

IN THE EXECUTIVE ETHICS COMMISSION  
OF THE STATE OF ILLINOIS

In re: VINOD GUPTA

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OEIG Case # 10-00323

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Commission to redact information from this report that may reveal the identity of witnesses, complainants or informants and “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes competing interests of increasing transparency and operating with fairness to the accused. In order to balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut its factual allegations or legal conclusions before the Commission.

The Executive Ethics Commission (“Commission”) received a final report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency in this matter. The Commission redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Governor’s Executive Inspector General and to Vinod Gupta at his last known address.

These recipients were given fifteen days to offer suggestions for redaction or provide a response to be made public with the report. Certain information contained in the proposed public response may have been redacted in accordance with the Commission’s determination that it should not be made public. The Commission, having reviewed all suggestions received, makes this document available pursuant to 5 ILCS 430/20-52.

FINAL REPORT

**I. Initial Allegation and Subsequent Allegations**

The Office of Executive Inspector General (“OEIG”) received a complaint alleging that Illinois Department of Transportation (“IDOT”) employee Vinod Gupta left a political magazine in the common area of an IDOT office building where it could be viewed by other IDOT employees and members of the public.

During the investigation, the OEIG determined that Mr. Gupta violated IDOT policy through excessive personal use of his State email account. In addition, Mr. Gupta engaged in prohibited political activity by using his State email account to forward a message about a campaign fundraiser.

## **II. Background**

Prior to his retirement effective October 31, 2010, Vinod Gupta was employed as an Operations Coordinator in the IDOT facility located at 2300 N. Dirksen Parkway in Springfield, Illinois. That facility contains a Permit Office where members of the public may obtain permits. Adjacent to the Permit Office is a small waiting area consisting of two chairs and a table. Members of the public may sit in this area while waiting for assistance from the Permit Office.

## **III. Investigation**

### **A. Interview of [redacted]**

On June 9, 2010, OEIG investigators interviewed IDOT employee [redacted]. [Redacted name and identifying information]. During his interview, [redacted] said that, sometime during the week of March 15-19, 2010, he found a magazine on the table in the waiting area outside the Permit Office. [Redacted] identified the magazine as the Winter 2010 issue of WIN. [Redacted] told investigators that the back of the magazine contained a mailing address, which had been crossed out but which was still legible. The name on the address is Vinod Gupta.

### **B. Review of the Winter 2010 Issue of WIN Magazine**

The OEIG obtained and reviewed the Winter 2010 issue of WIN that was found in the waiting area outside the Permit Office. The cover of the magazine indicates that it is “the magazine of the War Resisters League.” The issue contains articles regarding anti-war protests and labor protests from around the world. The magazine does not endorse or support any political candidates or political parties. The back cover of the magazine contains a mailing address that has been crossed out. However, the name “Vinod Gupta” is legible.

### **C. Review of Vinod Gupta’s State Email Account**

The OEIG obtained and reviewed the contents of Mr. Gupta’s State email account. Mr. Gupta’s account contained a message he received from [redacted] on August 25, 2009. This email conveyed information regarding a fundraising event for Raja Krishnamoorthi, who was running for Illinois Comptroller. The message states, “To be successful, Raja needs our political and financial support. Please consider donating \$250 per family.” Mr. Gupta forwarded this message from his State email account to [redacted] on August 26, 2009.

Mr. Gupta’s email account also contained hundreds of non-work related email messages. For example, Mr. Gupta’s email account contained 299 non-work related email messages that Mr. Gupta sent between January 1, 2010, and January 15, 2010, and another 177 non-work related email messages that Mr. Gupta sent between May 1, 2010, and May 31, 2010.

#### **IV. Analysis**

##### **A. Allegation of Prohibited Political Activity**

Section 5-15 of the Ethics Act provides that “State employees shall not intentionally perform any prohibited political activity during any compensated time . . . [and] shall not intentionally misappropriate any State property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office or any political organization.” 5 ILCS 430/5-15(a). Section 1-5 of the Ethics Act defines “prohibited political activity” to include 15 categories of activity. 5 ILCS 430/1-5.

The issue of WIN magazine found in the waiting area outside the Permit Office does not constitute prohibited political activity as that term is defined in the Ethics Act. The issue does not solicit contributions, does not constitute campaign literature, and does not fall into any of the other categories of activity defined as “prohibited political activity” in Section 1-5 of the Ethics Act. Therefore, the allegation that Mr. Gupta engaged in prohibited political activity by leaving the WIN magazine in the waiting area outside the Permit Office is UNFOUNDED.<sup>1</sup>

Mr. Gupta misappropriated State property by engaging in prohibited political activity on August 26, 2009, when he used his State email account to forward an email message soliciting campaign contributions on behalf of Raja Krishnamoorthi, a candidate for Illinois Comptroller. Section 1-5 of the Ethics Act defines “prohibited political activity” to include “soliciting contributions.” 5 ILCS 430/1-5. The email message Mr. Gupta forwarded on August 26, 2009, read in relevant part, “To be successful, Raja needs our political and financial support. Please consider donating \$250 per family.” By using his State email account to forward this message, Mr. Gupta misappropriated State property by engaging in prohibited political activity for the benefit of a campaign for elective office in violation of the Ethics Act.

