

**MINUTES OF THE MEETING OF
THE INDIANA STATE ETHICS COMMISSION
August 13, 2020**

I. Call to Order

A regular meeting of the State Ethics Commission (“Commission”) was called to order at 10:00 a.m. The meeting was held virtually using Microsoft Teams. Commission members present were Katherine Noel, Chairperson; Corinne Finnerty; Sue Anne Gilroy; and Kenneth Todd. Staff present included Lori Torres, Inspector General; Jennifer Cooper, State Ethics Director; Tiffany Mulligan, Chief Legal Counsel, Office of Inspector General; Kelly Elliott, Staff Attorney, Office of Inspector General; Luba Gore, Staff Attorney, Office of Inspector General; Chuck Coffin, Special Agent, Office of Inspector General; Mike Lepper, Special Agent, Office of Inspector General; and Nathan Baker, Legal Assistant, Office of Inspector General.

Others present were: Amber Nicole Ying, Special Counsel/Director and Ethics Officer, Compliance and Ethics, Department of Revenue; Deana Smith, Ethics Officer, Indiana State Department of Health; Ed Feigenbaum, Indiana Legislative Insight; Beth Green, General Counsel, Department of Workforce Development; Kathleen Mills, Ethics Officer, Indiana Department of Environmental Management; Tamera Glickman, Deputy General Counsel, Indiana Department of Administration; Sylvia Watson, General Counsel and Ethics Officer, Indiana State Library, Joan Blackwell, General Counsel and Ethics Officer, Office of Attorney General; Andrew Bernlohr, General Counsel and Ethics Officer, Indiana Department of Education; Joshua Garrison, Associate Commissioner, Indiana Commission for Higher Education; Colby Shank, Associate Commissioner for Student Financial Aid, Indiana Commission for Higher Education; and, Nathan Williamson, Indiana Department of Education

II. Adoption of Agenda and Approval of Minutes

Commissioner Gilroy moved to adopt the Amended Agenda (removing the withdrawn Formal Advisory Opinion) and Commissioner Todd seconded the motion which passed (4-0).

Commissioner Finnerty moved to approve the Minutes of the July 9, 2020 Commission Meeting and Commissioner Gilroy seconded the motion which passed (4-0).

III. Inspector General’s Report

Inspector General Lori Torres presented a report on the second quarter of 2020. 40 Informal Advisory Opinions were issued in Q2 (compared to 66 issued in Q1 and 71 in Q2 of 2019). There were 113 requests for investigations in Q2 (compared to 88 in Q1 and 92 in Q2 of 2019). Nine (9) new investigations were opened by OIG in Q4 (compared to 12 in Q1 and 19 in Q2 2019). Fifteen (15) investigations were closed by OIG in Q2 (compared to 6 in Q1 and 11 in Q2 2019). 13 of 15 closed case reports are published on the website.

Regarding KPI's for Q2:

- KPI #1 - Number of informal advisory opinions (“IAO”s) requested: **115**
- KPI #2 - Average number of business days to provide an IAO: **1.087**
- KPI #3 - Number of recommendations made to reduce waste, inefficiency, fraud and improve integrity: **15 recommendations in 13 published reports.**

Ms. Torres reported that the 2020 Auditors & Investigators Conference was webcast over 3 days: June 23, 24, 25 2020. Presentations were made by Dr. Kelly Richmond Pope of DePaul University; Anatomy of a Fraud case by SBOA and OIG; and White Collar Crime Unit of the Indiana State Police. The Inspector General also reported that the 2020 Legal and Ethics Conference is scheduled to be held on the week of November 16, 2020. It will be held via a Microsoft Teams Live virtual event and that the agenda and speakers are still being finalized.

The OIG 2019 Annual Report was published on the OIG website on June 11, 2020.

Ms. Torres also reported on the OIG's Covid-19 response. OIG Staff is working on a hybrid schedule where everyone is physically in the office each week and staff rotates so that there is generally 2-5 people physically present in the office every day. Staff not present work remotely. The Indiana State Library is currently closed to members of the public except by appointment only. Finally, State Ethics Commission meetings will continue to be held virtually for foreseeable future depending on Governor Holcomb's executive orders and Chairwoman Noel's directives.

Finally, Ms. Torres reported the sad loss of Darrell Boehmer, Director of Investigations for OIG for 15 years and trooper with the Indiana State Police for 31 years. He passed away on July 21, 2020.

IV. Consideration of Indiana Department of Education Waiver of Post-Employment Restrictions for Nathan Williamson

Andrew Bernlohr, General Counsel and Ethics Officer, presented the proposed Waiver of Post-Employment Restrictions in this matter to the Commission for their approval.

Commissioner Gilroy moved to approve the Waiver, and Commissioner Todd seconded the motion which passed (4-0).

V. Consideration of Indiana Commission for Higher Education Waiver of Post-Employment Restrictions for Colby Shank

Joshua Garrison, Associate Commissioner, 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 Gilroy seconded the motion which passed (4-0).

