

**MINUTES OF THE MEETING OF
THE INDIANA STATE ETHICS COMMISSION
June 22, 2017**

I. Call to Order

A regular meeting of the State Ethics Commission (“Commission”) was called to order at 10:01 a.m. Members present included James N. Clevenger, Chairperson; Bob Jamison; Daryl Yost; and Peter Nugent. Staff present included Lori Torres, Inspector General; Jennifer Cooper, Ethics Director; Stephanie Mullaney, Compliance Officer/Staff Attorney; Tiffany Mulligan, Chief Legal Counsel; Matthew Savage, Staff Attorney; Cynthia Scruggs, Director of Administration; and Celeste Croft, Legal Assistant, Office of Inspector General.

Others present were Mark Tidd, Prequalification & Permits Director, Department of Transportation; Sarah Kamhi, Deputy General Counsel, Economic Development Corporation; Daniel Ebner, ISBDC Summer Intern, Economic Development Corporation; Benjamin Burdick, Executive Intern, Economic Development Corporation; Monique Riggs, Environmental Scientist, Department of Natural Resources; Susan Lockwood, Director of Juvenile Education, Department of Correction; Robert Bugher, Chief Legal Counsel, Department of Correction; Robert Carter, Commissioner, Department of Correction (via teleconference); Christine Blessinger, Executive Director of Youth Services, Department of Correction; Kathleen Mills, Ethics Officer/Attorney, Department of Environmental Management; Cameron Clark, Director, Department of Natural Resources; Samantha DeWester, General Counsel, Department of Natural Resources; Chris Smith, Deputy Director, Department of Natural Resources; Hilari Sautbine, Attorney, State Department of Health; Adrienne Brune, Attorney, State Department of Health; Rachel Russell, Legal Affairs, State Department of Health; Deana Smith, Attorney, State Department of Health; and Cathleen Nine-Altevogt, Ethics Officer/Attorney, Department of Insurance.

II. Adoption of Agenda and Approval of Minutes

Commissioner Yost moved to adopt the Agenda and Commissioner Nugent seconded the motion which passed (4-0). Commissioner Jamison moved to approve the Minutes of the May 11, 2017 Commission Meeting and Commissioner Nugent seconded the motion which passed (4-0).

III. Consideration of Post-Employment Waiver

Dr. Susan Lockwood, Director of Juvenile Education

Presented by Robert Carter (via teleconference), Commissioner

Robert Bugher, Chief Legal Counsel

Indiana Department of Correction

Commissioner Carter and Mr. Bugher provided a summary of a post-employment waiver for Dr. Susan Lockwood, who is the Director of Juvenile Education services for the IDOC. Dr. Lockwood is interested in leaving IDOC and pursuing a position as Vice-President of Oakland City University. Mr. Bugher provided an overview Dr. Lockwood's opportunity with Oakland City and IDOC's relationship with Oakland City University. Oakland City University provides some services for thirteen of IDOC's adult facilities and provides educational services at IDOC's Madison Juvenile Correctional Facility under a contract that was approved in January of 2017. In her new position with Oakland City University, Dr. Lockwood will not be associated with the contract with the IDOC. Commissioner Carter provided his reasons for supporting the waiver and answered the Commissioners' questions.

Commissioner Yost moved to approve the Post-Employment waiver. Commissioner Jamison seconded the motion which passed (4-0).

**IV. Consideration of Post-Employment Waiver
Monique Riggs, Environmental Scientist
Presented by Cameron Clark, Executive Director
Indiana Department of Natural Resources**

Mr. Clark presented the post-employment waiver for DNR employee Monique Riggs to the Commission and provided an overview of Ms. Riggs' circumstances and his decision to grant the waiver. Ms. Riggs is pursuing an opportunity with Indiana Rural Water Association. Its primary members are water operators and waste water operators who are regulated by the Indiana Department of Environmental Management. However, the Association does have some members that are regulated by DNR and Ms. Riggs may have had some regulatory authority related to the Association through her position at DNR.

Mr. Clark and Ms. Riggs proceeded to answer all of the Commissioners' questions on the matter.

Commissioner Yost moved to approve the Post-Employment waiver. Commissioner Jamison seconded the motion which passed (4-0).

**V. Consideration of Consent to Violation and Imposition of Penalty
In the Matter of Kevin Masters Case No. 2017-05-0096
Matthew Savage, Staff Attorney
Office of Inspector General**

Mr. Savage presented the Consent to Violation and Imposition of Penalty that Mr. McMasters signed. Mr. Savage explained how the parties agreed on the consent and that McMasters will pay a \$750 fine to the Commission if the consent is approved.

Commissioner Yost moved to approve the Consent to Violation and Imposition of Penalty and Commissioner Nugent seconded the motion which passed (4-0).

VI. Director's Report
Jennifer Cooper, Ethics Director
Office of Inspector General

Ms. Cooper reported that OIG staff issued fifty opinions since the last Commission meeting with the majority of the opinions addressed the rules on post-employment, conflicts of interests, outside employment, use of state property, ghost employment, and gifts. Ms. Cooper also reported that OIG staff had conducted a survey of last year's Legal and Ethics Conference attendees and decided to make some changes to the conference based on the results received. She provided that this year's conference will be a half day and it will take place on the afternoon of November 14, 2017. The Commission discussed changing the date of the November meeting so that they could hold it the day before or after the conference, but decided to wait until closer to the event to make any decisions. Ms. Cooper also reminded the Commission that they have a public hearing coming up in August.

