City of Arcata requesting the audio files from the KWI interviews. The name of the City official who chose KWI, copies of both sides of the Watson/██████████ email exchanges, any and all Arcata Police Department records related to Watson were also requested. The City had responded to counsel denying all requested information except for email exchanges. These emails were supposed to “be available on or before June 17, 2022” but have yet to materialize.

I also learned that Private Investigator Barry Aninag, B A Investigations, has been contacted/contracted by the City of Arcata to investigate the complainants in this matter. Website www.awi.org for the Association of Workplace Investigators shows Mr. Aninag as a member. Refer to the previous page of this report wherein KWI Karen Kramer is a board member of this association.

██████████, in her official capacity as ██████████, was responsible for the choosing of KWI as the investigative agency for this matter. ██████████ is ██████████’s subordinate and is currently being investigated by B A Investigations for misconduct in relation to the original Watson investigation.

CONCLUSION:

The only facts that can be relied upon without contest is that Brett Watson and [REDACTED] became friends through their work. They formed a friendship which was closer than those of other persons with similar titles within the employment of the City of Arcata.

This friendship was not conducive to business production as evidenced by the amount of personal matters discussed during professional hours.

The business relationship and the personal relationship failed in maintaining symbiosis due to COVID constraints, substance use/abuse, and personality conflicts with other staff members, which manifested itself with [REDACTED] becoming uncomfortable.

Boundaries were then agreed to by both parties and disregarded by both parties.

Public record information, available to KWI at the time of this investigation, has been requested but not produced.

An investigation into misconduct by the City staff who participated in this complaint is/was underway.

Any other conclusions regarding these actions are speculative and a conclusive determination cannot be made without a greater degree of honest participation from all involved parties, including the City of Arcata complying with PRA demands.

john@bsinorcal.com

From: Brett Watson <brettintherye@gmail.com>
Sent: Thursday, September 22, 2022 7:13 PM
To: john@bsinorcal.com
Subject: Fwd: FW: Interview of Councilmember Brett Watson

Here is the first one.

----- Forwarded message -----

From: Amelia Burroughs <aburroughs@janssenlaw.com>
Date: Thu, Feb 10, 2022, 5:12 PM
Subject: FW: Interview of Councilmember Brett Watson
To: Brett Watson <brettintherye@gmail.com>

Brett,

Forwarding the response from the investigator. And, for discussion this Friday.

AB

From: Karen Kramer <karen@kramerlaw.net>
Sent: Thursday, February 10, 2022 5:10 PM
To: Amelia Burroughs <aburroughs@janssenlaw.com>
Subject: RE: Interview of Councilmember Brett Watson

Hi Amelia,

Thank you for your email. I am attaching an email Mr. Watson sent to Danette Demello on January 5, 2022, stating that he is not able to compose long emails because of his disabilities. Presumably if Mr. Watson is not able to compose long emails, he is unable to provide written responses to questions. Additionally, it is not my practice to submit questions in writing to witnesses in lieu of an in-person interview. There are several reasons for this I'd be happy to discuss with you if you would like to speak with me about this practice.

If Mr. Watson would like to participate in this investigation, he must do so via an oral interview. If I do not hear from you or Mr. Watson's new counsel by close of business on Monday that he is willing to submit to an oral interview, I will assume that he is not going to participate in the investigation and proceed accordingly.

Thank you,

Karen

From: Amelia Burroughs <aburroughs@janssenlaw.com>

Sent: Tuesday, February 8, 2022 4:00 PM

To: Karen Kramer <karen@kramerlaw.net>

Subject: RE: Interview of Councilmember Brett Watson

Good afternoon, Karen. Due to an exacerbation of Mr. Watson's medical condition, he is unable to participate in an oral interview. Due to his current state of anxiety, his hands shake, and he is having difficulty following questions and providing meaningful, responsive answers immediately in response. He does, however, want to participate in the process, and he is happy to answer any written questions you may have.

Additionally, I do not anticipate representing Mr. Watson any further in this process. I expect that he will have new counsel shortly, and I will do my best so that Mr. Watson's new counsel gets in touch with you immediately upon hire.

