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July 8, 2014

The Hon. Robert Pitman, U.S. Attorney  
Western District of Texas  
U.S. Department of Justice  
*Via Facsimile*  
(210) 384-7276

The Hon. Tamara W. Ashford, Acting Asst. Attorney General  
Tax Division  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Mr. Jeffrey Knox, Chief  
Fraud Section, Criminal Division  
U.S. Department of Justice  
*Via Facsimile*  
(202) 514-7021

Mr. Jack Smith, Chief  
Public Integrity Section  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Re: *Calvert Historical Foundation v. John C. Paschall*, Cause No. 11-09-  
18,927-CV, 82<sup>nd</sup> District Court of Robertson County, Texas

Ladies and Gentlemen:

I have obtained evidence that John C. Paschall, the former district attorney of Robertson County, Texas, committed bank fraud, mail fraud, and tax fraud while he was serving as an estate executor, and that he further used a fake Social Security number in furtherance of the frauds. I have also obtained evidence suggesting that First Star Bank of Bremond, Texas committed bank fraud in conjunction with Mr. Paschall.

I formerly represented the Calvert Historical Foundation against Mr. Paschall in the case listed above, which alleged that Mr. Paschall misappropriated hundreds of thousands of dollars from Marium Oscar while she was living, and then from her estate

after her death. I notified the State Bar of Texas, the Office of the Attorney General of Texas (“OAG”), and the Texas Rangers of the misappropriation. The Rangers are investigating, an assistant attorney general (Shane Attaway) was appointed special prosecutor, and the state bar already has filed charges against Mr. Paschall. I have spoken with Mr. Attaway, Major Freeman Martin of the Texas Rangers, and Coty Siegert, the new Robertson County District Attorney, about my plans to request a federal investigation, and they all said they would welcome federal involvement.

Through discovery, I obtained records showing that Mr. Paschall wrote more than \$100,000 worth of checks to himself from Ms. Oscar's accounts, usually including a notation on the check memo stating that the check was for attorney fees.<sup>1</sup> However, Mr. Paschall admitted in other discovery responses that he was not the attorney for Ms. Oscar's estate. (In fact, state law prohibited him from engaging in private practice at that time because he was the elected district attorney). Local resident Virginia Jackson testified that when she purchased real property from Ms. Oscar's estate, Mr. Paschall directed her to make the check payable to him and write “attorney fees” in the check memo.

Mr. Paschall filed an accounting with the probate court, but it is riddled with inconsistencies, and he claims that he does not have any records to authenticate tens of thousands of dollars worth of expenses that he allegedly paid with estate funds. After the court ordered Mr. Paschall to deposit \$86,000 in estate funds into the court registry, Mr. Paschall brought \$86,000 worth of cash in a brown paper bag. He refused to state where the money had been kept, and he now asserts his Fifth Amendment rights in response to all questions. It appears that Mr. Paschall used the mail in furtherance of his scheme to obtain estate funds by fraud, therefore I believe Mr. Paschall violated both 18 U.S.C. §1344(2)(bank fraud) and 18 U.S.C. §1341 (mail fraud).

I also obtained Mr. Paschall's federal income tax records from 1996 through 2013 via discovery, and it does not appear that he reported any of the “attorney fees” that he collected from Ms. Oscar or her estate, nor did he report any of the rentals from the estate's property. According to Mr. Paschall's discovery responses, he never filed any tax returns for the estate. He sold estate property as recently as 2010, thus it appears that some of the tax fraud occurred within the six-year limitations period governing 26 U.S.C. §§7201-7203, 7206, 7207 and 18 U.S.C. § 371.

