

Stephen M. Wontrobski
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Mission Viejo, CA 92692
(949) 322-1294

October 25, 2012

Committee Members
Emergency Medical Care Committee

Ref: RFP for Ambulance Transport

Dear Committee Members,

At the last Orange County Health Care Agency EMCC meeting on June 22, 2012, the OCFA requested that they be empowered to conduct the bidding process for EMS ambulance transport. I objected to this request. I believe in light of everything that is being alleged regarding the OCFA, that granting this request would be improper. Listed below are reasons for denying this request.

OCFA Conflict of Interest

There is an inherent conflict of interest in having the OCFA administer the EMS competitive bid process. Presently, there is consideration being discussed to privatize part of the OCFA EMS work in order to reduce costs. The OCFA would have an inherent interest in denying EMS providers the ability to even offer recommendations regarding ways to reduce EMS costs that involve limited privatization of OCFA work.

Case Law Prohibition

The Butte court decision maintains that Orange County cannot delegate their responsibility for the handling of a Request for Proposal for ambulance transport to an outside group. The OCFA is a Joint Powers Authority. It is such an outside group.

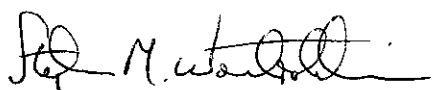
Prior RFP Award – OC-MEDS Data System

Orange County successfully prepared, issued and awarded an RFP for the OC-MEDS Data System. It did not need the services of the OCFA to handle this RFP. All indications are that the bid process and award for this work was competently handled in-house by the OCEMS Office working with the Orange County Health Care Agency Purchasing Department. There is no indication that the OCEMS Office is incapable due to understaffing of handling an RFP for ambulance transport.

In order to eliminate the appearance of an inherent conflict of interest and to work in accordance with the Butte decision, I recommend that the OCEMS Office in conjunction with the Health Care Agency Purchasing Department handle the competitive bid process for ambulance transport.

I am enclosing letters that addressed various matters I raised regarding bidding practices and other items of concern at the OCFA.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen M. Wontrobski". The signature is fluid and cursive, with a prominent initial "S" and "M".

Stephen M. Wontrobski

Cc: Mark Refowitz, Director - Orange County Health Care Agency (wo/atts.)
John Moorlach - Orange County Board of Supervisors (wo/atts.)
Tammi McConnell, Program Manager, Orange County Health Care Agency (w/atts.)

:emcc10-25-12

Stephen M. Wontrobski
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September 6, 2012

Mr. John Moorlach
Orange County Board of Supervisors
333 W. Santa Ana Blvd.
Santa Ana, CA 92701

Ref: OCFA Improper Competitive Bidding Practices

Dear Mr. Moorlach

Earlier in the year I had spoken to you regarding the Orange County Fire Authority's refusal to competitively bid their broker/dealer work. I maintained that the work should not be rolled over to two companies, Wells Fargo and UBS, which were alleged to have been engaged in widespread financial wrongdoing. The OCFA said a rollover was proper since everyone in the industry was engaged in financial wrongdoing.

You advised me to contact Shari Freidenrich, who might be able to help me. I did. She was very helpful and supplied a letter suggesting ways that the OCFA could find broker/dealers not engaged in financial wrongdoing. Regretfully, as far as I know, the OCFA failed to do anything, including even contacting Ms. Freidenrich regarding her suggestions.

Since that time I have learned of what I consider additional improper OCFA bidding practices. I have asked the Orange County Grand Jury to look into this matter and also allegations of widespread OCFA fraudulent disability filings. OCERS is conducting its own investigation of these disability filing allegations. However, the OCFA Board of Directors has continually turned down requests to have the OCFA itself investigate this matter.

At the last Orange County Health Care Agency EMCC meeting in July, the OCFA requested that they be empowered to conduct the bidding process for EMS services. I believe in light of everything that is being alleged regarding the OCFA, that at this time granting this request would be improper.

Among other items, there is an inherent conflict of interest in having the OCFA administer the EMS competitive bid process. Presently, there is consideration being discussed to privatize part of the OCFA EMS work in order to reduce costs. The OCFA would have an inherent interest in denying EMS providers the ability to offer

recommendations regarding ways to reduce EMS costs that involve limited privatization of OCFA work.

