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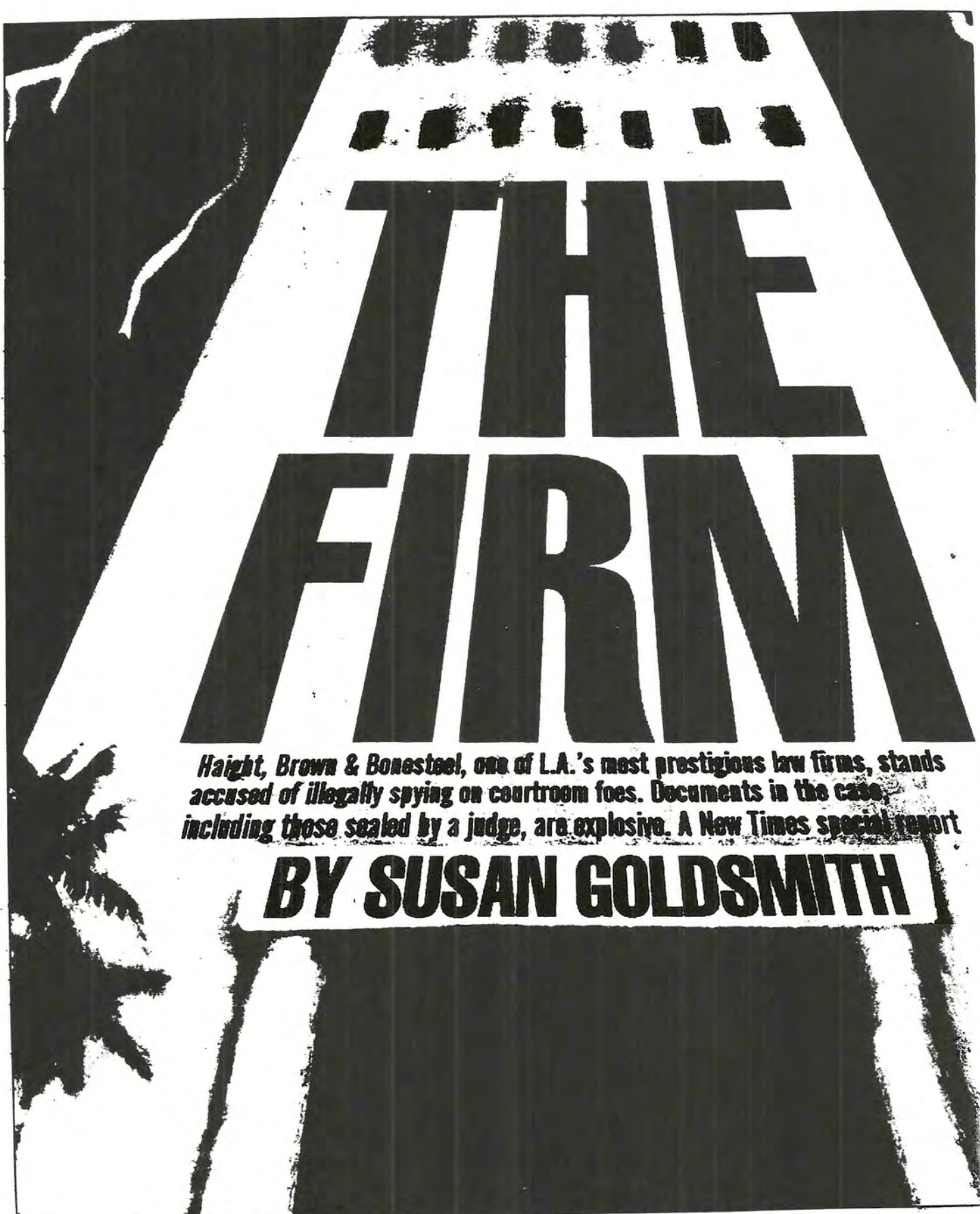
THE FIRM

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BY SUSAN GOLDSMITH

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THE FIRM

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BY SUSAN GOLDSMITH

The mail that awaited David Sharp at his downtown L.A. law office on a summer day two years ago looked like it always did: a pile of bills, business correspondence, magazines, and newspapers. But there among the usual items was a bulging envelope that had been sent by certified mail. Sharp hadn't been expecting anything special, so he decided to open the package first. The return address was in Santa Monica.

Sharp found the envelope stuffed with strange documents, including a typewritten letter dated July 10, 1996—two days earlier.

"What they are doing to you is wrong so we decided to send you this," the letter said. "We hope it helps. You should expect more mailings like this one but please protect our confidences. They hurt all kinds of people by doing this and they have forever, so maybe you can stop it." The letter was unsigned.

The rest of the documents were hard to understand but several appeared to be internal memos written by attorneys and investigators at Haight, Brown & Bonesteel, a prestigious Santa Monica law firm that often defends blue-chip corporations in multimillion-dollar lawsuits. At the time, Haight, Brown was defending a smaller law firm against a malpractice suit filed by Sharp.

Some of the memos looked like instructions from Haight, Brown lawyers to the firm's in-house detectives to dig up bank records, consumer credit reports, and other confidential information on various people Sharp had never heard of. Another document was evidently a report from the law firm's chief investigator describing how he and other detectives had spied on a young Orange County woman. The report said investigators had entered her gated apartment complex and gave details of where security guards and cameras were located. Other papers included what looked like a copy of the woman's driver's license, a memo discussing someone else's arrest record, and a bill to the law firm from an outside private eye.

Sharp was mystified. What was this stuff? And why had it been sent to him?

Two days later, the 43-year-old attorney arrived at his office to find a second envelope waiting for him. It carried a certified mail receipt addressed to David Prah. Sharp stared at the label. *David Prah?* he thought. *Who the hell is that?*

Then it hit him. David Prah was his own name, spelled backward.

Like the previous one, this envelope was filled with documents, many of them apparently written by attorneys and investigators at Haight, Brown. Sharp pulled one out and read it. It was addressed from an outside private eye to a Haight, Brown detective. The document was marked "Re: David Sharp" and carried the title of Sharp's lawsuit against Kelly & Cogan, the law firm Haight, Brown was defending.

"I am sending under separate cover the information you requested," the memo said. "Please note the following: Medical: Records from Tucson and Phoenix. I believe they are complete. Student: The University of Arizona. These records are complete. Tax: Arizona tax returns. I included what I could get. Personal: My sources are usually reliable. This is as complete as time allows. As we discussed, this requires special handling. I took the liberty of getting his DOD [Department of Defense] records. Tell me if you need them. I will send them along."

Sharp was stunned. The information was about him, and it was completely accurate. He had attended the University of Arizona, had been in the military, had paid taxes in Arizona. But what did it all mean? Had agents working for Haight, Brown acquired his personal records?

He picked up what looked like another Haight, Brown memo and saw his home address, business address, and Social Security number. All that information was correct, too.

Sharp felt his chest tighten, and sweat beads formed on his forehead. He began reading another note, this one evidently written by a Haight, Brown investigator.

"The Bank of America business account includes statements and microfilm copies of canceled checks," it said. "There is no personal account at B. of A. For Arizona. First Interstate shows no activity in the personal account." The memo closed by saying, "Our source will update the B. of A. canceled checks each month. As they come in, I will send them to you."

Another match. Sharp maintained a business account at Bank of America and once had a personal account at First Interstate in Arizona. And all of the documents were dated in late 1995 and early 1996—a period in which his law suit against Kelly & Cogan was underway.

The most chilling memo was yet to come. It seemed to be a report from a Haight, Brown detective to one of the firm's lawyers defending Kelly & Cogan. "Regarding a search of computer files, I have the following to report," the note began. "Our source will finish with the tape by January 17. The source tells us that there are many files, but Sharp only used one type of file. At your request I have confirmed that you have all the documents and audio tapes."

