

David B. Wilson
5600 W 34th St.
Houston, Texas 77092-6510
Phone: 713-202-7983

COMPLAINT

1. Dr. Cesar Maldonado (Chancellor)
Chancellor Houston Community College
3100 Main St.
Houston, Texas 77002
Cesar.maldonado@hccs.edu
Office

Chuck E. Smith (Smith)
Chief Facilities Officer, Houston Community College
3100 Main St.
Houston, Texas 77002
Charles.smith6@hccs.edu
Offi

Yet to be identified persons

2. David B. Wilson
5600 W. 34th St.
Houston, Texas 77092
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SS# █
DOB:
3. Same as item number 2
4. Fraud/Misappropriation of Bond Funds. Money paid in excess of the properties fair market value constitutes an appropriation or donation in violation of the Texas Constitution (Article III, sec. 52 and Article XI, sec. 3)
5. Beginning date is January 1, 2013 thru current date.

6. All of the above described events occurred in Harris County, with one exception being the property referred to as Sienna Plantation. This property is located in Ft. Bend County.
7. Issue (1) Cesar Maldonado, Chuck Smith, and unknown others manipulated the data (appraisal reports) to deceive the HCC Board into supporting the purchase of the Conn's property located at 5505 West Loop South. They obtained a second appraisal that inflated the value of the property. Issue (2) They used a number of parking spaces to create the illusion that HCC was not in violation of the Bond Covenant.
8. **Details of Offense**
 - A. In March 2013 the college issued \$425M of General Obligation Bonds that were passed during the November 2012 election. See Bond Covenant (Exhibit 2).
 - B. In October 2014, the HCC Board of Trustees authorized the Chancellor to negotiate the purchase of certain real estate at, or near, Southwest-West Loop Campus – Conn's property - 5505 West Loop South (Exhibit 3). The minutes of the October 2014 Board meeting were approved in November 2014 (Exhibit 4).
 - C. On or about October 2014, Chuck Smith stated, in a closed executive session to the HCC Board of Trustees, that HCC was getting a second appraisal on the Conn's property, because the first appraisal was not high enough for what the property owner was asking for the property. In essence, they were seeking a second appraisal that would meet the Owners' asking price.
 - D. On or about January 2015 the Chancellor told the Board that the Conn's property had a contract with Tesla Motors and that the College was going to

lease 20,000 square feet to Tesla Motors and keep 5,000 square feet (in order to comply with the Bond Covenant) for the College. The Chancellor told the Board, in an executive closed session (Exhibit 5), that they had a second appraisal that supported a purchase price of \$ 8,500,000. Based on the second appraisal and the Chancellor's assurance of a lease with Tesla Motors, the Board approved the purchase with a vote of 5-1 (Wilson opposed) (Exhibit 6).

- E. The Chancellor and/or whoever interfaced with the appraiser, informed the appraiser that HCC was going to lease 25,000 square feet to Tesla Motors, and the College was going to have no space in the building. No one on the Board had seen the appraisals or the lease with Tesla Motors at this point in time. We all trusted the Chancellor. The difference of 5,000 square feet would have lowered the value of the appraisal by approximately \$1.7 million dollars, because the appraisal was based on the income method (Exhibit 7). This would have made the property worth \$6.8M.
- F. There was no lease with Tesla Motors. In fact Tesla Motors leased, designed, permitted, and built a dealership or gallery (whatever it is called) at I-45 @ Airtex. They opened in June or July of 2015. If the leasing records or permitting records were checked at the I-45 @ Airtex location, I suspect they will overlap with purported leasing negotiations at 5505 West Loop South. Since there was no lease at 5505 West Loop West, I would assume the value of the property would default to the first appraisal of \$5,300,000 (Exhibit 8 p.2). The misstatements by the Chancellor and Smith resulted in excess money being paid for the property. It is Wilson's belief that the acts of the Chancellor and Smith were intentional and their actions resulted in misappropriation of bond funds at inflated amounts.
- G. Suspecting that the College paid too much money for the property, Wilson

searched the Harris County Appraisal District records and discovered the value of the property to be appraised at \$ 2,358,000 (Exhibit 9 & 12 p. 27).

- H. The Board never received any copies of the appraisals from the Administration. After several verbal requests for the appraisals, Mr. Wilson sent a written open records request to the General Counsel on February 25, 2015 (Exhibit 10). Additionally Mr. Wilson requested a copy of the lease with Tesla Motors. On March 3, 2015 the Chancellor produced the two appraisals. He sent Wilson a Memorandum stating there was not, and never had been, a lease with Tesla Motors (Exhibit 11).
- I. Page ii and 7 of the second appraisal dated January 15, 2015 (Exhibit 12) states an Extraordinary Assumption. The extraordinary assumption reads “We assume the property is leased to Tesla Motors at \$23.00 per square foot on a 5 year term with a 4 year, 11 month option.” An extraordinary assumption **trumps** standard appraisal methods. Standard appraisal methods are preempted by an extraordinary assumption. The appraiser requested actual LOI (Letter of Intent) documents, but were not provided them (Exhibit 12 p. 49). Refer to Exhibit 7 for calculations.
- J. Page 67 item 4 of exhibit 12 was the basis of Wilson’s complaint to the Texas Appraiser Licensing & Certification Board dated March 16, 2015 (Exhibit 13). Wilson has been told the TALCB will rule in August 2015.
- K. As stated earlier and confirmed by the Chancellor’s March 3, 2015 Memorandum, there was never a lease with Tesla Motors. However, the Chancellor provided Wilson with an unsigned and back dated boiler plate Letter of Intent (LOI) (Exhibit 14).
- L. Fraud/use of bond money to purchase property for private business use. It appears the Chancellor and Smith have used in excess of 5% of bond monies in purchasing properties for private business use that is unrelated to the governmental purpose of the Bonds (Exhibit 15).