According to bank records that I obtained from Edward D. Jones via subpoena duces tecum, Mr. Paschall opened an account for Ms. Oscar in 1997 (shortly after she gave him power of attorney) and deposited nearly \$180,000. In the documents creating the account, Mr. Paschall listed a Social Security number for Ms. Oscar that does not match her actual Social Security number. Neither does the listed number match the Social Security numbers for Mr. Paschall, his wife, his ex-wife, or his children. Over the next six years, Mr. Paschall drained the account, mostly by writing checks to himself for “attorney fees.” I can only conclude that Mr. Paschall used the fake Social Security

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<sup>1</sup> I estimate that Mr. Paschall misappropriated more than half a million dollars, but this is difficult to prove because he has repeatedly defied court orders to produce records.

number in order to engage in tax fraud and Medicare fraud. In both cases, it appears that Mr. Paschall was hiding Ms. Oscar's assets in order to keep them from being taxed as income or levied to pay for her nursing home care.<sup>2</sup> In other words, Mr. Paschall apparently was hiding the money from IRS and Medicare so he could later claim it for himself.

Mr. Paschall's misconduct does not occur in isolation. I have told Mr. Attaway that once Mr. Paschall is indicted in state court, he will probably offer to testify against other prominent people in exchange for leniency. Those people include his own attorney, Bryan F. "Rusty" Russ, Jr., State District Judge Robert M. Stem, and attorney James H. "Jimmie" McCullough (Mr. Russ's law partner). The web of connections among Mr. Paschall, Mr. Russ, Mr. McCullough and Judge Stem is too extensive to discuss in this letter, but you may wish to contact Dirrell S. Jones, an assistant disciplinary counsel with the State Bar of Texas, at (972) 383-2908 for further information. I recently obtained unequivocal evidence, for example, that Mr. Russ and Mr. McCullough stole more than \$1 million in mineral royalties (some it from their own clients) with the assistance of Judge Stem. Prior to that time, Judge Stem had accepted free legal services from Mr. Russ, and neither of them disclosed the attorney-client relationship to the other parties appearing before Judge Stem and opposite Mr. Russ.

Another key player is First Star Bank of Bremond. When I filed the civil case against Mr. Paschall, I was already aware that he was a personal friend of Kenneth Swick, the former president of First Star Bank, and I had long heard rumors that First Star was the bank of choice for the local political machine.<sup>3</sup> When I issued a subpoena for bank records concerning Ms. Oscar and Mr. Paschall, the bank became very uncooperative, and I later learned that the bank had withheld at least some responsive records. However, I discovered the biggest "red flag" when I subpoenaed Mr. Paschall's credit reports. Those records showed that Mr. Paschall had a terrible credit history, including federal tax liens, student loan liens, credit write-offs, and a history of late payments, including late payments to First Star Bank. Nonetheless, First Star continued making loans to Mr. Paschall, including at least one unsecured loan for more than \$30,000.

At a June 4, 2014 hearing, I asked Norman Koch, the current president of First Star, why his bank would make an unsecured loan to someone with such a terrible credit history. Mr. Koch's attorney (Mr. McCullough) objected ferociously, claiming that I was improperly delving into the business methods of the bank, and the judge sustained the objection. It was not until I read DOJ's Criminal Resource Manual that I understood why Mr. McCullough reacted so fiercely:

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<sup>2</sup> In response to discovery requests, Mr. Paschall claimed that he did not have any Medicare records pertaining to Ms. Oscar. Ms. Oscar spent the final years of her life in a nursing home, and Mr. Paschall claims to have paid only \$2,900.00 to the nursing home (although he has not produced documentation even for that amount).

<sup>3</sup> I received an anonymous letter in 2009 claiming [REDACTED].