VII. Adjournment

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

The public meeting adjourned at 10:30 a.m.

INDIANA
OFFICE OF INSPECTOR GENERAL

315 WEST OHIO STREET, ROOM 104, INDIANAPOLIS, IN 46202 317.232.3850

**Inspector General's Report to State Ethics Commission
August 10, 2017**

1. Recognition of agency ethics officers
2. Finalized performance metrics reportable to the Management and Performance Hub:
 - a. KPI #1 - Number of informal advisory opinions ("IAO"s) requested
 - b. KPI #2 - Average number of days to provide an IAO
 - c. KPI #3 - Number of recommendations made to reduce waste, inefficiency, fraud and improve integrity
3. IAOs: Q2 April 1 to June 30:
 - a. 101 IAOs in this second quarter
 - b. Compared to 77 in Q1, 31% increase
 - c. 2016 we issued 318
 - d. Average turnaround time = 1.2 days
4. Investigations: Q2 April 1 to June 30 :
 - a. 70 Requests to Investigate
 - b. Compared to 60 in Q1.
 - c. 12 new investigations opened by our office.
 - d. 10 cases closed
 - e. As of July 13, 2017, 31 open investigation cases
5. 2017 Legal & Ethics Conference
 - a. November 14, 2017 at 1:00 p.m.
 - b. Half a day
 - c. Open only to agency lawyers and ethics officers. Commissioners are welcome to attend
 - d. It will be held in the government center conference rooms.
 - e. It will reduce taxpayer cost by more than \$30,000 and be more strategically directed.
6. 2017 state wide biennial ethics training pursuant to 42 IAC 1-4-1
 - a. Launch in Quarter 3.
 - b. 2015 Results: 76 agencies and 34,166 individual state employees, special state appointees, and state officers completed the training
7. FY 2018 Budget
 - a. IG \$1,147,059
 - b. SEC \$12,543
 - c. All general fund dollars
 - d. FY2017 Closeout: \$55,998 reverted which was 4.9% of appropriation (mandatory 3% reversion)



STATE OF INDIANA

Eric J. Holcomb, Governor

Peter L. Lacy, Commissioner
Bureau of Motor Vehicles
100 North Senate Avenue
Indianapolis, Indiana 46204
888-692-6841

June 26, 2017

Sent Via Email: info@ig.in.gov

Indiana Ethics Commission
315 West Ohio Street, Room 104
Indianapolis, IN 46202

Please accept this letter as a written request for a Formal Advisory Opinion. The set of circumstances related to this request are set out below.

I recently took the position of Deputy General Counsel for the BMV. (April 10, 2017 start date). As Deputy General Counsel, I supervise a staff attorney who handles agency litigation cases (inability to obtain license matter, suspected fraud, medical invalidations). In addition, I am the liaison between the BMV and the Attorney General's Office on Tort Claims and court orders that are contrary to law. I am also responsible for giving legal advice to our Credentials and Records Departments. My duties include responding to courts and attorneys on questions involving driving records and the application of court orders. I also give general legal advice to various departments at the BMV as issues arise.

I am also employed as the Zionsville Town Prosecutor. This is an annually appointed position. I have been so employed since 2005. It is a part time job which takes up approximately 3 hours a month. I handle all local ordinance violations which range from traffic matters (speeding in town and failures to stop) to Dangerous Dogs, Noise and other local issues. I have an account on InCite which I access from my home computer to review and authorize the electronic filing of OV Citations. I check my InCite account once a week on my own time. In addition, I attend court in Zionsville one night per month for Traffic Court wherein I conduct bench trials on OV citations when a person disputes a ticket and requests a trial. I am paid \$220 a month for these services.

I would like a formal advisory opinion on whether my employment with the Town of Zionsville amounts to a conflict of interest due to my position with the BMV.

Very Truly Yours,

Lori N. Schein
Deputy General Counsel
Indiana Bureau of Motor Vehicles
317-232-4245



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STATE OF INDIANA

Eric J. Holcomb, Governor

Peter L. Lacy, Commissioner
Bureau of Motor Vehicles
100 North Senate Avenue
Indianapolis, Indiana 46204
888-692-6841

June 26, 2017

Lori Schein
Deputy General Counsel
100 North Senate Avenue
Indianapolis, Indiana 46204

Lori,

I am writing to follow up on our conversation regarding the State Ethics Code ("Code") as applied to your secondary employment with the Town of Zionsville ("Town"). As the Indiana Bureau of Motor Vehicles ("BMV") Ethics Officer, I believe it to be necessary to implement an ethics screen that would apply in the event you are contacted in your capacity as BMV General Counsel by anyone with or on behalf of the Town or by any individual with a question regarding a driver's record or licensing status who has an underlying violation of a Town driving ordinance.

You currently serve as BMV's Deputy General Counsel. Your duties include responsibility for all forms of litigation filed by or against the BMV, including any administrative appeals taken by customers who are dissatisfied with a decision that has affected their driving privileges. You serve as the liaison between the BMV and the Attorney General on all tort claims and court orders issued that are contrary to law. You also respond to third party discovery requests and to inquiries submitted by the judiciary, and provide legal advice to BMV's Credentials and Records Departments. You supervise one staff attorney, a court order specialist, and an administrative assistant. On occasion, you will represent the BMV in matters before an Administrative Law Judge ("ALJ"), although this responsibility is primarily delegated to a staff attorney who you supervise. You provide you are aware of the state and federal law requirements regarding the disclosure of confidential information. Your employment with the BMV began in April of 2017.

