

IN THE EXECUTIVE ETHICS COMMISSION  
OF THE STATE OF ILLINOIS

SUSAN HALING, in her capacity as	)	
EXECUTIVE INSPECTOR GENERAL for	)	
AGENCIES OF THE GOVERNOR, State	)	
Of Illinois,	)	
Petitioner,	)	
	)	
v.	)	No. 18-EEC-004
	)	
TIFFANY LACY-CLARK,	)	
Respondent.	)	

DECISION

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

On December 7, 2017, Petitioner filed a complaint with the Commission which alleged Respondent, Tiffany Lacy-Clark, intentionally obstructed or interfered with an investigation in violation of Section 50-5(e) of the State Employees and Officials Ethics Act (“Ethics Act”) (5 ILCS 430/50-5(e)). An affidavit of service indicates Respondent was served a copy of the complaint on December 19, 2017. On February 13, 2018, the Commission entered an order finding the complaint sufficient to proceed.

On July 26, 2018, Petitioner filed an unopposed motion for summary judgment with an attached joint stipulation of undisputed material facts. Respondent has been afforded the opportunity to file a letter to state mitigating circumstances with regard to the Commission’s potential imposition of a fine.

Petitioner is represented by Assistant Attorney General Francis Neil MacDonald. Respondent appears pro se.

FINDINGS OF FACT

The record of proceedings has been reviewed by the members of the Executive Ethics Commission. Based upon the record, including the parties’ joint stipulation of undisputed material facts, the Commission makes the following findings of fact:

1. At all times relevant to the allegations in this Complaint, Respondent was the Executive Director for the Department of Human Services’ Division of Mental Health, Region 5 (“DMH”), though she is no longer employed by the State of Illinois. As the DMH Region 5

Executive Director, Respondent was responsible for overseeing the operation of State-operated and State-sponsored mental health services provided to residents in Southern Illinois and the East St. Louis, Illinois metropolitan area (“Metro East”). DMH is tasked with ensuring that individuals with mental health issues receive appropriate care when transitioning to or from State mental health care.

2. The principal DMH facility in Region 5 is located in Alton, Illinois, approximately 35 minutes from Respondent’s home in East St. Louis, but DMH also operates a small satellite facility located over two hours from Metro East. Call for Help, Inc., a not-for-profit community care provider in the Metro East area, is funded by a DHS grant monitored by Respondent’s office.

3. During the course of a review and follow-up of Respondent’s time keeping records for 2015, the Office of Executive Inspector General for Agencies of the Illinois Governor (OEIG) identified certain areas of concern. Based on these concerns, OEIG initiated a closer examination of three separately-scheduled, pre-approved Work Away events, held on November 19, 2015, December 3, 2015, and January 12, 2016.<sup>1</sup> Based on OEIG’s direct observation and review of these events:

- a. Respondent was observed at pre-approved work sites for only 46 minutes of her scheduled 7.5 hour day on November 19, 2015, and was at home for the balance of her work day;
- b. Respondent was observed at pre-approved work sites for only 50 minutes of her scheduled 5.0 hour day on December 3, 2015, and was at home for the balance of her work day; and
- c. Respondent was observed at pre-approved work sites for only 2 hours and 20 minutes of her scheduled 7.5 hour day on January 12, 2016, and was at home for the balance of her work day.

4. DHS has a “Telework” policy, under which certain specified Executive Staff positions are permitted, after receiving pre-approval from DHS management, to work away from the office when it is in the best interest of the agency to do so. Respondent’s position is not included in the group of Executive Staff employees permitted to work under the Telework policy, nor did Respondent’s supervisor authorize her to work from home or to participate in the Telework program.

5. OEIG staff interviewed Respondent on June 7, 2016. During the course of that interview, Respondent knowingly made the following statements:

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<sup>1</sup> “Work Away” records are used to document work performed at a location other than an employee’s designated workplace.

