

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MICHAEL L. SHAKMAN, et al.,)	
)	
Plaintiffs,)	
)	Case Number: 69 C 2145
v.)	
)	Magistrate Judge Schenkier
COOK COUNTY RECORDER OF)	
DEEDS, et al.,)	
)	
Defendants.)	

**SIXTH REPORT OF THE *SHAKMAN* COMPLIANCE ADMINISTRATOR
FOR THE COOK COUTY RECORDER OF DEEDS**

Cardelle B. Spangler, *Shakman* Compliance Administrator for the Cook County Recorder of Deeds, by and through her attorney, Matthew D. Pryor, pursuant to Art. III.C. of the Supplemental Relief Order for the Cook County Recorder of Deeds, submits this Sixth Report as follows:

I. Introduction

On April 16, 2012, Cardelle B. Spangler, the Recorder Compliance Administrator (“RCA”)¹, filed her Fifth Report to the Court (“Fifth Report”). The Fifth Report included an update on the Recorder’s progress in achieving the goals established in the Strategic Plan for the Office of the Cook County Recorder of Deeds (“Recorder’s Office” or “Office”) to obtain Substantial Compliance with the Supplemental Relief Order

¹ “RCA” hereinafter shall refer to the Recorder Compliance Administrator and/or her staff.

(“SRO”).² The RCA submits this Sixth Report to update the Court on developments concerning the Recorder’s recent progress toward Substantial Compliance with the SRO.

II. Progress on Strategic Plan for Substantial Compliance

In the months since the RCA filed her Fifth Report, the Recorder’s Office has made progress in its efforts to substantially comply with the SRO. First, the Office continues to develop and improve hiring procedures as they work to fill numerous senior management positions. Second, while progress occurred with the Recorder’s disciplinary process, the Recorder’s Office must work as a unit to ensure compliance at all levels; including from both Disciplinary Hearing Officers and the Chief Deputy Recorder. Additionally, with the recent unionization of supervisors, the employment procedures applicable to supervisors are unclear and must be clarified so the RCA may monitor their implementation. Finally, progress has been made in the development of accurate organizational charts that are necessary for the parties to be able to negotiate the a revised Exempt List as well as Senior Manager and Executive Assistant Lists.

A. Training

Since the RCA’s appointment in September of 2010, the Recorder’s Office has filled three full-time positions in its Accounting, Personnel, and Security departments, as well as one temporary position in its Security department with external candidates. Art. II.B.1 of the SRO requires the Recorder and RCA to train all Recorder employees “in all aspects of governmental employment for non-Exempt positions.” As required by the SRO, the RCA conducted *Shakman* training for all the newly hired employees on June 28, 2012. As the Recorder continues to fill vacancies, the RCA will continue to train

² “Recorder” hereinafter shall refer to the Cook County Recorder of Deeds, Eugene Moore, and/or his staff.

new hires on *Shakman* issues to ensure that all non-Exempt employees are aware of their right to a culture free of political consideration in all aspects of governmental employment.

B. Monitoring Findings

As set forth below, the RCA's monitoring efforts largely have continued to focus on the areas of hiring and discipline.

1. Hiring

As the current Recorder's term approaches its end and he is not running for re-election this fall, the frequency of resignations and retirements has noticeably increased. Consequently, the Recorder's Office recently posted for one full-time senior management position. Although it is still in the early stages of the hiring process, the Recorder's Office has made reasonable progress in the filling of this position as the Personnel department continues to learn and practice the hiring protocol previously developed and reported on in the RCA's Fifth Report. Fifth Report at 3. Previously, the RCA expressed a desire to see the Director of Personnel take the lead in the initiation and review of the hiring process. Fifth Report at 6. The RCA commends the Director of Personnel and his staff for taking the desired initiative in the filling of the current vacancy through the development of a job description and posting prior to RCA involvement. While the RCA is still providing guidance on these matters, she is hopeful that the Director of Personnel and his staff will soon gain the necessary independence to lead the Recorder's efforts towards Substantial Compliance.

The hiring process is a work in progress, constantly evolving and improving, as the Recorder's Office continues to learn from and address previous errors in the process.

This is to be expected when an office transitions from loose hiring practices to more rigid and defined ones; however, improvement has been noted. As previously reported in the Fifth Report, in order to ensure compliance with the Collective Bargaining Agreement (“CBA”) with SEIU Local 73, the Deputy Recorder requested of the Acting Supervisor of Satellite Offices to verify with all satellite supervisors every time the Director of Personnel circulates a Job Posting. Fifth Report at 4. Since the Fifth Report, the Acting Supervisor of Satellite Offices has developed a verification system for timely posting of open positions at satellite office locations – thereby ensuring that all Recorder employees are afforded the same opportunity to apply – and provides notice to the RCA of the same.

