

**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.)	

**FOURTEENTH 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 (“RCA”)¹, by and through her attorney, Matthew D. Pryor, pursuant to Art. III.C of the Supplemental Relief Order for the Cook County Recorder of Deeds (“SRO”), submits this Fourteenth Report as follows:

I. Introduction

On August 15, 2016, the RCA filed her Thirteenth Report to the Court (“Thirteenth Report”) (Dkt. 4678) in which she discussed the Cook County Recorder of Deeds² Karen Yarbrough’s efforts to comply with the SRO. Since the Thirteenth Report, the ROD has continued revamping her Human Resources Division (“HRD”), proposed amendments to her Employment Plan (the “Plan”) and Policy Manual (the “Manual”),

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

² The “Cook County Recorder of Deeds”, the “Recorder”, “ROD” and/or “Recorder’s Office” hereinafter shall refer to the Recorder, Karen Yarbrough, and/or her staff.

undergone a Layoff process, and begun addressing many of the long outstanding compliance-related issues noted in previous RCA reports. The OIIG also issued a report concerning the DOC. Below are updates on these and other issues concerning the Recorder's progress toward Substantial Compliance³ with the SRO.

II. The Five Prongs of Substantial Compliance

A. Prong 1: *Has the Recorder implemented the Employment Plan, including procedures to ensure compliance with the Plan and identify instances of noncompliance?*

The first prong of Substantial Compliance requires the Recorder to implement a Plan and other procedures to ensure compliance with the principles of *Shakman* and identify instances of non-compliance. Although the Recorder has not fully implemented the Plan and Manual, she has taken strides in recent weeks that will hopefully help her reach that goal.

Since the Thirteenth Report, the Chief of HRD has provided to the RCA and Plaintiffs' Counsel proposed amendments to the Plan and Manual that hopefully will provide more clarity around issues that have long vexed the office such as discipline and employee code of conduct. The Recorder's Chief Legal Counsel finalized the Do Not Rehire policy and provided notices to those former employees who will be placed on it.

³ The SRO states that "Substantial Compliance" means: (1) the Recorder has implemented the New Employment Plan, including procedures to ensure compliance with the New Employment Plan and identify instances of non-compliance; (2) the Recorder has acted in good faith to remedy instances of noncompliance 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 reasons or factors except for Exempt Positions; (4) the absence of material noncompliance which frustrates the Recorder's Consent Decree 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 at 13.

The Chief of HRD continues to reorganize HRD, which hopefully will be a tremendous asset in this process. Finally, the DOC from time to time has been more adept at recognizing potential violations of the Plan and Manual and providing advice to senior staff on how to remedy them.

There is still, however, work to do on implementing procedures to ensure compliance with the Plan and Manual. Two specific issues that the RCA encourages the Recorder to focus on in the coming months are: (1) ensuring that all Non-Exempt hiring processes are conducted in such a manner consistent with the Plan that forecloses any reasonable appearance of impropriety and (2) helping the DOC gain the trust of all employees by ensuring he maintain the necessary independence – both in appearance and actuality – in his dealings with the Recorder and her Exempt staff. Additional information on these updates and bases for these two recommendations follow.

1. Human Resources

Since the Thirteenth Report, the Recorder's HRD has proposed updates to its Plan and Manual, helped implement the Do Not Rehire policy, and undergone staffing changes with the hiring of a new Director of HRD. Updates on these and other HRD-related issues are below.

a. *Updating the Plan and Manual*

Over the year and half that the Recorder's Office has utilized both the Plan and Manual, it is unsurprising that the ROD and RCA have identified many needed updates to both documents. The Chief of HRD recently provided the RCA and Plaintiffs' Counsel with many proposed amendments to the Plan and Manual. The RCA is hopeful that when the amended Plan and Manual are finalized they will be easier to implement and

understand by the administration and staff alike. The RCA anticipates such amendments will be finalized in the coming month or two with all employee training by HRD following shortly afterward.

b. *Do Not Rehire Policy Implementation*

On August 19, 2016, this Court entered an Order amending the Plan's section concerning the "Do Not Rehire Without Further Consideration List" ("DNR Policy"). See Dkt. 4687. The amended DNR Policy articulated the ways in which a former employee will be placed on the List and explained the process by which someone may appeal their placement on the List. Over the ensuing few months, the parties, RCA and OIIG reach agreements on the List (which includes names of four former Employees) and a protocol for how the Recorder's Office would implement the DNR Policy. Recently, the Recorder's Chief Legal Counsel provided notice to the four former employees who will be placed on the List barring any successful appeal as permitted in Plan § IV.Q. The RCA appreciates Chief Legal Counsel's work on moving this matter forward and will continue monitoring the implementation of this process.

