

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: JAMES AUBIN,) OEIG Case #17-00769
ROBERT CAPUANI, and)
THE OFFICE OF THE STATE)
FIRE MARSHAL)

OEIG FINAL REPORT (REDACTED)

Below is a final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (Commission) to redact information from this report that may reveal the identity of witnesses, complainants or informants and “any other information it believes should not be made public.” 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused. In order to balance these interests, the Commission may redact certain information contained in this report. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report’s factual allegations or legal conclusions before the Commission.

The Commission received this report from the Governor’s Office of Executive Inspector General (“OEIG”) and a response from the agency in this matter. The Commission, pursuant to 5 ILCS 430/20-52, redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Executive Inspector General for the Governor, the Office of the State Fire Marshal, and to James Aubin and Robert Capuani at their last known addresses.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

I. ALLEGATIONS

On April 25, 2017, the Office of Executive Inspector General (OEIG) received a complaint alleging that James Aubin, an elevator inspector with the Office of the State Fire Marshal (OSFM), improperly entered data from 266 inspection reports between 2010 and 2017, and then issued certificates of operation for those elevators even though the OSFM had not received the applicable fees for most of them. The complaint further alleged that all the elevators were located at the University of Illinois at Chicago (UIC) and had been inspected by the same inspection company, Citywide Elevator Inspection Services (Citywide), and by the same Citywide inspector, Thomas Hynes, Sr.

II. OFFICE OF THE STATE FIRE MARSHAL, ELEVATOR SAFETY DIVISION

The Elevator Safety Division of the OSFM is responsible for assuring that elevators and other conveyances in the State of Illinois are correctly and safely installed and operated.¹ The OSFM issues permits for the installation and modification of elevators, issues certificates of operation verifying that existing elevators are safely operating, and licenses elevator inspectors, inspection companies, and construction companies.²

A. Permits And Registration

Before any construction work can take place on an elevator, including installing a new elevator or materially altering an existing one, the OSFM must issue a permit. To obtain a permit, an elevator contractor submits to the OSFM an application and specific building plans, which must include all the details of the elevator's construction and design. The contractor must also pay a permit fee of \$400 for the installation of a new elevator, or \$200 for the material alteration of an existing one.³ The OSFM reviews the plans and, if appropriate, issues a permit for the construction.

Every elevator must be registered with the OSFM. The owner must submit a registration form which includes details about the elevator, such as its manufacturer, date of installation and location. The OSFM assigns a registration number and issues a registration identification plate with that number, which the owner must permanently affix to the elevator's control panel. The fee for registering an elevator with the OSFM is \$30.⁴

B. Inspections And Certificates Of Operation

The OSFM oversees the safety inspections of elevators, and issues a certificate of operation indicating that an elevator has passed inspection.⁵ New elevators must be inspected by a licensed inspector before they can be operated.⁶ Every elevator must be inspected annually by an inspector, and have a valid certificate of operation issued for its operation.⁷ The certificate of operation, or a copy of it, must be clearly displayed in each elevator.⁸ Each certificate reads: "This is to certify that this conveyance has met the required safety inspection and tests in accordance with the Rules adopted pursuant to the Illinois Elevator Safety and Regulation Act, 225 ILCS 312." The OSFM assesses the following fees: for the initial certificate of operation, \$100; for the annual renewal, \$75; and for the renewal of an expired certificate, \$125.⁹

¹ "Conveyances" include elevators, escalators, moving sidewalks, platform lifts, stairway lifts, dumbwaiters, and automated people movers. For the sake of simplicity, this report will refer to conveyances collectively as elevators.

² OSFM elevator safety functions are governed by the Elevator Safety and Regulation Act, 225 ILCS § 312 *et seq.*, and the Illinois Elevator Safety Rules, 41 Ill. Admin. Code Part 1000.

³ 41 Ill. Admin. Code § 1000.130.

⁴ 41 Ill. Admin. Code § 1000.120.

⁵ 225 ILCS § 312/15, 41 Ill. Admin. Code § 1000.30.

⁶ 225 ILCS § 312/95, 41 Ill. Admin. Code § 1000.140(a).

⁷ 225 ILCS § 312/120(a), 41 Ill. Admin. Code §§ 1000.140(b)(1) & 1000.150.

⁸ 225 ILCS § 312/95(c), 41 Ill. Admin. Code § 1000.150(e).

⁹ 41 Ill. Admin. Code § 1000.150(b).

The OSFM uses software from Praeses, LLC to manage the process of renewing certificates of operation.¹⁰ Before an elevator's existing certificate of operation expires, Praeses generates a notice of expiration. OSFM staff prints the notice and mails it to the elevator's owner or the designated elevator inspection company.

When the owner of the elevator receives notice that the certificate of operation is expiring, the owner must have the elevator inspected by a licensed inspector.¹¹ The inspector performs the safety inspection and then completes an inspection report. Upon receipt of the passing inspection report and application for a certificate of operation, OSFM personnel enter information into Praeses, and the OSFM or another State unit, Shared Services,¹² sends an invoice to the elevator's owner or the inspection company for the fee.¹³ The owner or inspection company mails a check for the payment to Shared Services, which records the payment in Praeses. OSFM personnel in the Chicago office then print and mail the renewed certificate of operation, and the elevator is certified for operation for another year.

C. Recordkeeping Requirements

Upon completion of an elevator inspection, the licensed inspector must give the owner a copy of the written inspection report describing any violations.¹⁴ Both the inspector and owner shall keep records for review by the OSFM.¹⁵ All owners and licensed elevator inspection companies are required to maintain elevator inspection reports and elevator testing results for ten years.¹⁶ The OSFM is required to retain applications for certificates of operation, including the inspection reports submitted with the applications, for ten years after expiration of the certificate.¹⁷

D. OSFM Elevator Inspector James Aubin

James Aubin was employed by the OSFM as an elevator inspector from May 2007 until April 2018. According to the job description for his position, his duties and responsibilities included on-site inspections of elevators to ensure compliance with the Elevator Safety and

¹⁰ OSFM employees [Employee 1] and [Employee 2], and Shared Services employee [Employee 3] provided the information regarding general OSFM procedures and the Praeses system set forth in this section. [Employee 2] said that Praeses is the name of the vendor that manages the software system, and that Jurisdiction Online is the name of the actual software. This report will refer to the software as the "Praeses system" or "Praeses."

¹¹ Inspectors and inspection companies must be licensed after meeting certain standards and qualifications. 41 Ill. Admin. Code § 1000.80. The OSFM maintains lists of licensed inspectors and licensed inspection companies on its web site. See <https://www2.illinois.gov/sites/sfm/SFMDocuments/Documents/ElevatorLicensedInspectors.pdf> (last visited Jan. 16, 2019).

¹² The Division of Shared Services in the Department of Corrections provides some fiscal and other administrative functions to "Public Safety Affected Agencies," including the OSFM. See Executive Order 2006-06.

¹³ According to [Employee 3], beginning in approximately 2016, the OSFM assumed the responsibility of generating and mailing the invoices, which previously had been done by Shared Services.

¹⁴ 225 ILCS § 312/120(a), 41 Ill. Admin. Code § 1000.140(b)(3).

¹⁵ 41 Ill. Admin. Code § 1000.140(b)(3).

¹⁶ 41 Ill. Admin. Code § 1000.140(b)(4).

¹⁷ See OSFM Applications for Authority to Dispose of State Records, approved by the State Records Commission on April 20, 2011 and May 20, 2015. The OSFM was required to retain the applications on microfilm between April 20, 2011 and May 20, 2015, and was required to retain scanned images thereafter.

Regulation Act, examining plans and applications for the installation of new elevators, and investigating elevator accidents. From approximately April 1, 2012 through September 28, 2012 and from approximately February 11, 2013 through April 15, 2013, Mr. Aubin was the Acting Director of the Elevator Safety Division.

E. OSFM Elevator Safety Division Director Robert Capuani

Robert Capuani has been the Director of the OSFM's Elevator Safety Division since 2006, other than when Mr. Aubin was the Acting Director, as stated above. Mr. Capuani was Mr. Aubin's direct supervisor from 2007 to 2018.

III. INVESTIGATION

A. OSFM's Issuance Of UIC Elevator Certificates Of Operation Without Collecting Fees

The UIC campus houses approximately 250 elevators. From approximately 2011 to 2016, UIC hired Citywide, a licensed elevator inspection company located in Chicago,¹⁸ to perform elevator inspection services for the elevators located on the east side of its campus.¹⁹ UIC paid Citywide, in part, to inspect elevators and then to obtain the proper certificates of operation from the OSFM after an elevator passed inspection. Based on the allegations, the OEIG looked into the OSFM's process for issuing elevator certificates of operation, and the certificates Mr. Aubin issued to UIC based on Citywide's inspections.

1. OSFM's Process for Issuing Certificates of Operation

OEIG investigators interviewed [Employee 1], [OSFM title redacted], and [Employee 2], [OSFM title redacted], both of whom had extensive experience with the Praeses system and the processing of elevator certificates of operation.²⁰ OSFM [Employee 4] also provided information about the Praeses system.

[Employee 1] explained that she had been working at the OSFM for 28 years. [Employee 2] said that she has worked for the State for approximately 20 years and has been [identifying title redacted] with the OSFM for approximately eight years. She said that she was very involved in bringing the Praeses software into use at the OSFM in 2006-2007.

[Employee 1] described the work she does with elevator certificates of operation, including the processing of paperwork for elevator certificates of operation and entering data into the Praeses system, which has been in use for about ten years. She said that when she receives a certificate application along with an elevator inspection report, she enters the data into Praeses, and then files

¹⁸ Larry Kelly, the former owner of Citywide, told investigators that Citywide first began inspecting elevators at UIC around 2011-2012.

¹⁹ UIC hired another inspection company, Elevator Inspection Service Co., to perform inspections for the elevators on the west side of the UIC campus.

²⁰ [Employee 1] was interviewed on August 22, 2017. [Employee 2] was interviewed on September 26, 2017.

the original application and inspection report in a box in her office. When the box gets full, she sends the box to the Springfield OSFM office.

[Employee 4] explained to investigators that four fields in the Praeses system must be completed for a certificate of operation to be issued, including:

- Inspector Name,
- Date of Inspection,
- Inspection Type, and
- Issue Certificate (yes or no).²¹

[Employee 2] said that the Praeses system also contains a field, “Add Fee.” When that field is clicked, a menu appears with options for a \$100 initial fee or a \$75 renewal fee.²² If the user clicks the Add Fee field and selects one of the options, the selected fee will be assessed and the Praeses system generates an invoice for mailing. [Employee 1] said that once payment has been received and recorded in Praeses, the system automatically generates the certificates of operation, and [Employee 1] prints the certificates out and mails them.

[Employee 2] and [Employee 1] also explained another way that a certificate of operation may be issued. [Employee 2] said that if the user clicks “Submit,” without having completed the Add Fee field, no invoice is generated. According to [Employee 2] and [Employee 1], if no invoice is generated, a certificate of operation can be printed immediately. [Employee 2] described this as a glitch in the system, and [Employee 1] described it as a loophole. In a follow-up conversation on January 30, 2019, [Employee 4] told investigators that OSFM had not taken any steps to fix this “glitch” or “loophole” in the Praeses system.

2. Mr. Aubin’s Issuance of Certificates of Operation without Payment in 2014

During her OEIG interview, [Employee 1] said that she previously discovered that Mr. Aubin had printed certificates of operation without payment. She said that sometime in 2012, Mr. Aubin asked her how she enters elevator applications and inspection data into the Praeses system for the purpose of printing certificates of operation. She said that she showed Mr. Aubin how to do it, but said Mr. Aubin’s job has nothing to do with certificates of operation; his job deals only with permits.

[Employee 1] said that three to four years before her interview, when she printed out a duplicate certificate for someone, she discovered that a certificate of operation had been issued without payment. Because the Praeses system keeps a record of who prints certificates, she said she could tell that it was Mr. Aubin who issued the certificate without payment. [Employee 1] said that she looked further into the issue and found another instance in which Mr. Aubin issued a certificate of operation without payment.

²¹ [Employee 4] stated that if any of these fields are not completed, an error message appears and the certificate of operation cannot be processed.

²² [Employee 2] said that if a \$50 late fee is appropriate, the Praeses system automatically inserts that fee.

[Employee 1] said that she was concerned that Mr. Aubin was trying to do her job. She said that she took the information about the two certificates to her supervisor, Robert Capuani, the Director of the OSFM Elevator Safety Division. [Employee 1] said that Mr. Capuani told her that he would talk to Mr. Aubin. She said that she then looked further and identified additional instances of Mr. Aubin printing certificates of operation without fees. [Employee 1] said she did not tell Mr. Capuani about the additional number of certificates she discovered that had been issued without payment, but that Mr. Capuani later told her that Mr. Aubin would not be doing her work any longer.

[Employee 1] said that Mr. Capuani asked her to issue an invoice for the unpaid fees. [Employee 1] said that she did not issue an invoice, but instead drafted language for Mr. Capuani stating that due to a computer error, a number of certificates of operation were issued without payment.²³ She explained that she knew Mr. Aubin was to blame, but that she thought that saying it was a computer error was more professional and would not make the OSFM look bad.

