

**Anne Levy**

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**From:** Greenfield, Marc <Marc.Greenfield@treas.nj.gov>  
**Sent:** Friday, August 08, 2014 12:00 PM  
**To:** GIBBYCLERK@COMCAST.NET  
**Cc:** Fraud and Abuse Unit, Pension  
**Subject:** chapter 92 compliance Wigginton 2-1068567  
**Attachments:** EMPLOYER CHECKLIST.pdf; 20 Factors Employer.doc

MS. Levy,

Please complete the attached Employee/Independent Contractor checklist and 20 PT Factor Questionnaire as soon as possible, or by August 15, 2014 latest, in a reply to this email. Also, if there are Professional Services Contract's, please provide copies, and RFQ's as well. Please provide the Ordinances that establish the criteria for the Public Defender's position. Please include any correspondence between the Gibbsboro Borough and Mr. Wigginton.

This document should be completed by the Certifying Officer and or the Supervising Certifying Officer only. Should you seek counsel, please make sure that advice comes from a source independent from the subject of this communication.

In addition, please provide a copy of ALL Council meetings/ Resolutions that appoint Mr. Wigginton from 2008-2014.

Thank you for your time and cooperation.

Respectfully,

Marc Greenfield  
Pension Fraud and Abuse Unit  
609-633-7298 P  
609-777-0404 F

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State of New Jersey  
DEPARTMENT OF THE TREASURY  
DIVISION OF PENSIONS AND BENEFITS  
(609) 292-7524 TDD (609) 292-7718  
www.state.nj.us/treasury/pensions

MAILING ADDRESS:  
PO Box 295  
TRENTON, NJ 08625-0295

LOCATION:  
50 WEST STATE STREET  
TRENTON, NEW JERSEY

ANDREW P. SIDAMON-ERISTOFF  
*State Treasurer*

FLORENCE J. SHEPARD  
*Acting Director*

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

August 13, 2014

GIBBSBORO BOROUGH  
ATTN: ANNE D LEVY  
49 KIRKWOOD RD  
GIBBSBORO, NJ 08026

RECEIVED  
AUG 18 2014  
BOROUGH OF GIBBSBORO

Re: #02-887387  
Timothy Higgins

Dear Ms. Levy:

In July of 2012 the State of New Jersey Office of the State Comptroller (OSC) released a report entitled "Improper Participation by Professional Service Providers in the State Pension System." The report identified numerous local government entities that failed to comply with the 2007 legislative effort to remove inappropriately enrolled professional service providers from the State-administered retirement systems. State lawmakers enacted N.J.S.A. 43:15A-7.2<sup>1</sup>, which was intended to curtail the participation of professional service providers such as attorneys, engineers, auditors and health care providers in the New Jersey Public Employees' Retirement System (PERS) or the Defined Contribution Retirement Program (DCRP). This statute establishes that professional service providers retained by government entities pursuant to a professional services agreement (PSA) or otherwise acting as independent contractors are ineligible to participate in the PERS or the DCRP after the expiration date of their existing contract or annual appointment.<sup>2</sup>

The resulting OSC review has prompted the Division of Pensions and Benefits (Division) to undertake an investigation into the membership eligibility of those PERS and DCRP members identified as professional services providers. One such member, Mr. Higgins, has provided services to your location. The Division initially requested that your location complete an Employer/Independent Contractor Checklist relative to the aforementioned individual's services. The Division now requires additional information from you.

<sup>1</sup> Chapter 92, P.L. of 2007

<sup>2</sup> The expiration date will generally be December 31, 2007, but in no case later than June 30, 2008.

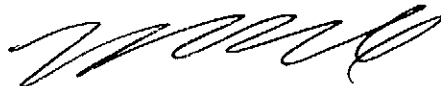
The Division has adopted the 20-factors the Internal Revenue Service uses to aid in the determination of employee/independent contractor status. The attached questionnaire is used by the Division to capture the components of these 20-factors, and is utilized to make determinations of a professional's status. In order to further the Division's investigation, it requires that you complete the enclosed questionnaire relative to the individual's services to your location. It also **requires** the production of the following records and documents as set forth below:

- All contracts and or agreements, including addendums and sidebar agreements executed between the location and the individual, either individually or as a member of an entity such as a law firm, for all periods commencing from January 1, 2007 to the present.
- Salary ordinances identifying the positions held by the individual for the period January 1, 2007 to the present.
- Attendance schedules/logs, or other form of documentation where, for the period commencing January 1, 2007 to the present, the function of the individual is captured. For the period January 1, 2007 to the present, please provide a list of those individuals providing substitute service and the date of those services.
- All meeting minutes, including closed session meeting minutes, where discussions of the appointment and/or enrollment in the Public Employees' Retirement System (PERS) of the subject individual is memorialized.
- All meeting minutes, including closed session meeting minutes, discussing the appointment, hiring, or contract with any firm the member works for or has interest in.
- Copies of all Federal Forms 1099, issued to subject individual or to any firm or entity in which subject has an interest from 2007 to the present.
- All RFPs or RFQs for the position the member has held for your location, and responses from the member covering the period 2007 to the present.
- Liability Insurance Coverage for the position the member holds at your location for all periods January 1, 2007 to present.
- Completion of the enclosed Employment Verification Form (EVF).
- Copies of cancelled checks front and back for a one year period of time.

Please keep in mind these are fact sensitive determinations, and the documentation should be completed with the knowledge of your own office, not by consulting with the subject of this letter, or anyone who may be the subject of a Chapter 92, P.L. 2007 inquiry, if you need assistance, please seek the advice of an independent third party.

Please submit the aforementioned documentation and information to my attention at the address noted on this letterhead no later than September 3, 2014. If you have any questions relation to this inquiry, I can be reached at 609-292-2623, my fax number is 609-777-0404 and my email address is Kristin.Bell@treas.nj.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kristin Bell', written in a cursive style.

Kristin Bell  
Pension Fraud and Abuse Unit

Enclosures