In order to eliminate this inherent conflict of interest, I suggest that Ms. Freidenrich's Department handle the competitive bid process. I attend every OCERS meeting and I highly respect Ms. Freidenrich's concern regarding protecting the public taxpayer's funds. If her Department could not do the bidding work, perhaps she could offer some alternate suggestions.

I am enclosing my August 22, 2012 letter to the OCFA Executive Committee that addressed various concerns I raised in my public comment to that Committee on the same day.

Finally, I highly respect your work and thank you for your referral to Ms. Freidenrich.

Sincerely,



Stephen M. Wontrobski

Cc: Mark Refowitz, Director - Orange County Health Care Agency

jmoorlach

Stephen M. Wontrobski
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Mission Viejo, CA 92692
(949) 348-0148

August 22, 2012

Chairman, Executive Committee
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: Orange County Fire Authority (OCFA)
Follow-up Action Request

Dear Mr. Chairman:

For the benefit of new Board members and the OCFA itself, I request that you direct follow-up review and action regarding the following areas of concern:

1. Inaccurate Meeting Minutes
2. Greater OCFA Transparency – Compensation Cost
3. Allegations of Disability Filing Abuse
4. Integrity of OCFA Competitive Bidding Practices
5. Competitive Bidding Practices – Union Negotiations
6. Production of Public Documents

Inaccurate Meeting Minutes

This item was addressed in my (a) July 26, 2012 letter to the Chairman, Board of Directors; (b) August 8, 2012 letter to the Chairman, Budget and Finance Committee; and (c) in my public comment meeting presentations.

In my public comment presentation I maintained, along with another member of the public, that the minutes were incomplete with regard to public comments and consequently were a misleading account of the meeting. Your attorney stated that there was no requirement from Robert's Rules that the meeting minutes provide any detail as to what was even discussed. Consequently, this matter was dropped by the OCFA.

What your attorney actually neglected to address is (a) that the California Civil Code overrides Robert's Rules and (b) the Code is the ultimate guiding legal source on meeting minutes requirements. He never addressed whether the minutes as written complied with the Civil Code. He also failed to mention that there is a definite need for greater OCFA transparency, and that more detailed meeting minutes would satisfy this need.

Simply put, the Board should direct staff to produce accurate and complete meeting minutes as they apply to public comment presentations, and that accompanying public presentation documents be attached to those minutes.

Greater OCFA Transparency – Compensation Cost

This item was addressed in my July 26, 2012 letter to the Board of Directors and in my oral public comment presentation in the July 26, 2012 Board of Director meeting.

The Orange County Grand Jury placed the OCFA at the bottom of the barrel regarding Compensation Cost Transparency. Of the 58 entities studied only five had compensation listings worse than the OCFA.

I and other members of the public request that the Board direct staff to comply with the Grand Jury recommendations in order to achieve greater compensation cost transparency.

Allegations of OCFA Disability Filing Abuse

I have brought this matter to the attention of the OCFA for over a year now, and I have stressed the need in multiple meeting presentations and written letters to the OCFA that an investigation needs to be conducted regarding the allegations. However, the Board has refused to take any action on this matter. Now the OC Register has produced a front page August 19, 2012 expose on this matter. In addition, the Orange County Grand Jury is reviewing the allegations. And the Orange County Employee Retirement System has started an investigation of its own of this matter.

I request that the Board hire an outside CPA firm to conduct an investigation of this matter. For integrity purposes, this matter cannot be assigned to OCFA staff to conduct. It must be done by an outside independent organization.

Integrity of the OCFA Competitive Bidding Practices

I have addressed this item in numerous public comment presentations and written letters, most recently in my July 9, 2012 letter to the Chairman, Budget & Finance Committee and my July 24, 2012 letter to the Chairman, Board of Directors.

The integrity of the OCFA competitive bidding practices has been called into question, and this matter needs to be addressed by the Board. As a place to start, the Board is requested to direct the Treasurer to prepare for Board review the award listing schedule detailed in page two of my July 9, 2012 letter.

Competitive Bidding Practices – Union Negotiations

This item was addressed in my July 26, 2012 letter to the Board of Directors and additional comments on this subject were made in my public comment presentation at the July 26, 2012 Board of Director meeting. Current practices of the OCFA have created a sense of distrust in the integrity of the union negotiations. I request that the Board implement the recommendations outlined in my July 26, 2012 letter in order to establish a high sense of integrity in negotiation and approval of union contracts.