[Employee 1] said that Mr. Aubin continued to enter data and print certificates of operation without payment even after Mr. Capuani said that he told Mr. Aubin to stop. She said that she could see in the Praeses system that Mr. Aubin continued to do this.

Corroborating Emails

Investigators reviewed emails from Mr. Capuani's State email account for the period June 1, 2013 to July 1, 2014 for communications regarding Mr. Aubin's issuance of certificates without payment, and identified a February 19, 2014 email from [Employee 1] to Mr. Capuani that stated, in pertinent part:

During yesterday at random review of my work, I came across a certificate that had been handled by Jim. Conveyance number #001986 was inspected three times, however there was no fee charged for Certificate of Operation. At this point I decided to check further and discovered many, many others. Nearly Two Thousand Dollars of uncollected fees. It is quite possible that Jim is unaware and is forgetting a step or is simply overlooking the protocol somehow. It is not my intent to point a finger at all. I would simply like to make you aware of the mistakes and have them corrected. . . I also would like to make you aware that Jim is handling work that is assigned to me. If he had only informed me when he was working on my assigned area I may have caught the errors earlier. . .

The email listed 11 conveyance numbers with missing charges.

A February 20, 2014 email from Mr. Capuani to [Employee 1] stated:

²³[Employee 1] was shown a copy of an email that she sent to Mr. Capuani on February 24, 2014, that included her proposed language to UIC regarding certificates of operation that were issued without payment.

I talked to Jim about this. He said he was trying to help out the University to get their certificates quickly. He said he assumed that when he put it in it automatically generates an invoice. He apologized and I did inform him that he's not to enter anymore certificate's. Can you please check those conveyances and issue an invoice. I really appreciate your help in this matter.

3. OSFM's 2017 Internal Audit Regarding the Issuance of Certificates of Operation without Payment

The Internal Audit Division of the OSFM reviewed its systems for issuing elevator certificates of operation and summarized its findings in a report dated April 25, 2017. According to the report, the purpose of the audit was to determine if the Praeses system contained weaknesses which allowed elevator certificates to be printed without an applicable payment. The OSFM provided the OEIG with the audit report and the documents underlying the report. Those underlying documents included spreadsheets of data sourced from the Praeses system, including a spreadsheet showing certificates of operation which were printed without a corresponding payment; a spreadsheet showing which OSFM employee entered data into Praeses; and other spreadsheets of Praeses data.

As set forth in that audit report, OSFM records showed that the agency processed 81,957 elevator inspection reports and applications for certificates of operation during the period November 29, 2007 through March 31, 2017. Six OSFM employees input the data from those inspection reports and applications into Praeses. According to the audit report, of the 81,957 certificates of operation, the records showed that 342 of them were issued without the applicable fee being paid.

As set forth in the audit report, a single OSFM employee, Mr. Aubin, was responsible for the issuance of 242 (71%) of those 342 unpaid certificates of operation.²⁴ The records showed that Mr. Aubin reportedly input into Praeses the data from the underlying inspection reports and applications. The audit compared the number of entries that Mr. Aubin made with the five other employees who entered reports and applications, and the number of unpaid certificates that each caused to be issued:

OSFM Employee	Position	Total number of inspection reports entered into Praeses	Number of certificates of operation issued without payment	Percent of certificates issued without payment
James Aubin	Elevator Inspector	266	242	90.9%

²⁴ The OEIG also reviewed the underlying data used for the internal audit report. This review showed that Mr. Aubin entered 244 inspections for which there were unpaid certificates produced. The discrepancy involves two non-UIC elevators that were inspected, invoiced, and paid with no involvement from Mr. Aubin. Mr. Aubin entered a second record of an inspection for the two elevators, with no inspection report, invoice, or payment, into Praeses. Because the two elevators had certificates that had been properly invoiced and paid for, they were not counted for Mr. Aubin's total of unpaid certificates of operation.

Robert Capuani	Director of Elevator Safety Division	277	1	0.4%
[Employee 5]	Support Staff (temporary)	590	12	2.0%
[Employee 6]	Support Staff	6,530	11	0.2%
[Employee 7]	Support Staff	1,045	3	0.3%
[Employee 1]	Support Staff	73,249	73	0.1%
<i>Total</i>		81,957	342	0.4%

According to the audit report, over ninety percent of the inspection report and application entries that Mr. Aubin made in Praeses resulted in certificates of operation being issued without an invoice being generated or payment being received. No other employee had a rate above two percent, and the employee with that rate was a temporary employee. Based on a renewal fee of \$75 per elevator certificate of operation, Mr. Aubin’s issuance of 242 certificates of operation without payment resulted in approximately \$18,150 in unassessed fees.

OEIG investigators used one of the spreadsheets prepared by the OSFM auditor²⁵ to analyze the entries that Mr. Aubin made in Praeses. According to the data contained in the OSFM spreadsheet, of the 242 entries that Mr. Aubin made causing certificates to be issued without payment, 224 were for elevators located at UIC. Moreover, the data showed that all of those elevators had been inspected by Citywide inspector Thomas Hynes, Sr.²⁶

In sum, the OSFM audit data showed that Mr. Aubin issued a disproportionate number of elevator certificates of operation without receiving any payment, and that most of them concerned elevators for a single location, UIC, and a single inspector, Mr. Hynes. In fact, the data showed that only 16 of the 240 certificates of operation issued to UIC based on Mr. Aubin’s entries were done with the proper invoice and payment from UIC.

B. Investigation Into Whether Citywide Inspected The UIC Elevators

Because the investigation revealed that Mr. Aubin had issued a substantial number of certificates of operation for elevators without collecting the applicable fees, that nearly all of those elevators were at UIC, and that Thomas Hynes, Sr. was the outside inspector, OEIG investigators looked into whether those elevators had actually been inspected. The OEIG obtained and reviewed documents from the OSFM, Citywide, UIC, and Elevator Inspection Service, Inc. (EIS), and interviewed current and former personnel from those entities.

1. OEIG’s Review of Inspection Reports of UIC Elevators

OEIG investigators requested, from the OSFM, *all* elevator inspection records of the UIC elevators for the years 2011 through May 2017.

²⁵ That spreadsheet is titled “Jim Aubin (Elevator Inspections Keyed (1-1-10 to 3-24-17)).xlsx.”

²⁶ The name of Thomas Hynes, Sr.’s son, Thomas Hynes, Jr., also appears later in this report. Unless otherwise indicated, references to “Mr. Hynes” are to Thomas Hynes, Sr. Any references to Mr. Hynes’ son appear as “Mr. Hynes, Jr.”

The OSFM produced over 2,500 pages of applications and inspection reports for UIC elevators. The OEIG reviewed all of these documents and found that inspection reports were provided for 113 elevators located on UIC's east side of campus. Although every elevator must be inspected annually, the OSFM did not provide many inspection reports. In fact, there were no complete sets (an inspection report for every year between 2011 and 2017) for any of the 113 elevators. For example, the OSFM produced an application and inspection report for UIC elevator 605-05 (OSFM conveyance number H022533) for 2011, 2015, 2016 and 2017, but the records for 2012, 2013, and 2014 were not provided.

The records did not include any inspection reports for the 113 elevators for 2012 or 2013 except for one conducted on February 10, 2012 (UIC elevator 609-01, OSFM conveyance number H022965). The records included only 32 inspection reports for the 113 elevators for the year of 2015. Of the inspection reports provided by the OSFM, there did not appear, on the face of the documents, to be anything fictitious or false.

The OEIG also requested, from Citywide, all elevator inspection records of UIC elevators for the years 2011 through June 2017. Citywide provided inspection reports for 116 UIC elevators.²⁷ While many of those elevators had a complete set of inspection reports for all the years requested, there were still missing inspection reports. In particular, there were 42 inspection reports missing for 26 elevators that were also missing from the OSFM's records. For example, both Citywide and the OSFM did not have an inspection report for UIC elevator 621-03 (OSFM conveyance number T007433) for 2013, 2014, and 2015.

2. UIC's Former Lead Elevator Mechanic James Hernandez

From 2008 until March 2016, James Hernandez was the lead elevator mechanic (also referred to as foreman) in the elevator repair and maintenance shop at UIC. As the foreman, Mr. Hernandez was responsible for supervising the maintenance and repair of all of the elevators and escalators on the UIC campus. In this role, Mr. Hernandez authorized expenses necessary to repair and maintain the elevators, including costs of materials, overtime, and the hiring of outside vendors. As part of his duties, Mr. Hernandez also supervised four full-time elevator mechanics employed at UIC.

On October 16, 2015, the OEIG launched an investigation into allegations that Mr. Hernandez improperly steered UIC's elevator repair and maintenance business to Smart Elevators (OEIG Investigation Case No. 15-02081).²⁸

On April 3, 2017, the OEIG issued its report in Case No. 15-02081, finding that Mr. Hernandez accepted approximately \$200,000 in kickbacks from Suzy Martin, the owner of Smart, in exchange for handing out substantial UIC elevator repair and maintenance business to Smart. The OEIG also referred the matter to the United States Attorney's Office. On May 1, 2018, Mr. Hernandez and Ms. Martin were charged with conspiring to commit bribery in violation of 18

²⁷ There were 10 different elevators that Citywide produced inspection reports for that were not provided by the OSFM.

²⁸ The Executive Ethics Commission made this report public in December 2018, pursuant to the Illinois State Officials and Employees Ethics Act (Ethics Act), 5 ILCS 430/20-52.

U.S.C. § 371, and with offering and accepting bribes concerning a program receiving federal funds in violation of 18 U.S.C. §§ 666(a)(1)(B) and 666(a)(2). On January 3, 2019, Mr. Hernandez pled guilty. Ms. Martin was scheduled for trial in February. See *United States v. James Hernandez and Suzy Tamras-Martin*, No. 18 CR 00267 (N.D. Ill.).

3. Interviews of UIC Elevator Mechanics

In this investigation, OEIG investigators interviewed the following current and former members of the elevator department at UIC: [UIC Employee 1], who has worked in the UIC elevator department as a mechanic [identifying information redacted]; [UIC Employee 2], who worked as a mechanic at UIC [identifying information redacted]; and [UIC Employee 3], a UIC elevator mechanic [identifying information redacted].²⁹

[UIC Employee 2] and [UIC Employee 1] said that sometime around 2005 to 2007, the OSFM took over jurisdiction of the UIC elevators from the City of Chicago, and required UIC to hire outside inspectors to perform yearly inspections. They said that UIC hired two inspection companies, EIS and Citywide, to perform the yearly inspections of the approximately 250 elevators on the UIC campus. According to [UIC Employee 2] and [UIC Employee 1], UIC assigned EIS to inspect the elevators on the west side of the campus, and Citywide to inspect the elevators on the east side of the campus. [UIC Employee 2] said that the approximately 250 elevators are evenly split between the west side and east side of campus.

[UIC Employee 2] and [UIC Employee 1] said that during the time that James Hernandez was the UIC elevator foreman, he routinely hired mechanics from outside contractors (such as Smart Elevators and Parkway Elevators), rather than using the UIC mechanics such as them. [UIC Employee 2] and [UIC Employee 1] both said that they were familiar with Mr. Hynes, that they knew that he was the Citywide inspector assigned to UIC, and that they saw him on the UIC campus with Mr. Hernandez but never saw Mr. Hynes perform an elevator inspection.³⁰ [UIC Employee 3] said that a staff mechanic is often requested to open doors for outside elevator companies to do work, including inspection companies; however, he said he never saw a Citywide inspector on UIC's campus, and never opened doors for any Citywide inspectors.³¹

[UIC Employee 2] and [UIC Employee 1] said that after Mr. Hernandez left UIC, UIC terminated Citywide's contract for elevator inspection services. [UIC Employee 2] said that UIC attempted to locate the certificates of operation for the elevators that Citywide had inspected. He said that in November 2016, he emailed Mr. Aubin seeking copies of approximately 35 certificates of operation that UIC could not find. He said that a UIC official, [Official], sent a similar request to Mr. Capuani. [UIC Employee 2] stated that shortly after Citywide was terminated from working at UIC, Mr. Aubin called him and told him that it would be in UIC's best interest to retain Citywide. [UIC Employee 2] added that Mr. Aubin then commented that he (Mr. Aubin) would hate for the

²⁹ [UIC Employee 1] was interviewed on November 8, 2017; [UIC Employee 2] was interviewed on November 21, 2017; and [UIC Employee 3] was interviewed on December 12, 2017.

³⁰ [UIC Employee 2] said that prior to his employment at UIC, he worked for Mr. Hynes' son, Thomas Hynes Jr., at All Types Elevator.

³¹ [UIC Employee 3] said he was assigned to the east side (where Citywide was assigned) around 2012 and 2013, but otherwise has been assigned to the west side.

OSFM to come in and start shutting down UIC elevators. [UIC Employee 2] said he took Mr. Aubin's statement as a threat and told his supervisor and [Official] about it.

