

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: KATHIE WAGLE

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No. 13-EEC-004

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 (OEIG).

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 September 10, 2012 Brief in Support of Appeal, the OEIG's September 14, 2012 Comment to Appeal of Revolving Door Determination, and a transcript of the September 17, 2012 hearing.

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

1. On August 30, 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 September 10, 2012, the Office of the Illinois Attorney General filed a brief in support of its appeal.
4. Wagle has been employed with the Illinois Department of Public Health (IDPH) as EMS Coordinator since June 2008. She began employment with IDPH on March 16, 2003.
5. As EMS Coordinator, Wagle was responsible for, among other things, inspecting ambulances and non-transport medical vehicles within her assigned region for compliance with State law and regulations. This included conducting licensing surveys of Caterpillar's licensed vehicles.

6. Wagle was offered a position as Corporate Medical Nursing Supervisor for Caterpillar. This position is similar to the position previously offered to Wagle by Caterpillar, but adds responsibility for coordinating projects and removes her responsibility for Emergency Management Services.
7. On July 25, 2012, in 13-EEC-002, the Commission granted the appeal of the Attorney General and vacated the determination made by the OEIG that Wagle could accept the position offered by Caterpillar.
8. This decision was based, at least in part, upon the Commission's understanding that in the previous year Wagle inspected and approved the licensing of approximately 20 of Caterpillar's non-transport medical vehicles. The decision was also based upon the Commission's understanding that Wagle had the discretion not to renew a license if she found that "major" life-saving equipment was missing or broken.
9. 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."
10. According to the OEIG's report of Wagle's interview, Wagle stated: "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."
11. At the September 17, 2012 evidentiary hearing, Wagle explained that non-transport medical vehicles do not transport individuals to a hospital, but rather, they serve as first responders until an ambulance arrives. These vehicles could be trucks, fire engines, golf carts or even just a large bag that contains life-saving medical equipment. She also explained that she had inspected Caterpillar ambulances and non-transport medical vehicles, but had done so more than one year prior to leaving her position with the Illinois Department of Public Health.

12. At the September 17, 2012 evidentiary hearing, Wagle explained that all of the non-transport vehicles in her region are inspected in February of each year. The inspection of Caterpillar's approximately 20 non-transport medical vehicles in 2012 was conducted by local emergency medical services (EMS) organizations. While IDPH staff such as Wagle conduct the initial inspections for licensing owners of non-transport medical vehicles, renewal inspections are conducted by EMS organizations. In early 2012, EMS personnel completed a checklist for each of Caterpillar's non-transport medical vehicles and this checklist was signed by an EMS employee.
13. In most cases, IDPH employees are not present while EMS or other entities conduct the inspections for renewal of licenses. Wagle was present during each of these inspections in order to check vehicle identification numbers. She explained that she checked vehicle identification numbers at Caterpillar facilities because IDPH did not have a good inventory of the Caterpillar vehicles that are subject to annual inspection.
14. Wagle further explained that she signs every inspection report for completeness and not accuracy, since she is usually not present during the inspection. Once she signs the inspection report, the data from the report are entered into a database and a license is issued.
15. While Caterpillar was eligible to conduct self-inspections of its non-transport ambulances, it chose to have EMS conduct the inspections.
16. Wagle's supervisor, Jack Fleearty, confirmed Wagle's testimony in all relevant matters.
17. 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 August 30, 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 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. In the year prior to leaving State government, Kathie Wagle had limited participation in the decisions to license Caterpillar for its non-transport medical vehicles in that she: 1) collected vehicle identification numbers from these vehicles; 2) signed inspection reports prepared by EMS staff, indicating that they were complete; and 3) entered the data into a database that so that a license could be awarded.
5. 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).
6. 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 Wagle in those decisions, that Wagle did not participate 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 denies the Attorney General’s appeal and affirms the Office of the Executive Inspector General’s August 30, 2012 determination. Kathie Wagle’s proposed employment with Caterpillar, Inc. would not violate the State Officials and Employees Ethics Act’s revolving door prohibition.

ENTERED: September 20, 2012

SO ORDERED.

The Executive Ethics Commission

By: 

Chad D. Fornoff
Executive Director