

**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.)	

**TENTH 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 (“RCA”)¹, 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 (“SRO”), submits this Tenth Report as follows:

I. Introduction

On December 3, 2013, the RCA filed her Ninth Report to the Court (“Ninth Report”) in which she discussed the prior eight months of Cook County Recorder of Deeds² Karen Yarbrough’s efforts to comply with the SRO. The RCA noted in that Report her concerns about the Recorder’s commitment to eradicating unlawful political

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

² The “Cook County Recorder of Deeds”, the “Recorder” and/or “Recorder’s Office” hereinafter shall refer to the Recorder, Karen Yarbrough, and/or her staff.

considerations from Employment Actions³ within her Office and discussed several Non-Exempt hiring processes that she referred to the OIIG out of concerns that political reasons or factors were at play. Ninth Report at 2, 11-17. In this Report, the RCA provides the OIIG's conclusions and recommendations in connection with those referrals and the Recorder's responses to the OIIG. The RCA, however, begins with the status of open items such as the hiring of the Director of Compliance, training on the Employment Plan, and updates to the Policies and Procedures Manual. She also includes summaries of her continued monitoring of the Recorder's Employment Actions such as hiring, Discipline, Cross-Training and revisions to Job Descriptions, as well as updates on the Recorder's Political Contact Log responsibilities and Post-SRO Complaints.

II. Status of Open Items

A. Director of Compliance

The Director of Compliance (the "DOC") is the Position responsible for overseeing the Recorder's compliance with the Plan and Manual. The Recorder's efforts to hire a DOC began in July 2013. Ninth Report at 9-10. The Recorder reposted for the job on November 6, 2013 and ultimately selected a Candidate for hire; however, that Candidate chose to accept employment elsewhere. In an attempt to expand the Candidate pool, the Recorder's Office proposed amendments to the DOC Job Description. After some discussion, the Recorder's Office, Class Counsel and the RCA agreed on certain amendments. The Position was posted on the Recorder's website on April 21, 2014 and the posting will expire on May 2, 2014.

The DOC is critical for the Recorder's Office and the RCA appreciates the

³ Capitalized terms in this Report are given the meaning assigned them in the Employment Plan.

parties' efforts in working together to make sure the Position is filled with a Candidate qualified to implement and ensure compliance with the Recorder's Plan and Manual.

B. *Employment Plan Training*

The Plan requires that the Director of the Human Resources Division ("HRD"), along with DOC and OIIG, train all Recorder employees on the Plan. Plan § IV.F. Because a DOC has not yet been hired, the Director of HRD has been unable to proceed with the necessary training. In order to expedite this critical training, the RCA recommended to the parties that the Plan be amended to allow the Director of HRD to conduct the training despite the lack of a DOC. In the meantime, the Recorder's Office drafted and RCA commented upon a draft Plan training presentation. The RCA appreciates the manner in which the Recorder's Office considered the RCA's recommended changes and the tone of the exchange concerning the training presentation.

C. *Policies and Procedures Manual*

The SRO requires the Recorder to have written policies and procedures that cover non-hiring Employment Actions, such as assignment of Compensatory Time/Overtime, Discharge, Discipline, Promotion and Transfer. SRO § II.C. The Recorder and RCA have exchanged multiple drafts of the Manual and the RCA appreciates the thought and effort the Recorder's Office demonstrated in responding to her concerns. With one exception, the RCA and Recorder's Office reached agreement on the language in the Manual. The Recorder has since submitted the Manual to Class Counsel for review.

III. Monitoring Findings

A. *Hiring*

The Recorder recently filled three *Shakman* Exempt and three *Shakman* Non-

Exempt Positions. Details concerning these hiring processes as well as other Employment Actions monitored by the RCA are below.

1. Chief Legal Counsel (*Shakman Exempt*)

Under the Plan, the Recorder may from time to time change the Exempt List by adding, deleting, or amending the titles of Exempt Positions.⁴ Plan § XI.C. On November 14, 2013, Recorder's Counsel proposed changes to the Job Description for the Exempt Position of Chief Legal Counsel. The RCA reviewed the submission and, in turn, proposed some changes, which were accepted by the Recorder. On January 17, 2014, the Director of HRD provided the RCA with a copy of the Application for Employment for then-Labor Counsel, Chloe Pedersen, and the RCA agreed that she met the Minimum Qualifications for Chief Legal Counsel. Ms. Pedersen's Promotion began on January 12, 2014.

