

**IN THE SUPERIOR COURT
OF FULTON COUNTY
GEORGIA**

**Leonard Witt, Susan Raines,
Anne Richards, Scott Ritchey,
Nicki Ayon, Virginia Bellew,
Erin Ann Exum, Lane Hunter,
Amanda Harrell, Brian Lawler,
Jessica Boudreaux, Tiffany
Griffin, Valerie Dribble
Joshua Goodwin, Sarah Larkin,
Elizabeth Gordon, Dr. Ben
Williams, and the Cobb Chapter
Leadership Conference
of the Southern Christian
Leadership Conference,**

Plaintiffs

vs.

**Sam Olens, the Attorney
General of Georgia, John Does,
Hank Huckaby Steve Wrigley,
Houston Davis, John Fuchko,
The Board of Regents of the
University System of Georgia,
and Governor Nathan Deal**

Defendants

CIVIL ACTION NO.

2016-CV-282020

JURY TRIAL DEMANDED

Supplement to Rule 60 Motion to Set Aside Judgment for Fraud

Come now the Kennesaw State University Plaintiffs, file this Supplement to the pending motion under OCGA 9-11-60 to set aside the judgment in this action for fraud, and show the Court as follows:

1.

On October 31, 2016, students and faculty at Kennesaw State University (KSU) filed a complaint under the Georgia RICO statute, detailing fraud in the closed selection process and seeking injunctive relief to block the illegal appointment of Attorney General Sam Olens as president of KSU.

2.

After holding a November 7, 2016 hearing at which Board of Regents witnesses failed to comply with subpoenas to appear, this Court dismissed that complaint on sovereign immunity grounds, on November 14, despite the Georgia RICO statute's explicit authorization of injunctive relief against governmental entities to reverse state agency actions. OCGA 16-14-3(3) & 16-14-6(a&b).

3.

On November 18, 2016, the KSU Plaintiffs filed a motion pursuant to OCGA 9-11-60 to set aside that judgment for fraud associated with the appointment by the Board of Regents (BOR), as well as the false representations by the Attorney General at the hearing and false grounds for the dismissal order.

4.

The Attorney General, Board of Regents, and other Defendants never responded to that Rule 60 motion. Therefore, the allegations and legal arguments embodied in the motion remain uncontested, and the KSU Plaintiffs' motion is due to be granted by default. Yet the Court has taken no action on the motion which has now been before it for more than six months.

5.

Since the filing of that motion, additional fraud related to this action has been committed by the BOR and uncovered by Plaintiffs. The additional fraud includes more after-the-fact changes to BOR policies to disguise violations connected to the appointment of former Attorney General Sam Olens as KSU president in a closed selection process. In addition, more evidence has been discovered to show that the Attorney General obstructed any criminal investigation of criminal wrongdoing within the BOR connected with the deficit crisis at Georgia Perimeter College (GPC) and dismissal of GPC President Anthony Tricoli.

6.

Plaintiffs alleged that one of the many conflicts of interest that barred the BOR from appointing Olens to a \$600,000 a year job in a closed selection process was the Attorney General's obstruction of criminal investigation of the BOR in connection with the events at Georgia Perimeter College.

7.

In addition, by asserting a defense of sovereign immunity, the BOR takes the position that it is in no way bound to follow its own policies, a matter of grave concern for the hundreds of thousands of faculty, staff, and students in the University System of Georgia.

BOR POLICY CHANGES DIRECTLY IMPACTING OLENS' APPOINTMENT

8.

To make way for the appointment of Olen, the BOR first illegally ousted the sitting KSU president, Dr. Daniel Papp.

9.

The BOR issued a fraudulent document in felony violation of OCGA 16-1020 & 16-10-8, mischaracterized as an audit, making knowing misrepresentations that supposedly detailed Dr. Papp's transgressions in accepting compensation from the KSU Foundation.

10.

What the so-called audit inadvertently documented and admitted was the BOR's own egregious violations of its own policy by continually, over a period of years, foisting off more and more responsibility for Papp's compensation package on the KSU Foundation—when **BOR Policy 2.8** required all presidential compensation,

including the deferred compensation and car allowances at issue in the Papp “audit,” to come exclusively from state appropriations.

11.

To obscure this violation of its own policies, the BOR at its January 2017 meeting changed **BOR Policy 2.8** to allow contributions to presidential compensation from other sources. See BOR Minutes on revision of Policy 2.8 (a true and correct copy of which is attached hereto as Exhibit 1).

12.

As a result, a review of the policy would not reveal the BOR’s violations in connection to Dr. Papp and the KSU Foundation. The prior violations could only be ascertained by research of the meeting minutes from previous years to detect the policy changes.

13.

This camouflaged policy violation concerning presidential compensation and the fraudulent removal of Dr. Papp occurred in addition to the violation of BOR Policy 8.2.1 on sexual discrimination in hiring, since female applicants for the position of KSU president were never contacted or considered; violation of BOR Policy 12.1 prohibiting political interference with the Board of Regents, since it is a poorly kept secret that the appointment of Olens so that he could be replaced as Attorney General was dictated by Governor Nathan Deal; and violation of BOR Policy 2.2

on selection of presidents—since there is no evidence the Chancellor and BOR Chair ever conferred to determine that there was no need to conduct a search for candidates, and in any case the Chair and Chairman had irreconcilable conflicts of interest with respect to Olens, who shielded the BOR from criminal investigation in connection with knowing misrepresentation of the finances of Georgia Perimeter College.

BOR POLICY CHANGES RELATED TO OBSTRUCTION OF GPC INVESTIGATION

14.

In the dismissal of Anthony Tricoli as president of GPC, the BOR violated its own policy, **BOR Policy 2.4.2**, requiring notice of non-renewal of the annual appointment by the time of the BOR April meeting. Since the BOR violated this policy in connection with Tricoli, it changed the policy after the fact-- in September 2014, after Tricoli filed suit-- to require notice by the time of the annual May meeting.

15.

At its February 2017 meeting, the BOR changed this policy again, allowing notice at any time, further obscuring the policy violation that occurred in connection with Tricoli's dismissal. See BOR Minutes on revision of Policy 2.4.2 (a true and correct copy of which is attached hereto as Exhibit 2).

16.

At its February 2017 meeting, the BOR also altered **BOR Policy 2.1** to address a situation in which notice of non-renewal was not given by the time required by BOR Policy 2.4.2 in 2012, when Tricoli was fired. See BOR Minutes on revision of Policy 2.1 (a true and correct copy of which is attached hereto as Exhibit 3). The policies in effect at the time of Tricoli's firing appeared to indicate that an appointment would roll over for another year if the Board did not take action by the date appointed in the policy, as occurred in 2012 with Tricoli. The policy change to BOR Policy 2.1, in conjunction with the change to BOR Policy 2.4.2, to allow the Board to act at any time, further camouflaged the BOR's failure to give notice to Tricoli in 2012 of any non-renewal of his contract by the Board by the time of the April meeting pursuant to the **BOR Policy 2.1** and **BOR Policy 2.4.2** in effect at the time.

