

JUNIOR THEATRE OVERSIGHT GROUP

www.jtoversightgroup.org

April 26, 2017

The Honorable Kevin L. Faulconer
Mayor of San Diego; and
San Diego City Council Members
City Administration Building
202 C Street, 11th Floor
San Diego, CA 92101

Re: The San Diego Junior Theatre in Balboa Park is in crisis and desperately needs your leadership

Dear Mayor Faulconer and Members of the City Council:

I write to you on behalf of the Junior Theatre Oversight Group, a community watchdog organization. We formed in late 2016 in response to a serious legal, ethical, and financial crisis occurring at the San Diego Junior Theatre, the city's world-renowned youth arts organization located for the last 70 years in the heart of Balboa Park.

Over the last year the Junior Theatre community has endured a painful tragedy at the hands of the organization's current board of trustees (the "Board"). The Board has become hopelessly dominated by a few individuals, old friends who are intent on continuing to run the organization like their own private social club—without regard to its mission, assets, or long-term viability. Their gross mismanagement and outrageous behavior is ongoing and threatens to bring an end to this beloved organization.

The Junior Theatre community has tried dialogue. We have asked the Board for change—over three hundred people signed a petition calling for transparency and accountability. We have organized, and held a Town Hall forum attended by over a hundred people in person and hundreds online. But at every turn the Board has stonewalled us and refused to provide transparency and accountability. Worse, they engaged in a toxic campaign of intimidation against the community, even against the very children the organization is meant to serve.

Courageous and principled political leadership is desperately needed, and it is for this purpose that we are seeking your help.

Enclosed please find a copy of my Complaint to the California Attorney General Regarding the San Diego Junior Theatre and Request for Legal Intervention, dated and submitted March 15, 2017.¹ I have also sent copies of the complaint to District Attorney Bonnie Dumanis and City Attorney Mara Elliott and urged them to investigate and, where appropriate, bring legal charges.

¹ PDF copies of the Complaint, my cover letter to Attorney General Becerra, and Exhibits 1-55 are available to download at <http://jtoversightgroup.org/complaint-to-the-attorney-general/>

The events and actions leading to this complaint were set in motion on June 29, 2016, when Jimmy Saba, the organization's executive director, entered the girls' dressing room unannounced and allegedly grabbed and repeatedly shook a teenage female student while angrily yelling at her. He then allegedly confessed the incident to two employees saying, "I just hit a child."

One of the staff members who heard Saba's confession was the production manager who'd worked for Junior Theatre over twenty years and was widely considered the theater's most valuable staff member. He reported the incident to the Board, and less than two months later found himself fired, along with another witness to Saba's confession, the theater's well-respected artistic director. When the third witness, the box office supervisor of over fifteen years showed signs of resisting the Board's cover-up, she was soon driven out through targeted intimidation.

When I and other members of the community began to look closely at the activities of the Board, a pattern of self-interested behavior, numerous conflicts of interest, and highly questionable transactions emerged. It became clear the current Board is dominated by a small group of lifelong friends who are putting their own interests ahead of, and at the expense of the stakeholders they are legally bound to serve.

My complaint to Attorney General Becerra specifically alleges and documents evidence of numerous improprieties, conflicts of interest, and possible instances of criminal activity. These include acts by its current president, Darien Webster, who has a serious criminal record,² its current executive director Jimmy Saba, and two of its outside attorneys: Gil Cabrera, the Vice Chair of the Convention Center board (and husband of Junior Theatre trustee Krista Cabrera, an employment lawyer at Foley & Lardner LLP); and Edward Cramp, the managing partner of the San Diego office of Duane Morris.

Other trustees implicated include Joan Dawson and Catherine Morrison, attorneys who currently serve in the San Diego City Attorney's office as deputy city attorneys;³ Ken Ruggiero, the board's treasurer, who is an executive of a major student loan corporation; David Braun, the Vice Principal of Thurgood Marshall Middle School; Lizbeth Persons Price, a communications professional at San Diego State; and Karen Quiñones, who has a legal background and is a member of the board of the La Jolla Playhouse.

