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SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA

**THE PEOPLE OF THE STATE OF
CALIFORNIA,**

Plaintiff,

vs

**HAROLD LEO CLARK III, MICHAEL
PATRICK BANNAN, DAVID
ALEXANDER IRWIN and CYNTHIA
LYNN CLARK,**

Defendants.

Case No. 1257252

**[Proposed]
INDICTMENT**

The Criminal Grand Jury, having been convened and having received and considered evidence from Elena Albertoni, Cathy Atkins, Philippe Barrett, Elizabeth Breen, Pat Bringe, Tim Brown, Kathleen Buckey, Scott Coleman, Deborah Deal, Ed Fassiotto, David Francis, Mario Fuoco, Nick Fusco, CindyLu Greathouse, Tom Ingram, David Jaworski, Tia Lafler, Robert McConnaughey, Bruce McDonald, Linda Moore, Joe Morin, Jon Moreno, Andrew Nahidi, Jessica Needham, Lisa Nesbitt, Cathy Petrosky, Alan Pierce, Dan Prasad, Barbara Ramirez, Carl Richard, John Sandman, Mark Schutz, Scott Shackelford, Roland Shafer, Roger Smith, Sharen Sportsman, Sheila Stamper, Karyn Stevens, Sue Ellen Tankersley, Tom Tarlton, Andy Thomas,

1 Leah Tran, Christian Ueland, Patrick Van Den Bossche, Kelli Wightman and Gene Wilson,
2 DOES HEREBY CHARGE:

3 **COUNT 1**

4 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
5 DAVID ALEXANDER IRWIN on or between August 11, 2004 and August 21, 2004, at and in
6 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
7 PENAL CODE SECTION 484b, DIVERSION OF CONSTRUCTION FUNDS, in that said
8 defendants were persons who did receive money for the purpose of obtaining or paying for
9 services, labor, materials or equipment and did willfully fail to apply such money for the
10 intended purpose by willfully failing to pay for services, labor, materials or equipment provided
11 incident to construction, and did wrongfully divert the funds to a use other than that for which
12 the funds were received, of an amount in excess of One Thousand Dollars (\$1,000.00), to wit:
13 **Diversion of Retention Funds intended for A. J. Diani Construction Company, Inc., for**
14 **labor performed on and materials supplied to the North Preisker Ranch Junior High**
15 **School (Concrete & Rough Carpentry) in the amount of One Hundred Eleven Thousand,**
16 **Six Hundred Seventy-Six Dollars and Fifty-Three Cents (\$111,676.53).**

17 **COUNT 2**

18 For a further and separate cause of Complaint, being a different offense from but
19 connected in its commission with the charges set forth in Count 1, the Grand Jury further
20 complains and states,

21 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
22 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between August 11, 2004 and
23 August 21, 2004, at and in the County of Santa Barbara, State of California, did commit a
24 violation of CALIFORNIA PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF
25 PUBLIC MONIES, in that said defendants were persons charged with the receipt, safekeeping,
26 transfer or disbursement of public monies who, without authority of law, appropriated the same
27 or any portion thereof to his or her own use or to the use of another, to wit: **Misappropriated**
28 **Public Monies intended for payment to A. J. Diani Construction Company, Inc., for labor**

1 performed on and materials supplied to the North Preisker Ranch Junior High School
2 (Concrete & Rough Carpentry) in the amount of One Hundred Eleven Thousand, Six
3 Hundred Seventy-Six Dollars and Fifty-Three Cents (\$111,676.53).

4 **COUNT 3**

5 For a further and separate cause of Complaint, being a different offense from but
6 connected in its commission with the charges set forth in Counts 1 and 2, the Grand Jury further
7 complains and states,

8 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
9 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between August 11, 2004 and
10 August 21, 2004, at and in the County of Santa Barbara, State of California, did commit a
11 violation of CALIFORNIA PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC
12 FUNDS, in that said defendants were officers of any county, city, city and county or other
13 municipal corporation or subdivision thereof or were a deputy, clerk or servant of that officer or
14 were an officer, director, trustee, clerk, servant of agent of any association or corporation, who
15 fraudulently appropriated to any use or purpose not in the due and lawful execution of that
16 person's trust, any property in his or her possession or under his or her control by virtue of that
17 trust, to wit: **Embezzled Public Monies from the Santa Maria-Bonita School District**
18 **intended for payment to A. J. Diani Construction Company, Inc., for labor performed on**
19 **and materials supplied to the North Preisker Ranch Junior High School (Concrete &**
20 **Rough Carpentry) in the amount of One Hundred Eleven Thousand, Six Hundred Seventy-**
21 **Six Dollars and Fifty-Three Cents (\$111,676.53).**

22 **COUNT 4**

23 For a further and separate cause of Complaint, being a different offense from but
24 connected in its commission with the charges set forth in Counts 1 through 3, the Grand Jury
25 further complains and states,

26 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
27 DAVID ALEXANDER IRWIN on or between August 11, 2004 and August 21, 2004, at and in
28 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA

PENAL CODE SECTION 484b, DIVERSION OF CONSTRUCTION FUNDS, in that said defendants were persons who did receive money for the purpose of obtaining or paying for services, labor, materials or equipment and did willfully fail to apply such money for the intended purpose by willfully failing to pay for services, labor, materials or equipment provided incident to construction, and did wrongfully divert the funds to a use other than that for which the funds were received, of an amount in excess of One Thousand Dollars (\$1,000.00), to wit: **Diversion of Retention Funds intended for American Tile and Brick Veneer, Inc., for labor performed on and materials supplied to the North Preisker Ranch Junior High School (Installation of Brick Veneer and Ceramic Tile) in the amount of Thirty-Eight Thousand, Six Hundred Seven Dollars and Forty-Seven Cents (\$38,607.47).**

COUNT 5

For a further and separate cause of Complaint, being a different offense from but connected in its commission with the charges set forth in Counts 1 through 4, the Grand Jury further complains and states,

That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between August 11, 2004 and August 21, 2004, at and in the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF PUBLIC Monies, in that said defendants were persons charged with the receipt, safekeeping, transfer or disbursement of public monies who, without authority of law, appropriated the same or any portion thereof to his or her own use or to the use of another, to wit: **Misappropriated Public Monies intended for payment to American Tile and Brick Veneer, Inc., for labor performed on and materials supplied to the North Preisker Ranch Junior High School (Installation of Brick Veneer and Ceramic Tile) in the amount of Thirty-Eight Thousand, Six Hundred Seven Dollars and Forty-Seven Cents (\$38,607.47).**

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1 **COUNT 6**

2 For a further and separate cause of Complaint, being a different offense from but
3 connected in its commission with the charges set forth in Counts 1 through 5, the Grand Jury
4 further complains and states,

5 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
6 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between August 11, 2004 and
7 August 21, 2004, at and in the County of Santa Barbara, State of California, did commit a
8 violation of CALIFORNIA PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC
9 FUNDS, in that said defendants were officers of any county, city, city and county or other
10 municipal corporation or subdivision thereof or were a deputy, clerk or servant of that officer or
11 were an officer, director, trustee, clerk, servant of agent of any association or corporation, who
12 fraudulently appropriated to any use or purpose not in the due and lawful execution of that
13 person's trust, any property in his or her possession or under his or her control by virtue of that
14 trust, to wit: **Embezzled Public Monies from the Santa Maria-Bonita School District**
15 **intended for payment to American Tile and Brick Veneer, Inc., for labor performed on and**
16 **materials supplied to the North Preisker Ranch Junior High School (Installation of Brick**
17 **Veneer and Ceramic Tile) in the amount of Thirty-Eight Thousand, Six Hundred Seven**
18 **Dollars and Forty-Seven Cents (\$38,607.47).**

19 **COUNT 7**

20 For a further and separate cause of Complaint, being a different offense from but
21 connected in its commission with the charges set forth in Counts 1 through 6, the Grand Jury
22 further complains and states,

23 That defendants HAROLD LEO CLARK III and MICHAEL PATRICK BANNAN on or
24 between August 18, 2004 and September 20, 2004, at and in the County of Santa Barbara, State
25 of California, did commit a violation of CALIFORNIA PENAL CODE SECTION 484b,
26 DIVERSION OF CONSTRUCTION FUNDS, in that said defendants were persons who did
27 receive money for the purpose of obtaining or paying for services, labor, materials or equipment
28 and did willfully fail to apply such money for the intended purpose by willfully failing to pay for

1 services, labor, materials or equipment provided incident to construction, and did wrongfully
2 divert the funds to a use other than that for which the funds were received, of an amount in
3 excess of One Thousand Dollars (\$1,000.00), to wit: **Diversion of Retention Funds intended**
4 **for Breen Automation Systems, Inc., for labor performed on and materials supplied to the**
5 **Bonita Expansion (Installation of DDC System) in the amount of Twenty-Two Thousand,**
6 **Four Hundred Ten Dollars and Fifty Cents (\$22,410.50).**

7 **COUNT 8**

8 For a further and separate cause of Complaint, being a different offense from but
9 connected in its commission with the charges set forth in Counts 1 through 7, the Grand Jury
10 further complains and states,

11 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
12 CYNTHIA LYNN CLARK on or between August 11, 2004 and September 28, 2004, at and in
13 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
14 PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF PUBLIC Monies, in that said
15 defendants were persons charged with the receipt, safekeeping, transfer or disbursement of
16 public monies who, without authority of law, appropriated the same or any portion thereof to his
17 or her own use or to the use of another, to wit: **Misappropriated Public Monies intended for**
18 **payment to Breen Automation Systems, Inc., for labor performed and materials supplied to**
19 **the Bonita Expansion (Installation of DDC System) in the amount of Twenty-Two**
20 **Thousand, Four Hundred Ten Dollars and Fifty Cents (\$22,410.50).**

21 **COUNT 9**

22 For a further and separate cause of Complaint, being a different offense from but
23 connected in its commission with the charges set forth in Counts 1 through 8, the Grand Jury
24 further complains and states,

25 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
26 CYNTHIA LYNN CLARK on or between August 11, 2004 and September 28, 2004, at and in
27 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
28 PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC FUNDS, in that said

