

# SWANDAL LAW PLLC

## & Mediation Center

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April 9, 2014

William Fulbright  
Ravalli County Attorney  
205 Bedford St.  
Hamilton, MT 59840

Re: Report on Stamey allegations/other matters

Dear Mr. Fulbright:

You asked me to look into allegations Valerie Stamey made against various county officials and employees, both in her January 21, 2014 statements given at a commissioner's meeting, and contained in a letter sent by her attorney, Robert C. Myers. It is my understanding that there is a separate investigation regarding related financial issues. Accordingly, I have not investigated those claims.

I am going to break this report into several individual sections involving the initial hiring of Mrs. Stamey and then focus on the allegations she made. During the investigation I interviewed the following individuals:

1. County Attorney Bill Fulbright
2. Commissioner J.R. Iman
3. Commissioner Greg Chilcott
4. Linda Isaacs
5. Joanne Johnson
6. Regina Plettenberg
7. Bonnie Dugan
8. Commissioner Jeff Burrows
9. William Nelson, Esq.
10. Joe Frolich
11. Robert Jenni
12. Commissioner Ron Stoltz
13. Commissioner Suzy Foss
14. Mary Borden
15. Jody O'Sullivan
16. Heather Davies
17. Klarryse Murphy
18. Ronald Foltz, CPA

I asked to interview Valerie Stamey and made that request through her attorney. Mrs. Stamey agreed to an interview initially, but subsequently changed her mind and declined to be interviewed.

In addition to various local newspaper articles regarding the relevant allegations, I reviewed the following documents:

1. Numerous emails from the Treasurer's Office.
2. Commission minutes
3. HR materials, including Mrs. Stamey's job application; interview questions for Treasurer candidates; and reports regarding disciplinary action.
4. Default Judgment against Valerie A. Addis (Stamey) by Discover Bank filed June 9, 2009, in Ravalli County Cause Number DV 09-237
5. Letter from Robert C. Myers to Phyllis Forg dated January 23, 2014.
6. Statement by Valerie Stamey to Ravalli County Commissioners dated January 21, 2013.
7. Letter from Robert C. Myers to Ravalli County Commissioners dated January 23, 2014
8. Numerous A101 receipts generated during Mrs. Stamey's tenure as County Treasurer.
9. Opinion and Orders from Hon. James Haynes and Hon. Jeff Langton in Ravalli County Causes Numbers DV 12-517 and DV 12-515
10. Valerie Stamey presentation to SVP on January 24, 2014 (via YouTube)
11. Numerous tax deed documents for the Clerk and Recorder's Office

### **I. The Initial Hiring of Valerie Stamey**

Ravalli County had gone through an unstable situation in the Treasurer's Office subsequent to the 2010 election in which the incumbent Treasurer, JoAnn Johnson, was defeated. Mary Hudson Smith was elected, but she was apparently unqualified and quit not long into her term. The Ravalli County Commission appointed Marie Keaton as County Treasurer. She served competently until her resignation in August 2013. It was then up to the Ravalli County Commissioners to appoint a new Treasurer, who would serve until the 2014 elections.

Three people applied for the Treasurer's position. Each candidate submitted a resume as well as the application required by the Ravalli County Human Resource Office. The County Commission, sitting as a whole, interviewed Valerie Stamey and Linda Isaacs. The County Commission did not interview the third applicant.

It was apparent to the commission that time was of the essence regarding the appointment of County Treasurer because tax bills needed to be prepared and mailed. After the interviews of Mrs. Stamey and Mrs. Isaacs the commissioners voted 3-2 to appoint Mrs. Stamey to the position. Commissioners Burrows, Stoltz and Foss voted for Stamey while Commissioners Iman and Chilcott voted for Isaacs.

This decision has been roundly criticized, (hindsight is always 100%), and I find unfairly so. During my interviews, each of the commissioners stated that Mrs. Stamey was more eloquent than Mrs. Isaacs; Mrs. Stamey presented herself in a positive manner; she presented ideas to improve the Treasurer's Office's customer service; and she gave a superior interview. Mrs.

Isaacs was certainly qualified, but, to some of the commissioners, came off as one who thought she was entitled to the job in an otherwise lackluster interview.

Mrs. Stamey's resume and application were impressive and showed years of experience in government procurement and accounting. I did not personally check the veracity of any of the statements in the application as that was beyond the scope of my duties. For this report, I assume they are all true.

Further, based on their statements to me, I believe the commissioners who voted for Mrs. Stamey were looking to restore some stability in the office. Mrs. Isaacs made it clear that she was not going to run in the next election if she were appointed but that she would train someone to take over. After going through three Treasurers in just over three years, those commissioners were hoping to find someone who could stabilize the office for several years.