VI. Director's Report

State Ethics Director, Jen Cooper, stated that since the last Commission meeting, the Office of Inspector General had issued 22 informal advisory opinions on the subjects of post-employment restrictions, conflicts of interests, outside employment, and gifts.

Director Cooper also reported that the OIG will be holding our annual Legal & Ethics Conference virtually this year with plans to hold it during the week of November 16th, likely on the 17th, 18th or 19th of November.

VII. Adjournment

Commissioner Todd moved to adjourn the public meeting of the State Ethics Commission and Commissioner Gilroy seconded the motion, which passed (4-0).

The public meeting adjourned at 10:25 a.m.

INDIANA STATE POLICE

INDIANA GOVERNMENT CENTER NORTH
100 NORTH SENATE AVENUE

INDIANAPOLIS, INDIANA 46204-2259

www.IN.gov/isp

August 31, 2020

TO: Indiana Ethics Commission

FROM: Nila Miller-Cronk, Major
Commander, Internal Investigations Section

SUBJECT: Request for Formal Advisory Opinion

On March 13, 2020, Master Trooper Micky E. Dockery, submitted a Non-Department Employment (NDE) Request through his chain of command, stating he had created Relentless Elite, LLC, and he is requesting permission to run this business during his off-duty hours. (his NDE request form is attached for review). As the Department's Ethics Officer, this request was forwarded to me on April 13, 2020, for my review from Major Charles Sorrells.

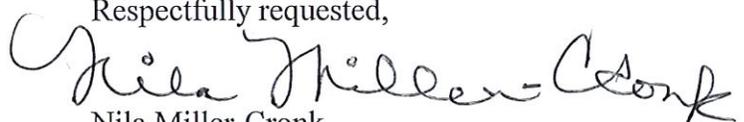
Master Trooper Dockery provided a description of the duties to be performed for this business in his NDE request which is contained below:

Training, Consulting, and Written Publications in the areas of: Self-defense; canine training, certifications, and tactical deployments; strategies and tactics of patrol stops; and leadership. Any contract's that would result in a financial interest with a state agency within the State of Indiana, or any compensation that derives from a contract between a third party and a state agency within the State of Indiana, will comply with IC 4-2-6-10.5 by filing a written statement with the Indiana Office of Inspector General prior to the contract's execution. These duties will not interfere with my responsibilities and current duties as an employee of the Indiana State Police, and I will comply with SOP HMR-030.

The Indiana State Police Department respectfully requests for this matter to be included on the agenda for the next monthly Ethics Commission meeting which is scheduled for Thursday, September 10, 2020, for the purposes of rendering an ethics formal advisory opinion on this matter.

If you have any questions or need any additional information, please feel free to contact me at 317-232-8326 (office) or 317-694-7620 (cell).

Respectfully requested,



Nila Miller-Cronk

Major

Attachments

Indiana State Police

Application for Outside Employment

Name: Mick E. Dockery PE Number: 6884

Rank: Master Trooper District/Division: Bremen/Enforcement

Original Application? YES NO Information Update? YES NO

Outside Employer's Name: Relentless Elite LLC

Employer's Address: 17430 Darden Road, South Bend, IN 46635

Employer's Telephone: (574)850-8796

Work site location(s) of employment: Various locations throughout the United States and other countries.

Title of Position: Owner

Duties Performed:

Training, Consulting, and Written Publications in the areas of: Self-defense; canine training, certifications, and tactical deployments; strategies and tactics of patrol stops; and leadership. Any contract's that would result in a financial interest with a state agency within the State of Indiana, or any compensation that derives from a contract between a third party and a state agency within the State of Indiana, will comply with IC 4-2-6-10.5 by filing a written statement with the Indiana Office of Inspector General prior to the contract's execution. These duties will not interfere with my responsibilities and current duties as an employee of the Indiana State Police, and I will comply with SOP HMR-030.

Is the position security related? YES NO

If the position is security related, a copy of the indemnification agreement and proof of insurance must be attached to this application. The indemnification agreement must certify that the outside employer agrees to defend, indemnify, and hold harmless the state of Indiana and its officers, agents, and employees from all claims and suits including court costs, attorney fees, and all other expenses related to the outside employment.

Type of Protection Provided by Employer:

Accident and Health Insurance Liability Coverage
Social Security Pension

Does the employer sell alcoholic beverages at the work site? YES NO

If alcohol is sold at the work site, is it a secondary source of income? YES NO

I agree to abide by the outside employment conditions set forth in SOP HMR-030 and understand that any outside employment which requires me to compromise department policies, rules, regulations, or standard operating procedures is forbidden.

Signature: /S/ Master Trooper Mick E. Dockery PE 6884

Date: 03/13/2020

1st Endorsement: (Comments and recommendations required)

I fully endorse M/Trp. Dockery's request for outside employment. M/Trp. Dockery is an outstanding trooper who has a wealth of knowledge that will serve anyone who trains with him.

