

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

MICHAEL L. SHAKMAN, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	Case No. 69 C 2145
CLERK OF THE CIRCUIT COURT	)	
OF COOK COUNTY, <i>et al.</i> ,	)	
	)	Magistrate Judge Schenkier
	)	
Defendants.	)	

**SECOND REPORT OF THE COMPLIANCE ADMINISTRATOR FOR THE  
CLERK OF THE CIRCUIT COURT OF COOK COUNTY**

Clifford L. Meacham, Compliance Administrator for the Clerk of the Circuit Court of Cook County (the “CA”), by and through his attorney, Margarita Kulys Hoffman (“Counsel”), pursuant to Sections I(B) and III(C) of the Supplemental Relief Order (“SRO”) submits this Second Report:

**I. INTRODUCTION**

On August 10, 2018, with the agreement of the parties, this Court entered an order entitled Supplemental Relief Order for the Clerk of the Circuit Court of Cook County (the “SRO”). The Court appointed Clifford L. Meacham as the Compliance Administrator for the Clerk of the Court, Dorothy Brown (the “Clerk”). The SRO mandates that the Compliance Administrator and his staff (collectively, the “CA”) audit the Clerk’s past employment practices, specifically hirings, promotions, and transfers between 2014 and August 10, 2018, and investigate any possible unlawful political discrimination discovered through this audit. In addition, the CA is to monitor the Clerk’s current employment practices for hiring, promotions, transfers, discipline, and overtime and work with the Clerk to develop a transparent New Employment Plan and procedures

to ensure the Clerk's compliance with the 1972 Consent Decree and the 1983 Judgment Order ("the Clerk's Decrees"), and the SRO, in order to prohibit the Clerk from conditioning, basing, or affecting employment decisions based on political reasons or factors.

The SRO specifically charges the CA with: (1) Auditing all hires, promotions, and transfers in the Clerk's Office since January 1, 2014 (Section I(A)); (2) Investigating any evidence of unlawful political discrimination (Section I(A)); (3) Recommending measures that may be necessary or appropriate to prevent any recurrence of any unlawful political discrimination uncovered (Section I(A)); (4) Making recommendations for how to remedy any violations of the Clerk's Decrees (Section I(A)); (5) Reviewing the Clerk's Office's employment practices to determine whether the Clerk's Office is complying with the Clerk's Decrees and hiring procedures and making recommendations for changes to the hiring practices, if warranted (Section I(G)); (6) Working with the Clerk's Office's employees to observe current employment practices, answer questions and provide guidance as deemed necessary (Section I(G)); (7) Actively monitoring the Clerk's Office's compliance with the Clerk's Decrees, the SRO and the New Employment Plan until their termination (Section III(D)); and (8) Preparing and filing reports with the Court providing an update regarding the Clerk's Office's compliance with the SRO, development and implementation of the New Employment Plan, and progress made toward substantial compliance (Section III(C)).

Over the past six months, the CA has made progress toward the goals set forth in the SRO. This Report is designed to give an overview of the CA's activities to date including documentary review, interviews of the Human Resources Bureau, questionnaires to current and former employees, auditing past employment practices, monitoring recent employment actions, developing an Interim Employment Plan, and preliminary recommendations to the Clerk's Office.

## II. THE CLERK OF THE COURT OF COOK COUNTY

The Clerk is the official keeper of records for all judicial matters brought in the Circuit Court of Cook County. The Clerk's Office has numerous operational bureaus including Chancery, Child Protection, Civil Appeals, Civil, County, Criminal, Domestic Relations, Juvenile Justice, Law, Probate and Traffic. These bureaus operate in various court facilities in the City of Chicago as well as five suburban districts (Skokie, Rolling Meadows, Maywood, Bridgeview and Markham). In addition, the Clerk's Office has a number of administrative, policy and investigative bureaus, including Public Policy, Human Resources, General Counsel, Records Management, Technology & Innovation, Finance, and the Inspector General. Presently, the Clerk's Office has approximately 1400 employees working in these facilities, divisions and bureaus. The vast majority of these employees are covered by the collective bargaining agreement between the Clerk and Teamsters Local 700 ("CBA").

To date, the Clerk's Office has been cooperative in working with the CA to provide requested documentation, facilitate interviews of staff, agree to develop a transparent Interim Employment Plan and propose an Exempt List with job descriptions and minimum qualifications, all of which can help create a culture free from political discrimination. The Clerk has assigned Lauren Raymond as the *Shakman* Liaison ("Liaison"). Having one point-person to whom the CA can address all *Shakman* issues has had an invaluable impact on the CA's ability to begin auditing the past employment practices, monitoring the current practices and developing the Interim Employment Plan. Maintaining this relationship with the Liaison will be integral to continued progress toward substantial compliance.

