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Executive Council of Iowa

CAPITOL BUILDING
DES MOINES, IOWA 50319
PHONE: 515 281-5368
FAX: 515 281-7562

August 7, 2023

Mr. Sam Langholz
Chief Deputy Attorney General
Attorney General's Office
Hoover Bldg.
LOCAL

Dear Mr. Langholz:

The Executive Council, in a meeting held this date, approved your requests for retention of special counsel pursuant to Iowa Code section 13.7 7 to provide specialized legal services and representation to the State of Iowa with respect to an investigation into and possible litigation of certain deceptive business practices of TikTok, including its potential negligent, deceptive, or otherwise unlawful provision of products and services to minors.

Firm: Cooper & Kirk, PLLC
1523 New Hampshire Ave NW
Washington, DC 20036
Rate: Contingent-fee basis

If you have any questions on the matter, please advise.

Sincerely,

Victoria Newton

Victoria Newton
Executive Secretary

BRENNA BIRD
ATTORNEY GENERAL

SAMUEL P. LANGHOLZ
CHIEF DEPUTY ATTORNEY GENERAL



1305 E. WALNUT ST.
DES MOINES, IA 50319
Main: 515-281-5164 • Direct: 515-281-8583
Email: sam.langholz@ag.iowa.gov
www.iowaattorneygeneral.gov

IOWA DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

August 1, 2023

Victoria Newton
Executive Secretary
Executive Council
State Capitol
LOCAL

Re: Retention of Special Counsel

Dear Ms. Newton:

Our Office requests authorization pursuant to Iowa Code section 13.7 to retain the law firm of Cooper & Kirk, PLLC as “Special Counsel” to provide specialized legal services and representation to the State of Iowa with respect to an investigation into and possible litigation of certain deceptive business practices of TikTok, including its potential negligent, deceptive, or otherwise unlawful provision of products and services to minors. We also recommend pursuant to Iowa Code section 23B that the law firm be retained on a contingent-fee basis.

Iowa is part of a nationwide, multistate investigation into TikTok that is investigating TikTok for providing and promoting its social media platform to children and young adults in a manner allegedly resulting in physical and mental health harms to minors. Attorneys General nationwide are examining whether TikTok violated state consumer protection laws that put the public, and especially minors, at risk. The investigation has focused on the harm social media usage causes to young users, what TikTok knows about those harms, the techniques used by TikTok to boost young user engagement—including increasing the duration of time spent on the platform—and the frequency of engagement with TikTok.

Because of the nature of the alleged misconduct, the magnitude of the recovery effort, and the anticipated aggressive defense by the Defendants, the Attorney General has determined that it is necessary and appropriate to retain private Special Counsel to assist her Office in the representation of the State of Iowa to continue such investigation and pursue potential litigation and recovery on a contingency fee basis.

The investigation and potential litigation of this matter will involve novel claims that have not been litigated to judgment in any court. It will be time- and labor-intensive, including, but not limited to extensive motions practice, including on complex constitutional questions, federal preemption issues, and other issues of first impression; extensive, time-consuming discovery of multiple corporate entities, including a significant volume of Chinese language material, numerous depositions and potentially extensive motion practice to ensure compliance with the state's discovery requests.

Given the factual and legal complexities as well as the scope and significance of the cases, these matters will be difficult to litigate and will require counsel with a full range of trial- and appellate-level experience litigating complex matters involving both state and federal law. Many of the issues are novel, which further increases the difficulty of the litigation. The Attorney General desires private Special Counsel with extensive experience litigating comparably complex litigation. The Attorney General prefers experience litigating similar claims in a similar factual setting if possible.

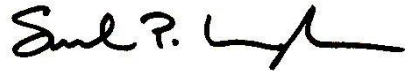
Cooper & Kirk has experience litigating complex cases across a range of subject areas and has litigated the many legal issues raised by TikTok in several different contexts. Moreover, Cooper & Kirk is uniquely qualified to represent Iowa in this matter because it is engaged in ongoing litigation pursuing similar legal theories against the same Defendants for five other states. In two states, Indiana and Arkansas, active litigation is underway. Cooper & Kirk was instrumental in developing those States' legal theories (consumer fraud arising from TikTok's representations about its content or about the privacy of user data), and we are aware of no other private counsel currently possessing the same or similar experience.

In the Indiana and Arkansas cases, Cooper & Kirk has faced all the legal defenses Defendants are likely to raise. Cooper & Kirk is also familiar with the factual circumstances of these cases, not only through the Indiana and Arkansas cases but from ongoing civil investigations that Cooper & Kirk is conducting as private counsel for several other state attorneys general. Cooper & Kirk can also review the many documents that will be produced in Chinese.

This office has determined that this proposed contingent representation is both cost effective and in the public interest. For the reasons outlined above, this matter will require substantial time and effort, and this office lacks sufficient resources – both in staffing and funding – to dedicate to this type of representation; the matter is both novel and complex, and Cooper & Kirk has significant specialized experience with this area of law and similar investigations and litigations on behalf of other states. We have also determined that a procurement process is not feasible under these unique circumstances.

We therefore recommend approval of the law firm Cooper & Kirk, PLLC as Special Counsel. The engagement will be governed by a separate contingent fee agreement between this office and Cooper & Kirk, which shall comply with the requirements of Iowa Code section 23B.3.

Sincere regards,

A handwritten signature in black ink, appearing to read "Samuel P. Langholz". The signature is fluid and cursive, with a prominent initial "S" and a long, sweeping horizontal stroke at the end.

Samuel P. Langholz
Chief Deputy Attorney General