c. *Director of HRD Hiring Process*

While HRD has made some strides in resolving some long-standing compliance issues, the RCA did have concerns with the recent hiring process surrounding the Director of HRD position. In her Thirteenth Report, the RCA noted that the Chief of HRD was in the process of hiring a Director of HRD and the Chief had "engaged with both the RCA and Plaintiffs on ensuring the Minimum Qualifications for this Position were reflective of the main duties and responsibilities assigned to it." Thirteenth Report at 4. Throughout the formulation of the Director of HRD Job Description, the Recorder's

Chief of HRD explained to the RCA (and Plaintiffs) the need for the incoming Director to take over various HR matters and policies (such as FMLA, ADA, discipline oversight, employee grievances, and union issues) so that the Chief could focus on overhauling the office's Job Descriptions and handle other "big picture" HR matters. The Job Description and interview questions were agreed to by the RCA with this task separation in mind. Subsequent interviews were conducted without incident. The Chief of HRD's arguments during the Selection Meeting, however, deviated significantly from his earlier statements about his intentions for the position.

During the Selection Meeting, the Chief of HRD changed his criteria to the surprise of the DOC, the RCA and one of the other panelists. Instead of wanting someone who had expertise and experience in specific HR policies that he or she could take over, the Chief of HRD instead explained he was looking for a "worker bee." Accordingly, the Chief of HRD recommended that the panel elevate the third-highest scoring Candidate to be ranked first because that Candidate was best qualified to fulfill this (new) role the Chief of HRD desired. The DOC and one panelist offered significant rebuttals to the Chief of HRD's statements. When the DOC noted that the Chief's interview scores conflicted with his new rankings, the Chief replied that, "the questions did not pull at a worker bee." The DOC responded that this was precisely the issue. Ultimately, and for the first time since the Plan was implemented, the third-highest scoring Candidate was elevated to first; the Recorder ultimately signed off on the hire.

Independent of concerns with how the selection process played out for this Position, the Chief of HRD now has reorganized his department in the manner he deemed

necessary.⁴ When he was hired, the Chief was aware of the Court's requirement that the Recorder professionalize her HRD and that he was hired to do just that. The RCA encourages the Chief and his team to demonstrate the professionalization long lacking in HRD and begin to make progress with many of the outstanding *Shakman*-related matters facing the Recorder's Office. Last week, the Chief of HRD provided the RCA with details of his HRD reorganization plan. The RCA will review that plan and discuss the same in her next report.

d. *Updating Job Descriptions*

Having updated and accurate Job Descriptions is required in the Plan (see Plan § IV.I) and for many years the RCA has remarked on the Recorder's need to update Job Descriptions utilized in her office. See, for example, Tenth Report (Dkt. 3759) at 8 (filed May 2, 2014). This issue was central to the finding in Interim DOC Incident Report 15-001 (discussed in the RCA's Twelfth Report (Dkt. 4603 at 14) and resurfaced during the Recorder's recent layoff process during which the lack of any meaningful connection between several employees' job titles and their job functions complicated the Recorder's efforts to implement a layoff process. While the Plan requires HRD to conduct Desk Audits to update inaccurate Job Descriptions (Plan § IV.I) the DOC and new Director of HRD recently conducted a report analyzing which Job Descriptions need updating. The RCA is reviewing that report and hopes that HRD makes significant gains in updating the many inaccurate Job Descriptions by the time she files her next report.

⁴ Earlier this month, the Chief of HRD also eliminated one of his Non-Exempt Positions (Training Coordinator) and laid off the employee holding that spot. HRD now consists of the Chief, Director, an Administrative Assistant V, and an Executive Assistant to the Director.

e. *Document Production Issues with HRD*

The Plan states that the RCA “has the right to monitor any and all aspects of the Employment Plan, in order to assess the Recorder’s progress toward substantial compliance with the SRO.” Plan § I. To be able to monitor effectively, the Recorder’s Office must provide the RCA with documentation related to Employment Actions within a reasonable time. The SRO states that “[w]ithin two weeks of receiving a request from the RCA, the Recorded shall either produce all requested documents or provide a time frame for when documents will be produced.” SRO § I.F. Unfortunately, the Recorder’s HRD has not been providing documentation as expeditiously as the RCA needs to effectively monitor the Recorder’s compliance with the Plan. The RCA asks the Recorder and her staff to comply with this two-week timeframe so her monitoring abilities are not compromised.

