

LOUISIANA STATE BOARD
OF PRIVATE SECURITY EXAMINERS

In Re: APPLICATION OF TIGERSWAN,
LLC, FOR LICENSE TO OPERATE
AS A PRIVATE SECURITY COMPANY

Matter No. _____

PETITION TO INTERVENE

1. In light of the purpose of the law creating the Louisiana State Board of Private Security Examiners (“LSBPSE” or “the Board”) to prevent “injur[y] to the public” and “contribute to the safety, health, and welfare of the people of Louisiana,”¹ and pursuant to La. R.S. 37:3279, 49:955(C) and 49:961, the following organizations and individuals respectfully request the right to intervene and participate as parties in interest in, and in opposition to, the hearing in the above-captioned matter:

- a. 350 New Orleans
- b. Atchafalaya Basinkeeper
- c. Bold Louisiana
- d. Gulf Restoration Network
- e. L’eau Est La Vie (Water Is Life) Camp
- f. Louisiana Bucket Brigade
- g. Louisiana Crawfish Producers Association-West

2. As set out in more detail below, the Petitioners have a demonstrable and particular interest in this matter as they are all based in Louisiana and have dedicated themselves to working in their communities to protect people and the environment against further harm and destruction resulting from environmentally harmful industries, and have been vocal and visible

¹ La. R.S. 37:3270(A) and (B).

opponents of the controversial pipeline project proposed by Energy Transfer Partners (“ETP”), a company that has contracted with TigerSwan, LLC, (“TigerSwan”) to provide security services for related projects in other states.

Procedural History

3. On or about June 19, 2017, TigerSwan, a private security company based in Apex, North Carolina, applied to the Board for a license to operate in Louisiana.

4. On July 17, 2017, the Board denied TigerSwan’s application, reportedly in part on the basis that “they were denied licensure twice in Dakota and are pending litigation.”²

5. On August 1, 2017, TigerSwan registered to lobby in Louisiana, obtaining the services of five lobbyists to undertake Executive branch lobbying on its behalf.³

6. TigerSwan appealed the denial of its application and the hearing is currently scheduled for December 14, 2017.

Background

7. TigerSwan has been the subject of in-depth reporting and public criticism as a result of its controversial tactics, including deploying a highly militarized response to civilian protests, with one former military official denouncing such tactics as “extreme by all measures.”⁴

8. TigerSwan describes itself as being “[f]ounded by former members of Delta Force, the U.S. Army’s elite tactical division” and providing “full spectrum, *asymmetric* solutions” to provide its clients with a “strategic advantage.”⁵

² *Private security firm that surveilled DAPL protests denied Louisiana license*, KATC.com, Jul. 20, 2017, available at <http://www.katc.com/story/35902508/private-security-firm-that-surveilled-dapl-protests-seeks-louisiana-license>.

³ *See* <http://ethics.la.gov/LobbyistData/ResultsByCompRep.aspx?SearchParams=RepName.{tigerswan}&OrderBy=1>. Licensing decisions such as those made by this board appear to fall within the category of “executive branch actions” that lobbyists may seek to influence. La. R.S. 49:71-73.

⁴ KATC.com, *supra* n. 2.

9. In 2016, the North Dakota Private Investigative and Security Board (“NDPISB”) denied TigerSwan a license to operate in North Dakota and later sued the company for operating in the state illegally in connection with the services it provided to ETP to counter protests against the Dakota Access Pipeline (“DAPL”). *See* Verified Complaint and Request for Injunction, North Dakota Private Investigative and Security Board v. TigerSwan, LLC, No. 08-2017-CV-01873 (N.D. Dist. Ct. June 12, 2017), annexed hereto as [Exhibit A](#).⁶

10. While the denial of a license to operate in another state is itself a sufficient basis to deny an application in Louisiana pursuant to La. R.S. 37:3289(A)(7), TigerSwan’s tactics and methodology are extremely concerning to the Petitioners and provide an additional justification for denial of its Louisiana application.