With a focus on its ability to reach the largest pool of qualified applicants, the Recorder’s Office recently reposted a managerial position. Of the applications the Recorder’s Office received for the original posting, very few arguably met the minimum qualifications. Recognizing the limitations placed on the applicant pool by the chosen minimum qualifications, the Chief Deputy Recorder worked closely with the Director of Personnel and the RCA to develop a job description that better described the operational needs of the office.³ The RCA believes the revised job description accurately and fairly depicts the needs of the office and values both the education and experience of potential internal and external applicants. The RCA will continue to carefully monitor the hiring process for this position and other upcoming vacancies and report such observations in her next report to the Court.

³ Upon reposting, the Recorder’s Personnel department contacted all of the applicants via mail and phone to inform them of the reposting and encouraged all applicants to reapply based on the revised minimum qualifications.

2. *Union Discipline*

Previously, the RCA reported her concerns with pre-disciplinary hearings that do not result in the next progressive disciplinary step, or any discipline, despite a finding that the employee committed the infraction. Fifth Report at 7-8. Since the Fifth Report, the Disciplinary Hearing Officer for non-supervisory employees has demonstrated an unwavering commitment to following stated policies and procedures and continually issues progressive discipline as outlined in the relevant CBA. Such vigilant adherence to stated policies and procedures is critical to the achievement of Substantial Compliance and it has not gone unnoticed by the RCA.

In the Fifth Report, the RCA reported on the Recorder's inconsistent enforcement of the unauthorized leave/"zero" days policy and expressed confusion about what the Recorder believed constituted an excused absence. Fifth Report at 7. Although the RCA never received a written procedure or clarification on this policy, the Disciplinary Hearing Officer for non-supervisory employees has, since the Fifth Report, made consistent decisions involving absent without leave ("AWOL") violations. Recently she issued a 10-day suspension (the correct progressive step after two seven-day suspensions) to a union employee with a long history of AWOL violations resulting in suspensions.⁴ However, when this employee grieved her suspension, Labor Counsel, without consulting the Chief Deputy Recorder, settled at the Third Step and reduced the employee's suspension from a 10-day to a five-day suspension despite citing just cause for the 10-day suspension. Consequently, the Chief Deputy Recorder is increasing oversight of Labor

⁴ It is important to note that had progressive discipline been followed historically this employee would have been faced with a 29-day suspension.

Counsel's handling of Third Step grievances by requiring Labor Counsel to discuss such grievances with her prior to any settlements. The RCA appreciates the Chief Deputy Recorder's efforts in this regard.

3. *Supervisor Discipline*

While the Chief Deputy Recorder appears dedicated to setting a precedent of progressive discipline for non-supervisory employees, the RCA remains concerned that the same is not being set for supervisors. For example, during the past few months supervisors at the Recorder's Office have undergone a number of departmental transfers following the removal of one self-admitted politically-connected supervisor from her department.⁵ This supervisor was removed from her position when she was transferred from her department of 32 employees to a staff of nine and yet, as far as the RCA is aware, she was never written up or the circumstances regarding her transfer documented. The RCA expressed to the Chief Deputy Recorder her concern about the lack of discipline for a supervisor in this situation, particularly one who admitted holding fundraisers for the Chief Deputy Recorder in the past.

A significant recent development at the Recorder's Office was the unionization of supervisors. Supervisors at the Recorder of Deeds petitioned the Illinois Labor Relations Board (ILRB) and requested to be included in the bargaining unit currently represented by SEIU Local 73. On April 25, 2012, the ILRB certified that a majority of the employees in the petitioned-for titles be included into SEIU Local 73. Subsequently, on July 2, 2012, SEIU Local 73 and the Recorder's Office entered into a Letter of

⁵ Continuous allegations of favoritism by this supervisor and a lack of supervision and control over her department ultimately resulted in the transfer of this supervisor.

Understanding which listed the supervisory employees that are now included in the current CBA. The RCA understands that a new CBA for supervisors (or even an addendum to the current CBA to address the addition of supervisors) is not forthcoming. Accordingly, the Recorder's Office is beginning to work through issues related to the interpretation of certain provisions as applied to supervisory employees. The RCA will monitor the manner in which the CBA is applied to supervisors to ensure that any uncertainty by the Recorder over the interpretation of the terms of the CBA does not lead to opportunities for unlawful political considerations in Employment Actions.

C. Employment Plan

The RCA plans to circulate a draft of the Employment Plan to Class Counsel by August 24, 2012.

