

Akin Gump

STRAUSS HAUER & FELD LLP

ABID QURESHI

+1 212.872.8027/fax: +1 212.872.1002

aqureshi@akingump.com

October 12, 2021

The Honorable Alan M. Koschik
John F. Seiberling Federal Building & U.S.
Courthouse
2 South Main Street
Akron, Ohio 44308

Re: *In re Pleasants Corp., et al.*, Case No. 18-50763, Cases Jointly Administered
Under Case No. 18-50757 (AMK)

Dear Judge Koschik:

We write in connection with the final fee application of Akin Gump Strauss Hauer & Feld LLP (“Akin Gump”) filed in connection with the above-referenced matter [ECF No. 4291]. On November 24, 2020, the Court ordered four Akin Gump policy professionals to provide verified declarations in support of the firm’s fee application. The declarations, which accompany this letter, address the questions in the Court’s November 24 order and provide further detail about the year and a half of work the professionals did on behalf of FirstEnergy Solutions, Inc. (“FES”) in connection with the legislation that became House Bill 6. This letter provides additional information about the firm’s knowledge related to FES-authorized contributions to Generation Now.

During the July 13, 2021 hearing, the Court invited Akin Gump to share whether any circumstance of the House Bill 6 matter impacts the firm’s pending fee application. Akin Gump has carefully reviewed the matter, including public materials such as the FirstEnergy Corp. Deferred Prosecution Agreement, and the firm is not aware of any evidence that its attorneys and professionals knew of any illegal activity, including by anyone at its client FES, in connection with House Bill 6. Accordingly, Akin Gump is not aware of anything that would lead the firm to revise its pending fee application.

* * * * *

As outlined in the declarations, FES made two contributions totaling \$500,000.00 to Generation Now in October 2018, as part of a bipartisan political contribution strategy. In addition to the policy professionals who advised FES on that strategy, Akin Gump restructuring lawyers provided restructuring-related advice regarding the expenditures. Several months later,

The Honorable Alan M. Koschik
October 12, 2021
Page 2

in April 2019, FES' restructuring advisors forwarded to an Akin Gump restructuring attorney and others outside of Akin Gump a proposal from Generation Now to spend \$15–\$16 million on House Bill 6–related advertising and other voter-education efforts in support of House Bill 6's passage.

Akin Gump restructuring and corporate lawyers, along with the debtors' other restructuring and financial advisors, routinely attended board meetings of debtor entities during the pendency of the chapter 11 proceedings. As such, several Akin Gump restructuring and corporate lawyers, as well as FES' restructuring and financial advisors, attended a May 28, 2019 meeting of the FES board of directors, where they updated the board on bankruptcy- and union-related issues. During that meeting, the board adopted a resolution, which Akin Gump corporate attorneys had drafted, authorizing expenditures of up to \$15 million to Generation Now to fund Generation Now's voter-education efforts. The restructuring and corporate lawyers do not know how much of the authorized budget was ultimately contributed to Generation Now or when such contributions were made; nor were they aware of how specifically those funds were used by Generation Now, although they also have no reason to believe those funds were used in a manner inconsistent with the April 2019 Generation Now proposal referenced above. The Akin Gump policy professionals were not specifically aware of the \$15 million authorization described above, and they did not advise on the authorization. Some of them were aware that FES' media and voter-education efforts in support of House Bill 6 had been transitioned from another firm to Generation Now and that monies were being spent on those efforts.

Additionally, several Akin Gump restructuring and corporate lawyers attended an August 7, 2019 FES board meeting during which the board adopted a resolution, which Akin Gump corporate attorneys had drafted, authorizing expenditures of up to \$25 million to educate Ohio voters on issues related to House Bill 6, in response to an effort by those opposed to House Bill 6 to bring it up for referendum after it had been enacted into law. Later that same day, several Akin Gump restructuring and corporate lawyers were present at a meeting attended by FES management, FES' restructuring advisors, FES creditors, and the creditors' advisors and lawyers, in which discussions about the proposed expenditures, their purpose, and that they would be paid through Generation Now took place. The Akin Gump restructuring and corporate lawyers do not recall being aware of how much of the expenditures authorized at the August 7 board meeting FES spent, or where or when it spent those funds, although they also have no reason to believe those funds were spent in a manner inconsistent with the board approval and the discussion with creditors and their advisors described above. The Akin Gump policy professionals were not specifically aware of the \$25 million authorization described above, and they did not advise on the authorization. Some of them did come to be aware that Generation Now and/or FES were

The Honorable Alan M. Koschik
October 12, 2021
Page 3

engaged in anti-referendum efforts in support of House Bill 6 and that monies were being spent on those efforts.

While Akin Gump restructuring lawyers advised FES on restructuring issues related to FES' proposed expenditures to Generation Now pursuant to board resolutions in May and August 2019, and Akin Gump corporate lawyers drafted the board resolutions, they were not asked to advise—and did not advise—on matters outside of restructuring and corporate issues in connection with the Generation Now expenditures in the spring and summer of 2019. In that context, they did not have or raise any concerns with FES about the proposed expenditures.

Akin Gump policy professionals did not attend the above-referenced May or August 2019 board meetings and did not advise on the Generation Now authorizations discussed at those meetings. As noted above, policy professionals became aware that the media strategy in support of House Bill 6 had been transitioned from another political consulting firm to Generation Now, and, albeit after their FES work had diminished, that FES and Generation Now were engaged in anti-referendum efforts.

