

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.)
JESUS MARTINEZ,)
Respondent.)

No. 10-EEC-015

DECISION

This cause is before the Commission following a stipulation by the parties. The parties filed a stipulation on September 17, 2010 and have agreed to waive the evidentiary hearing. The Administrative Law Judge's order of July 28, 2010 provided that parties may file briefs and should notify the Commission and the other party if they intended to file a brief. Neither party has filed a brief, nor indicated a desire to file a brief.

Petitioner filed a verified complaint with the Commission on April 13, 2010. Respondent filed no objections to the petition, and on July 15, 2010, the Commission determined that the complaint was sufficient to proceed.

Petitioner is represented by Assistant Attorney General Joanna Belle Gunderson. Respondent is represented by Kevin Rogers.

FINDINGS OF FACT

A complete copy of 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 Jesus Martinez has been employed by the Illinois Capital Development Board (CDB) since 2008. He is currently the administrator of the Division of Fair Practices.
2. During the relevant timeframe, while employed by CDB, Respondent was a candidate for Mayor of Melrose Park and was also serving on the Proviso Township Board of Trustees.

3. On February 9, 2009, respondent called in sick and took a compensated sick day. That same day respondent attended a 10 a.m. meeting of the Melrose Park Municipal Officers Electoral Board for a hearing as to whether he would be allowed to be a candidate for Mayor of Melrose Park.
4. On February 19, 2009, respondent did not seek or take any vacation, personal or compensatory time, yet he attended an 11 a.m. meeting of the Melrose Park Municipal Officers Electoral Board for oral argument as to whether he would be allowed to be a candidate for Mayor of Melrose Park.
5. On February 23, 2009, respondent did not seek or take any vacation, personal or compensatory time, yet he attended a 9 a.m. meeting of the Melrose Park Municipal Officers Electoral Board for hearings as to whether he would be allowed to be a candidate for Mayor of Melrose Park.
6. On February 25, 2009, respondent did not seek or take any vacation, personal or compensatory time, yet he attended an 8:30 a.m. meeting of the Melrose Park Municipal Officers Electoral Board for a decision as to whether he would be allowed to be a candidate for Mayor of Melrose Park.
7. On March 4, 2009, respondent called in sick and took a compensated sick day. That same day at 1:57 p.m., respondent filed a resolution concerning the filling of a vacancy with the Clerk for the Village of Melrose Park.
8. Respondent received a 30-day suspension from his employer as a result of the allegations contained in the complaint.
9. This 30-day suspension resulted in a \$5,200 loss of respondent's salary, and \$526.32 in additional out-of-pocket loss of insurance premiums.

CONCLUSIONS OF LAW

1. Respondent Jesus Martinez 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 intentional performance of prohibited political activity during any compensated time. 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. "Prohibited political activity" also means "(1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event." 5 ILCS 430/1-5.
6. Respondent violated Section 5-15(a) of the State Officials and Employees Ethics Act when on February 9 he called in sick and took a compensated sick day. That same day respondent attended a 10 a.m. meeting of the Melrose Park Municipal Officers Electoral Board for a hearing as to whether he would be allowed to be a candidate for Mayor of Melrose Park. 5 ILCS 430/5-15(a).
7. Respondent violated Section 5-15(a) of the State Officials and Employees Ethics Act when on February 19, 2009, he did not seek or take any vacation, personal or compensatory time, yet he attended an 11 a.m. meeting of the Melrose Park Municipal Officers Electoral Board for oral argument as to whether he would be allowed to be a candidate for Mayor of Melrose Park. 5 ILCS 430/5-15(a).
8. Respondent violated Section 5-15(a) of the State Officials and Employees Ethics Act when on February 25, 2009, he did not seek or take any vacation, personal or compensatory time, yet he attended an 8:30 a.m. meeting of the Melrose Park Municipal Officers Electoral Board for a decision as to whether he would be allowed to be a candidate for Mayor of Melrose Park. 5 ILCS 430/5-15(a).
9. Respondent violated Section 5-15(a) of the State Officials and Employees Ethics Act when on March 4, 2009, he called in sick and took a compensated sick day. That same day at 1:57 p.m., respondent filed a resolution concerning the filling of a vacancy with the Clerk for the Village of Melrose Park. 5 ILCS 430/5-15(a).
10. Respondent cooperated fully with the investigation conducted by the Executive Inspector General, including his voluntary submission to an interview in which he truthfully admitted all of the relevant facts regarding this matter.
11. The complaint in this matter was timely filed.
12. 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

Respondent Jesus Martinez repeatedly violated Section 5-15(a) of the State Officials and Employees Ethics Act (5 ILCS 430/5-15(a)) while he was a candidate for Mayor of Melrose Park. The violations involved Martinez spending a considerable amount of time away from his duties at the Capital Development Board. The repeated violations were not inadvertent or insignificant. In the absence of other relevant factors, the Commission would impose a very severe penalty.

In the present case, however, two factors support the imposition of a less severe penalty. First, Martinez has stipulated to violations and thus saved the State the time and expense of conducting an evidentiary hearing. Second, respondent has received a 30-day suspension from the agency, which has resulted in his loss of \$5,200 in gross salary, plus insurance and retirement benefits during the period of suspension. Given these factors, the Commission will levy an administrative fine of \$500.

WHEREFORE, for the foregoing reasons, the Commission finds that respondent Jesus Martinez 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 \$500.00 is levied against respondent Jesus Martinez 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.