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IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

EXECUTIVE
ETHICS COMMISSION

IN RE: JUAN LOPEZ, JR.

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No. 11-EEC-006

Appeal of OEIG
Revolving Door
Determination

DECISION

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

On October 1, 2010, the OEIGG filed a request for extension of time to file a response to this appeal. In the absence of any objection from Lopez, the Commission approves the OEIGG’s request.

FINDINGS OF FACT

A complete copy of the record of proceedings has been reviewed by the Executive Ethics Commission. Based upon this record, the Commission makes the following findings of fact:

1. On September 17, 2010, the Office of the Executive Inspector General for Agencies of the Illinois Governor (OEIGG) made a revolving door determination pursuant to 5 ILCS 430/5-45(f) concerning Juan Lopez, Jr.’s (Lopez) employment-related opportunity with respect to Cabrera Capital Markets, LLC (Cabrera).
2. The determination concluded that even though Lopez did not have any personal or substantial involvement in the award of State contracts or in any regulatory or licensing decision with respect to Cabrera, Lopez failed to make a timely notification of his employment relationship with Cabrera. Lopez was therefore deemed “ineligible from accepting the employment opportunity with Cabrera.”
3. On September 27, 2010, Lopez filed an appeal of this determination with the Commission. The OEIGG filed a request for extension of time to file objections on October 1, 2010 and an objection to Lopez’s appeal of its revolving door determination on October 5, 2010.
4. Lopez was employed by Teachers’ Retirement System as an Investment Officer until February 26, 2010.

5. On April 14, 2010, Lopez sent an email to Ann Montgomery, Senior Assistant Inspector General, informing her that, among other things, he was already serving as an independent contractor for Cabrera.
6. On April 16, 2010, Lopez received a revolving door determination from the OEIGG that approved his plan to establish a business, but warned him that if he were to receive compensation or fees from an entity that has done business with the Teachers' Retirement System, the OEIGG would investigate and seek prosecution of any violation of the Revolving Door Prohibitions.
7. According to the September 17, 2010 OEIGG determination, Lopez has not had personal and substantial involvement in the award of State contracts or in any regulatory or licensing decisions involving Cabrera. According to a January 25, 2010 memorandum by Teachers' Retirement System Ethics Officer and Legal Counsel, Tom Gray, Cabrera has no contracts with the Teachers' Retirement System.
8. Lopez completed his consulting work for Cabrera on August 31, 2010. There is no evidence or suggestion that Lopez intends to perform other work for Cabrera.
9. The Commission has sought written public opinion on this matter by placing the appeal on the Commission web site. The Commission also posted public notices at its offices and on bulletin boards in the William Stratton Building. No public comments have been forwarded to the Commission to accept or consider.

CONCLUSIONS OF LAW

1. An Executive Inspector General's determination regarding revolving door restrictions may be appealed to the Commission by the person subject to the decision or the Attorney General no later than the 10th calendar day after the date of the determination. 5 ILCS 430/5-45(g).
2. The present appeal of the September 17, 2010 revolving door determination made by the OEIG pursuant to 5 ILCS 430/5-45(f) is properly before the Commission and the Commission has jurisdiction to consider the appeal.
3. Employees in positions subject to policies required by subsection (c) [5 ILCS 430/5-45(c)] who are offered non-State employment during State employment or within one year immediately after termination of State employment shall, prior to accepting such non-State employment, notify the appropriate Executive Inspector General. 5 ILCS 430/5-45(f) (emphasis added).
4. Employees in positions subject to policies required by subsection (c) [5 ILCS 430/5-45(c)] are required to notify the appropriate Executive Inspector General of all offers of non-

State employment, and not just those that may violate subsections (a) and (b) of the revolving door prohibition. (5 ILCS 430/5-45(a) and (b)).

5. The Governor adopted a policy, pursuant to 5 ILCS 430/5-45(c), delineating Lopez's position as one, by the nature of his duties, that may have the authority to participate personally and substantially in the award of State contracts or in regulatory or licensing decisions. This policy was filed with the Executive Ethics Commission on February 18, 2010.
6. Lopez is subject to policies required by 5 ILCS 430/5-45(c) and accepted non-State employment within one year immediately after his termination of State employment.
7. Lopez was required to notify the OEIGG, in accordance with 5 ILCS 430/5-45(f), prior to accepting the employment relationship with Cabrera.
8. In violation of 5 ILCS 430/5-45(f), Lopez failed to notify the OEIGG prior to accepting his employment relationship with Cabrera. Instead, he notified the OEIGG only after the employment relationship with Cabrera had begun.
9. Lopez's notification to the OEIGG of his employment relationship with Cabrera was untimely.

DISCUSSION

The Commission agrees with the analysis made by the OEIGG in its September 17, 2010 determination insofar as it argues that employees in Lopez's position are required to notify the OEIGG in advance of accepting a non-State employment opportunity and that Lopez made an untimely notification. Lopez's own appeal indicates that when he made an informal email notification to Senior Assistant Inspector General Ann Bloss on April 14, 2010, he was already engaged in an employment relationship with Cabrera.

Since Lopez failed to notify the OEIGG of the employment opportunity prior to accepting it, there is no need to analyze whether Lopez was personally and substantially involved in making contracting, licensing or regulatory decisions with respect to Cabrera.

WHEREFORE, for the foregoing reasons, the OEIGG's September 17, 2010 determination is affirmed insofar as it concludes that the notification made by Juan Lopez, Jr. was untimely for purposes of 5 ILCS 430/5-45(f).

This is a final administrative decision and subject to the Administrative Review Law.

ENTERED: October 7, 2010

The Executive Ethics Commission

By:

A handwritten signature in cursive script, appearing to read "Chad D. Fornoff".

Chad D. Fornoff
Executive Director