17.

These evasive policy changes of BOR Policies 2.1 and 2.4.2, regarding a BOR decision not to approve an annual renewal, further obfuscate the fact that the Board of Regents never acted in any fashion regarding Tricoli's reappointment and Tricoli was, in fact, fired by Chancellor Huckaby—who falsely claimed in a fraudulent writing that the Board had declined to renew Tricoli's appointment.

18.

The BOR left unchanged other policies it also violated in connection with the firing of Anthony Tricoli at GPC, including **BOR Policy 2.3**, requiring an annual performance evaluation in connection with the annual renewal decision, **BOR Policy 2.4.4**, making presidents with five years' tenure eligible for two years' compensation upon separation, and **BOR Policy 2.4.3**, requiring a statement of charges and a hearing for any president who makes a request within 10 days of termination, as Tricoli did. That hearing was denied by the BOR, with the backing of the Attorney General. See Direct Evidence of Obstruction by the Attorney General Discovered, *supra*.

19.

The BOR attempted to bypass these policies by fraud, with a fraudulent attempt to induce Tricoli to resign, based on the false promise by Chancellor Huckaby that Tricoli would be reassigned to another BOR position, a fraudulent inducement that was actually reported in the *Atlanta Journal-Constitution*. Huckaby falsely informed the BOR that Tricoli had resigned, so that the BOR did not consider Tricoli for reappointment at its April or May 2012 meetings. Then, in May of 2012, Huckaby falsely informed Tricoli that the BOR did not renew Tricoli's appointment, falsely clothing Tricoli's actual firing as a non-renewal action by the BOR.

20.

The Attorney General of Georgia actively supported these fraudulent policy violations by the BOR, including denial of the hearing required by **BOR Policy 2.4.3** and the Due Process Clause of the Fourteenth Amendment to the US Constitution, and former Attorney General Sam Olens was subsequently appointed by the BOR, in a closed selection process, to the presidency of KSU with a \$600,000 annual compensation package.

DIRECT EVIDENCE OF OBSTRUCTION BY THE ATTORNEY GENERAL DISCOVERED

21.

Since the dismissal of the KSU action for injunctive relief, based on the Georgia Court of Appeals opinion in the *Tricoli* case,¹ Plaintiffs have discovered additional evidence of fraud by the Attorney General's office.

22.

¹ Despite claims for injunctive relief by Tricoli under the Georgia RICO Act, no Georgia court considering the Tricoli case ever addressed the issue presented in the KSU injunction action, the Georgia RICO Act's explicit authorization of injunctive relief against the State. OCGA 16-14-3(3) & 16-14-6(a&b). The Georgia Court of Appeals granted summary judgment against Tricoli without notice or a hearing in violation of OCGA 9-11-56, holding he was an at-will employee with no rights—though that issue was not raised on appeal and the finding contradicts the BOR's own policies governing Tricoli's employment, which the BOR is now trying to disguise through policy revisions. *Tricoli v. Watts*, 783 S.E.2d 475 (Ga. App. 2016). The Georgia Supreme Court refused, in blatant violation of OCGA 9-11-56(h), to review the grant of summary judgment against Tricoli. The *Sustainable Coast* case also relied on by the Court to dismiss the KSU complaint had no bearing on the KSU case since it addressed whether an entirely different statute waived the state's sovereign immunity against claims for injunctive relief. 755 S.E.2d 184, 191-92.

In a recently discovered July 3, 2012 letter,² the Attorney General disclosed a campaign of misrepresentations to induce Tricoli's original attorney to drop the case against the BOR. The July 2012 letter also reveals that the Attorney General oversaw a campaign to protect the BOR from investigation, also based on a systematic pattern of knowing misrepresentations. July 3, 2012 letter from Attorney General (a true and correct copy of which is attached hereto as Exhibit 4).

23.

The July 2012 letter contains the following misrepresentations to induce Tricoli's attorney to drop the case on false grounds:

24.

The Attorney General misrepresented that Tricoli was the lead contact at GPC for receiving financial information from state auditors , and so identified himself (the record shows that GPC's Assistant VP for Finance, Sheletha Champion, was the designated contact).

25.

² The letter did not come into the possession of Tricoli's counsel until after the Georgia Supreme Court refused to hear Tricoli's case and the KSU injunction action against Olens was dismissed. No discovery has ever been allowed in the Tricoli case, the KSU case, or other pending RICO actions against the BOR and Attorney General.

The Attorney General misrepresented that Tricoli was not entitled, upon his firing by Chancellor Huckaby prior to any investigation, to a statement of charges and hearing before the BOR under BOR Policy 2.4.3

26.

The Attorney General misrepresented that there was no evidence of criminal activity at GPC for the Attorney General to investigate. Contra, GPC Crimes Timeline (a true and correct copy of which is attached hereto as Exhibit 5). The Attorney General allowed the BOR to perform a self-review and did not follow up though the BOR review could not account for over \$9 million in spending at GPC in FY2012.

27.

Consistent with the Attorney General's admission that the office was not conducting even the most cursory criminal investigation, the July 3, 2012 letter also admits that the Attorney General's office was not addressing in any way the documented misrepresentations of GPC's finances by GPC's Vice President for Finance Ron Carruth. See Exhibit 5, GPC Crimes Timeline. These readily ascertainable, knowing misrepresentations are the most obvious indicia of criminal activity in connection with the \$9 million in GPC funds that ultimately were never accounted for.

28.

The Attorney General misrepresented that Tricoli declined to attend an interview with state auditors in 2011, implying fault and even dereliction of duty—when in fact BOR procedures in place at the time called for the Vice President of Financial Affairs, Ron Carruth, not the President, to attend the auditor interview. After Tricoli was fired, the procedure was changed by Chancellor Huckaby to require the presidents' presence. This after-the-fact change in procedure has been fraudulently used by both the Attorney General and BOR to pin blame on Tricoli.

29.

As with the altered BOR Policies, the after-the-fact changes are calculated to divert attention from the BOR's own culpability and violations of the governing laws and policies, including felony misrepresentations under OCGA 16-10-20, 16-10-8 & 16-14-3(5).

30.

GPC's Vice President for Finance Ron Carruth was obliged under the procedure in effect at the time to attend the auditor interview. Notwithstanding his notice to the contrary, it is undisputed according to the BOR's own review, which the Attorney General permitted the BOR to undertake in place of a scheduled state audit,³ that

³ Reports were released to the press at the time a 425 million budget deficit at GPC was announced in April 2012 that the Attorney General would investigate, but as the July 2012 letter confirms, these reports were false.

