

GOVERNMENTAL TORT CLAIM AGAINST
THE CITY OF WESTMINSTER

Tami K. Piscotty

This Chronological Narrative is provided to show an ongoing and severe hostile work environment suffered by me, Tami Piscotty, during my employment with the City of Westminster. I have suffered from (1) Discrimination from whistleblowing, (2) Constructive Demotion, (3) Workplace Retaliation and (4) Gender and Age Discrimination. I have consistently reported issues to supervisors and to the respective city managers that I have worked under to no avail. There are systemic problems with the City officials and management who refuse to investigate issues in the workplace when they are raised because the issue may involve illegal wrongdoing. The policy is always to sweep it under the rug and ignore it.

In a healthy, ethical municipality, a Personnel response or investigation would take place upon each occurrence which would then result in preventing a discriminatory work environment and retaliation. It represents a decade-long case of workplace retaliation and constructive demotion, made worse by the complete systemic incapacity of the City to provide basic employee protection. The hubris of the City will be that complaints raised by me since my Constructive Demotion for Whistleblowing in 2009/2010 were previous Management's issues. The negative connotations of my Whistleblowing continue in the form of sabotaged personnel actions.

I was hired as the Assistant to the City Manager in October 2005 after a City recruitment for the position, which was open to both internal and external candidates. I had served in the same position for nine years in the City of La Palma, and came to Westminster to further my career to become the Assistant City Manager. The previous Assistant City Manager position had been downgraded to the Assistant to the City Manager level. I realized that in time, given the size and complexity of Westminster, the Assistant City Manager position would be reinstated and I would be in the best position to apply for that job, if and when, a recruitment for the position took place in the future.

2007

In 2007/2008, City Manager Ray Silver began a concerted effort to push me out of the City Manager's Office by substituting Chet Simmons into my work assignments. Ray Silver constantly fed Mayor Margie Rice derogatory information about me, including at one point telling her I was on drugs, which is discussed below. Instead of providing me basic employee dignity, Ray Silver made it a regular practice to tell me that Mayor Margie Rice wanted me fired. This was the start of the stress.

One year into his tenure, Silver persuaded me to take-on his son's best friend, Chet Simmons, as an unpaid intern in the City Manager's Office. Simmons had been working selling automotive technician tuition programs. Simmons, a male under the age of 40, had never worked in municipal government. Simmons was hired as a paid part-time intern. Shortly thereafter, Silver decided that Simmons should receive a full-time position as an Economic Development Specialist. A recruitment took place open only to internal candidates, and ultimately I recommended the other in-house candidate, Rosemary Valdovinos (a female over the age of 40) be selected. I was overruled by Silver, who told me he would create another position for Valdovinos. I served as Simmons' supervisor and being budget-minded, I told Simmons that his full-time position would become effective after he returned from his three-week Italian vacation. Silver overruled this decision, went to the Personnel Department, and personally arranged for Simmons to immediately be hired and paid while on vacation. I recommended that Simmons be brought in at the customary "A" step as a new employee, to which Silver informed me that he was going to bring Simmons in at a "B" step because of his previous sales experience.

In his new Economic Development Specialist full-time position, Ray Silver said that Simmons would be taking over my duties. An email to me sent from Ray Silver stating Simmons would be handling economic development and redevelopment. On a weekly basis, every Tuesday afternoon, or the following Wednesday morning, Silver informed me that Margie Rice wanted me fired. At the same time, more projects were being taken away from me and given to Simmons, as Ray Silver would keep telling me that Margie Rice liked Chet Simmons more.

Due to the stress of seeing my job duties diminished and given to an employee 20 years younger than me and the constant berating by Ray Silver of how Mayor Rice felt about me, I offered to transfer to the off-site offices of the Housing Division known as City Hall at the Mall. Silver had been threatening to move Housing Analyst, Rosemary Valdovinos, to the Housing Division, since with Simmons promotion, he was concerned there were too many staff members in the City Manager's Office.