2. Director of Compliance

The DOC’s role in *Shakman* compliance is paramount. The DOC works with both Non-Exempt and Exempt employees in identifying instances of non-compliance and recommending corrective action when appropriate. To effectively perform this role, employees need to be able to trust that the DOC is neutral and will effectively and thoroughly investigate any alleged violations of the Plan or Manual. The RCA has seen some improvements recently but a recent OIIG finding shows that more work remains for the DOC to consistently and effectively perform his job in the manner required by the Plan.

a. *Issue Spotting*

The RCA has met regularly with the DOC since he was hired on June 1, 2015 and

has provided the DOC with considerable and detailed feedback on all aspects of his role – including assisting him with spotting potential Plan and Manual violations as they arise and underlining the importance of appearing and being neutral in his interactions with employees. This assistance has continued since the Thirteenth Report and now includes feedback on information included in a weekly report the DOC provides the RCA (pursuant to Plan § IV.C.2).

Since the Thirteenth Report, the RCA has seen instances where the DOC has become more vocal when he believes that processes in the Plan and Manual are not being followed. For example, during the Director of HRD hiring process described above, the DOC spoke out consistently throughout the Selection Meeting voicing his concerns with the Chief of HRD’s change in evaluation criteria. See above at 4-6. Just this week, the DOC was vocal in many performance evaluations when he did not believe Supervisors were providing employees with appropriate or consistent justifications for their scores. The RCA is encouraged by such examples and hopes that this approach continues unabated in the coming months.

b. *Earning Trust of Non-Exempt Staff*

On August 24, 2016, the OIIG issued Summary Report 16-0179 concerning an investigation into whether the DOC and the Recorder violated the SRO when the DOC and Recorder (at the DOC’s invitation) jointly attended a “ribbon cutting ceremony at St. Bernard’s Hospital” in June 2016. According to the OIIG’s Report, the DOC said he had invited the Recorder to the event to show the Recorder “he has substantial outside interests and connections” that might help the Recorder to trust the DOC more. 16-0179 at 2. The OIIG noted that in his interview with the OIIG, the DOC “believed he made a

mistake in inviting [the Recorder] to the event because such circumstances can create the appearance of impropriety given his role in the office as a compliance-oriented employee [and that] he now believes these circumstances could undermine the confidence of rank and file staff in the DOC's independence." Id.

In his Summary Report, the OIIG discussed the importance that the DOC be free from any appearance of impropriety. As support, the OIIG pointed to the DOC's Job Description (which prohibits Applicants for the DOC Position of having prior personal, political, professional or volunteer relationships or affiliation with the Recorder or her senior staff) and prior RCA reports noting concerns with the DOC's slow efforts to earn the trust of Non-Exempt staff. Id. at 3-4. The OIIG concluded that while the ribbon-cutting event did not rise to the level of a "political event" under the Manual, "such community events are also unquestionably political opportunities, at least in part, as evidenced by [the Recorder's] attendance, as opposed to [her] community outreach staff, and the other elected officials attending." Id. at 4. The OIIG concluded that the failure of the Recorder and DOC "to see this appearance of impropriety before attending the event was a mistake" that constituted a violation of the "spirit of the SRO." Id. at 4-5.

The OIIG made three *Shakman*-related recommendations to the Recorder: (1) the DOC "refrain from engaging in outside personal, social or other non-work related events and activities with Recorder personnel"; (2) the Recorder "avoid recurrences of situations which create the appearance of impropriety or otherwise undermine the confidence of rank and file staff in the independence of the DOC"; (3) the Recorder administer a protocol that "reiterates and emphasizes to all staff that retaliation is prohibited against anyone who reports any SRO or Employment Plan concerns to the Recorder, the DOC,

the RCA or the OIIG.” Id. at 5.

The Recorder rejected the OIIG’s conclusions and stated that the OIIG did not find that the Recorder or the DOC violated any specific section of the SRO or Plan and that the OIIG’s “finding against the DOC and the Recorder’s office has the effect of embarrassing the DOC and undermining the public’s confidence in the Recorder’s compliance efforts.” Recorder’s Report at 4 (issued on November 1, 2016). The Recorder wrote that, “a review of the DOC’s body of work would show that his independence is not in question.” Id. The Recorder declined to implement any of the OIIG’s recommendations.

