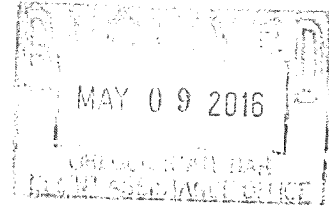


David A. Cacka
9557 Arant Road
Klamath Falls OR 97603

Greg Carleton
6614 Appaloosa Court
Klamath Falls OR 97603



May 5, 2016

Oregon State Bar
Client Assistance Office
Post Office Box 231935
Tigard OR 97281

Re: Nathan R. Rietmann

Dear Oregon State Bar:

We desire to file an ethics complaint against Salem attorney, Nathan R. Rietmann. Our names and contact information are:

David A. Cacka
9557 Arant Road
Klamath Falls OR 97603
cell telephone: 541.891.5718
email: cackadac2c@aol.com

Greg Carleton
6614 Appaloosa Court
Klamath Falls OR 97603
cell telephone: 541.891.9425
email: gcarcf@aol.com

Mr. Rietmann's contact information is:

Nathan R. Rietmann
Rietmann & Rietmann, LLP
1270 Chemeketa Street NE
Salem OR 97301
telephone: 503.551.2740
email: nathan@rietmannlaw.com

May 5, 2016

Page 2

INTRODUCTION

We are members of the Board of Directors of the Klamath Irrigation District in Klamath Falls, Oregon ("KID"). KID is an Oregon irrigation district operating pursuant to Oregon Revised Statutes Chapter 545 and is a public body subject to the Public Meeting Laws and other laws pertaining to local governmental entities. KID is governed by a Board of five Directors. Our Complaint concerns the manner in which Mr. Rietmann provided legal advice to a majority of the Board of Directors, excluding us from decisions, and the manner in which he was retained to serve as General Counsel for KID when he has actual conflicts of interest.

First Complaint. We believe that Mr. Rietmann aided and coached the majority of the members of the Board of Directors to violate the Public Meeting Law and their obligation to KID to act as a public body at a public meeting. Prior to February 8, 2016, a majority of the Board members acting without a public meeting decided to terminate the employment of KID's Manager, Mark Stuntebeck. One or more of the Board members consulted with attorney Rietmann and apparently retained him to represent KID. Neither of us (Mr. Cacka nor Mr. Carleton) was aware of these actions, and there was no Board meeting to either retain Mr. Rietmann or discuss Mr. Stuntebeck's termination until after the action described below occurred. Enclosed is a copy of a letter signed by KID Board President Brent A. Cheyne, clearly written by an attorney, we presume Mr. Rietmann, advising Mr. Stuntebeck of Mr. Cheyne's recommendation that his employment be terminated. Thereafter, Mr. Stuntebeck agreed to resign from his position in lieu of being terminated, and on February 18, 2016, at a Board meeting, the Board members present, which did not include Mr. Cacka, voted 3-1, with Mr. Carleton voting against the action, to terminate Mr. Stuntebeck.

After that action took place, audience members asked various questions concerning the Board's business. Enclosed are the Minutes of the February 18, 2016 Board meeting. On page 6, in the middle of the page following the lead-in "Mark Crawford:" is a discussion between Mr. Crawford and Board President Brent A. Cheyne, as to how the decision to suspend Mr. Stuntebeck and Office Manager Shelly Gates was made, and accusing the Board of having an unlawful meeting. Mr. Crawford asked: "Can you please explain the events which occurred at the last board meeting in a way that this is not the case?" (that you violated a public meeting law). Mr. Cheyne then responded: "We never met with a quorum present. BC (Brent Cheyne) spoke to Grant (Board member Grant Knoll), Grant would speak to Ken (Board member Ken Smith), and what we did was on advice of legal counsel and assure you we did not have an illegal meeting." (*underlining added*)

On page 7 of the Minutes in the middle of the page following the lead-in "LC:" in the center of the paragraph, the Minutes provide: "Person in the audience-are we paying for him (Rietmann)? Per Nathan, no. I've provided advice to the Board. I assume I will send a bill whether or not in a future public meeting they will pay." (*underlining added*)