- a. when shown copies of her Work Away records for quarterly “individual placement and support” (“IPS”) meetings, indicating her in-person presence at the meetings, Respondent denied falsifying her attendance and Work Away documentation;
- b. Respondent stated that the Call for Help Executive Director, a trainer named “Tanya” LNU, and other program staff members could verify her in-person attendance at various pre-approved Work Away meetings;
- c. Respondent denied that she had ever attended IPS or Call for Help meetings telephonically, and challenged the credibility of the Executive Director, referenced above in Paragraph 5(b), who claimed that he had never seen Respondent at any of the meetings;
- d. Respondent claimed that she was spending so much time at Call for Help because there were a lot of problems at the site that required her to provide program assistance;
- e. Respondent explained the absence of her signature on various Work Away event sign-in sheets, including those at DMH offices, by stating that she was not “required” to sign the remote site attendance lists, so she did not;
- f. when asked whether she had ever falsified a Work Away Record, representing that she was on work away status but was actually at home, Respondent stated, “No;” and
- g. when asked whether she had ever misrepresented her attendance at a Work Away event, she responded, “Absolutely not.”

#### CONCLUSIONS OF LAW

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

2. As a State employee, 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.*

3. 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).

4. Respondent violated Section 50-5(e) of the Ethics Act when she intentionally obstructed or interfered with an investigation of the EIG, pursuant to the Ethics Act, by

answering falsely several questions during interviews and in written submissions to the EIG thereafter. 5 ILCS 430/50-5(e).

5. Specifically, Respondent violated Section 50-5(e) when she knowingly made false and materially misleading statements and intentional omissions during an interview conducted by OEIG, including but not limited to the following:

- a. when shown copies of her Work Away records for quarterly “individual placement and support” (“IPS”) meetings, indicating her in-person presence at the meetings, Respondent denied falsifying her attendance and Work Away documentation;
- b. Respondent stated that the Call for Help Executive Director, a trainer named “Tanya” LNU, and other program staff members could verify her in-person attendance at various pre-approved Work Away meetings;
- c. Respondent denied that she had ever attended IPS or Call for Help meetings telephonically, and challenged the credibility of the Executive Director, referenced above in Paragraph 5(b), who claimed that he had never seen Respondent at any of the meetings;
- d. Respondent claimed that she was spending so much time at Call for Help because there were a lot of problems at the site that required her to provide program assistance;
- e. Respondent explained the absence of her signature on various Work Away event sign-in sheets, including those at DMH offices, by stating that she was not “required” to sign the remote site attendance lists, so she did not;
- f. when asked whether she had ever falsified a Work Away Record, representing that she was on work away status but was actually at home, Respondent stated, “No;” and
- g. when asked whether she had ever misrepresented her attendance at a Work Away event, she responded, “Absolutely not.”

#### 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. Ill. Commerce Comm’n*, 309 Ill. App. 3d 163, 177, 242 Ill. Dec. 892, 903 (1999); *Cano v. Vill. of Dolton*, 250 Ill. App. 3d 130, 138, 189 Ill. Dec. 883, 620 N.E.2d 1200 (1993). 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.

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

In determining whether a genuine issue as to any material fact exists, the Commission 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 matter. 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. N. Ill. Gas Co.*, 211 Ill.2d 32, 43, 284 Ill. Dec. 302, 310 (2004).

### ANALYSIS

Respondent stipulated to a series of facts from which the Commission concludes she intentionally obstructed and interfered with, an investigation of the Executive Inspector General in violation of the State Officials and Employees Ethics Act (5 ILCS 430/5-15(a)).

Consequently, the Commission may levy an administrative fine of up to \$5,000 against Respondent for each of his violations of the Ethics Act. 5 ILCS 430/50-5(a). Respondent was afforded an opportunity to submit a statement of mitigating factors.

The Ethics Act does not provide any guidance for the Commission to consider when levying a fine. The Commission has, however, adopted rules, found at 2 ILL. ADMIN. CODE 1620.530(b), that outline fourteen aggravating and mitigating factors the Commission may consider in assessing an appropriate fine. In relevant part, these factors include: the nature of the violation; the extent of the use of resources, money, time to the State; the extent of the Respondent’s intent or knowledge of the facts surrounding the violation; and Respondent’s cooperation in the matter. 2 ILL. ADMIN. CODE 1620.530(b)(1), (4), (5) and (11).

WHEREFORE, for the foregoing reasons, Petitioner’s motion for summary judgment is granted. The Commission levies an administrative fine of \$500.00 against Respondent, Tiffany Lacy-Clark, for violation of 5 ILCS 430/50-5(e). This is a final administrative decision subject to the Administrative Review Law.

ENTERED: August 16, 2018