

**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.)	

**SEVENTH REPORT OF THE *SHAKMAN* COMPLIANCE ADMINISTRATOR
FOR THE COOK COUNTY 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 Seventh Report as follows:

I. Introduction

On August 15, 2012, Cardelle B. Spangler, the Recorder Compliance Administrator (“RCA”)¹, filed her Sixth Report to the Court (“Sixth Report”). The Sixth 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

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

Order (“SRO”).² Since that Sixth Report, several major events occurred: 1) the RCA filed an Interim Report to the Court in order to address concerns related to a hiring process affected by external political influence; 2) the RCA circulated a draft Employment Plan (the “Draft Plan”); 3) the Recorder’s Exempt List was amended with the Court; and 4) Karen Yarbrough was sworn into office to succeed Eugene Moore as the Cook County Recorder of Deeds, after her election on November 6, 2012. The RCA submits this Seventh Report to update the Court on the final months of the Moore Administration’s efforts to comply with the SRO and to discuss the Yarbrough Administration’s initial efforts to do the same.

II. The Moore Administration

In the months since the RCA filed her Sixth Report, the Recorder’s Office hired a new member of management as a result of the Concourse Manager’s retirement, posted a vacancy for an “AAV/GIS Systems Data Analyst” which remains unfilled, dealt with political activities taking place at the office during this year’s election, and interacted with the Cook County Bureau of Technology in a shared services initiative.

A. 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

In the last few months of the Moore Administration, there was only one

² For Section II of this Seventh Report, “Recorder” hereinafter shall refer to the Cook County Recorder of Deeds, Eugene Moore, and/or his staff. For Section II, “Recorder” thereinafter shall refer to the Cook County Recorder of Deeds, Karen Yarbrough, and/or her staff.

completed hiring process. In her Sixth Report to the Court, the RCA noted that the Recorder had reposted a managerial position due to the initial posting not yielding any minimally qualified candidates. Since the Sixth Report, the Recorder completed that hiring process and hired a qualified candidate to fill that position. The RCA monitored the hiring process at every stage and had no concerns with any Political Reasons or Factors impacting the process.

While the Recorder only filled the above position since the Sixth Report, on September 20, 2012, the Recorder posted a vacancy for an “AAV/GIS Systems Data Analyst”. As explained in the RCA’s Interim Report, the Chief Deputy Recorder prematurely removed this posting after meeting with William Velazquez, the Chief of Staff of then-Recorder of Deeds Candidate, Karen Yarbrough. *See generally* Interim Report. The Interim Report noted that Ms. Williams-Burnett decided to repost the above position after discussions with the RCA and the State’s Attorney’s Office. *Id.* at 5. The position was reposted on October 18, 2012; after a cumulative 14 days of posting, the posting was removed on October 24, 2012.

The Recorder’s Office received 35 applications for this technical position. Five of the applicants met the minimum qualifications for the position and the Recorder’s Office interviewed all five candidates on November 16, 2012. After the interviews, the interview panel met and concluded that three of the five candidates met the minimum qualifications. The panel was prepared to offer the position to one of the candidates, but the RCA, who monitored the interviews, disagreed.

Since her appointment, the RCA has stressed the need for accurate job descriptions and has worked closely with the Director of Human Resources in their

development. While the RCA reviews job descriptions prior to a vacancy being posted, the Recorder's Office is responsible for ensuring the accuracy of the job description. The AAV/GIS Systems Data Analyst interview questions that were developed by the Recorder's Office were based on the specific minimum qualifications and job duties of the position's job description. None of the candidates who were interviewed answered that they met a certain minimum qualification pertaining to proficiency in certain computer software.³

During the selection meeting the Chief Deputy Recorder and Deputy Recorder expressed frustration with this minimum qualification stating that it never should have been included and discussed overlooking it in favor of proceeding with the hiring. An arbitrary decision to overlook a stated minimum qualification is exactly the type of the action the RCA repeatedly cautioned could leave the Recorder's Office susceptible to allegations of Unlawful Political Discrimination. After discussion with the RCA and a separate consultation with the States Attorney's Office, the Chief Deputy Recorder reversed course and refrained from awarding a candidate with the position since none of the candidates met all of the stated minimum qualifications. As of the date of this Report, the RCA has not received a revised job description or been notified that this position will be reposted.

2. Union Discipline

Over two years into her oversight of the Recorder's Office, the RCA has monitored the Recorder's disciplinary process more than any other Employment Action.

³ Prior to posting and developing the interview questions, both the Chief Deputy Recorder and Deputy Recorder told the RCA that they had reviewed and had no issues with the AAV/GIS Systems Data Analyst job description and interview questions.

