

A. BARRY CAPPELLO

June 12, 2007

File No. 06009.001

Via E-mail & California Overnight

Edmund G. Brown, Jr.
Office of the Attorney General
1515 Clay Street
20th Floor
Oakland, CA 94612

Re: ***The Death of Jonathan "Yoni" Gottesman***

Dear Attorney General Brown:

We were extremely disappointed to receive Robert Snider's June 8, 2007 letter regarding the death of Yoni Gottesman. I am sure you recall the telephone conversation with Yoni's father and us on April 3, 2007. In that conversation, you certainly did not endorse, for your administration as Attorney General, the unwritten and uncodified "abuse of discretion" standard to review a District Attorney declining to file criminal charges. Yet, the sole conclusion stated in Mr. Snider's letter is that the District Attorney's office did not abuse its discretion. (A copy of Mr. Snider's letter is attached for your reference.)

During our telephone conversation, you stated that what occurred in this case deserved a detailed review of the facts, including a comparison to cases filed by District Attorneys in other counties in the State. We provided those cases to your office, yet Mr. Snider's letter made no reference to the fact that other District Attorneys in California have filed charges on much lesser conduct. As we discussed, in any other county in the State, this incident would have resulted in the filing of criminal charges against the COAC corporation and its principals. The result can be no different in this county.

Clearly, the application of an abuse of discretion standard is an abdication of your constitutional authority which, given your comments in our telephone conversation, certainly did not appear to be your intention. We cannot find any basis in law for the "policy" of following an abuse of discretion standard; indeed, such a standard is antithetical to the power and responsibility of the Attorney General as the chief law enforcement officer in the State of California.

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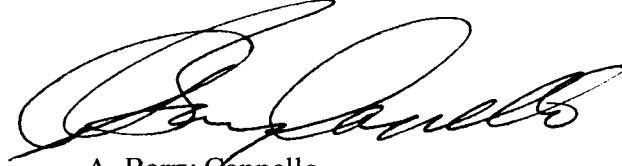
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We understand that you are very busy, and we and the Gottesman family sincerely appreciate the time you personally took to speak with us on the phone. But we urge you again to become involved in establishing a critical precedent for your administration: a standard of review that is legally sound and morally correct.

Thank you for your time and consideration.

Very truly yours,

CAPPELLO & NOËL LLP

A handwritten signature in black ink, appearing to read 'A. Barry Cappello', written in a cursive style.

A. Barry Cappello

A handwritten signature in black ink, appearing to read 'Leila J. Noël', written in a cursive style.

Leila J. Noël

Enclosure
cc: Oded Gottesman

EDMUND G. BROWN JR.
Attorney General

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DEPARTMENT OF JUSTICE



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June 8, 2007

Leila J. Noel, Esq.
Cappello & Noel LLP
831 State Street
Santa Barbara, California 93101-3227

BY FACSIMILE AND UNITED STATES MAIL

RE: Yoni Gottesman

Dear Ms. Noel:

I am taking the liberty of replying to your telephone message and your letter of May 3, 2007, at the same time. We have completed our review of all of the material you provided concerning the August 2006 death of Yoni Gottesman, and additional information on the current and former District Attorney's rejection of charges arising from Yoni's death. Our conclusion is that the District Attorney's Office did not abuse its discretion in declining to file a criminal complaint against Cathedral Oaks Athletic Club or its owner or employees.

The review standard under which we operate as a statewide agency is very demanding. We do not examine the case as if for the first time. Rather, before we would reverse the filing decision of local district attorneys, we must feel convinced that their determination is so erroneous as to constitute an abuse of discretion -- essentially, that no right-minded prosecutor would see case the way District Attorney Sneddon and District Attorney Stanley did. We were unable to reach that conclusion in this case.

We appreciate that this situation has been an extremely difficult and tragic one for your clients.

Sincerely,

ROBERT M. SNIDER
Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General

RMS:b
gottesman.ltr.wpd