

Telephone Interviews Recorded by Scott Gerber

	DATE OF TRANSCRIPTION	REPORTER	SUBJECT
1	April 7, 2009	Bob Jablon, AP	<i>Interview with Attorney General Brown re: Anna Nicole Smith case</i>
2	April 9, 2009	Beth Fouhy, AP	<i>Profile interview of Attorney General Brown</i>
3	June 18, 2009	Don Thompson, AP	<i>Interview with Attorney General Brown re: California budget's effect on DOJ</i>
4	October 29, 2009	Carla Marinucci, S.F. Chronicle	<i>Interview with J. Humes and J. Renner re: Continuous Coverage Auto Insurance Discount Act</i>
5	Not Transcribed	Shane Goldmacher, L.A. Times	<i>Interview with Jacob Appelsmith, Special Assistant Attorney General, re: gambling enforcement</i>

In Person Interview Recorded by Scott Gerber

	DATE OF TRANSCRIPTION	REPORTER	SUBJECT
1	October 7, 2009	Shane Goldmacher, L.A. Times	<i>In person interview with Attorney General Brown re: charter schools</i>

Scott Gerber - Bob Jabro, AP interview

From: Kate Gibbs
To: Kate Gibbs; Scott Gerber
Date: 4/7/2009 3:37 PM
Subject: Bob Jabro, AP interview

Bob Jabro, Associated Press, Los Angeles

You're familiar with what this guy said outside the court today. I can read you the criticisms if you want and have you respond to that...

JB: He's being silly. This is an extremely well prepared case that took over two years and was presented to the Los Angeles district attorney, who made an independent evaluation and decided to file it. It's a very strong case and unfortunately the defense lawyers have chosen diversionary rhetoric and I would recommend that they save their energy for the courtroom and present whatever justification they may think they have.

His language is awfully strong here.

JB: What's that?

He says that...he accused you...he said CA AG, Jerry Brown has, quote, maliciously and viciously labeled Anna a drug addict knowing full well that it's legally unsupportable. It's a little harsher than you normally get from these guys.

JB: He's completely out of line. The fact is that the Bureau of Narcotics, the DEA, the State Board of Medical Examiners and the Los Angeles District Attorney have all validated this prosecution. These are serious violations of the law. This is an extensive, professional investigation and the Los Angeles District Attorney, he is the one who decides to file the criminal prosecution. I agree with him. But he made the decision. So, the accusations of the defense lawyers are just smoke and mirrors instead of responding to the carefully prepared case that they now face.

There's no...I take it there was no smear campaign or anything against Anna Nicole involved in this thing.

JB: Anna Nicole's dead from multiple chemicals put into her body that's the tragedy and for the defense lawyers to try and exploit that for their own purposes is shocking and shocking...shocking.

Sir, thanks. I sure appreciate it. I wanted to touch base because the language is a little bit out there.

Did I respond enough, you think? Did I call him a Hollywood lawyer?

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JB...independent prosecutor, namely the Los Angeles District Attorney has filed this case, not my office. And I agree with the District Attorney and so these people are whistling in the dark if they think their accusatory rhetoric is going to save them. They should present whatever facts they have to the jury.

Anything else, sir?

JB: No, I think. They're a little more inflammatory than I am so they get higher up on the damn story. So, I gotta say something like "shocking"...

You've been around this job too long!

JB: What should we say? Shocking and..

SG: to me it was "smoke and mirrors" was the quote.

Smoke and mirrors is good, right. Well, thank you, sir, I appreciate it.

JB: Play with it and if you need any more rhetorical fusillade, call me, will ya? Because I don' want this to be an unbalanced story. I want equal firepower on both sides.

Thank you sir, I appreciate it.

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Are we rolling? First of all, do you have a reaction to what Howard K. Stern's lawyers said that this was political grandstanding on your part?

JB: It's a typical defense lawyer diversionary tactic and the fact is this case was prepared meticulously over a two year period by my office of Bureau of Narcotics but also in cooperation with the DEA and the state medical board. Documents- thousands of documents- were reviewed; dozens of witnesses were interviewed, this is a very carefully prepared case and we presented it to the district attorney and the district attorney of Los Angeles reviewed all the files and records and made the independent judgement to file the charges that, in fact, were filed in this case. So, this is a very strong case and it's a very serious matter.

You say you looked at this for two years and there were multiple agencies involved.

JB: Yes.

A complicated investigation. If this were not Anna Nicole Smith and Howard K. Stern would your office have spent the time and money on this case?

JB: In this case we have a person who's dead with multiple chemicals in her body. We have the specter of a photograph showing the refrigerator with Methadone and many of these other drugs sitting in full view. It's in the public interest that a matter of that gravity not be swept under the rug or ignored. That's one of the reasons why this matter has come to our attention and why we take it seriously, but anybody who has 14 drugs in their system would get this kind of attention. Luckily, it doesn't happen that often.

But in Florida they never decided to pursue any kind of homicide, manslaughter case against any of these people. So, that's what I'm wondering back to multiple agencies spending that amount of money... was it because it was Anna Nicole Smith?

JB: This is a very serious set of violations of the California state law. The fact is that it's not just drug dealers on the corner but the abuse of legal prescriptions that can cause great injury and even death. That's why these laws are on the books. It's the job of the local prosecutor to make sure that when a case is presented, they follow through and present it to the judge. The defendants in this case..instead of dealing with the facts are trying to carve out some special situation by which they're immune from their own misbehavior and illegality.

Can you think of another case where a non-medical person was charged with a conspiracy involving prescription drugs in the state of California?

JB: I've never heard of a case where somebody pumped somebody full of so many drugs.

Off the top of my head, I can give you...just because I've reported this a lot, Elizabeth Taylor was given enough drugs by her doctors literally to kill a horse and the medical board took action but the doctors were never...

JB: Well, I wasn't attorney general then. I believe that the abuse of legal drugs is a very serious and growing problem in our state and it may be that some doctors get away with it but I think that is unfortunate and in many cases tragic. My hope is that by fairly and faithfully prosecuting this case in accordance to the law certainly

justice will be done and hopefully others will think twice before using so many dangerous chemicals in ways that violate our law.

Mr. Brown, Jackie Hatton we know was interview multiple times by investigators and she is somebody that has been on the talk show circuit for a long time basically stating that she loathes Howard K. Stern. I'm wondering a couple of things...in terms of pecking order, how important is Jackie Hatton to the case?

JB: I'm not going to talk about the individual facts of the case. This is in the hands of the court, there is a protective order and the defense lawyers have given these materials so they now can evaluate them and whatever response they want. Hopefully we'll go to trial as soon as we can.. and let a jury of citizens...under the proper judgement. But I'm not going to pick out little pieces of the case and then and say this piece is more important than that piece. This suffices to say that a lot of people were talked to and a lot of evidence in this case and we moved with great care and caution and the result was that we presented all the materials that we found to the district attorney. The district attorney is under no obligation in this case except if he believes a law has been broken and that he- that it's likely, he will be able to obtain a conviction. They have standards at the district attorney's office. They took this case and they brought it. Each of the charges, and there were many, were conspiracy charges and Howard K. Smith as well as the two doctors are referenced in the various charges that are presented, so we've got a solid case, it's a professional case and the defense lawyers by trying to say, "well, Brown runs for office, therefore we're innocent." That's patently absurd and just part of the smoke and mirrors of barking at the media rather than preparing the matter for the judicial proceedings.

Two more questions: Do you see a difference between a doctor prescribing prescriptions that may not be authorized under false names and a loved one enabling the process who is not a doctor?

JB: I believe, and the facts will show, that Howard K. Smith was capable and did do the things that were charged. They constitute conspiring with the doctors to obtain these chemicals and that he is an integral part of what happened as layed out by the documents of the case we've presented. Just because he talks about his subjective state which, only he can really judge, that doesn't arrive some exculpation of what happened here and what he did. You don't have to be a doctor to conspire with a doctor to violate the law. The district attorney has charged Smith as well as the two doctors. It's not Smith, it's Stern. Pardon me. Howard K. Stern... with doing things that are said he can say, "well, I'm not a doctor so don't bug me." That doesn't go anywhere. That has no value that I can think of.

The law of conspiracy join with somebody else and engage in overt acts to violate the law, which is exactly what the district attorney charged, those are the matters presented to a jury. If Howard K. Stern thinks that improper he can make a motion to dismiss the case. That's what he should be doing. Trying to cash...on me is just beside the point because the case stands on the work product that has been presented to the district attorney and he can evaluate it, that he then validated by filing the case that he did. Now, he did that as an independent civil servant prosecutor having no relationship to the attorney general or anyone else in this case. He's calling it the way he sees it. I brought the case to him because I felt that it cried out.

Scott Gerber - Re: Ap Interview/4/9/09

From: Kate Gibbs
To: Gibbs, Kate; Scott Gerber
Date: 4/10/2009 11:59 AM
Subject: Re: Ap Interview/4/9/09

AP Reporter, Beth Fouhy

JB: ..plate here as Attorney General. If you look on my Attorney General web page you'll see a lot of activity. If you look at it you'll see mortgage scams, various consumer fraud, fighting for people in the underground economy, workers who are getting ripped off, people who are getting ripped off by tax preparers, prescription drug violation, EPP issues (mostly under Bush). Now with Obama, things have changed there. It's a pretty big agenda. The surveys indicate that I am the leading candidate and I have raised more money among the democrats. Now, these republicans are billionaires. They have hundreds of millions and they're in their own financial league all by themselves. That has to be taken very seriously.

