

CAPITOL OFFICE
STATE CAPITOL
SACRAMENTO, CA 95814
(916) 651-4037

DISTRICT OFFICE
940 SOUTH COAST DR.
SUITE 185
COSTA MESA, CA 92626
(714) 662-6050

California State Senate



SENATOR
JOHN M. W. MOORLACH
THIRTY-SEVENTH SENATE DISTRICT

COMMITTEES
JUDICIARY
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RETIREMENT

October 19, 2017

The Honorable Betty T. Yee
Chair, Franchise Tax Board
California State Controller
300 Capitol Mall, Suite 1850
Sacramento, California 95814

Dear Honorable Controller Yee:

I write to you today in your role as the chief administrator of the California Motion Picture and Television Production Credit's allocation, assignment, purchase, sale and application of credit against income or franchise tax at the Franchise Tax Board (FTB). As I am sure you have seen, Hollywood producer Harvey Weinstein has been caught in abhorrent and disgusting behavior that not only looks immoral and unethical, but likely is illegal. While we hope that law enforcement is investigating the claims, it is our responsibility as elected officials to make sure that state tax dollars and credits are spent in accordance with our values.

Supposedly, Mr. Weinstein's behavior was an open secret in Hollywood and often joked about in various places. Examples include a joke by Seth MacFarlane at the 2013 Oscars, a joke on the 2012 episode of "30 Rock" entitled "Kidnapped by Danger" and the plot of a 2007 episode of "Entourage" with the condemnatory title, "Sorry, Harvey."

A few people making these accusations might warrant a preliminary investigation, but we have a growing crowd suggesting that they were his victims, going back decades. On October 13, 2017, *Entertainment Today's* story was titled, "29 Women Who Have Accused Harvey Weinstein of Sexual Misconduct." The accusers include Ashley Judd, Gwyneth Paltrow, Angelina Jolie, Rose McGowan, Kate Beckinsale, Heather Graham, Rosanna Arquette, Mira Sorvino and Asia Argento (an audio exists of him admitting to groping her).

And this is not just happening to women, but to men. Terry Crews and James Van Deer Beek, among others, have said they were abused by "powerful men." Corey Feldman has alleged for years that pedophilia and child molestations were some of the worst problems in Hollywood.

I recognize the importance of the motion picture industry in California. "Hollywood" is not just a location in Los Angeles County, but an entire industry dedicated to television and film. It is

reported that the economic output of this industry in California totals roughly \$50 billion annually (about 2 percent of the state's \$2.5 trillion economy).

This is not only about Mr. Weinstein. This is about a toxic Hollywood culture, with its debaucheries and hyper-sexualized atmosphere that normalizes assaults and predator behaviors. We are only starting to learn how pervasive that culture is – that, as Emma Watson put it, “this is just the top of the ladder” of problems. Hollywood executive Jeffrey Katzenberg acknowledged that the problems are pervasive and is quoted as saying, “The problem is there’s a pack of wolves. [Weinstein is] not a lone actor in this.”

The State of California has in place legislation that prohibits sexual harassment, abuse and exploitation. For Hollywood, these laws go all the way back to the 1930s as parents routinely exploited their children's earnings while allowing them to grow and operate in a lewd and lasciviousness environment.

More recently, special attention has been paid to claims of sexual harassment in education. This year the Legislature passed SB 169, by state Senator Hannah-Beth Jackson, chair of the Judiciary Committee. It would have set up Title IX courts in state schools to enforce anti-harassment and anti-discrimination laws. And on October 10, Senate President Kevin De Leon condemned the Trump administration rescinding Obama-era guidelines on sexual harassment that put enforcement back into courts of law instead of with school disciplinary boards. In a letter to U.S. Secretary of Education Betsy DeVos, he promised to maintain California's “comprehensive policies” to address the issue. “Sexual assault, violence, and harassment are a serious problem in our society,” he wrote. Despite the governor's veto of SB 169, these issues likely will be a conversation that moves forward in the future.

In the California Legislature itself, the Legislative Women's Caucus has fought sexual abuse by, according to its website, “vigilant efforts to ensure the safety of all women.” This has included extensive warnings and training for staff, which could be models required for Hollywood producers, directors and others. Just this week, scores of women who have worked in and around the capitol are speaking out against this culture of sexual abuse and intimidation.

Because the state generously subsidizes Hollywood productions through the California Film Commission's tax credits, now totaling \$330 million a year, it has a direct interest in ensuring that state laws, especially those to prevent sexual assaults, are enforced throughout this industry. Ironically but horribly, SB 3X 15 (Calderon), was signed into law in 2009 by then-Governor Arnold Schwarzenegger to favor his own industry, but who also has been accused of being a

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predator. A 2003 Los Angeles Times article was titled, “Women Say Schwarzenegger Groped, Humiliated Them.”

I will be requesting hearings to thoroughly investigate the extent of this problem in Hollywood, and find out why it has been covered up for decades.

To help with that, I am requesting that the FTB identify:

1. Names of all productions and related executives, investors, producers and directors for every tax credit given, including those that were transferred and sold;
2. Total tax credits spent to subsidize Hollywood with Film Commission tax credits since its inception through SB 3X 15 (Calderon) in 2009;
3. Ratings and content summaries (sexual exploitation, demeaning language, exploitation, abuse, etc.) for these productions, including explicit pictures or mature themes that require compromising casting calls for children and adults;
4. Any filters that the FTB uses to identify if there are sexual predators, abusers that are associated with any films associated with the tax credit;
5. Accountability measures for those productions where sexual abuse is reported and verified.

I would like this information to my office by November 3, 2017.

As detailed in its September 26, 2016 report, “California’s First Film Tax Credit Program,” the Legislative Analyst’s Office is dubious about the economic benefits and other opportunity costs, calling the program “very problematic as a public policy.” Given your experience with the tax credit, I would also be interested in your assessment on its effectiveness. It would also be helpful if you could identify problems you see with this tax program which the Legislature is missing. If there are any fixes to current statute that will prevent money going to sexual abusers in the future, as we have a duty to hold tax-expenditure recipients accountable and have the ability to address inappropriate behavior and deny scarce state funds.

All of us should join together to condemn sexual abuse and to root it out everywhere, especially in the areas it long has been covered up by the wealthy and the powerful. We should make sure taxpayers are not forced to pay for such activity. And we should assure the victims of these sexual assaults and future unwitting victims of abuse that we will pursue justice.

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Very truly yours,

A handwritten signature in black ink, appearing to read "John Moorlach". The signature is fluid and cursive, with the first name "John" being more prominent than the last name "Moorlach".

John M.W. Moorlach

cc: Gavin Newsom, Lieutenant Governor
Diane L. Harkey, Chair, Board of Equalization
Michael Cohen, Director of Finance
Selvi Stanislaus, FTB Executive Officer
Senator Kevin de Leon, President Pro Tem
Xavier Becerra, Attorney General
Assemblywoman Cristina Garcia, Legislative Women's Caucus Chair
Senator Mike McGuire, Chair, Senate Government and Finance Committee