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Clark, Quinn, Moses, Scott & Grahn, LLP

FILED

AUG 10 2023

INDIANA STATE
ETHICS COMMISSION

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Keith L. Beall
John M. Mead
Jennifer F. Perry
N. Davey Neal
Kristin A. McIlwain
Olivia A. Hess

August 10, 2023

Land Use Consultant
Elizabeth Bentz Williams, AICP

To: Indiana Ethics Commission
From: Bart Herriman

*Also admitted in Montana
†Also admitted in Kentucky
**Registered Civil Mediator

Re: Report of Potential Disclosure of Potential Conflict of Interest Pursuant and Request for
Advisory Opinion Pursuant to 42 IAC 1-5-6

Dear Commission members:

I have been appointed by the Governor of Indiana to serve on the Natural Resources Commission (the "Commission"). As such, I am a special state appointee as defined in Ind. Code § 4-2-6-1(18).

For purposes of the Indiana Administrative Orders and Procedures Act, Ind. Code § 4-21-5-3, the Commission is the ultimate authority for the Department of Natural Resources. See, Ind. Code § 14-10-2-3. Pursuant to Ind. Code § 4-21.5-3 and 312 IAC 3-1, an administrative law judge employed by the Commission's Division of Hearings conducts an evidentiary hearing and issues a non-final order. Thereafter, the parties have an opportunity to file objections to the non-final order issued by the administrative law judge. The objections are then scheduled for argument at a public meeting of the Commission's "AOPA Committee." The AOPA Committee is comprised of three members of the full Commission. See, 312 IAC 3-1-12. I serve on the AOPA Committee.

A meeting of the AOPA Committee was scheduled for August 9, 2023. The Commission's Division of Hearings forwarded the relevant information to the committee members on August 4, 2023. As I was reviewing the materials on August 8, 2023, I discovered on the second page of the documents I reviewed that an attorney employed by the law firm of Clark, Quinn, Moses, Scott & Grahn, LLP ("Clark Quinn"), of which I am a partner, had entered an appearance in the case. **I immediately stopped reviewing the documents and informed the Commission, members of the AOPA Committee, and Elizabeth Gamboa, the Commission's Ethics Officer, of the conflict and immediately recused myself from participating in the AOPA Committee meeting scheduled for August 9, 2023.**

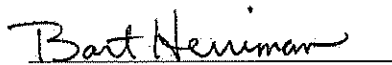
I have previously been advised of matters within our firm that could result in conflicts; however, I was not aware of the current conflict until August 8, 2023. The screening plan for the future is three-fold: 1) requiring all attorneys within the firm to report to me any potential conflicts that could arise; 2) emailing Hearings Division staff matters involving attorneys from Clark Quinn that could potentially come before the AOPA Committee; and (3) upon scheduling a hearing of

Indiana Ethics Commission
RE: Report of Potential Disclosure
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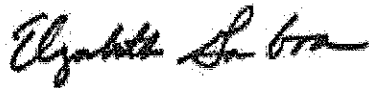
the AOPA Committee, the Hearings Division staff will alert the AOPA Committee to potential conflicts. Obviously, I will not participate in consideration of matters before the AOPA committee involving cases for which there is a conflict.

This disclosure is being made because to the extent I may potentially benefit financially from an attorney at Clark Quinn, a conflict of interest pursuant to 42 IAC 1-5-6, may be implicated. I am seeking a formal advisory opinion to determine whether sufficient measures have been taken to cure any conflict that may arise.

Sincerely,



Bart Herriman
Member, Natural Resources Commission



Elizabeth Gamboa
Ethics Officer, Natural Resources Commission

Baker, Nathaniel P

To: Bart Herriman
Subject: RE: Disclosure and Request for Advisory Opinion

From: Bryan Poynter/USA <Bryan.Poynter@cushwake.com>
Sent: Thursday, August 10, 2023 2:39 PM
To: Bart Herriman <bherriman@clarkquinnlaw.com>
Cc: Gamboa, Elizabeth A <EGamboa1@nrc.in.gov>
Subject: Re: Disclosure and Request for Advisory Opinion

Confirmed...thank you Bart.

