

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MICHAEL L. SHAKMAN, et al.,)	
)	
Plaintiffs,)	
)	Case Number: 69 C 2145
v.)	
)	Magistrate Judge Schenkier
COOK COUNTY RECORDER OF)	
DEEDS, et al.,)	
)	
Defendants.)	

**INITIAL REPORT OF THE *SHAKMAN* COMPLIANCE ADMINISTRATOR
FOR THE COOK COUNTY RECORDER OF DEEDS**

Cardelle B. Spangler, *Shakman* Compliance Administrator for the Cook County Recorder of Deeds, by and through her attorney, Helen Burke, pursuant to Art. I.B. of the Supplement Relief Order for the Cook County Recorder of Deeds submits this Initial Report as follows:

I. Introduction

On September 14, 2010, with the agreement of Plaintiffs and the Cook County Recorder of Deeds (“Recorder”), this Court entered an order entitled “Supplemental Relief Order for the Cook County Recorder of Deeds”, Dkt No. 69-CV-2145 (“SRO”). The SRO resolved issues related to Plaintiffs’ May 25, 2007 “Application to Hold Cook County Recorder of Deeds and Certain Named Individuals in Civil Contempt for Violation of Court Order” (“Contempt Application”) for violations of the Recorder’s 1992 Consent Decree which, *inter alia*, prohibited the Recorder from “conditioning, basing or knowingly prejudicing or affecting any term or

aspect of Governmental Employment including, without limitation, hiring, promotion, demotion, transfer and discharge (other than for Exempt Positions), upon or because of any political reason or factor.” SRO at 1 (quoting 1992 Consent Decree).

In order to ensure the Recorder’s future compliance with the 1992 Consent Decree and the SRO, the Court appointed Cardelle B. Spangler as Recorder Compliance Administrator (“RCA”)¹ effective September 14, 2010. Section IB of the SRO requires the RCA to file this Initial Report with the Court recommending: (i) additional powers the RCA should be given to carry out the RCA’s duties, (ii) appropriate staff for the RCA, and (iii) mechanisms for ensuring employment actions are in compliance with the orders of this Court in this case. Also included in this Report are updates on progress made by the RCA in her first two months of operations.

II. Current and Recommended Additional Powers for the RCA

Subject to supervision and order of the Court, the SRO provides the RCA with the power to study and investigate the Recorder’s existing employment practices, policies and procedures for hiring, promotion, transfer, discipline and discharge and to ensure the Recorder’s compliance with the 1992 Consent Decree and the SRO.

The RCA’s powers as currently contemplated under the terms of the SRO adequately have enabled her to begin performing her duties such as setting up her office by obtaining necessary equipment and engaging appropriate staff; having access to the Recorder and Recorder employees including senior staff; reviewing employment procedures by monitoring employment actions in real time; requesting, receiving and/or reviewing relevant documents and/or facilities; conducting training; initiating discussions regarding an online application

¹ “RCA” hereinafter shall refer to the Recorder Compliance Administrator and/or her staff.

tracking system; beginning the Pre-SRO claims process; and meeting with Class Counsel to discuss progress made thus far.² At this early stage of the process, the RCA does not believe she needs additional powers. She, however, respectfully reserves the right to seek additional powers from the Court should circumstances warrant.

III. Current and Recommended Additional Staff for the RCA

Upon her appointment as the Recorder Compliance Administrator, the RCA engaged a small, but experienced, staff³ including (1) an Attorney who represents and advises the RCA on legal and other matters, (2) a Deputy Compliance Administrator who provides advice and counsel and oversees many of the day-to-day responsibilities, (3) a Monitor/Investigator who monitors employment actions and assists with investigations; (4) an Administrative Assistant who handles administrative functions for the office; and (5) a Bookkeeper who handles financial matters including billing and invoices. With the exception of the Administrative Assistant (who has extensive administrative experience), each of these staff members has significant experience in the same or similar role with other *Shakman* Compliance Administrators. The RCA expects that their familiarity with the general issues attendant to such investigations will allow her to fulfill her duties as efficiently as possible. All members of the RCA's staff have signed Confidentiality Agreements per Art. I.F. of the SRO.