2. Labor Counsel (*Shakman Exempt*)

On January 24, 2014, the Director of HRD forwarded to the RCA a copy of Edmund Michalowski's Application for Employment for the Labor Counsel Position, which was vacant given Ms. Pedersen's Promotion. The RCA agreed that Mr. Michalowski met the Minimum Qualifications for the Position. Mr. Michalowski's employment began January 26, 2014.

3. Deputy Recorder – Finance (*Shakman Exempt*)

The Deputy Recorder – Finance Position was vacated when the former Deputy

⁴ On April 17, 2014, the Court entered an Agreed Order amending the Recorder's Exempt List. The amendments were as follows: (1) the two "Deputy Recorder" titles were changed to "Deputy Recorder – Finance" and "Deputy Recorder – Operations", respectively; (2) the "Special Assistant to the Recorder – Civil Affairs" title was changed to "Deputy Recorder – Communications"; and (3) the "Counsel to the Recorder" title was changed to "Chief Legal Counsel".

Recorder – Finance was promoted to Chief Deputy Recorder effective November 12, 2013. Ninth Report at 24. On November 26, 2013, the Director of HRD approved the hiring packet for a new Deputy Recorder – Finance and submitted the same to the RCA for review. The RCA, however, concluded that the application materials submitted by the selected Candidate did not indicate that he met all of the Position’s Minimum Qualifications. After some back and forth between Recorder’s Counsel, Plaintiffs’ Counsel and the RCA on this particular Candidate’s qualifications, the Director of HRD ultimately approved the hiring packet of a different Candidate, Carolyn Wilhight, who the RCA agreed met all the Minimum Qualifications. Ms. Wilhight’s employment began March 10, 2014.

4. Security Officer I (*Shakman* Non-Exempt) (Two Vacancies)

The Recorder posted for two Security Officer I Positions in the Security Division from October 11, 2013 through October 25, 2013. Typing tests were conducted on December 27, 2013 and were monitored by the RCA. Eight of the twelve Applicants validated as minimally qualified took the typing test; six of the eight advanced to the interview stage.⁵ Interviews were conducted and monitored by the RCA on January 10, 2014 and January 16, 2014. The Interview Panel held its Selection Meeting immediately after the last Candidate was interviewed on January 16, 2014 and that Panel ultimately ranked the Candidates consistent with their interview scores.

On January 23, 2014, the Recorder completed the hiring packets for the two top-ranked Candidates and background checks were conducted for both Candidates. The top-

⁵ Of the 12 validated as eligible to proceed and scheduled for a typing test, four either canceled, did not appear at his/her scheduled time, or were disqualified for failing to provide required documentary proof of meeting a Minimum Qualification.

ranked Candidate was subsequently disqualified by HRD because of information discovered during the background check and HRD promptly withdrew the Candidate's offer of employment pursuant to Section V.T.3 of the Plan. The Recorder then extended an offer of employment to the third-ranked Candidate on whom the Office also conducted a background check. The RCA did not observe any irregularities with these hiring processes. The second and third-ranked Candidates started at the Recorder's Office on February 10 and February 24, 2014, respectively.

5. Director of Information Retrieval (*Shakman* Non-Exempt)

The Recorder's Office posted the Director of Information Retrieval Position from September 10, 2013 through September 27, 2013. Although 167 Applicants claimed they met the Minimum Qualifications (112 of whom also stated they met all the Preferred Qualifications), HRD properly determined that the vast majority did not. While the RCA disagreed with the Director of HRD over some of his validation decisions, the Director of HRD ultimately agreed with the RCA on five validated eligible Candidates. These five Candidates received typing tests and interviews on February 19, 2014. On February 21, 2014, the Selection Meeting was held and a Decision to Hire packet was submitted for the top-ranked Candidate on March 17, 2014. Other than the few validation concerns, the RCA did not observe any irregularities with this hiring process. The selected Candidate began employment on March 24, 2014.

B. *Resignations*

On March 7, 2014, the Recorder's Office informed the RCA that the Recorder's Chief Legal Counsel, Chloe Pedersen, resigned effective February 28, 2014. The Recorder has informed the RCA that she is actively searching for a replacement to fill the

Exempt Position. The RCA will report on any such replacement in her next report.