What you're doing right now at the AG's office sounds quite satisfying.

JB: I work pretty much a 6 to 7 day week. I don't indulge a lot of hobbies. I have a lot of time for all this. I'm doing two jobs.

I got you.

JB: I'm not playing golf, for example. I'm not going to Hawaii for a vacation. I'm in California and I'm on task.

That means you have time to do your day job and run for governor. Since it sounds like what you're doing in the AG's office is quite substantive and pretty interesting, why would you leave that and run for governor again? Given that you've done the job.

JB: That's the question. That is the question. I would say in response, that the state has lurched from crisis to crisis. The creativity that I saw in state government 25 years ago is not there and I do believe that I have the experience and the ability to attract very skilled and creative people that could make a major contribution both in education and renewable energy, prison reform and in dealing with the water crisis. These key challenges that the state has been facing since the time that I was governor are still continuing. For example, they haven't built a water project since my father was governor. The only one that's ever been proposed was blocked in a referendum. The high speed rail authority? I signed it 1982. The bonds were just passed in the last election and they're talking another 10 years. There are a lot of things I did as governor. For example, California introduced to the state energy commission which I started. It didn't have one employee when I was governor and we built it up to the major state energy authority of the country. California became the world leader in wind and other renewable energy sources. By the way, California now uses less electricity per person than the other states. We haven't even grown. Not only because of the renewable energy but the efficiency, the building codes, the appliances. I'm continuing that as attorney general I'm pushing each of the local governments, of which they're hundreds, to adopt land use plans to reduce vehicles miles traveled and require energy efficient building materials.

So, when you ask why, I see many of the same issues that I worked on 25 years ago that are still very much in need of strong leadership. No one has ever run for governor having been governor, but then having been the lawyer for the state agencies. As mayor I really learned how to push things forward. Oakland did not have private development to speak of in a couple of decades and I brought 10 thousand people to the city to new apartments and condominiums. It's not finished yet, but I've revitalized the downtown and it has really come alive with restaurants and art galleries and people living downtown. It was a waste land. I've restored the Fox Theater, which is now the most elegant, historic theater in California. It took over \$90 million in a city of modest

means to create an art school, the Oakland School for the Arts, which is a fabulous, the best school in Oakland and I started it as a charter school. I started a military school, the only public military school in California, one of the few in the country and then there's one in Chicago.

I've learned a lot both as governor, as mayor and as attorney general. I feel that I have something to offer. I see that the state has been lurching from one governor to the next but the crisis seem to deepen instead of resolve. Were I to announce a run, the reason would be that I could really make a difference and I would bring to it a skill and a creativity that's been absent for a long time.

Is California governable given all these structural issues and structural deficit that's been around a long time, the 2/3 majority required to pass a budget ..it's extremely polarized.

JB: You can't bring a polarized approach. I'm very independent minded.

How would you deal with these legislator who are either really liberal democrats or really conservative republicans with no independent, middle ground?

JB: That certainly is a challenge because neither extreme is going to carry the day and never has. It's not just a mechanic of changing the vote requirements. You've got to get to these people and you have to have a compelling vision to enroll the voters as well as the legislators. The dead end that the current political arrangements have led us into will also be the occasion for real change. It can't go on. The credit rating in the state is now the lowest and the state is basically building itself on a mound of debt. At some point the mound of debt cannot be raised any higher. That's what happened with the stock market with a lot of these secure ties mortgages. California is at a crisis point, maybe it's been there before, but it's continued to mount and I think it's an opportunity to flatten out the extremes and bring people of good will together. I believe I don't come in as the 'red hot' that's going to come in from the right or the left carrying up and impose my will. I have a sense of the historic character of California. My family came here as pioneers, we came during the gold rush. We still have the land that my great grandfather farmed. I still have it. I was up there last week with my aunt who's 97 and who's grandfather came over from Germany and Ireland. I want to summon Californians to a renewed, shared commitment to the state's real greatness and that's not about one party or the other extreme. It's got to have to be something that draws from both. The most successful governors- Hiram Johnson, who led the reform era and Earl Warren, who was there during WWII and was put on the US Supreme Court. I would also say my father. These were people who built the state, who were innovators and who were not ideologues or people who were pigeon-holed into one partisan box. I know everyone might say that but I know what it is for a governor to go to a legislator and say "please vote for this" and a lot of times they won't listen. You can't just go and ask for a vote you have to go to their constituents, go to their districts and you have to talk to them very early on. That's what I intend to do. That's what I do now as attorney general. I often come and seek opinions on state law. A certain amount of wisdom and maturity is needed in this toxic, partisan environment that the state has become.

Let's talk about that. The issue of wisdom and maturity. Your opponents are going to cast that as being old. Let's be perfectly honest. Steve Poizner put out this press release last week commending you on spending forty years... elected to your first public office 40 years ago.

JB: It's funny that he would think that ignorance has now become a virtue. I hope not. Not everyone could throw their comments out there to that extent...but I would.

How do you, as someone who did serve as the state governor in the 70's. You're 71 years-old, you're not that far off from John McCain's age who was cast as the old fossil in the presidential campaign. How do you combat that you're past your prime?

JB: What is there to combat? What does that mean? I'm the guy with new ideas and the innovations. The last time there was real creativity in the state was when I was governor. We created the California Conservation Corp., we made California the world's leader in wind energy, that was a time when all these new innovations in Silicon Valley came along. I brought in people to government. We protected the wild and scenic rivers. In fact, people stigmatized, they said there were too many new ideas. Why isn't it more pedestrian? I don't know why

they say that. What does that mean? Is that a physical thing? Is it an intellectual thing?

Well, we're in a new era now.

JB: So tell me, what new ideas does Poizner have?

They say this but I think most of these critics are past their prime because they don't have anything new, they're cliches, they're packaged by some political consultant and it's the same ol' same ol'. I don't think knowledge is a limitation. It's the opposite. It's the raising ignorance. That's the know-nothing approach. We had that in our history after the Civil War. We had a party called the know-nothings. That's not what they're saying. They're just stating the obvious. One guy's 40 and the other guy's 50 and the other guy's 70. Okay, so? What do you draw from that? What's the measure?

I think what they're saying is that California is in a new era now. And has a brand new set of criticism.

JB: What does that mean? A new era of debt? A new era of congestion? A new era of pollution? A new era of school breakdowns? And what's the solution? I think this all started with one of the consultants and then the other consultant picked it up and they have to say something. I have been around for awhile. When my father ran for governor they didn't have all these paid consultants, you had volunteers. He had a guy in a law firm. He had a dentist. He had a labor leader. You'd come over to a house to run a campaign to run for attorney general. I heard it. I use to sit around and listen. Now, everybody has vendors to talk to them about your hair style and about their internet page and their this and that. The consultants take an enormous salary but they gotta do something. So, the issue de jour now is that some of the candidates are younger than some of the other candidates. One can make a campaign out of that. I would be very surprised. And that's another issue. This is a campaign about former mayors, well that was a month after it was a campaign about age and next month they'll have another one. When you're paying these guys twenty grand a month they have to produce something. The candidates often don't understand because they haven't been doing these things. There is a certain fashion and things kinda bubble up and then they disapate. I think it's a point and you said, "what are you going to do about it?"

Is it a concern of yours?

JB: No.

Is it something that bothers voters?

JB: I don't think it bothers voters. There is no evidence of that. Why is Dianne Feinstein at 76? 76 in June. What's that about? How do people explain that? People serving are saying, "isn't Dianne too old?" Well, if they do, don't they know that? She's been running for elections since 1980. 92, she ran in 1992, I guess. She lost to Pete Wilson and then ran later.

Let's take away the physical age issue. I'm just thinking back on the way Obama beat Hillary. It wasn't about her physical age, it was about experience and all the things she's done in the past. Obama, instead of saying "I'm looking towards the future."

JB: Is the past yesterday? Or ten years from today? Let's look at Oakland. Very creative things. Downtown was never thought of as a bedroom community, as a transit village, as a vibrant place for people to live and work and play. It is today. That was an idea. I brought that. The idea that a mayor can create his own schools. Nobody has ever thought of that. Probably in America but certainly not in California. That's done. Okay, now the things we're doing on land use... no attorney general has never done that before. San Bernardino to adopt a climate action plan that's part of the general plan- that's never happened before in the history of California. Sotckton, California? I did the same thing in response to either...San Bernardino, I sued them but with others I issued letters or met with them. That's a very creative way of doing things. Also, we have a major issue on the underground economy. Workers working in construction and not being paid overtime and not getting workers compensation benefits. Truckers that are also being cheated who are not getting the benefit of the California laws. That's an idea. No attorney general ever did that before. So, if we're talking about ideas or programs, we're fine. Has anyone said, because these other candidates haven't been around as long as I have that they

have some ideas or some energy? Where did that go? What is that when we really take it apart? I want you to call and interview these other candidates and make your own judgement as to the agility of their minds, the whatever. Whatever they have to say. Their thesis would be physically and intellectually possessed some x factor that I don't have. That must be the argument. But even to say that is to refute it. It's blatantly stupid. It doesn't make any sense. I would say it's just the reverse but that would sound a little arrogant.