May 5, 2016

Page 3

As a public body, any decision to retain an attorney must be done at a public meeting by vote of the Board of Directors. From Mr. Cheyne's comments, Mr. Rietmann provided advice to a majority of the Board members, which allowed them to retain Rietmann to represent KID and to move to terminate Mr. Stuntebeck's employment without holding a properly noticed and conducted public meeting. From Mr. Rietmann's second response: "I've provided advice to the Board," he clearly indicated his position that he was working for the Board of Directors, yet he did not attempt to make contact with either of us. (Mr. Cacka or Mr. Carleton). A Google search reveals that on multiple occasions Mr. Rietmann has represented either public officers or sued public bodies in public meeting records disputes. He is clearly aware of the requirements of the Public Meeting Law.

Second Complaint. During a meeting of the Board of Directors on February 29, 2016, the Board went into executive session to discuss some "legal matters," including attendance by a Board member at on-going negotiations related to two settlement agreements concerning the entire Klamath Basin: the Klamath Hydro Settlement Agreement (KHSA), and the Klamath Basin Restoration Agreement (KBRA). During the session, a majority of the Board members decided it would be appropriate to retain Mr. Rietmann to accompany Board member Grant Knoll to those negotiations. When the Board came out of executive session, Board member Knoll made a motion: "Knoll made a motion to retain Nathan Rietmann for tomorrow, March 1, 2016, for the Klamath Hydroelectric Settlement Agreement (KHSA) for representation of Klamath Irrigation District (KID). Smith seconded. Carleton did not cast a vote. Cheyne voted with Knoll and Smith, and the motion passed 3-0." The Minutes of the executive session and the regular session are enclosed herewith, and they accurately reflect the taped recording of those meetings, which are available from KID.

Approximately, a week later, Mr. Cacka became aware that an "engagement letter" with Rietmann and Rietmann, LLP dated February 29, 2016, existed. Mr. Cacka acquired a copy of the letter, which is enclosed herewith. In the second paragraph of the letter, it retains Mr. Rietmann as "outside general counsel for the district," not in the limited role approved by the Board to attend the KHSA negotiations with Board member Knoll. The engagement letter was not discussed at any time during the Board meetings on February 29, 2016, and was not approved by the Board of Directors. However, the letter indicates that Board President Cheyne signed it on February 29, 2016.

On March 10, 2016, the Board voted 3-1, with Mr. Cacka voting no and Mr. Carleton absent from the meeting, to retain Mr. Rietmann as legal counsel for KID. The meeting was adjourned before noon. At approximately 4 p.m. that afternoon, we received an email from Mr. Rietmann containing an engagement letter dated March 10, 2016, and a "Written Confirmation of Informed Consent" letter, also dated March 10, 2016. Neither of those documents was mentioned or discussed at the Board meeting and apparently were not available until after the Board meeting. As of this date, neither document has been considered by the Board of Directors or acted upon at a public meeting by the Board of Directors.

May 5, 2016

Page 4

In the written confirmation of informed consent, Mr. Rietmann acknowledges that at that time he was representing Thomas and Beverly Mallams in a lawsuit pending in Marion County Circuit Court and impending federal litigation concerning the Water Resources Director and regulation of ground water used by the Mallams. A copy of the Circuit Court Complaint, which we understand has now been dismissed, and the Federal District Court Complaint are enclosed.

KID is a party and claimant for water rights in the Klamath River Adjudication. During the administrative portion of the Adjudication conducted by the Department of Water Resources, the Mallams opposed KID's claim for a water right. That process has moved to the Klamath County Circuit Court where the Order of Determination by the Water Resources Department is now subject to enforcement by the County Watermaster. In 2015, there was insufficient water to meet all of KID's demands for its irrigation deliveries. Therefore, KID and other water users within the Klamath Reclamation Project requested (made a call) that the watermaster enforce KID's water rights by turning off people who had water rights junior to KID and were using water that KID was entitled to. Among those people were the Mallams. They were ordered by the Department of Water Resources to turn off their well. The Mallams then filed a lawsuit against the Water Resources Department to stop its enforcement order. That action was directly in opposition to KID's request that its water rights be enforced. In addition to other well owners, the Sees and the Stoniers also filed suits in Marion County. See Case Nos. 15CV18272, 15CV19347, and 15CV23126. The suits filed by the Sees and Stoniers are essentially identical to the Complaint filed by the Mallams. After the suits were filed, the Mallams changed attorneys and hired Mr. Rietmann, who ultimately dismissed the State Court suits, but filed his Complaint in the Federal Court.

