

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

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

**SECOND REPORT OF THE *SHAKMAN* COMPLIANCE ADMINISTRATOR  
FOR THE COOK COUTY 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. III.C. of the Supplemental Relief Order for the Cook County Recorder of Deeds, submits this Second 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. The Contempt Application, 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”)<sup>1</sup> effective September 14, 2010. Pursuant to Art. I.B. of the SRO, the RCA filed her Initial Report to the Court on November 12, 2010 (hereinafter “Initial Report”). The SRO also requires the RCA to “prepare and file reports with the Court on the fifteenth day of April, August, and December providing an update regarding the Recorder’s compliance with the SRO and progress made toward Substantial Compliance.” SRO Art. III.C. The RCA submits this report to provide the Court with such an update detailing activities since her Initial Report.

## **II. Strategic Plan for Substantial Compliance**

To ensure her investigation is efficient and transparent and to increase the likelihood of achieving Substantial Compliance within the timeframe contemplated in the SRO, the RCA drafted and distributed to the parties a “Strategic Plan for the Recorder to Achieve Substantial Compliance with the SRO” (hereinafter “Strategic Plan”). The decision to draft and distribute such a Plan came on the heels of several months of frustration resulting from the Recorder’s<sup>2</sup> seeming reluctance to provide the RCA with proper notice of Employment Actions (*see infra* § II.A.1.), a requirement under the SRO (*see* Art. II.C), as well as the Recorder’s failure to initially provide adequate notice to class members of the Pre-SRO Claims process. *See infra* § III.A.

The RCA discussed the Strategic Plan with Darlena Williams-Burnett, Chief Deputy Recorder, on January 20, 2011; Lisa Meador, Assistant State’s Attorney, and Felix Babatunde,

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

<sup>2</sup> “Recorder” hereinafter shall refer to the Cook County Recorder of Deeds, Eugene Moore, and/or his staff.

Recorder of Deeds' *Shakman* Liaison (hereinafter "Recorder's Liaison"),<sup>3</sup> on February 15, 2011; and Roger Fross and Brian Hays, Class Counsel, on March 2, 2011. The RCA provided each party<sup>4</sup> with a reasonable opportunity to review, revise and object to the Strategic Plan; neither party submitted any revisions to or raised any objections over any part of the Strategic Plan.

The Strategic Plan, while not a checklist, outlines what is necessary for the Recorder to achieve "Substantial Compliance" as defined in the SRO. In order for the RCA to recommend to the Court that the Recorder is in Substantial Compliance with the terms of the SRO, she must find:

- 1) the Recorder has implemented the New Employment Plan, including procedures to ensure compliance with the New Plan and identify instances of non-compliance;
- 2) the Recorder has acted in good faith to remedy instances of non-compliance that have been identified, and prevent a recurrence;
- 3) the Recorder does not have a policy, custom or practice of making employment decisions based on political factors except for Exempt Positions;
- 4) the absence of material noncompliance which frustrates the Recorder's Consent Decrees and the SRO's essential purpose. The RCA and the Court may consider the number of post-SRO complaints that have been found to be valid. However, technical violations or isolated incidents of noncompliance shall not be a basis for a finding that the Recorder is not in substantial compliance; and
- 5) the Recorder has implemented procedures that will effect long-term prevention of the use of impermissible political considerations in connection with employment with the Recorder.

SRO Art. III.F.8.<sup>5</sup> The RCA drafted the Strategic Plan with the above definition in mind to ensure that the completion of each item is tied to at least one of the above criteria. Timelines

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<sup>3</sup> In her Initial Report, the RCA noted that the Recorder had appointed two Liaisons to satisfy Art. I.E. of the SRO. Initial Report at 4. After filing the Initial Report, the RCA received a number of complaints from current Recorder employees about the ability of the original Liaisons to serve effectively in that role. The RCA voiced those concerns to the Recorder who promptly replaced them with Felix Babatunde, Assistant to the County Recorder and Travis Cook, Legal Assistant. Mr. Cook resigned from the Recorder's Office in December 2010. Mr. Babatunde currently is the Recorder's only *Shakman* Liaison.

