

EXHIBIT [E7]

PLAINTIFF'S COMPLAINT TO SGT. MACCHIAROLI OF THE SANTA AN POLICE DEPARTMENT¹

AUGUST 5, 2020

[(0:00)] Sgt. Macchiaroli: [inaudible]

[(0:02)] Plaintiff: Okay.

[(0:03)] Sgt. Macchiaroli: In reading this, it looks like the main complaint on the two sergeants was that they didn't want to take a crime report. Am I understanding that?

[(0:15)] Plaintiff: Yes.

[(0:16)] Sgt. Macchiaroli: Or do you want to... Is there anything else [inaudible]

[(0:19)] Plaintiff: Just in different words, I think you're hitting the nail on the head, totally. The several judges... There's a policy in the state of California, public policy. I did not include it in there. It's called Business and Professions Code 7031 A and 7031 B. Basically, what this public policy does is it violates the state and federal constitution. So it's wholly unconstitutional. Let's hypothetically say that you hired me to build you a house, and I spent a million bucks, and I built contractor, under this law, I have to give you the million dollars back and you get to keep the house.

[(1:18)] Sgt. Macchiaroli: Okay.

[(1:18)] Plaintiff: So, that's an unconstitutional fine. It's an excessive fine. And so it has to go through the criteria that I outlined in there. That's what the judges have to do. They have to apply the Excessive Fines Clause. And if they don't do that, they're unlawfully taking property. So basically, what's happening right now is the court has ordered that I have to give back nearly a million dollars. They did not allow for all of the offsets for all the work that I did, and they did not, what you may call it, apply the principles of the Excessive Fines Clause. Now, there's another element that I did not include in there. And if we get more detailed into the factual elements of the complaint... I'm sure you're aware that Penal Laws have to be prosecuted by the state, right?

¹ NOTE: All efforts have been made to ensure this transcript's accuracy. However, it was created by a third-party transcription company. It is not a verbatim transcript in that 'words' such as "um" and "uh", stuttering, and other 'abnormalities' inconsistent with written speech have been excluded. Because neither the transcriber nor Plaintiff's assistant (who reviewed the transcript for accuracy) were present during the call, there may be slight discrepancies. The actual audio recording should be relied upon for best evidence.

[(2:18)] Sgt. Macchiaroli: I know you were talking about the theft. You're bringing that up.

[(2:25)] Plaintiff: No, what I'm saying is that, if you go out in your job and you arrest someone for robbery, I can't prosecute that person, right? The state has to do it. The district attorney has to do it on behalf of the people of California, correct?

[(2:41)] Sgt. Macchiaroli: Yes.

[(2:41)] Plaintiff: Okay.

[(2:42)] Sgt. Macchiaroli: Obviously, you're a victim and all that. Yes.

[(2:43)] Plaintiff: Right. Exactly. So there's no victim in this "crime," and yet this law is entirely penal. And so under the law, again, this is a highly lawfully complex argument. It's something that I'm sharing with you. But just to give you another principle about the illegality of it, is that because it's a penal law, it can't be prosecuted by a private party. It has to be prosecuted by the DA, on behalf of the people of California. But yet, in this instance, somehow they have tried this...

[(3:23)] Sgt. Macchiaroli: [inaudible] I guess, why did you feel like that you need to file it here at Santa Ana.

[(3:29)] Plaintiff: Well, because this is where the crime occurred, at the Superior Court in Santa Ana and the other justices that are involved are at the Fourth District Court of Appeal in Santa Ana.

[(3:41)] Sgt. Macchiaroli: I did some research myself because obviously this is involving a lot of claims, and obviously, you went through superior and then the appellate court and all that. So I'm looking at some stuff and it says that for judges, it seems like the... I guess it's called the Commission on Judicial Performance for the ones that investigate the misconduct by these judges.

[(4:16)] Plaintiff: They do not investigate criminal misconduct.

[(4:21)] Sgt. Macchiaroli: And again, as far as this type of... that you're looking at is kind of a civil matter.

[(4:31)] Plaintiff: No, it's not. If the judge breaks the law and takes some property that they don't have lawful authority to take, that's...

[(4:42)] Sgt. Macchiaroli: What property is this that they're taking?