This is not a Board composed of unsophisticated amateurs. Most trustees involved in this crisis are well-educated professionals who could have and should have put a stop to the pattern of unethical and likely illegal activities. Yet they apparently stood by and did nothing, or else actively supported the unethical and likely criminal acts.

² Webster was prosecuted in 2008 by the San Diego District Attorney for contracting without a license in a declared natural disaster area. His contractor's license had been revoked several years earlier by the Contractors' State License Board for numerous violations of the Business and Professions Code. There is also a long history of civil claims against him stemming from his practice of defrauding homeowners who were the victims of wildfires, including the 2003 Cedar Fire.

³ As detailed in the complaint, Dawson and Morrison each likely has a serious conflict of interest related to their dual roles representing the city and apparently providing legal advice to Junior Theatre.

These are serious allegations, and as such require credible and substantial evidence. For that reason I have taken great care in conducting my research and preparing the complaint attached to this letter, which is as thorough and particular as reasonably possible under the circumstances. I believe you will find it to contain credible evidence supporting its allegations. In brief summary, these allegations include the following:⁴

On June 29, 2016 executive director Jimmy Saba allegedly confessed to two staff members that he committed a battery or child abuse when he entered the girls' dressing room, grabbed hold of a teenage girl by both her shoulders, and shook her several times while yelling in anger. The reason, he said, was that she had mocked him.

One of the staff members to whom he confessed immediately reported the incident to the Board. Several of the trustees, including Webster, Persons Price, Dawson, Braun, and Krista Cabrera are childhood friends of Saba, and they failed to report the incident to law enforcement as required by mandatory child abuse reporting law.

Instead of disciplining Saba, the Board first tried to ignore the incident. Only when they believed that one of the staff member witnesses had reported the incident to CPS did they initiate an investigation—but it was an investigation designed from the start to shield the alleged child abuser and punish the whistleblowers. Gil Cabrera was enlisted for this effort, despite the glaring conflict of his wife sitting on the board, and he in turn hired his associate Edward Cramp to conduct an “independent investigation.”

Cramp's investigation of Saba's alleged child abuse in the girls' dressing room was so absurdly flawed he didn't even interview the alleged victim or any of the eyewitnesses before finalizing his report.⁵ And he deceived the parent of the alleged victim, telling the parent the incident occurred in a “Backstage Area,” and that Saba merely “put his hand on [the alleged victim's] shoulder and said “I'm serious.””

Using Cramp's phony investigation as cover, the Board retaliated against the whistleblowing staff members, who were unceremoniously fired without notice and callously escorted from the building by the Board's president Webster. When news of their firings spread, it devastated the Junior Theatre community. Many feared the worst about these employees, not knowing that they had in fact done nothing wrong and everything right.

Word also spread about Saba's alleged battery in the girls' dressing room, and an arts reporter from the *Union-Tribune* published a story about the community's uproar. The story included a misleading P.R. statement Gil Cabrera wrote on behalf of the Board, in which he stated Saba's incident occurred in a “Backstage Area”—rather than the girls' dressing room—and dismissively described Saba's alleged violent battery of the girl as a “discussion.”

⁴ All facts and allegations in this letter are discussed in detail in the complaint, and supported by citations to Exhibits 1-55 as well as testimonial evidence from knowledgeable members of the Junior Theatre community, including former employees, eyewitnesses, and others with direct knowledge of the facts. (Some sources are cited confidentially because they are minors and/or to protect them from retaliation by the Board).

⁵ The first professional of any kind to interview an eyewitness to the incident was Itaca Milanes, a reporter for Channel 10 News. (Milanes currently serves as Communications Director for County Supervisor Kristin Gaspar.)

With the aid of Cabrera, the Board then pursued a truly nasty campaign of retribution and intimidation against employees, parents, and even children who spoke up.