Carruth continued to falsely report budget surpluses to President Tricoli until April 25, 2012.

31.

Furthermore, the Attorney General letter falsely supports the BOR's false claims that it had no awareness of budget shortfalls at GPC prior to an examination of the books requested by Tricoli on April 26, 2012. In fact, the Attorney General's list of financial reports to the BOR omits a March 26, 2012 report to the BOR, from which Tricoli was excluded, detailing a \$12.8 million deficit on that date, and growing, with three months left in the fiscal year. See Exh. 5, GPC Crimes Timeline.

32.

The Attorney General's letter misrepresented that the BOR did not withhold this \$12.8 million deficit report from Tricoli and therefore was not responsible for his lack of knowledge of it.

33.

In fact, the BOR never disclosed its own knowledge of the March 26 report, and did not disclose its knowledge of the \$12.8 million deficit report's findings until a month later, falsely claiming the BOR's knowledge of the deficit came from the examination of GPC's books requested by Tricoli on April 25, 2012.

34.

The Attorney General's letter seconds the BOR misrepresentations about the BOR's knowledge of the GPC deficit prior to the examination by BOR auditors requested by Tricoli on April 25, 2012. The BOR already knew and continues to misrepresent that fact, aided and abetted by the then-Attorney General of Georgia, Sam Olens, who was subsequently named to a \$600,000 a year post by the BOR.

35.

As stated in the original complaint, and in the motion to set aside the judgment that has been pending without response from the Attorney General for more than six months, the BOR is subject to injunctive relief under 16-14-3(3) & 16-14-6(a&b) for these acts of criminal fraud under OCGA 16-10-20 & 16-10-8, which constitute criminal RICO predicate acts under OCGA 16-14-3(5).

Wherefore, premises considered, the KSU Plaintiffs motion to set aside the November 14, 2016 judgment of dismissal, for fraud, is due to be granted.

Respectfully submitted this 1st day of June, 2017.

STEPHEN F. HUMPHREYS, P.C.

/s/ Stephen F. Humphreys

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EXHIBIT 1

Committee on Organization & Law January 11, 2017

2. Revision to the Policy Manual: 2.8 Compensation of Presidents

Recommended: That the Board approve the proposed revisions to the Board of Regents Policy 2.8 Compensation of Presidents, as indicated below.

Background: The proposed revisions to Board policy will allow institutions to properly account for the compensation of presidents supported from sources in addition to state appropriations. Additionally, the decision by a cooperative organization to increase or decrease funds provided for this purpose will not impact the president's actual compensation package, i.e., the Board of Regents approves the president's compensation, and will control the form and amount of all compensation regardless of funding sources.

2.8: Compensation of Presidents

The salaries, taxable income and associated fringe benefits for USG presidents and the Chancellor, as approved annually by the Board of Regents, shall be paid exclusively by the USG institution from state appropriations and/or other appropriate sources held by the institution as outlined in the annual compensation letter allocated to each institution. State appropriations shall be used to pay salary, housing allowance, subsistence allowance, auto allowance, relocation expenses and, where applicable, salary supplement, supplemental fringe benefits, deferred compensation, and any other items as approved by the Board. State appropriations will also pay for fringe benefits for presidents that are available to all USG employees. Individuals receiving an auto allowance under a non-accountable plan for taxation purposes are not eligible for mileage reimbursements associated with travel within the home county where the institution is headquartered and are otherwise subject to the provision of the USG's travel regulations as outlined in the Business Procedures Manual. (BoR Minutes, October 2013)

The annual merit salary increase paid from state funds shall be based upon the approved salary, exclusive of any allowance, supplement, or deferred compensation (BoR Minutes, August 2004).

Non-state funds may pay for expenses and allowances such as civic memberships, business-related entertainment, and other expenses associated with the operations of the office of the president but not resulting in taxable income to the president. (BoR Minutes, October 2013)

EXHIBIT 2

Committee on Organization & Law February 14, 2017

3. Revision to the Policy Manual: 2.4.2 Reappointment Declined

It is recommended that the Board approve a change to Policy 2.4.2 Reappointment Declined, eliminating the requirement to reappoint presidents by the May Board of Regents meeting.

2.4.2 Reappointment Declined

If the Board declines to reappoint a president, it shall notify the president, through the Chancellor, of such decision ~~immediately~~ following the Board's **action to not reappoint a president** ~~regularly scheduled May meeting~~. A decision by the Board not to reappoint a president is not subject to appeal. (BoR Minutes, Aug. 2014)

EXHIBIT 3

Committee on Organization & Law February 14, 2017

2. Revision to the Policy Manual: 2.1 Election of Presidents by the Board

The proposed revisions to 2.1 Election of Presidents by the Board, and 2.4.2. Reappointment Declined, serve to: 1. eliminate the requirement to act annually at a specified time to reappoint the president; and 2. automatically extend a president's one-year appointment beyond its expiration, until the Board formally acts to renew or decline it.

2.1 Election of Presidents by the Board

The Board shall elect the presidents of institutions. Presidents shall not hold tenure at the institution but may hold, retain, or receive academic rank. ~~They shall be elected each year for a term of one (1) year.~~ Presidents shall be elected for a term of one (1) year; however, the one-year term is extended past expiration of the one-year term until such time as the Board acts either to reappoint the President for the remainder of a one-year term, or chooses not to reappoint the President, as contemplated by Board Policy 2.4.2.

The Chancellor shall notify them of their appointment, but such presidents shall not be entitled to a written employment contract. All such appointments will be made expressly subject to the

Policies of the Board of Regents.

Persons holding tenure in the USG who receive an initial presidential appointment shall be required to relinquish their tenure before assuming the office of the president. No person shall be awarded tenure while serving as president.

A person accepting the position of acting president at a USG institution shall not be a candidate for president of that institution. (BoR Minutes, 1991-92, p. 34; Aug. 2000; Oct. 2013)



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July 3, 2012

Mr. J. Matthew Maguire, Jr.

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RE: Dr. Tricoli

Dear Matt:

I very much appreciate your efforts and apparent success, albeit partial, in decreasing Dr. Tricoli's expectations as to what he can gain by continued communications or ultimately litigation with the Board of Regents. In our shared interest in resolving any dispute Dr. Tricoli may have with the Board, here is what I have learned about the budget process as it relates to Georgia Perimeter College as a unit institution of Regents, the Regents auditor and the State Department of Audits and Accounts. The following information clarifies that Dr. Tricoli's claimed unawareness of budget deficits at his College is not the responsibility of the Board of Regents.

First, the Board of Regents has no information concerning communications between Dr. Tricoli and Ron Carruth about the cumulative budget deficits over several fiscal years. If Dr. Tricoli's

dispute concerns what he was told by Mr. Carruth or his staff, which I gather it is based on our discussions, this dispute is between Dr. Tricoli and Mr. Carruth, not with Regents.

