

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: TARA BYRNE MEYER,)	No. 20-EEC-002
)	
)	Appeal of OEIG
)	Revolving Door
)	Determination

DECISION

This cause is before the Executive Ethics Commission (“Commission”) on appeal by Tara Byrne Meyer (“Appellant”) from a determination by the Office of the Executive Inspector General for Agencies of the Illinois Governor (“OEIG”). Appellant appears pro se. The Office of the Attorney General is represented by Assistant Attorney General Neil MacDonald.

FINDINGS OF FACT

The record of proceedings has been reviewed by the members of the Executive Ethics Commission. The record consists of (i) Appellant’s July 24, 2019 appeal of an OEIG Revolving Door “Restricted” determination; (ii) Appellant’s OEIG revolving door file; (iii) the Office of the Attorney General’s July 30, 2019 Objection; and (iv) Appellant’s July 30, 2019 brief in support of appeal.

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

1. From December 1, 2017 until November 28, 2018, Appellant Tara Byrne Meyer served as Deputy Director of Medical Cannabis for the Illinois Department of Financial and Professional Regulation (IDFPR).
2. IDFPR identified Appellant as an employee, who, by the nature of her duties, has the authority to participate personally and substantially licensing and regulatory decisions. In her Revolving Door Notification of Offer (RD-101), Appellant acknowledged that she and her subordinates had the authority to issue regulatory or licensing decisions.
3. Appellant would like to accept the position of Associate General Counsel with Verano Holdings, LLC (Verano). Appellant anticipates receiving a salary of approximately \$100,000 per year.

4. On July 15, 2019, the OEIG determined that Appellant was restricted from accepting the employment opportunity with Verano. On July 24, 2019, Appellant appealed that determination to the Executive Ethics Commission.
5. On appeal, the Office of the Attorney General identifies two occurrences which it argues constitute Appellant's personal and substantial participation in making a regulatory or licensing decision that directly applied to Verano or its subsidiaries in the year prior to Appellant's termination of State service.
6. The first occurrence identified by the Office of the Attorney General took place on July 9, 2018, when IDFPR issued a Notice of Violation, Notice of Citation, and Notice of Administrative Fee of \$200, to The Clinic Effingham, a cannabis dispensary, for failure to maintain adequate security requirements. Appellant signed the notices on behalf of IDFPR.
7. The second occurrence identified by the Office of the Attorney General took place on October 31, 2018, when IDFPR issued a "non-disciplinary ticket," including a \$1000 fine, to Zen Leaf Chicago and Zen Leaf St. Charles. According to the ticket, Verano and the Zen Leaf dispensaries, in Chicago Tribune articles, on Verano's website, and in Zen Leaf dispensary registration materials, held themselves out to be dispensaries that are owned by Verano. The ticket also stated, "Verano must immediately cease holding itself out as owner of dispensaries in Illinois." George Archos acknowledged receipt of the ticket as Principal Officer.
8. George Archos is the CEO and co-founder of Verano. At the time Appellant allegedly participated personally and substantially in making regulatory or licensing decisions that directly applied to The Clinic Effingham and the two Zen Leaf dispensaries, Mr. Archos also served as their principal officer and appears to have had some ownership interest in them.
9. The Clinic Effingham and the two Zen Leaf dispensaries were not owned by Verano on July 9, 2018 and October 31, 2018, the dates Appellant allegedly participated personally and substantially in making regulatory or licensing decisions. Verano was not a licensee of IDFPR and not an LLC registered in Illinois during the time Appellant was employed by IDFPR.
10. According to the IDFPR Ethics Officer, Verano purchased two dispensaries in Illinois. The facts surrounding the timing of these purchases are not well-developed in the pleadings before the Commission.

11. According to Appellant, “medical cannabis inspectors most likely inspected one or both of the dispensaries” owned by Verano during the time of her employment at IDFPR. The facts surrounding these inspections are not well-developed in the pleadings before the Commission.
12. In accordance with 5 ILCS 430/5-45(g), the Executive Ethics Commission has sought written public opinion on this matter by posting the appeal on its website and posting a public notice at its offices in the William Stratton Building.

CONCLUSIONS OF LAW

1. An Executive Inspector General’s determination regarding revolving door restrictions may be appealed to the Commission by the person subject to the decision or the Attorney General no later than the 10th calendar day after the date of the determination. 5 ILCS 430/5-45(g).
2. Appellant’s appeal of the OEIG’s July 15, 2019 revolving door determination is properly before the Commission and the Commission has jurisdiction to consider the appeal.
3. Subsection (b) of the revolving door section of the State Officials and Employees Ethics Act provides:

(b) No former officer of the executive branch or State employee of the executive branch with regulatory or licensing authority, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of State employment, knowingly accept employment or receive compensation or fees for services from a person or entity if the officer or State employee, during the year immediately preceding termination of State employment, participated personally and substantially in making a regulatory or licensing decision that directly applied to the person or entity, or its parent or subsidiary.

