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10 Attorneys for Petitioners/Complaints
Bay Area News Group East Bay, LLC;
11 California Newspapers Partnership, dba
Los Angeles News Group;
12 San Jose Mercury-News LLC,

13
14 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 IN AND FOR THE COUNTY OF SACRAMENTO

16 BAY AREA NEWS GROUP EAST BAY, LLC;)
17 CALIFORNIA NEWSPAPERS)
18 PARTNERSHIP, dba LOS ANGELES NEWS)
GROUP; SAN JOSE MERCURY-NEWS LLC)

19 Petitioners/ Complainants)

20 vs.)

21)
22 CALIFORNIA STATE LEGISLATURE;)
CALIFORNIA SENATE RULES)
23 COMMITTEE; CALIFORNIA STATE)
24 SENATOR DARRELL STEINBERG AS)
CHAIR OF THE CALIFORNIA SENATE)
RULES COMMITTEE)

25)
26 Respondent/Defendants.)
27)
28)

Case No.

**VERIFIED PETITION FOR WRIT OF
MANDATE DIRECTED TO THE
CALIFORNIA LEGISLATURE, THE
CALIFORNIA SENATE RULES
COMMITTEE AND SENATE
PRESIDENT PRO TEMPORE DARRELL
STEINBERG AS CHAIR OF THE
CALIFORNIA SENATE RULES
COMMITTEE, ORDERING
COMPLIANCE WITH THE
LEGISLATIVE OPEN RECORDS ACT
AND CALIFORNIA CONSTITUTION
ARTICLE I, SECTION 3(b);
COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF**

**[Cal. Code of Civ. Proc. §§ 1085 et seq.;
Cal. Gov't Code §§ 9070 et seq.; Cal.
Const., Art. I, § 3(b)]**

INTRODUCTION

Petitioners BAY AREA NEWS GROUP EAST BAY, LLC (“BANG”), dba the Contra Costa Times, Oakland Tribune, Marin Independent Journal, Daily Review and San Mateo County Times, among other newspapers; CALIFORNIA NEWSPAPERS PARTNERSHIP, dba LOS ANGELES NEWS GROUP (“LANG”), Los Angeles Daily News, Torrance Daily Breeze, San Gabriel Valley Tribune, Long Beach Press-Telegram, and San Bernardino Sun, among other newspapers (collectively, “LANG”); and SAN JOSE MERCURY-NEWS LLC, dba the San Jose Mercury News (“MERCURY-NEWS”), through this Verified Petition for Writ of Mandate, Complaint for Declaratory and Injunctive Relief (“Petition”), seek an order commanding Respondents California State Legislature, California Senate Rules Committee and Senate President Pro Tempore Darrell Steinberg (D-Sacramento) as Chair of the Senate Rules Committee (collectively, the “SRC” or “Senate”) to comply with the Legislative Open Records Act (“LORA”) and Article 1, Section 3(b) of the California Constitution.

As alleged herein, BANG, LANG and MERCURY-NEWS seek an order requiring the Senate to comply with narrowly focused requests for access to, among other things, certain limited calendar entries and appointment schedules of now suspended California State Senator Leland Yee (D-San Francisco) and California State Senator Ronald Calderon (D-Montebello) pertaining to meetings with specific individuals named in the indictments and certain days where it is alleged that the Senators acted in furtherance of certain political corruption schemes for which they are charged. Disclosure of these public records would serve to inform the public about alleged wrongdoing by Senators Yee and Calderon that strikes at the heart of our democratic system of representative government, and each Senators’ legal and ethical duties to the constituents who they represent.

Over 20 years ago in a case upholding the deliberative process interests invoked by a request for nearly five years of then-Governor George Deukmejian’s calendars and appointment schedules – “covering undoubtedly thousands of meetings, conferences and engagements of every conceivable nature” – our California Supreme Court stated:

1 Lest there be any misunderstanding, however, we caution that our holding does
2 not render inviolate the Governor's calendars and schedules or other records of
3 the Governor's office. There may be cases where the public interest in certain
4 specific information contained in one or more of the Governor's calendars is more
5 compelling, the specific request more focused, and the extent of the requested
6 disclosure more limited; then, the court might properly conclude that the public
7 interest in nondisclosure does not clearly outweigh the public interest in
8 disclosure, whatever the incidental impact on the deliberative process.

9 Times Mirror Company v. Superior Court, 53 Cal. 3d 1325, 1345-46 (1991).

10 The public's interest is profound when lawmakers undermine our system of representative
11 governance by accepting money or other bribes in exchange for political favors or support for
12 certain legislation. The criminal charges against Senators Yee and Calderon allege just that.
13 Senate President Pro Tempore Darrell Steinberg publicly recognized that the "seriousness of the
14 charges strike at the very heart of what it means to be a public official." Yet, when the SRC was
15 confronted with a narrow request made pursuant to the LORA and Article 1, Section 3(b) of the
16 California Constitution for certain calendar entries and appointment schedules reflecting only
17 those entries where wrongful conduct allegedly took place and meetings with individuals with
18 whom Senators Yee and Calderon spoke in furtherance of the alleged wrongdoing, the SRC chose
19 to treat the calendars of its constituents as inviolate and above the public's presumptive right to
20 know of the conduct of the Legislature's – and thus the public's – business. In doing so, the
21 Senate stands in sharp contrast to the many executive branch officials at the state and local level
22 that have made their calendars public following overwhelming voter approval in 2004 of
23 Proposition 59, which elevated the right of access to the writings of public officials of all three
24 branches of government to constitutional stature.

25 Given the centrality of the charges alleged against Senators Yee and Calderon to their
26 duties as lawmakers and the focused nature of the requests presented by this Petition, the purpose
27 of which is to shed light on specific allegations of wrongdoing and the scope of that wrongdoing,
28 BANG, LANG and MERCURY-NEWS respectfully submit that this Petition presents precisely
the more compelling and focused request that the California Supreme Court had in mind, 23-
years-ago, when it cautioned against an interpretation of its holding that would render the
Governor's calendars inviolate.

VENUE AND JURISDICTION

1
2 1. The relief sought by BANG, LANG and MERCURY-NEWS is expressly
3 authorized under Government Code Section 9076, Civil Procedure Code Section 1085 et seq., and
4 Article 1, Section 3(b) of the California Constitution. See Degrassi v. Cook, 29 Cal. 4th 333, 338
5 (2002) (“[t]he free speech clause of article 1, section 2(a) ‘is self-executing, and ... even without
6 any effectuating legislation, all branches of government are required to comply with its terms.
7 Furthermore, it also is clear that, like many other constitutional provisions, this section supports an
8 action, brought by a private plaintiff against a proper defendant, for declaratory relief or for
9 injunction.”) (Emphasis in original.). BANG, LANG and MERCURY-NEWS are informed and
10 believe that the legislative records to which they seek access are maintained by the SRC, which by
11 statute is considered to have custody of said legislative records and is the senate committee
12 responsible for making those records available for public inspection. Cal. Gov’t Code § 9074.
13 BANG, LANG and MERCURY-NEWS are further informed that the records being improperly
14 withheld are located, either in whole or in part, in this judicial district and thus venue in
15 Sacramento County is proper.

PARTIES

16
17 2. Petitioner/Complainant BANG is a limited liability corporation organized under the
18 law of the State of Delaware. BANG publishes, among other papers, Contra Costa Times,
19 Oakland Tribune, San Mateo County Times, Marin Independent Journal, Hayward Daily Review
20 and Fremont Argus, daily newspapers of general circulation engaged in the business of gathering
21 and disseminating information to the public. BANG newspapers are distributed throughout the
22 greater Bay Area. BANG is within the class of persons beneficially interested in the Senate’s
23 faithful performance of its duties to the public under the LORA and Article 1, Section 3(b) of the
24 California Constitution.