[UIC Employee 2] said that UIC hired EIS to re-inspect all the elevators that had been assigned to Citywide. [UIC Employee 2] said he assisted EIS in the inspection process and observed that there were indications that many of the elevators had not been adequately inspected in previous years, because many of the elevators had "life safety" issues that should have resulted in an elevator failing inspection. He explained that these life safety issues included door restrictors³² being removed, emergency lighting systems being broken, broken telephones, and a lack of pit ladders.³³ [UIC Employee 2] also said that there were elevators that did not have an OSFM conveyance number affixed, indicating that the elevator may not have been registered with the OSFM, and therefore may never have been inspected.

[UIC Employee 1] said that numerous necessary repairs were performed on the east side elevators following the EIS re-inspections, including replacing 20 door restrictors. [UIC Employee 1] said that there was no chance that the door restrictors that needed replacing suddenly went bad after Citywide stopped inspecting elevators at UIC. He also said that two hoist cables needed replacing due to severe wear and tear. He said that all of the elevators on the east side needed emergency lighting repair or replacement. He said that the majority of the batteries powering the emergency lighting needed replacement for the east side elevators, while only five batteries needed replacement for the west side elevators. [UIC Employee 2] said that in each elevator that had been assigned to Citywide, there was a placard stating that the current certificate of operation was on file, rather than the certificate itself, which was a clear violation of OSFM regulations.

[UIC Employee 1] further said that after Mr. Hernandez left UIC, he and [UIC Employee 2] searched UIC records for documentation of elevator inspections dating back to 2011. He said that they found almost all records provided by EIS. They found no records for work performed by Citywide.

4. Interview of Anthony DiBiase, Owner of EIS

Investigators interviewed Anthony DiBiase, the owner of EIS since 2002.³⁴ He said that EIS employs 24 licensed elevator inspectors. Mr. DiBiase said that he has been in the elevator business since 1967 and has extensive experience in elevator construction, modernization, maintenance, and repair.

Mr. DiBiase said that EIS began performing inspections at UIC when it was chosen following an open bid for inspection services. He said that EIS was responsible for the west side of campus, and Citywide for the east side. He said that [EIS employee] was the main EIS inspector for UIC and that James Hernandez was the main point of contact at UIC until Mr. Hernandez left UIC. Mr. DiBiase said that the EIS inspector would meet with a UIC employee to gain access to

³² Door restrictors prevent elevator doors from opening when the elevator is stuck between floors, so that passengers cannot fall down the elevator shaft.

³³ Pit ladders are fixed vertical ladders installed in the pit of an elevator (the shaft below the elevator car).

³⁴ Mr. DiBiase was interviewed on January 11, 2018.

the buildings and elevator machine rooms, and that over time, the UIC mechanic staff was reduced and outside elevator companies were performing the maintenance and mechanical work on the UIC elevators.

Mr. DiBiase said that in December 2016, UIC hired EIS to inspect every elevator on the east side of campus, which had been Citywide's territory. Mr. DiBiase said that EIS sent six or seven inspectors to inspect the east side elevators and that this project took several weeks to complete. Mr. DiBiase said that previous inspection reports usually provide a roadmap of an elevator's history, and are required to be left by inspectors in elevator machine rooms. He did not, however, find any previous inspection reports, which he characterized as very unusual. EIS was therefore "going in blind" to the inspections.

Mr. DiBiase said that he personally inspected twenty to twenty-five of the UIC east side elevators, and that most of the elevators he inspected failed the inspection. When asked to describe some of the issues he found that caused him to fail elevators, he said he recalled some minor code issues as well as major safety issues, including disabled door restrictors and pit ladders that did not meet code. He said that the worst case he saw was a freight elevator that had a hole in the elevator cab and standing water on the elevator. Mr. DiBiase said that door restrictors and pit ladders are "life safety issues," and that any elevator that did not meet code on these items should fail inspection.

5. Comparison of EIS and Citywide Inspection Records for UIC Elevators

Because the investigation revealed that EIS had re-inspected the elevators on the east side of campus (Citywide's previous territory), and that substantial repairs were needed on many elevators following the re-inspection, investigators obtained from EIS the reports of its re-inspections of the UIC east side elevators in late 2016 and early 2017. EIS voluntarily provided the OEIG with inspection reports for 113 elevators that it had re-inspected. Investigators then compared the EIS re-inspection reports with the most recent Citywide inspection reports, if any, for the same elevators.³⁵

Of the 113 elevators that EIS re-inspected for which EIS provided records, Citywide inspection records showed that Citywide had inspected 101 of them after January 1, 2015, the date two safety upgrades took effect including: mandated door restrictors to prevent passenger elevator doors from opening from inside the car when the elevator is stuck between floors; and a requirement that pit ladders meet certain specifications.³⁶ The OEIG focused its review on these 101 because, as Mr. DiBiase had explained, any elevator that did not meet the code provisions regarding pit ladders and door restrictors by January 1, 2015 should have failed inspection after that date.³⁷

³⁵ Investigators could not locate any Citywide inspection reports for five of the elevators inspected by EIS.

³⁶ Public Act 096-0054 Sec. 35; American Society of Mechanical Engineers (ASME) Safety Code for Elevators and Escalators A17.1 Section 2.14.5.

³⁷ He said that the only exception to the required updates was if the owner received a variance for the pit ladder update on the basis that a modification could not be done without expanding the size of the elevator shaft. He said that there is no variance for door restrictors.

According to the inspection reports, EIS failed *most* of the elevators that Citywide had previously inspected and passed:

	UIC East Side Elevators Inspected by Citywide January 1, 2015 – March 2016	UIC East Side Elevators Inspected by EIS December 2016 – January 2017
Passed:	101	38
Failed:	0	63
Total:	101	101

The elevators that EIS inspected and failed, which Citywide had inspected and passed only one to two years earlier, had numerous life safety violations present as shown in the EIS inspection reports:³⁸

Number of Life Safety Violations in UIC East Side Elevators Identified by EIS	
Pit ladder violations	54
Door restrictor violations	33
Emergency lighting violations	29
Fire services violations	34

6. Interviews of Larry Kelly and William Oveson, Owners of Citywide

Investigators interviewed Larry Kelly, the former owner of Citywide, on February 21, 2018. Kelly said that he owned 50% of Citywide until three or four years ago, when he transferred ownership to his daughter, Kathleen Reyes. Mr. Kelly said that he founded Citywide with co-owner Bill Oveson, who each invested approximately \$30,000 to start the business. He said that he had no previous experience in the elevator business but that Mr. Oveson had been in the elevator business for his entire career.

Mr. Kelly said that Citywide began inspecting elevators at UIC in approximately 2011-2012. He said that Mr. Hynes did the vast majority of inspections at UIC, although initially Mr. Hynes, Mr. Oveson, and Mike Oveson (Mr. Oveson’s son) all inspected the UIC elevators. Citywide inspected approximately 80 to 100 elevators on the east side of campus at a rate of \$195 that included \$70 for the inspection and \$125 for preparing and submitting the application for the certificate of operation to the OSFM.

Mr. Kelly said that he assisted with a UIC elevator inspection audit but has no knowledge of any missing certificates of operation or inspection reports. He said that Citywide always left a copy of the inspection report with UIC. He said that no one ever told him that Mr. Hynes was seldom seen at UIC. He said that Mr. Hynes is not the type of guy who would create inspection reports without actually performing the inspections. When informed by the investigator that 62% of the UIC elevators on the east side failed EIS’s re-inspection, and that EIS identified 155 life safety issues in those elevators, Mr. Kelly said, “It appears to be a deficiency here.”

³⁸ It should be noted that EIS passed 27 of the 101 elevators even though the inspectors’ notes on the reports identify code violations, including some life safety issues such as pit ladders not complying with code. Several of these notes indicate that variances should be requested for pit ladder violations.

Investigators interviewed William Oveson, co-owner of Citywide, on February 15, 2018. Mr. Oveson said that he has been in the elevator business since 1963. He said that he went into business with Mr. Kelly in 2010 or 2011, and that he owns 49% of Citywide and Mr. Kelly owns 51%. He said that Mr. Kelly handles the business end of things and he handles inspections.

Mr. Oveson said that in 2016, UIC personnel requested that he come to UIC to attempt to locate paperwork for Citywide inspections, because UIC could not locate the paperwork in the elevator machine rooms. Mr. Oveson said that he contacted Mr. Hynes about the missing paperwork, and Mr. Hynes told him that he gave all the paperwork to Mr. Hernandez, rather than placing it in the machine rooms. Mr. Oveson said that once he located the reports in the Citywide files, he emailed the missing inspection reports to UIC.

Mr. Oveson said that he was aware that EIS performed inspections on all the UIC elevators that Citywide had previously inspected. When asked if he would be surprised to learn that EIS failed many of the elevators that Citywide had passed, Mr. Oveson said that all inspectors are different and one might fail an elevator for something that another would not. When informed that EIS identified a life safety issue in approximately 90% of the elevators that Citywide had inspected, Mr. Oveson stated, "It's shocking!" and that it looks like the inspectors did not do their job. He said that it was improbable that all the issues originated between the time Citywide inspected the elevators and EIS re-inspected them. When informed that only four UIC elevators failed inspection during the entire time Citywide inspected them (2011-2016), Mr. Oveson agreed that the number seemed very low. When asked if there was a pattern of neglect on UIC's east side campus elevators, Mr. Oveson said, "it's a fair statement."

7. Interview of Citywide Elevator Inspector Thomas Hynes, Sr.

The OEIG interviewed Thomas Hynes, Sr., on February 9, 2018. Mr. Hynes said that he had retired from the elevator inspection business within the past year. He said that before retirement, he had been in the elevator business for over 50 years, for the most recent five-and-a-half years as a certified elevator inspector for Citywide and for Krimac Elevator.

Mr. Hynes said that Citywide's largest customer was UIC. He said that he inspected the elevators on the east side of the UIC campus, and EIS inspected the elevators on the west side. Mr. Hynes said that there were approximately 88 elevators on the east side. He said that Citywide's contract with UIC was not renewed and that EIS now conducts all of UIC's elevator inspections.

Investigators told Mr. Hynes that their examination of the most recent EIS inspections of the UIC elevators that previously had been inspected by Citywide showed that 62% of the elevators failed, and 26% had passed with some life safety issue. Mr. Hynes said that if he passed an inspection, everything was in working order when he did so. He said that he never completed an inspection report without actually doing the inspection. When specifically asked, he said that he would not pass an elevator that was missing a door restrictor or had a door restrictor that was not working.

Mr. Hynes presented investigators with handwritten notes that he said he made during his inspections of UIC elevators in 2016. When asked, Mr. Hynes said that according to the notes, two elevators in the 845 West Harrison building failed inspection on May 6, 2016, because of a missing pit ladder, missing door restrictor, and other issues. Investigators then showed Mr. Hynes an inspection report dated May 20, 2015, for the same elevator, which he had passed. When asked, Mr. Hynes said that he did not know why he would have passed this elevator in 2015, if it failed in May 2016 due to a missing pit ladder and door restrictor.

8. Citywide Financial Data

Investigators obtained Citywide’s accounting records of the payments it received from UIC for elevator inspections and certificates of operation from 2011 through June 2017. Investigators also obtained Citywide’s accounting records of all payments it made to the OSFM for the same period of time.

The Citywide accounting records showed that for each year, 2011 through 2016, UIC paid Citywide tens of thousands of dollars more than Citywide paid to the OSFM:

	Citywide payments to OSFM	UIC payments to Citywide	Difference
2011	1,473.85	35,410.00	33,936.15
2012	11,043.99	44,740.00	33,696.01
2013	610.00	33,155.00	32,545.00
2014	7,675.00	46,985.00	39,310.00
2015	3,583.81	31,210.00	27,626.19
2016	5,270.83	21,340.00	16,069.17
total	29,657.48	212,840.00	183,182.52

Investigators questioned Mr. Kelly about the Citywide accounting data. He confirmed that the accounting records showed all itemized payments that Citywide had paid the OSFM, as well as all payments that UIC had made to Citywide. When asked, he confirmed that according to the records, in 2013, UIC paid Citywide approximately \$35,000 for inspections, witness fees, and applications for certificates of operation, but that Citywide paid the OSFM under \$1,000. Moreover, when asked, he agreed that the 2013 accounting records showed that \$400 of the amount paid to the OSFM in 2013 was for a license for a Citywide inspector (Rick Metz).

When asked why UIC paid Citywide \$35,000 in 2013, but Citywide paid the OSFM under \$1,000, and that \$400 of that was for an inspector’s license, Mr. Kelly stated that Citywide pays every OSFM invoice it receives. When asked why the OSFM did not invoice Citywide, and how UIC would be able to receive certificates of operation without an invoice being issued, Mr. Kelly said that he had “no clue.” When asked if someone at Citywide would have noticed that certificates of operation were being issued but that no invoice was received, Mr. Kelly said, “No, it was so helter-skelter.” He said that he did not know about the invoice issues at the OSFM until his OEIG interview. When asked, he agreed that Citywide’s being paid by UIC and not being billed by the OSFM favored Citywide monetarily.

C. Investigation Of The Relationship Between Mr. Aubin And Citywide

1. OEIG's Review of Mr. Aubin's Telephone Records

Investigators also obtained the phone records of calls made to and from the State desk phone and State cell phone assigned to Mr. Aubin for the period January 1, 2011 through September 2017.