Sharp could not imagine how his private information had gotten into Haight, Brown clients, and business letters had been missing from his West Hollywood apartment for months. He hadn't been able to figure out what had happened to the material. A disturbing thought came into his head. Could someone working for Haight, Brown have broken into his apartment?

Worried that the backup tape on his older-model home computer might also have disappeared, Sharp grabbed all the documents and drove to his apartment. Once there, he switched on his computer and searched for the tape. It, too, was gone: a new tape had been put in its place. Panicked, Sharp darted back outside. So much was missing. The computer files alone contained years' worth of information on legal matters he had handled, not to mention personal letters.

Sharp got back in his car and sped to the Santa Monica return address listed on both envelopes. Instead of a home or office he found only a vacant building. Directly across the street, in a posh office complex, were the headquarters of Haight, Brown & Bonesteel.

"The mystery deepened," Sharp says, remembering the moment. "I simply didn't know what to think."

For the next several days, Sharp thought about little else but the strange packages and their contents. Slowly, he began to figure out what they might mean. He recalled a brief article about Haight, Brown & Bonesteel he had read a few months earlier. The story in the *Los Angeles Daily Journal*, which covers lawyers and legal issues, was about a wrongful termination lawsuit brought against Haight, Brown by its former chief investigator, Ben Ortiz.

What Ortiz had to say in the suit about his old employers sounded like something out of a John Grisham novel. The ex-gumshoe accused Haight, Brown and seven partners of systematically ordering their investigators to break state and federal laws in order to get inside information on courtroom foes that could help the firm win its cases.

Ortiz, who had joined Haight, Brown after 21 years in the L.A. Police Department, claimed the firm's detectives acquired confidential bank records, credit reports, and criminal histories not only on people who sued Haight, Brown clients, but on their lawyers and witnesses as well. Ortiz said he was fired after trying to stop the illegal investigations.

Haight, Brown officials denounced Ortiz's allegations as "absolutely bogus." The firm's managing partner, William Sayers, said at the time, "We deny that any illegal searches, or however he wants to couch it, have occurred here. We operate at the highest ethical standard." Although Ortiz's charges were sensational, virtually no other details emerged publicly: hundreds of pages of sworn testimony he gave in his suit were later placed under court seal.

But Ortiz's story struck a chord with Sharp, who specializes in suing other lawyers for malpractice. After mulling the matter over with friends, he decided to file his own lawsuit against Haight, Brown, charging invasion of privacy and racketeering. Sharp's May 1997 suit named the firm, four partners, and two investigators as defendants and claimed that Haight, Brown illegally obtained his consumer credit report, bank records, tax returns, and medical and military records. He also accused the firm and its agents of breaking into his apartment and taking his computer files, tape recordings, and personal correspondence.

In a letter to *New Times*, Gary Bostwick, a Santa Monica lawyer representing Haight, Brown, hinted that he would sue the newspaper if it printed a story without interviewing any of the firm's principals. After *New Times* submitted a written request to interview 20 Haight, Brown attorneys, Bostwick sent a second letter saying they declined to talk.

Bostwick denied all of Sharp's allegations. "Haight, Brown & Bonesteel does not maintain, and has never maintained, an investigative file regarding Mr. Sharp," he wrote. "Haight, Brown & Bonesteel has never obtained Mr. Sharp's banking records, tax returns, credit records or reports, medical records, military records, student records, or personal correspondence. Finally, Haight, Brown & Bonesteel was not involved in any way in any alleged break-in to Mr. Sharp's residence...."

Reached by telephone, Haight, Brown partner Neil McNiece also denied that illegal searches took place.

"That does not go on as far as I know," he said. "I've worked here for 12 years, and I've never heard of anybody stupid enough to invade somebody's privacy. I wouldn't put my livelihood on the line to save someone's few bucks."

But a four-month *New Times* investigation has uncovered information that lends credence to Sharp's and Ortiz's allegations that Haight, Brown illegally spied on those it faced in court. In addition, two other attorneys besides Sharp say their offices were burglarized and their files ransacked during periods when they were

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locked in court fights with Haight, Brown. And alleged illegal intelligence-gathering evidently backfired in one major Haight, Brown case, forcing the firm's client, a public utility, to pay tens of millions of dollars more in settlement costs.

"The conduct by Haight attorneys and their investigators," says Dick Caillouette, Sharp's attorney, "is just unbelievable."

David Sharp arrives on foot for an interview

lawyers. He didn't ask for retainers and often waived his fees if they couldn't pay. In a good year, he took home \$35,000. His legal struggle against Haight, Brown has reduced his income even further. The court action takes up so much of his time that he has stopped taking new clients.

Sharp seems an unlikely character to be at the center of a high-stakes legal drama. With his thinning brown hair, emerging jowls, and tired-looking eyes, he could pass for an over-worked accountant or high school teacher. A native of the small farm community of Hayti, Missouri, he speaks slowly and softly, pepper-

Those who know Sharp say the Haight, Brown case has weighed heavily on him, turning a warm and friendly man into someone who's treif and suspicious. "The wear and tear on him... has been enormous," says attorney Gary Zerman, a friend who also consults on Sharp's lawsuit. "This has hardened him." Even Sharp's posture seems to reflect his woes. When he walks, his shoulders hunch, and his eyes dart back and forth as if he's worried someone might attack him.

But Sharp is determined to pursue his case to the end.

"I want all of Haight, Brown & Bonesteel's

Bonesteel exude professionalism and wealth. The firm's 115 attorneys are spread out over four floors that overlook fountains and tree-lined walkways. Another 34 Haight, Brown lawyers work at satellite offices in San Francisco, San Diego, Santa Ana, and Riverside.

Founded in 1937, the law firm is the ninth biggest in L.A. County. Its client roster has at one time or another included such corporations as General Electric Co., Bank of America, Pacific Gas & Electric Co., American Airlines, Bristol-Myers Squibb Co., Nissan Motor Co., Caterpillar Tractor Co., and Marriott Hotels, Resorts and Suites.



David Sharp works on his case at Jack in the Box; (right) one of the memos Sharp received in the mail, discussing his tax returns

at a Jack in the Box in Whittier. The restaurant is several long blocks from his latest apartment, and he would rather have driven. But the brakes are out on his 12-year-old Ford Escort and he doesn't have the money to fix them.

His brakes aren't the only things that need repairs. Spooning orange sherbet into his

ing his conversation with country-boyisms. "I'll bet you dollars on donut holes Haight, Brown & Bonesteel doesn't give you an interview," he says at one point. "Why, that doesn't have a hailstone's chance in Hades," he exclaims at another.

In high school, Sharp worked at a family-owned grocery store and occasionally

"The 'nuts' argument—that I'm paranoid and delusional—is their only defense."—David Sharp

mouth at another nearby restaurant, Sharp suddenly winces and grabs his jaw.

"You have to excuse me. My teeth are a mess," he says. "I need a lot of things, but this lawsuit comes first."

Even before he launched his one-man jihad against Haight, Brown, Sharp didn't earn much as an attorney. Many of his clients were blue-collar and middle-class people who claimed they'd been ripped off by their

helped his Dad out in his electronics shop. After graduating third in his high school class (the entire school had just 300 students), he joined the Army and was sent to Japan for three years. He studied accounting as an undergraduate and later graduated from law school at the University of Arizona. He chose the law as a profession, he says quietly, because "I wanted to do right and undo wrongs as a lawyer."

illegal activity stopped and anything short of that I won't accept," he says.