KID intervened in the State Court suit concerning the Sees. That suit was consolidated with the Stoniers' suit, and the State of Oregon filed a motion to consolidate the two suits with the Mallams' suit since they raise the same issues. KID's position in those suits is opposite that of the plaintiffs and opposite that of the Mallams.

We understand the purpose of the Mallams' lawsuit is to stop the Department from being able to enforce KID's water rights and make water available to KID by regulating off and stopping the Mallams from using their wells, which takes water that would otherwise be available to KID. As General Counsel for KID, Mr. Rietmann will have information available to him concerning KID's desire to enforce its water rights and oppose the subject matter of the Mallams' Complaint. In our opinion, Mr. Rietmann's representation of the Mallams and KID presents a clear conflict of interest that to this point in time has not been discussed or waived by action of the Board of Directors of KID at a public meeting, as required by the law. Under no circumstances will we (Mr. Cacka and Mr. Carleton) waive this conflict of interest.

In addition, in the past, Mr. Rietmann has at times represented an organization called Water for Life. On many occasions, Water for Life has opposed legislation and/or litigation brought on behalf of irrigation districts in the state of Oregon, including KID. We do not know whether he still represents Water for Life, but again to the extent he may and is now privy to

May 5, 2016

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what otherwise would be confidential information from KID, we believe this is also a potential conflict of interest that the Written Confirmation of Informed Consent does not address.

Notwithstanding the fact that the Board of Directors has not approved the engagement letter, and has not approved the Written Confirmation of Informed Consent, we are concerned that Mr. Rietmann's ongoing representation of KID in various matters is inappropriate and potentially damaging to KID.

CONCLUSION

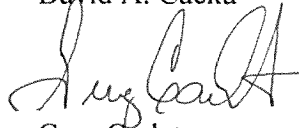
Mr. Rietmann's client is the Klamath Irrigation District, of which we are two of five Board members. He has an obligation to communicate with his client. In February 2016, when he assisted the "District" in terminating the employment of the District Manager, he did so by advising the other three members of the Board to take an action that violates the public meeting law by making decisions: (1) to retain him; and (2) to move toward termination of the Manager's employment without communicating at all with the undersigned. Mr. Rietmann is currently serving as General Counsel for KID. He was retained without providing any disclosure to us of his conflict of interest in his representation of the Mallams in an action directly adverse to the interests of KID until nearly a month after he began representing KID. As of this date, his engagement letter has not been approved, and the conflict disclosure letter has not been discussed nor considered and approved by the Board of Directors.

If Mr. Rietmann is to serve as General Counsel for KID, then he must first, eliminate the existing conflict of interest; second, not participate in illegal actions by a majority of the Board of discussing and making decisions outside of a public meeting; and third, refrain from representing KID until the Board has properly discussed his letter of engagement proposal and the conflict disclosure issues.

Sincerely,



David A. Cacka



Greg Carleton

Enclosures

TO: Mark Stuntebeck
FROM: Brent Cheyne, President Klamath Irrigation District
DATE: February 8, 2016
SUBJECT: Notice of Opportunity for Hearing, Possible Dismissal at KID Regular Board Meeting at 10:00am on Thursday, February 18, 2016 at Merrill Civic Center

As President of KID, I am hereby providing you with notice that I will be asking the Klamath Irrigation District ("KID") Board of Directors to consider dismissing you from your employment as District Manager at its regular meeting on February 18, 2016.

Before making a decision on whether to dismiss you from employment, you will have the opportunity for a hearing before the Board. The hearing will take place in executive session at the Board's February 18, 2016 regular meeting unless you make written request for an open hearing on or before February 12, 2016.

The Board will meet in emergency executive session to consider placing you on non-disciplinary paid administrative leave to facilitate further factual investigation and to ensure the orderly operation of the District while this issue is under consideration.

As an "at will" employee, the District may terminate your employment with or without cause. A statement of the reasons I will be asking the Board to consider whether to dismiss you from your employment, along with additional information regarding your opportunity for a hearing are provided below.