<sup>4</sup> The term "party" is defined as plaintiff or defendant.

<sup>5</sup> The ultimate decision on whether the Recorder has achieved Substantial Compliance rests solely with the Court.

were assigned to each item on the Strategic Plan in hopes of moving this process forward as quickly and efficiently as practicable, in part, by preventing periods of stagnation. The RCA will present this report and future reports to this Court in a manner that provides updates on all sections contained in the Strategic Plan. The RCA hopes that structuring her reports in this manner will lead to shared expectations by all parties and allow the Court, the RCA, parties, and taxpayers a greater degree of clarity on the Recorder's progress toward Substantial Compliance.<sup>6</sup>

A. New Employment Plan

1. *Issues Regarding Notice of Employment Actions*

The SRO provides that "the RCA and the parties" may begin to negotiate a New Employment Plan after the RCA has had at least three months of "active monitoring" of the Recorder's Employment Actions. SRO at Art. II.C. Active monitoring includes notification of, and an opportunity to be present for, each step in the life cycle of an Employment Action,<sup>7</sup> from the initial thought processes and communications of supervisors/managers contemplating the action through the final outcome. Such monitoring is critical for the RCA to identify the points at which the Recorder's decision making processes are vulnerable to unlawful political discrimination and to help that office create employment procedures to eliminate those vulnerabilities.

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<sup>6</sup> As previewed in Section III of the Initial Report, the RCA engaged one new Investigator to assist with desk audits, Pre-SRO Claims investigations and related tasks. Consistent with the RCA's other staff members, the new Investigator has *Shakman* experience through working for the Cook County and Sheriff's Compliance Administrators and has signed the Confidentiality Agreement per Art. I.F. of the SRO.

<sup>7</sup> The RCA, without objection from the Recorder, defined Employment Action in September 2010 to include, without limitation, any change (positive or negative) related to the terms or conditions of employment including, but not limited to, recruitment, determination of eligibility, interviewing, pay, benefits, selection, hiring, transfer, demotion, promotion, detail, termination, discipline, recall, reemployment, reclassification, granting overtime or other job benefits, changing a job assignment, withholding any job benefit, imposition of any employment sanction or detriment, or a Free move. The definition did not include any non-material, inconsequential alteration in an employee's employment circumstances.

The RCA has been clear with the Recorder from the beginning of her appointment about the Recorder's obligation to provide her with *prior* notice of each step of every Employment Action occurring within his office. She has had numerous in person meetings, telephonic conferences and written communications with the Recorder, his Liaisons and/or his counsel stressing again and again this point. Indeed, in one October 2010 e-mail to the Recorder's then-Liaison, the RCA stated:

In order for the RCA to carry out these monitoring duties, notification of upcoming Employment Actions prior to their occurrence is vital. This way we have the opportunity to monitor Employment Actions and can move closer to being in a position to negotiate an employment plan in the near future. For example, regarding Cross-Training, we would like to be notified at the time an employee requests to be Cross-Trained so we can monitor any meetings and review any application materials prior to the final decision on that employee's request. Similarly, if there is a discussion of potential re-classification of employees, we would like to be notified of when that discussion will take place so we can monitor the decision making process. Notification after an Employment Action has been made does not allow us to conduct our monitoring duties. Please let me know if you have any questions at all.

Despite these repeated requests for full cooperation from the Recorder, until approximately two (2) weeks ago, the Recorder's Office continuously has failed to provide adequate, or sometimes any, notice to the RCA of Employment Actions. Most egregiously, on December 20, 2010, the Recorder prohibited the RCA from monitoring a meeting among several senior-level Recorder staff members regarding the potentially severe discipline of an employee. After the meeting concluded, the Recorder gave the RCA an after-the-fact account of the discussion. This was wholly unacceptable. The RCA that same day informed the Recorder's counsel of the office's "troubling" conduct in its "failures to both notify us in a timely manner and allow us to monitor the process..."