Since 2005, you have worked on a part-time basis as the Town Prosecutor (Prosecutor). The position is annually appointed by the Town Council with a salary of \$220/month. The position requires approximately three hours of work per month. As Prosecutor, you handle all local ordinance violations, including traffic matters such as speeding and failure to stop, as well as dog bites and property related violations. You do not handle state infractions or misdemeanors. As part of your duties, you attend traffic court in Zionsville one night per month to conduct bench trials on citations. None of your duties as Prosecutor are performed while on state-time and you do not use any state property for the purposes of your work as Prosecutor.

The Prosecutor does not require the testimony or affidavit of BMV personnel. To date, you have not been involved in any decision that has affected the Town while at BMV, nor have you been contacted by any Town personnel. You provide that it is possible for the Town to contact the BMV about licenses and



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records or submit orders for interpretation. It is also possible that an individual may contact BMV with a series of issues in their driving record or ability to obtain a license, with one of the underlying convictions or infractions being a ticketed offense while driving in Zionsville.

The two applicable provisions of the Code that I believe apply to your situation are provisions relating to secondary employment and conflict of interest. I.C. 4-2-6-5.5 would prohibit a state employee from the following:

- (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 you to recuse yourself from matters so central or critical to the performance of your official duties that your ability to perform them would be materially impaired;
- (2) accepting other employment or engaging in professional activity that would require you to disclose confidential information that was gained in the course of state employment; or
- (3) using your official position to secure unwarranted privileges or exemptions that are of substantial value and not properly available to similarly situated individuals outside state government.

Further, I.C. 4-2-6-9 prohibits a state employee from participating in any decision or vote, or matter relating to that decision, if the employee has knowledge that any of the following has a financial interest in the outcome of the matter:

- (1) The state employee
- (2) A member of the immediate family of the state employee
- (3) A business organization in which the state employee 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 employee is negotiating or has an arrangement concerning prospective employment

I understand that you are filing a request for an advisory opinion with the Indiana Ethics Commission as to whether your secondary employment complies with the Code. As a precursor to that determination, I believe an ethics screen is appropriate to avoid any violation of the Code or more importantly, even the appearance of a violation. Pursuant to this writing, the following ethics screen shall be immediately implemented:

In your capacity as BMV's Deputy General Counsel, to the extent you are contacted by any employee or representative of the Town on any matter related to the BMV, you will immediately provide that you are unable to assist them with their issue and refer them to Joe Hoage, BMV General Counsel.

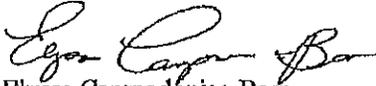
To the extent you are contacted by any individual seeking assistance with a driving record or licensing status, whereupon it is discovered there is an underlying conviction on the person's driving record that indicates a violation of a Town driving ordinance, you will immediately provide to all parties that you are unable to assist and will refer the matter to Joe Hoage, BMV General Counsel.



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Please do not hesitate should you have any questions or concerns regarding the ethics screen. To the extent any matters material to your employment with BMV, your secondary employment, or this ethics screen change, you shall immediately inform the BMV's Ethics Officer of said change, so that a determination can be made whether an amendment is necessary. Joe Hoage, BMV General Counsel, will be responsible for the dissemination of this ethics screen to all employees within BMV's Legal Division.

Sincerely,



Elyssa Campodónico-Barr
BMV Chief of Staff
Ethics Officer

cc: Joe Hoage, General Counsel



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Schein, Lori (BMV)

From: Savage, Matthew (Matt)
Sent: Friday, April 28, 2017 5:06 PM
To: Schein, Lori (BMV)
Subject: Ethics Informal Advisory Opinion; Schein; BMV; outside employment

Lori,

Thank you for contacting our office for ethics advice. I understand that you recently accepted a Deputy General Counsel position at the Indiana Bureau of Motor Vehicles (BMV), where you are in charge of agency litigation cases. You present evidence to the Administrative Law Judge regarding actions of the BMV in suspending or invalidating a customer's driving privileges, serve as the liaison between the BMV and the Attorney General's office on tort claims and court orders that are contrary to law, respond to third party discovery requests and questions from courts, and give legal advice to the Credentials and Records Departments.

You also work as the Zionsville Town Prosecutor (Prosecutor), which is an annually appointed position you have held since 2005. This job requires approximately three hours of work per month, and you are paid \$220 per month. As Prosecutor, you handle all local ordinance violations, including traffic matters such as speeding and failure to stop, but you do not handle state infractions or misdemeanors. You have an InCite account you use to view and authorize electronic filings from your home computer, and you attend traffic court in Zionsville one night per month to conduct bench trials on citations.

You write that your job as Prosecutor does not require the testimony or affidavit of BMV personnel. In your state employment, you will not be involved in any decision that will affect Zionsville. The Zionsville Town Clerk (Clerk) may occasionally have questions for the BMV about licenses and records, or submit orders for interpretation, but you could defer to another BMV attorney.

You ask whether there is a conflict of interests between your employment with the BMV and Zionsville, and whether there is an appearance of impropriety that requires you to resign as Prosecutor. Your question primarily implicates 42 IAC 1-5-5 (IC 4-2-6-5.5), which is the outside employment rule. All rules discussed are included at the end of this opinion for your reference.