² The RCA also set up a website that went live on September 16, 2010. The website provides information to the general public including, among other things, background information on the history of the *Shakman* case, the Pre-SRO and Post-SRO Claims processes, and an electronic anonymous hotline to the RCA. All relevant forms for filing claims of unlawful political discrimination as well as Opt-Out forms are available on the RCA's website as required by Article IV.D.4. of the SRO. The RCA will post all reports to the Court on the website and, to the extent practicable and appropriate, will provide updates on the website to keep the public aware of progress made.

³ As used herein, the term "staff" includes employees and/or independent contractors.

The RCA recommends adding to her staff at least one more Investigator as she begins scheduling and performing Desk Audits and interviews of Recorder employees and as the Pre-SRO Claim filing deadline approaches. Additional staff may be needed as the investigation progresses. The RCA has agreed to advise Recorder's Counsel if she requires additional resources.

IV. Recommended Mechanisms for Ensuring Employment Actions are in Compliance with the Orders of this Court

The SRO provides the RCA with a number of mechanisms for ensuring employment actions are in compliance with 1992 Consent Decree and the SRO including (1) training Recorder employees on *Shakman* issues; (2) assisting in establishing a new Employment Plan; (3) reviewing current employment procedures including monitoring employment actions; (4) aiding in establishing a "train the trainer program" to educate and train supervisors and employees on nonpolitical hiring practices; (5) overseeing the implementation of an online Application Tracking System; and (6) obtaining a new list of *Shakman* exempt positions and making recommendations to the Court as to how to resolve issues regarding *Shakman* exempt positions. The RCA will recommend and report upon proposed additional mechanisms for ensuring future compliance with this Court's orders as she gains more familiarity with the Recorder's office.

The Recorder's office has provided the RCA with some initial information relating to its operations, personnel and employment procedures. In September 2010, the Recorder, Chief Deputy Recorder and another member of the Recorder's senior staff met with the RCA and gave an overview of the functions of the office. Shortly thereafter, the Recorder designated two employees to serve as the Recorder's Liaisons to ensure the RCA receives cooperation from all Recorder employees. See SRO, Art. I.E. The Liaisons began regularly

meeting with the RCA's Deputy Compliance Administrator, providing the RCA with requested documents and information, notifying the RCA of certain impending employment actions, arranging for monitoring of those employment actions, and organizing the RCA's *Shakman* trainings discussed further below.⁴ The Chief Deputy Recorder also took the RCA on a tour of the Recorder's main office in downtown Chicago and offered to arrange for a tour of the various satellite offices at the RCA's convenience. The RCA looks forward to continued cooperation from the Recorder and his staff.

A. Monitoring, Training and Desk Audits

Monitoring. The SRO provides that the RCA, the Recorder and Plaintiffs may begin to negotiate a New Employment Plan after the RCA has had at least three months of "active monitoring." SRO at Art. II.C. Since September 14, 2010, the RCA has monitored interviews and reviewed documents for two external hires, reviewed documents for two internal promotions, and monitored portions of two cross-trainings and fourteen disciplinary hearings. After monitoring these employment actions, the RCA requested from the Recorder documents and information specifically related to the internal promotions and external hires. The RCA also requested that the Recorder refrain from finalizing or otherwise acting upon the internal promotions and external hires pending further discussion with the RCA after her receipt of the requested information.⁵ The Recorder agreed. The RCA looks forward to monitoring more

⁴ The RCA has issued to the Recorder three sets of formal document requests and several informal requests for documents and information since September 14, 2010. The Recorder's office has responded to most of these requests. The RCA looks forward to receiving complete responses to the remaining requests as soon as possible.

