

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

MICHAEL L. SHAKMAN, et al.,)
)
Plaintiffs,) No. 69 C 2145
)
v.) Hon. Ann Claire Williams
)
THE DEMOCRATIC ORGANIZATION)
OF COOK COUNTY, et al.,)
)
Defendants.)

**JUDGMENT ENTERED UPON CONSENT
OF COOK COUNTY RECORDER OF DEEDS**

This Judgment is entered upon the consent of the plaintiffs and defendant Carol Moseley Braun, as Cook County Recorder of Deeds. It is entered to settle all of the plaintiffs' pending claims in this case.

The purpose of this Judgment is to eliminate the conditioning, basing or affecting of employment with the Cook County Recorder of Deeds on or because of political reasons or factors.

NOW, THEREFORE, it is Ordered, Adjudged and Decreed as follows:

A) Jurisdiction. This Court has jurisdiction of the parties to this Judgment and of the subject matter of this action under Sections 1331 and 1343(3) of Title 28 of the United States Code.

B) Definitions. As used in this Judgment (1) the term "Governmental Employment" means any employment (whether full-time or part-time, permanent or temporary, and regardless of whether the

employment is paid for by Federal funds) by or for The County of Cook or any other employment within the Northern District of Illinois by or for any non-federal governmental officer or entity; (2) the terms "Governmental Employee" and "Employee" mean a person employed in Governmental Employment; (3) the term "Exempt Position" means a Governmental Employment job, which is determined to be exempt from the provisions of Paragraphs D through M inclusive, of this Judgment, all as provided in Paragraph N below; (4) the term "Recorder of Deeds" means Carol Moseley Braun, and her successors, in their capacity as Cook County Recorder of Deeds.

C) Persons Bound. The provisions of this Judgment apply to: (1) defendant Carol Moseley Braun, as Recorder of Deeds; (2) her successors as Recorder of Deeds; (3) the present and future officers, members, agents, servants, employees and attorneys of the Recorder of Deeds and others named or referred to in this paragraph; and (4) all others in active concert or participation with the Recorder of Deeds or others named or referred to in this Paragraph who receive actual notice of this Judgment by personal service or otherwise.

D) Declaratory Relief. It is declared that the conditioning, basing, 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 including, without limitation, any Employee or prospective Employee's political affiliation, political support or activity,

political financial contributions, promises of such political support, activity or financial contributions or such Employee or prospective Employee's political sponsorship or recommendation is prohibited.

E) Injunction. The Recorder of Deeds and all others named or referred to in Paragraph C above are permanently enjoined from directly or indirectly, in whole or in part:

(1) 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 including, without limitation, any Employee or prospective Employee's political affiliation, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such Employee or prospective Employee's political sponsorship or recommendation; or

(2) knowingly inducing, aiding, abetting, participating in, cooperating with the commission of any act which is proscribed by this Paragraph E, or threatening to commit any act proscribed by this Paragraph E.

F) Plan of Compliance. The Recorder of Deeds shall, within 120 days from the date this Judgment becomes effective, file

with the Court, with copies to counsel for plaintiffs, a Plan of Compliance to implement this Judgment.

The Plan of Compliance shall set forth in detail a method or methods of hiring to be used for all Governmental Employment positions (other than Exempt Positions) with the Recorder of Deeds. Each such method of hiring shall establish criteria for hiring which shall establish on an objective basis that the method complies with Paragraphs D and E above. The method or methods of hiring set forth in the Plan of Compliance shall be within the discretion of the Recorder of Deeds, as long as the method or methods comply with the requirements of this Judgment.

The Plan of Compliance shall also provide for the instruction of persons having responsibility for hiring and other personnel decisions as to the requirements of this Judgment and the Plan of Compliance. It shall provide for the monitoring of compliance with this Judgment and the Plan of Compliance.

If plaintiffs believe that the Plan of Compliance of the Recorder of Deeds is not in compliance with this Judgment, or is inadequate to ensure compliance with this Judgment, plaintiffs may apply to the Court for further orders to enforce compliance, including directing changes in the Plan of Compliance. Within 180 days of the date this Judgment becomes effective, the Recorder of Deeds shall implement the Plan of Compliance as so filed and as it may be so changed.

