

Virginia:

IN THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH

Commonwealth of Virginia,

v.

Warren Harris

Defendant

Docket #: CR19-2827

Stipulation of Commonwealth's Evidence

If this case had proceeded to trial, the Commonwealth would have offered the following evidence:

Background

On August 1, 2007 the defendant began employment with the city of Virginia Beach serving as the Director of the Economic Development Department. As the Director of his department, he oversaw a staff of approximately 20 employees with a budget of six (6) million dollars. The Economic Development Department is tasked with attracting domestic and foreign businesses to invest in the city or create jobs, and building businesses or business opportunities within the city. The defendant oversaw a staff of employees and reported directly to a Deputy City Manager. To accomplish the mission and goals of the Economic Development Department, certain employees were authorized to travel domestically and internationally in order to meet with businesses and discuss opportunities in Virginia Beach. The Defendant was one such employee authorized to travel.

Additionally, the Defendant was provided a procurement card ("Pro-Card"), connected to a City of Virginia Beach account at Bank of America. The Defendant was authorized to use the Pro-Card for city business related expenditures, such as travel or dining.

Within Economic Development, the standard protocol for authorizing or approving business-related expenses was that the employee would provide documentation or justification of expenditures to their supervisor, who in turn would approve or deny the expenditures. Employees would submit receipts from their trips and add handwritten notes on the receipt justifying the purpose. The receipts would then be reconciled against the bank statement for the employee's Pro-Card. As the head of the department, the Defendant approved his own expenses. However, after 2017 even for the Defendant International travel required approval from the Deputy City Manager, Ron Williams.

In May of 2018, the City Auditor received a report of possibly fraudulent expenditures from the Economic Development department involving another Economic Development employee. The City Auditor is an independent department that reports directly to City Council, charged with promoting accountability and integrity within city departments by providing auditing services. The employee was terminated and charged criminally for embezzlement.

During the course of the investigation, the City Auditor was advised that the Defendant was also engaged in fraudulent expenditure practices, and had passively threatened other employees within Economic Development about the ramifications of making reports to the City Auditor. Specifically, the City Auditor was provided an audio recording from a staff meeting that the Defendant held following Hall's termination where the Defendant told his employees that "snitches get stitches."

The City Auditor conducted a thorough investigation into the Economic Development Department, and uncovered that the Defendant had been fraudulently utilizing city funds to facilitate personal travel to locations all over the world, including Dubai, Panama, Spain, California, Texas, Florida, Georgia, North Carolina, and Illinois. The audit further revealed that the Defendant utilized city funds to place advertisements in sports publications such as the NCAA Final Four official program. The placement of the advertisements brought with them tickets to sporting events, which were city property that the Defendant improperly used for personal purposes. The City Auditor turned its information over to the Virginia Beach Police Department and the Office of the Commonwealth's Attorney, which began a joint investigation with the Federal Bureau of Investigation (FBI).

The initial audit and the joint VBPD/FBI investigation revealed that the Defendant was a member of the Norfolk chapter of a private social club known as The National Association of Guardsmen ("Guardsmen")¹. The Guardsmen club is composed of approximately thirty (30) chapters located in cities throughout the United States. The club is comprised primarily of successful, wealthy men in business, medicine, academics, and government, and each year various chapters are required to host lavish multi-day social events that include parties and banquets, usually in venues such as hotels or conference centers. There are typically three (3) of these types of events each year. Members of the Norfolk chapter of Guardsmen would testify that these are social trips and business is not conducted at these events.

The FBI further assisted the investigation by providing a forensic accountant to acquire and review the defendant's financial information. The forensic accountant determined that the Defendant's personal expenses and debts and liabilities, such as mortgages, had placed him in a difficult financial situation. The FBI further reviewed the financial documentation from the city and concluded that the total amount of fraudulent expenditures was approximately \$79,479.50.

As described below, the Defendant attended several of the Guardsmen social trips and used his city Pro-Card to pay for them using public funds. At no point did the Deputy City Manager, the City Manager, the Mayor of Virginia Beach, or any other person with a supervisory role over the Defendant grant him permission to attend Guardsmen social events for Economic Development. Throughout the interviews with Guardsmen members conducted by the FBI and VBPD, the members emphatically stated that these were social events where business was not conducted. In several of the instances below, the Defendant further lied and concealed his actions to city management.