25 3. Petitioner/Complainant California Newspapers Partnership (“CNP”) is a general
26 partnership organized under the laws of the State of Delaware. CNP does business in California as
27 LANG, which in turn publishes several newspapers, including Los Angeles Daily News, San
28 Gabriel Valley Tribune, Torrance Daily Breeze, San Bernardino Sun, Long Beach Press-

1 Telegram, Whittier Daily News, and Pasadena Star-News, daily newspapers of general circulation
2 engaged in the business of gathering and disseminating information to the public.¹ LANG's
3 newspapers are circulated from Long Beach to the San Fernando and San Gabriel valleys, and to
4 the vast Inland Empire. LANG is within the class of persons beneficially interested in the
5 Senate's faithful performance of its duties to the public under the LORA and Article 1, Section
6 3(b) of the California Constitution.

7 4. Petitioner/Complainant SAN JOSE MERCURY-NEWS LLC is a limited liability
8 corporation organized under the laws of California and doing business as the San Jose Mercury-
9 News, a daily newspaper of general circulation distributed throughout the Santa Clara and greater
10 Bay Area. The San Jose Mercury-News is a sister publication of the BANG and LANG
11 newspapers and as a content partner of both entities it is within the class of persons beneficially
12 interested in the Senate's faithful performance of its duties to the public under the LORA and
13 Article 1, Section 3(b) of the California Constitution.

14 5. Respondent/Defendant California State Legislature is the legislative body for the
15 State of California. It has found and declared that "access to information concerning the conduct
16 of the people's business by the Legislature is a fundamental and necessary right of every citizen of
17 this state." Cal. Gov't Code § 9070.

18 6. Respondent/Defendant Senate Rules Committee is the Senate Committee
19 statutorily charged with maintaining the records at issue here and with making them available for
20 public inspection. Cal. Gov't Code § 9074. It is sued pursuant to Cal. Gov't Code §§ 9074, 9077
21 and 9080(f), as well as Article 1, Section 3(b) of the California Constitution and Cal. Civ. Proc.
22 Code Section 1085 et seq., as the entity that has withheld the records sought by BANG and
23 LANG.

24 7. Respondent/Defendant Senate President Pro Tempore Darrell Steinberg is the Chair
25 of the Senate Rules Committee. On information and belief, he was the individual responsible for
26

27 ¹ CNP also publishes newspapers in Northern California, including The Reporter, The Vallejo
28 Times Herald, Chico Enterprise-Record, Ukiah Daily Journal, Red Bluff Daily News and the
Paradise Post, among other newspapers of general circulation.

1 the decision to withhold records at issue here, and who may therefore be required to disclose those
2 records pursuant to Government Code Section 9074, 9077 and/or 9080(f), as well as Article 1,
3 Section 3(b) of the California Constitution and Civil Procedure Code Section 1085 et seq.

4 **FACTUAL BACKGROUND**

5 **A. The Allegations Against Senator Ronald Calderon.**

6 8. On June 4, 2013, Federal Bureau of Investigation ("FBI") served search warrants
7 on the State Capital at the Office of Senator Ronald Calderon and in the Legislative Office
8 Building at the Latino Legislative Office, as confirmed in a public statement issued by the Chief
9 Sergeant at Arms for the State Senate.²

10 9. A 124-page FBI affidavit supporting the issuance of the search warrants, initially
11 made public by Al Jazeera Media Network on or about October 30, 2013, and now part of the
12 public court file in a civil matter initiated by Senator Calderon against the United States, details
13 the government's case against Senator Calderon. As alleged in the affidavit, it involves
14 approximately \$60,000.00 in bribes from an undercover FBI agent posing as an independent film
15 studio executive in exchange for Calderon's support for legislation to lower the threshold amount
16 of money independent filmmakers have to spend on a film's budget to qualify for a California tax
17 credit, and for arranging to hire the undercover agent's purported girlfriend, another undercover
18 agent, to a Senate staff position funded by the State of California. Calderon, at the time, was chair
19 of the Senate Select Committee on California's Film and Television Industries. The affidavit also
20 alleges a separate bribery scheme with Michael D. Drobot, the then Chief Executive Officer of the
21 Pacific Hospital of Long Beach, involving approximately \$28,000.00 in payments from Drobot in
22 exchange for Calderon's support of legislation that would delay or limit changes in California's
23 workers' compensation laws relating to the amount of money medical care providers are

24
25 ² On information and belief, the FBI raid marked the first time since 1988 that search warrants had
26 been issued on the State Capital. The 1988 warrants were in connection with an FBI sting
27 operation involving a fake shrimp processing company – purportedly located in West Sacramento
28 – that gave campaign contributions to lawmakers in exchange for favorable legislation in support
of the company. Dubbed "Shrimpscam," the investigation resulted in charges and prison time for
three California Legislators: Assembly Leader Pat Nolan (R-Glendale), Assembly Member Frank
Hill (R-Whittier), and State Senator Joseph Montoya (D-Glendale).

1 reimbursed for performing spinal surgeries.³ Ron Calderon's brother, former California State
2 Assembly Member Thomas Calderon, also is alleged to have accepted bribes from Drobot in
3 connection with the spinal surgery legislation and to have facilitated bribe payments to Ronald
4 Calderon from the undercover agent posing as an independent film executive through a non-profit
5 public benefit organization he controls called Californians for Diversity. A true and correct copy
6 of the FBI's affidavit, as it appears in the public court record, is attached hereto as Exhibit A.

7 10. In connection with the film tax credit legislation, Senator Calderon is alleged to
8 have accepted from the undercover agent approximately nine \$3,000.00 payments to his daughter,
9 Jessica Calderon, who, according to an employment agreement that Calderon represented would
10 be drafted by his wife, was to work for the undercover agent's company. By August of 2013,
11 according to the affidavit, Jessica Calderon had received \$27,000.00 in payments yet had not
12 performed any work for the company. Senator Calderon also allegedly received a \$3,000.00 cash
13 payment from another FBI agent posing as the investor for the independent film company. In
14 exchange for these payments, Senator Calderon allegedly agreed to help get an amendment to the
15 law which would lower the threshold expenditures necessary for independent films to qualify for a
16 tax credit from \$1 million to \$750,000.00. As alleged in the affidavit, he was unable to introduce
17 the amendment to the tax credit legislation during the 2012 legislative session, but continued to
18 take official action on the agent's behalf by seeking to get the amendment introduced in 2013,
19 either in a spot bill he introduced (SB 317) or in a bill introduced by California State Senator Ted
20 Lieu (D-Torrance) (SB 370). The FBI affiant noted that as of the date of the affidavit, May 2,
21 2013, neither bill had language relating to the \$750,000.00 amendment. On information and
22 belief, no such legislation has been introduced relating to the \$750,000.00 amendment since May
23 of 2013.

24 ³ As reported by Long Beach Press-Telegram, on April 24, 2014, Drobot pleaded guilty to federal
25 charges related to his role in a medical fraud scheme that federal authorities have said may be the
26 largest of its kind in California history. In that case, Drobot was accused of paying kickbacks of
27 \$10,000 to \$15,000 to doctors who referred patients to Pacific Hospital for spinal surgeries. To
28 pay for the kickbacks, Drobot allegedly took advantage of a loophole in California law to
overcharge for the reimbursable costs of spinal hardware used in the surgeries. Drobot has
admitted making bribes to Calderon to keep on the books the law that made it possible to seek
inflated reimbursements for spinal hardware.