With no experience in the area of affordable housing, the position of Housing Coordinator was written and I was reclassified to Housing Coordinator. The January 16, 2009 Personnel Transaction Notice was completed by then Human Resources Manager, Eddie Manfro, who now serves as the city manager. In essence, Westminster's Human Resources function was used to legitimize an unethical process of pushing me out of my career path and off-site, since the city manager preferred working with a younger employee.

Despite having worked in the City for four years, and leaving city hall to escape Ray Silver's constant threats that Margie Rice wanted me fired, Silver told the Personnel Division to place me on six month probation despite my tenure with the City. Simmons took over all of my former assignments. Silver would not let me retain my Manager title, instead demoting me to a Coordinator position, a title completely unheard of in our organization. I was now placed in a demoted position for no reason other than to prevent me from being able to return to the City Manager's Office career tract, so that a younger employee could take my place.

Coming to the end of his 2-year tenure, Silver was able to talk the incoming city manager, Don Lamm, into hiring him for a consulting services contract. Ray Silver had talked the City Council into letting him handle the recruitment to replace him as city manager. The recruitment had two finalists, which included Andrew Hall, the previous Interim City Manager and Chief of Police with decades long service to Westminster, and Don Lamm, the Assistant City Manager in the City of Costa Mesa.

Simultaneously, Silver informed Felise Acosta, a principal with Rosenow Spevacek Group (RSG), the firm the City employed for affordable housing technical assistance and ironically where he had been employed under a contract just three

years prior, that their contract would not be renewed. The Council wanted Ray Silver to assume the tasks handled by RSG after his pending retirement. Ray Silver informed me of his conversation with RSG Principal Felise Acosta while he still occupied the city manager's office. Prior to Ray Silver informing Ms. Acosta that the City would not be renewing the firm's contract, Jason Silver had just interviewed for a job with Rosenow Spevacek and Ms. Acosta had informed Jason Silver that she did not feel comfortable hiring him while Ray Silver was still City Manager as it would be a clear conflict of interest. RSG was the firm that the City contracted with originally to obtain Ray Silver's economic development services, and the company had worked for many years for Westminster. RSG was pushed out so that Ray Silver and his son could take over their consultant responsibilities. Ray Silver told me that the consulting firm and his son were forming would be his own initials.

I raised the issue to my supervisor, Doug Mc Isaac (now Community Development Director for City of Bakersfield) that a contract with Ray Silver constituted a violation of Government Code 1090, as City employees shall not be financially interested in any contract made in their official capacity. When I shared my concerns with Silver, he stated that instead he would find a company he could join, instead of using his name in the company, to alleviate the Government Code 1090 conflict. Silver then joined a firm by a previous Huntington Beach staff person he knew, Mike Hennessey. As Silver had not retired from the City and was still making these personal financial arrangements, this was still a conflict of interest; arranging for his and his son's employment through a "cover" consulting firm. This was still a violation of Government Code 1090. The agenda item approving the Hennessey Group contract was to be submitted to the Westminster Council immediately after Ray Silver retired. This was to provide further cover that Ray Silver had not designed the contract for himself.

In a March 31, 2009 email to me, Silver disinvited me to the Farewell Lunch for his retirement given the pejorative comments I had made about him. Chet Simmons carried the agenda item approving the Economic Development and Affordable Housing Consulting Services Contract on a City Council Agenda with the Hennessey Group. The Hennessey Group's employees were noticeably absent in the Proposal submitted by the company which was attached as the contract to the agenda item; only Mike Hennessey's name was listed to avoid the obvious

conflict with the Silvers being named. A review of billings from the time and email dialogues will show Ray and Jason Silver's were billing the Hennessey Group City services.

Ray Silver advised the new City Manager Don Lamm of concerns that I had raised about the Government Code 1090 violation. In a meeting with Silver, Lamm and Mc Isaac present, Lamm stated that I should be fired for interfering or protesting. In lieu of firing me, Mc Isaac suggested that my Housing Coordinator probation be extended. Documentation in my Personnel record will show that my probation as Housing Coordinator was extended (see memo dated July 14, 2009 extending my probation.). This discussion between Lamm, Silver and McIsaac about firing me, took place shortly before the men were scheduled to meet with Bridgecreek Development, at their offices. Mr. McIsaac shared with me those details.