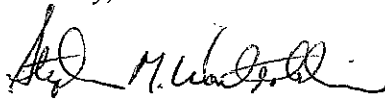
Production of Public Documents

I request that the OCFA produce for my review the non-Hippa protected disability filing documents and reports that I have previously requested. As an example, I request that I be allowed to review disability filing documents and reports that do not contain medical records or employee names. As another example, the OCFA should produce for my review the dispatch summary reports, such as, the one that was held in the hands and discussed by Board of Director members in a prior Board meeting. In that meeting I stated that the summary report the Director members were holding and reviewing was previously stated in writing by OCFA staff and your attorney not to exist.

I request that the Board look into this matter and furnish those documents that the OCFA has stated do not exist. There are many such documents.

Your assistance in the above matters is appreciated.

Sincerely,



Stephen M. Wontrobski

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(949) 348-0148

July 26, 2012

Chairman, Board of Directors
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: Orange County Fire Authority (OCFA)
Inaccurate Board of Director Meeting Minutes (5/24/12)

Dear Mr. Chairman:

I object to the approval of the May 24, 2012 Board of Directors meeting minutes as they currently read. They are inaccurate. Specifically, I direct you to the Public Comment Section, under which it is stated:

"Public comments were received from Stephen Wontrobski, Mission Viejo resident, regarding the denial of access to review Worker's Compensation disability claims and reports. He commented on the rise of disability fraud."

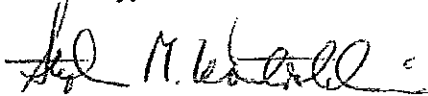
This synopsis omits the majority of items that I addressed, and it makes the record a materially misstated and misleading account of my comment.

Specifically, the minutes failed to address the following comments I made in that meeting. I stated that:

1. I had been previously apprised of allegations of fraudulent disability filings.
2. OCFA legal counsel denied me access to all disability documents and reports, including summary reports that do not contain medical records or the names of the disability filers. This was an illegal OCFA denial of public records access, yet the Board has taken no action to rectify this matter.
3. On Monday, May 21, 2012, the OCERS Board directed staff to initiate a review of potential fraudulent disability filings. They are also aware of the allegations of fraudulent disability filings.
4. The OCERS actuarial consultant reported for OCFA Rate Group 8, there are 274 retired members, and that there are 107 disabled members. This equates to a factor of about 40%. In my book this was an alarming figure for the OCFA, a group that prides itself on safety.
5. The OCFA Board of Directors has been apprised of the fraudulent disability filing allegations, but it has done nothing regarding this matter (that I know of).
6. The Board now has a legal and moral obligation to investigate this matter.
7. Senior OCFA management must be questioned to whether they have any knowledge of fraudulent disability filings.
8. The OCFA must inform OCERS of any fraudulent filing information. Failure to do so would implicate the OCFA in a continuing fraud against OCERS.

I request that this letter be included as part of the public record, as part of my public comment on this matter, in order to provide an accurate public record.

Sincerely,


Stephen M. Wontrobski

E:ocfaminutes7-26-12

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(949) 348-0148

August 8, 2012

Chairman, Budget & Finance Committee
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: Orange County Fire Authority (OCFA)
Inaccurate Board of Director Meeting Minutes (7/11/12)

Dear Mr. Chairman:

I object to the approval of the July 11, 2012 Budget & Finance Committee meeting minutes as they currently read. They are incomplete and provide to the public a misleading account of the meeting. Specifically, I direct you to the Public Comment Section of the meeting minutes, under which it is stated:

“Public comments were received from Stephen Wontrobski, Mission Viejo resident, and he provided a letter for the record.”

There is no mention as to what issue my public comment addressed, and no summary of what matters I presented. Specifically, I addressed the integrity of the entire OCFA bidding process and my objection to the Committee's approval to the Firefighters' Union's request to meet in private with OCFA staff regarding changes to the union agreement. In addition, the letter I provided for the public meeting record to support my oral public comment presentation was not attached to the minutes.