42 IAC 1-5-5 is the ethics rule involving conflicts of interests and outside employment/professional activity. This rule prohibits you, as a state employee, 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 you to recuse yourself from matters so central or critical to the performance of your official duties that your ability to perform them would be materially impaired;
- (2) accepting other employment or engaging in professional activity that would require you to disclose confidential information that was gained in the course of state employment; or
- (3) using your 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, you may not accept other employment if it triggers any of the above listed matters. \$220 per month is compensation of substantial value, so subsection (1) requires analysis of whether your responsibilities as Prosecutor are compatible with your state employment. You provide that the Clerk may occasionally request advice or interpretation from the BMV, but that you can defer to another BMV attorney when this occurs. You do not mention any other anticipated interaction with Zionsville through your state employment, and it appears that these occurrences will be infrequent and unlikely to require recusal from matters so central or critical to the performance of your official duties that your ability to perform them would be materially impaired. However, your agency may be in a better position to determine the extent to which recusal may trigger subsection (1) of this rule, and you should confirm with your supervisor and/or Ethics Office that your employment as Prosecutor is not so incompatible with your state employment that it violates subsection (1). Regarding subsection (2), you mention that your job as Prosecutor will not require disclosure of confidential information gained through state employment. So long as you do not violate subsection (3) by using your official position to secure unwarranted privileges or exemptions that are of substantial value and not properly available to similarly situated individuals outside state government, your outside employment as Prosecutor likely does not violate 42 IAC 1-5-5.

You should keep in mind that, although your work as Prosecutor may not amount to an ethics violation, it can present the appearance of impropriety. I advise that you work with the BMV's Ethics Officer, Elyssa Campodonico-Barr, to create a screen that can be implemented in any circumstance requiring recusal or which presents the appearance of impropriety. Ms. Campodonico-Barr can also advise of any agency-specific policy on outside employment that is not in the scope of this opinion. In addition, 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 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 me know if you have any further questions about the formal advisory opinion process.

Another ethics rule that you should consider is 42 IAC 1-5-6 (IC 4-2-6-9), which involves conflicts of interests regarding decisions and votes. This rule prohibits a state employee from participating in any decision or vote, or matter relating to that decision or vote, if the employee has knowledge that any of the following has a financial interest in the outcome of the matter:

- (1) The state employee
- (2) A member of the immediate family of the state employee
- (3) A business organization in which the state employee 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 employee is negotiating or has an arrangement concerning prospective employment.

When a state employee identifies a *potential* conflict of interest, the employee must notify her appointing authority or ethics officer in writing *and* either a) seek an advisory opinion from the Commission, or b) file a written disclosure statement with the commission. The State Ethics Code (Code) defines "financial interest" in IC 4-2-6-1(a)(11) as "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."

Your question does not involve a personal or family member's financial interest in a decision or vote, so provisions (1) and (2) do not apply to this analysis. The remaining provisions may be triggered if you participate in any matter related to a decision or vote that could financially impact Zionsville. For example, you mentioned that the Clerk may submit orders that require interpretation by the BMV. If the BMV's interpretation of an order involves a decision that could impact Zionsville's ability to issue or collect court ordered fines, Zionsville may be considered to have a financial interest in the outcome of that decision. This is just one scenario that could trigger provisions (3) or (4), as described below.

Provision (3) *may* apply if Zionsville, as a “business organization” with which you are employed, has a financial interest in a decision or vote by the BMV. Based on prior formal advisory opinions, it is unclear whether the Commission will consider Zionsville to be a “business organization”, a term the Code does not define. Therefore, if Zionsville ever has a financial interest in a decision or vote that you might otherwise participate in as a state employee, you may wish to err on the side of caution by notifying your appointing authority or ethics officer in writing and following the steps outlined in subsection (b) of the rule by either seeking a formal advisory opinion from the Commission or filing a written disclosure statement with the Commission.

Provision (4) would be implicated if Zionsville has a financial interest in a decision or vote while you are negotiating or have an arrangement concerning prospective employment with Zionsville. This provision does apply to Zionsville because “person” is broadly defined and includes a city, town, or other local instrumentality. You mentioned that your position as Prosecutor is annually appointed, which implies that you will annually negotiate employment or have an arrangement for prospective employment in the following year. The Commission has determined that employment negotiations begin when there is a back and forth exchange. If at any time you are negotiating employment or have an arrangement for prospective employment with Zionsville and you realize that Zionsville has a financial interest in a decision or vote that you might otherwise participate in as a state employee, you should comply with the requirements of subsection (b) of this rule.

Please keep in mind 42 IAC 1-5-12, which is the state property rule, and 42 IAC 1-5-13, which is the ghost employment rule. The use of state property rule provides that a state employee 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 ghost employment rule provides that a state employee shall not engage in work other than the performance of official duties during working hours, except as permitted by a general written agency, departmental, or institutional policy or regulation. You mentioned that you use your personal laptop for work as Prosecutor, you already have an InCite account (presumably issued through Zionsville) to authorize electronic filings, and traffic court occurs at night. These rules require that you continue to refrain from using state issued property for your work as Prosecutor and that all work as Prosecutor occur outside of your state hours.