As reported in all of the RCA's reports to this Court, the RCA had consistent concerns with pre-disciplinary hearings that did not result in the next progressive disciplinary step, or any discipline, despite a finding that the employee committed the infraction. The RCA, through her Pre-SRO Claims investigations and monitoring of current disciplinary procedures, had reason to believe discipline was oftentimes issued or avoided based on the political connections (or lack of connections) of the subject employee. However, in the Sixth Report, the RCA commended the Disciplinary Hearing Officer of non-supervisory employees (the "DHO") for her newfound and unwavering commitment to following the stated policies and procedures outlined in the relevant CBA by consistently issuing progressive discipline. Sixth Report at 5.

On November 29, 2012, the RCA monitored the DHO during her last disciplinary hearing involving an admitted politically-connected union employee. When the employee tried to object to progressive discipline the DHO reminded him that he has an extensive disciplinary record involving attendance policy violations for excessive tardiness and, had progressive discipline been followed in the past, the Recorder's Office would now have the option to terminate him. She also made it clear to the employee that the RCA's role, in part, is to ensure the Recorder's Office's adherence to stated policies and procedures and that it is her duty as a member of management to enforce those policies. This is the understanding and cooperation the RCA has been attempting to gain over the past two years with the Moore Administration and was pleased to finally hear a senior Recorder staff member explain this clearly to an admitted politically-connected employee.

3. *Political Activities*

Through her Pre-SRO Claims investigations, the RCA learned of allegations that, in the past, many Recorder employees were actively involved with Recorder-related politicking through the circulation of petitions, distribution of political flyers and selling of fundraiser tickets – sometimes during work hours in the Recorder’s Office. *See generally* Third Report (filed August 26, 2011). Through *Shakman* training in the fall of 2010, which all Recorder employees were required to attend, all Recorder employees were put on notice that such political activities at the workplace were strictly prohibited. On August 28, 2012, the Director of Personnel notified the RCA that a union steward had witnessed a politically-connected employee distributing political flyers⁴ to other Recorder employees at the Recorder’s downtown office location.

The RCA immediately contacted the Chief Deputy Recorder and, separately, the Office of the Independent Inspector General (“OIIG”)⁵, to refer the issue. At the Chief Deputy Recorder’s instruction, the Director of Personnel wrote an Incident Report and forwarded it to the Disciplinary Hearing Officer for non-supervisory union employees, stating that the employee’s actions were in violation of: the Recorder’s Code of Ethical Conduct; the “Political Activity” Section of the Recorder’s Personnel Policy and Procedures Manual; the “political training class” that was conducted by the Recorder’s *Shakman* Compliance Officer; memos from the Cook County Ethics Department that

⁴ The Director of Personnel forwarded a copy of the flyer which advertised a political fundraiser in support of Congressman Danny K. Davis, then-Cook County Recorder of Deeds Democratic Candidate and Illinois State Representative Karen Yarbrough, and Illinois Representative, La Shawn K. Ford.

⁵ Upon receiving the RCA’s referral, the OIIG opened an investigation into the matter and the Inspector General (the “IG”) anticipates issuing his findings related to the same shortly.

were distributed to all Recorder employees; and the ethical publications referencing political activities that have been posted on all the Recorder's office bulletin boards.

During the employee's subsequent pre-disciplinary hearing, the employee reviewed the flyer in question, confirmed that the flyer was political material and admitted that he probably circulated the flyer "to friends" because he has worked or currently worked for the candidates named on the flyer: Congressman Davis and then-Illinois State Representatives Yarbrough and Ford. Despite admitting to an infraction the RCA deemed as worthy of classification as a Major Cause Infraction, the DHO only issued the first progressive step for Minor Infractions – a Verbal Reprimand. Such leniency does not help to change the culture of the Recorder's Office.

4. Supervisor Unionization

In her Sixth Report, the RCA noted the uncertainty surrounding the employment procedures that newly unionized supervisors were subject to given that they now shared the same collective bargaining agreement as their subordinates. Sixth Report at 6-7. The RCA has not received any additional explanation from the Recorder's Office on this issue.

