

IN THE EXECUTIVE ETHICS COMMISSION  
OF THE STATE OF ILLINOIS

IN RE: EVA M. BYERLEY

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No. 12-EEC-008

Appeal of OEIG  
Revolving Door  
Determination

DECISION

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

FINDINGS OF FACT

A complete copy of the record of proceedings has been reviewed by the members of the Executive Ethics Commission. The record consists of the Attorney General’s March 19, 2012 Brief in Support of Appeal, the March 22, 2012 Objection by Eva M. Byerley, and the Office of the Executive Inspector General for Agencies of the Illinois Governor’s March 23, 2012 Objection to Appeal of Revolving Door Determination.

Based upon this record, the Commission makes the following findings of fact:

1. On March 9, 2012, the Office of the Executive Inspector General for Agencies of the Illinois Governor (OEIG) made a revolving door determination pursuant to 5 ILCS 430/5-45(f) with respect to Eva M. Byerly’s (Byerley) proposed employment with S.I.R. Management, Inc. (S.I.R.).
2. The determination concluded that “**you are not restricted** from accepting the employment opportunity described in your materials by the Revolving Door prohibitions of the State Officials and Employees Ethics Act.” (emphasis in original).
3. On March 19, 2012, the Office of the Illinois Attorney General filed a brief in support of its appeal.
4. Byerley served as Assistant General Counsel/PSA for the Illinois Department of Public Health (IDPH) from May 3, 2010 through March 15, 2012. Byerley has been offered a position as Vice President of Legal Services with S.I.R.
5. S.I.R. provides consulting services and some legal services to long-term care nursing facilities that are licensed and regulated by IDPH. Byerley was an IDPH attorney who prosecuted licensing revocation and violation matters on behalf of IDPH.

6. According to S.I.R.'s revolving door submission, Byerley was assigned to prosecute eight facilities with which S.I.R. consults. These eight were among thirteen entities that S.I.R. identified as "subsidiary, parent and affiliated entities."
7. The words "affiliate" and "affiliated" do not appear in the revolving door section of the State Officials and Employees Ethics Act (5 ILCS 430/5-45 et seq.), and may be the source of some confusion in this matter. The record is devoid of evidence indicating that any of the entities identified by S.I.R. are in fact subsidiaries or parents of S.I.R. Rather, it appears that those entities are client companies for which S.I.R. provides consulting services.
8. Byerley argues that some of the prosecutions described in S.I.R.'s submission are against the same facilities and others were concluded more than one year ago.
9. Byerley did not prosecute and was not involved in the regulation or licensing of S.I.R.
10. The Commission has sought written public opinion on this matter by posting the appeal on its website and posting a public notice at its offices in the William Stratton Building.

#### 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 10<sup>th</sup> calendar day after the date of the determination. 5 ILCS 430/5-45(g).
2. The present appeal of the March 9, 2012 revolving door determination made by the OEIG pursuant to 5 ILCS 430/5-45(f) with respect to Eva M. Byerley's proposed employment is properly before the Commission and the Commission has jurisdiction to consider the appeal.
3. Subsection (b) currently provides:

No former officer of the executive branch or State employee of the executive branch with regulatory or licensing authority, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of State employment, knowingly accept employment or receive compensation or fees for services from a person or entity if the officer or State employee, during the year immediately preceding termination of State employment, participated personally and substantially in making a regulatory or licensing decision that directly applied to the person or entity, or its parent or subsidiary. 5 ILCS 430/5-45(b).
4. Byerley made regulatory or licensing decisions with respect to clients of S.I.R.

5. It does not appear from the record before the Commission that Byerley participated personally and substantially in making a regulatory or licensing decision that directly applied to S.I.R., its parent or subsidiaries.

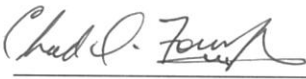
WHEREFORE, for the foregoing reasons, the Commission denies the Attorney General's appeal and affirms the OEIG's March 9, 2012 determination. Eva M. Byerly's proposed employment with S.I.R. Management, Inc. would not violate the State Officials and Employees Ethics Act's revolving door prohibition.

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

ENTERED: March 29, 2012

SO ORDERED.

The Executive Ethics Commission

By:   
Chad D. Fornoff  
Executive Director