The targets of David Sharp's shoestring crusade work in well-appointed quarters at an elegant Santa Monica office complex called the Water Garden. Decorated with antiques, a winding staircase, beautiful paintings, and dark wood, the offices of Haight, Brown &

"Haight, Brown & Bonesteel is a very, very prestigious law firm," says B.J. Palermo, a reporter for the *National Law Journal*.

The firm's attorneys boast degrees from Stanford, Yale, UCLA, and other top schools. Salaries begin at about \$70,000 a year, and partners make between \$500,000 and \$1 million annually, according to a lawyer familiar with Haight, Brown. At least two partners

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HAIGHT, BROWN & BONESTEEL
SANTA MONICA, CALIFORNIA
SANTA ANA, CALIFORNIA
LOS ANGELES, CALIFORNIA
SAN FRANCISCO, CALIFORNIA
December 7, 1995

RE: SHARP V. KELLY/COGAN
GE08-0130

I have attached a copy of the 1988 IRS return and the latest NCIC report on David Sharp.

This completes list of requested IRS and FTB returns for 1988-1994 for Sharp. They attached a note to the 1988 return and it explains the delay.

If you have a question regarding this memo please call me.

Investigations
Ext 4122

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were appointed as Superior Court judges in L.A. and Orange counties in recent years; another chaired the State Bar's Judicial Nominations Evaluation Committee, which rates judicial candidates for the governor.

To celebrate its good fortune each year, Haight, Brown throws elaborate holiday fetes. "They gave Christmas parties at the Miramar Sheraton and Loews [hotels in Santa Monica]," said Betty Jean Mauck, who worked as a receptionist at Haight, Brown for 12 years. "The parties had buffets with every kind of food, free liquor, a band with dancing, and a huge dessert table.... We got really nice bonuses at Christmas, like, after 10 years with the firm they gave you three weeks' salary as a bonus."

Haight, Brown frequently defends the manufacturers of asbestos and other materials that can harm people and the environment, along with makers of drugs, medical devices, cars, household appliances, and farm and construction equipment. According to former chief investigator Ben Ortiz, the firm represented Dow Corning in numerous lawsuits by women who said they were injured by breast implants, with the investigator on those cases earning \$27,000 a month.

Ortiz said in court documents that Haight, Brown's detectives provided a variety of legitimate services to clients. They dug up defense witnesses, conducted insurance-fraud surveillances, and unearthed background information on courtroom opponents through public records.

But the firm was so hell-bent on winning, said Ortiz, that investigators were often told in effect to break the law to get potentially damaging data on courtroom antagonists. Although Ortiz outlined his allegations only in general terms in his lawsuit, which is publicly available, he gave extensive details of various Haight, Brown investigations under oath in a 675-page deposition. A judge sealed that document from public view, but *New Times* has obtained a copy.

Legal and investigative experts interviewed by *New Times* said an attorney armed with knowledge of a litigation foe's finances and other personal information could have a strong advantage in court.

"If you knew the plaintiff was in bad straits financially, you might offer the plaintiff much less money than the case is worth [to settle it]," says Anthony Petrone, a veteran Chicago defense attorney and former assistant district attorney who now trains other prosecutors. A lawyer who knew his opponent had a criminal history could use that information to undercut that person's credibility in front of a judge or jury, adds Petrone.

Knowing how much money a plaintiff's lawyer had could also provide a strategic edge to the defense, says Robert Pugsley, a professor of criminal law and legal ethics at Southwestern law school in L.A.

"They would get these records on an opposing attorney to see how much capital that attorney was working with" and to determine "whether he has sufficient time and resources to pursue a case to conclusion," says Pugsley. If the opposing lawyer had little cash to operate on, he adds, the defense "can grind him for a settlement."

"Information is absolute power," says Al Schweitzer, a Denver private eye dubbed the "godfather of information" in a recent *New York Times* article. "If I became aware of personal weaknesses in my litigation opponents, those could be exploited. Having access to confidential, illegal information could direct the course of a lawsuit."

The muscular, dark-haired Ben Ortiz arrived at Haight, Brown & Bonesteel in November 1989 after reading in the classifieds that the firm was looking for an investigator. In addition to his more than two decades with the LAPD, the father of four

other ex-LAPD officer during his tenure. Hiring ex-cops can bring a law firm more than just good investigative experience, says Schweitzer.

"Police officers and ex-federal agents are in the P.I. [private investigation] business because there's a lot of old boy stuff that goes on—paying people off with favors and cash," he says. "They are not hired because they're Sherlock Holmes. They are hired because of their contacts.... Hiring ex-law enforcement expedites the flow of information."

A few weeks after landing the job, Ortiz moved his family down from the small town of Visalia in the Central Valley to an apartment in the San Fernando Valley and settled into

mate the need to search through dozens—even hundreds of local courthouses to see if someone has been convicted of a crime. As part of his lawsuit, Ortiz also claimed Haight, Brown detectives had illegally acquired information on people's driver's licenses.

The charges Ortiz leveled at his onetime colleagues are serious. Obtaining consumer credit reports under false pretenses is a felony. Under federal law, acquiring rap sheets without proper authorization is also a felony, punishable by up to five years in prison. In California, obtaining driver's license records under false pretenses is a misdemeanor, punishable by fines up to \$100,000 per violation. Although there are no criminal

penalties for obtaining bank records without authorization, someone whose records are accessed can sue for damages.

Despite the severe penalties, says Schweitzer, the Denver private eye, there are lots of ways that private investigators acquire such information under the table. The exchange usually involves a bribe. Credit reports, he says, can be gotten through someone who has an account with a credit reporting agency, such as a bank or department-store employee. Rap sheets can be acquired through law-enforcement contacts. "Every [computer] terminal within the LAPD can access the [FBI's] National Criminal Information Center, which stores rap sheets," he explains.

Then there is "pretexting," the private-eye code word for ruses by which they shake loose bank statements, canceled checks, and similar material that is supposed to be confidential.

"Pretexts are like well-guarded family secrets among private investigators for unlocking information," Schweitzer says. "A pretext is when you claim you're someone you aren't to get information. You might call a bank and pretend to be the customer to get that information.... For example, you call and say, 'I have a real problem. I'm at the airport, and I need to know if my renter has paid his check because if he hasn't all my checks will bounce.'"

Schweitzer says there is also a network of underground information brokers who sell to investigators. But, he says, it is rare for law firms to resort to such means.

"Is it common for law firms to be getting illegal information? No," he says. "Does happen? Absolutely."

Although Ortiz said little in his deposition about how Haight, Brown investigators obtained information, he said the firm sometimes employed outside "vendors" and "sources" to illegally tap into bank records, credit reports and rap sheets.

Ortiz did discuss one case in which another investigator, who was also an LAPD veteran, produced a rap sheet for a Haight, Brown attorney "who was trying to get as much criminal history on [a plaintiff] as he possibly could because he needed a felony conviction so that he could use that in his representation to the court and to the jury that [the plaintiff]

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The Water Garden, home of Haight, Brown; (right) Denver private eye Al Schweitzer

had several years of private investigative experience and was fluent in Spanish.

Ortiz joined the police department in 1958, working at various times in patrol, undercover narcotics, and vice. He eventually made detective in the felony car theft division, was promoted to watch commander, and finally became a sergeant. He also worked with LAPD's controversial Special Investigation Section, which stalks and sometimes kills people in the act of committing robberies and other crimes. While grappling with an armed

his new life as a Haight, Brown gumshoe.

Ortiz was soon earning rave reviews for his work, he said. In April 1995, he was promoted to chief of the investigative unit; his pay was nearly doubled, to \$65,000. As head investigator, Ortiz conducted training sessions for at least four of the firm's six other in-house investigators. He also reviewed billings and files for all of the internal investi-

"What they are doing to you is wrong so we decided to send you this," the letter said. "They hurt all kinds of people by doing this and they have forever, so maybe you can stop it."

suspect, Ortiz fell out of a second-story window and was seriously injured, he testified in his deposition.