Bryan W. Poynter SIOR, CCIM
317 670-4171 Mobile

On Aug 10, 2023, at 2:36 PM, Bart Herriman <bherriman@clarkquinnlaw.com> wrote:

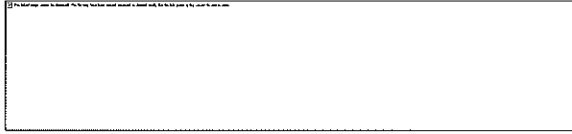
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Good afternoon, Bryan. I hope all is well on your end. Due to the conflict I discovered earlier this week, in addition to immediately recusing myself from the matter and notifying you, the AOPA members, and Libby that same day, Libby and I also determined that we should disclose the conflict to the Office of Inspector General and request a Formal Advisory Request to ensure I am taking all necessary steps to guard myself (and the Commission) from any future conflicts. As you can see from Mr. Baker's email below, the Office of Inspector General also needs proof that I sent the attached disclosure to the Agency's Appointing Authority. You are the appointing authority for the Commission, so please see the formal disclosure and request for an opinion. Again, this is in addition to the email I sent you earlier in the week wherein I disclosed the conflict and indicated I would be recusing myself from the matter. If you have any questions or concerns, please do not hesitate to contact me. Otherwise, please confirm receipt of this email and attachment. Thanks for your time and consideration and I look forward to seeing you soon.

Very truly yours,

Bart Herriman

320 N. Meridian Street, Suite 1100
Indianapolis, IN 46204
317.637.1321 Phone 320 Extension 317.687.2344 Fax
bherriman@clarkquinnlaw.com
www.clarkquinnlaw.com



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From: Baker, Nathaniel P <NBaker@ig.IN.gov>
Sent: Thursday, August 10, 2023 2:06 PM
To: Bart Herriman <bherriman@clarkquinnlaw.com>
Cc: Gamboa, Elizabeth A <EGamboa1@nrc.IN.gov>; Janece Jones <jjones@clarkquinnlaw.com>; Gorman, Sean M <SGorman@ig.IN.gov>
Subject: RE: Disclosure and Request for Advisory Opinion

Good afternoon Mr. Herriman,

We have received your email with your Disclosure letter and Request for Formal Advisory Opinion.

Regarding the Disclosure, we are ready to file the letter as a Conflicts of Interest: Decisions and Voting Disclosure. Per IC 4-2-6-9, in order to complete the filing, we will also need a copy of confirmation that you have sent this disclosure to your Agency's Appointing Authority. In this case, Commission Chair Bryan Poynter. Once we have a copy of the confirmation (a copy of an email would be sufficient), we will file the Disclosure.

Regarding your Formal Advisory Opinion request, we will add this matter to the Agenda for the September 14, 2023 State Ethics Commission Meeting.

The meeting will be held in-person at the Indiana State Library, Second Floor, in the Author's Reading Room beginning at 10:00 A.M.

We ask that you attend the meeting to answer any questions that the Commissioners may have. Also, the Agency Ethics Officer usually attends to offer the Agency's position and to answer questions from the Commission. If you would please confirm if Ms. Gamboa will be accompanying you for the presentation or if someone else from the Commission will be in attendance, we can set our Agenda matter accordingly.

State Ethics Director Sean Gorman will contact you should more information be required. Should you have any questions regarding the Disclosure process or the Formal Advisory Opinion process, you may contact him directly. He has also been copied on this e-mail.

Thank you,

Nathan Baker, Legal Assistant
Office of the Inspector General
315 W. Ohio Street, Room 104
Indianapolis, IN 46202
nbaker@ig.in.gov
317-232-3850
IN.gov/ig

From: Bart Herriman <bherriman@clarkquinnlaw.com>
Sent: Thursday, August 10, 2023 1:33 PM
To: IG Info <info@ig.IN.gov>
Cc: Gamboa, Elizabeth A <EGamboa1@nrc.IN.gov>; Janece Jones <jjones@clarkquinnlaw.com>
Subject: Disclosure and Request for Advisory Opinion

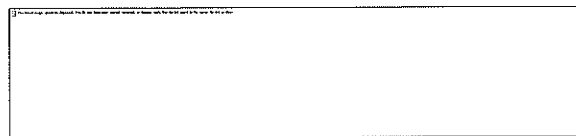
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Dear Commission members,

I hope this note finds you well. Attached please find a Disclosure of Potential Conflict of Interest and a Request for Advisory Opinion Pursuant to 42 IAC 1-5-6. If you would be so kind, please confirm receipt of this email and let me know if you need additional information. Thanks for your time and consideration, and I look forward to hearing from you soon. Take care!

Very truly yours,

Bart Herriman
320 N. Meridian Street, Suite 1100
Indianapolis, IN 46204
317.637.1321 Phone 320 Extension 317.687.2344 Fax
bherriman@clarkquinnlaw.com
www.clarkquinnlaw.com



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<8.10.23 IEC Itr re Report of Pot. Disc. of Pot. Conflict_Libbysignature.pdf>

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