1 11. Senator Calderon allegedly accepted a \$3,000.00 payment towards college tuition
2 for his son, Zachary Calderon, and a \$25,000.00 payment for Californians for Diversity from the
3 undercover agent.⁴ In exchange, Calderon allegedly did “in fact” hire the undercover agent’s
4 purported girlfriend as a legislative staffer though she was represented by the agent as having
5 “issues” and as lacking any relevant job experience. The affidavit also references a source, whose
6 name is redacted but who apparently works for the Legislature, as being reluctant to hire the
7 woman because Calderon had no open positions on his staff and the source could not simply
8 manufacture one. When Senator Calderon is asked whether Senator Steinberg had cleared hiring
9 the woman, Senator Calderon allegedly confirmed that he had. Later the undercover agent
10 informed Calderon that he was no longer in a relationship with the woman and therefore she
11 would not be taking the position. Though she had done no work for Ron Calderon or the
12 California Senate, the undercover agent received a direct deposit of \$684.77 into her bank account,
13 according to the FBI affidavit.⁵

14 12. In connection with the spinal surgery legislation, the affidavit alleges that Calderon
15 received approximately \$28,000.00 disguised as payments to his son, who purportedly worked for
16 Drobot’s companies each summer and was paid a salary of \$10,000.00. The affidavit alleges that

18 ⁴ According to the affidavit, on January 12, 2013, an invoice for \$25,000.00 was sent to the agent
19 by Yolanda Miranda, the accountant and treasurer for both the Diversity PAC and Californians for
20 Diversity. On January 12, 2013, the agent mails the \$25,000.00 check to Californians for
21 Diversity, according to the affidavit. According to one source, Californians for Diversity is the
22 charitable arm of Diversity PAC. This source claims that a separate \$25,000.00 transfer from
23 Diversity PAC to Californians for Diversity was made with the approval of California State
24 Senator Ricardo Lara (D-Bell Gardens) in exchange for Calderon’s agreement not to run for the
25 chairmanship of the Latino Caucus. The affidavit identifies a \$25,000.00 deposit on January 2,
26 2013 to the bank account of Californians for Diversity from “Yes We Can, 400 Capital Mall, 22nd
27 Floor, Sacramento, 95814.” This deal was brokered by Senator de León, according to statements
28 Calderon allegedly made to the agent. Under introductory portions of the affidavit identifying
Senator Lara, the affidavit alleges that Senator de León caused the \$25,000.00 to be contributed to
Californians for Diversity as further set forth in the affidavit. Subsequent allegations identify
Senator Lara as authorizing this transfer. Senator de León has publicly denied any involvement in
the payment, but admits assisting in the resolution of the chairmanship issue for the caucus.

⁵ In a conversation with the agent about hiring his purported girlfriend, Calderon allegedly tells
the agent that her salary would be part of the budget and that a newspaper had recently published
an article about how he was paying staff that did not meet very often. An article published by the
Sacramento Bee on August 12, 2012, revealed that a committee on International Business Trade
was staffed with three employees whose combined salaries cost taxpayers more than \$170,000.00
a year, yet they had not met even once in the past two years, and its only member was its chair,
Ron Calderon.

1 the payments actually went to a joint account Calderon shares with his wife. The affidavit also
2 alleges that Thomas Calderon received payments of \$10,000.00 per month from Drobot to act as
3 Drobot's consultant in connection with the spinal surgery legislation. In exchange for these
4 payments, the affidavit alleges that both Calderons sought to influence several bills involving the
5 separate reimbursements for spinal surgery hardware, and to stave off legislation that would
6 eliminate the reimbursement pass-through, thus negatively affecting Drobot's medical care fraud
7 scheme. In connection with one of these bills, sponsored by Senator de León, it is alleged that de
8 León agreed, at the request of Thomas Calderon, to amend his bill to remove language eliminating
9 the separate reimbursements, but later let the bill die because he was not receiving sufficient
10 "help" in return for his backing of the bill, which the agent interpreted as money in exchange for
11 support for the bill. A later bill, which Senator de León took over after it was introduced initially
12 by Senator Lieu, called for the elimination of the separate reimbursements for hardware devices
13 but forestalled the elimination until January 2014, according to the affidavit. This bill became law
14 January 1, 2013. While Senator Calderon voted against this bill, he allegedly boasted to the agent
15 that he influenced the provisions delaying implementation of the elimination of the reimbursement
16 pass-throughs, explaining that if the reimbursements get cut out Drobot goes out of business.

17 13. Senator Calderon received other monies and gifts, as alleged in the affidavit,
18 including \$3,939.56 for expenses incurred by Calderon and a friend at The Bank, a nightclub
19 inside the Bellagio in Las Vegas. The agent also purchased a \$5,000.00 ticket for Calderon to
20 attend a fundraiser for Senator de León, which was held during a Manny Pacquiao fight in Las
21 Vegas, and \$3,200.00 for Calderon to fly to Miami to meet with the agent and his purported
22 investor, another undercover agent. On information and belief, these expenses were not reported
23 by Calderon on his state disclosure forms.

24 14. From February of 2012 through March of 2013, the affidavit details meetings
25 involving Senator Calderon allegedly in advancement of the schemes. These meetings include the
26 following:
27
28

- 1 • February 24, 2012: Lunch meeting in Los Angeles where Senator Calderon was
2 first introduced to the agent posing as an owner of film studio in downtown Los
3 Angeles, who on information and belief went by the name Rocky Patel;
- 4 • June 21, 2012: Meeting over dinner between Senator Calderon and the agent at a
5 restaurant in Pico Rivera, California, where employment of Jessica Calderon is
6 discussed in connection with Calderon's support of the tax credit legislation;
- 7 • July 17, 2012: Meeting between Calderon and agent at agent's apartment in
8 downtown Los Angeles where they discussed Jessica Calderon's employment and
9 the tax credit legislation;
- 10 • July 19, 2012: Meeting with Calderon, his son, and agent at agent's office, where
11 the agent allegedly signs the employment agreement Calderon had prepared,
12 backdating it to cover the period of the first payment of \$3,000 to Jessica Calderon,
13 made that same day;
- 14 • August 10, 2012: Senator Calderon, his wife, the agent and his purported girlfriend,
15 another undercover agent, attend Imagen Awards ceremony at Beverly Hilton
16 Hotel, where Calderon informs the agent that his tax credit legislation was to be
17 introduced on the Senate floor in the coming week;
- 18 • August 17, 2012: Meeting between Calderon and agent at agent's studio after
19 Calderon failed to introduce amendment lowering tax credit threshold, where agent
20 tells Calderon that he brought on Jessica Calderon with the goal of helping him and
21 in hopes he would in return introduce the amendment to the tax credit legislation;
- 22 • September 10, 2012: Meeting between Calderon and agent at Pico Rivera
23 restaurant, where agent asks Calderon to write a letter to his investor stating his
24 commitment to introducing legislation lowering the threshold tax credit;
- 25 • October 24, 2012: Meeting between Calderon and agent over lunch at restaurant
26 located in downtown Los Angeles, where Calderon expressed that he was upset that
27 Senator de León had not shown up at the dinner Calderon had arranged with the
28

1 agent on October 16, 2012, and where the Calderon allegedly informed agent that
2 his help to de León would assist Calderon in getting several appointments;

- 3 • October 24, 2012: Meeting between Calderon and agent at restaurant located in
4 downtown Los Angeles, where Calderon allegedly asks the agent to give Jessica
5 Calderon some task to do and the agent reminds Calderon that he did not hire
6 Jessica Calderon to do work, he hired her for the tax credit legislation.
- 7 • October 25, 2012: Meeting with Calderon, agent, and de León over dinner at
8 restaurant in downtown Los Angeles, where de León allegedly expressed support
9 for the legislation and, after he left, the agent indicated he would support de León
10 since it sounded like he would support the legislation;
- 11 • March 21, 2013: Meeting in Miami, Florida, with Ronald Calderon, Thomas
12 Calderon and the agent posing as the studio's investor, where the hiring of Thomas
13 Calderon was discussed;
- 14 • March 26, 2013: Meeting in Miami, Florida with Ronald Calderon and the agent
15 posing as the studio's investor, where allegedly it was agreed that Thomas
16 Calderon's consulting fee would be paid through Californians for Diversity, and
17 that a combined monthly \$10,000.00 payment to Jessica Calderon and Thomas
18 Calderon would go through Californians for Diversity⁶;

19 15. On November 13, 2013, Senator Calderon initiated an action against the United
20 States in the United States District Court for the Eastern District of California, Sacramento
21 Division, Case No. 2:13-cv-02358-TLN-EFB, seeking an order to show cause why the
22 government should not be held in contempt for leaking the FBI affidavit in an effort to retaliate
23 against Senator Calderon for not cooperating in a "sting" operation against Senator Steinberg and
24 Senator de León. A copy of the FBI affidavit, as published by Al Jazeera, is attached to the filing.
25 In this action, Senator Calderon alleges that he was approached six separate times by high level
26

27 ⁶ The affidavit alleges that Calderon later requested that the money go through Thomas
28 Calderon's company, the Calderon Group. Calderon was concerned that the payments to
Californians for Diversity would draw too much attention under new bylaws adopted by the
Latino Caucus giving the chair more authority on payments to consultants over \$5,000.00.

