

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

In re: DERRICK VENTON,) OEIG Case #11-00384
TOYE BARFIELD,)
VANESSA LEON, and)
EDWARD McCANN)

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (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 the report’s factual allegations or legal conclusions before the Commission.

The 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, pursuant to 5 ILCS 430/20-52, 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 Derrick Venton, Toye Barfield, Vanessa Leon and Edward McCann at their last known addresses.

In the unredacted OEIG report, over three hundred references to the IDHR complainant or the complainant’s “matter” or “mediation” or “complaint” contain the complainant’s name. In some cases, the name has simply been redacted. In other cases, the name has been replaced with [IDHR Complainant] as necessary for the purpose of clarity.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

Executive Summary

After an extensive investigation, the Office of Executive Inspector General (OEIG) concludes that no less than four Illinois Department of Human Rights (IDHR) employees, namely two IDHR investigators and two IDHR mediators, engaged in misconduct involving events that followed a complainant's filing of IDHR charges of sexual harassment and retaliation.

Specifically, on January 10, 2011, an IDHR complainant filed charges of sexual harassment and retaliation with IDHR, and, in an effort to settle the charges, a March 8, 2011 mediation was scheduled between complainant, respondent (former employer) and IDHR Mediator Toye Barfield. Prior to the mediation, IDHR Investigator Derrick Venton approached Ms. Barfield, and according to Ms. Barfield, asked her:

“to make sure [the IDHR complainant] gets a settlement for at least \$10,000 but if [Ms. Barfield] could push it to at least \$12,000, there may be something in it for [her].”

The OEIG concludes that Mr. Venton made the above statement, and in doing so, attempted to improperly influence the outcome of an IDHR mediation. In addition, Mr. Venton engaged in inappropriate communications with the complainant, enlisted her help to cover up his misconduct, and created an actual and/or apparent conflict of interest. Mr. Venton also violated the State Officials and Employees Ethics Act (Ethics Act) when he failed to cooperate by making false statements. Among other things, Mr. Venton said he had only communicated with the complainant on two prior occasions, yet phone records obtained by the OEIG showed communications between Mr. Venton and the complainant on over 1,000 occasions. Mr. Venton subsequently resigned. We recommend the State not rehire **Derrick Venton**.

The OEIG also concludes that IDHR Mediator Toye Barfield violated IDHR policies because she failed to report Mr. Venton's misconduct to IDHR management. Rather, Ms. Barfield merely told another IDHR Mediator, Vanessa Leon, what Mr. Venton said. To compound matters, IDHR Mediator Leon also failed to immediately report Mr. Venton's misconduct. Furthermore, Ms. Barfield and Ms. Leon provided the OEIG with conflicting, inconsistent, and at times, polar opposite versions of events that purportedly occurred during, prior to, and subsequent to the March 8, 2011 mediation. Although OEIG investigators have been unable to determine which IDHR mediator was fully candid, both now agree they should have immediately reported Mr. Venton's misconduct. Thus, the OEIG recommends that **Toye Barfield** be disciplined and that **Vanessa Leon** be counseled.

Finally, the OEIG investigation revealed that Mr. Venton enlisted the help of fellow IDHR investigator Edward McCann. Mr. Venton apparently asked Mr. McCann to provide a statement describing a conversation Mr. McCann said he overheard between Mr. Venton and Ms. Leon—the day after the March 8, 2011 mediation. Unfortunately, the OEIG was unable to get to the bottom of what, if anything, Mr. McCann overheard because he refused to even acknowledge that he sent Mr. Venton an email about the conversation—an email OEIG investigators retrieved from his State computer. Thus, the OEIG concludes Mr. McCann failed to cooperate in violation of the Ethics Act, and recommends that **Edward McCann** be disciplined.

[The two and one-half page Table of Contents has been redacted.]

FINAL REPORT

I. INTRODUCTION

On March 21, 2011, the Office of Executive Inspector General (OEIG) received a complaint alleging misconduct by three employees of the Illinois Department of Human Rights (IDHR). The allegation was that Investigator Derrick Venton, Investigator [REDACTED], and Mediator Vanessa Leon may have sought to receive a portion of the settlement proceeds from a case that was in mediation. After an extensive investigation that involved conflicting accounts of what occurred, the OEIG makes the following findings.

A. IDHR Investigator Derrick Venton

IDHR Investigator Derrick Venton violated IDHR policies and the State Officials and Employees Ethics Act (Ethics Act) by, among other things:

- asking IDHR Mediator Toye Barfield “to make sure [complainant] gets a settlement for at least \$10,000 but if [Ms. Barfield] could push it to at least \$12,000, there may be something in it for [her]”;¹
- engaging in inappropriate communications with an IDHR complainant;
- creating an actual and/or apparent conflict of interest; and
- failing to cooperate in the investigation by making false statements.

B. IDHR Mediator Toye Barfield

Though not named in the initial complaint, the OEIG finds that IDHR Mediator Toye Barfield violated IDHR policy by:

- failing to report that Mr. Venton asked her “to make sure [complainant] gets a settlement for at least \$10,000 but if [she] could push it to at least \$12,000, there may be something in it for [her];” and
- affirmatively avoiding her obligation to report Mr. Venton’s misconduct by asking IDHR Mediator Vanessa Leon to conduct the mediation about which Mr. Venton had attempted to influence her (Ms. Barfield), rather than report Mr. Venton’s conduct to management, and making a false statement to a supervisor regarding the reason she asked Ms. Leon to conduct the mediation.

C. IDHR Mediator Vanessa Leon

IDHR Mediator Vanessa Leon violated IDHR policy by failing to timely report that:

¹ The OEIG initially referred this matter to the appropriate law enforcement agency.

Ms. Barfield told her that Mr. Venton “had approached [Ms. Barfield] to ask her if she would help [Mr. Venton’s] girlfriend by getting her more money in mediation” and that if “she [Ms. Barfield] did that they would give her a cut.”

[Unfounded allegation redacted.]

D. IDHR Investigator Edward McCann

IDHR Investigator Edward McCann was not named in the complaint in this matter, but was interviewed as a putative witness to some of the related events. The OEIG finds that Mr. McCann violated the Ethics Act by failing to cooperate in the investigation. Mr. McCann failed to cooperate by making a false statement and providing evasive answers when interviewed by the OEIG.

E. [Unfounded allegation redacted]

II. BACKGROUND

A. IDHR: Charges of Discrimination

IDHR administers the Illinois Human Rights Act, which prohibits discrimination or harassment based on various protected statuses, including race, color, and sex. The IDHR processes charges (*i.e.*, complaints) of discrimination and harassment via its Charge Processing Division, which is divided into three units: the intake unit, the mediation unit, and the investigations unit.

IDHR investigators in the intake unit receive charges of discrimination. They interview complainants and assist them in drafting complaints. They do not evaluate cases, and are not to provide valuations of cases to complainants.

Once the complaint is signed by the complainant and filed, notice is sent to the subject of the complaint, *i.e.*, the respondent. The two parties (complainant and respondent) are presented with the opportunity of mediating a resolution of the complaint. If the complainant and respondent agree to mediation, IDHR’s mediation unit will schedule a mediation conference. If parties do not agree to mediation, or if mediation is unsuccessful, the matter is referred to the investigations unit where an IDHR investigator is assigned to investigate the charges. Investigators seek to determine whether there is substantial evidence that a violation of the Illinois Human Rights Act has occurred. If so, the matter may be brought before the Illinois Human Rights Commission or in Circuit Court.

B. IDHR Policies Regarding the Integrity of the Mediation Process

Under IDHR policy, the mediation process and the investigative process must remain separate. According to IDHR policy, IDHR investigators:

- “should not have any substantive contact with the parties while the mediation conference is in progress;”²
- “should not ask the mediator for any details about a case before, during or after a mediation, or while the case is later pending investigation;”³ and
- “should not allow or encourage the parties to discuss the details of a mediation conference that did not resolve the case.”⁴

In addition, IDHR’s Administrative Policy forbids “[k]nowingly abusing or misrepresenting an employee’s position or authority for personal gain.”⁵

IDHR policy requires that investigators and mediators avoid conflicts of interest.⁶ Specifically, “Charge Processing staff must avoid investigating or reviewing cases where there is a conflict of interest or the perception of such.”⁷ Where an investigator is assigned to a case that presents an actual or apparent conflict of interest, the investigator “must immediately report the situation to [a] supervisor[] so that the case can be reassigned.” *Id.* An example of a possible conflict of interest is where the complainant is “someone with whom the staff person has or had a personal relationship.” *Id.* In particular, the Policy and Procedures Manual prohibits “[k]nowingly entering into situations which present or appear to present conflicts of interest[.]”

Finally, it is IDHR policy that it is a breach of professional and ethical standards to “[w]illfully [know] and [fail] to report inappropriate or illegal activities of other employees which are inconsistent with the trust and responsibilities attendant to the individual’s position.”⁸

C. IDHR Complainant [REDACTED]

On January 10, 2011, [IDHR Complainant] filed two charges with the IDHR. One charge alleged sexual harassment and the other alleged retaliation (that she was discharged by her former employer for reporting the sexual harassment). [IDHR Complainant] and the IDHR respondent (her former employer) voluntarily agreed to participate in an IDHR mediation that was scheduled for and took place on March 8, 2011 (the “[REDACTED] mediation”).

² IDHR Investigator’s Manual Chapter IV, § M.

³ *Id.*

⁴ *Id.*

⁵ IDHR Adm. Policy and Proc. Manual, Chap. II, § A, Part 8.

⁶ *Id.*, Chapter II, §A, Part 3; and §C.

⁷ IDHR Investigators Manual, Ch. IV, § L.

⁸ IDHR Adm. Policy and Proc. Manual, Chap. II, § A, Part 7.

D. IDHR Intake Unit Investigator [REDACTED]

IDHR Intake Investigator [REDACTED] accepted [IDHR complainant's] complaint on behalf of IDHR. He helped [IDHR Complainant] draft the charge, had her sign the complaint, determined whether she wished to submit the matter to mediation, and processed the complaint accordingly.

E. IDHR Investigator Derrick Venton

Derrick Venton was an IDHR investigator⁹ within IDHR's Charge Processing Division. Mr. Venton's duties included investigating charges of discrimination. As set forth below, Mr. Venton had contact with complainant [REDACTED] but was never assigned to investigate her charges.

F. IDHR Mediator Toye Barfield

Toye Barfield was one of two IDHR mediators.¹⁰ Her duties include presiding over mediation conferences in which the IDHR complainant and respondent agree to participate. As a mediator, Ms. Barfield acts as a neutral third party in order to help resolve a complainant's charge. Ms. Barfield was the IDHR mediator assigned to mediate [IDHR Complainant's] complaint.

G. IDHR Mediator Vanessa Leon

Vanessa Leon was the other IDHR mediator. Her duties are the same as those of Ms. Barfield. Ms. Leon was not the IDHR mediator assigned to mediate [IDHR Complainant's] complaint. As set forth below, Ms. Leon did, however, *serve* as mediator with regard to [IDHR Complainant's] complaint.

H. IDHR Investigator Edward McCann

Edward McCann was hired by IDHR on October 18, 2010 as an IDHR Investigator I. As set forth below, Mr. McCann purportedly observed/overheard some of the events that occurred on March 9, 2011, the day after the [REDACTED] mediation.

I. Reports of Misconduct to IDHR Management

On March 9, 2011, prior to the initiation of the OEIG's investigation, IDHR management became aware of potential misconduct relating to IDHR complainant [REDACTED] mediation (the "[REDACTED] matter"). In response to an internal inquiry, IDHR management received information from IDHR employees in various written forms setting forth their versions of the events. In light of the fact that the statements IDHR management received were varied, partially contradictory and unclear, they are attached as exhibits to this report as set forth below.

⁹ On February 2, 2012, during the pendency of this investigation, Mr. Venton resigned from State employment in connection with alleged wrongdoing, but outside the scope of this investigation.

¹⁰ As of the date of this report, there are additional IDHR mediators.

- March 9, 2011 statement of IDHR Mediator Vanessa Leon. *See* Exhibit A.
- March 10, 2011 email of IDHR Mediator Vanessa Leon. *See* Exhibit B.
- March 9, 2011 email of IDHR Mediator Toye Barfield. *See* Exhibit C.
- March 10, 2011 memorandum of IDHR Investigator Derrick Venton. *See* Exhibit D.
- March 10, 2011 memorandum of IDHR Investigator Edward McCann. *See* Exhibit E.¹¹
- March 10, 2011 email of IDHR Complainant [REDACTED]. *See* Exhibit F.

III. INVESTIGATION

The OEIG’s investigation focused on the events before, during and after the March 8, 2011 [REDACTED] mediation. OEIG investigators reviewed the above-referenced statements (Exhibits A through F) submitted to IDHR management *prior* to the initiation of the OEIG’s investigation in order to try to sort out what happened, who said what to whom and what, if anything, IDHR employees did in response. Those statements raised several preliminary questions regarding possible misconduct, including the following:

- whether IDHR Investigator Derrick Venton attempted to influence the outcome of the [REDACTED] mediation by offering to compensate IDHR Mediator Toye Barfield if Ms. Barfield could obtain a settlement exceeding \$10,000;
- if IDHR Investigator Derrick Venton did attempt to influence the outcome of the [REDACTED] mediation, whether IDHR Mediator Barfield and/or IDHR Mediator Vanessa Leon failed to comply with their obligation to report Mr. Venton’s misconduct;
- whether IDHR Investigators Derrick Venton and [REDACTED] engaged in improper communications with [IDHR Complainant], a party to a mediation, and whether Investigator Venton improperly communicated with one or more mediators about the details of a mediation; and
- whether IDHR Mediator Vanessa Leon engaged in improper communications with Investigator Venton regarding the details of the [REDACTED] mediation.

To investigate those questions, OEIG investigators interviewed various individuals, including:

[REDACTED]	<i>IDHR Complainant</i>
Derrick Venton	<i>IDHR Investigator</i>
[REDACTED]	<i>IDHR Investigator</i>
Toye Barfield	<i>IDHR Mediator</i>
Vanessa Leon	<i>IDHR Mediator</i>
[REDACTED]	<i>[IDHR Manager]</i>
Edward McCann	<i>IDHR Investigator</i>

¹¹ As will be discussed below, the signature on the March 10, 2011 Edward McCann memorandum appeared over the printed name of Derrick Venton in the closing salutation, *not* the printed name of Edward McCann.

In addition, OEIG investigators interviewed the respondent to the ██████ complaint and his counsel, and reviewed various documents and telephone records.

Below, we summarize the interviews and data that form the basis for the OEIG's findings in this matter.

A. OEIG's First Interview of IDHR Mediator Toye Barfield

On June 14, 2011, the OEIG interviewed IDHR Mediator Toye Barfield. Ms. Barfield was asked about her March 9, 2011 email. See Exhibit C. Ms. Barfield was also asked questions about the events surrounding the ██████ matter. Below is a summary.

