

IN THE EXECUTIVE ETHICS COMMISSION  
OF THE STATE OF ILLINOIS

RICARDO MEZA, in his capacity as )  
EXECUTIVE INSPECTOR GENERAL, )  
Petitioner, )  
v. )  
)  
)  
ROBERT BROWN, )  
Respondent. )

No. 14-EEC-003

**RECEIVED**  
JAN 23 2014  
EXECUTIVE  
ETHICS COMMISSION

DECISION

This cause is before the Executive Ethics Commission (“Commission”) for purposes of considering petitioner’s motion for summary judgment. This decision will also serve as the Commission’s final administrative decision in this matter.

Petitioner filed the present complaint with the Commission on September 11, 2013 and respondent was served on September 18, 2013. Respondent filed no answer to the complaint, but the parties entered into a joint statement of undisputed material of facts that formed the basis for petitioner’s motion for summary judgment, both of which were filed on January 10, 2014.

Petitioner is represented by Assistant Attorney General Long Truong. Respondent is represented by Carl Draper.

FINDINGS OF FACT

The record of proceedings has been reviewed by the members of the Executive Ethics Commission. Based upon this record, the Commission makes the following findings of fact:

1. Respondent was employed with the Illinois Department of Transportation (“IDOT”) and the State of Illinois as the Section Chief of the Central Sign Shop at all times relevant to the above-captioned Complaint.
2. Respondent resigned from his State employment on September 20, 2013.
3. At all relevant times, respondent had a duty to comply with the Illinois State Officials and Employees Ethics Act (the “Act”) 5 ILCS 430/1 *et seq.*, and all the policies adopted and implemented pursuant to the Act.

4. On July 13, 2010 and October 7, 2011, respondent certified that he had received a copy of IDOT's *Personnel Policies Manual*. Respondent also certified that he would read and abide by the contents of the manual.

5. IDOT personnel policies explicitly state that "Department employees may not engage in any prohibited political activities while on 'state time/premises.'" IDOT personnel policies also identify "[c]ampaigning for any elective office" and "[m]anaging or working on a campaign for elective office" as specific prohibited political activities.

6. At all times relevant to the allegations in petitioner's Complaint, IDOT personnel policies also included sections requiring employees to cooperate with investigations conducted by the OEIG.

7. Respondent completed the State of Illinois' ethics training annually. The State ethics training covers the Act's ban on Prohibited Political Activity while on State-compensated time and premises. The State ethics training also covered the Act's requirement that IDOT employees cooperate with OEIG investigations. Respondent therefore had knowledge of his obligations under the Act to avoid participating in prohibited political activities while on State-compensated time, as well as his obligation under the Act to cooperate with, and not intentionally obstruct or interfere with an OEIG investigation into possible violations of the Act.

#### **Thomas Skorepa's Political Campaign**

8. Thomas Skorepa ("Skorepa") is an attorney working in Rock Island, Illinois. He is a long-time acquaintance of Respondent.

9. On August 30, 2011, Skorepa announced that he was running for Rock Island County State's Attorney. Although Skorepa ultimately failed to obtain enough votes to secure his party's nomination for Rock Island County State's Attorney, he actively campaigned for that elective office during the period between September 1, 2011 and March 20, 2012 (the "Skorepa Campaign").

10. Respondent was a volunteer for the Skorepa Campaign. As a volunteer, he assisted in designing ads, ran errands, and picked up and distributed campaign literature door-to-door.

#### **Respondent's Political Conversations With Skorepa During State-Compensated Time**

11. Between September 1, 2011 and March 16, 2012, at various times during his State-compensated workday, respondent knowingly and intentionally used his personal cell phone to engage in prohibited political activity for the benefit of Thomas Skorepa's campaign for elected public office.

12. More particularly, Respondent knowingly made or received at least 54 campaign-related calls with Skorepa (the “Brown-Skorepa Calls”) during the course of the Skorepa Campaign. All of these calls were at least a minute in length, and twenty-eight calls were longer than fifteen minutes. The Brown-Skorepa Calls, which totaled over 10.5 hours, were made or received by respondent for the sole purpose of assisting Skorepa to secure his party’s nomination for elective office. Any non-political conversation between Skorepa and respondent that took place during the Brown-Skorepa Calls was incidental to the main purpose of those calls: for respondent to assist Skorepa in securing his party’s nomination for elective office by providing advice and counsel.

13. Respondent admits that he knew at the time he was making or receiving the Skorepa Calls that the purpose of his participation in those calls was to provide Skorepa with advice and counsel in order to get him elected to State office. Respondent likewise knew at the time he was participating in the Skorepa Calls that the Ethics Act prohibited State employees such as himself from engaging in political activity during State-compensated time.

**Respondent Knowingly And Intentionally Obstructed  
And Interfered With An OEIG Investigation**

14. Respondent was interviewed on three separate occasions by OEIG investigators in connection with allegations that respondent had engaged in prohibited political activity during State-compensated time. During each of these interviews, respondent lied to and misled OEIG investigators who were attempting to determine the facts surrounding the above-referenced allegations.