The Plan of Compliance may contain provisions providing for the means by which hiring methods may be changed, consistent

with this Judgment, and shall provide for appropriate notice to be given the parties of such proposed changes.

G) Notices of Job Availability. The Recorder of Deeds, and all others named or referred to in Paragraph C above, are permanently enjoined from hiring any person for any Governmental Employment position (except for Exempt Positions and except, as provided below, for emergency hiring) unless prior public notice of the opportunity to apply for and be hired for the job has been given. This requirement shall apply to hiring of persons after a date 60 days after this Judgment becomes effective.

During the period of ten years after this Judgment becomes effective, the method of giving notice shall be as provided by this paragraph, unless an alternative method is approved by the Court. The notice shall be given at least 14 days before the last date for which applications may be submitted for consideration for the job. The notice shall include a description of the nature of the job, the qualifications, the pay, and how and where to apply for the job. The notice shall be given in the following manner:

(1) by prominently posting the notice for inspection by the general public at each place where persons may make application for Governmental Employment with the Recorder of Deeds. (A list of all such available job opportunities with the Recorder of Deeds shall similarly be posted. The list must be updated at least monthly. Copies of the list and of all such

notices shall be provided free of charge to each person who requests a copy in person);

(2) by mailing copies of the list of available job opportunities to each person who shall have requested receiving such notices by mail (The Recorder of Deeds may provide in the Plan of Compliance for a charge to persons requesting notices by mail of a reasonable fee to cover postage costs); and

(3) with respect to positions which are to be filled by promotions, and for which only current Employees of the Recorder of Deeds are eligible, notice need be given only to Employees who are eligible for the promotion.

In lieu of the manner set forth in Subparagraphs G(1) and G(2), notice may be given in the manner required by statute as to any position which is to be filled by the highest ranking applicant on competitive examinations.

A Plan of Compliance may make provision for establishing reasonable limits on the period during which a person shall be entitled to continue to receive by mail notices of job opportunities after having most recently requested the notice.

A Plan of Compliance may make reasonable provisions for hiring persons in exceptional, emergency situations without prior notice having been given as provided in this paragraph. Any such provision shall contain rigorous limitations on the number of persons who may be so hired in a year. The Plan of Compliance

shall also provide for regular reports to the Court of instances in which such emergency hiring was made, setting forth the reasons why it was an emergency situation, including why it was not possible to have made arrangements by which the hiring could have been made upon prior notice.

H) Notice of List of Jobs. The Recorder of Deeds shall cause to be published, at least once each half calendar year for a period of ten years following the date this Judgment becomes effective, in the "help wanted" section of a Chicago daily newspaper having a circulation of greater than 200,000, a prominent notice of the existence and availability of the list described in Subparagraph G(1), stating where the list is available for public inspection, where copies may be obtained in person and how persons may receive copies of the list by mail.

I) Notice to Employees. The Recorder of Deeds shall cause a copy of the Notice which is attached to this Judgment, together with a copy of this Judgment, to be delivered within 30 days of the date this Judgment becomes effective to each Governmental Employee of the Recorder of Deeds.

J) Notice to Job Applicants. The Recorder of Deeds is directed, for a period of ten years following the date this Judgment becomes effective, to cause copies of the Notice referred to in Paragraph I to be delivered to each applicant for Governmental Employment with the Recorder of Deeds. The Notice shall be delivered to each applicant no later than the time the

applicant is furnished a job application for the Governmental Employment position.

K) Posting of Judgment. A copy of this Judgment and a copy of the Notice referred to in Paragraph I shall be prominently posted at each place where persons may make applications for employment with the Recorder of Deeds. Copies of this Judgment and such notice shall remain so posted for a period of ten years following the date this Judgment becomes effective. A notice similarly posted shall state that copies of the notice referred to in Paragraph I and of this Judgment are available to any person who requests them.