Despite the Recorder’s rejection of the OIIG’s findings and recommendations, the RCA remains concerned with the DOC’s actions at issue in 16-0179 and his inability thus far to earn the trust of Non-Exempt staff. The RCA has given the DOC considerable advice on this issue of neutrality. In her Thirteenth Report, the RCA discussed how the DOC himself acknowledged that he had not yet earned the trust of Non-Exempt employees and then “encourage[d] the DOC to make more strides to earn that trust.” Thirteenth Report at 3. Since that report, the RCA is not aware of any significant progress made by the DOC in this regard. Given the above OIIG finding, the RCA encourages the DOC to focus on how his actions can affect Non-Exempt employees’ belief in his neutrality and consider the OIIG’s recommendations concerning the same.

3. Adherence to the Recorder’s Plan and Manual

The RCA has continued monitoring all Employment Actions that she is provided notice of by the Recorder’s Office. Since the Thirteenth Report, among the Employment Actions the RCA monitored were: four hiring processes, two Promotions, the completion

of one Temporary Assignment, and a Layoff process resulting in the Layoffs of 15 employees and 24 Employees moved to new Positions due to bumping rights. The RCA did not have any significant concerns with the hiring processes (excepting the Director of HRD process noted above), the Promotions or the Temporary Assignment. Concerns with the Layoff process are noted below.

a. *Hiring*

Concerning hiring, the Recorder has hired one Exempt and three Non-Exempt employees since the RCA's last report. The RCA noted in her last report that the Recorder had recently hired a new Exempt Special Assistant to the Recorder – Community Affairs. Shortly after the Thirteenth Report, that Special Assistant resigned. On October 11, 2016, the Recorder hired a new Special Assistant – Community Affairs, Shani Audain.

The Recorder also hired three new Non-Exempt employees in the past four months: Director of HRD (discussed above and effective November 1, 2016), Database Administrator (effective August 29, 2016), and Senior Accountant V (effective September 6, 2016). The RCA did not have any concerns with the Database Administrator or Senior Accountant V hiring processes.

b. *Promotions*

The Recorder recently promoted two employees – one to the Mail Recording and Processing Supervisor (effective October 31, 2016) and the other to Property Fraud Investigator II (effective September 6, 2016). The RCA did not have any concerns with either promotion process and is in the process of monitoring each of these employees' probationary evaluation processes.

c. Temporary Assignment

In her Thirteenth Report, the RCA noted that four Temporary Assignments had expired but the RCA had not yet received the appropriate paperwork from HRD memorializing the same. On November 10, 2016, the RCA received from the Chief of HRD paperwork memorializing the expiration of these four Temporary Assignments and sent follow-up questions to the Chief of HRD two weeks later. The RCA is awaiting a response to these questions. Also in her last report, the RCA noted that the Chief of HRD had temporarily assigned one HRD employee (Training Coordinator) to a different role in HRD (Payroll Timekeeper) after the full-time Payroll Timekeeper resigned. This Temporary Assignment expired in late November and the employee was subsequently laid off.

d. Layoffs

Over the past few months, the RCA has had the opportunity to monitor the Recorder's Layoff process.⁵ The RCA was permitted to monitor many internal meetings, meetings between Exempt staff and the union, and meetings with employees throughout the Layoff process. The RCA is appreciative of the ability to monitor so much of the process and of the several times the Administration responded to questions raised by the RCA throughout the process.

On September 6, 2016, the RCA was copied on an email from the Chief Deputy Recorder to the Exempt staff asking them to "reevaluate your respective sections to identify any non-essential functions tied to active positions which can be eliminated with

⁵ The RCA notes that while the Plan states that Layoffs shall be conducted in accordance with any applicable CBA and the Manual; however, the Manual does not contain any further details on Layoffs. The RCA recommends the parties fill this gap in the coming edits to the Manual.

the least disruption to core operations.” The RCA notes that some Deputies Recorder and Department Heads provided the requested information – including explanations why identified positions could be eliminated with minimal operational impact – whereas other responses did not provide such details. The RCA raised this issue with the Recorder’s Exempt staff and received some additional details in follow-up responses; however, several such responses still lacked the details requested in the Chief Deputy Recorder’s original request. Accordingly, it was impossible for the RCA to conclude whether the positions ultimately selected for elimination were selected based on operational concerns.

