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EL DORADO CO. SUPERIOR COURT
BY B. Bonfio (DEPUTY)

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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 IN AND FOR THE COUNTY OF EL DORADO
16

17 PEOPLE OF THE STATE OF CALIFORNIA,
18
19 Plaintiff,
20 v.
21 DONALD PHILLIP ATKINSON,
22 Defendant.

No. **P12 CRF 0137**

**DECLARATION IN SUPPORT OF
ISSUANCE OF ARREST WARRANT**

23
24
25 I, John Gaines, declare:

26 I have been employed as an Investigator by the El Dorado County District Attorney's
27 Office ("EDC DA") since August 15, 2011. I was previously employed by the California
28 Department of Justice for more than twenty years. During my tenure at the California

1 Department of Justice ("DOJ") I held the ranks of Chief, Assistant Chief, Special Agent in
2 Charge, Special Agent Supervisor, and Special Agent.

3 I began my employment with DOJ in January 1991 as a Special Agent in the Bureau of
4 Narcotic Enforcement and was responsible for the investigation and prosecution of major narcotic
5 violators and trafficking organizations, including money launderers. In November 1995, I was
6 promoted to Special Agent Supervisor and was responsible for supervising a team of special
7 agents who investigated major narcotic trafficking organizations. On July 1, 1999, I was assigned
8 as the Commander of the Madera County Narcotic Enforcement Team (MADNET). MADNET
9 is a multi-jurisdictional task force responsible for the investigation and prosecution of narcotic
10 traffickers of all levels. On January 1, 2001, I was promoted to Special Agent in Charge of the
11 Professional Standards Group (PSG), DOJ's internal affairs unit. On October 1, 2003, I was
12 promoted to Assistant Chief and PSG remained in my command until my promotion to Chief of
13 the Bureau of Narcotic Enforcement on May 1, 2004. During my tenure as Chief I occasionally
14 had executive management oversight of investigations involving public corruption, including
15 misappropriation of funds, by both DOJ employees and outside agency employees. I honorably
16 retired from the DOJ on June 29, 2011.

17 Prior to my employment with DOJ, I was employed by the City of Azusa Police
18 Department, as a Police Officer, for eight and one-half years, the last five at the rank of Corporal.

19 Introduction

20 Donald Phillip Atkinson ("Atkinson") retired from his job as a deputy sheriff with El
21 Dorado County in 2011. He was President of the El Dorado County Deputy Sheriff's Association
22 (DSA) from January 2001 to December of 2010. It is my opinion, based upon my investigation,
23 experience and training, that Atkinson violated his position of trust as president of the DSA by
24 willfully embezzling more than three hundred thousand dollars (\$300,000.00) entrusted to him by
25 spending DSA money for his own benefit, falsifying official documents and lying to the DSA
26 membership. Atkinson continued to embezzle money from the DSA even after leaving the office
27 of president. At this time some of the stolen funds are unaccounted for, and if they still exist, are
28 being concealed by Atkinson.

1 **My Investigation**

2 On October 6, 2011, EDC DA Chief Investigator Robert Cosley assigned me to investigate
3 the alleged misappropriation of DSA funds by Atkinson. I was given a copy of a report entitled
4 "El Dorado County Deputy Sheriff's Association Report on Forensic Accounting Investigation"
5 prepared by Perry-Smith LLP, an accounting firm, at the request of the DSA. The report only
6 covered the period January to December 2009, with the exception of one area that extended to
7 May 2010, and was completed on September 16, 2011. Atkinson retired at the rank of sergeant
8 from the El Dorado County Sheriff's Department three day's before the report's release on
9 September 13, 2011. Among the "findings" contained in that report were:

10 - That \$30,000 of DSA funds were used to open accounts at Bank of the West ("BOTW"),
11 but that the BOTW accounts did not belong to the DSA and there was no accounting by Atkinson
12 of the funds transferred to that account;

13 - That from January 2009 to May 2010 there were 20 checks drawn on the account totaling
14 \$21,612;

15 - That while the bank statements provided by Atkinson to the DSA for the BOTW account
16 indicated that the DSA owned the account, only Atkinson's name was on the account, and that the
17 bank statements provided by Atkinson to the DSA, in addition to being incomplete, were false
18 and forged;

19 - That Atkinson retained control of DSA funds even though he was no longer an officer of
20 the DSA;

21 - That while Atkinson provided records indicating that \$20,600 in checks were written for
22 charitable purposes including to the South Lake Tahoe Women's Center, the South Lake Tahoe
23 Cancer League and the South Lake Tahoe Little League, none of those organizations received
24 donations from either Atkinson or the DSA;

25 - That there was insufficient documentation to support the majority of the reimbursements
26 made to Atkinson, that he was approving his own expenses, and he potentially received duplicate
27 reimbursement for fuel charges;

1 - That the in DSA's political action committee ("PAC") account, total deposits during the
2 period examined were \$40,937 and total disbursements were \$39,248. The PAC account balance
3 at the beginning of the year was \$232 and the balance at the end of the year was \$1,921. Records
4 were inappropriately withheld from the DSA and there was no documentation to support any of
5 the disbursements. The disclosures at board meetings conflict with the actual balances in the
6 account. Disclosures of PAC bank balances prepared by Atkinson, required by the California
7 Fair Political Practices Commission, signed under penalty of perjury and filed with El Dorado
8 County do not correspond with actual bank balances;

9 - That review of bank records indicated there were various types of withdrawals from the
10 PAC account during 2009 including checks issued to Atkinson totaling \$15,500, atm withdrawals
11 totaling \$8,231, funds remitted to AT&T totaling \$1,290, funds remitted to credit card companies
12 (e.g. Chase, Citicard) totaling \$4,301, funds remitted for debt settlement totaling \$5,968 and other
13 checks and purchases of \$2,562, all not the type of spending one would expect to see in a PAC
14 account;

15 - That the DSA was unknowingly conducting business with two companies owned by
16 Atkinson, WMG Image On-Line and Firebrand;

17 - And, that Atkinson was submitting false and forged invoices to the DSA to justify
18 payments made to him and his companies.