So, handicapping things, what's your thought on whether Senator Feinstein is going to get in?

JB: I don't think she will. But I don't think you can rule it out. It's possible. And I think the reason she wouldn't is because of the very question you first asked me. Why? This is a very difficult job. The last three governors have left office in disrepute. They're not popular. People are sick and tired of them because of the frustration born out of the gap between what is wanted and what people are willing to pay for. It's a growing gap. It's not too different from what we're seeing in the national government were the county is depending on Chinese, Indians, Mexicans and other third world men and women to make a lot of our stuff and then we're depending on some of these same countries to lend us the money to buy it. Very unsustainable. My theme is going to be back to basics, common sense, live within our means. Invest in creativity and new technologies that can really lift us out of what's holding us back whether it's polluting energy, failing schools and congested roads. I do think that r&d and new technologies and innovation is the way forward. But it isn't just massive borrowing for massive consumer spending. That paradigm is running out of gas. So, Feinstein...she might but this is going to a very formidable task to be the next governor.

Right and she's still the chairman of the intelligence committee, or something like that?

JB: And then to run against these billionaires that can spend unlimited sums in a very mean, nasty and destructive campaign. I do believe that having a deeper impression of the voter mind is a real strength. When the republicans start pushing out all their venom through tens of millions, if not hundreds of millions of dollars. Being known to the voter in a certain way will be a positive. People who've recently arrived in the public imagination can be more easily changed with negative imagery.

Out of curiosity, you're talking about these new ideas you would bring as governor. Have you thought about it...in any specific way. Is it fair to say that if you were governor right now facing a 32-48 billion dollar deficit?

JB: You're going to have to get people to compromise.

What would have done that Governor Schwarzenegger didn't do? How would you have been successful?

JB: I'm not going to try to unwind that thing. First of all, it's not clear that these things have even passed because if they do, it's the best they can come up with, as imperfect as it is. Going forward, I'm not prepared to offer that solution at this early stage. I haven't announced for governor yet and I'm doing my work but I do believe that I can knock heads together and get the job done from day one. First of all, I've done that before. I've worked with Republicans. I remember when partisanship wasn't part of the California legislature. I think we will have a new reapportionment, that will be helpful. I think the fact is the crisis continues to mount. At some point, people do wake up on both sides. There is going to be limitations on what the state can do. The state is collecting a very high rate of taxation and on the other hand we've got to do things because we're a growing, changing state and we still have huge problems in the prisons, the schools, in the environment and on the roads.

Those would be your priorities? You're coming back to that a lot. You've talked about that a lot- the schools, environments and roads.

JB: And I'd like to do something about the prisons. They're very expensive and they have a gross inefficiency, the recidivism rate in California prisons is the highest in the county. What that means is that they're not working. They keep people off the street but when they return them, they're as bad as when they went in, if not worse. That is calling for some changes and I have ideas on that. It is a problem when you have 37 million people. You have a lot of people and you've got a lot of expectations and the state is doing all this stuff but you're not collecting enough money to pay for it. It has to be more efficient, more measur(tive) and how we get there- I wouldn't want to prejudge that because you have to enlist the help of both republicans and democrats.

Or you're not going to get it done. It's not a matter of business. These candidates that think that they can run a business, they can run a government, they are absolutely and totally different. Business runs on one criteria-making money. Government runs on a totally different criteria and that is satisfying the majority of people over time that the government is serving their best interest. That's a different exercise. You deal with people and they think all these thoughts. People from Fresno are very different from people from San Francisco. They just are and they have different concerns. People from Williams (I was up there visiting the cemetery where my grandmother is buried, little town off of highway 5 about two hours from the Bay Area) different, they have a different view than Oakland. I do think I bring a broader perspective and a certain credibility to the job based on my long service to the state.

Do you think that Prop 13 needs to go away?

JB: The real estate taxes have grown since Prop 13 dramatically. Because property has shifted. Property shifts, the tax rate goes up to the current assessed value. Now the assessments are going down because of the falling property value. People are always trying to grasp something, the cure-all or the answer of the problem. 13 has centralized decision making in state government and it may be that local government needs more authority to make decisions and I think that's worth looking at. What powers that have been taken over by the state could be reallocated to local government? That's a worthwhile endeavor. Both regulatory authority as well as taxing authority. Different communities can come up with different responses.

Okay, I think I have enough here.

JB: Now, is this a color piece or is this a substantive piece?

Well, I'm hoping it's a substantive piece. It's a profile.

JB: A profile? Well, these are all ideas.

It's going to be an interview/profile. My thought on this is that people in California, especially people that follow politics, are very aware that you are likely to run for governor again but perhaps that's not known to a national audience. The story is to bring this forth for people outside of California to know about. That's the kind of piece I'm looking at.

JB: Right. I think that age thing is worth you doing a little something on because I think it's rather empty. That's why I try and draw it out in a statement. But each candidate has their own...they are what they are and there's a limited amount of change that a campaign brings in. That's why campaigns like to engage in negative campaigning. If they can find something nasty to say or some peccadillo, serious flaw, they project that and it sometimes can alter the race. Absent that, if you just look at what people are- you've got a couple mayors, Whitman, you got Poizner, Campbell...they are what they are. If you were in a room and took little pictures, if they ran a video of each one and they asked, "what 'dya think?" you've got a representative sample, it would probably project the outcome of the election. Absent some faux pos or some new scandal or flaw. That's why the candidates really look for those as game changers. Because if you say, "gee, Newsom's 45 or 46 and Brown is 71". Okay. But what does that mean? You can talk about it all you want. It's obvious. People are going to know that and if they don't know it now, they'll know it in a year. Saying it doesn't add much except it takes up media time now. It's kind of like, "well, I don't have anything to say, so I guess I'll say that." All that did was burn up time until the next interview. I don't think it goes too far.

Let's put that aside. You are the best known candidate in the race, certainly at this point.

JB: And I'm the one they're talking about.

And you're the one that's leading in the polls. Inevitably, you're going to be the one that everyone goes after whether for this reason or that reason.

JB: They've got to have a reason.

Do you feel like you can handle that? Like you said, people are a lot nastier than they were perhaps in the olden days when there wasn't partisanship in the legislature.

JB: I remember when Nixon ran against my father and he had a Chinatown rally and my father's guy, a guy named name Dick Couctu, a real trickster, had a sign, Nixon's brother, Donald Nixon got a big loan from the Hughes Tool Company, which is a government contractor, so they had this big sign in Chinese: "Nixon, what about the huge loan?" So, that was a little trick.

That's about as nasty as it gets

JB: It's much nastier now.

And you're not concerned about that? That it will get kinda ugly and you're going to be the target?

JB: I think a more long-standing and durable candidate will take the slings and arrows more than a newer, less grounded candidate. That would be my thesis. Like all these assertions, subject to testing.

What do think the chance is that Villigerosa is getting in?

JB: I think he wants to. He's talking to his advisors about it. I think I have to assume that he would. He's looking at Newsom to divide up the vote. He's down there in the south but I don't know what he's thinking. But that win in L.A. wasn't very impressive.

Yeah, that's what everybody's talking about. That he's inevitably starting late if he can't get in after his...

JB: Well, he can get in today if he wants.

Right. But he thinks it's unseemly to get in before...

JB: Right. Would the newspaper do some big editorial on something bad? Then that becomes a t.v. ad. That's what happens. But, who knows?

What do you think you need to raise to run successfully in the primary?

JB: I depends on how much the others raise.

What's the budget? Do you have one yet?

JB: No, but I doubt that anyone will have more money than I do. It doesn't look like that. If you look at just the December filings... I don't know if you noticed those. Garamendi had about \$700,000 and Newsom really had about \$550,000 but because he had \$179,000 more on the line that said he committed liabilities there was the \$179,000 so even though he reported \$700,000 or so, it was really about \$550,000 in disposable income and he's been spending it at a pretty high clipse so he has \$600-700,000 in the bank. Angelides at the time had about \$12 million. But if you look at it ,and I know this is a little technical, but Angelides spent 22 and then there was 8-9 spent for him independently, so about 30-33, something like that other guy spent like 45...Wesley. But of the 45, 35 of his own money, he lost by 5%. I think it's interesting from this time going forward neither Wesley or Angelides themselves raised over \$10 million. I don't think so because Angelides had about \$12 million by this time because he was there for 8 years as treasurer. It was raised with no limits so he'd built up quite a war chest. But if you look from January the year before to June, I think 10-12...that's the ball bark and I could be off a few so now, going forward, if people have under a million, they may be lucky to have \$7-8 million. That may be it. And I'm sitting on 5 now, 10 would be minimal. Then they're not going to have any more money. If they don't have any more money, how do they change....I think it's very daunting, no matter what their consultants are telling them.

And right now it sounds like you don't have a lot of overhead.

JB: No, we have under 5%.

That's pretty impressive.

JB: We have dedicated volunteers. To change the game, is difficult. Because if everyone spends the same, that's all I'm saying. I don't even know if that belongs in the story but I think that's true. If someone would come up with \$25 million, that would just pound the hell out of me. If these people start doing that then we start doing that, I guess. If that all happens then the republicans...then they'll have a little war going on or not.

