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8 Attorneys for MAYOR EDWIN M. LEE

9
10 ETHICS COMMISSION
11 CITY AND COUNTY OF SAN FRANCISCO

12
13 In the Matter of Charges Against
14 ROSS MIRKARIMI,
15 Sheriff, City and County of San Francisco.

MAYOR'S REBUTTAL EVIDENCE

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17
18 The Mayor will call the following witnesses in rebuttal.

19 **Inspector Mike Becker, SFPD.** Inspector Becker will be called to rebut Sheriff
20 Mirkarimi's untruthful testimony about his discussions with SFPD police inspectors on January 13,
21 2012, concerning turning over his firearms to the San Francisco Police Department. Inspector
22 Becker is expected to testify that, contrary to Sheriff Mirkarimi's testimony, on January 13 Sheriff
23 Mirkarimi did not express any uncertainty about the whereabouts or ownership of his Smith &
24 Wesson revolver. Rather, Sheriff Mirkarimi told Inspector Becker and Inspector Daniele that he no
25 longer owned this weapon because he sold it long ago. Inspector Becker is also expected to testify
26 that, contrary to Sheriff Mirkarimi's testimony, on January 13 he and Inspector Daniele had no
27 discussion or agreement with Sheriff Mirkarimi, his attorney, or anyone else that Sheriff Mirkarimi
28

1 would be turning over his firearms to the San Francisco Sheriff's Department instead of the San
2 Francisco Police Department.

3 ***

4 The Mayor also submits the following exhibits as rebuttal evidence, or party admissions
5 from Sheriff Mirkarimi:

6 **ADDITIONAL EXHIBITS**

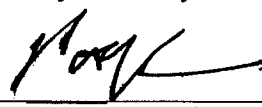
7 EXHIBIT NO.	DESCRIPTION
8 Exhibit 84	Video Clip From Sheriff Mirkarimi's January 8, 2012 Inaugural 9 Speech (previously shown at June 29, 2012 Commission hearing)
10 Exhibit 85	SFPD Incident Report, Case No. 120009457 (Jan. 13, 2012)
11 Exhibit 86	Emergency Protective Order, Case No. 120009457 (Jan. 13, 2012)
12 Exhibit 87	Excerpt from KGO-TV Broadcast (June 27, 2012) (video clip to be 13 supplied)

14 Per discussion with the Commission, the Mayor intends to submit excerpts of public
15 statements of Ms. Lopez, if she testifies. The Mayor will identify and designate those excerpts after
16 Ms. Lopez, if she is available, has testified.

17 The Mayor reserves the right to introduce additional exhibits as issues arise during the
18 course of these proceedings.

19 DATED: July 10, 2012

20 DENNIS J. HERRERA
City Attorney
21 JESSE C. SMITH
Chief Assistant City Attorney
22 SHERRI SOKELAND KAISER
PETER J. KEITH
23 Deputy City Attorneys

24 By: 
25 PETER J. KEITH

26 Attorneys for MAYOR EDWIN M. LEE
27
28

EXHIBIT 84
[CD ON FILE]

EXHIBIT 85

Incident Number 120-009-457	Occurrence from Date/Time 1/13/12 16:45	Occurrence to Date/Time 1/13/12 16:45	Reported Date/Time 1/13/12 16:45	CAD Number
Type of Incident Varrant Arrest, Local SF Warrant -63010; Domestic Violence (secondary only) -15200				
Location of Occurrence 850 BRYANT St		At Intersection with/Premise type Government Premise		District B
Confidential Report? <input checked="" type="checkbox"/>	Arrest Made? <input checked="" type="checkbox"/>	Suspect Known? <input checked="" type="checkbox"/>	Suspect Unknown? <input type="checkbox"/>	Non-Suspect Incident? <input type="checkbox"/>
Domestic Violence? <input checked="" type="checkbox"/>			Reporting Unit 5W5	
Location Sent				District
How Cleared? 6	Reported to Bureau	Name	Star	Date/ Time
Elder Victim <input type="checkbox"/>	Gang Related? <input type="checkbox"/>	Juvenile Subject? <input type="checkbox"/>	Prejudice Based? <input type="checkbox"/>	

OFFICIAL CREATION	I declare under penalty of perjury, this report of <u>2</u> pages is true and correct, based on my personal knowledge, or is based on information and belief following an investigation of the events and parties involved.				
	PROP 115 CERTIFIED 5 YEAR/POST		Signature: <i>Michael Becker #564</i>		
	Reporting Officer <i>Insp Michael Becker 564</i>	Star 564	Station Domestic Violence	Watch 0800-1800	Date 1/13/12
	Reviewing Officer <i>Insp. Michael Becker 564</i>	STAR 564	Station Domestic Violence	Watch 0800-1800	Date 1/13/12
	OIC <i>Insp. Michael Becker 564</i>	STAR 564	Station DVA	Watch 8-18-	Date 1/13/12
Related Case	Related Case	Re-Assigned to	Assigned to	Assigned by	
		Copies to	5G200 5W200	Add'l Copies	