This and other similar incidents unfortunately necessitated Court intervention. On January 12, 2011, the Court met with the Recorder, Chief Deputy Recorder Williams-Burnett,

the RCA, her counsel, and several representatives of the State's Attorney's Office in chambers. By the end of the meeting, the Recorder acknowledged the importance of his commitment to comply with the SRO, the need to provide the RCA with notice of all Employment Actions including the deliberative processes associated with these actions, the need to convey the message to his employees that cooperation with the RCA is essential, and that the sooner he provides the necessary access for the RCA to complete her duties the sooner he will be on a path to reach Substantial Compliance. The Recorder, the Deputy Recorder and the State's Attorneys stated that they understood the need to provide notice, access and information to the RCA.

The meeting with the Court did not have the desired immediate effect. Over the next two and a half months, the Recorder failed to provide timely, or any, notice of various Employment Actions including numerous pre-disciplinary or disciplinary hearings, transfers, a reclassification, overtime assignments, flextime requests and employee training. In fact, on March 30, 2011 the RCA learned that the Recorder sent two hand-selected employees to the Cook County Performance Management Initiative training without notifying her in advance of the training opportunity.

The Recorder's repeated refusal to comply with certain terms of the SRO, an agreement to which he voluntarily pledged his commitment, is unacceptable. But recent events suggest a greater level of cooperation from the Recorder. In the past few weeks, the Recorder's Liaison significantly increased the types of Employment Actions of which he provided notice to the RCA. Further, on March 31, 2011, the Chief Deputy Recorder held a meeting with all supervisory staff wherein which she, an Assistant State's Attorney, and the RCA explained to the supervisors the Recorder's duty to provide notice regarding all Employment Actions. While the

RCA welcomes the Recorder's recent cooperation, she hopes that the Recorder will be more proactive in ensuring the cultural change that is needed for Substantial Compliance.

## *2. Monitoring Results*

One of the RCA's central responsibilities is to help the Recorder create employment procedures, to be negotiated with Class Counsel, that make it difficult for the Recorder to insert unlawful political considerations into decision making processes that affect non-Exempt employees. But the protections afforded both the Recorder and the Recorder's employees through the creation of such procedures can exist only if the Recorder follows those procedures. The SRO, in fact, requires the RCA to monitor the Recorder's adherence to the new procedures for at least one year following their implementation to ensure compliance. *See* SRO Art. III.D. & F.1. As set forth below, the RCA's monitoring to date reveals widespread disregard for written policies and procedures which will need to change if the Recorder is to achieve Substantial Compliance.

The terms and conditions of employment for most employees within the Recorder's Office are purportedly governed by two documents: the Cook County Recorder of Deeds Personnel Policy and Procedures Manual (hereinafter "Policy Manual") and the Collective Bargaining Agreement ("CBA") with SEIU Local 73. Although these documents in theory set forth procedures for such Employment Actions as progressive discipline, promotions, and transfers, in practice, these procedures are largely ignored and decisions are made on an ad hoc basis.

As the RCA noted in her Initial Report, the RCA asked the Recorder's Office to refrain from finalizing two external hires and two internal promotions pending review of documents related to those Employment Actions. Initial Report at 5. After reviewing the

pertinent documents, the RCA concluded that the Recorder's procedures for filling those vacancies disregarded relevant provisions in the CBA and otherwise were significantly flawed.<sup>8</sup> The CBA, for example, allows an internal applicant to apply for a posted vacancy even if the move would result in a lateral transfer if that employee's bid was successful. CBA § 4.11. The Recorder, however, has a policy of not granting bid requests from internal applicants when the bid would result in a lateral move or one that does not otherwise include an increase in pay. This policy is contrary to the express terms of the CBA and had the effect of disqualifying several internal applicants.

