



September 20, 2019

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**RE: New Evidence Warranting Investigation Into Money Laundering and Bribery  
By Insurance Commissioner Ricardo Lara**

As you know, for several months California Insurance Commissioner Ricardo Lara has been embroiled in a pay-to-play scandal amidst allegations that he traded campaign contributions from insurance companies for favorable treatment on policy matters pending before the Department of Insurance. The scandal has led policymakers, editorial board editors and other thought leaders, and the public, to question whether Commissioner Lara has broken the law and whether he will be able to finish his term as Insurance Commissioner. Department staff report dismal morale that has taxed the ability of the state's largest administrative agency to effectively oversee California's \$310 billion insurance industry.

Only you can lift this cloud by using your investigatory powers to either prove Commissioner Lara's innocence or prosecute Commissioner Lara for any crimes he may have committed. The people of California require your intervention, as does Commissioner Lara. The people of California deserve transparency and certainty as to whether our elected leaders are living up to the trust the voting public has invested in them. Commissioner Lara deserves to have his name cleared if he is innocent of any wrongdoing.

On September 6, we wrote to you with evidence that California Insurance Commissioner Ricardo Lara may have broken the law by using public funds for his personal benefit by representing expenses for his second home in Sacramento as a legitimate public expense. Today we write with new evidence warranting your investigation into Commissioner Lara regarding bribery and money laundering. The compelling circumstantial evidence, which is summarized below and provided in detail in the attached, can be divided into three categories:

**1. Fundraising While Policymaking.** In response to Public Records Act requests, Consumer Watchdog has uncovered email and calendar entries that irrefutably demonstrate that Commissioner Lara, Lara's political fundraiser Dan Weitzman, Department staff, and principals of insurance companies with business pending before the Department simultaneously discussed fundraising and policymaking. Eric Serna—a former New Mexico insurance commissioner who resigned following a campaign finance scandal—is the apparent intermediary of principals for a Berkshire-Hathaway workers' compensation insurance company and another company involved in "short-term" health insurance. The evidence shows Serna arranged and attended March meetings with Lara and his staff including both the buyer and seller of the Berkshire-Hathaway subsidiary to discuss the company's change of ownership pending approval by the Department of Insurance and fundraising for Commissioner Lara's 2022 re-election campaign. Department correspondence from early March paint a troubling picture of Weitzman, Serna and Lara's involvement in meetings and correspondence mixing official Department decisions and fundraising with Serna and the workers' compensation insurance company's principals.

**2. Money Laundering.** As we noted in our previous letter, Insurance Commissioner Lara has been involved in a pay-to-play scandal for taking \$54,300 in insurance company campaign contributions from insurers with business before the Department of Insurance, in violation of a pledge not to do so. Statewide news coverage has documented that family members of insurance company executives gave large contributions to Commissioner Lara in an apparent effort to hide the true source of the funds. Following the contributions, Commissioner Lara intervened on behalf of one of the insurance companies, Applied Underwriting, the Berkshire-Hathaway subsidiary discussed above, in at least four proceedings at the Department of Insurance, which plaintiffs' attorneys estimate could save the company hundreds of millions of dollars. In addition to

the compelling evidence reflected in the attached timeline, the fact that Commissioner Lara pledged to not take campaign contributions from insurance companies suggests he had motive to help cover up the true sources of the money.

New evidence described in the attached document demonstrates that Insurance Commissioner Lara's hand-picked replacement for his former California Senate seat, Lena Gonzalez, also received \$25,000 in campaign contributions from individuals linked to Applied Underwriting. Shortly after receiving the contributions, Senator Gonzalez paid an almost identical amount—\$24,210—to Commissioner Lara's political fundraiser, Dan Weitzman. All the insurance company campaign contributions—including those to Commissioner Lara and Senator Gonzalez—came from individuals closely linked to Steve Menzies, the current president of Applied Underwriters, and the new owner of an Applied subsidiary pending approval of the sale by Commissioner Lara.

**3. Misrepresentations by Lara.** Commissioner Lara had previously claimed to have no knowledge of the campaign contributions and apparent efforts of Applied Underwriters and Steve Menzies to curry preferential treatment of the sale and the four administrative law matters in front of the Department. Lara later fired Weitzman and apologized for the breach of trust, which he blamed on a lack of campaign oversight, not his intentional participation. However, newly discovered photographs demonstrate that Commissioner Lara met with Eric Serna in Santa Fe, New Mexico, days before the first troubling correspondence mixing campaign support and official decision-making were sent and before the tainted contributions flowed.