### **III. ACTIVITIES TO DATE**

#### **A. Review of the Human Resources Bureau**

The CA has interviewed: (1) all current employees in the Clerk's Human Resources Bureau ("Human Resources"), (2) the Clerk's Chief of Staff ("COS"), (3) the Clerk's Inspector General ("IG"), and (4) management employees in the Clerk's Finance Bureau so as to gain a better understanding of the organizational, operational, and personnel structure of the office and to assist in reviewing the Clerk's Office's employment practices. The CBA and the Clerk's orientation binder for new hires were also reviewed.

The Human Resources function and the CA's concerns with the employment practices are described in greater detail below. Of significant note and concern is the fact that the Clerk personally approves all hires, promotions, transfers, demotions, merit increases, discipline, and terminations involving applicants and employees in non-union positions, and she may or may not adopt the recommendations of Human Resources or operational staff.

#### **B. Review of the Application and Applicant Scoring Process**

The Clerk's Office has a unique application and application scoring process which is handled by Personnel Services. Applications are not job specific, or even specific to a type of job category. An applicant can apply for an unpaid/volunteer position, a seasonal position, an entry-level position, or a management position all with the same application. All applications are printed in hard copy and distributed to various employees in Personnel Services to be "scored," *i.e.*, employees in Personnel Services enter specific information from the applications onto an applicant data base which then applies a "scoring logic" to automatically assign the applicant a pre-determined number of points based on those entries.

The applications contain a Skills/Abilities/Experience section which contains 14 criteria. Points are given for education, skills and experience, regardless of their relation to the position to be filled. If an applicant indicates that she worked for the Clerk as an employee, intern or volunteer even for a minimum period of time in the past, that information is entered into the data base, and the computer automatically assigns that applicant 12 points. Additional points are also given to applicants who indicate they have a high school diploma or GED (1 point), a college degree (18 points), a commercial driver's license (2 points), and "customer service" (maximum of 14 points based on length of experience). As a result, many employees who have experience relevant to the job are ranked lower than individuals with no relevant qualifications. For example, an applicant who indicates she has experience driving a forklift receives two points under the computer logic, even though driving a forklift is not a requirement of the job.

There are several problems with this scoring system. First, many of the criteria bear no relationship to a specific position. For example, there are few positions in the Clerk's Office for which a commercial driver's license ("CDL") or experience operating a forklift are required, yet any applicant with these qualifications is assigned points under the scoring logic. Second, a candidate who has worked as a volunteer, an intern, or a seasonal worker, even for a short period of time, is awarded 12 points under the scoring logic. Finally, it is questionable whether the level of experience in many of these criteria are verified. The Clerk's current procedure for processing applications does not meet the standards of transparency required by the SRO and the CA is concerned that it may be subject to manipulation by individuals who are politically motivated.

### **C. Review of Non-Union Hiring and Employment Practices**

There are currently approximately 300 non-union employees in the Clerk's Office. There were only 80 positions recognized as exempt under the Revised Plan of Compliance of the Clerk

of the Circuit Court of Cook County, which was intended to implement the 1983 Judgement, but the Clerk treats all of the non-union employees as though they are *Shakman* exempt and maintains complete control over all employment actions related to them. Many of the non-union employees have “manager” titles, but they do not evaluate or supervise any other union or non-union employees and they do not have the authority to make any management decisions. This situation is of great concern because it is not transparent and provides no safeguards against unlawful political discrimination.

There is no written procedure for non-union hires, and such decisions are made in the Clerk’s sole discretion. The Clerk and her staff have access to the scored application list for union positions, and many applications for non-union positions are sent to, and kept in, the Clerk’s Executive Office. The Clerk maintains this list separate from the applicant list maintained by Personnel Services. The Clerk almost exclusively refers to her list when there is an opening for a non-union position. Similarly, the decision of whether to advertise for non-union positions is in the sole discretion of the Clerk and she has apparently decided to do so only on rare occasions.

Although there is no written procedure for filling such vacancies, there is an unwritten procedure that is followed. When it becomes known that a non-union position is vacant, or may soon become vacant due to retirement, notice of resignation, death, *etc.*, the Chief Deputy Clerk (“CDC”) of the area where the vacancy occurs notifies Payroll, which enters the information on an “exit log” containing the names, reason for departure, salary and grade, and position title. This log is updated regularly by Payroll and sent to the Clerk and several of her Executive Office staff.