Date: 03/17/2020 Commander Name (typed): /S/ Sgt. Bruce Duhaime PE 6028

2nd Endorsement: (Comments and recommendations required)

M/Trooper Dockery is in high standing with the Bremen District. Dockery is an extremely hard worker and his activity shows this. Dokery will not let this business interfere with his regular duties.

Date: 3/18/2020 Commander Name (typed): Lt. Chad D. Larsh PE 6050

3rd Endorsement: (Comments and recommendations required)

M/Trp. Dockery is is good standing with the Department. Starting his own consulting firm will certainly be time consuming but I trust that it will not interfere with his regular duties. I support his request.

Date: 03/18/2020 Commander Name (typed): Cpt. Kevin Smith 5054

4th Endorsement: (Comments and recommendations required)

This request appears to be very similar to other requests from troopers who have started or joined consulting agencies in the areas of control tactics or active shooter. As long as M/Trp. Dockery distinguishes his company from ISP and receives no state or federal grant money, I recommend approval.

Date: 3/20/2020 Commander Name (typed): Major Anthony Casto, 5884

5th Endorsement: (Comments and recommendations required)

Date: _____ Commander Name (typed): _____

Forward documentation to the Assistant Chief of Staff Human Resources and Administration after the final endorsement for processing.

Assistant Chief of Staff Human Resources and Administration Review

Comments:

Legal Review Required Yes No

Date: _____ Name (typed): _____

Legal Office Review

Comments/Special Instructions:

Legal Compliance Yes No

Date: _____ Name (typed): _____

Superintendent's Review

Comments:

Approve: Disapprove:

Signature: _____ Date: _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

03/12/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Trevino Insurance Group Inc. 1602 N Main St Mishawaka IN 46545		CONTACT NAME: Christine Foster PHONE (A/C, No, Ext): (574)256-5712 E-MAIL ADDRESS: christine@trevinoins.com FAX (A/C, No): (574)256-5798	
INSURED Relentless Elite, LLC 17430 Darden Rd. South Bend IN 46635		INSURER(S) AFFORDING COVERAGE INSURER A: Scottsdale Insurance INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			QT-00137984	03/16/2020	03/16/2021	EACH OCCURRENCE	\$ 1000000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100000
							MED EXP (Any one person)	\$ 5000
							PERSONAL & ADV INJURY	\$ 1000000
							GENERAL AGGREGATE	\$ 2000000
							PRODUCTS - COMP/OP AGG	\$ 2000000
								\$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	\$
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE	\$
							AGGREGATE	\$
								\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE	OTH-ER
							E.L. EACH ACCIDENT	\$
							E.L. DISEASE - EA EMPLOYEE	\$
							E.L. DISEASE - POLICY LIMIT	\$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**Relentless Elite LLC
17430 Darden Rd.

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

South Bend

IN 46635

Fax: Email:

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Miller-Cronk, Nila

From: Gore, Lyubov
Sent: Monday, August 31, 2020 6:21 PM
To: Miller-Cronk, Nila
Subject: Ethics Informal Advisory Opinion; Miller-Cronk (Dockery); ISP; outside employment

Major Miller-Cronk,

Thank you contacting the Indiana Office of Inspector General and for providing us with additional information. You serve as the ethics officer and Commander of the Internal Investigation Section of the Indiana State Police (ISP). You are writing to request ethics advice on behalf of Master Trooper Mick Dockery.

You write that Master Trooper Dockery is an Indiana State Police officer and former K-9 officer for ISP. Master Trooper Dockery has worked for ISP for over 20 years and intends to remain with ISP. Master Trooper Dockery is currently assigned to the Bremen District 24 Post for road patrol duties. Master Trooper Dockery does not have any contracting or decision-making responsibilities for ISP and does not currently train any K-9 teams for ISP.

Master Trooper Dockery has created Relentless Elite, LLC (LLC), a company through which he intends to conduct training and consulting and write publications in the areas of self-defense; canine training; certifications; tactical deployments; Strategies and Tactics for Patrol Stops (STOPS); and leadership. Master Trooper Dockery has submitted an application for non-department employment based on his plans for operating the LLC. According to Master Trooper Dockery, he will not disclose any confidential ISP information and will be integrating the K-9 deployment tactics with the STOPS curriculum of Pro Train Inc. Master Trooper Dockery explains that his duties with the LLC will not interfere with his responsibilities and current duties as an ISP employee.

Master Trooper Dockery explains that he will not conduct his business using state property, state equipment or state time. Master Trooper Dockery will conduct his business when he is off duty and on his personal time. Master Trooper Dockery does not intend to contract with ISP or any other Indiana state agencies while remaining employed with ISP. Further, he provides that if any proposed contract would result in him having a financial interest in a contract with the State, Master Trooper Dockery will comply with IC 4-2-6-10.5 by filing a written statement with our office prior to the contract's execution. According to Master Trooper Dockery, his clients will be local, state and federal/government agencies, but his clients will not include any Indiana state agencies.