It's the battle of the billionaires. I's going to be nuts.

JB: There it is. I'm sure the campaign won't be as substantive as our conversations.

Well, I hope so. There's a lot of interesting people looking at running and a lot of interesting ideas to take apart. I'm going to let you go. I appreciate your time and it was a pleasure talking to you again. I talked to you several times when you were mayor of Oakland, I don't know if you know that.

JB: I did. Where do you hang your hat?

I was working at the San Francisco bureau then. Now I'm a national writer, I live in New York but I was on the presidential campaign all last year. I covered Hillary and then I covered McCain and Palin.

JB: Well, that was interesting.

It was interesting. And I did three weeks with Obama. I spent time with all of them, pretty much.

JB: Were you there in the early stages?

I was there with Hillary from the day she got in to the day she dropped.

JB: That's all Newsom. He thinks I'm Hillary and he's Obama. But it's different because I've been in office. I've been a candidate, she wasn't, she was more derivative. I've done things. I created the California Conservation Corp, I traded the agricultural labor, I created the co-generation and the wind and the solar the 55% solar tax...I did that. I brought the Elegant Density, a new urban paradigm. This is a new idea. Now we're seeing it more in Los Angeles and different places. Oakland was not prospering. There was no private offices built in a couple of decades and they started building them.

I think you made a really good point. Hillary had never been a candidate.

JB: She doesn't have the scope. She didn't work with Mother Theresa. She didn't spend six months working in a Zen Buddhism. She didn't take Linda Ronstandt to Africa. She didn't have her own astronaut. I had Rusty Triker, an astronaut. I put him on the state energy commission. There is a certain texture to who I am and it's unique, so I don't know how you compare it. These analogies don't quite work. Analogies work if they're analogous. I think it's hard to compare.

I think you're exactly right. I think that's what he's going to try and do.

JB: Newsom doesn't remind me of Obama too much.

Why not?

JB: There's no connection that I can see.

He'll just try to frame himself as a generational cohort.

JB: But that's what Gary Hart's theme was.

Raising money on the internet.

JB: We do that, too. I'm the first guy. I started internet campaigning with Genie in 1992. Gary Hart. What's the guy's name that worked for me? He was McGovern's pollster. Pat Cadell. Pat Cadell was Mr. Generational Shift kinda guy. That was Gary Hart's, I think. New ideas. And then Mondale said, "where's the beef?" And that didn't make it. For every analogy there's another analogy and so it kind of disembodied claim of new ideas is a dangerous tactic. Somehow, it's hard to have a new idea. There's no trademark on ideas. So, somebody's got a new idea, then someone else can pick it up then it becomes not a new idea anymore. Obama. Just because of who he was, and by the way he went to Harvard and was with the Law Review, that's a little different than Newsom's education. Differences. He did to the extent that it's irrelevant. This is a state election. This is unique. You've got a San Francisco mayor, a Mexican-American mayor of L.A., you've got former-governor, son-of-a-governor, attorney general, mayor. Pretty unusual. You've got a lady from Ebay.

It's quite a cast of characters. Of it's own kind. I'm looking forward to following it, even from here. I love California politics, so. I'm eager to follow.

JB: Well, good.

From: Scott Gerber
To: Gerber, Scott
Date: 5/6/2009 5:18 PM
Subject: transcript on craigs list
Attachments: Scott Gerber.vcf

Craigs list has to exercise responsibility and not enable callous pimps who exploit teenage runways.

We know that teenagers are lured into prostitution, big problem...arrests in Oakland...
1400 juveniles arrested nationally

Craig's lists enable this kind of totally unacceptable behavior

Doesn't stop Craig's list as a company to ensure that there service does not enable the exploitation of children,
particularly teenage girls.

Fib made it a priority...attorney general's working on this

I would hope this that Craig slits steps up to the plate and does the right thing.

We support it, we're on the call

How big of an impact; see what the fbi has to say about it. Tools to control this problem, to the extent that is
allowed by federal law.

The key would be the company itself to do everything possible to prevent harm to young people

Handy outlet for people that engage in this sordid business

Scott Gerber
Director of Communications
Office of Attorney General Jerry Brown
510-622-2214 (office)
510-502-3755 (cell)

Scott Gerber - Transcript - June 18, 2009

From: Stella Koh
To: Gerber, Scott
Date: 6/18/2009 4:08 PM
Subject: Transcript - June 18, 2009
Attachments: transcript 6-18-09.docx

Transcript – June 18, 2009**Duration: 3:23**

H: I understand that the subcommittee voted to take 20 million bucks from the Bureau of Narcotics Enforcement... Try to get some idea of what that would mean and what you're hoping to do.

AG: Well, it's a terrible budgetary decision. The Bureau of Narcotics Enforcement has some of the best trained agents in the world that are going after drug cartels that are provoking technology assistants to local police forces that are often outmanned and outgunned by dangerous criminals. This Bureau really serves the public interest and it is a very high priority in the budgetary decision.

H: What might this sort of cut mean for... what does this level of cut mean for...

AG: It would force curtailment of important task forces that are located throughout the state and may force closing of offices. Weakens hand of state in combating gang related and narcotics related violence.

H: Anything you can do about it?

AG: I'm sure we've made our views known to the governor and legislature.

H: Any feedback?

AG: No, they haven't. Nope, they are up to it by themselves and doing their thing. All we can do is speak the truth and the legislature and the governor will make the decisions.

H: Have you spoken to the governor's office about this yet?

AG: We've been speaking to the governor on many things. But there is so much engaged there. Our people have talked to finance. Our views are totally well known. We are communicating at the mid level and the highest level. By the way, all the people who are drafting these things – that's where the key arguments are being made.

H: Are you expecting lay-offs?

AG: Yes, there will be lay offs.

H: Do you have any idea how many?

AG: No, I think our staff would give you a more accurate count on that.

H: As far as the union that represents your officers are obviously upset about this. And putting this in the context of fighting Mexican cartels, particularly on the meth labs, do you think that's accurate?

AG: Meth labs are a problem. AG's office is on the forefront of combating them. So people should be aware that this is not a free cut, there are consequences.

H: Sounds good. Thank you.

Transcript – June 18, 2009

Duration: 3:23

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H: Sounds good. Thank you.

Scott Gerber - October 7- Shane G.

From: Kate Gibbs
To: Scott Gerber
Date: 10/7/2009 5:11 PM
Subject: October 7- Shane G.

I come to the Pass in Reviews

Do you come to all of them?

Not all of them but many of them, one every year.

And graduations and?

I've been to all the graduations

Just because you founded the schools...do you feel you have a close investment in them?

Keepin' the thing going.

I'm doing a story about a lot of the fund-raising that you're doing for the schools and I know you had a big fund-raiser this year with Sean Penn with OSA and with Clint Eastwood for OMI. Are these people that you've invited, do you try and put the whole thing together, I know you have Mary Ann...

Mary Ann, she's the one that does the fund raisers.

Sure

So, she does that but...I know Secretary Sholtz, he did the year before. He's done it twice now..

And Sean Penn?

This is the first time Sean Penn did it.

But you invited him and...

I did invite Sean Penn .

Why do feel such an obligation to fund raise for the schools? What do you see the benefits of the schools?

Well, I mean it's a unique form of education. This is the first military school started in California in 50 years. It's the first charter given by the state and it's quite a struggle because the local school board turned it down...said he didn't want a military school in Oakland for political reasons and the county board turned it down unanimously same political environment and so we went to the state and we were the first charter given by a state in affect overruled the local. The reason I started this. One, I saw the 60% failure rates and non-graduation rates particularly among low-income kids in Oakland. This has been going on for years and years and no matter how many reforms we have it continues because deep social and economic problems. But I thought that in a military framework you can get comradery, esprit de corps, a sense of honor and dedication that would be unique, that would be a powerful identity...to counteract some of the negative influences some of the people pick up in your neighborhood.. And I also thought that through the military model, that I could get

money from the military. This school started with an ear mach from Jerry Lewis. \$2 million, that's how this school started on the Oakland Army base then I got Gray Davis to put up money and then Arnold Schwarzenegger continued so we get

The army national guard that I spoke to...

Well, it comes through the governor's office. It's almost \$2 million. It's going down because of the cuts. And that funds the guard. The guard provides the uniforms we used to have an encampment, which I ...but that became too expensive. We cut back. We cut \$500,000 this year...there's been a lot of pressure. My goal is sticking to why. I think it was the character. I think public schools are not instilling the kind of strong character that we need and I don't think there's the discipline nor do I think there's the inspiration to learn. I felt that the framework here because of the uniform, the ceremony, the tradition that could capture the often distracted, fragmented minds of these kids that come in. We are getting kids into Yale, UC...75% of the kids go to a four-year college, which is quite amazing. All but one passed the exit exam last year. They're doing well. We went up in the scores but it's very difficult. This is the 9th year, he is the fifth super intendant. We've had lots of turnover, it is very hard- we had to let three math teachers go, we got three new ones. You can tell she's not totally confident and it's very tough. I mean, up in Sacramento we have all this stuff about race to the top, and all these tests. Down here the challenge is: can you get a math teacher? Can you get a good English teacher? Can you keep them? Can they work the time? 90% of these kids are two years behind and some come into the sixth grade with a second grade math. It's horrendous. It's been going on year after year. This to me is- not every school needs to be a military school but I think the idea of identity building, character building, and the sense of belonging I think is the key. People feel the sense of belonging. Gangs, I want them to feel a sense of belonging to OMI. You notice the ribbons and the ceremony and the Alfa company and a lot of competition between the companies. This has all been created by the way. This was started in 2002 and the guard was reluctant. It took one year to get it going before the guard stepped up to the plate.