C. *Discipline*

The Recorder's Office recently informed the RCA of its desire to initiate the following changes to the Recorder's disciplinary processes: (1) draft guidelines for supervisors to follow when providing employees with Incident Reports; (2) draft guidelines for Hearing Officers to follow when conducting disciplinary hearings; (3) train supervisors and Hearing Officers on the guidelines; and (4) track the Incident Report process to ensure disciplinary recommendations are based on objective evidence during each stage of the disciplinary process. The RCA appreciates these attempts to streamline the disciplinary process and make it more transparent for all involved parties. The RCA will report on any future developments with these guidelines and training.

D. *Cross-Training*

Since the RCA's last report, eight Cross-Training assignments have ended while one began and has since been extended. The Plan defines Cross-Training as "teaching an employee assigned to perform the functions of one Position the skills required to perform a different Position." Plan § II. After monitoring the 30-60-90 day Performance Evaluations associated with several of these Cross-Trainings, the RCA expressed concerns to the Recorder that, in some instances, supervisors were not training their employees on the skills of that different Position. Rather, in those instances, employees were simply performing the duties of that Position with little or no direction from their new supervisor. Consequently, these under-trained employees could be susceptible to Discipline for failing to adequately perform the functions of their Positions.

The RCA explained how this gap in training could be exploited to disparately

impact employees without political connections. The Recorder's Office acknowledged that no process was in place to ensure proper training for employees during Cross-Training, but stated that it had not received any employee complaints about Cross-Training. The Recorder's Office nevertheless agreed to consider the RCA's concerns. The RCA hopes to discuss this issue further with the Recorder's Office soon.

E. *Re-organization of Recorder's Office*

1. Job Descriptions

The Plan contains specific commitments by the Recorder's Office to, among other things, update all Job Descriptions so that they are accurate and contain relevant and clear Minimum Qualifications. Plan § IV.I. In an effort to reorganize the Recording Operations Division, the Director of HRD provided the RCA with six updated and/or new Job Descriptions. The RCA met with members of the Recorder's senior staff including the Deputy Recorder – Operations to discuss the same. Since these initial discussions, the RCA has reviewed, engaged in meaningful discussion with the Deputy Recorder – Operations and the new Labor Counsel, and the RCA had no further concerns regarding a substantial number of the Job Descriptions. The RCA appreciates the collaborative nature and tone of the discussions thus far and looks forward to working with the Recorder's Office to complete revisions to the remaining Job Descriptions and to monitor the processes through which the new Positions will be filled.

2. Internal Posting Process

As a result of the Deputy Recorder – Operations' proposed re-organization of the Recording Operations Division, the Recorder created three unionized Assistant Supervisor Positions and intends to post them internally pursuant to the Collective

Bargaining Agreement. These will be the first internal promotional opportunities posted under the Yarbrough administration. The RCA monitored the Recorder's senior staff as they engaged in the deliberative process on these internal postings. They discussed (1) the need to provide clear instructions to employees on the application process for these promotional opportunities and (2) to what extent prior Discipline and attendance issues should be considered during the Promotion process. The RCA viewed this discussion as a positive step toward greater transparency within the Office.

On February 25, 2014, Chief Legal Counsel forwarded the Recorder's proposed Internal Posting Application Process for the RCA's review. The RCA recommended only one change, which concerned the length of time disciplinary histories would be considered in the Internal Posting process, to ensure consistency with the Plan. Chief Legal Counsel accepted the RCA's recommendation and the Internal Posting Application Process was finalized on February 27, 2014. As of the issuance of this report the Recorder has yet to post these Positions. The RCA will report on any developments in her next report.

F. *Do Not Rehire List*

The Plan requires the Director of HRD to "maintain a 'Do Not Rehire Without Further Consideration List' (the 'Do Not Rehire List') . . . of individuals who are disqualified or ineligible for employment with the Recorder because of their dishonesty, deception, fraud, lack of cooperation or lack of candor, including, but not limited to, engaging in such disqualifying actions in connection with investigations into unlawful conduct or violation of court orders, written policies or applicable law." Plan § IV.Q. The Recorder's Office has not yet implemented this Plan requirement and the RCA has

not heard from the Recorder's Office on this issue since before she filed her Ninth Report. The RCA encourages the Recorder to fulfill this requirement in the Plan.