11. According to the complaint filed by the NDPISB and leaked internal documents, TigerSwan was under contract with ETP to provide security and investigative services in connection with DAPL at least as of September 2016.

12. Based in part on internal documents leaked by a whistleblower, an in-depth investigative series chronicling TigerSwan’s controversial tactics revealed that TigerSwan personnel have likened opponents of the DAPL in North Dakota to a “jihadist insurgency,” urging an extreme, militarized – i.e. asymmetric – response to the protests, using counterterrorism tactics.⁷

⁵ See <http://www.tigerswan.com/> (emphasis added).

⁶ See also, Alleen Brown, Will Parrish, Alice Speri, *Part 5: TigerSwan Faces Lawsuit Over Unlicensed Security Operations in North Dakota*, The Intercept, June 28, 2017, <https://theintercept.com/2017/06/28/tigerswan-faces-lawsuit-over-unlicensed-security-operations-in-north-dakota/>.

⁷ Alleen Brown, Will Parrish, Alice Speri, *Part 1: Leaked Documents Reveal Counterterrorism Tactics Used at Standing Rock to ‘Defeat Pipeline Insurgencies,’* The Intercept, May 27, 2017, <https://theintercept.com/2017/05/27/leaked-documents-reveal-security-firms-counterterrorism-tactics-at-standing-rock-to-defeat-pipeline-insurgencies/>; *Part 2: Standing Rock Documents Expose Inner Workings of ‘Surveillance Industrial Complex,’* The Intercept, June 3, 2017, <https://theintercept.com/2017/06/03/standing-rock-documents-expose-inner-workings-of-surveillance-industrial-complex/>.

13. The internal reports revealed that TigerSwan operatives described the site of DAPL protests as a “battlefield” and urged “aggressive intelligence preparation of the battlefield and active coordination between intelligence and security elements.”⁸

14. The internal documents also revealed TigerSwan’s positioning as a coordinator of the various private security companies and liaison with local, state and federal law enforcement agencies in relation to DAPL.⁹

15. Numerous media reports and eye-witness accounts have described the overwhelming and violent police response to DAPL protests at Standing Rock.¹⁰

16. Several of the Petitioners herein sent a letter to the Board on July 14, 2017, detailing their serious concerns about the company based on credible reports and sources evidencing that TigerSwan operated illegally in North Dakota, and, while doing so, engaged in, oversaw, and/or urged highly questionable, problematic and extreme responses to civilian protestors. *See* Letter to Mr. Fabian P. Blache, III, Executive Director and Chief Administrative Officer, La. State Board of Private Security Examiners, from Misha L. Mitchell, annexed hereto as [Exhibit B](#).

17. In addition to TigerSwan’s troubling *asymmetric*, militarized approach to civilian protestors exercising their First Amendment rights in North Dakota, the company also rolled out

⁸ Brown, Parrish, Speri, Part I, *supra*.

⁹ *Id.*

¹⁰ *See, e.g.*, Julia Carrie Wong and Sam Levin, *Standing Rock protesters hold out against extraordinary police violence: Apprehension and distrust pervade North Dakota protest site as promises from state that there are no plans to forcibly remove people does little to assuage fears*, The Guardian, Nov. 29, 2016, <https://www.theguardian.com/us-news/2016/nov/29/standing-rock-protest-north-dakota-shutdown-evacuation>; Derek Hawkins, *Police defend use of water cannons on Dakota Access protesters in freezing weather*, The Washington Post, Nov. 21, 2016, https://www.washingtonpost.com/news/morning-mix/wp/2016/11/21/police-citing-ongoing-riot-use-water-cannons-on-dakota-access-protesters-in-freezing-weather/?utm_term=.7e9cfa711045; Alleen Brown, Will Parrish, Alice Speri, *The Battle of Treaty Camp: Law Enforcement Descended on Standing Rock a Year Ago and Changed the DAPL Fight Forever – No other incident during Standing Rock better illustrates the collaboration between police and private security in suppressing the NoDAPL movement*, The Intercept, Oct. 27, 2017, <https://theintercept.com/2017/10/27/law-enforcement-descended-on-standing-rock-a-year-ago-and-changed-the-dapl-fight-forever/>.

