



## INSPECTOR GENERAL REPORT

2012-07-0177

August 9, 2013

### IDEM POST-EMPLOYMENT

*Inspector General Staff Attorney Jennifer Cooper, after an investigation by Special Agent Darrell D. Boehmer and Alan McElroy, reports as follows:*

On July 16, 2012 the Office of the Inspector General (“OIG”) received a complaint alleging that a former IDEM employee (“Respondent”) was working for facilities he had inspected while an IDEM employee and was communicating with current IDEM staff, on behalf of his new employers, regarding inspections and enforcement actions in which he had participated while an IDEM employee. The allegation was that these actions were in violation of the ethics rules on postemployment and a request was made for the OIG to investigate the matter.

Special Agent McElroy was assigned to investigate with the assistance of Special Agent Boehmer. The OIG is charged to investigate criminal activity and ethics violations by state workers. IC 4-2-7-3.

The Postemployment restrictions rule, 42 IAC 1-5-14, states in part:

A former state . . . employee . . . may not accept employment or receive compensation from an employer if the former state . . . employee . . . made a regulatory . . . decision that directly applied to the employer . . . before

the elapse of at least three hundred sixty-five (365) days after the date on which the former state . . . employee . . . ceases to be a state . . . employee  
.....

*See* IC 4-2-6-11(b)(3).

Through interviews with Respondent's supervisors and other former co-workers at IDEM, Special Agent Boehmer determined that Respondent had resigned from his position at IDEM on January 20, 2012. In addition, Special Agent Boehmer discovered that Respondent had been in contact with multiple IDEM employees, within less than 365 days from leaving state employment, regarding his new employers. Respondent had informed IDEM staff that he was representing two waste-site facilities ("Facilities") regulated by IDEM. Respondent's former supervisor informed Special Agent Boehmer that Respondent had been assigned to these two facilities and was responsible for conducting quarterly inspections at these facilities and completing corresponding inspection reports while an IDEM employee. These inspections were completed for the purpose of ensuring that the facilities were operating according to IDEM's regulations. Respondent's former supervisor reported that she had multiple conversations with Respondent regarding one of the facilities within the 365 days after Respondent left state employment. In addition, the former supervisor had scheduled a site visit to this facility through Respondent and Respondent was present and representing the facility when she conducted measurements at the site on October 3, 2012.

Special Agent Boehmer interviewed additional IDEM employees who had been contacted by Respondent regarding these facilities. One employee advised that Respondent had contacted her regarding enforcement actions pending against these facilities. This employee informed Special Agent Boehmer that she, along with

Respondent's former supervisor and her own supervisor, had contacted the owners of these facilities to confirm that Respondent was representing them. She explained that because enforcement proceeding negotiations are confidential in nature, she could not discuss them with Respondent unless he was officially representing them in these matters. The owners of both facilities confirmed that Respondent was officially representing them and provided IDEM staff with permission to discuss these matters with Respondent.

Special Agent Boehmer interviewed the owners of both of the facilities who confirmed that Respondent had been assisting them with compliance issues at their facilities. One of the owners admitted that he paid Respondent for his consultation work, but declined to provide the exact amount.

On March 7, 2013 Special Agent Boehmer spoke with Respondent regarding the allegations that Respondent went to work for companies he regulated while at IDEM. Respondent admitted that he did consulting work, for which he was compensated, for one of the companies and communicated with IDEM staff regarding this facility. Respondent contended that he only assisted the other facility owner with some questions regarding an inspection report and was not compensated for his assistance.

Based on the information collected from interviews and corresponding documents and records, Special Agent Boehmer determined that Respondent had been involved in the regulation of these two waste-site facilities while an IDEM employee and then subsequently went to work for at least one of them before 365 days elapsed, in violation of the postemployment rule.

An ethics complaint was filed with the State Ethics commission and Respondent

thereafter entered into an Agreed Settlement with the OIG in which he admitted to a violation of 42 IAC 1-5-14, the postemployment rule. Respondent agreed to sanctions of a fine in the amount of Two Hundred Fifty Dollars and 00/100 (\$250.00). The State Ethics Commission approved the Agreed Settlement on August 8, 2013. Accordingly, this investigation is closed.

APPROVED BY:

/s/ David O. Thomas, Inspector General