* * * * *

Akin Gump remains ready to address any questions the Court may have about this matter.

Respectfully submitted,



Abid Qureshi

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

In Re:	§	
	§	Case No. 18-50763 (AMK);
PLEASANTS CORP., <i>et al.</i> ,	§	Cases Jointly Administered Under
	§	Case No. 18-50757 (AMK)
	§	
	§	Chapter 11
Debtors,	§	
	§	Judge Alan M. Koschik
	§	

**VERIFIED SUPPLEMENTAL DECLARATION OF GEOFFREY K. VERHOFF
IN SUPPORT OF THE SIXTH INTERIM AND FINAL APPLICATION OF
AKIN GUMP STRAUSS HAUER & FELD LLP**

Geoffrey K. Verhoff, pursuant to 28 U.S.C. § 1746, declares and says:

1. I, Geoffrey K. Verhoff, respectfully submit this verified supplemental declaration (the "Declaration") in accordance with the Court's November 24, 2020 order (the "Order") and in response to the questions posed by the Court. I base this Declaration on my personal knowledge.

2. I am over the age of eighteen (18), of sound mind, have not been convicted of a crime of moral turpitude, and am otherwise fully qualified to make this Declaration. All statements of fact contained herein are true and correct and based upon my personal knowledge.

3. I was born and raised in Columbus, Ohio. I moved to Wilmington, Delaware in 1995 where I completed my high school education. I attended Catholic University where I received a Bachelor of Arts Degree in Politics in 2003. I attended George Mason University where I received a Master's Degree in Public Policy in 2007.

4. I joined Akin Gump Strauss Hauer & Feld LLP ("Akin Gump" or the "Firm") in 2005 while earning my master's degree and have been employed by the Firm ever since. I am currently a Senior Policy Advisor in the Firm's Washington, D.C. office in the Public Law and

Policy Group (the "PLP Group"). My practice focuses on advising clients on a wide range of policy matters at the federal, state, and international levels.

5. The PLP Group, which is consistently ranked as one of the top government relations practices in Washington, D.C., consists of approximately 75 professionals. The PLP Group performs a variety of tasks for clients, including developing comprehensive strategic and tactical plans to achieve legislative, policy, or regulatory objectives; organizing and managing lobbying and public affairs matters for business and industry coalitions; drafting, analyzing, and monitoring legislation; direct advocacy with government officials; preparing for legislative hearings and testimony; advising on media strategy; and advising on political contributions (typically on a bipartisan basis).

6. In my experience, corporate contributions to issues-based nonprofit organizations (commonly referred to as 501(c)(4) organizations) are commonplace and elected officials at both the federal and state level regularly have affiliations with such organizations. These 501(c)(4) organizations often engage in advocacy relating to issues being considered by legislative bodies. By way of further example, corporate contributions to political committees (commonly referred to as "527 groups") and legislative campaign committees are also commonplace in my experience.

7. Akin Gump was retained as bankruptcy counsel to FirstEnergy Solutions Corp. ("FES") and its affiliated debtors and debtors-in-possession. In addition to the bankruptcy work for FES, Akin Gump provided public policy advice to FES on a range of issues, including developing an approach for communicating the bankruptcy and the decision to shut down FES' struggling nuclear power plants in Ohio and Pennsylvania to federal and state officials, and pursuing potential legislative and regulatory solutions to keep those power plants online. The members of the PLP Group working on the FES matter (the "PLP Team") were bipartisan, as is often the case for PLP Group teams working on behalf of their clients. The PLP Team was

assisted by Akin Gump attorneys from other groups with expertise in energy matters.

8. The PLP Team pursued both federal and state legislative and regulatory solutions regarding the Ohio and Pennsylvania nuclear plants. While the PLP Group generally, and the PLP Team specifically, has extensive experience in federal legislative and regulatory matters, we do not routinely lobby state governments without local advisors. Accordingly, the PLP Team worked with other Ohio-based (and Pennsylvania-based) legislative consultants who had greater experience and expertise in state government relations and lobbying.

9. Working with FES' government affairs team, the PLP Team and FES' state-based consultants developed a plan to achieve a legislative solution in both Ohio and Pennsylvania. The PLP Team provided advice on all facets of the proposed legislative effort including the drafting and introduction of the legislation, the messaging to the public and lawmakers on the merits of the legislation, and the engagement with technical experts and consultants. From a lobbying perspective, an important component of that plan was to establish for FES an independent voice and identity that was distinct from FES' corporate parent, FirstEnergy Corp. Another component was to establish relationships on a bipartisan basis with key lawmakers.

10. In connection with the general election for the Ohio legislature, the election for the Governorship, and the elections for the Speakership of the Ohio House of Representatives in 2018 and 2019, the PLP Team as well as other Ohio-based consultants advised FES regarding a possible legislative solution in Ohio, including bipartisan relationship building, messaging, advocacy, and bipartisan political contributions to promote FES' business objectives and consistent with applicable law.