Amelia

Amelia F. Burroughs

Janssen Malloy LLP

(707) 445-2071 (office)

(707) 845-9393 (cell)

730 Fifth Street

P.O. Drawer 1288

Eureka, CA 95501

aburroughs@janssenlaw.com

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From: Karen Kramer <karen@kramerlaw.net>
Sent: Thursday, February 03, 2022 4:05 PM
To: Amelia Burroughs <aburroughs@janssenlaw.com>
Subject: RE: Interview of Councilmember Brett Watson
Importance: High

Hello Amelia,

It's been almost another week since you advised that you would get back to me with Mr. Watson's availability for an interview. As you can imagine, the City is anxious for me to complete this investigation as soon as possible.

Please let me know by the end of the day on Tuesday February 8, 2021, when you & Mr. Watson are available for an interview during the week of February 14, 2021. Although I have some meetings and other commitments already scheduled that week, I will do my best to work around your schedules.

If I do not hear from you by the end of the day on Tuesday, I will assume that Mr. Watson is not going to participate in the investigation and will proceed accordingly.

Thank you,

Karen

From: Karen Kramer
Sent: Friday, January 28, 2022 9:36 AM
To: Amelia Burroughs <aburroughs@janssenlaw.com>
Subject: RE: Interview of Councilmember Brett Watson
Importance: High

Hi Amelia,

Please let me know if we're confirmed for Tuesday or Wednesday, and if so which day and what time. I need to schedule interviews for other matters and have kept most of both days open to be flexible for Mr. Watson, but it's been a week since I initially contacted you and I cannot continue to hold both days.

Thank you for your anticipated prompt reply.

Karen

From: Amelia Burroughs <aburroughs@janssenlaw.com>
Sent: Thursday, January 27, 2022 12:18 PM
To: Karen Kramer <karen@kramerlaw.net>
Subject: RE: Interview of Councilmember Brett Watson

Hi, Karen. I've connected with Mr. Watson, and I hope to get back to you shortly with his availability. I have a couple of depositions those days, but if you're confident about the time estimate, I hope we can make it work.

Amelia

From: Karen Kramer <karen@kramerlaw.net>
Sent: Friday, January 21, 2022 8:38 AM
To: Amelia Burroughs <aburroughs@janssenlaw.com>
Subject: Interview of Councilmember Brett Watson

Good morning Ms. Burroughs,

I understand that you represent Brett Watson for purposes of the investigation the City of Arcata retained me to conduct. I am ready to interview Mr. Watson and am hoping we can find a mutually convenient date/time for the three of us to meet, via Zoom, for the interview. What is your availability the week of January 31st? I am available most of Tuesday February 1 and Wednesday February 2 that week. Please let me know if either day works for you and Mr. Watson. I anticipate the interview will last approximately 2 hours.

Karen

----- Forwarded message -----

From: Brett Watson <bwatson@cityofarcata.org>
To: [REDACTED]
Cc:
Bcc:
Date: Wed, 5 Jan 2022 21:11:46 +0000
Subject: Re: Text I sent to David

Hi Danette,

I'm not able to compose long emails because of my disabilities. My hands shake a lot and its hard for me to handle large pieces of information by myself because of my [REDACTED] and [REDACTED]. In the past I have relied on staff to talk with me through the complex information we recieve as council members.

The limits the behavior guidelines have put on me are causing me a lot of stress and anxiety and increasing my [REDACTED] because I'm not able to fullfill my duties to the public. I really need you to accomodate my disabilities. Please help me do my job.

Thanks in advance,

Brett

From: Danette Demello
Sent: Wednesday, January 5, 2022 12:06:18 PM
To: Brett Watson; Stacy Atkins-Salazar
Subject: RE: Text I sent to David

Hi Brett, I am in between meetings. If you could please email your questions and we can work on how best to connect with you on those for this afternoon.

Thank you,

Danette Demello

707-825-2114

From: Brett Watson <bwatson@cityofarcata.org>
Sent: Wednesday, January 5, 2022 9:56 AM
To: Danette Demello <ddemello@cityofarcata.org>; Stacy Atkins-Salazar <satkinssalazar@cityofarcata.org>
Subject: Re: Text I sent to David

Thank you, Danette. I have a lot of questions pertaining to the Homekey item on tonights agenda. For starters I need to run through this government code and make sure I understand we are following all of the stipulations:

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=1.&title=7.&part=&chapter=4.2.&article=

Also, the attached document detailing SB 35. I anticipate I'll need at least an hour of staff time to answer all of my questions. These appear to be very important pieces of information pertaining to this project and its necessary that the

council has a clear understanding of them. These questions we also raised at last night's council meeting and again by a citizen via email this morning.

