IN THE SUPERIOR COURT SANTA BARBARA JUDICIAL DISTRICT
COUNTY OF SANTA BARBARA

THE PEOPLE OF THE STATE OF CALIFORNIA Plaintiff, vs. MANUEL EDWARD TORRES, Defendant.	Court No. Ramey Warrant DECLARATION IN SUPPORT OF ARREST WARRANT

CHRIS CLEMENT, declares:

That he is a peace officer employed by the Santa Barbara District Attorney's Office and that he has investigated a reported crime of:

PC 424 Misappropriation of Public Funds
PC 487(a) Grand Theft
PC 470(d) Forgery
PC 529(a)(3) False Personation

PC 186.11 enhancement, multiple felonies involving the taking of over $500,000

Narrative: This investigation began on July 18, 2019, following a phone call from Chief Probation Officer Tanja Heitman to District Attorney Joyce Dudley. Heitman had received a phone call from David Silva, a Deputy Probation Officer within her department, who was recently elected as president of the Santa Barbara County Probation Peace Officers Association (SBCPPOA). According to Silva, a review of their financial records for the association revealed a potential, large-scale embezzlement of funds from the association bank account by former president Manuel Edward Torres. Torres was a Supervising Probation Officer within the department up until his unplanned retirement on July 12, 2019. Due to the sensitive nature of the investigation, Heitman requested that our office investigate the alleged theft and act accordingly.

I called Silva on July 18, 2019 and spoke with him in more detail about what he was reporting. Silva told me that the association had recently had an election of new board members. During this election in early June 2019, Silva and Torres were both elected to the SBCPPOA board. Following this election, the new board met to determine who would assume different roles

within the association. Torres had been president of the SBCPPOA for over 20 years and Silva challenged him for this position. The new board voted Silva in as president and asked Torres to assume the vice-president role and mentor Silva in his new position. Torres was not at all happy with this change to the SBCPPOA board and he essentially walked out of the meeting and cut off all communications with Silva and the board.

Following the election, Silva attempted to gain access to the financial records for the association as well as all other documents and records that are maintained in the course of regular association business. What he discovered was that there were few, if any, association records. He attempted to get Torres to meet with him on several occasions but these attempts were ignored. Silva and new SBCPPOA treasurer Liz Vaca went to Bank of America in Santa Maria and attempted to gain access to the SBCPPOA bank accounts. The association maintained two accounts at Bank of America; a checking account ([redacted] and a Business Advantage Savings account ([redacted]. What they discovered was that Torres was a signee on the accounts, as well as Tara Presley. The significance of this discovery is that Presley has not been a SBCPPOA board member for almost 10 years. The fact that she and Torres were the sole signees on the account raised more concerns about what may have been occurring with Torres and association funds. Since Presley's departure from the board, there should have been at least 2-3 other new treasurers on the account with updated signature cards.

With the assistance of Bank of America personnel, Silva and Vaca were able to update the signature cards on the accounts and gain access to the statements and processed checks. The bank was initially able to provide Silva and Vaca with 18 months of records. A review of these records revealed that Torres had been writing checks, payable to himself, and signing both Presley's name and his own. While two signatures are required per SBCPPOA by-laws, the fact that Presley's signature was being used/forged and the fact that most of the checks were made payable to Torres himself, was disturbing and obviously fraudulent. In addition, the review revealed that the checking account appeared to be the sole victim of the potential fraudulent activity. Because of this review, Silva requested that Bank of America provide as many years of records as possible. The association eventually received records dating back to August 2012. These records were then provided to the accounting firm of Damitz, Brooks, Nightingale, Turner and Morrisset, in Santa Barbara for a complete forensic audit.

A "draft" of the completed audit was provided to me on 11/18/19:

- The "period" of the audit was from June 1, 2013 to June 30, 2019.

