



Pillsbury Winthrop Shaw Pittman LLP
50 Fremont Street | San Francisco, CA 94105-2228 | tel 415.983.1000 | fax 415.983.1200
MAILING ADDRESS: P. O. Box 7880 | San Francisco, CA 94120-7880

Richard E. Nielsen
tel 415.983.1964
richard.nielsen@pillsburylaw.com

September 12, 2008

VIA ELECTRONIC MAIL and FIRST-CLASS MAIL

Robert R. Cross, Esq.
Sideman & Bancroft LLP
One Embarcadero Center, 8th Floor
San Francisco, CA 94111

Re: Prohibited Disclosure of Confidential Tax Information

Dear Mr. Cross:

This is a follow-up to our telephone conversation earlier today concerning City of Richmond ("City") Councilmember Tom Butt's disclosing of confidential information with respect to Chevron U.S.A. Inc. ("Chevron") on various websites. See Exhibit 1. The attached exhibit is posted on two websites:

<http://www.tombutt.com/pdf/voting%20guide.doc> and
<http://www.tombutt.com/pdf/voting%20guide.pdf>.

In addition, Mr. Butt has sent the attachment to all subscribers to his personal website at <http://www.tombutt.com/forum/2008/080907.htm>.

Mr. Butt states as follows: "Force Chevron to pay underpaid utility user taxes for fiscal years 2006-07 and 2007-08. Chevron cheated on these taxes and owes the City of Richmond at least \$24 million." (Emphasis added) Mr. Butt's public disclosure of Chevron's audit information is in direct contravention of Revenue and Taxation Code ("RTC") section 7284.7 and the Confidentiality Agreement between Chevron and the City dated September 1, 2007.

We have previously exchanged letters regarding the possible violation of RTC section 7284.7 and the Confidentiality Agreement in connection with the City's disclosure on its public agenda of the existence of a utility user tax audit of Chevron. You assured us that the City, including its staff and councilmembers, would follow the law and maintain Chevron's Utility Tax Information in confidence. Councilmember Butt's disclosures violate that confidence.

RTC section 7284.7 provides in pertinent part as follows:

(a) It is unlawful for any employee, officer, authorized agent or contractor of a local jurisdiction levying a utility user's tax, that obtains access to information contained in utility user tax records of a local jurisdiction, to disclose any information obtained from the records of a utility or other company required to report or pay a utility user's tax to the local jurisdiction as a result of an audit, or any other information obtained in the course of an on-site audit, to any person who is not an employee, officer, authorized agent, or contractor of the local jurisdiction with administrative or compliance responsibilities relating to the utility user's tax ordinance.

(b) Any violation of this section is a misdemeanor and is punishable by a fine not exceeding one thousand dollars (\$1,000), by imprisonment in a county jail not exceeding one year, or by both, in the discretion of the court.

....

(d) Notwithstanding subdivisions (a) and (b), this section shall not be construed to prohibit an employee, officer, authorized agent, or contractor of a local jurisdiction levying a utility user's tax from doing any of the following:

(d)(1) Disclosing to a taxpayer information derived from the records of a utility or other utility service provider, if the information is used to calculate the utility user's tax of that taxpayer; or, disclosing that information in a tax collection action, provided that the information is subject to a protective order issued by a court.

....

(e) For purposes of this section:

(e)(1) "Local jurisdiction" means any city, county, city and county, including any chartered city or city and county, district, or public or municipal corporation.

RTC section 7284.7 applies to the City, its staff and its Councilmembers who receive confidential taxpayer information in the course of performing their official duties on behalf of the City. "Any information" contained in utility user tax records, information obtained from such records and "any other information" obtained in the course of an audit are prohibited from being disclosed to the public. These provisions

prohibit the disclosure of potential audit liabilities developed from an ongoing audit of Chevron which have neither been assessed nor become final.

In addition, such violation of RTC section 7284.7 constitutes a misdemeanor and subjects Councilmember Butt to a fine not exceeding one thousand dollars (\$1,000), by imprisonment in a county jail not exceeding one year, or by both, in the discretion of the court. See RTC section 7284.7(b).

The disclosures by Councilmember Butt also are in violation of specific provisions of the Confidentiality Agreement, particularly paragraph 9 (page 5) which provides:

(a) ..., all Utility Tax Information provided to City by Chevron with respect to the determination of Chevron's liability for Utility User Tax, including any audit report or other work product of City incorporating such information, shall be fully and unconditionally protected from further disclosure, or from use for any other purpose, in accordance with the terms and conditions of this Confidentiality Agreement; and

"Utility Tax Information" is defined in the Confidentiality Agreement to mean:

... any and all information or data ... provided at any time by Chevron, or its agents or representatives to City, in connection with the determination of Chevron's liability for Utility User Tax, including but not limited to, information or data which (i) reveals directly or indirectly the nature or amount of natural gas, electricity, or other energy consumed by Chevron with the City of Richmond, or the amount of Utility Tax incurred by Chevron;
(Emphasis added.)