11. I knew of Juan Cespedes through a family member, and I first met Mr. Cespedes in early 2017 before my work for FES began. I knew Mr. Cespedes was a lobbyist in Columbus, Ohio with the Oxley Group and a member of the Ohio Civil Rights Commission. He was also very knowledgeable about Ohio politics. When FES was seeking lobbyists to assist them in Ohio

in 2018, I introduced Mr. Cespedes to the Akin Gump PLP Team and FES. Mr. Cespedes had not done any work for FirstEnergy Corp. and thus we thought he was a good fit for FES.

12. At the outset of the engagement, Mr. Cespedes was hired to assist in building a team of Ohio-based lobbyists, to gather intelligence, and to begin to differentiate FES from the parent in lobbying matters. Over time, Mr. Cespedes began to play a greater role for FES. After the election, he devoted substantial time to working directly with FES in connection with the passage of House Bill 6. During the period between the engagement of Mr. Cespedes until House Bill 6 was signed into law by the Governor, I had almost daily contact with Mr. Cespedes and we developed a friendship during the engagement. While I had regular contact with Mr. Cespedes, I was unaware of the alleged payments that he received from Generation Now that are set forth in the criminal indictment against him. I was also unaware of any illegal activity in connection with House Bill 6. I was saddened to learn of Mr. Cespedes' indictment. I have not had any contact with Mr. Cespedes since his indictment.

13. With regard to my role with respect to the Ohio House vote on House Bill 6 in April 2019 and the Senate vote on House Bill 6 in July 2019, I, along with the rest of the PLP Team, prepared and reviewed various advocacy pieces for legislators and the public and provided advice to FES and to the Ohio-based consultants on messaging, advocacy, and lobbying. There was strenuous opposition to House Bill 6. Accordingly, the PLP Team, FES, and its Ohio-based consultants had almost daily calls to discuss how to respond to the opposition. During the referendum to repeal House Bill 6, FES' level of engagement of the Akin Gump PLP Team became much more limited.

14. I did not advise FES or the other Debtors on the \$1,879,457.00 transfer to Generation Now on July 5, 2019, and do not have any personal knowledge of that transfer. Nor am I aware if any other Akin Gump professional was aware of the transfer. I only knew of two contributions made by FES to Generation Now: in October 2018 for \$400,000 and \$100,000. I

became aware of Generation Now around September 2018. I understood that Generation Now was a 501(c)(4) non-profit organization in Ohio that focused on energy independence and economic development opportunities and that Representative Larry Householder was associated with Generation Now. In my experience, such association by elected officials with 501(c)(4) issue advocacy groups are commonplace. As noted earlier, in the fall of 2018, I, along with others on the PLP Team, provided advice relating to bipartisan political contributions by FES to Generation Now, the Republican Governors Association, the Democratic Governors Association, the Ohio Senate Campaign Committee, and other 501(c)(4) organizations. Based on our research and experience, the contributions FES made were on par with the contributions made by other companies, including in connection with the 2018 election cycle. During that time, I also attended meetings in Columbus, Ohio with representatives of some of these organizations, including Generation Now. Similar meetings are common at the federal level in my experience. I did not observe anything improper at these meetings.

15. I have submitted this verified supplemental declaration for the purpose of responding to the specific questions in the Court's Order. If the Court has any further questions for me, I am prepared to respond as requested.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 1/22/21
Falls Church, VA



Geoffrey K. Verhoff

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

In Re: PLEASANTS CORP., et al., Debtors.	§ § § § § § § §	Case No. 18-50763 (AMK); Cases Jointly Administered Under Case No. 18-50757 (AMK) Chapter 11 Judge Alan M. Koschik
---	--------------------------------------	---

**DECLARATION OF HENRY A. TERHUNE IN RESPONSE TO ORDER
AND IN SUPPORT OF THE SIXTH INTERIM AND FINAL
APPLICATION OF AKIN GUMP STRAUSS HAUER & FELD LLP**

Pursuant to 28 U.S.C. § 1746, Henry A. Terhune declares as follows:

1. This Declaration is submitted by Henry A. Terhune in response to the Court’s November 24, 2020 Order Directing Certain of the Debtors’ Professionals to Make Sworn Statements in Support of the Sixth Interim and Final Application of Akin Gump Strauss Hauer & Feld LLP (“Akin Gump”) (Docket No. 4281).

2. I am over the age of eighteen (18), of sound mind, have not been convicted of a crime of moral turpitude, and am otherwise fully qualified to make this Declaration. All statements of fact contained herein are true and correct and based upon my personal knowledge and best recollection.

3. I am a partner at Akin Gump Strauss Hauer & Feld LLP and a member of the firm’s Public Law and Policy (“PLP”) group. I have reviewed the Court’s November 24, 2020 order requiring that I, along with other PLP professionals, supply a verified supplemental declaration addressing the PLP team’s work on behalf of FirstEnergy Solutions Corp. (“FES”) and its debtors

and debtors-in-possession. I understand that questions “a,” “b,” “c,” “f,” “g,” “j,” and “k” are directed to me, and I answer them below.

1. I have been in the PLP group for over 30 years, joining the group, and the firm, in 1987. Prior to working at Akin Gump, I was a staff member in the United States House of Representatives. I graduated from The George Washington University Law School in 1986.