a “Social Engagement Plan,” which involved the development of an “information operations campaign” to “protect the reputation of DAPL.”¹¹

18. As part of that campaign, a series of pro-pipeline videos critical of the protestors were produced featuring Robert Rice, a person affiliated with the efforts of a TigerSwan intel team based in Apex. Rice used a different first name in the videos and failed to disclose his affiliation.¹²

19. A similar set of videos appeared in 2017 in Louisiana and Pennsylvania targeting opponents of ETP’s pipeline projects in both states. *See* DVD containing videos annexed hereto as Exhibit C.

20. In both instances the videos were posted to Facebook pages which were created in mid-June 2017 – one entitled “Louisiana First” and the other entitled “PA Progress Now” – both of which were deleted approximately three months later after a journalist began inquiring into the incidents.¹³

21. In both videos, the same actor appears but claims to have one name (“Brent Williamson”) in the Louisiana video and a different name (“Josh Baker”) in the Pennsylvania video. In reality, the man claiming to be a concerned citizen activist in both states was a hired actor named Roberto Bricchi.¹⁴

22. In the [Louisiana video](#), entitled “Louisiana Woman Earns Six Figures a Year to Stop Pipelines,” Bricchi, a/k/a “Brent Williamson,” claimed to be filming in front of a courthouse in Baton Rouge while in actuality he was filming in North Carolina. Bricchi took aim in the video

¹¹ Brown, Parrish, Speri, Part I, *supra* n. 7.

¹² *Id.*

¹³ *See* Shane Ryan, *The Fake News Pipeline: How a Small-Time Clickbait Farmer Is Spreading the Gospel of Big Oil*, Paste Magazine, Sept. 9, 2017, <https://www.pastemagazine.com/articles/2017/09/the-fake-news-pipeline-how-two-small-time-clickbai.html>.

¹⁴ *Id.*

at Cherri Foytlin, a local Louisiana activist who has been a leading voice in the opposition to the pipeline and who is affiliated with Petitioner Bold Louisiana, an environmental justice organization. Bricchi attempted to smear Foytlin with a series of derogatory and defamatory claims.¹⁵

23. In the [Pennsylvania video](#), entitled “Anarchists are building a base in rural PA,” Bricchi, a/k/a “Josh Baker,” took aim at local opponents of ETP’s Mariner East 2 Pipeline, casting a local family as dangerous eco-terrorists and urging Pennsylvania residents to stay away from them.¹⁶

24. Leaked internal documents suggest TigerSwan has also supported ETP’s pipeline efforts in Pennsylvania.¹⁷

25. On September 25, 2017, a lawsuit was filed in federal court in Pennsylvania against TigerSwan, ETP, and others, which, *inter alia*, alleged a connection between Nick Johnson, the North Carolina-based producer of the Louisiana and Pennsylvania videos, and TigerSwan. *See* Complaint, ¶¶104-122, Gerhart v. Energy Transfer Partners, L.P., No. 1:17-cv-01726-YK (M.D. Pa. Sept. 25, 2017), annexed hereto as [Exhibit D](#).

26. In a similar vein, a TigerSwan official conducted a media campaign wherein he placed op-eds in local newspapers and media outlets in states where ETP has pipeline projects, including in Louisiana.¹⁸

27. TigerSwan’s advisory board chairman, James “Spider” Marks,¹⁹ placed a series of op-eds in local newspapers and other media outlets in which he voiced support for pipeline projects,

¹⁵ *See id.* and Louisiana First video, [Ex. C-1](#).