¹ The National Association of Guardsmen has no affiliation with the United States National Guard, a branch of the armed services.

EMBEZZLEMENT FROM JANUARY 2018 THROUGH JULY 2018

NCAA Final Four Trip and MLB All-Star Tickets

In March of 2018, the Defendant ordered the preparation of an advertisement package at the cost of \$39,500 to be placed in the 2018 NCAA Final Four program, the 2018 Washington Nationals Yearbook, and the 2018 MLB All-Star Game. The package was requested by the Defendant on March 5th, 2018, which was at the last minute as it was the deadline for the advertisement to be included in the program. This action concerned other employees of the Economic Development Department. Those employees would testify at trial that the advertisement was not related to any ongoing or future Economic Development projects or programs, and that the City of Virginia Beach did not conduct business in San Antonio, TX where the Final Four would be held and the program distributed. Further, the readers of the program were not part of any target demographic for Economic Development. The specific funds used for the purchase of the ad were earmarked for a biomedical initiative, and the biomedical advertisement was out of place in the sports programs; San Antonio was the only other city to place an advertisement in the program, as the host city. Additionally, other employees in the department were in charge of the biomedical initiative, and the Defendant placed the advertisement without consulting them.

Unbeknownst to other employees in Economic Development, as a result of the placement of the advertisement the Defendant was awarded complimentary tickets to the events, specifically: four (4) tickets apiece to the MLB Fanfest, the MLB Home Run Derby, and the MLB All-Star Game, and two (2) club-level passes to all 2018 NCAA Final Four Games in San Antonio, Texas.

After placing the advertisement, the Defendant on the same day used his Pro-Card to purchase a \$2004.00 flight for himself to San Antonio, Texas on the dates of the Final Four. The Defendant then flew to San Antonio and attended the Final Four games, as evidenced by pictures on his city cell phone showing his attendance at the stadium as well as text messages telling others that he was checking an item off his “bucket list.”

While in San Antonio, he used city funds to stay at the Marriott Riverwalk hotel at a cost of \$806.08 per night for four nights at a cost of \$3264.33. The total expenditures for San Antonio was \$5,745.32. There is no evidence of any business being conducted while in San Antonio. As part of the Defendant’s relationship with the advertising agency, he accrued a number of “rewards points” as a result of purchasing this advertisement and others. The company would testify that that purpose of the points was to provide tickets to events to bring clients to during business transactions. Upon returning from the Final Four trip, the Defendant asked his contact at the advertising agency to use these points—which were acquired through the use of city funds—to obtain orchestra seating for the performance of “Hamilton” at the Kennedy Center in Washington, D.C.

Dubai Guardsmen Trip

On April 9th through April 16th of 2018, the Defendant utilized his city Pro-Card to attend the Guardsmen party held in Dubai within the United Arab Emirates (UAE), at a cost of \$4,428.30. The Defendant booked international airfare to the UAE at a cost of \$1,011.41 for his ticket. The event was at the JW Marriott Marquis. The cost of the hotel

was \$2,002.44, again charged to the city of Virginia Beach. He further used his Pro-Card for a \$341.00 dinner at At.Mosphere, a restaurant on the 122nd floor of the Burj Khalifa tower, the world's tallest building. In justifying the meal, the Defendant stated that it was a business expense at the Cable Protection Conference. Members of the Guardsmen who were present at the Dubai event stated that no business was discussed or transacted. Upon the Defendant's resignation, the Defendant's city cell phone and city computer were analyzed by the city and the Virginia Beach Police Department. On those devices it was discovered that the Defendant had planned several activities while in Dubai, such as a desert safari, a double decker bus tour of Dubai, and his visit to the Burj Khalifa tower. Emails from the defendant and the other Guardsmen also expressed excitement about the various social events they would all be attending.

Prior to his travel, in February of 2018 the Defendant submitted a fraudulent request to travel to Dubai to Deputy City Manager Ron Williams. The request, signed by the Defendant, falsely stated that he would be attending the International Cable Protection Conference (ICPC) that was being held in Dubai. (Attachment A). However, the actual International Cable Protection Conference was held a week earlier and thousands of miles away in Cape Town, South Africa. Representatives from ICPC would testify that the Defendant was not present at the conference nor on the list of attendees, and that there were no similar conferences being held in Dubai.

