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May 6, 2021

Jaymon Thomas  
Uintah County Attorney  
641 E 300 S  
Vernal, UT 84078  
[jaymon@uintahcountyattorney.org](mailto:jaymon@uintahcountyattorney.org)

Re: Referral under Utah Code Ann. § 17-53-103

Dear Jaymon:

I am writing to provide my conclusions from my investigation into whether the Uintah County clerk/auditor has ordered payments or drawn warrants without authorization.

#### Background

Earlier this year, your office contacted me with a request to have me investigate allegations of potential financial wrongdoing by your county's clerk/auditor. This request was based on Utah Code Ann. § 17-53-103, which states, in relevant part:

(1)(a) If a county officer, without authority of law, orders any money paid for any purpose, or if any other county officer draws a warrant in the officer's own favor or in favor of any other person without being authorized to do so by the county legislative body or by law, the county attorney of that county shall request a county attorney from another county to investigate whether an unauthorized payment has been ordered or an unauthorized warrant drawn.

As required by the statute, I was deputized to act on behalf of your office.

#### Investigation

I began my investigation by consulting with the Weber County clerk/auditor. He assigned our comptroller, Scott Parke, to assist with the investigation, because of Mr. Parke's experience with the relevant subject matter. One of our deputy county attorneys, Courtlan Erickson, also assisted.

Jaymon Thomas letter  
May 6, 2021

During the course of the investigation, Mr. Parke and Mr. Erickson reviewed multiple documents and spoke with several Uintah County employees, including Commissioner Bill Stringer, Budget Officer Mark Caldwell, and Clerk/Auditor Michael Wilkins. Then, Mr. Parke drafted a memorandum and presented it to our clerk/auditor, who approved it with no changes. I shared the findings with you and told you I would provide a formal report with my conclusions.

Conclusions

If, after an investigation under Utah Code Ann. § 17-53-103(2), I determined “that an unauthorized payment has been ordered or that an unauthorized warrant has been drawn,” I would be authorized to bring a civil action in the name of Uintah County to enjoin future unauthorized payments or to recover prior unauthorized payments, or both.

In this case, I agree with the findings stated in Mr. Parke’s memorandum, and I have attached it for reference. As a result, although several issues were raised that could give the appearance of unauthorized payments, I do not believe there is sufficient evidence for me to determine that unauthorized payments have occurred or have been ordered. Rather, there seem to have been multiple breakdowns in communication among the various Uintah County offices and officials, without any clear violations of law. Therefore, I have chosen not to pursue any legal action under Utah Code Ann. § 17-53-103.

If you reach a different conclusion, I do not see anything in the statute that prevents Uintah County from taking legal action, either civil or criminal in nature. And Uintah County might also choose to contact the state auditor’s office to review any concerns.

This concludes my investigation and review.

Sincerely,



Christopher F. Allred  
Weber County Attorney

Attachment

cc: Jonathan Stearmer

# MEMORANDUM

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**To:** Ricky Hatch, Weber County Clerk/Auditor

**From:** Scott Parke, Comptroller, Weber County Clerk/Auditor's Office

**CC:** Chris Allred, Weber County Attorney  
Courtlan Erickson, Deputy County Attorney

**Date:** April 13, 2021

**Subject:** Review of Potential Violations of Utah Code and Uintah County Policy in Regards to Expenditure of County Funds

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At your request, I worked with Courtlan Erickson to review the complaint against the Uintah County Clerk Auditor forwarded to Chris Allred, Weber County Attorney, by Jon Stearmer of Uintah County on February 23, 2021, along with the related documents. During our review, two additional complaints were brought to our attention. These complaints are listed below:

- 1) That money was paid to the Utah Retirement System (URS) on behalf of all county employees without the authorization of the County Legislative Body.
- 2) Contributions to the URS in calendar year 2021 exceed the amount authorized in the 2021 approved budget.
- 3) The Clerk Auditor made unauthorized loans to retirees by paying the full premium before they received the retiree's share of the contribution.
- 4) The Clerk Auditor unilaterally decided to begin including vision and dental care as a benefit to retired employees who were only authorized to receive health insurance in accordance with county policies.

Courtlan and I had discussions with Bill Stringer, Uintah County Commissioner, Mark Caldwell, Budget Officer, and Michael Wilkins, Uintah Clerk Auditor to get a better understanding of the issues. I also reviewed budget documents that were publicly available on the State Auditor's website. As the potential violations are financial in nature, I reviewed them to help give the attorney's office a better understanding of the issues being alleged, as noted below.