Finally, please be aware of the ethics rules pertaining to confidential information found at 42 IAC 1-5-10 and 42 IAC 1-5-11. These rules would prohibit you 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 you will possess information of a confidential nature by virtue of your position at BMV that could be used to benefit any person, you need to ensure you comply with these rules.

Thank you again for submitting your inquiry. Please let me know if you have any questions regarding this opinion. Please note that this response does not constitute an official advisory opinion. Only the State Ethics 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 I understand them. If this e-mail misstates facts in a material way, or omits important information, please bring those inaccuracies to my attention.

Sincerely,

Matt Savage

Indiana Office of Inspector General

IC 4-2-6-1

Definitions

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

- (3) "Appointing authority" means the following:
- (A) Except as provided in clause (B), the chief administrative officer of an agency. The term does not include a state officer.
 - (B) For purposes of section 16 of this chapter, "appointing authority" means:
 - (i) an elected officer;
 - (ii) the chief administrative officer of an agency; or
 - (iii) an individual or group of individuals who have the power by law or by lawfully delegated authority to make appointments.
- (6) "Commission" refers to the state ethics commission created under section 2 of this chapter.
- (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.
- (9) "Employee" means an individual, other than a state officer, who is employed by an agency on a full-time, a part-time, a temporary, an intermittent, or an hourly basis. The term includes an individual who contracts with an agency for personal services.
- (10) "Employer" means any person from whom a state officer or employee or the officer's or employee's spouse received compensation.
- (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.

(14) "Political subdivision" means a county, city, town, township, school district, municipal corporation, special taxing district, or other local instrumentality. The term includes an officer of a political subdivision.

42 IAC 1-5-5

Outside Employment

Sec. 5. Outside employment restrictions are set forth in IC 4-2-6-5.5.

IC 4-2-6-5.5

State officers and employees; incompatible outside employment; use of position to secure unwarranted privileges

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).

42 IAC 1-5-10 Benefiting from confidential information

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

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

42 IAC 1-5-6

Conflicts of interest; decisions and voting

Sec. 6. Decision and voting restrictions are set forth in IC 4-2-6-9.

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.

42 IAC 1-5-12

Use of state property

Sec. 12. A state officer, employee, or special state appointee shall not make use of state materials, funds, property, personnel, facilities, or equipment for any purpose other than for official state business unless the use is expressly permitted by a general written agency, departmental, or institutional policy or regulation.

42 IAC 1-5-13

Ghost employment

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.

From: Schein, Lori (BMV)

Sent: Thursday, April 27, 2017 7:49 AM

To: Savage, Matthew (Matt) <MSavage@ig.IN.gov>

Cc: Schein, Lori (BMV) <LoSchein@bmv.IN.gov>

Subject: RE: 2017-IN-0439/Ehtics IAO Schein

Matt -

My Answers are Highlighted below:

- 1) Do you expect to have any interaction with the Town of Zionsville (Zionsville) through your State employment? Is it foreseeable that Zionsville may be a party to, or in any way involved in, any matter that you

may work on as a State employee? The Zionsville Town Court Clerk may occasionally have questions about licenses and records or they may submit orders that require interpretation. In those cases, I could defer to another attorney at the BMV and not give an opinion.

- 2) Will you be involved through the BMV in any decisions that could affect Zionsville, including but not limited to Zionsville's ability to prosecute or collect on matters that you handle as City Prosecutor. No. Since I only handle ordinance violations, I cannot foresee a situation where the records at the BMV would interfere with an ordinance prosecution or the ability to collect on a conviction for same. If something did arise, I would defer to another attorney at the BMV.
- 3) Would your job as City Prosecutor ever require you to use or disclose confidential information gained through your State employment? No.
- 4) As City Prosecutor, do you handle any matter (such as Driving While Suspended, or Operating Never Having Received a License) in which you rely on BMV records? Do you ever use the testimony or affidavit of any BMV employee, such as a keeper of records? No, I only handle local ordinance violations. I do not handle any state infractions or misdemeanors. I would not need the testimony of a BMV employee or an affidavit from the BMV to prosecute ordinance cases.

Thank you for taking a look at this situation.

Lori N. Schein
Deputy General Counsel
Indiana Bureau of Motor Vehicles
100 North Senate Avenue - Room 420
Indianapolis, IN 46204
Ph: 317-232-4245

From: Savage, Matthew (Matt)
Sent: Wednesday, April 26, 2017 5:49 PM
To: Schein, Lori (BMV) <LoSchein@bmv.IN.gov>
Subject: FW: 2017-IN-0439/Ehtics IAO Schein

Lori -

Thank you for contacting the DIG. I am working on an Informal advisory opinion for you, but I have several questions that will help ensure that I provide accurate advice. Could you please respond to each of the following questions?

- 1) Do you expect to have any interaction with the Town of Zionsville (Zionsville) through your State employment? Is it foreseeable that Zionsville may be a party to, or in any way involved in, any matter that you may work on as a State employee?
- 2) Will you be involved through the BMV in any decisions that could affect Zionsville, including but not limited to Zionsville's ability to prosecute or collect on matters that you handle as City Prosecutor.
- 3) Would your job as City Prosecutor ever require you to use or disclose confidential information gained through your State employment?
- 4) As City Prosecutor, do you handle any matter (such as Driving While Suspended, or Operating Never Having Received a License) in which you rely on BMV records? Do you ever use the testimony or affidavit of any BMV employee, such as a keeper of records?

Thank you for providing this information. Please note that I may have additional questions before I can issue the informal advisory opinion.