1 defendants were officers of any county, city, city and county or other municipal corporation or
2 subdivision thereof or were a deputy, clerk or servant of that officer or were an officer, director,
3 trustee, clerk, servant of agent of any association or corporation, who fraudulently appropriated
4 to any use or purpose not in the due and lawful execution of that person's trust, any property in
5 his or her possession or under his or her control by virtue of that trust, to wit: **Embezzled Public**
6 **Monies from the Santa Maria-Bonita School District intended for payment to Breen**
7 **Automation Systems, Inc., for labor performed and materials supplied to the Bonita**
8 **Expansion (Installation of DDC System) in the amount of Twenty-Two Thousand, Four**
9 **Hundred Ten Dollars and Fifty Cents (\$22,410.50).**

10 **COUNT 10**

11 For a further and separate cause of Complaint, being a different offense from but
12 connected in its commission with the charges set forth in Counts 1 through 9, the Grand Jury
13 further complains and states,

14 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
15 DAVID ALEXANDER IRWIN on or between September 10, 2004 and September 20, 2004, at
16 and in the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
17 PENAL CODE SECTION 484b, DIVERSION OF CONSTRUCTION FUNDS, in that said
18 defendants were persons who did receive money for the purpose of obtaining or paying for
19 services, labor, materials or equipment and did willfully fail to apply such money for the
20 intended purpose by willfully failing to pay for services, labor, materials or equipment provided
21 incident to construction, and did wrongfully divert the funds to a use other than that for which
22 the funds were received, of an amount in excess of One Thousand Dollars (\$1,000.00), to wit:
23 **Diversion of Retention Funds intended for the Fence Factory, for labor performed on and**
24 **materials supplied to the Westgate Ranch Elementary School (Installation of chain link**
25 **fencing) in the amount of Forty-Eight Thousand, Eight Hundred Four Dollars and No**
26 **Cents (\$48,804.00)**

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COUNT 11

For a further and separate cause of Complaint, being a different offense from but connected in its commission with the charges set forth in Counts 1 through 10, the Grand Jury further complains and states,

That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between September 10, 2004 and September 20, 2004, at and in the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF PUBLIC Monies, in that said defendants were persons charged with the receipt, safekeeping, transfer or disbursement of public monies who, without authority of law, appropriated the same or any portion thereof to his or her own use or to the use of another, to wit: **Misappropriated Public Monies intended for payment to the Fence Factory, for labor performed on and materials supplied to the Westgate Ranch Elementary School (Installation of chain link fencing) in the amount of Forty-Eight Thousand, Eight Hundred Four Dollars and No Cents (\$48,804.00).**

COUNT 12

For a further and separate cause of Complaint, being a different offense from but connected in its commission with the charges set forth in Counts 1 through 11, the Grand Jury further complains and states,

That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between September 10, 2004 and September 20, 2004, at and in the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC FUNDS, in that said defendants were officers of any county, city, city and county or other municipal corporation or subdivision thereof or were a deputy, clerk or servant of that officer or were an officer, director, trustee, clerk, servant of agent of any association or corporation, who fraudulently appropriated to any use or purpose not in the due and lawful execution of that person's trust, any property in his or her possession or under his or her control by virtue of that

1 trust, to wit: **Embezzled Public Monies from the Santa Maria-Bonita School District**
2 **intended for payment to the Fence Factory, for labor performed on and materials supplied**
3 **to the Westgate Ranch Elementary School (Installation of chain link fencing) in the amount**
4 **of Forty-Eight Thousand, Eight Hundred Four Dollars and No Cents (\$48,804.00).**

5 **COUNT 13**

6 For a further and separate cause of Complaint, being a different offense from but
7 connected in its commission with the charges set forth in Counts 1 through 33, the Grand Jury
8 further complains and states,

9 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
10 DAVID ALEXANDER IRWIN on or about August 31, 2004, at and in the County of Santa
11 Barbara, State of California, did commit a violation of CALIFORNIA PENAL CODE SECTION
12 487(A)/532(A), GRAND THEFT BY FALSE PRETENSE, in that said defendants did willfully,
13 unlawfully and feloniously, knowingly and designedly, by false and fraudulent representation
14 and pretense get possession of money or property of another in a value exceeding FOUR
15 HUNDRED DOLLARS (\$400.00) from another, to wit: **Forty-Eight Thousand, Eight**
16 **Hundred Four Dollars (\$48,804.00) from the Santa Maria-Bonita School District.**

17 **COUNT 14**

18 For a further and separate cause of Complaint, being a different offense from but
19 connected in its commission with the charges set forth in Counts 1 through 12, the Grand Jury
20 further complains and states,

21 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
22 DAVID ALEXANDER IRWIN on or between August 11, 2004 and August 21, 2004, at and in
23 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
24 PENAL CODE SECTION 484b, DIVERSION OF CONSTRUCTION FUNDS, in that said
25 defendants were persons who did receive money for the purpose of obtaining or paying for
26 services, labor, materials or equipment and did willfully fail to apply such money for the
27 intended purpose by willfully failing to pay for services, labor, materials or equipment provided
28 incident to construction, and did wrongfully divert the funds to a use other than that for which

1 the funds were received, of an amount in excess of One Thousand Dollars (\$1,000.00), to wit:
2 **Diversion of Retention Funds intended for Mills-Koehler for labor performed on and**
3 **materials supplied to the North Preisker Ranch Junior High School (Fire**
4 **Sprinklers/Plumbing) in the amount of Eleven Thousand, Twenty-Four Dollars and Sixty-**
5 **Five Cents (\$11,024.65).**

6 **COUNT 15**

7 For a further and separate cause of Complaint, being a different offense from but
8 connected in its commission with the charges set forth in Counts 1 through 13, the Grand Jury
9 further complains and states,

10 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
11 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between August 11, 2004 and
12 August 21, 2004, at and in the County of Santa Barbara, State of California, did commit a
13 violation of CALIFORNIA PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF
14 PUBLIC Monies, in that said defendants were persons charged with the receipt, safekeeping,
15 transfer or disbursement of public monies who, without authority of law, appropriated the same
16 or any portion thereof to his or her own use or to the use of another, to wit: **Misappropriated**
17 **Public Monies intended for payment to Mills-Koehler for labor performed on and**
18 **materials supplied to the North Preisker Ranch Junior High School (Fire**
19 **Sprinklers/Plumbing) in the amount of Eleven Thousand, Twenty-Four Dollars and Sixty-**
20 **Five Cents (\$11,024.65).**

21 **COUNT 16**

22 For a further and separate cause of Complaint, being a different offense from but
23 connected in its commission with the charges set forth in Counts 1 through 14, the Grand Jury
24 further complains and states,

25 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
26 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between August 11, 2004 and
27 August 21, 2004, at and in the County of Santa Barbara, State of California, did commit a
28 violation of CALIFORNIA PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC

1 FUNDS, in that said defendants were officers of any county, city, city and county or other
2 municipal corporation or subdivision thereof or were a deputy, clerk or servant of that officer or
3 were an officer, director, trustee, clerk, servant of agent of any association or corporation, who
4 fraudulently appropriated to any use or purpose not in the due and lawful execution of that
5 person's trust, any property in his or her possession or under his or her control by virtue of that
6 trust, to wit: **Embezzled Public Monies from the Santa Maria-Bonita School District**
7 **intended for payment to Mills-Koehler for labor performed on and materials supplied to**
8 **the North Preisker Ranch Junior High School (Fire Sprinklers/Plumbing) in the amount of**
9 **Eleven Thousand, Twenty-Four Dollars and Sixty-Five Cents (\$11,024.65).**

10 **COUNT 17**

11 For a further and separate cause of Complaint, being a different offense from but
12 connected in its commission with the charges set forth in Counts 1 through 15, the Grand Jury
13 further complains and states,

14 That defendants HAROLD LEO CLARK III and MICHAEL PATRICK BANNAN on or
15 between September 10, 2004 and September 20, 2004, at and in the County of Santa Barbara,
16 State of California, did commit a violation of CALIFORNIA PENAL CODE SECTION 484b,
17 DIVERSION OF CONSTRUCTION FUNDS, in that said defendants were persons who did
18 receive money for the purpose of obtaining or paying for services, labor, materials or equipment
19 and did willfully fail to apply such money for the intended purpose by willfully failing to pay for
20 services, labor, materials or equipment provided incident to construction, and did wrongfully
21 divert the funds to a use other than that for which the funds were received, of an amount in
22 excess of One Thousand Dollars (\$1,000.00), to wit: **Diversion of Construction Funds**
23 **intended for Polyvision Corporation, for labor performed on and materials supplied to the**
24 **Westgate Ranch Elementary School (Tables & Benches) in the amount of Forty-Six**
25 **Thousand, Seven Hundred Fifty-Three Dollars and thirty Cents (\$46,753.30).**

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1 **COUNT 18**

2 For a further and separate cause of Complaint, being a different offense from but
3 connected in its commission with the charges set forth in Counts 1 through 16, the Grand Jury
4 further complains and states,

5 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
6 CYNTHIA LYNN CLARK on or between September 10, 2004 and September 20, 2004, at and
7 in the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
8 PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF PUBLIC Monies, in that said
9 defendants were persons charged with the receipt, safekeeping, transfer or disbursement of
10 public monies who, without authority of law, appropriated the same or any portion thereof to his
11 or her own use or to the use of another, to wit: **Misappropriated Public Monies intended for**
12 **Polyvision Corporation, for labor performed on and materials supplied to the Westgate**
13 **Ranch Elementary School (Tables & Benches) in the amount of Forty-Six Thousand, Seven**
14 **Hundred Fifty-Three Dollars and thirty Cents (\$46,753.30).**

15 **COUNT 19**

16 For a further and separate cause of Complaint, being a different offense from but
17 connected in its commission with the charges set forth in Counts 1 through 17, the Grand Jury
18 further complains and states,

19 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
20 CYNTHIA LYNN CLARK on or between September 10, 2004 and September 20, 2004, at and
21 in the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
22 PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC FUNDS, in that said
23 defendants were officers of any county, city, city and county or other municipal corporation or
24 subdivision thereof or were a deputy, clerk or servant of that officer or were an officer, director,
25 trustee, clerk, servant of agent of any association or corporation, who fraudulently appropriated
26 to any use or purpose not in the due and lawful execution of that person's trust, any property in
27 his or her possession or under his or her control by virtue of that trust, to wit: **Embezzled Public**
28 **Monies from the Santa Maria-Bonita School District intended for Polyvision Corporation,**