1. Ms. Barfield's March 9, 2011 Email

Ms. Barfield confirmed the statements in her March 9, 2011 email. Ms. Barfield was asked to elaborate on the events that led to her asking IDHR Mediator Vanessa Leon to conduct the March 8, 2011 ██████ mediation in her stead. In response, Ms. Barfield told OEIG investigators that sometime during the week of February 21, 2011, Derrick Venton came to her desk and said:

"My girl [IDHR complainant ██████] has two charges assigned to you. I think she wants to settle the cases. See if you can get her about \$10,000. If you can get her \$12,000, there may be something in it for you too. You need to look out for her."

Ms. Barfield said she told Mr. Venton she had no control over the dollar amount of any settlements. She said that she was not sure whether Mr. Venton was "joking" when he made the above statement. She said that Mr. Venton was a "jokester." In any event, Ms. Barfield stated that it was her opinion that Mr. Venton would have been serious about his offer had she shown signs of going along with it.

2. Ms. Barfield's Response to Mr. Venton's Statements

OEIG investigators then asked Ms. Barfield questions about what, if anything, she did after Mr. Venton made his statement regarding the \$10,000 or \$12,000 settlement amounts. In response to these questions, Ms. Barfield said that:

- Mr. Venton's offer made her feel uncomfortable;
- she went to IDHR Mediator Vanessa Leon and confided in her about what had occurred with Mr. Venton; and
- Ms. Leon offered to handle the March 8, 2011 mediation for her (Ms. Barfield).

Ms. Barfield also said that she and Ms. Leon decided not to tell Mr. Venton about the switch in mediators. She said that Ms. Leon was disgusted by what had happened with Mr. Venton.

Ms. Barfield also said that she recalled that, on March 7, 2011, the day before the [REDACTED] mediation, Mr. Venton approached her again and asked if he (Mr. Venton) could sit in on the next day's mediation. According to Ms. Barfield, she told Mr. Venton that he could not do so without the prior approval of management. She said that Mr. Venton responded by telling her (Ms. Barfield) that [IDHR Complainant] was nervous and had questions about the process. Ms. Barfield said that Mr. Venton then called [IDHR Complainant] on his cellular telephone and handed the telephone to her (Ms. Barfield), after which she (Ms. Barfield) went over the process with [IDHR Complainant].¹²

3. Toye Barfield's Actions on March 8, 2011: The Day of [IDHR Complainant's] Mediation

OEIG investigators then asked Ms. Barfield questions regarding what had occurred on March 8, 2011, the day the [REDACTED] mediation took place. Ms. Barfield told investigators that:

- on March 8, 2011, as planned with Ms. Leon, she told IDHR administrator [REDACTED] that she was ill and could not conduct the [REDACTED] mediation; and
- she did not disclose to [IDHR Administrator] that her illness was fabricated.

Ms. Barfield said that Ms. Leon started the [REDACTED] mediation at 1:00 p.m. that day. She said that, while the mediation was proceeding, at around 2:15 p.m., the following occurred:

- Mr. Venton approached her and asked her why she was not in the [REDACTED] mediation conference;
- she told Mr. Venton she had a personal emergency and that Ms. Leon had agreed to take her place; and
- Mr. Venton asked her numerous questions about Ms. Leon's ability to conduct the [REDACTED] mediation.

Ms. Barfield also told investigators that at about 3:00 p.m. the same day, Mr. Venton again approached her and told her he had received a text message from [IDHR Complainant] saying that she needed Mr. Venton's help and asking him to meet her ([IDHR Complainant]) near the ladies' restroom. Ms. Barfield stated that Mr. Venton asked her (Ms. Barfield) to join him in meeting with [IDHR Complainant], but she declined Mr. Venton's request.

Ms. Barfield also told OEIG investigators that when she saw Ms. Leon, she (Ms. Leon) told her (Ms. Barfield) that she (Ms. Leon) was very angry at having seen Mr. Venton and [IDHR Complainant] together outside the mediation room. According to Ms. Barfield, Ms. Leon also told her that:

- Mr. Venton was "all over her" ([IDHR Complainant]);
- there were some "disturbing" things that had occurred in the mediation conference; and

¹² Ms. Barfield said in her second OEIG interview, described later in this report, that she did not speak with [IDHR Complainant] via Mr. Venton's cellular telephone, but rather spoke with [IDHR Complainant] using her (Ms. Barfield's) IDHR office phone.

- [IDHR Complainant] had made a statement during the mediation conference that she ([IDHR Complainant]) had been told by Investigator [REDACTED] that her case was worth a lot of money, and that [IDHR Complainant's] statement had upset the respondent ([IDHR Complainant's] former employer) in the mediation.

Ms. Barfield said she never had any discussion with Ms. Leon about reporting Mr. Venton's statements to IDHR management. Ms. Barfield also said that she did not report Mr. Venton's statements to anyone other than Ms. Leon. Finally, Ms. Barfield said that Ms. Leon was the one who reported the incident to [IDHR Manager], on March 9, 2011.

B. OEIG's First Interview of [IDHR Manager]

On June 16, 2011, the OEIG interviewed [IDHR Manager]. [Identifying information redacted.] [IDHR Manager] was asked about the [REDACTED] matter.

1. [IDHR Manager] Learns of Misconduct and Asks Mediators for Written Statements

[IDHR Manager] told OEIG investigators that on the morning of March 9, 2011, Ms. Leon came to her office and told her the following regarding what had occurred prior to March 9, 2011:

- that she (Ms. Leon) had agreed to mediate a case originally assigned to Ms. Barfield;
- that Mr. Venton had approached Ms. Barfield and had told her (Ms. Barfield) to take special care of his friend, [IDHR Complainant];
- that Mr. Venton had told Ms. Barfield that if she got [IDHR Complainant] a good settlement there might be something in it for her (Ms. Barfield); and
- that Ms. Barfield gave the case to her (Ms. Leon) because she did not feel comfortable doing the mediation herself after Mr. Venton approached her.

[IDHR Manager] said she then asked Ms. Leon to prepare a written statement about what had occurred, which she did. *See* Exhibits A and B.

According to [IDHR Manager], later that day (March 9, 2011) she called Ms. Barfield into her office and asked her also to prepare a written statement. *See* Exhibit C.

2. Vanessa Leon's Alleged Post-Mediation Contact with Derrick Venton

In light of the fact that IDHR Investigator Derrick Venton had stated in his March 10, 2011 memorandum¹³ that Vanessa Leon approached him (Mr. Venton) on March 9, 2011 and told him that the respondent in the [REDACTED] case offered her \$5,000 to settle the two charges, OEIG investigators asked [IDHR Manager] whether such a statement would have been appropriate. [IDHR Manager] responded that if Ms. Leon had made that statement to Mr. Venton, she would have gone "over the line." [IDHR Manager] also told investigators that there should be no

¹³ *See* Exhibit D.

discussion between investigators and mediators about cases and that everything that occurs in a mediation is confidential. She stated that Chapter 4, Section M of the policy manual covers this topic.

C. OEIG's First Interview of IDHR Mediator Vanessa Leon

On June 16, 2011, the OEIG interviewed IDHR Mediator Vanessa Leon. Ms. Leon confirmed the statements in her March 9, 2011 written statement¹⁴ and email.¹⁵ Ms. Leon was then asked questions regarding the [REDACTED] matter.

1. Vanessa Leon Learns of Derrick Venton's Statements

Ms. Leon told OEIG investigators that she shares an office cubicle with Ms. Barfield. She said that Ms. Barfield had approached her sometime during the last two weeks of February 2011 with regard to a matter involving her (Ms. Barfield) and Derrick Venton. Ms. Leon said that she (Ms. Leon) had been conducting a mediation that day, and noticed during her breaks that Mr. Venton was talking to Ms. Barfield near their cubicle on several occasions. Ms. Leon said that, upon completing her mediation, she asked Ms. Barfield why Mr. Venton had been in and out of their area all day. Ms. Leon said that Ms. Barfield told her that:

- Mr. Venton told her (Ms. Barfield) that he had previously spoken to a woman on the phone while he was serving as counselor of the day and that he [Mr. Venton] told the woman to come into the office and ask for him;
- the woman did ask for Mr. Venton and he took her to meet with IDHR intake investigator [REDACTED];
- Mr. Venton told her (Ms. Barfield) that he was now dating the woman and that her charges were now pending for mediation with Ms. Barfield; and
- Mr. Venton told her (Ms. Barfield) that "we" (he and the woman) were looking for a \$10,000 settlement, but if she (Ms. Barfield) could get more, they would give her a cut.

Ms. Leon also said that Ms. Barfield reacted to Mr. Venton's request by stating to her: "Do you believe that crap?" Ms. Leon said that she told Ms. Barfield that she (Ms. Barfield) needed to send the cases to investigations rather than handle the mediation. According to Ms. Leon, this was the last she heard about the [REDACTED]¹⁶ matter until March 8, 2011.

2. March 8, 2011: The Day of [IDHR Complainant's] Mediation

Ms. Leon told OEIG investigators that on March 8, 2011, she had conducted a morning mediation, exited the mediation at about 12:30 p.m., and noticed that Ms. Barfield looked sick. Ms. Leon said that Ms. Barfield told her (Ms. Leon) that she did not feel well and that she (Ms. Barfield) notified [IDHR Administrator] that she (Ms. Barfield) was ill, and that Ms. Leon would

¹⁴ See Exhibit A.

¹⁵ See Exhibit B.

¹⁶ Ms. Leon told OEIG investigators that at the time, she did not know the name of the woman that Mr. Venton was supposedly talking about, namely [IDHR Complainant].

handle Ms. Barfield's scheduled 1:00 p.m. mediation. Ms. Leon also said that at the time of these events, she was unaware of the identities of the parties to the 1:00 p.m. mediation that she had just agreed to conduct.

According to Ms. Leon, during the "testimony" portion of the [REDACTED] mediation, complainant [REDACTED] [REDACTED] said that an investigator previously told her the value of the case. Ms. Leon said that, in response to what [IDHR Complainant] said, she (Ms. Leon) asked [IDHR Complainant] if she was referring to intake investigator [REDACTED], and that she said "no," the "other investigator." Ms. Leon said that, at the time, she did not know who [IDHR Complainant] was referring to. She said that, upon hearing what [IDHR Complainant] said, the respondent and his attorney became upset and suspicious.

Ms. Leon then told OEIG investigators that:

- in caucus, away from the respondent and his attorney, [IDHR Complainant] told her that [REDACTED] told her the case was worth double digits;¹⁷
- [IDHR Complainant] said that Investigator Venton also told her the case was worth that much; and
- [IDHR Complainant] referred to Mr. Venton as her "boyfriend" and said they were dating.

Ms. Leon said that it was at this point that she first realized that this was the case Ms. Barfield had spoken to her about and that she previously told Ms. Barfield to send back to investigations.

Ms. Leon said that, in private caucus with the respondent and his attorney, they asked for an explanation of why [IDHR Complainant] would be talking with investigators. Ms. Leon said she assured the respondent and counsel that she would look into it immediately. She said she then told the respondent that [IDHR Complainant] wanted \$50,000 or \$100,000. Ms. Leon said that the respondent countered with an offer of \$1,000. Ms. Leon said she then left the caucus with the respondent and saw [IDHR Complainant] sitting with Mr. Venton in the waiting area.¹⁸

According to Ms. Leon, on March 8, 2011, sometime between 5:30 and 6:00 p.m., after the [REDACTED] mediation, she saw Ms. Barfield and asked her whether the case she just handled was the case Ms. Barfield had previously told her about that involved Mr. Venton and his girlfriend. Ms. Leon said that she also asked Ms. Barfield why she had not sent the case to investigations, and that Ms. Barfield replied that she was concerned that Mr. Venton would have ended up with the case himself. Ms. Leon said that she told Ms. Barfield that she (Ms. Leon) felt "set up" by Ms. Barfield, who then apologized.

¹⁷ We note the apparent inconsistency between what [IDHR Complainant] supposedly said about [investigator] in open session and what she supposedly said about him in private caucus. That apparent inconsistency was not resolved.

¹⁸ Ms. Leon told OEIG investigators that the parties continued to make offers and counteroffers in an effort to resolve the matter until the respondent made a final offer of \$5,000, which [IDHR Complainant] rejected. Ms. Leon said that, during the course of the back and forth negotiations, she saw Mr. Venton in [IDHR Complainant's] presence.

3. Vanessa Leon's Post-Mediation Actions

Ms. Leon told OEIG investigators that as soon as the March 8, 2011 [REDACTED] mediation was over, she immediately looked for a supervisor to whom she could report what had happened. However, according to Ms. Leon, all of the supervisors were gone except for one who was walking out the door and whom she tried to contact, to no avail. Ms. Leon said that she also emailed a supervisor, but he did not reply.

Ms. Leon said that, the next day (March 9, 2011), she arrived at the office at 6:30 a.m. to look for a supervisor and eventually found [IDHR Manager], to whom she reported what had occurred. She said that [IDHR Manager] asked her to prepare a written statement memorializing the events, which she did. *See* Exhibit A and B.

Ms. Leon said that, on the same morning (March 9), Ms. Barfield told her that Mr. Venton was speaking ill of her (Ms. Leon). Ms. Leon said that she told Mr. Venton that the [REDACTED] case was her case, not Ms. Barfield's, and that if he (Mr. Venton) had questions, he should have his girlfriend call her (Ms. Leon). Ms. Leon said that, in response to her statements, Mr. Venton told her that [IDHR Complainant] was not his girlfriend, but that they just went to the same church.

During OEIG questioning, Ms. Leon denied stating to Mr. Venton (on the morning of March 9, 2011) that the respondent's settlement offer was \$5,000 for both of [IDHR Complainant's] charges. According to Ms. Leon, such a statement would be a violation of confidentiality requirements and the requirement that mediation and investigations be separate.

D. OEIG's Interview of the Respondent's Attorney

On August 12, 2011, the OEIG interviewed the respondent's counsel in the [REDACTED] mediation. The respondent's counsel confirmed that [IDHR Complainant] demanded a settlement of \$50,000. The respondent's counsel also confirmed that the respondent's final offer was \$5,000.

The respondent's counsel did not recall [IDHR Complainant] making statements that an investigator told her that the case was worth a certain amount of money. He did recall, however, that Ms. Leon said something about [IDHR Complainant] not being truthful and that Ms. Leon might have said something about [IDHR Complainant] knowing someone who works for IDHR.

The respondent's counsel could not recall [IDHR Complainant] referring to any IDHR investigator by name or implying any relationship with any investigator. He said he would have remembered something like that. The respondent's counsel also said he felt Ms. Leon did her job and acted as a neutral party trying to bring the case to resolution.

