

**From:** J. Steven Gardner  
**To:** [Jorjani, Daniel](#)  
**Subject:** FW: Steve Gardner Nomination Director OSMRE Update  
**Date:** Tuesday, January 23, 2018 5:56:36 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[Gardner Ethics Agreement\(isg\).docx](#)  
[do-99-049.pdf](#)

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Mr. Jorjani:

The confirmation process for me has taken another turn last week. (b) (6)  
[Redacted]

For the record to recap events, I received a Draft Ethics agreement back in October. (attached) (b) (6)  
[Redacted]  
[Redacted] I also had several questions which I posed and highlighted on the (b) (6) agreement.

Kim Hintz has been the DOI liaison with OGE relaying the questions on my business and finances. After receiving the emails below, I requested a conversation with the OGE person making this determination. On Friday, I had a phone call with Kim and Ed McDonnell (b) (6)  
[Redacted]

(b) (6)  
[Redacted]. I have immediately responded to every email received. (b) (6)  
[Redacted]

Thanks,

Steve Gardner

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**President/CEO**

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**Most recent Emails concerning Ethics Agreement:**

Steve,

As Ed mentioned on the phone there is no statutory definition for representational services. I have attached an OGE memo (DO 99-049) that clarifies the application of 18 USC 203. In addition, OGE often relies on the post-government employment statute and regulation to define communication or appearance before the government (5 CFR 2641.201(d)).

Practical matters with the divestiture . . .

(1) you will need to be completely divested on date of appointment. This can be done by gifting or by you taking a promissory note. OGE said that you could hold a promissory note. For example, XYZ has purchased your interest and agrees to pay you \$100,000 over the next 5 years.

**From:** Hintz, Kimberly [mailto:kimberly.hintz@sol.doi.gov]  
**Sent:** Tuesday, January 16, 2018 3:43 PM  
**To:** Steve Gardner (b) (6) >  
**Subject:** Issues to consider

Mr. Gardner,

I just got off the phone with OGE - they have two serious concerns with you remaining as passive investor with ECSI and are taking a very hard line with you divesting your entire interest. One is 18 USC 203 and the other is 5 USC app 502.

18 USC 203 is a criminal statute that prohibits you from receiving or accepting any compensation for any representational services, as a an agent or attorney or otherwise rendered either personally or by another receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the [United States](#) is a party or has a direct and substantial interest, before any

department, agency, court, court-martial, officer, or any civil, military, or naval commission.

5 USC app 502 deals with receipt of compensation from affiliating with or being employed by a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship.

Thanks,  
Kim Hintz  
Attorney-Advisor  
U.S Department of the Interior  
Office: (202) 208-4110

**From:** Hintz, Kimberly [<mailto:kimberly.hintz@sol.doi.gov>]  
**Sent:** Thursday, January 04, 2018 1:56 PM  
**To:** Steve Gardner [REDACTED] >  
**Subject:** Questions

Steve,

*Two quick questions . . .*

- 1. I added your position as President, Mining Internet Services to Part One. What is the start date for that position? I choose 1/2018 for the end date.*
- 2. Per the Office of Government Ethics (OGE), I made a change to Part 2 with respect to Lafayette Cumberland Group. They suggested the format. However, please provide a best estimate/guess for business income 2017.*
- 3. What does Pitman Green do? Does Pitman Green have clients? OGE wants the information to see if there are any conflicts of interest.*

*We are still working and discussing your ethics agreement. Now that everyone is back at work, I hope that I can make some progress on the ethics agreement.*

*Thanks,  
Kim Hintz  
Attorney-Advisor  
U.S Department of the Interior  
Office: (202) 208-4110*

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*12/5/17*

*Steve,*

*For Mining and Minerals Service:*

***Part 2 Income may need to be updated - You reported none but that was probably the net and not the gross. I will need the gross amount of rent.***

***Does Mining and Minerals Services own an interest in Pitman Green?***

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***Thanks,  
Kim Hintz  
Attorney-Advisor  
U.S Department of the Interior  
Office: (202) 208-4110***

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***12/4/17***

***Steve,***

***I got your answers and corrected your form but that generated a couple more questions .***

***..***

***1. I will need the exact amount of business income that flows to you from Pitman Green (like you did for Kelly James). I can only list a range for other types of income (such as dividends or rent/royalties). For business income, I need the actual amount.***