- Demand letters were sent to Torres and all past SBCPPOA board members requesting any and all documentation related to the association, including minutes, reports, budgets and receipts. Any documentation that was received pursuant to this demand was used for the audit. Torres provided no records, response or receipts.
- During the period of the audit, there were $812, 933.05 in expenditures. Of this, $412,822.14 were expenditures in the form of checks paid to Torres.
- Of the $412,822.14, $205,980.42 were labeled as legal defense reimbursements, made payable to Torres.
- In addition, $102,960.00 were labeled as reimbursements for the State Coalition of Probation Organizations (SCOPO), made payable to Torres. SBCPPOA's membership with SCOPO was suspended on 09/06/2011 for non-payment of dues and fully terminated on 08/08/2014.
- $6950.00 were labeled as mobile phone reimbursements. Support for Board approval of these reimbursements could not be obtained and these reimbursements are atypical for a SBCPPOA Board member.
- Torres was the signatory on all of the checks disbursed during the audit period. Presley was the second signatory on all but one of the checks and Presley confirmed that she had not signed any of the checks during this period, nor was she aware that she was still the authorized signer for the accounts.
- In March 2018, Torres provided a Treasurer's report to the SBCPPOA Board. The report covered the time period of 08/15/2014 to 03/01/2018 and it is a report that Torres prepared. The report was significantly inconsistent with the bank records of the Association, overstating the balance on 03/01/18 by $266,622.95 and understating expenditures by $212,836.98. In addition, all checks made payable to Torres during the time were omitted from the report.
- The Association's most recent Form 990 tax filing was the tax year ending 12/31/07. A review with the California Franchise Tax Board revealed the Association's entity status is suspended and not exempt. The SBCPPOA will have to exhaust a great deal of effort and money to reinstate their non-profit status with the State of California.

With the audit complete, I began to locate and interview the following past SBCPPOA Board members:

- Tara Presley — Current Deputy Probation Officer (DPO)
- James Steels — Retired DPO
- Matt Maxwell — Former DPO and current Detective at SBSO

- Spencer Cross — Current DPO Manager
- Ashley Guggia — Former DPO
- Sonia Alcantar — Retired DPO
- Maria Story (AKA. Bongiovanni) — Current DPO

On 11/26/19, I met with Tara Presley at the DA's Juvenile Office in Santa Maria. She was obviously well aware of the ongoing investigation related to Torres as she had been previously contacted by both Silva and the accounting firm in regards to the audit. My main goal of interviewing Presley was to determine a better time period for the potential fraud/theft of association funds. While Bank of America did provide us with records back to August 2012, I suspected that the theft may go much further back. What I learned in talking to Presley is that on/around February 2010, the SBCPPOA had an election and she was not re-elected as a board member. As a result, she packed up her association records, including the checkbook and accounting records and returned them to Torres. It was her belief and understanding, that following that election, a new Treasurer would be identified and all necessary paperwork with Bank of America would be completed. Obviously, this did not occur.

Presley said that during her time as Treasurer, she does recall writing checks for a variety of things, including to the association's law firm, SCOPO, the US Postal Service for the PO Box fees and to various organizations as donations. Presley would prepare these checks, get Torres to co-sign pursuant to the by-laws and then mail or deliver the checks. In other words, it appears that prior to February 2010, when Presley believes she gave the checkbook back to Torres, all SBCPPOA financial business was being done correctly and that the expenditures were legitimate. Based on this, it appeared that our potential fraud period may have begun around February 2010 and ended in June 2019, following the election.

As a result of my interviews, I identified 2 former SBCPPOA Board members who at one point or another, were voted in as Treasurer, but who never were able to get themselves on the accounts at Bank of America as signees: Matt Maxwell and Sonia Alcantar. Their stories were both very similar; elections would conclude and new treasurers would be identified, usually by Torres himself. Both of them made attempt after attempt to get Torres to meet them at the bank to complete the paperwork, only to be dismissed, ignored and put off for months. Maxwell said he finally gave up after about 6 months of "nagging" Torres. Maxwell said that he figured if the SBCPPOA really wanted him as Treasurer, then they would get him on the accounts. Alcantar was able to get Torres to meet her at Bank of America, but when he found out she was a former employee at the bank and had extensive experience and knowledge of the banking industry he

came up with an emergency excuse and had to leave. She later made additional attempts to get on the account only to be told by Torres "I found someone else to do it."

In my interview with Ashley Guggia, she explained a great deal of firsthand knowledge about Alcantar and Maxwell's struggles in getting on the checking account. Guggia said that this was a hot topic for a number of years but it never seemed to rise to a point where Torres was held accountable and required to follow through regarding the signees on the checking account.