Reasons for Consideration of Dismissal

At its regular meeting on November 12, 2015, the Board of Directors voted to withdraw from the Klamath Water Users Association ("KWUA") by a 3-1 vote. You personally attended the Board meeting where this vote took place and were fully informed of the Board's actions.

On November 24, 2015, the Board of Directors scheduled a special meeting for the purpose of considering whether KID should intervene in certain litigation. You used your position to influence the changing of the agenda without 24-hour notice and encouraged parties to attend the meeting and express opposition to the Board's prior decision to withdraw from KWUA.

May 16, 2016

Nathan Rietmann
Attorney at Law
nathan@rietmannlaw.com

Re: **Subject: LDD 1600764**
Nathan Rietmann (David A. Cacka/Greg Carleton)

Dear Mr. Rietmann:

The Oregon State Bar Client Assistance Office (CAO) has received the attached correspondence from David Cacka and Greg Carleton expressing concerns about your conduct. The CAO is responsible for reviewing concerns regarding Oregon lawyers. Under Bar Rule of Procedure 2.5 and as resources permit, CAO determines the manner and extent of review required to determine whether there is sufficient evidence to support a reasonable belief that misconduct may have occurred warranting a referral to Disciplinary Counsel's Office. Misconduct means a violation of the rules of professional conduct and applicable statutes that govern lawyer conduct in Oregon. The concerns expressed may implicate the provisions of RPC 1.7(a) [current client conflict of interest]; RPC 1.9 [former client conflict of interest] and RPC 1.2(c) [restrictions on counseling a client].

In order for me to conduct a fair and informed review, I would like to have your account of the matter no later than June 6, 2016. I am able to grant an extension of the time to respond for good cause, if requested before the deadline. **Please submit your response via email to cao@osbar.org, using the subject line LDD 1600764. It is not necessary to also mail a paper copy of your response.**

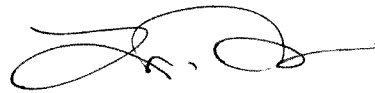
A copy of your response will be sent to Mr. Cacka and Mr. Carleton. If appropriate, I may request they comment on your response. All material submitted by the parties in the course of this review is public record and both parties will receive copies. Please limit your response and any documents you send to the ethics issues presented. I am confident I will receive your full cooperation in this matter. You should be aware, however, that if you fail to respond to this request, this matter will be referred to Disciplinary Counsel's Office for further review.

After I review all documentation and information gathered in this matter I will determine if there is sufficient evidence warranting a referral to Disciplinary Counsel's Office for further evaluation pursuant to BR 2.5(b)(2). CAO determines the manner and extent of review required for the appropriate disposition of complaints.

Nathan Rietmann
Page 2

Thank you in advance for your cooperation. I look forward to a fair and expeditious review of this matter.

Yours,

A handwritten signature in black ink, appearing to read "Linn D. Davis". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Linn D. Davis
Assistant General Counsel
Ext. 332

LDD/jmm
Attachment

cc: David A. Cacka
Greg Carleton

01a

Email submissions to: cao@osbar.org

Use subject line: LDD 1600764

Holland & Knight

111 S.W. Fifth Avenue, 2300 U.S. Bancorp Tower | Portland, OR 97204 | T 503.243.2300 | F 503.241.8014
Holland & Knight LLP | www.hklaw.com

Peter R. Jarvis
(503) 243-5877
peter.jarvis@hklaw.com

June 2, 2016

Via E-mail (cao@osbar.org)

Mr. Linn D. Davis
Assistant General Counsel
Oregon State Bar
16037 SW Upper Boones Ferry Road
PO Box 231935
Tigard, Oregon 97281-1935

Re: Subject: LDD 160074
Cacka/Carleton Complaint Against Nathan Rietmann

Dear Mr. Davis:

I represent Nathan Rietmann and am responding on his behalf to your May 16, 2016 email enclosing a complaint from David Cacka and Greg Carleton. As explained below, there is no factual or legal basis for this complaint. Consequently, the complaint ought to be dismissed.

