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Senator Patty Murray
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Dear Senator Murray:

We are writing to notify you and request your assistance with recent actions we've taken regarding James A. McDevitt, the U.S. Attorney for the Eastern District of Washington. This is a high profile controversy (see attached article) in Spokane and Eastern Washington. It involves serious conflicts of interests in a fraud and public corruption case that dates back to Mr. McDevitt's direct involvement, as a private attorney, in the River Park Square (RPS) garage transaction. Because there is federal jurisdiction in the RPS case, we are asking your help to ensure that this matter is properly investigated and prosecuted in order to restore credibility in federal law enforcement and give the public confidence that those who are implicated in federal crimes are not above the law.

The River Park Square transactions involved a \$31.4 million bond issue that resulted in a federal securities fraud action, and a thorough report by the U.S. Internal Revenue Service that clearly implicates several individuals (possibly including Mr. McDevitt himself) in criminal wrongdoing. The RPS project also involved a \$1 million federal grant and a \$22.65 million federally-backed loan that was extended under false pretenses and in clear violation of U.S. Department of Housing and Urban Development guidelines for loan security. As we've laid out in a recent letter to Mr. McDevitt, the involvement of the HUD funds is also connected to a clear violation of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) of 1989. The beneficiary of the fraudulent activities and other abuses involved at RPS were the real estate subsidiaries of Cowles Publishing Co., the company that publishes the *Spokesman-Review* newspaper.

On August 20th we presented Mr. McDevitt with a letter, two reports, and more than 50 evidentiary exhibits about the RPS case and his involvement in the garage/bond transaction. In reply, Mr. McDevitt informed us in an August 23rd letter of his decision to recuse himself and his office and seek assignment of the RPS case to another U.S. Attorney. The problem is that his recusal came far too late. By his inaction, he has created a dark and troubling cloud over federal law enforcement agencies. And that is why we are asking your assistance to help ensure that this situation is rectified in a way that redeems public confidence in these agencies and the Department of Justice.

This is not a trivial matter in Spokane and Eastern Washington. The out of court settlements in the RPS securities fraud case did not make the City whole. Spokane taxpayers are still on the hook for at least \$50 million to finance the settlement even after obtaining contributions from other defendants in the case.

It was not just garage bond buyers and the people of Spokane who were deceived in the River Park Square transactions. We also think you and your office were misled by project supporters. Records show that one of the people who clearly sought to influence you was Mike Ormsby who, like Mr. McDevitt, was deeply involved in the RPS transaction out of the Spokane office of Preston, Gates & Ellis. For example, in a December 3, 1997 memo (attached) to Judy Olson of your staff, Mr. Ormsby sought to assure you that the RPS loan would be “properly collateralized.”

That was untrue. The facts are now very clear that the loan wasn’t properly collateralized and that, as a consequence, federal grant funds for Spokane’s poorest neighborhoods were jeopardized.

Your office was not alone in being misled. As the Washington News Council recently corroborated, the *Spokesman-Review* “suppressed” key financial details of the transaction including the contents of a leaked city memo (written just a few days before Mr. Ormsby’s memo to Ms. Olson) that disclosed crucial facts about the risks of the under-collateralized loan. When the issue came up at public hearings in 1998, Mrs. Rodgers was given public assurances that the Cowles family had agreed to protect the City’s block grant funds. Those assurances were likewise untrue. By January 2004 the RPS loan was in default. The impending burden of an extended default was one of the major problems that contributed to the anguish the Spokane City Council experienced that year as it sought to settle the security fraud claims without continuing to lose millions of dollars in federal block grant funds.

In addition to the bad information provided by Mr. Ormsby in the December 3, 1997 memo, there was something else that Ms. Olson and you clearly needed to know from Mr. Ormsby. He should have included in the memo the information that he and Preston Gates had a considerable financial stake in the project and were, in fact, working very closely with Cowles real estate companies to close the deal. Indeed, according to the billing records we have, Mr.

Ormsby even charged Cowles companies for the time it took to research and write his 12/3/97 memo.

Under federal securities law, Mr. Ormsby and Mr. McDevitt had a greater obligation to investors. Records produced in the federal securities fraud case show that the firm worked for River Park Square in 1996 before being recruited by RPS agents to separately represent the Spokane Downtown Foundation. The Spokane Downtown Foundation issued the bonds and paid Cowles real estate companies \$26 million for a garage the IRS concluded was worth only \$15 million.

The propriety and legality of Mr. Ormsby's and Mr. McDevitt's activities is a serious question that was highlighted both in the federal securities fraud complaint brought by Nuveen, et al., and in the June 2004 report by the IRS. It may not have been illegal for Mr. Ormsby and Preston Gates to mislead your office, but the fact that his and Preston Gates's serious conflicts of interest were not disclosed to bond buyers is something that federal law enforcement agents need to examine in determining whether criminal fraud indictments are warranted.

For your convenience, we are attaching a CD (to the copy of the letter sent to the Spokane office) that contains our correspondence with Mr. McDevitt, the Justice Department and federal law enforcement agencies. Among other things, the disc includes the two reports prepared for Mr. McDevitt, the first outlining his and his former law firm's involvement in the RPS garage transaction, and the second outlining the evidence of fraud, conspiracy, money laundering, and public corruption in the RPS transactions. The disc includes dozens of evidentiary exhibits, including Preston Gates billing records documenting Mr. McDevitt's and Mr. Ormsby's work on the RPS project.

We think how the Justice Department handles the investigation of this matter is crucial for several reasons. We also think you and other members of Congress should take note of this case and determine, among other things, why it took Mr. McDevitt six years to recuse himself.

Finally, we'd like to meet with you at your earliest opportunity to discuss the case and its ramifications. We look forward to hearing from you.

Sincere regards,

Cherie Rodgers
Spokane City Council member (1997-2005)
Mayor Pro-Tem (2000)

Tim Connor