¹⁶ *See* Ryan, *supra* n. 13 and PA Progress Now video, [Ex. C-2](#).

¹⁷ Alleen Brown, Will Parrish, Alice Speri, *Dakota Access-Style Policing Moves to Pennsylvania’s Mariner East 2 Pipeline*, The Intercept, June 21, 2017, <https://theintercept.com/2017/06/21/dakota-access-style-policing-moves-to-pennsylvanias-mariner-east-2-pipeline/>.

¹⁸ Eric Hananoki, *The conflicts of interest hiding behind pro-pipeline op-eds around the country: Pennsylvania publication bans retired general after he failed to disclose ties to pipeline company*, July 27, 2017, <https://www.mediamatters.org/blog/2017/07/27/conflicts-interest-hiding-behind-pro-pipeline-op-eds-around-country/217394>.

including DAPL, the Mariner East 2 in Pennsylvania, and the Bayou Bridge in Louisiana, without noting his affiliation to TigerSwan and interest in the projects.²⁰

28. In an op-ed in the Lafayette, LA-based *Daily Advertiser*, Marks urged state agencies in Louisiana to expedite approval of the Bayou Bridge Pipeline and criticized local opponents of the project as “not native Louisianans.” At the same time, he failed to disclose his connection to TigerSwan and interest in the project. He also failed to mention that he himself is not a native Louisianan and has no other apparent ties to the state.²¹

29. Marks placed similar op-eds in Pennsylvania’s *PennLive*, Nebraska’s *Omaha World-Herald* and the D.C.-based *Washington Examiner* and *Daily Caller*, and failed in each to disclose his affiliation to TigerSwan and interest in the projects for which he advocated.²²

30. When the editors at *PennLive* learned of Marks’ failure to disclose his affiliation, they banned him from future publication and added an editor’s note on July 20, 2017, stating “The author is advisory board chair to TigerSwan, a private security firm monitoring the pipeline’s construction. He failed to disclose these ties to PennLive. His work will not appear on the website again.”²³

¹⁹ James “Spider” Marks, Advisory Board Chair, <http://www.tigerswan.com/meet-team/board-advisors/james-spider-marks/>.

²⁰ *Id.*

²¹ James “Spider” Marks, *Bayou Bridge Pipeline: Bringing Safety and Security to Louisiana*, The Daily Advertiser, Feb. 8, 2017, available at <http://www.theadvertiser.com/story/opinion/2017/02/08/bayou-bridge-pipeline-bringing-safety-and-security-louisiana/97571802/>.

²² James “Spider” Marks, *Here’s why Pa. should be wary of professional pipeline protesters*, PennLive, May 24, 2017, http://www.pennlive.com/opinion/2017/05/heres_why_pa_should_be_wary_of.html; James “Spider” Marks, *Pipeline smear campaign must end*, Omaha World-Herald, Nov. 17, 2016, http://www.omaha.com/opinion/james-spider-marks-pipeline-smear-campaign-must-end/article_f539d3f8-b005-5729-8335-9d5dc7c81864.html; James “Spider” Marks, *The Army Corps of Engineers deserves thanks, not attacks, for Dakota Access Pipeline work*, Washington Examiner, Nov. 18, 2016, <http://www.washingtonexaminer.com/the-army-corps-of-engineers-deserves-thanks-not-attacks-for-dakota-access-pipeline-work/article/2607698>; James “Spider” Marks, *Protect Our National Economy by Harnessing Our Natural Gas Supply*, The Daily Caller, July 12, 2017, <http://dailycaller.com/2017/07/12/protect-our-national-economy-by-harnessing-our-natural-gas-supply/>

²³ PennLive, *supra*.