[(4:43)] Plaintiff: \$930,000

[(4:49)] Sgt. Macchiaroli: Again, it's kind of like small claims court, right? when people... they

damage my property and I'm suing them for the damages. They're saying that you owe this money. Again, this is something that you guys obviously went to court on, and looks like, obviously, you lost and now they're, I guess, requiring some money [crosstalk] [inaudible]

[(5:14)] Plaintiff: Okay, so in the discharge of your duty, there are laws that you have to follow, correct?

[(5:22)] Sgt. Macchiaroli: Yes.

[(5:22)] Plaintiff: Okay. And if you don't follow those laws or you break them, you can be committing a criminal act. Is that correct?

[(5:31)] Sgt. Macchiaroli: Yes.

[(5:31)] Plaintiff: Okay. And if you commit that criminal act, it's not a civil matter, you can be arrested and put in jail, correct?

[(5:40)] Sgt. Macchiaroli: For criminal. Yes.

[(5:41)] Plaintiff: Okay. So now, if you, under color of your authority as a police officer, took money from someone that wasn't yours, or took it from them and gave it to someone else when you didn't have authority to do that, could that be a criminal act?

[(5:59)] Sgt. Macchiaroli: If I stole somebody's money, yes. But basically this is for, I guess, services that you rendered on this house that you remodeled and were unlicensed. And then they're saying all this money is owed. It's kind of how I was understanding that.

[(6:20)] Plaintiff: So that's where you cut me off. I was trying to explain a little bit more of that. If we stay with the general principle of the judge, a police officer, any public official, there are laws that have to be followed. And if they don't follow those laws and they take something that doesn't belong to them and give it to someone else, that's theft. That's a criminal act.

[(6:47)] Sgt. Macchiaroli: If you have an issue with their ruling on that, then you're gonna have to take it up with that Commission on Judicial Performance.

[(6:52)] Plaintiff: But they don't investigate [crosstalk] criminal acts.

[(6:56)] Sgt. Macchiaroli: Well, that's where you're going to need to start because we're not going to take a police report for the theft.

[(7:03)] Plaintiff: Okay. I started with them, and they told me that they do not investigate criminal acts by judges.

[(7:11)] Sgt. Macchiaroli: Well, this is not the AG. This is the commission. If you go online, they kind of walk you through everything. How to file a complaint.

[(7:19)] Plaintiff: I've been at this for years, and I'm well aware of what the complaint process is and how to use it and what they do and don't do. If you just ha on one sec, I will direct you to a website that shows exactly what the Commission on Judicial Performance investigates and what they don't investigate, and what they do not... They do not have police officer powers to investigate crimes. They are simply an administrative agency.

[(7:46)] Sgt. Macchiaroli: We're not going to investigate the judge demanding you pay back the fees on this remodel that you did. We will not investigate that.

[(7:59)] Plaintiff: Well, if it was a crime, it's your job to. But what's happening is that you're not seeing the criminal link for it. And so I'm okay with that. But what I would appreciate is that if you could share with me how it's not a crime. I'm totally open to hear what you have to say. I'm open to being completely wrong. Look, I'm not sure if you're aware, but I was a policeman for about 10 years, too. So I have a lot of experience being out on the street, looking at what's criminal and what's not. And frankly, if something like this had come to me when I was a police officer, I probably would have said, mm, I don't know that sounds like an issue to deal with the judges and the Judicial Council. But I've been at this for years now and I've done the investigative work and I...

[(8:53)] Sgt. Macchiaroli: So you're telling me that the Commission on Judicial Performance told you to come to our police department and file a police report.

[(8:58)] Plaintiff: They did not say that. No. I filed a complaint with them, and they told me that they do not investigate criminal matters against judges. They do not have that power. That's what the police department has power. The police department investigates crimes. The judicial performance investigates complaints against the judicial canons of law. And they are not criminal cannons. They're administrative cannons. So they're their cannons like the judge fell asleep on the bench, the judge took a bribe from somebody, the judge... things like that. The bribe could be a criminal act but it's also an administrative act. So they do not investigate criminal activities of judges. They have not been given that power to do it. So they can't. So the only investigative body that is empowered to investigate criminal activity, as far as I know, in the state of California, as a state agency, is a police department. And that agency is where the crime occurred, which is Santa Ana.

