

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

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MAY 19 2010

JAMES A. WRIGHT, in his capacity as)
EXECUTIVE INSPECTOR GENERAL for)
AGENCIES OF THE GOVERNOR, State)
Of Illinois,)
Petitioner,)
v.)
MICHAEL A. HOLMES,)
Respondent.)

EXECUTIVE
ETHICS COMMISSION

No. 10-EEC-001

DECISION

This cause is before the Executive Ethics Commission (“Commission”) upon a stipulation of the parties. This decision will also serve as the Commission’s final administrative decision in this matter.

Petitioner filed a petition for leave to file complaint (“petition”) and verified complaint with the Commission on July 23, 2009. Respondent was served on August 5, 2009 and filed objections to the petition and a memorandum in support of the objections on September 1, 2009. On September 23, 2008, the Commission directed petitioner to respond to respondent’s objections and/or file an amended complaint within thirty days. Petitioner filed an amended complaint and response on October 23, 2009, to which respondent filed objections on December 10, 2009.

On December 29, 2009, the Commission entered an order deeming the amended complaint sufficient and setting the matter for an evidentiary hearing. On March 4, 2010, the parties filed a joint stipulation in which respondent admitted one violation of Section 5-15(a) of the State Officials and Employees Ethics Act, 5 ILCS 430/5-15(a), and all other allegations of wrongdoing were withdrawn by petitioner. Both parties have filed briefs on the appropriate penalty to be imposed, if any.

Petitioner is represented by Assistant Attorney General Thomas Klein. Respondent is represented by Jeffrey M. Lerner.

FINDINGS OF FACT

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

1. Respondent Michael A. Holmes began employment with the Illinois Department of Human Services (DHS) since July 2008, and currently serves as Associate Director of the Division of Community Health and Prevention.

2. On January 29, 2008, respondent sent an email from his personal email account with the subject line "Why I Support Brookins and Obama" to dozens of recipients, including his own State email account and the State email accounts of at least four other State employees.
3. This email was written by or on behalf of Congressman Danny Davis and details why the Congressman planned to vote for Howard J. Brookins, Jr. for Cook County State's Attorney and Barack Obama for President in the upcoming primary elections.
4. Respondent has volunteered for Congressman Davis for at least ten years and is the chairman of a task force on youth and child development created by Davis.

CONCLUSIONS OF LAW

1. Respondent Michael A. Holmes was at all times relevant to this matter 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 misappropriation of State property or resources to engage in prohibited political activity. 5 ILCS 430/5-15(a).
3. "Prohibited political activity" means, among other things, "(12) Campaigning for any elective office or for or against any referendum in question." 5 ILCS 430/1-5.
4. "Campaign for elective office" is defined as "any activity in furtherance of an effort to influence the selection, nomination, election or appointment of any individual to any federal, State, or local public office..." 5 ILCS 430/1-5.
5. On January 29, 2008 respondent Michael A. Holmes intentionally misappropriated State property or resources to engage in prohibited political activity by sending an email in furtherance of the election of Howard Brookins, Jr. and Barack Obama.
6. Respondent has violated Section 5-15(a) of the State Officials and Employees Ethics Act. 5 ILCS 430/5-15(a).
7. The Executive Ethics Commission may levy an administrative fine of up to \$5,000 for a violation of the State Officials and Employees Ethics Act. 5 ILCS 430/50-5(e).

ANALYSIS

On January 29, 2008, Michael A. Holmes sent an email in support of the election of Howard Brookins, Jr. and Barack Obama. This email was sent to his own State email account as well as

the State email accounts of four other State employees. Respondent admits this violated Section 5-15(a) of the State Officials and Employees Ethics Act. 5 ILCS 430/5-15(a). In light of this admission, the question before the Commission is what penalty, if any, is appropriate in this matter.

As an associate director, respondent occupies a position of leadership at DHS and should be held to a high standard. On the other hand, his offense consists of a single email. The mass email was sent to dozens of recipients, but to the State email accounts of only four of these recipients. There is no evidence that respondent's activity was part of a larger scheme to engage in prohibited political activity. Furthermore, respondent appears to have cooperated in the investigation and has stipulated to the violation.

CONCLUSION

WHEREFORE, for the foregoing reasons, the Commission finds that respondent Michael A. Holmes violated Section 5-15(a) of the State Officials and Employees Ethics Act. (5 ILCS 430/5-15(a)).

IT IS FURTHER ORDERED that an administrative fine of \$250.00 is levied against respondent Michael A. Holmes in accordance with his violation of Section 5-15(a) of the State Officials and Employees Ethics Act (5 ILCS 430/5-15(a)).

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

ENTERED: May 19, 2010