In terms of progressive discipline, the Policy Manual and CBA both state that the Recorder's Office follows a "progressive discipline" policy for minor infractions such as tardiness, poor work performance, and dress code violations. *See* Policy Manual at 18-22; CBA § 14.8 ("Discipline"). The RCA monitored several pre-disciplinary hearings that did not result in the next progressive disciplinary step despite a finding that the employee committed the infraction. When the RCA met with one of the disciplinary hearing officers to discuss the disciplinary procedures, that officer admitted that she exercised her own discretion and issued discipline on a case-by-case basis because she "did not agree with the provisions in the CBA."

The CBA also states that flextime may be granted by mutual agreement between the "employee and [] supervisor" if practicable to do so. CBA § 3.5 ("Flextime"). On May 16, 2007, the Recorder's Office issued a memorandum discontinuing flextime allowances and stating that "[t]he new system will not recognize any variations." Despite the language in the

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<sup>8</sup> The scoring system used was inconsistent and inaccurate resulting in at least one applicant being erroneously disqualified from consideration for one of the vacancies.

memorandum, the Recorder's Office continued to grant flextime requests to employees on a "case by case basis" even though it has not rescinded the 2007 memorandum.

The Recorder's process for awarding overtime states that "[a]ll Overtime must be first authorized by the Recorder/Designee before it is earned..." Policy Manual at 36. The CBA states that, "it is the intention of the parties that overtime will be distributed equitably among the employees in the same job classification within a work section." CBA § 3.4. The Recorder's Office acknowledged that, in practice, supervisors are allowed to hand-pick employees to work overtime and need not seek prior approval from the Recorder or his Designee before doing so.

These are only a few of the numerous examples the RCA has observed of the Recorder's widespread failure to follow existing procedures. The RCA hopes the Recorder will adhere to the Employment Plan after it is finalized so as to demonstrate Substantial Compliance as quickly and efficiently as possible.

### *3. Employment Procedures Review*

The RCA's monitoring efforts revealed the existence of many unwritten practices affecting Recorder employees and a failure to follow many of the written procedures the RCA initially believed governed Employment Actions in the Recorder's Office. Accordingly, on February 18, 2011, the RCA began meeting with the Recorder's Office to gain a more complete understanding of the employment procedures followed in the office. So far, the RCA and Recorder have discussed the following procedures at length: compensatory time, cross-training, demotion, discharge, discipline, flextime, hiring, layoff, overtime, performance evaluation, promotion, recall, reclassification, and transfer. The RCA has meetings scheduled with the Recorder over the next two weeks to discuss the remaining employment procedures that include: leave of absence and shift assignment.

The RCA has already begun drafting the Employment Plan and will share it with both parties after the first draft is complete. The RCA hopes to have the Plan completed and finalized by all parties by the end of July 2011. After that, the Recorder's Office must designate human resources or executive staff to train employees on the Plan (*see* SRO Art. II.B.1.) and identify which supervisors will be trained by the RCA to fulfill the SRO's Train-the-Trainer requirement. *See* SRO Art. I.H. Finally, the RCA will monitor the Plan's implementation for at least one year. *See* SRO Art. III.D. & F.

#### *4. Compliance Officer*

For the Recorder to achieve Substantial Compliance pursuant to the SRO, the Recorder's Office must, *inter alia*, "implement[] procedures to ensure compliance with the [Employment] Plan . . . [and] implement[] procedures that will effect long-term prevention of the use of impermissible political considerations in connection with employment with the Recorder." SRO Art. III.F.8. The parties have agreed that the retention of an independent Compliance Officer who will monitor the Recorder's long-term implementation of the Employment Plan and investigate claims of unlawful political discrimination will help achieve these requirements under the SRO. The RCA strongly contends, and the parties agree, that to ensure objectivity and integrity, the Compliance Officer should be independent of the Recorder's Office and thus not report directly to anyone in the Recorder's Office. The Independent Inspector General agreed to assign someone from his office to serve as the Compliance Officer and the parties are in the process of working out the details of the Compliance Officer's job description and timeline for coming into office. The RCA looks forward to providing additional details to the Court in her next report.

