



Lori J. Costanzo
Frank Zeccola
Luiza V. Dias
Zara Ashtiani

Reply to: lori@costanzo-law.com

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BY EMAIL

Gilbert J. Tsai
Hanson Bridgett LLP
425 Market Street, 26th Floor
San Francisco, CA 94105
gtsai@hansonbridgett.com

RE: Mr. Rick Callender's Response to the Santa Clara Valley Water District's Investigation and Request for Corrective Action

Dear Mr. Tsai:

On behalf of Mr. Rick Callender, we provide this response to address and challenge the investigative conclusions reported in the "Callender Investigation," to ensure a complete record of retaliation concerns and procedural defects. We detail material bias, significant procedural flaws, misinterpretations of evidence, and the District's and its agents' retaliatory conduct toward Mr. Callender. We further note coordinated public and private efforts to malign our client during the pendency of the process.

First and foremost, Mr. Callender categorically denies each and every allegation set forth in the complaints against him.

Mr. Callender's Record of Service and Leadership

For more than 30 years, Mr. Callender has dedicated his professional life to serving the people of Santa Clara County through the Santa Clara Valley Water District. During this tenure, he consistently demonstrated integrity, transparency, and a results-driven commitment to the agency's mission of providing safe, reliable water and effective stewardship of water resources.

Mr. Callender played a pivotal leadership role in identifying, securing, and deploying funding essential to Valley Water's capital, resilience, and community programs. His work helped position Valley Water on firm financial footing by securing billions of dollars, enabling the organization to advance critical infrastructure, flood protection, conservation, and reliability initiatives. Under his leadership, Valley Water achieved significant financial successes, including all three ballot measures which secured funding for Valley Water. Most notably was 2020

Measure S which provided funding into perpetuity for Valley Water, which directly benefitted residents and ratepayers and strengthened long-term fiscal sustainability. None of these accomplishments would have been done without Mr. Callender's leadership.

Mr. Callender also contributed meaningfully to the modernization and strategic positioning of the agency, including supporting the renaming and brand consolidation to "Valley Water," an effort that improved stakeholder clarity, public engagement, and institutional cohesion.

The Accusations Are Frivolous and Malicious

The accusations advanced against Mr. Callender are devoid of factual or legal merit. In fact, the investigators base their findings on "opinion." They mischaracterize his work, impugn his integrity without basis, and appear calculated to damage his reputation and undermine public confidence in Valley Water's leadership. To the extent the allegations rely on conclusory assertions or speculative inferences, they should be rejected. To the extent they misstate or omit material facts, they are misleading. In fact, many of the accusations which are levied rely on clear racial animus and stereotypical images of African American men.

Mr. Callender's actions have at all times been consistent with applicable laws, Valley Water policies, and ethical standards. He has adhered to established procedures for fiscal oversight, public accountability, and board direction. There is no credible evidence, even in the factual findings, to suggest otherwise. Biased opinions of the investigator are not factual findings.

Investigative Bias and Improper External Media Campaign

The investigation conducted by Atkinson, Andelson, Loya, Ruud & Romo exhibited a prosecutorial posture toward Mr. Callender, repeatedly accepting complainants' assertions without adequate scrutiny, and engaging in aggressive, repetitive, and disrespectful questioning inconsistent with neutral fact-finding.

The District, through its Office of District Counsel, provided over \$230,000, to date, to Progress Public Affairs to continuously feed background and erroneous information to the media regarding our client—conduct that is antithetical to a fair, confidential, and unbiased investigative process.

We are aware of the role of Progress Public Affairs, at the direction of [REDACTED] in disseminating background and other information to malign Mr. Callender's reputation during the investigation.

Even though Valley Water through General Counsel offered to not conduct investigation interviews and offer a settlement in February of 2025, we made it clear that our desire was to

complete the investigation in an expeditious fashion so that we can clear my clients good name versus accepting the District's offer to skip interviews and pursue a settlement.

Throughout this process we made it clear that our desire was to complete the investigation in an expeditious fashion so that we can clear my client's good name versus accepting the District's suggestion to skip interviews and pursue a settlement.

The Duration of the Investigation was Unreasonable and Prejudicial

The investigation has persisted for an excessive period without resolution, findings, or timely disclosure of substantiating evidence. An employer-driven inquiry must be conducted with diligence, neutrality, and proportionality to the allegations at issue. Where an investigation's duration far exceeds what is reasonably necessary to collect documents, interview witnesses, and reach findings, it becomes punitive in effect. Here, the delay has deprived Mr. Callender of prompt adjudication, impeded his ability to vindicate himself, and allowed speculation to fester, inflicting reputational harm and professional stagnation.