Ortiz retired from the department in 1979. For the next decade, he worked as a private investigator and as an assistant to a county manager in Phoenix.

The same day he interviewed with Haight, Brown, Ortiz, then 53, was offered a job, starting at \$35,000 a year. He stayed with the firm for seven years, working with at least one

gators as well as those hired from the outside. He continued to work some cases himself.

At least a year before he took over as chief, Ortiz said he learned about illegal investigations when he overheard colleagues talking about getting hold of confidential consumer credit reports and rap sheets—which are criminal histories, including arrests, maintained by law-enforcement agencies and not available to attorneys and other members of the public. Possessing a rap sheet can elimi-

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was not to be believed."

Asked how the detective got the rap sheet, Ortiz stated, "He said he contacted a source of his by posing as a [crime investigator] for the U.S. Army. [in] which he was a reserve, I believe, officer. And he searched around at every source that he possibly could try to obtain that data and he had." The investigator eventually got the rap sheet through "a law enforcement source," Ortiz said.

Shortly after Ortiz was promoted to chief detective, he began complaining to Haight, Brown's managing partner about illegal investigations he believed were going on, he testified. By then, Ortiz said, he had decided to put an end to them.

Ortiz testified that he wrote three memos to the managing partner about his objections. The attorney, said Ortiz, already knew about the illegal probes and he, too, wanted them stopped.

Ortiz testified that he told his investigators, along with a number of Haight, Brown partners and other attorneys, that illegal searches would no longer be carried out. The lawyers did not respond well, according to Ortiz.

If Katz hoped to stampede the veteran hardball players at Haight, Brown into quickly shelling out a fortune in hush money, he was disappointed.

Some, he said, complained angrily; a couple spewed profanities when he said he did not want his people breaking the law. Later, some attorneys simply bypassed him and went to other investigators to get what they wanted, he claimed.

Ortiz described a 1995 episode in which he said a partner told another detective to get credit and bank-account data on a courtroom rival. (During his four days of deposition testimony, Ortiz repeatedly described investigations without providing the target's name or other identifying details. Legal experts speculate that may have been an attempt by Haight, Brown to protect their clients and limit their liability if Ortiz's deposition was ever made public.)

Ortiz: "I called [the partner] up and informed her that I had been advised that we were ordered to get illegal information on a certain individual, and we were going to try to get that information in a legal way. If we could just have a couple more days, maybe we could do that, and she told me expletives."

Attorney Karl Keener, representing Haight, Brown: "We're all grown-up here. What did she say?"

Ortiz: "She said, 'Fuck you. I told you goddamn guys down there to do what I told you to do. I want the goddamn information, and I want it now. Quit fucking around and do it and hung up on me.'"

The partner, Ortiz testified, got what she wanted from another detective.

Contacted by phone, the attorney told *New Times*, "I'm really not interested in talking to you. Goodbye," and hung up. Keener did not return a phone call.

Ortiz said the partner also wanted investiga-

instructions, he said, were "to go physically to the address on Wilshire Boulevard in Century City and photograph the outside of the business and to go inside, if possible, and review what the office was made up of and the number of staff and find out if the particular individual in question was in Los Angeles or back East."

The photographs were turned over to another investigator, but Ortiz did not say how they were used.

Ortiz recounted another run-in with a different partner, who allegedly demanded illegal information on a woman who was suing a Haight, Brown client. When Ortiz suggested they try to get dirt on her through legal means, the partner blew up at him.

"This is something you've got to get on right now....I don't give a shit if it's illegal or not," Ortiz quoted the attorney as saying.

Despite Ortiz's complaints, he testified, Haight, Brown lawyers kept demanding illegal lowdown on their courtroom enemies. Ortiz said he repeatedly handed over reports to lawyers that were filled with fraudulently acquired data gleaned by detectives both inside and outside the firm.

In January 1996, Ortiz was fired. He was told he was being terminated, he said, because the firm was disbanding its investigations unit. But the ex-cop did not go quietly.

Three months later, a lawyer representing Ortiz sent Haight, Brown a letter stating the detective's intent to sue for wrongful termination. Ortiz's attorney, Richard Katz, included a copy of the proposed lawsuit, saying it would be filed in four days. Katz also let the firm know he planned to hold a news conference at the Greater Los Angeles Press Club to publicly air Ortiz's explosive allegations.

Katz's letter said Ortiz believed he was canned because he refused to go along with the unlawful intelligence gathering. Katz offered to settle Ortiz's suit for \$1.4 million.

"We believe that Haight, Brown & Bonesteel manufactured a basis for termination in attempting to 'disband' the Investigation Department at the firm as a cover-up to get rid of Mr. Ortiz, because he would not support the directives and instructions to do unethical and illegal acts," wrote Katz. "Haight, Brown & Bonesteel created a fictional lay-off instead of honoring their obligations to Mr. Ortiz in order to punish him for not 'playing ball'."

If Katz hoped to stampede the veteran hardball players at Haight, Brown into quickly shelling out a fortune in hush money, he was disappointed. With no satisfactory response from the firm, he filed his suit and held his press conference as threatened.

The only media outlet in town that picked up the story, however, was the *Daily Journal*. Ortiz's disturbing accusations stirred no follow-up investigations or further press attention.

Ortiz later turned over to the court a num-

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ber of documents he said buttressed his allegations, including credit reports, driver's license records, and rap sheets. He said in an accompanying sworn declaration that illegal investigations "had been going on for many years" at Haight, Brown.

In June 1996, Ortiz gave his lengthy deposition behind closed doors.

Besides the seven partners named in his lawsuit, he said under oath that at least 10 other attorneys instructed detectives to violate the law during the time he was their boss. (Although Ortiz said he was told the investigations unit was being eliminated when he was fired three years ago, the 1998 Martindale-Hubbell Law Directory, published a year ago, says Haight, Brown still provides in-house investigative services to clients.)

In preparing his suit, Ortiz gave Katz several hundred pages of documents that purportedly bolstered his claims. But Haight, Brown fought hard in court to get those papers back, arguing they were the firm's property.

Katz objected to returning them, writing to the judge that some were "evidence of criminal activity, including, but not limited to, criminal conspiracy.... Several of the documents submitted to the Court... reveal that Defendants have engaged in activities that are violative of both civil and criminal statutes."

As the legal struggle picked up momentum that summer, Katz told *New Times*, someone broke into his Pasadena law office.

"I found files opened and moved about. And the Ortiz file, which was in a box, was opened," Katz said. "This happened before Haight, Brown & Bonesteel moved [in court] to have the documents returned."

Katz said he could not determine if anything had been taken and did not call police. He said he does not know who supposedly burglarized his office.

Haight, Brown won the battle for the documents. L.A. Superior Court Judge Lorna Parnell ordered all of them returned to the firm. In late 1996, Ortiz reached an out-of-court settlement with Haight, Brown, with the ex-cop agreeing never to publicly discuss its terms. His lawsuit was amended, and all allegations of illegal investigations were deleted.

"I don't think I've ever heard of that happening," says David Isbell, a veteran Washington, D.C., attorney who is the former chair of the American Bar Association's Standing Committee on Ethics and Professional Responsibility. "I would be reasonably confident that amending the complaint was a condition of the settlement.... The idea of doing that is to amend the record, to erase the record."

Robert Pugsley, the Southwestern law school professor, said Parnell "definitely should have reported" the substance of Ortiz's documents to law-enforcement authorities. "As a member of the bench, she had credible evidence of alleged criminal wrongdoing."