Matt Savage
Indiana Office of Inspector General

From: noreply@formstack.com [mailto:noreply@formstack.com]
Sent: Wednesday, April 26, 2017 2:53 PM
Subject: Advice

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****



Formstack Submission for form lg_2334

Submitted at 04/26/17 2:52 PM

Name: Lori Schein

Email: loschein@bmv.in.gov

Phone: (317) 232-4245

State Agency: BMV

Description of Your State Occupation: I recently took the position of Deputy General Counsel for the BMV. (April 10, 2017 start date). I am in charge of agency litigation cases (Inability to obtain license matter, suspected fraud, medical invalidations) and I present evidence to the Administrative Law Judge concerning the actions of the BMV in suspending or invalidating a customer's driving privileges. I am the liaison between the BMV and the Attorney General's Office on Tort Claims and court orders that are contrary to law. I respond to third party discovery requests and questions from the courts. I am also responsible for giving legal advice to our Credentials and Records Departments.

What is your ethics question?: I am currently the Zionsville Town Prosecutor which is an annually appointed position. I have been so employed since 2005. It is a part time job which takes up approximately 3 hours a month. I handle all local ordinance violations which range from traffic matters (speeding in town and failures to stop) to Dangerous Dogs, Noise and other local issues. I have an account on InCite which I access from my home computer to review and authorize the electronic filing of OV Citations. I check my InCite account once a week on my own time. In addition, I attend court in Zionsville one night per month for Traffic Court wherein I conduct bench trials on OV citations when a person disputes a ticket and requests a trial.

I am paid \$220 a month for these services.

Please let me know if you think there is a conflict of interest due to my recent employment with the BMV or if you think there is an appearance of impropriety which would require me to resign the prosecutor position with Zionsville. Thank you in advance for your help on this

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Formstack, LLC
8604 Allisonville Rd.
Suite 300
Indianapolis, IN 46260

Croft, Celeste

From: Schein, Lori (BMV)
Sent: Monday, June 26, 2017 9:55 AM
To: IG Info
Cc: Schein, Lori (BMV); Hoage, Joseph; Campodonico-Barr, Elyssa
Subject: Request for Formal Advisory Opinion
Attachments: Request for Opinion plus docs.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Indiana Ethics Commission,

Please see the attached written request for a Formal Advisory Opinion, together with that Informal advisory opinion I previously received and a signed copy of the screen as proposed by the informal opinion. I am asking that this matter be placed on the agenda at your next meeting – July 13, 2017. Thank you.

Lori N. Schein
Deputy General Counsel
Indiana Bureau of Motor Vehicles
100 North Senate Avenue - Room 420
Indianapolis, IN 46204
Ph: 317-232-4245



INDIANA DEPARTMENT OF TRANSPORTATION

100 North Senate Avenue
Room N758
Indianapolis, Indiana 46204

PHONE: (317) 233-3601
FAX: (317) 234-8365

Eric Holcomb, Governor
Joe McGuinness, Commissioner

July 24, 2017

Mr. James Clevenger, Chair
Indiana State Ethics Commission
315 West Ohio Street, Room 104
Indianapolis, Indiana 46202

RE: Post-Employment Waiver for INDOT Employee Shawn Williams

Dear Mr. Clevenger:

As the Commissioner of INDOT, I have approved and executed a waiver of the one-year "cooling-off" period for INDOT employee Shawn Williams. Unfortunately, I must attend the Team Indiana kick-off meeting with representatives of large construction contractors and professional service consultants on the same date and at the same time as the August 10, 2017 meeting at 10:00 a.m. of the State Ethics Commission, so I will be unable to attend this meeting of the Commission. Chris Kiefer, INDOT's Chief of Staff, will be at the same Team Indiana event that requires my attendance, and cannot attend the State Ethics Commission meeting.

I have discussed my reasons for granting this waiver with Alison Maloof, INDOT's Chief Legal Counsel. Ms. Maloof will be able to attend the Commission's August 10 meeting, present the waiver to the Commission, and answer all questions of the Commission members concerning the form and substance of the waiver for Mr. Williams.

Thank you for allowing Alison Maloof to serve as my representative at the Commission's August 10, 2017 meeting.

Sincerely,


Joseph McGuinness
Commissioner

cc: Alison J. Maloof, Chief Legal Counsel, INDOT

IC 4-2-6-11

Post-employment waiver

As the Appointing Authority of the Indiana Department of Transportation, I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Shawn Williams in his/her post-employment with E&B Paving, Inc.

I understand that I must file and present this waiver to the State Ethics Commission at their 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 *(Please indicate the specific restriction in 42 IAC 1-5-14 (IC 4-2-6-11) you are waiving):*

IC 4-2-6-11(b)(1): 365 day required "cooling off" period before serving as a lobbyist.

IC 4-2-6-11(b)(2): 365 day required "cooling off" period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.

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.

IC 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state worker. *(Please provide a brief description of the specific particular matter(s) to which this waiver applies below):*

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:

The following information is supported by the employee's personnel file, and based upon information the employee's supervisor, Brad Taylor (an Area Engineer for INDOT's Fort Wayne District), has provided to INDOT's Ethics Officer in connection with the process of considering this waiver.