L) Affidavits of Compliance. The Recorder of Deeds shall cause to be filed with the Clerk of this Court within 45 days of the date this Judgment becomes effective an affidavit showing compliance with Paragraph I. The Recorder of Deeds shall cause to be filed with the Clerk of this Court prior to the last day of each calendar quarter, beginning with the last quarter of the year in which this Judgment becomes effective and ending ten years after that year, an affidavit showing compliance with Paragraphs G, I, J and K, for the period since the last date covered by the most recent affidavit. Such quarterly affidavits shall list the name and position of all persons hired since the most recent such affidavit by the Recorder of Deeds. The affidavits shall also disclose the name and party position of every person, reasonably known to the Recorder of Deeds to be a political party official, employee or agent, who has recommended or sponsored the employee

for Governmental Employment (except for Exempt Positions). Nothing in this paragraph shall require any person to make any inquiry as to any person's political affiliation.

M) Annual Reports. In each of the years 1993 through 2003, inclusive, the Recorder of Deeds shall file a verified report (prior to April 1 of the year), with copies to all parties to this Judgment, detailing all steps taken in the preceding year to implement the Plan of Compliance referred to in Paragraph F and otherwise to comply with this Judgment and also stating all changes in methods of hiring persons for Governmental Employment made since the last date covered by the last such report or, in the case of the first report, since the date this Judgment becomes effective. The annual report shall be accompanied by an audit of compliance with the provisions of this Judgment for the year, conducted by an independent firm either of public accountants or experts in personnel or management matters, selected and paid for by the Cook County Recorder of Deeds and reasonably acceptable to plaintiffs.

N) Exempt Positions. Each of the positions listed on the attached List of Exempt Positions is an Exempt Position. The Recorder of Deeds may, from time to time, apply to the Court for a change in the List of Exempt Positions. The criteria for determining whether a position should be added to or deleted from the List is whether, because of the degree of policy involvement or confidentiality of such position, political affiliation or activity are appropriate requirements for the effective performance of the Governmental Employment position and therefore that hiring for or

discharge from such position should be exempt from inquiry under this Judgment. However, the inclusion or exclusion of a position on the List shall not be deemed an admission or an acknowledgement by the Recorder of Deeds in any other action or proceeding as to the degree of policy involvement or confidentiality of such position. Should at any time the Recorder of Deeds apply to the Court for an increase in the total number of Exempt Positions above a total of 12 positions, plaintiffs may object to the continuation of any position which is then included in the List as an Exempt Position and, as to those objected to positions, the Recorder of Deeds shall have the burden to establish that the position is properly exempt under the criteria specified in this Paragraph. The determination by the first sentence of this Paragraph of particular positions being exempt shall not be relevant to the issue of continuation of those positions as exempt upon such an application to increase the number of positions above 12. Prior to entry of an order of Court determining a position, other than one in the attached List, to be an Exempt Position, no such position shall be exempt from this Judgment and no action with respect to any such position shall be exempt from inquiry under this Judgment. No person who, while this Judgment is in effect, holds a position which is not exempt, shall be discharged or otherwise disadvantaged or affected in their employment for any political reason or factor, notwithstanding that the position has become an Exempt Position after the person was hired into or placed into that position, unless the person consents in writing to the position becoming an

Exempt Position as to him or her. The Recorder of Deeds shall maintain, and provide copies for employees, of updated Lists of Exempt Positions.

O) Jurisdiction Retained. Jurisdiction is retained for the following purposes:

(1) to enable the parties to this Judgment to apply to this Court for orders determining which Governmental Employment positions are Exempt Positions as provided in Paragraph N;

(2) to enable the parties to this Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Judgment, for the enforcement of compliance with the provisions contained in this Judgment, and for remedy for the violation of any of those provisions. Application to enforce those provisions or to remedy any violation may be presented to this Court by any party, aggrieved employee, aggrieved former employee or aggrieved applicant for employment with the Recorder of Deed's office. Prior written notice of all such applications and other matters in this action shall be given to the named parties to this Judgment;

(3) To enable the parties to this Judgment to apply at any time for modifications to the requirements of Paragraphs E through M of this Judgment, which modifications shall be warranted by good cause and

consistent with or necessary for the implementation of Paragraphs D and E; and

(4) To determine whether provisions of this Judgment which by their terms may expire upon a term of years should be extended for a further period.

(5) To determine the amount of plaintiffs' costs and attorneys' fees. Defendant shall pay plaintiffs' costs and attorneys' fees as so determined by Court order.

P) Effectiveness. The Court expressly finds and determines, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, that there is no just reason for delay. It directs that this Judgment now be entered and be effective upon its entry.