I also interviewed Robert Jenni, who is the human resources officer for Ravalli County. Mr. Jenni sat in during the interview with both candidates. He did not have a part in the decision on who to hire. Each commissioner was given a set of 23 questions to ask each candidate during the interviews. The hiring protocol was that the Commissioners scored each of the answers to the questions from a low of one (1) to a high of five (5). At the end of the interviews the Commissioners were to add the scores of the candidates and the one with the higher score was to be hired, all other things being equal. The three commissioners who scored Mrs. Stamey higher voted for her and the two who voted for Mrs. Isaacs had her higher. Mr. Jenni, who is an experienced interviewer and has worked in the HR field for several years, also scored Mrs. Stamey higher.

My conclusion is that all the commissioners fulfilled their duties and voted in an effort to best serve the citizens of Ravalli County with the information they were given. The one criticism in the process I would levy is that while the commission was understandably anxious to appoint a new Treasurer they should have taken more time to conduct a thorough background check of the candidates.

While it is my understanding that a criminal check was completed, since the Treasurer is in a bonded position and obviously deals with large amounts of public money, a thorough check of any prior financial issues should have been done, as well as interviews with all prior employers.

Such a background check would have revealed Mrs. Stamey's problems in South Carolina, which are well documented, as well as a default judgment of \$22,198.06 entered against her by Discover Bank on June 9, 2009 (Ravalli County Cause Number DV 09-237, Discover Bank v. Valerie A. Addis). If information about an apparent inability to handle personal finances would have been provided to the commissioners the vote would undoubtedly have been different. In the future, policies should be implemented to ensure that a thorough background check of candidates for County Treasurer is completed before any decision to hire is made. Further, any application should require that an applicant state all names and/or aliases that they have used; where they have lived since the age of 18; and specifically, whether they have been involved in any civil litigation.

## II. Issues in the Treasurer's Office

It is now obvious that the appointment of Mrs. Stamey was not successful. The reasons, for the failure, based on my interviews and review of certain documents, are mixed. Again, I would have liked to have had an opportunity to interview Mrs. Stamey and ascertain her view of her short tenure, but I was unable to do so, so my findings are made without the benefit of that information.

While there was some assertion that a hostile work place existed once Mrs. Stamey took office, not one employee I interviewed felt this was a problem. To the contrary, those I interviewed did not find Mrs. Stamey very engaging and stated she generally stayed in her office and had little interaction with the employees. In at least one instance Mrs. Stamey did not formally introduce herself to an employee until she had been on the job a few weeks. To my understanding no office-wide meetings were held.

In Mrs. Stamey's defense, one of the reasons for her lack of engagement may have been because her initial attempt to pacify hard feelings about the selection was rudely and disrespectfully rebuffed. This may have set the tone for the office from that day forward.

Personal dissatisfaction and conflict between employees in the Treasurer's office did not start with the appointment of Mrs. Stamey. Documents I reviewed showed a general lack of discipline and focus. There were personal differences and petty jealousies among the County Treasurer's staff prior to Mrs. Stamey's appointment in 2013. However, Mrs. Stamey's appointment may have escalated those problems.

It is my opinion that if the personnel in the Treasurer's Office had acted as a team with the goal of serving the tax-paying public and getting the job done, Ravalli County would not have faced the problems it did after Mrs. Stamey's selection. The employees had sufficient knowledge and experience so that most of the problems that have become known since Mrs. Stamey's appointment could have been avoided. Instead, certain employees decided that they would not "train her" or actively assist in fulfilling the obligations of the office, and left Mrs. Stamey to figure out all the duties and responsibilities of the office on her own.

On the other hand, Mrs. Stamey sought the position and should have made more effort to learn her duties and responsibilities. According to some of the personnel interviewed, Mrs. Stamey appeared disinterested in some aspects of the office and was not able to grasp some of the simple concepts of preparing and filing certain reports. There were resources available to her to assist her in doing the job and while she made some effort to use those, I would have expected her to put in long hours and weekends and to be constantly on the phone with other county Treasurers to properly serve Ravalli County.

Certainly fault lies with many parties. Hopefully the level of dysfunction I found in the Treasurer's office does not exist in other offices in the County. Considering the recent turnover in the County Treasurer's office, it may not even exist there at this time. I would recommend that the commissioners and HR director contract with a qualified independent consultant, for

identifying issues and problems in each office in the County and then determine how to resolve any issues that come to light.

### **III. Mrs. Stamey's Allegations**

After problems surfaced regarding Mrs. Stamey's performance and her past legal issues became known, Mrs. Stamey made various allegations against County Commissioner J.R. Iman and several employees in the Treasurer's office. I will address those allegations individually.