Mr. Cacka and Mr. Carleton are two of the five Board members of the Klamath Irrigation District (“KID”). The other three Board members are President Brent Cheyne, Vice-President Grant Knoll, and Ken Smith. As is evident from the complaint filed by Mr. Cacka and Mr. Carleton, they are at loggerheads with the Board majority over a number of issues.

KID, but not its officers or employees, has recently become and presently is a client of Mr. Rietmann. Although Mr. Rietmann has the title of “General Counsel” for KID, he is not general counsel in the sense that he does not automatically review any and all legal matters for KID. Instead, he works only on those matters for which he is expressly retained. None of the matters on which Mr. Rietmann has been or is representing KID are factually or legally related to his representation of Mr. Tom Mallams or substantially related to his prior representation of Water for Life.

Turning to the specific assertions in the Cacka/Carleton complaint, Mr. Rietmann responds as follows:

1. Mr. Rietmann did not advise KID or any of its members to circumvent, evade, or violate Oregon's public meetings law.
2. With respect to Mr. Rietmann's representation of the Mallams, the facts are as follows: (a) Mr. Mallams was the one who recommended Mr. Rietmann as potential counsel for KID. (b) Mr. Rietmann has never represented and would not agree to represent KID on any matter that is factually or legally related in any material way to his work for the Mallams. (c) When Mr. Rietmann was initially contacted about the potential representation of KID, he discussed his representation of the Mallams with Brent Cheyne and Grant Knoll, KID's President and Vice President. None of the three of them believed that a conflict of interest existed between KID and the Mallams at that time since KID was not a party to the Mallams case and KID did not then appear to dispute or to wish to dispute the position being asserted by the Mallams. (d) Subsequently, the Mallams case and another case in which KID was a party were consolidated as a result of a motion to that effect filed by the State of Oregon. As the enclosed documents reflect, Mr. Rietmann then sent the Board a conflicts waiver letter dated March 9, 2016. (e) Following the Board meeting on March 10, 2016, Mr. Rietmann received written consent to the conflicts waiver signed by Brent Cheyne on March 11, 2016. (g) If there were any issues relating to the process by which Mr. Rietmann's employment by KID and the conflicts waiver were obtained, Mr. Rietmann was unaware of them prior to receiving word of the Cacka/Carleson complaint on May 7, 2016 from a reporter with the Klamath Herald and News. (h) Mr. Rietmann responded by asking the full KID Board, in writing, if it wished him to continue representing KID. At its meeting on May 12, 2016, the Board voted to continue to retain Mr. Rietmann and to waive any and all conflicts raised by the Cacka/Carleton complaint. The Board then confirmed its consent in writing.
3. Water for Life is a former client of Mr. Rietmann, and none of the matters on which he represented Water for Life are substantially related to the matters that Mr. Rietmann is presently handling for KID. In addition, and because Mr. Rietmann is aware of RPC 1.9 and Oregon Formal Ethics Opinions 2005-11 and 2005-17, he would not undertake a matter for KID that was substantially related to his prior work for Water for Life without obtaining conflicts waivers from both KID and Water for Life.
4. Mr. Rietmann does not believe that he has at any time withheld from KID or its Board members any documents or information that he was required to provide. Since it is difficult to prove a negative, Mr. Rietmann requests that Mr. Cacka and Mr. Carleton either provide any alleged specifics so that he can make a further response.

Enclosed herewith as Exhibits A are copies of Mr. Rietmann's engagement letters and conflicts waiver communications with KID. Mr. Rietmann is providing these documents and the related information stated in this letter because they appear to be reasonably necessary to his response to the Cacka/Carleton complaint within the meaning of RPC 1.6(b)(4).

Mr. Linn D. Davis
June 2, 2016
Page 3

For the reasons stated above, the Cacka/Carleton complaint should be dismissed. Please let me know if you believe any additional documentation or information is required.

Sincerely yours,

HOLLAND & KNIGHT LLP

A handwritten signature in cursive script that reads "Peter R. Jarvis".

Peter R. Jarvis

PRJ:kdf

Enclosure

cc: Client

June 21, 2016

David A. Cacka
cackadac2c@aol.com

Greg Carleton
gcarcf@aol.com

Re: **Subject: LDD 1600764**
Nathan Rietmann (David A. Cacka/Greg Carleton)

Dear Mr. Cacka and Mr. Carleton:

Peter Jarvis has sent us the attached correspondence in answer to your concerns.