At its conclusion, the Recorder laid off 13 union employees, two non-union employees, and 24 employees had moved into new Positions based on the CBA-provided bumping process. Employees who bumped into new Positions moved into these Positions effective December 5, 2016.

Pursuant to an agreement between the union and the Recorder’s Office, all employees who bumped into a new Position will receive a 45-day evaluation period during which they will be given weekly evaluations to ensure they can conduct the essential duties of their new Positions. The RCA monitored the first set of evaluations conducted this week and had many significant concerns. The RCA informed the Chief of HRD in writing of her concerns and learned that HRD plans on conducting a Supervisor training on the matter before any further evaluations are performed. The RCA will continue to monitor this process closely and encourages HRD to work more closely and deliberately with the Supervisors to ensure the process is done consistently and thoroughly.

B. Prong 2: *Has the Recorder acted in good faith to remedy instances of non-compliance that have been identified?*

The second prong of Substantial Compliance concerns whether the Recorder has made good faith efforts to cure instances of non-compliance when identified. While they may be self-reported, non-compliance has been identified primarily by the DOC and RCA. In the past four months, the DOC has initiated investigations into one newly filed complaint of a violation of the Manual. The DOC has not issued final reports for any of the four complaints initiated prior to the Thirteenth Report.⁶ The DOC currently has five pending investigations into alleged violations of the Plan and Manual. Below are (1) updates on the Recorder's actions in response to earlier findings of non-compliance by the DOC and RCA and (2) details of other ongoing Plan and Manual violations by the Recorder's Office that have not been the subject of DOC Incident Reports.

1. Updates on Recorder's Actions in Response to Prior Findings of Noncompliance by the DOC and RCA

Below are updates on the Recorder's responses to findings of noncompliance by the DOC and RCA that predated the RCA's Thirteenth Report.

a. *DOC Incident Report 16-005 (Employee Violated Manual's Prohibition on Sharing Email Accounts)*

On June 28, 2016, the DOC sustained an allegation that an Exempt employee used the email account of a Non-Exempt employee in violation of the Manual. See Thirteenth Report at 8. The DOC recommended: (1) the Recorder "ensure that all Shakman Exempt Employees understand the provisions of the Policy Manual and adhere to these provisions"; (2) the Chief of HRD "review the pertinent section of the Policy

⁶ The RCA notes that the DOC has shared drafts of several of these reports with the RCA and the RCA provided feedback on the same.

Manual with [the Exempt employee] to prevent further violations of the Manual”; and (3) an Incident Report be issued to the Non-Exempt employee for violating the Manual’s section on Technological Security.

On September 30, 2016, the Recorder issued her response. The Recorder agreed with the DOC’s finding that the Executive Assistant violated the Technology Security Policy; however, the Recorder said she did not issue the employee an Incident Report because it was no longer timely to do so. The Recorder said the Chief of HRD would have a conversation with the Executive Assistant about the relevant policy and instruct him to not share his computer or email passwords with anyone in the future. The RCA monitored this meeting the following week.

b. *DOC Incident Report 15-012 (Two Non-Exempt Employees Violated Various Office Policies During Workplace Altercation)*

On January 14, 2016, the DOC concluded an investigation by sustaining findings of violations of various Office policies (Courtesy Policy, Cell Phone Policy, and Loitering) against two employees stemming from a workplace altercation between the employees. The DOC recommended that Incident Reports be prepared for these two employees.

On September 30, 2016, the Recorder issued her response to the DOC’s Incident Report. The Recorder agreed with the DOC’s findings that the two employees violated the Manual but wrote that she could not issue an Incident Report to the employees because it would be untimely to do so. The Recorder’s Chief Legal Counsel took “full responsibility” for not providing the Recorder’s Response more quickly and pledged that within ten business days he would circulate proposed amendments to the Plan that would

require more timely Recorder Reports in response to DOC Incident Reports. The proposed Plan amendments were not provided until December 7, 2016 and are currently being reviewed by Plaintiffs and the RCA.

c. *DOC Incident Report 15-010 (Exempt employee Violated Office's Courtesy Policy by Swearing at her Executive Assistant)*

On January 14, 2016, the DOC concluded an investigation by finding that an Exempt employee violated the Office's Courtesy Policy by swearing at her Executive Assistant. The DOC recommended the Recorder "take whatever action she deems necessary to ensure that all Shakman Exempt Employees found to have committed violations of the Manual in this Report understand those sections in the Manual discussed in this Report and that they abide by those sections in the future." The DOC also recommended that the "Recorder meet with the [Exempt employee] identified in this report and go over the details and findings of the report."

