

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MICHAEL L. SHAKMAN, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	Case No. 69 C 2145
v.)	
)	Magistrate Judge Sidney I. Schenkier
COOK COUNTY ASSESSOR'S)	
OFFICE, <i>et al.</i> ,)	
)	
Defendants.)	

INTERIM DIRECTOR OF COMPLIANCE SEMI-ANNUAL REPORT

Susan G. Feibus, the Court-appointed Compliance Administrator for the Cook County Assessor's Office ("AO"), as the Interim Director of Compliance ("Interim DOC"), pursuant to Section V(B) of the Employment Plan, effective August 5, 2016 ("Employment Plan"), submits the following Semi-Annual Report:

I. DOC DUTIES AND RESPONSIBILITIES GOVERNING THIS REPORT

Section V(B) of the Employment Plan requires the Director of Compliance ("DOC") to issue semi-annual reports every March 15 and September 15, describing her/her activities during the past six months. These activities include, but are not limited to: auditing activities as required by the Employment Plan; discovered violations of the Employment Plan or policies in the Employee Handbook; Unlawful Political Considerations¹ ("UPD") in Employment Actions; remedial actions recommended; and corrective actions taken by the AO to address the violations. Section V(B) of the Employment Plan also requires that the DOC's semi-annual reports be posted on the Assessor's website.

¹ Capitalized terms used in this report have the same meaning as in the Employment Plan.

Section V(F) of the Employment Plan empowers the DOC to investigate alleged violations of the Employment Plan, any section of the Employee Handbook and allegations of Unlawful Political Contact or Political Contacts. At the conclusion of the investigation, the DOC is to prepare a written report and recommendations documenting his/her findings, which is to be given to the Assessor, the ACA and Plaintiffs' Counsel for review. Employment Plan at §§V(F)(4) – (6). The Assessor must file a response to the DOC's report and recommendations within 60 days, including one allowed extension. Employment Plan at §V(F)(7).

II. PROCEDURAL HISTORY

The September 15, 2018 semi-annual DOC report was filed by then-DOC Mark Grba. When he submitted the report, Mr. Grba had been the DOC for approximately one month. A copy of Mr. Grba's report is attached as Exhibit A. In or about December 7, 2019, Mr. Grba resigned. In an order dated December 4, 2018, the Court appointed me as the Interim DOC, upon Mr. Grba's departure. I have held the Interim DOC position since then and will do so until the AO hires a new DOC. This is expected to happen soon as the hiring process is underway.

III. DOC GRBA'S ACTIVITIES PRIOR TO HIS 12/18 DEPARTURE

A. Reports and Recommendations

Since the September 15, 2018 semi-annual report, DOC Grba submitted three reports and recommendations:

1. The AO's Misuse of the Interactive Voice Recognition ("IVR") System

On October 16, 2018, DOC Grba issued a report and recommendation that identified multiple violations of the AO Employment Plan, Time and Attendance Policy and the Collective Bargaining Agreement ("CBA") arising from the misuse of the IVR system² by AO employees.

² The IVR system is a component of the Cook County Time ("CCT") and Attendance tracking system that allows employees to clock in and out by phone.

Misuse primarily was by employees who worked in the field but extended to others in Financial Operations and the Information Technology Departments.

DOC Grba's significant findings were:

(1) Field inspectors were not working a set schedule in violation of Section 5.2 of the CBA and the Time Attendance Policy, which is based on set employee start and end times;

(2) Deputy Assessor, Chief Assessment Operations & Administration Mike Sobczak, in conjunction with Deputy of Financial Operations Victoria La Calamita, designed and implemented a new policy of disciplining field inspectors who failed to use the IVR system to call in or out of work by taking away eight hours of their sick leave - in violation of the Employment Plan and the CBA, including Section 11.4, governing sick leave;³

(3) Deputy La Calamita and others in the Financial Operations Department were using the IVR system when they purportedly telecommuted – although AO policies do not allow telecommuting – in violation of the Employment Plan and the Time and Attendance Policy;

(4) Deputy La Calamita requested overtime (time due) for days when she purportedly was telecommuting and did not swipe in and out of work – in violation of the Overtime Policy; and

(5) Deputy of IT Haleema Brady allowed her direct report to use the IVR system – although AO policies do not allow telecommuting – in violation of the Employment Plan and the Time and Attendance Policy.