The OEIG reviewed the phone records for communication between Mr. Aubin's State cell phone³⁹ and Mr. Hynes' phone.⁴⁰ For an almost two-year period (June 26, 2012 – June 12, 2014), records showed 1,250 calls between Mr. Aubin's State cell phone and Mr. Hynes' phone. Typically, there were multiple calls per day between the two phones and 14 calls took place on either a weekend or State holiday. The following are some examples of the amount of calls and the duration that took place in a given day:

Date	Number of calls	Total duration (in minutes)
August 13, 2012	6	21
August 14, 2012	7	25
August 15, 2012	8	37
September 11, 2012	7	45
September 12, 2012	3	18
September 13, 2012	3	19
September 14, 2012	10	42
December 3, 2012	2	15
December 4, 2012	5	26
December 5, 2012	6	23
December 6, 2012	4	9
December 7, 2012	4	32
March 12, 2013	2	15
March 13, 2013	1	16
March 14, 2013	7	24
March 15, 2013	2	24
March 18, 2013	2	14
March 19, 2013	10	25
March 20, 2013	4	18
March 21, 2013	2	10
March 22, 2013	1	5

³⁹ The OEIG's review of Mr. Aubin's State desk phone records showed a total of 11 calls between Mr. Aubin's desk phone and Mr. Hynes' phone between 2011 and 2017.

⁴⁰ Mr. Hynes identified his cell phone number during his OEIG interview.

For 73 of the days that multiple calls took place, the total duration per day was over 20 minutes. As another example of the amount of calls that took place, in the months of April and May 2013 (a total of 44 work days), multiple phone calls were made between the two phones on every work day except one, with an average duration of 20 minutes per day.

2. OEIG's Review of Mr. Aubin's Email Records

Investigators obtained and reviewed the contents of Mr. Aubin's State email account for the period January 1, 2011 to August 31, 2017. Investigators found several emails between Mr. Aubin and Mr. Kelly,⁴¹ or Mr. Aubin and Mr. Hynes, in which Mr. Aubin sent elevator permits or certificates of operation, including:

- an email dated January 8, 2015, sent from Mr. Aubin to Mr. Hynes, and copying Mr. Kelly, to which Mr. Aubin attached a permit for a non-UIC elevator;
- an email dated March 19, 2015, sent from Mr. Aubin to Mr. Hynes, to which Mr. Aubin attached an elevator certificate of operation for a non-UIC elevator;
- an email dated November 17, 2015, sent from Mr. Aubin to Mr. Kelly, to which Mr. Aubin attached three certificates of operation for non-UIC elevators. The following day, November 18, 2015, Mr. Kelly responded: "Thx Jim I got all three!";
- an email dated November 16, 2016, sent from Mr. Aubin to Mr. Kelly, to which Mr. Aubin attached a certificate of operation for a UIC elevator; and
- an email dated November 18, 2016, sent from Mr. Aubin to Mr. Kelly, to which Mr. Aubin attached a certificate of operation for a UIC elevator.

In addition, investigators found several emails between Mr. Aubin's personal email account⁴² and either Mr. Kelly or Kathleen Reyes, Mr. Kelly's daughter and Citywide owner, concerning certificates of operation and registrations, including:

- an email dated November 28, 2014, sent from Mr. Kelly to Mr. Aubin's personal email address, with the subject "2 UIC apps" and with two applications for certificates of operation attached;
- an email dated December 18, 2015, sent from Ms. Reyes to Mr. Aubin's personal email address, with the subject "application for conveyance registration" and attaching an application for a UIC elevator; and
- an email dated November 21, 2016, sent from Ms. Reyes to Mr. Aubin's personal email address, concerning needed certificates of operation for UIC elevators.

3. Interviews of Citywide Owners Larry Kelly and William Oveson

⁴¹ Mr. Kelly identified his and Mr. Hynes' email addresses during his OEIG interview.

⁴² Investigators discovered these emails after they had been forwarded to Mr. Aubin's State email account.

In his interview, Mr. Kelly first said that Mr. Aubin never sent him a certificate of operation by email, that he does not know Mr. Aubin's State of Illinois or personal email address, and that all communication with Mr. Aubin was through phone or text message. Investigators then showed him the emails between him and Mr. Aubin described above. Mr. Kelly acknowledged the emails were to him, but said that he did not recall receiving certificates of operation from Mr. Aubin by email. He said that he had no idea why Mr. Aubin's personal email was used. He also added that office personnel had access to his email account and perhaps they received and printed the attached certificates.

Mr. Kelly said that Mr. Aubin did not have a financial relationship with Citywide and has never received compensation from Citywide. Mr. Oveson also told investigators that Mr. Aubin did not have any financial or ownership interest in Citywide, and said he did not know of any payments being made from Citywide to Mr. Aubin.

4. Interview of Citywide Inspector Thomas Hynes, Sr.

In his OEIG interview, Mr. Hynes initially described the full procedure he followed to inspect the UIC elevators, including how he received his assignments and to whom he provided his inspection reports. Mr. Hynes detailed the entire process but never mentioned Mr. Aubin as being part of this process.

Mr. Hynes was then asked whether he knew Mr. Aubin. Mr. Hynes stated that he was acquainted with Mr. Aubin through previous employment in the elevator business. Mr. Hynes said that he would see Mr. Aubin a few times a year. According to Mr. Hynes, he was not personal friends with Mr. Aubin, and only spoke to him or Mr. Capuani a few times a month regarding elevator-related issues.

Investigators then informed Mr. Hynes that phone records reflected that he and Mr. Aubin had over 1,200 phone conversations. Mr. Hynes then responded that when he said he spoke to him only a few times, that was how often they spoke about elevator-related issues. According to Mr. Hynes, the balance of the 1,200 calls was personal in nature. After being informed of the phone records, Mr. Hynes explained that he would call Mr. Aubin to talk about sports or gossip in the elevator business. He also stated that he and Mr. Aubin were in sports betting pools and would call each other to discuss those activities. According to Mr. Hynes, he and Mr. Aubin would meet for breakfast a couple of times a year and that he also occasionally met Mr. Aubin at a bar. Mr. Hynes told investigators that Mr. Aubin has attended Citywide's annual Christmas parties.

Investigators asked Mr. Hynes about UIC's attempts in 2016 to locate missing elevator certificates of operation. Mr. Hynes said that he only delivered certificates of operation that Citywide gave him, and that no one ever contacted him about the issue of missing certificates. Mr. Hynes denied knowledge of any money being exchanged concerning UIC elevators.

Mr. Hynes said he did not know if Mr. Aubin had an ownership interest in Citywide.

5. OEIG's Review of Mr. Aubin's Bank Records

The OEIG also obtained and reviewed records from Mr. Aubin's bank accounts, including bank statements and certain deposit items, for 2013 through 2017. OEIG investigators could not identify any activity in the bank records suggesting payments from Citywide to Mr. Aubin.

6. Mr. Aubin's Request to Use Citywide Inspectors

During this investigation, the OEIG learned of another incident involving Mr. Aubin and Citywide regarding an inspection done for the City of Joliet.

On March 7, 2018, OEIG investigators interviewed [Joliet Inspector], the City of Joliet's [identifying title redacted]. [Joliet Inspector] said that beginning in 2006, the City of Joliet contracted with EIS to inspect its elevators. In 2008, he was called to the site of an elevator that was undergoing a modification. [Joliet Inspector] said that when he arrived at the site, a Citywide elevator inspector was already at the location. [Joliet Inspector] could not remember the name of the Citywide inspector. According to [Joliet Inspector], the Citywide inspector said that Mr. Aubin from the OSFM had sent him there. [Joliet Inspector] said that he asked the Citywide inspector to leave, because Joliet only used EIS for inspections.

According to [Joliet Inspector], shortly after the Citywide inspector left, he received a call from Mr. Aubin asking him why he had not allowed the Citywide inspector to conduct the inspection. [Joliet Inspector] said that he told Mr. Aubin that EIS inspects all the elevators in Joliet. [Joliet Inspector] said that he called Mr. Capuani to complain about Mr. Aubin's sending the Citywide inspector, and about Mr. Aubin's telephone call.⁴³

D. Interview Of OSFM Elevator Safety Division Director Robert Capuani

Investigators interviewed Robert Capuani on March 6, 2018. Mr. Capuani said that he has been the Director of the OSFM Elevator Safety Division since its inception in 2006, and that in that position he oversees the issuance of elevator permits and certificates of operation, and oversees elevator inspections. He said he also manages the Division's other staff of elevator inspectors and clerical employees. Mr. Capuani said he is responsible for ensuring the safety of elevators in Illinois.

Mr. Capuani said that the OSFM relies on certified third-party inspectors to inspect elevators properly, and that OSFM inspectors only inspect elevators on rare occasions. Mr. Capuani said that passing inspection reports are submitted to the OSFM, along with the applications for certificates of operation. Mr. Capuani said that OSFM clerical staff open the mail and place inspection reports in a pile, and then clerical employees [Employee 1] and [Employee 6] enter information from the inspection reports into Praeses and issue the certificates of operation after the system indicated that fees had been paid. Mr. Capuani said when processing applications for certificates of operation, OSFM staff are merely looking for a passing report, and that [Employee 1] and [Employee 6] are not certified elevator inspectors. Mr. Capuani said that under

⁴³ The OEIG was unable to ask Mr. Aubin about this incident because, as set forth below, Mr. Aubin refused to appear for a second interview and answer the OEIG's questions.

the OSFM's "old way," the reports were kept in boxes in the OSFM's Springfield office, but that now the records are scanned into the Praeses system. Mr. Capuani said that the OSFM does not generally check or audit the inspections.

Mr. Capuani confirmed that in 2014, [Employee 1] advised him that Mr. Aubin had issued approximately 30 elevator certificates of operation for UIC elevators without issuing invoices or receiving payment. Mr. Capuani said that Mr. Aubin's duties did not include issuing certificates of operation; rather, his job was to review plans for permits for new elevator installations, issue permits, handle complaints, answer questions about the elevator code, and oversee compliance with elevator inspections. Mr. Capuani said he spoke with Mr. Aubin, who claimed that he had been attempting to help [Employee 1] and [Employee 6] clear a backlog in certificates of operation. According to Mr. Capuani, Mr. Aubin claimed at that time that he believed that the Praeses system automatically issued an invoice when he approved an inspection report and generated a certificate of operation. Mr. Capuani said he verbally counselled Mr. Aubin to "fix it," and not to issue any more certificates of operation.

Mr. Capuani said that the OSFM should have received approximately \$2,000 for the 30 certificates of operation Mr. Aubin failed to invoice, based on the normal renewal fee of \$75. He said [Employee 1] drafted an email to UIC, explaining that approximately 30 certificates of operation had been issued without being invoiced, and that he believed UIC was later invoiced for the certificates.

Mr. Capuani said that several years ago, he received a telephone call from City of Joliet Building Inspector [Joliet Inspector]. Mr. Capuani said [Joliet Inspector] told him that after Mr. Aubin approved an elevator permit for a building in Joliet, Mr. Aubin sent a Citywide inspector to inspect the building. Mr. Capuani said [Joliet Inspector] said he refused to allow the Citywide inspector to conduct the inspection because Joliet had contracted with its own inspection service. Mr. Capuani said [Joliet Inspector] said he then received a call from Mr. Aubin, who asked why [Joliet Inspector] had refused to allow the Citywide inspector to do the inspection. Mr. Capuani said [Joliet Inspector] felt that Mr. Aubin was forcing him to use Citywide. Mr. Capuani said that referring inspection business was a "violation of [Mr. Aubin's] ethics," and that he verbally counselled Mr. Aubin not to do it.

Mr. Capuani said that in 2016, UIC officials asked him about elevator certificates of operation that they were trying to locate. Mr. Capuani said that he referred the matter to the OSFM's legal counsel, who in turn ordered an internal audit. Mr. Capuani said the audit revealed that Mr. Aubin had issued approximately 242 certificates of operation for UIC elevators without issuing invoices or receiving payment. Mr. Capuani maintained that Mr. Aubin issued most of those certificates of operation in 2012 and 2013, and noted that Mr. Aubin was the Acting Director of Elevator Safety when Mr. Capuani was out on medical leave from February 2012 to October 2012.⁴⁴ Mr. Capuani said he has never spoken to anyone at Citywide about the certificates of operation being issued without payment.

⁴⁴ According to the OSFM internal audit data, Mr. Aubin issued 83 of the 242 certificates of operation without payment between February 2012 and October 2012. The audit data shows that Mr. Aubin issued 18 certificates of operation without payment after Mr. Capuani stated that he verbally counselled him in February 2014.

Mr. Capuani said he met with Mr. Aubin to discuss the audit and the certificates of operation it revealed Mr. Aubin had issued without payment. According to Mr. Capuani, he told Mr. Aubin that he believed Mr. Aubin's actions were intentional because he had only issued certificates of operation without payment for the UIC elevators that were the responsibility of Citywide and Mr. Hynes. Mr. Capuani said Mr. Aubin claimed that former State Fire Marshal Larry Matkaitis had told him to assist in issuing the UIC certificates,⁴⁵ issuing them without payment had been a "clerical error," and that he was not properly trained on the Praeses system.⁴⁶ Mr. Capuani said that the OSFM had not taken any action against Mr. Aubin for issuing certificates of operation without payment since the OEIG became involved.