These unrefuted facts raise serious questions: Did Steve Menzies, new owner of the Applied subsidiary in the pending sale, launder contributions through Senator Gonzalez and others in order to hide their true source and avoid campaign spending limits? Did Commissioner Lara receive any of the money paid by Senator Gonzalez to Dan Weitzman? Were the contributions intended to influence Commissioner Lara's approval of the pending sale, actions that constitute a bribe under state law?

### ***Money Laundering***

The 1974 Political Reform Act ("Act") was approved by the voters as a means of "preventing corruption and undue influence in political campaigns and governmental activities." (*People v. Snyder* (2000) 22 Cal.4th 304, 307.) Among other provisions, the Act prohibits "what is commonly termed money laundering" (*id.*), i.e. contributions made in such a way as to conceal their true source. (Gov. Code § 84301.) "No person convicted of a misdemeanor under this title shall be a candidate for any elective office or act as a lobbyist for a period of four years following the date of the conviction unless the court at the time of sentencing specifically determines that this provision shall not be applicable." (Gov. Code § 91002.)

The facts and timing of the campaign contributions to Senator Gonzalez and Commissioner Lara via family members of insurance company executives suggest that Steve Menzies directed the contributions to Insurance Commissioner Lara. Moreover, that many of the campaign contributors reside out of state and most *had never before made a campaign contribution to any politician* also suggests that Steve Menzies, or someone else, was the true source of the funds.

### ***Bribery***

A public official who “asks, receives, or agrees to receive, any bribe, upon any agreement or understanding that his or her vote, opinion, or action upon any matter then pending, or that may be brought before him or her in his or her official capacity, shall be influenced thereby, is punishable by imprisonment in the state prison for two, three, or four years . . . .” (Penal Code § 68.) “[B]ribery does not require that a specific official action be pending when the bribe is given, or that there be proof that the bribe was intended to influence any particular such act.” (*People v. Gaio* (2000) 81 Cal.App.4th 919, 929.) Further, reference in the Penal Code to the recipient’s “agreement or understanding” to be influenced does not connote an extrinsic agreement with the giver, but rather the recipient’s own intent (*id.* at n.8); a meeting of the minds is not required to establish agreement to take a bribe. (*People v. Vollmann* (1946) 73 Cal.App.2d 769, 788.) Therefore, “[i]t is not necessary that there be an understanding, in the sense of an agreement, with the person unlawfully approached but merely an understanding on the part of the bribe seeker himself that his official action shall be influenced.” (*People v. Kerns* (1935) 9 Cal.App.2d 72, 75.)

An elected official could also be guilty of extortion if he or she wrongfully uses his or her public position to obtain a personal benefit. (Penal Code § 518.) Under federal law, the public has the right to the “honest services” of public officials. This right is violated when a public official makes a decision that is not motivated by the public’s interest but instead by his or her personal interest. (18 U.S.C. §§ 1341, 1343.)

As noted above, Commissioner Lara previously made public statements claiming to be unaware of the campaign contributions from insurance company executives and their family members. However, the evidence that Commissioner Lara met with Eric Serna in Santa Fe before the campaign contributions were made and before a series of meetings between Serna, Lara, Menzies, Weitzman, Department staff and potentially Gonzalez, mixing fundraising and discussions of the pending sale of the Applied subsidiary, calls that claim into doubt. The fact that Lara flew to Santa Fe and met with Serna, just days before an email mixing Department decisions and fundraising, suggests Lara, not Weitzman, was approached directly about the company’s “pay to play” propositions.

The evidence suggests that not only did Commissioner Lara know about the campaign contributions, but that the contributors sought preferential treatment on the

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pending merger and four proceedings before the Department.

Only an investigation by the office of a public prosecutor can compel answers about whether the insurance commissioner engaged in criminal activity. No public official should be above the law. All state workers should know that every state employee, including elected officials, are held accountable to the law.

Please contact us if we can assist in your investigation.

Sincerely,



Jamie Court  
President



Jerry Flanagan  
Litigation Director

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