I tried to find the paper that I had printed out but I can't find it. So let me look online. Commission on Judicial Performance. Filing a complaint. Okay, here it is. Types of misconduct: Abuse and contempt of sanctions, administrative malfeasance for improper conduct, alcohol or drug-related conduct, bias appearance towards a particular class, comment on a pending case. It just goes through this whole list of behaviors here. Some of them actually say non-substance abuse criminal conduct, alcohol or drug-related conduct, but none of them involved theft. And so I filed a complaint with them and gave them the information that you have, and they told me... Let me see if I can find that very quickly.

[background sounds]

Okay, I'll paraphrase for you. "The Commission on Judicial Performance voted to close your

complaint. Even if a judge's decision is later determined to be legal incorrect, that by itself is not a violation of the code of judicial ethics and is not misconduct. With respect to the legal proceedings, you may wish to consult an attorney or other legal services if this can help you. We cannot provide you with legal assistance." So we're back at the place of if the judge commits a crime, who do you report that to?

[(12:58)] Sgt. Macchiaroli: But what we're telling you Mr. Bereki is that the judge basically ordered... This is kind of like restitution. This disgorgement of pay back the fees and penalties and whatnot for unlicensed work that was done. So again, that's something that we're not going to investigate.

[(13:14)] Plaintiff: Okay. If the judge did not have authority to do that, what would that be?

[(13:23)] Sgt. Macchiaroli: When you say they did not have the authority... That's what he ruled on. So if you're disagreeing with his ruling, then again, that's up to you to take up with the Commission. Not saying it's a crime, but saying I disagree with his ruling.

[(13:35)] Plaintiff: So let's say that you're in my position right now, and you were driving without a license. And you went to the court, and the court says, okay... Can I have your first name real quick?

[(14:00)] Sgt. Macchiaroli: Mine?

[(14:00)] Plaintiff: Yeah.

[(14:01)] Sgt. Macchiaroli: Michelle.

[(14:02)] Plaintiff: Okay. He says, okay, Michelle, your fine is a million dollars for driving without a license. And you say, what? Where's your authority to do that judge? And he has none. He's not authorized by law by statute. Nothing. He just says you have to pay a million dollars. And you say, well, Judge, I don't have a million dollars. How am I going to pay that? I don't want to hear it, Michelle. And so you say, well, you're going to force me into bankruptcy then. I don't have the million dollars to pay. And you say, well, Judge, there's the Constitution, and it says that there's an Excessive Fines Clause and that when you fine me, you have to go through these criteria. One of them is my ability to pay and that the fine has to be proportional to the offense, and you didn't do that. Where's your authority to fine me a million dollars? And the judge says, Michelle, I don't want to hear it. Pay the million dollars. et out.

So then in my situation, you go to the Council on judicial performance and you say, this judge didn't have authority to do this. I need you to investigate it. And they say, we're not going to investigate it. So then you go to an appeal, and all three appellate justices uphold that same unconstitutional ruling of the judge. So then you say, well, if the judge didn't have the authority to do this, he's operating on the same principle as an ordinary person, because the judge can only do things within the law.

[(15:42)] Sgt. Macchiaroli: But that's your interpretation that he didn't have the authority for his

ruling.

[(15:48)] Plaintiff: Michelle...

[(15:48)] Sgt. Macchiaroli: Sir, but if the appellate court upheld it, and then the [crosstalk] Constitution on judicial performance as well didn't agree with it...

[(16:00)] Plaintiff: But Michelle what... But what I'm saying is see this...

[(16:01)] Sgt. Macchiaroli: You're the only one that doesn't see that [crosstalk] when these other courts have [inaudible]

[(16:04)] Plaintiff: Okay. Correct. So, what if I'm actually correct? Let's just play with that proposition for right now. What if I'm actually correct, and there was no authority for the judge to do it?

[(16:17)] Sgt. Macchiaroli: Again, you would have to go back to the Commission on Judicial Performance. That's who's going to be able to do anything with this. We're not going to investigate the crime.

[(16:35)] Plaintiff: Wait, you're not going to investigate the crime. Do you hear what you just said?

[(16:39)] Sgt. Macchiaroli: Yes, because it's not a crime.

[(16:41)] Plaintiff: Oh but you just said it was. How is it not a crime?

[(16:50)] Sgt. Macchiaroli: Because he's ordering you to pay back. It's restitution or [inaudible] disgorgement.