On August 18, 2016, the Recorder issued her Recorder's Report and concurred with the DOC's findings in 15-010. The Recorder stated that she met with her entire Exempt staff to discuss the importance of following the Plan and Manual and treating all ROD employees courteously and with respect. The Recorder stated that on January 21, 2016 the Recorder personally along with the then-Director of HRD met with the specific Exempt employee who the DOC found had violated the Manual to discuss the findings.

d. *DOC Incident Report 15-009 (Executive Assistant retaliated against by Exempt Labor Counsel for filing complaint with DOC)*

The RCA discussed at length in her Twelfth Report the DOC's finding that the Recorder's Labor Counsel retaliated against his Non-Exempt Executive Assistant for

filing a complaint with the DOC. Twelfth Report at 24-26. One of the DOC's recommendations in his Incident Report was that "training be made available to [the Executive Assistant to Labor Counsel] to give her the tools necessary to handle employee related issues." DOC Incident Report 15-009 at 8. The Recorder's stated in her Response on February 16, 2016, that "[t]he Recorder's office will provide the Executive Assistant with training on how to handle customer inquiries regarding the status of FMLA applications." Recorder's Response at 4.

On September 23, 2016, the Recorder's Legal Counsel corresponded with the RCA and provided specific plans to implement the DOC's recommendations in 15-009. Counsel explained that in the next week the Recorder's administration would identify an appropriate training program for the Executive Assistant and would then ensure the training take place within the following week or two. The Recorder's Office is scheduled to provide the necessary training by the end of this week.

e. Interim DOC/RCA Incident Report 15-001 (Employee working outside Job Description)

In the Twelfth Report, the RCA discussed Incident Report 15-001 (issued June 19, 2015), wherein the RCA concluded that an employee had been working materially outside her job description. Twelfth Report at 14-15. One of the RCA's recommendations was to "take whatever action consistent with the Plan, Manual and CBA that she deems appropriate to ensure the employee's Job Description is updated and accurate and that she works within that Job Description." *Id.* In her Thirteenth Report, the RCA noted that the Recorder's Office had still not updated the employee's Job Description and that she "view[ed] this as a continuing violation of the Plan's requirement that all Job Descriptions be updated and accurate (Plan at 4)." Thirteenth

Report at 10.

On September 23, 2016, the Recorder's Chief Legal Counsel corresponded with the RCA and informed her of six steps the Recorder's Office would take to ensure the employee's Job Description is updated in conformity with the Plan and Manual. Counsel committed to a 30-day period to complete the six steps. This week, the Chief of HRD began implementing the first few steps identified in the above email. The RCA will continue to monitor this process and report on the same when complete.

2. Other Ongoing Noncompliance with Plan and Manual

The RCA has notified the Recorder's Office in meetings and through correspondence that the Recorder's Office is not compliant with various sections of the Plan and Manual. The Recorder's Office has yet to remedy its noncompliance therefore the RCA includes details of these issues below in hopes that it will encourage the Recorder's Office to act more swiftly to come into compliance.

a. *Plan and Manual Training Requirements*

The last Plan and Manual training conducted by the Recorder's Office was over 22 months ago (February 2015) and the Plan and Manual require annual training (Plan §§ IV.D-F). In recent status hearings, the Recorder's Office has committed to training all employees in January 2017 after the Plan and Manual are updated and approved by the necessary principals and this Court.

b. *Compensatory Time Tracking*

The Manual permits the Recorder to award Compensatory Time to employees in certain circumstances and charges HRD with responsibility for maintaining records related to such Compensatory Time grants and usage. Manual at 6-8. In her Thirteenth

Report, the RCA noted that “since March 1, 2013 [she had been attempting] to obtain from HRD an accurate accounting of Compensatory Time granted and used by Recorder employees.” While the Recorder provided the RCA with a new Compensatory Time Report on November 30, 2016, the Report had multiple inconsistencies with prior reports and did not capture employees who the RCA knows accrued Compensatory Time in recent months. The RCA has provided her questions to Recorder’s Counsel and will update the Court on progress in receiving an updated and accurate accounting of Recorder Employee Compensatory Time in her next report.

c. Performance Evaluations

The Manual states that “[a]n annual written Performance Evaluation must be conducted for each employee at times prescribed by the Chief Deputy Recorder.” Manual at 26. Until this week, the Recorder’s Office had not conducted any regular Performance Evaluations in the 21 months that the Manual had been in effect. This week, the Chief of HRD began a pilot performance evaluation program for one Department whose Job Descriptions are current. The RCA is monitoring this process and hopes that HRD works to update the rest of the Recorder’s Job Descriptions so that Performance Evaluations may be conducted for the rest of the Office as required by the Manual.