Some of the questions I want to ask you about are about the fund-raising for the schools. There has been questions about money raised only by some reporters and other folks as well.

I challenge that, who? Bob Sternman?

Not Bob...

Nobody else...

Bob worked for you...

No, I don't. By the way, I believe there ought to be more of these schools. I want to create more, given the chance.

I want to ask as AG, the amount you fund raise for the schools went up dramatically since when you were mayor of Oakland.

Did it?

The most you raised as mayor was \$750.000 and your first year as AG you've raised \$3.3 million.

Yeah but I have \$3-4 million to go. With Fox that's 6400 square feet and this was a move. This cost several million dollars. We were at the army base and we had to move. We had to revert this place. We had to build a field...all that cost capital outlet-where do you get that? It cost more also as the school lasts longer it gets more notoriety, it gets more achievement...it begins to win

Was there any connection in your ability to tap into potential donors as Attorney General?

If you take a survey of me now and 30 years ago, more people know me, I've achieved greater prominence as I've gone from mayor to AG and I suppose if I run for governor and I'm elected, I'll have even more

prominence and I'm looking to continue to endow these schools. I'd like to open up more schools throughout the state because I think my strategy is to put good schools in neighborhoods where there are not good schools.

Let me ask you a quick question about one of the groups that you raised money for, which is card clubs. You serve as the direct regulator of..

It's not true

Between the gambling control commission and the Bureau of Gambling Control...

Let's get it right, okay? I don't know how much you've studied this but we have the same enforcement powers for thousands of industries, millions of people. We enforce banking, on mortgage, on business practices, on people that don't pay on wage and hour laws- we brought lawsuits. The AG is enforcing environmental, labor, banking, education...so you could say we regulate the entire state. That's true, so by your logic then everyone is a question because the AG can sue anybody and in fact does. So, our enforcement is not particularly different in card clubs but we do have a role.

But you do have a bureau of gambling control.

Yah.

Which license...is it proper...

Completely, what's the difference? Talk to Jacob Appelsmith. Ask him. Has he ever made a decision that he feels is unethical? Have I asked him to make any decisions? He's a professional. He's been with the department for years. He's an honest guy and if you can find in some way he's not...well, first of all, I don't think you can. He's a top-rated guy. He's quite good.

So, you don't see any problem with...

What problem? Do you think he's being corrupted? I know these guys in the card clubs. Collegian- I put on the boxing commission in 1978...

That's right your grandfather owned a card club...

My father owned two poker clubs.

Your father or grandfather?

My grandfather. My father's father. In the tenderloin. In the thirties. Of course my other grandfather was a police captain so he was afraid he might arrest him- it's somewhat dubious. Well, you see the point I'm trying to make is: you're saying it applies across the board. It's almost like I could say the attorney general should never raise money, should never run for re-election and should never be appointed by the governor. But that isn't the way it works. It's an elected office and the attorney generals have historically raised money.

One of the differences between fund raising and between raising for the schools...though a public school benefit or a charter school is public.

This is far better than campaign donations, this is the lord's work, this is one of the most important educational innovations in California, this is brand new, never happened before and I'm very proud of it. And I'm going to continue as long as I'm still breathing and I can still work, I will. ...totally different thing and I can explain that.

Yeah, one of the difference between the campaign donations and these is that there were limits on it.

Well, not really because the limits for governor are \$50,000... rather large and most of those people are not over \$50,000 and when I wrote prop 9 I always was opposed to limits. So, when prop 9 came out of the Secretary of State's office, it's obviously Bob Stern and Loenstein and ..that was something...

But there are limits now and some people are giving more..

Right

So, people have an interest in seeing the government run in different ways that have made efforts to push their own ballot measures whether it's Steve Bing, whether it's Ron Berkel...

I have nothing to do with Steve Bing. That is a far cry. I mean that's silly. He's a billionaire, he gives money...

And he gave a million dollars to ..

So, what's your point? Do you think that Steve Bing is corrupting the Attorney General office? Give me an example! I think that's the most preposterous...that doesn't make any sense.

My question for you is this then, you're a likely candidate for governor, you're sworn to run officially now ...for the people that want to see the way California government works...

People are going to raise \$50 million running for governor, running for these offices. That's the nature of the business. This is better than campaign fund raising. This is good work. The government is cutting back. We're losing positions, so who's going to make it up? Can you convince the state government to give us more money? We don't need to fund raise? If we had the same money that other states give to charter schools we wouldn't have to do any fund raising. This is born of the necessity of the under-funding of California schools and are we going to let these kids just rot and have no chance? You have kind of a picky little thing here and if I were to say- you know, you're right, I'll stop fund raising and the school will shut down. There are 600 kids out there that will never have that chance. I don't think that's morally appropriate and I think it's politically extremely insensitive. I get your point. It's the point you're always going to make. How are you going to make money and that's true of every contribution and I don't think that the limit is significant. Because it's lawful...if you want to change the law, let them change the law.

When you ran for President in 1992 you had a different view about limits and it wasn't the law it was a self-imposed limit. Obviously there's a vast difference between campaign contributions and raising money for schools. But at the same time, at that point you were...

Do you want me to go to \$100 for the school...

I'm not...

That's the luxury you have! I can tell you're a nice middle-class kid, you're not in the ghetto. Do you know they have murders in the state...this is not bullshit. This is life and death! I think you ought to be aware of that. I understand your point. It's a legitimate point that you're raising questions. You can raise questions but everything we do, who we meet with...but the editorial board has influence too. So do the unions and so do the state employees, so does the prison guards. There's a whole range of people that have influence. How do you boil your point down? The \$100 is different, they only took \$100 both times....no, go ahead. Make your point, I want to hear your point.

It was actually just a question, which is you had a shift in your perception that at one point you thought that this \$100 limit was an absolute necessity because of these questions of interest are significant now.

I didn't say that. This is a challenge to the American democracy. It's a challenge to Pelosi. It's a challenge to Bush, to Clinton, to the entire nation.

What is?

Fund-raising connected to democracy. It's a challenge. But to say that only billionaires should be elected because they spend a \$100 million, that's unacceptable and yes you can run for a \$100 but even as president. Like Obama might have used a very small dollar although he didn't because you start in Iowa and you have a build up. These other candidates, you can't, but now we're talking about that system does work in the world of charity. Charity needs larger donations to make it work.

That's kinda what I was asking.

This is charity. You need it. This is the cost. This is the cost of doing business and if you go over here and take a look at the Fox and you'll see that's \$93 million. The school still owes \$3.8 million. That's what we have to do. The charity is legal. The Sacramento Bee wants to impose...the L.A Times wants a different standard, go lobby for it. You've got to lobby for stuff. There's a newspaper association, you pay somebody through your dues. You're lobbying up there because you fight these open records acts. You lobby the long hours there's no limit on campaign and legal funds or get to someone's ... unlimited areas that politicians can receive. I think this is among the best things that I've done. I'm very proud of it. I think your thing on Bing is the silliest thing I've ever heard of. To try and tie an initiative but I had nothing to do with it...

I'm not tying you to the initiative anyway.

Green buildings, somebody told me. I started green buildings thirty years ago!

These are people who have an interest in changing a government and have an interest in knowing that you're currently ahead in the poles and making you want to answer their phone calls. I mean, doesn't it...if he gives a million dollars?

That's silly! Steve Bing gets his own phone answered just like you are. You're a power player, too! You're part of the elite. You get your phone calls answered, so does Bing. It's not about the money. Why don't you take your corruption. You intimidate- you have the power of a story. That makes me want to curry your favor. It's silly. I understand but I have an unimpeachable record. I challenge you to find anything in my record that is not consistent with that. I'm very proud of this and I'm going to keep going. I have to do another one. You want to come to a fund raiser? We're trying to get Donald Trump...

Scott: Shane does that do it for you or do you need more?

I see your point, I don't ...card clubs, I mean ..about Bing. What about Annenburg?

She gave a million dollars as well.

What about Marianne Greene? She's 87, she gave \$500,000.

I'm not asking about...

Well, how do you know. You don't think Annenburg has political views. She doesn't care? She does. She has her own ideas.

But what I really want you to understand is that there's lawyers all over the place. Okay.

You're about to answer the question but I just want to make sure I ask it first...which is: you've initiated investigations after the fact to people that have given money. Do you feel just assigned that you're the independent person here. Kaiser ...certain amount of money Kenwood Investments with Darius Anderson it's one of his many companies and you're now investigating his outfit.

We're investigating everybody. You're subject to investigation, did you know that? Any human being can break one of California's 10,000 laws that I enforce. That's the same relationship for people ripping off card clubs,

people investing in PERs, the AG does this. If you don't like it that someone should pass a bill and have the AG, a non-partisan a by some group of wise men that is not related to the party but that isn't our law and it's not been since 1950. This is part of the political process. So, I'm elected official and I'm also professional leading the thing. I think if you talk to Jim Humes you talk to anybody on the record, off the record they'll tell you we run a very ethical, very engaged AG's office.