#### **1. Allegations Against Commissioner J.R. Iman**

Mrs. Stamey alleges that Mr. Iman prevented her from having access to the Treasurer's bank accounts and the Treasurer's safe for three weeks after she was appointed. The accounts are held at First Interstate Bank. Whenever a new commission chair is chosen, the bank accounts are supposed to be updated with new signatures. Mr. Iman served as the Commissioner Chair three (3) years before Mrs. Stamey's appointment as Treasurer. Since a new commission chair is appointed every year, there were two (2) commission chairs after him. Commissioner Jeff Burrows was chair when Mrs. Stamey was appointed.

It appears, through an oversight that the subsequent chairs failed to update the signature cards. That error has now been corrected. However, I am not sure how that oversight prevented Mrs. Stamey from doing her job. There were at least two Treasurers before her who, to my understanding, did not have problems accessing the accounts.

The issue regarding access to the Treasurer's safe seems to have no merit. Commissioner Iman never had the combination to the safe. (In fact, no members of the commission have access.) Certain members of the Treasurer's office have the combination because of their particular duties in the office. My conversations with employees in that office revealed that Mrs. Stamey did not ask them for the combination until late October or early November, weeks after she took the job. At that time, Bonnie Dugan gave her the combination and showed Mrs. Stamey how to open the safe. Commissioner Iman never asked anyone to withhold the combination from her. He had no authority to do so.

Finally, Mrs. Stamey alleges that after she presented some "facts" to Commissioner Chilcott, he went into commissioner Iman's office and stated "..... G\*\* Dammit, you son of a B\*\*\*\*, what the F\*\*\* have you done now." Both Commissioner Chilcott and Commissioner Iman denied that incident.

#### **2. Allegations About "Missing Files"**

I talked to Joanne Johnson about this allegation. As Mrs. Stamey alleged, Mrs. Johnson did take files from the office to protect her employees from possible retaliation, but they were the original personnel files. This occurred in 2010. She copied each of the files and had all the employees sign a statement that the copy was a true and correct copy of the original. The copies were then left in the Treasurer's office and the originals were taken to HR.

Mr. Jenni confirmed Mrs. Johnson's account. She provided the original personnel files to his office and they are stored there pursuant to policy. Mrs. Johnson knows of no other missing files and had no part in taking them. Since these "missing" files are not specifically identified, it is difficult to determine when or where they were taken. There was no evidence to support Mrs. Stamey's claim that files are missing to "hide the illegal selling of tax liens".

Mrs. Stamey also alleged that Kalryse Murphy, Ravalli County CFO, had taken files containing missing receipts and deposits. Again, the exact nature and importance of all these documents is not clear. There is a mention of alleged missing files involving federal expenditures and supporting documentation. While that issue may be more appropriate for investigation by the financial expert, I will briefly touch on it.

To my understanding the Treasurer's office does not retain expenditure documents, either state or federal. The County Treasurer's office receipts money coming into the county and deposits it. All expenditures go through the Finance Department. Claims are processed and then go to the Commissioners for their approval. Once approved, checks are prepared and all checks and supporting documentation are maintained and available for review by the public for the current fiscal year and the previous seven years.

In addition, pursuant to § 2-7-502, MCA, all departments in Ravalli County are audited on an annual basis by an independent auditor. I believe these audits are accessible on the County's website. Also, Ravalli County is subject to an annual audit as required by OMB Circular A-133 when the entity receives more than \$500,000 in federal funds. If Mrs. Stamey had legitimate allegations against Ms. Murphy, she should have addressed those concerns with the auditor. I could find nothing to substantiate an allegation that Ms. Murphy ever removed any files from the Treasurer's office.

### **3. Allegations About Illegally Selling Tax Liens**

This allegation may depend on a determination of the applicable definition of "illegal" someone is using. If Mrs. Stamey is implying that problems existed in the issuance of some tax deeds because the County Treasurer failed to take all necessary statutory steps, she is correct. If she is implying that something criminal has taken place, she is incorrect.

As you are aware, the statutory procedure to obtain a tax deed is cumbersome and each step must be carefully complied with both by the purchaser and the office of the county treasurer. Failure to follow the procedural protocol, exactly, may invalidate the deed.

The delinquent tax procedure starts with the Treasurer publishing notice of a pending tax lien sale for 3 consecutive weeks. The Treasurer must publish the notice by the last Monday in June. The tax lien sale must be held not less than 21 days or more than 28 from the date of the first publication. The tax lien sale takes place at the County Courthouse. The Treasurer must immediately file notice of this publication and affidavit with the Clerk and Recorder.

Anyone can then come in, pay the assessment fee set by the county, all taxes due and any penalty and interest, and take an assignment on property for which the taxes are delinquent.

