

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

| | | |
|----------------------------------|---|----------------|
| RICARDO MEZA, in his capacity as |) | |
| EXECUTIVE INSPECTOR GENERAL for |) | |
| AGENCIES OF THE GOVERNOR, State |) | |
| Of Illinois, |) | |
| Petitioner, |) | |
| |) | |
| v. |) | No. 14-EEC-011 |
| |) | |
| GEORGE GOLLIN, |) | |
| Respondent. |) | |

DECISION

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

Petitioner filed the complaint with the Commission on June 25, 2014. A certificate of service indicates that the Respondent was served a copy of the complaint on July 14, 2014. Respondent’s attorney entered an appearance on his behalf and filed a response to the complaint on August 12, 2014. On August 20, 2014, the Commission entered an order finding the complaint sufficient to proceed.

On June 18, 2015, petitioner filed an unopposed motion for summary judgment with an attached joint stipulation of undisputed material facts.

Petitioner is represented by Assistant Attorneys General Neil MacDonald and Long Truong. Respondent is represented by Joseph Murphy.

FINDINGS OF FACT

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

STIPULATED UNDISPUTED MATERIAL FACTS

1. At all times relevant to the allegations in Petitioner's Complaint, Gollin was employed with the University of Illinois at Urbana-Champaign ("UIUC") and the State of Illinois as a Physics Professor.
2. As an UIUC Physics Professor, Gollin had a duty to comply with the Illinois State Officials and Employees Ethics Act (the "Act") 5 ILCS 430/1 *et seq.*, and all the policies adopted and implemented pursuant to the Act.
3. At all times relevant to the allegations in Petitioner's Complaint, Gollin has annually completed UIUC's Ethics Training for University Employees. Each of these UIUC ethics training programs included sections on the Ethics Act's prohibition on the misappropriation of state resources to conduct prohibited political activities.
4. At all times relevant to the allegations in Petitioner's Complaint, Gollin had knowledge of the restrictions imposed by the Ethics Act's prohibition on the misappropriation of state resources to conduct prohibited political activities.
5. On July 29, 2013, Gollin filed campaign papers with the Federal Election Commission for his candidacy for Illinois' 13th Congressional District.
6. On March 18, 2014, Gollin lost the party's primary election for the Illinois 13th Congressional District. Although he failed to win his party's nomination for the Congressional seat, Gollin began exploring a campaign for that elected office from the period of February 5, 2013 until mid-June and actively campaigned for that elected office from mid-June to the date of the primary election (the "Gollin Campaign").
7. Between July 29, 2013 and November 20, 2013, Gollin spoke three times with UIUC Ethics Officer Donna McNeely regarding his run for political office. During the first call, Gollin informed McNeely that he intended to keep his UIUC and campaign activities separate, that he had a separate e-mail account for campaign activities, and that he understood the Ethics Act's rules concerning prohibited political activities.
8. Between February 5, 2013 and December 6, 2013, Gollin knowingly and intentionally used his state-provided e-mail account to engage in prohibited political activity by sending dozens of e-mails from or to his UIUC e-mail address for the benefit of his campaign for elected public office (the "Gollin Campaign E-mails"). For purposes of this Stipulation, Gollin "used" his state-provided e-mail account when he sent an e-mail from [redacted]@illinois.edu.

9. Gollin used the Gollin Campaign E-mails for the benefit of his campaign. By way of example and not limitation, Gollin used the Gollin Campaign E-mails to: (1) request and receive advice regarding his campaign; (2) solicit contributions for his campaign; and (3) coordinate campaign activity with campaign supporters and volunteers. *See* 5 ILCS 430/1-5; 10 ILCS 5/9-1.4.

10. Gollin admits that he knew at the time he was sending the Gollin Campaign E-mails that the e-mails were sent or received in furtherance of his campaign for election to State office. Gollin likewise knew at the time he was sending the Gollin Campaign E-mails that the Ethics Act prohibited State employees such as himself from misappropriating state resources to engage in political activity.