19 The report concluded that:

20 In total, we analyzed disbursements of DSA funds during the evaluation period of
21 \$103,182. This is comprised of \$17,086 disbursed to Firebrand USA, \$30,000
22 deposited into the BOTW accounts. \$15,959 reimbursed to Donald Atkinson and
23 \$40,137 deposited into the PAC account. These funds were generally disbursed
24 without proper documentation or authorization. Based on discussion with third
25 parties, various records were falsified and funds were misappropriated. In our
26 opinion, due to the magnitude and severity of these findings, all disbursements of
27 DSA funds under the direction and leadership of Donald Atkinson warrant further
28 investigation.

25 On October 12, 2011, I met with El Dorado County Sheriff's detective Chris Felton and
26 Sergeant Jackie Noren. Felton is a current member of the DSA financial committee and Noren is
27 the current DSA secretary, as well as a current member of the DSA financial committee. Felton
28 and Noren gave me three binders of documents concerning the alleged misappropriation of funds

1 by Atkinson. The documents indicated that Atkinson was the DSA president from January 1,
2 2001, through December 31, 2010. Felton said DSA Bylaws require an audit of DSA accounts
3 whenever there is a change in the DSA treasurer, but that this was not done in the past due to
4 resistance by Atkinson. Felton said approximately one year ago the DSA financial committee
5 discovered suspicious activity in the DSA accounts which lead to them hiring Perry-Smith to
6 conduct an audit. Felton said due to the cost of the audit, it only covered approximately one year.

7 The documents provided to me included a binder of U.S. Bank statements and canceled
8 checks for the period of February 2005 to January 2011 for the DSA PAC account. In my cursory
9 review, I found that from February 2005 to July 2006, Atkinson wrote himself eleven checks for
10 reimbursement totaling \$4,210.49, all with amounts that included change (e.g. \$495.38, \$880.92),
11 with the exception of one check for \$80.00. All had a note in the memo portion referencing the
12 reason for payment. Information on the back of these checks showed that three of the checks
13 were deposited into an account at Bank of America (later found to be a personal account
14 belonging to Atkinson). Additionally, there was one check written to Atkinson's wife, Sandra.

15 The next U.S. Bank canceled check in the binder that Atkinson wrote to himself was on
16 April 19, 2007, for \$600.00. The reason written on the check for the expense was "PAC ACCT-/
17 BOA". The check was deposited into Atkinson's personal Wells Fargo Bank account. The next
18 check in the binder that Atkinson wrote to himself was in April of 2008.

19 Beginning in April of 2008 Atkinson began to write himself checks for round numbers (e.g.
20 \$1,000.00, \$250.00). In fact, none of the checks from that point forward contained change.
21 There were 72 canceled checks from that period Atkinson had written to either himself or his
22 businesses (63 to himself, six to WMG Image On-Line, and three to Firebrand). Of these 72
23 checks, 58 had no note in the memo portion referencing the reason for payment. Five of these
24 canceled checks were written in January 2011, after Atkinson was no longer DSA president.

25 The 72 checks totaled \$44,075.00; 14 were deposited to Atkinson's personal Wells Fargo
26 Bank account, 27 were deposited to accounts controlled by Atkinson at BOTW and one was
27 deposited to a Nevada State Bank account belonging to WMG On-Line. This cursory review
28

1 only included canceled checks written by Atkinson and did not include counter withdrawals or
2 atm withdrawals.

3 Another binder of documents included copies of canceled El Dorado Savings Bank checks
4 in the name of "Deputy Sheriff's Assn of El Dorado Co Emergency Relief Fund." A review of
5 the checks showed that checks for \$4,900 and \$1,300 were drawn on this account and deposited
6 to Atkinson's BOTW account, and a \$200 check was written and cashed after Atkinson left office
7 as president of the DSA.

8 The documents provided to me also included copies of El Dorado Savings Bank canceled
9 checks in the name of "Deputy Sheriff's Assn of El Dorado County." On October 17, 2008,
10 Atkinson endorsed a check for \$25,000.00 from this account with a pay to the order of "El
11 Dorado County DSA/or Don Atkinson" that was deposited to Atkinson's BOTW account. On
12 June 1, 2009, Atkinson deposited a \$5,000 check drawn on this account to his BOTW account.

13 The binder contained copies of correspondence from Atkinson indicating that he had
14 opened the two BOTW accounts on behalf of the DSA. There were copies of bank statements
15 that Atkinson alleged were from these accounts that he had supplied to the DSA bookkeeper,
16 Sheryl Valentine. There was a document prepared by DSA secretary Noren in memorializing her
17 conversation with BOTW that stated that the BOTW accounts were in Atkinson's name, that his
18 social security number was used to open the account and that the bank statements Atkinson
19 provided for the account were not generated by BOTW.

20 The documents included copies of the falsified BOTW statements; some had copies of
21 canceled checks attached that were later found to be falsified. There was also a copy of a 2009
22 Combined Tax Statement (1098/1099/5498) supposedly from BOTW showing interest paid of
23 \$112.53. The customer's name is listed as "El Dorado County DSA/ Don (illegible)." Bank
24 Manager Chandler Monroe told Sergeant Noren that this form was not generated by BOTW. This
25 document was later confirmed to have been falsified.