G. *Political Contact Log and No Political Consideration Certification*

The Employment Plan states that, "[a]ny employee who receives or has reason to believe a Political Contact has occurred or is occurring is required to complete a Contact Log Reporting Form and submit it immediately to the OIIG" Plan at 9. The RCA is not aware of any Recorder employee submitting any Political Contact Logs to the OIIG since the Plan was filed on August 14, 2013. The RCA continues to believe that additional training on Political Contact Logs is necessary and looks forward to the OIIG covering this topic in its portion of the Recorder's Employment Plan training.

H. *Post-SRO Complaints*

Since the Ninth Report, the OIIG completed an investigation into one of its two pending Post-SRO Complaints. The OIIG did not sustain the allegations raised in that Post-SRO Complaint concerning alleged Unlawful Political Discrimination ("UPD") affecting the hiring process of the Director of Security Position (Non-Exempt). The OIIG did not receive any newly filed Post-SRO Complaints and thus only has one complaint pending.

IV. OIIG Conclusions/Recommendations regarding Recorder Hiring for Non-Exempt Positions and Recorder's Responses

Concerned that UPD might have affected certain 2013 Non-Exempt hiring processes in the Recorder's Office, the RCA referred several matters to the OIIG for investigation at his discretion. Ninth Report at 12-17. On February 26, 2014, the OIIG issued a 29-page report concerning its investigations into these hiring processes. The OIIG's report implicated four Non-Exempt employees for their involvement in the hiring

of the following Positions: Executive Assistant to the Director of HRD, Director of Satellite Offices (DSO), Executive Assistant to the Chief Deputy Recorder (CDR), and Executive Assistant to the Deputy Recorder – Finance.

Under the Plan, the Recorder is required to provide a written response (the “Recorder’s Report”) to the OIIG report. The Plan requires that the Recorder’s Report include: (a) a description of the complaint; (b) a description of the findings discovered during the investigation into the complaint; (c) acknowledgment of the OIIG’s recommendations for corrective action; (d) other relevant information; and (e) a statement either confirming implementation of the OIIG’s recommended action or an explanation of why the OIIG’s recommendation was not implemented and any alternative action the Recorder has elected to take including the specific reasons for such alternative action. Plan § IV.N.2.

The Recorder’s Office issued several documents concerning the OIIG’s conclusions and recommendations: (1) a March 7, 2014 packet containing Labor Counsel’s separate conclusions and disciplinary recommendations for each of the four Non-Exempt employees implicated in the OIIG’s report⁶; (2) an April 22, 2014 Recorder’s Report containing the Recorder’s conclusions and disciplinary decisions regarding the Director of HRD and his Executive Assistant and (3) an April 22, 2014 Recorder’s Report containing the Recorder’s conclusions and disciplinary decisions regarding the Director of HRD and the DOS.

The OIIG’s conclusions and recommendations are provided below as are the conclusions and ultimate disciplinary decisions issued by the Recorder in response to the

⁶ The RCA monitored Labor Counsel’s interviews of these employees on February 28, 2014.

OIIG's report.⁷ Other than expressing continued concern about the Recorder's commitment to achieving Substantial Compliance, the RCA will reserve detailed comment on the OIIG's conclusions and the Recorder's responses for a later time.

A. *Executive Assistant to the Director of Human Resources*

1. OIIG Conclusions and Recommendations

The OIIG concluded as follows with respect to its investigation into the Executive Assistant to the Director of HRD hiring process:

a. The Recorder violated (1) Section V.A.6 of the SRO by making false statements to the OIIG during the investigation of a Post-SRO Complaint, (2) Section 2-285 of the OIIG Ordinance by knowingly making false statements to the OIIG, (3) the 1992 Consent Decree by involving political factors in the hiring of a Non-Exempt employee and (4) Section III.B of the Plan which states that "[n]o Employment Action affecting Non-Exempt Positions shall be influenced by any Political Reasons or Factors."

b. The Director of HRD violated (1) Section V.A.6 of the SRO by making false statements to the OIIG during the investigation of a Post-SRO Complaint, (2) Section 2-285 of the OIIG Ordinance by knowingly making false statements to the OIIG, (3) the 1992 Consent Decree by involving political factors in the hiring of a Non-Exempt employee and (4) Section III.B of the Plan which states that "[n]o Employment Action affecting Non-Exempt Positions shall be influenced by any Political Reasons or Factors."

c. The Executive Assistant to the Director of HRD violated (1) Section V.A.6 of the SRO by making false statements to the OIIG during the investigation of a Post-SRO Complaint, (2) Section 2-285 of the OIIG Ordinance by knowingly making false statements to the OIIG and (3) the 1992 Consent Decree by involving political factors in the hiring of a Non-Exempt employee.