Scott Gerber - Missed Call

From: Abraham Arredondo
To: Scott Gerber
Date: 10/28/2009 11:01 AM
Subject: Missed Call

Carla Marinucci
415-777-6064
SF Chronicle

Didn't say what she wanted.

From: Scott Gerber
To: Humes, James
Date: 10/28/2009 1:00 PM
Subject: call me after you talk to carla

Scott Gerber
Director of Communications
Office of Attorney General Jerry Brown
510-622-2214 (office)
510-502-3755 (cell)

Scott Gerber - Re: call me after you talk to carla

From: James Humes
To: Scott Gerber
Date: 10/28/2009 1:01 PM
Subject: Re: call me after you talk to carla
CC: Jonathan Renner

I need her number. Do you want to be on the call? Jim

>>> Scott Gerber 10/28/2009 1:00 PM >>>

Scott Gerber
Director of Communications
Office of Attorney General Jerry Brown
510-622-2214 (office)
510-502-3755 (cell)

From: Scott Gerber
To: Humes, James
CC: Renner, Jonathan
Date: 10/28/2009 1:04 PM
Subject: Re: call me after you talk to carla

415-777-6064. i'd like to be able to tape it, so we have a record....so yes, but i won't say much, if anything.

Scott Gerber
Director of Communications
Office of Attorney General Jerry Brown
510-622-2214 (office)
510-502-3755 (cell)

>>> James Humes 10/28/2009 1:01 PM >>>
I need her number. Do you want to be on the call? Jim

>>> Scott Gerber 10/28/2009 1:00 PM >>>

Scott Gerber
Director of Communications
Office of Attorney General Jerry Brown
510-622-2214 (office)
510-502-3755 (cell)

Subject: Re: call me after you talk to carla
Created By: Scott.Gerber@doj.ca.gov
Scheduled Date:
Creation Date: 10/28/2009 1:04 PM
From: Scott Gerber

Recipient	Action	Date & Time	Comment
To: James Humes (James.Humes@doj.ca.gov)	Read	10/28/2009 1:05 PM	
CC: Jonathan Renner (Jonathan.Renner@doj.ca.gov)	Read	10/29/2009 3:50 PM	

Scott Gerber - Fwd: Re: Auto insurance initiative inquiry

From: Dana Simas
To: Gerber, Scott
Date: 10/28/2009 1:52 PM
Subject: Fwd: Re: Auto insurance initiative inquiry
Attachments: Title and Summary_FINAL_09-0028.pdf; Title and Summary_FINAL_09-0028.pdf

>>> Krystal Paris 10/28/2009 1:48 PM >>>
Hi Dana,

The current Initiative 09-0028, "*The Continuous Coverage Auto Insurance Discount Act.*" [V-3.] for which a circulating title and summary was issued on October 27.

A copy of the circulating title and summary issued by this office is attached. It has been submitted back to the Secretary of State's office.

Let me know if you have any questions. Thanks!

Krystal Paris

KRYSTAL M. PARIS
Initiative Coordinator
Office of the Attorney General
1300 I Street
Sacramento, CA 95814

(916) 445-4752 Telephone
(916) 324-8835 Facsimile



Date: October 27, 2009
Initiative 09-0028

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

**ALLOWS AUTO INSURANCE COMPANIES TO BASE THEIR PRICES IN PART ON
A DRIVER'S HISTORY OF INSURANCE COVERAGE. INITIATIVE STATUTE.**

Changes current law to permit insurance companies to offer a discount to drivers who have continuously maintained their auto insurance coverage, even if they change their insurance company, and notwithstanding the ban on using the absence of prior insurance for purposes of pricing. Establishes that lapses in coverage due to nonpayment of premiums may prevent a driver from qualifying for the discount. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: This measure would probably have no significant fiscal effect on state and local governments. (09-0028.)

Scott Gerber - transcription

From: Dana Simas
To: Gerber, Scott
Date: 10/28/2009 2:13 PM
Subject: transcription

Carla: Basically the charge is that that this Mercury initiative now contains wording that is exactly what Mercury wanted, they say that last August the title and summary allowed the company to increase or decrease the cost of auto insurance based on driver's coverage history and that the title and summary has been changed to only indicate that only discounts are mentioned.

Jim: That's not true. I'm Jim Humes, I'm the Chief Deputy here and I have to tell you Carla that this whole allegation from Consumer Watchdog just seems absurd and nonsensical to me. I don't even understand the specific charges that they're making other than just some overbroad political allegations, absolutely off-base. The fact of the matter is that the title and summaries are different are because the initiatives are different.

Carla: Explain to me how the, I'm looking at the August 13th Title and Summary which does allow the company to raise the cost of the insurance based on the absence of prior auto insurance coverage and allows the company to lower the cost of insurance for drivers who have continually maintained coverage. The Oct. 27th changes current law to permit auto insurance who offer a discount to drivers who continually maintain insurance coverage. It doesn't mention any possibility of raising.

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Scott Gerber - 2nd part of transcript

From: Dana Simas
To: Gerber, Scott
Date: 10/28/2009 2:19 PM
Subject: 2nd part of transcript

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Scott Gerber - Transcript

From: Dana Simas
To: Gerber, Scott
Date: 10/28/2009 2:21 PM
Subject: Transcript

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From: Scott Gerber
To: Arredondo, Abraham; Gasparac, Christine; Gibbs, Kate; Koh, Stella; P...
Date: 10/28/2009 3:58 PM
Subject: Re: Phone Message: KFBK News — Consumer Watchdog

I'll call this guy back.

Scott Gerber
Director of Communications
Office of Attorney General Jerry Brown
510-622-2214 (office)
510-502-3755 (cell)

>>> Abraham Arredondo 10/28/2009 3:57 PM >>>
Bob Moffitt
KFBK News
916-924-3901
Deadline: ASAP
bobmoffitt@clearchannel.com

Would like reaction to Consumer Watchdog's public records request concerning Mercury Insurance. Their request was filed today. Consumer Watchdog wants to know about our communications with Mercury Insurance.

From: Scott Gerber
To: cmarinucci@sfnchronicle.com
Date: 10/28/2009 5:31 PM
Subject: call me asap

need to talk to you about the story.

Scott Gerber
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510-622-2214 (office)
510-502-3755 (cell)

From: Scott Gerber
To: acooper@sfchronicle.com
CC: cmarinucci@sfchronicle.com
Date: 10/28/2009 6:37 PM
Subject: Transcript

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From: "Cooper, Audrey" <ACooper@sfchronicle.com>
To: Scott Gerber <Scott.Gerber@doj.ca.gov>
Date: 10/28/2009 7:04 PM
Subject: RE: Transcript

I think the decision right now is that we need to hold this story because, frankly, I don't like overruling an editor and talented reporter by adding to the story. But I'm also not thinking it's more headache than it's worth right now. So we'll do this again tomorrow, I suppose.

Good night.

-----Original Message-----

From: Scott Gerber [mailto:Scott.Gerber@doj.ca.gov]
Sent: Wednesday, October 28, 2009 6:38 PM
To: Cooper, Audrey
Cc: Marinucci, Carla
Subject: Transcript

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=====

From: Scott Gerber
To: ACooper@sfchronicle.com
Date: 10/28/2009 7:32 PM
Subject: Re: Transcript

Thanks. Well talk in the am then.

Best

Scott

This e-mail was sent from a California Department of Justice BlackBerry Device.

-----Original Message-----

From: "Cooper, Audrey" <ACooper@sfchronicle.com>
To: Gerber, Scott <Scott.Gerber@doj.ca.gov>

Sent: 10/28/2009 7:03:20 PM
Subject: RE: Transcript

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Good night.

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From: Scott Gerber [mailto:Scott.Gerber@doj.ca.gov]
Sent: Wednesday, October 28, 2009 6:38 PM
To: Cooper, Audrey
Cc: Marinucci, Carla
Subject: Transcript

Audrey, thanks for you time. As you'll see in the rough transcript, Jim spent a lot of time going through why there was a difference in title and summary, and why our summary was fair and accurate.

As we discussed, I hope that this can be reflected in the story, and be given the appropriate context.

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Jim: That's not true. I'm Jim Humes, I'm the Chief Deputy here and I have to tell you Carla that this whole allegation from Consumer Watchdog just seems absurd and nonsensical to me. I don't even understand the specific charges that they're making other than just some overbroad

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In this particular case we had a team of attorneys working on this who spent many many hours, I'd say days, working on the right way to summarize this. It's a very very difficult initiative and the summaries we came up with are excellent and I think it's a very accurate description of a difficult measure. I think a court is going to have no trouble finding that the summary we've prepared is fair. If you read the proposal that was submitted last time and the proposal that was submitted this time different words were used and different provisions applied so our title and summary is different but it's based on the initiative. Now we try to avoid when we prepare these types of summaries is try to avoid making conclusions that some people would like us to make about the consequences of the initiative might be. We don't do that, we try to give voters the fairest and clearest understanding of what an initiative actually does. We are bound by the words used by the proponents of the initiative we don't talk about consequences.