We understand you are seeking advice to determine whether, under the Code of Ethics (Code), Master Trooper Dockery could carry out his non-department employment with the LLC while remaining employed with ISP. Your inquiry primarily invokes consideration of IC 4-2-6-5.5, IC 4-2-6-10.5 and IC 4-2-6-9, which are the Code's ethics rules that pertain to conflicts of interests. We included all relevant rules and definitions at the end of this opinion for your reference.

1. IC 4-2-6-5.5 – Outside Employment/Professional Activity

The outside employment/professional activity rule prohibits state employees from:

- (1) accepting other employment that would involve compensation of substantial value if the responsibilities of that employment are inherently incompatible with the responsibilities of public office or would

require them to recuse themselves from matters so central or critical to the performance of their official duties that their ability to perform them would be materially impaired;

- (2) accepting other employment or engaging in professional activity that would require them to disclose confidential information that was gained in the course of state employment; or
- (3) using their official position to secure unwarranted privileges or exemptions that are of substantial value and not properly available to similarly situated individuals outside state government.

In general, Master Trooper Dockery may not accept other employment if it triggers any of the above listed matters. With respect to subsection (2), Master Trooper Dockery would not be able to engage in work for his LLC if doing so would require him to disclose confidential information. Master Trooper Dockery explains that he will not disclose any confidential ISP information through his business; thus, this subsection should not present a problem for him.

As to subsection (3), Master Trooper Dockery may not use his official position with ISP to secure unwarranted privileges or exemptions for any clients or customers that are not available to similarly situated businesses or individuals outside of state government. In addition, Master Trooper Dockery may not use his ISP position to secure clients or customers for his business. For example, Master Trooper Dockery should not promote his business to other police departments or private clients while interacting with them in his official ISP capacity.

Based on the information you provided, it is unlikely that subsection (1) of this rule would apply to Master Trooper Dockery's situation. You write that Master Trooper Dockery is currently assigned to the Bremen District 24 Post conducting road patrol duties and is a former K-9 officer for ISP. Master Trooper Dockery does not currently train any K-9 teams for ISP. Master Trooper Dockery explains that his duties with the LLC will include conducting trainings, consulting and writing publications in the areas of self-defense; canine training; certifications; tactical deployments; Strategies and Tactics for Patrol Stops (STOPS); and leadership. According to Master Trooper Dockery, his duties with the LLC will not interfere with his responsibilities and current duties as an ISP employee.

We typically recommend that state employees discuss outside employment matters with their agency's ethics officer, and we often defer to the agency on matters involving subsection (1) of this rule. As the ISP ethics officer, you likely have a better sense of Master Trooper Dockery's role in road patrol and how his responsibilities for the LLC would affect his ability to perform his ISP duties. You also can inform Master Trooper Dockery of ISP's internal policies that pertain to outside employment.

Accordingly, if you determine that the services Master Trooper Dockery plans to provide through his LLC would not violate subsection (1) of this rule, IC 4-2-6-5.5 would not prohibit Master Trooper Dockery from engaging in such activities while maintaining his employment with ISP. Additionally, please note that only the State Ethics Commission (Commission) can provide conclusive proof that an outside employment/professional activity is not in conflict with an employee's state duties. If you or Master Trooper Dockery would like such a statement, you can find instructions for submitting a request for a formal advisory opinion from the Commission on our website: <http://www.in.gov/ig/2334.htm>. Please let us know if you or Master Trooper Dockery have any further questions about the formal advisory opinion process.

2. IC 4-2-6-10.5 – Conflicts of Interests Related to Contracts

Pursuant to IC 4-2-6-10.5, a state employee may not knowingly have a financial interest in a contract made by any state agency. The Code defines "financial interest" to include an interest arising from employment. The Commission also has interpreted this rule to apply when a state employee derives compensation from a contract between a state agency and a third party. In other words, if the compensation Master Trooper Dockery would receive through his LLC from a client/customer is funded by state dollars from any state agency contract/grant,

the rule would prohibit Master Trooper Dockery from accepting the compensation unless he can meet the requirements of the rule's exception.

The rule's exception provides that an employee may have a financial interest in a contract made by a state agency so long as that employee (1) does not participate in or have official contracting responsibility for the contracting agency and (2) files a disclosure [form](#) with our office *prior* to the contract's execution between the agency and employee/third party.

As a business owner, the rule would apply to Master Trooper Dockery in two ways. First, the rule would be implicated if Master Trooper Dockery contracts directly with a state agency to provide services. Master Trooper Dockery explains that he does not intend to contract with ISP or any other Indiana state agency while remaining employed with ISP; however, if in the future Master Trooper Dockery wishes to contract with a state agency to provide services, he needs to be mindful of this rule. Should that occur, the rule would prohibit Master Trooper Dockery from deriving compensation from the contract with the state agency unless he can meet the requirements of the rule's exception.