STIPULATED UNDISPUTED CONCLUSIONS
OF LAW AND MIXED QUESTIONS OF LAW AND FACT

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

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

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

14. The Ethics Act provides, in relevant part, that the OEIG has jurisdiction over “all officers and employees of . . . executive branch State agencies under the jurisdiction of the Executive Ethics Commission,” *id.* § 20-10(c), and authorizes the OEIG to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, violations of the Act, or violations of other related laws and rules. *Id.*; *accord id.* § 20-20. Consequently, the OEIG’s authority extends to UIUC and its officers and employees.

15. Under the Act, “State employees shall not intentionally misappropriate any State property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office or any political organization.” *Id.* at § 5-15(a).

16. Between February 5, 2013 and December 6, 2013, Gollin violated the Act by knowingly and intentionally misappropriating State resources to engage in any prohibited political activity, when he used his State-provided e-mail account to send the Gollin Campaign E-mails.

17. The Commission may levy an administrative fine of up to \$5,000 against any person who violates the Act by knowingly and intentionally misappropriating State resources to engaging in any prohibited political activity. 5 ILCS 430/50-5(a); *id.* § 5-15. The Commission may also issue appropriate injunctive relief against any person who violates the Ethics Act. 5 ILCS 430/50-10(a).

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

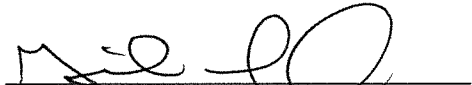
Respondent stipulated to a series of facts from which the Commission concludes that respondent violated Section 5-15(a) of the State Officials and Employees Ethics Act (5 ILCS 430/5-15(a)). The parties have agreed to recommend a fine of \$5,000.00. The parties have further agreed that the Commission should issue an injunction ordering respondent to: (1) comply with the Ethics Act; and (2) comply with UIUC's amended Campus Administration Manual, Section VIII-1.3, Guidelines Concerning Use of University Resources for Political Campaign Activities. The Commission is not bound to accept these recommendations, but neither does it desire to prolong litigation unnecessarily.

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:


- A. § 1620.530(b)(2)—**scope of the violations**—Respondent admits that he sent dozens of campaign-related e-mails using his state-provided e-mail account; and
- B. § 1620.530(b)(5)—**extent of Respondent's intent or knowledge of the facts surrounding the violation**—Because he had previously completed UIUC's Ethics training numerous times and spoke with UIUC's Ethics Officer several times about his campaign and the University's concern that he scrupulously adhere to the strictures imposed by the Ethics Act, Respondent was well aware of the Ethics Act's ban on prohibited political activity. Respondent nevertheless intentionally engaged in prohibited political activity by sending the Gollin Campaign E-mails in disregard of the Ethic Act's ban on political activity.

WHEREFORE, for the foregoing reasons, petitioner's unopposed motion for summary judgment is granted. The Commission levies an administrative fine of \$5,000.00 against respondent George Gollin for violation of 5 ILCS 430/5-15(a). This is a final administrative decision and subject to the Administrative Review Law.

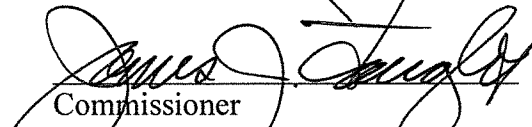
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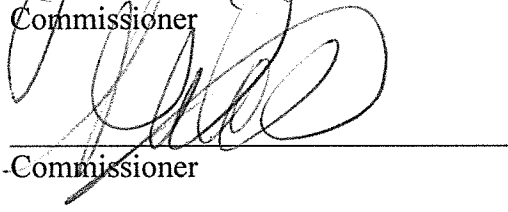
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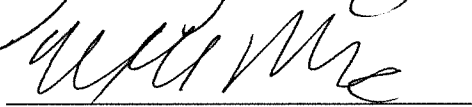
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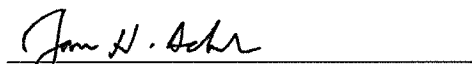


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