## Issue 1

Documents provided by Uintah County (the County) show that the County has paid retirement contributions to URS in excess of the minimum required amounts since at least 2014, as follows:

Fund 11 – Tier 1 excess 401(k) Employer Contributions	6.35%
Fund 15 – Tier 1 excess 401(k) Employer Contributions	6.35%
Fund 111 – Tier 2 excess 401(k) Employer Contributions	7.14%
Fund 211 – Tier 2 excess 401(k) Employer Contributions	7.14%

These excess rates were approved by the County Commissioners through 6/30/2017.

# MEMORANDUM

Starting with the rates effective 7/1/2017, the URS retirement rates were approved directly by the Clerk Auditor without formal approval by the County Commissioners. The rates paid in excess of the URS required amounts did not change during this time. The commissioners did approve an increase in the retirement rate related to public safety employees on 06/22/2020 for the 07/1/2020 – 6/30/2021 period.

I reviewed the County's Approved Budget for 2017 through 2020, available on the State Auditor's Website, and noted that the excess URS contribution rates appeared to be included as part of the calculation of employee benefits. Per discussions with the Bill Stringer, a Uintah County Commissioner and the Clerk Auditor, the budget detail presented to the County Commissioners consolidated all employee benefits together, therefore the URS contributions were not specifically called out.

## Issue 2

In November of 2019, the County Commissioners moved control of the budget from the Clerk Auditor to a new Budget Officer, Mark Caldwell. During the preparation of the 2021 budget the excess employer 401(k) contributions were included in the tentative budget but removed from the final budget. However, the Clerk Auditor, who is in charge of processing payroll, continued to pay the excess contributions to URS through the time of this review.

Courtlan Erickson, Weber County Deputy Attorney and I inquired of the Clerk Auditor as to why he was continuing to pay the excess 401(k) contribution. His response was that he was never told to stop paying the contributions, nor was he told that they had been removed from the budget. He further claimed that since the budget duties had been pulled away from his office, he no longer had access to the detailed budgets and could not see that the retirement contribution budget had been reduced.

We asked the Budget Officer if he had communicated to the Clerk Auditor that the URS retirement contribution rates had been changed. The Budget Officer said that he had not.

We also asked Commissioner Stringer if the change had been communicated to the Clerk Auditor. His response did not appear to show a direct communication to the Clerk Auditor instructing him to lower the rates, but instead presented information that the Commissioner argues shows that there was enough information available to the Clerk Auditor that he should have known to lower the rates.

## Issue 3

I received an email from Commissioner Stringer March 15, 2021 stating "...we have information that indicates the County was essentially "loaning" money by paying premiums for employee insurance prior to receiving the required premiums from the employee. Despite the fact that premiums were due and payable by the 20th of the month preceding the month covered, premiums were not submitted or there was a failure to submit sufficient funds to cover the entire cost of the premium..."

I discussed with Courtlan Erickson that Weber County has a similar practice where we pay the full premium for retiree insurance and collect the retiree's share separately. If the retiree is late with their payment, we offer a grace period (about 60 days) as a courtesy so that the retiree's

# MEMORANDUM

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insurance is not cancelled because of a single late payment. It may be argued that this practice is a loan to retirees. Weber County sees this more as a matter of the timing of cash flows because the county in the end is not incurring an expenditure for the retiree's share of the insurance premium.

## Issue 4

Courtlan Erickson received an email from Mark Caldwell on March 22, 2021 "The County previously had a policy (Policy 450- Benefit Continuation) which allowed employees to continue receiving medical insurance coverage after retirement from the County. The policy clearly states that "vision care and dental are excluded". It appears that in 2020 the Clerk-Auditor unilaterally made the decision to begin including vision and dental care as a benefit to those employees enrolled under Policy 450. It appears that these expenditures for vision and dental care were unauthorized and caused expenditures for the 2020 calendar year to be in excess of statutory budgets."

Courtlan and I discussed this issue with the Clerk Auditor. He stated that in 2020, they switched to a private insurance company that bundled health, vision, and dental insurance into one offering, and that you could not take one without taking the others. The County paid for the excess insurance. In 2021 the insurance company allowed individuals to select only the insurance that they wanted. In March of 2021 (after we began our review), the Clerk Auditor reached out to the retirees and told them they would have to pay the full premium for dental and vision insurance. At that time most either cancelled their vision and dental insurance or paid the premiums.

I discussed these issues with Courtlan Erickson and will defer to the Attorney Office's expertise in determining if there were violations of state statute. I also mentioned that if there were no clear civil or criminal violations, the matter could be referred to the State Auditor's Office for further review.