

Next Up for Hueston: Taking on Corruption in San Bernardino

By Jason W. Armstrong
Daily Journal Staff Writer

SAN BERNARDINO — When officials in scandal-plagued San Bernardino County wanted quick answers about suspicions of embarrassing misconduct in the assessor's office, they turned to a high-profile, tough-as-nails lawyer with a reputation for rooting out corruption at the highest levels: former federal prosecutor and Irell & Manella partner John Hueston.

This month, Hueston drafted a detailed report for the county laying out a scathing list of misdeeds in the office. The Los Angeles attorney — well known for successfully prosecuting top Enron Corp. figures Kenneth Lay and Jeffrey Skilling — found that former Assessor Bill Postmus and aides committed "rampant misconduct," including showing up to work intoxicated, retaliating against grand jury witnesses and using office time to advance their own political goals, costing the county hundreds of thousands of dollars.

County officials — still smarting from other local government fraud scandals in the past decade — are banking on Hueston's report and extensive experience fishing out corruption and investigating misconduct to help fuel a lawsuit they filed against Postmus and several other former assessor staffers this month. Hueston, who said he has never lost a case in two decades working as a U.S. attorney or in private practice, will try the suit along with the San Bernardino County Counsel's office. Local prosecutors also are using Hueston's 35-page report to help push their ongoing criminal investigation in the case.

Hueston topped the county's list to conduct the independent investigation because of his "impeccable credentials," said County Counsel Ruth Stringer. Her office recommended the Board of Supervisors hire him out of a field of about a dozen candidates to help ferret out Postmus' alleged misdeeds. She said Hueston has a "nice blend" of extensive experience in federal corruption prosecutions and in public and private civil corporate investigations, which helped in the Postmus probe.

The county has paid Hueston about \$200,000 so far in legal fees.

As an assistant federal prosecutor in charge of the Santa Ana branch of the U.S. Attorney's Office for a decade, Hueston, 45, made a name for himself in a series of headline-grabbing corruption cases. Those included extortion, money-laundering and mail fraud convictions against former Santa Ana councilman Ted Moreno in 2000. As a lead prosecutor on the Justice Department's Texas-based Enron Task Force in 2004, Hueston gained recognition for his withering cross examination of Lay, a former chief executive of the energy company, in the massive accounting fraud case that ultimately led to convictions for Lay, Skilling and others.

As co-chair of Irell & Manella's Corporate Crisis and White Collar Criminal Defense practice

since 2006, Hueston has balanced his duties as outside counsel in internal investigations with his trial work. He recently staved off potential criminal charges against executives at a Fortune 500 company suspected of stock option backdating (he declined to name the company or the parties). He's also overseen a host of internal investigations aimed at uncovering misconduct within major corporations and public agencies.

San Bernardino County initially tapped Hueston in January to look at whether they had sufficient grounds to fire Postmus under an unusual legal provision giving supervisors the power to oust elected officials. Postmus ended up resigning the next month, but the county asked Hueston to continue interviewing witnesses and complete his report.

'It was evident that Mr. Postmus was not only aware of improper activities, but also directed the activities.'

John Hueston, Partner, Irell & Manella

What Hueston found, he said, was a "scheme Bill Postmus conducted to bring in a layer of political operatives to work at county expense to pursue his political ends." Postmus, who could not be reached for comment, has denied the allegations and called Hueston's findings unfair. "This so-called report is neither shocking nor surprising," he said in published reports this month. "It was always intended to be as negative as possible toward my former office and those who worked for me."

But according to Hueston's May 12 report, Postmus, a former chairman of the Board of Supervisors and former head of the county's Republican Party, who was elected to the assessor post in 2007, and several of his top executive staff did little more on the clock than operate political-related web sites and help their boss assist allies in other races to help Postmus make himself look like a political shining star.

Postmus hired staff who were abusive, showed up to work drunk, worked only three or four hours per day and committed timecard fraud, Hueston found. Postmus also employed highly-paid consultants who did minimal work, Hueston found. One consultant, Mike Richman, was paid \$49,200, but 90 percent of his work was political and had nothing to do with the assessor's office, according to Hueston's report.

Other Postmus hires included Rex Gutierrez, a Rancho Cucamonga city councilman, who was given the position of "intergovernmental relations officer" and nicknamed by staffers the "Intergalactic Officer" because of his sparse work attendance and because he usually only worked on Rancho Cucamonga business, Hueston wrote.

Hueston also found that Postmus had showed up to work on drugs. Witnesses cited in the report said

they saw Postmus "stoned," recalled him "huffing" chemicals in canisters, and at other times saw him at work "looking blue with white foam around his mouth."

When Postmus found out one of his employees, Wanda Nowicki, had started talking to a criminal grand jury about misconduct in the office, Postmus threatened to fire her, Hueston found. Nowicki was also told to "omit certain information from her grand jury testimony," according to the report.

To shield their wrongdoing, Postmus and his aides would communicate by private Blackberry messages to avoid being tracked through the county e-mail system, Hueston found.

"As our picture of the Assessor's Office became clearer, it was evident that Mr. Postmus was not only aware of improper activities, but also directed the activities, and perhaps, deliberately hid his involvement by putting others at the forefront," Hueston wrote.

Based on the report, on May 12 the county sued Postmus, Gutierrez, Richman, and former staffers Adam Aleman, James Erwin and Gregory Eyley for fraud, unjust enrichment and breaches of the state False Claims Act, among other things. The case seeks unspecified civil compensatory, punitive and exemplary damages. County of San Bernardino v. Postmus, CIVDS906909 (San Bernardino County Super. Ct., filed May 12, 2009).

While Hueston's findings are part of the county's civil suit against Postmus and others, he wasn't tasked with compiling information for a criminal investigation. However, Susan Mickey, a spokeswoman for District Attorney Mike Ramos, said her office is weighing the report as part of an ongoing investigation into misconduct in the assessor's office.

Postmus was arrested in January after investigators said they found illegal drugs in his home while searching for documents as part of the criminal probe of the assessor's office. Prosecutors have not charged Postmus, who is out on bail.

Aleman, Postmus's former top assistant, was charged with destroying public documents and lying to a grand jury. He has pleaded not guilty. Erwin, another former assistant assessor, has been charged with failing to report gifts from a developer. Both men have denied the civil and criminal allegations and pleaded not guilty.

The Postmus imbroglio is the latest blow to San Bernardino County, which faced a series of highly publicized government scandals in the past decade.

Among those, prosecutors in the late 1990s charged former top county administrator James Hlawek and other county officials of a string of crimes including taking bribes from trash company executives who were pursuing a contract with the county. Hlawek and several other county officials were convicted. The county recovered \$35 million in damages in civil litigation against several parties in the scandal.