2010-2011

On December 24, 2009, I was released from the extended probation after Don Lamm realized that Ray Silver was not capable of performing the consulting services he had been contracted to perform for affordable housing services. Don Lamm was so displeased with Ray Silver's performance under the contract, he terminated Ray Silver's services after only 6 months of work. Doug McIsaac is knowledgeable about the conversation that I had with he and Don Lamm where I finally had the opportunity to explain personally to Don Lamm that I had been forced out of city hall; quickly, my extended probation was released via a memo in my file.

Just a few months after being released from the extended probation, in March 2010, I uncovered embezzlement in the Grants and Housing Division. I had received a call from a fellow Housing staffer in the City of Monterey Park, asking me if I could drive over to Rehab Financial's Offices in Huntington Beach as they were not answering their phones and my coworker, Kathy Johnston, also off-site at the Housing Division would not assist them. Westminster was one of 20+ cities that contracted directly with Rehab Financial for grant and housing escrow services, and this contract was managed by my coworker, Kathy Johnston. Driving the few miles to their Huntington Beach offices, I found the firm had skipped out of their offices and so began the Comprehensive Housing Services/Rehab Financial investigation when I reported the matter to Captain Mitch Waller.

Kathy Johnston was immediately put on leave by Doug McIsaac for perceived involvement in the embezzlement case, and I began to manage absolutely all grants and housing functions, which included not only my work with the Redevelopment Agency's Low and Moderate Incoming Housing Fund , all of Kathy Johnston's work (CDBG, HOME, mobile homes, single-family rehabilitation) plus serving as the primary conduit for obtaining information for Diehl Evans, who was under contract directly to Jones and Mayers for a Special Investigation of the City's Loan Rehabilitation Program. Diehl Evans ultimately issued a Report on the Special Investigation of Housing Program on June 17, 2010 to Jones and Mayer. The report was used to recover \$450,000 from Comprehensive Housing Services for their involvement in the embezzlement case and with funds also recovered from Rehab Financial after their President Belinda Exon completed her prison term. No reclassification was done when this bulk of responsibilities involving HUD grants was given to me, nor any compensation change. I authored the successful theory that Gayle Bloomingdale, President of Comprehensive Housing Services, had violated Form 700 Conflict of Interest provisions when she acted as a real estate broker and received \$100,000 in broker commission fees paid by the City of Westminster, while she was at the same time billing the City of Westminster for hourly consultant fees to manage the purchase and rehabilitation of the properties that she obtained the real estate commissions.¹ Ironically, Kathy Johnston now works for Comprehensive Housing Services.

I uncovered that Kathy Johnston had circumvented Westminster Finance Department accounts payable functions by personally signing payments to Rehab Financial on her own signature. Ultimately, internal controls were put in place in the Westminster Finance Department to require a Department Head's signature on vendor payments.

2011

During one day when I was accompanying Mayor Margie Rice through the International Shopping Centers Conference booth area in May 2011, Mayor

¹ This is similar to the Dick Jones City Attorney who was paid a salary in addition to the City paying his law firm for work. These issues were raised by Roberts and only changed after she complained and the Press got involved with how Jones did not qualify under PERS.

Margie Rice said that Ray Silver had said “I was on drugs, and that I needed a pill every day to be at work.”

I immediately contacted City Manager Mitch Waller, to which Waller responded, “Yes, he had heard that.” I was hurt and denied any such thing. I requested an investigation as to why this was being said about me. It should be noted that I later informed Eddie Manfro of what had occurred within the first week of him becoming city manager, to which Manfro responded that he had never heard this from City Manager Mitch Waller, despite Eddie Manfro being Westminster’s Human Resources Director. In sum, no investigation ever took place when I learned and reported, twice, that previous city manager Ray Silver had told the Mayor that I had alleged drug use problem. Silver didn’t like me because I challenged his illegal practices. There was never an interest for any objective review by city officials. Top management, as was the usual practice, responded by doing nothing. An investigation should have taken place as to how many existing Councilmembers were told this information. (As late as last month, in a discussion with Councilmember Margie Rice, she confirmed that Ray Silver had told her that I was on drugs.)

