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December 12, 2022

VIA EMAIL ONLY

Board of Directors
Santa Clara Valley Transportation Authority
3331 North 1st Street
San Jose, CA 95134

Re: ***Santa Clara Valley Transportation Authority/Samuel Cassidy –Investigative Findings***
Client-Matter: SA480/012

The Santa Clara Valley Transportation Authority ("VTA") retained this firm, Liebert Cassidy Whitmore, to investigate issues related to the workplace shooting that occurred on May 26, 2021 at the Guadalupe Yard ("Guadalupe Incident").

I was asked to make factual findings only and made factual findings to the extent possible—some allegations could not be substantiated based on the facts. I did not make legal findings nor did I make rule determinations.

I. THIS INVESTIGATION IS AN EMPLOYMENT WORKPLACE INVESTIGATION. IT IS NOT A CRIMINAL INVESTIGATION, ROOT CAUSE ANALYSIS, OR PSYCHOLOGICAL EVALUATION.

I conducted this investigation using my expertise as a labor and employment attorney and impartial and objective workplace investigator. As such, I only investigated issues pertaining to potential knowledge and conduct of VTA's employees concerning the Guadalupe Incident. I did not employ any investigative method outside my professional expertise, including an investigation to assess potential criminal liability, a root cause analysis concerning the Guadalupe Incident, or undertake any psychological evaluations concerning Samuel Cassidy or any witness.

I interviewed 47 witnesses for this investigation.

I attempted to interview other witnesses who declined to participate or failed to attend a scheduled interview; those individuals were not interviewed.

I made contact with the next of kin of the victims of the May 26, 2021 shooting. However, in light of the scope of my investigation and how my investigation unfolded, I made the determination that I did not need to interview them for this investigation.

Due to the COVID-19 pandemic, I conducted all interviews over Zoom. The interviews were all recorded and transcribed.

I also reviewed documentary evidence as part of my investigation.

In weighing the available evidence, I used the civil law preponderance of evidence standard of proof.

The scope of investigation was originally set on or about July 2, 2021. VTA asked LCW to conduct an investigation addressing the following:

1. Gather facts related to the incident at the Guadalupe Division Yard on May 26, 2021 where Samuel Cassidy shot and killed multiple co-workers.

2. Did the VTA have any information that Cassidy was planning a mass shooting at a worksite?

3. Gather facts that could have contributed to Cassidy's motive to shoot his co-workers.

4. Were any complaints made to VTA about Cassidy during his employment?

5. Did Cassidy file complaints against any co-workers? If Cassidy did file complaints against any co-workers, did the VTA take any action in response to those complaints?

6. Did Cassidy have a history of misconduct at the VTA? If Cassidy had a history of misconduct at the VTA, did the VTA take any action in response to the misconduct?

7. Gather facts pertinent to determining compliance or non-compliance with VTA's Violence Free Workplace Policy by VTA employees in connection with May 26, 2021 mass shooting.

II. FACTUAL FINDINGS

A. FACTS RELATED TO THE MAY 26, 2021 SHOOTING INCIDENT AT THE GUADALUPE YARD

On May 26, 2021, Cassidy left his house at 5:39 a.m. and traveled to the Guadalupe Yard in San Jose, CA. Cassidy entered the Guadalupe Yard with multiple weapons. Cassidy's house caught fire that morning, after Cassidy left his home.

After Cassidy arrived at Guadalupe Yard, he proceeded to the Building B breakroom. Employees from the day shift and night shift were present in the breakroom, as the time of the shooting was when shifts overlapped.

Around 6:34 a.m., Cassidy opened fire in the breakroom, killing six individuals. At least three individuals present in the breakroom at the start of the shooting were not shot. One of the surviving individuals ran out of the building when the gunshots began. The other two surviving individuals remained in the room but were not shot by Cassidy. The breakroom only has one way to enter and exit. In the midst of the shooting, one of the surviving individuals asked Cassidy to "stop…shooting." Cassidy refused to do so, but Cassidy told this witness that he was not going to shoot that individual. This other surviving witness witnessed Cassidy reload his handgun and fire additional rounds at the victims that were already on the ground. Cassidy did not shoot this witness either. I attempted to interview this witness, but this employee did not appear for an interview.