##### **B. Violation of IDOT’s Email Policy**

IDOT Departmental Order 8-2 allows IDOT employees to make “reasonable use of the Department’s email systems.” According to Order 8-2, email use is reasonable if it “is of reasonable duration and frequency.”

Mr. Gupta’s use of the IDOT email for non-work purposes exceeded reasonable frequency. From January 1, 2010, to January 15, 2010, Mr. Gupta sent 299 non-work related emails from his IDOT email account. From May 1, 2010, to May 31, 2010, Mr. Gupta sent 177 non-work related emails from his IDOT email account. By using his IDOT email account in excess of what can be considered “reasonable,” Mr. Gupta violated IDOT Departmental Order 8-2.

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<sup>1</sup> Because Mr. Gupta is no longer a State employee, the OEIG determined that it would not be a judicious use of its resources to fully investigate whether Mr. Gupta violated IDOT policy by leaving the WIN magazine in the waiting area outside the Permit Office. This would be an issue for IDOT management if Mr. Gupta were to return to IDOT employment in the future.

V. Recommendations

Following due investigation, the OEIG issues these findings:

- **FOUNDED** – Vinod Gupta misappropriated State resources by engaging in prohibited political activity for the benefit of a campaign for elective office when he used his IDOT email account to forward a message which solicited campaign contributions on behalf of a candidate for Illinois Comptroller.
- **FOUNDED** – Vinod Gupta violated IDOT Departmental Order 8-2 by using his IDOT email account in excess of what could be considered reasonable.
- **UNFOUNDED** – Vinod Gupta engaged in prohibited political activity by leaving a WIN magazine in a public area of an IDOT facility.

Because Vinod Gupta is no longer a State employee, the OEIG is not recommending discipline in this case. Should Mr. Gupta ever return to employment with IDOT, management should address his excessive email use and remind him of the prohibitions of the Ethics Act.

Pursuant to 5 ILCS 430/20-50(c), the OEIG has determined under the circumstances that it will not request that the Illinois Attorney General file a complaint with the Executive Ethics Commission (“EEC”) alleging a violation of the Ethics Act by Mr. Gupta.

No further investigative action is needed and this case is considered closed.



# Illinois Department of Transportation

Office of Quality Compliance & Review  
201 West Center Court / Schaumburg, Illinois 60196-1096

March 30, 2011

Mr. Neil Olson  
Deputy Director  
Office of Executive Inspector General for the Agencies of the Illinois Governor  
Illinois Building - 607 East Adams Street  
14th Floor  
Springfield, Illinois 62701

Subject: OEIG Complaint # 10-00323

Dear Mr. Olson:

This letter is in response to your March 21, 2011 letter regarding case number 10-00323 in which you requested that we report to your office the actions taken to address your recommendations. Our office will ensure that in the event that Mr. Gupta returns to employment with IDOT he will be reminded of the prohibitions of the Ethics Act and his excessive email usage will be addressed.

If you have any questions, or if I can be of further assistance to you or your staff, please do not hesitate to contact me at 847-221-3086.

Respectfully,

Daniel J. Kennelly  
Director

IN THE EXECUTIVE ETHICS COMMISSION  
OF THE STATE OF ILLINOIS

IN RE: VINOD GUPTA

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10-00323

RESPONDENT'S SUGGESTIONS FOR REDACTION / PUBLIC RESPONSE

Please check the appropriate line and sign and date below. If no line is checked the Commission will not make your response public if the redacted report is made public.

Below is my public response. Please make this response public if the summary report is also made public; or

~~Below~~ are my suggestions for redaction. I do not wish for these suggestions to be made public.

\_\_\_\_\_  
Respondent's Signature

6/30/11  
Date

Instructions: Please write or type suggestions for redaction or a public response on the lines below. If you prefer, you may attach separate documents to this form. Return this form and any attachments to:

Illinois Executive Ethics Commission  
401 S. Spring Street, Room 513 Wm. Stratton Building  
Springfield, IL 62706

THANKS FOR FINDING ONE ITEM UNFOUNDED  
I APOLOGIZE FOR PERSONAL EMAILS  
MY FORWARDING OF MESSAGE  
ON AUG 26, 2009, REGARDING  
RAJA, WAS INADVERTANT. I NEVER  
CONTRIBUTED ANYTHING TO HIM  
NOR DID I WORK FOR HIS  
CAMPAIGN <sup>NOR HELP HIM</sup> IN ANY SHAPE OR FORM,  
NOT EVEN HIS SIGN IN MY YARD.  
PLEASE FEEL FREE TO CHECK  
WITH HIM OR <sup>WITH</sup> HIS OPPONENTS OR  
WITH ANYBODY OR CHECK ANY RECORDS