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DECLARATION OF GLORIA B. CARRANZA

I, GLORIA B. CARRANZA, declare as follows:

1. I am a member of the MiraCosta Community College District Board of Trustees. As with the declaration I executed on May 29, 2008, I am not submitting this declaration "for" or "against" any party in this lawsuit. Rather, I wish to correct statements about the circumstances leading up to Dr. Victoria Richart's resignation, and to respond to specific claims made about me. Except for those items stated on information and belief, I have personal knowledge of the facts set forth in this Declaration, and if called upon to testify to them, I would do so accurately.

I

GENERAL COMMENTS

2. I have read that Dr. Richart seeks to avoid what I now understand to be the "18 month rule" of Government Code § 53260 by suggesting that I and my fellow "minority trustees" Jacqueline Simon and Judy Strattan somehow wronged her. I am disappointed to read Dr. Richart's claim that I began "working against" her or refused to meet with her in response to her initiation of an investigation into alleged wrongdoing in the horticulture department. I state without hesitation that the entire Board, myself included¹, fully supported Dr. Richart prior to, and during the first several months of the horticulture investigation. In particular, I supported the inquiry into wrongdoing and her referral of the matter to the District Attorney, as well as her instructions that College attorney Dan Shinoff hire a private investigator. Even after the investigation became overblown into a number of actions the Board never approved, I never refused a reasonable request to meet or discuss pending issues. In fact, I often spoke with Dr. Richart about college business over the telephone and at one-on-one breakfast meetings she frequently held with individual trustees.

3. I respectfully submit that I have not harmed Dr. Richart nor have I intended to harm her. I did not defame her or invade her privacy. I did not violate her due process rights. I did not constructively discharge her from employment, damage her reputation or conduct an employment

¹ Trustee Judy Strattan did not join the Board until December 5, 2006, after Richart contacted the District Attorney.

1 evaluation of her in public. I wholly reject any suggestion that "damages" were paid to her based on
2 my actions.

3 4. Throughout 2006 and the beginning months of 2007, I became increasingly more
4 concerned about (1) the process Dr. Richart, the investigator, and lawyers for the District were using
5 to handle the horticulture investigation; (2) the negative publicity that was being generated; (3) how
6 due process in employment matters was not being followed, and in particular; (4) the Board's
7 continued refusal to respond to concerns in an open and transparent manner. I believed that I had a
8 duty as a steward of the public's trust, to speak out on these issues that had profoundly shaken the
9 faculty's, staff's and community's confidence in the Board of Trustees

10 5. Unfortunately, the Board continued to consistently refuse to respond to 1) unprecedented
11 public outcry against Dr. Richart's management style, 2) the faculty's vote of no confidence in her
12 leadership, 3) two joint campus climate surveys conducted by the Academic and Classified Senates
13 in late 2006, and 4) the Academic Senate's survey of attitudes towards the superintendent/president
14 and the Board of Trustees, conducted in March 2007. The majority Board members made matters
15 worse by harshly and openly criticizing statements of community members, faculty and staff speaking
16 before the Board, and by discounting both the Joint Senate Climate survey and the faculty's vote of
17 no confidence. I attempted numerous times to get these and other important issues on the Board's
18 agenda for open discussion, but I was invariably voted down or my requests were never agendized.
19 In fact, I wrote numerous requests to then-Board President Adams for items to be placed on the
20 agenda, but my requests were unilaterally ignored or denied by him. Finally, the Board's failure to
21 earnestly address these issues led to a unanimous *vote of no confidence* in the *Board of Trustees* by
22 the Academic Senate Council in March 2007.

23
24 THE MINORITY RESPONSE

25 6. On January 24, 2007, then-Board President Charles Adams, wrote to the Academic
26 Senate stating that the Board unanimously supported Dr. Richart's recent actions and asserted that
27 the Academic Senate had been "repeatedly" informed of the "official" Board response to the vote of
28 no confidence. Adams wrote this letter without full Board knowledge or approval and I knew his

1 comments would be considered provocative and would further alienate the faculty from the Board. I
2 discussed this with my fellow Trustees Simon and Strattan and therefore, we felt compelled to issue
3 the "Minority Response" to document our positions and to more honestly address the deadlock
4 between the faculty and majority Board members.