5 ILCS 430/5-45(b)

4. Appellant is subject to 5 ILCS 430/5-45(c), since, by the nature of her duties, she had the authority to participate personally and substantially in regulatory or licensing decisions.
5. Subsection (f) of the revolving door section of the State Officials and Employees Ethics Act provides:

Any State employee in a position subject to the policies required by subsection (c) or to a determination under subsection (d), but who does not fall within the prohibition of subsection (h) below, 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. Within 10 calendar days after receiving notification from an employee in a position subject to the policies required by subsection (c), such Inspector General shall make a determination as to whether the State employee is restricted from accepting such employment by subsection (a) or (b)... A determination by an Inspector General must be in writing, signed and dated by the Inspector General, and delivered to the subject of the determination within 10 calendar days or the person is deemed eligible for the employment opportunity.

5 ILCS 430/5-45(f).

6. Subsection (g) of the same section provides:

(g)...In deciding whether to uphold an Inspector General's determination, the appropriate Ethics Commission or Auditor General shall assess, in addition to any other relevant information, the effect of the prospective employment or relationship upon the decisions referred to in subsections (a) and (b), based on the totality of the participation by the former officer, member, or State employee in those decisions.

5 ILCS 430/5-45(g)

7. The Ethics Act does not define the terms "parent" or "subsidiary."

8. The Commission has previously considered issues involving the analysis of corporate structure in revolving door appeals: *McDorman*, 13-EEC-001 (July 19, 2012), *Esuerte*, 13-EEC-019 (April 26, 2013), and *Schwartz*, 18-EEC-010 (June 25, 2018).

9. In *McDorman*, the former State employee sought to work for a long-term care facility she did not license or regulate. The facility, however, was one of several very similar LLCs she did license or regulate and that might have been owned and controlled under the umbrella of a single corporate entity. While the Commission was prepared to find that the facility McDorman licensed or regulated was owned and operated by the parent corporate entity, it lacked sufficient information to make that determination.

10. In *Esuerte*, the former State employee inspected five facilities and sought to work for a company that exercised significant control over them. While the precise legal structure between the company and the facilities was not clear, the pleadings demonstrated that there were several elements of company control present. There was also an admission by the prospective employer that it “**was** directly affected by [] licensing or regulatory actions taken by the state agency with which the state employee or former state employee was affiliated.” (emphasis added). The Commission found that Esuerte, by inspecting the five facilities, participated personally and substantially in regulatory or licensing decisions that directly applied to his prospective employer.
11. In *Schwartz*, a State employee sought to work for a company despite that fact that he represented the department in matters involving facilities related to the company. While the precise legal nature of the relationship between the company and the facilities was not clear from the pleadings, the Commission noted that the company exercised significant control over the facilities, the company maintained a web site for the individual facilities and coordinates hiring for the facilities. The same attorney represented both the company and the facilities in proceedings before the employee’s department.
12. In each of these three matters, there was some relationship between at least two entities, one with indicia of a parent company and the other with indicia of a subsidiary company. Whether a parent/subsidiary relationship effectively existed or whether a regulatory or licensing decision directly applied to an entity for purposes of a revolving door determination depended upon the amount and nature of the information about that relationship provided to the Commission.
13. For the present matter, the relationship between Verano and the dispensaries is supported by common ownership and control. One of Verano’s co-founders and CEO, George Archos, also served as principal officer for The Clinic Effingham and the two Zen Leaf dispensaries, which were IDFPR licensees. Appellant participated personally and substantially in making a regulatory or licensing decision that directly applied to these dispensaries on July 9, 2018 and October 31, 2018.
14. In addition to Archos’ common ownership and control, Verano and the Zen Leaf dispensaries, in Chicago Tribune articles, on Verano’s website, and in Zen Leaf dispensary registration materials, held themselves out to be dispensaries that are owned by Verano. At the time, these were misrepresentations resulting in a \$1,000 fine and a non-disciplinary ticket to Zen Leaf. Appellant participated personally and substantially

in making a regulatory or licensing decision that directly applied to the dispensaries on October 31, 2018 when Appellant signed the ticket.

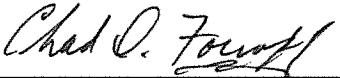
15. Despite the fact that Verano was not a licensee of IDFPR on October 31, 2018, Appellant participated personally and substantially in making a regulatory or licensing decision that directly applied to Verano when the ticket signed by Appellant included the statement “Verano must immediately cease holding itself out as owner of dispensaries in Illinois.” It is not clear that IDFPR had the authority to make or enforce this regulatory or licensing decision against Verano, but Appellant acted as if it did.
16. Considering all relevant information and the effect of the prospective employment upon the contracting decisions referred to in subsection (b) of 5 ILCS 430/5-45, based upon the totality of the participation by the employee in those decisions, the Commission finds that Appellant Tara Byrne Meyer participated personally and substantially in making a regulatory or licensing decision that directly applied to her prospective employer, within one year of her termination of State employment.

WHEREFORE, for the foregoing reasons, the Commission affirms the Office of the Executive Inspector General’s July 15, 2019 determination and rejects this appeal. Tara Byrne Meyer’s proposed employment with Verano Holdings, LLC would violate the Revolving Door Prohibition. The Commission specially notes that it does not find that Appellant acted improperly in her dealings with her proposed employer, and further notes that the Revolving Door Prohibition extends only until one year after she terminated State employment.

SO ORDERED.

DATE: August 5, 2019

The Executive Ethics Commission

By: 
Chad D. Fornoff
Administrative Law Judge
Executive Director