IT IS SO ORDERED

Ann Claire Williams, Judge,
United States District Court

Dated: _____, 1992.

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Cook County Recorder of Deeds
List of Exempt Positions

The following six positions are described primarily in terms of the organizational responsibility of the position. Where the present budget classification of the position differs from the description, it is also shown, but is not the basis on which the determination of exempt status has been made.

1. Deputy Recorder
2. Executive Support: Administrative Assistant to the Recorder
3. Executive Support: Assistant to the Administrative Assistant to the Recorder (Administrative Assistant II)
4. Public Information Officer (Administrative Assistant V)
5. Chief of Security (Administrative Assistant II)
6. Floating Supervisor (Administrative Assistant IV)

IMPORTANT NOTICE

TO: ALL EMPLOYEES OF THE COOK COUNTY RECORDER OF DEEDS
AND TO ALL APPLICANTS FOR JOBS WITH THE RECORDER OF DEEDS

On _____, 1992, a Judgment was entered in the United States District Court for the Northern District of Illinois in the case of Michael L. Shakman, et al. etc. v. The Democratic Organization of Cook County, etc., No. 69 C 2145. A copy of the Judgment is attached. Please read it carefully and abide by all its provisions. Important provisions of the Judgment are summarized below.

Prohibited Activity

The Judgment contains a permanent injunction prohibiting any term or aspect of Government Employment, including, without limitation, hiring, promotion, demotion, transfer and discharge (except for Exempt Positions) with the Cook County Recorder of Deeds from being conditioned or based upon or knowingly prejudiced or affected by any political reason or factor. HIRING AND OTHER JOB DECISIONS MUST NOT BE BASED UPON OR AFFECTED BY THE EMPLOYEE'S OR PROSPECTIVE EMPLOYEE'S POLITICAL AFFILIATION, POLITICAL SUPPORT OR ACTIVITY, POLITICAL FINANCIAL CONTRIBUTION, PROMISES OF SUCH POLITICAL SUPPORT, ACTIVITY OR FINANCIAL CONTRIBUTION. Nor may hiring or other terms or aspects of Governmental Employment be based upon or affected by the employee's or prospective employee's political sponsorship or recommendation.

The Judgment defines "Governmental Employee" as any full or part-time employee within the Northern District of Illinois by The County of Cook or any other non-federal governmental entity.

Applicability

The Judgment applies to the Cook County Recorder of Deeds. It also applies to the agents and employees of the Recorder and to all others who receive notice of the Judgment and who are in active concert or participation with any of those persons.

Violations

VIOLATIONS OF THE JUDGMENT MAY CONSTITUTE CONTEMPT OF COURT AND MAY BE PUNISHABLE BY FINE OR IMPRISONMENT. The Judgment becomes effective upon its entry on _____, 1992. If you know of any violations of the Judgment, you may report them to your job supervisor or to the Recorder of Deeds or you may report them to the Court by letter addressed to the Clerk of the United States District Court, Northern District of Illinois, 219 S. Dearborn Street, Chicago, IL 60604.

Enforcement

Any party or aggrieved employee or applicant for employment with the Office of the Recorder of Deeds is entitled to bring complaints concerning any violations of the Judgment before this United States District Court in accordance with the provisions of Paragraph O of the Judgment.

Any Governmental Employee or prospective Employee seeking to bring an action for the violation of the Judgment must observe a 180-day statute of limitations which was held applicable to such actions in the case of Smith v. City of Chicago, 769 F.2d 408 (7th Cir. 1985).

Exemptions

A number of positions have been exempted from the Judgment and from the prior Judgment in this case. A list of exemptions is attached.

Notices of Job Openings

The Judgment requires that notice and a description of the availability of Governmental Employment positions (other than Exempt Positions) be made public in the following ways:

- (1) By posting the notice at all employment offices of the Recorder of Deeds. A list of all available job opportunities is similarly to be posted. Copies of notices and the list are to be available upon request. The existence and availability of such list is to be publicized semi-annually in a newspaper help wanted section.
- (2) By mailing to any person who requests receiving such notice.

No person may be hired for such a non-exempt position, except in emergency situations, unless notice of the job has been given as specified in the Judgment.

Ann Claire Williams, Judge
United States District Court

Dated: _____