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Scott Gerber
Director of Communications
Office of Attorney General Jerry Brown
510-622-2214 (office)
510-502-3755 (cell).

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Subject: RE: Transcript

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415-509-8912

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From: Scott Gerber [mailto:Scott.Gerber@doj.ca.gov]
Sent: Wednesday, October 28, 2009 7:32 PM
To: Cooper, Audrey
Subject: Re: Transcript

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From: Scott Gerber
To: ACooper@sfchronicle.com
CC: cmarinucci@sfchronicle.com
Date: 10/28/2009 8:02 PM
Subject: Re: Transcript

Well that's a surprise. I had hoped we could work through the substantive issues tmrrw.

I hope that at the very least there can be a strong, substantive rebuttal from jim right away, indicating that rosenfelds charges are totally offbase and that his team of lawyers looked at the language, and came up with a fair and accurate title and summary.

And that the reason for the change was that the underlying language chanded.

Rosenfeld is making broad allegations against the ags office. We should have the opportunity right up front to directly rebut them.

I'm available if you need me.

Best

Scott

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-----Original Message-----

From: "Cooper, Audrey" <ACooper@sfchronicle.com>
To: Gerber, Scott <Scott.Gerber@doj.ca.gov>

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Scott Gerber - Phone Message: Contra Costa Times - Consumer Watchdog

From: Christopher Wybenga
To: Distribution List
Date: 10/29/2009 1:38 PM
Subject: Phone Message: Contra Costa Times - Consumer Watchdog

Organization: Contra Costa Times

Topic: Consumer Watchdog is accusing the AG of wrongly changing the summary and title for the fair auto insurance rates measure. The reporter would like to talk to someone about this subject.

Contact: Steve Harmon

916-441-2101

Deadline: asap

Scott Gerber - Immediate Disclosure Request Under the California Public Records Act

From: "Marinucci, Carla" <CMarinucci@sfchronicle.com>
To: <Scott.Gerber@doj.ca.gov>
Date: 10/29/2009 2:27 PM
Subject: Immediate Disclosure Request Under the California Public Records Act
CC: "Bushee, Ward" <WBushee@sfchronicle.com>, "Donnellan, Jonathan R" <JDonnellan@hearst.com>, "Proctor, Steve" <SProctor@sfchronicle.com>, "Cooper, Audrey" <ACooper@sfchronicle.com>, "Collier, Michael" <MCollier@sfchronicle.com>

IMMEDIATE DISCLOSURE REQUEST UNDER THE CALIFORNIA PUBLIC RECORDS ACT:

Scott:

This is a formal request from the San Francisco Chronicle and Hearst Newspapers to obtain access to records held by the Office of the State Attorney General, Edmund G. Brown, for the purpose of inspecting and copying, pursuant to the California Public Records Act, Government Code Section 6250 et sq.

We are requesting the following records:

*All communications from the Office of the State Attorney General, including Attorney General Brown and his staff, including his spokesman Scott Gerber and the staff of the state Department of Justice, related to interviews with reporter Carla Marinucci of the San Francisco Chronicle on the matter of the initiative known as the Continuous Coverage Auto Insurance Discount Act. We seek communications — including but not restricted to — all notes, recordings, transcripts and memos, electronic or otherwise, related to her conversations with staff and the taping of conversations on Oct. 28 and 29, 2009 in connection to the publication of a Chronicle news story.

*Records and communications of all taped telephone conversations, digital or otherwise, generated from conversations or interviews with any identified news reporters, bloggers or members of the media, including Marinucci, since Jan. 10, 2007 until the present day, including but not limited to notes, tapes, transcripts and memos of those conversations.

*All documents reflecting or concerning the office of the Attorney General's practices or policies with respect to recording telephone communications with members of the news media, reporters or others, including — but not restricted to — guidance on when to record conversations, whether to seek permission from participants, and whether to disclose the fact that such conversations are recorded.

We seek communications including — but not limited to — transcripts of conversations, recorded telephone conversations and voice mail, emails, written and electronic notes of conversations, and correspondence as well as tapes, transcripts and records of meetings, calendars, and memos on the above subjects.

If you have reason to believe these records are exempt from disclosure by express provisions of the law, Government Code Section 6257 additionally requires segregation and deletion of that material in order that the remainder of the information be released.

Moreover, if you have grounds clearly demonstrating an express provision of law exists to exempt from disclosure all or a portion of the material requested, Government Code Section 6256 also requires you to notify us of the reasons for the determination immediately.

Finally, if you plan to charge us for any expense incurred in complying with this request, please notify us in advance.

Please consider this request **for immediate disclosure** from a news media outlet. We thank you in advance for your prompt attention. A copy of this request will also be faxed to your office immediately.

If you have any questions, please don't hesitate to call me at the numbers below.

Sincerely,

Carla Marinucci
Senior Political Writer
San Francisco Chronicle
415-777-6064 w.
415-298-2932 cell
cmarinucci@sfchronicle.com

=====
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=====

Scott Gerber - Marinucci here

From: "Marinucci, Carla" <CMarinucci@sfchronicle.com>
To: <Scott.Gerber@doj.ca.gov>
Date: 10/29/2009 4:58 PM
Subject: Marinucci here

Scott,
We are doing a story tomorrow related to the taping of the phone conversation this week.
We want to give you a chance to respond to the opinions of some First Amendment attorneys we've talked to on this matter.

Please call me at the office.

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From: Scott Gerber
To: Marinucci, Carla
Date: 10/29/2009 5:25 PM
Subject: Re: Marinucci here

We definitely want to have an opportunity to respond. We'll have something for you shortly.

Scott Gerber
Director of Communications
Office of Attorney General Jerry Brown
510-622-2214 (office)
510-502-3755 (cell)

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To: Scott Gerber <Scott.Gerber@doj.ca.gov>
Date: 10/29/2009 6:06 PM
Subject: RE: Marinucci here

Thank you. I am here at the desk.

Carla Marinucci
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From: "Marinucci, Carla" <CMarinucci@sfchronicle.com>
To: Scott Gerber <Scott.Gerber@doj.ca.gov>
Date: 10/29/2009 6:40 PM
Subject: RE: Marinucci here

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From: Scott Gerber
To: Marinucci, Carla
Date: 10/29/2009 6:41 PM
Subject: RE: Marinucci here

still working on something. what's your drop dead?

Scott Gerber
Director of Communications
Office of Attorney General Jerry Brown
510-622-2214 (office)
510-502-3755 (cell)

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To: Scott Gerber <Scott.Gerber@doj.ca.gov>
Date: 10/29/2009 6:43 PM
Subject: RE: Marinucci here

7:30 p.m.

And we hope for some comment from the AG on this as well. Thank you.

Carla Marinucci
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To: Scott Gerber <Scott.Gerber@doj.ca.gov>
Date: 10/29/2009 7:22 PM
Subject: RE: Marinucci here

Anything?

Carla Marinucci
Senior Political Writer
San Francisco Chronicle
415-777-6064 w.
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Sent: Thursday, October 29, 2009 6:42 PM
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From: Scott Gerber
To: Marinucci, Carla
Date: 10/29/2009 7:23 PM
Subject: RE: Marinucci here

hold on, please.

Scott Gerber
Director of Communications
Office of Attorney General Jerry Brown
510-622-2214 (office)
510-502-3755 (cell)

>>> "Marinucci, Carla" <CMarinucci@sfchronicle.com> 10/29/2009 7:21 PM >>>
Anything?

Carla Marinucci
Senior Political Writer
San Francisco Chronicle
415-777-6064 w.
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cmarinucci@sfchronicle.com

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Sent: Thursday, October 29, 2009 6:42 PM
To: Marinucci, Carla
Subject: RE: Marinucci here

still working on something. what's your drop dead?

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We're up against a hard deadline, 5 minutes off

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From: Scott Gerber
To: Marinucci, Carla
Date: 10/29/2009 7:30 PM
Subject: here you go...

Statement of Jim Humes, Chief Deputy Attorney General

"This was an on-the-record conversation between four individuals - a reporter and three staff members. We knew that every word said could end up in the next morning's Chronicle. Mr. Gerber taped the conversation, not to record the reporter's questions, but to have a record of what our own staff members said.

Mr. Gerber recorded the statement of the lawyers to ensure that he had an accurate record of what they had said. In fact, when the story was first published online at approximately 5 p.m., Mr. Gerber felt there were some misunderstandings in the story that needed to be corrected. Therefore, he sent a transcript of the conversation to the reporter and her editor to help clarify the situation.

After some consideration, the Chronicle agreed to correct its story - reflecting Mr. Gerber's concerns. Mr. Gerber had no intention of obscuring the fact that this conversation was being taped; indeed he was the one that promptly provided the transcript to the reporter and her editor. In the future, Mr. Gerber will ensure that he will not tape any conversation unless all parties agree.

Mr. Gerber has informed me that he has a few other recorded conversations with reporters. He will contact them to ask for permission to release the tracks. If they agree, he will release them immediately."

Scott Gerber
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Office of Attorney General Jerry Brown
510-622-2214 (office)
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510-622-2214 (office)
510-502-3755 (cell)

>>> "Marinucci, Carla" <CMarinucci@sfchronicle.com> 10/29/2009 4:58 PM

>>> >>>

Scott,

We are doing a story tomorrow related to the taping of the phone conversation this week.