Another consistent theme of my interviews with all of these past board members was that the SBCPPOA was "Ed's show." They all described a culture and environment that made it perfectly clear to all of the association, that Torres was in charge and he knew what he was doing. Torres had been the president of the SBCPPOA for so long, that no one challenged him, questioned him or doubted him. If Torres wanted it, he got it. If Torres said it, it must be true. If Torres believed in something, then it must be for the benefit of SBCPPOA and the members should support him. Torres had carte blanche in all areas of the SBCPPOA.

I contacted the Santa Barbara County Auditor's Office in the early part of this investigation and obtained information related to Torres' payroll direct deposits. What I learned was that from 06/24/2002 to the end of his employment, Torres had his payroll checks deposited into an account at Rabobank, [redacted]. A review of the SBCPPOA checks that Torres wrote payable to himself, revealed this same account number on the back of most, if not all, of the checks. Rabobank recently completed a merger with Mechanics Bank in September 2019. I contacted the bank manager at the Mechanics Bank in Santa Maria, 1554 S. Broadway, who informed me that all records for Rabobank would be in the possession of the new Mechanics Bank and that any search warrants or subpoenas could be served at Mechanics Bank, for Rabobank records.

Based on the information I learned from the audit, the interviews with past SBCPPOA board members and my conversations with David Silva, I prepared affidavits and search warrants for Bank of America and Mechanics Bank (formerly Rabobank). On 01/08/2020, Judge McGregor reviewed my affidavits and signed search warrants for Bank of America (SW 9940) and Mechanics Bank (SW 9941). The Bank of America warrant was designed to obtain additional bank records related to the SBCPPOA accounts, from 09/01/2009-08/01/2012. We had already obtained records from SBCPPOA in regards to their accounts for the period of 08/2012 to June 2019 and the warrant was completed to obtain records for the additional time period. The Mechanics Bank search warrant was intended to obtain Torres' bank records on his personal

account for the period of 09/01/2009 to 07/31/2019. This is the account that all of the SBCPPOA checks were deposited into.

Bank records pertaining to both accounts were subsequently obtained and reviewed. Mechanics Bank only had bank statements and processed checks as far back as 01/23/2013. This is consistent with the current banking retention policies that many banks are currently following, (7 year retention). Bank of America was able to provide bank statements as far back as 09/2009, but not copies of the processed checks.

In addition to the records from both Mechanics Bank and Bank of America, I received a Suspicious Activity Report (SAR) from Investigator Yvonne Berry at Mechanics Bank. A review of the SAR resulted in the identification of another account for Torres at JP Morgan Chase Bank. On 01/23/2020, I presented a search warrant and affidavit to Judge Rigali for records pertaining to Torres' account(s) at Chase Bank for the period of 09/01/2009-07/31/2019. Judge Rigali approved and signed this warrant (SW 9957) and it was served on Chase Bank that same morning.

Records for Chase Bank were subsequently received and reviewed. Chase Bank also has a 7 year retention policy and therefore records for these accounts only went back to 03/2013. The records revealed that these accounts were joint accounts between Torres and his wife, Sylvia Torres. The activity on these accounts revealed these were likely the accounts that Sylvia used for her daily activities, while the Mechanics Bank account was used solely by Torres. The Chase Bank account appeared to have little to no involvement in the embezzlement of funds from SBCPPOA.

Summary of complete bank record review:
The audit report generated by the accounting firm that was hired by SBCPPOA clearly articulated the activities of the SBCPPOA accounts at Bank of America for the period of 06/01/13-06/30/19. I would refer the reader to the formal audit which is provided in Damion for details. As mentioned earlier, the total theft/embezzlement of funds for that period is $412,822.14.

My goal in obtaining and reviewing records for the additional time period of 09/01/2009-05/31/2013, was to identify any additional theft of funds on the part of Torres. To accurately identify these potential losses (checks) without having copies of processed checks, I needed to get an idea of the normal banking activity for SBCPPOA and identify their monthly

expenditures. I spoke with both David Silva and Tara Presley in regards to this issue. Obviously Silva is new to the SBCCPPOA board and was only able to provide what their current expenditures are. Presley essentially told me that the only checks she recalled writing during her time as treasurer, were monthly checks to the law firm(s), checks to SCOPO, sporadic checks for donations to various groups and small checks for fees associated with the PO BOX rental.