DOC Grba's recommendations and the Assessor's response, per his November 30, 2018 responsive report, were:

³ DOC Grba concluded that the improper removal of sick time apparently was done without the knowledge or consent of the Deputy of Human Resources, the Assessor's Legal Counsel of Assessor Berrios, himself. According to Grba, they only became aware of the misconduct when Grba told them about it.

(1) Revise the Time and Attendance Policy to clarify the use of the IVR system by employees who work in the field, train those employees on the proper use of the IVR system and identify specific work hours for field inspectors. The Assessor accepted these recommendations and changes to the Time and Attendance Policy were made. The Assessor indicated that training on the IVR system should be done by the next Administration.

(2) Limit the use of IVR to field inspectors only. The Assessor agreed to limit the use of the IVR system to field inspectors and certain designated IT employees deemed required to ensure operation of the Assessor's server.

(3) Identify and return the sick leave that improperly was taken by field inspectors. The Assessor accepted this recommendation and the wrongfully removed sick leave was restored.

(4) Remove overtime (time due) accrued by Deputy La Calamita based on her use of the IVR system and failure to physically swipe in and out. The Assessor accepted a portion of the recommendations and deducted 7.25 hours of overtime (time due) from Deputy La Calamita's Comp Time bank.

2. Employee Claim of UPD - 10/9/18

On October 9, 2018, a former AO employee filed a UPD complaint alleging that the former employee was terminated on June 21, 2017 because of the results of a breathalyzer test. The DOC found that impermissible political factors or reasons were not considered in the Assessor's decision to terminate the employee. Rather, the termination was the culmination of progressive discipline based on prior violations of the AO's Drug and Alcohol Policy, including the violation of a "Last Chance Agreement" that the employee had signed in 2016, which also included a 30-day suspension. When the AO conducted a random breathalyzer test in June of 2017, the employee failed and was terminated for cause. The DOC found no factual basis for the employee's claim

that the former employee was treated differently from an allegedly politically-connected AO employee who also failed a breathalyzer test.

3. Employee Claim of UPD – 10/17/18

On October 17, 2018, a former AO employee filed a UPD complaint alleging that he was terminated because his father, a United States Congressman, did not endorse Assessor Berrios in the March 2018 primary election. Section V(A) of the Agreed Order requires UPD complaints to be filed “within one-hundred eighty (180) days after the Complainant knew or should have known of the alleged unlawful conduct.” The DOC found the complaint untimely because it was filed 313 days after the employee knew or should have known of the alleged unlawful conduct.

B. Other Activities

From his August 6, 2018 date of hire until early December 2018 resignation, DOC Grba participated in activities with the AO, the ACA and Plaintiffs’ counsel that included the following: completion of desk audits and Position Description updates; revisions to *Shakman*-related policies; unsuccessful attempt to hire a Human Resources Generalist; court-approved amendment to the Exempt List; two AO disciplinary investigations; and exit interviews of departing AO employees.

IV. INTERIM DOC’S ACTIVITIES SINCE GRBA’S 12/18 DEPARTURE

A. Investigations – with Reports and Recommendations to be Forthcoming

Since my December 2018 appointment as Interim DOC, concurrent with Mr. Grba’s departure, I have been involved with the following investigations that should lead to reports and recommendations:

1. Potential Violation of the Employment Plan by Misuse of the Executive Assistant Hiring Process

There is concern that the Executive Assistant to the Chief Deputy Assessor (a) was not hired in accordance with Executive Hiring Process described in Section X of the Employment Plan; and (b) did not meet the Minimum Qualifications for the Position. Documents have been

reviewed and interviews have been conducted. To the extent required, additional or follow-up interviews should be completed shortly.

