

**COPY**

**FILED**

June 18, 2013

JUN 18 2013

Mr. August Griffin  
Edgar County Officers Electoral Board Chairman  
115 West Court  
Paris, Illinois 61944

  
EDGAR COUNTY CLERK

Re: Edgar County Officers Electoral Board

Mr. Griffin,

It has come to my attention that the Edgar County Electoral Board (Electoral Board) hired a private attorney for petition objections and to defend them in an Open Meetings Act civil suit.

As a public body of the County of Edgar, it is my understanding that neither the Edgar County Electoral Board nor the Edgar County Board had the power to hire private counsel or pay private counsel with public funds since the Edgar County State's Attorney is the statutory legal counsel for the Board. Since the Electoral Board lacked the authorization to approve payment absent a formal appointment by the court, the action of hiring Mr. McGrath by the Electoral Board is (or should be) void.

I am asking that you make a demand of Mr. McGrath to return the public funds paid to him since he received funds from the Edgar County Treasurer that neither the Electoral Board nor the County Board was authorized to pay.

Please advise if I have an incorrect understanding of an Electoral Board and the requirement to have the Court appoint a Special State's Attorney for situations such as this.

Thank you for your timely consideration,



John Kraft  
7060 Illinois Highway 1  
Paris, Illinois 61944

217-808-2527

*References used (attached):*

- a) June 20, 2012 Letter from Mark Isaf to Ed Motley
- b) June 26, 2012 Letter from Mark Isaf to Thomas McGuire
- c) August 2, 2012 Letter from Mark Isaf to S. Craig Smith

a)

**EDGAR COUNTY STATE'S ATTORNEY**

Robert Isaf  
State's Attorney

Edgar County Courthouse  
115 W. Court St., Room S  
Paris, IL. 61944-1787

Kyle P. Hutson  
Assistant State's Attorney

[att@edgarcounty-il.gov](mailto:att@edgarcounty-il.gov)

Phone: 217/466-7456

Fax: 217/466-7454

[khutson@edgarcounty-il.gov](mailto:khutson@edgarcounty-il.gov)

June 20, 2012

Sheriff Ed Motley  
Edgar County Sheriff's Department  
Paris, Illinois 61944

**FILED**

**JUN 21 2012**

  
EDGAR COUNTY CLERK

Sheriff Motley:

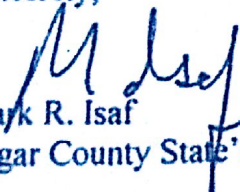
You have previously expressed to me your determination to consult with and to hire your own legal counsel with regard to grievance proceedings filed against you and Edgar County as the "employer". We've had communication on this issue both in person and by email. I've advised you that I can't prevent you from consulting with anyone but that I did not agree that the circumstances required the hiring of two attorneys to represent the "employer" during the arbitration process. You disagreed. You informed me to communicate further with the attorney of your choice.

At the May Edgar County Board meeting it was confirmed that you had not only hired private counsel but had authorized payment of private counsel with public funds. You did this despite my prior indication to you that the "employer" in this arbitration matter was represented by a labor law attorney appointed through my office.

My last email to you on May 30, 2012, requested your authority for hiring private counsel for representation within the scope of your public duties as well as your authority to pay privately retained counsel with public funds. My research did not reveal this authority but I was willing to review anything that you have that I have missed. I have not received a response from you to this request so I now have to operate on the assumption that you lack any authority upon which you based your decisions.

You authorized payment from public funds to your self-appointed legal counsel. I am requesting at this time that you obtain the return of said funds from Thomas McQuire and Associates, Ltd. Neither the Edgar County Sheriff nor the Edgar County Board has the power to hire private counsel or pay private counsel with public funds. The initial remedy for this situation is to restore the public funds. Please provide a copy of the check or have the Edgar County Treasurer confirm the receipt of said funds within 14 days from the date of this letter. Failure to do so will not only indicate to me a willful failure to abide by the law but will certainly lead to a litigated resolution of this matter.