How do you feel I should pursue answers to my questions? I have availability this afternoon between 12 and 2, and again between 3 and 5. Alternatively I can bring my questions to the council meeting.

Thank you for your support in helping me do my job on behalf of the public.

Regards,

Brett

From: Danette Demello
Sent: Wednesday, January 5, 2022 9:36:23 AM
To: Brett Watson; Stacy Atkins-Salazar
Subject: RE: Text I sent to David

Thank you Brett. It is appreciated you are being forthright in realizing that the text to David was not in compliance with the practices and guidelines currently in place.

Also, to further clarify your understanding in the previous email that you are only supposed to email Directors, that would be contrary to the guidelines as well. For either texts or emails intended for the Director, those are to be provided to the ACM, and the ACM will facilitate that contact with the Director and provide follow up back to you as needed. An example of this would be the attached email sent yesterday to David and myself. Rather than sending to both David and I, it should have been sent to me with your request to share with David.

I've included the section of the guidelines that address direct contact with Directors here if it is a helpful reference.

4. *Department Directors (Community Development Director, City Engineer, Environmental Services Director, Finance Director, Police Chief). All contact and communications with the City Department Directors identified in the heading to this Section shall be made through the Assistant City Manager. Councilmember Watson shall not make or have any direct contact with City Department Directors. For purposes of completing City business only, Councilmember Watson may send emails and text messages to other parties with a copy any Department Director provided that the Assistant City Manager is also copied.*

Thank you for this opportunity for us to further clarify the procedures and guidelines. Please let me know if there are additional questions or further clarification that might be helpful.

Thanks Brett,

Danette Demello

707-825-2114

From: Brett Watson <bwatson@cityofarcata.org>

Sent: Tuesday, January 4, 2022 9:34 PM

To: Danette Demello <ddemello@cityofarcata.org>; Stacy Atkins-Salazar <satkinssalazar@cityofarcata.org>

Subject: Text I sent to David

Hi Danette,

Tonight I sent David this text, "I really appreciate your hard work. I hope you're able to get some good rest tonight. I like the beard!"

Afterwards I realized I believe I'm only supposed to email him. I apologize for this slip up.

Sincerely,

Brett



Karen B Kramer #161538
License Status: Active

Address: Kramer Workplace Investigations, PO Box 266, Danville, CA 94526
Phone: 925-838-6435 | Fax: 925-838-7564
Email: karen@kramerlaw.net | Website: Not Available

More about This Attorney ▼

All changes of license status due to nondisciplinary administrative matters and disciplinary actions.

Date	License Status ⓘ	Discipline ⓘ	Administrative Action ⓘ
Present	Active		
12/14/1992	Admitted to the State Bar of California		

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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.*)

CHAPTER 4. Attorneys [6000 - 6243] (*Chapter 4 added by Stats. 1939, Ch. 34.*)

ARTICLE 4. Admission to the Practice of Law [6060 - 6069] (*Article 4 added by Stats. 1939, Ch. 34.*)

6068. It is the duty of an attorney to do all of the following:

- (a) To support the Constitution and laws of the United States and of this state.
- (b) To maintain the respect due to the courts of justice and judicial officers.
- (c) To counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just, except the defense of a person charged with a public offense.
- (d) To employ, for the purpose of maintaining the causes confided to him or her those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law.
- (e) (1) To maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets, of his or her client.
 (2) Notwithstanding paragraph (1), an attorney may, but is not required to, reveal confidential information relating to the representation of a client to the extent that the attorney reasonably believes the disclosure is necessary to prevent a criminal act that the attorney reasonably believes is likely to result in death of, or substantial bodily harm to, an individual.
- (f) To advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he or she is charged.
- (g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest.
- (h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.
- (i) To cooperate and participate in any disciplinary investigation or other regulatory or disciplinary proceeding pending against himself or herself. However, this subdivision shall not be construed to deprive an attorney of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subdivision shall not be construed to require an attorney to cooperate with a request that requires him or her to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the attorney's practice. Any exercise by an attorney of any constitutional or statutory privilege shall not be used against the attorney in a regulatory or disciplinary proceeding against him or her.
- (j) To comply with the requirements of Section 6002.1.
- (k) To comply with all conditions attached to any disciplinary probation, including a probation imposed with the concurrence of the attorney.
- (l) To keep all agreements made in lieu of disciplinary prosecution with the State Bar.
- (m) To respond promptly to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in matters with regard to which the attorney has agreed to provide legal services.