E. OEIG's Interview of the Respondent ([IDHR Complainant's] former employer)

On August 16, 2011, the OEIG interviewed the respondent in the [REDACTED] matter. The respondent told investigators that, during the March 8, 2011 [REDACTED] mediation, no settlement amounts were discussed in open session but that he later learned of [IDHR Complainant's] \$50,000 demand. According to the respondent, Ms. Leon shared additional information with him and his counsel in private caucus. Specifically, according to the respondent, Ms. Leon stated that:

- there was something wrong with the processing of [IDHR Complainant's] complaint;
- the mediator initially assigned to the case had previously approached her (Ms. Leon) and said either an investigator or intake person had spoken to the prior mediator (Ms. Barfield) and told her to put the "squeeze" on the respondent;
- there was something "unholy" between [IDHR Complainant] and the IDHR investigator;
- she (Ms. Leon) is an experienced mediator;
- she generally did not believe [IDHR Complainant];
- [IDHR Complainant's] demand of \$50,000 was outrageous; and
- Ms. Leon intended to take action against the IDHR investigator based on what she perceived as improper conduct.

The respondent said that he thought Ms. Leon was genuinely trying to mediate the charge and that she evaluated the case appropriately. He said that he was uncomfortable with what [IDHR Complainant] allegedly had done, but was comforted by Ms. Leon's "professionalism" and appreciated her comment that the \$5,000 offer was too generous but understandable under the circumstances.

F. OEIG's Second Interview of Mediator Vanessa Leon

On August 26, 2011, the OEIG conducted a second interview of Vanessa Leon. The purpose of the interview was to ask Ms. Leon questions regarding what she had said to the respondent and respondent's counsel during the [REDACTED] mediation, and regarding what she said to Mr. Venton on March 9, 2011, the morning following the [REDACTED] mediation.

1. Statements Allegedly Made by Ms. Leon During the [REDACTED] Mediation

Ms. Leon reiterated that, at some point during the [REDACTED] mediation when all parties were present, [IDHR Complainant] made a comment about having talked with an IDHR investigator about the value of her case. She said that the respondent and his counsel then left the room, and then she (Ms. Leon) asked [IDHR Complainant] about her comment regarding the other investigator. She said that [IDHR Complainant] responded that an investigator told her the case was worth double-digits, but [IDHR Complainant] did not reveal the investigator's name to Ms. Leon. Ms. Leon said she inferred that it was Mr. Venton after seeing [IDHR Complainant] in Mr. Venton's company at least three times that day outside the mediation room.

Ms. Leon denied that she said anything to the respondent and his counsel about an IDHR investigator trying to have the formerly assigned mediator put the “squeeze” on the respondent. Ms. Leon said she nevertheless was concerned about [IDHR Complainant’s] revelation of her contact with investigators and that she promised the respondent and his counsel that she would report the incident to her supervisors. She added that, when Ms. Barfield first came to her (prior to March 8, 2011) about what Mr. Venton had said, she told Ms. Barfield that she (Ms. Barfield) needed to report the matter to her supervisor.

2. Post-Mediation Contact with Derrick Venton

With regard to the morning after the mediation (March 9, 2011), Ms. Leon said that, after she reported what occurred the day before to [IDHR Manager], Mr. Venton kept coming by the cubicle that Ms. Leon shared with Ms. Barfield, seeking to talk with Ms. Barfield. Ms. Leon said she learned later that morning from Ms. Barfield that Mr. Venton told her that [IDHR Complainant] intended to accept respondent’s \$5,000 offer. Ms. Leon said she then confronted Mr. Venton in an open area away from the cubicles. Ms. Leon said she was very angry with Mr. Venton and believes her voice may have been slightly elevated. She said she told Mr. Venton to stop going to Ms. Barfield because the case was hers (Ms. Leon’s). She said she told him, “If your girlfriend has any questions, have her call me.” She said Mr. Venton replied that [IDHR Complainant] was not his girlfriend, but only someone who goes to his church. Ms. Leon said that she responded, “I wonder how many of our female complainants I’d find at your church if I went there?”

Ms. Leon said she did not believe anyone overheard her exchange with Mr. Venton. Investigators asked Ms. Leon about co-worker and IDHR Investigator Edward McCann, who had submitted a written statement to management about a conversation he said he had overheard between Ms. Leon and Mr. Venton. In response, Ms. Leon said that Mr. McCann did not sit near where she and Mr. Venton had their conversation. She added that Mr. McCann was a new investigator and likely would have been in daily training at the time.

Ms. Leon denied stating to Mr. Venton that the respondent was offering \$5,000 to settle of both charges.

G. OEIG’s Interviews of IDHR Investigator Edward McCann

On September 29, 2011, January 23, 2012, and October 25, 2012, the OEIG interviewed IDHR Investigator Edward McCann regarding his March 10, 2011 memorandum addressed to [IDHR Supervisor]. *See Exhibit E.*

During his September 29, 2011 interview, Mr. McCann told investigators that he started working for IDHR in October 2010, and completed his formal investigator training in February or March 2011. He described Mr. Venton as a co-worker and team member to whom he would occasionally go with work-related questions. He said that he does not consider Mr. Venton a mentor nor does he socialize with him. He said that as of March 2011 he shared a cubicle wall with Mr. Venton, and that the height of the wall was about four feet.

1. Edward McCann's Version of Events (First Interview)

According to Mr. McCann, on March 9, 2011, he was sitting at his desk, and Mr. Venton and IDHR Mediator Vanessa Leon were standing outside the cubicle space. He estimated that he was about three feet away from where they were standing and, although he said he could not see them, he said he overheard what he believed to be the end of their conversation. Mr. McCann told investigators that he heard:

- Ms. Leon say something about settling both cases for \$5,000; and
- Mr. Venton reply that he did not know what she was talking about and that the woman just goes to his church.

Mr. McCann told investigators that, after he overheard that conversation, Mr. Venton approached him and asked, "Did you hear that? Did you hear what she said?" According to Mr. McCann, Mr. Venton then asked him to write a statement regarding what he had heard. Mr. McCann said that, although he did not know why Mr. Venton was asking him to write a statement, he nevertheless prepared one. *See Exhibit E.* Mr. McCann recalled his statement as being a few sentences long and said he probably emailed it to Mr. Venton.

Mr. McCann was asked why his March 10, 2011 memorandum regarding the [REDACTED] matter was addressed to [IDHR Supervisor], even though it was Mr. Venton who had asked him to draft the memorandum. In response, Mr. McCann stated he did not know but thought he sent his memorandum to Mr. Venton. Mr. McCann was then asked why his signature on the memorandum appears over the typed name "Derrick Venton." In response, Mr. McCann stated that he did not know, and that it (typing the name Derrick Venton) must have been a "typo."

2. Edward McCann's March 10, 2011 Memorandum and Email (Second Interview)

In the OEIG's second interview of Mr. McCann (January 23, 2012), he was further questioned about who authored the March 10, 2011 memorandum (*see Exhibit E*). Mr. McCann denied that Mr. Venton wrote the memorandum and denied that he (Mr. McCann) merely signed it. Mr. McCann told investigators that he would not do such a thing and said the statements in the memorandum were true.

Investigators then showed Mr. McCann a copy of a March 10, 2011, 10:59 a.m. email he sent Derrick Venton in which he (Mr. McCann) wrote:

On March 9, 2011, at around nine (9) a.m., I overheard a conversation in the cubicle behind me. A woman stated "it's going to be \$5,000 for both of them, right?" and Investigator Venton replied "I don't know what the hell you're talking about, that woman goes to my church." And subsequently, the woman walked off.

(*See Exhibit G.*)

The content of the March 10, 2011 email to Mr. Venton was the same as the content of the March 10, 2011 memorandum to [IDHR Supervisor], except that it contained the word “hell” -- “I don’t know what the *hell* you’re talking about (emphasis added)” – and did not refer to “Vanessa Leon” by name, but only as “a woman” or “the woman.” *See* Exhibits E and G. In addition, in his email, Mr. McCann typed “Edward T. McCann” at the end.

When shown the email, Mr. McCann denied knowing who wrote it, did not recall seeing it before, and could not recall it coming from his computer. Mr. McCann further told OEIG investigators that he did not know why the wording in the email differed from the wording in his memorandum to [IDHR Supervisor].

3. More On Edward McCann’s March 10, 2011 Memorandum and Email (Third Interview)

On October 25, 2012, the OEIG again interviewed Mr. McCann for the purpose of giving him an opportunity to clarify what occurred with regard to the March 10, 2011 email that he sent to Derrick Venton and the March 10, 2011 memorandum that he purportedly wrote and sent to [IDHR Supervisor].

Mr. McCann was again shown a copy of the March 10, 2011 email. After reading it, he said, “I remember typing this.” But he said that he did not recall sending the email to Mr. Venton. When asked whether he had any reason to doubt that he sent the email to Mr. Venton, Mr. McCann replied, “I don’t have an opinion on it.” Mr. McCann was informed that the OEIG had obtained the email from his State email account, and he was again asked whether he had any reason to doubt that he sent the email to Mr. Venton. He replied, “I have no reason to doubt you,” but added that he did not remember sending the email. Mr. McCann was asked whether anyone else would have access to his email account, and he replied that he had never seen anyone on his computer sending emails, but that others did have access to his computer, including the OEIG.

Mr. McCann was then shown a copy of the March 10, 2011 memorandum that was addressed to [IDHR Supervisor]. Mr. McCann confirmed that the signature on the memorandum was his signature. When asked whether he had any recollection of preparing the memorandum, he replied, “I don’t know.” He said that he was unsure of the format he used when he gave the statement to Mr. Venton. Mr. McCann was asked to explain why the name “Derrick Venton, Investigator I” was typed below his signature rather than his name since it was his memorandum. He replied that it was “maybe a typo.”

Mr. McCann was asked if it was possible that Mr. Venton (1) “cut and pasted” the text from the March 10, 2011 email that he (Mr. McCann) sent to Mr. Venton into a memorandum, and (2) then asked him (Mr. McCann) to sign the memorandum. Mr. McCann replied, “It is possible. I just don’t know, I don’t recall.”

H. OEIG's Interview of IDHR Administrator [REDACTED]

On October 11, 2012, OEIG investigators interviewed IDHR Administrator [REDACTED]. [IDHR Administrator] was asked about what occurred on March 8, 2011.

[IDHR Administrator] told OEIG investigators that on March 8, 2011, at about 11:30 a.m., Ms. Barfield and Ms. Leon came to his office. At that time, Ms. Barfield told him she was sick, and asked whether Ms. Leon could take over the mediation that she (Ms. Barfield) was scheduled to conduct that afternoon. According to [IDHR Administrator], Ms. Leon told him she agreed to conduct the mediation. [IDHR Administrator] also told investigators that Ms. Barfield did look "sick" and recalled offering her some medicine, which she declined.

I. OEIG's Interview of IDHR Investigator [REDACTED]

On September 29, 2011, the OEIG interviewed IDHR Investigator [REDACTED]. The purpose of the interview was to determine [REDACTED] involvement in the processing and handling of [IDHR Complainant's] IDHR charges.

[REDACTED] told OEIG investigators that he started working in IDHR's intake unit in 1997 and, although he received his initial training with the agency then, he could not recall whether the training covered the issue of the separation of investigations and mediation. In any event, [REDACTED] said that making statements to complainants about the value of their cases is inappropriate and that he has never done that.

[REDACTED] was shown the two charges that were filed by complainant [REDACTED], which he processed on January 10, 2011. [REDACTED] had no specific recollection of the charges or of [IDHR Complainant]. [REDACTED] said he was unaware of whether [IDHR Complainant] is a friend or family member of anyone in his IDHR office.

J. Telephone Calls Between IDHR Investigator Derrick Venton and IDHR Complainant [REDACTED]

The OEIG obtained and reviewed telephone records relating to Mr. Venton's and [IDHR Complainant's] telephone/text communications. The records reveal that Mr. Venton and [IDHR Complainant] communicated by telephone and text messages on over 1,000 occasions between January 7, 2011 and August 16, 2011. In total, there were over 85 telephone calls and over 950 text messages. The following is a summary of [IDHR Complainant's] and Mr. Venton's key telephone/text communications:

Jan. 7, 2011 Three days before [IDHR Complainant] filed her IDHR charge: [IDHR Complainant] and Mr. Venton communicated through a text message.

Mar. 7, 2011 The day before [IDHR Complainant's] scheduled mediation: [IDHR Complainant] and Mr. Venton exchanged 33 text messages.

Mar. 8, 2011 The day of [IDHR Complainant's] mediation: [IDHR Complainant] and Mr. Venton exchanged:

- 19 text messages prior to the start of the mediation; and
- 24 text messages and phone calls during the mediation.

Mar. 9, 2011 The day after the mediation: [IDHR Complainant] and Mr. Venton exchanged 50 text messages and phone calls.

In addition, on March 9, 2011, the day after the mediation, Mr. Venton called [IDHR Complainant] on four occasions from his State desk phone. Mr. Venton also called [IDHR Complainant] on four other occasions from his State desk phone.

K. OEIG's Interview of Investigator Derrick Venton

On November 18, 2011, the OEIG interviewed IDHR Investigator Derrick Venton. As summarized below, Mr. Venton was asked about: (a) his understanding and overall compliance with IDHR policies regarding conflicts of interest; (b) his relationship with [IDHR Complainant]; (c) the statements he allegedly made to Toye Barfield; (d) his interaction with Vanessa Leon on March 9, 2011; (e) the Edward McCann memorandum and [IDHR Complainant] email; and (f) his telephone and text communications with [IDHR Complainant].

1. Mr. Venton's Understanding of and Compliance with IDHR Policy Regarding Conflicts of Interest

Mr. Venton was asked about IDHR's policy with regard to conflicts of interest that might arise where an investigator becomes involved in a case involving family or friends. Mr. Venton told OEIG investigators that IDHR policy with regard to such conflicts of interest is that a conflict should be disclosed to a supervisor so that the case may be reassigned. He stated that he would comply with that policy if such a conflict ever arose with him.

Mr. Venton then denied that he had ever:

- handled an IDHR investigation involving a family member or friend;
- intervened on behalf of a family member or friend in any IDHR proceeding; or
- tried to influence any IDHR employee to act favorably with regard to a family member or friend.

Mr. Venton said that to do any of those things would be a violation of policy regarding conflicts of interest, and would be just plain wrong. Mr. Venton also denied ever determining the value of cases brought before the IDHR and denied ever discussing with any complainant the merits or monetary value of his or her case. He said that to do so would be unethical.

2. Mr. Venton's Interactions with [IDHR Complainant]

With regard to [IDHR Complainant], Mr. Venton told OEIG investigators that he knew her from a church that he had visited in the past. He said that he did not know her well and that

he recalled having communicated with her on only *two* prior occasions. He denied seeing her in the IDHR office on March 8, 2011. However, according to Mr. Venton, sometime prior to March 8, 2011, he had a chance meeting with [IDHR Complainant] at the IDHR office. According to Mr. Venton, [IDHR Complainant] came up to him on that occasion and asked him a question about the complaint process. He did not know [IDHR Complainant's] identity at the time and only later learned her name. Mr. Venton said he believes that first encounter was on the day [IDHR Complainant] first attempted to file her complaint (January 2011).