Next, under Item 3, Status Update – Orange County Employees' Retirement System, the minutes state:

“Stephen Wontrobski, Mission Viejo resident, provided public comments.”

This synopsis omits all the comments I made on this issue. Can you, any Committee member, or any member of the public determine what I even discussed from reading these meeting minutes?

Finally, under Item 4, City of Stanton – Request for Change in Service Configuration, the minutes state:

“Public comments were received from Stephen Wontrobski, Mission Viejo resident.”

This synopsis omits all the comments I made on this issue. Can you, any Committee member, or any member of the public determine what I even discussed from the meeting minutes? Could anyone determine that I recommended approval of the request and that changes needed to be made to the Firefighters' Union agreement concerning minimum staffing levels and other matters?

I request that this letter be included as part of the public record comment on this agenda item, in order to provide an accurate public record. I also request that the my prior letter addressed in these minutes be added and made part of the July 11, 2012 meeting minutes, after they have been revised and corrected.

Sincerely,


Stephen M. Wontrobski

E:ocfaxecminutes8-8-12

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July 26, 2012

Board of Directors
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: Orange County Fire Authority (OCFA)
Grand Jury Report – Compensation Cost Transparency

Dear Board of Directors Members:

The Orange County Grand Jury report on compensation cost transparency studied 58 entities, including the OCFA. The Report found that the OCFA was in the group at the bottom of the barrel for compensation cost transparency.

34 of the 58 entities studied were cities. Of the 34 cities studied, seven were found to be at the bottom of the barrel. It was encouraging to see that the Grand Jury found that the later revised listings of Laguna Beach and La Palma compensation schedules were deemed to be satisfactory. In addition, at the last Laguna Niguel City Council meeting, which I attended, the Council unanimously agreed to provide greater transparency to their compensation disclosures. That also was encouraging.

However, my concern is with the OCFA compensation listings. The Grand Jury Report found the OCFA to be in the group at the bottom of the barrel. Of the grand total of 58 entities studied, only five had compensation listings that were worse than the OCFA for transparency. Those entities were:

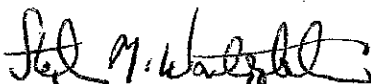
1. Orange County Vector Control District
2. Rossmor Community Services District
3. Santa Margarita Water District
4. City of Westminster
5. City of Fountain Valley

At this time I do not know if any of the above entities have revised their compensation listings to be in line with the Grand Jury Report recommendations.

Again, my concern is with the OCFA listing. If this Board has not already done so, I recommend that the Board, direct staff to immediately publish revised compensation listings to comply with the Grand Jury recommendations.

I thank you in advance for your assistance and consideration of this matter.

Sincerely,



Stephen M. Wontrobski

E:ocfapay7-26-12

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(949) 348-0148

July 9, 2012

Chairman, Budget & Finance Committee
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: Orange County Fire Authority (OCFA)
Competitive Bidding Practices

Dear Mr. Chairman:

I have maintained since last year, that the reason stated by the OCFA to not competitively bid the OCFA broker/dealer work was simply not believable. Your Committee has continued to maintain that the OCFA's Treasurer's no-bid justification was correct.

This letter will address my concern regarding the integrity of the entire OCFA bidding process.

- 1) The OCFA Treasurer could not provide one document or note to substantiate her assertion that she: a) searched out a list of potential broker/dealers; and b) could not find any company, that had not been engaged in financial wrongdoing. This twofold assertion (no documentation and assertion that everyone is engaged in financial wrongdoing) in itself has cast a cloud over the integrity of the entire OCFA competitive bidding process.
- 2) In the Executive Committee Meeting of June 27, 2012, the OCFA Treasurer responded to an inquiry from a Committee member regarding the reason the OCFA recommended awarding the actuarial services contract to the highest bidder. The Treasurer asserted in effect that the high bidder was currently doing this work; that they had been a good company to work with; and would do extra work, if requested to do so. This award recommendation was in clear violation of the Public Contract Code, which requires that the work be awarded to the "lowest responsible bidder". The Executive Committee unanimously rejected the award recommendation and instructed that the work be awarded to the low bidder.