For your information, the general audit schedule for fiscal year 2011 GPC was as follows:

July/August, 2011: Institution prepares financial statements August to October: Statement audited by State Auditor; November, 2011 to January, 2012: Exit conferences and final report drafts are prepared; final sign-off letters from President are obtained (Please note that the email of January 12, 2011, provided you previously, shows that Dr. Tricoli declined participation in the exit interview); December, 2011 to February, 2012: Final published reports released by State Auditor.

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A more in-depth description of the audit process is contained in the attached engagement letters, which also show that Dr. Tricoli indentified himself as the financial contact for the auditors to speak to regarding the engagement.

The information I have gathered from the Board of Regents and the Department of Audits indicates that the practice of the latter is to mail hard copies of the draft annual budget reports to both the President and the chief financial officer. Once confirmation is received by Audits, the final report is issued. It contains the same figures that appear in the draft which has been accepted by the President.

An example of the deficit reported to Dr. Tricoli by Audits is at Tab 7 of the materials provided by him to Regents Auditor John Fuchko, which contains a section headed "Georgia Perimeter College, Management Discussion and Analysis." Page iii of that section shows the net assets of the College at the end of fiscal year 2009, ending June 30, 2009, at \$104,835,320; while net assets at the end of fiscal year 2010 were \$97,451,671, a change of over seven million dollars. The existing deficit

at the end of fiscal year 2011, contained in the “Management Report for Fiscal Year Ended June 30, 2011,” shows the difference from 2010 as almost five million dollars. Both pages are attached to this letter.

The next step after providing draft copies of the annual reports is to obtain confirmation of the figures therein from the President of each institution. Dr. Tricoli returned these documents for the fiscal years in question. An example, among the documents previously emailed to you, is dated January 26, 2011. Of course, Regents regards Dr. Tricoli, as former President of GPC, as responsible for overseeing the budget, as are the presidents of all the Regents institutions.

Again, of course, Regents is conducting an investigation to determine what happened to such large amounts of money. This is the reason for communications between John Fuchko and Dr. Tricoli. As there is no evidence at this point of criminal activity, neither the Special Prosecutions Unit of the Attorney General’s Office nor the Georgia Bureau of Investigations is conducting a separate investigation.

Although I would like to confirm with Regents as to the name-clearing hearing you are again requesting, at last check, Regents is amenable to participating to the extent the law requires. The last time I spoke with my contact, I was advised that the Board would prefer such hearing to be conducted outside any meeting of the Board or its committees, but rather before an administrative law judge of the State Office of Administrative Hearings. Such hearing would be conducted in accordance with the procedure established by the Georgia Supreme Court for a name-clearing hearing. *McBride v. Murray*, 287 Ga. 99 (2010).

Mr. J. Matthew Maguire, Jr. July 3, 2012 Page 3

Regents is under no obligation to assist Dr. Tricoli in finding employment. The alleged fact that he was lied to by Mr. Carruth does not figure into how they are proceeding in dealing with the budget deficit at GPC or in determining how it occurred. I hope this clarifies our approach to Dr. Tricoli’s concerns.

Sincerely,

s/Annette M. Cowart

Senior Assistant Attorney General

EXHIBIT 5

GPC crimes timeline

Summary: *In the financial scandal that erupted at Georgia Perimeter College in 2012, the USG Board of Regents and Attorney General admit that financial reports to the administration of former GPC President Anthony Tricoli from GPC and USG budget officials were wildly inaccurate. However, they claim that neither GPC VP for Finance Ron Carruth nor any USG officials had any knowledge of the discrepancies. There is plentiful documentation, however, from both USG and GPC records, that neither claim is true. The inescapable conclusion is that the budget information was knowingly misrepresented to Tricoli—which is a felony under OCGA 16-10-20 & 16-10-8--over a period of months if not years, by state officials working in concert, ranging from GPC VP for Finance Ron Carruth to former USG Chancellor Hank Huckaby and current USG Chancellor Steve Wrigley.*

A review by the University System of Georgia (USG) of the \$16 million budget shortfall in 2012 at Georgia Perimeter College (GPC)— a review that was explicitly relied on by Attorney General Sam Olens in his decision not to investigate further--found no evidence of fraud or criminal activity.⁴

That conclusion—that no crimes were committed--is based largely on the USG's acceptance of claims by GPC's Executive Vice President for Financial and Administrative Affairs, Ron Carruth, that he had no knowledge that his official reports of an ample budget surplus, even as reserves were being depleted to cover revenue shortfalls, were spectacularly false. In particular, Carruth blamed GPC Budget Director Mark Gerspacher⁵ for misinforming him about spending vastly

⁴ The USG review, titled the "Special Report," also affirmed the USG decision to lay blame on GPC President Anthony Tricoli, who had already been removed from office immediately after the deficit announcement in April 2012, prior to any investigation of the 2012 financial crisis, and five months prior to the release of the "Special Report" in September 2012

⁵ Gerspacher left the employ of GPC in March 2012, a month before the deficit was publicly revealed. Gerspacher left a month after preparing a report detailing orders from Carruth to spend down the GPC reserves in multi-million dollar chunks. The USG omitted the Gerspacher report from their review for the "Special Report." Former DeKalb County DA Robert James also disregarded the report prepared by Gerspacher in February 2012, without questioning

overtaking revenues and depleting GPC's reserve funds—which contained \$20 million at the start of 2009 and disappeared by the end of 2011.⁶

It also depends on claims by USG officials, including the USG officials who conducted and oversaw the “Special Report,” that they had no knowledge of GPC's insolvency prior to the announcement in late April of 2012. Despite allegations of criminal fraud, the Attorney General repeatedly admitted that his office never independently reviewed any of the USG investigation or findings.

The following 2011-2012 timeline demonstrates, however, that budget reports for GPC were *knowingly and willfully falsified* in felony violation of OCGA 16-10-20⁷ & 16-10-8.⁸ The timeline documentation also illustrates that the deficit situation was widely known to USG officials, despite their denials, at least a month before they claimed it was “newly discovered,” and probably much longer. It is also documented that this information in the hands of both GPC and USG budget officials was withheld from President Tricoli, in violation of USG and GPC policy. GPC budget officials were aware for at least ten months without disclosing the information to Tricoli. **An official report, never disclosed to this day to Tricoli, from GPC budget officials to the USG, documented at least a \$12.8 million deficit in March of 2012. In all the after-the-fact investigation, that *actual report has never been produced*, though the report and its conclusions are documented in email. It is not addressed in the USG's “Special Report.”**

Gerspacher. The former DA justified this investigative oversight based on the assumption that Gerspacher had a vested interest in diverting blame from himself.