[(16:58)] Plaintiff: But it's not restitution. It's not restitution.

[(17:01)] Sgt. Macchiaroli: Okay, disgorgement.

[(17:01)] Plaintiff: Okay. That's a form of restitution, and it's not disgorgement either.

[(17:07)] Sgt. Macchiaroli: But that's what the judge ruled on.

[(17:09)] Plaintiff: Right.

[(17:09)] Sgt. Macchiaroli: That's why I'm saying it's not a crime because, basically, this was a lawsuit that resulted in you having to pay back this money and fine. So again, we're not going to investigate it because it's not a crime. And that's what Sergeant Hernandez and Sergeant [inaudible] were trying to explain.

[(17:28)] Plaintiff: But I'm not able to see how it's not a crime. And so maybe I'm wrong. I'm

asking you to share with me how that's the case, but it doesn't seem like you understand. And I say that because you're referring to it as restitution or a disgorgement. And you don't understand what those principles are.

[(17:50)] Sgt. Macchiaroli: I know what disgorgement is.

[(17:51)] Plaintiff: Okay, what is it?

[(17:53)] Sgt. Macchiaroli: It's basically a repayment of fines based [crosstalk] on an unethical business transaction.

[(17:56)] Plaintiff: Not even close. Not even close. Not even close.

[(18:03)] Sgt. Macchiaroli: Repayment of fines obtained through illegal or unethical business transactions?

[(18:06)] Plaintiff: That's not it.

[(18:07)] Sgt. Macchiaroli: That's not what it is?

[(18:08)] Plaintiff: That's not even...

[(18:08)] Sgt. Macchiaroli: Tell me what it is.

[(18:09)] Plaintiff: Okay. Disgorgement is a principle under the Law of Restitution and Unjust Enrichment. Unjust enrichment means that you do something and you don't lawfully have a right to maintain the profits of that illegal act. A very easy way to understand that would be to take the case of a bank robbery, the example that I used in my complaint. So the bank robber, when he steals 20 grand from the bank, he's been unjustly enriched. The court as a means of restitution can order him to disgorge. The word disgorge means to give up. He has to give up the money that he was unjustly enriched by. In other words, when he robbed the bank, he made 20,000 bucks in profit. So the court says you have to give back that 20,000 bucks. But if the court orders him to give back more than what he took, that would be a penalty. That would be a fine. Disgorgement is not a fine. Disgorgement is the principle of...

[(19:18)] Sgt. Macchiaroli: But it does say it's often with interest and/or penalties.

[(19:23)] Plaintiff: No, no, what are you reading? Can you share with me the source that you're reading that from?

[(19:30)] Sgt. Macchiaroli: If you just look it up. The meaning

[(19:33)] Plaintiff: Okay. You cannot use that. You have to actually go to what the law on the subject is. The definitions that you find by Google searching are not law. You have to go to the court cases. That's why I included LIU v. SEC with you because that is the... LIU v. SEC case is a case that just came down, I believe it was June 22, 2020, from the United States Supreme

Court, the highest court in our country. And they said, "Here's what the law of disgorgement is." In that case, what happened was, this company was started to build, if I remember correctly, a cancer center somewhere in the United States, and they solicited about \$30 million in money to build this center. Well, in this agreement that they had with the investors, they didn't tell the investors what their profits were going to be. So these people started paying themselves millions of dollars in profits. The Cancer Center didn't actually get built, but some things did. They did marketing, they did advertising. I think they may have rented a space for it. Something like that.

So what happened was the Securities and Exchange Commission prosecuted them in federal court in a civil action for fraud and violation of the Securities and Exchange rules. And they used the principle of disgorgement to make them pay back the \$27 million that they were awarded. Both the court said, "Yep, that's it. That's disgorgement." So the case went to the Supreme Court, and the Supreme Court said, "Absolutely not. This is a penalty. Disgorgement is you have to take into account the benefits that were conferred." So what this means is they voided the judgment of the Ninth Circuit Court of Appeals and sent it back to them and said, "You need to do it over again because you're wrong. That's not what disgorgement is. Disgorgement is not to be used in a penal way. It only applies to the amount that was unlawfully taken, or in this case, profits."

So, in my case, the case of building a house, the court was required to go back and find out how much profit I made. I didn't make a million dollars in profit. That was the amount that the whole project cost to build. So if you don't go back and find out what was actually profited by me for these "illegal activity" of not having a license, then you are imposing a fine, and a fine is not disgorgement.