Sincerely,

  
Mark R. Isaf  
Edgar County State's Attorney

MRI/ab

Cc: Sheriff's Committee c/o August Griffin, Edgar County Clerk and Recorder



**Mark Robert Isaf**  
State's Attorney

**EDGAR COUNTY STATE'S ATTORNEY**

Edgar County Courthouse  
115 W. Court St., Room S  
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**Kyle P. Hutson**  
Assistant State's Attorney

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statt@edgarcounty-il.gov

June 26, 2012

Mr. Thomas McGuire  
Thomas F. McGuire and Associates  
Long Grove Executive House  
4180 RFD Route 83  
Suite 206  
Long Grove, Illinois 60047

Re: Edgar County Sheriff

Dear Mr. McGuire:

It has come to my attention that you received Edgar County funds to compensate your legal services requested by the Edgar County Sheriff. As you may recall, we met at Edgar County's north annex building to discuss Sheriff's Motley's desire for you to represent his interest in the grievance proceedings filed by former Deputy Hopper and current Deputy Burgin. The long and short of the meeting was that Sheriff Motley's request was denied.

Subsequent to that interaction, I was advised by Sheriff Motley that he was consulting with his own attorney and that I should communicate further legal matters to your attention. I advised Sheriff Motley that I would not be discussing legal matters nor sharing personnel information with outside counsel but that I could not control who he consulted with.

It came to my attention at the May Edgar County Board meeting that an invoice for legal services was submitted by you to Sheriff Motley for payment and that he authorized same. Copy of said check is attached to this letter. I requested from Sheriff Motley his authority upon which he relied to independently hire legal counsel and to compensate legal counsel with public funds. I have not received a response from Sheriff Motley.

I believe that you are aware that an elected official cannot independently hire his own attorney nor compensate that attorney with public funds. These acts would be considered *ultra vires*. The County Board does not have power to do so either. Therefore, you have received funds from the Edgar County Treasurer that neither the Sheriff nor the County Board was authorized to pay to you. I am requesting that you return the funds to the Edgar County Treasurer. Failure to do so within 14 days from the date of this letter will indicate to me your preference to litigate the legal status of your representation of the Edgar County Sheriff and the Edgar County Sheriff's authority to compensate independently hired counsel with public funds.

Sincerely,

  
Mark R. Isaf  
Edgar County State's Attorney

MRI/ab

Mark Robert Isaf  
State's Attorney

[statt@edgarcounty-il.gov](mailto:statt@edgarcounty-il.gov)

## EDGAR COUNTY STATE'S ATTORNEY

Edgar County Courthouse  
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Kyle P. Hutson  
Assistant State's Attorney

[khutson@edgarcounty-il.gov](mailto:khutson@edgarcounty-il.gov)

COPY

August 2, 2012

Mr. S. Craig Smith  
Asher & Smith Law Office  
1119 North Main Street  
Paris, Illinois 61944

Re: ETSB

Dear Craig:

I received information from Mr. Kirk Allen alleging the ETSB issued a payment for legal services it requested of you in May of 2011. I attach a copy of the payment request and legal invoice. I can advise you that the board lacked the authorization to approve payment for legal services absent your formal appointment by the court and thus the action by ETSB is void. Please review and confirm my understanding of the facts. I propose that the funds paid for your services be returned to the ETSB account held by the Edgar County Treasurer. If you provide a copy of the letter accompanying your firm's check to me, I will provide copies to ETSB and Chairman Keller. If you have any questions please don't hesitate to contact me.