2. I advise clients on matters of public policy. I have particular expertise in matters of energy and environmental policy. In this role, I prepare advocacy materials, including draft legislation, talking points, testimony, and draft statements for policymakers; and I engage directly with executive and legislative decisionmakers at the federal level. We often work with other policy professionals such as media relations firms, grassroots advocates, and local consultants where there are issues of state or local interest.

3. My work for FES began in early 2018. FES hired Akin Gump’s PLP team to communicate relevant information regarding the bankruptcy to federal and state officials and to advocate in favor of legislation or other government action to assist FES. FES’s ability to continue its nuclear energy business operations would be facilitated if it, or the nuclear power sector generally, received support from the federal or state governments. On the FES team, I had significant responsibility for efforts at the federal level, involving the Department of Energy, the Federal Energy Regulatory Commission, and Congress, as the U.S. Government was considering significant proposals to assist the nuclear power sector. These federal efforts ultimately were unsuccessful. Over time, it became clear that policy solutions at the state level provided the greatest potential to provide support for FES’s nuclear energy business.

4. Because Akin Gump primarily lobbies at the federal level, state-level legislative consultants in Ohio and Pennsylvania were hired to ensure FES had access to state-level

lobbying and policy expertise. One of the local consultants that we worked with in Ohio was Juan Cespedes of the Oxley Group.

Question c:

*Describe the nature of your interactions
and relationship with Juan Cespedes and the Oxley Group*

5. My recollection is that initially, Mr. Cespedes worked with Akin Gump to provide information about the political landscape in Ohio. Mr. Cespedes would provide updates as to what was occurring in Ohio, communicate relevant information regarding FES' bankruptcy and future business plans, and work to establish FES as an independent entity with key policy makers in Ohio. Over time, Mr. Cespedes became FES's principal state lobbyist in Ohio. In that role, Mr. Cespedes would communicate and meet with Ohio officials on FES' behalf, help develop a legislative approach based on those interactions and other input, and supply information to FES, the Akin Gump team, and FES' other outside consultants about what was going on at the state level.

6. From my recollection, between the point when Mr. Cespedes was retained in early 2018 and the passage of House Bill 6 in the summer of 2019, Akin Gump's PLP team had regular communications with Mr. Cespedes, often on calls with FES and FES' other consultants. I also recall that I participated in at least two in-person meetings with Mr. Cespedes, along with other members of the Akin Gump PLP team and FES, during which we discussed possible policy solutions to providing assistance to FES' struggling nuclear plants.

7. Akin Gump's policy work for FES in Ohio significantly diminished after House Bill 6's enactment, and I do not recall having regular interactions with Mr. Cespedes after the bill's passage. I was not aware of any illegal activity by Mr. Cespedes or others in connection the work on behalf of FES.

Questions a and b:

***Describe your role in the 2018 and 2019 contests
for the speakership of the Ohio House of Representatives;***

Describe your role in the 2018 general elections for the Ohio legislature

8. Regarding the 2018 general elections for the Ohio legislature or the 2018 and 2019 contests for the speakership of the Ohio House of Representatives, the Akin Gump PLP team monitored and discussed both elections both internally and with FES and its outside consultants, as the outcomes of the elections would inform our guidance and strategy.

9. I have some recollection that members of the Akin Gump PLP team, FES, and FES' other consultants discussed and developed a contribution strategy that involved donations to both parties, or entities related to both parties, in connection with the 2018 Ohio elections, but I do not recall being significantly involved in those conversations.

Questions f and g:

Describe your role in the Ohio House vote on HB 6 in April 2019;

Describe your role in the Ohio Senate vote on HB 6 in July 2019

10. My role in connection with the Ohio House's and Senate's consideration of House Bill 6 involved the same tasks PLP group members regularly undertake for clients where legislation is relevant to them, which include: developing and coordinating overall strategy, preparing advocacy materials, such as principles for potential legislation, fact sheets, talking points, and drafting witness testimony. My contributions generally involved these activities based on my years of experience in the energy sector. We would coordinate these efforts with FES' other outside consultants, including the company's on-the-ground lobbyists in Columbus, media team, and public affairs professionals.

Questions j and k:


Did you or any other Akin Gump professional advise the Debtors with respect to the \$1,879,457.00 electronic transfer to General Now on July 5, 2019, as disclosed in the Debtors' operating report for July 2019 (Docket No. 3139), or regarding any other transfer to or for the benefit of Generation Now?;

Were the Akin Gump Ohio statehouse team members aware of the existence of Generation Now at any time before February 27, 2020 (the Effective Date of the Debtor's Plan of Reorganization) and did they advise the Debtors with respect to any interaction with Generation Now during that time period?

11. I have no recollection of a \$1,879,457.00 electronic transfer to Generation Now on July 5, 2019. I did not advise FES or the other Debtors, as that term is used in the Court's order, with respect to that transfer, nor do I have knowledge if any other Akin Gump professional advising FES or the other Debtors regarding that transfer. I have some recollection that members of the Akin Gump PLP team were aware of the existence of Generation Now prior to February 27, 2020, and discussed making contributions to Generation Now in 2018, but I did not play a significant role in discussions about FES' political contributions and do not have a more specific recollection of any contributions to Generation Now.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 8, 2021.