Mr. Capuani said that at some point he also had a conversation with Mr. Aubin about paperwork that was missing for the certificates of operation Mr. Aubin issued. Mr. Capuani said that Mr. Aubin knew that inspection reports had to be retained in case an elevator accident or other incident occurred, and that in any event Mr. Aubin should not have been in possession of inspection reports because that was not part of his job. According to Mr. Capuani, Mr. Aubin initially told him that he filed the inspection reports, but then said he destroyed them. Mr. Capuani said he told legal counsel and the auditor about his conversation with Mr. Aubin about destroying records. Mr. Capuani said that Mr. Aubin was verbally counselled for destroying records.

When told in the interview that in December 2016, EIS had inspected the UIC elevators that had been assigned to Citywide, and identified approximately 175 life safety issues and failed 67 elevators, Mr. Capuani stated that Citywide could not have properly inspected the elevators if that many failed inspection in such a short time. Mr. Capuani said he was not aware of the issues because the OSFM does not receive copies of failed inspection reports. Although earlier in the interview Mr. Capuani had stated that the OSFM does not generally check or audit inspections, after he was presented with the information regarding EIS's inspections Mr. Capuani stated that OSFM inspectors audit the inspections of approximately 50 to 100 elevators each year, but had identified issues on only one or two elevators during these audits.

Mr. Capuani said that on March 30, 2017, he sent an email to all OSFM inspectors that advised them that they are restricted from entering certificate of operation information into the Praeses system.⁴⁷ In addition, he stated that he issued a directive notifying OSFM inspectors that issuing certificates of operation was outside the scope of their authority.⁴⁸

⁴⁵ Mr. Matkaitis died in July 2016, before the OEIG interviewed Mr. Capuani and Mr. Aubin. See <https://www.chicagotribune.com/suburbs/daily-southtown/news/ct-sta-matkaitis-obituary-st-0715-20160714-story.html> (last visited Jan. 16, 2019).

⁴⁶ Mr. Capuani noted that Mr. Aubin regularly used Praeses to issue permits.

⁴⁷ Mr. Capuani's March 30, 2017 email, addressed to Mr. Aubin and 4 others, stated: "Effective immediately, [b]ecause of errors we have found in Praeses concerning certificates and registrations data input all OSFM Elevator Inspectors are restricted from entering any date [sic] for certificates or registrations. You may view the areas you need to perform your daily duties only."

⁴⁸ That OSFM "Operations Directive," which bore a release date of April 10, 2017, stated that OSFM elevator inspectors are given access to Praeses to further their specifically assigned inspection duties, and that the "processing or modification of Certificates of Operation . . . do[es] not fall under those specific job functions and exceeds the scope of an OSFM Elevator Safety Inspector's authority." The Directive further stated: "[e]ffective immediately, OSFM Elevator Safety Inspectors are not authorized to process or make modifications to Certificates of Operation . . ."

Mr. Capuani said that Mr. Aubin is good friends with Mr. Hynes, Mr. Kelly, and Mr. Oveson, and that the four men are in football square pools together.⁴⁹ Mr. Capuani said he did not know why Citywide contacted Mr. Aubin through his (Mr. Aubin's) personal email account, and said that Mr. Aubin should not have been receiving OSFM business emails on his personal email account. Mr. Capuani said it would be acceptable for Mr. Aubin to exchange calls about OSFM business with elevator companies on his OSFM phone, but he said he did not know why Mr. Aubin would need to call Mr. Hynes the amount that he did. Mr. Capuani claimed that he did not have any knowledge of Mr. Aubin receiving kickbacks from Citywide.

Mr. Capuani denied that he ever received anything of value from Citywide, and said that he has never socialized with Mr. Hynes, Mr. Kelly, or Mr. Oveson.⁵⁰ Mr. Capuani also denied receiving a bribe or any kind of remuneration for his approval of elevator-related OSFM services.

E. Interview Of OSFM Elevator Inspector James Aubin

1. First Interview

Investigators interviewed James Aubin on June 30, 2017. Mr. Aubin said that he became an elevator inspector for the OSFM in approximately 2008. He said that prior to working at the OSFM, he had worked in the elevator trade for 37 years and had retired as an elevator mechanic. He said that he was one of four elevator inspectors at the OSFM and reported to Mr. Capuani. He said that he was responsible for new and renewal elevator permits for Cook County and parts of DuPage County. He said that he was normally in the office two days a week and spent the balance of his time inspecting elevators and issuing permits.

Mr. Aubin said that he previously had the ability to issue certificates of operation, and that he continued to issue certificates of operation until just before the interview. He said that while issuing certificates was not his normal job, if there was a backlog of applications for certificates of operation, he entered the information and generated the certificate of operation. He said that he believed that all OSFM personnel have inputted certificate of operation information into Praeses. Mr. Aubin said that he never received formal training on Praeses and was not very familiar with the system.

Mr. Aubin said that for many years, he kept hard copies of the inspection reports for the elevators in his area of responsibility in a folder in a cabinet next to his desk. Shortly after the first of each year, he said, he destroyed the previous year's inspection reports. He said that no one at the OSFM ever told him to keep the inspection reports, and he was unaware of any document

. utilizing the Praeses database or any other similar database . . . Failure to abide this directive could result in progressive disciplinary action, up to and including termination."

⁴⁹ Mr. Capuani said he also has been a part of email exchanges that included football pools, and acknowledged that it was not appropriate to send emails related to sports betting and football pools using OSFM computers.

⁵⁰ Mr. Capuani noted that several years ago, he reported to the organization that certifies elevator inspectors that he had received an allegation from a Schaumburg public works supervisor that Mr. Oveson had claimed to have inspected 14 elevators in 4 hours, which Mr. Capuani believed to be physically impossible. According to Mr. Capuani, following an investigation conducted by the organization, both the organization and the OSFM suspended Mr. Oveson's license for 6 months.

retention policies. Mr. Aubin said that about three or four years ago, the procedure changed and all inspection reports are now sent to Springfield and are scanned. Now, after he entered certificate of operation information, he placed the corresponding inspection reports in a folder kept at the OSFM to be scanned.

Mr. Aubin said he knows Mr. Hynes through their involvement in the elevator business, and that they have had lunch approximately twice. He said he did not know why the Citywide employees used his personal email address for OSFM business, or how they obtained his personal email address.⁵¹

Mr. Aubin said that he heard around the office that there was a problem with some UIC elevator certificates being issued without payment, but no one ever told him that there was a problem with him issuing certificates to UIC without a corresponding invoice being issued. He said he has no knowledge of how the OSFM bills for the certificate of operation fees. He said that the first time anyone said anything to him about this was approximately two months before his OEIG interview, when Mr. Capuani spoke with him, and Mr. Aubin denied that Mr. Capuani spoke with him about it in February 2014. Mr. Aubin said he did not recall Mr. Capuani telling him to stop issuing certificates of operation. When asked why he issued certificates of operation to Citywide without invoices, Mr. Aubin claimed it must have been computer or operator error.

2. Second Scheduled Interview

After Mr. Aubin's initial interview, the OEIG's investigation proceeded and additional evidence was uncovered. Investigators wanted to interview him again, and therefore contacted him and scheduled a second interview for April 13, 2018. The day before the scheduled interview, he emailed the OEIG investigator, informing the investigator that he had retired from the OSFM and would not attend the scheduled interview. According to [Employee 2], Mr. Aubin contacted her on April 12, 2018 to complete retirement paperwork, with an effective date of April 13, 2018.

Investigators obtained a subpoena for Mr. Aubin's appearance, for which he agreed to accept service by email. The day before his scheduled appearance, May 15, 2018, in response to an email from an OEIG investigator, Mr. Aubin called and said that he was on vacation and would not appear as scheduled. He told the investigator that there was no point in his appearing again because he was truthful in his previous interview. He stated that he did not see a point in appearing because, "I am not going to answer any more questions." He also told the investigator that his health had suffered as a result of the OEIG investigation. Upon request by the investigator, Mr. Aubin confirmed in an email that he would be willing to set a date and come in for a further interview; however, he would not answer any further questions because he had already provided testimony in this matter.

F. Investigation Of Mr. Aubin's Conduct Regarding Permits

As noted above, before any construction work can take place on an elevator, including installing a new elevator or materially altering an existing one, the OSFM must issue a permit.

⁵¹ The OEIG received Mr. Aubin's telephone records after his interview and therefore was unable to ask him about them at that time.

According to Mr. Capuani, Mr. Aubin was responsible for reviewing and issuing permits for new elevator installations, and Mr. Aubin was the only person at the OSFM who issued permits. While reviewing Mr. Aubin's emails, investigators found a number of emails which indicated that he might have accepted gifts from individuals who were seeking his approval of elevator permits for ThyssenKrupp Elevators (ThyssenKrupp). The OEIG interviewed two individuals who communicated with Mr. Aubin regarding obtaining those permits, and interviewed Mr. Capuani about Mr. Aubin's responsibilities relating to issuing permits.⁵²

1. Gift That Mr. Aubin Received from Kathleen Heppner

Investigators found emails between Mr. Aubin and Kathleen Heppner, owner of the business Concierge for You, Ltd.⁵³ In an email to Mr. Aubin dated February 6, 2015, Ms. Heppner wrote, "Any help in getting this permit ASAP would be greatly appreciated." Four days later, on the morning of February 10, 2015, Mr. Aubin emailed Ms. Heppner a signed elevator permit and provided her with his home address. That afternoon, Ms. Heppner emailed Mr. Aubin, "Thank you very much for all your help with those permits. It is greatly appreciated!!!! . . . I told Dan . . . Cog Hill and he started laughing. You should be expecting a surprise soon!!"

Investigators interviewed Ms. Heppner on December 21, 2017. Ms. Heppner said that her business provides services that include assisting major elevator companies, including ThyssenKrupp, with obtaining elevator permits. She said that Mr. Aubin was her main contact at the OSFM, and that she has known Mr. Aubin and Mr. Capuani for many years, starting when they all worked together at a subsidiary of Otis Elevator.

Investigators showed Ms. Heppner her email exchanges with Mr. Aubin from February 2015. After Ms. Heppner reviewed her February 6, 2015 email to Mr. Aubin in which she wrote, "Any help in getting this permit ASAP would be greatly appreciated," she stated, "this looks bad." Ms. Heppner told investigators that ThyssenKrupp employee Dan Wilhite called her and asked her to expedite the permit process. She recalled that ThyssenKrupp needed the permits immediately because Mr. Wilhite and another ThyssenKrupp employee, whose name she did not recall, had "dropped the ball" and someone was in "deep trouble." She said that in her experience, the normal turnaround time for the OSFM to process a permit application is four to six weeks, and that the fastest turnaround she had experienced was three to four weeks. She said that she called Mr. Aubin to "ask for a favor" and get the permits.

Ms. Heppner reviewed the email exchange she had with Mr. Aubin on February 10, 2015. Ms. Heppner acknowledged that the permits were for the same job that she emailed Mr. Aubin about on February 6, 2015. When asked, Ms. Heppner agreed that a four-day turnaround for the permits would have been very quick service. Ms. Heppner also said that it is not normal to receive OSFM permits by email.

Ms. Heppner said that she had a conversation with Mr. Aubin in which he told her not to send anything to his OSFM office, and that after the conversation, Mr. Aubin sent the email giving

⁵² The OEIG was unable to ask Mr. Aubin about these incidents because, as indicated above, Mr. Aubin refused to be interviewed a second time and answer the OEIG's questions.

⁵³ In her OEIG interview, Ms. Heppner identified the email address as her business' email address.

his home address. Ms. Heppner said that she purchased a \$200 gift certificate to Cog Hill Golf & Country Club and mailed it to Mr. Aubin at his home address. She said she paid for the gift certificate using \$100 from Mr. Wilhite and \$100 of her own money. Ms. Heppner said that Mr. Aubin later thanked her for the Cog Hill gift certificate. She said that Mr. Aubin did not request anything of value for issuing the permits on February 10, 2015. She further said that the gift was not in return for expediting the permit process, but rather for the hassle in obtaining the permits on short notice.

Investigators requested records from Cog Hill Golf & Country Club relating to the purchase of the gift certificate that Ms. Heppner described. Cog Hill responded that it was unable to locate any record of a gift certificate purchased by Ms. Heppner.

2. Gifts That Mr. Aubin Received from Justin Browne

Investigators also found approximately eleven email threads between Mr. Aubin and Justin Browne at a ThyssenKrupp Elevators email address, spanning the time period December 2013 through February 2016. All of these emails concerned permit applications, and many had PDF attachments of OSFM permits. Many of the emails contained some reference to golf balls.