⁷ Additionally, on March 20, 2014, the Recorder sent a seven-page letter to the IG containing her thoughts on the OIIG report. The RCA and Plaintiffs' Counsel were copied on the letter. The Recorder marked the letter "Confidential" and asked the RCA to maintain its confidentiality. The RCA, therefore, does not include any details of the letter in this report, but believes the Recorder's letter did not adequately address the OIIG's substantive findings.

The OIIG recommended that the Recorder terminate the employment of the Director of HRD and his Executive Assistant. The OIIG noted that, “because of the pattern and frequency of the false and misleading statements that have been made to this office and our finding that Recorder Yarbrough in her individual capacity failed to cooperate during our investigations . . . we believe that a policy, custom or practice of non-cooperation has developed within the Office of the Recorder.” The OIIG recommended “that a clear statement and written policy be issued by the Office of the Recorder mandating cooperation with OIIG matters by all officers and employees with a zero tolerance to incidence of non-cooperation.”

2. Recorder’s Responses

The Recorder’s conclusions and recommendations follow:

a. The Recorder

Neither Labor Counsel nor the Recorder’s Report discussed the OIIG findings that the Recorder violated (1) Section V.A.6 of the SRO by making false statements to the OIIG during the investigation of a Post-SRO Complaint, (2) Section 2-285 of the OIIG Ordinance by knowingly making false statements to the OIIG, (3) the 1992 Consent Decree by involving political factors in the hiring of a Non-Exempt employee and (4) Section III.B of the Plan which states that “[n]o Employment Action affecting Non-Exempt Positions shall be influenced by any Political Reasons or Factors.”

b. Director of HRD

- (1) *Making false statements to the OIIG in violation of the SRO and*
- (2) *Making knowingly false statements to the OIIG in violation of the OIIG Ordinance.*

Labor Counsel found that “[t]he evidence supports the OIIG finding that the

information that [the Director of HRD] provided the OIIG related to phone calls he had with [his Executive Assistant] was not accurate.” Labor Counsel further found that while the Director of HRD said he “felt coerced” during his OIIG interview, “[a] Director of Human Resources should be able to think clearly when questions are asked of him related to employment matters.” Labor Counsel concluded that as the Director of HRD he “needs to be sent a strong message that he failed to give consistent answers to the OIIG” and recommended a 29-day suspension. The Recorder’s Report did not directly address the OIIG’s finding that the Director of HRD made false statements to the OIIG in violation of the SRO as required by the Plan.⁸ The Recorder adopted Labor Counsel’s disciplinary recommendation in her Recorder’s Report. The Director of HRD is in the process of serving his 29-day suspension.

- (3) *Unlawful Political Discrimination (involving political factors in the hiring of a Non-Exempt employee) in violation of 1992 Consent Decree and*
- (4) *Unlawful Political Discrimination (influencing an Employment Action with political factors) in violation of the Employment Plan.*

Labor Counsel -- who titled his report “Providing False Information to the OIIG during interview” -- did not make any conclusions or recommendations concerning UPD. The Recorder’s Report, however, stated that “[t]he office concluded that impermissible political factors were not proven or substantiated in this investigation”

c. Executive Assistant to the Director of HRD

- (1) *Making false statements to the OIIG in violation of the SRO and*
- (2) *Making knowingly false statements to the OIIG in violation of the OIIG Ordinance*

⁸ The Recorder’s Report did not include one or more of the other requirements in the Plan.