Henry A. Terhune

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

In Re:	§	
	§	
PLEASANTS CORP., et al.,	§	Case No. 18-50763 (AMK);
	§	Cases Jointly Administered Under
	§	Case No. 18-50757 (AMK)
	§	
Debtors.	§	Chapter 11
	§	
	§	Judge Alan M. Koschik

**DECLARATION OF SEAN G. D'ARCY IN RESPONSE TO ORDER
AND IN SUPPORT OF THE SIXTH INTERIM AND FINAL
APPLICATION OF AKIN GUMP STRAUSS HAUER & FELD LLP**

Pursuant to 28 U.S.C. § 1746, Sean G. D'Arcy declares as follows:

1. This Declaration is submitted by Sean G. D'Arcy in response to the Court's November 24, 2020 Order Directing Certain of the Debtors' Professionals to Make Sworn Statements in Support of the Sixth Interim and Final Application of Akin Gump Strauss Hauer & Feld LLP (Docket No. 4281).

2. I am over the age of eighteen (18), of sound mind, have not been convicted of a crime of moral turpitude, and am otherwise fully qualified to make this Declaration. All statements of fact contained herein are true and correct and based upon my personal knowledge and best recollection.

3. I am a partner at the law firm of Akin Gump Strauss Hauer & Feld LLP and a member of the firm's Public Law and Policy ("Akin Gump PLP") group. I have been part of Akin Gump's PLP group for over 27 years, joining the group, and the firm, in 1993. Prior to working at Akin Gump, I was Tax Counsel for a member of the U.S. House of Representatives. I graduated from the Catholic University of America Columbus School of Law in 1991. I represent clients

before the U.S. Congress, the White House, and a wide range of federal agencies on a diverse set of policy matters. In certain matters, I, along with my colleagues in the Akin Gump PLP group, work with other policy professionals such as media relations firms, grassroots advocates, and local legislative consultants when firm clients have issues of state or local interest.

4. In a court order dated November 24, 2020, I was directed by the Honorable Alan M. Koschik to supply a verified declaration addressing my work and the work of the Akin Gump PLP team's work on behalf of First Energy Solutions Corp. ("FES") and its related debtors and debtors-in-possession. Below, I provide answers in response to each of the inquiries identified by the Court to the best of my recollection.

a. **Describe your role in 2018 and 2019 contests for the speakership of the Ohio House of Representatives.**

b. **Describe your role in the 2018 general elections for the Ohio legislature.**

5. Regarding the 2018 general elections for the Ohio legislature and the 2018 and 2019 contests for the speakership of the Ohio House of Representatives, the Akin Gump PLP team monitored and discussed the elections internally as well as with FES and its outside consultants. During those discussions, we considered possible policy approaches to provide support for FES' struggling nuclear plants.

6. I also recall that between September 2018 and November 2018, leading up to the general elections, members of the Akin Gump PLP team, FES representatives, and FES's other consultants discussed donations in connection with the 2018 Ohio general elections. This is something we often consider with our clients.

c. Describe nature of your interactions and relationship with Juan Cespedes and the Oxley Group.

7. As I recall, Akin Gump was engaged by FES in early 2018 to assess the prospects for passing legislation in Ohio that reflected the value that clean nuclear power generation brought to the state and electricity customers and which would provide financial assistance to FES's nuclear energy production business. Akin Gump needed personnel on the ground with local Ohio contacts and experience dealing directly with the Ohio legislature, Ohio agencies, and the Ohio executive branch. Local advisors and legislative consultants in the Columbus area were retained to gather intelligence to help us assess past legislative efforts made by the parent company, FirstEnergy Corp. ("FE") and the prospects for future legislative efforts. My recollection is that Juan Cespedes of the Oxley Group was one of the first Columbus-based legislative consultants engaged for this purpose.

8. From the time Mr. Cespedes was retained in early 2018 through the passage of House Bill 6 ("HB 6") in the summer of 2019, the Akin Gump PLP team and FES interacted and communicated regularly with Mr. Cespedes. I recall that Mr. Cespedes provided background information on both past legislative efforts by FE and the current prospects of passing legislation that would benefit FES's nuclear power business in the Ohio House of Representatives and Senate. I also recall that over time, Mr. Cespedes took a leadership role on behalf of FES in the effort to enact HB 6.

9. During the same time period, I recall being involved in regular teleconferences that included representative of FES, members of the Akin Gump PLP team, other Akin Gump professionals, and Ohio-based legislative consultants, as well as counsel for the Official Committee of Unsecured Creditors, and, in some instances, grass roots firms and media specialists. As legislative activity progressed, these teleconferences became more frequent. Mr. Cespedes was

involved in these teleconferences. I also recall that I contacted Mr. Cespedes directly to obtain current information on the legislative efforts in Columbus, which involved not only what was happening in the State Capitol from the FES perspective, but also what actions were being taken by the opponents of the proposed legislation (principally natural gas and petroleum interests).

d. What were the “parent developments (August 1, 2018) and “past efforts” (September 10, 2018) referenced in Sean D’Arcy’s time entries for those dates?

10. I do not recall what “parent developments” refers to in my August 1, 2018 time entry. Regarding the “past efforts” in my September 10, 2018 time entry, I believe that I was involved in a teleconference with FE representatives regarding the past efforts made by FE to secure support for and passage of legislation that would reflect the value that nuclear energy brings to the State and provide assistance for FE’s nuclear energy power plants.

e. What was the “Columbus rollout” mentioned in Sean D’Arcy’s October 8, 2018 time entry?

