

REQUEST FOR INVESTIGATION

Virginia J. Cain

Your Name (Please type or print in ink)

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Return to:

Indiana Supreme Court Disciplinary Commission
115 West Washington Street, Suite 1165 South
Indianapolis, IN 46204
Phone (317) 232-1807
TDD for Deaf (317) 233-6111

I wish to submit the following Request for Investigation and information concerning the following attorney:

Attorney's Name *Aaron Haith*

Attorney's Address

Date Employed Purpose for Employing

Cause Number of Case Court

Agreed Attorney's Fee Total Fees Paid

Nature of complaint against the attorney (use additional pages if necessary; do not write on the back). Please be specific as to dates, names, and events. Include copies (not originals) of documents that support your complaint:

Conflict of interest. Please see attached.

In filing this Request for Investigation, I understand that the attorney will receive a copy; that I am immune from civil suit for statements I make without malice to the Commission; and that nothing herein limits me from consulting with an attorney about my legal rights. I agree to cooperate with the Commission and to testify at any hearing that may be held.

VERIFICATION

I swear or affirm, under the penalties for perjury, that the foregoing statements are true.

Virginia J. Cain

Signature (only original signatures accepted)

Date

10-16-07 ej

Date Filed (Office use only)

The members of the Republican Caucus of the City-County Council ("Republican Caucus") believe that Aaron Haith, Attorney to the City-County Council, is in violation of Rules 1.7 and 1.13 of the Rules of Professional Conduct.

Mr. Haith has publicly appeared and acknowledges that he represents the City-County Council President, Monroe Gray, in Mr. Gray's personal capacity as it relates to businesses owned and/or operated by Mr. Gray.

On March 16, 2007, Councillor Borst attempted to file a resolution calling for an investigation into possible ethical violations and conflicts of interest with regarding the business activities of Councillor Gray. As a function of Mr. Haith's job, he is to review all submissions for resolutions as to form and legality. Mr. Haith rejected the filing of the resolution. (Attached hereto is Mr. Haith's response.)

The Republican Caucus believes that in rejecting the resolution Mr. Haith exceeded his authority under Sec. 151-101 of the Revised Code of the Consolidated City and County (herein "Revised Code"). In addition, the Republican Caucus believes that in so rejecting the filing of the resolution Mr. Haith acted in the face of a concurrent conflict of interest. Mr. Haith clearly acted to protect his client, Monroe Gray, and in the process violated an ethical obligation to his other client, the members of the City-County Council.

After a couple of days passed, President Gray instructed Mr. Haith to place the resolution on the agenda. The resolution appeared on the agenda for the following full Council meeting, March 26, 2007.

On March 26, 2007, the resolution was called up for a procedural vote to move the resolution out of proposed resolutions and into final vote. Councillor Borst made the oral motion and in the motion asked President Gray and Mr. Haith to abstain from involvement in the vote. Despite Councillor Borst request, President Gray turned around and consulted with Mr. Haith. At this time, Councillor Vaughn interjected and publicly requested that Mr. Haith remove himself from the consultation on the basis that Councillor Vaughn believed that Mr. Haith had an ethical conflict under Rules 1.7 and 1.13 of the Professional Rules of Conduct.

Mr. Haith ignored the request and continued to consult with his client, Monroe Gray. Again this consultation was in the face of an existing conflict of interest and without the consent of the Republican Caucus members.

The vote failed and was sent to Committee. The resolution remained pending in committee without action well in excess of the 45 days permitted by ordinance. At the requests of Councillor Borst the resolution was eventually placed on the agenda for August 27, 2007. At that meeting a Motion to Strike was made and Mr. Gray abstained from the vote. Mr. Haith, however, continued to provide legal counsel to the Council regarding the Motion to Strike. The vote failed for lack of majority and, as per our Council rules, was placed on the Agenda for the following full Council meeting.

The next full Council meeting was September 17, 2007 and the resolution appeared again in the "Unfinished Business" section of the agenda. Again, a Motion to Strike was made and Monroe Gray abstained from voting. However, Mr. Haith, again, continued to provide legal advice during the pending motion. The vote failed for lack of majority.