### 5. *Exempt List*

The SRO requires that the parties negotiate a new list of Exempt Positions and file the same with the Court for approval. SRO Art. II.G. To the extent that the parties cannot reach an agreement on the list, they are to bring the matter to the Court for resolution. *Id.* The RCA hoped that the parties would begin to negotiate the Exempt List in February 2011 and stated the same in the Strategic Plan. While the parties did not move forward on the topic until after several inquiries by the RCA, the Recorder's counsel recently assured the RCA that she has been working with the Recorder's Office to create a new proposed Exempt List. Class Counsel also confirmed that they will review the Exempt List in a timely manner when so provided. After the parties agree on a new Exempt List, the RCA expects them to timely negotiate Senior Manager and Executive Assistant Lists as also required by the SRO. *See* SRO Arts. II.E. & F.

### 6. *Job Descriptions and Organizational Charts*

As previewed in the RCA's Initial Report, the RCA scheduled desk audits with several Recorder employees "to gain a better understanding of the organizational, operational and personnel structure of the office." Initial Report at 6. The RCA ultimately conducted desk audits of 53 employees including supervisors in every department in the Recorder's Office. The RCA also recently received updated Organizational Charts from the Recorder's Office and will review and comment on the same shortly. After the Organizational Charts are finalized, the RCA will review Job Descriptions of potentially Exempt employees in order to verify their accuracy vis-à-vis the RCA's desk audit findings. At the request of both parties, the RCA will work with the Recorder's Office on Job Description edits in order to teach Recorder's employees how to draft Job Descriptions and minimize the amount of time the RCA is required to spend on ensuring Job Descriptions are accurate and thorough.

### *7. Automated Online Application Tracking System*

The SRO also requires that the Recorder's Office institute an online application tracking system so job applicants may "determine their current status in the hiring process in order to enhance the availability of information about the hiring process." SRO Art. II.D. The Recorder's Office recently informed the RCA that it will follow the lead of previous defendants in this case and use the services of Taleo software to fulfill this requirement of the SRO. The Recorder's Liaison and RCA also recently met with representatives from the Cook County Bureau of Human Resources to begin discussing the incorporation of the Recorder's Office into the already-existing Taleo structure within Cook County Government. The RCA looks forward to further progress by the Recorder's Office on implementing Taleo in the short-term so the RCA may include procedures relating to the same in the Employment Plan.

### *8. Political Contact Log and No Political Consideration Certification*

The RCA believes that other effective ways to ensure "long-term prevention of the use of impermissible political considerations in connection with employment," SRO Art. III.F.8., are through the required maintenance of a Political Contact Log and the use of No Political Consideration Certifications on all Employment Action documents. A Political Contact Log requires that all employees log any contact by political figures, representatives or offices and allows the OIIG to determine whether each contact is lawful or unlawful. The Recorder's Office, RCA, State's Attorney's Office, Class Counsel and OIIG have reviewed and agreed to proposed language for such a log. The OIIG is preparing to release the log in the coming weeks and, in May, will train certain senior-level employees at the Recorder's Office on the protocol for recording political contacts. Requiring each Recorder's employee to sign a No Political Consideration Certification at every step of an Employment Action helps ensure there is no

longer a “policy, custom or practice of making employment decisions based on political factors except for Exempt Positions.” SRO Art. III.F.8. The RCA encourages the parties to agree to language for such a certification and that the Recorder’s Office amend employment documents to require participants to certify the same.

### **III. Pre-SRO Claims**

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.