15. Respondent’s first interview with the OEIG took place on November 14, 2012. During this interview:

- A. Respondent falsely asserted that he did not serve in an advisory role for anyone in the 2012 election;
- B. Respondent falsely asserted that he performed all work on Skorepa’s campaign during the evenings and on weekends;
- C. Respondent admitted that he spoke with Skorepa during working hours, but falsely asserted that he only had one conversation with Skorepa concerning the Skorepa Campaign and that the conversation did not take place on State-compensated time; and
- D. Respondent falsely asserted that he and Skorepa had “extensive” conversations about Ed Bostick, a Central Sign Shop employee with whom Respondent was allegedly having work-place difficulties.

16. Subsequent investigation by the OEIG, including interviews with Thomas Skorepa on November 5, 2012 and November 12, 2012, revealed that the statements by respondent referenced above in Paragraphs 15(A)-(D) were false and materially misleading.

17. Respondent knew at the time he made the statements referenced above in Paragraphs 15(A)-(D) that they were false and that he intended them to be misleading. Respondent admits that he made these statements knowingly and intentionally, for the specific purpose of misleading OEIG investigators and obstructing their investigation into whether respondent had engaged in prohibited political activity on State-compensated time during the 2012 State campaign cycle.

18. Respondent's second interview with the OEIG took place on January 28, 2013. During this interview, respondent acknowledged that he understood his obligation under the Ethics Act to cooperate with OEIG investigators during the course of an official investigation and that this duty required him to provide true and accurate information. Nevertheless, respondent falsely asserted to the investigators that he talked to Skorepa only about such matters as how to "decompress" in the face of campaign pressures.

19. Respondent knew at the time he made the statement referenced above in Paragraph 18 that it was false and materially misleading, and that he intended this statement to mislead and obstruct OEIG investigators during the course of their investigation.

20. Respondent's third interview with the OEIG took place on August 7, 2013. During this interview:

- A. Respondent falsely reiterated that he spoke with Skorepa about Ed Bostick during the phone calls on State-compensated time;
- B. Respondent falsely stated that he didn't "recall that we did any campaign chit chat while at work;" and
- C. Respondent falsely asserted that the overall nature of his calls with Skorepa during the course of the Skorepa Campaign were about "friendship and kinship" and "how are you holding up?"

21. Respondent knew at the time he made the statements referenced above in Paragraphs 20(A)-(C) that they were false and materially misleading. Respondent made these statements intentionally, in order to mislead and obstruct OEIG investigators during the course of their investigation.

STIPULATED UNDISPUTED CONCLUSIONS  
OF LAW AND MIXED QUESTIONS OF LAW AND FACT

22. Pursuant to 5 ILCS 430/20-5(d), the Illinois Executive Ethics Commission (the “Commission”) has jurisdiction over “all officers and employees of State agencies” for purposes of any matter arising under or involving the Act. Consequently, the Commission’s authority extends to officers and employees of IDOT.

23. As an IDOT employee, respondent was subject to the provisions of the Act, and therefore subject to the jurisdiction of the Commission with respect to matters arising under the Act. 5 ILCS 430/20-5(d).

24. The “ultimate jurisdictional authority” for IDOT officers and employees, including respondent, is the Governor of the State of Illinois. *Id.* § 1-5 (defining and identifying the “ultimate jurisdictional authority” for various State officers, employees, and the entities for which they work).

25. Petitioner Ricardo Meza is the Executive Inspector General of the OEIG, duly appointed by the Governor of the State of Illinois pursuant to 5 ILCS 430/20-10.

26. The Act provides, in relevant part, that the OEIG has jurisdiction over “all officers and employees of . . . executive branch State agencies under the jurisdiction of the Executive Ethics Commission,” *id.* § 20-10(c), and authorizes the OEIG to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, violations of the Act, or violations of other related laws and rules. *Id.*; *accord id.* § 20-20. Consequently, the OEIG’s authority extends to IDOT and its officers and employees.

27. Under the Act, State employees are forbidden from “perform[ing] any prohibited political activity during any compensated time (other than vacation, personal, or compensatory time off).” *Id.* at § 5-15(a). “State employees shall not intentionally misappropriate any State property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office or any political organization.” *Id.*

28. It is the duty of every State employee under OEIG jurisdiction to cooperate in any investigation undertaken pursuant to the Act. *Id.* § 20-70. “Failure to cooperate includes, but is not limited to, intentional omissions and knowing false statements.” *Id.* Failure to cooperate with an investigation of the OEIG is grounds for disciplinary action, up to and including dismissal. *Id.*

29. Between September 1, 2011 and March 16, 2012, respondent violated the Act by knowingly and intentionally conducting and participating in prohibited political activity during time for which respondent was being compensated by the State of Illinois, when he acted as a campaign advisor to Skorepa during the Brown-Skorepa Calls.

30. On at least November 14, 2012, January 28, 2013, and August 7, 2013, respondent knowingly and intentionally made numerous material omissions, and knowingly and intentionally made materially false, misleading, and evasive statements during the course of his interviews with OEIG investigators, including but not limited to those referenced above.

