



U.S. Department of Justice

Washington, D.C. 20530

Emory A. Rounds, III
Director
Office of Government Ethics
Suite 500
1201 New York Avenue, NW
Washington, DC 20005-3919

Dear Mr. Rounds:

In accordance with the provisions of Title I of the Ethics in Government Act of 1978 as amended, I am forwarding the financial disclosure report of Phillip Cole Finegan. President Biden has nominated Mr. Finegan to serve as the United States Attorney for the District of Colorado. We have conducted a thorough review of the nominee's report and have counseled him on the government ethics rules. The purpose of this letter is to describe the steps that Mr. Finegan will take to avoid any actual or apparent conflict of interest in the event that he is confirmed for the aforementioned position. Mr. Finegan understands that it is his responsibility to understand and comply with commitments outlined in this agreement.

We have conducted a thorough review of the enclosed report and have counseled Mr. Finegan on the ethics rules. Although it is not possible to provide for all of the specific circumstances which might give rise to a financial conflict of interest because the work of United States Attorneys involves a wide variety of matters involving specific parties, and it is not possible to predict where conflicts will arise until specific parties are identified, we have counseled Mr. Finegan on the applicable conflict of interest laws and regulations and, in particular, on the application of the criminal conflicts of interest law at 18 U.S.C. § 208.

SECTION 1 – GENERAL COMMITMENTS

As required by the criminal conflicts of interest law at 18 U.S.C. § 208(a), Mr. Finegan will not participate personally and substantially in any particular matter in which he knows that he has a financial interest directly and predictably affected by the matter, or in which he knows that a person whose interests are imputed to him has a financial interest directly and predictably affected by the particular matter, unless he first obtains a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualifies for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). He understands that the interests of the following persons are imputed to him:

- His spouse or any minor child of his;
- Any general partner of a partnership in which he is a limited or general partner;
- Any organization in which he serves as officer, director, trustee, general partner or

employee; and

- Any person or organization with which he is negotiating or has an arrangement concerning prospective employment.

In determining whether a particular matter has a direct and predictable effect on his financial interests or on those of any other person whose interests are imputed to him, Mr. Finegan will consult with the Executive Office for United States Attorneys (EOUSA), General Counsel's Office, and will follow the procedures outlined in the United States Attorneys' Procedures, (USAP) 3-2.170.001, et seq. As stated in the attachment to this Ethics Agreement, Mr. Finegan understands and agrees to comply with the conflict of interest laws and regulations, and to follow the procedures set forth in this agreement.

If Mr. Finegan has a managed account or otherwise uses the services of an investment professional during his appointment, he will ensure that the account manager or investment professional obtains his prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the regulatory exemption for diversified mutual funds and unit investment trusts at 5 C.F.R. § 2640.201(a), obligations of the United States, or municipal bonds.

Mr. Finegan will receive a live ethics briefing from the United States Attorney's Office ethics advisor in connection with his appointment to the position of United States Attorney for the District of Colorado after his confirmation but not later than 15 days after his appointment pursuant to the ethics program regulation at 5 C.F.R. § 2638.305. Within 90 days of his confirmation, Mr. Finegan will submit his Certification of Ethics Agreement Compliance to the EOUSA, General Counsel's Office, which documents his compliance with this ethics agreement.

Mr. Finegan understands that as an appointee he will be required to sign the Ethics Pledge (Exec. Order No. 13989) and that he will be bound by it. Among other obligations, he will be required to recuse from particular matters involving specific parties involving his former employer or former clients for a period of two years after he is appointed, with the exception of Federal, state and local government.

He will not modify this ethics agreement without my approval and the approval of the U.S. Office of Government Ethics pursuant to the ethics agreement requirements contained in the financial disclosure regulation at 5 C.F.R. § 2634.803(a)(4).

SECTION 2 – LAW FIRM

Upon confirmation, Mr. Finegan will resign from his position as partner with the law firm of Hogan Lovells US LLP. He has already received his bonus relating to 2020 performance; he will not receive any bonus relating to 2021 performance. Following his departure from the firm, a final contribution will be made to the Cash Balance Plan on Mr. Finegan's behalf using money deducted from funds that would otherwise be due to him. That contribution will be prorated based on his time with the firm, through the date of his resignation. The firm will then distribute Mr. Finegan's Cash Balance Plan balance to him; it will provide distribution paperwork within 30 days of Mr. Finegan's departure, and the distribution will be processed within 10 business days of his return of the executed forms. Pursuant to firm practice, following his resignation

from Hogan Lovells US LLP, Mr. Finegan also will receive a pro rata partnership share distribution based on the value of his partnership interests for services performed in 2021 through the date of his withdrawal. This payment will be calculated as of the date of his withdrawal, and will be based on estimated profits. Mr. Finegan also has a capital account with Hogan Lovell US LLP, which he has financed. Following his departure, the firm will refund the entirety of his capital account balance to the lending institution that financed his capital contribution. Hogan Lovells US LLP may withhold certain amounts from Mr. Finegan's partnership share distribution and capital account for account reconciliation and tax purposes. Any excess amounts withheld by the firm that end up not being used for account reconciliation and tax purposes will be refunded to Mr. Finegan no later than 18 months after his departure. Until he receives all amounts owed to him by the firm, Mr. Finegan will not participate personally and substantially in any particular matter that to his knowledge has a direct and predictable effect on the ability or willingness of the firm to pay amounts owed to him, unless he first obtains a written waiver, pursuant to 18 U.S.C. § 208(b)(1).

Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, for a period of one year after his resignation from Hogan Lovells US LLP, Mr. Finegan will not participate personally and substantially in any particular matter involving specific parties in which he knows the firm is a party or represents a party, unless he is first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d). In addition, he will not participate personally and substantially in any particular matter involving specific parties in which he knows a former client of his is a party or represents a party for a period of one year after he last provided service to that client, unless he is first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

SECTION 3 – OTHER RESIGNATIONS

Upon confirmation, Mr. Finegan will resign from his position with the Palace Lofts Condo Association. Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, for a period of one year after his resignation, he will not participate personally and substantially in any particular matter involving specific parties in which he knows Palace Lofts Condo Association is a party or represents a party, unless he is first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

SECTION 4 – TRUST

Ms. Finegan will retain his position as a trustee of a family trust. He will not receive any fees for the services that he provides as a trustee during his appointment to the position of United States Attorney. He will not participate personally and substantially in any particular matter that to his knowledge has a direct and predictable effect on the financial interests of the family trust, unless he first obtains a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualifies for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).

SECTION 5 – SPOUSE EMPLOYMENT

Mr. Finegan's spouse works intermittently as a consultant. For as long as his spouse continues to provide these services, he will not participate personally and substantially in any particular matter that to his knowledge has a direct and predictable effect on his spouse's compensation or

contracts, unless he first obtains a written waiver, pursuant 18 U.S.C § 208(b)(1). Pursuant to the impartiality regulation at 5 C.F.R. § 2635.502, he also will not participate personally and substantially in any particular matter involving specific parties in which he knows a client of his spouse is a party or represents a party, unless he is first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

SECTION 6 – SECURITIES

If Mr. Finegan relies on a *de minimis* exemption under 5 C.F.R. § 2640.202 with regard to any of his financial interests in securities, he will monitor the value of those interests. If the aggregate value of his interests affected by a particular matter increases and exceeds the *de minimis* threshold, he will not participate personally and substantially in any particular matter that to his knowledge has a direct and predictable effect on the interests, unless he first obtains a written waiver pursuant to 18 U.S.C. § 208(b)(1).

SECTION 7 – CONFLICTS OF INTEREST REVIEW AND COUNSELING

Mr. Finegan has been advised that the duties of the position of United States Attorney may involve particular confidential matters identified by the United States Attorney's Office (USAO) that may affect his financial interests. EOUSA has determined that it is not necessary at this time for Mr. Finegan to divest his financial interests because his recusal from particular matters in which these interests pose a conflict of interest will not substantially limit his ability to perform the essential duties of the position of United States Attorney. Immediately upon confirmation, EOUSA will prepare recusals for all particular matters in which Mr. Finegan will not be granted a waiver or will not qualify for a regulatory exemption.

The USAO has conducted a conflict review, and has found no additional conflicts of interest. Should additional conflicts arise, the USAO will seek the necessary waiver(s) or recusal(s) of the nominee immediately upon his confirmation. An appropriate screening mechanism will be identified and immediately upon appointment of the new United States Attorney, all necessary USAO personnel will be advised in writing of all matters in which the new United States Attorney may not participate. The notification will specifically list the matters and identify the Acting United States Attorney for those matters.

SECTION 8 – PUBLIC POSTING

Mr. Finegan has been advised that this ethics agreement and the Certification of Ethics Agreement Compliance will be posted publicly, consistent with the public information law at 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Based on the above agreements and counseling, I am satisfied that the enclosed report presents no conflicts of interest under applicable laws and regulations and that you may so certify to the Senate Judiciary Committee.

Sincerely,

ARTHUR
GARY

Digitally signed by
ARTHUR GARY
Date: 2021.10.18
15:32:07 -04'00'

Lee J. Lofthus
Assistant Attorney General
for Administration and
Designated Agency Ethics Official

Enclosure

NOMINEE STATEMENT

I have read the Ethics Agreement signed by Lee J. Lofthus, Assistant Attorney General for Administration and Designated Agency Ethics Official on 10-18-2021 and I agree to comply with the commitments outlined in this agreement. In addition, in the event that an actual or potential conflict of interest arises during my appointment, I will consult with the Executive Office for United States Attorneys (EOUSA), General Counsel's Office and take the measures necessary to resolve the conflict, such as recusal from the particular matter or divestiture of an asset. I will not modify this ethics agreement without your approval and the approval of the U.S. Office of Government Ethics pursuant to the ethics agreement requirements contained in the financial disclosure regulation at 5 C.F.R. § 2634.803(a)(4). I (including my spouse and dependent children if applicable) also will not repurchase any asset I was required to divest without my consultation with the EOUSA, General Counsel's Office and the U.S. Office of Government Ethics. Finally, I understand that as an appointee I will be required to sign the Ethics Pledge (Exec. Order No. 13989) and that I will be bound by it. Among other obligations, I will be required to recuse from particular matters involving specific parties involving my former employer or former clients for a period of two years after I am appointed, with the exception of Federal, state and local government.


Phillip Cole Finegan

Date: 10-18-2021