

*Law Office of*  
**LES GREENBERG**  
10732 Farragut Drive  
Culver City, California 90230-4105  
Tele. (310) 838-8105  
E-Mail: LGreenberg@LGEsquire.com

November 17, 2019

VIA EMAIL

Ms. Jane Leonard, Chair  
Finance Advisory Committee  
City of Culver City—City Hall  
9770 Culver Boulevard  
Culver City, CA 90232

Re: Finance Advisory Committee  
November 20, 2019 Meeting, Item A-1  
Internal Audit Report of Enterprise Risk Assessment  
Section M: The Fraud, Waste, and Abuse – "Pilot Program"

Dear Ms. Leonard:

This letter supplements my November 12 letter to the Finance Advisory Committee (FAC). It reveals additional deceptive acts by City Manager John Nachbar (Nachbar) and City Attorney Carol Schwab (Schwab)(collectively Schwab/Nachbar). A fraud, waste, and abuse (FWA) hotline is only effective where the FWA-answering service delivers its reports only to the Internal Auditor, a "neutral." Delivery to Schwab, instead of a "neutral," corrupts the process. By secretly installing a "pilot program," Schwab/Nachbar are attempting to cause the FAC to reject the longstanding and repeated "Internal Auditor" recommendations of Moss Adams LLP (Moss) and related approvals by the FAC, Ad-Hoc Subcommittee on Internal Controls and the City Council. The FAC has the power to and should rebuff Schwab/Nachbar's efforts.

At pages 41-42, buried within the 59-page *City of Culver City Enterprise Risk Assessment* (November 15, 2019)(ERA), Moss states, in part:

The City has committed to fully implementing a Fraud, Waste and Abuse Program per the recommendations of Moss Adams. ... The City reports in October 2019 that they are in final contract review with a whistleblower hotline service provider. ... Once the contract has been approved, the City plans to first conduct a pilot program, which will initially direct any reports or calls to the City Attorney's Office. Based on the activity during the pilot program, the City will implement a full roll-out of the hotline. (Emphasis added.)

Moss's original recommendation remains intact—any FWA-Hotline-answering service reports directly to the Internal Auditor. It does not recommend the "pilot program."

Schwab/Nachbar's acts raise several concerns and questions:

(1) Why did Schwab/Nachbar not consult with the FAC with regard to the so-called "pilot program"? Do they ever intend to do so?

(2) Are there any writings that set forth details of the "pilot program," e.g., the Culver City-Lighthouse Services LLC (Lighthouse) contract? If so, why have Schwab/Nachbar not provided a copy of the writings to the FAC?

(3) How did Moss learn of the "pilot program"? Why did Moss's source not similarly inform the FAC?

(4) Who misinformed Moss that Lighthouse would "initially direct any reports or calls to the City Attorney's Office," when the Culver City-Lighthouse contract requires Lighthouse to report to the Carol Schwab (City Attorney), Serena Wright (Assistant City Manager), and Onyx Jones (Chief Financial Officer)? The latter two are not part of the City Attorney's Office.

(5) What is Schwab/Nachbar's rationale to depart from Culver City's longstanding commitment to Moss's recommendation that Lighthouse deliver its reports to the Internal Auditor, e.g., Moss? When were Schwab/Nachbar first aware of it?

(6) What criteria and acts constitute "based on the activity"? Who makes any related decisions as to whether the criteria are met, and how do they do it?

(7) Does "[b]ased on the activity ... the City will implement a full roll-out of the hotline" mean that, if the "activity" is not at a sufficient level, "the City will [not] implement a full roll-out"? On the other hand, if, in any event, [t]he City has committed to fully implementing a Fraud, Waste and Abuse Program per the recommendations of Moss Adams," what rationale justifies having any "pilot program"?

(8) What constitutes "a full roll-out of the hotline"?

(9) How long may the "pilot program" exist before "the City will implement a full roll-out of the hotline"? Is there any assurance that the "full roll-out" will ever occur?

General confidence in the hotlines is low enough that it does not need to be further complicated with the "pilot program." Forty-four percent of the participants in the "Employee Survey" have little confidence in receiving whistle-blower protection from Culver City. (ERA, p. 41.) Only supervisors, managers and director-level employees participated in the "Employee Survey." Eighty-six percent of Culver City's employees did not participate. (ERA, pp. 6, 27.) It is doubtful that participants were informed of the "pilot program" or that FWA-Hotline reports would be directed to Schwab, Wright, and Jones. Confidence in the FWA Hotline's ability to protect whistle-blowers would further erode due to the "pilot program."

I suggest a few options that are available to the FAC:

- Delay authorizing the ERA for transmittal to the City Council until the FAC agendas and thoroughly discusses the "pilot program" and the need, if any, for it; or

Ms. Jane Leonard, Chair  
Finance Advisory Committee  
November 17, 2019  
Page 3

- Authorize the ERA for transmittal to the City Council, but accompany the transmittal with a written endorsement of the validity the concerns set forth in my letters.

Whether the City Council receives the ERA next week, next month, or next year is of little importance to its decision-making ability. However, it makes a big difference if the FAC fails to determine details of "pilot program" and, thus, deprives Culver City residents of transparency and confidence in our government.

Through the past several months, the FAC has learned that my wife and I are Culver City residents concerned with governmental efficiency, fiscal responsibility and accountability. We value the rule of law and are against government by fiat. We have expended much effort supporting those concerns and values by urging City Culver to adopt both an effective FWA Hotline and a formal suggestion system. We do not have the power to implement change; the FAC has that power. We hope that the FAC shares our concerns and democratic values, and acts accordingly.

Truly yours,

LES GREENBERG

ec: Alex Fisch, Council Member, Ad Hoc Subcommittee on Internal Controls  
Thomas Aujero Small, Council Member, Ad Hoc Subcommittee on Internal Controls  
Meghan Sahli-Wells, Mayor  
Göran Eriksson, Vice Mayor  
Daniel Lee, Council Member  
Mr. John Nachbar, City Manager  
Ms. Carol A. Schwab, City Attorney  
Ms. Oynx Jones, Chief Financial Officer