11. The phrase “Columbus rollout” referred to a planned press event in Columbus announcing the creation the Ohio Clean Energy Jobs Alliance, a coalition of Ohio community leaders and organizations committed to preserving the jobs and economic benefits, carbon-free energy and electricity grid reliability that FES’ Davis-Besse and Perry nuclear power plants provided to Ohio.

f. Describe your role in the Ohio House vote on HB 6 in April 2019.

g. Describe your role in the Ohio Senate vote on HB 6 in July 2019.

12. My review of public records indicates that the Ohio House passed HB 6 on May 29, 2019 and therefore my response describes my role in both April and May of 2019. In April and May of 2019, I spent a substantial amount of time preparing for legislative hearings on HB 6. Specifically, I helped develop advocacy materials showing, among other things, the vital economic

support and tax revenue the plants generated for their local communities; I reviewed economic analyses on the impact of clean nuclear power generation to the state and ratepayers; I reviewed opposition advocacy materials and assisted in developing critiques of opposition arguments: I reviewed analyses of the legislation; I participated in telephone conferences with FES representatives and other consultants in which we discussed the status of hearing witnesses, testimony, and strategic decisions. I also spent a significant amount of time helping coordinate the support efforts of interested parties in the communities surrounding FES' Davis-Besse and Perry nuclear energy power plants, such as local economic development professionals, school system personnel, union workers, and local residents. Finally, I monitored media coverage of the debate in Columbus regarding HB 6 and worked with media relations professionals to ensure that FES' messaging received appropriate attention.

13. My work in July 2019 related to the Senate vote was quite similar to the work I performed in April and May 2019 for the House vote. The focus of my efforts and that of the Akin Gump PLP team shifted to Senate committee activity and ultimately the Senate floor votes on the Senate version of HB 6. I recall that these efforts culminated in a July 23, 2019 vote by the House concurring with the changes made to the bill passed by the Senate.

14. To the best of my recollection, I made two trips to Columbus in May 2019, the first of which related to a May 15, 2019 Committee hearing on the HB 6 legislation. The second trip related to the May 29, 2019 House floor vote on the measure. I recall that a large number of Davis-Besse and Perry plant workers (along with family members in a number of instances) and local officials (e.g., county economic development professionals, school system officials, local elected leaders, organized labor) were traveling to Columbus for the May 15 hearing and May 29 floor vote. I was involved with assisting FES in making sure that these individuals had advocacy

materials, targeted lists of lawmaker visits based on the geographic location of the constituents, and appropriate talking points.

15. To the best of my recollection, I traveled to Columbus on July 17 and July 23, 2019 as well. Similar to my response above, the purpose of my trips was to assist FES to ensure that the large number of Davis-Besse and Perry plant workers (along with family members in a number of instances) and local officials (e.g., county economic development professionals, school system officials, local elected leaders, organized labor) had Senate advocacy materials, targeted lists of lawmaker visits based on the geographic location of the constituents, and appropriate talking points.

h. To the extent not already answered in response to Paragraphs 1f and 1g above, describe your role in the “whip counts” in 2019.

16. The phrase “Whip” is a legislative term. For example, each party in the U.S. House and Senate has a “Whip,” whose principle task is to keep track of the number of votes for and against a piece of legislation. “Whip counts” refers to what we were being told about the expected voting on the HB 6 legislation. In this matter, members of the Akin Gump PLP team would have regular calls with FES and FES’ local advisors and legislative consultants about the expected voting on HB 6 in the House or Senate, depending on where the bill stood in the legislative process. The Akin Gump PLP team participated in these discussions and offered advice as to next steps. FES’ local counsel and consultants in Columbus largely ran the portions of teleconferences pertaining to vote counts, as they had the relationships with lawmakers in Columbus and were “the boots on the ground.”

i. What acts were you involved in “mobilizing the HB 6 vote” in July 2019?

17. Please see my answer to question “g” above.

- j. **Did you or any other Akin Gump professional advise the Debtors with respect to the \$1,897,457.00 electronic transfer to Generation Now on July 5, 2019, as disclosed in the Debtors' operating report for July 2019 (Docket No. 3139), or regarding any other transfer to or for the benefit of Generation Now?**
- k. **Were the Akin Gump Ohio statehouse team members aware of existence of Generation Now at any time before February 27, 2020 (the Effective Date of the Debtor's Plan of Reorganization) and did they advise the Debtors with respect to any interaction with Generation Now during that time period?**

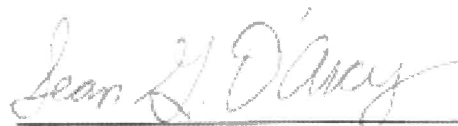
18. I was not aware of the July, 5, 2019 transfer of \$1,897,457 to Generation Now and I did not advise FES regarding that transfer. I am not aware of whether anyone else from Akin Gump was aware of the transfer.

19. I was aware of the existence of Generation Now prior to February 27, 2020. I became aware of Generation Now at some point in the middle of 2018. With respect to "any other transfer to Generation Now," I was among a number of Akin Gump professionals, local Ohio consultants, local counsel, and FES representatives who agreed that a contribution to Generation Now in the fall of 2018 was in the business interests of FES. I do not recall providing any advice to FES regarding any other interactions with Generation Now.