1 agents of the FBI and on two occasions by the Assistant United States Attorney for the Central
2 District demanding that he participate in a sting operation against Senators Steinberg, allegedly
3 aimed at Steinberg's financial activities with Michael Drobot. Senator Calderon alleges that he
4 refused to continue to participate in the operation and rejected demands that he secretly record
5 conversations with Senator Steinberg and Senator de León. Shortly after Senator Calderon
6 refused the FBI's request to participate in the sting operation, Senator Calderon states that his
7 office was raided. He alleges that these actions, including leaking the FBI affidavit and tipping off
8 the press to the raid, were in retaliation for his refusal to participate in the sting operation. A true
9 and correct copy of this filing is attached hereto as Exhibit B.

10 16. On February 2, 2014, the Grand Jury of the Central District of California returned
11 an indictment against Senator Calderon and Thomas Calderon. The 24-count indictment charges
12 Senator Calderon with mail, wire and honest services fraud, bribery, conspiracy to commit money
13 laundering, money laundering and aiding in the filing of false tax returns relating to his son in
14 connection with the independent film tax credit and medical implant legislation, discussed above.
15 Thomas Calderon was charged with money laundering conspiracy and seven counts of money
16 laundering. Both have pleaded not guilty. A true and correct copy of the February 2, 2014
17 indictment is attached hereto as Exhibit C.

18 17. Senator Calderon continues to draw from his full \$95,643.00 annual – taxpayer
19 paid – salary as a California State Senator.

20 **B. Allegations Against Senator Leland Yee.**

21 18. On March 26, 2014, less than a year after search warrants were executed on the
22 State Capital in connection with the Calderon investigation, FBI agents served a search warrant on
23 the State Capital at the Office of Senator Leland Yee, as confirmed in a public statement issued by
24 the Chief Sergeant at Arms for the State Senate.

25 19. This same day, Senator Yee, a then-candidate for Secretary of State, was arrested in
26 his San Francisco home and charged with conspiracy to traffic in firearms without a license, and to
27 illegally import firearms, and six counts of defrauding citizens of honest services. He and twenty-
28 eight other defendants were named in a wide-ranging indictment issued by the Grand Jury of the

1 United States District Court, Northern District of California, which includes counts for firearms
2 trafficking, money laundering, murder-for-hire, drug distribution, trafficking in contraband
3 cigarettes, and honest services fraud.⁷

4 20. A 137-page FBI affidavit in support of the issuance of arrest warrants, including
5 that of Senator Yee, filed on March 24, 2014, and now part of the public court record in the
6 criminal action against Senator Yee, details the government's case against Senator Yee and others.
7 A true and correct copy of the FBI affidavit, signed March 23, 2014, is attached hereto as Exhibit
8 E.

9 21. According to the affidavit, an FBI undercover agent initially infiltrated the San
10 Francisco-based Chee Kung Tong organizations ("CKT"), through introductions by its current
11 Dragonhead, or leader, Raymond "Shrimpboy" Chow, who also is a defendant in the criminal case
12 against Senator Yee. The agent, who portrayed himself to Chow as an east coast member of La
13 Cosa Nostra, an Italian organized crime syndicate, was then introduced to numerous defendants
14 who, in turn, allegedly laundered money, engaged in trafficking of narcotics, firearms, stolen
15 cigarettes and liquor, and engage in murder-for-hire schemes at the behest of the agent.

16 22. According to the affidavit, the one-time President of the San Francisco Board of
17 Education, Keith Jackson, who owns a San Francisco-based consultancy firm, acted as a
18 consultant to CKT, and was introduced to the undercover agent by Chow.

19 23. Jackson and his son, Brandon Jackson, both of whom are defendants in the criminal
20 action, allegedly responded to a request for weapons by the undercover agent, who claimed a need
21 for weapons to arm associates growing marijuana in Northern California, by indicating that
22 Brandon Jackson had an associate that would be able to accommodate his request. Thereafter,
23 Jackson, Brandon Jackson and an associate, Marlon Sullivan, another co-defendant, sold various

24
25 ⁷ A superseding indictment issued by the Grand Jury of the Northern District of California against
26 Senator Yee, and the others defendants, and filed on July 24, 2014, adds charges of racketeering
27 against Yee relating to the alleged solicitation of campaign contributions. The indictment alleges
28 that Yee solicited bribes in exchange for voting for certain bills, including for his vote in favor of a
bill limiting workers' compensation claims for pro football players on non-California teams.
According to the indictment, an undercover FBI informed Jackson that an owner of a National
Football League team was prepared to pay \$60,000.00 to Yee for his support of the bill. A true
and correct copy of this superseding indictment is attached hereto as Exhibit D.

1 types of firearms, and two ballistic vests, to the undercover agent. Additionally, the affidavit
2 alleges that Jackson, Brandon Jackson and Sullivan allegedly conspired to commit a purported
3 murder-for-hire scheme requested by the undercover agent, in addition to other illegal activities,
4 including the sale of stolen credit cards and the purported sale of cocaine to Jackson, Brandon
5 Jackson, and Sullivan from the undercover agent.

6 24. In addition to the above, the affidavit alleges that Keith Jackson had been a long-
7 time associate of Senator Yee. From at least May of 2011 through March 23, 2014, Jackson was
8 involved in raising campaign funds for Senator Yee, including funds for Yee's run in the
9 November, 2011 San Francisco mayoral election, retiring the debt from that campaign, and for
10 Yee's November 2014 campaign for California Secretary of State.

11 25. Starting in May of 2011, Jackson allegedly solicited the undercover agent to make
12 contributions to Yee's San Francisco mayoral campaign in excess of the \$500 individual donation
13 limit. This agent refused to donate to Yee's campaign but introduced Yee and Jackson to a
14 purported business agent, another undercover FBI agent, who allegedly contributed \$5000 to
15 Yee's mayoral campaign.

16 26. After Yee lost the November 8, 2011, mayoral election, the affidavit alleges that
17 Yee had at least \$70,000.00 in debt from the campaign. To help retire this debt, Yee and Jackson
18 allegedly agreed that Yee would make a call to a manager at the California Department of Public
19 Health in support of a contract under consideration with the undercover agent's purported client.
20 Yee allegedly also agreed to write a letter in support of the client. In exchange, Yee was to
21 receive a \$10,000.00 donation to his campaign for Secretary of State. The affidavit alleges that
22 Yee made the call on October 18, 2012, that the \$10,000.00 donation was made to his campaign
23 on November 19, 2012, and that he provided the letter on or about January 13, 2013.

24 27. The affidavit additionally alleges that, as arranged by Jackson and an agent, Senator
25 Yee agreed to provide a proclamation in honor of CKT in exchange for a \$6,800.00 campaign
26 donation, the maximum individual donation allowed by law. On March 29, 2013, the
27 proclamation was allegedly introduced by one of Yee's staff members at a CKT anniversary
28 celebration.

1 28. The affidavit further alleges that Senator Yee and Jackson agreed to introduce a
2 another agent, posing as a donor who had significant business interests in medical marijuana, to
3 state legislators who had influence over pending and proposed medical marijuana legislation. On
4 August 26, 2013, and on September 17, 2013, in exchange for the introductions, Yee allegedly
5 received two payments of \$11,000.00 and \$10,000.00, respectively. The affidavit alleges that
6 during the course of the investigation, Senator Yee would frequently complain to Jackson and
7 others that the way the agent openly discussed paying Yee for certain official acts was “pay-to-
8 play” and that he could not do that; yet Yee never walked away from quid pro quo requests made
9 by the agent and accepted the cash payments in exchange for the introductions, according to the
10 affidavit.