It was very encouraging to me to see the Committee rejection, since I could not recall in any of the Committee meetings I attended over the last year, that the Committee ever rejected an OCFA staff bid award recommendation. The Code states that contracts are to be awarded, outside of certain legal exceptions, to the

"lowest responsible bidder". The reasons enumerated by OCFA staff did not fall into this exception category. The award recommendation clearly appeared to me to be against the Public Contract Code. So much so, that I now question whether senior OCFA staff members are aware of the Public Contract Code award requirements and enumerated exceptions. Equally disturbing was the fact that this potential Public Contract Code violation was not even addressed by OCFA legal counsel. These aspects need to be addressed by your Committee, since they bring into question the integrity of the OCFA bidding practices.

- 3) In the Executive Committee Meeting of June 27, 2012, the representative from Firefighters Local 3111 requested to meet in private with OCFA staff regarding proposed revisions to the Memorandum of Understanding, that governs firefighter pay, benefits and work rules. The Chairman agreed to this request. This permission created a direct conflict of interest, violated the Public Contract Code, and was a violation of the Brown Act. This action further undermined the integrity of the OCFA bidding process and served to also undermine the public trust in the OCFA itself.

I want to make it clear, that I wish to attend any meetings between the OCFA and Local 3111. Hence, I maintain that any such proposed meetings must be noticed, so that the public may attend them and provide public input. These meetings cannot be held in secret away from the public view.

As a further assurance to the public that Public Contract Code bidding provisions are being followed, I offer the following recommendation for your consideration.

Direct the OCFA Treasurer to supply your Committee with a listing of awards, and associated justifications, over the last five years that were:

- a) Not bid,
- b) Not awarded to the low bidder, or
- c) Awarded to the existing contractor.

Your Committee can then study the exception listing and implement any needed remedial bid practices. Presently, the integrity of the competitive bidding practices of the OCFA is being questioned by the public. This public perception must be addressed and rectified.

I thank you in advance for your assistance and consideration of this matter.

Sincerely,


Stephen M. Wontrobski

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(949) 348-0148

July 24, 2012

Chairman, Board of Directors
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: Orange County Fire Authority (OCFA)
Competitive Bidding Practices – New York Times Article

Dear Mr. Chairman:

I have maintained since last year, that I have serious concerns regarding the integrity of the OCFA competitive bidding practices. My concern started last year when the OCFA rolled over the broker-dealer work, rather than rebidding the work. My objection to the rollover was that UBS and Wells Fargo were alleged to have engaged in financial wrongdoing. Despite my continued objections to rolling over the work to UBS and Wells Fargo, the Board of Directors refused to rebid the work. This action by the Board, as well as, other questionable bidding practices by the OCFA have cast a shadow over the integrity of the OCFA bidding system.

The attached New York Times (NYT) July 20, 2012 article on the UBS financial wrongdoing appears now to indicate a lack of proper Board of Directors oversight over the OCTA bidding practices. Despite my constant objection to allowing a rollover of work to UBS, the Board endorsed using UBS for new work. This Board action appeared to members of the public to be an abandonment of the Board's fiduciary responsibility to be a true guardian of the public's funds. In the article, the NYT states that "in many ways, UBS is in a league of its own given its track record for scandals."


The NYT goes on to identify examples of financial wrongdoing by UBS:

1. It is currently involved in the Libor scandal.
2. It paid \$780 million in fines and penalties associated with its IRS wrongdoing.
3. It settled SEC charges that it acted as an unregistered broker-dealer and investment advisor to American clients and paid a \$200 million fine.
4. It agreed in May 2011 that its employees had repeatedly conspired to rig bids in the municipal bond derivatives market over a five year period, defrauding more than 100 municipalities and nonprofit organizations, and agreed to pay \$160 million in fines and restitution.
5. In 2008 UBS agreed in an SEC settlement to reimburse clients \$22.7 billion to resolve charges that it defrauded customers who purchased auction-rate securities. In addition, UBS paid a \$150 million fine to settle consumer and securities fraud charges filed by New York and other states.
6. The federal agency overseeing Freddie Mac and Fannie Mae is seeking \$1 billion in damages for securities law violations.

I request that the Board disqualify UBS for future OCFA broker-dealer work.

I thank you in advance for your assistance and consideration of this matter.

