

Department of Human Services' ("IDHS") Madden Mental Health Center. Both positions were assigned the payroll title of Senior Public Service Administrator.

2. IDHS personnel records indicate that Respondent was listed as an IDHS "C-list" employee during the period of his IDHS employment, and that he had signed an IDHS acknowledgement form indicating his understanding that if he were offered non-State employment while employed by the State, or within a period of one year following his departure from State employment, he must, "prior to accepting any such non-State employment offer," notify OEIG of the offer. The IDHS notice further provided that if he did not provide such notification to OEIG, he "shall be subject to a fine."
3. IDOC furnished OEIG with a spreadsheet of IDOC C-list employees. IDOC included Respondent as a C-list IDOC employee.
4. On or about May 29, 2017, Respondent signed and returned an offer letter from Universal Health Services, Inc. ("UHS"), extending to him the opportunity to work for UHS at Lincoln Prairie Behavioral Center. One day later, on May 30, 2017, Respondent submitted his resignation to IDOC. Respondent left State employment with IDOC on June 9, 2017, and on June 12, 2017, began working for UHS, less than eight months after leaving IDHS, and three days after leaving IDOC.
5. At no time did Respondent ever submit a request to OEIG for a revolving door determination regarding the offer of non-State employment extended to him by UHS, 5 ILCS 430/5-45(f), and to this date, he has not submitted such a request.
6. Respondent was not personally or substantially involved in the award of any contracts, grants, or change orders to UHS, or its parent or subsidiaries (if any) during the year preceding his departure from State employment, nor did he exercise IDHS regulatory or licensing authority that directly applied to UHS or its parent or subsidiaries.
7. In addition, Respondent was not personally or substantially involved in the award of any contracts, grants, or change orders to UHS, or its parent or subsidiaries during the year preceding his departure from State employment. Neither did he exercise IDOC regulatory or licensing authority that directly applied to UHS or its parent or subsidiaries.
8. During an interview with OEIG investigators held on October 26, 2017, Respondent confirmed that he had received, read, and signed the IDHS notice referenced above. He also conceded that he knew that his IDHS and IDOC payroll titles were both

classified as Senior Public Service Administrators, and on that basis he assumed and understood that he was subject to the same obligations at IDOC as he had been at IDHS.

CONCLUSIONS OF LAW

1. Petitioner Susan Haling is the Executive Inspector General for the Agencies of the Illinois Governor, duly appointed by the Governor of the State of Illinois. 5 ILCS 430/20-10(b).
2. At all times relevant to the allegations in Petitioner's Complaint, Respondent was an IDOC or IDHS employee or former employee subject to the provisions of the Ethics Act, and therefore subject to the jurisdiction of the Executive Ethics Commission (the "Commission") with respect to matters arising under the Ethics Act. 5 ILCS 430/20-5(d).
3. As an IDOC or IDHS employee, Respondent was subject to OEIG's jurisdiction with respect to possible violations of the Ethics Act. *Id.* § 20-10(c).
4. IDOC and IDHS determined that Respondent was a State employee who, based on the nature of his job responsibilities, may have the authority to participate personally and substantially in the award of State contracts or in making regulatory or licensing decisions. 5 ILCS 430/5-45(c); *see also id.* §§ 5-45(a)-(b). Based on this determination, IDHS classified Respondent as a "C-list" employee, in reference to the Ethics Act subsection that provides for the identification of such positions. *Id.* § 5-45(c).
5. At all times relevant to the allegations in this Complaint, Respondent had a duty to comply with the provisions of the Ethics Act, and with the policies and rules adopted pursuant thereto. This duty required Respondent to provide notice to OEIG, prior to accepting an offer of non-State employment, so that OEIG could determine whether or not it was permissible under the Ethics Act to accept the offer extended to him. The Ethics Act requires in this regard that:

[a]ny State employee in a position subject to the policies required by subsection (c) [of the Ethics Act] . . . who is offered non-State employment during State employment or within a period of one year immediately after termination of State employment shall, prior to accepting such non-State employment, notify the appropriate Inspector General[,] . . . [who] shall make a determination as to whether the State employee is restricted from accepting such employment by subsection (a) or (b) [of the Ethics Act].