11 29. In August of 2013, in further efforts to raise money, the affidavit alleges that
12 Jackson told an undercover agent that Yee was associated with a person who was an international
13 arms dealer who was shipping large stockpiles of weapons into a foreign country. Jackson
14 allegedly requested that the undercover agent provide a campaign donation on Yee’s behalf in
15 exchange for Yee facilitating a meeting with the arms dealer, purportedly to purchase a large
16 number of weapons to be imported through the Port of Newark, New Jersey. On December 13,
17 2013, the agent allegedly gave Jackson \$1,000.00 in cash as motivation for setting up the meeting
18 with the weapons trafficker. On December 17, 2013, the agent allegedly gave Jackson a \$5,000.00
19 check made out to Leland Yee, Secretary of State. Jackson allegedly told the agent that Yee fully
20 understood that the check was being provided for the purpose of getting an introduction to the
21 arms dealer.

22 30. From October of 2011 through March of 2014, the affidavit details meetings
23 involving Senator Yee and others allegedly in advancement of the above schemes. These meetings
24 include the following:

- 25 • October 13, 2011: Senator Yee, Jackson attend meet and greet event where
26 undercover agents allegedly make \$500 donations to Yee’s campaign for mayor;

- October 14, 2011: Meeting between Senator Yee and agent at Marriott Marquis hotel in San Francisco where the agent's possible manner of contributing to Yee's campaign or a ballot measure Yee was supporting were discussed;
- January 18, 2012: Meeting between Senator Yee, Jackson and agent where Yee asked agent to help retire \$70,000.00 debt and donate to Secretary of State campaign;
- April 7, 2012: Meeting between Senator Yee, Jackson and agent at Marriott Marquis hotel in San Francisco, where they discussed agent's business interests;
- June 26, 2012: Meeting between Senator Yee, Jackson, and others in Sacramento office where agent allegedly introduces Yee to a source posing as an individual who runs a software consulting business (Well Tech) that held several federal contracts and was looking to expand in California, and where Yee pressed the agent to help retire his then-\$40,000 debt in advance of the Secretary of State run;
- September 4, 2012: Meeting between Senator Yee, Jackson at State Building at 455 Golden Gate Avenue in San Francisco, where agent said that if Yee could help push Well Tech with the California Department of Health, a \$10,000.00 contribution would be no problem at all, and Yee allegedly said he'd make the call right way after the information on whom to call was provided by the agent;
- October 18, 2012: Telephone call between Senator Yee and agent, where Yee agreed to participate in conference call with personnel at California Department of Public Health to vouch for Well Tech, which call allegedly took place that same day with an undercover agent posing as personnel from the DPH;
- January 22, 2013: Senator Yee, Jackson and another undercover agent, who was seeking to have Yee help Shrimpboy Chow, meet at Waterbar in San Francisco, where Yee agrees to provide a proclamation acknowledging CKT's 165th anniversary and where, after Yee leaves, the agent tells Jackson if Yee provides the proclamation he would write a check;

- June 6, 2013: Senator Yee and Jackson have dinner with agent, who thanks Yee for proclamation;
- March 14, 2013: Meeting with Senator Yee and Jackson at Starbucks in Marriott Marquis hotel in San Francisco where agent introduces Yee to undercover agent with interests in medical marijuana;
- May 9, 2013: Meeting with Senator Yee, Jackson and source interested in medical marijuana legislation at Starbucks in Marriott Marquis hotel in San Francisco where source refers to \$5,500.00 money paid to Jackson's consultancy firm for Yee and Yee pointed out that the money was going to the campaign not to him personally;
- May 10, 2013: Call between Senator Yee and source interested in medical marijuana legislation, where Yee allegedly agreed to call another senator in exchange for \$10,000.00 to \$15,000.00, though Yee said that he could not make money for himself as part of the arrangement;
- May 17, 2013: Senator Yee, Jackson, a guest of Senator Yee and two agents meet for dinner at Alexander's Steakhouse in San Francisco, where they discuss the offer to pay \$10,000.00 for Yee to reach out to senator 1, and where a written proposal suggesting certain provisions desired in medical marijuana legislation;
- May 20 and May 27, 2013: Senator Yee and Jackson meet at a Starbucks in San Francisco;
- June 20, 2013: Meeting between Senator Yee, Jackson and agent in Yee's Senate Office in Sacramento, where Yee confirmed he set up a meeting with the senator, and in response to the agent saying he was willing to make campaign contributions to secure support of legislatures, Yee allegedly said "[y]ou can't do that, man, you go to jail for that;" and on way over to café to meet with the senator Yee stated, "I'm just trying to run for Secretary of State, I hope I don't get indicted."

- 1 • June 20, 2013: Senator Yee, Jackson and two agents and another senator meet at
2 café in Sacramento, where agent explained that they were interested in medical
3 marijuana issues and were seeing high barriers to entry;
- 4 • June 22, 2013: Senator Yee, Jackson and two agents meet in hotel room in San
5 Francisco where, at the end of the meeting, Yee allegedly picked up an envelope
6 containing \$11,000.00 in cash, which the agent represented as being for the
7 introduction to the senator;
- 8 • July 13, 2013: Event attended by Senator Yee, Jackson, two agents where Yee
9 briefly introduced agent to another legislator;
- 10 • August 26, 2013: Senator Yee, Jackson and two agents meet with second Senator
11 in Sacramento and discuss agent's purported interests in medical marijuana
12 legislation;
- 13 • September 17, 2013: Senator Yee, Jackson and agent meet at Chinatown restaurant
14 in San Francisco, where agent handed Jackson an envelope with \$10,000.00 cash
15 while telling Yee that the playing field was now level (referring to the meeting with
16 the second senator);
- 17 • January 22, 2014: Meeting between Senator Yee, Jackson and the agent at a San
18 Francisco coffee shop, where Yee allegedly told the agent that he had a close
19 relationship with an arms dealer, that the weapons were sourced through Russia,
20 that "We're interested" in arranging the deal but that the dealer has to go back to
21 "his folks," and that the dealer is "going to rely on me, because ultimately it's
22 going to be me." Some details of the specific types of weapons the undercover
23 agent was interested in buying and importing, including shoulder fire weapons or
24 missiles, was also allegedly discussed. The agent told Yee and Jackson that he was
25 willing to pay them \$100,000.00 for the first deal, according to the affidavit.
- 26 • February 25, 2014: Meeting between Yee, Jackson and the agent at a San
27 Francisco restaurant, where the agent allegedly asked how to make matters progress
28 with the arms dealer and Senator Yee said that he had to be careful because of a

1 recent indictment of another State Senator, who Senator Yee believed was wearing
2 a “wire” for the FBI, and that the matter involved a classic example of involving
3 too many people in illegal activities. Senator Yee also expressed his belief that the
4 arms dealer would in fact provide weapons to the agent but that he did not think the
5 deal would happen until the end of the year.

- 6 • March 5, 2014: Meeting between Senator Yee, Keith Jackson and the agent at San
7 Francisco restaurant, where details of an alternative plan to source the weapons
8 through the Philippines was discussed, ⁸ including how the weapons would be
9 shipped to the U.S. and on to North Africa through Sicily, Senator Yee’s concern
10 that \$2,000,000 for an initial purchase of weapons was too large and could attract
11 attention, and the specific type of weapons that might be subject to the deal; and
12 where the agent allegedly assured Yee he would be paid for his assistance in
13 addition to previously promised campaign donations.
- 14 • March 11, 2014: Meeting between Senator Yee, Jackson, Lim and agent at San
15 Francisco restaurant, where the arms trafficking transaction was allegedly
16 discussed, including that the weapons would be supplied by a Captain in the
17 Philippines military, that the agent would provide a list of weapons to Jackson that
18 Lim would deliver to the Philippines, and that Lim would not go to the Philippines
19 without Senator Yee, who would not be ready to go until after November.
- 20 • March 14, 2014: Meeting between Senator Yee, Jackson, an associate of Jackson’s
21 and the agent, where it was discussed how they would break up the large amounts
22 of cash provided by the agent into legitimate campaign donations and where the
23 agent said he was prepared to give Yee \$6,800.00 in cash and a list of weapons to
24 give to Lim and where Yee said he’d take the cash and have one of his children
25 write out a check.