RECREATE	Code R	Name (Last, First Middle) SFPD # 427, # 564,			Alias		
	Day Phone	Type	Home Address		City	State	Zip Code
	Night Phone	Type	Work Address		City	State	Zip Code
	DOB / Age	DOB Unk. <input type="checkbox"/>	or age between: and	Race	Sex	Height	Weight
	Confidential Person <input type="checkbox"/>	Violent Crime Notification <input type="checkbox"/>	293 PC Notification <input type="checkbox"/>	Star	Follow-up Form YES <input type="checkbox"/>	Statement YES <input type="checkbox"/>	Relationship to Subject
	School (if Juvenile)	Injury/Treatment		Other Information/If Interpreter Needed Specify Language			
	DOB / Age	DOB Unk. <input type="checkbox"/>	or age between: and	Race	Sex	Height	Weight
Confidential Person <input type="checkbox"/>	Violent Crime Notification <input type="checkbox"/>	293 PC Notification <input type="checkbox"/>	Star	Follow-up Form YES <input type="checkbox"/>	Statement YES <input type="checkbox"/>	Relationship to Subject	

BOOKED 1	Code B.1	Name (Last, First Middle) MIRKARIMI, ROSS			ALIAS		
	Day Phone	Type Unknown	Home Address [REDACTED]		City SF	State CA	Zip Code 94117-
	Night Phone	Type	Work Address CITY HALL		City SF	State CA	Zip Code 94110-
	DOB Unknown <input type="checkbox"/>	Date of Birth [REDACTED]	Age 50	or age between and	Race W	Sex M	Height 6'01
	Weight 205	Hair Color BLK	Eye Color BRO				
	SFNO	J/D# (if Juv.)	ID Type/Jurisdiction/Number		ID Type/Jurisdiction/Number		ID Type/Jurisdiction/Number
	Book Section #1	Book Section #2	Book Section #3	Book Section #4	Book Section #5	Booking Location SFSO County Jail #1	
	Warrant # 734611	Court #	Action # 480084M	Dept	Enroute to	CWB Check	Star
	Warrant Violation(s) 273.5 (a) P.C., 273a(b) P.C.; 136.1(b) P.C.				Bail \$35,000.00	Mirandized <input type="checkbox"/>	Star
	Citation #	Violation(s)		Appear Date/Time	Location of Appearance		
Book/Cite Approval	Star	Mass Arrest Code	M X-Rays <input type="checkbox"/>	School (if Juvenile)	<input type="checkbox"/> CA Form Booked Copy Attached		
Other Information: Citation/Warrant/Booking Charge(s)/Missing Person-Subject Description; Scars, Marks, Tattoos							

While working with Inspector Daniele# 427 on this investigation. It was arranged for B- Mirkarimi through his attorney Bob Waggener for B - Mirkarimi to surrender himself at county jail # 1. B - Mirkarimi arrived and was booked for the listed charges. B - Mirkarimi was served an Emergency Protective Order after his booking by Inspector Daniele # 427 and explained the conditions of the Emergency Protective Order. B was also told he needed to turn in his firearms in twenty four hours. B stated he had two firearms at home and stated the firearms were buried deep inside the house and sold a 357 caliber revolver long ago. B attorney Bob Waggener stated he would make arrangements to surrender the two firearms B had in his possession to Inspector Daniele #427 and me tomorrow and would phone when he his ready to meet with us. I asked B if he had a firearm on his person at this time B stated no he was not issued a firearm. I asked B if he had his own firearm on his person. B stated he did not and raised his suit coat at this time to show he did not have a firearm.

EXHIBIT 86

APPLICATION FOR EMERGENCY PROTECTIVE ORDER (CLETS)

EPO-001

(Name): IVORY MADISON CALIE WILLIAMS has provided the information in items 1-5.

LAW ENFORCEMENT CASE NUMBER:

1. PERSONS TO BE PROTECTED (insert names of all persons to be protected by this order):

ELIANA LOPEZ, THEO MIRKARIMI

120009457

PERSON TO BE RESTRAINED (name): ROSS MIRKARIMI

Sex: M F Ht. 6'01" Wt. 205 Hair color BLK Eye color BRN Race: W Age: _____ Date of birth: _____

3. The events that cause the protected person to fear immediate and present danger of domestic violence, child abuse, child abduction, elder or dependent adult abuse (other than solely financial abuse), or stalking are (give facts and dates; specify weapons):

SEE ATTACHED APPENDUM

4. The person to be protected lives with the person to be restrained and requests an order that the restrained person move out immediately from the address in item 9.