We want to give you a chance to respond to the opinions of some First Amendment attorneys we've talked to on this matter. Please call me at the office.

Carla Marinucci
Senior Political Writer
San Francisco Chronicle
415-777-6064 w.
415-298-2932 cell
cmarinucci@sfchronicle.com

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From: Scott Gerber
To: Arredondo, Abraham; Gasparac, Christine; Gibbs, Kate; Simas, Dana; W...
Date: 10/30/2009 7:55 AM
Subject: story in the chronicle

Let's talk early about what, if anything, this means...

Jerry Brown's office taped reporters' calls

Joe Garofoli, Carla Marinucci, Chronicle Political Writers

(10-29) 22:28 PDT SAN FRANCISCO -- A spokesman for Attorney General Jerry Brown acknowledged Thursday that he taped a phone conversation with a reporter for The Chronicle this week without disclosing the fact or asking permission - and admitted he has taped conversations with other news reporters.

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Scott Gerber, spokesman for Brown's office, made the admission after the publication of a story in the newspaper that detailed consumer activist Harvey Rosenfield's criticisms of revisions the attorney general made to the summary of a ballot measure that deals with car insurance rates.

California Penal Code Section 632 prohibits the recording of private telephone conversations without consent, and the state is one of 12 states that require notification of all parties prior to taping.

Jim Humes, chief deputy attorney general, said in a statement to The Chronicle Thursday: "In the future, Mr. Gerber will not tape any conversation unless all parties agree." He added that Gerber has recorded "a few other conversations" with reporters and will contact them.

First Amendment advocates said Gerber's actions, whether illegal or not, reflect poorly on the office of the state's top legal official, Brown, who is the Democratic front-runner in the 2010 governor race. 'Big political thing'

"Here's the implication: Reporters now have one hell of a story about a guy who's running for governor of California," said Lucy Dalglish, executive director of the Reporters Committee for Freedom of the Press, based in Virginia. "He's just lit a fire under a real big political thing."

David Greene, executive director of the First Amendment Project in Oakland, said Brown's office "could make a decent argument that that's not a confidential communication and (the reporter) didn't have reasonable expectation of privacy."

But Greene said the action raises a question of whether it is a "spooky government thing to do. I can't think of any reason why they would record surreptitiously. ... There's a gotcha quality to it."

The secretly recorded conversation came to light after Chronicle senior political writer Carla Marinucci

contacted Gerber Wednesday for his response to Rosenfield's criticisms.

She sought comments from the attorney general's office on allegations from Rosenfield, the founder of ConsumerWatchdog.org, who charged that Brown made changes in the ballot measure's summary because he had caved in to pressure from the Mercury General insurance firm. The company gave \$13,000 to Brown's campaign in June.

Rosenfield said Brown's revision omitted the possibility that the measure would increase insurance rates for some Californians.

Gerber called Marinucci and said the summary was a fair reflection of changes that the initiative's sponsors, a coalition of consumer and insurance groups, made to the initiative's wording. He told her that Humes, and Jonathan Renner, a senior assistant attorney general for government law, were on the line to address her questions.

When the story was published on The Chronicle's Web site, SFGate.com, Wednesday evening, Gerber contacted an editor at the paper and said Humes' comments were not fairly reflected in the article. He e-mailed the editor a transcript of the conversation between him, Marinucci and the two attorneys.

Marinucci called Gerber Thursday and asked whether he had taped their conversation. "I did," he said.

Asked why he believed such an action was appropriate, Gerber responded, "To me, it's useful to have a record."

"I think that's all I should say right now," he added.
It's routine

Gerber was asked if he had recorded conversations with other news reporters. "Sure, I've done it before," he said. "Reporters routinely record my conversations."

Asked if the recording of news media conversations was a practice of the attorney general's office, Gerber said, "I'm not going to say anything further at this time."

In his statement Thursday, Humes said that "this was an on-the-record conversation between four individuals - a reporter and three staff members. We knew that every word said could end up in the next morning's Chronicle. Mr. Gerber taped the conversation, not to record the reporter's questions, but to have a record of what our own staff members said."

But Dalglish said she believes the actions of Brown's office are outrageous and probably illegal.

"California law says all parties to a conversation must know they are being taped," she said. "So if one person didn't (know), it's a violation of the law, and it doesn't matter that it's the AG's office doing the taping."

First Amendment Coalition executive director Peter Scheer said the incident reminded him of former President Richard Nixon secretly recording conversations with his staff and journalists.

"When Richard Nixon was damned for recording conversations with his staff and members of the press, people thought that was sleazy and unethical and immoral - even if it was technically legal," Scheer said. "Because it was seen as a violation of trust, a breach of people's expectations of a certain degree of confidentiality."

Scheer added that there was little excuse not to obey the statute, especially by an employee of the state

office charged with enforcing the law, "when all you have to do is ask, 'Is it OK with you if I record this conversation?' "

Scheer said recording such conversations without notification or consent is "not something you should do - whether you're a journalist on one hand or someone who is talking to journalists on the other hand."

E-mail the writers at jgarofoli@sfchronicle.com and cmarinucci@sfchronicle.com.

This article appeared on page A - 1 of the San Francisco Chronicle

Read more: <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/10/29/MNV11ACMVR.DTL&tsp=1#ixzz0VQnRXaNb>

Scott Gerber
Director of Communications
Office of Attorney General Jerry Brown
510-622-2214 (office)
510-502-3755 (cell)

From: Scott Gerber
To: Gasparac, Christine
Date: 10/30/2009 9:05 AM
Subject: you should have this

Statement of Jim Humes, Chief Deputy Attorney General

"This was an on-the-record conversation between four individuals - a reporter and three staff members. We knew that every word said could end up in the next morning's Chronicle. Mr. Gerber taped the conversation, not to record the reporter's questions, but to have a record of what our own staff members said.

Mr. Gerber recorded the statement of the lawyers to ensure that he had an accurate record of what they had said. In fact, when the story was first published online at approximately 5 p.m., Mr. Gerber felt there were some misunderstandings in the story that needed to be corrected. Therefore, he sent a transcript of the conversation to the reporter and her editor to help clarify the situation.

After some consideration, the Chronicle agreed to correct its story - reflecting Mr. Gerber's concerns.

Mr. Gerber had no intention of obscuring the fact that this conversation was being taped; indeed he was the one that promptly provided the transcript to the reporter and her editor. In the future, Mr. Gerber will ensure that he will not tape any conversation unless all parties agree.

Mr. Gerber has informed me that he has a few other recorded conversations with reporters. He will contact them to ask for permission to release the tracks. If they agree, he will release them immediately."

Scott Gerber
Director of Communications
Office of Attorney General Jerry Brown
510-622-2214 (office)
510-502-3755 (cell)

From: Scott Gerber
To: Gasparac, Christine
Date: 10/30/2009 9:06 AM
Subject: Fwd: talking points

fyi

Scott Gerber
Director of Communications
Office of Attorney General Jerry Brown
510-622-2214 (office)
510-502-3755 (cell)

>>> Scott Gerber 10/29/2009 2:02 PM >>>

Harvey Rosenfield's complaints about the title and summary prepared by the Attorney General's Office for the most recent proposed insurance-rate initiative are hysterical and wrong.

The fact is that the title and summary accurately and fairly summarizes a complex initiative in a way that voters can understand. It was prepared by a team of career attorneys who spent long hours carefully reviewing the text of the initiative and who consulted with experts, including independent experts, officials with the Department of Insurance, and Mr. Rosenfield himself.

This title and summary differs from an earlier one because the substantive text of the two initiatives are different. It has nothing to do with politics.

Mr. Rosenfield says that "[t]he people of California deserve to know the consequences of the ballot measures they are voting on." But as Mr. Rosenfield well knows, the legal consequences of initiatives such as this one are often unknown or arguable. The Attorney General's role in preparing a title and summary is not to speculate on how courts might interpret the initiative. Instead, his role is to fairly and accurately describe its main points, which is exactly what happened here.

Jim Humes, Chief Deputy Attorney General, California Attorney General's Office.

Scott Gerber
Director of Communications
Office of Attorney General Jerry Brown
510-622-2214 (office)
510-502-3755 (cell)

Scott Gerber - Phone Message: Associated Press — Recordings

From: Abraham Arredondo
To: Christine Gasparac; Scott Gerber
Date: 10/30/2009 9:53 AM
Subject: Phone Message: Associated Press — Recordings

Julieta Williams
Associated Press
916-448-9555
Deadline: ASAP
jawilliams@ap.org

Wants to speak with a spokesperson about recording conversations with reporters.

Scott Gerber - Phone Message: East Bay Express - Mercury Insurance Initiative

From: Christopher Wybenga
To: Distribution List
Date: 10/30/2009 1:29 PM
Subject: Phone Message: East Bay Express - Mercury Insurance Initiative

Organization: East Bay Express

Topic: Would like to talk to someone in detail about the Mercury Insurance Initiative and the accusations made by consumer watchdogs.

Contact: Bob Gammon

510-879-3752

robert.gammon@eastbayexpress.com

Deadline: 12pm Monday (11/02/09)

Would also like a comment on the reporter phone recordings