26
27 ⁸ Keith Jackson allegedly told the agent before Yee arrived that the other source was currently tied
28 up in world affairs but that the point person in the U.S. for the deal through the Philippines, Dr.
Wilson Lim, another co-defendant, was excited to help because his associates in the Philippines
were working to overthrow the government and needed money.

1 31. On March 27, 2014, one day after his arrest, Senator Yee withdrew from the race
2 for Secretary of State. He continues to draw from his full \$96,675.00 annual – taxpayer paid –
3 salary as a California State Senator.

4 C. **Senate Acts to Suspend Senators Calderon, Yee and Wright, Garnering**
5 **National Attention on a Matter of State-Wide Importance.**

6 32. On March 28, 2014, in an act unprecedented in California history, the Senate voted
7 28-1 to suspend Senators Calderon, Yee and Senator Rodrick Wright (D-Inglewood).⁹ In
8 introducing the resolution on the Senate floor, Senator Steinberg said, “I had earlier maintained
9 with Senators Wright and Calderon that a leave of absence was sufficient, given my word that they
10 would not come back to the Senate unless and until they were exonerated.¹⁰ But after the arrest
11 and indictment of Senator Yee this week, I recognize that a leave of absence is no longer
12 sufficient. One case is an anomaly, two a coincidence, but three? That’s not what this Senate is
13 about, nor does it accurately reflect the integrity and honorable work of my colleagues.”
14 Steinberg also stated, “[a]n affirmative suspension puts this house on formal record that we
15 unequivocally distance ourselves and the Senate from the unfathomable allegations contained in
16 the Yee indictment as well as the other case.”

17 33. In addressing the Senate Floor in advance of the resolution, Senator de León stated
18 that one could argue that the system worked because none of the alleged bribery and political
19 corruptions schemes alleged against Calderon and Yee actually resulted in legislation.

20 34. Not surprisingly, the Senate’s actions, along with the underlying criminal
21 indictments against Senators Yee and Calderon, have garnered state-wide and national media
22 attention. True and correct copies of a sampling of this news coverage is attached hereto as
23 Exhibit F.

24 35. BANG and LANG – which, when combined with other CNP newspapers in
25 California, have the largest paid circulation of any newspaper company in California – have

26 ⁹ On January 28, 2014, Senator Wright was convicted of eight counts of voter fraud, he is awaiting
27 sentencing. His calendars and appointment books are not at issue in this action.

28 ¹⁰ On information and belief, in the weeks before Senator Yee’s arrest, Senator Steinburg had
blocked Republican efforts to call for a vote to oust Senators Calderon and Wright, calling for
them to take a leave of absence instead.

1 covered these matters extensively. The allegations of wrongdoing against Senators Yee and
2 Calderon, the Senate's response to them, as well as the ongoing criminal cases are of high public
3 interests to BANG and LANG readers, and to the public in general, as evidenced from BANG's
4 and LANG's continuing coverage of these matters. True and correct exemplar copies of this
5 reporting is attached hereto as Exhibit G.

6 **D. BANG's And LANG's Legislative Open Records Act Requests and the**
7 **Senate's Blanket Denial of Each.**

8 **1. LANG's Records Request Pertaining to Senator Calderon.**

9 36. On June 19, 2014, in furtherance of its ongoing news efforts pertaining to these
10 matters, LANG Reporter Rebecca Kimitch sent via email to Deputy Secretary of the Senate
11 Sheron Violini a request for records under the LORA and Article 1, Section 3(b) of the California
12 Constitution seeking the "appointment books, meeting schedules, calendars or other writings,
13 whether in hard copy or electronic form, reflecting with whom California State Senator Ron
14 Calderon met, or was scheduled to meet, or otherwise communicated with" on nine specific dates
15 alleged in the criminal indictment and, separately, reflecting any meeting with four individuals –
16 Michael D. Drobot, Senator de León, Senator Lara and Yolanda Miranda – named in the
17 indictment as individuals with whom Calderon communicated in furtherance of the bribery and
18 honest services schemes. The request also sought the calendars and appointment books of Senator
19 Kevin de León on one date (October 25, 2012) in which it is alleged that he and Calderon met
20 with an undercover agent, who went by the name Rocky Patel, in furtherance of the bribery
21 scheme pertaining to the film tax credit legislation alleged against Senator Calderon. The request
22 further sought writings reflecting the expenditures and related reimbursements for travel by
23 Senator Calderon to Miami, in March of 2013, and any calendar entries or appointment books
24 relating to such travel. A true and correct copy of the June 19, 2014 request is attached hereto as
25 Exhibit H.

26 37. The next day, on June 20, 2014, the Secretary of the Senate Gregory P. Schmidt
27 responded to the request on behalf of the SRC asserting that all of the requested writings were
28 exempt under the following provisions of the LORA: 1) records where "on the facts of the

1 particular case the public interest served by not making the record public clearly outweighs the
2 public interest served by disclosure of the record” [Cal. Gov’t Code § 9074]; 2) “[c]orrespondence
3 of and to individual Members of the Legislature and their staff” [*id.*, § 9075(h)]; 3) “[r]ecords the
4 disclosure of which is exempted or prohibited pursuant to provisions of federal or state law,’
5 which would include the legislative privilege” [*id.*, § 9075(i)]; and, 4) “[c]ommunications from
6 private citizens to the Legislature” [*id.*, § 9075(j)].¹¹ The letter cited Times Mirror Co. v. Superior
7 Court, 53 Cal. 3d 1325 (1991), saying that the California Supreme Court “has ruled that the
8 calendars and appointment schedules of public officials are properly exempted from public
9 inspection.” As further justification for the blanket denial, the letter offered that the records
10 requested “pertain to events which, as you noted, are referenced in a pending federal indictment
11 and are related to an ongoing criminal investigation of Senator Calderon,” implying that the
12 public’s constitutional and statutory rights of access in the most egregious cases of public
13 employee wrongdoing – those where criminal charges are brought – must be held in abeyance
14 pending the outcome of judicial proceedings – proceedings that could just as readily result in a
15 plea deal leaving unanswered and unchecked important questions of public official accountability
16 – and though the judiciary has independent means to protect the fair trial rights of the defendant
17 and the integrity of the judicial proceeding. The letter further claimed, without any explanation,
18 that the request “impacts upon concerns regarding ... security....” A true and correct copy of the
19 June 20, 2014 denial letter is attached hereto as Exhibit I.

20 2. **BANG’s Records Requests Pertaining to Senator Yee.**

21 38. On April 10, 2014, Contra Costa Times Reporter Matthias Gafni sent via email a
22 request for access to public records under the LORA and Article 1, Section 3(b) to Ms. Violini
23 seeking access to the “appointment books, meeting schedules, calendars or other writings, whether
24 in hard copy or electronic form, reflecting with whom California State Senator Leland Yee met, or
25 was scheduled to meet, or otherwise communicated with” on specific dates referenced in the
26 indictment and affidavit supporting the arrest of Senator Yee, and, separately, reflecting any

27 _____
28 ¹¹ Subsections (h), (i), and (j), were incorrectly cited as subsections of Section 9074 rather than
Section 9075.

1 meeting with six individuals – “Shimboy” Chow, Keith Jackson, Brandon Jackson, Marlon
2 Sullivan, Rinn Roeun and Dr. Wilson Lim – named in the indictment.¹² The request also sought
3 writings reflecting expenditures by Senator Yee, and related reimbursements, involving travel to
4 the Philippines at any time from January 2010 to April of 2014, and related calendar or
5 appointment schedules related to such travel. A true and correct copy of the April 10, 2014 is
6 attached here to as Exhibit J.