⁶ The \$20 million reserves had been explicitly ordered by President Tricoli after the budget crisis Tricoli inherited when he assumed the presidency in 2006 was resolved by almost doubling enrollment and tuition revenues, which created a large budget surplus.

⁷ A person who knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes a false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document, knowing the same to contain any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of state government or of the government of any county, city, or other political subdivision of this state shall, upon conviction thereof, be punished by a fine of not more than \$1,000.00 or by imprisonment for not less than one nor more than five years, or both.

⁸ An officer or employee of the state or any political subdivision thereof or other person authorized by law to make or give a certificate or other writing who knowingly makes and delivers such a certificate or writing containing any statement which he knows to be false shall, upon conviction thereof, be punished by imprisonment for not less than one nor more than five years.

This March 2012 financial report generated by Ron Carruth's office and transmitted to the USG⁹--but not to Tricoli or anyone at GPC outside of Carruth's office--is key to showing that the claims by GPC's finance officials that they did not know about the budget shortfalls at GPC, or that they merely arose from incompetence or a comedy of errors, are entirely false. *The arrears were known and actively concealed and misrepresented.* That is criminal by itself—yet we believe that the actual disposition of the funds that created the shortfall was also for corrupt, criminal purposes addressed separately in this report.

It appears that accurate budget information was knowingly withheld for over a year,¹⁰ in violation of the misrepresentation of state business statutes, as well as GPC Policy 302 that required Carruth, as Executive VP for Financial and Administrative Affairs, to inform the President of any indication that the GPC budget was not sustainable.¹¹

In the timeline below, green dates show when positive budget information was conveyed to the Tricoli administration. The dates in red reflect the actual negative reality known to, but not disclosed by, GPC and USG officials.

2011-2012 TIMELINE

(false positive reports, of budget surpluses, are marked in green—with the actual deficit realities marked in red)

March 10, 2011: VP of Finance Ron Carruth and Budget Director Mark Gerspacher reported a budget surplus of \$38 million to the GPC Faculty Senate.

July 1, 2011: According to Gerspacher, Carruth ordered Gerspacher to withdraw \$1.5 million from the reserve fund to cover revenue shortfalls—three months after

⁹ The \$12.8 million deficit report to the USG is mentioned in emails from Carruth's assistant VP, Sheletha Champion, who presumably actually transmitted it to the USG, though it is possible that it came directly from Carruth since we do not have the actual transmission.

¹⁰ Information on the depletion of the GPC auxiliary reserve funds was withheld by VP of Finance Ron Carruth for over a year, at a minimum, according to the available documents described in this timeline. It is possible that such knowledge was withheld and misrepresented for a longer period of time.

¹¹ Policy 302 states, in part: "The Executive Vice President for Financial and Administrative Affairs shall inform the President of any expenditure trends that may affect the College's ability to live within its budget, any changes in revenue that were not anticipated in the original budget, and any external conditions that may require adjusting expenditures. The President will decide if mid-year budget adjustments are necessary. "

reporting the \$38 million surplus to the Faculty Senate.¹² [There should be other reports between March and July that will show whether Carruth reported more surpluses in the meantime]

July 2011: According to Assistant VP of Finance Sheletha Champion, as recorded in the USG “Special Report,” she passed on to Carruth a report of negative balances and dwindling reserves, but Carruth took no action—though GPC Policy 302 gave Carruth an affirmative duty to inform the president.

September 22, 2011: state auditors at the budget exit interview inform GPC budget staff of multiple negative balances in GPC accounts. The exit interview was attended by Carruth, Champion, and Gerspacher¹³—who never brought this negative review to the attention of GPC management outside Carruth’s department, contrary to GPC Policy 302. These audit reports were also available to the USG, though we have not yet established the exact mechanism by which the USG received them or who would have been responsible for reviewing them. Tricoli’s attorney in the civil action has been barred from all discovery, which would otherwise shed light on these questions.

January 23, 2012: The GPC budget staffer in charge of auxiliary reserve funds, Keith Chapman, writes to Assistant VP of Finance Sheletha Champion complaining about decreases in two different reserve funds, of \$4.5 million and \$3.2 million, and refers to plans by Carruth “to spend additional auxiliary reserves this year.” In the email, Chapman expresses anger that millions in reserves are “gone with no explanation.” Thus \$7.7 million in arrears¹⁴ are documented and

¹² Source: Gerspacher report in February 2012, supra.

¹³ The USG “Special Report” implied fault by President Tricoli for not attending the exit interview with state auditors at which these negative balances were noted. However, USG policy in place at the time called for EVP Carruth and his budget staff to attend the interview—not the president. After the GPC budget fiasco of 2012, the USG changed its policy to bring the president of USG institutions into these conferences. Thus the USG implication of fault, based on the after-the-fact policy change, is fraudulent.

¹⁴ Repeated spending, in multi-million dollar chunks, from reserve accounts is a clear indication that expenses considerably exceed revenues, triggering Policy 302 and requiring Carruth to inform Tricoli. In the overall state budget crisis after the economic downturn of 2008, the USG had changed its procedures to allow schools to spend from reserves without prior approval from the USG, but Carruth still would have been required to inform Tricoli. After the GPC budget meltdown, the USG switched back to its pre-2008 policy, requiring schools to get USG approval to spend from reserves.

known to GPC budget officials, with more deficit spending to come, ordered by Carruth, in January of 2012.¹⁵

February 3, 2012: In response to Keith Chapman's email, Champion requested Gerspacher to prepare a report on the GPC reserve funds depletion by February 10—and asked all GPC budget staff to report to her any knowledge they have of Champion and Carruth being aware of the reserve funds depletion. The focus on gathering up information proving what Carruth and Champion knew is the first clear sign of a contemplated cover-up.

February 9, 2012: Gerspacher sent Champion the report on reserve depletion she requested. The report referenced discussions as early as July 2011 with Carruth and Champion about spending GPC reserve funds to avoid revenue shortfalls. This report was never shared with Tricoli or GPC management outside Carruth's budget office, contrary to GPC Policy 302.

Gerspacher and Champion were deemed by Robert James' DA office to have their own self-interest too much at stake to be credible witnesses. However, Gerspacher's account, and Champion's separate account of Carruth's knowledge, are seconded by Chapman, who was never under suspicion and had no need to defend himself.

March 6, 2012: Carruth's official report to the President's Cabinet states \$3.6 million in reserve and "normal USG budget process." This was two days before the USG budget hearing for GPC, so the only way there could be a normal budget process and a surplus is if the \$7.7 million in arrears documented by Chapman in January were being misrepresented.¹⁶

¹⁵ This correspondence from Chapman, concerning Carruth's directives to spend down auxiliary reserves, corroborates Gerspacher's statements that Carruth ordered Gerspacher to spend the reserves (not, as Carruth claimed in the "Special Report," that Gerspacher had misled Carruth). Once again, however, the corroborating evidence from Chapman was overlooked by the USG and actively rejected as probative, without explanation, by former DA Robert James.