Sincerely,


  
Mark R. Isaf  
Edgar County State's Attorney

MRI/ab  
enclosure

*advised State's Attorney  
&  
9/11 of  
check.*

RECEIVED  
AUG 06 2012

EDGAR CO. TREASURER  


Mark  
I agree. I'll take a copy  
of your letter and check to  
Edgar County Treasurer for  
reimbursement of \$1,157.95  
Thanks  




CHECK CROSS-REFERENCE REPORT

Check No. Check Amount Check Date Vendor No Vendor Name

Bank Account ECB 01 ED CO GENERAL CK/ACH PROCESS  
67089 5,310.00 06/12/2013 6327 LAW OFFICES OF BOB DUNST  
Invoice:WDM-16 05/23/2013  
100 033-6000.000 800.00 PUBLIC DEFENDER EXPENSES MAY 2013  
OFFICE SUPPLIES 800.00

Bank Account ECB 01 ED CO GENERAL CK/ACH PROCESS  
67089 5,310.00 06/12/2013 6327 LAW OFFICES OF BOB DUNST  
Invoice:7301 05/06/2013 1,093.75 PROFESSIONAL SERVICES ELECTORAL  
BOARD - MR CASE  
100 040-9120.000 CONTINGENCIES 1,093.75

Bank Account ECB 01 ED CO GENERAL CK/ACH PROCESS  
67089 5,310.00 06/12/2013 6327 LAW OFFICES OF BOB DUNST  
Invoice:7303 05/06/2013 3,416.25 PROFESSIONAL SERVICES ELECTORAL  
BOARD - PETITION CHALLENGES  
100 040-9120.000 CONTINGENCIES 3,416.25  
ED CO GENERAL CK/ACH PROCESS Bank Total 5,310.00

Grand Total 5,310.00

June 18, 2013

## Cross Reference Report

By Vendor Number

8:32AM

Inv. Number	Inv. Date	Amount	Comm Code	Description	Check Amount	Check Number	Check
6327	LAW OFFICES OF BOB DUNST						
WDM-11	12/12/2012	800.00	33	PUBLIC DEFENDER EXPENSES - DECEMBER 2012	800.00	65497	1/9/2013
	Fund 100	Account Number 033-6000.000		Account Description OFFICE SUPPLIES	Dist. Amount 800.00		
WDM-12	1/30/2013	800.00	33	PUBLIC DEFENDER EXPENSES, JANUARY 2013	800.00	65839	2/13/2013
	Fund 100	Account Number 033-6000.000		Account Description OFFICE SUPPLIES	Dist. Amount 800.00		
WDM-13	2/27/2013	800.00	33	PUBLIC DEFENDER EXPENSES, FEBRUARY 2013	800.00	66096	3/13/2013
	Fund 100	Account Number 033-6000.000		Account Description OFFICE SUPPLIES	Dist. Amount 800.00		
WDM-14	3/22/2013	800.00	33	PUBLIC DEFENDER EXPENSES, MARCH 2013	800.00	66502	4/17/2013
	Fund 100	Account Number 033-6000.000		Account Description OFFICE SUPPLIES	Dist. Amount 800.00		
WDM-15	4/25/2013	800.00	33	PUBLIC DEFENDER EXPENSES, APRIL 2013	800.00	66803	5/8/2013
	Fund 100	Account Number 033-6000.000		Account Description OFFICE SUPPLIES	Dist. Amount 800.00		
WDM-16	5/23/2013	800.00	33	PUBLIC DEFENDER EXPENSES MAY 2013	800.00	67089	6/12/2013
	Fund 100	Account Number 033-6000.000		Account Description OFFICE SUPPLIES	Dist. Amount 800.00		
7301	5/6/2013	1,093.75	40	PROFESSIONAL SERVICES ELECTORAL BOARD - MR CASE	1,093.75	67089	6/12/2013
	Fund 100	Account Number 040-9120.000		Account Description CONTINGENCIES	Dist. Amount 1,093.75		
7303	5/6/2013	3,416.25	40	PROFESSIONAL SERVICES ELECTORAL BOARD - PETITION CHALLENGES	3,416.25	67089	6/12/2013
	Fund 100	Account Number 040-9120.000		Account Description CONTINGENCIES	Dist. Amount 3,416.25		
Total for Vendor:					9,310.00		
Grand Total:					9,310.00		