

IN THE EXECUTIVE ETHICS COMMISSION  
OF THE STATE OF ILLINOIS

**RECEIVED**  
**DEC 18 2013**  
EXECUTIVE  
ETHICS COMMISSION

RICARDO MEZA, in his capacity as )  
EXECUTIVE INSPECTOR GENERAL, )  
Petitioner, )  
v. ) No. 13-EEC-021  
)  
)  
)  
Sherri CAFFEY, a/k/a Sherri Snead, )  
Respondent. )

DECISION

This cause is before the Executive Ethics Commission (“Commission”) for purposes of considering petitioner’s motion for summary judgment. This decision will also serve as the Commission’s final administrative decision in this matter.

Petitioner filed the present complaint with the Commission on May 17, 2013 and respondent was served on May 24, 2013. Respondent filed no answer to the complaint, but the parties entered into a joint statement of undisputed material of facts that formed the basis for petitioner’s motion for summary judgment, both of which were filed on November 13, 2013.

Petitioner is represented by Assistant Attorney General Neil MacDonald. Respondent appears pro se.

FINDINGS OF FACT

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

1. At all times relevant to the allegations in the above-captioned Complaint, Respondent was employed by the Illinois Department of Veterans’ Affairs (“IDVA”) as a Veterans Nursing Assistant–Certified, and worked for the State of Illinois at the Manteno Veterans’ Home, in Manteno, Illinois.

2. The Prince Home, also located in Manteno, is another IDVA facility that was opened in 2007, on the same campus as the Manteno Veterans’ Home, to provide permanent housing and supportive services for homeless Illinois veterans.

3. On or about May 24, 2010, Respondent took and completed an IDVA course entitled “2010 Ethics Training Program for State Employees.”

4. On or about May 22, 2011, Respondent took and completed an IDVA course entitled “2011 Ethics Training Program for State Employees.”

5. Both the 2010 ethics program and the 2011 ethics program referenced above (together, the “IDVA Ethics Programs”) included sections on prohibited political activities during State-compensated time.

6. The IDVA Ethics Programs also included sections on OEIG’s role in the enforcement of the State Officials and Employees Ethics Act, 5 ILCS 430/1-1 *et. seq.* (the “Ethics Act”), including a State employee’s obligations to cooperate with OEIG investigations of alleged or actual violations of the Ethics Act. Respondent therefore had knowledge of her obligations under the Ethics Act to avoid participating in prohibited political activities while on State-compensated time, as well as her obligation under the Ethics Act to cooperate with, and not intentionally obstruct or interfere with an OEIG investigation into possible violations of the Ethics Act.

7. In September 2011, Mr. Richard Wooten filed nominating papers with the Illinois State Board of Elections seeking the March 20, 2012, party primary nomination for a House of Representatives seat in Illinois House District 34.

8. Though Mr. Wooten ultimately failed to obtain enough votes to secure the nomination for the House of Representatives seat, he actively campaigned for that elective office during the period between September 2011 until at least March 20, 2012 (the “Wooten Campaign”).

9. The Wooten Campaign filed with the Independent Voters of Illinois–Independent Precinct Organization of Illinois a response to a questionnaire in which Respondent was identified as Mr. Wooten’s campaign manager.

10. In a separate questionnaire prepared by the *Chicago Sun-Times*, the Wooten Campaign identified Respondent as Wooten’s campaign manager.

11. On or about November 17, 2011, at approximately 1:38 p.m., Respondent telephoned the Prince Home and identified herself as Sherri Caffey (the “Prince Home Call”). During the Prince Home Call, Respondent admits that she stated that:

- a. she was working for candidate Wooten, and that Wooten was running for office as a State Representative.
- b. Wooten wanted to visit the Prince Home to meet with veterans during the Thanksgiving or Christmas holidays.

12. After making these statements to the person who answered the phone, Respondent was transferred to the Prince Home Director, where Respondent once again identified herself as Sherri Caffey. During her conversation, Respondent further stated:

- a. she was calling on behalf of candidate Wooten and that she was working on the Wooten Campaign;
- b. the purpose of Mr. Wooten's proposed visit to the Prince Home was to introduce himself to the home's residents;
- c. the candidate wanted to donate coats to the residents and have dinner with them; pass out campaign literature during his visit; make a voting booth available to the veterans residing at the Prince Home; and get exposure and media attention in connection with his visit; and
- d. Respondent worked at a nursing home, and she was making the current phone call while at work.