¹⁶ Ron Carruth announced his retirement, effective in the summer of 2012, at the same March 6, 2012 meeting. Robert James' DA office cited the fact that Carruth was later required to resign by the USG in June 2012 as "evidence" that there was no criminal wrongdoing. However, as documented in the minutes of the March 6 meeting, Carruth was already scheduled to retire by the time he was told to resign. He is collecting his state pension, consistent with retirement.

March 8, 2012: In the annual USG budget hearing attended by Carruth, President Tricoli informed Chancellor Hank Huckaby of Tricoli's plan to raise GPC faculty salaries, using an \$800,000 reserve set aside for that purpose.

In response, no one mentioned that there may not be a \$800,000 reserve any more, given the \$1.5 million withdrawal from reserves documented in July of 2011, and the \$4.5 million and \$3.2 million withdrawals documented by Keith Chapman's January 2012 email. More importantly, there is no record that deficits or deficit spending at GPC were ever mentioned during this March 2012 budget hearing, a month and a half before a \$16 million deficit was announced and Tricoli was forced out in disgrace. This failure to raise issues of reserve depletion or deficit spending at a budget hearing is extraordinary in light of the evidence we now know existed: a July 2011 report by Sheletha Champion to Ron Carruth of reserve depletion, a September 2011 audit report of negative account balances, a January 2012 email from Keith Chapman complaining of \$7.7 million in GPC reserves "gone with no explanation," and a February 2012 report by Mark Gerspacher on reserve depletion. In response to Open Records requests by Tricoli, the BOR has failed to produce any records related to the budget hearing—in particular, any records of GPC deficits in connection with the budget hearing. Yet, at the very least, the USG had access to the state auditors' negative balance reports in September of 2011 (and the USG was about to have a report directly from the GPC budget department—that was never shared with the rest of the GPC administration--of a \$12.8 million deficit. See entry for March 24).

March 15, 2012: Budget Director Mark Gerspacher's last day on the job, one week after the budget hearing. He leaves GPC for a job at another USG institution.

March 21, 2012: Champion forwarded Gerspacher's February 9 report on reserve depletion to Carruth—who in turn forwarded it without comment to Gerspacher's replacement, Amy Jurgens. Champion's March 21 email references a prior conversation with Carruth about spending the auxiliary reserves. Carruth says nothing about how this contradicts the "normal budget process" in the budget hearing earlier the same month. With the exception of the Champion emails notifying Carruth of the deficit situation, Carruth general remained silent and attempted to stay out of the email chains concerning the deficits and reserve depletions from January through April 2012, which is noteworthy since Carruth bore overall responsibility for the state of GPC finances.

March 23, 2012: Champion emails Carruth (contrary to his claims he was never informed) and other GPC finance staff regarding financial analysis for SACS

accreditation. Champion's email states that the analysis "does not support a claim of financial stability." The attachment to the email states that GPC is \$6.7 million in arrears on employee benefits with 3 months left in the fiscal year, and running a \$6.7 million operating deficit. That is written notice to Carruth on March 23 of a \$12.8 million deficit.

On the same day, March 23, Tricoli emails Carruth and Huckaby about Tricoli's plans to use the \$800,000 set aside to raise faculty salaries. Carruth makes no mention of depleted reserves (per February budget report) or \$6.1 million operating deficit and \$6.7 million fringe benefits arrears.

March 24, 2012: The day after the discussion of faculty raises, Champion emails to GPC finance staff the financial analysis prepared for accreditation agency, SACS, saying the final report is due to the USG on March 26. That budget analysis shows \$6.7 million arrears in employee fringe benefits with three months left in the fiscal year, as well as a \$6.1 million deficit in GPC's operating expenses. Champion's March 24 email refers to Carruth's knowledge of "over spending and little to no fund balance" over the last two years—the day after Carruth made no response to Tricoli's discussion of spending the reserve supposedly set aside for faculty raises. This March 2012 report detailing at least a \$12.8 million deficit was never shared with Tricoli or GPC management outside Carruth's budget office, contrary to GPC Policy 302.

*More important than the demonstration of Carruth's knowledge and obfuscation, the transmission of this report to the USG in March of 2012, detailing an almost \$13 million deficit at that time, completely contradicts the claims by Chancellor Huckaby, Vice Chancellor Fuchko in the "Special Report," Board of Regents Chairman Ben Tarbutton to the AJC, and others that no one at the USG level had any idea of GPC's financial straits before Tricoli requested USG auditors to review the books a month later, on April 26, 2012 (see entries for April 25 & 26). The USG "Special Report," that was not released until September 2012, after plenty of time to investigate this matter, falsely claimed that the GPC deficit situation had never been shared with anyone at the USG prior to the April 26 "discovery" of a \$16 million deficit at GPC. This is an obvious fraudulent attempt to insulate the USG from culpability--given that the USG did, in fact, receive a report detailing at least \$12.8 million in arrears at GPC over a month prior to the USG's April 26 public deficit announcement and calls for Tricoli's immediate resignation. **The actual report and transmission document have never been produced in response to Open Records requests.***

March 24, 2012: The same day Champion sent the negative financial analysis to the GPC budget and finance staff, she sent the same information to Ben Riden, USG Vice Chancellor for Fiscal Affairs, asking for guidance.

March 26, 2012: Riden responds that the negative balance “does not look good,” but that “many [USG schools] are in the same position.”

March 26, 2012?: Was the \$12.8 million deficit report prepared by the GPC budget and finance staff transmitted to John Brown, chief finance officer for the USG? Sheletha Champion’s March 24 email indicates that this was to happen, but the actual report has never been produced. It is not mentioned in any USG or Attorney General report of the financial disclosures from GPC to the USG. It is undisputed that all the GPC budget and finance staff reports and communications, from January to April 2012, excluded President Tricoli in violation of GPC Policy 302. The USG has concealed and continues to conceal the existence of the March 26 report showing a \$12.8 million deficit, and the USG has never alleged the March 26 report was shared with Tricoli.

April 9, 2012: then-USG Vice Chancellor Steve Wrigley challenges GPC President Anthony Tricoli concerning the award of a million dollar grant awarded to GPC. Wrigley, privy to the \$12.8 million deficit report that has been withheld from Tricoli, demands that Tricoli put it in writing that GPC will be able to support the program in the second year after the grant money has been expended.

April 15, 2012: Carruth reports to Tricoli that the situation remains unchanged since Carruth’s March 6 report to the President’s cabinet—roughly \$4 million in reserve and “normal budget process.” Carruth informed President Tricoli that GPC had \$4 million available to the end of the fiscal year (June 30). [Carruth did not mention that, according to his own department’s March 2012 budget analysis, already transmitted to the USG but withheld from Tricoli, these funds fell \$6.1 million short of operating needs. Note that, according to Carruth, the amount of available funds actually went up from the time of his March 6 report to the President’s cabinet.]