For example, a December 13, 2013 email from Mr. Browne to Mr. Aubin with the subject line "MOD Permit Application" stated: "Thanks for taking the time to speak with me today. Attached is what I sent via UPS: Application, Scope of Work, Specs, and the Fee. I hope you have a great weekend and watch the mail for some golf balls from Santa." On January 14, 2015, Mr. Aubin emailed a permit for a new elevator installation to Mr. Browne. The entire content of the email read, "Golf balls." On February 24, 2015, Mr. Browne wrote "Did you get the golf balls a few weeks ago?" to which Mr. Aubin replied, "10-4. Thanks." On February 27, 2015, Mr. Browne sent Mr. Aubin an email with a permit application attached, reading, "Want some more golf balls?"

On November 10, 2015, Mr. Browne emailed Mr. Aubin regarding "Permit Application – May Apartments" and attaching a permit application and supporting documents. The contents of the email read, "Need any golf balls?" Two days later, on November 12, 2015, Mr. Aubin emailed a permit for the "May Building" to Mr. Browne. The contents of the email read, "Send the balls." At the same time, Mr. Aubin sent a separate email to Mr. Browne with the OSFM letter stating that the permit application had been approved. The contents of that email read, "I need some G Balls Thanks."

On February 8, 2016, Mr. Browne sent Mr. Aubin an email attaching a permit application with the subject, "Permit Assistance Please – Thanks Jim!" The content of Mr. Browne's email read, "Need golf balls?"

Investigators interviewed Justin Browne by telephone on January 10, 2018. Mr. Browne said that he works in the St. Louis branch of ThyssenKrupp Elevator, and that he covers a region that includes Illinois. He said that his job duties include obtaining new construction elevator permits and elevator modernization permits from the OSFM. He said that his communication with the OSFM was almost exclusively with Mr. Aubin. He said that the normal turnaround time for a

permit is three to four weeks, but that in the past Mr. Aubin had allowed him to expedite the permit process by allowing him to overnight a check and to email drawings and the application. Mr. Browne estimated that the last time he sought expedited assistance from Mr. Aubin was three years ago.

When asked if he ever gave anyone from the OSFM a gift in return for helping to obtain elevator permits, Mr. Browne said that he did not. When notified by investigators that emails between him and Mr. Aubin mention golf balls, he said that he had sent Mr. Aubin golf balls, golf tees, and possibly a divot fixer with the ThyssenKrupp logo. He said that it is standard for him to send golf balls as advertising for the company. He said he does not know how much they are worth. When investigators read aloud from Mr. Aubin's November 12, 2015 email to Mr. Browne, Mr. Browne said that Mr. Aubin had asked for golf balls. When asked, he said that Mr. Aubin did not ask for golf balls to expedite the permit process. He said that he tells everyone he works with that he has ThyssenKrupp golf balls and anyone can ask for them whenever they want.

3. Interview of Robert Capuani

During his OEIG interview, Mr. Capuani was asked about Mr. Aubin's responsibilities regarding issuing permits. Mr. Capuani said that Mr. Aubin reviewed elevator plans, entered permitting data into the Praeses system, and issued the permits based on the plans submitted. Mr. Capuani said that the normal turnaround time for approving an elevator permit is three to four weeks, because plans first need to be approved and invoices need to be paid. He said a temporary permit can be issued in an emergency, such as if a school needs a permit quickly, but that that is uncommon. Mr. Capuani said that Mr. Aubin was the only person at the OSFM who issued permits.

Mr. Capuani stated that he, Ms. Heppner, and Mr. Aubin worked together at Otis Elevator years ago. When told that Mr. Aubin received a \$200 gift certificate from Ms. Heppner relating to issuing permits, Mr. Capuani said that such activity would be a violation of the Ethics Act and gift ban, and would be inappropriate conduct for an OSFM employee.

Investigators also showed Mr. Capuani emails between Mr. Aubin and Mr. Browne in 2013, 2015 and 2016 in which Mr. Aubin appears to be asking for and/or acknowledging receiving golf balls from the company. Mr. Capuani said that this activity also would violate the Ethics Act and gift ban.

IV. ANALYSIS

The OEIG's investigation revealed that Mr. Aubin committed misfeasance for a number of years, by issuing over 200 certificates of operation for elevators that appear not to have been properly inspected, and without the OSFM having first received the payment of fees. OSFM Elevator Safety Division Director Mr. Capuani allowed this to continue by not correcting, or further investigating the problem in 2014 when he first learned of it. The investigation further revealed that the OSFM failed to properly maintain inspection report records, either because it did not require that the inspection reports be provided, and/or because it did not keep the reports it

received. Failing to require the submission of an inspection report leaves open the possibility that elevators may not be inspected and thus, poses a serious safety risk.

The OEIG's investigation also revealed that Mr. Aubin improperly accepted gifts from individuals who were seeking OSFM elevator permits.

A. OSFM Elevator Inspector James Aubin Committed Misfeasance

OSFM Elevator Inspector James Aubin committed misfeasance for years, by issuing numerous certificates of operation for elevators that appear not to have been properly inspected, and without the OSFM having first received the payment of fees.

Although his job duties did not include processing applications for elevator certificates of operation or issuing the certificates, Mr. Aubin issued at least 242 certificates of operation, nearly all of which were for elevators on the UIC campus that purportedly had been inspected by Citywide elevator inspector Thomas Hynes, Sr. Mr. Aubin claimed that he previously had inspection reports for the elevators but destroyed them. However, the subsequent inspections by EIS and the OEIG's interviews with UIC elevator mechanics strongly suggest that Mr. Hynes did not properly inspect the elevators, if he inspected them at all.

When UIC learned of issues with the certificates of operation for its elevators inspected by Citywide, UIC promptly had all of the east side elevators inspected by EIS. EIS inspections of UIC elevators revealed that many of the elevators Citywide passed likely were not inspected annually, or even for years. For example, although Citywide passed all 101 UIC elevators it purportedly inspected between January 2015 and March 2016, EIS failed 63 of those same elevators when it inspected them beginning in December 2016. Moreover, EIS's inspections identified numerous life safety violations, including clear violations of January 2015 requirements relating to door restrictors and pit ladders that should have been identified by Citywide in its 2015 and 2016 inspections, had those inspections actually occurred.

In addition, UIC elevator mechanics who assisted the EIS inspectors or observed the repairs that were required following the EIS inspections told the OEIG that they saw evidence that the elevators had not been adequately inspected in previous years. For example, they noted that some elevator cables exhibited severe wear and tear, and that the majority of the batteries powering the emergency lighting had to be replaced on the elevators that had purportedly been inspected by Citywide, while only five batteries needed replacement on the side of campus that was not assigned to Citywide. Although Mr. Hynes maintained that he never completed an inspection report without actually having done the inspection, and that he would not pass an elevator that had a missing or inoperative door restrictor, the UIC mechanics interviewed in the investigation said they never saw Mr. Hynes perform an elevator inspection, although he was seen on campus with then-UIC lead elevator mechanic James Hernandez.⁵⁴

In addition to issuing numerous certificates of operation for elevators without ensuring that there were corresponding inspection reports, Mr. Aubin also issued the certificates without the

⁵⁴ As noted above, Mr. Hernandez pled guilty to federal charges of accepting bribes for steering UIC elevator repair and maintenance business to Smart Elevators.

OSFM having received payment, resulting in approximately \$18,150 in unassessed fees. In his OEIG interview, Mr. Aubin claimed that he was not very familiar with the Praeses system, although he used the system for his regular job duties of issuing elevator permits, and he denied having any knowledge of how the OSFM bills for the certificate of operation fees. However, the data gathered in the OSFM internal audit showed that on a small number of occasions that Mr. Aubin entered elevator inspection information into the Praeses system, payment *was* received for the certificates of operation. Thus, Mr. Aubin's supposed unfamiliarity with Praeses and the OSFM's billing procedures was largely confined to instances when he processed certificates of operation for UIC elevators assigned to Mr. Hynes and Citywide.

Mr. Hynes was responsible for inspecting all of the UIC elevators for which Mr. Aubin issued certificates of operation without payment, and Mr. Aubin appears to have had a relationship with Mr. Hynes and Citywide that went beyond a State employee's ordinary business relationship with a vendor. For example, the OEIG discovered that Mr. Aubin and Mr. Hynes exchanged calls on Mr. Aubin's State cellular phone about 1,250 times over approximately two years, including long calls multiple times a day, and periods when there were multiple calls per day virtually every work day. In addition, Mr. Aubin exchanged emails with Citywide personnel using his personal email address. The OEIG also discovered evidence that Mr. Aubin attempted to pressure a City of Joliet building safety inspector to use Citywide for an inspection, and that he issued what a UIC elevator mechanic took as a threat if UIC did not resume business with Citywide. Although these circumstances suggest that Mr. Aubin had more than a legitimate working relationship with Mr. Hynes, OEIG investigators were unable to obtain enough evidence to establish any scheme to defraud or commit bribery. Mr. Hynes denied giving/receiving any bribes or kickbacks in exchange for the business they conducted. Mr. Aubin's bank records did not reflect any such payments. While it appears that UIC inspections by Citywide may not have been actually performed based on the lack of records and the failure rate upon re-inspection by EIS, the OEIG was unable to determine Mr. Aubin's knowledge of this or inquire about any unlawful payments because he abruptly retired from the OSFM on the date he was scheduled to appear for a second interview, and refused to answer the OEIG's questions.

Although the OEIG found insufficient evidence to find that Mr. Aubin committed fraud relating to his improper issuance of elevator certificates of operation, at minimum his actions constituted misfeasance. The allegation that Mr. Aubin committed misfeasance by issuing approximately 242 elevator certificates of operation without ensuring that the OSFM received payment of fees is **FOUNDED**.⁵⁵

B. OSFM Elevator Safety Division Director Robert Capuani Committed Mismanagement

As Director of the OSFM's Elevator Safety Division, Mr. Capuani was responsible for overseeing elevator inspections and the issuance of elevator certificates of operation, and ultimately was responsible for ensuring the safety of elevators in Illinois; he also was Mr. Aubin's direct supervisor. Mr. Capuani mismanaged the Elevator Safety Division by failing to take

⁵⁵ The OEIG concludes that an allegation is "founded" when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance.

reasonable steps to timely address Mr. Aubin's misconduct and ensure that elevator certificates of operation were issued properly.

The evidence obtained in the investigation shows that Mr. Capuani learned at least by February 2014 that Mr. Aubin had been improperly issuing certificates of operation without payment. On February 19, 2014, [Employee 1] emailed Mr. Capuani that she had discovered that Mr. Aubin had handled "many, many" certificates of operation without charging a fee, which she estimated to amount to nearly \$2,000 of uncollected fees. According to Mr. Capuani, he merely told Mr. Aubin to stop issuing certificates of operation (a conversation that Mr. Aubin denies occurred), and said that he understood that UIC was invoiced for unpaid fees for approximately 30 certificates. However, Mr. Capuani did not take any other steps at that time to ensure that the matter was adequately addressed, such as auditing the certificates of operation to determine whether Mr. Aubin's improper actions were more extensive than [Employee 1] reported (as indeed they were), restricting Mr. Aubin's access to the certificate of operation functions in the Praeses system, correcting the glitch in Praeses that allowed users to issue certificates without payment, or checking to see if Mr. Aubin continued to issue certificates after he was counseled. To date, the "glitch" in the Praeses system has not been fixed.

As a result of Mr. Capuani's inaction, more than two years passed when nothing was done about the UIC elevators assigned to Citywide, and Mr. Aubin continued to issue certificates of operation. No action was taken until UIC inquired about missing certificates in 2016, which then prompted the OSFM to launch an internal audit. The allegation that Mr. Capuani mismanaged the Elevator Safety Division by failing to take reasonable steps to timely address Mr. Aubin's misconduct and ensure that elevator certificates of operation were issued properly is **FOUNDED**.

C. The OSFM Failed To Properly Maintain Inspection Records

The OSFM was required to retain applications for certificates of operation (which would include inspection reports) for ten years.⁵⁶ Each year from 2011 through 2017, the OSFM issued certificates of operation for the approximately 113 elevators on the east side of UIC's campus, certifying that the elevators had met the required annual safety inspection. However, the OSFM was unable to produce a complete set of annual inspection reports for any of the UIC elevators from 2011 through 2017, and there were no inspection reports for *any* of the 113 elevators, except one, for 2012 and 2013.

The Praeses system requires basic information to be input, such as an inspector's name, date of inspection, and inspection type, but does not require the inspection report itself to be attached before the certificate can be issued. Thus, the OSFM's lack of historical inspection reports for the UIC elevators could signify that the elevators were not inspected, rather than simply reflecting careless recordkeeping. As discussed above, although the OSFM had repeatedly issued certificates of operation for UIC elevators it is possible that many of the elevators were not regularly inspected during the years Citywide was assigned to do the inspections. Although the OSFM may not know that someone has submitted an inspection report without properly conducting an inspection, at least it should require that the inspection reports be provided and then

⁵⁶ OSFM Applications for Authority to Dispose of State Records, approved by the State Records Commission on April 20, 2011 and May 20, 2015.

maintain such reports. Having such a flaw in their system, at worst creates a safety risk and at least creates an opportunity for abuse. The allegation that the OSFM failed to properly maintain inspection records for ten years is **FOUNDED**.