Spain & Pamplona Trip

On or about July 5th through July 9th of 2018, the Defendant utilized city funds to travel to Barcelona and then Pamplona, Spain where he attended the Running of the Bulls, at a total cost of approximately \$7,495.39. The Economic Development Department retains an independent contractor Vicente Fanjul, who lives in Spain and serves as a liaison between Virginia Beach and businesses in Spain. On the above dates, the Defendant traveled to Spain with another employee to meet the liaison. The Defendant arrived in Barcelona on Thursday, and on Friday the three rented a car for \$413.43 and drove three (3) hours to Pamplona, Spain where the Running of the Bulls was under way. While there, they continued to pay for a hotel in Barcelona while also renting new rooms in Pamplona at a total cost of \$4,300.53. No business was conducted in Pamplona, and on Saturday they watched the bull fights before watching the Running of the Bulls on Sunday. Pictures recovered from the Defendant's cell phone showed the Defendant dressed in traditional Spanish attire enjoying the event. The Defendant returned to Barcelona before conducting a business meeting on Monday and continuing on to further business in Marseilles, France.

The Defendant placed his airfare, the hotel in Barcelona, and business dinners on his Pro-Card, and instructed Fanjul to request reimbursement for the Pamplona expenses separately, in order to avoid a single reimbursement request that showed hotel rooms in different locations for the same nights. Nonetheless, Fanjul's request raised suspicion by his direct point-of-contact in Economic Development, who requested a specific itinerary of what was done on their trip. At the Defendant's direction, Fanjul submitted an itinerary with false entries, such as a business meeting in Pamplona that did not in fact occur. Employees of the Economic Development Department would testify that it was highly unusual for the Defendant to travel to Spain on a weekend, as no business was conducted during these times.

New Orleans, LA Site Visit

On or about July 18th through July 21st, 2018, the Defendant used city funds to finance a trip down to New Orleans, LA. The purpose of this trip was to determine whether or not New Orleans was a suitable location for a Guardsman social event. An itinerary from that trip, labeled “Norfolk Guardsmen New Orleans Visit” showed that the Defendant and others would be attending various hotels and event spaces throughout the weekend. The purchases on the Defendant’s city pro-card included airfare, taxi, and hotel accommodation at the Ritz Carlton. The total cost of the trip was \$1375.42.

EMBEZZLEMENT FROM AUGUST 2018 THROUGH DECEMBER 2018

Atlanta, GA Guardsmen Trip

The Guardsmen held a social conference in Atlanta, Georgia from August 2nd through 5th at the Omni Atlanta at CNN Center. The Defendant attended and charged \$2,218.01 to his city Pro-Card for the trip. The hotel cost \$732.44, along with a night at the Westin for \$243.93 so the Defendant could arrive a day early. The airfare cost \$454.00, and the Defendant used his Pro-Card for transportation expenses during the trip as well. An email found in the Defendant’s account includes an itinerary for the Guardsmen trip. It included an NFL-themed kickoff party at the Atlanta Falcons’ stadium, a golf tournament, a tennis tournament, a wine tasting, bourbon and cigars on the pool deck, a brunch and day party, dinner and dancing receptions, and after-parties each night. No business-related meetings were anywhere on the itinerary.

Naples, FL Guardsmen Trip

While the Defendant was still employed with the Department of Economic Development, he used his City Pro-Card to book the Naples Grande Beach Resort from November 1st through November 4th, at a cost of \$717.00. The receipt found in his city email account indicated that the booking was for a National Guardsmen event. The Defendant was no longer employed with the City of Virginia Beach by the time the conference occurred in November.

EMBEZZLEMENT DURING 2017

Dana Point, CA Guardsmen Trip

The Guardsmen held a social conference in Dana Point, California from April 5th through 10th at the Monarch Beach Resort. The Defendant attended and charged \$3,164.62 to his city Pro-Card for the trip. The hotel cost \$1,949.29 and the airfare cost \$542.60. Other charges included meals with alcohol and transportation.

Orlando, FL Guardsmen Trip

The Guardsmen held a social conference in Orlando, Florida from November 16th through 19th at the JW Marriott. The Defendant attended and charged \$1,694.71 to his city Pro-Card for the trip. The hotel cost \$859.11 and the airfare cost \$693.10. Other charges included transportation. From an email discovered in the Defendant’s city email account, it was learned that the conference was themed “License to Party.” A daily

itinerary indicated that each night event had its own separate theme, where members were instructed to wear matching outfits to go along with it. Themes included “Havana Nights,” “Macau Casino Night,” and “London Calling.” The itinerary also instructed members to wear matching outfits for the daytime activities, which included breakfasts, luncheons, golf, tennis, and offsite excursions such as driving high-end sports cars. Aside from meetings pertaining to the social club itself, there were no business-related meetings on the itinerary.