7 39. On April 15, 2014, Mr. Schmidt responded to the request on behalf of the Senate
8 asserting that the same objections and concerns as set forth above for that part of the request
9 seeking appointment entries, meeting schedules, calendars or other writings reflecting meetings –
10 Cal. Gov’t Code §§ 9074, 9075 (h), (i), and (j). The letter further claimed that such records were
11 exempt under Section 9075(a) as “[p]reliminary drafts, notes, or legislative memoranda.” The
12 letter similarly cited Times Mirror Co. v. Superior Court, 53 Cal. 3d 1325 (1991), for the
13 proposition that “calendars and appointment schedules of public officials are properly exempted
14 from public inspection.” While denying access to any calendar entries or appointment books
15 reflecting travel by Senator Yee to the Philippines, the Senate said that no responsive records
16 existed with respect to that portion of the request seeking expenditures and related reimbursements
17 for travel to the Philippines. A true and correct copy of this April 15, 2014 denial letter is attached
18 hereto as Exhibit K.

19 40. On April 23, 2014, Mr. Gafni sent a follow-up request via email to Ms. Violini
20 seeking access to: 1) Senator Yee’s expense reports capturing expenses incurred on specific dates
21 “referenced in the criminal indictment against Senator Yee, where Yee and/or his top campaign
22 donation solicitor meet at restaurants, coffee shops, banquet halls, hotel rooms and offices”; and 2)
23 a “[c]opy of a 2011 letter Yee wrote to Secretary of the Senate Gregory Schmidt asking for
24 openness in response to requests for lawmakers’ calendars.”¹³ A true and correct copy of this
25 April 23, 2014 request is attached hereto as Exhibit M.

26 ¹² This request was a narrowing of an earlier request by Mr. Gafni made on April 1, 2014, which
27 sought Senator Yee’s “schedule [calendars] dating back to Jan. 1, 2010.” This earlier request is
not the subject of this action.

28 ¹³ BANG, along with the First Amendment Coalition and the Associated Press, at the time was
seeking access to the calendars of various legislators concerning various topics and time-periods,

1 41. On May 12, 2014, Mr. Schmidt responded to the request on behalf of the Senate
2 denying it in total. As justification for the complete denial of access to expenditure records and
3 the Yee letter, the SRC cited the same exemptions asserted its April 15, 2014 denial pertaining to
4 the calendars – the public interest balancing test, correspondence of and to individual members of
5 the Legislature and their staff, and records prohibited from disclosure under federal or state law.
6 As further justification for the blanket denial, the Senate stated that the records requested “pertain
7 to events which, as you noted, are referenced in a pending federal indictment and are related to an
8 ongoing criminal investigation” and further claimed, without any explanation, that the request
9 “impacts upon concerns regarding ... security....” A true and correct copy of the May 12, 2014
10 denial letter is attached hereto as Exhibit N.

11 42. On July 10, 2014, Mr. Gafni served another records request on the SRC yet again
12 seeking to narrow his request following the SRC’s blanket denial of his April 23, 2014 request.
13 This request, sent via email, sought Yee’s appointment books, meeting schedules, calendars or
14 other writings reflecting meetings or scheduled meetings on 29 specific dates on which Yee
15 allegedly met with various individuals in furtherance of the honest services or arms trafficking
16 schemes set forth in the indictment.¹⁴ A true and correct copy of this July 10, 2014 request is
17 attached hereto as Exhibit O.

18 43. On July 14, 2014, Mr. Schmidt, acting on behalf of the SRC, denied this request in
19 its entirety, citing the same exemptions and concerns asserted in its prior denials. SRC also stated,
20 “[t]hese exemptions apply based on the substantive nature of the requested records, irrespective of
21 how narrow in scope the request is crafted.” A true and correct copy of the July 14, 2014 denial
22 letter is attached hereto as Exhibit P.

23
24
25 none of which involved allegations of wrongdoing. In the letter, Senator Yee urged the SRC to
26 release the calendars, including his own. A true and correct copy of this letter, and the SRC’s
27 response to Senator Yee refusing to release the calendars, are attached hereto as Exhibit L. These
28 letters were provided by Senator Steinberg’s office to Mr. Gafni after the SRC’s initial denial.

¹⁴ The April 10, 2014 request included dates referenced in the indictment and affidavit supporting
issuance of an arrest warrant relating to the schemes alleged against Yee but included dates where
– from the face of the indictment – there was no indication that Yee directly participated or was
present on those occasions.

FIRST CAUSE OF ACTION
(VIOLATION of the LORA, Cal. Gov't Code Section 9070-9080)

44. BANG, LANG and MERCURY-NEWS reallege Paragraphs 1 through 43 above as though fully incorporated herein.

45. In enacting the LORA, the Legislature specifically stated and found “that access to information concerning the conduct of the people’s business by the Legislature is a fundamental and necessary right of every person in this state.” Cal. Gov’t Code § 9070. Thus, the Legislature recognized a presumption in favor of public access to Legislative records.

46. “Legislative records” are defined under the LORA as “any writing prepared on or after December 2, 1974, which contains information relating to the conduct of the public’s business prepared, owned, used, or retained by the Legislature.” Id., § 9072 (c).

47. The LORA declares that legislative records are open to inspection at all times during the normal office hours of the Legislature and any person has a right to inspect any legislative record, except as hereafter provided. Cal. Gov’t Code § 9073.

48. In responding to a request for any legislative record, the SRC, deemed the custodian of all legislative records of the Senate, “shall justify in writing the withholding of such record by demonstrating that the record in question is exempt under the express provisions of this article or that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record...” Id., § 9074; see also id., § 9077 (“If the court finds that the committee’s decision to refuse disclosure is not justified under the provisions of Section 9074 or 9075, he shall order the committee to make the records available for inspection.”).

49. The requests for legislative records made by BANG and LANG reporters, as set forth above, seek records “which contain information relating to the conduct of the public’s business prepared, owned used, or retained by the Legislature.” Id., § 9072(c).

50. The SRC’s blanket withholding of all records in response to the request by BANG and LANG violates the LORA in that the denials are not justified under any express provision of the LORA or on any purported public interest in non-disclosure that clearly outweighs the public’s interest in disclosure.

1 51. BANG, LANG and MERCURY-NEWS alleged on information and belief that the
2 SRC will continue to violate the LORA, and will continue to misinterpret Section 9075 as
3 exempting from disclosure all requests seeking calendars or appointment books of any Legislator,
4 irrespective of how narrow the request is crafted or the weight of the public's interest in access to
5 such records.

6 52. The proceedings instituted herein are expressly authorized under the LORA, which
7 requires that responsive pleadings and the hearings in such proceedings "shall be set by the judge
8 of the court with the object of securing a decision as to such matters at the earliest possible time."
9 Id., § 9076.

10 **SECOND CAUSE OF ACTION**
11 **(Violation of Art.1, Section 3(b) of the California Constitution)**

12 53. BANG, LANG and MERCURY-NEWS reallage Paragraphs 1 through 52
13 above as though fully incorporated herein.

14 54. Article 1, Section 3(b)(1) of the California Constitution states:

15 The people have the right of access to information concerning the conduct
16 of the people's business, and, therefore, the meetings of public bodies and
17 the writings of public officials and agencies shall be open to public
18 scrutiny.

19 55. This constitutional amendment, passed by an overwhelming number of voters in
20 November of 2004, reflects a paramount public interest in access to information about how the
21 government is conducting the people's business.

22 56. This constitutional amendment expressly requires that any statute, court rule or
23 other authority must be broadly construed if it furthers the public's right of access and narrowly
24 construed if it limits the right of access. Cal. Const. Art. 1, § 3(b)(2).

25 57. The records sought by BANG, LANG and MERCURY-NEWS are clearly
26 encompassed within these constitutional mandates regarding the public's right of access to
27 writings of public officials and agencies.

28 58. The SRC has violated the mandates of the Article 1, Section 3(b) of the California
Constitution by failing to disclose the legislative records requested by BANG and LANG
reporters, as set forth above.

1 59. BANG, LANG and MERCURY-NEWS are entitled to institute proceedings for a
2 writ of mandate to enforce their rights and the public's rights to obtain writings and records held
3 by the SCR responsive to their requests. See Degrassi v. Cook, 29 Cal. 4th 333 (2002).

4 **THIRD CAUSE OF ACTION FOR DECLARATORY RELIEF**
5 **(Cal. Civ. Proc. Code Section 1085, Cal. Gov't Code Section 9076)**

6 60. BANG, LANG and MERCURY-NEWS reallage Paragraphs 1 through 59
7 above as though fully incorporated herein.