D. Compliance Officer

In her previous two reports, the RCA briefly discussed the issues causing the delay in the posting, and hiring of, an independent Compliance Officer. *See, e.g.*, Fourth Report at 11, Fifth Report at 9. The main divisive issue continues to be the Compliance Officer's reporting structure. The RCA strongly believes that any Compliance Officer should report to the OIIG and not to any Exempt (or other) employee in the Recorder's Office. The independence of this position is especially critical given: (1) the deep (and very recent) history of unlawful political discrimination discovered by the RCA in the Pre-SRO Claims process; (2) the lack of any agreed-upon oversight by the OIIG of the Compliance Officer (as is provided in other active *Shakman* defendants' Compliance Officer set-ups) and (3) the Recorder's refusal to allow the OIIG to exercise its Enabling Ordinance-provided duty to oversee the Recorder's Office for issues of waste, fraud or

abuse. The SAO recently discussed a proposed solution to this issue with the RCA, who requested that it share the proposal in writing with Class Counsel, the OIIG and the RCA to facilitate further discussions and resolution to this critical issue.

E. Exempt, Senior Manager and Executive Assistant Lists

The RCA last reported that the SAO had circulated proposed Exempt, Senior Manager and Executive Assistant lists to Class Counsel and the RCA on March 13, 2012. Fifth Report at 10. Since the Fifth Report, Class Counsel and the Recorder's Office have exchanged correspondence concerning the accompanying organizational charts. The RCA is finalizing her edits of the organizational charts and will circulate them to the parties in the coming week. The RCA hopes that with accurate and updated organizational charts, the parties can successfully negotiate a new Exempt List as well as Senior Manager and Executive Assistant Lists prior to the upcoming change in administration.

F. Automated Online Application Tracking System

In her last report, the RCA noted the Chief Deputy Recorder's frustration with having to wait for the County to work through its contractual dispute with its online Applicant Tracking and Application System ("ATAS") provider. The RCA noted that she provided the Chief Deputy Recorder with the opportunity to "offer a detailed proposal for an alternative solution" to the County's ATAS provider, but none was provided. Fifth Report at 11. On June 22, 2012, the Chief Deputy Recorder sent the RCA a letter "requesting that the RCA re-consider [sic] her position on this office being required to use [the County's ATAS provider] as a pre-requisite to substantial compliance." In the letter, the Chief Deputy Recorder requested that the Recorder's

Office only be required to use ATAS “when it is practical to do so, or to allow the office to contract hiring services to an outside agency.”

On July 10, 2012, the RCA responded to the Chief Deputy Recorder’s request by first noting that any requests to amend the requirements of the SRO be directed to Class Counsel, not the RCA, as the RCA has no authority to amend the language to a document she played no role in negotiating. The RCA also noted that “the value in instituting an online AT[A]S significantly outweighs and costs or inconveniences raised in [the Chief Deputy Recorder’s] letter.” The RCA further noted the benefits of ATAS in that it “will create an electronic record (complete with date stamps and chain of custody) of every application, review of application, validation decision, and ultimate hiring decision by the Recorder’s Office that is far more extensive than the current system used by the Recorder’s Human Resources Department.” The RCA reiterated her offer to review any detailed proposal for an ATAS alternative to the one used by the County but has not received any such proposal.

Since the July 10 correspondence, the County hired a new Director of its Human Resources Information Systems Department, who estimates the end of 2012 as a realistic timeframe for implementing the Recorder’s Office into the County ATAS. The RCA remains open to a proposal by the Recorder’s Office for an alternative to the County’s ATAS. If a proposal is not forthcoming, however, the RCA encourages the Recorder’s Office to work with her on updating its job descriptions so that they are ready for quick uploading to ATAS once the County is ready to bring the Recorder’s Office onto ATAS.

G. Political Contact Log and No Political Consideration Certification

Due to the continued disagreement between the Recorder’s Office and OIIG

on the scope of the OIIG's oversight there has been no progress on the training and implementation of the Political Contact Log and No Political Consideration Certification. The RCA encourages the parties to resolve this issue expediently so that additional progress can be made toward substantial compliance with the SRO.

H. Post-SRO Complaints

Since the RCA's Fifth Report, the OIIG received two newly filed Post-SRO Complaints, bringing the total number to three. The 180-day determination deadlines have not yet passed on these claims. The RCA will report on the OIIG's progress on these claims in her next report.

III. Conclusion

The Recorder's Office demonstrated additional examples of positive progress in the past four months and the RCA is pleased with the momentum. The RCA hopes that this commitment to reaching substantial compliance continues unimpeded in the final months of the current administration.

Respectfully submitted,

Cardelle B. Spangler
Recorder Compliance Administrator

By: /s/ Matthew D. Pryor
Her Attorney

Matthew D. Pryor (matthew.d.pryor@gmail.com)
Counsel to the Recorder Compliance Administrator
69 West Washington, Suite 840
Chicago, IL 60602
Telephone: (312) 603-8911
Fax: (312) 603-9505