20. I was not aware of any actions by FES or any other party that I believed to be improper or illegal.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 8, 2021.


Sean G. D'Arcy

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

In Re:

PLEASANTS CORP., et al.,¹

Debtors.

§
§
§
§
§
§
§
§

**Case No. 18-50763 (AMK);
Cases Jointly Administered Under
Case No. 18-50757 (AMK)**

Chapter 11

Judge Alan M. Koschik

**DECLARATION OF JAMES R. TUCKER JR. IN RESPONSE TO ORDER
AND IN SUPPORT OF THE SIXTH INTERIM AND FINAL
APPLICATION OF AKIN GUMP STRAUSS HAUER & FELD LLP**

Pursuant to 28 U.S.C. § 1746, James R. Tucker Jr. declares as follows:

1. This Declaration is submitted by James R. Tucker Jr. in response to the Court's November 24, 2020 Order Directing Certain of the Debtors' Professionals to Make Sworn Statements in Support of the Sixth Interim and Final Application of Akin Gump Strauss Hauer & Feld LLP ("Akin Gump") (Docket No. 4281).

2. I am over the age of eighteen (18), of sound mind, have not been convicted of a crime of moral turpitude, and am otherwise fully qualified to make this Declaration. All statements of fact contained herein are true and correct and based upon my personal knowledge.

3. I am an attorney, a partner at Akin Gump, and a member of Akin Gump's Public Law and Policy ("PLP") section. I have more than 25 years of government relations experience.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Energy Harbor Generation LLC (0561), case no. 18-50762; Pleasants Corp. (5914), case no. 18-50763; Energy Harbor Nuclear Generation LLC (6394), case no. 18-50760; Energy Harbor Nuclear Corp. (1483), case no. 18-50761; and Energy Harbor LLC (0186), case no. 18-50757.

I frequently assist clients in developing and implementing strategies to solve their regulatory and policy challenges, including through the development of policy solutions and multi-faceted strategies to educate and lobby policymakers, stakeholders, and the general public about issues relevant to my clients.

4. In 2018, FirstEnergy Solutions Corp. (“FES”) and its related debtors and debtors-in-possession retained Akin Gump to develop and coordinate a messaging strategy for state and federal lawmakers concerning FES’ bankruptcy and deactivation of its nuclear power plants in Ohio and Pennsylvania, as well as to develop a government relations strategy and policy solution to provide ongoing support for the plants. We understood that without federal or state legislative or regulatory support, the nuclear power plants were unlikely to remain in business.

5. Akin Gump’s government relations strategy involved engagement and communication at the federal and state levels; more focused efforts educating the general public, various stakeholders, and Ohio and Pennsylvania officials; and development of regulatory and legislative proposals. We worked with FES’ outside Ohio- and Pennsylvania-based legislative consultants for intelligence, policy development, and on-the-ground lobbying with state legislators and local stakeholders.

6. In Ohio, we identified, reviewed, and analyzed potential legislative solutions used in other states that could aid the effort to help ensure FES’ viability; engaged with colleagues, our client, and our client’s financial and in-state legislative and political consultants to develop legislative proposals and communications strategies relating to potential legislation; developed a multi-faceted media campaign to promote support for House Bill 6 once it was introduced; identified and coordinated with potential legislative hearing witnesses to promote House Bill 6; developed talking points and other issue advocacy material; and tracked legislators’ support for

legislation, including House Bill 6. In addition, as is customary in many policy engagements, we discussed and developed a bipartisan political contribution program for FES.

7. After several months, House Bill 6 passed both houses of the Ohio legislature in July 2019; Governor Mike DeWine then signed the bill into law. After the bill's enactment, the PLP team's role diminished significantly, and we did not play a significant role advising FES in the efforts to fight the subsequent voter referendum.

8. The Court's specific questions and my responses are set forth below.

a. Describe your role in the 2018 and 2019 contests for the speakership of the Ohio House of Representatives.

b. Describe your role in the 2018 general elections for the Ohio legislature.

9. I communicated with others at Akin Gump, and with FES and its other consultants about the 2018 general election and the races for the speakership of the Ohio House of Representatives because the outcomes of those races bore on FES' legislative strategy. We discussed possible legislative solutions to aid FES' economically unviable nuclear plants and helped develop approaches for how the company could pursue its legislative goals no matter the outcome of the various Ohio elections. In addition, as we often do for clients in advance of elections, members of the Akin Gump PLP team, FES, and FES' outside consultants discussed and developed a bipartisan political contribution strategy.

c. Describe the nature of your interactions and relationship with Juan Cespedes and the Oxley Group.

10. I was first introduced to Juan Cespedes and his company, the Oxley Group, in or around March 2018. At the time, we were looking for in-state legislative consultants to help with outreach to policymakers regarding the nuclear power plant deactivation process in Ohio and the announcement of FES' bankruptcy, as well as to assess the likelihood of possible legislative solutions to return the nuclear plants to viability.

11. Cespedes also helped to devise the strategy to obtain legislative support from Ohio state legislators. Over time, Cespedes became the principal day-to-day point of contact for FES in Columbus, meeting with Ohio officials and their staff and educating them about the need for the legislative relief being sought. Akin Gump and FES also relied upon Cespedes to report on the likelihood that particular members of the legislature would be supportive of our efforts and the policy considerations that were important to those policymakers.