After Cassidy fired shots in Building B, he made his way to Building A. Building A houses timekeeping and the Operations Control Center ("OCC"), among other departments. On his way to Building A, Cassidy passed at least one employee. Cassidy did not open fire on this employee. Once in Building A, Cassidy opened fire on the second floor and killed three employees.

Ten VTA employees, including Cassidy, died.

Multiple employees learned there was an active shooter via radio communications, prompting many employees to evacuate or shelter in place. Several individuals called 911. The San Jose Police Department and the Santa Clara County Sherriff's Office were notified. The Santa Clara County Sheriff's Office has a location next to the VTA yard, so several employees were evacuated to the Sheriff's Office when they exited the VTA buildings. When law enforcement confronted Cassidy, Cassidy took his own life.

B. DID VTA HAVE ANY INFORMATION THAT CASSIDY WAS PLANNING A MASS SHOOTING AT A WORKSITE?

No. There were no reports made to VTA that would have put VTA on notice that Cassidy might engage in violent behavior. There is no evidence that any VTA employee or supervisor had prior knowledge that Cassidy was planning a shooting in the workplace that could have been prevented by VTA.

During the course of the investigation, five witnesses expressed concerns either to VTA supervisors or other VTA employees that Cassidy's demeanor or behavior was changing, see Section D.

There is also evidence, as reflected in media reports, that Cassidy was detained by the Department of Homeland Security following a trip to the Philippines in 2016 for potential terrorism-related documents. These documents note that Cassidy hated VTA, but contained no information about planning a mass shooting. There is no evidence that the federal government or any other government agency or person notified VTA regarding this detention.

C. FACTS THAT COULD HAVE CONTRIBUTED TO CASSIDY'S MOTIVE TO SHOOT HIS CO-WORKERS

Cassidy seemed frustrated with his co-workers and management. Cassidy's perception was that management was not adequately supervising his co-workers, Cassidy did more work than his co-workers, management favored certain employees, and that only management had the option to work remotely during the pandemic.

The shooting occurred after several incidents involving documented employee misconduct by Cassidy, but none of these incidents, individually or viewed together, put VTA on notice that Cassidy was going to engage in workplace violence. These incidents are:

- Cassidy's refusal to sign for a work radio, though the radio is essential equipment that was required to perform Cassidy's job duties;

- Cassidy's verbal altercation with an employee during the annual vacation sign-up;

- VTA's requirement that Cassidy complete trainings and re-certifications during the COVID-19 pandemic, despite Cassidy's fears of catching COVID-19;

- Cassidy's inappropriate and improper uses of the VTA radio in which Cassidy broadcasted his frustrations about VTA over the radio; and

- The impact of VTA's cyberattack on Cassidy's paycheck, requiring Cassidy to repay money back to VTA.

D. WERE ANY COMPLAINTS MADE TO VTA ABOUT CASSIDY?

Complaints were made to VTA about Cassidy, but none specifically put VTA on notice that Cassidy was going to carry out an act of workplace violence. Here is a summary of complaints received by supervisors or managers:

- In 2020, a written complaint was made following a verbal altercation where Cassidy called another employee the most corrupt person at VTA and a "bitch," and the employee reported that an anonymous colleague said that if anyone was to "go postal" it would be Cassidy. The employee did not disclose the identity of the anonymous colleague. Cassidy was counseled on VTA policies on proper workplace behavior.

- During the investigation, a witness reported that they had complained to a supervisor about an interaction they had with Cassidy. The witness told a supervisor that Cassidy had yelled at the witness when the witness asked about Cassidy's paycheck. Based on

this, the witness claimed that they had indicated to the supervisor that Cassidy was going to "go postal."