2012

On June 14, 2012, then City Manager Waller notified me that Margie Rice had submitted a List of eight questions to him, as part of an analysis she was requesting when the City found itself in dire financial difficulties with the elimination of redevelopment and pending layoffs. Margie Rice’s List involved various topics, with one stating, “Provide a report on the intended use and need of Tami Piscotti versus outsourcing as it relates to housing programs – what is her short and long term need for the organization.” Mitch Waller asked me in a July 2, 2012 email to write a report for him on the reasons I should remain employed by the City, plus the cost to outsource my position.

I wrote an email to new City Manager Eddie Manfro in August, 2012, after Waller died, with a copy to City Clerk Robin Roberts, requesting a copy of the final response to the question which had been given to Rice. Before Waller’s death, Waller had told her that the *Orange County Register* had made a Public Records Act request for a list of eight items referenced by Margie Rice, including the response by then City Manager Mitch Waller. I was now under significant stress

that I would be hauled into the media in a negative fashion. On August 1st, 2012, Manfro told me via email, "No problem Tami." To date, no response was even provided to me despite my asking. I bring this matter up because Councilmember Rice at a recent Council Meeting advised the full city council as part of consideration of placing the 1% sales tax on the ballot, that she had submitted this list to Eddie Manfro several years past, and still had not been given a response to her list. I am fearful that the Whistleblowing incident that I have long suffered from, may come to rise again should a review of me take place as to why my name came up in 2012.

While I continued to take on new job duties and indeed requested a job reclassification, Chet Simmons was promoted to the Assistant to the City Manager position; without any recruitment. I was not given the opportunity to pursue my previous job position. In addition, to accommodate Simmons, the job classification for the Assistant to the City Manager position was revised from 10 years municipal experience to 3 years' experience, so Simmons could qualify for my old job. The City Council appears not to have been advised that I existed off-site and was completely capable of being the Assistant to the City Manager, a job I had had not only in Westminster, but for nine years previously in La Palma. The City Council appears not to have been advised that there were other staff interested in the position, The revised job description reducing the work experience required to be the Assistant to the City Manager was submitted to the Council, and Chet Simmons was given the job with no recruitment.

I made a request for a review of my Housing Coordinator position in May 2012, with an email to then City Manager Mitch Waller. No review or response was provided.

2013 to Present

City Manager Eddie Manfro created the position of Administrative Services Director and conducted an external and internal recruitment for the position. Manfro had attempted to give the job to Robin Roberts, but certain people didn't want Roberts.

I applied for and received the opportunity to be interviewed by an outside Panel for the position of Administrative Services Director. The job combined Human Resources with Budgetary experience, both of which I possessed.

A few days after the Panel did interviews Manfro came to my office to inform me I was not moving forward in the recruitment, as I handled my Interview too casually. I informed Eddie Manfro that my interview had been sabotaged as a question was posed by one of the Panel members, "what are you going to do about your difficult working relationship with the City Clerk Robin Roberts." Manfro responded to me that he had not given the Panel that question. I informed staff that the two city managers that Manfro had used for the Panel had queried me on a question not asked of other candidates. No investigation took place regarding my complaint to Eddie Manfro that my interview had been sabotaged, and I was asked a question that none of the other four candidates were asked. The question was designed to derail my interview to disqualify me. Once again, the Human Resources function, in this case a recruitment, was used to intentionally torpedo a candidate.

Ultimately, the Administrative Services Director job was given to a male with no Personnel experience and limited high level finance experience; both were requirements of the job and both of which I had significant experience. In fact, for a one year period during my second year in Westminster, working under Interim City Manager Andrew Hall and then Ray Silver, I had managed several of the City's Personnel functions. When the initial recruitment for the Human Resources Director position began in 2008 did not result in highly qualified candidates, Hall and Silver both spoke to me about taking the position. I informed both that I was more interested in ultimately serving as the Assistant City Manager. Eddie Manfro was later selected for the Human Resources Director position.

Michael Solorza was terminated 18 months later for perceived errors in performance. The day after Solorza was terminated; Eddie Manfro and Chet Simmons spoke with me. I offered to assist them in filling Solorza's job responsibilities, and also made a request that my title be reviewed recognizing that I was handling grants, in addition to the Housing Division, and that I worked at the manager level, and not the coordinator level. No response was ever provided to my request that the Housing Coordinator position be evaluated.