The next full Council meeting occurred on October 8, 2007. At that meeting the ordinance, without a vote, had been moved from "Unfinished Business" to "Pending Matters." Mr. Haith and Mr. Gray are responsible for setting the agenda. That procedural move is in violation of a specific rule, Sec. 151-85 of the Revised Code, which requires that resolutions that fail for lack of majority are to be placed in the "Unfinished Business" section of the agenda of the next full Council meeting. Upon noticing the agenda error, Councillor Borst requested that the resolution be placed back in "Unfinished Business." Mr. Haith interjected stating that the motion was improper and that his placement of the resolution in "Pending Matters" was the prerogative of the President, Monroe Gray, and was proper based on precedent and Robert's Rules of Order (10th Edition). Under Sec. 151-58 of the Revised Code, the parliamentary authority is "Robert's Rules of Order, Newly Revised." Mr. Haith went on to provide a detailed argument justifying the placement on the agenda referencing City-County Ordinances, Robert's Rules of Order (10th Edition) and the Indiana Code. (Attached hereto is a DVD of that meeting and exchange).

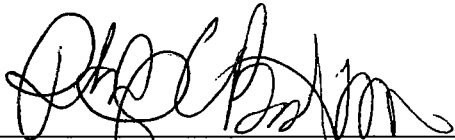
An elementary legal analysis reveals that Mr. Haith's interpretation of the City-County Ordinances, Robert's Rules of Order (10th Edition) and the Indiana Code were all misconstrued in favor of defeating Councillor Borst's request to move the resolution to its proper place on the agenda.

The Chair, and at this time it is unclear who was acting as Chairperson, Councillor Monroe Gray or Councillor Joanne Sanders, adopted Mr. Haith's recommendation. Councillor Schneider made a motion to appeal the ruling of the chair. This is procedural motion and, by ordinance, requires the majority of the members present. The motion was made; however, Mr. Haith again interjected and stated that a majority of the Council, not the members present, was needed to overrule the Chair. This is significant because at the time of the motion the Republican Caucus had a majority of the members present, but the Republican Caucus does not have majority control of the Council. Mr. Haith insisted that the City-County Ordinance which deals directly with procedural votes was pre-empted by the Indiana Code requiring a majority vote of the Council on all ordinances and resolutions. Clearly, the motion did not have substantive impact as it related to the resolution, it was a procedural vote. Regardless, Mr. Haith was again providing counsel to the Council on an issue directly involving his client, Monroe Gray. Mr. Gray ruled that the vote on the appeal of the chair's ruling failed for lack of a majority of the Council.

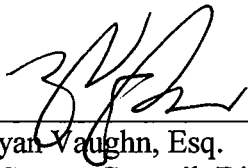
The resolution is still pending business with the City-County Council. The resolution seeks to investigate Mr. Haith's client, Monroe Gray. The Republican Caucus, as City-County Councillors and clients of Mr. Haith do not consent to Mr. Haith's representation under these or any other circumstances in which one client, President Gray, receives support and consultation at the expense of another, the City-County Council. We can not have an attorney represent a legislative body that is seeking to investigate one of its members, when that same attorney personally represents the member that is the subject of the investigation.

As elected representatives of the people, we can not allow the misguided judgment and blatant disregard of professional ethical standards to undermine the integrity of the office of City-County Councillor. We respectfully request that this Commission open an investigation into these actions and issue a finding independent of political bias.

Respectfully Submitted,



Dr. Phillip Borst, Minority Leader
City-County Council, District 23



M. Ryan Vaughn, Esq.
City-County Council, District 3

(Please find signatures of Councillors Virginia Cain, District 5 and Scott Schneider, District 4 affixed to the verification line on the Request for Investigation).

Councillor Borst and Bob Elrod,

I have received the late submission made by Bob purportedly on the behalf of Councillor Borst. Pursuant to Sec. 151-62 of the code, I am providing you both notice that the proposed resolution will not be accepted. Aside from the fact that it is late, the capricious and ludicrous wording of the resolution and disrespect of a fellow councillor demonstrates it is intended to abuse and embarrass the Council and its processes. It will not be submitted or approved for submission by me absent a directive from the President.

If either of you, whichever of you are the initiator of this purported resolution, feel that President Gray has committed an ethical violation, you are reminded that Chapter 293 of the Revised Code provides a process for a fair and impartial determination of alleged ethical violations.

Editorials by the Indianapolis Star are not sufficient to undermine either the integrity of any of us as individuals and certainly not of the Council.

I am really sorry for you that you would involve a staff person, Angela Gonzalez, in defiance of the procedure for submitting proposals and wonder of your actual intent.

Aaron