As a Project Supervisor in the Construction Department of INDOT's Fort Wayne District since 2001, Shawn administers various construction contracts assigned to him by his Area Engineer. These assignments are made prior to contract letting and award of the contract to the lowest bidder. Shawn's role as Project Supervisor is to ensure contracts are constructed to the plans and specifications as required by the contract and ensure all materials meet current INDOT standards. Other duties required in this position include monitoring budget, time, and execution in accordance with the contract documents. Shawn is also required to participate in snow and ice removal operations in the winter as needed.

Shawn has not had substantial decision-making authority over policies or rules at INDOT. Shawn has some decision-making authority over the INDOT construction contracts he is administering, but any decision that involves more than \$50,000 additional public monies (to be paid via INDOT's approval of a change order) requires the concurrence of Shawn's supervisor, the Area Engineer. Shawn regularly sought his Area Engineer's concurrence even for changes that did not meet the \$50,000 threshold. INDOT's current practice is that any change order initiated by Shawn or any other Project Supervisor should have the concurrence of his or her supervisor and of the Project Manager.

INDOT's Ethics Officer made the determination that Shawn would be subject to a 365-day "cooling-off" period between the date he left state employment and the date that he could start working for E&B Paving, Inc. because (A) Shawn was engaged in the administration of one or more contracts with E&B Paving, Inc. on behalf of INDOT as a front-line Project Supervisor, and (B) Shawn was in a position to make certain discretionary decisions affecting the administration of those contracts.

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

Based solely on the information provided to me by Shawn, and contingent on the approval of this waiver by the State Ethics Commission, Shawn intends to accept the position of Sales/Project Manager at E&B Paving, Inc. Shawn apparently will be responsible for monitoring and managing time and cost associated with various projects, as well as responsible for preparing bids to obtain work contracts for E&B Paving, Inc. from both public entities and private parties.

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:

E&B Paving usually has multiple contracts with INDOT statewide at any particular time. Shawn could be directly involved in future E&B Paving/INDOT contracts in his new role of Sales/Project Manager. However, Shawn has told INDOT's Ethics Officer that Shawn will scrupulously observe the "particular matters" post-employment restriction in the state ethics rules and will not have any involvement on behalf of E&B Paving, Inc. whatsoever in any contract or other matter where Shawn personally and substantially participated in the matter as an INDOT employee. It is Shawn's understanding that E&B Paving, Inc. understands and agrees to similarly help Shawn comply at all times with the "particular matters" restriction.

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:

It is in the public's interest and beneficial to the state, local governments, and other Indiana public entities to have Shawn's extensive experience available to provide guidance to E&B Paving, Inc. as it performs its contractual obligations for state and public works projects throughout the state. Shawn's position with his potential employer would apply and utilize his extensive INDOT experience to provide a better product to the state and these other public agencies. It is also in the public's best interest to continue to receive a return on the investment made in Shawn during his 16 years working at INDOT.

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

As a member of the Project Supervision staff at INDOT, most relevant outside employment opportunities for Shawn would have to undergo ethics scrutiny and some would be prohibited. Failure to approve this opportunity would severely limit Shawn's opportunities outside INDOT.

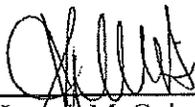
Further, Shawn is a single, full-time father looking to improve his financial situation so that he can better support himself and his family. Failure to approve this opportunity will materially and adversely impact Shawn's family and Shawn's plans for his family's future.

(REST OF PAGE 3 LEFT INTENTIONALLY BLANK)

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 who obtains the waiver before engaging in the conduct that would give rise to a violation.



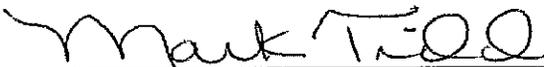
Joseph McGuinness, Commissioner
INDIANA DEPARTMENT OF TRANSPORTATION

7/21/2017

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).



Mark Tidd, Ethics Officer
INDIANA DEPARTMENT OF TRANSPORTATION

7/28/17

DATE

D. Approval by State Ethics Commission

| |
|--|
| <p>FOR OFFICE USE ONLY</p> <p>Approved by State Ethics Commission</p> |
|--|

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.*

STATE OF INDIANA)
)SS:
COUNTY OF MARION)

INDIANA STATE ETHICS COMMISSION
CASE: 2016-08-0170
INDIANA
STATE ETHICS COMMISSION

IN RE THE MATTER OF AMANDA ALVEY,
Respondent.

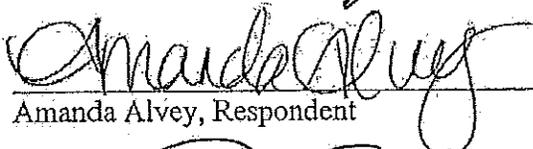
JUL 6 2017

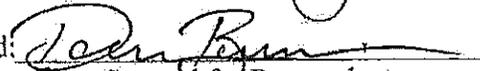
FILED

AGREED SETTLEMENT

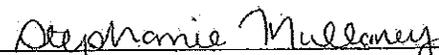
1. Respondent admits to the facts as alleged in the complaint filed herein by the Inspector General, and admits to a violation of Ind. Code § 4-2-6-11(b)(2), the ethics rule pertaining to the cooling off provision of the post-employment rule; and a violation of Ind. Code § 4-2-6-11(c), the ethics rule regarding the particular matter restriction of the post-employment rule. (See Complaint filed on April 13, 2017, attached hereto as Exhibit A.)
2. Respondent shall be fined \$2,000.00. The State Ethics Commission (Commission) will not impose any further penalties under Ind. Code § 4-2-6-12. Respondent shall make payment to the "Indiana State Ethics Commission" within thirty (30) days from the date that the Commission accepts this agreement.
3. The parties acknowledge that this agreement reflects the entire agreement between the parties, that approval of these terms by the Commission shall result in the final disposition of this proceeding, and that Respondent is waiving an alternative statutory right to a public hearing as provided in Ind. Code § 4-2-6-2 to contest the complaint.