1 **for labor performed on and materials supplied to the Westgate Ranch Elementary School**
2 **(Tables & Benches) in the amount of Forty-Six Thousand, Seven Hundred Fifty-Three**
3 **Dollars and thirty Cents (\$46,753.30).**

4 **COUNT 20**

5 For a further and separate cause of Complaint, being a different offense from but
6 connected in its commission with the charges set forth in Counts 1 through 18, the Grand Jury
7 further complains and states,

8 That defendants HAROLD LEO CLARK III and MICHAEL PATRICK BANNAN on or
9 between August 18, 2004 and September 20, 2004, at and in the County of Santa Barbara, State
10 of California, did commit a violation of CALIFORNIA PENAL CODE SECTION 484b,
11 DIVERSION OF CONSTRUCTION FUNDS, in that said defendants were persons who did
12 receive money for the purpose of obtaining or paying for services, labor, materials or equipment
13 and did willfully fail to apply such money for the intended purpose by willfully failing to pay for
14 services, labor, materials or equipment provided incident to construction, and did wrongfully
15 divert the funds to a use other than that for which the funds were received, of an amount in
16 excess of One Thousand Dollars (\$1,000.00), to wit: **Diversion of Construction Funds**
17 **intended for Brannan, Inc., DBA Smith Electric Service, for labor performed on and**
18 **materials supplied to the Bonita Expansion (Metal Roofing) in the amount of Ninety-Two**
19 **Thousand, Five Hundred Seventy Dollars and Eighty-Five Cents (\$92,570.85).**

20 **COUNT 21**

21 For a further and separate cause of Complaint, being a different offense from but
22 connected in its commission with the charges set forth in Counts 1 through 19, the Grand Jury
23 further complains and states,

24 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
25 CYNTHIA LYNN CLARK on or between August 18, 2004 and September 20, 2004, at and in
26 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
27 PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF PUBLIC Monies, in that said
28 defendants were persons charged with the receipt, safekeeping, transfer or disbursement of

1 public monies who, without authority of law, appropriated the same or any portion thereof to his
2 or her own use or to the use of another, to wit: **Misappropriated Public Monies intended for**
3 **Brannan, Inc., DBA Smith Electric Service, for labor performed on and materials supplied**
4 **to Bonita Expansion (Metal Roofing) in the amount of Ninety-Two Thousand, Five**
5 **Hundred Seventy Dollars and Eighty-Five Cents (\$92,570.85).**

6 **COUNT 22**

7 For a further and separate cause of Complaint, being a different offense from but
8 connected in its commission with the charges set forth in Counts 1 through 20, the Grand Jury
9 further complains and states,

10 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
11 CYNTHIA LYNN CLARK on or between August 18, 2004 and September 20, 2004, at and in
12 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
13 PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC FUNDS, in that said
14 defendants were officers of any county, city, city and county or other municipal corporation or
15 subdivision thereof or were a deputy, clerk or servant of that officer or were an officer, director,
16 trustee, clerk, servant of agent of any association or corporation, who fraudulently appropriated
17 to any use or purpose not in the due and lawful execution of that person's trust, any property in
18 his or her possession or under his or her control by virtue of that trust, to wit: **Embezzled Public**
19 **Monies from the Santa Maria-Bonita School District intended for Brannan, Inc., DBA**
20 **Smith Electric Service, for labor performed on and materials supplied to Bonita Expansion**
21 **(Metal Roofing) in the amount of Ninety-Two Thousand, Five Hundred Seventy Dollars**
22 **and Eighty-Five Cents (\$92,570.85).**

23 **COUNT 23**

24 For a further and separate cause of Complaint, being a different offense from but
25 connected in its commission with the charges set forth in Counts 1 through 21, the Grand Jury
26 further complains and states,

27 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
28 DAVID ALEXANDER IRWIN on or between August 11, 2004 and August 21, 2004, at and in

1 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
2 PENAL CODE SECTION 484b, DIVERSION OF CONSTRUCTION FUNDS, in that said
3 defendants were persons who did receive money for the purpose of obtaining or paying for
4 services, labor, materials or equipment and did willfully fail to apply such money for the
5 intended purpose by willfully failing to pay for services, labor, materials or equipment provided
6 incident to construction, and did wrongfully divert the funds to a use other than that for which
7 the funds were received, of an amount in excess of One Thousand Dollars (\$1,000.00), to wit:
8 **Diversion of Construction Funds intended for Brannan, Inc., DBA Smith Electric Service,**
9 **for labor performed on and materials supplied to the North Preisker Ranch Junior High**
10 **School (HVAC and Fence Railing) in the amount of Thirty-Two Thousand, Two Hundred**
11 **Seven Dollars and Thirty Cents (\$32,207.30).**

12 **COUNT 24**

13 For a further and separate cause of Complaint, being a different offense from but
14 connected in its commission with the charges set forth in Counts 1 through 22, the Grand Jury
15 further complains and states,

16 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
17 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between August 11, 2004 and
18 August 21, 2004, at and in the County of Santa Barbara, State of California, did commit a
19 violation of CALIFORNIA PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF
20 PUBLIC Monies, in that said defendants were persons charged with the receipt, safekeeping,
21 transfer or disbursement of public monies who, without authority of law, appropriated the same
22 or any portion thereof to his or her own use or to the use of another, to wit: **Misappropriated**
23 **Public Monies intended for Brannan, Inc., DBA Smith Electric Service, for labor**
24 **performed on and materials supplied to the North Preisker Ranch Junior High School**
25 **(HVAC and Fence Railing) in the amount of Thirty-Two Thousand, Two Hundred Seven**
26 **Dollars and Thirty Cents (\$32,207.30).**

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COUNT 25

For a further and separate cause of Complaint, being a different offense from but connected in its commission with the charges set forth in Counts 1 through 23, the Grand Jury further complains and states,

That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between August 11, 2004 and August 21, 2004, at and in the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC FUNDS, in that said defendants were officers of any county, city, city and county or other municipal corporation or subdivision thereof or were a deputy, clerk or servant of that officer or were an officer, director, trustee, clerk, servant of agent of any association or corporation, who fraudulently appropriated to any use or purpose not in the due and lawful execution of that person's trust, any property in his or her possession or under his or her control by virtue of that trust, to wit: **Embezzled Public Monies from the Santa Maria-Bonita School District intended for Brannan, Inc., DBA Smith Electric Service, for labor performed on and materials supplied to the North Preisker Ranch Junior High School (HVAC and Fence Railing) in the amount of Thirty-Two Thousand, Two Hundred Seven Dollars and Thirty Cents (\$32,207.30).**

COUNT 26

For a further and separate cause of Complaint, being a different offense from but connected in its commission with the charges set forth in Counts 1 through 24, the Grand Jury further complains and states,

That defendants HAROLD LEO CLARK III and MICHAEL PATRICK BANNAN on or between September 10, 2004 and September 20, 2004, at and in the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA PENAL CODE SECTION 484b, DIVERSION OF CONSTRUCTION FUNDS, in that said defendants were persons who did receive money for the purpose of obtaining or paying for services, labor, materials or equipment and did willfully fail to apply such money for the intended purpose by willfully

1 failing to pay for services, labor, materials or equipment provided incident to construction, and
2 did wrongfully divert the funds to a use other than that for which the funds were received, of an
3 amount in excess of One Thousand Dollars (\$1,000.00), to wit: **Diversion of Construction**
4 **Funds intended for Brannan, Inc., DBA Smith Electric Service, for labor performed on and**
5 **materials supplied to the Westgate Ranch Elementary School (Plumbing) in the amount of**
6 **Thirty-Eight Thousand, One Hundred Six Dollars and Ninety-Seven Cents (\$38,106.97).**

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8 **COUNT 27**

9 For a further and separate cause of Complaint, being a different offense from but
10 connected in its commission with the charges set forth in Counts 1 through 25, the Grand Jury
11 further complains and states,

12 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
13 CYNTHIA LYNN CLARK on or between September 10 and September 20, 2004, at and in the
14 County of Santa Barbara, State of California, did commit a violation of CALIFORNIA PENAL
15 CODE SECTION 424(a) (1), MISAPPROPRIATION OF PUBLIC Monies, in that said
16 defendants were persons charged with the receipt, safekeeping, transfer or disbursement of
17 public monies who, without authority of law, appropriated the same or any portion thereof to his
18 or her own use or to the use of another, to wit: **Misappropriated Public Monies intended for**
19 **Brannan, Inc., DBA Smith Electric Service, for labor performed on and materials supplied**
20 **to the Westgate Ranch Elementary School (Plumbing) in the amount of Thirty-Eight**
21 **Thousand, One Hundred Six Dollars and Ninety-Seven Cents (\$38,106.97).**

22 **COUNT 28**

23 For a further and separate cause of Complaint, being a different offense from but
24 connected in its commission with the charges set forth in Counts 1 through 26, the Grand Jury
25 further complains and states,

26 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
27 CYNTHIA LYNN CLARK on or between September 10, 2004 and September 20, 2004, at and
28 in the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC FUNDS, in that said

1 defendants were officers of any county, city, city and county or other municipal corporation or
2 subdivision thereof or were a deputy, clerk or servant of that officer or were an officer, director,
3 trustee, clerk, servant of agent of any association or corporation, who fraudulently appropriated
4 to any use or purpose not in the due and lawful execution of that person's trust, any property in
5 his or her possession or under his or her control by virtue of that trust, to wit: **Embezzled Public**
6 **Monies from the Santa Maria-Bonita School District intended for Brannan, Inc., DBA**
7 **Smith Electric Service, for labor performed on and materials supplied to the Westgate**
8 **Ranch Elementary School (Plumbing) in the amount of Thirty-Eight Thousand, One**
9 **Hundred Six Dollars and Ninety-Seven Cents (\$38,106.97).**

10 **COUNT 29**

11 For a further and separate cause of Complaint, being a different offense from but
12 connected in its commission with the charges set forth in Counts 1 through 27, the Grand Jury
13 further complains and states,

