

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: KATHIE WAGLE

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No. 13-EEC-002

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

The record of proceedings has been reviewed by the members of the Executive Ethics Commission. The record consists of the Attorney General’s July 16, 2012 Brief in Support of Appeal, the Office of the Executive Inspector General for Agencies of the Illinois Governor’s July 20, 2012 Comment to Appeal of Its Revolving Door Determination, Kathie Wagle’s July 20, 2012 Response, and Caterpillar Inc.’s July 20, 2012 letter.

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

1. On July 6, 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 Kathie Wagle’s (Wagle) proposed employment with Caterpillar, Inc. (Caterpillar).
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 July 16, 2012, the Office of the Illinois Attorney General filed a brief in support of its appeal.
4. Wagle was employed with the Illinois Department of Public Health (IDPH) as EMS Coordinator. She began employment with IDPH on March 16, 2003 and intended to terminate State service on July 20, 2012.
5. As EMS Coordinator, Wagle was responsible for, among other things, inspecting all ambulances within her assigned region for compliance with State law and regulations. This included conducting licensing surveys on Caterpillar’s licensed vehicles.

6. On June 14, 2012, Wagle was offered a position as Nursing Supervisor for Caterpillar.
7. In Wagle's notification of an offer of employment to the Office of the Executive Inspector General, signed and dated on June 21, 2012, Wagle explained:

“1) I inspected Caterpillar's non transport ambulances to ensure they had the required equipment on the vehicle. 5) There is a list of equipment IDPH required that each ambulance and non transport ambulance have on board in order to receive their license to operate in the State of Illinois. I inspected Caterpillar's licensed vehicles to ensure this equipment was present. If I inspect and something “minor” is missing, they replace it. If “major” life-saving equipment is missing or broken, they must replace or repair it before they get their license. I have worked in this position for over 4 years now and I have never had an ambulance or non transport vehicle license not be renewed due to lack of equipment or supplies required by IDPH. This is a very straight forward process, there is a checklist and either they have the equipment or they don't. And when they don't have the equipment, they are able to replace it and they are relicensed.”
8. According to the OEIG's report of Wagle's interview: “A finding that a minor item is missing will not cause the entity to not have its license removed. Wagle will process the information as above, but will ask the entity to follow up, confirming it fixed the deficiency. When there is a major deficiency, Wagle will not approve the licensure renewal.”
9. In the year prior to Wagle's proposed termination of State employment, she inspected approximately 20 vehicles for Caterpillar, her prospective employer.
10. Caterpillar was eligible to conduct self-inspections of its non-transport ambulances, but chose not to do so.
11. 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 10th calendar day after the date of the determination. 5 ILCS 430/5-45(g).
2. The present appeal of the July 6, 2012 revolving door determination made by the OEIG pursuant to 5 ILCS 430/5-45(f) with respect to Kathie Wagle's proposed employment is properly before the Commission and the Commission has jurisdiction to consider the appeal.

3. Subsection (b) of the revolving door section of the State Officials and Employees Ethics Act currently provides:

(b) 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. Wagle participated personally and substantially in making a regulatory or licensing decision that directly applied to her prospective employer when she inspected approximately 20 non-transport ambulances for Caterpillar.
5. Wagle's personal and substantial participation in these matters occurred within one year of her anticipated termination of State service.
6. The Ethics Act provides that "[i]n deciding whether to uphold an Inspector General's determination, the appropriate Ethics Commission...shall assess, in addition to any other relevant information, the effect of the prospective employment or relationship upon the decisions referred to in subsections (a) and (b), based upon the totality of the participation by the former officer, member, or State employee in those decisions." 5 ILCS 430/5-45(g).
7. Considering all relevant information and the effect of the prospective employment upon the regulatory or licensing decisions referred to in subsection (b) of 5 ILCS 430/5-45, the Commission finds, based upon the totality of the participation by the employee in those decisions, that Wagle's participated personally and substantially in making a regulatory or licensing decision that directly applied to her prospective employer within one year of her termination of State employment.

WHEREFORE, for the foregoing reasons, the Commission grants the Attorney General's appeal and vacates the Office of the Executive Inspector General's July 6, 2012 determination. Kathie Wagle's proposed employment with Caterpillar, Inc. would violate the State Officials and Employees Ethics Act's revolving door prohibition.

ENTERED: July 25, 2012

SO ORDERED.

The Executive Ethics Commission

By: 
Chad D. Fornoff
Executive Director