Mr. Venton told OEIG investigators that he also saw [IDHR Complainant] on March 6, 2011, when his church choir was performing at her ([IDHR Complainant's]) church. However, he said that he had no interaction with her on that occasion and that his only contact with her after she filed her charges in January 2011 was on March 8, 2011, the date of her mediation.

In light of the 33 text messages that were exchanged between Mr. Venton and [IDHR Complainant] on March 7, 2011, Mr. Venton was asked whether he had any contact with [IDHR Complainant] on that day, either by personal visit, phone, text or email. He said that he could not recall any such contact, and added that there would be no reason for him to contact her because he did not even know her name or identity at the time, and he did not recall any complainant calling him on March 7, 2011.

Mr. Venton told OEIG investigators that he did not have any contact with [IDHR Complainant] during the morning of March 8, 2011 up to the time the mediation started in the early afternoon. He said he ran into [IDHR Complainant] during the afternoon, and that they had a 2 or 3 minute conversation about church and then he wished her good luck and walked away. Mr. Venton said that, during that encounter, [IDHR Complainant] made a comment that she thought the mediator was too friendly with the respondent, but Mr. Venton said he declined to get involved.

3. Mr. Venton is Questioned About Statements He Allegedly Made to Toye Barfield

Mr. Venton was asked about Ms. Barfield's statement that he told her to try to get a \$10,000 settlement for [IDHR Complainant], and that he told her that if she could get around \$12,000 for her ([IDHR Complainant]), there might be something in it for her (Ms. Barfield). Mr. Venton denied making such a statement, stating: "I would never say this. I would never had done that. I'm a professional and take pride in what I do." OEIG investigators then asked Mr. Venton if he might have made that statement "jokingly."¹⁹ Mr. Venton responded that he would never joke about something like that. He denied ever telling Ms. Barfield that she needed to "look out for [his] girl."

Mr. Venton further denied:

¹⁹ IDHR mediator Toye Barfield had written in her March 9, 2011 email that "Derrick *jokingly* said to make sure Cp gets a settlement for at least \$10,000 but if I could push it to at least \$12,000, there may be something in it for me too." See Exhibit C (emphasis is original).

- having any contact with [IDHR Complainant] prior to the mediation other than the chance meeting at the IDHR in January 2011;
- approaching Ms. Barfield while the mediation was proceeding; or
- telling Ms Barfield that he had received a text message from [IDHR Complainant] and that she ([IDHR Complainant]) had asked him to meet her by the ladies' restroom.

Mr. Venton told OEIG investigators that he could not have received a text message from [IDHR Complainant] because they did not have each other's cell phone numbers.²⁰

4. Post-Mediation Contact with Vanessa Leon

Mr. Venton was asked about the allegation that there was an oral exchange between him and Vanessa Leon in the morning of March 9, 2011 with regard to the [REDACTED] mediation. Reading from the March 10, 2011 memorandum he (Mr. Venton) had submitted to [IDHR Supervisor], Mr. Venton stated that Ms. Leon came by his desk and said that the [REDACTED] settlement would be \$5,000 for both cases, not one. *See* Exhibit D. Mr. Venton said that he responded to Ms. Leon by telling her that [IDHR Complainant] was just someone who goes to his church. OEIG investigators pointed out to Mr. Venton that his reference to "my church" was inconsistent with his other statements that it was not his church at which he saw [IDHR Complainant], but at "her church," which his church choir was visiting. Mr. Venton explained the inconsistency as a "Freudian slip."²¹

5. The Edward McCann Memorandum and [IDHR Complainant] Email

With regard to the written memorandum Edward McCann had submitted purporting to describe the March 9, 2011 exchange between Mr. Venton and Ms. Leon, Mr. Venton stated that he did not tell Mr. McCann what to put in the statement, nor did he write it for him.

With regard to the email that Mr. Venton obtained from [IDHR Complainant] and provided to IDHR management, Mr. Venton acknowledged that he interacted with [IDHR Complainant] on March 9 or 10, 2011 to obtain the statement, but said he does not recall ever having her telephone number. Mr. Venton made that statement to OEIG investigators even though [IDHR Complainant] wrote the following in her email: "Cell-XXX-XXX-XXXX."²² *See* Exhibit F.

6. Telephone Records Between Mr. Venton and [IDHR Complainant]

Mr. Venton was informed that the OEIG had obtained his phone records, and that, as set forth above, the records revealed that he had made numerous text and telephone communications to [IDHR Complainant], including four calls on the morning of March 9, 2011. Mr. Venton was

²⁰ [IDHR Complainant's] cellular telephone number was listed in her March 10, 2011 email to Derrick Venton, which he forwarded to IDHR supervisor [REDACTED]. *See* Exhibit F (the number has been redacted for this exhibit).

²¹ According to American Heritage Stedman's Medical Dictionary, a Freudian slip refers to a "[v]erbal mistake that is thought to reveal an unconscious belief, thought, or emotion."

²² This report excludes the telephone number for privacy reasons.

asked whether he had contacted [IDHR Complainant] at any time by text message. In response, Mr. Venton said he did not recall any text messages between him and [IDHR Complainant].

OEIG investigators then informed Mr. Venton that records revealed that he had sent 33 text messages to [IDHR Complainant] on March 7, 2011, the day before her mediation, and 19 text messages on March 8, 2011 before 1:00 p.m. Mr. Venton responded, "If you say so. I haven't seen the records."

Mr. Venton was further told that the records revealed that there were 87 phone calls and 961 text messages between him and [IDHR Complainant]. He was then shown the phone records and permitted to review them. In response, Mr. Venton suggested that the OEIG had fabricated the telephone records.²³

L. OEIG's Interview of IDHR Complainant [REDACTED]

On June 15, 2012, OEIG investigators interviewed [IDHR Complainant]²⁴ on a variety of topics. Below is a summary of her interview.

1. [IDHR Complainant's] IDHR Charges

[IDHR Complainant] was asked about the circumstances surrounding the filing of her IDHR charges. In response, [IDHR Complainant] stated that:

- she met Mr. Venton for the first time in the lobby of the IDHR office on Friday, January 7, 2011;
- she had attempted to file a complaint that day but learned that the agency did not accept complaints on Fridays;
- Mr. Venton approached her and she ([IDHR Complainant]) believed he did so because she was visibly upset and because he wanted to flirt with her;
- she gave Mr. Venton her cell phone number; and
- she did not realize until she returned to the IDHR offices on January 10 that Mr. Venton was an IDHR employee.

[IDHR Complainant] told OEIG investigators that she met with IDHR Intake Investigator [REDACTED] when she filed her complaint, and that Mr. Venton sat with her and [IDHR Intake Investigator] as they drafted the complaint. She said Mr. Venton and [IDHR Intake Investigator] determined together how to craft the complaint and that it should be filed as two separate charges. [IDHR Complainant] denied that either Mr. Venton or [IDHR Intake Investigator] ever told her how much her case was worth. She said that no one put a dollar value on her case.

²³ The telephone records were obtained by OEIG investigators via subpoena.

²⁴ Between November 4, 2011, and February 23, 2012, the OEIG made several attempts to contact [IDHR Complainant] to schedule an interview. [IDHR Complainant] failed to show up for any of the scheduled interviews, even when compelled by an administrative subpoena. After the Office of the Illinois Attorney General filed a petition in court to enforce the OEIG subpoena against [IDHR Complainant], she attended the OEIG interview on June 15, 2012.

[IDHR Complainant] recalled that she had about 5-10 telephone conversations with Mediator Toye Barfield between the time her charge was filed and the time the mediation was scheduled.

2. [IDHR Complainant's] March 8, 2011 Mediation Conference

[IDHR Complainant] told OEIG investigators that, in the afternoon of March 8, 2011, IDHR Mediator Vanessa Leon told her that Ms. Barfield, who had been scheduled to conduct the mediation, was unable to attend because of a sudden illness. [IDHR Complainant] then told investigators her version of the events that took place on the day of her mediation. Specifically, [IDHR Complainant] told investigators that:

- during the times Ms. Leon was meeting with the respondent, she was placed in a separate area of the IDHR office and that Mr. Venton would “prowl” around her and did so about five times;
- she arrived at her initial \$50,000 demand because Ms. Leon told her to pick any number she wanted, so she decided to start with \$50,000 and work her way down;
- the mediation ended with a final settlement offer of \$5,000 by the respondent;
- she did not immediately accept it because she was told the offer would be good for one week;
- she called and left a message for Ms. Leon the next day to tell her that she would take the deal; and
- she also called Ms. Barfield who said she would relay the message to Ms. Leon.

According to [IDHR Complainant], she never heard back from Ms. Leon.

[IDHR Complainant] was then asked about the March 10, 2011 email she sent to Mr. Venton. *See* Exhibit F. According to [IDHR Complainant], she learned that Ms. Leon had accused Mr. Venton of telling her ([IDHR Complainant]) how much her case was worth and of coaching her during the mediation process. [IDHR Complainant] further said that she believed Ms. Leon and Mr. Venton were trying to get each other fired, and [IDHR Complainant] further stated that Mr. Venton asked her to write a statement to help keep him from being fired, which she did. She said that everything in her March 10, 2011 email was true, except the paragraph in which she wrote that she and Mr. Venton met at “her church.” [IDHR Complainant] stated that she and Mr. Venton had not met at her church. She said that they (she and Mr. Venton) worked on that story together. [IDHR Complainant] told OEIG investigators that, sometime after the case was settled, Mr. Venton called her and told her to stick to the story she wrote in her statement because “they may be asking you about it.”

[IDHR Complainant] said she believed Mr. Venton was involved in the entire process from the filing of her complaint through the mediation, and she believed he would either help her get a large settlement or would try to get the case assigned to him as an investigator. According to [IDHR Complainant], Mr. Venton told her he could work on her case if the mediation failed and that he could really “shake [people] down.”

[IDHR Complainant] said that although Mr. Venton never used the term “kickback,” she believed that something was supposed to happen regarding a dollar amount during the mediation, meaning that those at IDHR involved in her case would get a share of her settlement proceeds because “that’s how things worked” at IDHR. [IDHR Complainant] said that Ms. Barfield was part of the arrangement.

M. OEIG’s Second Interview of IDHR Mediator Toye Barfield

On August 9, 2012, in light of statements made by other persons in intervening interviews, OEIG investigators re-interviewed Ms. Barfield. During her interview and as set forth below, Ms. Barfield added to, confirmed and clarified prior statements.

Ms. Barfield told OEIG investigators that she joined IDHR in 2003 and became a mediator in February 2009. She said she completed a 40-hour training course at the Center for Conflict Resolution. She said that the IDHR mediation team operates using a mediation manual that has been self-developed by herself, Vanessa Leon and others. She said that the development of the manual started in late 2010, and is still a work in progress.

Ms. Barfield also stated that when Mr. Venton initially discussed a settlement split with her, she did not know if he was serious, but it made her uncomfortable, and so she confided in Ms. Leon. Ms. Barfield said she believes she “laughed” at Mr. Venton when he made his offer. She said that if he knew the mediation process, he would not have made the offer because mediators do not set the amount of settlement. Ms. Barfield said Mr. Venton’s offer made her feel uncomfortable because she could not tell for sure whether he was joking or serious.

Ms. Barfield then told OEIG investigators that it was Ms. Leon who offered to take her (Ms. Barfield’s) place at the mediation conference. Ms. Barfield said it did not occur to her to report Mr. Venton’s conduct to management because she did not want to make an assumption that Mr. Venton was serious. Ms. Barfield said that, after Ms. Leon agreed to do the mediation, she and Ms. Leon looked at the case files together at her desk. According to Ms. Barfield, Ms. Leon told her that she (Vanessa Leon) knew the respondent’s attorney because they had worked on cases together in the past. Ms. Barfield said that, although Ms. Leon agreed to conduct the [REDACTED] mediation, she (Ms. Barfield) retained the files so that Mr. Venton would not know that a change in mediators was going to occur.

Ms. Barfield told investigators that neither she nor Ms. Leon ever discussed reporting Mr. Venton’s actions to management or referring [IDHR Complainant’s] charges to investigation. OEIG investigators then asked Ms. Barfield if Ms. Leon would not be telling the truth if she (Ms. Leon) said that she never agreed (prior to March 8, 2011) to conduct the March 8, 2011 mediation. In response, Ms. Barfield stated that if Ms. Leon said that, she would not be telling the truth.

Ms. Barfield acknowledged that what Mr. Venton allegedly said to her was wrong and inappropriate, even if he was “joking.” Investigators referred her to the provision of the IDHR Administrative Policy and Procedures Manual that requires employees to report inappropriate or illegal activities of other employees. In response, Ms. Barfield defended her failure to report Mr.

Venton's conduct on the ground that she was unsure that his conduct was inappropriate, that is, she had no evidence that Mr. Venton had done anything wrong, and did not want to make a false accusation against him that could ruin his career. According to Ms. Barfield, if she had believed from the beginning he was serious, she would have reported his conduct at that time.

With regard to the day of the [REDACTED] mediation (March 8, 2011), Ms. Barfield told OEIG investigators that she was not sick and stated that it had been Ms. Leon's idea to tell [IDHR Administrator] that she (Ms. Barfield) was not feeling well. According to Ms. Barfield, Ms. Leon knew she was going to conduct the March 8, 2011 [REDACTED] mediation and "went in with her eyes open."

Ms. Barfield said that, in the morning of March 9, 2011, she was called into [IDHR Manager's] office, where she explained what had occurred with Mr. Venton. Ms. Barfield said that [IDHR Manager] never asked her why she had not reported Mr. Venton's conduct when it first happened, but did tell her that she should have sent the [REDACTED] charges to investigations. Ms. Barfield said she never thought to do that because that would interfere with the parties' desire to mediate the case.

N. Additional OEIG Interview of [IDHR Manager]

On September 24, 2012, the OEIG again interviewed [IDHR Manager]. The interview was scheduled in an effort to resolve an inconsistency that had emerged between the statements of mediators Toye Barfield and Vanessa Leon. Specifically, Ms. Barfield had told OEIG investigators that, on the day that she first told Ms. Leon about Mr. Venton approaching her about the [REDACTED] matter, Ms. Leon *agreed* to take the mediation and that there was no discussion about reporting the matter to management or about returning the matter to investigations. On the other hand, Ms. Leon had told OEIG investigators that when Ms. Barfield told her (Ms. Leon) what Mr. Venton had said, she (Ms. Leon) immediately told Ms. Barfield either to report the matter to management or to return the matter to investigations. Ms. Leon had further told OEIG investigators that she *never agreed* to take Ms. Barfield's place in the March 8, 2011 mediation until the day of the mediation conference, and only did so because she believed that Ms. Barfield was in fact ill, and that she did not know it was the mediation about which Mr. Venton had spoken to Ms. Barfield.

