

Memorandum

To: Aracely Azevedo, Director of Human Resources
City of Santa Clara

From: Genevieve Ng
Sloan Sakai Yeung & Wong LLP

Date: June 28, 2021

Re: Executive Summary of eBay Investigation

The United States Attorney's Office filed a criminal complaint against two former Santa Clara Police Department employees. In June 2020, the FBI's Massachusetts Cyber Crime Unit indicted Brian Gilbert and Philip Cook, eBay Global Security personnel, of being involved in a cyberstalking campaign targeting the editor and publisher of a newspaper who was critical of eBay executives. Along with several other eBay personnel, Gilbert and Cook were all charged with conspiracy to commit cyberstalking and conspiracy to tamper with witnesses.

Contained in the Affidavit by the FBI were references from Gilbert suggesting he wanted to use a "local cop" to assist him with carrying out eBay plans. When the City became aware of the allegations, the City initiated communications with the FBI to determine whether their investigation was still ongoing and whether other City employees were involved. The FBI assured the City that Gilbert and Cooke were the only City employees implicated in the investigation. The City also wanted to independently confirm this and retained Howard Jordan, a licensed private investigator with Management Strategies Group, to engage in a fact finding.

The scope of Mr. Jordan's fact finding was to determine whether Gilbert and Cooke:

- Used their departmental ties for entrée into post-retirement employment with eBay;
- Engaged in any misconduct between 2012 and retirement; and
- Sought any departmental assistance for their eBay conduct.

Mr. Jordan interviewed twelve individuals including Gilbert and Cooke and, with the Department's assistance, reviewed hundreds of pages of correspondence and documents. Based on the evidence gathered, Mr. Jordan found the following:

- There was no evidence to suggest that either Gilbert or Cooke used their departmental positions or ties while active members of the Police Department to gain post-retirement employment with eBay.

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- There was no evidence of any misconduct by either Gilbert or Cooke between 2012 and their respective retirement dates.
- There was no evidence to suggest that either Gilbert or Cooke had subsequent contact with current members of the Police Department in furtherance of their eBay-related conduct. Any communications between Gilbert or Cooke and the Department consisted of the usual communications between the City and retirees, and witnesses saw Gilbert and Cooke at social events, but did not engage with them in conversations about what was happening at eBay. Although both Gilbert and Cooke declined to speak formally with Mr. Jordan, Gilbert¹ reiterated that any reference to using a “local cop” was a “throwaway” comment or just “an idea,” and neither Gilbert nor Cooke had anyone specific in mind when the comment was made. Additionally, they all indicated that the FBI were very thorough in this investigation and that if any additional charges were going to be made, the United States Attorney’s Office would have issued an indictment.

Mr. Jordan found that all of the parties interviewed were credible and corroborated by other witnesses or documentary evidence where possible. Mr. Jordan completed his fact finding on June 28, 2021.

¹ As well as Gilbert’s and Cooke’s respective attorneys who spoke with Mr. Jordan.