

**MINUTES OF THE MEETING OF
THE INDIANA STATE ETHICS COMMISSION
April 15, 2021**

I. Call to Order

A regular meeting of the State Ethics Commission (“Commission”) was called to order at 10:09 a.m. The meeting was held virtually using Microsoft Teams. Commission members present were Katherine Noel, chair; Corinne Finnerty; and Kenneth Todd. Staff present included David Cook, Inspector General; Tiffany Mulligan, Chief Legal Counsel, Office of Inspector General; Jennifer Cooper, State Ethics Director; Luba Gore, Staff Attorney, Office of Inspector General; Cindy Scruggs, Administrative Director, Office of Inspector General; Mike Lepper, Investigator, Office of Inspector General; and Nathan Baker, Legal Assistant, Office of Inspector General.

Others present were: Deana Smith, Ethics Officer, Indiana State Department of Health; Tamera Glickman, Deputy General Counsel, Indiana Department of Administration; Sylvia Watson, General Counsel and Ethics Officer, Indiana State Library; Latosha N. Higgins, Managing Attorney/Ethics Officer, Family and Social Services Administration; Beth Green, General Counsel & Ethics Officer, Indiana Department of Workforce Development; Kristi Shute, Deputy General Counsel and Ethics Officer, Indiana Department of Homeland Security; Amber Nicole Ying, Special Counsel/Director, Compliance and Ethics and Ethics Officer, Department of Revenue; Rachel Russell, Interim General Counsel and Ethics Officer, Department of Child Services; Ed Feigenbaum, Indiana Legislative Insight; Breanca Merritt, FSSA, Chief Health Equity and ADA Officer; Hala Kuss, Northwest Regional Office Director, Indiana Department of Environmental Management; Bruno Pigott, Commissioner, Indiana Department of Environmental Management; Alex Van Gorp, Staff Attorney, Indiana Department of Health; Jessica Keyes, Staff Attorney, Family and Social Services Administration; Kathleen Mills, Ethics Officer, Indiana Department of Environmental Management; and Whitney Fritz, Staff Attorney, Department of Child Services.

II. Adoption of Agenda and Approval of Minutes

Commissioner Todd moved to adopt the Agenda and Commissioner Finnerty seconded the motion which passed (4-0).

Commissioner Todd moved to approve the Minutes of the January 21, 2021 Commission Meeting and Commissioner Gilroy seconded the motion which passed (3-0).

III. Consideration of Waiver of Post-Employment Restrictions for Hala Kuss

Bruno Pigott, Commissioner of the Indiana Department of Environmental Management; and Kathleen Mills, Ethics Officer of the Indiana Department of Environmental Management, presented the proposed Waiver of Post-Employment Restrictions in this matter to the Commission for their approval.

Commissioner Todd moved to approve the Waiver, and Commissioner Finnerty seconded the motion which passed (3-0).

IV. Director's Report

State Ethics Director, Jen Cooper, stated that OIG staff has issued 40 informal advisory opinions since the previous last meeting. The majority of these requests dealt with questions concerning conflicts of interests, use of state property, ghost employment, outside employment, post-employment and gifts.

Director Cooper continued that the preliminary planning process for this summer's Auditor & Investigator Conference has started. A survey was sent out to last year's attendees to solicit feedback on what kind of topics and speakers they would find more helpful so OIG can try to plan an event to best meet their training needs.

Finally, OIG staff attorney Kelly Elliott, who had been with our office since 2017, has transferred to a different state agency and OIG is in the process of filling her role. Hopefully next month Director Cooper will be able to introduce a new staff attorney to the Commission.

V. Adjournment

Commissioner Todd moved to adjourn the public meeting of the State Ethics Commission and Commissioner Finnerty seconded the motion, which passed (3-0).

The public meeting adjourned at 10:33 a.m.



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

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Eric J. Holcomb
Governor

Bruno L. Pigott
Commissioner

IC 4-2-6-11

Post-employment waiver

As the Appointing Authority of the Indiana Department of Environmental Management (IDEM), I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to John Howard in his post-employment with the NiSource.

I understand that I must file and present this waiver to the State Ethics Commission at its next available meeting. I further understand that this waiver is not final until approved by the State Ethics Commission.

- A. This waiver is provided pursuant to IC 4-2-6-11(g) and specifically waives the application of the following provision of IC 4-2-6-11:

IC 4-2-6-11(b)(3): 365 day required "cooling off" period before receiving compensation from an employer for which the former state employee or special state appointee made a directly applicable regulatory or licensing decision.

In March of 2020, Mr. Howard, as part of his duties at IDEM, inspected the Hudson regulator station operated by NIPSCO. NIPSCO is a subsidiary of NiSource. He has had no other duties involving NIPSCO or NiSource.

- B. IC 4-2-6-11(g)(2) requires that an agency's appointing authority, when authorizing a waiver of the application of the post-employment restrictions in IC 4-2-6-11(b)-(c), also include specific information supporting such authorization. Please provide the requested information in the following five (5) sections to fulfill this requirement.

