

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

SUSAN M. HALING, in her capacity as the)	
ACTING EXECUTIVE INSPECTOR)	
GENERAL, for the AGENCIES OF THE)	
ILLINOIS GOVERNOR,)	
Petitioner,)	
)	
v.)	No. 18-EEC-001
)	
DAVID MOSLEY,)	
Respondent.)	

DECISION

This matter is now before the Commission on Petitioner’s Motion for an Order of Default (the “Motion”), dated April 30, 2018; the Commission’s order of May 17, 2018, granting Petitioner’s Motion for Default Judgment; and the Commission’s Order of May 18, 2018, setting this matter for prove-up by Petitioner on June 6, 2018.

Respondent was notified by certified service of Petitioner’s Motion, the Commission’s orders, and the time and location of this hearing, but has failed to appear. However, counsel for Petitioner has appeared, and has presented live testimony, under oath, from Daniel Bohaczyk, an Investigator for the Office of Executive Inspector General for the Agencies of the Illinois Governor (“OEIG”), who conducted the investigation underlying the Complaint that was filed in this matter on September 15, 2017. During the course of Investigator Bohaczyk’s testimony, the Commission admitted and considered additional relevant evidence to the resolution of this matter.

Petitioner is represented by Assistant Attorney General Neil MacDonald. Respondent has never responded to the Commission in any way related to this matter.

FINDINGS OF FACT

For the reasons stated on the record in this proceeding, the Commission hereby makes the following findings of fact:

1. Respondent falsified documentation and made false, incomplete, or materially misleading statements to OEIG investigators during the course of his March 15, 2016, interview regarding the circumstances surrounding the suspension and reinstatement of his Commercial Driver’s License by the Illinois Secretary of State. This includes the following:

- a. Respondent stated that his CDL had been suspended because of tickets issued to two cars that he did not own, and that he had never owned the cars in question;
- b. Respondent reaffirmed his contention that he was the victim of identity theft, that someone else had fraudulently purchased the two cars in Respondent's name, and that the unpaid tickets had been issued to cars that he did not own or drive;
- c. Respondent denied ever purchasing or financing a vehicle through the dealership identified in the vehicle purchase and finance application packets shown to him by OEIG investigators during his interview;
- d. Respondent stated that the Secretary of State had been conducting an ongoing investigation of his allegations, as substantiated by an "Official Complaint" form that he had obtained at a local Secretary of State office, filled out, but had not submitted;
- e. Respondent stated that he had been contacted by representatives of the U.S. Army's Criminal Investigation Division ("CID"), who had informed him that the federal government had investigated twelve people involved in the identity theft alleged above, and two of the twelve had received lengthy criminal sentences; and
- f. When shown the packets of business records obtained from the dealership that had sold the two cars in question, Respondent admitted that the addresses, dates of birth, license numbers, and license issue dates on the CDL attributed to him were accurate; as were the social security numbers, dates of birth, addresses, and occupations identified in the packets, but denied that he had purchased, possessed, or driven either vehicle, and asserted that the signatures were "good copies," but not his.

2. During the course of his OEIG interview, Respondent halted the interview to seek representation before continuing. During the period between March 21 and September 16, 2016, however, Respondent failed to respond to and ignored OEIG's repeated requests—by phone, email, letter, and personal contact—to set a date to complete his OEIG interview. This includes the following efforts by OEIG:

- a. seven phone calls by Bohaczyk to a phone number confirmed by Respondent to be his correct home phone number, to request a date certain to resume the interview;
- b. a certified letter sent by Bohaczyk on May 23, 2016, to Respondent's confirmed home address, stating that unless Respondent resumed or rescheduled his interview by a date certain, OEIG would construe his non-response as a refusal to cooperate;
- c. a follow-up email, sent by Bohaczyk on June 2016, to Respondent's conformed email address stating that unless he resumed or rescheduled his interview by a date certain, OEIG would construe his non-response as a refusal to cooperate;

- d. contact with Respondent's supervisor on June 23, 2016, who advised Bohaczyk that she would inform Respondent that he should contact OEIG;
- e. hand delivery by OEIG investigators, including Bohaczyk, of a letter to Respondent on July 5, 2016, at Respondent's place of business advising him that unless he resumed and completed his OEIG investigation, OEIG would construe his non-response as a refusal to cooperate; and during the course of that personal contact with Bohaczyk, Respondent confirmed that he had received OEIG's prior messages, had not responded, but expected to receive documents and information by no later than September 16, 2016, that might be relevant to OEIG's investigation.

3. Thereafter, Respondent never renewed contact with OEIG investigators, nor did he provide any additional documents potentially relevant to the matters under investigation by OEIG.

CONCLUSIONS OF LAW

1. Petitioner Susan M. Haling is the Acting Executive Inspector General for the Agencies of the Illinois Governor, duly appointed by the Governor for the State of Illinois pursuant to 5 ILCS 430/20-10. Petitioner has broad authority "to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, or violations of [the Ethics Act] or violations of other related laws and rules." *Id.* § 20-10(c).

2. At all times relevant to the allegations in the Complaint, Respondent was an employee of the Chicago Transit Authority, and therefore subject to the provisions of the Ethics Act, and to the jurisdiction of the Executive Ethics Commission (the "Commission") with respect to matters arising under the Ethics Act. *Id.* § 20-5(d).

3. As an employee of Chicago Transit Authority, Respondent's "ultimate jurisdictional authority" was the Chicago Transit Board, and therefore Respondent was subject to the jurisdiction of the Executive Inspector General for the Governor. *Id.* §§ 1-5, 20-10(a), (c).

4. Pursuant to 5 ILCS 430/20-5(d), the Commission has jurisdiction over all employees of Regional Transit Boards for purposes of any matter arising under or involving the Ethics Act. Consequently, the Commission's authority extends to officers and employees of Regional Transit Boards.

5. As an employee of the Chicago Transit Authority, Respondent was subject to the provisions of the Ethics Act, and therefore subject to the jurisdiction of the Commission with respect to matters arising under the Ethics Act. *Id.*

6. Section 50-5(e) of Ethics Act provides "An ethics commission may levy an administrative fine of up to \$5,000 against any person who violates this Act, who intentionally

obstructs or interferes with an investigation conducted under this Act by an inspector general, or who intentionally makes a false, frivolous, or bad faith allegation. 5 ILCS 430/50-5(e).

7. At all times relevant to the allegations in Petitioner's Complaint, Respondent had a duty to comply with the provisions of the Ethics Act, and with all policies adopted and implemented pursuant thereto.

8. Respond violated Section 50-5(e) of the Ethics Act when he intentionally obstructed or interfered with an investigation of the EIG, as described in Findings of Fact, *supra*.

9. Section 50-5(e) of the Ethics Act provides "An ethics commission may levy an administrative fine of up to \$5,000 against any person who violates this Act, who intentionally obstructs or interferes with an investigation conducted under this Act by an inspector general, or who intentionally makes a false, frivolous, or bad faith allegation. 5 ILCS 430/50-5(e).

WHEREFORE, for the foregoing reasons, the Commission levies an administrative fine of \$2500.00 against Respondent, David Mosley, for violation of 5 ILCS 430/50-5(e). This is a final administrative decision subject to the Administrative Review Law.

SO ORDERED.

ENTERED: July 17, 2018