14 That defendants HAROLD LEO CLARK III and MICHAEL PATRICK BANNAN on or
15 between August 18, 2004 and September 20, 2004, at and in the County of Santa Barbara, State
16 of California, did commit a violation of CALIFORNIA PENAL CODE SECTION 484b,
17 DIVERSION OF CONSTRUCTION FUNDS, in that said defendants were persons who did
18 receive money for the purpose of obtaining or paying for services, labor, materials or equipment
19 and did willfully fail to apply such money for the intended purpose by willfully failing to pay for
20 services, labor, materials or equipment provided incident to construction, and did wrongfully
21 divert the funds to a use other than that for which the funds were received, of an amount in
22 excess of One Thousand Dollars (\$1,000.00), to wit: **Diversion of Construction Funds**
23 **intended for Brannan, Inc., DBA Smith Electric Service, for labor performed on and**
24 **materials supplied to the Westgate Ranch Elementary School (Electric) in the amount of**
25 **One Hundred Twenty-Six Thousand, Five Hundred Sixty-eight Dollars and Fifty Cents**
26 **(\$126,568.50).**

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2 **COUNT 30**

3 For a further and separate cause of Complaint, being a different offense from but
4 connected in its commission with the charges set forth in Counts 1 through 28, the Grand Jury
5 further complains and states,

6 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
7 CYNTHIA LYNN CLARK on or between August 18 and September 20, 2004, at and in the
8 County of Santa Barbara, State of California, did commit a violation of CALIFORNIA PENAL
9 CODE SECTION 424(a) (1), MISAPPROPRIATION OF PUBLIC Monies, in that said
10 defendants were persons charged with the receipt, safekeeping, transfer or disbursement of
11 public monies who, without authority of law, appropriated the same or any portion thereof to his
12 or her own use or to the use of another, to wit: **Misappropriated Public Monies intended for**
13 **Brannan, Inc., DBA Smith Electric Service, for labor performed on and materials supplied**
14 **to the Westgate Ranch Elementary School (Electric) in the amount of One Hundred**
15 **Twenty-Six Thousand, Five Hundred Sixty-eight Dollars and Fifty Cents (\$126,568.50).**

16 **COUNT 31**

17 For a further and separate cause of Complaint, being a different offense from but
18 connected in its commission with the charges set forth in Counts 1 through 29, the Grand Jury
19 further complains and states,

20 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
21 CYNTHIA LYNN CLARK on or between August 18, 2004 and September 20, 2004, at and in
22 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
23 PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC FUNDS, in that said
24 defendants were officers of any county, city, city and county or other municipal corporation or
25 subdivision thereof or were a deputy, clerk or servant of that officer or were an officer, director,
26 trustee, clerk, servant of agent of any association or corporation, who fraudulently appropriated
27 to any use or purpose not in the due and lawful execution of that person's trust, any property in
28 his or her possession or under his or her control by virtue of that trust, to wit: **Embezzled Public**

1 **Monies from the Santa Maria-Bonita School District intended for Brannan, Inc., DBA**
2 **Smith Electric Service, for labor performed on and materials supplied to the Westgate**
3 **Ranch Elementary School (Electric) in the amount of One Hundred Twenty-Six Thousand,**
4 **Five Hundred Sixty-eight Dollars and Fifty Cents (\$126,568.50).**

5 **COUNT 32**

6 For a further and separate cause of Complaint, being a different offense from but
7 connected in its commission with the charges set forth in Counts 1 through 30, the Grand Jury
8 further complains and states,

9 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
10 DAVID ALEXANDER IRWIN on or between July 14, 2004 and September 20, 2004, at and in
11 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
12 PENAL CODE SECTION 484b, DIVERSION OF CONSTRUCTION FUNDS, in that said
13 defendants were persons who did receive money for the purpose of obtaining or paying for
14 services, labor, materials or equipment and did willfully fail to apply such money for the
15 intended purpose by willfully failing to pay for services, labor, materials or equipment provided
16 incident to construction, and did wrongfully divert the funds to a use other than that for which
17 the funds were received, of an amount in excess of One Thousand Dollars (\$1,000.00), to wit:
18 **Diversion of Construction Funds intended for Spiess Construction Co., Inc., for labor**
19 **performed on and materials supplied to the Bonita Expansion (Landscaping) in the amount**
20 **of Eighty-Eight Thousand, Five Hundred Sixty-Six Dollars and Twenty-Three Cents**
21 **(\$88,566.23).**

22 **COUNT 33**

23 For a further and separate cause of Complaint, being a different offense from but
24 connected in its commission with the charges set forth in Counts 1 through 31, the Grand Jury
25 further complains and states,

26 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
27 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between July 14, 2004 and
28 September 20, 2004, at and in the County of Santa Barbara, State of California, did commit a

1 violation of CALIFORNIA PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF
2 PUBLIC Monies, in that said defendants were persons charged with the receipt, safekeeping,
3 transfer or disbursement of public monies who, without authority of law, appropriated the same
4 or any portion thereof to his or her own use or to the use of another, to wit: **Misappropriated**
5 **Public Monies intended for Spiess Construction Co., Inc., for labor performed on and**
6 **materials supplied to the Bonita Expansion (Landscaping) in the amount of Eighty-Eight**
7 **Thousand, Five Hundred Sixty-Six Dollars and Twenty-Three Cents (\$88,566.23).**

8 **COUNT 34**

9 For a further and separate cause of Complaint, being a different offense from but
10 connected in its commission with the charges set forth in Counts 1 through 32, the Grand Jury
11 further complains and states,

12 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
13 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between July 14, 2004 and
14 September 20, 2004, at and in the County of Santa Barbara, State of California, did commit a
15 violation of CALIFORNIA PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC
16 FUNDS, in that said defendants were officers of any county, city, city and county or other
17 municipal corporation or subdivision thereof or were a deputy, clerk or servant of that officer or
18 were an officer, director, trustee, clerk, servant of agent of any association or corporation, who
19 fraudulently appropriated to any use or purpose not in the due and lawful execution of that
20 person's trust, any property in his or her possession or under his or her control by virtue of that
21 trust, to wit: **Embezzled Public Monies from the Santa Maria-Bonita School District**
22 **intended for Spiess Construction Co., Inc., for labor performed on and materials supplied**
23 **to the Bonita Expansion (Landscaping) in the amount of Eighty-Eight Thousand, Five**
24 **Hundred Sixty-Six Dollars and Twenty-Three Cents (\$88,566.23).**

25 **COUNT 35**

26 For a further and separate cause of Complaint, being a different offense from but
27 connected in its commission with the charges set forth in Counts 1 through 33, the Grand Jury
28 further complains and states,

1 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
2 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or about July 14, 2004, at and in the
3 County of Santa Barbara, State of California, did commit a violation of CALIFORNIA PENAL
4 CODE SECTION 487(A)/532(A), GRAND THEFT BY FALSE PRETENSE, in that said
5 defendants did willfully, unlawfully and feloniously, knowingly and designedly, by false and
6 fraudulent representation and pretense get possession of money or property of another in a value
7 exceeding FOUR HUNDRED DOLLARS (\$400.00) from another, to wit: **Three Hundred**
8 **Twenty-Seven Thousand, Six Hundred Eighty-Six Dollars and Six Cents (\$327,686.06)**
9 **from the Santa Maria-Bonita School District.**

10 **COUNT 36**

11 For a further and separate cause of Complaint, being a different offense from but
12 connected in its commission with the charges set forth in Counts 1 through 34, the Grand Jury
13 further complains and states,

14 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
15 DAVID ALEXANDER IRWIN on or between July 9, 2004 and August 28, 2004, at and in the
16 County of Santa Barbara, State of California, did commit a violation of CALIFORNIA PENAL
17 CODE SECTION 484b, DIVERSION OF CONSTRUCTION FUNDS, in that said defendants
18 were persons who did receive money for the purpose of obtaining or paying for services, labor,
19 materials or equipment and did willfully fail to apply such money for the intended purpose by
20 willfully failing to pay for services, labor, materials or equipment provided incident to
21 construction, and did wrongfully divert the funds to a use other than that for which the funds
22 were received, of an amount in excess of One Thousand Dollars (\$1,000.00), to wit: **Diversi**
23 **on of Construction Funds intended for Spiess Construction Co., Inc., for labor performed on**
24 **and materials supplied to the Bonita Expansion (Concrete) in the amount of Ninety-nine**
25 **Thousand, Five Hundred Eleven Dollars and Fifty-Eight Cents (\$95,511.58).**

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1 **COUNT 37**

2 For a further and separate cause of Complaint, being a different offense from but
3 connected in its commission with the charges set forth in Counts 1 through 35, the Grand Jury
4 further complains and states,

5 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
6 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between July 9, 2004 and August
7 28, 2004, at and in the County of Santa Barbara, State of California, did commit a violation of
8 CALIFORNIA PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF PUBLIC
9 Monies, in that said defendants were persons charged with the receipt, safekeeping, transfer or
10 disbursement of public monies who, without authority of law, appropriated the same or any
11 portion thereof to his or her own use or to the use of another, to wit: **Misappropriated Public**
12 **Monies intended for Spiess Construction Co., Inc., for labor performed on and materials**
13 **supplied to the Bonita Expansion (Concrete) in the amount of Ninety-nine Thousand, Five**
14 **Hundred Eleven Dollars and Fifty-Eight Cents (\$95,511.58).**

15 **COUNT 38**

16 For a further and separate cause of Complaint, being a different offense from but
17 connected in its commission with the charges set forth in Counts 1 through 36, the Grand Jury
18 further complains and states,

19 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
20 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between July 9, 2004 and August
21 28, 2004, at and in the County of Santa Barbara, State of California, did commit a violation of
22 CALIFORNIA PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC FUNDS, in
23 that said defendants were officers of any county, city, city and county or other municipal
24 corporation or subdivision thereof or were a deputy, clerk or servant of that officer or were an
25 officer, director, trustee, clerk, servant of agent of any association or corporation, who
26 fraudulently appropriated to any use or purpose not in the due and lawful execution of that
27 person's trust, any property in his or her possession or under his or her control by virtue of that
28 trust, to wit: **Embezzled Public Monies from the Santa Maria-Bonita School District**

1 **intended for Spiess Construction Co., Inc., for labor performed on and materials supplied**
2 **to the Bonita Expansion (Concrete) in the amount of Ninety-nine Thousand, Five Hundred**
3 **Eleven Dollars and Fifty-Eight Cents (\$95,511.58).**