With regard to those issues, [IDHR Manager] said she had very little independent memory of what she was told about the [REDACTED] matter by Ms. Leon or Ms. Barfield on March 9, 2011. But she said she did recall that Ms. Leon told her that she took the [REDACTED] mediation from Ms. Barfield because of Ms. Barfield's discomfort with the fact that Derrick Venton had approached her saying that he knew the complainant and that Ms. Barfield should take care of the complainant. [IDHR Manager] told OEIG investigators that she had the impression that it was on the day of the mediation, and not before, that Ms. Leon agreed to conduct the mediation.

In any event, [IDHR Manager] said that she thought both Ms. Barfield and Ms. Leon should have reported Mr. Venton's conduct to their supervisor immediately upon becoming aware of it. [IDHR Manager] also said that she had the impression from what Ms. Barfield told her that she (Ms. Barfield) told [IDHR Administrator] that she was "sick" as her reason for not

wanting to do the [REDACTED] mediation, but that the real reason was her discomfort about what Mr. Venton had said.

O. Additional OEIG Interview of IDHR Mediator Vanessa Leon

On September 26, 2012, the OEIG conducted an additional interview of IDHR Mediator Vanessa Leon. The interview was part of an effort to resolve the inconsistencies between the prior statements of Mediators Vanessa Leon and Toye Barfield.

1. Events that Took Place Prior to the [REDACTED] Mediation

Ms. Leon stated that on March 3, 2011, after Ms. Barfield told her what Mr. Venton had said about taking care of his girlfriend in a mediation, she (Ms. Leon) told Ms. Barfield to return the matter to intake. Ms. Leon also said that during the day on March 3, 2011, she saw that Mr. Venton was acting like he was hiding from her (Ms. Leon), *i.e.*, he looked as though he was coming to talk to Ms. Barfield but would leave when he saw her (Ms. Leon). Ms. Leon said that, at the end of the day, she asked Ms. Barfield what was going on with Mr. Venton, and then Ms. Barfield told her about Mr. Venton's comments.

Asked about Ms. Barfield's demeanor on the day of Mr. Venton's comments, Ms. Leon said she (Ms. Barfield) was not happy, that she seemed concerned and had an attitude like "god, I don't believe this!" Ms. Leon did not recall any comment by Ms. Barfield to the effect that she thought Mr. Venton was kidding. But Ms. Leon also said that she doesn't think Ms. Barfield thought Mr. Venton was serious. She said that Mr. Venton is a "big talker."

Ms. Leon was asked about the apparently inconsistent statements that: (1) she told Ms. Barfield to report the matter to management; (2) and to return the [REDACTED] matter to investigations. Ms. Leon said she did both; she told Ms. Barfield to return it to investigations, but also to report it to management. She said she felt that Ms. Barfield should report the matter to someone and not just send it back to investigations because, otherwise, Mr. Venton might get the investigation. Ms. Leon agreed that Mr. Venton's comments to Ms. Barfield were inappropriate. She said there was no doubt she told Ms. Barfield to report what Mr. Venton said.

Ms. Leon was asked why *she* did not report Mr. Venton's inappropriate behavior. She said that she did not know. She said that if it had not been late in the day, she probably would have reported it. She agreed that she should have done so.

Ms. Leon said that Ms. Barfield would not be telling the truth if she said there was no discussion between them about reporting what Mr. Venton had said.

OEIG investigators then asked Ms. Leon if she had any discussions with Ms. Barfield on March 3, 2011, or prior to March 8, 2011, about Ms. Leon conducting the March 8, 2011 mediation. Ms. Leon said she had not. Ms. Leon also said that Ms. Barfield would not be telling the truth if she said that she (Ms. Leon) agreed prior to March 8, 2011 to conduct the [REDACTED] mediation on March 8, 2011. Ms. Leon also denied reviewing [IDHR Complainant's] charges

with Ms. Barfield at her desk, and said that Ms. Barfield would not be telling the truth if she said she (Ms. Leon) had.

Ms. Leon was asked whether she made a comment to Ms. Barfield prior to the day of the mediation about knowing the respondent's counsel. Ms. Leon said that she might have said something to Ms. Barfield about the respondent's counsel *after* the [REDACTED] mediation.

2. Events that Took Place the Day of the [REDACTED] Mediation

With regard to the day of the [REDACTED] mediation, March 8, 2011, Ms. Leon said that she conducted a mediation in a different case in the morning from 9:00 a.m. to 12:45 p.m. She said that, when she came out of the morning mediation, Ms. Barfield told her she was sick and asked her if she would take her afternoon mediation. Ms. Leon told OEIG investigators that Ms. Barfield had told her that she (Ms. Barfield) had already spoken to [IDHR Administrator] about it, who had said it would be alright for her (Ms. Leon) to conduct the mediation if she (Ms. Leon) was willing. Ms. Leon told investigators that Ms. Barfield did appear to be ill, so she agreed to do the mediation.

With regard to the [REDACTED] mediation itself, Ms. Leon said it began with opening statements and all parties present. At one point, when the respondent's counsel was making some comment about the "merits" of [IDHR Complainant's] case, [IDHR Complainant] said something to the effect of "that's not what the investigator said."

Ms. Leon said she then went into caucus with [IDHR Complainant] and asked her about her comment. Ms. Leon said that [IDHR Complainant] told her that she had been talking to [REDACTED] and Derrick Venton about her case. Ms. Leon said that, upon [IDHR Complainant] mentioning Mr. Venton, she then realized that this was the matter Ms. Barfield had told her about earlier. Later in the interview, however, Ms. Leon told OEIG investigators that she did not realize this was the mediation Ms. Barfield told her about until later in the mediation. Ms. Leon said it started to dawn on her that this might be the matter Ms. Barfield told her about when, during breaks in the mediation, Ms. Leon saw Mr. Venton hanging around [IDHR Complainant].

Ms. Leon denied having made any statements to the respondent and his counsel about what [IDHR Complainant] had said in caucus. She agreed that such a disclosure would have been inappropriate. Nevertheless, Ms. Leon said the respondent and his counsel did make comments to her about what they said appeared to be extortion by [IDHR Complainant] and IDHR investigators.

In contrast to prior statements that she waited until after the mediation to try to report the incident, Ms. Leon told OEIG investigators that, during breaks in the mediation, she looked for a supervisor so she could report what was going on, but she could not find him, and at some point learned that the supervisor was in Springfield at the time. She also looked for IDHR Administrator [REDACTED] during breaks in the mediation, but could not find him either.

Ms. Leon said that sometime near the end of the mediation, Ms. Barfield told her that Mr. Venton was mad at her (Ms. Barfield) because she was not doing the [REDACTED] mediation. Ms. Leon

said that it was at that time that she became fully aware that this was the mediation Ms. Barfield had told her about earlier.

In response to questioning, Ms. Leon said that she might have said something to the respondent (or his counsel) to the effect that there might be an “unholy alliance” between [IDHR Complainant] and an IDHR investigator. Ms. Leon denied saying to the respondent that an IDHR investigator was trying to help [IDHR Complainant] put the “squeeze” on the respondent.

Ms. Leon was asked how it is that the respondent would have known about an investigator trying to help [IDHR Complainant] put the “squeeze” on the respondent if she had not made some comment to that effect. Ms. Leon said she does not know and that she does not use that terminology. She said that she was simply trying to defuse the situation. Ms. Leon said that respondent might very well have *felt* that the department might have been trying to put the squeeze on him, but she was emphatic about not having ever made that statement.

Ms. Leon said that if Ms. Barfield had not “set her up” – *i.e.*, if Ms. Leon had known ahead of time that the [REDACTED] mediation was the matter that Ms. Barfield told her about on March 3, 2011 – she would not have conducted the [REDACTED] mediation.²⁵

IV. ANALYSIS

The OEIG’s investigation revealed that IDHR Investigator Derrick Venton violated IDHR policy when he attempted to influence the outcome of the [REDACTED] mediation for personal gain. Specifically, the OEIG investigation revealed that Mr. Venton asked IDHR Mediator Toye Barfield “to make sure [an IDHR complainant] gets a settlement of at least \$10,000 but if [Ms. Barfield] could push it to at least \$12,000, there may be something in it for her” (IDHR Mediator Barfield). The OEIG investigation also revealed that Mr. Venton violated IDHR policies relating to conflicts of interest and the separation of the mediation and investigation processes. Mr. Venton also violated the State Officials and Employees Ethics Act (Ethics Act) by failing to cooperate in the investigation.

The investigation further revealed that both IDHR Mediators Toye Barfield and Vanessa Leon were aware of Mr. Venton’s misconduct but failed to report the misconduct in violation of IDHR policy.

The investigation further revealed that IDHR Investigator Edward McCann failed to cooperate in the investigation and therefore violated the Ethics Act.

²⁵ On October 2, 2012, the OEIG received an unsolicited telephone call regarding perceived irregularities in the processing of [IDHR Complainant’s] charges. It was alleged that the [REDACTED] mediation was scheduled unusually soon after she filed her charges, and that certain consent forms were missing from the files. On October 11, 2012, the OEIG interviewed [IDHR Administrator] regarding the subject matter of the October 2, 2012 telephone call. [IDHR Administrator] reviewed the files, and was asked whether the mediation referral in the [REDACTED] matter was unusually quick. He said that it was unusually quick. He also observed that consent forms were missing from the [REDACTED] files. He could not explain why the mediation referral had been unusually quick, or why the consent forms were missing from the file.

Finally, the investigation did not reveal sufficient evidence to make a finding that IDHR Investigator ██████ engaged in misconduct.

The OEIG's findings and specific factual basis for such findings are discussed in more detail below.

A. IDHR Investigator Derrick Venton Violated Several IDHR Policies and the Ethics Act

The OEIG's concludes that Derrick Venton: (1) violated Chapter II, Section A, Part 8 of the IDHR Administrative Policy and Procedures Manual by attempting to influence the outcome of the ██████ mediation for personal gain; (2) violated Chapter IV, Section M of the IDHR Investigator's Manual by engaging in substantive contact with a party to a mediation, [IDHR Complainant] while the mediation conference was in progress; (3) violated Chapter II, Section A, Part 3, and Chapter II, Section C, of the Administrative Policy and Procedures Manual by knowingly entering into a situation with [IDHR Complainant] that presented an actual and/or apparent conflict of interest; and, (4) violated Section 20-70 of the Ethics Act by failing to cooperate in this investigation in that he made knowing false statements to OEIG investigators.

1. Derrick Venton Improperly Attempted to Influence the Outcome of a Mediation for Personal Gain

The IDHR's Administrative Policy and Procedures Manual forbids "[k]nowingly abusing or misrepresenting an employee's position or authority for personal gain." IDHR Adm. Policy and Proc. Manual, Chap. II, § A, Part 8. In addition, the IDHR Investigator's Manual provides that an "[i]nvestigator should not ask the mediator for any details about a case before, during or after a mediation[.]" IDHR Investigator's Manual, Chap. IV, § M.

The OEIG concludes that Mr. Venton abused his position for personal gain and requested details about a case when he told Mediator Toye Barfield that she might get a cut of any settlement proceeds if she were to obtain a mediation settlement amount favorable to [IDHR Complainant]. According to Ms. Barfield, Mr. Venton approached her during the week of February 21, 2011 and told her that if she could obtain a settlement for [IDHR Complainant] in excess of \$10,000, "there may be something in it for [her] too[.]"

To be sure, Mr. Venton denies that he ever made such an overture to Ms. Barfield. But the OEIG does not credit Mr. Venton's denial for a number of reasons:

Mr. Venton's general lack of credibility. Mr. Venton's credibility is of little value in view of the OEIG's conclusion that he was dishonest regarding his relationship with [IDHR Complainant]. Specifically, Mr. Venton claimed that he barely knew [IDHR Complainant], even though records show that he and [IDHR Complainant] exchanged more than 1,000 phone and text messages over a period of a few months, beginning in January 2011 and including March 8, 2011, the day of the ██████ mediation.

Mr. Venton's denial of his relationship with [IDHR Complainant] despite indisputable evidence. In the face of the phone records that revealed Mr. Venton and [IDHR Complainant] extensively communicated with each other, Mr. Venton's only retort was that the phone records might have been fabricated.

[IDHR Complainant's] testimony. [IDHR Complainant] stated her belief that Mr. Venton was involved in the entire process from the filing of the complaint through the mediation, and described her expectation that Mr. Venton was going to obtain a good settlement for her, or get the case assigned to him so that he could "shake" people down. Mr. Venton could not attempt to get a large settlement for [IDHR Complainant] without attempting to influence the mediator in [IDHR Complainant's] case.

Ms. Barfield's testimony. There is no conceivable motivation for Ms. Barfield to have fabricated the account of Mr. Venton's overture. Moreover, Ms. Barfield recounted Mr. Venton's overture to Ms. Leon almost contemporaneously with when it occurred.

Ms. Leon's testimony. There is no conceivable motivation for Ms. Leon to have fabricated what Ms. Barfield told her about Mr. Venton's overture.

Mr. Venton's post-mediation conduct. The actions Mr. Venton took on March 9, 2012, the day after the [REDACTED] mediation, further support the conclusion that he had made an inappropriate statement to Ms. Barfield and was then trying to cover it up. Specifically, on March 9, 2011, it became clear that news of the allegation about what he (Mr. Venton) had previously stated to Ms. Barfield was going to come to light. In response, Mr. Venton began gathering statements from [IDHR Complainant] and from fellow investigator Edward McCann. With regard to the [REDACTED] statement, she later told OEIG investigators that she and Mr. Venton "worked" on it together. [IDHR Complainant] also told investigators that everything in her email was true except for the part about how he met [IDHR Complainant] (at her church). Mr. Venton was also able to get IDHR Investigator McCann to sign a memorandum that the OEIG concludes Mr. Venton had prepared, as evidenced by the fact that the format of the memorandum was the same as another memorandum authored by Mr. Venton and that it contained the printed name of "Derrick Venton" under the signature.

Accordingly, the allegation that Derrick Venton abused his position as an IDHR employee to attempt to influence the outcome of a mediation for personal gain is **FOUNDED**.

We note that Mr. Venton's conduct would appear to be a violation of Illinois' bribery statute, which provides that:

A person commits bribery when:

- (a) With intent to influence the performance of any act related to the employment or function of any public officer, public employee, juror or witness, he or she promises or tenders to that person any property or personal advantage which he or she is not authorized by law to accept[.]”

720 ILCS 5/33-1(a). Bribery is a Class 2 felony. *Id.* 5/33-1(g). The OEIG is not making a finding with regard to Mr. Venton’s conduct as it relates to the bribery statute, as the matter has been referred to the appropriate law enforcement agency.