In addition to obtaining the legitimate spending habits of SBCPPOA, I needed to obtain the legitimate payment histories for both law firms that were on contract with the association; Mastagni Holstedt and Goyette and Associates. I contacted both firms who provided their payment registries. Mastagni Holstedt terminated their relationship with SBCPPOA in the middle of 2011 for poor payment history. They eventually filed a civil action against SBCPPOA in order to collect on unpaid retainer fees. Goyette and Associates began representing SBCPPOA in August 2011 and facilitated a settlement with Mastagni Holstedt and SBCPPOA.

Lastly, I wanted to obtain the payment history for SCOPO in order to identify legitimate payments that may have been made for the time period that we don't have copies of processed checks, 09/2009-08/2012. I contacted SCOPO who sent me the complete payment history for their account with SBCPPOA, 12/2000-09/2011.

With all of this information, along with my knowledge of patterns identified by the audit for checks that Torres wrote to himself, I reviewed the bank statements for the entire 09/2009-06/2019 time period. I identified those checks that did not meet any of the criteria I had gathered and crossed off checks that I knew were legitimate payments based on the records I had obtained from the law firms and SCOPO. As a result of this review, I calculated a new total for theft/embezzlement of funds from SBCPPOA: $635,254.31.

2009	$8,144.00
2010	$44,215.00
2011	$60,975.00
2012	$69,138.29
2013	$73,738.89
2014	$55,610.11
2015	$58,152.83
2016	$66,548.89
2017	$72,810.00
2018	$80,898.00
2019	$45,113.30

Conclusion:

Between the months of September 2009 and June 2019, Manual Edward Torres embezzled $635,254.31 from the SBCPPOA. During this time, he was the President of the association and had signing rights to their bank accounts at Bank of America. Torres simply wrote checks, payable to himself, and forged the name of Tara Presley, a former treasurer on the board and someone who had not been associated with SBCPPOA since about 02/2010. All of the checks that Torres wrote and forged, were deposited into his personal account at Mechanics Bank, (formerly Rabobank.) In addition, Torres provided the SBCPPOA with fraudulent financial reports that misled the board on their true financial status and expenditures. These reports were provided only when the board demanded them and they relied on these reports to make future SBCPPOA decisions. Lastly, Torres failed to make timely and consistent payments with both law firms that SBCPPOA used as representation for their members. Both Mastagni and Goyette and Associates had to go to great lengths to obtain their retainer fees, with Mastagni having to file a civil action and Goyette having to forgive a large portion of their fees. At one point, Torres allowed the debt to Goyette to reach $110,000.00.

The funds associated with SBCPPOA that are collected from the membership, are collected via payroll deduction from member's Santa Barbara County paychecks. These "public funds" are then deposited directly into the SBCPPOA account at Bank of America, for use by the association, for the sole purpose of assisting and defending the SBCPPOA membership, as well as maintaining the good standing of all association activities and responsibilities. The members never directly receive monies from these accounts and they are essentially entrusted to the SBCPPOA Board for proper disbursement and allocation. As a result of Torres' actions, the embezzlement of $635,254.31, was a theft of "public funds" and any and all associated criminal statutes that involve the theft of public funds will be seriously considered.

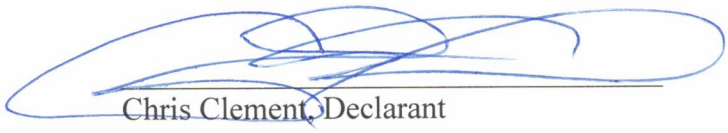
A review of the 2020 Santa Barbara County Superior Court Bail Schedule reveals that at a minimum, the appropriate bail for these charges is $320,000. **Due to the sophistication and duration of this crime, as well as the fact that Torres was a sworn peace officer during the entire complaint period, bail in the amount of $500,000.00 is respectfully requested.**

Wherefore, declarant prays that an Arrest Warrant be issued for the arrest during the day or night of **MANUEL EDWARD TORRES**, Defendant.

I declare under penalty of perjury, that the foregoing is true.

Executed at Lompoc, California

On this 24nd day of July, 2020



Chris Clement, Declarant