



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

LAWRENCE G. WASDEN

July 28, 2015

Vicky McIntyre
P.O. Box 2868
Boise, ID 83701

RE: Ada County Commissioners Complaint

Dear Ms. McIntyre,

Our office had previously reviewed your complaint regarding the Ada County Commissioners and accepted the matter for further investigation. After conducting an independent preliminary investigation through our office, we are writing to inform you that we will be taking no further action in this matter.

Our office investigated your complaint pursuant to Idaho Code § 31-2002. That statute authorizes the Attorney General to conduct a preliminary investigation of "any allegation of a violation of state law, criminal or civil, against a county officer occupying an elective office for violation of state law in his official capacity." Idaho Code § 31-2002(1). Upon completion of the preliminary investigation, the Attorney General may do one of three things: issue a finding that no further action is necessary, prescribe training or other non-judicial remedies that do not involve the filing of criminal charges or a civil action, or issue a finding that further investigation or prosecution is warranted.

The actions which form the basis of the complaint are that the Ada County Commissioners awarded contracts and continued to award annual rate increases to a vendor who had recently contributed to each commissioner's campaign. Our investigation revealed that though the vendor in question did contribute to each commissioner's campaign, such contribution did not violate Idaho Code.

The transfer of a pecuniary benefit to an elected official may implicate certain Idaho Code sections, such as Idaho Code sections §§ 18-1309, 18-1352, 18-1354, and 59-704(4) in conjunction with §59-703(4). However, each of these sections, either explicitly or by implication, would require the existence of an agreement

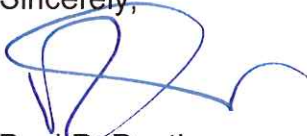
from the public official to in some way compensate the giver by exercising his authority as a public official in some particular way. This office's investigation did not reveal any such circumstance.

Other code sections that might be implicated include Idaho Code §67-5726(2) in conjunction with §59-210. These code sections prohibit a public officer from influencing the award of a contract to a particular vendor or conspiring with a vendor to so influence. Again, this office found no evidence that would indicate such influence or conspiracy exists in this matter. Finally, Idaho Code §18-1356 prohibits a public servant having a discretionary function in connection with contracts from accepting any pecuniary benefit from any person known to be interested in or likely to become interested in any such contract. However, subsection five of that statute exempts benefits to which an official "is otherwise legally entitled." Campaign contributions made in accordance with chapter 66 of Title 67 of Idaho Code would fall within this exception. This office's investigation revealed that the campaign contributions in question complied with those laws.

After a thorough review of the materials you had provided and the information discovered during the course of our independent investigation, our office concludes that no violation of Idaho Code has occurred relevant to your allegations. Thus, we find that no further action is necessary at this time.

Though ultimately we do not find a basis for further investigation or prosecution, we appreciate you bringing this matter to our attention.

Sincerely,



Paul R. Panther
Deputy Attorney General
Chief, Criminal Law Division

cc: Jan Bennetts,
Ada County Prosecuting Attorney