- During the investigation, a witness reported that victim Jose Hernandez III reportedly did not get along with Cassidy, refused to work with Cassidy, and complained about verbal disagreements with Cassidy.

E. DID CASSIDY FILE COMPLAINTS AGAINST ANY OTHER CO-WORKERS? IF CASSIDY DID FILE COMPLAINTS AGAINST ANY OTHER CO-WORKERS, DID VTA TAKE ANY ACTION IN RESPONSE TO THOSE COMPLAINTS?

Only one VTA employee noted an interaction with Cassidy that the employee believed ended in a complaint filed by Cassidy. The interaction was that Cassidy yelled at this employee for walking down the stairs the wrong way, and shortly thereafter signs were put up that only one person could go up and down the stairs at a time to encourage social distancing. It could not be established whether Cassidy complained about this employee or the incident the employee described.

F. DID CASSIDY HAVE A HISTORY OF MISCONDUCT AT VTA? IF CASSIDY HAD A HISTORY OF MISCONDUCT AT VTA, DID VTA TAKE ANY ACTION IN RESPONSE TO THE MISCONDUCT?

Cassidy's personnel records detail the occurrences of five different disciplinary events. For each incident, Cassidy's supervisors were responsible for administering any corrective action.

- The first incident was following Cassidy's refusal to sign for a VTA radio. Cassidy was sent home as leave without pay, and the next day Cassidy's union president signed for the radio on his behalf.

- The second incident was when Cassidy got into a verbal altercation with an employee during the annual vacation sign-up for ATU employees. Cassidy was counseled on VTA policies by his union representatives and potentially by a supervisor.

- The third incident was VTA's requirement that Cassidy undergo trainings and re-certifications during the COVID-19 pandemic, despite his unwillingness to do so due to his fears of catching COVID-19. No discipline was imposed because Cassidy eventually completed these trainings and re-certifications.

- The fourth and fifth incidents involved Cassidy broadcasting unacceptable statements over VTA radios. In both instances a supervisor was notified and a supervisor counseled Cassidy on proper use of the radio.

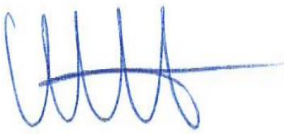
G. IDENTIFY FACTS PERTINENT TO DETERMINING COMPLIANCE OR NON-COMPLIANCE WITH VTA'S VIOLENCE FREE WORKPLACE POLICY BY VTA EMPLOYEES IN CONNECTION WITH THE MAY 26, 2021 MASS SHOOTING.

The VTA Violence Free Workplace Policy outlines the standards and expectations regarding violence in the workplace and provides guidance for identifying and appropriately responding to instances of workplace violence. Facts that may be pertinent to this issue in the time leading up to May 26, 2021 include: the vacation sign-up incident; Cassidy's interaction with an employee about Cassidy's paycheck; and concerns about Cassidy's behavior, including observed changes in Cassidy's demeanor and comments by employees that Cassidy may "go postal."

On May 26, 2021, Cassidy came to Guadalupe Yard and opened fire, killing ten VTA employees, including himself. Employees were evacuated to the Santa Clara County Sheriff's Office next door, where several employees provided support to other employees and families. The day of the shooting, VTA provided grief counseling, discontinued light rail service, and activated the Emergency Operations Center to coordinate support to employees.

VTA implemented active shooter training in approximately 2018 and it is estimated that most of VTA's 2,100 employees received that training. VTA sent a memorandum to employees on evacuations in December 2019 and August 2020, which included information on active shooter evacuation only appearing in the December 2019 memo. Each shift at the Guadalupe Yard had a fire drill in May 2021. The cyberattack did not impact any physical security or infrastructure at VTA.

Very truly yours,
LIEBERT CASSIDY WHITMORE



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