2. Derrick Venton Improperly Engaged in Substantive Contact with a Party to a Mediation While the Mediation Conference Was in Progress

The IDHR Investigator’s Manual forbids investigators from having “any substantive contact with the parties while the mediation conference is in progress.” IDHR Investigator’s Manual Chapter IV, § M. According to phone records, Mr. Venton contacted complainant [IDHR Complainant] over 1,000 times by text and telephone between the time she filed her complaint with the IDHR and the date of the mediation conference and beyond. In particular, during the mediation conference itself, Mr. Venton and [IDHR Complainant] exchanged 19 text messages prior to the conference, and 24 text messages during the conference. Moreover, both Mr. Venton and [IDHR Complainant] acknowledge that they had at least one face-to-face exchange during breaks in the mediation conference. Ms. Leon stated that she saw them together three times that day.

Though Mr. Venton denied that his contacts with [IDHR Complainant] during the mediation conference were substantive, that denial is not credible in light of: [IDHR Complainant’s] statements that Mr. Venton was involved in the entire process from filing to mediation and that he was going to either help her get a large settlement or get the case assigned to him so that he could “shake people down;” Ms. Leon’s statement that [IDHR Complainant] told her during the mediation that Mr. Venton had communicated with her ([IDHR Complainant]) about the value of her case; and Ms. Barfield’s statement that Mr. Venton had asked her to extract a large settlement on behalf of [IDHR Complainant].

Accordingly, the allegation that IDHR Investigator Derrick Venton improperly engaged in substantive contact with a party to a mediation while the mediation conference was in progress is **FOUNDED**.

3. Derrick Venton Knowingly Entered Into a Situation that Presented an Actual and/or Apparent Conflict of Interest

The IDHR Administrative Policy and Procedures Manual, Chapter II, Section A, Part 3, and the IDHR Investigator’s Manual, Chapter IV, Section L, require investigators to avoid conflicts of interest. The Policy and Procedures Manual prohibits an investigator from “[k]nowingly entering into situations which present or appear to present conflicts of interest[.]”

Mr. Venton entered into a situation that presented an actual or perceived conflict of interest by developing an ongoing relationship with [IDHR Complainant], and then involving himself in the process of the mediation of her charges. Given Mr. Venton’s relationship with [IDHR Complainant] – a relationship that included not only personal contact, but over 1,000 telephone messages and text messages – it created a conflict of interest when he actively

involved himself with [IDHR Complainant's] case. Despite the fact that Mr. Venton was not formally assigned to [IDHR Complainant's] case, he attempted to influence Ms. Barfield's handling of her mediation. Accordingly, the allegation that Derrick Venton violated IDHR policy regarding the avoidance of conflicts of interest is **FOUNDED**.

4. Derrick Venton Violated the Ethics Act by Making Knowing False Statements to OEIG Investigators

Mr. Venton, like all employees under the jurisdiction of the OEIG, was obligated to cooperate with the OEIG in its investigation. Section 20-70 of the Ethics Act states:

Cooperation in investigations. It is the duty of every officer and employee under the jurisdiction of an Executive Inspector General ... to cooperate with the Executive Inspector General and the Attorney General in any investigation undertaken pursuant to this Act. *Failure to cooperate includes, but is not limited to, intentional omissions and knowing false statements.* Failure to cooperate with an investigation is grounds for disciplinary action, including dismissal.

5 ILCS 430/20-70 (emphasis added).

Defying his obligation to be truthful in his interviews with OEIG investigators, Mr. Venton made the following false representations to OEIG investigators.

First, Mr. Venton denied in his interview that he had anything more than a fleeting acquaintance with [IDHR Complainant]. Mr. Venton stated that his only contacts with [IDHR Complainant] prior to March 8, 2011 were a chance meeting in the IDHR office in January 2011, and another chance contact on March 6, 2011 in a church that Mr. Venton was visiting with his church choir, and in which he never actually met [IDHR Complainant] or even noticed her, let alone learned her name. As to any contact with [IDHR Complainant] on March 8, 2011, Mr. Venton stated to OEIG investigators that he ran into [IDHR Complainant] once on that date, in the afternoon, and that they had a brief conversation about church. The evidence, however, overwhelmingly refutes Mr. Venton's statements. The evidence shows that he and [IDHR Complainant] exchanged over 1,000 phone and text messages during months surrounding [IDHR Complainant's] mediation, and had literally dozens of such communications on the day of the mediation. When presented with that evidence, Mr. Venton persisted in his false representations, suggesting that the OEIG fabricated the phone records.

Second, Mr. Venton denied that he approached IDHR Mediator Barfield a week or so before [IDHR Complainant's] mediation and said words to the effect that Ms. Barfield should take care of [IDHR Complainant], and that if Ms. Barfield could get a good settlement for [IDHR Complainant], there might be something in it for Ms. Barfield. The evidence establishes that he did make such a statement to Ms. Barfield. Mr. Venton nevertheless told OEIG investigators that "I would never say this. I would never have done that. I'm a professional and take pride in what I do."

Moreover, Mr. Venton lied to his employer when he submitted a written statement to IDHR management in which he stated that, on March 8, 2011, he saw [IDHR Complainant] in the IDHR office and recognized her from church. [IDHR Complainant] later explained to OEIG investigators that Mr. Venton's story about Mr. Venton and [IDHR Complainant] seeing each other in church was a fabrication. She said that, in saying the same thing in her own email statement, she worked on it with Mr. Venton because she was fearful that he would lose his job. Although lying to one's employer is not necessarily a violation of the Ethics Act, it is relevant to a determination of whether Mr. Venton did violate the Ethics Act because Mr. Venton relied on the false written statement to his employer as a basis for his OEIG interview responses.

Accordingly, the allegation that Derrick Venton violated Section 20-70 of the Ethics Act by making knowing false statements to OEIG investigators is **FOUNDED**.

B. IDHR Mediator Toye Barfield Failed to Comply with IDHR Policy Regarding the Reporting of Inappropriate Activities of Other Employees

As noted above, IDHR's Administrative Policies and Procedures Manual provides that it is a breach of professional and ethical standards to "[w]illfully [know] and [fail] to report inappropriate or illegal activities of other employees which are inconsistent with the trust and responsibilities attendant to the individual's position." IDHR Adm. Policy and Proc. Manual, Chap. II, § A, Part 7. Ms. Barfield violated that policy by failing to report Investigator Derrick Venton's attempt to influence the outcome of a mediation over which Ms. Barfield was to preside.

Ms. Barfield acknowledged that Mr. Venton's conduct was inappropriate and that, under the IDHR's policy, she should have reported it. Ms. Barfield endeavored to defend her failure to report Mr. Venton's misconduct by stating that she was not sure whether or not Mr. Venton was "joking," and that she did not want to potentially ruin Mr. Venton's career by making an allegation that may not be true. On the other hand, Ms. Barfield was sufficiently uncomfortable with Mr. Venton's overture that she sought to remove herself from the mediation and have Ms. Leon take her place. The issue of whether Ms. Leon agreed to conduct the [REDACTED] mediation several days before the mediation conference or on the date of the conference is not relevant to the fact that, rather than report Mr. Venton's misconduct to management, Ms. Barfield sought to have someone else conduct the mediation. In addition, Ms. Barfield admitted that she lied to [IDHR Administrator] when she said she was switching the mediation with Ms. Leon because she was sick, and not because of what Mr. Venton had asked her regarding the [REDACTED] matter.

In that sense, Ms. Barfield's failure to comply with IDHR policy regarding the reporting of inappropriate conduct is of greater concern than Ms. Leon's failure (discussed below), because Ms. Barfield affirmatively avoided her reporting obligation, going so far as to lie to her supervisor in order to avoid reporting Mr. Venton's misconduct.

Accordingly, the allegation that Ms. Barfield violated IDHR policy requiring that its employees report inappropriate conduct is **FOUNDED**.

As with Mr. Venton, we note that Ms. Barfield's failure to report Mr. Venton's offer could constitute the predicate for a violation of the Illinois bribery statute, which provides that:

Any public officer, public employee or juror who fails to report forthwith to the local State's Attorney, or in the case of a State employee to the Department of State Police, any offer made to him in violation of Section 33-1 commits a Class A misdemeanor.

720 ILCS 5/33-2. Though we do not make criminal findings in this report, the potential criminal nature of Ms. Barfield's failure to report Mr. Venton's offer illustrates the seriousness in her failure of judgment.

C. IDHR Mediator Vanessa Leon Failed to Comply with IDHR Policy Regarding the Reporting of Inappropriate Activities of Other Employees

The IDHR's Administrative Policies and Procedures Manual provides that it is a breach of professional and ethical standards to "[w]illfully [know] and [fail] to report inappropriate or illegal activities of other employees which are inconsistent with the trust and responsibilities attendant to the individual's position." IDHR Adm. Policy and Proc. Manual, Chap. II, § A, Part 7. Ms. Leon violated that policy by failing to timely report what she heard from Mediator Barfield about Investigator Venton's attempt to influence the outcome of a mediation in which he was not involved, but in which a friend was a party.

Ms. Leon acknowledged to OEIG investigators that Mr. Venton's conduct was inappropriate and that she was required under IDHR policy to report it. Had Ms. Leon timely reported Mr. Venton's misconduct, the unfortunate events that occurred during the March 8, 2011 mediation, including potential harm to the credibility of the IDHR investigation and mediation programs, might have been avoided.²⁶ Therefore, the allegation that Ms. Leon violated IDHR policy requiring that its employees report inappropriate conduct is **FOUNDED**.

[The following paragraph relates to unfounded allegations and the Commission exercises its authority to redact it.]

[REDACTED]

²⁶ There were conflicting statements by Ms. Leon and Ms. Barfield regarding the date upon which Ms. Barfield first asked Ms. Leon to take her place in the [REDACTED] mediation. Ms. Barfield stated that Ms. Leon agreed to take the mediation a week or so prior to the March 8, 2011 mediation, at the same time that Ms. Barfield told Ms. Leon about Mr. Venton's overture. Ms. Leon flatly denied that there was any discussion of Ms. Leon conducting the [REDACTED] mediation prior to the day of the mediation. It is apparent to the OEIG that one of the two mediators is not telling the truth about the timing of when Ms. Leon agreed to take Ms. Barfield's place in the [REDACTED] mediation. A resolution of that issue would be material because it would relate to whether Ms. Leon collaborated with Ms. Barfield in affirmatively attempting to avoid their obligation to report Mr. Venton's misconduct. Nevertheless, the OEIG has not been able to conclusively determine which mediator told the truth. Accordingly, the OEIG makes no finding that either Ms. Barfield or Ms. Leon violated the Ethics Act by making knowing false statements to OEIG investigators, even though it is evident that one of them is not being fully truthful.

1. [Redacted] [Unfounded allegations redacted.]

[The following four paragraphs relate to unfounded allegations and the Commission exercises its authority to redact them.]

[Redacted paragraph]

[Redacted paragraph]

[Redacted paragraph]

[Redacted paragraph]

[Redacted]

2. [Redacted] [Unfounded allegations redacted.]

[The following three paragraphs relate to unfounded allegations and the Commission exercises its authority to redact them.]

[Redacted]

[Redacted]

[Redacted]

D. IDHR Investigator Edward McCann violated the Ethics Act by Failing to Cooperate

²⁷ [Redacted]

As noted above, Section 20-70 of the Ethics Act requires that State employees cooperate with the Executive Inspector General in any investigation undertaken pursuant to the Ethics Act. 5 ILCS 430/20-70. "Failure to cooperate includes, but is not limited to, intentional omissions and knowing false statements." *Id.*

Mr. McCann made at least one knowing false statement to OEIG investigators, made dubious claims to investigators that he had no knowledge or recall of various facts, and generally exhibited an attitude of non-cooperation with investigators during the course of his interviews.

Mr. McCann's false statement was that he, and not Mr. Venton, prepared the March 10, 2011 memorandum that bore his (Mr. McCann's) signature above the printed name of Derrick Venton. The documentary record makes clear Mr. McCann sent Mr. Venton an email purporting to describe a conversation that he overheard between Mr. Venton and Ms. Leon. The record also makes clear, and the OEIG concludes, that Mr. Venton modified the content of the McCann email (Exhibit G), cut and pasted it into one of his own memoranda templates, and then had Mr. McCann sign the memorandum. (*See* Exhibits D and E.) Assuming the content of the McCann email and memorandum was truthful, there would be nothing wrong in that sequence of events. But Mr. McCann nevertheless insisted that he prepared the McCann memorandum. Mr. McCann responded to the question of why the name "Derrick Venton, Investigator I" is typed below his signature by suggesting that it was a "typo," in other words, that he inadvertently typed Derrick Venton's name on his memorandum rather than his own name. Although Mr. McCann reluctantly acknowledged toward the end of his third interview that it was "possible" that Mr. Venton prepared the memorandum for his (McCann's) signature, the thrust of his statements over the course of three interviews was that he (Mr. McCann) personally prepared the memorandum.

Moreover, "failure to cooperate" under the Ethics Act is not limited to making knowing false statements. Mr. McCann was disingenuous and uncooperative in responding to questions generally. For example, he acknowledged that he wrote the statement contained in his March 10, 2011 email to Mr. Venton, but stated that he did not actually remember sending the email. But when asked whether he had any reason to believe he did not send the email to Mr. Venton, he replied simply that "I don't have an opinion on it[,]" which was non-responsive and evasive. When asked whether anyone else had access to his email account, he stated that he had never seen anyone on his computer sending emails, but that others did have access, including the OEIG. In other words, Mr. McCann refused to acknowledge that he sent the email to Mr. Venton, even though the documentary evidence establishes that he did. That type of disingenuous response and generally uncooperative attitude permeated all three of Mr. McCann's interviews.²⁸

²⁸ In light of Mr. McCann's evasive and contradictory statements, OEIG investigators provided him with an OEIG Written Statement Form, 400.9A, and informed him that the OEIG wanted to give him the opportunity to write a statement in reply to any exhibits and/or any questions that he was asked or any response he gave so that it would be clear what he said, what he was asked, or how he responded. In response to the OEIG's offer, Mr. McCann replied, "I don't think that's fair." When asked if he would be willing to write on the OEIG form that he refused to make a written statement, McCann said, "I'm refusing to make a statement," after which the interview was ended.

Accordingly, the allegation that Edward McCann violated Section 20-70 of the Ethics Act by failing to cooperate in the investigation is **FOUNDED**.

E.

[Unfounded allegations redacted.]

[The following two paragraphs relate to unfounded allegations and the Commission exercises its authority to redact them.]

[Redacted]

[Redacted]

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V. FINDINGS AND RECOMMENDATIONS

Following its investigation, the OEIG issues these findings:

- **FOUNDED** – Derrick Venton violated Chapter II, § A, Part 8 of the IDHR Administrative Policy and Procedures Manual, and Chapter IV, § M of the IDHR Investigator’s Manual, by improperly attempting to influence the outcome of a mediation for personal gain.
- **FOUNDED** – Derrick Venton violated Chapter IV, § M of the IDHR Investigator’s Manual by improperly engaging in substantive communications with a party to a mediation while the mediation conference was in progress.
- **FOUNDED** – Derrick Venton violated Chapter II, § A, Part 3 of the IDHR Administrative Policy and Procedures Manual, and Chapter IV, § L of the IDHR

29

[Redacted]

Investigator's Manual, by knowingly entering into a situation that presented an actual and/or apparent conflict of interest.