5. a. The person to be protected has minor children in common with the person to be restrained, and a temporary custody order is requested because of the facts alleged in item 3. A custody order does does not exist.

b. The person to be protected is a minor child in immediate danger of being abducted by the person to be restrained because of the facts alleged in item 3.

6. A child welfare worker or probation officer has advised the undersigned that a juvenile court petition has already been filed. will be filed. will NOT be filed.

7. Adult Protective Services has been notified.

8. Judicial officer (name): RICHARD KRAMER was contacted on (date): 1/13/12 at (time): 1:30 PM

The judicial officer granted the Emergency Protective Order that follows.

By: Richard Daniele
(PRINT NAME OF LAW ENFORCEMENT OFFICER)

Richard Daniele
(SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: SFPD

Telephone No.: 553-9099 Badge No.: 427

EMERGENCY PROTECTIVE ORDER (See reverse for important notices.)

To restrained person (name): ROSS MIRKARIMI

a. You must not contact, molest, harass, attack, strike, threaten, sexually assault, batter, telephone, send any messages to, follow, stalk, destroy any personal property of, disturb the peace of, or take any action to obtain the address or location of each person named in item 1.

b. You must stay away at least 150 yards from each person named in item 1.
 stay away at least 150 yards from move out immediately from

(address): _____

10. (Name): ELIANA LOPEZ is given temporary care and control of the following minor children of the parties (names and ages): THEO MIRKARIMI

11. Reasonable grounds for the issuance of this order exist and an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, elder or dependent adult abuse, or stalking.

12. THIS EMERGENCY PROTECTIVE ORDER WILL EXPIRE AT 5:00 P.M. ON:

1/23/12

13. To protected person: If you need protection for a longer period of time, you must request restraining orders at (court name and address):

INSERT DATE OF FIFTH COURT DAY OR SEVENTH CALENDAR DAY, WHICHEVER IS EARLIER; DO NOT COUNT DAY THE ORDER IS GRANTED.

14. Person served (name): Richard Daniele ROSS MIRKARIMI

15. I personally delivered copies to the person served as follows: Date: 1/13/12 Time: 1:48 PM
Address: _____

16. At the time of service I was at least 18 years of age and not a party to this cause. I am a California sheriff or marshal.

17. My name, address, and telephone number are (this does not have to be server's home telephone number or address):

Richard Daniele - 350 Bryant St

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

Date: 1/13/12
(TYPE OR PRINT NAME OF SERVER)

Richard Daniele
(SIGNATURE OF SERVER)

Addendum to Application for Emergency Protective Order Question #3: The events that cause the protected person to fear immediate and present danger of domestic violence.

Additional grounds presented for Emergency Protective Order are:

The video was not available for the initial magistrate to view. This magistrate reviewed the video which shows the fear and emotion of victim. The video references a second domestic violence incident. The video references that Ross Mirkarimi has told the victim that he has a lot of power and he can take away her child.

A second witness was found who also spoke to the victim on January 3, 2012. This witness' statements corroborate the events of December 31, 2011 as told by the reportee. The second witness also corroborates a visible injury on the victim's arm which was characterized as a large bruise. The second witness also corroborates that there was a prior domestic violence incident in or about March, 2011.

The reportee was interviewed a second time on January 11, 2011 and she provided additional details of the event on December 31, 2011. The victim told the reportee that Ross Mirkarimi told her not to talk to anyone and not to leave the house after the incident on December 31, 2011. On January 1, 2012, when Ross Mirkarimi was in the shower, the victim took this opportunity to leave her residence and go to the reportee's home where she proceeded to tell the reportee the domestic violence incident of December 31, 2011. In this second interview, the reportee also elaborated on the victim's fear of the impact the abuse is having on their young child. The child was present and witnessed the verbal and physical by Ross Mirkarimi.

With these additional facts of the continued power and control Ross Mirkarimi has over the victim and the impact of the violence on the young child, there is an urgency to break that control and the continued abuse with the issuance of an Emergency Protective Order.

RAD 427

EXHIBIT 87

Exhibit 87: Transcript of KGO-TV excerpt from 6/27/12 broadcast

Starting at 1:24

Dan Noyes: And now his defense team is stepping up criticism of next door neighbor Ivory Madison, who reported the incident to police against the wishes of Mirkarimi's wife.

David Waggoner: This is a comic book that was authored by Ivory Madison.

DN: Madison is a publisher and comic book author who calls The Huntress her feminist-mafia-noir graphic novel.

DW: Madison writes on the back "The line between justice and vengeance is a thin one." And one has to really begin to wonder, what's really happening here? You know, is this case really based on fact or is it based on fiction?