At the same time my promotional opportunity was being sabotaged, the City was facing a significant lawsuit by three Hispanic police officers for discrimination in promotional opportunities and the retaliation for filing a lawsuit about it. Clearly, with my previous whistleblowing reports and retaliation in the form of my probation extension, the inability to return to the Assistant to the City Manager position, and sabotage of my interview to insure I did not receive the Administrative Services Director job, it appears that the Westminster City Council is aware of discrimination and retaliation being systemic throughout the organization. In 11 years of employment, I have received but three performance evaluations.

To this day, I have stress for the lack of City support for me and retaliation I suffered. I continue to suffer from a fear that the existing councilmembers, will be told lies about what occurred in past years regarding the Government Code 1090 violations I reported and how I was kept off-site to be kept quiet. My career in Westminster has never recovered.

On March 9, 2016, I learned that allegations had been made by another person filing a case against the City, where I was referenced, literally five minutes before an important housing presentation to the City Council in Closed Session. I had been preparing for weeks, as I am regularly responsible for making Closed Session presentations to the Westminster Council on grant and housing matters. I was in tears with my direct supervisor, Soroosh Rahbari, scared that the four councilmembers who were slated to settle the case would not be given a true account of what had happened to me.

During this entire time since being reassigned to the downgraded position of Housing Coordinator, I have submitted over 10 applications for employment elsewhere. The Housing Coordinator title has prevented me from being interviewed because of the downgraded position.

I am again concerned that Simmons is interested in my job position. Simmons is taking on affordable housing tasks, using the City Attorney's Office resources to complete basic tasks that I already handle. Indeed, rather than bill deputy city attorney resources to the Housing Authority, Simmons has the legal work billed to a non-Housing Authority account, for example for work on the Huntington Westminster Senior Apartments. While it is the City Manager's prerogative to

decide if Simmons or I should handle a task, a review of legal bills will show that these tasks are within my job purview. I believe I am going to be further demoted. I also have concerns that Simmons may be interfering in these Housing Projects to try and raise political friends for elected officials.

After Councilmember Rice publicly stated at a Council Meeting in May 2016 that she had submitted a List of budget reductions several years prior (2012), my fear was exacerbated and I scheduled a meeting with the City's new Human Resources Director Mike Harary. A meeting took place on June 1, 2016, with Mike Harary and another staff person in attendance, Cyndie Saunders. I related to them that the reason I wanted to speak to a person in Human Resources was that Councilmember Rice had mentioned her "previous List of unanswered questions," and that I was fearful that the City Council would see my name and position on that list, and all of the illegal actions against me (retaliation for whistleblowing, sabotage of my interview) would be told to a Council where many of them members do not know my long work history.

Additionally, since my June 1st meeting with the Human Resources Department, work is starting to be taken away from me and statements made about my work. On Monday, June 13th at a 9:30 a.m. meeting in the Council Conference Room, a meeting was held to discuss potential vandalism from homeless people of the Gillespie Park Restrooms, and included Housing Division staff, two staff from Public Works Maintenance and the Director of Community Services. At this meeting, Chet Simmons informed the meeting attendees that the City of Westminster does not operate a Homeless Prevention Program. For the past 18 months, I have been personally managing an active and well-received Homeless Prevention Program.

Since this June 1st meeting, two housing projects are being removed from me. On July 25, I read on the Council Agenda Cover Page that the Huntington Westminster Senior Apartments was scheduled for Closed Session consideration at the July 27, 2016 meeting, with Chet Simmons handling negotiations regarding this housing property. On July 26, I wrote an extensive email to Chet Simmons asking why I was not apprised or involved in the HW Senior Apartments work since the May 29, 2015 Ground Lessor's Estoppel Agreement indicated that it was expected that the property would become part of the Housing Authority, of which