⁵ The RCA anticipates receiving the remainder of the documents and information requested in connection with these employment actions after entry of an appropriate protective order by the Court.

employment actions in the coming months to develop a deeper understanding of the Recorder's employment procedures so as to begin negotiating the New Employment Plan.

Training. On November 4 and November 9, 2010, the RCA conducted training on *Shakman* principles for nearly all of the Recorder's senior staff. The training materials, which were approved by the Recorder's Counsel, will be posted on the RCA's website in the coming weeks. The RCA anticipates completing *Shakman* training for all remaining Recorder employees by the end of November 2010.

Desk Audits. In the coming weeks, the RCA also will begin conducting Desk Audits of Recorder employees to gain a better understanding of the organizational, operational and personnel structure of the office. The RCA has provided the Recorder with the preliminary list of employees she intends to audit and looks forward to the Recorder Liaisons assisting with scheduling.

V. Claims of Unlawful Political Discrimination

The SRO outlines two classes of potential claimants: (1) those claiming the Recorder discriminated against them on the basis of political reasons or factors from May 25, 2005 to September 13, 2010 (the "Pre-SRO claimants") and (2) those claiming the Recorder discriminated against them on the basis of political reasons or factors on or after September 14, 2010 (the "Post-SRO claimants"). The Post-SRO claimants include any individual who claims the Recorder has retaliated against him or her for either filing a claim or reporting unlawful political discrimination.

The RCA has been working with the Recorder's Office and Counsel to ensure that proper notice has been given to all potential claimants under the SRO. Since the RCA's appointment, the Recorder forwarded the Notice of Hearing on Approval of Supplemental Relief Order for the Cook County Recorder of Deeds, the SRO Claim Procedures, the SRO Form, the

Opt-Out Procedures and the Opt-Out Form to all current employees. The Recorder also published a Notice in the Chicago Tribune and the Sun Times advising potential claimants of the SRO procedure. The RCA recognizes that providing notice to all potential claimants is a vital part of guaranteeing a fair claims process. Accordingly, the RCA conducted research to locate as many of the 71 former Recorder employees whose notices from the Recorder's Office were returned because of outdated addresses. The RCA hopes that through the above efforts all potential claimants can be informed of their rights under the SRO.

As of the date of this filing, the RCA has received claims from several Pre-SRO claimants. The deadline for submission of Pre-SRO Claim Forms is January 12, 2011. The RCA is in the process of reviewing Pre-SRO claims for completeness, accuracy, timeliness and eligibility for relief, and will begin investigating them in the coming weeks. Once an appropriate protective order is entered by the Court, the RCA also will provide the Recorder's with a copy of the Pre-SRO Claim Forms pursuant to Art. IV.D.3. of the SRO. The RCA acknowledges the cooperation of students at The University of Chicago School of Law, Mandel Legal Clinic, for their pro bono assistance in helping Pre-SRO claimants with the preparation of their claim forms.

The SRO assigns the Office of the Independent Inspector General ("OIIG") with the task of investigating claims of unlawful political discrimination that occurred on or after September 14, 2010. SRO at Art. V. The RCA appreciates that issues that arise in the Pre-SRO Claims investigation and adjudication may overlap with those the OIIG encounters when investigating Post-SRO Claims. To establish a dialogue with the OIIG at the outset, the RCA met with a representative from the OIIG's office to discuss how the RCA and OIIG can work together to ensure all duties in the SRO are performed efficiently. The RCA looks forward to future collaboration with the OIIG.

VI. Conclusion

Since September 14, 2010, the RCA has opened and staffed an office, retained a competent and experienced staff, created a claims adjudication procedure, commenced training the Recorder's staff on *Shakman* issues, started monitoring employment actions and reviewing employment policies and procedures, and established a positive working relationship with the litigants and counsel. This has been done consistent with the RCA's commitment to perform all assigned duties thoroughly, fairly, efficiently, and reasonably. The RCA thanks the Court for its continued oversight and counsel for their cooperation to date.

Respectfully submitted,

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