[(22:31)] Sgt. Macchiaroli: I mean, everything that you told me... Basically, they went to the Supreme Court and that is who overturned that, right?

[(22:41)] Plaintiff: Correct.

[(22:41)] Sgt. Macchiaroli: You've just explained to me.

[(22:42)] Plaintiff: Correct.

[(22:43)] Sgt. Macchiaroli: Again, that's something that you would have to do.

[(22:44)] Plaintiff: But I can't. They won't take my case.

[(22:48)] Sgt. Macchiaroli: Well, unfortunately, that's the process that you're gonna have to do because...

[(22:52)] Plaintiff: But I've already done it. Michelle, I already did it. It's discretionary if the Supreme Court wants to take your case. So, that case that I just shared with you isn't my case 100%, but what it is, is the Supreme Court is laying down the law for what the principle in law of disgorgement is.

[(23:13)] Sgt. Macchiaroli: Well, that's something again that you're gonna have to readdress with

them if that's something that just came down. But again, that's something that we're not going to be investigating or doing anything about.

[(23:23)] Plaintiff: But Michelle, what I'm reporting to you is a crime. And you're sharing with me that you're not going to take a crime.

[(23:33)] Sgt. Macchiaroli: We're not going to investigate. No, because it's not a crime for us to investigate.

[(23:37)] Plaintiff: What specifically is not a crime? I would like to...

[(23:42)] Sgt. Macchiaroli: Again, we're going back to you believe it's a crime, we're saying it's not a crime.

[(23:45)] Plaintiff: Okay. But what I'm asking from you is, specifically, what you're saying is not a crime.

[(23:53)] Sgt. Macchiaroli: You're saying the amount that the judge is telling you, you have to pay back is not right. So you're basically saying it's some type of theft on you. Is that what you're...

[(24:05)] Plaintiff: I'm saying that the judge was not authorized by either the Constitution...

[(24:12)] Sgt. Macchiaroli: What crime did he commit?

[(24:14)] Plaintiff: Minimally, theft. I would say robbery because he's using the [inaudible]

[(24:22)] Sgt. Macchiaroli: Again, you have to look at this is a court case where you were required to pay back a certain amount and you don't agree with the amount. And again, there's theft, right? You go to Appellate Court and then the Supreme Court.

[(24:42)] Plaintiff: Okay. But here's what I'm getting at, and the difference is I'm asking if what you're saying is that if the judge can take money or property without lawful authority, that that is not a crime.

[(25:00)] Sgt. Macchiaroli: He did under... when he did the case.

[(25:05)] Plaintiff: No, no. That's where you're wrong,

[(25:10)] Sgt. Macchiaroli: So you're disagreeing with his ruling.

[(25:12)] Plaintiff: No, it's not just a disagreement, Michelle. Let's say this. Let's say that you're out on patrol and you see a guy wearing a pink shirt. And there's no crime for it, but you don't like pink shirts. So you say, come here, asshole, I'm going to arrest you. You're going to jail. And you hook this guy up for wearing a pink shirt. Where's your authority? Is that an unlawful arrest? Did you make that arrest without authority? Of course. So now imagine that guy says, officer,

what's your authority? And you have none. So he goes to the police department, and he says, Internal affairs, Michelle Macchiaroli arrested me for wearing a pink shirt, and I want to know where that crime is. I want to know where the law says that I can't wear a pink shirt is. And they say, well, there is no law but that's not a crime that she arrested you. And he says, well, wait a minute, she took my liberty, she took my time, she took my property, and she had no lawful authority to do it. And then the officer says to her, well, you just disagree with the ruling. You just disagree with Michelle's judgment. And then I say, yeah, I do disagree with her judgment but what I'm asking you is where's the authority for Michelle to do that in the first place? There isn't any. That is what I'm saying is happening in my case. And you guys keep saying, oh, well, you just disagree with the judge. No, what I'm sharing is the judge had no authority to do what he did. He's not a judge if he's doing that, just as you're not acting as a police officer if you don't have a lawful authority to perform an action.

