



OFFICE: OFFICE OF THE INDIANA ATTORNEY GENERAL
TITLE: CONTINGENCY FEE CONTRACT
CASE ID: 2022-05-0155
DATE: May 27, 2022

After examination and review, Office of Inspector General Staff Attorney Doreen Clark reports as follows:

The purpose of this Report is to fulfill the statutory requirements of Ind. Code §4-6-3-2.5 regarding contingency fee contracts. This statute requires the Inspector General (IG) to review proposed contingency fee contracts for possible conflicts of interests and potential Code of Ethics violations. Under this statute, an agency may not enter into a contingency fee contract unless the IG has made a written determination that entering into the contract would not violate the Indiana Code of Ethics, set forth in Ind. Code §4-2-6 and 42 IAC 1-5, or any statute or agency rule concerning conflicts of interests.

On May 26, 2022, the Indiana Office of Attorney General (OAG) notified the OIG that it wished to enter into a contingency fee contract with Meade Young LLC (Counsel), a law firm. The OAG explains that Counsel will represent the State of Indiana in evaluating a potential cause of action against GlaxoSmithKline PLC (GSK) and any related parent companies or subsidiaries for its violations of Indiana's antitrust laws. In particular, OAG and Counsel are pursuing GSK's claims related to conduct in delaying generic entry for the branded pharmaceutical product Flonase

and the resulting overpayments for Flonase by the State between approximately May 19, 2004, and February 22, 2006.

Under the contingency fee contract, the State will compensate Counsel only for legal services rendered and for costs and expenses incurred if Counsel obtains any recovery for the State under the following contingency fee agreement: (1) Twenty percent (20%) of any part of a recovery that does not exceed fifteen million dollars (\$15,000,000); (2) Fifteen percent (15%) of any part of a recovery of more than fifteen million dollars (\$15,000,000) and not more than twenty million dollars (\$20,000,000); (3) Ten percent (10%) of any part of a recovery of more than twenty million dollars and not more than twenty-five million dollars (\$25,000,000); (4) Five percent (5%) of any part of a recovery of more than twenty-five million dollars (\$25,000,000).

Pursuant to Ind. Code §4-6-3-2.5(b), an agency is required to make a written determination before entering into the contract that the contingency fee representation is cost effective and in the public interest. The OAG must consider five factors when making this determination as outlined by Ind. Code §4-6-3-2.5(c). Those factors are as follows:

- (1) Whether the agency has sufficient and appropriate legal and financial resources to handle the matter.
- (2) The time and labor required to conduct the litigation.
- (3) The novelty, complexity, and difficulty of the questions involved in the litigation.
- (4) The expertise and experience required to perform the attorney services properly.
- (5) The geographic area where the attorney services are to be provided.

The OAG made such a determination and considered all five factors outlined in the statute.

The OAG explains that the matter to be handled by Counsel is based on work from the OAG's Consumer Protection Division (CPD), specifically, CPD's Consumer Litigation Section. CPD's Consumer Litigation Section is currently staffed by nine full-time Deputy Attorneys General with approximately 899 active litigation and investigative matters pending on behalf of

the State. The OAG explains that it has historically employed outside counsel to assist with certain types of cases to supplement other ongoing litigation and compliance efforts.

The OAG finds that the State's interests would be best served through the efficient and specialized services of Counsel in a complex area of the law. Additionally, the OAG recognizes that CPD will not be able to expeditiously undertake this matter while simultaneously managing its regular workload.

The OAG states that the cases at issue will require counsel with specialized knowledge of antitrust laws because GSK is a sophisticated healthcare company. Consequently, the OAG finds that the State's interests will be better protected if managed by Counsel who possesses specialized knowledge and practice.

Additionally, the case at issue will require counsel who possesses specialized knowledge of consumer protection and antitrust laws regarding the methods used by GSK to carry out its scheme to keep generic brands of Flonase off the market. The OAG provides that Counsel has an extensive history working with antitrust laws and working with high profile companies, and the OAG believes that the State's interest will be best served by relying on Counsel's expertise.

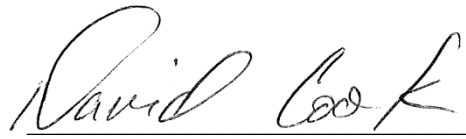
Finally, the OAG states that Counsel will perform services for the State at its main office location in New Orleans, Louisiana but will coordinate with OAG as necessary. GSK is currently headquartered in Brentford, United Kingdom.

According to the OAG, Counsel does not employ any state employees. Furthermore, no OAG employee or immediate family member has a financial interest in Counsel or the contract itself. Finally, the OAG provides that no OAG employee is contracting with or will be supervising the work of a business entity in which a relative is a partner, executive officer or sole proprietor.

Based on the information provided, and after careful review and examination, the IG finds that entering into this contingency fee contract will not violate the Code of Ethics or any statute or agency rule concerning conflicts of interests. This report is issued in compliance with the above noted statutory requirements.

Dated: May 27, 2022

APPROVED BY:

A handwritten signature in cursive script that reads "David Cook". The signature is written in black ink and is positioned above a solid horizontal line.

David Cook, Inspector General