4 **COUNT 39**

5 For a further and separate cause of Complaint, being a different offense from but
6 connected in its commission with the charges set forth in Counts 1 through 37, the Grand Jury
7 further complains and states,

8 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
9 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or about July 14, 2004, at and in the
10 County of Santa Barbara, State of California, did commit a violation of CALIFORNIA PENAL
11 CODE SECTION 487(A)/532(A), GRAND THEFT BY FALSE PRETENSE, in that said
12 defendants did willfully, unlawfully and feloniously, knowingly and designedly, by false and
13 fraudulent representation and pretense get possession of money or property of another in a value
14 exceeding FOUR HUNDRED DOLLARS (\$400.00) from another, to wit: **Two Hundred Fifty**
15 **Thousand, Five Dollars and Twenty Cents (\$250,005.20), from the Santa Maria-Bonita**
16 **School District.**

17 **COUNT 40**

18 For a further and separate cause of Complaint, being a different offense from but
19 connected in its commission with the charges set forth in Counts 1 through 38, the Grand Jury
20 further complains and states,

21 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
22 DAVID ALEXANDER IRWIN on or between August 11, 2004 and August 21, 2004, at and in
23 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
24 PENAL CODE SECTION 484b, DIVERSION OF CONSTRUCTION FUNDS, in that said
25 defendants were persons who did receive money for the purpose of obtaining or paying for
26 services, labor, materials or equipment and did willfully fail to apply such money for the
27 intended purpose by willfully failing to pay for services, labor, materials or equipment provided
28 incident to construction, and did wrongfully divert the funds to a use other than that for which

1 the funds were received, of an amount in excess of One Thousand Dollars (\$1,000.00), to wit:
2 **Diversion of Construction Funds intended for Spiess Construction Co., Inc., for labor**
3 **performed on and materials supplied to the North Preisker Ranch Junior High School**
4 **(Landscape, Painting, Site Specialties) in the amount of Thirty-One Thousand, One**
5 **Hundred Thirty-Two Dollars and Eighty-Six Cents (\$31,132.86).**

6 **COUNT 41**

7 For a further and separate cause of Complaint, being a different offense from but
8 connected in its commission with the charges set forth in Counts 1 through 39, the Grand Jury
9 further complains and states,

10 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
11 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between August 11, 2004 and
12 August 21, 2004, at and in the County of Santa Barbara, State of California, did commit a
13 violation of CALIFORNIA PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF
14 PUBLIC Monies, in that said defendants were persons charged with the receipt, safekeeping,
15 transfer or disbursement of public monies who, without authority of law, appropriated the same
16 or any portion thereof to his or her own use or to the use of another, to wit: **Misappropriated**
17 **Public Monies intended for Spiess Construction Co., Inc., for labor performed on and**
18 **materials supplied to the North Preisker Ranch Junior High School (Landscape, Painting,**
19 **Site Specialties) in the amount of Thirty-One Thousand, One Hundred Thirty-Two Dollars**
20 **and Eighty-Six Cents (\$31,132.86).**

21 **COUNT 42**

22 For a further and separate cause of Complaint, being a different offense from but
23 connected in its commission with the charges set forth in Counts 1 through 40, the Grand Jury
24 further complains and states,

25 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
26 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between August 11, 2004 and
27 August 21, 2004, at and in the County of Santa Barbara, State of California, did commit a
28 violation of CALIFORNIA PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC

1 FUNDS, in that said defendants were officers of any county, city, city and county or other
2 municipal corporation or subdivision thereof or were a deputy, clerk or servant of that officer or
3 were an officer, director, trustee, clerk, servant of agent of any association or corporation, who
4 fraudulently appropriated to any use or purpose not in the due and lawful execution of that
5 person's trust, any property in his or her possession or under his or her control by virtue of that
6 trust, to wit: **Embezzled Public Monies from the Santa Maria-Bonita School District**
7 **intended for Spiess Construction Co., Inc., for labor performed on and materials supplied**
8 **to the North Preisker Ranch Junior High School (Landscape, Painting, Site Specialties) in**
9 **the amount of Thirty-One Thousand, One Hundred Thirty-Two Dollars and Eighty-Six**
10 **Cents (\$31,132.86).**

11 **COUNT 43**

12 For a further and separate cause of Complaint, being a different offense from but
13 connected in its commission with the charges set forth in Counts 1 through 41, the Grand Jury
14 further complains and states,

15 That defendants HAROLD LEO CLARK III and MICHAEL PATRICK BANNAN on or
16 between August 18, 2004 and August 28, 2004, at and in the County of Santa Barbara, State of
17 California, did commit a violation of CALIFORNIA PENAL CODE SECTION 484b,
18 DIVERSION OF CONSTRUCTION FUNDS, in that said defendants were persons who did
19 receive money for the purpose of obtaining or paying for services, labor, materials or equipment
20 and did willfully fail to apply such money for the intended purpose by willfully failing to pay for
21 services, labor, materials or equipment provided incident to construction, and did wrongfully
22 divert the funds to a use other than that for which the funds were received, of an amount in
23 excess of One Thousand Dollars (\$1,000.00), to wit: **Diversion of Construction Funds**
24 **intended for Spiess Construction Co., Inc., for labor performed on and materials supplied**
25 **to the Fesler Junior High Expansion (Landscape) in the amount of Sixty-Three Thousand,**
26 **One Hundred Forty-Eight Dollars and Fifty Cents (\$63,148.50).**

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1 **COUNT 44**

2 For a further and separate cause of Complaint, being a different offense from but
3 connected in its commission with the charges set forth in Counts 1 through 42, the Grand Jury
4 further complains and states,

5 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
6 CYNTHIA LYNN CLARK on or between August 18, 2004 and August 28, 2004, at and in the
7 County of Santa Barbara, State of California, did commit a violation of CALIFORNIA PENAL
8 CODE SECTION 424(a) (1), MISAPPROPRIATION OF PUBLIC Monies, in that said
9 defendants were persons charged with the receipt, safekeeping, transfer or disbursement of
10 public monies who, without authority of law, appropriated the same or any portion thereof to his
11 or her own use or to the use of another, to wit: **Misappropriated Public Monies intended for**
12 **Spiess Construction Co., Inc., for labor performed on and materials supplied to the Fesler**
13 **Junior High Expansion (Landscape) in the amount of Sixty-Three Thousand, One**
14 **Hundred Forty-Eight Dollars and Fifty Cents (\$63,148.50).**

15 **COUNT 45**

16 For a further and separate cause of Complaint, being a different offense from but
17 connected in its commission with the charges set forth in Counts 1 through 43, the Grand Jury
18 further complains and states,

19 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
20 CYNTHIA LYNN CLARK on or between August 18, 2004 and August 28, 2004, at and in the
21 County of Santa Barbara, State of California, did commit a violation of CALIFORNIA PENAL
22 CODE SECTION 504, EMBEZZLEMENT OF PUBLIC FUNDS, in that said defendants were
23 officers of any county, city, city and county or other municipal corporation or subdivision thereof
24 or were a deputy, clerk or servant of that officer or were an officer, director, trustee, clerk,
25 servant of agent of any association or corporation, who fraudulently appropriated to any use or
26 purpose not in the due and lawful execution of that person's trust, any property in his or her
27 possession or under his or her control by virtue of that trust, to wit: **Embezzled Public Monies**
28 **from the Santa Maria-Bonita School District intended for Spiess Construction Co., Inc., for**

1 **labor performed on and materials supplied to the Fesler Junior High Expansion**
2 **(Landscape) in the amount of Sixty-Three Thousand, One Hundred Forty-Eight Dollars**
3 **and Fifty Cents (\$63,148.50).**

4 **COUNT 46**

5 For a further and separate cause of Complaint, being a different offense from but
6 connected in its commission with the charges set forth in Counts 1 through 45, the Grand Jury
7 further complains and states,

8 That defendants HAROLD LEO CLARK III and MICHAEL PATRICK BANNAN on or
9 between August 18, 2004 and September 20, 2004, at and in the County of Santa Barbara, State
10 of California, did commit a violation of CALIFORNIA PENAL CODE SECTION 484b,
11 DIVERSION OF CONSTRUCTION FUNDS, in that said defendants were persons who did
12 receive money for the purpose of obtaining or paying for services, labor, materials or equipment
13 and did willfully fail to apply such money for the intended purpose by willfully failing to pay for
14 services, labor, materials or equipment provided incident to construction, and did wrongfully
15 divert the funds to a use other than that for which the funds were received, of an amount in
16 excess of One Thousand Dollars (\$1,000.00), to wit: **Diversion of Construction Funds**
17 **intended for Superior Millwork, for labor performed on and materials supplied to the**
18 **Bonita Expansion (Casework and Marker Board) in the amount of One Hundred Eight**
19 **Thousand, Three Hundred Dollars and No Cents (\$108,300.00).**

20 **COUNT 47**

21 For a further and separate cause of Complaint, being a different offense from but
22 connected in its commission with the charges set forth in Counts 1 through 46, the Grand Jury
23 further complains and states,

24 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
25 CYNTHIA LYNN CLARK on or between August 18, 2004 and September 20, 2004, at and in
26 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
27 PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF PUBLIC Monies, in that said
28 defendants were persons charged with the receipt, safekeeping, transfer or disbursement of

1 public monies who, without authority of law, appropriated the same or any portion thereof to his
2 or her own use or to the use of another, to wit: **Misappropriated Public Monies intended for**
3 **Superior Millwork, for labor performed on and materials supplied to the Bonita Expansion**
4 **(Casework and Marker Board) in the amount of One Hundred Eight Thousand, Three**
5 **Hundred Dollars and No Cents (\$108,300.00).**

6 **COUNT 48**

7 For a further and separate cause of Complaint, being a different offense from but
8 connected in its commission with the charges set forth in Counts 1 through 47, the Grand Jury
9 further complains and states,

10 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
11 CYNTHIA LYNN CLARK on or between August 18, 2004 and September 20, 2004, at and in
12 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
13 PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC FUNDS, in that said
14 defendants were officers of any county, city, city and county or other municipal corporation or
15 subdivision thereof or were a deputy, clerk or servant of that officer or were an officer, director,
16 trustee, clerk, servant of agent of any association or corporation, who fraudulently appropriated
17 to any use or purpose not in the due and lawful execution of that person's trust, any property in
18 his or her possession or under his or her control by virtue of that trust, to wit: **Embezzled Public**
19 **Monies from the Santa Maria-Bonita School District intended for Superior Millwork, for**
20 **labor performed on and materials supplied to the Bonita Expansion (Casework and**
21 **Marker Board) in the amount of One Hundred Eight Thousand, Three Hundred Dollars**
22 **and No Cents (\$108,300.00).**