The power of the people of California, the state, is only vested in you to do things which are required by law. If you go outside of those bounds, you are not acting within your authority. And if you do something in that action of your authority, without authority is criminal, like you take something from a prisoner or you arrest somebody without authority, you can be held criminally liable because it is a crime to do that. It's the same thing with the judge. The Constitution and the laws of California say that the judge has to do something within a certain specific bounds. If he doesn't follow those rules, he's not acting in lawful authority. It's not rocket science. It says, judge, when you're going to impose a fine, you have to follow these 4 or 5 criteria. They didn't follow any of them. It's not a lawful fine. And second, the thing that they call disgorgement isn't even disgorgement at all. And the Supreme Court said so. So what is it? It's a fine. I got fined a million bucks. Okay, well, let's look at what the comparable criminal penalty for the same offense is. It's a maximum fine of 5000 bucks. So how do you in a civil case get a fine for a million dollars? Michelle, this stuff does not add up.

[(28:47)] Sgt. Macchiaroli: Well, unfortunately, again, we're not going to be able to help you. So you're gonna have to go through the appeals process.

[(28:53)] Plaintiff: Okay. But I've already gone through the appeals process.

[(28:57)] Sgt. Macchiaroli: That's all I can recommend you do. But as far as us handling anything at this level, we're not going to do it.

[(29:05)] Plaintiff: Okay. So would I be correct in saying that even if a judge does not follow the law, that you are not interested in investigating whether that is criminal activity or not.

[(29:17)] Sgt. Macchiaroli: Again, I'm referring you to the Commission on Judicial Performance for what your situation is. That's what we're talking about here, not hypothetical.

[(29:26)] Plaintiff: I'm not. The situation that I gave you is not a hypothetical. It is my situation.

[(29:33)] Sgt. Macchiaroli: Okay. And again, I'm saying we're not going to investigate this as a crime.

[(29:40)] Plaintiff: Okay, you're not going to investigate whether it's a crime or not or...

[(29:45)] Sgt. Macchiaroli: We're not going to investigate this.

[(29:47)] Plaintiff: Okay, so are you also not going to investigate the complaint that I made against the two supervisors?

[(29:55)] Sgt. Macchiaroli: No, I am investigating it. That's why I was speaking with you and that's why I wanted to clarify that your main complaint was that they refused to take a police report. Is that correct?

[(30:07)] Plaintiff: That's one of them. The next complaint that is going to be amended by that is that they are not lawfully in office, because according to the records that I received from your department, they have never taken an oath of office. They've never subscribed an oath of office. Let's put it that way. And that is a violation of the California constitution. I believe it's Article 20.

[(30:34)] Sgt. Macchiaroli: Okay.

[(30:37)] Plaintiff: So I received a Public Records Act request that I had made from them. And I asked for both of their oath of office, including that of Commander Rodriguez, and none of them have an oath of office. It's article 20, I believe, of the California Constitution. And then there's multiple things in department policy that say they have to both take and subscribe an oath of office in order to be in office as a police officer. And they have not done that, according to the Public Records Act answer that I received. And that answer is that there is no records that exist of them taking an oath.

[(31:17)] Sgt. Macchiaroli: Okay.

[(31:18)] Plaintiff: So then, at that point, we may even get into the point of collecting money from the City of Santa Ana without being lawfully in office, which is fraud. Just so you know, I'm not sure if they informed you, but I did make another Public Records Act request for the oath of office and the date of being sworn in for every so-called officer in Santa Ana. I believe that that response is due on the 8th, which is a Saturday. So when I receive that, I will likely amend my complaint and also file a Government Tort Claim with the city of Santa Ana on this issue.

[(32:12)] Sgt. Macchiaroli: Okay.

[(32:13)] Plaintiff: I'm also just curious. Have you subscribed to an oath of office with the police department?

[(32:22)] Sgt. Macchiaroli: You mean actually signed?

[(32:25)] Plaintiff: Yes.

[(32:27)] Sgt. Macchiaroli: We get sworn in. We do get sworn in.

[(32:30)] Plaintiff: That may be the case but the Constitution requires that you both take and subscribe the oath, meaning you sign it. Have you signed an oath of office?

[(32:42)] Sgt. Macchiaroli: Like 20 years ago. I'd have to check. Off the top of my head, I can't give you an answer.

[(32:47)] Plaintiff: Okay. I remember signing mine vividly. But that's okay. I will get it on the 8th to find out if you are in office too.

