

**Glenn J. Gimbut**  
**LAW OFFICES OF GLENN J. GIMBUT, P.L.L.C.**  
330 W. 24<sup>th</sup> STREET  
YUMA, ARIZONA 85364  
(520) 783-0101 Fax: (520) 783-8690  
E-mail: gimbut@primenet.com

September 5, 2000

RECEIVED

SEP 07 2000

Mrs. Pat Orozco  
Yuma County Attorney  
168 S.2d Ave.  
Yuma, AZ 85364

City of San Luis

Re: Opinion Regarding Conflict of Interest - Mayor Harper of City of San Luis

Dear Pat:

Alex Ruiz, City Manager of the City of San Luis shared a copy of the initial opinion letter of Charles Platt as made in the above matter. I was frankly disappointed in the poor draftsmanship and lack of professionalism displayed in the work product.

I have since had conversations with Mr. Gould and Mr. Platt, and I am now informed that the letter will be revised to reflect that your office did not, nor ever did intend to gather any factual data upon which to render its opinion, and that the opinion given is based solely on the statements made to your office in the referring letter. Such an amendment is more appropriate and far more professional than the initial letter, and I am glad that Mr. Gould and Mr. Platt have been willing to do so.

This matter obviously is sensitive to the elected officials of San Luis, and needs to be considered sensitive by you and your office because it involves one of only four elected mayors in the entire county. While it is appropriate that an assistant prepare a working draft, the final opinion letter should have been reviewed and/or rendered by either you, Andy Gould, or Mary White. The initial letter was less than a clear, tightly written work product.

Second, when Charles Platt called me about two and a half weeks ago, he explained he was rushed, that the matter was just handed to him that morning, and he had been ordered to have an opinion that afternoon. This matter was referred to your office more than six and a half weeks ago. This should never have been handled as a "last minute" rush job.

Third, during our conversation it was explained to him, very carefully, that Gerald Hunt and I had a conflict of interest which is why the matter was being handled by your office. I encouraged Mr. Platt to take his time. I encouraged him to call Alex Ruiz, City Manager, and Dave Ford, Public Works Director and interview them directly to gather the facts necessary to render an opinion. He was encouraged to request from Mr. Ruiz copies of all pertinent minutes of the City Council, the purchasing ordinance of the City, and all other files and records of the City that might be relevant. He was encouraged to contact Mayor Harper and/or Mr. Zeller directly and gain from them information as well before coming to any conclusions. He was told that he could not rely on my recollection of events because my information was hearsay of the most indirect form, and therefore was inherently unreliable. As a result, I was

Letter to Mrs. Pat Orosco  
County Attorney  
Re: Opinion of Office of County Attorney  
September 1, 2000  
Page 2

initially hesitant to talk to him at all. It was only with the clear understanding that this was unreliable background information only, and would not be used as the basis of the opinion, that I told him what information I had. I told him in no unmistakable terms that my information could not be relied upon, in any manner, to render an opinion.

The initial opinion should never have referred to any information given in my conversation with Mr. Platt. Several times in the opinion my words are taken out of context, and important parts are left out. There is no need to go into detail about that in this letter, since my information should never have been used to begin with. However, some parts deserve mentioning. There were several important gaps for which neither Mr. Hunt or I had any information, not even rumor or speculation. First, is when was it first discussed or considered that employees and equipment of the corporations with which Mayor Harper is associated would work on this job site? Who was involved in those contacts, and who made those decisions? It is not known that either Mayor Harper or Brice Zeller were personally involved at all. The opinion apparently assumes that this was the understanding between Brice Zeller and Alex Joe Harper all along. Second, it is unknown, even at this date, why these people were on that job site. For all that is known they were employed at that time by Brice Zeller. Third, was my information and belief that there was no profit in this job. Finally, is my strongly held belief that Mayor Harper at all times is motivated solely by wanting to perform needed public service to the community.

In my recent discussions with Mr. Gould and Mr. Platt, I was informed that they were reluctant to perform any investigative tasks. As a result the opinion is being given with the understanding that it was the decision of the Office of the County Attorney to render an opinion without gathering any first hand factual data, nor making any attempt to learn from either Mr. Harper or Mr. Zeller their side of the story.

Finally in my conversation with Mr. Gould and Mr. Platt, I learned that contact had been made by them with Mr. Cudahay of the Office of the Attorney General who indicated that this was not the type of case that warranted either criminal investigation or prosecution, and that was one of the reasons for the conclusion that was reached by your office. While this was a decision made solely by Mr. Gould and Mr. Platt, I do not doubt its propriety. However, that information should have been put in the letter, and it is my hope that it is placed in the corrected letter. Such information will be important for the City Council of San Luis to know in deciding whether they should refer the matter further, or simply let it end with your opinion.

Again, I am glad a corrected opinion is being issued. I simply wish the corrected opinion was the one rendered to begin with. Thank you for your time and attention.

Very truly yours,

  
Glenn Gimbut