(n) To provide copies to the client of certain documents under time limits and as prescribed in a rule of professional conduct which the board shall adopt.

(o) To report to the State Bar, in writing, within 30 days of the time the attorney has knowledge of any of the following:

(1) The filing of three or more lawsuits in a 12-month period against the attorney for malpractice or other wrongful conduct committed in a professional capacity.

(2) The entry of judgment against the attorney in a civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity.

(3) The imposition of judicial sanctions against the attorney, except for sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars (\$1,000).

(4) The bringing of an indictment or information charging a felony against the attorney.

(5) The conviction of the attorney, including any verdict of guilty, or plea of guilty or no contest, of a felony, or a misdemeanor committed in the course of the practice of law, or in a manner in which a client of the attorney was the victim, or a necessary element of which, as determined by the statutory or common law definition of the misdemeanor, involves improper conduct of an attorney, including dishonesty or other moral turpitude, or an attempt or a conspiracy or solicitation of another to commit a felony or a misdemeanor of that type.

(6) The imposition of discipline against the attorney by a professional or occupational disciplinary agency or licensing board, whether in California or elsewhere.

(7) Reversal of judgment in a proceeding based in whole or in part upon misconduct, grossly incompetent representation, or willful misrepresentation by an attorney.

(8) As used in this subdivision, "against the attorney" includes claims and proceedings against any firm of attorneys for the practice of law in which the attorney was a partner at the time of the conduct complained of and any law corporation in which the attorney was a shareholder at the time of the conduct complained of unless the matter has to the attorney's knowledge already been reported by the law firm or corporation.

(9) The State Bar may develop a prescribed form for the making of reports required by this section, usage of which it may require by rule or regulation.

(10) This subdivision is only intended to provide that the failure to report as required herein may serve as a basis of discipline.

(Amended by Stats. 2018, Ch. 659, Sec. 50. (AB 3249) Effective January 1, 2019.)


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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.)*

CHAPTER 11.3. Private Investigators [7512 - 7573.5] (*Chapter 11.3 added by Stats. 1994, Ch. 1285, Sec. 4.)*

ARTICLE 3. Regulation, Licensing, and Registration [7520 - 7539] (*Article 3 added by Stats. 1994, Ch. 1285, Sec. 4.)*

7521. A private investigator within the meaning of this chapter is a person, other than an insurance adjuster subject to the provisions of Chapter 1 (commencing with Section 14000) of Division 5 of the Insurance Code, who, for any consideration whatsoever engages in business or accepts employment to furnish or agrees to furnish any person to protect persons pursuant to Section 7521.5, or engages in business or accepts employment to furnish, or agrees to make, or makes, any investigation for the purpose of obtaining, information with reference to:

- (a) Crime or wrongs done or threatened against the United States of America or any state or territory of the United States of America.
- (b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person.
- (c) The location, disposition, or recovery of lost or stolen property.
- (d) The cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or to property.
- (e) Securing evidence to be used before any court, board, officer, or investigating committee.

For the purposes of this section, a private investigator is any person, as defined in Section 7512.3, acting for the purpose of investigating, obtaining, and reporting to any employer, or an agent designated by the employer, information concerning the employer's employees involving questions of integrity, honesty, breach of rules, or other standards of performance of job duties.

This section does not apply to a public utility regulated by the Public Utilities Commission, or its employees.

(Amended by Stats. 2018, Ch. 92, Sec. 6. (SB 1289) Effective January 1, 2019.)


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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11] (*Heading of Division 3 added by Stats. 1939, Ch. 30.*)

CHAPTER 11.3. Private Investigators [7512 - 7573.5] (*Chapter 11.3 added by Stats. 1994, Ch. 1285, Sec. 4.*)

ARTICLE 3. Regulation, Licensing, and Registration [7520 - 7539] (*Article 3 added by Stats. 1994, Ch. 1285, Sec. 4.*)