1. Please explain whether the employee's prior job duties involved substantial decision-making authority over policies, rules, or contracts:

Mr. Howard is a Senior Environmental Manager at the Northern Regional Office of IDEM. He is a regulatory compliance inspector in the areas of solid and hazardous waste. His duties in the position include routinely conducting compliance inspections of public and private commercial industrial operations in accordance with 329 IAC and 40 CFR. He does not have any substantial decision-making authority over policies, rules, or contracts.

2. Please describe the nature of the duties to be performed by the employee for the prospective employer:

NiSource is a regulated utility company serving territories across Indiana, Kentucky, Maryland, Ohio, Pennsylvania, and Virginia. The position is a corporate-wide position.

However, NiSource describes Mr. Howard's potential operating territory as northeast Indiana and northern Ohio. (The Hudson substation is not in that area.) The responsibilities of the position encompass a wide-range of environmental program areas including, air, water, natural resources, and waste management. The duties include enhancing and maintaining the NiSource environmental management system by analyzing and managing data to direct and cause continuous improvement related to environmental performance and enhance and maintain a process to track, monitor, communicate and minimize environmental related risk.

3. Please explain whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee:

Because Mr. Howard's potential territory includes northeast Indiana, it is possible that he might have an occasional contact with IDEM personnel. However, the contact is not likely to result in any agency decision based on the work product of Mr. Howard.

4. Please explain whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest:

Mr. Howard has been a solid and hazardous waste compliance inspector with IDEM for more than 20 years. He has acquired a strong knowledge of state and federal statutes regarding solid and hazardous waste compliance. He will be responsible for the continuous improvement of the company's environmental management system and will be tasked with minimizing environmental risk. As such, a waiver is beneficial to the state and consistent with the public interest to have someone in that position with the knowledge and experience to protect human health and the environment.

5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:

Mr. Howard has resigned his position with IDEM, effective May 24, 2021. If the waiver is not granted, Mr. Howard will be unable to initiate employment with NiSource and the economic hardship that would result to him from being unemployed would be severe.

C. Signatures

1. Appointing authority/state officer of agency

By signing below, I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee or special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation.

Bruno Pigott
Bruno L. Pigott, Commissioner
Indiana Department of Environmental Management

5/4/21
DATE

2. Ethics Officer of agency

By signing below, I attest to the form of this waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(B).

Kathleen Mills

Kathleen Mills, Ethic Officer
Indiana Department of Environmental Management

05/04/2021

DATE

D. Approval by State Ethics Commission

FOR OFFICE USE ONLY

Approved by State Ethics Commission

Katherine Noel, Chair, State Ethics Commission

Date

Mail to:

Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202

OR

Email scanned copy to: info@ig.in.gov

Upon receipt you will be contacted with details regarding the presentation of this waiver to the State Ethics Commission.

March 12, 2021

Indiana State Ethics Commission c/o Jennifer Cooper, State Ethics Director
315 W. Ohio Street, Room 104
Indianapolis, IN 46202

Re: Proposed Fundraising Auction on Behalf of the Indiana Natural Resources Foundation

Dear Ms. Cooper,

The Indiana Natural Resources Foundation (“Foundation”) would like to conduct an auction to support its annual fund. The auction would be comprised of experiences on properties of the Indiana Department of Natural Resources (“DNR”) and include DNR staff in functions they typically perform, but there are a few that are more unique experiences.

While the primary goal of this effort is to raise funds, it is also to promote DNR properties and activities throughout the State of Indiana. Ideally, we would like to do this again in the future and look to change the experiences. We want to encourage people to experience the DNR in ways that create memorable experiences that keep them coming back year after year.

Examples of experiences that would be routine:

1. Weekend for up to 8 at the Covered Bridge Retreat.
2. Weekend/Week in a State Park Inn or Cabin.
3. Two side-by-side campsites for the 2024 Eclipse when Indiana is in totality.
4. Private Party for 20-30 at Pokagon Toboggan (it would have to be held on a day separate from regular hours of operation and likely be on a Wed/Thurs).

Examples of experiences that are more unique:

1. Candlelight dinner for up to 12 people in the Mill at Spring Mill State Park.
2. Lake James wine cruise at Pokagon State Park.
3. Guided hikes at various locations for up to 8-10 people across different DNR properties.
4. Guided kayak trip for 8-10 (Patoka Lake, Chain O’lakes, O’Bannon Woods).
5. Guided lake history tour for 6-8 people at a reservoir property.

Please advise as to whether this would be an appropriate and acceptable use of DNR staff and resources, as DNR feels that this would be considered official state business due to the fact that the Foundation is a quasi-governmental entity tasked with aiding and supporting DNR in its mission.