D. OSFM Elevator Inspector James Aubin Violated Gift Ban Provisions

The OEIG investigation also revealed that Mr. Aubin improperly accepted gifts from individuals who were submitting elevator permit applications to the OSFM. With certain exceptions that are not relevant here, the Ethics Act's gift ban prohibits State employees from intentionally soliciting or accepting gifts from a "prohibited source."⁵⁷ A "gift" includes tangible and intangible items having monetary value.⁵⁸ "Prohibited sources" include any person or entity who is seeking official action by the employee or the State agency directing the employee.⁵⁹ In addition, the OSFM's policy similarly prohibits soliciting or accepting gifts from a prohibited source, as well as prohibiting employees from soliciting or accepting any gratuity, gift, or thing of value in return for the performance of the employee's official duties.⁶⁰

The evidence gathered in the investigation shows that Mr. Aubin accepted a gift from Kathleen Heppner in February 2015, shortly after he issued expedited permits for her client, ThyssenKrupp Elevator. Although it ordinarily took three to four weeks to issue a permit, Mr. Aubin sent Ms. Heppner permits for ThyssenKrupp in only four days. Ms. Heppner emailed Mr. Aubin to thank him for his help with the permits, referenced "Cog Hill," and told him to expect a surprise soon. In her interview, Ms. Heppner told OEIG investigators that she asked Mr. Aubin for a favor because ThyssenKrupp needed to obtain permits immediately, and that after he expedited the permits she mailed Mr. Aubin a \$200 gift certificate for Cog Hill Golf and Country Club to his home address, for the hassle in obtaining permits on short notice.

The evidence further shows that beginning in at least early 2015, Mr. Aubin also solicited and accepted gifts of golf balls from ThyssenKrupp employee Justin Browne at the same time Mr. Browne was seeking OSFM elevator permits. For example, on February 24, 2015, a little over a month after Mr. Aubin sent Mr. Browne a permit for a new elevator installation in an email reading "Golf balls," Mr. Browne emailed Mr. Aubin to inquire if he received the golf balls a few weeks earlier; Mr. Aubin responded, "10-4." In two November 12, 2015 emails to Mr. Browne, Mr. Aubin approved a permit application and sent a permit, writing, "Send the balls," and "I need some G Balls." Mr. Aubin and Mr. Browne exchanged similar emails in 2016. In his OEIG interview, Mr. Browne said he had sent Mr. Aubin golf balls and other small items, and that Mr. Aubin had

⁵⁷ 5 ILCS 430/10-10.

⁵⁸ 5 ILCS 430/1-5. Although the statutory gift ban contains an exception for gifts having a cumulative total value of less than \$100 from any one prohibited source in any one year, *see* 5 ILCS 430/10-15(12), Executive Order 15-09 made this exception inapplicable to State employees, beginning in 2015. Executive Order 15-09 (eff. Jan. 13, 2015).

⁵⁹ 5 ILCS 430/1-5.

⁶⁰ OSFM Employee Handbook § 11-2(P) & (BB), 12-2 (Mar. 1, 2014; Dec. 15, 2015).

asked for golf balls. Although he said that Mr. Aubin allowed him to expedite the permit process, he claimed that Mr. Aubin did not ask for golf balls for expedited service.

Ms. Heppner, Mr. Browne, and ThyssenKrupp were prohibited sources, in that they were seeking official action, namely the issuance of elevator permits, from the OSFM through Mr. Aubin. Mr. Aubin solicited and/or accepted gifts from these prohibited sources in violation of the Ethics Act, Executive Order 15-09 (eff. Jan. 13, 2015), and OSFM policy. In addition, he accepted the gifts in return for performing his official duty of issuing elevator permits. Therefore, the allegations that Mr. Aubin violated the gift ban of the Ethics Act, Executive Order 15-09, and OSFM policy are **FOUNDED**.⁶¹

V. FINDINGS AND RECOMMENDATIONS

As a result of its investigation, the OEIG finds that **THERE IS REASONABLE CAUSE TO ISSUE THE FOLLOWING FINDINGS:**

- **FOUNDED** – OSFM Elevator Inspector James Aubin committed misfeasance by issuing approximately 242 elevator certificates of operation without ensuring that the OSFM received payment of fees.
- **FOUNDED** – OSFM Elevator Safety Division Director Robert Capuani mismanaged the Elevator Safety Division by failing to take reasonable steps to timely address OSFM Elevator Inspector James Aubin’s misconduct and ensure that elevator certificates of operation were properly issued.
- **FOUNDED** – The OSFM failed to properly maintain elevator inspection records as set forth in the OSFM Applications for Authority to Dispose of State Records, approved by the State Records Commission on April 20, 2011 and May 20, 2015.
- **FOUNDED** – OSFM Elevator Inspector James Aubin accepted the gift of a \$200 gift certificate from Kathleen Heppner, who was seeking an elevator permit from the OSFM on behalf of ThyssenKrupp Elevator, in violation of the Ethics Act’s gift ban, 5 ILCS 430/10-10, and OSFM Employee Handbook §§ 11-2(P) & (BB), 12-2.
- **FOUNDED** – OSFM Elevator Inspector James Aubin accepted gifts of golf balls from Justin Browne, who was seeking elevator permits from the OSFM on behalf of ThyssenKrupp Elevator, in violation of Executive Order 15-09.

Because Mr. Aubin is no longer employed by the OSFM, the OEIG recommends that the OSFM not rehire Mr. Aubin. In addition, the OEIG recommends that the OSFM take disciplinary action that it deems appropriate with regard to Mr. Capuani.

⁶¹ Because Mr. Aubin’s most recent violation of the gift ban provision of the Ethics Act identified in this investigation occurred more than 18 months ago, the OEIG is not referring it to the Illinois Attorney General’s Office to file a complaint with the Executive Ethics Commission. See 5 ILCS 430/20-50(c).

The OEIG strongly recommends that the OSFM take steps to improve its procedures for overseeing elevator inspections, issuing certificates of operation, and retaining records. The Praeses system does not require users to attach inspection reports in the system in order to generate a certificate of operation, making it easy to issue a certificate of operation even if an inspection has not been performed. In addition, the Praeses system's "glitch" or "loophole" that allowed users to issue certificates of operation without first issuing an invoice or receiving payment, caused the OSFM to lose revenue. Although the OEIG was unable to determine whether Mr. Aubin received kickbacks from Citywide for his actions, these flaws in OSFM's system, at worst, could have endangered the safety of those using the elevators at UIC because the elevators may not have been inspected for years, and, at minimum, created an opportunity for fraud and abuse.

Accordingly, the OEIG recommends that the OSFM implement procedures to improve its system, including:

- restricting database access for processing and issuing elevator certificates of operation to authorized personnel;
- implementing changes to the database to prevent users from being able to issue elevator certificates of operation without first receiving passing inspection reports, attaching the inspection reports in the system, and receiving the payment of applicable fees;
- ensuring compliance with record retention requirements set forth in the OSFM Applications for Authority to Dispose of State Records, approved by the State Records Commission on April 20, 2011 and May 20, 2015, relating to elevator inspections and certificates of operation; and
- periodically auditing and/or spot-checking elevator inspections conducted by third-party inspectors.

Finally, the OEIG recommends that UIC not rehire or enter into future contracts with Citywide.

No further investigative action is warranted and this case is considered closed.

Date: February 8, 2019

Office of Executive Inspector General
for the Agencies of the Illinois Governor
69 W. Washington Street, Ste. 3400
Chicago, IL 60602

By: **M. Katherine Fischer**
Assistant Inspector General

Edward Escamilla #137
Supervising Investigator



Office of Executive Inspector General
for the Agencies of the Illinois Governor
www.inspectorgeneral.illinois.gov

RECEIVED
MAR 04 2019
EXECUTIVE ETHICS COMMISSION

AGENCY OR ULTIMATE JURISDICTIONAL AUTHORITY
RESPONSE FORM

Case Number: 17-00769

Return 20 Days After Receipt

Please check the box that applies. (Please attach additional materials, as necessary.)

We have implemented all of the OEIG recommendations. Please provide details as to actions taken:

Please see the attached response from the Office of the State Fire Marshal ("OSFM") for details.

We will implement some or all of the OEIG recommendations but will require additional time to do so.
We will report to OEIG within _____ days from the original return date.

We do not wish to implement some or all of the OEIG recommendations. Please provide details as to what actions were taken, if any, in response to OEIG recommendations:

Matthew Taksin
Signature

Office of the State Fire Marshal
General Counsel and Ethics Officer
Print Agency and Job Title

Matthew Taksin
Print Name

February 28, 2019
Date



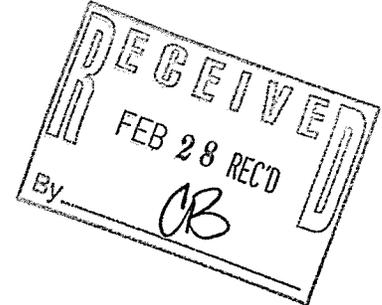
OFFICE OF THE ILLINOIS STATE FIRE MARSHAL

JB Pritzker, Governor
Matt Perez, State Fire Marshal

February 28, 2019

Via U.S. Mail and Email

Susan M. Haling
Acting Executive Inspector General
Office of Executive Inspector General
69 W. Washington Street
Suite 3400
Chicago, IL 60602
Susan.Haling@Illinois.gov



**Re: OEIG Case No. 17-00769
Office of the State Fire Marshal's Response to Final Report**

Dear Acting Executive Inspector General Haling:

The Office of the State Fire Marshal ("OSFM") is in receipt of the Office of Executive Inspector General's ("OEIG") Final Report dated February 8, 2019, for OEIG Case Number 17-00769 (hereinafter, the "Final Report"). Please accept the following as OSFM's response to the recommendations included in the Final Report.

The Final Report makes the following findings:

As a result of its investigation, the OEIG finds that **THERE IS REASONABLE CAUSE TO ISSUE THE FOLLOWING FINDINGS:**

- **FOUNDED** – OSFM Elevator Inspector James Aubin committed misfeasance by issuing approximately 242 elevator certificates of operation without ensuring that the OSFM received payment of fees.
- **FOUNDED** – OSFM Elevator Safety Division Director Robert Capuani mismanaged the Elevator Safety Division by failing to take reasonable steps to timely address OSFM Elevator Inspector James Aubin's misconduct and ensure that elevator certificates of operation were properly issued.
- **FOUNDED** – The OSFM failed to properly maintain elevator inspection records as set forth in the OSFM Applications for Authority to Dispose of State Records, approved by the State Records Commission on April 20, 2011 and May 20, 2015.
- **FOUNDED** – OSFM Elevator Inspector James Aubin accepted the gift of a \$200 gift certificate from Kathleen Heppner, who was seeking an elevator permit from the OSFM on behalf of ThyssenKrupp Elevator, in violation of the Ethics Act's gift ban,

5 ILCS 430/10-10, and OSFM Employee Handbook §§ 11-2(P) & (BB), 12-2.

- **FOUNDED** – OSFM Elevator Inspector James Aubin accepted gifts of golf balls from Justin Browne, who was seeking elevator permits from the OSFM on behalf of ThyssenKrupp Elevator, in violation of Executive Order 15-09.

Based on those findings, the OEIG makes the following recommendations as to OSFM in the Final Report:

Because Mr. Aubin is no longer employed by the OSFM, the OEIG recommends that the OSFM not rehire Mr. Aubin. In addition, the OEIG recommends that the OSFM take disciplinary action that it deems appropriate with regard to Mr. Capuani.

The OEIG strongly recommends that the OSFM take steps to improve its procedures for overseeing elevator inspections, issuing certificates of operation, and retaining records. The Praeses¹ system does not require users to attach inspection reports in the system in order to generate a certificate of operation, making it easy to issue a certificate of operation even if an inspection has not been performed. In addition, the Praeses system's "glitch" or "loophole" that allowed users to issue certificates of operation without first issuing an invoice or receiving payment, caused the OSFM to lose revenue. Although the OEIG was unable to determine whether Mr. Aubin received kickbacks from Citywide for his actions, these flaws in OSFM's system, at worst, could have endangered the safety of those using the elevators at UIC because the elevators may not have been inspected for years, and, at minimum, created an opportunity for fraud and abuse.

Accordingly, the OEIG recommends that the OSFM implement procedures to improve its system, including:

- restricting database access for processing and issuing elevator certificates of operation to authorized personnel;
- implementing changes to the database to prevent users from being able to issue elevator certificates of operation without first receiving passing inspection reports, attaching the inspection reports in the system, and receiving the payment of applicable fees;

¹ OSFM notes that while the system is referred to as "Praeses" throughout the Final Report, the name of the actual system/program is "Jurisdiction Online." Praeses formerly owned the Jurisdiction Online program. While the Jurisdiction Online system is still sometimes colloquially referred to as Praeses, another company has since purchased the Jurisdiction Online program from Praeses. As a result, Praeses no longer owns Jurisdiction Online. For the sake of consistency, although the program is actually named Jurisdiction Online, OSFM's response retains the usage of the term "Praeses" throughout this response when referring to the Jurisdiction Online program.