Sincerely,


Stephen M. Wontrobski

E:ocfachairmanexecom7-24-12

The New York Times

July 20, 2012

UBS's Track Record of Averting Prosecution

By JAMES B. STEWART

As the Justice Department weighs the possibility of criminal charges in the unfolding Libor rate-setting scandal, it may want to consider the record of the Swiss banking giant UBS.

At UBS, a series of immunity, nonprosecution and deferred prosecution agreements in recent years — evidently the government's preferred approach to corporate crime — seems to have had scant, if any, deterrent effect. "It's depressing," Representative Peter Welch, Democrat of Vermont, a member of the House oversight committee, told me this week after we discussed UBS's recent transgressions. "The Justice Department has to decide: Is the day of consent decrees and settlements, where you pay a fine, one passed on to shareholders, are those days over? Are the days of jail time here?"

UBS, one of more than a dozen banks being investigated for manipulating interest rates for their own benefit, is hardly the only major global bank with a record of recidivism. Just this week, HSBC apologized after a Senate committee exposed a pattern of money laundering for "drug kingpins and rogue nations." HSBC, which had been cited twice in the last decade for repeatedly violating money laundering laws, remains under civil and criminal investigation.

It was a rival, Barclays, that set off an international furor when it admitted to a wide-ranging conspiracy to manipulate the London interbank offered rate, commonly known as Libor, which is the benchmark for countless interest rate determinations and an estimated \$450 trillion in derivative contracts. It obtained a nonprosecution agreement, in large part because of what the Justice Department called its "extraordinary" cooperation, and agreed to pay American and British authorities a \$450 million penalty. Barclays has had its own problems with accusations of money laundering and paid \$298 million to settle charges that it circumvented United States prohibitions on funneling money to Iran.

But in many ways, UBS is in a league of its own given its track record for scandals. Should UBS be implicated in the Libor rate-fixing conspiracy, it's hard to imagine a better corporate candidate for a criminal indictment — even though it has already been granted conditional immunity from some aspects of the Libor scandal.

As the Justice Department points out in its guidelines for charging a corporation with a crime: "A corporation, like a natural person, is expected to learn from its mistakes," and "a history of similar misconduct may be probative of a corporate culture that encouraged, or at least condoned, such misdeeds, regardless of any compliance programs. Criminal prosecution of a corporation may be particularly appropriate where the corporation previously had been subject to noncriminal guidance, warnings or sanctions."

UBS, with dual headquarters in Zurich and Basel, traces its roots to 1854. Last year it had more than \$26 billion in revenue and nearly 65,000 employees worldwide. It was deemed too big to fail during the financial crisis, and had to be bailed out by the Swiss government after a \$50 billion write-down on mortgage-backed securities.

The bank's recidivism seems rivaled only by its ability to escape prosecution:

¶ UBS obtained a deferred prosecution agreement in 2009 for conspiring to defraud the United States of tax revenue by creating more than 17,000 secret Swiss accounts for United States taxpayers who failed to declare income and committed tax fraud. UBS bankers trolled for wealthy clients susceptible to tax evasion schemes at professional tennis matches, polo tournaments and celebrity events. One UBS banker smuggled diamonds in a toothpaste tube to accommodate a client. In return for the deferred prosecution agreement, UBS agreed to pay \$780 million in fines and penalties and disclose the identities of many of its United States clients. At the same time it settled Securities and Exchange Commission charges that it acted as an unregistered broker-dealer and investment adviser to American clients and paid a \$200 million fine. In October 2010 the government dropped the charges, saying UBS had fully complied with its obligations under the agreement.

¶ In May 2011, UBS admitted that its employees had repeatedly conspired to rig bids in the municipal bond derivatives market over a five-year period, defrauding more than 100 municipalities and nonprofit organizations, and agreed to pay \$160 million in fines and restitution. An S.E.C. official called UBS's conduct "a 'how to' primer for bid-rigging and securities fraud." UBS landed a nonprosecution agreement for that behavior, and the Justice Department lauded the bank's "remedial efforts" to curb anticompetitive practices.