Regards,

Samantha E. DeWester, General Counsel
Indiana Department of Natural Resources



Eric Holcomb, Governor
State of Indiana

Office of General Counsel
402 W. WASHINGTON STREET, ROOM W451, MS27
INDIANAPOLIS, IN 46204-2744

May 3, 2021

Ethics Commission
Office of the Inspector General
315 West Ohio Street, Room 104
Indianapolis, Indiana 46202
Via Email: info@ig.in.gov

RE: Request for Formal Advisory Opinion for Brittany Downing

Dear Chairperson Noel and members of the Ethics Commission:

The Indiana Family and Social Services Administration (“FSSA”), on behalf of Brittany Downing, requests a Formal Advisory Opinion from the State Ethics Commission addressing application of the State Code of Ethics regarding a post-employment opportunity Ms. Downing has been offered with Public Consulting Group (“PCG”), a contractor for the Vocational Rehabilitation program fiscal system.

Ms. Downing is the Associate Director of Administrative Services with FSSA’s Vocational Rehabilitation (“VR”) Services program. In her role, Ms. Downing oversees the case management system, Aware, and which has thirteen interconnected (13) interfaces. Ms. Downing also assists with business process writing, federal reporting, fiscal budgeting, and data analysis in her role with VR.

Ms. Downing plans to move out of state on or about May 16, 2021 and cannot remain in state employment in her current role. PCG approached Ms. Downing’s supervisor regarding an opportunity for employment after learning that Ms. Downing was relocating, and Ms. Downing’s supervisor advised her of same. Ms. Downing then reached out to a contact she knew with PCG through a launch meeting regarding the opportunity on or about March 18, 2021 and formally sent her resume on March 26, 2021. Ms. Downing interviewed with PCG on March 31, 2021. PCG offered Ms. Downing the role of consultant on or about April 13, 2021.

The opportunities and projects that PCG would like Ms. Downing to work on include the following:

- Supporting the development of a new quality assurance program for a state VR agency client



- Comprehensive Statewide Needs Assessment (CSNA) report development for three current state VR agency clients
- Provider services rate setting for a VR state agency client
- Supporting business development efforts with VR state agencies and maintaining market visibility with national associations and conferences

None of these projects involve Indiana programs. PCG advised they have no current need to assign Ms. Downing to any Indiana related projects or initiatives.

PCG assists mostly public sector services relating to health, education, and human services relating to performance and processes. PCG has 38 locations with approximately 1,000 open contracts and works with all 50 states and international providers. PCG contracts with Indiana and FSSA, and presently, there are 33 total active contracts between the state and PCG.

In this case, PCG contracted with FSSA, Division of Disability and Rehabilitative Services (“DDRS”) to develop and implement a VR Claims payment system for vendors to submit claims via the web and provide fiscal services to those vendors by making timely payments for the services provided to VR program participants. Another employee at FSSA administers the PCG claims contract for the VR program. Ms. Downing oversees the Aware contract, which is a case management system. Aware is a separate contract, but some interfaces of Aware work with PCG and claims processing. The state also contracts with PCG through regarding DDRS for PCG to provide pre-employment transition services. Ms. Downing did not oversee, manage, procure or have other involvement with this pre-employment transition services contract.

Ms. Downing has been involved in approximately 30 telephone calls regarding the Aware to Claims Payment System (CPS) processes, issues, and information gathering for projects. Ms. Downing participated in those calls as the subject matter expert for the interconnected case management interfaces and many calls included all interface stakeholders. Ms. Downing did not lead or organize these calls. Another employee has always been the liaison with PCG regarding the claims processing system, and Ms. Downing does not have contracting responsibility for the agency. Ms. Downing also has not made a regulatory or licensing decision that directly applied to PCG or to a parent or subsidiary of the employer through her current role with VR.

VR has applied for a grant project with PCG that would begin in October 2021. Ms. Downing was not a key point of contact for the PCG grant application. Several stakeholders, both internal and external and state employees gathered and prepared information for the grant application submission. Participants included people from at least seven (7) teams or groups. Ms. Downing’s responsibilities were limited to pulling data and participating in no more than two (2) telephone calls regarding the grant. The grant will not be awarded until July or August 2021. Ms. Downing’s employment with PCG is not contingent upon work on the grant project if VR is awarded same, but she would be interested in a determination regarding whether she would be able to work on the grant if VR is chosen as a recipient of the PCG grant.

If she accepts the role of consultant, there are no intentions, of which she is aware, for Ms. Downing to work on any projects or contracts with FSSA. Rather, Ms. Downing will be analyzing data regarding substance abuse for PCG, and while she may assess information and

data for states with contracts with PCG, she does not believe that she would be analyzing data for Indiana or submitting claims to Indiana. To Ms. Downing's best information and belief, no executive branch lobbying is associated with the role of consultant, nor is that the business of PCG.

Ms. Downing understands that she may not participate in any decision or vote or matter relating to any decision or vote due to negotiations concerning prospective employment related to PCG. A disclosure form was filed on or about April 22, 2021, screening Ms. Downing from participating in any votes, decisions, or other matters where PCG may have a financial interest. Ms. Downing also understands that she may not benefit from or divulge confidential information except as permitted by law.

Based on the foregoing, I would request a determination by the Ethics Commission regarding Ms. Downing's post-employment opportunity with PCG. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Jessica Keyes".

Jessica Keyes
FSSA Staff Attorney
Interim Ethics Officer