7522. This chapter does not apply to:

- (a) A person employed exclusively and regularly by any employer who does not provide contract security services for other entities or persons, in connection with the affairs of that employer only and where there exists an employer-employee relationship if that person at no time carries or uses any deadly weapon in the performance of that person's duties. For purposes of this subdivision, "deadly weapon" is defined to include any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade and any metal pipe or bar used or intended to be used as a club.
- (b) An officer or employee of the United States, or of this state or a political subdivision thereof, while the officer or employee is engaged in the performance of that officer's or employee's official duties, including uniformed peace officers employed part time by a public agency pursuant to a written agreement between a chief of police or sheriff and the public agency, provided the part-time employment does not exceed 50 hours in any calendar month.
- (c) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.
- (d) A charitable philanthropic society or association duly incorporated under the laws of this state which is organized and maintained for the public good and not for private profit.
- (e) An attorney at law in performing the attorney's duties as an attorney at law.
- (f) Admitted insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them.
- (g) Any bank subject to the jurisdiction of the Commissioner of Business Oversight under Division 1 (commencing with Section 99) of the Financial Code or the Comptroller of the Currency of the United States.
- (h) A person engaged solely in the business of securing information about persons or property from public records.
- (i) A peace officer of this state or a political subdivision thereof while the peace officer is employed by a private employer to engage in off-duty employment in accordance with Section 1126 of the Government Code. However, nothing herein shall exempt a peace officer who either contracts for the peace officer's services or the services of others as a private investigator or contracts for the peace officer's services as or is employed as an armed private investigator. For purposes of this subdivision, "armed private investigator" means an individual who carries or uses a firearm in the course and scope of that contract or employment.
- (j) A licensed insurance adjuster in performing the adjuster's duties within the scope of the adjuster's license as an insurance adjuster.
- (k) Any savings association subject to the jurisdiction of the Commissioner of Business Oversight or the Comptroller of the Currency.
- (l) Any secured creditor engaged in the repossession of the creditor's collateral and any lessor engaged in the repossession of leased property in which it claims an interest.
- (m) The act of serving process by an individual who is registered as a process server pursuant to Section 22350.

(n) (1) A person or business engaged in conducting objective observations of consumer purchases of products or services in the public environments of a business establishment by the use of a preestablished questionnaire, provided that person or business entity does not engage in any other activity that requires licensure pursuant to this chapter. The questionnaire may include objective comments.

(2) If a preestablished questionnaire is used as a basis, but not the sole basis, for disciplining or discharging an employee, or for conducting an interview with the employee that might result in the employee being terminated, the employer shall provide the employee with a copy of that questionnaire using the same procedures that an employer is required to follow under Section 2930 of the Labor Code for providing an employee with a copy of a shopping investigator's report. This subdivision does not exempt from this chapter a person or business described in paragraph (1) if a preestablished questionnaire of that person or business is used as the sole basis for evaluating an employee's work performance.

(o) Any joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (Section 175a of Title 29 of the United States Code), or its employees, where either the committee or employee is performing a function authorized by the federal Labor Management Cooperation Act of 1978, which includes, but is not limited to, monitoring public works projects to ensure that employers are complying with federal and state public works laws.

(Amended by Stats. 2019, Ch. 143, Sec. 2. (SB 251) Effective January 1, 2020.)

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May 27, 2022

VIA E-MAIL

Jay Jambeck
180 Harbor Drive, Suite 104
Sausalito, CA 94965
jjambeck@leighlawgroup.com

Re: Response to Councilmember Brett Watson's PRA Requests

Dear Mr. Jambeck:

This letter responds to Councilmember Brett Watson's Public Records Act requests the City received via e-mail on May 20, May 23, and May 25, 2022. In total, Mr. Watson requested the following:

1. Audio Recordings from the investigation.
2. Name of the person who chose the investigator.
3. All email responses from [REDACTED] to my emails included in the 600 page investigation report.
- [4.] Any and all information APD has on me in a file or any location.
- [5.] Is there an active investigation into me?
- [6.] Has there ever been an investigation into me?
- [7.] Am I considered a threat to the public or city employees?
- [8.] Have I ever been considered a threat?

At the outset, please note that the Government Code defines the word "public record" as "any writing containing information relating to the conduct of the public's business prepared,

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Jay Jambeck
May 27, 2022
Page 2

owned, used, or retained by any state or local agency regardless of physical form or characteristics.” (Gov. Code § 6252(e).) The Government Code defines the word “writing” as “any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form or communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.” (Gov. Code § 6252(g).) Thus, while the City has a duty to respond to public records requests, the purpose of a public records request is to provide records that are used or retained by the local government in the conduct of its business and not to provide answers to questions. Based thereon, the City does not provide responses to your questions identified as #2, #5, #6, #7, or #8.

