

IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD

IN THE MATTER OF:

Case No. 2012 IECDB 10

Bruce Rastetter, Member of the
Board of Regents

DISMISSAL ORDER

On this 23rd day of August, 2012, a complaint filed against Bruce Rastetter came before the Iowa Ethics and Campaign Disclosure Board. For the reasons that follow, the Ethics Board hereby dismisses the complaint.

BACKGROUND

Bruce Rastetter is the managing director of AgriSol Energy ("Agrisol"), which is a subsidiary of Summit Group. Mr. Rastetter is also a member of the Board of Regents.

Since 2008, AgriSol has been working on a potential project in Tanzania. The project would involve AgriSol farming thousands of acres of farmland in Tanzania using western-style methods. In 2009, AgriSol contacted Iowa State University's College of Agriculture and Life Sciences ("the college") and asked it to partner with the company on this project. Several of the college's professors and students worked on various aspects of this potential project and even travelled to Tanzania. The college on more than one occasion hosted Tanzanian officials who were interested in the project. AgriSol and the college determined the project needed an "outreach" component in order to be successful. AgriSol and the college discussed extensively the possibility that the college would oversee the "outreach" program, which would consist of providing social services (schools, health care) and teaching western-style farming techniques. AgriSol and the college also discussed AgriSol funding the outreach program for at least 5 years. AgriSol reimbursed the college for the professors' and students' travel expenses to Tanzania. Additionally, AgriSol agreed to establish a \$65,000 scholarship fund for the college instead of reimbursing the college for the professors' consulting work on the project.

In January 2011, Governor Branstad appointed Mr. Rastetter to the Board of Regents. Mr. Rastetter's term began on May 1, 2011. AgriSol and the college continued to discuss and work on the Tanzanian project. In May 2011, the college determined that due to Rastetter's service on the Board of Regents, the college would only serve in a limited advisory capacity for the project in

order to avoid the appearance or perception of a conflict of interest. About the same time, there began public criticism of the project, which was often described as a “land grab.” According to press reports, a tentative agreement between AgriSol and the Tanzanian Government gave AgriSol the option to rent up to 800,000 acres of farmland at 25 cents an acre. The Tanzanian government planned to remove and relocate the approximately 160,000 Burundian refugees currently living on part of the land. ISU and the college received public pressure to pull out of the project. In February 2012, the dean of the college informed AgriSol that the college would no longer serve in an advisory capacity on the Tanzanian project.

In April 2011, Mr. Rastetter filed a personal financial disclosure statement with the Ethics Board and identified his business, occupation or profession as “Farming-Self Employed” and listed “Investment Income” in response to a question asking for income sources of more than \$1,000. Recently, Mr. Rastetter filed an amended personal financial disclosure statement that provided additional detail.

On June 19, 2012, Iowa Citizens for Community Improvement filed a complaint with the Ethics Board alleging Mr. Rastetter violated Iowa Code section 68B.2A by continuing to work on the Tanzanian project with the college after his term on the Board of Regents began. The complaint also alleged Mr. Rastetter violated 68B.35 by filing a “fraudulent” personal financial disclosure statement.

ANALYSIS

The Ethics Board must first determine whether the complaint is legally sufficient. A legally sufficient complaint must allege all of the following:

- a. Facts that would establish a violation of a provision of chapter 68A, chapter 68B, section 8.7, or rules adopted by the Ethics Board.
- b. Facts that would establish that the conduct providing the basis for the complaint occurred within three years of the complaint.
- c. Facts that would establish that the subject of the complaint is a party subject to the jurisdiction of the board.

Iowa Code § 68B.32B(4). If the Ethics Board determines the complaint is legally sufficient, it shall order an investigation. *Id.* § 68B.32B(6). If the Ethics Board determines none of the allegations contained in the complaint are legally sufficient, the complaint shall be dismissed. *Id.*

The complaint alleges conduct that occurred within the past three years. Mr. Rastetter is subject to the Ethics Board's jurisdiction as an official in the executive branch of state government. *Id.* § 68B.32(1). The only remaining question is whether the complaint alleges facts that would establish a violation of chapter 68B.

