



# Santa Ana Unified School District

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Superintendent's Office  
*Jane A. Russo, Superintendent*

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## **Court orders former employee benefits consultants to pay SAUSD over \$2.4 million for concealing commissions they received from Blue Cross**

(SANTA ANA, CA) – A Superior Court judge in Riverside County has ruled in favor of the Santa Ana Unified School District (SAUSD) in a lawsuit it brought against two former employee benefits consultants who improperly concealed \$3,682,702.87 in commissions they received from Blue Cross of California (now known as Anthem Blue Cross).

The judge ordered Kirk Montgomery (dba KM Employee Benefits Services) and Bridget Sirkegian to re-pay the Santa Ana Unified School District \$2,481,399.96 from commissions they were paid over a 39-month period from 2001 to 2004. Montgomery was ordered to repay \$2 million of that penalty and Sirkegian will pay the balance. Accumulated interest and legal fees will be assessed on top of that amount and annual interest at the rate of 7% to 10% will be levied until the fine is fully paid. The court also imposed a constructive trust against the assets of Montgomery and Sirkegian assist in further collection.

“The District is very pleased with the outcome in this case,” said SAUSD Superintendent Jane Russo. “We relied on these consultants to keep the District fully informed about all financial transactions involving our employee benefits package. The court has validated our concerns that these two fiscal advisors withheld vital information and avoided their professional responsibility to fully disclose commissions they were being paid by our insurance carrier.”

In its complaint, SAUSD alleged that its consultant secretly received millions of dollars in commissions from Blue Cross and other carriers while serving as the District’s employee benefits consultant. The District argued that it hired the consultants to manage the benefits program and to negotiate with insurance carriers to obtain the most favorable rates and coverage available. The inclusion of the commissions actually resulted in higher insurance premiums, according to District legal counsel Martin Hom.

The trial was held in Riverside because Montgomery and Sirkegian invoked a rule which allows a trial to be moved to a neutral location outside of the county where a public entity plaintiff is located.

The ruling comes after an eight-day bench trial in February 2011 before the Hon. Dallas Holmes, (Ret.). He found that Montgomery and Sirkegian actively concealed the fact that they received commissions from Blue

Cross even after they knew that the school District was very concerned about the amount of commissions being paid by insurance carriers.

When asked by the District in a public meeting in September 2003, Montgomery refused to reveal his commissions. The court's judgment noted that KMEBS had submitted to the District re-typed "refunding calculation" tables in a similar format, but with the commission amounts deleted. KMEBS misrepresented to the District that those revised tables were documents supplied by Blue Cross. Judge Holmes concluded that the consultants had improperly stonewalled all District attempts to discover the true amount of commissions they were being paid.

KMEBS was appointed by the school board as its insurance consultant in 2000 by a 3-2 vote. Board members Nativo Lopez, John Palacio, and Nadia Davis voted in favor and board members Dr. Audrey Yamagata-Noji and Rosie Avila opposed the contract. Montgomery's firm was selected even though it was ranked 5<sup>th</sup> out of six bidders. The District changed its insurance consultant in February 2004 as details about the hidden commissions began to emerge as a result of its investigation.

During the litigation, Montgomery also admitted and produced documents demonstrating that Sal Mendoza, a former Santa Ana Unified School District board member, had received referral fee checks from Montgomery totaling \$1,041,367.

At the official request of Board member Rob Richardson in 2008, the state took action to prevent situations like this from occurring again. In 2008, Assemblyman Jose Solorio (D-Santa Ana) authored AB 2589. This newly enacted law (now Insurance Code §10604.5) requires insurance carriers to report annually to the governing board of a public agency the name, address, and amount of fees or commissions paid to any agent, broker, or individual relating to the public agency's group health insurance policy.

"Santa Ana Unified suggested I author a bill to ensure that other public entities didn't fall prey to hidden fees and commissions," said State Assemblyman Jose Solorio. "It is gratifying to know that since AB 2589 became law, school Districts and other public entities throughout the state are benefitting from greater disclosure regarding fees and commissions, and as a result, are realizing greater savings for their employee healthcare benefits. This is a law that works."

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### **PRESS ADVISORY — PRESS BRIEFING SCHEDULED**

Officials and legal counsel with the Santa Ana Unified School District will conduct a background briefing for reporters on the details and timelines associated with the lawsuit. The briefing will begin at 3:15 p.m. in Room 125-B in the SAUSD District Office located at 1601 E. Chestnut Avenue, Santa Ana, CA 92701. This session will immediately precede a public news conference scheduled for 4:00 p.m. in the Board Room at the District Office.