Second, the rule would be implicated if the compensation Master Trooper Dockery receives from a client/customer is derived from a state agency contract/grant. This could occur if Master Trooper Dockery contracts with local Indiana clients or local government agencies that receive state funds under a contract/grant. The rule would prohibit Master Trooper Dockery from receiving such compensation unless he can meet both requirements of the rule.

Although it does not appear that Master Trooper Dockery participates in contracting or has contracting responsibilities in his state position, Master Trooper Dockery would not be able to meet *both* requirements of the rule's exception if the client/customer's state contract/grant from which he intends to derive compensation is already in existence.

As a result, if Master Trooper Dockery compensation's from a client/customer would be derived from an existing state contract or grant with any state agency, Master Trooper Dockery would be unable to meet the requirements of the rule's exception, and the rule would prohibit him from accepting such compensation. Master Trooper Dockery will need to inquire further with his clients/customers regarding his compensation to ensure that he is complying with this rule. **Providing services to out-of-state law enforcement agencies and federal agencies would not likely implicate this rule.**

Master Trooper Dockery also has the option of seeking a formal advisory opinion from the Commission to obtain a final determination on the rule's application in this matter. Please let us know if you or he have any questions about the formal advisory opinion process.

Our office does not provide advice on the Indiana criminal code; however, if Master Trooper Dockery seeks to enter into a contract with ISP or his compensation from a client/customer is derived from a contract/grant with ISP, this may raise issues under the criminal conflict of interests statute found in IC 35-44.1-1-4. The criminal statute prohibits certain public servants from having a pecuniary interest in or deriving a profit from a contract with the public servant's agency. Please note that in addition to making determinations on the Code, the Commission may also provide approval that an employee does not have a conflict under the criminal statute pursuant to IC 35-44.1-4(c)(5).

3. IC 4-2-6-9 - Conflicts of Interests Related to Decisions and Votes

IC 4-2-6-9 prohibits a state employee from participating in any decision or vote, or matter related to that decision or vote, if the employee has knowledge that various persons may have a "financial interest" in the outcome of the matter, including (1) the state employee him/herself; (2) an immediate family member; (3) a business organization in which the employee is serving as an officer, director, a member, a trustee, a partner or an employee; and (4) any person or organization with whom the state employee is negotiating employment. The

Code defines “financial interest” in IC 4-2-6-1(a)(11) to include “an interest . . . in a purchase, sale, lease, contract, option, or other transaction between an agency and any person; or . . . involving property or services.” The term does not include an interest that is not greater than the interest of the general public or any state officer or any state employee.

As a result, Master Trooper Dockery would be prohibited from participating in any decision or vote, or matter relating to a decision or vote, for ISP in which he or his LLC would have a financial interest.

Based on the information provided, it does not appear that Master Trooper Dockery has any contracting or decision-making responsibilities for ISP. Master Trooper Dockery currently performs road patrol duties for the Bremen District 24 Post. In that role, Master Trooper Dockery likely interacts with many local law enforcement agencies and local communities. Through his LLC, Master Trooper Dockery intends to provide various services to local, state and federal/government agencies outside of Indiana. In light of this information, it appears unlikely that Master Trooper Dockery would participate in any decision or vote, or matter related to any such decision or vote, for ISP in which he or his LLC would have a financial interest in the outcome. **As such, Master Trooper Dockery would not have a potential conflict of interests under this rule at this time.**

If this changes and Master Trooper Dockery identifies a potential conflict of interests, please note that mere recusal from that matter is not enough. The rule also requires that Master Trooper Dockery notify ISP’s appointing authority and you in writing and either (1) seek a formal advisory opinion from the Commission or (2) file a written disclosure [form](#) with our office in accordance with IC 4-2-6-9’s notification requirements.

Although it does not appear that Master Trooper Dockery has a potential conflict of interests pursuant to IC 4-2-6-9, he may still wish to consider any appearance of impropriety that could arise should he provide services to a law enforcement agency in Indiana. You may be able to assist him in finding ways to reduce any appearance of impropriety, such as screening him from any matters involving law enforcement agencies with whom he has regular contact with through his LLC.

4. 42 IAC 1-5-13 and IC 4-2-6-17 - Ghost Employment and Use of State Property

Additionally, any activity related to Master Trooper Dockery’s LLC must be done outside of his normal state working hours to avoid violations of the ghost employment rule (42 IAC 1-5-13). Furthermore, Master Trooper Dockery cannot use state property, such as his state email, state phone, state computer or state vehicle, for activities related to his LLC in order to comply with the use of state property rule (IC 4-2-6-17). All activities related to Master Trooper Dockery’s LLC must be done using his own resources and on his own time. Master Trooper Dockery explains that he will not conduct his business using state property, state equipment or state time. Master Trooper Dockery advises that he will conduct his business when he is off duty and on his personal time. Thus, these rules should not present a problem for him.