26 There were also several paid invoices from "Firebrand/Trans Express." Many of the
27 invoices were for web design. There was a copy of an e-mail from Matt Cook of Trans Express,
28 confirming that these invoices were "doctored" (falsified) and stating that their company does not

1 do web design and has no affiliation with Firebrand. The documents also contain reference to
2 another business owned by Atkinson called "Atkinson Sports Photography."

3 On October 19, 2011, Forensic Accountant/Auditor Marilyn Meixner and I interviewed
4 DSA bookkeeper Valentine who said that she has been the DSA's bookkeeper since January of
5 2003 and her duties generally include bookkeeping for the various DSA accounts, paying
6 insurance bills, taking in donations, completing tax documents, and taking in payroll. Payroll was
7 described as the deductions from members' county pay checks for dues. Valentine said there are
8 approximately 150-155 members of the DSA and the bylaws state that dues are two per cent of a
9 member's base salary. Valentine said that 12.5% of this amount goes to the DSA PAC account,
10 which she estimated at approximately \$2500.00 per month.

11 Valentine said the DSA maintains bank accounts at 49er Federal Credit Union (also where
12 the DSA credit card account is maintained), El Dorado Savings Bank, and previously at Bank of
13 America, and later informed me that DSA special assessment funds are held in a separate El
14 Dorado Savings Bank account. Valentine said that she was not responsible for the PAC account
15 at U.S. Bank or the DSA Emergency Relief Fund at El Dorado Savings Bank; these accounts
16 were maintained by Atkinson and he did the "accounting" for them.

17 Valentine said she has not personally spoken with Atkinson in over a year. She said she
18 first became suspicious in 2008 when he had her increase the credit limit on the DSA credit card
19 from \$2,000.00 a month (which had been in place since at least 2003) to \$5,000.00 a month, and
20 then to \$10,000.00 a month. She said that at the time Atkinson and the DSA secretary Greg
21 Murphy were the only ones with DSA credit cards; the credit cards shared one account number
22 and she would send the entire bill to Atkinson and Murphy each month so they could determine
23 their individual expenditures. Valentine said Murphy's expenditures were approximately one
24 tenth of Atkinson's and that Murphy supplied her with the appropriate receipts and even
25 developed a form to document his expenditures, while Atkinson would send her some receipts,
26 but not all of them, even after repeatedly being asked.

27 Valentine said Atkinson also asked her for his own supply of blank checks from the DSA
28 main account, giving her the reason that he was a distance away in South Lake Tahoe and needed

1 the ability to write checks without coming to her. As with the credit card, Atkinson delayed
2 providing her receipts for checks he wrote, sometimes not providing them at all. She also
3 suspected that Atkinson was putting in for reimbursement that he was not entitled to. She said
4 she took her concerns to the DSA secretary and that shortly afterward Atkinson called her,
5 verbally explaining the expenditure. Valentine said she knew that information was getting back
6 to Atkinson and she was no longer comfortable sharing her concerns with any member of the
7 DSA board of directors.

8 Valentine said that she would prepare financial reports for the DSA membership meetings
9 (as required in the bylaws), which she gave to Atkinson, the DSA secretary and treasurer. She
10 said she later found out that these reports were never given to the DSA membership at the
11 meetings.

12 Valentine said that she prepared the DSA's 2009 federal and state tax returns using the
13 1099 (supposedly from BOTW) supplied to her by Atkinson. She said the information about
14 charitable contributions was supplied to her in handwritten notes by Atkinson on a BOTW
15 statement (which I determined to be falsified). Valentine said that Atkinson contacted her and
16 requested she return all BOTW documents he had supplied so that he could get them ready for the
17 incoming DSA board of directors. She said that she complied, but that prior to doing this she
18 made copies of them.

19 At my request Valentine turned over all records she possessed for the DSA from 2001
20 through 2010. I also obtained search warrants for records of accounts in the names of Atkinson,
21 his wife, the DSA and Atkinson's businesses at BOTW, U.S. Bank, Bank of America, Wells
22 Fargo Bank, El Dorado Saving Bank and 49er Federal Credit Union.

23 On October 21, 2011, I met with Bridget Sanders, Senior Vice President of Perry-Smith
24 LLP. Sanders conducted the forensic audit of the DSA accounts and prepared the report
25 described above. Sanders turned over to me all of the documents, two flash drives, and one CD
26 that had been provided to her by the DSA to conduct the audit.

27 Sanders told me in her opinion, with the exception of a few thousand dollars that are
28 possibly legitimate, all of the \$103,182 disbursements she analyzed were questionable and most

1 were likely misappropriated. Many of the disbursements had no receipts or other documentation
2 to explain them. Sanders said that the check register provided by Atkinson to the DSA
3 Bookkeeper listing the donations was suspicious that she has never seen a bank create a document
4 like the one provided by Atkinson with his handwritten notes. Sanders said the bank statements
5 from BOTW appeared fraudulent in that several were duplicated with the same account number,
6 but different dates. She said the one that most caught her attention was the color copy statement
7 for the period April 13, 2010, to May 13, 2010, for one account that had no checks or
8 withdrawals. There was another black and white copy of a statement for the period April 10,
9 2010 to May 11, 2010, that had \$6,500.00 in checks debited from the account. Sanders said
10 Valentine told her the statements were received in two separate batches from Atkinson and he had
11 most likely forgotten he had supplied the previous set. (I later determined that all the statements
12 were false.) Sanders said that in all her years of experience this is the most blatant case of fraud
13 she has ever seen.