31. Marks also presented comments in favor of the Bayou Bridge Pipeline at a public hearing conducted by the Louisiana Department of Natural Resources (“LDNR”) in Napoleonville, La. – again without disclosing his affiliation to TigerSwan and interest in the project, and the fact that he did not reside in the state.²⁴

32. In light of the evidence that TigerSwan has apparently already been conducting some aspects of its operations in Louisiana, including targeting and smearing Louisiana residents opposed to the Bayou Bridge Pipeline while attempting to obscure its role in these efforts, the company appears to already have run afoul of the law governing this Board – in particular La. R.S. 37:3289(4) concerning “efforts to deceive or defraud the public.”

33. TigerSwan representatives should be questioned and pressed about the evidence of and allegations about their role in these efforts, and any others that may violate the law governing private security companies.

34. TigerSwan’s prior activities and associations demonstrate all too clearly that it poses a serious threat to public safety, particularly to those Louisiana residents and organizations opposed to the pipeline, and that its operation in Louisiana would enhance the dangers of unsuitable, unfair methods and operations in the private security sector.

Petitioning Intervenors and Interest in the Proceedings

35. **350 New Orleans**, formerly known as 350 Louisiana, is a non-profit, volunteer-led local organization founded to connect the Louisiana region to the international climate change movement led by 350.org. 350 New Orleans prioritizes locally-grown initiatives and collaboration with local groups working on climate justice. 350 New Orleans has been a vocal

²⁴ James Spider Marks, Feb. 15, 2017, <https://youtu.be/HvNFhUm3y1s>. See also, Steve Wilkerson, *What This Outsider With Hidden Conflicts of Interest Can Learn from a Local About the Bayou Bridge Pipeline*, DeSmog, Feb. 15, 2017, <https://www.desmogblog.com/2017/02/15/what-outsider-hidden-conflicts-interest-can-learn-local-about-bayou-bridge-pipeline>.

and visible opponent of the proposed Bayou Bridge Pipeline, including by going on record in public comments to the U.S. Army Corps of Engineers and the Louisiana Department of Environmental Quality opposing permits for the project, regularly petitioning regulatory entities and politicians to publicly oppose the pipeline project, helping to organize and participating in weekly demonstrations against the pipeline at the Governor's mansion, conducting teach-in's, outreach, and canvassing.

36. **Atchafalaya Basinkeeper** ("ABK") is a 501(c)(3) nonprofit corporation organized under the laws of Louisiana. Atchafalaya Basinkeeper is a member of Waterkeeper Alliance, an international grassroots advocacy organization consisting of over 200 waterkeeper programs dedicated to the protection and preservation of water resources. Atchafalaya Basinkeeper's mission is to protect and restore the lakes, streams, bayous, wetlands and ecosystems of the Atchafalaya Basin for future generations. ABK works to ensure that the state and federal laws and regulations intended to preserve and enhance the Basin's natural resources and wildlife are followed. Atchafalaya Basinkeeper has approximately 1,100 members, including recreational and commercial fishermen, hunters and recreationists who live, work and recreate in and around the Basin. ABK has been vocal and visible in its opposition to the Bayou Bridge Pipeline, including going on record through public comments expressing opposition to the pipeline and highlighting its concerns about further destruction of the Atchafalaya Basin. ABK is also a plaintiff in the case against the Louisiana Department of Natural Resources ("LDNR") challenging its grant of a coastal use permit to Bayou Bridge Pipeline, LLC.

37. **Bold Louisiana** is a non-profit organization that works to diversify economic development in Louisiana, and to create a real plan to confront climate change, and ensure a just transition to renewable energy sources and jobs. Bold Louisiana has been a leading voice

opposing the Bayou Bridge Pipeline. Its director, Cherri Foytlin, has been targeted and smeared in the video described above at ¶¶ 16-22. Along with other environmental groups in the state, Bold Louisiana and Foytlin have helped organize weekly protests and demonstrations at the state capitol expressing opposition to the pipeline. Bold Louisiana is also a plaintiff in the lawsuit challenging the LDNR's grant of a coastal use permit to Bayou Bridge Pipeline, LLC.