5. 42 IAC 1-5-10 and 42 IAC 1-5-11 – Confidential Information

Finally, Master Trooper Dockery should keep in mind the ethics rules pertaining to confidential information found at 42 IAC 1-5-10 and 42 IAC 1-5-11. These rules prohibit a state employee from benefitting from, permitting another person to benefit from or divulging information of a confidential nature except as permitted by law. To the extent that Master Trooper Dockery possesses information of a confidential nature by virtue of his position at ISP that could be used to benefit any person, including a client/customer, Master Trooper Dockery will need to ensure that he complies with these rules.

In summary, Master Trooper Dockery’s operation of his LLC implicates several of the Code’s rules. Further, providing the services Master Trooper Dockery intends to provide to local agencies in Indiana may present an appearance of impropriety even if there is no violation of the Code’s rules. Should Master Trooper Dockery seek to engage in business with law enforcement agencies located in Indiana, we would

strongly advise that he speak to you further regarding the matter to ensure he is in compliance with the Code and to reduce any appearance of impropriety.

Please let us know if you have any questions regarding this opinion. Please note that this response does not constitute an official advisory opinion. Only the Commission may issue an official advisory opinion. This informal advisory opinion allows us to give you quick, written advice. The Commission will consider that an employee or former employee acted in good faith if it is determined that the individual committed a violation after receiving an informal advisory opinion, and the alleged violation was directly related to the advice rendered. Also, remember that the advice given is based on the facts as we understand them. If this e-mail misstates facts in a material way, or omits important information, please bring those inaccuracies to our attention.

Sincerely,

Lyubov Gore
Staff Attorney
Office of Inspector General

Please take a few moments to provide feedback on your experience:
<https://www.surveymonkey.com/r/OIGInformals>. ***Thank you!***

IC 4-2-6-1 Definitions

Sec. 1. (a) As used in this chapter, and unless the context clearly denotes otherwise:

(5) "Business relationship" includes the following:

- (A) Dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing:
 - (i) a pecuniary interest in a contract or purchase with the agency; or
 - (ii) a license or permit requiring the exercise of judgment or discretion by the agency.
- (B) The relationship a lobbyist has with an agency.
- (C) The relationship an unregistered lobbyist has with an agency.

(7) "Compensation" means any money, thing of value, or financial benefit conferred on, or received by, any person in return for services rendered, or for services to be rendered, whether by that person or another.

(11) "Financial interest" means an interest:

- (A) in a purchase, sale, lease, contract, option, or other transaction between an agency and any person;
- or
- (B) involving property or services.

The term includes an interest arising from employment or prospective employment for which negotiations have begun. The term does not include an interest of a state officer or employee in the common stock of a corporation unless the combined holdings in the corporation of the state officer or the employee, that individual's spouse, and that individual's unemancipated children are more than one percent (1%) of the outstanding shares of the common stock of the corporation. The term does not include an interest that is not greater than the interest of the general public or any state officer or any state employee.

(12) "Information of a confidential nature" means information:

- (A) obtained by reason of the position or office held; and
- (B) which:
 - (i) a public agency is prohibited from disclosing under IC 5-14-3-4(a);
 - (ii) a public agency has the discretion not to disclose under IC 5-14-3-4(b) and that the agency has not disclosed; or
 - (iii) is not in a public record, but if it were, would be confidential.

(13) "Person" means any individual, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental agency or political subdivision.

IC 4-2-6-5.5 Conflict of interest; advisory opinion by commission

Sec. 5.5. (a) A current state officer, employee, or special state appointee may not knowingly do any of the following:

- (1) Accept other employment involving compensation of substantial value if the responsibilities of that employment are inherently incompatible with the responsibilities of public office or require the individual's recusal from matters so central or critical to the performance of the individual's official duties that the individual's ability to perform those duties would be materially impaired.
- (2) Accept employment or engage in business or professional activity that would require the individual to disclose confidential information that was gained in the course of state employment.
- (3) Use or attempt to use the individual's official position to secure unwarranted privileges or exemptions that are:
 - (A) of substantial value; and
 - (B) not properly available to similarly situated individuals outside state government.

(b) A written advisory opinion issued by the commission stating that an individual's outside employment does not violate subsection (a)(1) or (a)(2) is conclusive proof that the individual's outside employment does not violate subsection (a)(1) or (a)(2).

IC 4-2-6-9 Conflict of economic interests; commission advisory opinions; disclosure statement; written determinations

Sec. 9. (a) A state officer, an employee, or a special state appointee may not participate in any decision or vote, or matter relating to that decision or vote, if the state officer, employee, or special state appointee has knowledge that any of the following has a financial interest in the outcome of the matter:

- (1) The state officer, employee, or special state appointee.
- (2) A member of the immediate family of the state officer, employee, or special state appointee.
- (3) A business organization in which the state officer, employee, or special state appointee is serving as an officer, a director, a member, a trustee, a partner, or an employee.
- (4) Any person or organization with whom the state officer, employee, or special state appointee is negotiating or has an arrangement concerning prospective employment.