Dated this 5th of July, 2017


Amanda Alvey, Respondent

Approved: 
Daniel Bowman, Counsel for Respondent


Lori A. Torres, Inspector General

Approved: 
Stephanie Mullaney, Counsel for Inspector General

Approved this ____ day of _____, 2017 by the State Ethics Commission in a public meeting by a vote of ____ to ____.

James Clevenger, Chair

STATE OF INDIANA)
)SS:
COUNTY OF MARION)

INDIANA STATE ETHICS COMMISSION

CASE: 2016-08-0170

INDIANA
STATE ETHICS COMMISSION

IN RE THE MATTER OF AMANDA ALVEY,
Respondent

APR 18 2017

FILED

ETHICS COMPLAINT

Comes now Lori A. Torres, Inspector General of the State of Indiana, by counsel, Stephanie Mullaney, and alleges and says that Amanda Alvey, Respondent, has violated the Indiana Code of Ethics, as follows:

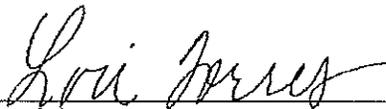
1. The Indiana Family and Social Service Administration (hereinafter "FSSA") is an executive branch agency pursuant to Indiana Code 4-2-7-1(1).
2. Respondent, Amanda Alvey, was an employee, as defined by Indiana Code 4-2-7-1(3) and 40 IAC 2-1-4(h), of FSSA at all times referenced herein, and thus subject to the jurisdiction of the Inspector General and the Indiana State Ethics Commission.
3. On or about March 3, 2015, FSSA entered into a contract with the Public Consulting Group (PCG) for PCG to provide project management services on FSSA's Statewide Transition Plan (STP) for FSSA's Home and Community Based Services (HCBS) waiver programs. As the Director of the Policy and Program Development Section for FSSA's Office of Medicaid Policy and Planning (OMPP), the Respondent facilitated communications between FSSA and PCG regarding the STP. She also arranged communications between FSSA and the federal oversight agency to whom FSSA submitted the STP. The Respondent also determined timelines for the STP, attended

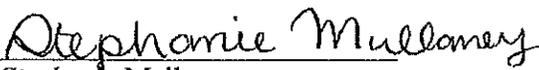
leadership meetings with FSSA and PCG regarding the STP, and discussed decisions with PCG on various matters for the STP.

4. Respondent violated Indiana Code 4-2-6-11(b)(2) by accepting employment with PCG less than 365 days after leaving state employment after Respondent engaged in the administration of a contract with PCG and was in a position to make a discretionary decision affecting the nature of the administration of that contract.
5. Respondent violated Indiana Code 4-2-6-11(c) when she represented and/or assisted PCG on that contract as a PCG employee, after Respondent personally and substantially participated in the contract as a state employee.

Wherefore, the Inspector General prays that the Indiana State Ethics Commission set this matter for hearing, find the Respondent in violation of the Code of Ethics as stated herein, and impose an appropriate sanction.

DATED: 4-13-2017

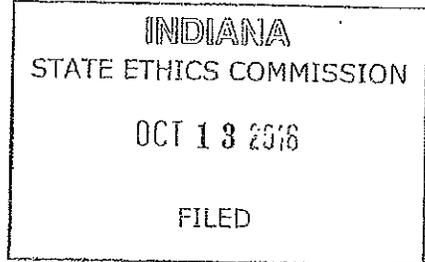

Lori A. Torres
Inspector General


Stephanie Mullaney
Counsel for the Inspector General

Stephanie Mullaney
Attorney #31434-49
Staff Attorney
Office of the Inspector General
315 W. Ohio Street, Room 104
Indianapolis, IN 46202
317-233-3767
smullaney@ig.in.gov

STATE OF INDIANA)
)SS: INDIANA STATE ETHICS COMMISSION
COUNTY OF MARION) CASE NO: 2016-06-0124

IN RE THE MATTER OF LEANN WALTON
Respondent



ETHICS COMPLAINT

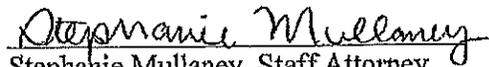
The undersigned alleges and says that Respondent, a former employee of the Indiana Department of Homeland Security (IDHS):

1. Violated Ind. Code §4-2-6-16(c) when she hired one or more of her relatives;

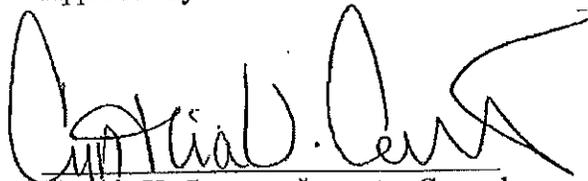
AND/OR

2. Violated Ind. Code §4-2-6-16(f) when one or more of Walton's relatives were placed in her direct line of supervision.

Dated this 13th day of October, 2016.


Stephanie Mullaney, Staff Attorney

Approved by:


Cynthia V. Carrasco, Inspector General