I manage. As the Housing Authority, which I manage, could purchase this property as a benefit for Westminster's low income seniors, it appears that the City Manager's Office is keeping this information from me, to retaliate for my June 1st meeting with the Human Resources Department. City Management will say that my direct supervisor should have kept me informed of this. It should be noted that Soroosh Rahbari has been on vacation for the past two weeks while this occurred, and the City Manager's Office was notified in writing that I would be serving in Mr. Rahbari's place for all Departmental issues. Additionally, the City cannot argue that I am not regularly at Closed Sessions involving housing properties. In fact, in my 11 years with the City of Westminster, I have multiple times made presentations to the Council in Closed Session on negotiations with the HW Senior Apartments, numerous other property purchases, and just two months prior presented to the Council in Closed Session the acquisition and financing of a 50-unit housing property on Beach Boulevard. Chet Simmons indicated in an email on July 27th that my supervisor and he have discussed the strategy to sell the property at length; this is patently false.

Coincidentally, campaign contributions appear to flow to some councilmembers during the time where Huntington Westminster Senior Apartments' business was before the City. These same councilmembers are those that promulgated the idea of Chet Simmons being Assistant City Manager. The City has prohibitions regarding levels of contributions and Gov't Code § 1090 deals with City officials involved in personal deals with the government entity. Eddie Manfro mentioned to the Community Development Managers that it was several councilmembers who brought up the promotional idea for Chet Simmons, not himself. The City will argue that the HW Senior Apartments business before the City was ministerial in nature, and the Council would not be involved in these decisions. The City's Personnel Policy Manual states that "Public Officials....shall not influence a governmental decision in which they have a function interest, defined as: (B) Receiving at least \$250 from the business entity within twelve months prior to the time the decision is made." (Westminster Personnel Policy Manual, Article IV, Conflict of Interest)

Now I am being excluded from involvement in the Huntington Westminster Senior Apartments. Or is it due to political contributions which flow to councilmembers from the owners of this property, or is it because I met with the Human Resources Department on June 1st to express my concerns about the illegal actions of this City's Management?

Additionally, since my June 1st meeting with the Human Resources Director, the Jamboree Housing property is being removed from my purview, as evidenced by Chet Simmons July 27, 2016 email to me. In writing, Chet Simmons has informed me that "he was specifically asked to speak with the Jamboree representatives," and that he has been contacted by different members of their team and their consulting firm," (Curt Pringle Associates). It appears that due to my June 1 meeting with the Human Resources Department, I have been removed from discussions and that to continue, Chet Simmons needs me to write for him, an "analysis of what constitutes a good versus bad affordable housing deal"? Last month(July), my supervisor asked me to inform the Jamboree Housing representative that the Proforma they had previously submitted was not financially viable. Yet, Chet Simmons is in renewed discussions with the company.

Does the Westminster Mayor and City Council realize that I have literally ended my career in municipal government and likewise any related housing organization, by having to raise these issues. At the age of 52, I am unemployable in the field of municipal government other than for Westminster, where I am treated like an albatross for bringing matters forward.

Finally, I am aware that two councilmembers have met with another councilmember to induce that person not to run for elected office in November 2016. While the Councilmember asked several of us not to divulge this information, when I realized it was a violation of California Elections Code Section 18205, I reported very confidentially to Eddie Manfro of my knowledge of the incident, though I did not relate specifics, because I am fearful that I will be blamed by others for raising the incident higher. When I saw two of the councilmembers on Monday, August 1st meeting with Chet Simmons, I had to leave City Hall out of fear, even though they could have been discussing any subject. I have also spoken with government authorities regarding these incidents. I also placed Eddie Manfro on notice (see attachment). I am in fear

because I know the Westminster Management's form of retaliation for bringing law-breaking activities to light. An example is Robin Roberts and how she was treated.

I want Westminster City Officials to correct this long-known retaliatory and unethical environment to me and to others. My constructive demotion to Housing Coordinator and the negative reputation I suffer from whistleblowing has impacted my health and marriage. The City cannot be trusted to provide me basic employee protections. This city has failed to take appropriate action in every incident I reported to my supervisors. I request that all of these issues be investigated. I have been discriminated and retaliated against based upon complaints I have raised for which I am entitled to protection.

Any further communications should be made through my attorneys of record who can be contacted as follows:

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