After the community responded on Facebook and in an online petition, Cabrera sent letters making frivolous legal threats against two people who were merely exercising their First Amendment rights, one of whom was a teenage Junior Theatre student and the other a well-respected makeup artist. Cabrera also apparently helped Webster file a false police report against this makeup artist and the box office supervisor, who had criticized the board for its handling of Saba's incident. Both of these two staff members were quickly cleared of any wrongdoing by the SDPD (who deemed the report "unfounded") but the harassment led them to quit in distress.⁶

In an attempt to intimidate the community into silence, the Board also hired armed plainclothes security to patrol around the theater. They took down license plate numbers and followed and harassed families throughout Balboa Park. The Board even called the police on me and my wife to keep us out of the theater so as to prevent us from seeing our children perform—though we, too, were quickly cleared of any wrongdoing—simply because we spoke up on behalf of the children in the program and demanded transparency and accountability.

The Board's campaign of harassment and intimidation got so bad that at one point a parent asked aloud: **"Is this a children's theater or a police state?"**

But the mismanagement of this children's program is unfortunately not limited to the Board's shockingly unethical response to Saba's alleged child abuse in the girls' dressing room. The organization also recently rehired two former employees who have each been previously alleged to have had inappropriate relationships with underage students at Junior Theatre. These allegations are widely known in the community, and one of these individuals was previously fired around 2013 by Saba himself for the alleged inappropriate relationship. That the Board would approve these rehires demonstrates the current trustees can't be trusted with ensuring the safety and well-being of the children served by the organization.

There is also documented evidence of major financial mismanagement of the organization's assets—which includes taxpayer funds. Indeed, the city of San Diego itself has a significant stake in ensuring Junior Theatre is appropriately managed because not only does Junior Theatre receive the free use of the Casa del Prado Theater and other city-owned space in Balboa Park, it also receives close to \$100,000 a year in local tax dollars through the city's Commission for Arts and Culture.

Yet the Board has mismanaged and abused the organization's finances so badly the treasurer, Ken Ruggiero, put his own home up as collateral for a line of credit to the organization, which was quickly maxed out. And rather than take seriously their duty to be good stewards of the organization's charitable assets, certain trustees have brazenly engaged in self-dealing transactions. Past-president Lizbeth Persons Price received a \$35,000 "consulting" contract from the organization. Darien Webster's company Cabinets Direct received a contract to perform a major renovation of Junior Theatre's administrative office—though neither he nor his

company had a valid contractor's license at the time. Both of these self-dealing transactions occurred when Persons Price and Webster were trustees, and neither transaction was reported to the Attorney General or the IRS as required by law.

In short, this is a Board composed of trustees who cannot be trusted to protect the safety of the children in their charge, cannot be trusted with donor and taxpayer funds and city-owned property, and think they are above the law and can abuse their power with impunity.

As Gil Cabrera himself has stated **“non-profit boards can make terrible decisions when a few individuals dominate a board of directors and do not understand the mission of the organization they lead or their role in it.”** When he made this statement last September he was referring to an unrelated local nonprofit, but few words could better describe the situation that was at that very moment occurring at Junior Theatre, under his own counsel.

This state of affairs at Junior Theatre can no longer be tolerated.

San Diego's civic leaders have a duty to advocate on behalf of our most valued civic institutions, and Junior Theatre has been treasured by San Diegans for generations. What has happened at Junior Theatre can no longer be a private matter, to be discussed in hushed whispers. The thousands of children served by the program every year deserve better. Junior Theatre is in urgent need of attention from those who have the power and influence to help do what is right.

We respectfully urge you to be among those who stand up for Junior Theatre's children, its history, and for everything it represents to the city of San Diego.

I look forward to hearing from you, and thank you for your attention on this important matter.

Sincerely,



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cc: Council President Myrtle Cole
Council President Pro Tem Mark Kersey
Councilmember Barbara Bry
Councilmember Lorie Zapf
Councilmember Chris Ward
Councilmember Chris Cate

Councilmember Scott Sherman
Councilmember David Alvarez
Councilmember Georgette Gómez
District Attorney Bonnie Dumanis
City Attorney Mara W. Elliott
San Diego County Supervisor Kristin Gaspar
Clifford “Rip” Rippetoe, CFE, Convention Center President and CEO
Senior Assistant Attorney General Tania M. Ibanez
Supervising Deputy Attorney General James M. Toma

Enclosures