

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

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

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EXECUTIVE
ETHICS COMMISSION

No. 10-EEC-010

DECISION

This cause is before the Commission following an evidentiary hearing conducted on August 2, 2010. The parties agreed to waive the filing of post trial briefs.

Petitioner is represented by Assistant Attorney General Thomas H. Klein and respondent appears pro se.

FINDINGS OF FACT

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

1. Respondent Sylvester Hartigan has been employed by the Illinois Department of Transportation (IDOT) since August 2007. (Tr. 7).
2. Respondent was running for Mayor of the Village of North Riverside, Illinois on December 17, 2008, when, after work and on his way home, he drove an IDOT vehicle to the village office. (Tr. 7-8).
3. Barbara Heinrich has been employed by the Village of North Riverside since November of 2007. She usually sits at the front counter of the village office. (Tr. 21).
4. On December 17, 2008 Ms. Heinrich was asked by the then-mayor Richard Scheck to note what time respondent Hartigan came into the village offices. (Tr. 34). Later, Scheck asked Heinrich to draft a memo indicating what time Hartigan came into the village offices and the documents that she gave to him. (Tr. 22).

5. Heinrich's memo indicates that Hartigan arrived at the village offices at 3:10 p.m. on December 17, 2008 in an IDOT vehicle. The memo also indicates that Hartigan picked up an application for building permit, zoning ordinances regarding signs, and occupancy regulations and inspections. (Petitioner's exhibit 4).
6. On cross examination, Heinrich acknowledged that she may have handed Hartigan these documents in a white envelope. The documents were left for her by the building department and the village administrator told her what was in the packet. (Tr. 28-32).
7. Heinrich testified that Hartigan's campaign office had a sign or banner that required a city permit and he had no permit. (Tr. 24). Petitioner's exhibit 1 is the application an entity would use to obtain a permit to place a sign on a building. (Tr. 27). Petitioner's exhibit 3 is the section of the city code governing signage. (Tr. 27).
8. Respondent owns two residences in the Village of North Riverside. (Tr. 9). Respondent suggests that the documents he received from the village offices on December 17, 2008 might be related to the placement of awnings on his homes. (Tr. 15). Respondent has not placed awnings on his home since at least 2005. (Tr. 16).
9. Respondent's residence is very close to the village offices. (Tr. 45). Per Map Quest, respondent's route from his workplace to his home versus his workplace and village hall is a deviation of approximately one minute. (Tr. 61).
10. Respondent received a reprimand from IDOT related to this matter. (Tr. 18).

CONCLUSIONS OF LAW

1. Respondent Sylvester Hartigan 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 respondents in the matters 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 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. Petitioner has proven by a preponderance of the evidence that on December 17, 2008, respondent Sylvester Hartigan intentionally misappropriated State property or resources by driving an IDOT vehicle to the North Riverside Village offices in order to obtain documents related to his campaign for Mayor of North Riverside.
6. Respondent Sylvester Hartigan 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 December 17, 2008, Sylvester Hartigan drove his IDOT vehicle to the North Riverside village offices on his way home after work. Rules concerning the use of IDOT vehicles contemplate very limited personal use of the vehicles. The issue before the Commission is whether the vehicle was intentionally misappropriated for prohibited political activity.

Based upon the testimony and evidence submitted at the hearing, petitioner has demonstrated by a preponderance of the evidence that Hartigan drove his IDOT vehicle to the North Riverside Village offices in order to obtain documents related to his campaign for Mayor of North Riverside.

The Commission is concerned about two aspects of this matter. First, it appears that officials at North Riverside city offices anticipated Hartigan's violation of the Ethics Act. Testimony suggests that Hartigan requested documents from village offices and indicated that he would pick them up after work. Village officials told staff in advance to record the time Hartigan arrived and the documents he obtained. Testimony further suggests that Hartigan and village officials considered themselves political rivals. The Ethics Act should not be used to obtain an advantage over a political rival.

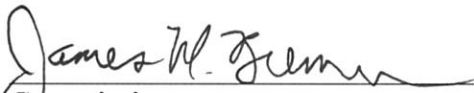
Second, the nature of this violation is de minimis. Although the Ethics Act contains no exception for de minimis violations, petitioner might consider whether the amount of resources dedicated to this matter was appropriate.

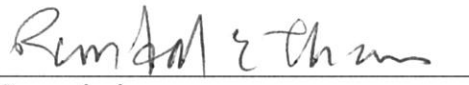
WHEREFORE, for the foregoing reasons, the Commission finds that respondent Sylvester Hartigan violated Section 5-15(a) of the State Officials and Employees Ethics Act (5 ILCS 430/5-15(a)).


IT IS FURTHER ORDERED that an administrative fine of \$100.00 is levied against respondent Sylvester Hartigan 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.

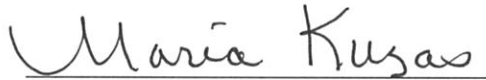
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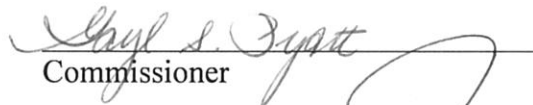

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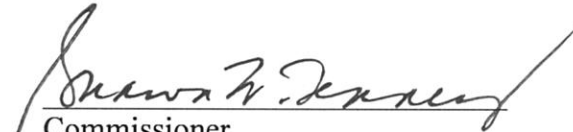

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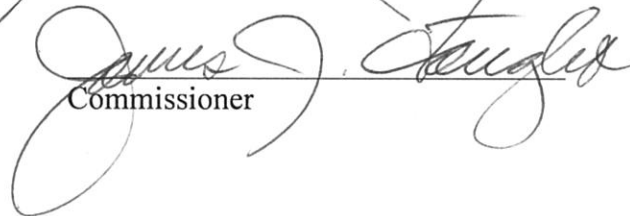

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