

Attachment 1 to AG Complaint re: Pacifica Foundation Radio,

March 23, 2014

Attachment 1A

Main Complaint:

Pacifica Foundation Radio (PFR), a network of five radio stations, 180 affiliates and a national radio archives headquartered in California, is suffering from a derelict Board of Directors whose actions have threatened the 65-year-old nonprofit with imminent collapse. We, a coalition of past board members from all five PFR stations, implore the Attorney General's Office to investigate these serious and substantive breaches of duty on behalf of the residents of California, donors and members nationwide, and the integrity of this charitable trust. Immediate intervention is required due to reckless actions, failure to fulfill basic responsibilities like issuing minutes, and an irregular board configuration.

A sudden and unannounced motion was approved by the Board on February 10, 2014 to re-hire the corporation's Chief Financial Officer, Raul Salvador, who had been terminated shortly before at the end of his probationary period on January 2nd, following an unsatisfactory performance evaluation, several employee complaints, and an uncompleted sexual harassment investigation.

A sudden and unannounced motion was approved by a slim majority of the Board on March 13, 2014, in which not all Board members were present, with no advance notice provided to other Board members to terminate the Executive Director Summer Reese, and with at least one Board member not present and not aware until after the meeting of the unnoticed motion to terminate.

No reasons were given to members of the Board for the re-hire of the CFO, nor for the sudden termination of the ED at the time the motions were presented, or since. Despite repeated requests from other Board members, no legal advice was made available to the Board. The Corporate Counsel was not made available to the Board and has not met with the Board in more than 7 weeks. The ED action breached a signed employment contract requiring a performance evaluation, progressive discipline and stated cause and potentially introduces hundreds of thousands dollars in liability if challenged in court.

The board has presented no minutes to the members, nor to the public since the 2014 Board of Directors was seated on January 30, 2014. They say they are "having trouble producing them".

The Board did not make any provisions for continuing operations, nor to set up a search committee for an interim Executive Director (iED) during the meeting in which they voted to terminate the ED. They did not find a possible temporary iED until a week later when the Board was asked to install as a temporary IED a station manager who has resigned from PFR's Los Angeles station KPFK only 8 weeks before and was still being paid under a separation agreement. The proposed candidate was presented only an hour before the board met. No alternative candidates were presented. The candidate said he intends to relocate to New Zealand shortly, so he presumably is a temporary occupant for the position. The only candidate had a dubious record as KPFK's General Manager, having been fined by the FCC

for public file violations, presided over the complete loss of all Corporation for Public Broadcasting Community Service Funding for low listenership at the station he managed, and allowing, after being notified, the station's accounting manager to conduct a side business completing tax returns for H&R Block on Pacifica's computer network and during working hours – (the reason his resignation was solicited).

Pacifica has to pay very high premiums for Directors and Officers (D&O) insurance, after having been turned down by approximately 20 insurance companies, because of reckless personnel decisions which resulted in lawsuits from employees, in which PFR had to pay large settlements. PFR's insurance carrier recently wrote a letter that insurability was in danger and they risked becoming uninsurable. This reminder was given to the Board just before they voted to terminate the ED and breach the employment contract.

The board making these decisions is out of compliance with CA Corporations Code and Board decorum.

Board chair Margy Wilkinson was found likely to have committed a breach of fiduciary duty against Pacifica Foundation Radio in 2012 by The California Court of Appeals (RG1115942), for collecting pledges for a private organization from people who intended to donate to Pacifica station KPFA, but which pledges were not turned over to the station. Wilkinson's election as chair of the board is disputed. She only received 11 votes, relying on a mis-marked ballot placing her in 5th place in a 2-candidate race and rammed through a vote affirming her victory while a board member who disputed the use of the invalid ballot mark was in the bathroom.

Vice Chair Tony Norman, is ineligible to serve on the Board and is holding his position in violation of the organizational Bylaws which prevent elected officials from serving on the Board. Norman did not reveal he was an elected official when he ran for his position.

Secretary Cerene Roberts has failed to produce even one set of draft minutes since assuming the position of Foundation Secretary in early February, placing the Board in violation of the CA Corporations Code and Corporation for Public Broadcasting Open Meeting Requirements, endangering over \$1,000,000 in annual funding.

The Board has appointed no board member to the Treasurer position which has been unfilled for almost two months. The previous treasurer is no longer a member of the board and has no access to board executive sessions or ability to fulfill the responsibilities of an Officer.

Another Board member, Oakland attorney Jose Luis Fuentes, recklessly threatened and intimidated Human Resources attorney Cathy Harris of Kator, Parks Weiser and Harris (<http://www.katorparks.com/attorneys/cathy-harris/>) at a February Board meeting to the extent that she fled the meeting, depriving the Board of her much-needed HR expertise when they were considering important personnel actions. A California state bar complaint is pending against Mr. Fuentes.

Attachment 1B

Have charitable funds or other assets been lost, wasted or diverted from proper charitable purposes? Or, is there a danger that such loss will soon occur? Please explain, giving your best estimate of the amount lost or at risk, if you know:

Pacifica Foundation Radio, without intervention, is likely to face a lawsuit from the Executive Director (ED) for breach of contract. The financial risk for this is the amount of the recently-approved 3-year contract, \$315,000, plus attorney fees and court costs.

Extreme risk caused by unlimited liability to lawsuits because of likely cancellation and non-renewal of Directors and Officers Liability Insurance.

Salary for the re-hired CFO who generated a sexual harassment complaint and had shown himself unable to produce the required financial reports for the Board and the audit form, including filing an incomplete 990 form requiring an amendment and allowing bank accounts to remain unreconciled at at least two divisions for up to a year.

Possible loss of the license (worth an estimated \$50 million) at PFR's station WBAI, in that station's license renewal process with the FCC in the next few months due to PFR's inability to demonstrate financial viability because of the reckless actions of the Board of Directors.

Attachment 1C

What action has already been taken, either within the organization or with other law enforcement agencies, to try to resolve this problem:

A request for a Temporary Restraining Order will be filed shortly, asking that the Executive Director's contract be recognized and the termination of the ED be declared null and void, so that she may continue her work for the Foundation without interference. However, we do not know when, or if, such a TRO may be granted, nor what specifics it will have.

The Executive Director, if allowed to continue her work, wishes to conduct an internal investigation into why the general ledger has not been reconciled in two divisions for over a year, why the ousted CFO was not able to get that done, what else may be covered up, and she wishes to take corrective action as needed. However, this has not been done yet due to interference from the Board of Directors.

Attachment 1D

List the names, addresses and telephone numbers, if known, of all persons you believe may be responsible for this problem:

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