Addressing Mr. Watson’s request for audio recordings of the investigation, the City does not have in its possession the audio recordings that the investigator identifies in the investigation report. Moreover, as Mr. Watson is aware, during the pendency of the investigation into allegations that Mr. Watson sexually harassed and created a hostile work environment for [REDACTED] the City learned and has since initiated an investigation into allegations that Mr. Watson has sexually harassed and created a hostile work environment for other City employees. While the City does not presently possess the recordings, to the extent that it does obtain such recordings, it also hereby advises Mr. Watson pursuant to Government Code § 6255 and akin to Government Code § 6254(f) that it will delay the disclosure of such recordings until such time as the disclosure will not interfere with the investigation and will need to assess similar to Government Code § 6254(f) whether “the public interest in withholding the audio recording clearly outweighs the public interest in disclosure because the release of the recording would, based on the facts and circumstances depicted in the recording, violate the reasonable expectation of privacy of a subject depicted in the recording.” (*Id.*) Again, such a determination would need to be made upon receipt of the audio recordings by the City which has not yet occurred.

Addressing Mr. Watson’s request for “[a]ll email responses from [REDACTED] to my emails in the 600 page investigation report,” City staff are searching for responsive documents and anticipate they will be available on or before June 17, 2022. Please be advised that once the City locates all responsive documents, it will redact from the documents personal phone numbers, home addresses, and other personal identifying information. In general, the Public Records Act protects the confidentiality of personal information in order to protect an individual’s right to privacy. (*Planned Parenthood Golden Gate v. Superior Court* (2000) 83 Cal.App.4th 347, 366-367 [strong privacy interest in avoiding disclosure of residential addresses and phone numbers]; *Dept. of Defense v. FLRA* (1994) 510 U.S. 487, 489, 500-501 [an individual’s interest in controlling the dissemination of information regarding personal matters does not dissolve simply because that information may be available to the public in some form]; *City of San Jose v. Superior Court* (1999) 74 Cal. App.

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Jay Jambeck
May 27, 2022
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4th 1008, 1023-1024 [citizens who complain to their local government have a significant privacy interest in their names, home addresses and home telephone numbers].) As such, the public interest in protecting the confidentiality of the personal information described above clearly outweighs any public interest served by disclosure and that information will need to be redacted before the City produces these records to Mr. Watson. (Gov. Code § 6255.)

Addressing Mr. Watson's request for "[a]ny and all information APD has on me in a file or any location," it is unclear what information Mr. Watson is requesting. Pursuant to Government Code § 6253.1 and reading this request with the questions Mr. Watson asked in requests #5, #6, #7, and #8, it appears that Mr. Watson is attempting to request any and all records regarding an ongoing investigation by the Arcata Police Department into whether Mr. Watson is a threat to the public and/or City employee(s). If this is the information that Mr. Watson is seeking, Government Code § 6254(f) exempts from disclosure "[r]ecords of complaints to, or investigations conducted by, or records of intelligence information or security procedures of" law enforcement agencies. As such, the records it appears Mr. Watson is attempting to request in #4 would be exempt from disclosure per that code section as well as for the reasons stated above pursuant to Government Code § 6255.

Because the City is not disclosing the privileged and exempt documents and information described above, the Public Records Act requires the City to provide a written response when a records request is denied, either in whole or in part. (Gov. Code § 6255, subd. (b).) The Public Records Act also requires that notification of denial of any request for records must include the names and titles or positions of each person responsible for the denial. (Gov. Code § 6253, subd. (d).) With the name and title of the undersigned, this letter fulfills both of the aforementioned legal requirements.

Best,



Thomas M. OConnell
Partner of BEST BEST & KRIEGER LLP
Special Employment Counsel for City of Arcata

TMO:ah

cc: City Attorney Nancy Diamond (ndiamond@ndiamondlaw.com)

john@bsinorcal.com

From: Brett Watson <brettintherye@gmail.com>
Sent: Friday, September 23, 2022 3:59 PM
To: john@bsinorcal.com
Subject: Fwd: Watson Investigation

Email chain from BA Investigations. Barry Aninag is his name. He says in an email hes working on my complaint.