Id., § 5-45(f). Consistent therewith, any C-list employee who violates the Ethics Act's notification provisions shall be subject to a fine pursuant to Subsection 50-5(e) of the Ethics Act. *Accord* 2 Ill. Admin. Code § 1620.610(g).

6. The Ethics Act required Respondent to notify OEIG of his offer of non-State employment, so that OEIG could determine whether Respondent was eligible to accept the employment opportunity extended to him by his new employer. 5 ILCS 430/5-45(c), (f). The record before the Commission, however, including the Stipulations, establishes that Respondent never submitted such a request to OEIG prior to accepting the offer of non-State employment extended to him following his departure from State employment.
7. Because Respondent has violated the Ethics Act's revolving door notice provisions, he is subject to an administrative fine. 5 ILCS 430/50-5(e) (penalties); 2 Ill. Admin. Code § 1620.610(g). Section 1620.530 of the Executive Ethics Commission's hearing rules, a copy of which has been provided to Respondent, sets out in this regard a set of aggravating and mitigating factors that the Commission may consider in imposing an appropriate fine.
8. The Executive Ethics Commission has jurisdiction over this matter.
9. The Ethics Act provides, in relevant part, that the Commission may levy an administrative fine of up to \$5,000 against any person who violates the Act. 5 ILCS 430/50-5(e).

STANDARD OF REVIEW

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

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

In determining whether a genuine issue as to any material fact exists, a court must construe the pleadings, depositions, admissions, and affidavits strictly against the movant and liberally in favor of the opponent. A triable issue precluding summary judgment exists where the material facts are disputed, or where, the material facts being undisputed, reasonable persons might draw different inferences from the undisputed facts. The use of the summary judgment procedure is to be encouraged as an aid in the expeditious disposition of a lawsuit. However, it is a drastic means of disposing of litigation and, therefore, should be allowed only when the right of the moving party is clear and free from doubt. *Adams v. Northern Illinois Gas Company* (2004), 211 Ill. 2d 32, 43; 284 Ill. Dec. 302, 310.

ANALYSIS

Respondent stipulated to a series of facts from which the Commission concludes that respondent violated subsection 5-45(f) of the State Officials and Employees Ethics Act (5 ILCS 430/5-45(f)).

The Ethics Act does not provide any guidance for the Commission to consider when levying a fine. The Commission, however, has adopted rules, found at 2 Ill. Admin. Code 1620.530(b), that outline 14 aggravating and mitigating factors that the Commission may consider in assessing an appropriate fine. These factors include: 2 Ill. Admin. Code § 1620.530(b)(5), (11) and (13).

- A. § 1620.530(b)(5)—**extent of Respondent’s intent or knowledge of the facts surrounding the violation**—Prior to Respondent’s separation from State service, at least one of two State agencies informed Respondent of his duties with respect to the revolving door. Respondent further acknowledged that he assumed and understood that he was subject to the same revolving door obligations at both State agencies.
- B. § 1620.530(b)(11)—**cooperation**—Respondent has acknowledged his violation and has not unduly delayed this matter.
- C. § 1620.530(b)(13)—**prior disciplinary record or Ethics Act violation**—There is no evidence that Respondent has been previously disciplined for violations of the Ethics Act.

WHEREFORE, for the foregoing reasons, petitioner’s unopposed motion for summary judgment is granted. The Commission levies an administrative fine of \$500.00 against Respondent Robert Hittmeier for violation of 5 ILCS 430/5-45(f). This is a final administrative decision and subject to the Administrative Review Law.

ENTERED: March 19, 2019