5 7. Dr. Richart immediately saw the Minority Response as a public, negative evaluation of her
6 and she asked college attorney Dan Shinoff to write a letter on her behalf to the Board President,
7 stating that the minority trustees had violated her rights and had "*created an obvious stigma and*
8 *negative impact to her good name and to her family name.*" She would further state that: "I can no
9 longer tolerate this and that I must no longer permit these personalized attacks." However, the
10 Minority Response was not about the Superintendent/President, nor did we address her leadership
11 nor did we evaluate her performance. There is not one single word of criticism of Dr. Richart. It was
12 about *the Board's* continuing failure to address the concerns of the Academic Senate. Summing up
13 our position, we wrote, "*We are extremely disappointed that the board majority has chosen to ignore*
14 *the Academic Senate's pleas for open and collegial dialogue. The board, in our opinion, has failed to*
15 *listen and respond to the concerns of the many faculty, staff, and community members that have*
16 *come before us in recent months.*"

17 8. Dr. Richart's claims that I somehow disclosed private facts and accused her of a crime are
18 not true. When asked by Trustee Fernandez at the February 20, 2007 Board meeting whether I, or
19 anyone else, felt threatened, I truthfully replied that I felt threatened by a letter that Dr. Richart had
20 written to the Board on October 2, 2006, one day before the Board was to vote on a resolution of
21 support for Richart. In that letter, which was sent to Shinoff and the Board under the title "Attached
22 Attorney-Client Privileged Communication," Dr. Richart singled me out for telling Trustee Fernandez
23 that I did "*not wish to sign the letter [of support] nor approve the resolution...*" Richart continued in
24 her letter asserting that if I refused to endorse the resolution of support for her "*This action will*
25 *stigmatize my name, my character, and my professional reputation. It will cast a shadow of distrust*
26 *before the public and the employees of MiraCosta and seriously affect my abilities to successfully*
27 *lead the college during these troubled times.*" She then wrote that if I did not sign the letter, I would
28 be causing her "*Public humiliation, [Trustee Carranza] will be violating [her] employee rights to*

1 *privacy and [she] will have no choice but to request from the board any and all necessary legal*
2 *remedies.*" (underlining added) I was so upset by the threat that I elected not to attend the October 3,
3 2006 Board meeting to avoid the vote on the statement of support. Subsequently, when asked for a
4 copy of this letter by the attorney for the Academic Senate and a reporter from the North County
5 Times under the California Public Records Act, I was given direction by the college attorney to keep
6 the letter confidential even though the letter was delivered to me before a public session of the Board
7 and was unrelated to any ongoing investigation or litigation. The letter is now a public document.

8 9. In reading Dr. Richart's declaration, she says that Trustee Strattan and I were quoted in a
9 May 24, 2007 *San Diego Union Tribune* article as planning to have her fired. In truth, we made no
10 such statement and later requested and received a retraction. The article, written by Lola Sherman,
11 was about the recently released open letter issued by 30 former College trustees,
12 superintendent/presidents, vice-presidents, and faculty to the citizens, taxpayers, and current trustees
13 of the College, expressing their extreme concern over Richart's leadership of the College. In
14 speaking with Sherman, Strattan and I discussed how we intended to place an item of business on
15 the Board agenda *that would require the entire Board to address the concerns in the letter.*

16 III

17 THE LEGAL REPRESENTATION OF THE DISTRICT AND ITS TRUSTEES

18 10. While I now have a workable grasp on the extent of my First Amendment rights to speak
19 freely in public about college business as an elected official as well as a private citizen, I am
20 embarrassed that, despite my distrust of the attorneys hired to represent the District, I relied on them
21 to my detriment. I now believe that Mr. Shinoff and his firm placed, and continue to promote, the
22 interests of Dr. Richart ahead of the interests of the College and its Board. In fact, in the *Hatoff*
23 litigation,² Trustees Judy Strattan, Jackie Simon, and I all sought and received independent counsel
24 precisely because we did not believe that Shinoff was acting in the best interests of the College.
25 However, when it came to Richart, our requests for separate, independent counsel were either
26 rejected or ignored. I never understood why we were allowed independent counsel in the *Hatoff*

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2 *Julie Hatoff v. MiraCosta Community College District; Victoria Richart, et al.* case no. 37-2007-00053061-CU-NC-OE

1 litigation, but not with respect to Richart, and the claims she was making against us.

2 IV

3 THE SO-CALLED FAILED MEDIATION OF JUNE 8, 2007

4 11. On May 23, 2007, I received a call from Mr. James Austin, Vice President of Business
5 Services. He said that he and Shinoff were trying to set up a meeting with Trustees Fernandez,
6 Batiste and me to meet with Richart, her attorney, Robert Otilie and Shinoff on June 8th with retired
7 Judge Moon. Austin stated that Shinoff had received a letter from Otilie and they suggested the
8 meeting to talk about the working conditions of the superintendent/president and ways to "*enhance*
9 *the environment at the college.*" The following day, May 24, 2007, Austin sent each trustee an email
10 and attached the referenced May 17, 2007 letter from Otilie to Shinoff, acknowledging Shinoff's
11 suggestion that a mediator be retained to help the Trustees and the President discuss ways of
12 "*enhancing the environment at the College.*" Austin recommended that the Board agree with the
13 suggestion and further recommended that the Board President appoint a three-trustee delegation to
14 "represent" the College.