Parnell's clerk told *New Times* the judge doesn't comment on litigation.

David Sharp first became entangled with Haight, Brown & Bonesteel in 1994 after he personally served the summons in a malpractice suit against Kelly & Cogan, the Santa Monica law firm. An office worker at Kelly & Cogan told Santa Monica police that Sharp had assaulted her by pushing her on a staircase and hitting her with a door.

Although there were conflicting eyewitness accounts and the worker's story didn't quite add up, the Santa Monica City Attorney's office charged Sharp with assault and battery. The case was later dropped, however.

Upset by what had happened, Sharp then filed his own suit against Kelly & Cogan for malicious prosecution. He contended the firm

induced its employee to fabricate the assault charges in an effort to make him drop the malpractice case. To defend itself against Sharp, Kelly & Cogan hired Haight, Brown.

Sharp's malicious prosecution suit went to trial in late 1996. But the night before Haight, Brown was scheduled to put on its defense witnesses, the Simi Valley law office of Sharp's attorney, Juin Barker, was broken into. Barker said she walked into her office on the morning of November 14 to find file cabinets opened and papers scattered about although nothing seemed to be missing. "I tried to figure out why a law office was targeted and couldn't figure it out," said Simi Valley Police Detective Frank Ahlvers, who investigated. No arrests were made and the case was closed.

Although she acknowledges that she'll probably never know for sure, Barker is convinced the timing of the break-in was no coincidence. "There was a lot at stake in the [Sharp lawsuit]," she told *New Times*. "Substantial money was being talked about."

Haight, Brown denies having anything to do with the burglary.

Sharp won his suit against Kelly & Cogan, and a jury awarded him \$130,000 in damages in November 1996. (The judgment is on appeal, and Sharp has yet to collect any money.)

Soon after the verdict against Kelly & Cogan, Sharp focused his energies on suing Haight, Brown.

His lawyer in that litigation, Dick Caillouette, predicts it will trigger "one of the bloodiest legal battles in the annals of California law." Adds Sharp: "My lawsuit is a war. It's like Luxembourg taking on the Soviet Union."

In response, Haight, Brown has sought to portray Sharp as someone who doesn't have all his ears in the water. Its attorney in the Sharp matter, Edward Klein, said Sharp's evidence of the firm's alleged misconduct "is laughable." In one court pleading, Klein said Sharp's "assertion that the defendants 'are looking at serious civil and criminal exposure' is...delusional," in another he said Sharp's allegations stemmed from an "over-active imagination."

Since he filed it 19 months ago, Sharp's suit has had a circuitous journey in the courts. Originally lodged in L.A. Superior Court, the case was moved to Orange County and is now back in L.A. in the hands of a federal judge. (Among Sharp's claims is that Haight, Brown violated federal anti-racketeering laws that prosecutors often use against Mafia figures.)

Much of the wrangling between the two sides so far has been over documents outlining Haight, Brown's efforts to fend off Sharp's legal attacks. Under court orders, Haight, Brown has turned over to Sharp a log itemizing 67 of the documents—but not the papers themselves. Although Haight, Brown's attorney, Gary Bostwick, told *New Times* the firm never kept an investigative file on Sharp, the log suggests otherwise.

Of the 67 documents listed in the log, 11 were written by Haight, Brown investigators. Two are titled "Investigation Case Status Report."

Sharp tried in court for months to get the firm to turn over the actual documents from the log, but Haight, Brown resisted, claiming they are protected under attorney-client or other privileges.

That argument, however, didn't wash with Orange County Judge H. Warren Siegel. In July he ordered the firm to produce several of the documents within 15 days, saying the privilege argument was trumped by a legal provision known as the crime-fraud exception. Under California law, attorney-client privilege evaporates if an attorney is involved "in

Continued on page 16

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The Firm

Continued from page 15
the commission of a crime or fraud."

Haight, Brown appealed Siegel's ruling, and when the appellate court asked for more information, the firm had the case moved to federal court, according to Caillouette, Sharp's attorney. The fight over the papers continues.

"The nuts' argument—that I'm paranoid and delusional—is their only defense," Sharp says. "That's all they've got, and that's why they have to use it."

At least on the surface, the documents mailed to David Sharp seem to be examples of illegal spying by Haight, Brown. But is the material genuine? *New Times* sought to find out—and uncovered several instances in which confidential information in the papers matches people who battled the law firm in court.

One item sent to Sharp was a consumer credit report on Earl Hodous, a retired San Diego real estate broker. Although no legal proceedings involving Hodous are mentioned in the Sharp papers, Hodous tangled with Haight, Brown four years ago over a soured real estate deal. A good portion of his \$500,000 life savings was wiped out, he said, and he sued hoping to salvage some of the money.

Hodous said one of the people he sued, Arthur Brody, was represented by Haight, Brown partner Peter Ezzell. Brody confirmed Ezzell's involvement.

Dave Mooney, a spokesman for Equifax Inc., an Atlanta-based credit reporting agency, said the Hodous credit statement is genuine.

"I don't know how private investigators are getting [consumer credit] reports," Mooney said. "It is illegal. There is a whole system set up to maintain the confidentiality of that information."

Hodous also was not pleased.

"Nobody ever asked me for a credit report," he told *New Times*. "I never gave any permission for someone to do that. [My wife and I] don't understand why anybody would have wanted that....It is invasive, there's no doubt about it."

Ezzell declined to be interviewed.

Another credit report Sharp received carried the home address of Andrew Echavarria, a Torrance attorney. The report corresponds to several other memos that Sharp got, as well as to Ortiz's sworn statements.

In 1994 Echavarria sued Universal Pictures, MCA, Inc., and McDonald's Corp. on behalf of his wife and young daughter. A Haight, Brown partner defended Universal and MCA in the litigation, according to court records.

In one of the purported Haight, Brown memos that arrived in Sharp's mail, the same partner directed Ortiz to find out the "financial condition of the Echavarria family." In his sworn testimony, Ortiz did not name Andrew Echavarria but described a partner's request for confidential skinny on "an attorney representing his wife and eight-year-old daughter."

"I was directed by memo to obtain a financial background and history of the entire family," Ortiz testified. "When I told the requesting partner I could not get the consumer credit report legally, he went to another investigator and obtained the report for both the attorney and his wife."

A spokeswoman for Trans Union Corp., the Chicago company that issued the credit report on Andrew Echavarria, said it is authentic. "Our people here want to know how in the world did a reporter in Los Angeles get hold of someone's credit report?" said spokeswoman Christine Hill.

After two years of litigation, Echavarria set-

led his lawsuit on terms that were kept confidential, according to court records.

Echavarria did not return phone calls from *New Times*.

Another document in the Sharp package—an apparent surveillance report on a young Orange County woman—closely resembles Ortiz's description of a Haight, Brown investigation of a car-crash victim who was evidently

injured in a car crash. The document, dated May 8, 1995, was addressed from Ortiz to a Haight, Brown partner. The report was filled with confidential financial and other personal information on Edlund. It also described how investigators had prowled around her gated apartment complex despite 24-hour security guards.

"The Surveillance Team went to Ms.



Attorney Dick Caillouette and Sharp leaving court tonight. A memo discussing attorney Andrew Echavarria's bank records.

HAIGHT, BROWN & BONESTEEL
SANTA MONICA, CALIFORNIA
SANTA ANA, CALIFORNIA
IRVINE, CALIFORNIA
SAN FRANCISCO, CALIFORNIA
January 8, 1996

ECHAVARRIA V. McDONALDS
TR25-0001

Regarding a bank record search on Andrew Echavarria, I have the following to report.