April 25, 2012: Contrary to what Carruth told Tricoli ten days earlier, Carruth walked into the office early and informed Tricoli that there was actually a small deficit of \$1-2 million.¹⁷ Tricoli called in GPC management the same day to find

¹⁷ At the time Carruth made this “\$1-2 million deficit” statement to Tricoli, Carruth already long since had extensive documentation that the problem was far worse than that. State auditors

savings to balance the budget. However, Carruth then informed Tricoli that the deficit was larger than Carruth reported earlier that same day. Tricoli informed Chancellor Huckaby and called in USG auditors to assess GPC's financial condition.

April 26, 2012: after reviewing GPC books overnight, USG auditors estimate deficit at \$16 million. Huckaby demands Tricoli's immediate resignation. (Unbeknownst to Tricoli at the time, the USG already had most of the information they reported on April 26, not from an overnight review of GPC's books, but from the \$12.8 million deficit report Sheletha Champion sent to the USG a month earlier for SACS accreditation. Even the USG's "Special Report," which was not issued until five months later (four months after Tricoli was terminated), tracks the identical numbers in the March 2012 report Sheletha Champion said she sent to the USG.¹⁸

April-May 2012: The USG released a number of stories to the Atlanta Journal-Constitution, WABE radio, and WSB-TV. Many of these reports quote USG Chancellor Hank Huckaby and BOR Chairman Ben Tarbutton directly. The reports uniformly blame Tricoli for GPC's financial troubles and claim that the USG was not aware of the problems until April 26, after Tricoli requested help from USG auditors. The USG/BOR also claims that the deficit information came from an overnight review of GPC's books. In fact, the budget information released in the USG final report (See September 2012) were actually found in the GPC budget office report to the USG for SACS accreditation in March of 2012. Huckaby used the negative media reports to pressure Tricoli to resign. When Tricoli refused, Huckaby induced Tricoli to resign by offering him an alternate job at the USG central office and actually announcing the move in the media, as reported by the AJC and WABE. However, once Huckaby had Tricoli's acceptance of the new

reported negative account balances at a meeting where Carruth was present in September 2011. Keith Chapman had identified \$4.5 million and \$3.2 million withdrawals from reserves, ordered by Carruth according to Chapman, in January. Carruth's department sent a \$12.8 million deficit report to the USG on March 26, sent by Champion to Carruth on March 23. On March 21, Champion had emailed Carruth Gerspacher's report on the depletion of GPC's reserves, which Carruth forwarded to Gerspacher's replacement without comment.

¹⁸ Since no one has ever produced the actual transmittal documents, we do not know that the \$12.8 million deficit report was not sent to the USG a month earlier by Carruth himself, since it fell under his job responsibility. We also do not know for sure who at the USG received and reviewed the report—much less what they did with it for the next month before announcing the same deficit numbers already in their possession and very publicly blaming Tricoli via the Atlanta Journal-Constitution.

position (which did not include a statement of resignation) in hand, Huckaby reneged on the job offer that had already been reported as a fait accompli.

May 2, 2012: USG VP Steve Wrigley falsely informs the Board of Regents members that the USG just learned of the arrears at GPC and began working to solve the problem within two days of learning about it. He is apparently referring to the April 26 public disclosure. His statement does not account, for example, for the March 26 report transmitted to the USG by Sheletha Champion/Ron Carruth documenting a \$12.8 million deficit.

May 7, 2012: That morning the USG released a statement to the press that Tricoli had stepped down as GPC president and had been transferred to a new position in the USG central office. Media began reporting it that day. Late that afternoon, seeing the media reports and feeling his hand was forced, Tricoli rushed to accept the alternate USG job in writing. However, based on review of documents now available, Tricoli never resigned his old position and, in fact, vigorously disputed that characterization in the release issued by Huckaby.

May 8-9: Board of Regents meets and consider annual renewal of presidential appointments. The BOR did not consider Tricoli, however, because they were informed by the USG that Tricoli had resigned, according to internal USG emails and the BOR Minutes. Instead of presenting Tricoli's name for renewal, Rob Watts' name was presented to the BOR for approval as interim president, a move that was in the planning before Tricoli wrote on May 7 to accept the alternate job with the USG.

May 10, 2012: Huckaby terminates Tricoli by letter stating that Tricoli's annual contract expiring on June 30 was not renewed by the Board of Regents. Under BOR Policy, the Board's option to take that action and give Tricoli notice had expired in April, according to BOR 2.4.2.

After Tricoli sued, the BOR changed the policy to require notice after the May BOR meeting, instead of after the April meeting (and has since eliminated any deadline). Huckaby did not inform the BOR that he had given Tricoli notice of termination until May 10, the day after their meeting concluded. This violated BOR policy requiring Tricoli's name to be presented to the BOR for consideration of annual renewal.

Also note that the BOR did not consider Tricoli because Huckaby told them Tricoli had resigned. Then Huckaby (ignoring the alternate job offer announced to the

media and accepted in writing by Tricoli) told Tricoli he was being terminated because the BOR did not renew him (after Huckaby withdrew Tricoli's name from consideration). In addition to the obvious treachery and deception, Huckaby's actions arguably rise to the level of criminal fraud and extortion.

May 10, 2012: on the same day Tricoli received his termination notice, John Fuchko provides Chancellor Huckaby a list of financial reports the USG received from Sheletha Champion over the preceding three years. *Missing* from Fuchko's list is the March 26, 2012 report transmitted by Champion detailing a \$12.8 million deficit a month prior to the USG's alleged surprise discovery.

May 10, 2012: On the same day that Fuchko delivers this incomplete report, the USG begins, in place of a scheduled state audit, its own review, prepared by Fuchko, of how the \$16 million deficit occurred. This is what was eventually released as the "Special Report." Note that the alleged investigation begins after Tricoli has already been assigned the blame and removed from office. The Attorney General, though required to investigate the allegations of criminal fraud in the USG, never investigated, leaving the USG self-review the only examination of what occurred at GPC.

May 10, 2012: May 10 was a busy day. Also on that day, upon Tricoli's ouster, Rob Watts was placed in the position of GPC interim president. As such, the Special Report was prepared for Watts' review. Much of the criminal activity that is documented in this timeline comes from emails between GPC and USG budget staff. One of Watts' first acts as interim GPC president was to order all GPC vice presidents to purge emails from the Tricoli administration. This attempted destruction of evidence was reported by one of the vice presidents and, upon objection by Tricoli's counsel, the Attorney General sent GPC a letter warning against implementation of Watts' illegal directive.