15 12. I objected to this recommendation because I believed the meeting description, "*discussing*
16 *ways to enhance the environment at the College,*" was disingenuous and, taken at face value, would
17 require that it be open to the public. I also questioned Mr. Austin's statement in the email that,
18 "*following the meeting, Mr. Shinoff would advise the Board president of the appropriate next steps.*
19 *Those steps would include a closed session discussion under one of several permissible closed*
20 *session topics.*" A true and correct copy of my May 29, 2007, memorandum is attached as Exhibit
21 "29."

22 13. On May 31, 2007, Austin responded to my objections stating, "*President Adams has*
23 *decided not to appoint the three person delegation.*" A true and correct copy of Mr. Austin's email is
24 attached as Exhibit "31." I was never informed by College personnel, Board members or attorneys
25 that the June 8, 2007 meeting went forward as originally planned.

26 14. Five months later the *North County Times*, on October 4, 2007, reported on the June 8,
27 2007, meeting, and the newspaper quoted Mr. Austin: "*The purpose of the nearly six-hour gathering,*
28 *Austin said, was to discuss earlier public statements by two MiraCosta board members that Richart*

1 said amounted to an improper public evaluation of her performance." Of course, the stated purpose
2 of this meeting had been to discuss "ways of enhancing the environment at the College," not to
3 discuss me, Trustee Strattan or any other trustee.

4 V

5 THE SURPRISE ALL-NIGHT NEGOTIATION SESSION AND DISTRICT COUNSEL'S FAILURE TO
6 ZEALOUSLY ASSERT USUAL DEFENSES AGAINST RICHART

7 15. The unconventional circumstances of the all-night closed negotiation session of June 19-
8 20, 2007 continue to cause me great concern. I was not notified in advance that the Board would be
9 addressing Richart's buy-out in the closed session. The Brown Act notice of closed session didn't
10 even identify Richart as the claimant. Prior to the closed session, I was unaware that Mr. Shinoff had
11 privately met with Trustees Batiste and Fernandez, Dr. Richart, attorney Otilie, mediator Moon and
12 Diane Crosier, senior director of Risk Management for the San Diego County Schools Joint Powers
13 Authority ("JPA"), to plan the session, or that Shinoff had hired a private mediator. Had I known of
14 their plans, I may have sought independent counsel.

15 16. I believe that before and during the June 19-20, 2007 "mediation," Mr. Shinoff failed to
16 provide the same defense to the Richart threats as he did in *Hatoff* and *Kraskouskas*. Also, because
17 of incomplete and misleading advice, I and other Trustees proceeded under the mistaken belief that
18 we could be personally liable for giving Richart a "negative public evaluation" if we refused to show
19 anything but total support. I now know Richart could not have successfully carried out such threats
20 against me or against any individual trustee.

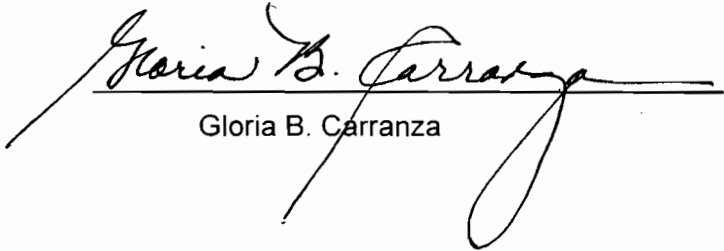
21 17. Also unexplainable is that there was no defense whatsoever presented against Dr.
22 Richart's alleged constructive termination claim. The Board never took any adverse employment
23 action against Dr. Richart at any time, and she enjoyed the support of at least a majority of the Board
24 throughout her entire tenure. She was neither fired, disciplined, demoted, nor forced to quit.

25 18. Based on closed session communication that I cannot reveal, as well as 1) a previous
26 telephone conversation with Trustee Batiste where I had been led to believe that I could "lose my
27 home and my business" in that "I was in great danger of exposure to a lawsuit;" 2) the misleading
28 insurance analysis – Potential Personal Liability Exposure – dated March 18, 2007 written by Austin

1 and sent to the Board by Richart, as well as the previous two threat letters dated October 2, 2006 and
2 February 2, 2007, I reasonably believed – albeit mistakenly – that I had personal exposure to being
3 sued by Richart and, therefore, I succumbed to 11 hours of pressure to agree with the terms of the
4 settlement. I now regret this decision and wish I had simply gone home. Remaining in that room was
5 the biggest mistake of my 14 year tenure as a trustee.

6 19. On or about June 28, 2007, one week after the District issued the \$650,000 check to
7 Richart, I prepared a memorandum to Diane Crosier, JPA senior director of Risk Management. A
8 true and correct copy of this June 28, 2007, memorandum is attached as Exhibit 40. Ultimately, I
9 decided not to send this memorandum, even though I believed, and still believe, in the truth of its
10 contents.

11 I declare under penalty of perjury under the laws of the State of California that the foregoing is
12 true and correct. Executed this July 31, 2008, in Carlsbad, California.

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16 Gloria B. Carranza
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