- **FOUNDED** – Derrick Venton violated Section 20-70 of the State Officials and Employees Ethics Act, 5 ILCS 430/20-70, by making knowing false statements to OEIG investigators, and thus failing to cooperate in the investigation.
- **FOUNDED** – Toye Barfield violated Chapter II, § A, Part 7 of the IDHR Administrative Policy and Procedures Manual by failing to report inappropriate activity by another employee.
- **FOUNDED** – Vanessa Leon violated Chapter II, § A, Part 7 of the IDHR Administrative Policy and Procedures Manual by failing to report inappropriate activity by another employee.
- **FOUNDED** – Edward McCann violated Section 20-70 of the State Officials and Employees Ethics Act, 5 ILCS 430/20-70 by making a false statement to OEIG investigators and otherwise failing to cooperate in the investigation.
- **UNFOUNDED** – [REDACTED]
- **UNFOUNDED** – [REDACTED]
- **UNFOUNDED** – [REDACTED]
- **UNFOUNDED** – [REDACTED]

IDHR Investigator Derrick Venton

Mr. Venton has resigned from State employment, but given the seriousness of Mr. Venton's misconduct, the OEIG recommends that a copy of this report be included in Mr. Venton's centralized employment file and that he not be rehired for State employment. The OEIG also recommends that any separation agreement with Mr. Venton be amended to state that he agrees not to seek, nor to accept, any continuing or future employment with the State of Illinois.

IDHR Mediator Toye Barfield

Ms. Barfield's failure to report Mr. Venton's misconduct was a violation of IDHR policy and constituted failure of judgment. Ms. Barfield compounded her failure of judgment by

making affirmative efforts to avoid her reporting obligation, including making false statements to her supervisor. The OEIG recommends that Ms. Barfield be disciplined.

IDHR Mediator Vanessa Leon

Ms. Leon's failure to report Mr. Venton's misconduct also was a violation of IDHR policy and was also a failure of judgment. Unlike Ms. Barfield, however, Ms. Leon did not hear Mr. Venton's improper overture directly, and the OEIG credits her statement that, when she was told about Mr. Venton's overture, she asked Ms. Barfield to report the misconduct. Moreover, the evidence does not establish that Ms. Leon engaged in an affirmative effort to avoid her reporting obligation. In light of those circumstances, the OEIG recommends that Ms. Leon be counseled.

IDHR Investigator Edward McCann

IDHR Investigator Edward McCann's failure to cooperate in the investigation was a violation of the Ethics Act. In addition, his failure to appreciate the importance of the investigative process and to be truthful calls into question whether or not he can appropriately serve IDHR or Illinois citizens as an investigator. Therefore, the OEIG recommends that Mr. McCann be disciplined and we recommend that IDHR take whatever other remedial action it deems appropriate.

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

Date: **November 8, 2012**

Office of Executive Inspector General
for the Agencies of the Illinois Governor
32 W. Randolph Street, Ste. 1900
Chicago, IL 60601

By: **Daniel J. Hurtado**
Special Counsel

Donald R. Rehmer, CFE
Senior Investigator #139

Exhibit A

Vanessa Leon

REDACTED

Illinois Department of Human Rights
100 W. Randolph
Chicago, IL 60406

March 9, 2011

To Whom It May Concern,

I would like to report what appears to me to be inappropriate behavior as well as an ethics violation. On March 3, 2011 at approximately 6:00 P.M. Toye Barfield came out of mediation and told me that Investigator Derrick Venton had approached her to ask her if she would help his girlfriend by getting her more money in mediation. Toye stated that Derrick told her that if she did that they would give her a cut. Toye stated that she explained to Derrick that in mediation we do not advise as to what to ask for or counter with. Toye stated that she told Derrick that she would not do what he was asking her to do. I told Toye that she needed to report this inappropriate behavior immediately. At that time there were no Supervisors present. Toye assured me that she would take care of it. I informed Toye and she was in agreement that she would not conduct the Mediation Conference.

On, March 8, 2011, during my mediation I noticed that Derrick Venton was hanging around the Mediation Cubicle but would leave when I would approach. Toye told me that she did not feel well and asked if I could conduct her afternoon mediation. I told her that she would have to let know. She asked me if I would be fine to conduct another Mediation Conference and I told her that I would.

During the Mediation Conference I had all present, sign the Rules of Mediation. When I explained the process I made a statement about confidentiality and that cases that come to mediation are not discussed with Investigators. After Complainant made her opening statement, Respondent made their statement regarding their position. At some point the Complainant stated that was not what the investigator told her. During Caucus, Complainant stated to me that she wanted \$50,000.00 for one and a half years of salary. I asked her how she came up with that number and she stated that stated that this was a double digit case and Investigator Venton told her to not to settle for less than \$50,000.00. I asked her if she was in Mediation in order to resolve her case. I explained to Complainant that she would need to bargain in Good Faith. She stated that she did not know what that meant and I explained to her about being made whole, We calculated her lost wages

from the time she was discharged (\$600.00 x 9 weeks = 5,400 + \$280.00 for expenses) - (\$234.00 x 9 = \$2,106 for unemployment) for a total monetary loss of \$3,574.00. The Complainant started crying and coughing so I gave her tissues and got her a glass of water. Complainant asked to be excused at approximately 3:30 to go to the restroom. I told her that I would bring Respondent back for caucus and for her to sit in the chairs by the rear reception desk. I took Respondent to the conference room and when I was speaking to them they asked what the Complainant meant by "that was not what the Investigator said." They thought that I had said that the Investigators did not have knowledge of the cases that came to mediation. The Respondent stated that he understands that everyone has a right to file charges but if Investigators are assisting Complainant's file chumped up charges against companies that could appear to be extortion. I assured the Respondent that I would speak to Complainant regarding her statement and that I would discuss this with the Department Administrators. Three times when I went to speak with the Complainant Investigator Derrick Venton was standing conversing with the Complainant. When he would see me he would give me a dirty look and walk away. Complainant refused to accept Respondent's counter-offer and I told both parties that the Mediation Conference was being concluded. Respondent told Complainant that they would keep their last offer on the table for one week if Complainant wanted to reconsider. Following the Mediation Conference Toye stated to me that Investigator Venton was angry at her for sending me in there with the Complainant instead of her doing the conference. Toye stated to me that he asked her what happened if she had gotten her menstruation. Toye stated that she told him that she was ill and that I was a very competent Mediator. Toye stated that he kept on asking her if I was better than she was. Toye stated that she told him that I have handled and worked with sexual abuse cases in the past. Toye stated that Investigator Venton kept asking her where. Toye stated that she stated to him that I was a competent Mediator. Toye also told me that Investigator Venton told her that he needed her to go to the restroom area with him because his girl said she needed his help. This took place during the caucus with the Respondent.

Following the Mediation Conference I went to look for

and I could not find anyone. Finally I saw

and asked him if I could have his number to call him because I had a problem. I called him but he didn't answer so I left him a message to call me.

Today Investigator Venton told Toye that Complainant wanted to accept Respondent's last offer. I received a call from Complainant stating that she wanted to accept the offer from the company but wanted to keep the individual charge open. I told her that I would get back to her.

Exhibit B

From: Leon, Vanessa
Sent: Thursday, March 10, 2011 12:43 PM
To:
Cc:
Subject: Inappropriate Behavior

To Whom It May Concern,

On March 3, 2011 at approximately 6:00 P.M. Toye Barfield came out of mediation and told me that Investigator Derrick Venton had approached her to ask her if she would help his girlfriend by getting her more money in mediation. Toye stated that Derrick told her that if she did that they would give her a cut. I told Toye that she needed to report this inappropriate behavior immediately. On, March 8, 2011, Toye told me that she did not feel well and asked if I could conduct her afternoon mediation. Respondent made their statement regarding their position and if the case went forward that they believed they would receive a decision in their favor. At that point the Complainant stated that was not what the Investigator told her. During Caucus, Complainant stated to me that she wanted \$50,000.00 for one and a half years of salary. Complainant stated that _____ stated that this was a double digit case and Investigator Venton told her to not to settle for less than \$50,000.00. During Caucus with Respondent they asked what the Complainant meant by "that was not what the Investigator said." They thought that I had said that the Investigators did not have knowledge of the cases that came to mediation. The Respondent stated that he understands that everyone has a right to file charges but if Investigators are assisting Complainants with their charges against companies that could appear to be extortion. I assured the Respondent that I would speak to Complainant regarding her statement and that I would discuss this with the Department Administrators. Three times when I went to speak with the Complainant, Investigator Derrick Venton, was standing conversing with the Complainant. The Mediation Conference was concluded due to the inability to reach a resolution. Following the Mediation Conference, Toye Barfield stated that Investigator Venton told her that he needed her to go to the restroom area with him because his girl had called him and said she needed his help. This took place while I was caucusing with the Respondent. Let me know if there is anything further that you need from me.

Sincerely,

*Vanessa Leon – Mediator
Illinois Department of Human Rights
100 W. Randolph, Suite 10-100
Chicago, Illinois 60601*

Exhibit C

From: Barfield, Toye
Sent: Wednesday, March 09, 2011 1:31 PM
To:
Subject: RE: Please come to my office. Thanks.

Hi

On 2-1-11, I was assigned 2 charges for mediation, (#, &) which were filed by . I scheduled the mediation conference for both charges on 3-8-11. Investigator Derrick Venton approached me several days before the scheduled conference about the 2 charges and stated Cp is a personal friend of his and I should "look out for her." Derrick *jokingly* said to make sure Cp gets a settlement for at least \$10,000 but if I could push it to at least \$12,000, there may be something in it for me too. Derrick's comments, as well as him approaching me about the cases in general, made me feel somewhat uncomfortable. Consequently, I made what I considered to be a judgment call, at the time, and passed the cases over to my colleague, Vanessa Leon. I briefly explained to Vanessa why I preferred for her to conduct the mediation conference rather than myself and she said she understood and agreed to do the conference. I never mentioned to Derrick that Vanessa would be conducting the conference and on the day of the conference, Derrick approached me again and requested to sit-in on the conference as an observer. I informed Derrick that is not allowed in mediation unless it is pre-approved by and agreed to by both parties in advance. Derrick then proceeded to ask me what happens during the mediation conference and I *briefly* explained the process. I also informed Derrick that the Mediator has nothing to do with the amount of a settlement and that everything regarding the resolution of a charge is determined by Cp and Rp. Slightly before the conference was due to begin, (approximately 1:00p.m.), I informed Administrator, , I was not feeling well and told him Vanessa had agreed to conduct my mediation conference that afternoon. , said that was fine and offered me some medication for my "stomach problem:" I took the medicine and left for the restroom. Later that afternoon, Derrick saw me and questioned why I was not conducting the conference with : (Cp), and asked if Vanessa was doing the conference. I answered, "Yes, Vanessa is conducting the conference because I had a personal emergency." Derrick asked me what the emergency was but I avoided answering his personal questions and assured him that Vanessa would do a great job as Mediator in the conference. Derrick questioned whether Vanessa is as good as me in mediation and I again assured him that the conference was in good hands nevertheless, Derrick repeatedly questioned whether Vanessa is a better Mediator than I am since I had been mediating longer than her. I responded by saying that has nothing to do with anything and again assured him that Vanessa is very good, especially with sexual harassment issues and that she closes more cases than I do. Finally, Derrick backed off but wanted me to see how things were going in the conference: I told him Vanessa would let me know if I am needed. I then went back to my desk and shortly after, Derrick came to my work area and stated that Cp had just texted him saying she needed his help and she was in the ladies room. At that time, Derrick proceeded to the restroom area and motioned for me to join him so I could meet (Cp). I declined to accompany him and said I was going to check with Vanessa to see how the conference was going. I proceeded to the mediation conference room but the door was closed and I did not want to interrupt: I then went back to my desk. Approximately 20 minutes later, Vanessa came to me and said, "Cp is out there talking with Derrick and he is all over her." I asked Vanessa if the conference was over; she said no and walked away. A few minutes later, Vanessa returned to the mediation area and seemed irritated so I asked what was going on and she told me some *disturbing* details of what transpired during the mediation conference. I walked over to Derrick's desk to speak with him regarding what Vanessa mentioned about the conference but he had left for the day. This morning Derrick informed me that ' changed her mind and is now willing to accept Rp's settlement offer under the condition that the 2nd case, (the charge against the individual), remain open and be sent to

investigation. I informed Derrick that although the charges are still assigned to me, Vanessa is now in charge of the cases since she conducted the mediation conference therefore, Cp should contact Vanessa. Less than 5 minutes later, (Cp), called me about the settlement offer from Rp and I directed the call to Vanessa Leon.

Toye C. Barfield - **Mediator**
Illinois Department of Human Rights
100 West Randolph Street
Suite 10 - 100
Chicago, Illinois 60601

CONFIDENTIALITY NOTICE: This e-mail (and any attachments) contains information that belongs to the sender and may be confidential or protected by attorney-client or attorney work product privilege. The information is only for the individual or entity named above. If you are not the named or intended recipient, please do not disclose, copy, distribute, or use this information. If you have received this transmission in error, please promptly notify the sender of receipt of this e-mail and then destroy all copies of it. Receipt by unintended recipient does not waive attorney-client privilege or attorney work product privilege or any other exemption from disclosure.

From: I
Sent: Wednesday, March 09, 2011 10:51 AM
To: Barfield, Toye
Subject: Please come to my office. Thanks.

IL Department of Human Rights
100 W. Randolph St., Ste. 10-100
Chicago, IL 60601

CONFIDENTIALITY NOTICE: This e-mail (and any attachments) contains information that belongs to the sender and may be confidential or protected by attorney-client or attorney work product privilege. The information is only for the individual or entity named above. If you are not the named or intended recipient, please do not disclose, copy, distribute, or use this information. If you have received this transmission in error, please promptly notify the sender of receipt of this e-mail and then destroy all copies of it. Receipt by unintended recipient does not waive attorney-client privilege or attorney work product privilege or any other exemption from disclosure.

Exhibit D

ILLINOIS DEPARTMENT OF
 Human Rights

Pat Quinn, Governor
Rocco J. Claps, Director

MEMORANDUM

Date: March 10, 2011

To:

From: Derrick Venton, Investigator I

Re: March 8, 2011 Incident

On March 8, 2011 at or around 2:15 p.m., while walking by the back desk, someone called my name at which time I recognized a woman who I know to be [redacted] and I attend the same church. Upon greeting one another, we discussed last Sunday's (March 6, 2011) church service and church choir. After a short conversation regarding church, [redacted] commented that the Department's Mediator, Vanessa Leon, did not appear to be impartial, and was over friendly with Respondent's attorney. I told [redacted] that as an investigator I could not get involved in the matter, as mediation is a separate section of the Department and that the mediation process is confidential. She stated that she understood.