14 On November 1, 2011, I received copies of bank records/statements from U.S. Bank for the
15 DSA PAC account. I saw that there were electronic bill payments being made to 15 entities from
16 this account that included credit card accounts I later learned were in the name of Atkinson. I
17 also saw that there were electronic bill payments to AT&T from October 2007 to December 2009
18 for an account in the name of Nicole A. Sahaj that totaled \$2,889.91. There was also a Comcast
19 bill that was paid on October 13, 2006, in the name of Aubrie Pease for \$50.00.

20 On November 10, 2011, I interviewed DSA president Todd Crawford. I showed him the
21 document containing information about the electronic bill payments from the U.S. Bank PAC
22 account. He said that he is familiar with Nicole Sahaj because she was an employee of the
23 Sheriff's Department and he knows her to be involved in a personal relationship with Atkinson.
24 He did not know Aubrie Pease. Crawford stated that none of the electronic bill payments were
25 appropriate payments from the PAC account, particularly in the case of Sahaj and Pease.

26 The DSA received a debt collection notice dated September 26, 2011, that they gave to me.
27 In reviewing the notice I saw that it was addressed to Deputy Sheriff's Assoc. C/O Donald
28 Atkinson. The collection amount was \$7,129.57 for a Capital One Visa card. DSA bookkeeper

1 Valentine contacted the collection agency and was told that the authorized user on the account
2 was Atkinson and that the account was opened under Atkinson's social security number. This
3 credit card was one of those being paid electronically by U.S. Bank from the PAC account.

4 I also received documents from El Dorado Savings Bank for the DSA Relief Fund account;
5 the Relief Fund was established by the DSA to provide assistance to law enforcement officers
6 and/or their families after experiencing a traumatic event. I saw that on January 4, 2008,
7 Atkinson wrote a check for \$1,000.00 from the DSA general fund that he deposited into the
8 Relief Fund account. I saw that there was a check dated January 1, 2008, for \$1,090.00 drawn on
9 Relief Fund account, signed by Atkinson and made payable to "Huntington Square." The memo
10 on the check read "7338 H.S.L. #106." On November 10, 2011, I went to Huntington Square
11 Apartment Homes, 7311 Huntington Square Lane, Citrus Heights and met with Vice President
12 Charles Patmon who confirmed that the bank and account number on the back of the check
13 indicated the deposit belonged to Huntington Square Apartment Homes. He also confirmed that
14 7338 Huntington Square Lane #106 (on the memo portion of the check) was a valid address in the
15 complex and that the check was for that apartment. After serving a search warrant I received an
16 account statement in the name of Atkinson and Aubrie Pease, a copy of a credit report for
17 Atkinson and records showing a move-in date of December 4, 2007, and a move-out date of May
18 31, 2008. The statement showed \$1,090.00 for the lease and that \$339.17 was sent to collections.

19 On November 15, 2011, I spoke with Aubrie Pease. She told me that she met Atkinson in
20 2001 when she worked at Barton Hospital, they started dating at some point after that, he
21 eventually proposed marriage to her and they set a date of May 26, 2007. The marriage was
22 called off a few days prior to the wedding because Atkinson told her his sister had died. At a later
23 date Atkinson rented the Huntington Square apartment because she had bad credit; he paid the
24 deposit for the apartment and all monthly rent, with the exception of one month. She said
25 Atkinson visited her at the apartment, but did not stay there. Pease said she did some checking
26 on-line and found that Atkinson was lying to her and that both Atkinson's mother and sister were
27 alive even though he had told her they had died. She said she confronted Atkinson and the
28

1 relationship ended. Pease said during their relationship they traveled to Disneyland twice, San
2 Francisco "a couple of times," Monterey "a couple of times" and San Diego.

3 In examining the records from BOTW received in response to my search warrant, I saw that
4 two accounts were opened on October 17, 2008, using \$25,000 of DSA funds. Atkinson told
5 DSA bookkeeper Valentine and members of the DSA board of directors that these accounts were
6 opened to benefit the DSA and belonged to the DSA. On December 16, 2011, Forensic Auditor
7 Accountant/Auditor Marilyn Meixner received an e-mail from Lesley Frank at BOTW confirming
8 that the 1098/1099 form supplied to Valentine by Atkinson was falsified.

9 The minutes of the August 13, 2008, DSA board of director's meeting under the PAC
10 Update state, "Motion to spend up to \$5,000 on DSA mailer for Ray Nutting in District 2" and
11 "Motion to spend up to \$5,000 on DSA mailer for Harry Norris in District 1." The balance of the
12 U.S. Bank DSA PAC account on August 14, 2008, was \$143.87. The minutes of the September
13 18, 2008, DSA board of director's meeting under the PAC Update state, "District 1 & 2 mailers
14 ready to be mailed." The balance of the U.S. Bank DSA PAC account on that date was
15 \$2,026.57. The minutes of the October 16, 2008 DSA board of director's meeting under the PAC
16 Update state, "District 1 & 2 mailers out to absentees & mailers to Election Day voters will go out
17 in end of week before election." The balance of the U.S. Bank DSA PAC account on October 16,
18 2008, was \$234.09. Atkinson opened the BOTW accounts with \$25,000.00 of DSA monies on
19 October 17, 2008, under the guise of getting better interest return for the DSA. On October 21,
20 2008, Atkinson transferred \$11,000.00 into the U.S. Bank PAC account from the BOTW
21 checking account so that there were sufficient funds for the mailers for Nutting and Norris.

22 Atkinson gave DSA bookkeeper Valentine, a statement from BOTW that he alleged was
23 authentic and listed charitable donations. This document was used by Valentine in the
24 preparation of the 2009 DSA tax forms that were signed by Atkinson. There was a handwritten
25 note on the statement that stated:

26 Sheryl, Here is check listing/register for BOTW money market. I have ordered hard
27 copies of the checks (acct. was paperless) from bank. Acct. is closed-balance moved to
28 reg. checking. Thanks, Don.