The dollar amount of purported utility taxes owed by Chevron and disclosed by Councilmember Butt corresponds to tentative amounts mentioned in the First Interim Audit Report exchanged between the City and Chevron. This disclosure of audit information is directly contrary and in violation of the aforementioned provisions.

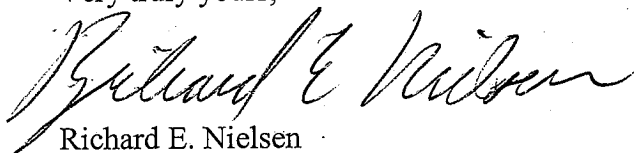
Chevron demands that Councilmember Butt immediately remove the posted information quoted above concerning Chevron and the purported amount of underpaid taxes from the various websites. Further, Chevron demands that Councilmember Butt recall all e-mails sent from his personal website that contained the aforementioned attachment. Finally, Chevron demands that Councilmember Butt cease and desist from divulging confidential taxpayer information regarding Chevron in the future.

Robert R. Cross, Esq.
September 12, 2008
Page 4

Chevron requests that you or another authorized representative of the City respond to this letter forthwith and advise whether Councilmember Butt will comply with the demands herein.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Richard E. Nielsen".

Richard E. Nielsen

Encl.

cc: Mr. Andrew Zalewski w/enc.
Mr. Jeffrey M. Vesely w/enc.
Mr. Randy Riddle w/enc.

Election 2008
Comparison of Candidates for Richmond City Council

The Issues	<u>Butt, Beckles and Ritterman</u> THE FUTURE	Bates, Marquez and Sandhu THE PAST
What is their outlook on Richmond's future?	Optimistic and visionary	Skeptical and cynical
What is their business background?	Mostly private sector and nonprofits	Mostly public sector
Who are their constituents?	Richmond residents, small businesses, neighborhoods and community organizations	Chevron and out of town industrialists, lobbyist and developers
What is their policy making style?	Collaboration with public debate	Secret meetings and hidden agendas
What kind of government scrutiny do they support?	Open and transparent	Closed and clandestine
What relationship are they seeking between business and environment?	Environmentally friendly business	Business friendly environment
What kind of growth do they support?	Smart growth: Sustainable, growth of green business and industry, locals and small businesses. Infill development, walkable neighborhoods, neighborhood centers with schools, parks and neighborhood commercial services	Auto dependent sprawl: Big boxes, chains, large developers, strip shopping centers and development of pristine shoreline
Who are their typical endorsers and supporters?	Mayor McLaughlin, former Mayor Corbin, Sierra Club, Richmond neighborhood leaders	Chamber of Commerce, Council of Industries, developers and lobbyists
What kind of public review of land use projects do they support?	Retain Planning Commission and Design Review Board with strong public involvement in project approvals	Dissolve Design Review Board and let staff approve most projects
What is their decision-making style?	Study science and facts	Ignore science and facts
What is their approach to enhanced public safety?	Integrated approach addressing both prevention and protection, including more police, enhanced Office of Neighborhood Safety, youth services and job training and development.	More police
How do they feel about parks?	More parks and better distributed parks	Fewer parks
How about Richmond's last undeveloped shoreline?	Preserve last remaining undeveloped shoreline for public uses	Develop last remaining shoreline with houses.

How are we going to pay for increased street maintenance, enhanced public safety and more community services?

- Pass Measure T (<http://afairshareforrichmond.org/about.html>). The impartial analysis from the city attorney estimates this Measure will generate about **\$26.5 million in new revenue** beginning in 2009. Virtually all of this will be from Chevron and represents about one tenth of one percent of Chevron's annual profit.
- Force Chevron to pay underpaid utility user taxes for fiscal years 2006-07 and 2007-08. Chevron cheated on these taxes and owes the City of Richmond at least **\$24 million**.
- Renegotiate underground pipeline franchise agreements, all of which have expired. This could result **in millions of dollars in new revenue**.
- Force Chevron to renegotiate the Community Benefit Agreement to provide **real monetary benefits for Richmond**.
- Continue to increase revenue from property taxes, business license taxes and sales taxes by attracting clean and green businesses to Richmond, like Vetrazzo and SunPower in the Ford Building.
- Focus on infill development and reoccupation of foreclosed properties to stabilize neighborhoods and real estate taxes instead of developing the shoreline.
- Attract new small business and enhance existing businesses serving visitors taking advantage of the Rosie the Riveter WWII Home Front National Historical Park, the Bay Trail and Richmond's 32 miles of Shoreline. Work with the Visitor and Convention Bureau to attract cultural tourism and services such as lodging and restaurants.