

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: ANTHONY MAYVILLE,) No. 14-EEC-010
)
) Appeal of OEIG
) Revolving Door
) Determination

DECISION

This cause is before the Executive Ethics Commission (“Commission”) on appeal by the Office of the Attorney General (“OAG”) from a determination by the Office of the Executive Inspector General for Agencies of the Illinois Governor (“OEIG”).

FINDINGS OF FACT

The record of proceedings has been reviewed by the members of the Executive Ethics Commission. The record consists of the OAG’s June 16, 2014 appeal of an OEIG Revolving Door “Not Restricted” determination, and the OEIG’s June 23, 2014 Comment on the Appeal.

Based upon this record, the Commission makes the following findings of fact:

1. On June 6, 2014, the OEIG made a revolving door determination pursuant to 5 ILCS 430/5-45(f) with respect to Anthony Mayville’s (“Mayville”) proposed employment with Knight Hawk Coal, LLC (“Knight Hawk”). The OEIG determined that Mayville was not restricted from accepting that employment.
2. On June 16, 2014, the OAG filed the present appeal with the Commission.
3. Mayville was employed by the Illinois Department of Natural Resources (“IDNR”) from 2003 until his termination on April 14, 2014. During this time, Mayville served as Director of Mine Safety and Enforcement.
4. In that capacity, Mayville was responsible for the administration and enforcement of the Illinois Coal Mining Act. He also supervised two “at large” mining inspectors who, in turn, supervised fourteen on-site or “line” inspectors. Mayville is no longer a certified inspector, and while he reviews mine inspection reports, he does not make changes to or override any violations found by the inspectors. He has not conducted mine inspections for at least two years.
5. Following a 2013 death of a coal miner at Knight Hawk, Mayville participated in a hearing conducted by the U.S. Mine Safety and Health Administration. As a result of this incident, Mayville recommended a change in agency policies that would require the

presence of two miners when a continuous automated coal mover is in motion. This recommendation was adopted by the State Mining Board and, eventually, enacted into law by the General Assembly.

6. The IDNR Ethics Officer concluded that Mayville should be barred from the present employment opportunity “based on his job responsibilities at the IDNR related to regulatory and licensing mining operations throughout Illinois.”
7. In accordance with 5 ILCS 430/5-45(g), the Executive Ethics Commission has sought written public opinion on this matter by posting the appeal on its website and posting a public notice at its offices in the William Stratton Building.

CONCLUSIONS OF LAW

1. An Executive Inspector General’s determination regarding revolving door restrictions may be appealed to the Commission by the person subject to the decision or the Attorney General no later than the 10th calendar day after the date of the determination. 5 ILCS 430/5-45(g).
2. The OAG’s appeal of the OEIG’s June 6, 2014 revolving door determination is properly before the Commission and the Commission has jurisdiction to consider the appeal.
3. Subsection (b) of the revolving door section of the State Officials and Employees Ethics Act provides:

(b) No former officer of the executive branch or State employee of the executive branch with regulatory or licensing authority, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of State employment, knowingly accept employment or receive compensation or fees for services from a person or entity if the officer or State employee, during the year immediately preceding termination of State employment, participated personally and substantially in making a regulatory or licensing decision that directly applied to the person or entity, or its parent or subsidiary.

5 ILCS 430/5-45(b)

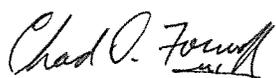
4. Mayville is among those former State employees subject to 5 ILCS 430/5-45(c), who, by the nature of his duties, may have the authority to participate personally and substantially in the award of State contracts or in regulatory or licensing decisions.
5. The fact that Mayville was involuntarily terminated from State service does not mean that he is not subject to revolving door prohibitions.

6. Although Mayville had considerable authority with respect to the administration and enforcement of the Illinois Coal Mining Act, the OAG has not submitted evidence that Mayville exercised this authority by being personally and substantially involved in regulatory or licensing decisions that directly applied to Knight Hawk or its parent or subsidiaries within one year of Mayville's separation of State service.
7. With respect to the hearing conducted by the U.S. Mine Safety and Health Administration, Mayville's involvement is unclear. His name does not appear among those who participated in the investigation or among those who were interviewed. It also appears that the investigation and hearing took place more than one year before Mayville's April 14, 2014 termination.
8. With respect to ongoing inspections of Knight Hawk mines, the dates and nature of these inspections and any decisions resulting from them have not been identified to the Commission. In any case, Mayville was separated from these unidentified inspection reports by two "at-large" supervising inspectors. It appears that the nature of Mayville's review of these reports was insubstantial. There is no evidence that Mayville, no longer a certified inspector, inserted himself into any inspection decisions.
9. With respect to the Mining Board's promulgation of rules that would require the presence of two miners when a continuous automated coal mover is in motion, Mayville's precise involvement in it is not clear from the pleadings. Regardless of Mayville's involvement, the promulgation of rules described in the pleadings does not constitute a regulatory decision that directly applied to Mayville's prospective employer or its parent or subsidiaries as contemplated by the Ethics Act.
10. The Commission finds insufficient evidence that Mayville participated personally and substantially in making regulatory or licensing decisions that directly applied to Knight Hawk Coal, LLC, within one year of his termination of State employment.

WHEREFORE, for the foregoing reasons, the Commission denies the Office of the Attorney General's appeal and affirms the Office of the Executive Inspector General's June 6, 2014 determination. Anthony Mayville may pursue his employment opportunity with Knight Hawk Coal, LLC.

ENTERED: June 26, 2014

The Executive Ethics Commission

By: 
Chad D. Fornoff
Executive Director