8 61. An actual controversy exists between BANG, LANG and MERCURY-NEWS, on
9 the one hand, and the SRC, on the other, in that BANG, LANG and MERCURY-NEWS contend
10 that the legislative records sought are public records required to be disclosed under Sections 9073
11 and 9077 of the California Government Code and Article 1, Section 3(b) of the California
12 Constitution, and that such records are not exempt under Sections 9075 and that under 9074 the
13 public interest in access is not clearly outweighed by the public's interest in non-disclosure. The
14 SRC, on the other hand, contends that the legislative records sought are exempt from disclosure
15 under Sections 9075 and 9074, irrespective of the how narrow the requests are crafted or the
16 weight of the public's interest in access to any Legislator's calendars or appointment books, among
17 other records.

18 62. BANG, LANG and MERCURY-NEWS further contend that the SRC's
19 interpretation of its disclosure obligations with respect to calendars and appointment books of
20 public officials – namely, that the exemptions are categorical and no public interest balancing test
21 is applicable – violates the California Supreme Court's pronouncement in Times Mirror Company
22 v. Superior Court, 53 Cal.3d 1325, 1345-46 (1991), that calendars of public officials are not
23 inviolate.

24 63. Therefore, BANG, LANG and MERCURY-NEWS, and the public are, and will
25 continue to be, unable to obtain access to calendars and appointment books of any Legislator,
26 regardless of their evident connection to serious allegations of public employee wrongdoing of a
27 substantial and profound nature, or any other matter of pressing public importance. Accordingly,
28 BANG, LANG and MERCURY-NEWS are entitled to an order declaring that the legislative

1 records sought are legislative records within the meaning of Section 9072 of the California
2 Government Code and are official writings within the meaning of Article 1, Section 3(b) of the
3 California Constitution, and thus discloseable under the LORA and State Constitution when the
4 public interest in non-disclosure does not clearly outweigh the public interest in access, as is the
5 case here. Further, BANG, LANG and MERCURY-NEWS are entitled to an order declaring that
6 the SRC violated the LORA and Article 1, Section 3(b) of the California Constitution by denying
7 access to the specific calendars and appointment books, and other records, sought by BANG,
8 LANG and MERCURY-NEWS in this action.

9 **RELIEF DEMANDED**

10 Therefore, BANG, LANG and MERCURY-NEWS demand judgment as follows:

11 64. That this Court issue a peremptory writ of mandate or other order immediately
12 directing the California Legislature, the Senate Rules Committee and Senate President Pro
13 Tempore Darrell Steinberg as Chair of the Senate Rules Committee to disclose to BANG, LANG
14 and MERCURY-NEWS all legislative records responsive to their requests; or, in the alternative,
15 issue an order to show cause why these records should not be disclosed. Cal. Gov't Code § 9076.

16 65. That, should the California State Legislature, the Senate Rules Committee and
17 Senator Steinberg not immediately disclose the records pursuant to this Court's order, as requested
18 above, that the Court set a "good cause" hearing on the matter, and related briefing schedule, with
19 "the object of securing a decision as to such matters at the earliest possible time." Cal. Gov't
20 Code § 9076.

21 66. That this Court issue an order in advance of the good cause hearing requiring that
22 the California State Legislature, the Senate Rules Committee and Senator Steinberg submit to the
23 Court conditionally under seal and in advance of the good cause hearing all responsive records for
24 the Court's in camera review. Cal. Gov't Code § 9077.

25 67. That thereafter this Court issue a peremptory writ of mandate under the seal of this
26 Court, directing the California State Legislature, the Senate Rules Committee and Senator
27 Steinberg to disclose to BANG, LANG and MERCURY-NEWS the legislative records requested
28

1 on April 10, 2014 (as narrowed on July 10, 2014), April 23, 2014, and June 19, 2014, currently
2 being withheld;


3 68. That this Court issue a declaration that the writings sought are writings of public
4 officials under Article 1, Section 3(b)(1) of the California Constitution and legislative records
5 under Section 9072(c) of the California Government Code, that these records are not exempt under
6 Sections 9075 or 9075 of the Government Code; and, that therefore the California State
7 Legislature, the Senate Rules Committee and Senate President Pro Tempore Darrell Steinberg
8 violated the California Constitution and the LORA by refusing to make the records available for
9 public inspection.

10 69. The Court enter an order awarding costs and reasonable attorneys' fees incurred in
11 this action pursuant to California Government Code Section 9078 and/or California Civil
12 Procedure Code Section 1021.5; and

13 70. That the Court award BANG, LANG and MERCURY-NEWS such other and
14 further relief as is just and proper.

15 DATED this 29th day of July, 2014.

16 JASSY VICK CAROLAN LLP

17
18 By: 
19 Duffy Carolan
20 Attorneys for Petitioner/Complainant
21 BAY AREA NEWS GROUP EAST
22 BAY, LLC; CALIFORNIA
23 NEWSPAPERS PARTNERSHIP, dba
24 LOS ANGELES NEWS GROUP; SAN
25 JOSE MERCURY-NEWS LLC, dba San
26 Jose Mercury-News
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VERIFICATION

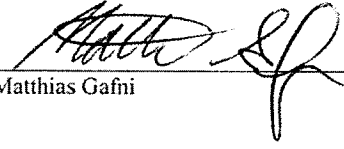
I, Matthias Gafni, do hereby certify and declare as follows:

1. I am an investigative reporter for the Contra Costa Times, a publication of the Bay Area News Group East Bay, LLC, Petitioner/Complainant in this action, and as a reporter I made the Legislative Open Records Act requests pertaining to Senator Leland Yee that are the subject of this action.

2. I have read this Verified Petition for Writ of Mandate Directed to California State Legislature, the Senate Rules Committee and Senate President Pro Tempore Darrell Steinberg as Chair of the Senate Rules Committee Ordering Compliance With the Legislative Open Records Act and Article 1, Section 3(b) of the California Constitution/Complaint for Declaratory and Injunctive Relief and know the contents thereof and I verify that the averments in paragraphs 1, 5-7, 18-35, 38-43 are true of my own personal knowledge, except as to those matters stated on information and belief and as to those matter I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed in Walnut Creek, California on July 28, 2014.



Matthias Gafni

VERIFICATION

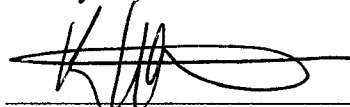
I, Rebecca Kimitch, do hereby certify and declare as follows:

1. I am a reporter for the Los Angeles News Group and in that capacity I made the Legislative Open Records Act requests pertaining to Senator Ronald Calderon that are the subject of this action.

2. I have read this Verified Petition for Writ of Mandate Directed to California State Legislature, the Senate Rules Committee and Senate President Pro Tempore Darrell Steinberg as Chair of the Senate Rules Committee Ordering Compliance With the Legislative Open Records Act and Article 1, Section 3(b) of the California Constitution/Complaint for Declaratory and Injunctive Relief and know the contents thereof and I verify that the averments in paragraphs 1, 5-17, 32-37 are true of my own personal knowledge, except as to those matters stated on information and belief and as to those matter I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed in Los Angeles, California on July 28, 2014.



Rebecca Kimitch

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VERIFICATION


I, Duffy Carolan, do hereby certify and declare:

1. I am an attorney licensed to practice law in the State of California and am a partner in the law firm of Jassy Vick Carolan LLP, attorneys of record for Petitioner/Complainant Bay Area News Group East Bay, LLC, and California Newspapers Partnership, dba Los Angeles Newspaper Group.

2. I have read the Verified Petition for Writ of Mandate Directed to the California State Legislature, the Senate Rules Committee and Senate President Pro Tempore Darrell Steinberg as Chair of the Senate Rules Committee Ordering Compliance With the Legislative Open Records Act and Article 1, Section 3(b) of the California Constitution/Complaint for Declaratory and Injunctive Relief and know the contents thereof and I verify that the averments in paragraphs 2, 3, are true based information provided to me that I believe to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed in San Francisco, California on July 29, 2014.



Duffy Carolan