However, before an assignment is taken anyone who desires to take an assignment must send the listed landowner a notice of pending assignment. If the landowner does not pay all delinquent taxes and other money due within two (2) weeks of the notice of pending assignment then the assignment will take place. Generally, the person who takes the assignment will pay the taxes due on the property for the following years until the statutory time allows a tax deed to be issued. From the date of the first assignment until a tax deed is issued the owner of the property has a right to redeem (take back) the property by paying all delinquent property taxes, penalties, interests and fees.

Generally, the property owner redeems the property. From 2010 to 2013 in Ravalli County, for example, hundreds of assignments were taken but only about 20 tax deeds were issued.

In both Zinvest, LLC v. Hudgins, Ravalli County cause DV 2012-517 and Zinvest v. Voth, et al, Ravalli County cause DV 2012-515, the Treasurer's office made the same mistake. The Ravalli County Treasurer failed to immediately file copies of the notices of publication required by § 15-17-123, MCA. Therefore, the tax deeds issued in these cases were voided.

Strict compliance with the applicable statutes serves a legitimate purpose. It serves to protect a property owner from losing valuable property without the required due process. Montana law places the burden on the purchaser of the tax deed to ensure both their compliance as well as compliance by the responsible government agency.

There are often problems encountered in the process which is why so many appellate cases exist on this issue. I do not know why the problems existed in the Ravalli County from 2008-2011, but they have been corrected and it is my understanding that the notices of publication are now being immediately filed.

It is important to note that Ravalli County did not lose any money because of the failure to publish the required notice in a timely manner. The county is required to pay the purchaser for the amount paid at the tax lien sale plus statutory interest. Ravalli County is then considered the purchaser of the property and, upon its sale, will receive the amount of delinquent taxes, plus penalties and interest as provided in § 15-16-102, MCA.

During one of her statements, Mrs. Stamey alleged that the Treasurer's office was funneling tax deeds to certain purchasers. The record does not seem to support that allegation, although I was concerned about certain emails I read between a deputy in the Treasurer's office and individuals who inquired about taking assignments. In one email from 2012 it appears that a deputy did take the position that she was not going to take money from the first company that sent it to take an assignment, but was favoring a prospective purchaser whom she may have known. That is the only email I found which seemed to favor a specific potential purchaser. While clearly inappropriate, there were several tax lien purchasers in 2012, so the tax liens were not funneled to one specific purchaser. The process was open to all interested parties. In another email, it appears an employee was asked for and gave what could be construed as legal advice on the proper procedure to obtain a tax deed. All employees should be warned not to give any legal advice and tell all people who want to take assignments to talk to their own attorney for any advice.

Generally, the first purchaser that gives the proper notice and pays the money due will obtain the assignment. It is really a matter of, "first come, first served".

The list of all delinquent taxes is open to the public and advertised. Nothing about the process is secret. Many companies and individuals who specialize in buying delinquent properties ask to be sent the list of those who are delinquent in paying property taxes. In Ravalli County you can get the list by email for \$40, a printed list for \$60 and a CD for \$50. A member of the public can walk into the office and request to view the list.

Looking at the records from 2010-2013, it appears that several individuals and companies, took assignments and some eventually ended up being issued tax deeds. During that time some of those that took assignments included Equity Trust Company; K&J Investments, LLC; Pacific Land Holdings, LLC; KT Land Company, LLC; International Paper; TIG, LLC; Zinwest, LLC; AT CF II Montana, LLC; Outwest Taxes, LLC; and HMC Real Estate, LLC. Based on the record it does not appear that the Treasurer's office funneled tax deeds to any particular buyer. As I indicated before, the process is open to anyone in Ravalli County, or an outside party. Many take assignments as a form of investment because of the statutory rate of interest they will receive when the landowner redeems the property.

While I find merit in Mrs. Stamey's claim that problems existed in the Treasurer's office from 2008-2011 which may void many tax deeds issued by the office, no evidence exists that a "crime" occurred or any cover-up existed. Certainly, no files were destroyed because of this issue and there is no evidence that I found to support such a claim. Further, there is nothing in the record to support her claim that tax deeds were funneled to certain companies or individuals.


#### **4. Miscellaneous**

Mrs. Stamey made other allegations, such as "My office is a crime scene of illegal activity", to which I am unable to respond. I believe that Mrs. Stamey may be referring to some alleged misappropriation of federal funds, which she has apparently referred to federal officials. I found nothing to support that statement and it is my understanding that federal funds are generally closely tracked to ensure nothing is misappropriated. In addition, as I indicated, the county goes through a yearly independent audit. That audit should highlight any problems.

Mrs. Stamey also made an allegation against Bonnie Dugan. I did not address that because it is a personnel issue that was addressed by Mr. Jenni.

Let me know if there is anything else you want me to review.

Very Truly Yours,



Wm. Nels Swandal