- ensuring compliance with record retention requirements set forth in the OSFM Applications for Authority to Dispose of State Records, approved by the State Records Commission on April 20, 2011 and May 20, 2015, relating to elevator inspections and certificates of operation; and
- periodically auditing and/or spot-checking elevator inspections conducted by third party inspectors.

OSFM responds to the OEIG's specific recommendations to OSFM as follows.

OEIG Recommendation to OSFM: Because Mr. Aubin is no longer employed by the OSFM, the OEIG recommends that the OSFM not rehire Mr. Aubin.

OSFM Response: OSFM agrees to implement this recommendation. Mr. Aubin retired from OSFM effective April 13, 2018. OSFM does not intend to rehire Mr. Aubin in any capacity.

OEIG Recommendation to OSFM: In addition, the OEIG recommends that the OSFM take disciplinary action that it deems appropriate with regard to Mr. Capuani.

OSFM Response: OSFM agrees to implement this recommendation and has already taken steps to do so. OSFM made the determination to engage in employee counseling with Mr. Capuani to underscore the importance of taking proper steps when allegations of potential misconduct within the agency are raised. The employee counseling session with Mr. Capuani was held on February 15, 2019. Enclosed with this response is a document confirming the same.

OEIG Recommendation to OSFM: The OEIG strongly recommends that the OSFM take steps to improve its procedures for overseeing elevator inspections, issuing certificates of operation, and retaining records Accordingly, the OEIG recommends that the OSFM implement procedures to improve its system, including: (1) restricting database access for processing and issuing elevator certificates of operation to authorized personnel; (2) implementing changes to the database to prevent users from being able to issue elevator certificates of operation without first receiving passing inspection reports, attaching the inspection reports in the system, and receiving the payment of applicable fees; (3) ensuring compliance with record retention requirements set forth in the OSFM Applications for Authority to Dispose of State Records, approved by the State Records Commission on April 20, 2011 and May 20, 2015, relating to elevator inspections and certificates of operation; and (4) periodically auditing and/or spot-checking elevator inspections conducted by third party inspectors.

OSFM Response: OSFM agrees to implement these recommendations and has taken steps to do so, subject to the following qualifications described herein.

Once members of OSFM Executive Staff were informed about the allegations and the possibility of a system flaw, OSFM took immediate actions to conduct an internal audit to understand the breadth of the issue, sent management directives to OSFM employees, and it put in place system monitoring measures to ensure that certificates could no longer be issued by OSFM without first receiving payment for the certificate. OSFM continues to work with the vendor of the Praeses system to put in place additional system safeguards.

The OEIG recommends that OSFM restrict database access for processing and issuing elevator certificates of operation to authorized personnel. OSFM has taken measures to ensure that only those authorized to process the issuing of elevator certificates of operation are accessing the Praeses system. On March 30, 2017, OSFM's Elevator Safety Division Manager sent out an email to all OSFM Elevator Inspectors informing them that they are restricted from inputting data into the Praeses system and may only access the Praeses system to view data related to his or her work-related duties. Furthermore, on April 10, 2017, OSFM followed up by issuing a directive (titled "Utilization of the 'Praeses' System by Elevator Safety Inspectors") stating that OSFM Elevator Inspectors are only given access to the Praeses system in furtherance of their specifically assigned inspection duties and that they are not authorized to process or make modifications to certificates of operation. While OSFM can restrict general access to the Praeses system on a role-based user identification basis, it does not currently have the capability to specify functions within a role. For example, if a user has accounting access within Praeses, that user will have full abilities within the system for that role. Mr. Aubin's access within the Praeses system was limited to an accounting role due to his job assignment of processing elevator permits. Currently, in an effort to further segregate duties and restrict access, no Elevator Inspectors have accounting role access within the Praeses system. Instead, this function is exclusively handled by office administrative staff. While Elevator Inspectors have been directed to not input data into the Praeses system and have further been excluded from having accounting role access within the Praeses system, an Elevator Inspector may still need to access the Praeses system to view data in order to perform his or her work duties. Notably, the Praeses system tracks all editing and printing activities by user, so if a misapplication of authorization occurs, it is a relatively simple matter to ascertain the identity of the offending party. Given this capability, and to guard against the possibility that a non-authorized person, OSFM now routinely runs an "Inspections Keyed by User – Summary Report" search to determine if any non-authorized individuals have entered data into the Praeses system. Accordingly, if such a breach occurred, it would be easy to detect. To date, these searches have not revealed any new instances of unauthorized access to making modifications to certificates of operation. In sum, with these multitude of current measures in place, OSFM

believes that database access for processing and issuing elevator certificates of operation will be limited to authorized personnel.

The OEIG recommends that OSFM implement changes to the database to prevent users from being able to issue elevator certificates of operation without first receiving passing inspection reports, attaching the inspection reports in the system, and receiving the payment of applicable fees. OSFM has taken steps to try and alter the Praeses system in order to conditionally tie the issuing of an elevator certificate of operation to the issuance of an invoice and payment of that invoice. To accomplish this task, OSFM must work with the vendor and developer of the Praeses system to implement any software changes. Indeed, OSFM has been in communication with the vendor and have formally requested that the Praeses system be altered so that an invoice must be issued and paid before an elevator certificate of operation can be printed. The vendor has indicated such a conditional restriction is possible, but it will require database changes. OSFM is therefore subject to the timelines of a third party and the technical limitations of the software system. OSFM remains in discussions with the vendor to get this change implemented. In the meantime, OSFM believes that the measures it has already put into place – as described above – provide adequate assurances that it can prevent unauthorized printing of elevator certificates of operation or, alternatively, determine on an ongoing basis if unauthorized printing of elevator certificates of operation occurred. Finally, it is OSFM's understanding that the Praeses system is not capable of requiring inspection reports to be verified in the system before an elevator certificate of operation could be printed. OSFM, however, remains entirely open to employing such a technique should the vendor determine it can modify the Praeses system to validate such a conditional requirement.

The OEIG recommends that OSFM ensure compliance with record retention requirements set forth in the OSFM Applications for Authority to Dispose of State Records, approved by the State Records Commission on April 20, 2011 and May 20, 2015, relating to elevator inspections and certificates of operation. OSFM has taken steps to ensure compliance with the aforementioned record retention requirements. Specifically, since the time period covering the missing inspection records (i.e., 2012 to 2014), OSFM has employed an electronic document management system called Docuware. Through Docuware, all OSFM documents are scanned and uploaded into a content management system. Once these documents have been confirmed to be in electronic form, paper copies of the documents are disposed of in accordance with OSFM's record retention requirements. For purposes of the Elevator Safety Division, hard copies of the documents are compiled in OSFM's Chicago office and then are routinely sent to OSFM's Springfield office for scanning and electronic uploading. These electronic documents are tested for quality assurance before hard copies are

disposed of per the records retention requirements. This technique will ensure compliance with record retention requirements.

The OEIG recommends that OSFM periodically audit and/or spot-check elevator inspections conducted by third party inspectors. OSFM believes it has accomplished this recommendation because it does periodically audit and/or spot-check elevator inspections conducted by third party inspectors. In fairness, and like any other State of Illinois agency, OSFM does not have unlimited resources to carry out its mandates and organizational goals. OSFM currently employs five Elevator Inspectors for the entire State of Illinois. One of the responsibilities that these Elevator Inspectors have is to conduct audits and spot-checks on elevators that were inspected by third party inspectors. OSFM Elevator Inspectors are accordingly instructed to conduct such audits and spot-checks as resources allow. Therefore, OSFM is already periodically auditing and/or spot-checking elevator inspections conducted by third party inspectors. To the extent, however, that the OEIG is recommending that OSFM should conduct more audits and/or spot-checks than it already conducts, OSFM respectfully calls attention to the direct link between the personnel resources bestowed by the State of Illinois upon OSFM and OSFM's ability to carry out more audits and/or spot-checks. Consequently, should the OEIG be recommending that OSFM conduct more audits and spot-checks than it already conducts, OSFM would require additional personnel resources from the State of Illinois to accomplish this goal. Finally, OSFM notes that municipalities may opt to inspect, license, and regulate conveyances themselves.² Municipalities that agree to run their own local program have an obligation to ensure conveyances are inspected annually by a licensed elevator inspector. As a result, this program assists with managing the above-referenced personnel resource constraints that OSFM faces when it comes to third party inspector oversight.

Thank you for your assistance concerning this matter. If you have any questions, please do not hesitate to contact me.

² A list of municipalities that have chosen to operate a local program may be found on OSFM's website at the following link: <https://www2.illinois.gov/sites/sfm/SFMDocuments/Documents/MunicipalityAgreements.pdf>

Sincerely,



Matthew Taksin
Office of the State Fire Marshal
General Counsel and Ethics Officer
Matthew.Taksin@Illinois.gov

cc: Fallon Opperman, OEIG, Deputy Inspector General and Chief
Matt Perez, OSFM, State Fire Marshal

Enclosures



OFFICE OF THE ILLINOIS STATE FIRE MARSHAL

JB Pritzker, Governor
Matt Perez, State Fire Marshal

DATE: February 15, 2019

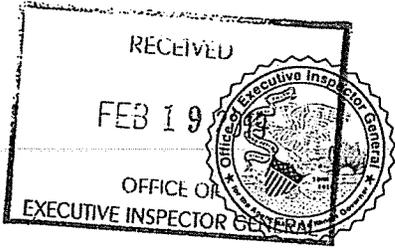
TO: Robert Capuani

FROM: Matt Perez

RE: Employee Counselling

This is to confirm that on February 15, 2019, you received employee counselling concerning your failure to properly document and address employee misconduct. Your failure to correct this behavior could result in the imposition of progressive disciplinary action up to, and including, employee termination.

cc: Personnel File



Office of Executive Inspector General

for the Agencies of the Illinois Governor

www.inspectorgeneral.illinois.gov

AGENCY OR ULTIMATE JURISDICTIONAL AUTHORITY RESPONSE FORM

Case Number: 17-00769

Return 20 Days After Receipt

Please check the box that applies. (Please attach additional materials, as necessary:)

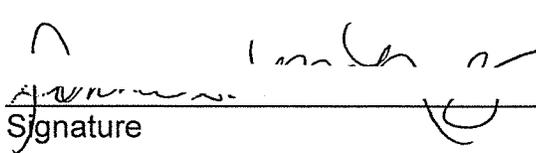
We have implemented all of the OEIG recommendations. Please provide details as to actions taken:

UIC has not hired or entered into a contract resulting in any payments to since FY2016.

We will implement some or all of the OEIG recommendations but will require additional time to do so.

We will report to OEIG within _____ days from the original return date.

We do not wish to implement some or all of the OEIG recommendations. Please provide details as to what actions were taken, if any, in response to OEIG recommendations:


Signature

Donna S. McNeely
Print Name

University of Illinois System, University Ethics Officer

Print Agency and Job Title

February 14, 2019
Date

RECEIVED

MAY 03 2019

EXECUTIVE ETHICS COMMISSION

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: ROBERT CAPUANI

) #17-00769

RESPONDENT'S SUGGESTIONS FOR REDACTION / PUBLIC RESPONSE

Please check the appropriate line and sign and date below. If no line is checked, the Commission will not make your response public if the redacted report is made public.

Below is my public response. Please make this response public if the summary report is also made public; or

Below are my suggestions for redaction. I do not wish for these suggestions to be made public.

Robert Capuani
12/20/18
Respondent's Signature

4/20/2019
Date

Instructions: Please write or type suggestions for redaction or a public response on the lines below. If you prefer, you may attach separate documents to this form. Return this form and any attachments to:

Illinois Executive Ethics Commission
401 S. Spring Street, Room 513 Wm. Stratton Building
Springfield, IL 62706

SEE ATTACHED

April 20, 2019.

Chad Fornoff

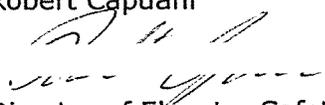
re: Redactions Jim Aubin Case # 17-01769

Your Draft Report also fails to put the allegations made in context, to make mention of the significant progress made during my 13 years and under difficult circumstances with limited resources, and the allegations made against my unblemished professional career accusing me of mismanagement.

In response to your report of mismanagement of the Elevator safety Division, I feel the word mismanagement is not appropriate. It was more a matter of me believing someone that I believed was a trusted employee and a 30-year associate. I have been the Division Manager for 13 years and started the Division from its start. I was informed in 2014 that Mr. Aubin had entered certificates without payment from one of my assistants. At that time, I verbally counseled Mr. Aubin about this situation. He informed me at the time that he made a simple mistake in inputting the certificates. At that time, I had no reason to doubt him or think he would lie to me after knowing and working with him for thirty years, we all make mistakes. He was immediately instructed to not enter anymore certificates.

In 2016 I received a call from UIC regarding missing certificates. I investigated the accusation and found that Mr. Aubin had lied to me and had entered over two hundred certificates without payment. When confronted with these accusations Mr. Aubin said he made a mistake. I immediately brought this to the attention of our Ethics Officer and I started a formal investigation into the lack of payments.

Robert Capuani



Director of Elevator Safety

Office of The State Fire Marshal