***2. For Privileged Assets Annuity, I need to know if it is a fixed policy (meaning it earns a fixed interest rate guaranteed by RiverSource) or a variable policy (meaning you have the option to invest in different funds). If it is a variable policy, Office of Government Ethics will want to know the underlying funds. If it is fixed, I do not think they will need additional information.***

***3. I think that I am close to listing Lafayette Cumberland Group and the underlying holdings. However, I will need the exact amount of business income that flows to you from Lafayette Cumberland Group (like you did for Kelly James).***

***Mr. Gardner,***

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***12/1/17***

***Another round of questions concerning your OGE 278:***

***(1) Kelly James - On part 2, the income needs to be updated - you reported NONE but gross income needs to be reported and not net income.***

***(2) ENGR - Do you have any equity in the company that needs to be reported on the form. I don't think that you do since the company is inactive but I need to confirm that.***

***(3) Pitman Green - you listed dividends for income type and OGE disagrees. I can change to business income? Also, OGE is questioning the income amount - incongruous with the value listed?***

***(4) Is this the structure for Lafayette Cumberland LLC:***

***Lafayette Cumberland (Office Building and Consulting Firm)***

***ECSI LLC (Consulting Engineering Firm)***

***Pitman Green (Engineering and Surveying Consulting Firm)***

***Office Building (Lexington KY)***

***You valued Lafayette Cumberland at \$5000,001-\$1,000,000. Did you get any distributive shares from LC?***

***Since I am breaking out the Office Building what is the "value" of the building? And, rent is in the \$15,001-50,000 range?***

***(5) Privileged Assets Annuity - is this a fixed annuity***

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***11/13/17***

***Mr. Gardner,***

***I would like to set up a time so that my boss and I could have a conversation with you . . . We have been working with the Office of Government Ethics and need additional information from you concerning ECSI.***

***Please provide additional information on what ECSI does? Does ECSI makes any kind of representations on behalf of its clients? and if so, with whom? with OSM? Has ECSI ever commented on a regulation proposed by OSM? Has ECSI ever commented on a regulation on behalf of a client? Does ECSI ever attend meetings on behalf of a client with the government? or with OSM?***

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***11/1/17***

***Steve,***

***Sorry this email is so curt . . . trying to get your paperwork and two others through the OGE process.***

***What are your spouse's duties and/or responsibilities as an Environmental consultant with the Department for Energy Development and Independence. Does she have any function or duties under SMCRA?***

***On Kelly James LLC, are you a managing member or just a member? I annotated your form to show Kelly James LLC (Residential Rental Property held in Lexington KY). Is this correct? Are all properties held by Kelly James in Lexington KY.***

***ENGR, are you a managing member or just a passive member/owner? And, do you have any equity in this company? If just passive member/owner OGE wants us to remove from part 1.***

***For Lafayette Cumberland, can I change the description to holding company owning real estate and consulting business. It would be broken out like this:***

**Lafayette Cumberland (Owning real estate and consulting business)**

**- Office Building**

**- Pitman Green (also do you have personal ownership in Pitman Green or just through Lafayette Cumberland).**

**Please clarify the income type - how does Lafayette Cumberland generate rent and royalties as income? That sounds like it may be the income from the real estate proper. If the income generated at the holding company level does not fit into one of the predetermined categories then an exact amount will be needed.**

**Please confirm that you receive no LLC distribution from Lafayette Cumberland? Pitman Green?**

**For Pitman Green - do you have a position with Pitman Green that needs to be disclosed in part 1. what is the income type - you list dividends as an income type from an LLC and can you confirm the income amount. OGE thought that the income was high in relation to the value.**

**Minerals Mining Services - please confirm that the type of property is Commercial Office Building. Is this correct "Commercial office building held in Marion KY" Does Minerals Mining Services have interest in Pitman Green? Does it own any other assets or just the building?**

**Mining Internet Services - Do you have a position with Mining Internet Services that needs to be reported on part 1.**

**I have your comments on the ethics agreement - I am going to speak with OGE today to get their comments/edits. I will get a fresh draft to you as soon as I can.**

Thanks for reviewing. I look forward to an opportunity to meet in the near future.

Best regards,

Steve Gardner

**J. Steven Gardner, PE, SME-RM**

**President/CEO**

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