In an attempt to gain bank account information I utilized an outside source. Our source tells us that if Andrew Echavarria is using a bank account, it is hidden. Our source is unable to locate an account.

I have attached a copy of credit information on Andrew Echavarria.

Please let me know if you have a question regarding this memo or an additional request.

Investigations
Ext. 4122

suing a Haight, Brown client.

Ortiz testified that a Haight, Brown partner demanded private bank information on the plaintiff, along with copies of her credit report and Canadian driver's license. The attorney also wanted detectives to produce a rap sheet "in case she had been involved in insurance fraud in the past," and to videotape the woman to see if she was exaggerating her injuries. Ortiz described the woman as in her mid-to-late 20s.

Ortiz further testified that the partner wanted the information quickly because he was trying to impress an insurance company in the case, a new Haight, Brown client. Ortiz

Edlund's current residence, arriving at 9 a.m., the report said. "They had previously called the residence but had not received an answer. They entered the complex and checked her underground parking space

Deanne Edlund, of Vancouver, confirmed to *New Times* that the information on Desiree in the report was accurate, including her address, the number of her parking space, and the description of her apartment building. At the time, Deanne Edlund said, her daughter was attending a nearby chiropractic school and had been involved in a car accident.

The elder Edlund also recalled Desiree telling her about a couple of frightening incidents around the time her lawsuit was pending in which men tried to enter her apartment complex and get to her unit.

"One time Desiree phoned me at home here very freaked out because you couldn't get into her complex without the guard clearing you," said Deanne Edlund. "The guard had called her and told her there was a man poking around saying he knew her and wanted to go to her apartment. The man showed some sort of identification—perhaps law enforcement. I don't remember—but at that place they wouldn't let you in unless the tenant knew you."

Desiree, she explained, did not know this man, and he had no reason to be visiting her. Deanne Edlund added that the man "came when Desiree was there and when she was not there. I was very scared for her."

Desiree, who had suffered only minor injuries in the car accident, lost her lawsuit, her mother said.

One of the documents that most alarmed Sharp was a memo bearing the name of private investigator Craig Fallenberg, which said he had accessed Sharp's tax returns and medical, military, and college records. Addressed to Ortiz, the note was dated December 6,

1995—a time when

Sharp's malicious prosecution suit against Kelly & Cogan was underway. (In court papers, two Haight, Brown lawyers who defended Kelly & Cogan denied any knowledge of Sharp's personal records.)

In an interview with *New Times*, Fallenberg confirmed he worked for Haight, Brown and that the memo was on his letterhead and carried his signature. But he insisted it was a forgery.

"I did not get any of those [records]," said Fallenberg, whose office is in Encinitas in northern San Diego

County. "I believe somebody at Haight took my letterhead, typed up that memo, and made a copy of my signature."

However, the detective said other documents that Sharp received with his name on them—describing legal searches—were genuine. He could not explain why someone at Haight, Brown might fake one document but not the others.

Although Haight, Brown & Bonesteel's investigative efforts were intended to give it advantages on the legal battle-

field, *New Times* has uncovered one high-profile case which appears to have backfired on the firm, costing a corporate client an extra \$58 million.

In that case, Haight, Brown was up against

Continued on page 18

"Information is absolute power. If I became aware of personal weaknesses in my litigation opponents, those could be exploited."
Denver private eye Al Schweitzer

said the partner later was given copies of the woman's credit report, bank information, and driver's license.

Among the items Sharp got in the mail was a copy of 27-year-old Desiree Edlund's Canadian driver's license and a 10-page sur-

#A111 and found no vehicle parked there. They also checked Ms. Edlund's apartment front door....There did not appear to be any activity inside her apartment."

Edlund was traveling in Europe and could not be reached for comment. But her mother,

The Firm

Continued from page 18

Thomas V. Girardi, one of the most successful plaintiff lawyers in California. The *L.A. Daily Journal* recently dubbed Girardi "The Billion Dollar Gentleman" in a special issue on the 100 most influential attorneys in the state. Girardi has "racked up more than \$1 billion in verdicts and settlements in the last two years alone," the newspaper said.

One of Girardi's biggest wins in recent years was against San Francisco-based Pacific Gas & Electric Co., which he sued on behalf of 650 residents of Hinkley, a small Mojave Desert town near Barstow. The plaintiffs alleged they had contracted cancer and other serious illnesses from spent chromium that seeped into local drinking water from a PG&E gas pumping station. Girardi contended in the suit that PG&E knew about the problem for years but did nothing about it.

Haight, Brown was one of the firms defending PG&E. While the case was underway in 1996, Ben Ortiz informed Girardi that Haight, Brown investigators had targeted his clients for unlawful intelligence gathering, the attorney told *New Times*.

"The information I got from Mr. Ortiz was that Haight had consumer credit reports on my clients in the PG&E case," Girardi said.

Girardi refused to disclose more details about his association with Ortiz or the alleged illegal investigation of his clients by Haight, Brown. But *New Times* obtained a letter Girardi and his partners wrote to the plaintiffs in the case saying that because of the spying, they were able to wring an additional \$58 million out of PG&E to settle the lawsuit.

Girardi explained in the letter that while he was negotiating with PG&E in June 1996, the utility offered \$275 million to settle the case. But when Girardi and his partners found out

about the credit reports, the settlement price shot up.

"We then learned that all 29 plaintiffs during the last trial had been thoroughly investigated by private investigators hired by PG&E's lawyers," the letter said. "In some cases, confidential consumer credit information was obtained illegally. While PG&E claims that

June 12 "PG&E agreed to pay \$333,000,000 cash within 30 days to settle all claims...[but] We must further agree not to initiate any invasion of privacy suits."

Attached to the letter was the settlement agreement and release, which, Girardi wrote, "prevents any of you [plaintiffs] from suing PG&E for the invasion of priva-

cy out of this litigation."

Two Haight, Brown attorneys who defended PG&E declined to comment. PG&E officials did not return phone calls requesting an interview.



The "Billion Dollar Gentleman": Attorney Thomas V. Girardi

work was perpetrated without its knowledge or consent, this was certainly further grounds for us to threaten separate litigation for 'invasion of privacy.'"

Girardi went on to say in the letter that on

cy we mentioned in the above Newsletter. Even though only 29 plaintiffs' privacy appears to have been violated by PG&E, all plaintiffs must agree never to claim or sue for invasion of privacy against PG&E aris-

David Sharp is dug in for a protracted legal war. He is conserving his meager resources, so he can finance his lawsuit for as long as it takes.

You don't need a purloined bank statement to see how little money he has left. His clothes come from a church thrift store his mother runs in Missouri. He eats many of his meals at the Jack in the Box near his apartment. He spends long hours at the L.A. County law library, preparing for the next phase of legal combat.

"It's going to get nasty. It already is nasty," he says, acutely aware of the difficulties and dangers in taking on a law firm as powerful as Haight, Brown. "You're dealing with people who are not sensible. They are going to keep saying I'm nuts, and when that doesn't work any more because the evidence is so damning, they are going to start trying to justify what they did."

Indeed, in an apparent effort to tame Sharp's credibility, Haight, Brown's attorney, Gary Bostwick, sent *New Times* documents indicating Sharp has in the past accused rival attorneys of wrongdoing and been scolded by a judge for his courtroom behavior.

As Sharp sees it, the firm's campaign to paint him as a crackpot is to be expected, given its legal predicament. He is certain such attacks on him will continue. But he is equally certain that he will ultimately prevail.

