

Messenger: As St. Louis heads down runway of airport privatization, a consultant upgrades to first class

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Toby Merchant is good at math.

The Cincinnati-based attorney is a partner with the Washington, D.C.-based law firm Squire Patton Boggs. That big-name law firm is one of more than a dozen consultants being paid by billionaire Rex Sinquefeld to manage the process by which the city of St. Louis might lease out St. Louis Lambert International Airport to the highest (or most well-connected) bidder.

Merchant recently added another team to his portfolio.

He is also the chief operating officer and general counsel for McKenna & Associates, one of the other consultants working on the airport privatization process.

I became interested in Merchant's employment when Gerry Connolly posted the sign-up sheet to a recent Airport Advisory Working Group meeting on Twitter. Connolly is a city resident and researcher who has been watchdogging the privatization process.

There, on the top of the sign-in sheet, was Merchant, the Squire Patton Boggs attorney, signing in as representing McKenna & Associates.

It's not the first time he represented the company founded by Andrew McKenna.

When the National Rifle Association became embroiled in a nasty legal dispute with one of its key vendors, McKenna, a dark-money fundraiser for the NRA, got caught up in that spider web of alleged deceit and big spending. According to internal memos reported on earlier this year by *The New Yorker* and *The Trace*, "McKenna provided 'vague project names,' failed to 'attach support' for invoices, and operated with 'no contract for current work.'" The memos also allege that McKenna hired the wife of the then-chief operating officer of the NRA at the same time he was raising money for the gun group.

Nothing to see here, McKenna's attorney told reporters at the time.

The attorney was Toby Merchant.

Any accusation that there was any problem with McKenna's work for the NRA was "demonstrably false," Merchant said.

Last week, I emailed Merchant to ask him whether he was working for Squire Patton Boggs or McKenna.

The answer?

Both.

Merchant didn't respond to my email, but another Squire Patton Boggs attorney working on the airport privatization effort, Alethia Nancoo, did:

"Mr. Merchant is transitioning his practice at Squire Patton Boggs and at the same time coming up to speed at McKenna & Associates," Nancoo wrote. "McKenna & Associates has been a firm client of Squire for nearly six years."

For people familiar with the practice of law and concerns over legal ethics, this might seem a bit odd, having one attorney working for two different entities involved in a project. But the airport privatization effort is like none other.

All of the consultants have signed contracts that say the city of St. Louis is their client, though they are being paid by Sinquefeld's nonprofit, Grow Missouri. And they are being paid well, in the range of a collective \$800,000 a month.

This is where Merchant's math skills come in.

Since the contracts with the city to provide "independent" advice were signed in 2018, Squire Patton Boggs, one of three law firms working on the project, has been paid more than \$425,000. McKenna, on the other hand, has been the highest paid consultant, earning

more than \$1.6 million. And unlike the law firms, McKenna has the possibility of a massive windfall if the privatization goes through, sharing in both a possible bonus of up to \$10 million if the deal gets done in 24 months; and a “success fee” of millions of dollars that would come out of the money a firm would pay to the city for the right to run (and profit off of) its airport.

If airport privatization goes through, Merchant is in line to cash in.

Of course, from day one, that’s been the whole point of this exercise.

Former Mayor Francis Slay, who started the process, is prepared to cash in as a lobbyist for one of the companies, Ferrovial, that will likely respond to the request for qualifications issued by the city this month. His former chief of staff, Jeff Rainford, was a lobbyist for Oaktree Capital, another of the firms lining up to bid. Another former chief of staff, Mary Ellen Ponder, works for the Sinquefield lobbyist, Travis Brown, who is directing the entire charade. The city’s lobbyist, Jeff Aboussie, is also listed in Grow Missouri’s documents as one of its consultants.

And, Sinquefield, of course, stands to make money on all sides of the deal, as the investment firm he co-founded and still owns, Dimensional Fund Advisors, manages mutual funds that hold hundreds of millions of dollars in shares of the financial adviser to the city, Moelis, as well as the key airlines and at least one of the companies, Macquarie, that also could bid on the project.

All of those colliding interests have one goal in mind, says city Comptroller Darlene Green, who is opposed to the privatization process, and it is not to serve the taxpayers.

“The process exploring privatization of St. Louis Lambert International Airport has been designed by and for special interests,” Green said in a statement. “Unsurprisingly, this RFQ is shaped by assumptions to appease those interests, and I have no confidence that this process will yield an outcome supportive of public interest.”

Nancoo, by the way, says her firm has no issue with Merchant’s job switch.

“We see no conflict with an individual leaving one firm which currently represents the City to join another firm that also represents the City as it explores a potential P3 (public-private partnership) for the St. Louis Airport,” she wrote in an email. “Any suggestion of a conflict would be utterly misleading.”

Nothing to see here, say the folks pushing St. Louis down a runway toward privatizing its greatest asset. Just a whole lot of people lining up at the public trough, with little accountability on how the public’s money is being spent.

• Caption: Travelers await their flight at Lambert-St. Louis International Airport. St. Louis officials are continuing to explore privatization options for operation of the airport. Photo by Cristina Fletes, cfletes@post-dispatch.com

• Memo: Tony’s Take

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