- M. It appears the Chancellor and Smith mislead Andrews Kurth as to the number of spaces that are available at the Conn's property. Andrews Kurth was informed that there were 75 spaces available when there were only 54 spaces available (Exhibit 12 p.ii). Additionally a 25,000 sq. ft. retail occupancy in Houston, TX requires 100 parking spaces per the Building Code. An Auto Dealer requires 138 parking spaces (Exhibit 16).
- N. Both the Chancellor and Smith were aware, or should have been aware, that there were only 54 spaces available. As a result of the actions of the Chancellor and Smith, HCC may have lost the bond's tax exempt status.
- O. The combination of the Woodridge Shopping Mall property, the Conn's property, and other unknown property exceeds the 5% private business use exception for unrelated property that is purchased with Bond proceeds. It is Wilson's belief that the acts of misstating the number of spaces was deliberate and intentional and that it lead to a false report by Andrews Kurth.
- P. It is Wilson's belief that the following properties that were purchased with bond funds violate the covenant that HCC had with the taxpayers and in clear violation of the use of the Bond Funds.
- i. The Conn's property, 5505 West Loop South.
 - ii. The Woodridge Shopping Mall property, 6969 Gulf Freeway.
 - iii. The McGregor property, corner of 288 feeder and North McGregor.
 - iv. The Funeral Home at 2515 Caroline, which may also have been a business property when purchased by HCC.
 - v. Several properties near or adjacent to Central College, addresses unknown at this time.
 - vi. The Sienna Plantation sale, HCC held property for a private investor for nearly 10 years, thereby allowing the original owner and current owner to avoid paying property taxes. There was a contract for right

to repurchase the property. It was conditioned on HCC not developing the property. The property had been developed. As a result the HCC taxpayers in Harris County were defrauded of a significant amount of monies, estimated to be in the millions. The Chancellor and Smith were instrumental in presenting the sale to the Board of Trustees.

9. **Exhibit 1)** Complaint – District Attorney of Harris County – Aug 2015
Exhibit 2) Bond Covenant – Series 2013 - \$425M
Exhibit 3) Action Item 4 – Oct 16, 2014
Exhibit 4) Minutes of Oct 16, 2014 Meeting – Action Item 4 – Nov 18, 2014
Exhibit 5) Action Item 4 – Jan 22, 2015
Exhibit 6) Minutes of Jan 22, 2015 Meeting – Action Item 4 – Feb 19, 2015
Exhibit 7) Appraisal Calculations
Exhibit 8) Appraisal Report – Nov. 3, 2014 – Conn’s Property
Exhibit 9) HCAD Appraisal
Exhibit 10) Wilson Open Records Request – Feb 25, 2015
Exhibit 11) Chancellor’s Memorandum – March 3, 2015
Exhibit 12) Appraisal Report – Jan 15 – Conn’s Property
Exhibit 13) Texas Appraisal Licensing and Certification Board – (TALCB) Complaint 3/16/15
Exhibit 14) Letter of Intent (LOI) – unsigned
Exhibit 15) Andrews Kurth – May 22, 2015 Letter
Exhibit 16) Parking Requirements – City of Houston Building Code
Exhibit 17) Channel 13
Exhibit 18) Houston Chronicle – August 16, 2015
10. N/A
11. No photographs
12. Witnesses:

HCC Board of Trustees
3100 Main St
Houston, TX 77002
Ph. 713-718-2000

Capo, Zeph
Evans-Schabazz, Carolyn
Glaser, Robert
Loredo, Eva
Mogler, Sandie
Oliver, Chris
Sane, Neeta
Tamez, Adriana

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Robinson, Carroll

ED James

UCR Houston
3003 W Alabama
Houston, TX 77098

Pat Polland

Chris Pitts

Lance Gilliam
Licia A Green

Waterman Steele

Greg H. Jones

Andrews Kurth
600 Travis St, Ste. 4200
Houston, TX 77002

Lissa Alane Buffaloe
Gerald Adron Teel
Chris E. Lantz

Valbridge Property Advisors
974 Campbell Road,
Suite 204
Houston, TX 77024
713-467-5858

13. N/A

14. Texas Appraiser Licensing & Certification Board (TALCB).

15. Yes, I spoke with Cesar Maldonado. He did not agree with me. It was not recorded.

16. No Civil Suit pending

17. Notarized certification

STATE OF TEXAS
COUNTY OF HARRIS

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AFFIDAVIT

ATTENTION: DEVON ANDERSON

RE: HCC LAND PURCHASE - 5505 W. LOOP SOUTH (Conn's property)

I CERTIFY THAT THE INFORMATION WHICH I FURNISH THE HARRIS COUNTY DISTRICT ATTORNEY'S OFFICE IN THIS COMPLAINT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND IS FURNISHED FOR THE SOLE PURPOSE OF INSTITUTING CRIMINAL PROSECUTION IN THE EVENT INVESTIGATION INDICATES CRIMINAL ACTIVITY. I AM NOT REQUESTING CRIMINAL PROSECUTION FOR THE PURPOSE OF GAINING AN ADVANTAGE EITHER CIVILLY OR POLITICALLY.

I AUTHORIZE THE DISTRICT ATTORNEY'S OFFICE TO USE THE INFORMATION WHICH I PROVIDE IN ANY MANNER DEEMED NECESSARY AND PROPER.


Signature of Complaining Party

DAVID B. WILSON
Complainant's Printed Name

SUBSCRIBED AND SWORN TO BEFORE ME this 18 day of August, 2015.


Notary Public in and for the
State of Texas

My commission expires _____