----- Forwarded message -----

From: Brett Watson <brettintherye@gmail.com>
Date: Mon, Sep 19, 2022, 10:11 AM
Subject: Re: Watson Investigation
To: Jay Jambeck <jjambeck@leighlawgroup.com>

Works for me. Thanks.

On Mon, Sep 19, 2022, 9:54 AM Jay Jambeck <jjambeck@leighlawgroup.com> wrote:
FYI.

Sent from my iPhone

Begin forwarded message:

From: BA Inv <barryainv@gmail.com>
Date: September 19, 2022 at 5:19:17 PM GMT+1
To: Jay Jambeck <jjambeck@leighlawgroup.com>
Subject: Re: Watson Investigation

I am unavailable this week and next week is almost booked up. The week of October 3rd looks pretty open.

On Mon, Sep 19, 2022 at 9:05 AM Jay Jambeck <jjambeck@leighlawgroup.com> wrote:

Actually, I see now that Brett is unavailable that day. Let me coordinate our schedules and propose some dates.

From: Jay Jambeck
Sent: Monday, September 19, 2022 4:59 PM
To: BA Inv <barryainv@gmail.com>
Subject: RE: Watson Investigation

Yes, we can make 9/22 work if that works for you.

From: BA Inv <barryainv@gmail.com>
Sent: Monday, September 19, 2022 3:36 PM
To: Jay Jambeck <jjambeck@leighlawgroup.com>
Subject: Re: Watson Investigation

Mr. Jambeck,

I am checking on the status of Mr. Watson's complaint. From on our discussion last month, I believe you mentioned that you would contact Mr. Watson in order to move his complaint forward. Let me know where we are at and if I can schedule an interview with Mr. Watson in the coming weeks.

Barry

On Tue, Aug 16, 2022 at 11:35 AM Jay Jambeck <jjambeck@leighlawgroup.com> wrote:

I'm at [REDACTED].

Sent from my iPhone

On Aug 16, 2022, at 11:17 AM, BA Inv <barryainv@gmail.com> wrote:

Can I give you a call about 11:45?

On Tue, Aug 16, 2022 at 10:49 AM Jay Jambeck <jjambeck@leighlawgroup.com> wrote:

Barry:

Sorry for the missed connection. Just tried your number. I am available for a call this morning if that works for you.

Jay

From: BA Inv <barryainv@gmail.com>
Sent: Monday, August 8, 2022 10:48 AM
To: Jay Jambeck <jjambeck@leighlawgroup.com>
Subject: Re: Watson Investigation

Thank you. You can call me on my cell: [REDACTED].

On Mon, Aug 8, 2022 at 10:45 AM Jay Jambeck <jjambeck@leighlawgroup.com> wrote:

Yes, tomorrow at 9:00 am works.

Sent from my iPhone

On Aug 8, 2022, at 10:44 AM, BA Inv <barryainv@gmail.com> wrote:

Mr. Jambeck,

My name is Barry Aninag and I am a private investigator. Thomas O'Connell requested I contact regarding an investigation for Mr. Watson. Do you have any availability tomorrow or on Wednesday for a phone call to discuss?

--

Barry Aninag

B.A. Investigations

[27758 Santa Margarita Parkway #594](#)

[Mission Viejo, CA 92691](#)

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From: Misetich, Jennifer M. <jmisetich@buchalter.com>
Sent: Monday, July 18, 2022 12:50 PM
To: Jay Jambeck <jjambeck@leighlawgroup.com>
Cc: O'Connell, Thomas M. <toconnell@buchalter.com>
Subject: RE: Arcata/Watson: Communications Protocols [IMAN-BN.FID4108258]

Mr. Jambeck:

Mr. Watson has inquired about who hired the investigator that has issued the initial report against him. Please advise as to that and provide us the retainer agreement for the investigator. Mr. Watson is not entitled to this information as the respondent of the investigation. Nevertheless, the investigator was chosen in accordance with the City's Anti-Harassment and Discrimination Policy by the [REDACTED] in consultation with the City's insurance carrier and City Attorney.

Please let us know if you have any questions regarding the above and when you are available for a call to discuss further.

Jennifer Misetich | Buchalter, A Professional Corporation | 1000 Wilshire Boulevard, Suite 1500 | Los Angeles, CA 90017-1730 | Direct Dial: (310) 749-1883 | Main Number: (213) 891-0700 | jmisetich@buchalter.com | www.buchalter.com

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