(b) A state officer, an employee, or a special state appointee who identifies a potential conflict of interest shall notify the person's appointing authority and ethics officer in writing and do either of the following:

- (1) Seek an advisory opinion from the commission by filing a written description detailing the nature and circumstances of the particular matter and making full disclosure of any related financial interest in the matter. The commission shall:
 - (A) with the approval of the appointing authority, assign the particular matter to another person and implement all necessary procedures to screen the state officer, employee, or special state appointee seeking an advisory opinion from involvement in the matter; or
 - (B) make a written determination that the interest is not so substantial that the commission considers it likely to affect the integrity of the services that the state expects from the state officer, employee, or special state appointee.
- (2) File a written disclosure statement with the commission that:
 - (A) details the conflict of interest;
 - (B) describes and affirms the implementation of a screen established by the ethics officer;
 - (C) is signed by both:
 - (i) the state officer, employee, or special state appointee who identifies the potential conflict of interest; and
 - (ii) the agency ethics officer;
 - (D) includes a copy of the disclosure provided to the appointing authority; and
 - (E) is filed not later than seven (7) days after the conduct that gives rise to the conflict.

A written disclosure filed under this subdivision shall be posted on the inspector general's Internet web site.

(c) A written determination under subsection (b)(1)(B) constitutes conclusive proof that it is not a violation for the state officer, employee, or special state appointee who sought an advisory opinion under this section to participate in the particular matter. A written determination under subsection (b)(1)(B) shall be filed with the appointing authority.

IC 4-2-6-10.5 State officers and employees; financial interest in contract made by agency; exceptions

Sec. 10.5. (a) Subject to subsection (b), a state officer, an employee, or a special state appointee may not knowingly have a financial interest in a contract made by an agency.

(b) The prohibition in subsection (a) does not apply to a state officer, an employee, or a special state appointee who:

(1) does not participate in or have contracting responsibility for the contracting agency;

and

(2) files a written statement with the inspector general before the state officer, employee, or special state appointee executes the contract with the state agency.

(c) A statement filed under subsection (b)(2) must include the following for each contract:

(1) An affirmation that the state officer, employee, or special state appointee does not participate in or have contracting responsibility for the contracting agency.

(2) An affirmation that the contract:

(A) was made after public notice and, if applicable, through competitive bidding; or

(B) was not subject to notice and bidding requirements and the basis for that conclusion.

(3) A statement making full disclosure of all related financial interests in the contract.

(4) A statement indicating that the contract can be performed without compromising the performance of the official duties and responsibilities of the state officer, employee, or special state appointee.

(5) In the case of a contract for professional services, an affirmation by the appointing authority of the contracting agency that no other state officer, employee, or special state appointee of that agency is available to perform those services as part of the regular duties of the state officer, employee, or special state appointee.

A state officer, employee, or special state appointee may file an amended statement upon discovery of additional information required to be reported.

(d) A state officer, employee, or special state appointee who:

(1) fails to file a statement required by rule or this section; or

(2) files a deficient statement;

before the contract start date is, upon a majority vote of the commission, subject to a civil penalty of not more than ten dollars (\$10) for each day the statement remains delinquent or deficient. The maximum penalty under this subsection is one thousand dollars (\$1,000).

42 IAC 1-5-13 Ghost employment

Authority: IC 4-2-7-3; IC 4-2-7-5

Affected: IC 4-2-7

Sec. 13. A state officer, employee, or special state appointee shall not engage in, or direct others to engage in, work other than the performance of official duties during working hours, except as permitted by general written agency, departmental, or institutional policy or regulation.

IC 4-2-6-17 Use of state property for other than official business; exceptions; Violations

Sec. 17. (a) Subject to IC 4-2-7-5, a state officer, an employee, or a special state appointee may not use state materials, funds, property, personnel, facilities, or equipment for purposes other than official state business unless the use is expressly permitted by a general written agency, departmental, or institutional policy or regulation that has been approved by the commission. The commission may withhold approval of a policy or rule that violates the intent of Indiana law or the code of ethics, even if Indiana law or the code of ethics does not explicitly prohibit that policy or rule.

(b) An individual who violates this section is subject to action under section 12 of this chapter.

42 IAC 1-5-10 Benefiting from confidential information

Authority: IC 4-2-7-3; IC 4-2-7-5

Affected: IC 4-2-7

Sec. 10. A state officer, employee, or special state appointee shall not benefit from, or permit any other person to benefit from, information of a confidential nature except as permitted or required by law.

42 IAC 1-5-11 Divulging confidential information

Authority: IC 4-2-7-3; IC 4-2-7-5

Affected: IC 4-2-7

Sec. 11. A state officer, employee, or special state appointee shall not divulge information of a confidential nature except as permitted by law.