Count 1: Alleged conflict of interest

Iowa Code section 68B.2A prohibits government officials and employees from engaging in certain conflicts of interest. It states that a government official who has an outside employment or activity that is subject to the official control, inspection, review, audit, or enforcement authority of the official, during the official's duties of office, has two options to avoid an impermissible conflict. The official shall either:

- a. Cease the outside employment or activity.

OR

- b. Publicly disclose the existence of the conflict and refrain from taking any official action or performing any official duty that would detrimentally affect or create a benefit for the outside employment or activity. For purposes of this paragraph, "official action" or "official duty" includes but is not limited to participating in any vote, taking affirmative action to influence any vote, granting any license or permit, determining the facts or law in a contested case or rulemaking proceeding, conducting any inspection, or providing any other official service or thing that is not available generally to members of the public in order to further the interests of the outside employment or activity.

Id. § 68B.2A(2).

On June 17, 2011, Mr. Rastetter filed a "Conflict of Interest Disclosure Form" with the Board of Regents that disclosed his interest in AgriSol and the fact the college was working with the company on the Tanzanian project. The complaint does not allege Mr. Rastetter took any official action or performed any official duty that would detrimentally affect or create a benefit for AgriSol. It does not appear the Tanzanian project ever came before the Board of Regents. Because Mr. Rastetter publicly disclosed the existence of the conflict and did not take any official action or perform any official duty with respect to

the project, the Board finds the first count of the complaint is not legally sufficient.

Count 2: Alleged fraudulent personal financial disclosure report

Iowa Code section 68B.35 requires certain government officials, including members of the Board of Regents, to file annual personal financial disclosure reports that contain:

- a. A list of each business, occupation, or profession in which the person is engaged and the nature of that business, occupation, or profession, unless already apparent.
- b. A list of any other sources of income if the source produces more than one thousand dollars annually in gross income.

Iowa Administrative Rule 7.5(3) states “it shall be considered a violation of Iowa Code section 68B.35 for an individual holding a designated position in the executive branch to file a disclosure statement containing false or fraudulent information.” Mr. Rastetter’s initial personal financial disclosure report listed his business, occupation or profession as “Farming, Self Employed.” In his amended statement, he added that he is the CEO of Summit Farms, “a diversified farming operation,” and the CEO of Summit Group, an “umbrella organization for several agribusiness activities/projects including Agrisol Energy and American Heartland Development.” Mr. Rastetter’s initial statement, while true, did not adequately identify all of his businesses. Nevertheless, the statement has been amended to provide additional information. Moreover, Mr. Rastetter’s business activities are well known and well publicized, including on the Board of Regents’ website. Because Mr. Rastetter’s initial personal financial disclosure report, while incomplete, did not contain false or fraudulent information and because the Ethics Board is satisfied with Mr. Rastetter’s amended statement, the Ethics Board finds the second count of the complaint is not legally sufficient.

SUMMARY

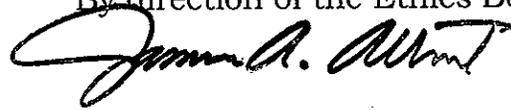
The Ethics Board finds the complaint is not legally sufficient and hereby dismisses the complaint in its entirety.

OTHER ISSUES RAISED

The Ethics Board notes that the Governor has the authority to appoint the people of his choosing, subject to Senate confirmation, to the Board of

Regents. The Ethics Board does not have the authority to review Governor appointees' qualifications or to remove Governor appointees from their positions. Moreover, the Ethics Board does not have jurisdiction to review the propriety of the tentative agreement between AgriSol and the Tanzanian government or the propriety of the college's involvement in the Tanzanian project. Finally, the Ethics Board does not have the authority to review the Tanzanian government's decision to require Burundian refugees to relocate in return for Tanzanian citizenship, a decision that has been approved by the United Nations.

By direction of the Ethics Board



James Albert, Chair
John Walsh, Vice Chair
Saima Zafar
Carole Tillotson
Jonathan Roos
Mary Rueter