"The evidence against them is just too overwhelming," Sharp says. "This is the end of the game for Haight, Brown & Bonesteel." □

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RICHARD M. KATZ
Trial Lawyer

HAND DELIVERED

April 26, 1996

PERSONAL & CONFIDENTIAL

Gary C. Ottoson, Esq.
Peter Ezzell, Esq.
Michael Bonesteel, Esq.
Haight, Brown & Bonesteel
1620-26th St., Ste. 4000N
Santa Monica, CA 90404

Re: Wrongful Termination of Ben Ortiz

Proposed Complaint:

Ben Ortiz v. Haight, Brown & Bonesteel; Trefry & Associates; Michael Bonesteel; Peter Ezzell;
Gary Ottoson; William J. Sayers; Kevin Crisp; Gary A. Bague; Neil G. McNiece, et al.

Gentlemen:

This office has been retained by Mr. Ben Ortiz in connection with his wrongful discharge of employment with Haight, Brown & Bonesteel as the Chief Investigator for the firm. We are enclosing a courtesy copy of our proposed complaint to be provided to your liability carrier and which will be filed on Tuesday, April 30, 1996 in conjunction with holding a press conference at The Greater Los Angeles Press Club at 2:00 p.m. on the same date. Demand is hereby made that you preserve any and all documents and writings including, but not limited to, memoranda, letters, records, reports and files dating from November of 1989 through January 1996 which my client, Mr. Ortiz, worked on or supervised the work on, or that were worked on by other in-house investigators and/or outside investigators.

The purpose of this correspondence¹ is to solicit an open dialogue with you in an expeditious effort to resolve this matter and to address the nature of Mr. Ortiz's contributions to the firm; the events surrounding his dismissal; and current California law regarding wrongful termination. However, let us caution you that we will not withhold the filing of the within complaint or delay litigating this matter and it would be absolute folly and an egregious mistake to misjudge or underestimate our resolve to bringing this matter to closure.

¹ This correspondence is subject to Evidence Code Section 1152(a).

Gary C. Ottoson, Esq.
Peter Ezzell, Esq.
Michael Bonesteel, Esq.
Haight, Brown & Bonesteel
April 26, 1996
Page 2

FACTS

Ben Ortiz was living and working in Visalia, California in October of 1989 when he responded to a classified ad in the Los Angeles Times which read "INVESTIGATOR WANTED FOR PRESTIGIOUS LAW FIRM IN SANTA MONICA." Shortly thereafter, in November of 1989, Mr. Ortiz was hired by Haight, Brown & Bonesteel as an investigator with a starting salary of \$34,000 per annum with an increase of \$2,000 after a three-month probationary period. In addition, Mr. Ortiz was promised a 10-12% salary increase per year along with a yearly bonus, future 401K benefits, profit sharing and complete health care benefits. Although Haight, Brown & Bonesteel did not furnish Mr. Ortiz with a vehicle, it was agreed he would be paid \$0.30 per mile and would also have flexible work hours.

Mr. Ortiz moved to temporary living quarters at a motel in the San Fernando Valley on November 11, 1989 and began work at the firm on November 13, 1989. It is our understanding that around this time, Mr. Ortiz received the first of many unlawful and deceptive directives from the Haight, Brown & Bonesteel (as more fully discussed below) in being instructed not to disclose to his insurance carrier that investigators used their own private vehicles for investigations, because Haight, Brown & Bonesteel did not want to become a party to any lawsuit in the event of an accident.

After many repeated assurances by Richard Northcott, the Chief Investigator for Haight, Brown & Bonesteel, that Mr. Ortiz's position with the firm was secure for as "long as he wanted to work for the firm," Mr. Ortiz rented an apartment in Encino in December of 1989.

Mr. Ortiz was consistently being advised by Mr. Northcott that he should purchase a home and move his family to the Los Angeles area, because the managing partner and other partners wanted to be assured that he was going to continue to work for the firm and not move back to Visalia, California. Based on the repeated assurances from Mr. Northcott and other partners and members of the Executive Committee of Haight, Brown & Bonesteel that his job at Haight, Brown & Bonesteel was permanent, Mr. Ortiz leased a home in the San Fernando Valley in February of 1990, moved **his family and put his home in Visalia, California up for sale.**

In September of 1990, after constant suggestions and requests from Mr. Northcott and others, Mr. Ortiz purchased a single family residence in Northridge and was told that he was now a permanent part of Haight, Brown & Bonesteel's Investigation Department and would continue to receive salary increases ensuring Mr. Ortiz's ability to afford his mortgage payments.

Mr. Ortiz performed his job as an investigator for Haight, Brown & Bonesteel in an exemplary and outstanding manner and received many excellent annual reviews and evaluations along with salary increases, profit sharing,

401K and multiple bonuses from 1990 to December of 1994. Further, many clients of Haight, Brown & Bonesteel, including Shaklee Corporation, acknowledged Mr. Ortiz's integrity, loyalty to client, to principle, and to merit.

Gary C. Ottoson, Esq.
Peter Ezzell, Esq.
Michael Bonesteel, Esq.
Haight, Brown & Bonesteel
April 26, 1996
Page 3

(See attached evaluations and correspondence.) Mr. Ortiz was designated by Shaklee as their Special Investigative Unit representative for the State of California.

In or about March of 1995, Mr. Ortiz was approached by Michael McCarthy, the Managing Partner of Haight, Brown & Bonesteel, and advised that he and other partners wanted him to accept a promotion to Chief Investigator. At such time, Mr. Ortiz was advised that if he accepted the promotion he would receive salary increases, bonuses, 401K benefits, a larger amount going into his profit sharing and that his job would be secure for as long as Mr. Ortiz wanted to remain at Haight, Brown & Bonesteel.

On April 2, 1995, Mr. Ortiz officially became the Chief Investigator at Haight, Brown & Bonesteel with the express understanding that **his job was secure until he was 65 years old**, or longer, if he wished to stay with the firm.

Mr. Ortiz was directed to over-haul the Investigation Department in order to make improvements so that all Haight, Brown & Bonesteel staff, including without limitation, The Breast Implant Department, could refer all investigation work to the in-house Investigation Department as opposed to outside vendors.

It is our understanding that from April 1995 to November 1995, Mr. Ortiz was systematically requested by members of Haight, Brown & Bonesteel to violate various Federal statutes and provisions of the Penal Code in providing personal banking information to members of the firm regarding opposing counsel, plaintiffs, witnesses, expert witnesses, amongst others.

Additionally, Mr. Ortiz was asked on a daily basis by at least half of the partners of Haight, Brown & Bonesteel to conduct consumer credit checks and obtain the credit reports of opposing counsel, plaintiffs, witnesses, expert witnesses, and others. Moreover, Mr. Ortiz was directed to obtain the private phone numbers of law enforcement officers which is a violation of the Penal Code. Mr. Ortiz vehemently refused to cooperate with these instructions and directions although it is our understanding that unlawful subrosa investigations have been going on for many years in the firm.

We have been told that Haight, Brown & Bonesteel hired Steve Cooper and CPI, also known as Cooper Private Investigation, to engage in illegal investigations. Further, it is our understanding that CPI routinely obtained consumer credit reports, unlisted telephone numbers, unlisted residence addresses, and bank account information on plaintiffs, plaintiff's attorneys, and others for the firm. We have been informed that Haight, Brown & Bonesteel's current in-house investigator, Fred Meisner, has recently joined with Steve Cooper to form a "full service" investigation company by the name of CPI Professional Investigative Services. It is the belief of Mr. Ortiz that this merger took place at the instruction of Haight, Brown & Bonesteel so that the firm would have easier and quicker access to investigators who are willing to and do perform illegal investigations, including those described above.