2. Employee Claim of UPD – 1/17/18

On December 6, 2018, an AO employee was terminated by the current Assessor on the stated grounds that the department for which the employee worked was being eliminated. The now former employee challenges the Assessor's stated grounds for termination and alleges it was the result of impermissible political factors or reasons. Documents have been reviewed and initial interviews have been conducted. Additional interviews are expected to be completed shortly.

3. Employee Resignation/Allegations of Mistreatment – 2/15/19

Effective February 15, 2019, a long-serving AO manager resigned. The employee indicated that the resignation was because the new director to whom the employee reported diminished the employee's duties, excluded the employee from department meetings and limited communication with the employee. The employee also alleged that another AO employee influenced the treatment that the employee was experiencing at the hands of the new manager. Given the employee's many years of service, the allegations require investigation. The employee is scheduled to be interviewed next week, documents will be reviewed and additional interviews will be undertaken, as required.

B. Training

As Interim DOC, I have been involved in the following training sessions:⁴

1. Annual All-Employee *Shakman* Training

Section IV(G) of the Employment Plan requires new employees within 60 days of hire and all employees annually to receive comprehensive training to ensure that they are aware of and knowledgeable about the Employment Plan, the Employee Handbook and Unlawful Political

⁴ As the ACA, I also am involved in training. This involvement was heightened as the result of my dual roles as described herein.

Discrimination. This training is to be conducted by Human Resources in conjunction with the DOC. This training was conducted in various sessions at the end of January and the beginning of February 2019 and included the AO's branch offices. As Interim DOC, I reviewed and revised the AO's training deck used for the presentation. My counsel or I attended and participated in the training sessions. (As ACA, these sessions were monitored by my staff.)

2. Annual and New Human Resources Training

Section IV(E) of the Employment Plan requires new Human Resources employees within 30 days of hire and all Human Resources employees annually to receive comprehensive training to ensure that they are aware of and knowledgeable about the Employment Plan, the Employee Handbook and will be able to administer relevant portions and answer questions they may receive. This training is to be conducted by Human Resources in conjunction with the DOC. Since the Chief Administrative Officer and the Director of Human Resources were new employees, I prepared and administered the training on January 24, 2019, to the Chief Administrative Officer, Director of Human Resources and the Human Resources Generalist. (As ACA, this session was monitored by my staff.)

3. Interviewer Training

Section IV(H) of the Employment Plan requires all employees who are eligible to interview Candidates for any Position to be trained on proper interviewing conduct, techniques and requirement, as well as the prohibition of Unlawful Political Contacts and Unlawful Political Discrimination. This training was initiated on March 13, 2019; the one-hour time period scheduled by the AO was insufficient to complete the training. Sessions to complete the training and a make-up session for employees who did not attend the March 13, 2019 session are scheduled. As Interim DOC, I reviewed and revised the AO's training deck used for the presentation. My counsel

attended and participated in the training session and will do so for additional sessions. (As ACA, the initial session was monitored by my staff and additional sessions will be monitored.)

C. Office Hours

As Interim DOC, I hold a weekly office hour in the DOC office. My interim role also is posted on the “*Shakman*” page on the Assessor’s website. And it was explained at the all-employee Shakman training sessions.

D. Other Activity

Since Mr. Grba’s departure and the start of the new Administration, there has been much activity in which I have participated as both the ACA and the Interim DOC. These include, but are not limited to: Exempt hiring; Executive Assistant hiring; proposed revisions to the Employment Plan; review and revisions of *Shakman*-related policies; review and monitoring of *Shakman*-related policies; review and revisions of Position Descriptions; hiring of a replacement DOC; hiring of a Director of Training; and hiring of a Senior Human Resources Generalist. These matters will be discussed in greater detail in my next ACA report to the Court.

Dated: March 15, 2019

Respectfully submitted,

Susan G. Feibus
as Interim Director of Compliance
for the Cook County Assessor’s Office

**Susan G. Feibus
Assessor Compliance Administrator
and Interim Director of Compliance
for the Cook County Assessor's Office**

**69 West Washington St., Suite 830
Chicago, IL 60602**

and

**Law Offices of Susan G. Feibus
105 West Adams St., 35th Floor**

Chicago, IL 60603

(312) 637-9637

susan@feibuslaw.com