#### *A. Issue Concerning Proper Notification of Pre-SRO Claims Process*

On September 13, 2010, the Chief Deputy Recorder filed an affidavit with this Court stating, in part, that “[e]ach individual previously employed by the Recorder of Deeds or who applied for employment with the Recorder of Deeds from May 25, 2005 through July 30, 2010 were sent the notice via U.S. mail on or before August 24, 2010.” *See* Affidavit of Proof of Service of Notice of Hearing on Final Approval of the Supplemental Relief Order. As noted in her Initial Report, the RCA worked “with the Recorder’s Office and Counsel to ensure that proper notice has been given to all potential claimants under the SRO.” Initial Report at 6. The RCA also noted that it was conducting research to ensure that as many of the former employees of the Recorder’s Office as possible received notice of the Pre-SRO Claims process in a timely manner. *See id.* at 6-7. Through the RCA’s research (which included calling a sample of people who applied for positions with the Recorder’s Office during the SRO Period (“former

applicants”)) and a review of the Recorder’s address lists used to send notice to class members, the RCA learned that the Recorder’s procedure for providing proper notice was riddled with errors. Specifically, in late November 2010, the RCA discovered that the Recorder had failed to provide any notice to former employees whose employment with the Recorder ended during the Pre-SRO Claims Period (constituting 140 potential class members) as well as former summer employees and applicants for summer positions (constituting an additional 150 potential class members). Further, the Recorder’s method for contacting former applicants was frustrated by poor file management, typographical errors of the names and addresses of the class members, and a lack of understanding as to which former applicants and employees the Recorder’s Office was required to provide notice.

Over the next few weeks, the RCA attempted to work with the Recorder’s Liaisons, State’s Attorney and Class Counsel to fix this serious problem. The Recorder’s Office first attempted to remedy the problem by reviewing their data to correct any errors on their spreadsheets. Unfortunately, the product created was deficient and inexplicably managed by the same personnel who first attempted to satisfy the SRO’s notice provisions. Ultimately, the parties agreed that the RCA would take over the review of the Recorder’s files and ensure all potential class members would be given notice. The parties also agreed that for all potential class members (including current employees) the Pre-SRO Claims filing deadline and Opt-Out Request filing deadline would be extended from January 12, 2011 until April 8, 2011. *See* Order Extending Claims Deadline and Opt-Out Date Until April 8, 2011 (Dec. 30, 2010). On the same date and also by agreed motion, the Claims Adjudication Deadline was extended from April 11, 2011 until July 7, 2011 to provide the RCA with 90 days to investigate and adjudicate all Pre-SRO claims. *See id.*

*B. Pre-SRO Claim Investigation Progress*

By the amended Pre-SRO Claims Deadline, the RCA received 62 timely filed Pre-SRO Claim forms. In order to meet the amended Claims Adjudication Deadline, the RCA began conducting interviews for the Pre-SRO Claimants on February 22, 2011. As of the filing of this Second Report, the RCA has already conducted interviews of 33 of the Pre-SRO Claimants; the remaining interviews are scheduled in the coming weeks. The RCA set up a system whereby every Friday she provided the Recorder's counsel with a copy of all Pre-SRO Claim Forms and supporting documents filed that week pursuant to Art. IV.D.3. of the SRO. Additionally every Friday, the RCA provides the Recorder's counsel with any additional documentation or claims raised by a claimant in an interview not originally included in the claimant's Pre-SRO Claim Form.

The RCA notes that the 62 Pre-SRO Claims filed allege: a failure to promote to various positions based on unlawful political considerations; a failure to provide other job benefits (e.g. compensatory time, overtime, flex time) for unlawful political reasons; that a reclassification taking place in 2007-08 was politically-motivated and the politically-connected employees were much more likely to receive the reclassification (and resulting retroactive pay) than those without connections; and a failure to hire by the Recorder's Office for non-Exempt positions based on political reasons or factors. The RCA has recently initiated follow-up investigations of many claims which include: requesting documents from the Recorder's Liaison, interviewing various Recorder's employees, and conducting independent research. The RCA will continue to move forward on investigating the filed claims and intends to have all claims adjudicated by the July 7, 2011 Claims Adjudication Deadline.