23 **COUNT 49**

24 For a further and separate cause of Complaint, being a different offense from but
25 connected in its commission with the charges set forth in Counts 1 through 48, the Grand Jury
26 further complains and states,

27 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
28 DAVID ALEXANDER IRWIN on or between August 11, 2004 and August 21, 2004, at and in

1 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
2 PENAL CODE SECTION 484b, DIVERSION OF CONSTRUCTION FUNDS, in that said
3 defendants were persons who did receive money for the purpose of obtaining or paying for
4 services, labor, materials or equipment and did willfully fail to apply such money for the
5 intended purpose by willfully failing to pay for services, labor, materials or equipment provided
6 incident to construction, and did wrongfully divert the funds to a use other than that for which
7 the funds were received, of an amount in excess of One Thousand Dollars (\$1,000.00), to wit:
8 **Diversion of Construction Funds intended for Tarlton & Son, Inc., for labor performed on**
9 **and materials supplied to the North Preisker Ranch Junior High School (Plaster (Cat. 13)**
10 **& Wallboard (Cat. 14)) in the amount of Forty-One Thousand, Nine Hundred Eighty-**
11 **Three Dollars and Fifty-One Cents (\$41,983.51).**

12 **COUNT 50**

13 For a further and separate cause of Complaint, being a different offense from but
14 connected in its commission with the charges set forth in Counts 1 through 49, the Grand Jury
15 further complains and states,

16 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
17 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between August 11, 2004 and
18 August 21, 2004, at and in the County of Santa Barbara, State of California, did commit a
19 violation of CALIFORNIA PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF
20 PUBLIC Monies, in that said defendants were persons charged with the receipt, safekeeping,
21 transfer or disbursement of public monies who, without authority of law, appropriated the same
22 or any portion thereof to his or her own use or to the use of another, to wit: **Misappropriated**
23 **Public Monies intended for Tarlton & Son, Inc., for labor performed on and materials**
24 **supplied to the North Preisker Ranch Junior High School (Plaster (Cat. 13) & Wallboard**
25 **(Cat. 14)) in the amount of Forty-One Thousand, Nine Hundred Eighty-Three Dollars and**
26 **Fifty-One Cents (\$41,983.51).**

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1 **COUNT 51**

2 For a further and separate cause of Complaint, being a different offense from but
3 connected in its commission with the charges set forth in Counts 1 through 50, the Grand Jury
4 further complains and states,

5 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
6 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between August 11, 2004 and
7 August 21, 2004, at and in the County of Santa Barbara, State of California, did commit a
8 violation of CALIFORNIA PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC
9 FUNDS, in that said defendants were officers of any county, city, city and county or other
10 municipal corporation or subdivision thereof or were a deputy, clerk or servant of that officer or
11 were an officer, director, trustee, clerk, servant of agent of any association or corporation, who
12 fraudulently appropriated to any use or purpose not in the due and lawful execution of that
13 person's trust, any property in his or her possession or under his or her control by virtue of that
14 trust, to wit: **Embezzled Public Monies from the Santa Maria-Bonita School District**
15 **intended for Tarlton & Son, Inc., for labor performed on and materials supplied to the**
16 **North Preisker Ranch Junior High School (Plaster (Cat. 13) & Wallboard (Cat. 14)) in the**
17 **amount of Forty-One Thousand, Nine Hundred Eighty-Three Dollars and Fifty-One Cents**
18 **(\$41,983.51).**

19 **COUNT 52**

20 For a further and separate cause of Complaint, being a different offense from but
21 connected in its commission with the charges set forth in Counts 1 through 51, the Grand Jury
22 further complains and states,

23 That defendants HAROLD LEO CLARK III and MICHAEL PATRICK BANNAN on or
24 between August 18, 2004 and September 20, 2004, at and in the County of Santa Barbara, State
25 of California, did commit a violation of CALIFORNIA PENAL CODE SECTION 484b,
26 DIVERSION OF CONSTRUCTION FUNDS, in that said defendants were persons who did
27 receive money for the purpose of obtaining or paying for services, labor, materials or equipment
28 and did willfully fail to apply such money for the intended purpose by willfully failing to pay for

1 services, labor, materials or equipment provided incident to construction, and did wrongfully
2 divert the funds to a use other than that for which the funds were received, of an amount in
3 excess of One Thousand Dollars (\$1,000.00), to wit: **Diversion of Construction Funds**
4 **intended for Tarlton & Son, Inc., for labor performed on and materials supplied to the**
5 **Bonita Expansion (Stucco Building Modules) in the amount of Sixty-Seven Thousand,**
6 **Seven Hundred Thirty-Four Dollars and No Cents (\$67,734.00).**

7 **COUNT 53**

8 For a further and separate cause of Complaint, being a different offense from but
9 connected in its commission with the charges set forth in Counts 1 through 52, the Grand Jury
10 further complains and states,

11 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
12 CYNTHIA LYNN CLARK on or between August 18, 2004 and September 20, 2004, at and in
13 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
14 PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF PUBLIC Monies, in that said
15 defendants were persons charged with the receipt, safekeeping, transfer or disbursement of
16 public monies who, without authority of law, appropriated the same or any portion thereof to his
17 or her own use or to the use of another, to wit: Misappropriated Public Monies intended for
18 Tarlton & Son, Inc., for labor performed on and materials supplied to the Bonita Expansion
19 (Stucco Building Modules) in the amount of Sixty-Seven Thousand, Seven Hundred Thirty-Four
20 Dollars and No Cents (\$67,734.00).

21 **COUNT 54**

22 For a further and separate cause of Complaint, being a different offense from but
23 connected in its commission with the charges set forth in Counts 1 through 53, the Grand Jury
24 further complains and states,

25 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
26 CYNTHIA LYNN CLARK on or between August 18, 2004 and September 20, 2004, at and in
27 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
28 PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC FUNDS, in that said

1 defendants were officers of any county, city, city and county or other municipal corporation or
2 subdivision thereof or were a deputy, clerk or servant of that officer or were an officer, director,
3 trustee, clerk, servant of agent of any association or corporation, who fraudulently appropriated
4 to any use or purpose not in the due and lawful execution of that person's trust, any property in
5 his or her possession or under his or her control by virtue of that trust, to wit: **Embezzled Public**
6 **Monies from the Santa Maria-Bonita School District intended for Tarlton & Son, Inc., for**
7 **labor performed on and materials supplied to the Bonita Expansion (Stucco Building**
8 **Modules) in the amount of Sixty-Seven Thousand, Seven Hundred Thirty-Four Dollars and**
9 **No Cents (\$67,734.00).**

10 **COUNT 55**

11 For a further and separate cause of Complaint, being a different offense from but
12 connected in its commission with the charges set forth in Counts 1 through 54, the Grand Jury
13 further complains and states,

14 That defendants HAROLD LEO CLARK III and MICHAEL PATRICK BANNAN on or
15 between September 10, 2004 and September 20, 2004, at and in the County of Santa Barbara,
16 State of California, did commit a violation of CALIFORNIA PENAL CODE SECTION 484b,
17 DIVERSION OF CONSTRUCTION FUNDS, in that said defendants were persons who did
18 receive money for the purpose of obtaining or paying for services, labor, materials or equipment
19 and did willfully fail to apply such money for the intended purpose by willfully failing to pay for
20 services, labor, materials or equipment provided incident to construction, and did wrongfully
21 divert the funds to a use other than that for which the funds were received, of an amount in
22 excess of One Thousand Dollars (\$1,000.00), to wit: **Diversion of Construction Funds**
23 **intended for LMT Enterprises, Inc. DBA Tyner Paving Company, for labor performed on**
24 **and materials supplied to the El Camino Junior High School (Paving (Cat.7)) in the**
25 **amount of Fifty-Three Thousand, Two Hundred Twenty-Three Dollars and Seventy-Five**
26 **Cents (\$53,223.75).**

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1 **COUNT 56**

2 For a further and separate cause of Complaint, being a different offense from but
3 connected in its commission with the charges set forth in Counts 1 through 55, the Grand Jury
4 further complains and states,

5 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
6 CYNTHIA LYNN CLARK on or between September 10, 2004 and September 20, 2004, at and
7 in the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
8 PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF PUBLIC Monies, in that said
9 defendants were persons charged with the receipt, safekeeping, transfer or disbursement of
10 public monies who, without authority of law, appropriated the same or any portion thereof to his
11 or her own use or to the use of another, to wit: **Misappropriated Public Monies intended for**
12 **LMT Enterprises, Inc. DBA Tyner Paving Company, for labor performed on and materials**
13 **supplied to the El Camino Junior High School (Paving (Cat.7)) in the amount of Fifty-**
14 **Three Thousand, Two Hundred Twenty-Three Dollars and Seventy-Five Cents**
15 **(\$53,223.75).**

16 **COUNT 57**

17 For a further and separate cause of Complaint, being a different offense from but
18 connected in its commission with the charges set forth in Counts 1 through 56, the Grand Jury
19 further complains and states,

20 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
21 CYNTHIA LYNN CLARK on or between September 10, 2004 and September 20, 2004, at and
22 in the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
23 PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC FUNDS, in that said
24 defendants were officers of any county, city, city and county or other municipal corporation or
25 subdivision thereof or were a deputy, clerk or servant of that officer or were an officer, director,
26 trustee, clerk, servant of agent of any association or corporation, who fraudulently appropriated
27 to any use or purpose not in the due and lawful execution of that person's trust, any property in
28 his or her possession or under his or her control by virtue of that trust, to wit: **Embezzled Public**

1 **Monies from the Santa Maria-Bonita School District intended for LMT Enterprises, Inc.**
2 **DBA Tyner Paving Company, for labor performed on and materials supplied to the El**
3 **Camino Junior High School (Paving (Cat.7)) in the amount of Fifty-Three Thousand, Two**
4 **Hundred Twenty-Three Dollars and Seventy-Five Cents (\$53,223.75).**