13. The Prince Home Call that was made by Respondent and which is described above in Paragraphs 12 and 13 lasted approximately 18 minutes.

14. During the Prince Home Call, Respondent admits that she provided her phone number to the Prince Home Director as a contact number.

15. On November 17, 2011, Respondent clocked in at the Manteno Veterans' Home at approximately 7:00 a.m., and clocked out at approximately 3:00 p.m.

16. On November 17, 2011, Respondent was scheduled to take her lunch between 11:30 a.m. and 12:00 p.m.

17. The terms and conditions of Respondent's employment at the Manteno Veterans' Home provide that the two 15-minute breaks that Respondent is entitled to take during her work day are considered "compensated" time, *i.e.*, Respondent is being paid by the State during her

breaks, and is therefore considered to be “on the clock” during those periods.

18. Respondent made the Prince Home Call in order to plan a political event involving Mr. Wooten, and was at work at the Manteno Veterans’ Home when she made the Prince Home Call.

19. Respondent was interviewed on two separate occasions by OEIG investigators in connection with the Prince Home Call. During the first interview, which took place on or about June 4, 2012, Respondent falsely denied that she was working for Wooten’s campaign in connection with the Prince Home Call, and falsely denied that she had worked for the Wooten Campaign as a campaign worker. In fact, Respondent knew at the time of her interview that her denials were false, and were made by her to conceal her role in the Wooten Campaign from OEIG investigators, who were conducting an investigation into possible violations of the Ethics Act.

20. Respondent was interviewed a second time by OEIG investigators on or about July 2, 2012. During this second interview:

- a. Respondent falsely asserted that the purpose of the Prince Home Call had been only to provide Mr. Wooten with an opportunity to conduct “charity work.”;
- b. when asked to describe her exact role in connection with the Wooten Campaign, Respondent falsely answered that she “didn’t have a role” in the Wooten Campaign, and falsely stated that she had never been a volunteer in connection with the Wooten Campaign.;
- c. when asked to explain how her name had become affiliated with the Wooten Campaign, Respondent falsely stated she had no knowledge or information about any affiliation between her and the Wooten Campaign, and misleadingly asserted that she had no time to be anyone’s campaign manager.

21. At the time she made the Prince Home Call, Respondent knew that Wooten was campaigning for elective office, and was making the Prince Home Call on State-compensated time in order to plan and organize a political meeting to permit Wooten to solicit votes on his own behalf. During the course of the Wooten Campaign, Respondent spoke with several people at Wooten’s staff campaign headquarters, and used her cell phone to communicate several times during the Wooten Campaign with the chief political strategist for the Wooten Campaign. In total, Respondent made dozens of prohibited political telephone calls during State-compensated time to persons in addition to those at the Prince Home.

22. Respondent and her husband worked on behalf of the Wooten Campaign and Respondent organized or attempted to organize several campaign events on behalf of the Wooten Campaign.

23. The parties jointly recommend that the Commission enter an order finding that respondent has violated the Ethics Act and have agreed that they will not make a recommendation as to the amount of the fine the Commission should levy against respondent.

### CONCLUSIONS OF LAW

1. Pursuant to 5 ILCS 430/20-5(d), the Illinois Executive Ethics Commission (the “Commission”) has jurisdiction over “all officers and employees of State agencies” for purposes of any matter arising under or involving the Ethics Act. Consequently, the Commission’s authority extends to officers and employees of IDVA.

2. As an IDVA employee, Respondent was subject to the provisions of the Ethics Act, and therefore subject to the jurisdiction of the Commission with respect to matters arising under the Ethics Act. 5 ILCS 430/20-5(d).

3. The “ultimate jurisdictional authority” for IDVA officers and employees, including Respondent, is the Governor of the State of Illinois. *Id.* § 1-5 (defining and identifying the “ultimate jurisdictional authority” for various state officers, employees, and the entities for which they work).

4. Petitioner Ricardo Meza is the Executive Inspector General of OEIG, duly appointed by the Governor of the State of Illinois. 5 ILCS 430/20-10.

5. With certain exceptions not relevant here, the Ethics Act provides that OEIG has jurisdiction over “all officers and employees of . . . executive branch State agencies under the jurisdiction of the Executive Ethics Commission,” *Id.* § 20-10(c), and authorizes OEIG to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, violations of the Ethics Act, or violations of other related laws and rules. *Id.*; accord *id.* § 20-20. Consequently, OEIG’s authority extends to IDVA and its officers and employees.