Labor Counsel concluded that the Executive Assistant “gave testimony to the OIIG in his interview that was not consistent with information given by [the Director of HRD].” Labor Counsel found that “other than the inconsistent statements, the [OIIG] Report fails to show by a preponderance of the evidence that [the Executive Assistant] provided false information. The Report clearly shows that [the Executive Assistant’s] statements are inconsistent with a fellow employee.” Labor Counsel further stated that, “[the Executive Assistant] has been hired to assist in the management of the Human Resources Department for the Recorder. Based on the importance of the Department, a high standard is expected for these employees. Based on this standard, it is recommended that [the Executive Assistant] serve a three day suspension.” The Recorder stated in the Recorder’s Report that the Executive Assistant to the Director of HRD “allegedly gave a statement inconsistent with [the Director of HRD], but never gave a false statement.” The Recorder adopted Labor Counsel’s disciplinary recommendation in her Recorder’s Report. The Executive Assistant has already served his three-day suspension.

(3) *Unlawful Political Discrimination (Involving political factors in the hiring of a Non-Exempt employee) in violation of 1992 Consent Decree.*

Labor Counsel -- who titled his report “Providing False Information to the OIIG during interview” -- did not make any conclusions or recommendations concerning UPD. The Recorder’s Report, however, stated that “[t]he office concluded that impermissible political factors were not proven or substantiated in this investigation”

d. Other OIIG Recommendation

On March 21, 2014, the Recorder issued a memorandum to all employees

reminding them of their duty to comply with OIIG investigations and that “[m]aking false statements is a major-cause infraction that may result in your immediate termination and will not be tolerated by the CCRD.”

B. *Director of Satellite Offices*

1. OIIG Conclusions and Recommendations

The OIIG concluded as follows with respect to its investigation into the Director of Satellite Offices (“DOS”) hiring process:

a. The Recorder violated (1) Section V.A.6 of the SRO by making false statements to the OIIG during the investigation of a Post-SRO Complaint, (2) Section 2-285 of the OIIG Ordinance by making knowingly false statements to the OIIG, and (3) the 1992 Consent Decree by involving political factors in the hiring of a Non-Exempt employee.

b. The Director of HRD violated (1) Section V.A.6 of the SRO by making false statements to the OIIG during the investigation of a Post-SRO Complaint, (2) Section 2-285 of the OIIG Ordinance by making knowingly false statements to the OIIG, and (3) the 1992 Consent Decree by involving political factors in the hiring of a Non-Exempt employee.

c. The DOS violated (1) Section V.A.6 of the SRO by making false statements to the OIIG during the investigation of a Post-SRO Complaint and (2) Section 2-285 of the OIIG Ordinance by knowingly making false statements to the OIIG.

The OIIG recommended the imposition of a significant level of discipline; specifically the OIIG recommended that the Recorder terminate the employment of both the Director of HRD and the DOS.

2. Recorder’s Responses

The Recorder’s conclusions and recommendations follow:

a. The Recorder

Neither Labor Counsel nor the Recorder’s Report discussed the OIIG findings that the Recorder violated (1) Section V.A.6 of the SRO by making false statements to

the OIIG during the investigation of a Post-SRO Complaint, (2) Section 2-285 of the OIIG Ordinance by knowingly making false statements to the OIIG, and (3) the 1992 Consent Decree by involving political factors in the hiring of a Non-Exempt employee.

b. Director of HRD

- (1) *Making false statements to the OIIG in violation of the SRO and*
- (2) *Making knowingly false statements to the OIIG in violation of the OIIG Ordinance.*

Labor Counsel found that “[the DOS and Director of HRD] provided testimonial evidence which explains the context from how this alleged statement was made and clearly shows that the statement from the RCA does not prove the assertion that a prior political relationship existed before the interview date.” The Recorder’s Report stated that the Hearing Officer did not find that the Director of HRD made any false statements to the OIIG.

- (3) *Unlawful Political Discrimination (involving political factors in the hiring of a Non-Exempt employee) in violation of 1992 Consent Decree and*
- (4) *Unlawful Political Discrimination (influencing an Employment Action with political factors) in violation of the Employment Plan.*

Labor Counsel found that the both the Director of HRD “provided testimonial evidence” that “clearly show[ed]” that no “prior political relationship existed before the interview date.” The Recorder’s Report stated that “[t]he OIIG report and the Administrative Hearing failed to demonstrate any political factors were used in the hiring process.”

c. Director of Satellite Offices

- (1) *Making false statements to the OIIG in violation of the SRO and*

(2) *Making knowingly false statements to the OIIG in violation of the OIIG Ordinance*

Labor Counsel found that the DOS:

spoke in a confusing circular fashion. Her demeanor was guarded. She did not appear to be credible at times. The evidence presented in the [OIIG's] Report failed to show that she specifically gave false information to the OIIG. However, it is reported on multiple occasions in the report and it occurred multiple times in the hearing that [the DOS] answered questions in an evasive manner, and it often took multiple times asking the same question to get her to give an answer to the question. A Director in the office of the Recorder of Deeds should be clear and linear in responding to these questions. Therefore, it is the recommendation of the hearing officer to suspend [the DOS] for fifteen days.