C. Prong 3: *Is there a policy, custom or practice of making employment decisions based on political factors except for Exempt Positions?*

In her Thirteenth Report, the RCA noted her concern with the Recorder’s decision concerning which Employee(s) would serve as liaison(s) to the RCA (as required by the SRO § I.E). The liaison has served as someone the RCA can turn to when she is not receiving cooperation from a Recorder employee or the Recorder’s Office in general.

The RCA notes that while she has not had any issues with the current Liaison (Chief Legal Counsel) since the Thirteenth Report, as reflected in the sections above the Recorder's Office has a pattern of not responding in a timely fashion to the RCA's information requests and to the RCA's and DOC's recommendations for corrective action. The RCA would like to see the Liaison be more helpful in ensuring more prompt and timely responses are provided.

D. Prong 4: *Is there an absence of material noncompliance which frustrates the Recorder's Consent Decrees and the SRO's essential purpose?*

The fourth prong of Substantial Compliance concerns whether the Recorder has materially not complied with the SRO. Recently, the OIG received two Post-SRO Complaints which brings its total number of pending complaints to three. In addition, Plaintiffs' "Motion for Issuance of a Rule to Show Cause Why Certain Senior Staff in the Cook County Recorder of Deeds Should Not be Held in Civil Contempt and for Related Relief" ("Plaintiffs' Motion") is pending before the Court.⁷ See Thirteenth Report at 14-15.

E. Prong 5: *Has the Recorder implemented procedures that will effect long-term prevention of the use of impermissible political considerations?*

The last component of Substantial Compliance requires the Recorder to have implemented procedures to ensure that the principles that form the basis of the *Shakman* litigation will carry on long into the future. While the Recorder technically has the necessary pieces for long-term compliance (a Plan, a Manual, a DOC and Chief of HRD),

⁷ Since the Thirteenth Report, the Chief Deputy Recorder, Labor Counsel, and the Recorder filed separate Responses to Plaintiffs' Motion. See Dkts. 4722, 4724, and 4720, respectively. Plaintiffs then filed a Reply in Support of Motion for Rule to Show Cause. See Dkt. 4731.

significant improvements with these pieces is needed. The updates to the Plan and Manual should be finalized in the coming months. The RCA encourages the DOC to make great strides in achieving and maintaining objectivity and neutrality in his duties and be mindful of how his actions can impact Non-Exempt employees' perception of his neutrality. Finally, the RCA encourages the Chief of HRD to continue completing the many outstanding HRD-controlled matters discussed above including professionalizing his own department.

In her Thirteenth Report, the RCA “encourage[d] the Recorder to lead by example in sending a strong message to Exempt and Non-Exempt employees alike that Shakman compliance is a mandatory top priority in her Office.” Thirteenth Report at 16. The RCA was encouraged by the Recorder’s engagement during her meeting this week with the Recorder and her senior staff. The RCA hopes the Recorder will require her staff to demonstrate their commitment to *Shakman* compliance by: consistent adherence to the Plan and Manual, responding promptly to RCA information requests, timely issuing Recorder’s Reports in response to DOC and OIIG findings, and resolving the many outstanding issues noted throughout this Report.

III. Conclusion

The RCA will continue to work closely with the Recorder’s Office on resolving the issues noted above and will continue to be a resource for the Office in its efforts to reach Substantial Compliance.

Respectfully Submitted,

Cardelle B. Spangler
Recorder Compliance Administrator

By: /s/ Matthew D. Pryor
Matthew D. Pryor
Her Attorney

Matthew D. Pryor
(matthew.d.pryor@gmail.com)
Counsel to the Recorder Compliance
Administrator
69 West Washington, Suite 840
Chicago, IL 60602
Telephone: (312) 603-8911
Fax: (312) 603-9505