In comparing this document to the actual bank records it is clear that the document Atkinson

provided contained false information. The following table compares the information from Atkinson with the actual checks that cleared the bank:

	<u>Check No.</u>	<u>Date</u>	<u>Amount</u>	<u>Payee</u>
Atkinson	1001	06/23/09	\$2,500.00	SLT Women's Center (Donation)
Actual Record	1001	01/08/09	\$3,000.00	Don Atkinson
Atkinson	1002	07/08/09	\$2,000.00	Cancer League (Donation)
Actual Record	1002	01/24/09	\$1,000.00	Donald Atkinson
Atkinson	1003	08/18/09	\$2,300.00	Area Special Olympics
Actual Record	1003	01/27/09	\$1,000.00	Bellagio Resort & Casino
Atkinson	1004	11/11/09	\$1,300.00	SLT Senior Center (Tksgiving reimb)
Actual Record	1004	02/04/09	\$1,500.00	Don Atkinson
Atkinson	1005	01/14/10	\$1,000.00	SLT Little League (Sponsorship)
Actual Record	1005	02/11/09	\$1,000.00	Don Atkinson
Atkinson	1006	03/19/10	\$2,500.00	Make A Wish Foundation (Donation)
Actual Record	1006	02/15/09	\$500.00	Nicole Sahaj
Atkinson	1007	03/22/10	\$2,500.00	Boys and Girls Club (Donation)
Actual Record	1007	02/16/09	\$1,000.00	Don Atkinson
Atkinson	1008	04/16/10	\$11,157.15	Balance transfer to checking acct.
Actual Record	1008	02/24/09	\$1,000.00	Don Atkinson

Atkinson's BOTW money market account was closed on May 5, 2009, and \$48.63 was transferred to his BOTW checking account.

In reviewing the bank records from El Dorado Savings Bank DSA general fund account I found two checks that Atkinson had written to himself with reference to four police officers killed

1 in Oakland. The first check was written on April 20, 2009, for \$1,500 and was deposited into
2 Atkinson's personal Wells Fargo account. Written in the memo section of this check was
3 "Oakland Officer Family Trust." The other check was written on June 20, 2009, for \$1,000 and
4 was deposited into Atkinson's BOTW account. Written in the memo section of this check was
5 "Oakland Family Trust Reimb." The DSA Board meeting minutes dated April 15, 2009, state,
6 "Request to give \$1,000 to OPD." Greg Murphy, the DSA secretary at that time, told me this
7 request was approved by the DSA board and the donation was for the families of the four
8 Oakland police officers that were murdered on March 21, 2009. In examining Atkinson's
9 personal Wells Fargo Bank checking account I found two checks that Atkinson had written to
10 himself from the U.S. Bank DSA PAC account. One was dated March 22, 2009, for \$1,000 and
11 the other was dated March 24, 2009, for \$2,200. Written in the memo section of the first check
12 was "OPOA contribution" and written in the memo section of the second check was "OPOA
13 donation." On December 2, 2011, I received correspondence from Renee Hassna, General
14 Manager of the Oakland Police Officer's Association. She said she had their accountant check
15 the donations and that no donation was received from either the DSA or Atkinson.

16 On Atkinson's BOTW statement from June 2009 I saw that the \$1,000 check described
17 above was deposited on June 29, 2011. There were also two other checks deposited that
18 Atkinson wrote to himself from the U.S. Bank PAC account totaling \$2,300. The month prior's
19 bank statement (beginning May 12, 2009) showed there was a check deposited on June 1, 2009,
20 into this BOTW account from the DSA general fund account for \$5,000. Written in the memo
21 section of this check was "new acct funding." The beginning balance on the bank statement for
22 that month was \$76.37 and the ending balance of the next month's statement was \$469.86. The
23 statement shows that most of the DSA monies deposited into Atkinson's BOTW account during
24 this period were spent on a trip to Hawaii.

25 In the El Dorado Savings Bank DSA general fund account, I found a check dated March 1,
26 2010, for \$500 that Atkinson had endorsed to the "Wahlenmaier Trust or Donald Atkinson."
27 Written in the memo section of the check was "FPD Wahlenmaier Trust Fund." The back of the
28 check was signed by Atkinson and he deposited it into his personal Wells Fargo Bank checking

1 account. Fresno County Deputy Sheriff Joel Wahlenmaier was murdered on February 25, 2010;
2 the Fresno Deputy Sheriff's Association confirmed that it did not receive a check for \$500 from
3 the DSA or from Atkinson as a line-of-duty death donation in memory of Joel Wahlenmaier.

4 After leaving office, DSA President Todd Crawford sought to have Atkinson return DSA
5 funds. In a text message exchange between Crawford and Atkinson on August 3, 2011, Atkinson
6 wrote, "The BofA was a holding acct for funds when I ended my term. I will have funds cleared
7 from there and delivered to you. I will get you another set of stmt." In a second text, in regard to
8 the account number, on August 3, 2011, Atkinson wrote, "... Sorry for the delay. I will have to
9 figure it out tomorrow. Don't stress it, I will take care of it." Crawford told me that Atkinson
10 told him these funds had been moved from the BOTW to a Bank of America account, and
11 Atkinson provided the account number. Crawford also said that on more than one occasion
12 Atkinson has told DSA members he is going to return some monies that belonged to the DSA that
13 he had in his possession. However, Atkinson never followed through with returning the monies.