12. I spoke relatively frequently with Cespedes as part of the effort, both directly and as part of many group conference calls with the client and other consultants, and I met with Cespedes on several occasions. I was not aware of any illegal activity by Cespedes or anyone else in connection with the passage of House Bill 6.

f. Describe your role in the Ohio House vote on HB 6 in April 2019.

g. Describe your role in the Ohio Senate vote on HB 6 in July 2019.

13. My role in connection with the House and Senate votes on House Bill 6 was essentially the same. I worked with other members of the PLP and client's government relations team and outside consultants to provide strategic advice and to help mobilize public support to pass the bill. For most of the duration of our engagement, we held near-daily working calls to coordinate multiple workstreams. Among other things, we analyzed substantive provisions in the various legislative proposals; developed grassroots outreach, letter-writing campaigns and talking points; prepared witness testimony for state legislative committees; and developed communications strategies to educate legislators, stakeholders and the general public about the benefits of House Bill 6.

h. To the extent not already answered in response to paragraphs 1f and 1g above, describe your role in the “whip counts” in 2019.

14. “Whip counts” are a routine part of the matters on which I work and typically consist of a process whereby legislators’ support for a bill are ranked. We employed this “whip count” process in connection with our work on behalf of FES, first to identify aspects of potential legislation that were or were not likely to receive support and to track the level of support in relation to the various iterations of House Bill 6. In order to assign and update rankings of the members of the Ohio House and Senate, we relied on the reports we received from FES’ lobbyists on the ground in Ohio.

j. Did you or any other Akin Gump professional advise the Debtors with respect to the \$1,879,457.00 electronic transfer to Generation Now on July 5, 2019, as disclosed in the Debtors’ operating report for July 2019 (Docket No. 3139), or regarding any other transfer to or for the benefit of Generation Now?

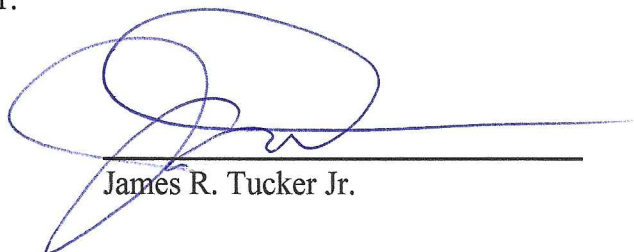
k. Were the Akin Gump Ohio statehouse team members aware of existence of Generation Now at any time before February 27, 2020 (the Effective Date of the Debtor’s Plan of Reorganization) and did they advise the Debtors with respect to any interaction with Generation Now during that time period?

15. Beginning in late summer 2018, members of the Akin Gump PLP team along with FES and FES’ outside consultants discussed and developed a bipartisan political donation strategy for Ohio and Pennsylvania. In connection with those discussions, I learned that Generation Now was a 501(c)(4) organization addressing energy independence and economic development, and that it was aligned with Larry Householder. Over the course of the next two months, FES’ governmental affairs team and I, with input from outside consultants and others at Akin Gump, advised FES in connection with its decision to donate a total of \$500,000 to Generation Now in October 2018 as part of its broader, bipartisan contribution strategy, which included donations to the Republican Governors Association, the Democratic Governors Association, the Republican Senate Campaign Committee, and other 501(c)(4) organizations.

16. In or around April 2019, I was informed that FES' Washington, DC-based political consulting firm Dewey Square Group would no longer have primary responsibility for media in support of House Bill 6, and that Ohio-based Generation Now would be leading the media strategy in support of the bill. I recall general discussions about FES making additional contributions to Generation Now in connection with the transition to lead the media strategy. I did not have personal knowledge of the \$1,879,457.00 transfer to Generation Now or any other transfers to Generation Now beyond that identified above. I do not know if any other Akin Gump professional has such knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 21, 2021.



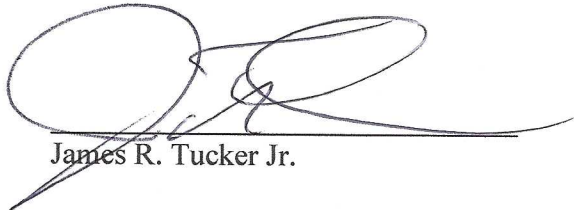
James R. Tucker Jr.

Supplemental paragraph added July 1, 2021, pursuant to 28 U.S.C. § 1746

17. After executing my declaration on January 21, 2021, I recalled speaking with Dave Griffing at FES at some point in the summer of 2019, after the final passage of House Bill 6. During that conversation, I learned that FES had spent approximately \$16 million on the media campaign to help pass House Bill 6. I assumed at the time that some or all of the \$16 million had been contributed to Generation Now because Generation Now had primary responsibility for media in support of House Bill 6 beginning in April 2019, but I do not recall that being stated explicitly to me. I did not have personal knowledge that any specific amount had been spent on the media campaign or contributed to Generation Now at the time that it was spent, nor did I have personal knowledge of any other transfers to Generation Now beyond that described in the statement I executed on January 21, 2021. I do not know if any other Akin Gump professional had such knowledge.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 1, 2021.



James R. Tucker Jr.