5. Shared Services

On December 11, 2012, the RCA was informed by the Recorder's Office about a concern related to one of its employees in its Technical Services Department. Upon investigating the matter further, the RCA discovered that this employee as well as two other Technical Services employees were removed from the Recorder's budget at some point in 2011-2012 and put on the Cook County budget without any notice provided to the RCA. After several follow-up conversations with various employees in the County's

Offices under the President, Bureau of Human Resources and Bureau of Technology, the RCA learned that a shared services initiative approved by the Cook County Board of Commissioners ultimately facilitated the removal of three budgeted Technical Services position from the Recorder's Office in 2011-12 for their permanent placement on the County's Bureau of Technology's budget effective with the 2013 budget. While the process for this move remains unclear, the RCA understands that former Chief Deputy Recorder, Ms. Williams-Burnett, met with a representative from the Bureau of Technology in September 2012 to approve the move of these positions and that they became final effective December 1, 2012. The RCA was not informed of this meeting and final decision last week. Further, the RCA was told that no formal notice was provided from the County to the Recorder of Deeds after those employees were officially transferred off the Recorder's budget.

While the RCA is continuing to look into the matter, she is concerned with the lack of transparency in these Employment Actions and is concerned why the three employees transferred to the County's budget were approved by Ms. Williams-Burnett but the other three Technical Services employees at the Recorder's Office were left untouched. The RCA continues to actively investigate this situation and will report on the same in her next report.

B. Moore Administration Overview

The Pre-SRO Claims investigations conducted by the RCA in 2011 revealed, in part, serious issues in two major areas: (1) deviations from the Recorder's stated hiring procedures which resulted in politically-connected employees and external applicants receiving promotions and positions over more qualified (but not clouted) employees and

external applicants and (2) political favoritism affecting every level of the disciplinary process.

The RCA's monitoring of the Recorder's Employment Actions encountered varied levels of resistance over the past two years. Oftentimes, the RCA's monitoring efforts were thwarted by Recorder Moore's senior management who continually failed to provide adequate, or sometimes any, notice to the RCA of Employment Actions and the deliberative processes associated with those actions. While notice improved over time from several senior staff, others refused to comply with the notice requirements and, in so doing, prevented the Office from getting closer to Substantial Compliance with the SRO. The RCA attributes much of this resistance directly to former Recorder Moore's lack of serious commitment and involvement in his own Office during the past two years.

Over the two years of her oversight of the Recorder's Office, the RCA monitored five job postings and over a hundred disciplinary hearings for both union and non-union employees. While much ground remains to be covered, in the last year the RCA has seen measurable improvement in both the Recorder's hiring and disciplinary processes. *See* Fifth Report at 2-4; Sixth Report at 3-5. The RCA hopes this progress continues under the new administration.

III. The Yarbrough Administration's Initial Efforts Toward SRO Compliance

On November 6, 2012, Cook County voters elected Karen Yarbrough to succeed Eugene Moore as the Cook County Recorder of Deeds. The RCA met with then Recorder-elect Yarbrough on November 9, 2012. Since that meeting, the RCA has monitored the new Recorder conduct terminations and hires based on the recently approved Exempt Position Hiring Process and Exempt List, trained the Recorder and her

new staff on Unlawful Political Discrimination and the SRO, and begun monitoring various Employment Actions. While there have been some missteps by the new Recorder and her staff, the RCA recognizes that such missteps are inevitable as a new administration becomes accustomed to court oversight and new procedures.

A. Introductory Meeting, Exempt Hiring and Training

At the November 9 meeting, the RCA discussed the history of the *Shakman* case, the details of the SRO, and provided a concise summary of her experiences as the RCA to date as previously memorialized in her Reports to this Court. The RCA also explained what her duties were under the SRO and what she believed was required by the Recorder's Office in order to substantially comply with the SRO. The RCA believes the meeting was beneficial to all parties and, considering the concerns she raised in her Interim Report, appreciated the Recorder-elect's eagerness to meet with her so soon after the election to understand what was expected of her under the SRO.

On November 30, 2012, the State's Attorney's Office filed with this Court an "Agreed Order to Amend the Cook County Recorder of Deeds' Exempt List" – which included both an Amended Exempt List and an Exempt Position Hiring Process. *See Agreed Order to Amend Cook County Recorder of Deeds' Exempt List.* Recorder Yarbrough was sworn in on Saturday, December 1, 2012 and officially took office on Monday, December 3, 2012. During the week before she took office, Recorder Yarbrough provided notice to the RCA that she anticipated making some Exempt List terminations and hires on her first day in office. With the RCA present to monitor, within her first few hours in Office, Recorder Yarbrough terminated the employees holding the following Exempt Positions: Chief Deputy Recorder, Deputy Recorder, Special Assistant

to the Recorder – Government Affairs, Special Assistant to the Recorder – Civil Affairs, and Labor Counsel. The Recorder then hired the following new Exempt employees to fill some of the new vacancies: William Velazquez (Chief Deputy Recorder); Cedric Giles (Deputy Recorder); Richella Goele-Jackson (Special Assistant to the Recorder – Government Affairs); and Chloè Pedersen (Labor Counsel). The RCA monitored the hiring process closely and concluded that the Recorder followed the Exempt Position Hiring Process for these positions without exception. The RCA must note that the Recorder intended to fill the second Deputy Recorder Position on her first day; however, after the RCA reviewed the Minimum Qualifications for the Position with the Recorder’s outside Counsel and Labor Counsel, the Recorder opted not to pursue her intended hire because the Candidate did not meet one of the Minimum Qualifications. Currently, this Exempt Position remains vacant as does the Special Assistant to the Recorder – Civil Affairs.