31. In denying that the Brown-Skorepa Calls were conversations that were political in nature, and in making numerous material, intentional omissions and knowingly false, misleading, and evasive statements during the course of his interviews with OEIG investigators, respondent knowingly and intentionally obstructed and interfered with OEIG investigators who were attempting to investigate allegations that respondent had violated the Act by participating in prohibited political activity.

32. The Commission may levy an administrative fine of up to \$5,000 against any person who violates the Act by engaging in prohibited political activity during State-compensated time. 5 ILCS 430/50-5(a), (e); *id.* § 5/15.

33. The Commission may levy an administrative fine of up to \$5,000 against any person who violates the Act by intentionally obstructing or interfering with an Act investigation conducted by OEIG. *Id.*

34. The parties have agreed to recommend that the Commission enter an order finding that respondent has violated the Ethics Act by intentionally engaging in prohibited political activity during State-compensated time (5 ILCS 430/5-15) and that respondent has violated the Ethics Act by intentionally obstructing an OEIG investigation into his alleged misconduct (5 ILCS 430/50-5(e)).

35. The parties have further agreed that an appropriate sanction for these violations is for the Commission to levy a fine in the amount of \$3,500.00 for respondent intentionally engaging in prohibited political activity during State-compensated time and a fine in the amount of \$500.00 for respondent's intentional obstruction and refusal to cooperate with an official OEIG investigation.

36. The Commission is not bound by these agreements, but neither does it desire to prolong litigation unnecessarily.

#### STANDARD OF REVIEW

Granting summary disposition in an administrative proceeding is comparable to granting summary judgment under Section 2-1005 of the Code of Civil Procedure. *Bloom Tp. High School v. Illinois Commerce Com'n* (1999), 309 Ill. App. 3d 163, 177; 242 Ill. Dec. 892, 903; *Cano v. Village of Dolton* (1993), 250 Ill.App.3d 130, 138; 189 Ill.Dec. 883, 620 N.E.2d 1200.

Because of the similarities in the two procedures, it is appropriate to apply the standards applicable to granting summary judgment under Section 2-1005 when reviewing a summary determination entered by an administrative agency. See *Cano*, 250 Ill.App.3d at 138, 189 Ill.Dec. 883, 620 N.E.2d 1200.

Summary judgment is appropriate only where “the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” 735 ILCS 5/2-1005(c)

In determining whether a genuine issue as to any material fact exists, a court must construe the pleadings, depositions, admissions, and affidavits strictly against the movant and liberally in favor of the opponent. A triable issue precluding summary judgment exists where the material facts are disputed, or where, the material facts being undisputed, reasonable persons might draw different inferences from the undisputed facts. The use of the summary judgment procedure is to be encouraged as an aid in the expeditious disposition of a lawsuit. However, it is a drastic means of disposing of litigation and, therefore, should be allowed only when the right of the moving party is clear and free from doubt. *Adams v. Northern Illinois Gas Company* (2004), 211 Ill. 2d 32, 43; 284 Ill. Dec. 302, 310.

#### ANALYSIS

Respondent stipulated to a series of facts from which the Commission concludes that respondent violated Sections 5-15(a) and 50-5(e) of the State Officials and Employees Ethics Act (5 ILCS 430/5-15(a) and 50-5(e)).

The Ethics Act does not provide any guidance for the Commission to consider when levying a fine. The Commission, however, has adopted rules, found at 2 Ill. Admin. Code 1620.530(b), that outline 14 aggravating and mitigating factors that the Commission may consider in assessing an appropriate fine. These factors include:

- (2) the “scope of the violations.” Respondent admits that over a period of seven months he engaged in systematic prohibited political activity for the benefit of the Skorepa Campaign during State-compensated time. Respondent further admits that in three OEIG interviews conducted over the course of several months, he knowingly and intentionally misled OEIG interviewers conducting an investigation into the Brown-Skorepa calls.
- (6) “premeditation.” Respondent’s misrepresentations and obstructions were not incidental or accidental.
- (7) “duration of any series of violations.” Respondent’s prohibited political activity

took place over the course of seven months, consisted of over 54 telephone calls, and used over 10.5 hours of State-compensated time.

- (11) "cooperation." Respondent's failure to cooperate with and obstruction of an OEIG investigation is a major portion of this complaint. To the extent that respondent has timely accepted responsibility for his conduct and has elected not to raise a meritless challenge to the evidence that demonstrates his culpability, he should receive consideration for this factor.

WHEREFORE, for the foregoing reasons, the Commission grants petitioner's motion for summary judgment and finds that respondent has violated the Ethics Act by intentionally engaging in prohibited political activity during State-compensated time (5 ILCS 430/5-15) and that respondent has violated the Ethics Act by intentionally obstructing an OEIG investigation into his alleged misconduct (5 ILCS 430/50-5(e)).

The Commission levies an administrative fine of \$3,500.00 against respondent Robert Brown for violation of 5 ILCS 430/5-15(a) and levies an administrative fine of \$500.00 against respondent Robert Brown for violation of 5 ILCS 430/50-5(e).

This is a final administrative decision and subject to the Administrative Review Law.

ENTERED: January 23, 2014