38. **Gulf Restoration Network** (“GRN”) is a diverse coalition of individual citizens and local, regional, and national organizations committed to uniting and empowering people to protect and restore the natural resources of the Gulf of Mexico. Gulf Restoration Network has years of experience lessening the wetland impact of pipelines in Louisiana and educating Gulf residents on the conflicts between industrial projects and wetland restoration—pipeline projects having the largest industrial footprint of any kind of project across the five Gulf States. GRN has been conducting technical review of the Bayou Bridge Pipeline since May 2016.

39. **L'eau Est La Vie (Water Is Life) Camp** is an indigenous-led camp located in the heart of South Louisiana swamps that formed to protect a way of life against the proposed Bayou Bridge Pipeline through prayer and resistance. The Camp has expressed concern about all communities that stand to be impacted throughout the 162-mile stretch of land through which the pipeline would run, including through 700 bodies of water, and in particular the potential impact the pipeline could have on Bayou LaFourche, which is the source of drinking water for 300,000 people, including the United Houma Nation and residents in Ascension, Assumption, Terrebonne, and Lafourche parishes.

40. The **Louisiana Bucket Brigade** is a non-profit organization working for environmental health and justice with communities that neighbor Louisiana's oil refineries and chemical plants toward a healthy, prosperous, pollution-free and just state where people and the environment are

valued over profit. The Louisiana Bucket Brigade has been a vocal and visible opponent of the Bayou Bridge Pipeline and has organized and participated in weekly demonstrations at the state capitol expressing opposition to the project, created a film series documenting the potential human and environmental harms, engaged with media reporting about the harms, and conducted research on pipeline accidents generally as well as with pipelines owned by ETP specifically.

41. The **Louisiana Crawfish Producers Association-West** (“LCPA”) is a nonprofit corporation organized under the laws of Louisiana. LCPA’s mission is to protect the economic, environmental and cultural interests of the Basin and its residents and to promote a healthy habitat for the crawfish, fish and other wildlife that the Basin supports. Additionally, LCPA works to protect and insure public access to the waters of the United States within the Basin. LCPA works to ensure that the state and federal laws and regulations intended to preserve and enhance the Basin’s natural resources and wildlife are followed. LCPA has approximately 500 members who live, work, and recreate in and around the Basin. The organization has been vocal about its concerns and opposition to the Bayou Bridge Pipeline and the effects it will have on wildlife, the habitat of the Atchafalaya Basin and the local communities that rely on the Basin.

42. The Petitioners all have a demonstrable and tangible stake and concern in this proceeding as they all fall into the category of opponents to a pipeline project pursued by a company that has contracted with TigerSwan in connection with related projects in other states. The Petitioners would be at serious risk if TigerSwan is allowed to bring its overwrought, militarized tactics into the state, including its “public relations” tactics aimed at casting them as dangerous, “eco-terrorists” and “insurgents.”

43. Ultimately, TigerSwan’s tactics, as advertised, seek to mount an asymmetric, militarized response to civilian opposition to a proposed pipeline, which in this case that would have the

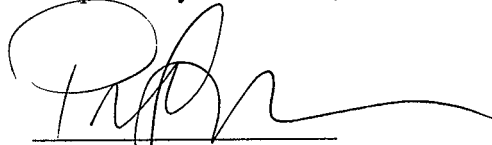
effect of hindering, potentially violently, the people involved in the petitioning organizations in the exercise of their rights to expression, association, and assembly under the United States and Louisiana constitutions.

44. The record of any adjudication of TigerSwan's license would not be complete if it failed to include the concerns of the Petitioners who have been fighting long and hard to make their voices heard on this issue, and who stand to be seriously impacted by the Board's decision.

Relief Requested

WHEREFORE the Petitioners respectfully request they be allowed to intervene in the above-captioned proceeding.

Respectfully Submitted,



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