At the end of the Recorder’s first week, Recorder Yarbrough and her four newly hired Exempt employees were trained by the RCA and the IG on Unlawful Political Discrimination issues and *Shakman* compliance. The Recorder and staff were active participants in the training, asking thoughtful questions and were engaged throughout. The RCA explained in detail about her role as a monitor of all Employment Actions and that the Recorder was required to provide the RCA the opportunity to monitor the Deliberative Process of each Employment Action.⁶

⁶ On Tuesday, December 4, a few days before the training, RCA Counsel sent an email to Recorder Yarbrough wherein he relayed how the RCA defined the Deliberative Process and Employment Action in her Second Report to the Court. RCA Counsel defined the Deliberative Process as “including notification of, and an opportunity to be present for, each step in the life cycle of an Employment Action, from the initial thought processes and communications of supervisors/managers contemplating the action through

B. Monitoring

In addition to the Exempt terminations and hires discussed above, the RCA monitored several Employment Actions in the Recorder's first two weeks.

New Directive to Employees. First, Mr. Velazquez and Ms. Pedersen informed the RCA that when touring the Concourse Level of the Recorder of Deeds, Recorder Yarbrough discovered some concerns related to employee usage of Recorder property. The Recorder was also concerned with the lack of supervisor oversight of such issues. With the RCA monitoring on the phone, Recorder Yarbrough, Mr. Velazquez and Ms. Pedersen discussed their options and concluded that providing an all-office directive informing employees of the proper use of Recorder property would be appropriate and that no discipline was warranted at that time. The RCA appreciated the measured approach the new administration took in this instance and deemed it a positive start for the Yarbrough Administration for allowing the RCA to monitor the Deliberative Process for a new employee policy and deciding to provide employees written notice of the policy in lieu of issuing discipline.

Engagement of Unpaid Intern/Extern/Volunteer. On December 10, 2012, the RCA received a phone call from someone claiming to be an "intern" at the Recorder's Office who was seeking certain information on behalf of Recorder Yarbrough. The RCA had not received any notice or other information concerning hiring of any interns by

the final outcome." RCA Counsel defined Employment Action in the same email as "without limitation, any change (positive or negative) related to the terms or conditions of employment including, but not limited to, recruitment, determination of eligibility, interviewing, pay, benefits, selection, hiring, transfer, demotion, promotion, detail, termination, discipline, recall, reemployment, reclassification, granting overtime or other job benefits, changing a job assignment, withholding any job benefit, imposition of any employment sanction or detriment, or a free move."

Recorder Yarbrough. Subsequent discussions by the RCA with Mr. Velazquez and Ms. Pedersen confirmed that the Recorder had been using an individual as an “unpaid volunteer” since she took office but that the individual was not an intern. The RCA explained to Mr. Velazquez and Ms. Pedersen that because of historical concerns with political patronage related to the hiring of interns, externs and volunteers, the Recorder was clearly expected to provide notice of any intent to hire any intern, extern or volunteer. Later that same day, Ms. Pedersen verbally confirmed that Mr. Velazquez informed the subject volunteer not to return to the Recorder’s Office and acknowledged that the Office would first reach an agreement on a hiring process with Class Counsel and the RCA before any additional interns, externs or volunteers would be hired. While the RCA appreciated the swiftness in the Recorder’s actions, she regretted that she was not provided the opportunity to monitor Mr. Velazquez’s conversation with the subject volunteer to confirm the conversation did indeed take place.

Pre-Disciplinary Hearing. On December 13, 2012, the RCA monitored the Recorder’s first pre-disciplinary hearing for a union employee. Ms. Pederson conducted the hearing in a professional manner. Ms. Pederson issued discipline for one violation and also issued warnings for first time minor infractions that put the employee on notice that any future violations will result in discipline. The RCA is currently in discussion with Ms. Pedersen on a proposed new disciplinary policy recently shared with the RCA. Additionally, the RCA is unsure whether Ms. Pederson will continue to oversee pre-disciplinary hearings and whether there will be two distinct Disciplinary Hearing Officers for supervisory and non-supervisory employees going forward. The RCA hopes a permanent disciplinary process will be in place soon and will report accordingly in her

next report.