Prolonged investigations are particularly prejudicial where the employer controls the pace, scope, and milestones while the employee remains in limbo without a definitive timeline. The absence of transparent benchmarks, coupled with continued extensions, indicates a failure to exercise reasonable diligence. The undue length by itself is prejudicial; compounded by the lack of substantive progress, it is unreasonable.

The Record Shows a Baseless, Coercive Effort to Force Resignation

The investigation's manner and trajectory indicate that it was not designed to ascertain facts, but rather to exert pressure on Mr. Callender to resign. Several features support this conclusion:

Lack of articulated, evidence-based predicates. An investigation must rest on specific, objectively verifiable allegations. The failure to timely identify concrete charges or produce corroborative information, while maintaining investigative "pending" status, signals a pretext rather than a fact-finding mission.

Ever-expanding scope without nexus to original issues. Serial enlargement of subject matter without a documented factual basis reflects an effort to prolong uncertainty rather than resolve discrete questions, a hallmark of coercive process.

Process asymmetry. When the employer withholds core particulars, delays interviews, or defers credibility determinations while preserving indefinite exposure for the employee, the imbalance operates as *de facto* discipline aimed at compelling capitulation rather than achieving truth.

Absence of interim safeguards. Reasonable investigations employ timelines, periodic status reporting, and escalation protocols to prevent drift. The lack of such safeguards—despite the material impact on an employee’s livelihood—underscores the coercive character of the process.

Taken together, these features demonstrate that the “investigation” functioned as an instrument to pressure a resignation, not as a neutral inquiry into alleged misconduct. Such conduct is inconsistent with the obligations of good faith and fair dealing owed to employees, particularly when directed by the Office of General Counsel, which bears heightened responsibility to preserve fairness and avoid conflicts that taint the process.

Mr. Callender’s Good-Faith Efforts and Evolving Position

In early 2025, Mr. Callender made clear his desire to clear his name and return to Valley Water. He sought a timely resolution and a fair opportunity to address any substantiated concerns. His stated objective reflected confidence in his integrity and a commitment to resume service.

However, given the protracted nature of the investigation and its coercive features, Mr. Callender now reasonably questions whether returning is in his best interest. The ongoing uncertainty, reputational harm, and erosion of trust created by an unreasonably extended process materially change the cost-benefit calculus of reinstatement. Where the employer’s process itself has become the source of damage, returning to the same environment without meaningful remedial measures risks perpetuating harm.

Prejudice and Remedial Considerations

The excessive duration has caused tangible and intangible harms, including: (a) reputational injury from unresolved insinuations; (b) lost professional opportunities during the pendency of the investigation; (c) emotional distress attendant to indefinite uncertainty; and (d) impairment of the ability to marshal evidence as memories fade and witnesses disperse. These harms flow directly from the employer-controlled delay.

Procedural Flaws Undermining Reliability

Mr. Callender has consistently devoted substantial time and personal effort to mentoring staff across divisions at Valley Water, with the express purpose of supporting professional growth, expanding leadership capacity, and advancing promising employees into positions of greater responsibility. His mentorship approach has included regular one-on-one guidance, targeted development planning, skills coaching, exposure to cross-functional assignments, and active sponsorship in promotion processes. He has repeatedly taken personal responsibility for identifying talent, cultivating leadership competencies, and ensuring that mentees receive the preparation and visibility necessary to progress in their careers.

██████████ is a notable example of the effectiveness of Mr. Callender's mentorship. ██████████ successfully advanced to a ██████████ position, assuming broader operational and supervisory responsibilities. Building on ██████████ performance in that role and based on his first-hand knowledge of ██████████ capabilities developed through mentorship, Mr. Callender subsequently recruited ██████████ for the ██████████ position. His recruitment decision was grounded in his ongoing evaluation of ██████████ readiness, leadership acumen, and alignment with the strategic needs of the organization.

Mr. Callender's work with ██████████ exemplifies his broader mentorship philosophy: taking ownership for mentee development, providing intentional coaching and opportunities, and advocating for advancement when the mentee demonstrates readiness. Through these efforts, he has not only supported individual career progression but also strengthened Valley Water's leadership pipeline and organizational effectiveness.