5 **COUNT 58**

6 For a further and separate cause of Complaint, being a different offense from but
7 connected in its commission with the charges set forth in Counts 1 through 57, the Grand Jury
8 further complains and states,

9 That defendants HAROLD LEO CLARK III and MICHAEL PATRICK BANNAN on or
10 between July 14, 2004 and September 20, 2004, at and in the County of Santa Barbara, State of
11 California, did commit a violation of CALIFORNIA PENAL CODE SECTION 484b,
12 DIVERSION OF CONSTRUCTION FUNDS, in that said defendants were persons who did
13 receive money for the purpose of obtaining or paying for services, labor, materials or equipment
14 and did willfully fail to apply such money for the intended purpose by willfully failing to pay for
15 services, labor, materials or equipment provided incident to construction, and did wrongfully
16 divert the funds to a use other than that for which the funds were received, of an amount in
17 excess of One Thousand Dollars (\$1,000.00), to wit: **Diversion of Construction Funds**
18 **intended for LMT Enterprises, Inc. DBA Tyner Paving Company, for labor performed on**
19 **and materials supplied to the Westgate Ranch Elementary School (Paving (Cat.7)) in the**
20 **amount of Twenty-Six Thousand, four Hundred Thirty-Seven Dollars and Fifty-Five Cents**
21 **(\$26,437.55).**

22 **COUNT 59**

23 For a further and separate cause of Complaint, being a different offense from but
24 connected in its commission with the charges set forth in Counts 1 through 58, the Grand Jury
25 further complains and states,

26 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
27 CYNTHIA LYNN CLARK on or between July 14, 2004 and September 20, 2004, at and in the
28 County of Santa Barbara, State of California, did commit a violation of CALIFORNIA PENAL

1 CODE SECTION 424(a) (1), MISAPPROPRIATION OF PUBLIC Monies, in that said
2 defendants were persons charged with the receipt, safekeeping, transfer or disbursement of
3 public monies who, without authority of law, appropriated the same or any portion thereof to his
4 or her own use or to the use of another, to wit: **Misappropriated Public Monies intended for**
5 **LMT Enterprises, Inc. DBA Tyner Paving Company, for labor performed on and materials**
6 **supplied to the Westgate Ranch Elementary School (Paving (Cat.7)) in the amount of**
7 **Twenty-Six Thousand, four Hundred Thirty-Seven Dollars and Fifty-Five Cents**
8 **(\$26,437.55).**

9 **COUNT 60**

10 For a further and separate cause of Complaint, being a different offense from but
11 connected in its commission with the charges set forth in Counts 1 through 59, the Grand Jury
12 further complains and states,

13 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
14 CYNTHIA LYNN CLARK on or between July 14, 2004 and September 20, 2004, at and in the
15 County of Santa Barbara, State of California, did commit a violation of CALIFORNIA PENAL
16 CODE SECTION 504, EMBEZZLEMENT OF PUBLIC FUNDS, in that said defendants were
17 officers of any county, city, city and county or other municipal corporation or subdivision thereof
18 or were a deputy, clerk or servant of that officer or were an officer, director, trustee, clerk,
19 servant of agent of any association or corporation, who fraudulently appropriated to any use or
20 purpose not in the due and lawful execution of that person's trust, any property in his or her
21 possession or under his or her control by virtue of that trust, to wit: **Embezzled Public Monies**
22 **from the Santa Maria-Bonita School District intended for LMT Enterprises, Inc. DBA**
23 **Tyner Paving Company, for labor performed on and materials supplied to the Westgate**
24 **Ranch Elementary School (Paving (Cat.7)) in the amount of Twenty-Six Thousand, four**
25 **Hundred Thirty-Seven Dollars and Fifty-Five Cents (\$26,437.55).**

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1 **COUNT 61**

2 For a further and separate cause of Complaint, being a different offense from but
3 connected in its commission with the charges set forth in Counts 1 through 60, the Grand Jury
4 further complains and states,

5 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
6 DAVID ALEXANDER IRWIN on or between August 11, 2004 and August 21, 2004, at and in
7 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
8 PENAL CODE SECTION 484b, DIVERSION OF CONSTRUCTION FUNDS, in that said
9 defendants were persons who did receive money for the purpose of obtaining or paying for
10 services, labor, materials or equipment and did willfully fail to apply such money for the
11 intended purpose by willfully failing to pay for services, labor, materials or equipment provided
12 incident to construction, and did wrongfully divert the funds to a use other than that for which
13 the funds were received, of an amount in excess of One Thousand Dollars (\$1,000.00), to wit:
14 **Diversion of Construction Funds intended for LMT Enterprises, Inc. DBA Tyner Paving**
15 **Company, for labor performed on and materials supplied to the North Preisker Ranch**
16 **Junior High School (Paving (Cat. 5)) in the amount of Ten Thousand, Sixty-Four Dollars**
17 **and Twenty-Five Cents (\$10,064.25).**

18 **COUNT 62**

19 For a further and separate cause of Complaint, being a different offense from but
20 connected in its commission with the charges set forth in Counts 1 through 61, the Grand Jury
21 further complains and states,

22 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
23 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between August 11, 2004 and
24 August 21, 2004, at and in the County of Santa Barbara, State of California, did commit a
25 violation of CALIFORNIA PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF
26 PUBLIC Monies, in that said defendants were persons charged with the receipt, safekeeping,
27 transfer or disbursement of public monies who, without authority of law, appropriated the same
28 or any portion thereof to his or her own use or to the use of another, to wit: **Misappropriated**

1 **Public Monies intended for LMT Enterprises, Inc. DBA Tyner Paving Company, for labor**
2 **performed on and materials supplied to the North Preisker Ranch Junior High School**
3 **(Paving (Cat. 5)) in the amount of Ten Thousand, Sixty-Four Dollars and Twenty-Five**
4 **Cents (\$10,064.25).**

5 **COUNT 63**

6 For a further and separate cause of Complaint, being a different offense from but
7 connected in its commission with the charges set forth in Counts 1 through 62, the Grand Jury
8 further complains and states,

9 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
10 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or between August 11, 2004 and
11 August 21, 2004, at and in the County of Santa Barbara, State of California, did commit a
12 violation of CALIFORNIA PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC
13 FUNDS, in that said defendants were officers of any county, city, city and county or other
14 municipal corporation or subdivision thereof or were a deputy, clerk or servant of that officer or
15 were an officer, director, trustee, clerk, servant of agent of any association or corporation, who
16 fraudulently appropriated to any use or purpose not in the due and lawful execution of that
17 person's trust, any property in his or her possession or under his or her control by virtue of that
18 trust, to wit: **Embezzled Public Monies from the Santa Maria-Bonita School District**
19 **intended for LMT Enterprises, Inc. DBA Tyner Paving Company, for labor performed on**
20 **and materials supplied to the North Preisker Ranch Junior High School (Paving (Cat. 5))**
21 **in the amount of Ten Thousand, Sixty-Four Dollars and Twenty-Five Cents (\$10,064.25).**

22 **COUNT 64**

23 For a further and separate cause of Complaint, being a different offense from but
24 connected in its commission with the charges set forth in Counts 1 through 63, the Grand Jury
25 further complains and states,

26 That defendants HAROLD LEO CLARK III and MICHAEL PATRICK BANNAN on or
27 between August 18, 2004 and September 20, 2004, at and in the County of Santa Barbara, State
28 of California, did commit a violation of CALIFORNIA PENAL CODE SECTION 484b,

1 DIVERSION OF CONSTRUCTION FUNDS, in that said defendants were persons who did
2 receive money for the purpose of obtaining or paying for services, labor, materials or equipment
3 and did willfully fail to apply such money for the intended purpose by willfully failing to pay for
4 services, labor, materials or equipment provided incident to construction, and did wrongfully
5 divert the funds to a use other than that for which the funds were received, of an amount in
6 excess of One Thousand Dollars (\$1,000.00), to wit: **Diversion of Construction Funds**
7 **intended for Visalia Ceramic Tile, for labor performed on and materials supplied to the**
8 **Westgate Ranch Elementary School (Ceramic Tile Work) in the amount of Seventy-Two**
9 **Thousand, Three Hundred Twenty-Eight Dollars and Fifty-Six Cents (\$72,328.56).**

10 **COUNT 65**

11 For a further and separate cause of Complaint, being a different offense from but
12 connected in its commission with the charges set forth in Counts 1 through 64, the Grand Jury
13 further complains and states,

14 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
15 CYNTHIA LYNN CLARK on or between August 18, 2004 and September 20, 2004, at and in
16 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
17 PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF PUBLIC Monies, in that said
18 defendants were persons charged with the receipt, safekeeping, transfer or disbursement of
19 public monies who, without authority of law, appropriated the same or any portion thereof to his
20 or her own use or to the use of another, to wit: **Misappropriated Public Monies intended for**
21 **Visalia Ceramic Tile., for labor performed on and materials supplied to the Westgate**
22 **Ranch Elementary School (Ceramic Tile Work) in the amount of Seventy-Two Thousand,**
23 **Three Hundred Twenty-Eight Dollars and Fifty-Six Cents (\$72,328.56).**

24 **COUNT 66**

25 For a further and separate cause of Complaint, being a different offense from but
26 connected in its commission with the charges set forth in Counts 1 through 65, the Grand Jury
27 further complains and states,

1 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
2 CYNTHIA LYNN CLARK on or between August 18, 2004 and September 20, 2004, at and in
3 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
4 PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC FUNDS, in that said
5 defendants were officers of any county, city, city and county or other municipal corporation or
6 subdivision thereof or were a deputy, clerk or servant of that officer or were an officer, director,
7 trustee, clerk, servant of agent of any association or corporation, who fraudulently appropriated
8 to any use or purpose not in the due and lawful execution of that person's trust, any property in
9 his or her possession or under his or her control by virtue of that trust, to wit: **Embezzled Public**
10 **Monies from the Santa Maria-Bonita School District intended for Visalia Ceramic Tile., for**
11 **labor performed on and materials supplied to the Westgate Ranch Elementary School**
12 **(Ceramic Tile Work) in the amount of Seventy-Two Thousand, Three Hundred Twenty-**
13 **Eight Dollars and Fifty-Six Cents (\$72,328.56).**