6. “Prohibited political activity” includes “(1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.” 5 ILCS 430/1-5.

7. The Commission may levy an administrative fine of up to \$5,000 against any person who violates the Ethics Act. 5 ILCS 430/50-5(e).

8. Respondent violated the §5-15(a) of the Ethics Act, (5 ILCS 430/5-15(a)), when on or about November 17, 2011, during compensated time, respondent engaged in prohibited political activity by telephoning the Prince Home to schedule a campaign event for a candidate for the General Assembly.

9. The Commission may levy an administrative fine of up to \$5,000 against any person who violates the Ethics Act by intentionally obstructing or interfering with an Ethics Act investigation conducted by OEIG. *Id.* § 50-5(e).

10. On at least June 4, 2012 and July 2, 2012, Respondent violated § 50-5(e) of the State Officials and Employees Ethics Act (5 ILCS 430/50-5(e)) when she knowingly and intentionally made numerous material false statements, misstatements, and omissions during the course of her interviews with OEIG investigators. Respondent made these statements with the intent to obstruct and interfere with OEIG investigators who were conducting an official State investigation into allegations that Respondent had misused State resources.

#### STANDARD OF REVIEW

Granting summary disposition in an administrative proceeding is comparable to granting summary judgment under section 2-1005 of the Code of Civil Procedure. *Bloom Tp. High School v. Illinois Commerce Com'n* (1999), 309 Ill. App. 3d 163, 177; 242 Ill. Dec. 892, 903; *Cano v. Village of Dolton* (1993), 250 Ill.App.3d 130, 138; 189 Ill.Dec. 883, 620 N.E.2d 1200. Because of the similarities in the two procedures, it is appropriate to apply the standards applicable to granting summary judgment under section 2-1005 when reviewing a summary determination entered by an administrative agency. See *Cano*, 250 Ill.App.3d at 138, 189 Ill.Dec. 883, 620 N.E.2d 1200.

Summary judgment is appropriate only where “the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” 735 ILCS 5/2-1005(c)

In determining whether a genuine issue as to any material fact exists, a court must construe the pleadings, depositions, admissions, and affidavits strictly against the movant and liberally in favor of the opponent. A triable issue precluding summary judgment exists where the material facts are disputed, or where, the material facts being undisputed, reasonable persons might draw different inferences from the undisputed facts. The use of the summary judgment procedure is to

be encouraged as an aid in the expeditious disposition of a lawsuit. However, it is a drastic means of disposing of litigation and, therefore, should be allowed only when the right of the moving party is clear and free from doubt. *Adams v. Northern Illinois Gas Company* (2004), 211 Ill. 2d 32, 43; 284 Ill. Dec. 302, 310.

### ANALYSIS

Respondent stipulated to a series of facts from which the Commission concludes that respondent violated Sections 5-15(a) and 50-5(e) of the State Officials and Employees Ethics Act (5 ILCS 430/5-15(a) and 50-5(e)).

The Ethics Act does not provide any guidance for the Commission to consider when levying a fine. The Commission, however, has adopted rules, found at 2 Ill. Admin. Code 1620.530(b), that outline 14 aggravating and mitigating factors that the Commission may consider in assessing an appropriate fine. These factors include:

- (1) the “nature of the violations.” Respondent has committed two violations of the Ethics Act when she engaged in prohibited political activity and obstructed an OEIG investigation. As to the prohibited political activity, respondent’s violation is limited to a single, 18-minute telephone call. Respondent’s obstruction, however, took place over two interviews with OEIG investigators. The obstruction cannot be described as a momentary lapse in judgment.
- (6) “premeditation.” Respondent’s misrepresentations and obstructions were not incidental or accidental.
- (10) “self-disclosure.” Respondent did not “self-report” her misconduct.
- (11) “cooperation.” To the extent that Respondent has timely accepted responsibility for her conduct and has elected not to raise a meritless challenge to the evidence that overwhelmingly demonstrates her culpability, she should receive consideration for this factor.

WHEREFORE, for the foregoing reasons, petitioner’s motion for summary judgment is granted. The Commission levies an administrative fine of \$1,500.00 against Respondent Sherry Caffey for violation of 5 ILCS 430/5-15(a) and 5 ILCS 430/50-5(e). This is a final administrative decision and subject to the Administrative Review Law.

ENTERED: December 18, 2013