As I saw Mediator Leon approaching the back desk area towards where we were sitting, I stood up and stated to [redacted] "Good luck and I'll talk to you later."

On March 9, 2011, during the early morning hours while I was working at my desk, Mediator Leon stopped by my cubicle stating, "That's \$5,000.00 for both cases, not one." I assumed she was referring to [redacted] at which time I replied, "What are you talking about, that lady simply goes to my church." Upon your arrival to work, I advised you of the situation at which time you instructed me to complete a written statement. Later in the day, I learned that my integrity, work ethic, and character are being questioned. Therefore, I have attached a written statement from [redacted] and Investigator Edward T. Mc Cann, who was at his desk when I was approached by mediator Leon.

Respectfully,

Derrick Venton
Investigator I

Exhibit E

ILLINOIS DEPARTMENT OF
 **Human Rights**

Pat Quinn, Governor
Rocco J. Claps, Director

MEMORANDUM

Date: March 10, 2011

To:

From: Edward T. McCann, Investigator I

Re: March 9, 2011 Incident

On March 9, 2011, at or around 9:00 a.m., while working at my desk, I overheard a conversation that was occurring at Investigator Venton's cubicle located adjacent to mine. Mediator Vanessa Leon stated to Investigator Venton "It's going to be \$5,000 for both of them, right?" Investigator Venton replied, "I don't know what you're talking about, that woman simply goes to my church." Mediator Leon then left Investigator Venton cubicle.

Respectfully,


Derrick Venton
Investigator I

Exhibit F

From: Venton, Derrick
Sent: Thursday, March 10, 2011 12:59 PM
To:
Subject: FW:

From: ' [mailto:REDACTED]
Sent: Thursday, March 10, 2011 12:56 PM
To: Venton, Derrick
Subject:

3/09/2011

To whom it may concern:

My name is [REDACTED] and I'm submitting the following statement in reference to mediation conference on March 8, 2011. I'm writing this letter, because I felt like Ms. Leon wasn't being neutral in the conference. It was obvious she had previous encounters with the respondent's attorney [REDACTED]. The smiling and laughing with [REDACTED] I asked " Do you know attorney [REDACTED] The mediator Vanessa Leon " states I've worked with attorney [REDACTED] on previous cases. When Ms. Leon talked to attorney [REDACTED] she stared and twisted her hair, plus was acknowledging that she agreed with some of the attorney statements. Also the mediator Ms. Leon was the one who suggested all my demands and the currency amount, This happen, because I asked " what have people previously have requested" and also, because the respondent attorney kept pressuring me to give an amount.

During, my meditation break while sitting down. I can't recall the exact time, but I saw a familiar face walking pass. So, I said excuse me " Derrick, don't you attend or visit " Baptist Church"? He said yes, what are you doing here? "I stated I'm here doing a mediation". What are you doing here " he stated I work here". Then Derrick asked " how was the service and how was the choir doing? " I said everything was great" I also said " can I ask you a question in reference to my meditation. Derrick, stated" that he couldn't get involve in another investigator case." I said " I understand completely". He then wished me well and walked off. Our whole conversation lasted about 3 to 5 minutes at the most.

Then the mediator Ms. Leon was coming back to talk to me. We went back and forth with settlement amounts, until she stated" that we would be there all day, trying to settle this case. I felt pressured from the attorney and the mediator, to settle for anything. I felt that she was not neutral at all with this case.

I'm writing this letter at free will. If you have any questions, you can contact me at the following:

REDACTED

Sincerely,

Exhibit G

Unknown

From: McCann, Edward
Sent: Thursday, March 10, 2011 10:59 AM
To: Venton, Derrick
Subject: Incident March 9, 2011

To Whom it May Concern;

On March 9, 2011, at around nine (9) a.m., I overheard a conversation in the cubicle behind me. A woman stated "it's going to be \$5,000 for both of them, right?" and Investigator Venton replied "I don't know what the hell you're talking about, that woman goes to my church." And subsequently, the woman walked off.

Edward T. McCann



Office of Executive Inspector General
for the Agencies of the Illinois Governor
www.inspectorgeneral.illinois.gov

OEIG RESPONSE FORM

Case Number: 11-00384

Due Within 20 Days of Receipt of Report

Please check the box that applies.

- We have implemented all of the OEIG recommendations.
(Provide details regarding action taken.)

- We will implement all of the OEIG recommendations but will require additional time.
We will report to OEIG within 30 days from the original return date.
(Provide details regarding action planned / taken.)

Please see attached letter.

(over)

We are implementing one or more of the OEIG recommendations, however, we plan to depart from other OEIG recommendations.

(Provide details regarding action planned / taken and any alternate plan(s).)

We do not wish to implement any of the OEIG recommendations.

(Explain in detail why and provide details of any alternate plan(s).)

✓ Signature _____

Low D. Mertesén
Print Name

IDNR, Chief Legal Counsel
Print Agency and Job Title

11/28/12
Date

ILLINOIS DEPARTMENT OF
 **Human Rights**

Pat Quinn, Governor
Rocco J. Claps, Director

November 28, 2012

Erin K. Bonales
Deputy Inspector General
And Chief of the Chicago Division
Office of Executive Inspector General
For the Agencies of the Illinois Governor
32 West Randolph Street
Suite 1900
Chicago, Illinois 60601

Re: OEIG Complaint No. 11-00384

Dear Ms. Bonales:

This letter is in response to your November 8, 2012, letter regarding OEIG Complaint No. 11-00384 in which you requested that the Illinois Department of Human Rights ("IDHR") report to your office the actions taken to address your recommendations. The Final Report for OEIG Complaint No. 11-00384 recommends that a copy of the OEIG report be included in IDHR Investigator Venton's personnel file, that he not be rehired for State employment, and that any separation agreement with Mr. Venton be amended to state that he agrees not to seek, nor to accept, any continuing or future employment with the State of Illinois; that IDHR Mediator Toye Barfield be disciplined; that IDHR Mediator Vanessa Leon be counseled; and that IDHR Investigator Edward McCann be disciplined and that IDHR take whatever other remedial action it deems appropriate.

IDHR agrees with these recommendations and will respond as follows:

- Within the next 7 days, the IDHR anticipates issuing pre-disciplinary hearing memoranda to employees Toye Barfield, Vanessa Leon, and Edward McCann. IDHR anticipates that these employees will be charged with failure to comply with IDHR Administrative Policy and Procedures' Manual, Chapter II, Section A, concerning Professional Conduct, Chapter B, regarding Reporting Employee Misconduct, and Chapter C, regarding Conflicts of Interest. Additionally, IDHR anticipates that Mr. McCann will also be charged with failure to comply with the Illinois State Officials and Employees Ethics Act ("Ethics Act"), Section 20-70 (5 ILCS 430/20-70). IDHR will provide your office with further information after completion of the disciplinary process.

Ms. Bonales
November 28, 2012
Page 2 of 2

- Mr. Venton resigned from IDHR on February 2, 2012. Mr. Venton's resignation was processed as separated with no right to reinstatement to IDHR. IDHR will place a copy of the OEIG Report in Mr. Venton's personnel file. IDHR does not have a separation agreement with Mr. Venton other than his voluntary resignation.
- IDHR will conduct training for its staff on the Ethics Act and the obligations of State employees to cooperate with and to provide accurate information to the OEIG, and on the duty to report misconduct.

If you have any further questions, or if I can be of further assistance to you or your office, please contact me at (312) _____.

Respectfully submitted

Lon D. Meltesen
Chief Legal Counsel

cc: Rocco J. Claps, IDHR Director

ILLINOIS DEPARTMENT OF
 **Human Rights**

Pat Quinn, Governor
Rocco J. Claps, Director

December 28, 2012

Erin K. Bonales
Deputy Inspector General
And Chief of the Chicago Division
Office of Executive Inspector General
For the Agencies of the Illinois Governor
32 West Randolph Street
Suite 1900
Chicago, Illinois 60601

Re: OEIG Complaint No. 11-00384

Dear Ms. Bonales:

This letter is in follow up to my letter dated November 28, 2012, regarding OEIG Complaint No. 11-00384 in which you requested that the Illinois Department of Human Rights ("IDHR") report to your office the actions taken to address your recommendations. Please be informed that on December 4, 2012, IDHR issued Notices of a Pre-Disciplinary Meeting to IDHR employees Toye Barfield, Vanessa Leon, and Edward McCann. On December 12, 2012, IDHR conducted Pre-Disciplinary Meetings with Toye Barfield and Vanessa Leon. On December 14, 2012, IDHR conducted a Pre-Disciplinary Meeting with Edward McCann. Under the Collective Bargaining Agreement, each employee had 5 working days from the date of the Pre-Disciplinary Meeting to submit a written response. Due to the fact that several members of management and several of the employees involved are out of the office this week, IDHR anticipates that it will issue its discipline during the beginning of January 2013.

Additionally, IDHR has inquired with the Department of Central Management Services ("CMS") whether Derrick Venton's separation may be revised to indicate that he is not eligible for rehire with the State (as opposed to just IDHR). CMS is reviewing the situation and will get back to IDHR shortly. Finally, IDHR has scheduled a mandatory all staff meeting for January 14, 2013. OEIG Special Counsel Daniel Hurtado will give a presentation at the all-staff meeting on the Ethics Act and the obligations of State employees to cooperate with and to provide accurate information to the OEIG, and on the duty to report misconduct.

Ms. Bonales
December 28, 2012
Page 2 of 2

I will notify you when IDHR issues its discipline and when I get confirmation from CMS whether Derrick Venton's separation may be revised.

If you have any further questions, or if I can be of further assistance to you or your office, please contact me at (312) .

Respectfully submitted,

Lon D. Meltesen
Chief Legal Counsel

cc: Rocco J. Claps, IDHR Director

ILLINOIS DEPARTMENT OF
 **Human Rights**

Pat Quinn, Governor
Rocco J. Claps, Director

January 15, 2013

Erin K. Bonales
Deputy Inspector General
And Chief of the Chicago Division
Office of Executive Inspector General
For the Agencies of the Illinois Governor
32 West Randolph Street, Suite 1900
Chicago, Illinois 60601

Re: OEIG Complaint No. 11-00384

Dear Ms. Bonales:

This letter is in follow up to my letters dated November 28, 2012 and December 28, 2012, regarding OEIG Complaint No. 11-00384 in which you requested that the Illinois Department of Human Rights ("IDHR") report to your office the actions taken to address your recommendations. Please be informed that on January 8, 2013, IDHR issued a 5-day suspension to Edward McCann, to be served from January 22, 2013, through January 26, 2013; a 5-day suspension to Vanessa Leon, to be served from January 22, 2013, through January 26, 2013; and a 10-day suspension to Toye Barfield, to be served from January 22, 2013, through January 31, 2013. On January 10, 2013, IDHR revised Ms. Barfield's 10-day suspension so that it will now be served from January 17, 2013, through January 26, 2013.

Additionally, the Department of Central Management Services ("CMS") has advised IDHR that it would allow IDHR to revise Derrick Venton's to indicate that he is not eligible for rehire with the State (as opposed to just IDHR), provided IDHR give Mr. Venton notice of the intended action and an opportunity to respond. On January 14, 2013, IDHR sent Mr. Venton notification of IDHR's intent to revise his separation documentation to indicate that he is not eligible for reinstatement with the State and gave him until January 31, 2013, to respond. Finally, IDHR conducted a mandatory all staff meeting on January 14, 2013. OEIG Special Counsel Daniel Hurtado gave a presentation at the all-staff meeting on the Ethics Act and the obligations of State employees to cooperate with and to provide accurate information to the OEIG, and on the duty to report misconduct.

Ms. Bonales
January 15, 2013
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If you have any further questions, or if I can be of further assistance to you or your office, please contact me at (312) .

Respectfully submitted,

Lon D. Meltesen
Chief Legal Counsel

cc: Rocco J. Claps, IDHR Director

ILLINOIS DEPARTMENT OF
 Human Rights

Pat Quinn, Governor
Rocco J. Claps, Director

June 12, 2013

Erin K. Bonales
Deputy Inspector General
And Chief of the Chicago Division
Office of Executive Inspector General
For the Agencies of the Illinois Governor
69 West Washington Street, Suite 3400
Chicago, Illinois 60601

Re: OEIG Complaint No. 11-00384

Dear Ms. Bonales:

This letter is in follow up to my letters dated November 28, 2012, December 28, 2012, and January 15, 2013, regarding OEIG Complaint No. 11-00384 in which you requested that the Illinois Department of Human Rights ("IDHR") report to your office the actions taken to address your recommendations. Please be informed that on January 8, 2013, IDHR issued a 5-day suspension to Edward McCann and Vanessa Leon, and a 10-day suspension to Toye Barfield. Mr. McCann and Ms. Leon served their five-day suspensions from January 22, 2013, through January 26, 2013; and Ms. Barfield served her ten-day suspension from January 17, 2013, through January 26, 2013.

All three employees filed grievances pursuant to the collective bargaining agreement over their suspensions. The grievances were denied by IDHR at Steps One, Two and Three. On May 16, 2013, the Department of Central Management Services ("CMS") and AFSCME resolved all three grievances at Step Four (pre-arbitration). Pursuant to the resolution agreements, CMS agreed to reduce the suspension of Ms. Leon from a five-day suspension to a one-day suspension in exchange for the union's agreement to withdraw the grievances of Ms. Barfield and Mr. McCann and let their suspensions stand. AFSCME signed the written resolutions on May 29, 2013, and CMS signed on May 30, 2013. Therefore, the 10-day suspension to Ms. Barfield and five-day suspension to Mr. McCann became final and Ms. Leon's suspension was reduced to a one-day suspension.

Ms. Bonales
June, 2013
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Additionally, CMS advised IDHR that it would allow IDHR to revise Derrick Venton's to indicate that he is not eligible for rehire with the State (as opposed to just IDHR), provided IDHR give Mr. Venton notice of the intended action and an opportunity to respond. On January 14, 2013, IDHR sent Mr. Venton notification of IDHR's intent to revise his separation documentation to indicate that he is not eligible for reinstatement with the State and gave him until January 31, 2013, to respond. Mr. Venton did not respond so his separation was changed accordingly. Finally, IDHR conducted a mandatory all staff meeting on January 14, 2013. OEIG Special Counsel Daniel Hurtado gave a presentation at the all-staff meeting on the Ethics Act and the obligations of State employees to cooperate with and to provide accurate information to the OEIG, and on the duty to report misconduct.

If you have any further questions, or if I can be of further assistance to you or your office, please contact me at (312)

Respectfully submitted

Lon D. Meltesen —
Chief Legal Counsel

cc: Rocco J. Claps, IDHR Director