¶ In what the S.E.C. called at the time the largest settlement in its history, in 2008 UBS agreed to reimburse clients \$22.7 billion to resolve charges that it defrauded customers who purchased auction-rate securities, which were sold by UBS as ultrasafe cash equivalents even though top UBS executives knew the market for the securities was collapsing. Seven of UBS's top executives were said to have dumped their own holdings, totaling \$21 million, even as they told the bank's brokers to "mobilize the troops" and unload the securities on unsuspecting clients. As Andrew M. Cuomo, who was New York's attorney general then, put it: "While thousands of UBS customers received no warning about the auction-rate securities market's serious distress, David Shulman — one of the company's top executives — used insider information to take the money and run." Besides reimbursing clients and settling with the S.E.C., UBS paid a \$150 million fine to settle consumer and securities fraud charges filed by New York and other states. It again escaped prosecution.

There's more — including UBS's prominent role and big losses in the mortgage-backed securities debacle that helped bring on the financial crisis. The federal agency overseeing Fannie Mae and Freddie Mac sued UBS for securities law violations, accusing it of "materially false statements and omissions." The agency is seeking \$1 billion in damages. (UBS has denied the charges and the case is pending.) UBS hasn't been charged with any civil or criminal misconduct related to mortgage-backed securities.

In the continuing global interest rates investigations, UBS last summer revealed that it had received conditional immunity from the Justice Department and other authorities. It was shown this leniency even though the Justice Department has pointedly said that Barclays, not UBS, was the first bank to cooperate.

Among the dozen or so banks caught up in the investigation, UBS hasn't disclosed what role, if any, it played. But its conditional immunity indicates that UBS confessed and gave evidence against others. A corporation can avoid criminal conviction and fines for antitrust crimes "by being the first to confess participation in a criminal antitrust violation, fully cooperating with the division, and meeting other specified conditions," according to the Justice Department.

The department's antitrust division stresses that it makes only one grant of immunity per conspiracy, so it isn't clear how both Barclays and UBS managed to get it. Libor is set each day based on submissions from major global banks for a variety of currencies. UBS is a member of the banking panels that determine United States dollar, British pound, euro, yen and Swiss franc Libor rates.

UBS said its antitrust immunity was tied only to yen-related rates. That means it could still be prosecuted for antitrust crimes related to other currencies. Barclays obtained antitrust immunity only for a conspiracy involving the euro interbank offered rate, suggesting that the Justice Department is treating the cases as separate conspiracies.

Unlike Barclays, UBS does not have immunity or a nonprosecution agreement from the criminal division, which means it could be charged with the full range of securities and commodities fraud.

When I asked UBS for comment about its record, a spokeswoman said that the bank "acknowledges and takes responsibility for the mistakes and oversights that occurred in our past, and we have learned a great deal. New senior management is fully committed to protecting the firm's reputation, our employees and shareholders from any misconduct by individuals. We continuously work to ensure compliance with the rules, and improve controls to keep mistakes from happening or to detect them as soon as possible, if they do occur."

In the Libor scandal, UBS's conditional immunity applies only to the company, not to individuals. While UBS seems to fit the profile for charging corporations with crime, it remains the case that individuals commit crimes, even if companies are liable for their acts. But so far, the only person from UBS to receive a jail term in connection with any of the bank's multiple scandals and offenses is Bradley Birkenfeld, the original whistle-blower in the huge tax evasion case. Mr. Birkenfeld pleaded guilty to conspiracy to defraud the United States and was sentenced to 40 months in prison.

Another UBS banker, Renzo Gadola, pleaded guilty in the tax fraud case, cooperated, and was granted probation. A third was charged but hasn't been tried and remains a fugitive. In another notorious case, British authorities charged a trader, Kweku Adoboli, with fraud and false accounting after UBS announced it had lost \$2.3 billion in unauthorized trades. He pleaded not guilty and is awaiting trial. And in the municipal securities bid-rigging scandal, three former UBS bankers are facing trial and a fourth pleaded guilty but hasn't been sentenced.

Otherwise, no one at UBS has faced criminal charges, even though two high-ranking UBS officials settled New York and other states' charges of insider trading for dumping their auction-rate securities. One, Mr. Shulman, UBS's global head of municipal securities, who was publicly criticized by Mr. Cuomo, paid \$2.75 million to settle the charges and was suspended as a securities broker for two and a half years. Another, David D. Aufhauser, UBS's general counsel, paid \$6.5 million and was barred from practicing law in New York for two years. Mr. Shulman was suspended by UBS and Mr. Aufhauser left the bank. UBS declined to comment on the reason

for his departure and named him an adviser to the bank.

