

Retiree's Luncheon **January 16, 2006**

I'm frequently asked if I ever regret being a Trustee on the San Diego City Employees Retirement System considering all the controversy that's going on. No, I really don't regret it, but I have to admit what really annoys me is the criticisms of misinformed individuals who really don't know who we are and what we're trying to accomplish.

I recently received a joke from a friend over the holidays, which really turned out to be a petty good anecdote that describes our dilemma on the retirement board. Here's the joke ...

There was this postal worker assigned to work the "dead bin." The dead bin is where all undeliverable letters go... you know letters to people who don't really exist or have non-existent addresses like – Santa Claus, North Pole – anyway this postal worker is looking through these letters as he's tossing them into the bin and he notices one that's just addressed "GOD." Curious he opened it and it read:

Dear God,

I am a 93 year old widow, living on a very small pension. Yesterday someone stole my purse. It had \$100.00 in it, which was all the money I had until my next pension check. Next Sunday is Christmas, and I have invited two of my very best friends over for dinner. Without that money, I have nothing to buy food with. I have no family to turn to, and you are my only hope. Can you please help me?

Sincerely,
Edna

The postal worker was touched. He showed the letter to the two other workers on duty with him and they were touched by the letter as well. They each dug into their wallets and pulled out all the money they had. Together they had \$96.00, which they put into an envelope and sent it to the woman.

The rest of the day all the workers felt a warm glow for the kind thing they had done.

Christmas came and went. A few days later another letter came from the old lady addressed to GOD. All the workers gather around while the letter was opened.

It read:

Dear God,

How can I ever thank you enough for what you did for me? Because of your gift of love, I was able to fix a glorious dinner for my friends. We had a very nice day and I told my friends of your wonderful gift. In closing, I hate to inform you that there was \$4 missing. I think it must have been those thieving bastards at the Post Office.

Sincerely,
Edna

This little joke demonstrates our current situation on the board. We're good people, trying to do the right thing, but we're haunted by the perceptions of the purported misdeeds of others. Like the unfortunate reputation of the postal workers, we on the board have inherited the reputations of our predecessors. I truly believe that most people in this City know we're not the same individuals who voted for MP-1 and MP-2, but any chance City Hall gets to make the comparison they take it. So it's no wonder we can't break the stereotype that all SDCERS board members are crooks, and we have a goal to bankrupt the City, and we intend to hide the crimes of the past.

It's a tough environment to have to work in and now Mayor Sanders wants to make it even tougher -

His decisions last week to ask for the resignations of all City appointees, so he may install his own appointees, and to place Mike Aguirre as Counsel to the Board is an attack on the independence of your retirement system.

Let's examine these decisions and how they may affect the operation of your Trust.

First - His asking for the resignation of current retirement board appointees is an obvious attempt to send new board members with a mandate to perform functions important to the Mayor's Office. This was not what was intended when the Charter created an independent retirement board. Any appointee who accepts such a position and follows any mandate from City Hall has seriously breached their fiduciary duty to you and to the rest of the members of the Trust.

Interesting enough, Judge Link's decision last Friday to bind-over the six former retirement board members for trial confirms that fact. When he stated that the six indicted members breached their fiduciary duty by failing to maintain their independence when they participated in actually revising a contract that negotiated benefits for active employees. That negotiation process is a function of the unions in a Meet & Confer setting, not for Trustees representing this retirement system.

That court decision should send a message to anyone who accepts a position as a Trustee from Mayor Sanders with the intention of imposing his will or some other City agenda that is not in the best interest of this Trust.

As a sitting board member, I'm really not too concerned about any new appointee Mayor Sanders wishes to make. Since I've been on the board (9 months now) we've had 13 board members come and go. Each, I'm sure came with an understanding from the mayor or councilperson that selected them that they would apply some action that they desired. The waiver of attorney-client privilege is probably the best example of a quid-pro-quo selection. At one time appointees were only selected on their promise to vote to waive the privilege.

But, something usually happens when one of these appointees actually get to the retirement board and understand the enormity of the responsibility of managing a \$4

billion Trust and lives of 15,000 people who are depending on you to make the right decisions. Within a short period of time, we come to a consensus on most issues. Sure, we disagree, but it's a kind of healthy disagreement – one with respect for each others' point of view. I will say categorically, that all 13 that have come and gone were very talented people and truly had your interest in mind every time they voted on an issue.

I will say I'm very concerned about Mayor Sanders' second decision to try to appoint Mike Aguirre as legal counsel.

Mike Aguirre has proven in a short period of time that he can't work with anyone. It's his way or "I'll sue you!" There is no middle ground. I really don't see Mike Aguirre working with anyone on the board and more likely end up working against everyone.

Mike Aguirre is also a lousy attorney. He has filed several cases against SDCERS and hasn't prevailed in any. He sued me and other members of the board for failing to waive attorney-client privilege. The fact is - I've always supported waiving attorney-client privilege and always voted to waive it. It's in the board record. Mike Aguirre's work is sloppy and his suit was thrown out by the first Judge that had an opportunity to look at it.

You should also know that Mike Aguirre advised SDCERS (and the City Auditor) to stop paying any unlawful payments to retirees. He judged that any retirement benefit granted after 1996 was unlawful and we should not pay them. Could you imagine the gravity of the advice if we followed it? We'd be sued, the Trust would be sued, the City would be sued, and the retirees would be without benefits until it was resolved in the courts.

Mike Aguirre has already cost this City millions of dollars with his disruptions with the Kroll investigation. His attacks has caused Kroll to take a "pay us or fire us" attitude toward dealing with the City. Thanks to Mike there is very little cooperation in the investigation and no urgency by Kroll to complete it anytime soon. They just keep billing...

Do we really need a Mike Aguirre on the board? I don't think so. And I hope you agree with me...

It's important that we all understand what's at stake here and that we are prepared to rise to the challenge. Please – help your board members and make your opinion known - to your representatives and more importantly to Mayor Sanders.

Thank you for your time.

Mark Sullivan
SDCERS Trustee