14 The account number provided by Atkinson to Crawford was for a Bank of America Nevada
15 account. After serving a search warrant on Bank of America I learned that this was an account in
16 the name of Atkinson and that this account had more than \$50,000 in it. Based on Atkinson's
17 communication I believed that the funds in this account were DSA funds, and so I obtained a
18 search warrant for the account and seized \$55,633.88 from the account in the form of a check
19 payable to County of El Dorado Restitution Trust Account. This amount represented the total
20 funds in the account. Later that day I met with El Dorado County Auditor-Controller Joe Harn
21 and deposited the check in the restitution trust account where the funds are currently held.

22 Later, when I received the account records from Bank of America, I learned that Atkinson
23 was lying, that the funds in the account did not come from the money he had taken from the DSA.
24 On October 3, 2011, there was a deposit made to the account of \$73,833.70 from Nationwide
25 Retirement Solutions; these were funds Atkinson had withdrawn from his deferred compensation
26 account. The last date on the last statement received from Bank of America in response to the
27 search warrant was October 7, 2011, showed an ending account balance of \$66,306.14 (which
28

1 means more than \$10,000 had been spent from the account before the service of the search
2 warrant).

3 On reviewing the bank records from the El Dorado Savings Bank DSA Emergency Relief
4 Fund account I found a check that Atkinson signed on June 1, 2010, depositing \$5,000 into the
5 account from the El Dorado Savings Bank DSA General Fund account. Written in the memo
6 section of the check was "Citizens for resp. gov./cc." The balance of the account prior to this
7 deposit was \$25.00. The same day Atkinson wrote a check from the El Dorado Savings Bank
8 DSA Emergency Relief Fund account for \$4,900 that was deposited into his personal BOTW
9 account.

10 The DSA credit card at 49er Federal Credit Union showed a charge of \$672.01 on January
11 29, 2008. The charge was paid to Sheraton Suites in San Diego. This credit card account is in the
12 name of, and paid for by, the DSA. Atkinson was one of two authorized users of the credit card
13 and had a card with his name. In examining the bank records from the El Dorado Savings Bank
14 DSA general fund account obtained by search warrant I saw that Atkinson wrote himself a check
15 for \$672.01 dated February 7, 2008. Written in the memo section of the check was
16 "Reimbursement for hotel expense (PORAC training)." The check was deposited into Atkinson's
17 personal Wells Fargo Bank account meaning the DSA paid the same bill twice.

18 On December 13, 2011, retired deputy sheriff Brad Tibbs provided me a copy of a contract
19 for the DSA website development. Tibbs said that Atkinson gave this to him when he (Tibbs)
20 was serving as the DSA treasurer. The contract was between the DSA and "FBTx/Webstar
21 Media." Atkinson signed the contract/agreement on May 6, 2008, on behalf of the DSA. There
22 are no other signatures on the document. The second part of the contract/agreement was an
23 addendum signed by Atkinson on January 1, 2010, on behalf of the DSA. There are no other
24 signatures on the document. This addendum was for a pre-payment in the amount of \$16,500 for
25 60 months of service. In reviewing the original documents supplied to me by Sergeant Noren I
26 saw there were several invoices from FBTx. These invoices were paid with DSA checks signed
27 by Atkinson. The backs of these checks were endorsed for deposit into a bank account owned by
28 Atkinson with Firebrand or Firebrand USA Marketing and Promotions and no signature. In my

opinion, Atkinson did this to hide the fact that he was the owner of FBTx/ Webstar Media aka Firebrand USA Marketing and Promotion. Noren also later told me that the \$16,500 pre-payment was the subject of a contentious DSA Board of Director's meeting on March 10, 2010. The motion was made by Atkinson to pay it to avoid future costs, but it was not approved.

On January 11, 2012, I spoke with Matt Cook of Transfer Express by telephone. I e-mailed 16 invoices to him that were allegedly from "Firebrand USA/ Transfer Express" that I had received from Sergeant Noren. After reviewing the invoices, Cook told me that all of them were falsified and that none of them had anything to do with Transfer Express. Cook said that Firebrand USA was a customer of Transfer Express and that was their only affiliation. He said Transfer Express had nothing to do with web design and that their company only produces screen prints that are later applied by the customer on clothing, etc. Cook said the only thing accurate on the invoices was their address.

On December 14, 2011, Sergeant Noren supplied me with copies of California Fair Political Practices Commission form 410 and forms 460 for the DSA. The form 410 was dated July, 10, 2001, and lists Atkinson as the PAC's treasurer. This form was signed by Atkinson. The form 460's cover the period from January 1, 2001, to June 30, 2011. Each was signed by Atkinson as the preparer and under penalty of perjury. In my review of these forms I noted several falsifications, the most blatant in the ending balances. Some of these falsifications are

<u>Date Ending</u>	<u>460 Stated Ending Balance</u>	<u>Actual PAC Balance</u>
06-30-2011	\$62,077.03	\$0
12-31-2010	\$76,175.43	\$38.53
10-15-2010	\$75,308.05	\$943.22
09-30-2010	\$74,890.23	(-\$795.54)
06-30-2010	\$69,116.60	\$676.12
12-31-2009	\$59,454.69	\$1,920.82
06-30-2009	\$51,268.05	\$879.19
12-31-2008	\$41,960.12	\$231.79
09-30-2008	\$46,068.38	\$144.51
06-30-2008	\$39,065.56	\$311.55
05-17-2008	\$36,936.13	\$104.07 (05-19-2008)
12-31-2007	\$32,521.62	\$809.00
06-30-2007	\$21,397.66	\$1,524.47
12-31-2006	\$8,805.92	\$188.74
06-30-2006	\$2,977.19	\$1,963.24
05-20-2006	\$2,330.74	\$2,430.79 (05-19-2006)
03-17-2006	\$190.42	\$798.54
12-31-2005	\$1,202.60	\$1,847.13

1	09-30-2005	\$7,703.10	\$2,144.87
	06-30-2005	\$7,195.17	\$1,136.94
2	12-31-2004	\$5,842.23	\$295.71

3 In reviewing the records of the DSA PAC account I found that a number of payments were
4 made electronically from the account for credit cards and other obligations in Atkinson's name.
5 For example, \$6,848.40 was transferred to the account of U.S. Debt Settlement. I learned from
6 CEO Michael Mann that U.S. Debt Settlement was a credit consolidation business. He said the
7 fee U.S. Debt Settlement charged debtors for this service was 6.5-7% and that was paid within the
8 first six months of payments collected from debtors, before the payment of the debt amount.
9 Mann said that looking at the payments that were made it appeared that the amount of Atkinson's
10 debt being consolidated was between \$50,000 and \$100,000.