May 13, 2012: BOR Chairman Ben Tarbutton tells the press that the USG only learned about the arrears at GPC two weeks ago and don't yet know how the arrears accrued, but "the important thing is that he [Tricoli] is gone."

May 15, 2012: Tricoli's then-attorney filed a written demand for a hearing on Tricoli's forced termination before the BOR, on constitutional due process grounds, as required by BOR policy if a hearing, is requested within 10 days of a

termination outside the annual renewal process—which the BOR did not follow.¹⁹ The USG/BOR ignored this and subsequent requests for a hearing made by Tricoli directly to Hank Huckaby.

July 3, 2012: a letter from the Attorney General’s office confirms that 1) the USG denied Tricoli’s request for a hearing under BOR Policy, and 2) the AG is not investigating, since the USG self-review has turned up no evidence of criminal activity--on itself.

September 17, 2012: The USG’s review of the GPC budget crisis, the “Special Report,” released. The Special Report faults Tricoli and finds no evidence of fraud or criminal activity. Moreover, in the special USG report prepared by Vice Chancellor for Internal Audit John Fuchko, the conclusions actually contradict the facts on which they are based (similar to the 2016 USG review by Fuchko at Kennesaw State). For example, the report admits that GPC budget officials were emailing each other about a financial collapse over a period of months in which they were, at the same time, making false reports to Tricoli of budget surpluses and a “normal budget process.” The Fuchko report blames these falsifications on Tricoli, as a “member of the GPC financial team,” though it is undisputed that the emails were not sent to Tricoli, and the misrepresentations were made *to* Tricoli. The Fuchko report also claims that none of these emails were shared with USG officials. That is a knowingly false statement since we have documentation of the GPC budget officials emailing USG officials about the budget crisis. Fuchko’s denials that the USG knew of GPC’s dire financial circumstances prior to April of 2012 are also contradicted by the September 2011 state audit reports, the March 2012 GPC accreditation report to the USG concerning a \$12.8 million deficit, and USG official Ben Riden’s statement to GPC administrators in April 2012 that the USG had long been aware of the reserve depletion problem but never raised it with GPC officials. The deficit numbers in the report, which Fuchko claimed came from the USG’s own review, are identical to the numbers in the report transmitted to the USG by Sheletha Champion in March of 2012.

¹⁹ Contrary to the BOR policies governing Tricoli’s written contract, the BOR violated their own policies requiring an annual performance evaluation (supposed to be done by Huckaby in 2012, but never occurred) informing the renewal decision, submission of Tricoli’s name to the BOR for consideration for annual renewal (never done) at the regular April BOR meeting, notice of any non-renewal immediately after April meeting (BOR changed this policy after the fact since it was not observed), a hearing on any termination outside this annual renewal process if requested in writing within 10 days (which it was), and consideration for two year’s salary upon separation since Tricoli had served more than five years.

The Fuchko report also addresses an alleged reason for the overspending at GPC, which Fuchko blamed on Tricoli: \$1.5 million a year that went to an outside contractor with strong ties to the USG, and allegedly with a close personal relationship to Carruth. Fuchko admits this spending on the outside contractor was wasteful, duplicative, and served no real purpose. The Cobb County financial consulting company, Skybridge Global, never appeared in the GPC budget reports. President Tricoli *had never heard the name of the company until it appeared in Fuchko's report.* There is extensive evidence that the existence of the outside consultant was actively hidden from Tricoli by Carruth on more than one occasion. It is also widely reported that the Skybridge consultant, Nancy Harris, had a close personal relationship with Ron Carruth that resulted in his divorce.

The amount GPC paid Skybridge, at the hourly rate charged the USG, would exceed the amount that could be billed by two consultants working 24 hours a day, seven days a week, 365 days a year. It also roughly equals the \$9 million shortfall at GPC in 2012 that has never been accounted for.²⁰

The conclusion of the Special Report prepared by Fuchko that there was no criminal activity depends upon interviews conducted with Ron Carruth between May 10 and September 17, 2012 in which Carruth denied knowledge of GPC's dire financial situation prior to the April 26 announcement of a \$16 million deficit. All persons interviewed for the Special Report were given a chance to review and make objections or corrections before its release.

The USG and Georgia Attorney General, when they determined that there was no evidence crimes were committed in connection with the GPC budget crisis, had all the same documentation referenced in this timeline available to them. This documentation on its face supports a different conclusion: that official budget

²⁰ Of the \$16 million deficit announced by the USG in April 2012, \$6.7 million was attributed to a HR department miscalculation of employee fringe benefits (the HR director responsible for that error remained in his position at GPC). The "Special Report" cited this exact figure, which is identical to the figure in the report sent by Champion/Carruth to the USG in March of 2012. That leaves \$9 million of the deficit that has never been specifically accounted for, though it roughly corresponds to the amount paid to the outside consultant during Tricoli's presidency (\$1.5 million a year for six years)—without Tricoli's knowledge. On several occasions, when GPC was having to cut expenses because of cuts in state appropriations, Carruth falsely reported to Tricoli that there were no significant payments to outside contractors—which otherwise would have been the first expenses to be considered when making budget cuts.

reports of Georgia Perimeter College, a state agency, were knowingly and willfully falsified and affirmatively misrepresented, and that material information was knowingly and willfully concealed, in violation of OCGA 16-10-20 & 16-10-8, resulting in \$16 million in overspending (\$9 million of which has never been accounted for), the loss of 300 jobs, a drop in enrollment by several thousand students per semester, extensive negative publicity for the school, and the destruction of the career of one of the USG's "rising stars"—Anthony Tricoli, who has never been able to obtain another job in higher education after being publicly blamed by the USG for all this damage.

Other possible criminal violations are documented in the record. Those include concealment of GPC payments of up to \$1.5 million, fraud in the termination of Tricoli's contract, lying to state investigators, and attempts to conceal or destroy the documentary evidence on which this timeline is based. These crimes are in addition to the knowing falsification of budget reports to President Tricoli and to other GPC management outside of Carruth's department—as well as misrepresentations to the media and the public about the USG role in the GPC disaster.

The Attorney General of Georgia has refused to investigate any of this available documentation, on which the timeline is based, that supports the allegations of criminal actions. In fact, the Attorney General is defending Carruth and others in a civil lawsuit brought by Anthony Tricoli. Governor Nathan Deal has not responded to repeated requests to appoint an independent special investigator.

CERTIFICATE OF SERVICE

I do hereby certify that I have this day served the Supplement to the pending Rule 60 Motion, contemporaneous with submitting the same to the court, through the Odyssey e-file system and by sending a copy to counsel for Defendants at:

rwillard@law.ga.gov

This 1st day of June, 2017.

STEPHEN F. HUMPHREYS, P.C.

/s/ Stephen F. Humphreys

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