Please review the attachment and provide us with any additional information you wish to have us evaluate no later than July 12, 2016. If you do not provide any additional information, we will review this case without further input.

Thank you for your cooperation.

Yours,



Linn D. Davis
Assistant General Counsel
Ext. 332

LDD/jmm
Attachment

cc: Peter Jarvis, Attorney at Law
02ii

Email submissions to: cao@osbar.org

Use subject line: LDD 1600764

April 19, 2018

David A. Cacka
cackadac2c@aol.com

Greg Carleton
gcarcf@aol.com

Re: **Subject: LDD 1600764**
Nathan Rietmann (David A. Cacka/Greg Carleton)

Dear David Cacka and Greg Carleton:

The Oregon State Bar Client Assistance Office (CAO) is responsible for reviewing concerns regarding lawyers in Oregon. Under Bar Rule of Procedure 2.5 and as resources permit, CAO determines the manner and extent of review required to decide whether there is sufficient evidence to support a reasonable belief that lawyer misconduct may have occurred warranting a referral to Oregon State Bar Disciplinary Counsel. Misconduct means a violation of the rules of professional conduct and applicable statutes that govern lawyer conduct in Oregon.

I apologize to you and to Mr. Rietmann for the time that has passed since you notified us of your concerns and he responded to our requests for information regarding them. You also complained about Lawrence Kogan, an out-of-state lawyer retained by the District in the same time period. I address your concerns about Mr. Kogan in a separate letter.

Mr. Rietmann, an Oregon lawyer, was retained by the Board of Directors of the Klamath Irrigation District to provide outside general counsel services to the Klamath Irrigation District on a matter by matter basis. You expressed concerns that Mr. Rietmann counseled the Board to engage in violations of the public meetings law. You also alleged that Mr. Rietmann engaged in an improper conflict of interest because the interests of the District were in conflict with his former client, Water for Life, and his current clients, the Mallams. Because the concerns you expressed might implicate our rules, we asked Mr. Rietmann to respond to them. I have reviewed all the relevant materials submitted. I conclude there is no sufficient basis to warrant a referral to Disciplinary Counsel.

Mr. Rietmann's meeting with some members of the District's Board of Directors prior to a formal decision to hire Mr. Rietmann does not support a charge of misconduct. Your disagreement with Mr. Rietmann's advice to the Board of Directors regarding public meetings is insufficient to raise an issue of misconduct.

Mr. Rietmann was outside general counsel to the District, available to represent the District on particular matters if requested. Mr. Rietmann disclosed to the Board his representation of the Mallams, whose interests may conflict with the interests of the District in

a particular water rights matter. Mr. Rietmann did not undertake to represent the District in the particular water rights matter in which he represents the Mallams and, as a result, has no duties to the District in that matter. As such, he was permitted to represent the District in other matters with the informed consent of the District. Mr. Rietmann provided evidence that upon learning that developments in the Mallams litigation suggested that his representation may be directly adverse to the District, he promptly enough obtained the informed consent of the District confirmed in a writing that complies with our rules.

You also expressed more speculative concerns that Mr. Rietmann could be required to obtain informed consent from the District because he had, in the past, represented the entity Water for Life. Mr. Rietmann expressed the intent to avoid any improper conflict arising from his former representation of Water for Life. We lack sufficient information to support a conclusion that Mr. Rietmann undertook to represent the District in any particular matter that raises conflict of interest issues as a result of his representation of Water for Life.

Because we find no professional misconduct, we will take no further action on this matter. If you disagree with this disposition, you may have the matter reviewed by General Counsel, provided we receive your request for review in writing no later than May 10, 2018. The decision of General Counsel is final.

I hope we have been of assistance in obtaining Mr. Rietmann's response to your concerns. Thank you for bringing them to our attention.

Yours,



Linn D. Davis
Assistant General Counsel
Ext. 332

LDD/jmm
Attachment

cc w/attach: Peter Jarvis, Attorney at Law
David Elkanich, Attorney at Law

02j

Email submissions to: cao@osbar.org Use subject line: LDD 1600764