11 In BOTW records I found a check that was deposited into the account for \$100,000.00 from
12 Liselotte Holzer as trustee for the Holzer Living Trust of Glendale, CA. The check was written to
13 Atkinson and dated June 2, 2011. In identifying Ms. Holzer I found that she is 72 years old. On
14 November 29, 2011, I spoke with Ms. Holzer by telephone; she told me she has known Atkinson
15 for approximately 30 years and that he is a childhood friend of her son. She said she loaned
16 Atkinson \$100,000.00 to start a photography business and that he signed a "note." I asked her if
17 he has been making payments on time and she said that none were due yet and that they were not
18 due for a "long time." When I asked her how long she said she did not know and would have to
19 look at the "note."

20 Later in the day I received a telephone call from Tom Holzer ("Tom") who said that he had
21 been contacted by his mother after my call. After explaining my reason for calling her, he told
22 me that he was a friend of Atkinson's and had known him for many years. Tom said that he sees
23 him approximately once a year and last saw him around January. He said his mother loaned
24 Atkinson the \$100,000 so he could purchase a photography business from a man that had cancer.
25 He said that Atkinson said that the purchase included contracts with some schools to photograph
26 sporting events. Tom said that Atkinson secured the loan with his mother with a deferred
27 compensation account and that there was a signed contract.

28

1 On November 30, 2011, Ms. Holzer faxed me her contract with Atkinson and a letter she
2 wrote explaining why she loaned Atkinson the money. I saw that the loan was made to Donald
3 Atkinson dba WMG Image and that the contract was executed on June 2, 2011, for \$100,000 at
4 10.5% interest. The first payment installment of \$25,000 is due on June 2, 2012, with the final
5 installment of \$35,500 due on December 2, 2012. The contract called for a life insurance rider
6 from Atkinson, which Holzer later told me she never received. The contract also required
7 Atkinson to maintain \$112,000 "as liquid savings" in his Nationwide Retirement Solutions 457
8 plan as security of the loan. Ms. Holzer said that she did not receive any confirmation from
9 Atkinson that this amount was in his Nationwide Retirement Solutions 457 plan at the time of the
10 loan.

11 On January 11, 2012, I received an email from Holzer. Attached was a Nationwide
12 Retirement Solutions statement for the period of July 1, 2011- September 30, 2011 in the name of
13 Atkinson. The "Quarterly Activity at a Glance" showed account balances as follows:

14	1) 01-01-11	\$114,572.45
15	2) 03-31-11	\$119,464.97
16	3) 06-30-11	\$126,477.65
17	4) 09-30-11	\$130,050.38

18 Ms Holzer had requested this from Atkinson after our earlier conversation and he
19 eventually provided this e-mail attachment to her. The statement showed there was \$112,865.65
20 in "NW Bank Liquid Savings."

21 The bank records obtained as a result of search warrants served during this investigation
22 show that:

23 September 30, 2010 – Atkinson deposited a check from Nationwide Retirement Solutions
24 for \$40,000.00 into his BOTW account.

25 June 2, 2011 – Atkinson deposited a check from Liselotte Holzer for \$100,000 into his
26 BOTW account.

1 August 11, 2011 – Atkinson electronically transferred \$33,987.75 from his BOTW account
2 to Nationwide Retirement Solutions. “CASS Loan” was noted by the bank on the statement.
3 (This was apparently to repay money he had borrowed from his retirement account.)

4 October 3, 2011 – A deposit was made into Atkinson’s Bank of America account for
5 \$73,833.70 from Nationwide Retirement Solutions.

6 Records obtained by search warrant from Nationwide Retirement Solutions confirm that the
7 statement Atkinson gave to Ms. Holzer was falsified, that the amount alleged to be in the account
8 was at the time the loan was made was not there and that as of September 30, 2011, there were no
9 funds remaining. It appears that the statement Atkinson altered and then supplied to Ms. Holzer
10 was from January 1, 2011 to March 31, 2011.

11 On February 15, 2012, I spoke with Ms. Holzer and told her the information I had
12 discovered as a result of my search warrant. Ms. Holzer said that she relied on the information
13 Atkinson had told her about his 457 plan account balance, and that was included in the contract,
14 when she decided to give Atkinson the loan. She said that if she had known that Atkinson did not
15 have the money in his account as he attested she would not have given him the loan. She said she
16 is desirous of Atkinson being prosecuted.

17 It is also clear that the reason provided by Atkinson to Ms. Holzer for granting him the loan
18 in the first instance was false, that he needed the funds to purchase the photography business of a
19 man dying from cancer. None of Ms. Holzer’s funds were spent for that purpose, and it appears
20 that her money was used to support Atkinson.

21 **Auditor Review of DSA and Atkinson Records**

22 Department of Justice Investigative Auditor Vikram Mandla and EDC DA Forensic
23 Accountant/Auditor Marilyn Meixner have reviewed the materials obtained from the DSA, from
24 DSA bookkeeper Valentine and from the various bank search warrants issued in this case. In
25 addition IA Mandla has interviewed some of the vendors for invoices provided by Atkinson to
26 justify payments made from DSA accounts or used by him to seek reimbursement from the DSA.

