

IN THE EXECUTIVE ETHICS COMMISSION  
OF THE STATE OF ILLINOIS

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EXECUTIVE  
ETHICS COMMISSION

RICARDO MEZA, in his capacity as )  
EXECUTIVE INSPECTOR GENERAL for )  
AGENCIES OF THE GOVERNOR, State )  
Of Illinois, )  
Petitioner, )  
v. )  
DAVID B. FOREMAN, )  
Respondent. )

No. 10-EEC-012

DECISION

This cause is before the Administrative Law Judge following a stipulation by the parties. The parties filed a stipulation on December 10, 2010 and have agreed to file briefs in lieu of an evidentiary hearing.

Petitioner is represented by Assistant Attorney General Joanna Belle Gunderson. Respondent is represented by Colleen Lawless.

Petitioner filed the present complaint on March 2, 2010. An affidavit of service indicates that respondent was served on March 17, 2010. Respondent filed an objection on April 19, 2010, and the Commission determined that the complaint was sufficient to proceed on May 19, 2010. Petitioner filed a verified amended complaint on June 17, 2010 and respondent filed a verified answer and objection on July 19, 2010. The Commission determined that the verified amended complaint was sufficient to proceed on August 18, 2010.

On December 18, 2010, the parties entered a stipulation of facts and both parties have submitted briefs.

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:

1. Respondent David Foreman served as State Fire Marshal from February 2006 through August 31, 2009.
2. In October of 2008, respondent received two tickets to a charity golf outing sponsored by the International Union of Elevator Constructors Local #2

- ("Union"). Respondent played golf at this outing with his brother, but did not pay for the tickets, which were available to the public for a fee of \$110 per ticket.
3. Respondent had participated in the annual golf outing in 2004 and 2007 without paying a fee, based on his longstanding relationship with the union. Respondent previously served as President of the Associated Firefighters of Illinois.
  4. For the 2008 golf outing, some individuals had purchased tickets, but cancelled their attendance. These tickets were made available to respondent without payment of a fee.
  5. The Union funds the Elevator Industry Work Preservation Fund. Also, the elevator industry conducts activities that are regulated by the Office of the Illinois State Fire Marshal.
  6. On or about January 22, 2009, respondent wrote a check to Local Charity #2 Golf Outing in the amount of \$290.00 after he realized that he violated the Act.
  7. Respondent admits that he violated Section 10-10 (Gift Ban) of the State Officials and Employees Ethics Act (5 ILCS 430/10-10) when he accepted from the Union two tickets to the Union's 2008 golf outing without being required to pay the \$110 per ticket fee.

#### CONCLUSIONS OF LAW

1. Respondent David Foreman was at all times relevant to this complaint a State employee, as "employee" is defined in the State Officials and Employees Ethics Act ("Act") to include regular employees and appointees. 5 ILCS 430/1-5.
2. The Executive Ethics Commission has jurisdiction over respondent in the matter of his alleged violation of Section 10-10 (Gift Ban) of the Act (5 ILCS 430/10-10).
3. In October 2008, the International Union of Elevator Constructors Local #2 was a prohibited source with respect to respondent because it had interests that may be substantially affected by the performance of respondent's official duties.
4. Respondent violated Section 10-10 of the Act when he accepted two tickets to the 2008 Local Charity #2 golf outing without paying for them.
5. The complaint in this matter was timely filed.
6. The Executive Ethics Commission may levy an administrative fine of up to \$5,000 against a person who violates the Act. 5 ILCS 430/50-5(e).

## ANALYSIS

In October 2008, respondent David Foreman violated Section 10-10 of the State Officials and Employees Ethics Act (5 ILCS 430/10-10) when he accepted tickets for a golf outing from a union that had interests that may be substantially affected by the performance of respondent's official duties. Respondent has stipulated to this violation.

It appears that respondent recognized too late that it was improper for him to accept free tickets to this golf outing. Writing a check approximately three months after the outing and after an investigation had begun does not excuse the violation, but the Commission will take that into consideration when determining an appropriate fine.

Considering all relevant facts, including respondent's stipulation and cooperation in this administrative action, the Commission sets an administrative fine of \$250. 5 ILCS 430/50-5(e).

WHEREFORE, for the foregoing reasons, the Commission finds that David Foreman violated Section 10-10 of the State Officials and Employees Ethics Act (5 ILCS 430/10-10).

IT IS FURTHER ORDERED that an administrative fine of \$250.00 is levied against respondent David Foreman in accordance with his violation of Section 50-5(e) of the State Officials and Employees Ethics Act (5 ILCS 430/50-5(e)).

This is a final administrative decision and subject to the Administrative Review Law.

SO ORDERED.