#### **IV. Post-SRO Claims**

Pursuant to the SRO, the Office of the Independent Inspector General (“OIIG”) is charged with investigating claims of unlawful political discrimination that occurred on or after September 14, 2010. SRO at Art. V. The OIIG met with the Recorder’s Liaison in March 2011 in an effort to increase the awareness within the Recorder’s Office of the OIIG’s role in investigating current patronage issues and handling Post-SRO Claims. The OIIG received its first Post-SRO Claim on or around March 24, 2011 and provided a copy of the same to the RCA on March 28, 2011. The RCA will continue to monitor the progress of any and all Post-SRO Claims received by the OIIG to ensure that the timing requirements in Art. V.A.8., and reporting requirements in Art. V.A.9 & 11, of the SRO are complied with by the OIIG. The OIIG will allow the RCA to monitor every step of their investigative process for Post-SRO Claims and the RCA has agreed to do the same.

#### **V. Conclusion**

It is in the interests of Cook County taxpayers that the RCA’s investigation into the Recorder of Deeds is completed as efficiently and effectively as possible. The SRO, however, only allows for this investigation to cease when the Recorder’s Office comes into Substantial Compliance with the requirements of the SRO. The three main hurdles the Recorder’s Office must clear are: cooperating with the RCA’s investigation of Pre-SRO Claims; negotiating and implementing a new Employment Plan; and allowing the RCA to monitor its implementation of the Employment Plan. The RCA believes that the first two hurdles can be cleared but, based on what has occurred thus far, has serious concerns about the third.

In order for the Recorder’s Office to clear the third hurdle, there must be a cultural change throughout the office. Employees at every level must get in the habit of involving the RCA and Recorder’s Liaison at every step of every Employment Action. Also, once the

Employment Plan is created, the employees tasked with duties and responsibilities in that Plan must be trained on its provisions and must consult the Plan as soon as an Employment Action is contemplated. Impromptu policy-making or subjective handling of promotions and discipline can no longer be the norm. Employees must be methodical and diligent in following the Plan. For each Employment Action, employees need to first ask what is the underlying procedure and must then review that procedure in the Plan. The RCA has been trying to facilitate this cultural change since September 2010 but has only recently begun seeing any hint of progress. The RCA believes more meaningful cultural change might require the hiring of an experienced independent professional human resources administrator to improve record-keeping and help with the training and implementation of the Plan. The Recorder's inability to follow its own Policy Manual and the CBA suggest that it does not currently have the personnel properly trained to ensure that written procedures are followed.

The Recorder's willful defiance of written procedures and of truly opening its doors, employees and documents to the RCA must end. At some point, defiance must give way to consistent, long-lasting cooperation if there is any hope the Recorder will reach Substantial Compliance. The RCA hopes that the Recorder's Office understands that the only way for both the office to insulate itself, and for its employees to be insulated, from unlawful political discrimination is to institute an unwavering adherence to the transparent employment policies and procedures in the Employment Plan.

The RCA truly hopes that this cultural change is possible in the Recorder's Office and will continue to make every effort to ensure that it is. While the Strategic Plan was created to achieve Substantial Compliance in as efficient and cost-effective manner as possible, inactivity and contrariness simply delay progress and increase the costs on taxpayers. The RCA may not

simply will this change to occur. The desire to change must be genuine and must originate with the Recorder himself and be shared throughout the Recorder's Office before the RCA will agree that it is in Substantial Compliance. The Strategic Plan provides the roadmap to get there, but the Recorder's Office must consistently dedicate itself in a way not yet seen by the RCA for it to be attainable. The RCA thanks the Court for its continued oversight and counsel for their cooperation to date.

Respectfully submitted,

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