EMBEZZLEMENT DURING 2016

Asheville, NC Guardsmen Trip

The Guardsmen held a social conference in Asheville, North Carolina from April 28th through May 1st at the Omni Grove Park Inn. The Defendant attended and charged \$1,123.14 to his City Pro-Card for the trip. The charges included \$1,042.49 for the hotel as well as gas along the route between Virginia Beach and Asheville.

Panama Guardsmen Trip

The Guardsmen held a social conference in the country of Panama from October 5th through 11th at the Westin Playa Bonita. At the time of this trip city policy did not require that international travel conducted by the head of Economic Development be approved by a Deputy City Manager. The Defendant attended and charged approximately \$3,027.96 to his city Pro-Card for the event. The Westin Playa Bonita hotel cost \$1,845.69 and the airfare cost \$727.26. Other expenses included meals with alcoholic beverages. The Defendant claimed the purposes of the expenditures were for a “Panama Canal Marketing trip” and he further noted that he had business-related dinners with employees and individuals who were not even in Panama at the time. On other receipts, he claimed business-related dinners with individuals who also happened to be members of the Norfolk chapter of the Guardsmen. These members would testify that business was not conducted in Panama, and that it was a social event.

EMBEZZLEMENT DURING 2015

Indian Wells, CA Guardsmen Trip

The Guardsmen held a social conference in Indian Wells, California from March 25th through 30th at the Renaissance Hotel. The Defendant attended the conference and used his city Pro-Card to charge \$2,894.64 in expenditures including travel, lodging, and meals with alcohol. The hotel cost \$1,431.25. The flight cost \$646.20. The Defendant submitted a dinner receipt for \$126.92 with a notation that it was for a meeting with a person regarding a healthcare business. That person is a member of the Norfolk Chapter of Guardsmen. Another receipt for a \$104.56 breakfast was noted by the Defendant to have been for a meeting with another “to discuss VB location + expansion.” That person is also a member of the Norfolk Chapter of Guardsmen. The FBI interviewed him in 2019, during which he told the FBI that the Defendant has never asked him to relocate his business to Virginia Beach. He had multiple offices in Hampton Roads, including in Virginia Beach already, and he would have no interest in expanding his practice. He recalled going to the Indian Wells trip in 2015, but never any conversation with the

Defendant concerning business, as business was not the purpose of the trip. Guardsmen events are social, and members “leave credentials at home,” he said.

Chicago, IL Guardsmen Trip

The Guardsmen held a social conference in Chicago, Illinois from June 25th through 28th at the Fairmont Hotel. The Defendant attended and put \$1,827.86 in charges on his city Pro-Card for this trip. The hotel cost \$1,113.96. The airfare cost \$482.20. Other expenses paid for by the city Pro-Card included food and transportation.

San Antonio, TX Guardsmen Trip

The Guardsmen held a social conference in San Antonio, Texas from November 5th through 8th at the La Cantera Resort. The Defendant attended and charged \$1,685.52 to his city Pro-Card for the trip. The hotel cost \$882.92, including food and alcoholic beverages charged to the room. The airfare cost \$614.70. Other charges included transportation.

Other Expenditures

In addition to the above expenditures, the investigation further revealed that the Defendant utilized city funds to host a 2016 dinner for the Guardsmen at the Cavalier Golf and Yacht Club in Virginia Beach at a cost of \$2,194.07. The invoice from the club labeled the event “Guardsmen Dinner” and included premium liquor, beer and wine, bar service, and a dual entrée meal. Additionally, the investigation revealed charges of \$284.42 expense for the Guardsmen monthly meeting at the Lynnhaven Room at the Cavalier Golf and Yacht Club on 7/20/2016 and a \$103.14 expense on 8/25/18.

WE AGREE THAT THIS WOULD BE THE COMMONWEALTH’S EVIDENCE.

BY: _____

Colin Stolle
Commonwealth’s Attorney

Warren Harris
Defendant

Jeffrey Swartz
Attorney for the Defendant

Date

Judge of the Circuit Court