REDACTED

Gary C. Ottoson, Esq.
Peter Ezzell, Esq.
Michael Bonesteel, Esq.
Haight, Brown & Bonesteel
April 26, 1996
Page 4

We have further been advised that Mr. Ortiz was instructed by Gary Ottoson, a senior partner and member of the Executive Committee, to conduct a background check on his ex-wife who left him for a younger man and finally moved to Texas in order to get away from him. It is our express understanding that Ottoson directed Mr. Ortiz to find out where she lived, where she worked, and what hours she worked in an effort to keep tabs on her so that he could fly to Texas and stalk her. Ottoson wanted to obtain more personal information on his ex-wife, including an illegal credit check which Mr. Ortiz again refused to become a part of, because it was and remains to be illegal and is unethical. Ottoson knows that Mr. Ortiz is a retired Detective and Sergeant of the Los Angeles Police Department and it is our understanding that Ottoson elected not to push Mr. Ortiz anymore on this issue and instead, obtained the services of another investigator who obtained this information and provided Ottoson with same.

Aside from the foregoing, we have been advised that Mr. Ortiz was required to turn a blind eye to the drinking of alcohol by partners of Haight, Brown & Bonesteel during office hours and smoking in a non-smoking work environment which violated various statutes. Further, Mr. Ortiz also was expected to ignore the weekly office parties that began at 5:00 p.m. in the boardroom on the Fourth Floor

We understand that Mr. Ortiz's efforts to eliminate the exorbitant charges from outside vendors which are passed on to Haight, Brown & Bonesteel's clients were rebuffed by members of Haight, Brown & Bonesteel. Mr. Ortiz complained to no avail to members of the firm that the same vendors were also conducting illegal credit checks and obtaining information illegally on attorneys, witnesses, etc.

Mr. Ortiz was terminated by Haight, Brown & Bonesteel on January 23, 1996. The pre-textual reason was because Haight, Brown & Bonesteel was "disbanding" the Investigation Department.

Notably, as of this date, we are told that Mr. Ortiz's former secretary, Valerie Baker, has become a "coordinator" for investigations for Haight, Brown & Bonesteel's in-house investigations and has at least one investigator, Doug Baldwin, on staff. Moreover, Haight, Brown & Bonesteel uses "former" Haight, Brown & Bonesteel employees

such as Mr. Northcott, Mr. Bedford, and Mr. Baldwin as well as Eppick Investigations, Nancy Barnes and CPI in a clever scheme to attempt to characterize investigative services as being "outside" the firm.

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LIABILITY

The law of the State of California looks with circumspection at the facts surrounding termination of long-term employees without cause. An employer's right to dismiss an employee is severely circumscribed in situations where (1) an employment contract contains an implied in fact provision that the employer would not act arbitrarily toward its employees (*Pugh v. See's Candies, Inc.* (1981) 116 Cal.App.3d 311, 171 Cal.Rptr. 917). (2) A showing of legal cause for dismissal of an employee of long service (*Cleary v. American Airlines, Inc.* (1980) 111 Cal.App.3d 443, 168 Cal.Rptr. 722). *Cleary* states that the covenant of good faith and fair dealing requires each party to act so as not to deprive the other of benefits of the contract. *Cleary* also requires a showing of legal cause to dismiss an employee of long service. "Termination of employment without legal cause after such a period of time offends the implied in law covenant of good faith and fair dealing contained in all contracts, including employment contracts." (*Cleary, supra*, at p. 455.) (3) An employer breaches his obligations if it does not investigate the facts adequately before firing someone (*Egan v. Mutual of Omaha Ins. Co.* (1979) 24 Cal.3d 809, 169 Cal.Rptr. 691).

Labor Code Section 970 protects employees against the use of knowing misrepresentations about, inter alia, the kind, character, existence, duration, or compensation for work to induce employees to change location to obtain it. As you are aware, a violation results in an award of double damages.

Labor Code Section 1050 makes it a misdemeanor and subjects an employer to treble damages to make any misrepresentation that prevents, or attempts to prevent, a former employee from obtaining new employment.

We believe that that Haight, Brown & Bonesteel manufactured a basis for termination in attempting to "disband" the Investigation Department at the firm as a cover-up to get rid of Mr. Ortiz, because he would not support the directives and instructions to do unethical and illegal acts. Further, we understand that because Mr. Ortiz is very principled, Haight, Brown & Bonesteel felt he was "hard to control" and "won't do what we tell him to do," and he became expendable. We have been told that Mr. Ortiz was fired notwithstanding the alleged reservations of the firm's labor law expert, Neil McNiece.

Haight, Brown & Bonesteel's treatment of a valued head of a department, who was recognized by Shaklee Corporation (see attached), a Haight, Brown & Bonesteel client, as their "most valuable player" and:

"The integrity he presents, the skill he has obviously developed and the extent to which he puts these into play on our behalf must be acknowledged."

is reprehensible. Haight, Brown & Bonesteel's transparent attempt to "disband" the Investigation Department to cover up the real reason they got rid of Mr. Ortiz speaks volumes of Haight, Brown & Bonesteel's attitude and viewpoint towards Mr. Ortiz and honoring their commitment to him when he moved and relocated his family from Visalia, California, over 230 miles away, in exchange for permanent employment.

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Haight, Brown & Bonesteel created a fictitious lay-off instead of honoring their obligations to Mr. Ortiz in order to punish him for not "playing ball" and to bring him to his knees and place Mr. Ortiz in financial peril so as to coerce him to just "walk away" from Haight, Brown & Bonesteel without a whimper. Haight, Brown & Bonesteel's attempt to manufacture a basis was a faint-hearted attempt to extricate the firm from fulfilling their contractual obligations and is not only a breach of the covenant of good faith and fair dealing but gives rise to extra-contractual damages and punitive damages. Further, the termination of Mr. Ortiz violates a fundamental public policy concern that an employee is not compelled by his employer to break the law. We have been advised that Haight, Brown & Bonesteel had no intention of disbanding the Investigation Department, but to start using Northcott, Bedford, Meisner, Hutton (all Haight, Brown & Bonesteel former employees), CPI and others in order to cover-up the wrongful termination of Mr. Ortiz.

Mr. Ortiz has been stoically patient, somewhat tolerant, but keenly vigilant of Haight, Brown & Bonesteel's machinations. Mr. Ortiz is now unemployed and receiving unemployment compensation.

A glimmer of hope arose for our client recently when he applied for a position as investigator and was hired by Topa Insurance Company only to learn that after Topa contacted Haight, Brown & Bonesteel, the job offer was withdrawn thereby only adding to Mr. Ortiz's dismay and the downward spiral his life has taken since January 23, 1996.

DAMAGES

To date, Mr. Ortiz has lost approximately three months of salary as well as his benefits package (including health care, bonus, profit sharing, etc.). Prior to his termination, Mr. Ortiz planned to complete his career with Haight Brown & Bonesteel, as promised, as Chief Investigator and possibly retire with maximum benefits at age 65, or elect to continue to after he reached 65. Assuming he worked to age 65, Mr. Ortiz would have earned between \$300,000 to \$400,000 in salary and bonuses as well as a substantial amount of benefits.

Obviously, Mr. Ortiz's wrongful termination by Haight, Brown & Bonesteel has caused him to re-evaluate his immediate future. He is presently receiving unemployment compensation of \$230.00 per week and looking for work. Thus far, he has been unable to find suitable employment as he approaches his 60th birthday, except for an offer of employment from Topa Insurance which was suspiciously withdrawn after Topa dealt with Haight, Brown & Bonesteel.

Mr. Ortiz's lack of success in finding a comparable position is due to the overall lack of positions available in the security/investigator community for an individual with Mr. Ortiz's experience who is rapidly approaching 60 years of age.

Fifty-nine year old Mr. Ortiz can no longer be similarly hired. He now carries the stigma of being fired from the firm of Haight, Brown & Bonesteel where he had been employed for over six years and rose to Chief Investigator.