27 In reviewing the DSA El Dorado Savings account, Mandla found that approximately
28 \$107,560 was stolen from the DSA through the submission of 26 forged invoices for

reimbursement, issuing checks to himself from the DSA account and using the funds for personal expenses, submitting fraudulent checks as proof he paid for services on the DSA's behalf and submitting claims for reimbursement without receipts showing actual expenditures.

From the DSA PAC account at U.S. Bank, Mandla found more than \$47,000 that was transferred to Atkinson's personal accounts or cashed, more than \$45,000 debited from the account and used to pay Atkinson's personal credit card bills and obligations and more than \$40,000 was taken by cash withdrawals at a teller or from atm's.

Finally, there was also more than \$72,000 in unsubstantiated charges on the 49er Credit Union Visa account.

His finding may be summarized as follows:

Theft by Embezzlement	Date Range	Amount
ATM and teller withdrawals from DSA PAC Acct.	2/05 to 6/11	\$40,421.98
Transfer from DSA PAC ACCT. to Personal Bank Accounts	2/05 to 6/10	\$47,685.49
Transfer from DSA PAC ACCT. for Personal Credit Cards	3/07 to 6/11	\$35,853.04
Payment from DSA PAC ACCT. for Personal Expenses	1/05 to 2/10	\$13,166.47
Payment from DSA PAC ACCT. For Personal Credit Cards	4/06 to 5/09	\$9,650.00
Payments from DSA 49er Credit Union Without Receipts	3/05 to 03/11	\$72,210.33
El Dorado DSA Acct. - Improper Transfer	01/08 to 09/10	\$38,200.00
El Dorado DSA Acct. - No Receipt	10/06 to 05/10	\$38,008.11
Total		\$295,195.42

Theft by False Pretenses	Date Range	Amount
DSA El Dorado Acct. - Fraudulent Invoices	02/08 to 05/10	\$22,919.81
DSA El Dorado Acct. - Fraudulent Checks	06/08 to 03/10	\$9,525.00
DSA El Dorado Acct. - Fuel Double Billing	04/08 to 11/10	\$8,227.05
DSA El Dorado Acct. - Double Credit Card Payment	11/07 to 2/08	\$1,050.12
DSA El Dorado Acct. - DSA Visa Card Reimbursement	11/07 to 2/08	\$1,032.14
DSA El Dorado Acct. - Double Payment	12/09 to 05/10	\$118.74
DSA El Dorado Acct. - Reimbursement for Personal Exp.	02/08 to 09/09	\$279.86
Total		\$43,152.72

1 **Conclusions**

2 Based on the foregoing, I believe that Atkinson has stolen more than \$300,000 from the El
3 Dorado County Deputy Sheriff's Association by theft by embezzlement, theft by false pretenses,
4 and through the use of forged documents. He has also committed multiple counts of perjury by
5 submitting false documents to El Dorado County which were signed under penalty of perjury; the
6 documents were false in order to conceal his theft from the DSA PAC account. Finally I believe
7 that Atkinson committed theft by false pretenses from an elder, Liselotte Holzer.

8 The El Dorado County bail schedule indicates that for felony offenses, the bail amount for
9 felony offenses, plus enhancements, and for felonies that are committed on separate victims or the
10 same victim on separate occasions, bail shall be stacked. For the offenses alleged here, bail for
11 perjury is \$15,000, bail for grand theft and forgery is \$10,000, and bail for embezzlement is
12 \$10,000 or the amount taken, whichever is greater. For complaints alleging enhancements
13 pursuant to Penal Code sections 186.11 and 12022.6, bail is \$10,000 or the amount taken,
14 whichever is greater.

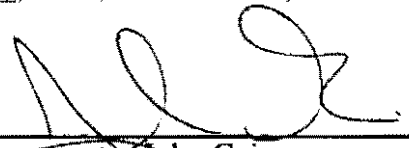
15 Given the number of counts in this case, the fact that there was a substantial amount of
16 money stolen, that Atkinson is a former law enforcement officer and that his official residence is
17 in the state of Nevada, I am requesting that bail be set in the amount of \$1 million.

18 In this case Atkinson has embezzled a substantial sum from the DSA and has also obtained
19 \$100,000 from another victim through false pretenses. Much of the stolen money (more than
20 \$50,000) was taken out of the accounts in the form of atm withdrawals, cash withdrawals and
21 checks payable to Atkinson, and much of the stolen money cannot be traced through the work
22 done by the auditors on this case. For that reason I request that in the event that the defendant
23 seeks to post bail, that he be required to demonstrate to the court that no portion of said bail or
24 any pledge or consideration provided for such bail was feloniously obtained as required by Penal
25 Code section 1275.1. I am concerned that any assets used to post bail will be from cash or assets
26 acquired through theft from others by the defendant. Therefore I request an order directed to the
27 El Dorado County Sheriff's Department and any other law enforcement agency, that in the event
28

1 that Atkinson seeks to post bail, that such deposit not be accepted until a hearing is held on the
2 source of the funds.

3 Donald Phillip Atkinson is more particularly described as a white male, six feet, two inches
4 tall, weighing 195 pounds, with blue eyes and blond hair, born [REDACTED]. He resides at [REDACTED]
5 [REDACTED], and also pays rent on a residence at [REDACTED]
6 [REDACTED]

7 I declare under penalty of perjury under the laws of the State of California that the
8 foregoing is true and correct. Executed on March 6, 2012, at Placerville, California.

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10 
11 Investigator John Gaines
12 El Dorado County District Attorney's Office
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