



## Happy Homestead Cemetery District

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July 30, 2010

Honorable Suzanne Kingsbury  
Presiding Judge  
Superior Court of El Dorado County  
1354 Johnson Blvd  
South Lake Tahoe, CA 96150

Re: Response to Grand Jury Recommendations Regarding  
Happy Homestead Cemetery District Clerk Matters

Dear Judge Kingsbury:

This letter constitutes the response of the Happy Homestead Cemetery District (“District”) Board of Directors to the recommendations of the grand jury in regards to compensation of the District Clerk. This response was approved by the District Board on July 21, 2010.

Prior to responding in the manner required by Penal Code Section 933.05, it is necessary to point out some factual errors and misunderstandings in the body of the report itself.

The report states that two “obscure precedents” were cited in the first response from the Board Chair. In fact, there is nothing obscure about them. They are now and have been for many years used by local governments in California to formally settle employment compensation issues. The courts have expressly stated that doing so does not violate any of the laws cited in the grand jury report. Had the past practices of El Dorado County itself been reviewed, the grand jury would have found that retroactive payments have been made by the county using the same authority.

The report is also in error that the District did not respond to the April 20, 2010 letter from the grand jury. In fact, there was a written response, which included all but one of the requested documents. The other document, as explained below, was not then available. A copy of the District Chair’s response to the April 20<sup>th</sup> letter is enclosed.

That said, pursuant to Penal Code Section 933.05, the District responds to grand jury recommendations as follows:

1. The District agrees that any claim for payment of services must meet applicable legal standards. It disagrees that it has not demonstrated in its previous submittal (copy attached) that the documentation in question does so and therefore the recommendation isn’t reasonable and will not be implemented. Prior to the new agreement for District Clerk services there was no written

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contract for service as required by law and the compensation to be paid was unsettled. The new written contract brought the district into compliance with the law and resolved a pending compensation issue. Payment of the \$2,235 is therefore neither a gift of public funds nor a violation of any of the statutes cited. This issue will, if necessary, be taken up with the Court Auditor and County Counsel per recommendation number 4 as further discussed below.

2. The District agrees that any settlement of a claim must be legally supported. The District disagrees that it has acted in any way improperly. The settlement has now been implemented and the amount in question paid by the Auditor-Controller according to the District Clerk. A claim (copy attached) was in fact presented to the then District Chair who never placed it on the Board agenda for action. The \$3,000 was a fraction of the \$39,000 at issue. It represented legitimate expenses for loans and credit lines incurred to keep a local business which has served the District for many years viable while the larger amounts were being successfully resolved. Settlement of such a claim was clearly merited and lawful. It has now been paid by the County Auditor. This recommendation has been implemented and no further action by the District is required in response to the recommendation.

3. The District disagrees that either claim violates the statutes and constitutional sections cited and that payment of those claims is in anyway improper. In fact, one has already been paid, as noted above. The District will, if necessary, discuss the remaining claim further with the Auditor-Controller and County Counsel as suggested in recommendation number 4.

4. The District agrees with the recommendation and will make appropriate contract with the Auditor-Controller and County Counsel. Further discussion, if needed, will take place within the next 30 days to implement it.

If there are any questions, feel free to contact me.

Respectfully submitted,

Joe Tillson  
Chair  
Happy Homestead Cemetery District  
Board of Trustees

Encl.