[(32:58)] Sgt. Macchiaroli: Okay.

[(33:01)] Plaintiff: So that is going to be the the amendment of my complaint. Basically, it sounded like to me that you were finding out if the matter that I had was really a crime or not so to speak and if they were in dereliction of their duty for not taking a crime report and that if they... Obviously, you're not going to investigate that, quote, unquote, "not crime," well, then the complaint against them goes bye-bye. But no, it's going to be amended.

[(33:31)] Sgt. Macchiaroli: Okay. For their oath of office.

[(33:33)] Plaintiff: Yes. Well, that's a dereliction of duty in and of itself, but also, I mean, you can do what you're going to do with the other issue about taking a crime report. So, your recommendation to me based upon that other issue was strictly to go to the Council on judicial performance. There's no other criminal law enforcement agency within the state of California that you're aware of that can investigate a criminal activity like this?

[(34:09)] Sgt. Macchiaroli: I mean, it's at the courthouse which the Orange County Sheriff's Department basically is in charge of, like any of the court buildings in Santa Ana, they have police officers that are inside those buildings. As far as I'm aware, usually they handle crimes inside of there or if something happens. But you could reach out to the sheriff's department that's at the courthouse. That would be my only other recommendation.

[(34:43)] Plaintiff: Okay.

[(34:47)] Sgt. Macchiaroli: You know what I mean, because...

[(34:49)] Plaintiff: I do.

[(34:50)] Sgt. Macchiaroli: ... they oversee they oversee all... you know, like the Security building.

[(34:56)] Plaintiff: Okay. I will do that. But just so you know, as far as I'm aware of, the Council on judicial performance does not have criminal law enforcement authority. So as an administrative agency, they cannot even investigate any of that. I think they can, from the administrative side, investigate the... If you look up, there are rules of Judicial Canons. That is what the commission investigates, not crimes. That's why people in the state are sworn as police officers to investigate criminal activity, and they're not sworn to do that. It's not within their their

purview, if you will, or their duties.

[(35:42)] Sgt. Macchiaroli: Okay.

[(35:45)] Plaintiff: Okay, well, thank you. So I guess we'll be in touch on the other issue whenever I amend my complaint for that. Is it safe to say that you're done investigating the other issue?

[(36:02)] Sgt. Macchiaroli: As far as them not taking a police report?

[(36:06)] Plaintiff: Yeah. I mean, if that's the case, then it's pretty clear to me that you're finding on the investigation...

[(36:13)] Plaintiff: I don't make the findings. I'm just the fact finder here, so obviously, I'm explaining the initial here. And then ultimately, that's why I was doing the homework on what it is.

[(36:33)] Sgt. Macchiaroli: Right. So if I can make a recommendation to you, if you're open to hearing that, I would really, really highly recommend that you either... If you would like to with me, I'm happy to spend the time with you ... get really clear on what actually happened in this case, and what the judge did or didn't do, and what the judge has authority to do and not do, because it seems to me that you guys don't understand what the principle of disgorgement and restitution and what a fine is, what is actually a civil matter, what is a criminal matter, and how those are separated in law in this regard. And because of that, it seems to me... Again, this is my interpretation ... you guys are making egregious errors in law because you don't actually understand what's going on, the level of what happened, what transpired here.

I mean, just in asking you what your concept of what disgorgement is, you're using just bogus definitions that you find on Google searches to get the terms of what happened in the case, and those are so remote and so incorrect as to what happened, that it's going to skew the way that you process and interpret what's gone on here. So I sent you the case of LIU v. SEC. I would suggest reading that and looking at how the court defines disgorgement in there. And you will see that is not what they did here, despite that's what they said they did. I'll leave it at that. But I guess what I'm saying in different words is that because you guys aren't actually looking into the true nature of the law of the situation, you're just dismissing this as not a criminal matter and saying bye-bye with it when it's really actually something that you should be doing something about. Again, my opinion. What I feel actually is the law because you're supposed to investigate crimes. So, that being said, your investigation is your investigation.

[(39:00)] Sgt. Macchiaroli: Alright. Thank you, Mr. Bereki for taking the time.

[(39:02)] Plaintiff: You're welcome. Thank you for calling me. I appreciate [crosstalk] your time too. You too. Bye.

[(39:07)] Sgt. Macchiaroli: Alright. Bye-bye.

[END]