Thank you,

Luba

Lyubov Gore

Staff Attorney

Office of Inspector General

315 West Ohio Street, Room 104

Indianapolis, IN 46202

Phone: (317) 234-3993

LGore1@ig.in.gov

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From: Miller-Cronk, Nila <NMiller-Cronk@isp.IN.gov>

Sent: Monday, August 31, 2020 10:44 AM

To: Gore, Lyubov <LGore1@ig.IN.gov>

Subject: RE: Advice

Importance: High

Good morning,

Below is the response to your questions from M/Trp. Dockery:

Here is my response to the questions you sent me.

1. I intend to continue my employment with ISP. I'll have 21 years in December, so I will stay at least until I reach 25 years of service.

2. I am currently assigned to Bremen District 24 Post for road patrol duties. I have no contracting or decision-making responsibilities for ISP, and I do not train K9 teams for ISP.
3. I will not be disclosing any confidential ISP information. Strategies and Tactics of Patrol Stops (STOPS) is a program owned by Pro Train Inc. I will be teaching their curriculum and integrating K9 deployment tactics under my LLC.
4. My clients will be local, state, and federal/government agencies, but not to include any state agencies for Indiana. I will also conduct business with private individuals in the areas of self-defense, basic K9 obedience training, and organizations that seek public speaking in the areas of motivation and leadership.
5. While employed with ISP, I do not intend to contract with ISP or any other state agencies within the state of Indiana.
6. My business will not utilize any state property, equipment, or state time. Any business conducted will be conducted off duty and on my personal time. My business will not interfere with my current duties in any way.

If you need any additional information, please email me back.

Thanks!

Sincerely,

Nila

Major Nila Miller-Cronk
Indiana State Police
Internal Investigations Section
100 North Senate Avenue, IGCN
Indianapolis, IN 46204-2259
Office (317) 232-8326



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From: Gore, Lyubov
Sent: Wednesday, August 26, 2020 2:24 PM
To: Miller-Cronk, Nila <NMiller-Cronk@isp.IN.gov>
Subject: RE: Advice

Nila,

Thank you for contacting the Indiana Office of Inspector General with your ethics question. I am working on an informal advisory opinion in response to your request, but I had a few questions to make sure I understand the facts. Can you provide responses to the following questions:

- 1) You write that Master Trooper Mick Dockery is a former K-9 officer. Is he currently employed with ISP and does he intend to remain employed while maintaining this LLC?
- 2) What are M/Trp. Dockery's duties and responsibilities with ISP? Does he have any contracting or decision-making responsibilities with ISP? Will those duties and responsibilities overlap in any way with this LLC?
- 3) Will M/Trp. Dockery be disclosing any confidential ISP information through his trainings, consulting and publications? He notes that he will be advising on strategies and tactics of patrol stops as well as tactical deployments. Is any of this information confidential ISP information?
- 4) Who will M/Trp. Dockery's clients be?
- 5) Does M/Trp. Dockery intend to contract with ISP or other state agencies?
- 6) Will M/Trp. Dockery use any state property, equipment or state time to complete his work with the LLC?

We would appreciate any additional information you can provide.

Thank you,
Luba

Lyubov Gore
Staff Attorney
Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202
Phone: (317) 234-3993
LGore1@ig.in.gov

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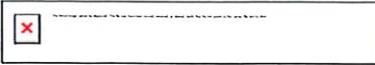
From: noreply@formstack.com [<mailto:noreply@formstack.com>]

Sent: Tuesday, August 25, 2020 6:28 PM

To: IG Info <info@ig.IN.gov>; Cooper, Jennifer <JCooper@ig.IN.gov>; Torres, Lori <LTorres@ig.IN.gov>

Subject: Advice

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Formstack Submission For: [ig_2815](#)

Submitted at 08/25/20 6:28 PM

Name: Nila Miller-Cronk

Email: nmiller-cronk@isp.in.gov

Phone: (317) 694-7620

State Agency: Indiana State Police

Description of Your State Occupation: Major, Commander, Internal Investigation Section, the Department's Ethics Officer and EEO Officer

What is your ethics question?:

The department has a former K-9 officer, Master Trooper Mick Dockery M/Trp. Dockery has created an LLC - Relentless Elite, LLC and has submitted an application for non-department employment. His description of his non-department employment and statements related to the non-department employment are as follows: He would conduct - "Training, Consulting, and Written Publications in the areas of: Self-defense; canine training, certifications, and tactical deployments; strategies and tactics of patrol stops; and leadership. Any contract's that would result in a financial interest with a state agency within the State of Indiana, or any compensation that derives from a contract between a third party and a state agency within the State of Indiana, will comply with IC 4-2-6-10.5 by filing a written statement with the Indiana Office of Inspector General prior to the contract's execution. These duties will not interfere with my responsibilities and current duties as an employee of the Indiana State Police, and I will comply with SOP HMR-030".

The department would like an opinion if M/Trp. Dockery performing the above described non-department employment would be an ethics violations. Thank you!

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