



CYNDY DAY-WILSON, ESQ. • LL.M. ENVIRONMENTAL LAW
628 H STREET, EUREKA, CA 95501 • (707) 798-5048
CDAYWILSON@DAYWILSONLAW.COM

November 13, 2020

VIA E-MAIL

Jefferson Billingsley
Interim County Counsel
825 5th Street
Eureka, CA 95501

RE: Karen Paz Dominguez – Investigation and Interview Notice

Dear Mr. Billingsley:

I have been retained by Karen Paz Dominguez regarding the Investigation and Interview Notice that she received from the Office of County Counsel and HR Department on October 14, 2020.

Ms. Paz Dominguez received a notice, signed by yourself and the Human Resources Director, informing her that the County has received “communications” from several local public agencies “expressing grave concerns regarding frequent and recurring delays in payments, transfers and reconciliations of accounts that have impacted their ability to operate efficiently.” This notice then states that the Office of County Counsel and the Human Resources Department are taking “immediate action to ensure an immediate and unbiased investigation to examine the complaints.”

Ms. Paz Dominguez, as the Auditor-Controller for the County of Humboldt, is an independent, nonpartisan elected official. Ms. Paz Dominguez is not an employee of the Board of Supervisors, and thus the Board has no authority to investigate her in her capacity as Auditor-Controller. As such, she does not have to cooperate with any interview or investigation conducted by the Board, its agents, or any other County department.

You have stated to Ms. Paz Dominguez that the County has a “fiduciary duty” to investigate the complaints. You provide no basis for this statement, and it is unclear what legal authority you are relying upon. In addition, your assertions that this is an independent fact-finding investigation that must remain confidential are unfounded. The notice given to Ms. Paz Dominguez merely states that the County has received “communications” from “local public agencies” regarding

delay in payments, transfers, and reconciliations of accounts. A confidential investigation into these communications does not maintain the public confidence in the County's ability to operate effectively. In fact, I doubt that such communications would be exempt from a Public Records Act request. If the Board of Supervisors has questions or concerns about the operation of the Office of the Auditor-Controller, particularly if it involves other public agencies, surely the public interest would be best served by a noticed public meeting.

I also fail to see what you expect to accomplish with an investigation, spending public funds, on an elected official that the Board of Supervisors has no authority over and cannot impose any type of discipline. As Supervisor Bohn recently told me during a deposition, his behavior would be judged by the voters. The same is true for Ms. Paz Dominguez.

The notice informs Ms. Paz Dominguez that the County prohibits retaliation against employees for reporting incidents of abusive conduct or harassment, or for participating in an investigation. Ms. Paz Dominguez is clearly the person being retaliated against in this situation. As you are well aware, Ms. Paz Dominguez has reported several incidents involving abuse conduct and harassment by members of the Board of Supervisors and the County Administrative Officer. At least one of those incidents remains under investigation. In addition, she has been vocal about her concerns about how the Board of Supervisors is spending public funds and the undisputed fact that her department remains significantly understaffed while other departments such as the CAO continue to hire. Rather than discuss any concerns with Ms. Paz Dominguez, the independently elected Auditor-Controller, the Board of Supervisors, CAO and HR department appear to be organizing a witch hunt.

Furthermore, your statements urging her to not interfere with her staff's participation in the investigation are concerning. The Auditor-Controller's staff are not required to participate in this investigation, and your statements could be seen as implying that their employment with the County is contingent on their cooperation. In addition, Ms. Paz Dominguez is free to speak with anyone about the "investigation." She did not waive her constitutional rights when she became a public official and for you to infer otherwise is disturbing.

Most importantly, as you should understand under the Rules of Professional Conduct, the Office of County Counsel has a conflict in this matter. You cannot simultaneously represent and assist the Human Resources Department in this investigation, represent the Board of Supervisors, and represent the Office of the Auditor-Controller. Please confirm that you have a conflict and that County Counsel will not be representing the Auditor-Controller in this matter. If you do not, Government Code Section 31000.6 provides an avenue for the Auditor-Controller to seek alternative legal counsel where the county counsel has a conflict. If you refuse to acknowledge that the Office of County Counsel has a conflict, Ms. Paz Dominguez will pursue this avenue by applying ex parte to the presiding judge of the Humboldt County Superior Court, requesting that I be appointed as counsel for the Auditor-Controller.

In sum, Ms. Paz Dominguez requests that you 1) confirm that the Office of the County Counsel has a conflict representing the Auditor-Controller and will not interfere with the Auditor-Controller seeking outside counsel; 2) notify Ms. Paz Dominguez of the actual allegations against

her and her office; and 3) confirm that the Auditor-Controller's staff is not required to participate or cooperate in any investigation being conducted.

Please respond no later than end of the day on November 16. I look forward to hearing from you.

Sincerely,

A handwritten signature in black ink that reads "Cyndy Day-Wilson". The signature is written in a cursive style with a large, sweeping initial "C".

Cyndy Day-Wilson, Esq.

cc: Client