Improper lending is probably the most obvious type of misapplication, but it should be noted that a badly made loan in and of itself might be mere maladministration as opposed to criminal misapplication. See *United States v. Giragosian*, 349 F.2d 166 (1st Cir. 1965); *United States v. Williams*, 478 F.2d at 373; *Hernandez, supra* at 1364; *United States v. King*, 484 F.2d 924 (10th Cir. 1973), *cert. denied*, 416 U.S. 904 (1974). It can occur by either granting an unsecured loan to a person who is not financially able to repay or by knowingly granting a loan on inadequate or valueless collateral. See *Mulloney v. United States*, 79 F.2d 566 (1st Cir. 1935), *cert. denied*, 296 U.S. 658 (1936). The bank officer or employee often has a financial interest in this type of loan. See *Hargreaves v. United States*, 75 F.2d 68 (9th Cir. 1935), *cert. denied*, 295 U.S. 759 (1935). The bad loan can be a misapplication, however, without any showing that the bank officer personally benefited from the transaction, if it can be shown that the officer acted in reckless disregard of the bank's interest. See *Logsdon v. United States*, 253 F.2d 12 (6th Cir. 1958).

U.S.A.M. 9-40.000 at 805. In other words, it appears that the bank's officers may be criminally liable for making shady loans to political cronies such as Mr. Paschall.

After reviewing the records from First Star regarding Mr. Paschall, Ms. Oscar, and her estate, I also must wonder whether the bank knew that Mr. Paschall was misappropriating her money. I was planning to investigate this further, but I was suddenly terminated by the Calvert Historical Foundation on June 25, 2014 even though I was representing the organization pro bono. As explained in my July 1, 2014 letter to the presiding judge (attached), I had heard for months that Mr. Russ was trying to get his cronies to join the foundation and take control in order to shut down the litigation against Mr. Paschall. *The Bryan-College Station Eagle* reported on July 2, 2014 that 17 of the foundation's 21 members had joined since June of 2013. See "Calvert Historical Foundation fires attorney in Mariam Oscar estate lawsuit," (<http://tinyurl.com/n4da6py>).

The following day I obtained proof that Mr. McCullough tried to get Mr. Siegert, the new district attorney, to charge me with barratry (a felony in Texas), apparently to shut down my investigation of Mr. Paschall and the bank. As *The Eagle* reported on July 4, 2014, this was at least the second time that Mr. Russ and Mr. Paschall tried to procure bogus criminal charges against me in order to shut down a civil case. See "Clevenger won't be looked into for barratry," (<http://tinyurl.com/l5xb7fn>).

I mention all of this because it illustrates just how incredibly desperate Mr. Russ, Mr. McCullough, and Mr. Paschall have become. I have repeatedly warned Mr. Russ, for example, that he may be professionally, civilly, and criminally liable if he aids Mr. Paschall's attempts to conceal the assets of Ms. Oscar's estate. Notwithstanding those warnings, I have obtained evidence that Mr. Russ knowingly and repeatedly filed false discovery responses in an attempt to conceal bank accounts with estate funds. As such, I believe Mr. Russ may be liable for mail fraud and further liable as a co-conspirator in Mr. Paschall's efforts to conceal the misappropriation.

I request that you refer this matter to the appropriate agencies for the purpose of criminally investigating Mr. Paschall, Mr. Russ, and Mr. McCullough, as well as the officers of First Star Bank. By copy of this letter, I request that the FDIC and Texas Department of Savings and Mortgage Lending conduct an audit of First Star Bank.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ty Clevenger', with a long horizontal flourish extending to the right.

Ty Clevenger

cc: Mr. Patrick P. O'Carroll Jr., Inspector General  
Social Security Administration  
Mr. Fred W. Gibson, Inspector General  
Federal Deposit Insurance Corporation  
The Hon. Douglas B. Foster, Commissioner  
Texas Department of Savings and Mortgage Lending  
The Hon. Shane Attaway, Asst. Attorney General  
Office of the Attorney General of Texas  
The Hon. Susan K. Staricka, Asst. Attorney General  
Office of the Attorney General of Texas  
The Hon. Coty Siegert, Robertson County District Attorney  
Mr. Dirrell S. Jones, Asst. Disciplinary Counsel  
State Bar of Texas  
Ms. Beth Stevens, Asst. Disciplinary Counsel  
State Bar of Texas  
Maj. Freeman Martin, Commander  
Texas Ranger Company A  
Internal Revenue Service