

LETTER TO THE GOVERNOR

Timothy M. Keller
State Auditor



Sanjay Bhakta, CPA, CGFM, CFE, CG
Deputy State Auditor

State of New Mexico
OFFICE OF THE STATE AUDITOR

July 9, 2015

Hand Delivered

The Honorable Susana Martinez
Governor
State Capitol, Fourth Floor
Santa Fe, NM 87501

Received
2015 JUL - 9 AM 8:10
Office of the Governor

Dear Governor Martinez:

On February 6, 2015, the Office of the State Auditor (OSA) received an anonymous complaint via its fraud hotline regarding alleged unethical and illegal conduct by the Department of Tax and Revenue (TRD) Cabinet Secretary. The complaint alleged that the Secretary improperly influenced, or attempted to influence, the TRD tax audit of a former client. The OSA, based on the predicate report discussed below, has determined that there is a reasonable basis to open an investigation into the allegations concerning the Secretary, as well as other senior TRD employees. Accordingly, the OSA has referred the matter to the New Mexico Attorney General's Office and may designate TRD for a special audit regarding the financial impact of these allegations to the State of New Mexico.

When the Office of the State Auditor receives a complaint, in accordance with normal procedures, the OSA is charged with initiating fact-finding procedures to determine whether there is a basis for the claim. In order to maintain independence in making that assessment in this matter, the OSA contracted an appropriately certified forensic and investigative accounting firm to determine whether or not predication exists for a full investigation to be opened. The conclusions of the independent firm were based on interviews of Taxation and Revenue Department employees and hours of audio recordings of meetings, provided by a cooperating witness, in which senior TRD staff discussed the issue.

On June 30, 2015, the investigative firm reported back to the OSA regarding its predicate conclusions. The report determined: (1) an investigation should be opened into allegations that the Secretary used her official position to inappropriately influence or pressure TRD employees to obtain differential treatment to benefit a former client; (2) that these actions were taken to protect the Secretary from possible individual liability stemming from her previous work for the taxpayer as a Certified Public Accountant (CPA); (3) the Secretary may have violated professional standards pertaining to CPAs; (4) further investigation is warranted to determine whether the State of New Mexico lost legitimate tax, penalty or interest as a result of these events; and (5) two senior TRD

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employees who refused to support the Secretary's efforts may have experienced retaliation. Additionally, the firm's preliminary investigation indicated that other senior TRD employees may have assisted the Secretary's efforts.

Since this complaint involves appointees in your Administration who serve at your pleasure, we are notifying you of this matter so you can take any action you deem appropriate and prevent any possible further retaliatory actions from being taken against TRD employees. The fair and impartial administration of state tax laws is of utmost importance and the report's conclusions regarding whether the Secretary, or her staff, may have intervened in a tax audit on behalf of a former client, potentially resulting in the loss of revenue for the State, is deeply troubling. Please let us know what action, if any, your Administration plans to take, or have taken, in response to these serious allegations.

Thank you for your attention to this matter.

Sincerely,



Timothy M. Keller
State Auditor

Cc: Keith Gardner, Chief of Staff

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2015 JUL -9 AM 8:11
OFFICE of the GOVERNOR
RECEIVED

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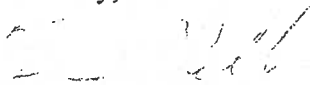
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