The investigators failed to interview key witnesses and to contextualize communications, resulting in misinterpretations and unsupported conclusions.

Notably, they did not interview ██████████, whom Mr. Callender personally recruited for the ██████████ position before ██████████ expressed interest, or even before the position had been posted. These are facts directly relevant to, and undermining of, any theory of retaliatory motive or outcome. The investigators also failed to properly analyze the context of communications and materials, including messages and a COVID-era photograph that plainly reflected professional attire during remote work, yet was mischaracterized as inappropriate.

Disrespectful and Discriminatory Interviewing Practices

The interviewer's approach was unprofessional, disrespectful, and prosecutorial. He persisted in redundant questioning, scheduled interviews on Sundays despite being informed of Mr. Callender's religious observance, and repeatedly strayed into discriminatory inquiries about "males and females," reflecting bias and insensitivity to gender identity issues.

Despite this, Mr. Callender remained calm and professional; the District and our office hold over 24 hours of recorded interviews corroborating these concerns.

Retaliation and Pretextual Complaints

The chronology demonstrates that after Mr. Callender provided verbal counseling to ██████████ on October 21, 2024, regarding ██████████ unprofessional email and release of confidential information, he requested an investigation into ██████████ conduct; only then did ██████████ file a complaint against him, as an attempt to preemptively shield ██████████ against appropriate discipline.

██████████ assertions are contradicted by contemporaneous communications showing professional, non-harassing interactions; claims of inappropriate messages are belied by the

actual content, which reflects professional topics and self-deprecating humor all without romantic context. The investigator's misreading of a 2020 photograph similarly illustrates a pattern of mischaracterization.

Misinterpretation of Evidence Regarding ██████████

The facts show that ██████████ befriended Mr. Callender years ago and had asked for his mentorship and support of ██████████ over 6 years ago. Mr. Callender has constantly and consistently held a professional relationship with ██████████ which has been in no way untoward.

██████████ was unfortunately manipulated into appearing that ██████████ personally filed a complaint against Mr. Callender. However, ██████████ filed the complaint on behalf of ██████████ without ██████████ knowledge. In fact, ██████████ tried to retract that complaint and was prevented from doing so by General Counsel. ██████████ stated to several employees that the reason for wanting to withdraw the complaint was because it contained lies, falsehoods, and inaccurate facts.

██████████ has been very public about ██████████ mental health challenges, and ██████████ ██████████ about ██████████ mental health challenges. It appears that ██████████ and General Counsel took advantage of ██████████ known mental health challenges to file a complaint against my client.

The investigation not only disregarded ██████████ desire to not make a complaint against Mr. Callender, it completely disregarded the public context of ██████████ long-discussed mental health history and ██████████ statements concerning obsessive anxiety, depression, and bipolar symptoms, which are central to accurate interpretation of ██████████ communications.

The investigator erroneously minimized the mental health content of these ██████████, missing key passages where ██████████ describes self-loathing, boundary challenges, and recovery narrative. This selective interpretation reflects procedural oversights and a predisposition to misrepresent ██████████ narrative despite comprehensive transcripts and recordings provided.

Some Examples of Contextual Record Refuting Misconduct

██████████ allegations of appearance-focused or flirtatious messaging are refuted by the message threads, which show professional dialogue, logistical coordination, and self-deprecating comments unrelated to any romantic context.

Statements allegedly implying sexual thoughts or risk of being "fired" are taken out of context; the exchange concerned Mr. Callender's frustration with another employee and his desire to keep those frustrations private.

Claims about gardening-related home access distort the record; the messages show a voluntary favor between colleagues with ongoing gardening conversations, and no coercion to maintain access.

Rumor-related exchanges concerning supposed “secret babies” or a “ring” were discussions of combating false workplace rumors; the “ring” suggestion originated from [REDACTED] idea to reduce gossip, not from any purported relationship with [REDACTED]

Ethics Allegations: Findings and Admissions Undercutting Retaliatory Narrative

The District’s own Executive Summary dated October 28, 2025, reflects multiple unsustainable allegations and evidentiary gaps, acknowledging ambiguous policies and finding no violation of the Ethics Policy by Mr. Callender. These admissions undermine any claim of ethics-based retaliation or discipline premised on sustained misconduct. The District’s governance framework and policy context confirm that Mr. Callender’s NAACP engagement aligned with District interests and standard government-relations practice.