Neither man admitted or denied guilt, but in both cases, the allegations made by the authorities were incriminating. According to the complaints, Mr. Shulman sold his personal holdings within days of learning the market was in distress. Mr. Aufhauser was on an Acela train to Washington when UBS's chief risk officer e-mailed him to warn that the auction-rate securities market was collapsing. Minutes later, he e-mailed his UBS broker to sell the securities in his account. (A lawyer said Friday that Mr. Aufhauser subsequently reversed the trade and didn't profit from the order.)

Today Mr. Shulman is listed as a "managing member" of BasePoint Capital L.L.C., a private investment firm in Greenwich, Conn. Mr. Aufhauser is a partner at the prominent Washington law firm Williams & Connolly. His biography on the firm's Web site references his experience as "managing director and global general counsel of the UBS AG investment bank."

Both Mr. Shulman and Mr. Aufhauser declined to comment.

Is it any wonder that despite repeated apologies and promises to change, UBS and other banks keep getting in trouble?

Last week New York Times reporters Ben Protess and Mark Scott wrote that the Justice Department was building criminal cases against several individuals and institutions implicated in the Libor scandal, even as rumors swirled that more generous settlements with major banks were in the works. If prosecutions are forthcoming, it will be a welcome sign that banks and their employees will be held accountable for their misdeeds. As the recent wave of scandals suggests, years of leniency have failed to bring the hoped-for results or respect for the law.

"My view is we're well past the day where we can postpone putting guilty people behind bars," said Mr. Welch, the representative from Vermont, who sent a letter this week to Attorney General Eric H. Holder Jr. urging the department to "aggressively prosecute" bank officials who manipulated Libor.

"The whole point of prison terms is to deter conduct in that community, and we know jail sentences are an effective deterrent," Mr. Welch added. "Restoring public confidence means that people who commit crimes spend some time in jail."

This article has been revised to reflect the following correction:

Correction: July 20, 2012

An earlier version of this column misstated the charges against UBS from the federal agency that oversees Fannie Mae and Freddie Mac as fraud, rather than securities violations.

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July 26, 2012

Board of Directors
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: Orange County Fire Authority (OCFA)
Competitive Bidding Practices – Union Negotiations

Dear Board of Directors Members:

I have maintained since last year, that I have serious concerns regarding the integrity of the OCFA competitive bidding practices. In the Executive Committee Meeting of June 27, 2012, the representative from Firefighters Local requested to meet in private with OCFA staff regarding proposed revisions to the Memorandum of Understanding, which governs firefighter pay, benefits and work rules. The Chairman agreed to this request. I have previously expressed in writing my objection to this request. I maintained this permission created a direct conflict of interest, violated the Public Contract Code, and was a violation of the Brown Act.

What was most disconcerting was the fact that this action further undermined the integrity of the OCFA bidding process, and also undermined the public trust in the OCFA itself. I maintained that I wished to attend any meetings between the OCFA and the union, and that any such proposed meetings must be noticed, so that the public may attend them and provide public input.

I believe that action must be taken to regain the public trust in the OCFA bidding and contract award practices. One area that deserves attention is Board of Director involvement in union contract negotiations and awards.

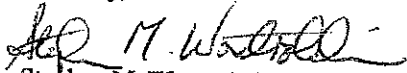
Members of the public view the approval of OCFA union contracts to not really be a truly independent award process. One major criticism centers around the belief that some directors have obtained political contributions from the union and are now approving contract awards to that same union. This has resulted in a lack of public trust regarding the integrity of the approval of union contracts. In order to strengthen the public's view of the integrity of award of OCFA union contracts, I recommend the Board of Directors consider the following:

Provide in the ethics section of the OCFA, that governs the Board of Directors, that any Board of Director member, who has received either directly or indirectly any compensation of any nature totaling over \$250.00 from any OCFA union or affiliate in any calendar year within the last three years, be prohibited from voting on any proposed union contract or be involved in any union contract negotiations.

Your adoption of this measure will only lead to an increase in the public's conviction that the OCFA directors are truly working on behalf of the residents of Orange County.

I thank you in advance for your assistance and consideration of this matter.

Sincerely,


Stephen M. Wontrobski

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