

**MINUTES OF THE MEETING OF
THE INDIANA STATE ETHICS COMMISSION
June 13, 2024**

I. Call to Order

A regular meeting of the State Ethics Commission (Commission) was called to order at 10:00 a.m. Commission members present were Katherine Noel, Chair; Corinne Finnerty; John Krauss; Sue Anne Gilroy; and Rafael Sanchez. Office of Inspector General (OIG) staff present included David Cook, Inspector General; Tiffany Mulligan, Chief of Staff, Chief Legal Counsel, and Interim State Ethics Director; Doreen Clark, Staff Attorney; Mike Lepper, Special Agent; Jason Fajt, Special Agent; and Nathan Baker, Legal Assistant.

Others present were Mattheus Mitchell, Compliance and Ethics Specialist, Indiana Department of Revenue; Amber Ying, Ethics Officer, Indiana Department of Revenue; Jennifer Thuma, General Counsel, Office of Indiana State Comptroller; Amie Durfee, Deputy General Counsel, Indiana Department of Workforce Development; Bill Anthony, Deputy Attorney General; Office of Attorney General; and Matthew Gerber, Ethics Officer, Family and Social Services Administration. The Department of Revenue also had the following interns in attendance: Dylan Shalt; Bryce Hull; Kyle Carlson; Reese Langhome; Alexander Sall; Justin Cerbone; and Steven Stead.

II. Adoption of Agenda and Approval of Minutes

Commissioner Krauss moved to adopt the agenda. Commissioner Gilroy seconded the motion, and the Commission passed the agenda (5-0).

Commissioner Sanchez moved to approve the Minutes of the April 11, 2024, Commission Meeting, and Commissioner Krauss seconded the motion, which passed (5-0).

III. Consideration of Agreed Settlement

In the Matter of Zachary Eugene Rutherford
Case Number 2023-11-0432

Inspector General David Cook and Special Agent Jason Fajt presented the proposed Agreed Settlement in this matter to the Commission for their approval.

Commissioner Krauss moved to approve the Agreed Settlement, and Commissioner Gilroy seconded the motion, which passed (5-0).

IV. Consideration of Final Report

In the Matter of Loretta Lewis
Case Number 2023-08-0276

Interim State Ethics Director Tiffany Mulligan presented the Final Report regarding the Agreed Settlement in the Matter of Loretta Lewis for final approval. Commissioners present at the meeting signed the Final Report.

V. Rulemaking Report

Tiffany Mulligan, OIG Chief of Staff and Chief Legal Counsel, provided the following information to the Commission:

We recently learned that the State Budget Agency (SBA) interprets House Enrolled Act (HEA) 1623, a new statute that was passed in 2023, as requiring any agency that assesses fines or civil penalties that are not set forth in statute with a specific sum to present a rule to the State Budget Committee by June 30, 2024, and then enact the rule by June 30, 2025.

The State Ethics Commission can issue civil penalties under two statutes:

- IC 4-2-6-12(1) – the penalty for violation of the Code of Ethics cannot exceed three times the value of any benefit received.
- IC 4-2-6-8(c) - a person who fails to file a financial disclosure statement as required by the rule is subject to a civil penalty of up to \$10 per day, not to exceed \$1000 per year.

SBA informed us that because these statutes set out a maximum rather than a specific amount, we need to prepare a rule and go before the State Budget Committee to present the rule. I presented our proposal to the State Budget Committee on Monday, June 10, 2024. Our proposal is to promulgate rules to set out mitigating and aggravating factors when the Commission issues civil penalties.

The mitigating factors include the following:

- (1) The respondent's admittance of the offense.
- (2) Cooperation with the inspector general's investigation of the offense.
- (3) The respondent's history of compliance.
- (4) The respondent's good faith efforts to receive and follow advice of the Office of the Inspector General, counsel or the agency's ethics officer.

- (5) Remedial or corrective action taken by the respondent.
- (6) Remedial or corrective action taken by the agency against the respondent.
- (7) Relative lack of seriousness of the violation compared to other violations.
- (8) Lack of material harm to the state because of the violation; or
- (9) Material hardship to the respondent or their family from the penalty.

The aggravating factors include the following:

- (1) Failure to cooperate with the inspector general's investigation of the offense.
- (2) The respondent's willful or intentional misconduct.
- (3) Duration and frequency of the offense.
- (4) History of similar or other offenses committed by the respondent.
- (5) Failure to follow an informal advisory opinion obtained from the inspector general or advice of the agency ethics officer.
- (6) Financial harm to the state because of the violation.
- (7) Financial gain or benefit to the respondent because of the violation; or
- (8) Whether the offense negatively impacts the integrity or public trust of the state or a state agency.

I received no questions from the State Budget Committee, and our proposal is moving forward.

Our next step is to promulgate rules, which is a long (close to a year), detailed process. We will provide you with regular updates on the rulemaking process and submit the rule to you for approval as we get farther along in the process.

VI. Interim State Ethics Director's Report

Interim State Ethics Director Tiffany Mulligan provided the following information to the State Ethics Commission:

The OIG has issued 20 Informal Advisory Opinions (IAOs) since the April Ethics Commission meeting, mostly relating to issues on post-employment, conflicts of interests, and the gifts rule. We expect an uptick in IAO requests with the transition of the state administration, plus a roll-out of the online Ethics Training in the fall.

The OIG has been busy with outreach activities. On Monday June 10th, I presented at the Office of Administrative Law Proceedings ALJ conference, talking about the ethics rules. Next week, representatives from OIG will do a post-employment presentation for the Office of the Governor and Office of Lt. Governor, with the upcoming administration transition in mind. Staff Attorney

Doreen Clark will present to DCS supervisors in OIG's ongoing work with DCS regarding falsification of records and other issues OIG investigates regarding DCS. Also, OIG will present to incoming Indiana State Police Troopers in early July.

The OIG's annual Auditors and Investigators Conference is set for June 20, 2024, from 1:00 to 4:30 p.m. in the Auditorium at the Indiana Government Center, South. Online registration is open, and we have already received over 200 RSVPs. The Commission members are, as always, invited to attend. The lineup includes a presentation from representatives from several Federal Offices of Inspectors General, the State Board of Accounts will discuss internal controls, and an investigator from the Indiana Gaming Commission will also be presenting.

Finally, the OIG has some staffing changes to report. The previous State Ethics Director, Sean Gorman, has moved to a position in the Federal Government since the previous Commission meeting. At this time, we are hiring a new State Ethics Director. Unfortunately, we cannot announce who that will be as the hiring process is not yet complete. We should be able to announce the new Ethics Director at the next meeting.

Also regarding staffing, OIG has a new Special Agent starting on June 24th. Mark Day has an extensive background in law enforcement, including some experience in some Federal OIG offices, and we are excited to have the opportunity to utilize that experience with our already very experienced investigative staff.

We also have a new Staff Attorney coming on board on June 24th. Elaine Vullmahn has experience with ethics and compliance in private companies. She is also a certified fraud examiner, which should bring some unique and invaluable experience to our office.

VII. Adjournment

Commissioner Sanchez moved to adjourn the public meeting of the State Ethics Commission. Commissioner Krauss seconded the motion, which passed (5-0).

The public meeting adjourned at 10:20 a.m.