The RCA appreciates that a newly elected official and her Exempt staffers will take some time to get used to providing the RCA with notice of the Deliberative Process of every Employment Action and that patience must be exercised as a new administration becomes familiar with its duties under the SRO. The RCA hopes that in her next report she is able to relay continued improvement with such notice and that there are no remaining issues with what an Employment Action encompasses in the context of the RCA's oversight.

C. Employment Plan

On September 12, 2012, the RCA circulated a copy of the Draft Plan to Class Counsel for review. On December 7, 2012, during Recorder Yarbrough's first week in office, the RCA circulated a revised Draft Plan to Recorder Yarbrough and her senior staff. The Draft Plan largely follows the structure of the Cook County Forest Preserve District's Employment Plan but was modified to fit the Recorder's Office. Recorder Yarbrough indicated that she hopes to provide comments on the Draft Plan soon. The RCA hopes that she can report on the filing of an agreed Employment Plan in her next report.

D. Compliance Officer

The RCA noted in her Sixth Report the parties' delay in reaching an agreement on a structure and hiring process for a Compliance Officer. *See, e.g.*, Sixth Report at 7-8, Fifth Report at 9, and Fourth Report at 11. The RCA wrote that,

[t]he 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 OIG 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 OIG to exercise its Enabling Ordinance-provided duty to oversee the Recorder's Office for issues of waste, fraud or abuse."

Sixth Report at 7-8. The RCA maintains reiterated her position to Recorder Yarbrough at a meeting with her and the IG on December 7, 2012. The RCA understands that the Recorder is reviewing her options will engage the RCA and IG in further discussions in the near future.

E. Exempt, Senior Manager and Executive Assistant Lists

On November 30, 2012, the Recorder's Exempt List was amended and filed with this Court. *See supra* at 10. The Amended Exempt List was the first modification to the Recorder's Exempt List since it was attached to the 1992 Consent Decree. The Positions included on the Amended Exempt List are: Chief Deputy Recorder, two Deputy Recorder Positions, Special Assistant to the Recorder – Government Affairs, Special Assistant to the Recorder – Civil Affairs, Labor Counsel and Counsel to the Recorder. Also attached to the November 30 Order was the Exempt Position Hiring Process that required, *inter alia*, that all Exempt Positions must have Job Descriptions with Minimum Qualifications that employees hired into Exempt Positions must meet.

While the SRO describes two additional classifications of employees – Senior Managers and Executive Assistants – the RCA included an "Actively Recruited Position Hiring Process" in her draft Employment Plan in lieu of the Senior Manager process. No progress has been made since the Sixth Report on negotiating lists of Actively Recruited Positions or Executive Assistant Positions. The RCA hopes that during negotiations of the Draft Plan, the parties will reach an agreement on these classifications of employees and hiring practices related to the same.

F. Automated Online Application Tracking System

The RCA was recently informed by Cook County's Director of Human Resources Information Systems ("HRIS") that the County anticipates having the Recorder of Deeds fully operational with the County's Applicant Tracking and Application Systems ("ATAS") provider by the end of March 2013. The County's Director of HRIS indicated that "fully operational" includes proper training for necessary Recorder staff, onboarding of Recorder job descriptions, and the ability to begin posting new positions online and receive and process applications for the same. The RCA will monitor the Recorder's implementation of ATAS and report on the same in her next report.

G. Political Contact Log and No Political Consideration Certification

While there is continued disagreement between the Recorder's Office and OIIG on the scope of the OIIG's oversight, the RCA has initiated implementation of the Political Contact Log in the Recorder's Office. Copies of the log have been distributed throughout the Recorder's Office and two Recorder employees submitted PCLs to the RCA in the past two weeks. The RCA anticipates scheduling PCL training with Recorder employees in the near future and will report on the same in her next report. With the pending negotiations of the Draft Plan, the RCA hopes that the Recorder will soon amend all relevant Recorder employment forms with the No Political Consideration Certification.

H. Post-SRO Complaints

Since the RCA's Sixth Report, the OIIG did not receive any newly filed Post-SRO Complaints that leaves the total number of Post-SRO complaints filed at four. The OIIG did not sustain the allegations raised by one Post-SRO Complaint and currently has

two remaining Post-SRO investigations pending.

IV. Conclusion

The RCA looks forward to working with Recorder Yarbrough and her staff toward bringing the Recorder's Office into Substantial Compliance with the SRO. As previously indicated, *see* Interim Report at 8, the RCA will issue her next report in two months.

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