14 **COUNT 67**

15 For a further and separate cause of Complaint, being a different offense from but
16 connected in its commission with the charges set forth in Counts 1 through 66, the Grand Jury
17 further complains and states,

18 That defendants HAROLD LEO CLARK III and MICHAEL PATRICK BANNAN on or
19 between August 18, 2004 and September 20, 2004, at and in the County of Santa Barbara, State
20 of California, did commit a violation of CALIFORNIA PENAL CODE SECTION 484b,
21 DIVERSION OF CONSTRUCTION FUNDS, in that said defendants were persons who did
22 receive money for the purpose of obtaining or paying for services, labor, materials or equipment
23 and did willfully fail to apply such money for the intended purpose by willfully failing to pay for
24 services, labor, materials or equipment provided incident to construction, and did wrongfully
25 divert the funds to a use other than that for which the funds were received, of an amount in
26 excess of One Thousand Dollars (\$1,000.00), to wit: **Diversion of Construction Funds**
27 **intended for Western Insulation, L.P., for labor performed on and materials supplied to**
28

1 **the Bonita Expansion (Insulation/Insul-Quilt and A/C Repairs) in the amount of Twenty-**
2 **Two Thousand Five Dollars and Eighty Cents (\$22,005.80).**

3 **COUNT 68**

4 For a further and separate cause of Complaint, being a different offense from but
5 connected in its commission with the charges set forth in Counts 1 through 67, the Grand Jury
6 further complains and states,

7 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
8 CYNTHIA LYNN CLARK on or between August 18, 2004 and September 20, 2004, at and in
9 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
10 PENAL CODE SECTION 424(a) (1), MISAPPROPRIATION OF PUBLIC Monies, in that said
11 defendants were persons charged with the receipt, safekeeping, transfer or disbursement of
12 public monies who, without authority of law, appropriated the same or any portion thereof to his
13 or her own use or to the use of another, to wit: **Misappropriated Public Monies intended for**
14 **Western Insulation, L.P., for labor performed on and materials supplied to the Bonita**
15 **Expansion (Insulation/Insul-Quilt and A/C Repairs) in the of Twenty-Two Thousand Five**
16 **Dollars and Eighty Cents (\$22,005.80).**

17 **COUNT 69**

18 For a further and separate cause of Complaint, being a different offense from but
19 connected in its commission with the charges set forth in Counts 1 through 68, the Grand Jury
20 further complains and states,

21 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
22 CYNTHIA LYNN CLARK on or between August 18, 2004 and September 20, 2004, at and in
23 the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
24 PENAL CODE SECTION 504, EMBEZZLEMENT OF PUBLIC FUNDS, in that said
25 defendants were officers of any county, city, city and county or other municipal corporation or
26 subdivision thereof or were a deputy, clerk or servant of that officer or were an officer, director,
27 trustee, clerk, servant of agent of any association or corporation, who fraudulently appropriated
28 to any use or purpose not in the due and lawful execution of that person's trust, any property in

1 his or her possession or under his or her control by virtue of that trust, to wit: **Embezzled Public**
2 **Monies from the Santa Maria-Bonita School District intended for Western Insulation, L.P.,**
3 **for labor performed on and materials supplied to the Bonita Expansion (Insulation/Insul-**
4 **Quilt and A/C Repairs) in the of Twenty-Two Thousand Five Dollars and Eighty Cents**
5 **(\$22,005.80).**

6 **COUNT 70**

7 For a further and separate cause of Complaint, being a different offense from but
8 connected in its commission with the charges set forth in Counts 1 through 69, the Grand Jury
9 further complains and states,

10 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
11 CYNTHIA LYNN CLARK on or about June 23, 2004, at and in the County of Santa Barbara,
12 State of California, did commit a violation of CALIFORNIA PENAL CODE SECTION 424(a)
13 (1), MISAPPROPRIATION OF PUBLIC Monies, in that said defendants were persons charged
14 with the receipt, safekeeping, transfer or disbursement of public monies who, without authority
15 of law, appropriated the same or any portion thereof to his or her own use or to the use of
16 another, to wit: **Misappropriated Public Monies in the amount of at least One Million,**
17 **Three Hundred Ninety Thousand, Eight Hundred Sixty Dollars (\$1,390,860.00) from the**
18 **Santa Maria–Bonita School District as and for ‘design fees’ for the Gap 5 schools.**

19 **COUNT 71**

20 For a further and separate cause of Complaint, being a different offense from but
21 connected in its commission with the charges set forth in Counts 1 through 70, the Grand Jury
22 further complains and states,

23 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
24 CYNTHIA LYNN CLARK on or about June 23, 2004, at and in the County of Santa Barbara,
25 State of California, did commit a violation of CALIFORNIA PENAL CODE SECTION 504,
26 EMBEZZLEMENT OF PUBLIC FUNDS, in that said defendants were officers of any county,
27 city, city and county or other municipal corporation or subdivision thereof or were a deputy,
28 clerk or servant of that officer or were an officer, director, trustee, clerk, servant of agent of any

1 association or corporation, who fraudulently appropriated to any use or purpose not in the due
2 and lawful execution of that person's trust, any property in his or her possession or under his or
3 her control by virtue of that trust, to wit: **Embezzled Public Monies from the Santa Maria-**
4 **Bonita School District in the amount of at least One Million, Three Hundred Ninety**
5 **Thousand, Eight Hundred Sixty Dollars (\$1,390,860.00) from the Santa Maria-Bonita**
6 **School District as and for 'design fees' for the Gap 5 schools.**

7 **COUNT 72**

8 For a further and separate cause of Complaint, being a different offense from but
9 connected in its commission with the charges set forth in Counts 1 through 71, the Grand Jury
10 further complains and states,

11 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and
12 CYNTHIA LYNN CLARK on or about June 23, 2004, at and in the County of Santa Barbara,
13 State of California, did commit a violation of CALIFORNIA PENAL CODE SECTION
14 487(A)/532(A), GRAND THEFT BY FALSE PRETENSE, in that said defendants did willfully,
15 unlawfully and feloniously, knowingly and designedly, by false and fraudulent representation
16 and pretense get possession of money or property of another in a value exceeding FOUR
17 HUNDRED DOLLARS (\$400.00) from another, to wit: **At least One Million, Three Hundred**
18 **Ninety Thousand, Eight Hundred Sixty Dollars (\$1,390,860.00) from the Santa Maria-**
19 **Bonita School District.**

20 **COUNT 73**

21 For a further and separate cause of Complaint, being a different offense from but
22 connected in its commission with the charges set forth in Counts 1 through 72, the Grand Jury
23 further complains and states,

24 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
25 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or about September 10, 2004, at and
26 in the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
27 PENAL CODE SECTION 487(A)/532(A), GRAND THEFT BY FALSE PRETENSE, in that
28 said defendants did willfully, unlawfully and feloniously, knowingly and designedly, by false

1 and fraudulent representation and pretense get possession of money or property of another in a
2 value exceeding FOUR HUNDRED DOLLARS (\$400.00) from another, to wit: **Three**
3 **Hundred Forty-Eight Thousand, Four Hundred Ninety-Four Dollars and Seventy-Eight**
4 **Cents (\$348,494.78) from the Santa Maria-Bonita School District.**

5 **COUNT 74**

6 For a further and separate cause of Complaint, being a different offense from but
7 connected in its commission with the charges set forth in Counts 1 through 72, the Grand Jury
8 further complains and states,

9 That defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
10 ALEXANDER IRWIN and CYNTHIA LYNN CLARK on or about September 19, 2004, at and
11 in the County of Santa Barbara, State of California, did commit a violation of CALIFORNIA
12 PENAL CODE SECTION 487(A)/532(A), GRAND THEFT BY FALSE PRETENSE, in that
13 said defendants did willfully, unlawfully and feloniously, knowingly and designedly, by false
14 and fraudulent representation and pretense get possession of money or property of another in a
15 value exceeding FOUR HUNDRED DOLLARS (\$400.00) from another, to wit: **Two Hundred**
16 **Seventy-Eight Thousand, Eight Hundred Sixty-Three Dollars and Twenty-Two Cents**
17 **(\$278,863.22) from the Santa Maria-Bonita School District.**

18 **FIRST SPECIAL ALLEGATION**

19 **Sentence Enhancement (Penal Code section 12022.6(a)(3))**

20 It is further alleged that in the commission of the offenses alleged in Counts 1 through 74,
21 defendants, HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID
22 ALEXANDER IRWIN and CYNTHIA LYNN CLARK, with the intent to do so and pursuant to
23 a common scheme or plan, took funds and property of a value exceeding ONE MILLION, TWO
24 HUNDRED THOUSAND DOLLARS (\$1,200,000) within the meaning of Penal Code Section
25 12022.6(a)(3).

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SECOND SPECIAL ALLEGATION

Sentence Enhancement (Penal Code Section 12022.6(a)(4))

It is further alleged that in the commission of the offenses alleged in Counts 1 through 74, defendants, HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and CYNTHIA LYNN CLARK, with the intent to do so and pursuant to a common scheme or plan, took funds and property of a value exceeding THREE MILLION, TWO HUNDRED THOUSAND DOLLARS (\$3,200,000) within the meaning of Penal Code Section 12022.6(a)(4).

THIRD SPECIAL ALLEGATION

Sentence Enhancement (Penal Code Section 186.11(a)(2))

It is further alleged, pursuant to Penal Code section 186.11(a)(2), that the offenses set forth in Counts 1 through 74 are related felonies, a material element of which is fraud and embezzlement, which involve a pattern of related, felony conduct, and the pattern of related felony conduct involves the taking of more than FIVE HUNDRED THOUSAND DOLLARS (\$500,000) by defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN, DAVID ALEXANDER IRWIN and CYNTHIA LYNN CLARK.

FOURTH SPECIAL ALLEGATION

Theft of Amount Exceeding \$100,000 (Penal Code section 1203.045.)

It is further alleged that in the commission of the offenses alleged in Counts 1 through 74, defendants HAROLD LEO CLARK III, MICHAEL PATRICK BANNAN and CYNTHIA LYNN CLARK, did cause a theft of money or property in excess of ONE HUNDRED THOUSAND DOLLARS (\$100,000) within the meaning of Penal Code section 1203.045.

PATRICIA M. FUSCO
Deputy Attorney General

DATE: A TRUE BILL

GRAND JURY FOREPERSON