The District’s governance framework confirms that NAACP engagement has been treated as aligned with District interests and consistent with normal government-relations practice. Dozens of District memoranda document that Mr. Callender’s NAACP committee service focused on policy areas that directly affect the District—climate change, FEMA issues, Corps of Engineers funding for flood protection, infrastructure, and environmental justice—and that such participation is standard and comparable to engagement with ACWA, the U.S. Chamber of Commerce, local Chambers of Commerce, AWWA, and NAFSMA. Why is the NAACP being treated differently is the question that should be asked.

The Executive Summary concludes: there is no evidence that Mr. Callender influenced consultant contracting outcomes for personal connections; it finds instead that he referred qualified professionals through ordinary networks and did not manipulate procurement. This directly rebuts any assertion of self-dealing or misuse of position.

With respect to communications and records, while the report flags concerns about the use of Meta Messenger and message deletion for “organization,” it expressly states there is insufficient evidence to find a Records Management Policy violation and notes that employees exercise discretion regarding what constitutes a record. The report further does not sustain any finding that Mr. Callender instructed others to delete messages or that calendar deletions occurred. These findings negate claims of intentional concealment or obstruction.

The Executive Summary’s own credibility assessment raises substantial concerns regarding [REDACTED] timing and accretion of allegations following an adverse performance review, reinforcing the unreliability of the unsustainable assertions.

Public and Private Retaliation and Coordination

The District’s retention and funding of Progress Public Affairs to disseminate background and erroneous information to malign Mr. Callender during an active investigation

exemplifies retaliatory and prejudicial conduct tainting the process. In addition, the investigator's demeanor and scheduling decisions evince hostility toward Mr. Callender's protected religious observance, compounding retaliatory conditions. We also note that certain complainants' timing and expansion of allegations followed adverse performance events, further indicating retaliatory motive rather than substantiated claims.

Further, at least one Director engaged in both public and private retaliation as a result of Mr. Callender's prior complaint to the Board about her discriminatory and biased past behavior, demonstrating direct retaliation. This Director constantly engaged in posting and publicly claiming false and defamatory claims on a constant basis to harass my client.

Request for Corrective Action

Given the biased approach, procedural defects, misinterpretations, and evidence of public and private retaliation, we respectfully request that the District:

- a) Formally recognize that the investigation's conclusions are undermined by material bias and procedural flaws;
- b) Direct the cessation of all media-related activities that compromise investigative integrity, including the use of external public affairs firms to disseminate adverse narratives during pending matters and particularly this one;
- c) Direct that all Board members are precluded from speaking to media on this matter.
- d) Refrain from adverse employment action against Mr. Callender based on unsustained or misinterpreted allegations;
- e) Conduct any further review, if necessary, with a neutral investigator who will interview key witnesses, properly evaluate context, and preserve confidentiality.
- f) Thoroughly investigate the multiple complaints against [REDACTED] [REDACTED] as it relates to this investigation and related investigations, and any other harassment related complaints against [REDACTED].
- g) Ensure that any public statement accurately reflects the District's own findings of unsustained allegations, evidentiary limitations, and policy ambiguities.
- h) Restore Mr. Callender's reputation by issuing a mutually acceptable public statement.
- i) Reach a mutual agreement which makes Mr. Callender whole, and restores his stellar professional reputation, which he is amenable to signing.

Conclusion

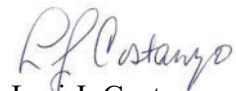
Mr. Callender's three decades of dedicated service, leadership in securing critical funding, and contributions to Valley Water's financial success and institutional evolution speak for themselves.

The investigation's unreasonable length, lack of articulated factual basis, and coercive features demonstrate that it was a baseless effort intended to force Mr. Callender's resignation. Despite his early-2025 efforts to clear his name and return, the sustained delay and resulting prejudice now call into question whether returning is in his personal interest. Immediate corrective measures are necessary to remedy the harm and to restore fairness to the process.

The record demonstrates substantial investigative bias, significant procedural defects, and retaliatory conduct—both public and private—against Mr. Callender.

A fair disposition requires acknowledgment of these defects, cessation of prejudicial external communications, adherence to the District's own findings and obviously significant compensation for the general damages sustained by my client. For this, my client would be willing to sign a full settlement and release agreement.

Respectfully submitted,



Lori J. Costanzo
Attorney