Labor Counsel found that “[t]he OIIG has failed to meet the burden by a preponderance of the evidence” that the DOS gave false information to the OIIG. In the Recorder’s Report, the Recorder stated that, “the evidence presented in the [OIIG] Report failed to show that [the DOS] specifically gave false information to [the] OIIG” The Recorder adopted Labor Counsel’s disciplinary recommendation in her Recorder’s Report. The DOS is in the process of serving her 15-day suspension.

C. *Executive Assistant to the Chief Deputy Recorder*

1. OIIG Conclusions and Recommendations

The OIIG’s investigation into the Executive Assistant to the CDR hiring process concluded that the Executive Assistant violated (1) Section V.A.6 of the SRO by making false statements to the OIIG during the investigation of a Post-SRO Complaint and (2) Section 2-285 of the OIIG Ordinance by knowingly making false statements to the OIIG. The OIIG recommended that the Recorder terminate the employment of this Executive Assistant.

The OIIG did not find that the Recorder made or knowingly made false

statements to the OIIG or violated the 1992 Consent Decree by involving political factors in the hiring of this Executive Assistant, a Non-Exempt employee.

2. Recorder's Responses

Labor Counsel concluded that the "OIIG has failed to meet the burden by a preponderance of the evidence" that the Executive Assistant to the CDR gave false information to the OIIG during her interview. Labor Counsel recommended, "that no disciplinary action be taken against [the Executive Assistant] and the charges are overruled." The Recorder did not issue a Recorder's Report regarding the OIIG's conclusions related to this Executive Assistant as required by the Plan.

D. *Executive Assistant to the Deputy Recorder*

1. OIIG Conclusions and Recommendations

The OIIG's investigation into the Executive Assistant to the Deputy Recorder hiring process concluded that the CDR (who was a Deputy Recorder at the time of the hire) violated (1) Section V.A.6 of the SRO by making false statements to the OIIG during the investigation of a Post-SRO Complaint and (2) Section 2-285 of the OIIG Ordinance by knowingly making false statements to the OIIG. The OIIG did not find that the CDR violated the 1992 Consent Decree by involving political factors in the hiring of this Executive Assistant, a Non-Exempt employee. The OIIG recommended that the Recorder terminate the employment of the CDR.⁹ The OIIG did not find any violations

⁹ In a separate correspondence concerning a different hiring process, the IG recommended that the CDR receive additional training concerning the duty to report a potential Conflict of Interest while serving as an interviewer during a hiring process. While the Recorder responded and disagreed with the IG's contention that the CDR's prior interaction with the Candidate required disclosure, the Recorder agreed to work with the RCA to create guidelines on Conflicts of Interest. The Recorder's Office subsequently approached the RCA on this issue and ultimately agreed to require an interviewer to recuse him/herself, "if the interviewer knows the Candidate in any capacity, whether personal or professional. An interviewer 'knows' a

of the SRO, OIIG Ordinance or Consent Decree against the Executive Assistant herself.

2. Recorder's Responses

Labor Counsel did not conduct any interviews with the RCA present and did not provide any report concerning the OIIG's conclusions and recommendations regarding the CDR. The Recorder did not issue any Recorder's Report concerning these conclusions and recommendations as required by the Plan.

V. Conclusion

In the five months since the Ninth Report, the Recorder's Office, among other things, has reposted the DOC Position, completed the draft Policy Manual, and completed a training module for the Plan -- all necessary and welcome developments. And while the RCA's concerns over the direction of the Recorder's Office under the SRO remain as stated in her Ninth Report, she appreciates the positive exchanges with the Recorder's representatives during this time and hopes they continue in the months ahead.

Candidate if: [t]he interviewer has met or has otherwise communicated with the Candidate, regardless of the number of occasions.” The RCA welcomed this language and believes it will help ensure the integrity of the Recorder's hiring processes for Non-Exempt Positions.