In addition to the exit notice, the CDC may send a letter to the Clerk recommending that a named employee be promoted or transferred into a vacant, or soon-to-be vacant, position. Alternatively, the COS may ask the CDC in charge of the area where the vacancy exists for a

recommendation if none has been submitted. Employees who hear about the vacancy (apparently through word-of-mouth) may also submit letters to the Clerk asking for promotion or transfer to the position. When an employee submits such a letter, the COS asks the employee to obtain a recommendation from his/her CDC if one does not already exist. The COS also sends a letter acknowledging receipt of the request to the employee. Copies of such requests, recommendations, and responses are date stamped and sent to Personnel Services for inclusion in the employee's personnel file.

The decision to transfer or promote an employee into a vacant, or soon-to-be vacant, non-union position listed on the exit log is made by the Clerk, although she meets with the COS to discuss the various candidates. The Clerk reviews the transfer and promotion requests and recommendations. If the Clerk determines that there is not an acceptable internal candidate, the Clerk refers to her list of external applicants. Once the offer is made and accepted, the Clerk often personally calls each person selected and congratulates him/her. The Interim Employment Plan, which will be discussed later, was specifically designed to address hiring, transfer and promotions into these non-union non-*Shakman* exempt positions and to make the process more fair and transparent until the New Employment Plan is implemented.

#### **D. Review of the Intern/Volunteer Program**

The Clerk participates in a number of governmentally-funded programs that provide intern positions for high school students, primarily during the summer months. These programs are operated by the City of Chicago and various community organizations, which assign the students and pay them for their work. Last summer, Personnel Services coordinated the training, assignment, and supervision of over 200 students.

Additionally, there are a number of “volunteers” working in the Clerk’s Office. These are individuals who perform functions similar to those performed by employees, but who do not receive monetary compensation. What is significant is that once individuals have performed intern or volunteer services, even for a short period of time, they can receive 12 points if, and when, they apply for employment with the Clerk. At this time, the CA believes that these programs require further investigation to determine how interns and volunteers are chosen and assigned.

**E. Auditing of Employment Actions from January 1, 2014 through August 10, 2018**

As stated above, the CA is charged with auditing the hiring, transfer, and promotion procedures of the Clerk from January 1, 2014 through the date of the SRO. Since August, 2018, the CA has met with the Liaison on a weekly basis. The CA has sent questionnaires to former and current employees. In addition to the Human Resources and Executive Office personnel interviewed, as of January 31, 2019, the CA has conducted 72 employee interviews in 6 divisions, reviewed numerous documents including personnel files, discipline files, personnel lists, new hire lists, promotional lists, transfer lists, exit logs, the CBA, the employee orientation binder, organizational charts, and job descriptions. The CA has gathered a wealth of information regarding the Bureaus, Divisions and employees through this process and will continue this interview process.

**1. Employee Questionnaires**

In October, 2018, the CA sent questionnaires to all current and former Clerk’s Office employees requesting information about any alleged unlawful political activity and/or political discrimination. The CA has not received any responses to the current employee questionnaire since the Initial Report was filed. There has been limited response to the questionnaires from



former employees. The CA has followed up on these responses and the allegations raised by these former employees.

With respect to the current employees, the CA has been advised by certain current employees that the employees are reticent to discuss issues of political discrimination and employment practices because they do not understand the CA's role. To educate the Clerk's employees, the CA intends to present an overview of *Shakman* and his obligations under the SRO to all employees within the next few months. The CA will update the Court as to this *Shakman* training as well as any additional responses to the questionnaires in the next report.

## **2. Interviews with Current Employees**

The CA has been interviewing employees in the County, Probate, Chancery and Law Divisions as well as the Second, Third, and Fourth Municipal Districts and the Record Center.<sup>1</sup> Consistent with the information gathered from the Human Resources, Finance and Executive Office interviews, the CA has learned through the audit process that there are significant issues with the employment procedures used for union and non-union promotions and transfers. Although the CBA sets forth procedures for transfers, semi-automatic promotions, and promotions, it appears that the Clerk's Office may fail to follow these procedures consistently throughout the Office. Often, employees are transferred, at least on paper, without requesting or knowing about the transfer.

Similarly, non-union transfers and promotions seem to be made without following a competitive process. Based on the interviews, the Clerk appears to promote employees into manager positions based on operational needs but without posting the positions. These positions

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<sup>1</sup> Since the Initial Report was filed, the CA has engaged one monitor and five law clerks to assist with monitoring, interviews and administrative duties. Because the law clerks are law students who are attending classes and seeking full-time employment, additional monitors and law clerks may be required in the future.

are non-union and many are not *Shakman*-exempt. Some of the managers appear to lack qualifications to manage, and it is unclear whether all of the managers actually manage employees and/or programs. The CA has requested and received documentation regarding promotions and the manager positions and is in the process of reviewing that documentation.

#### **F. Monitoring of Employment Actions**

The CA has been actively monitoring employment actions. The CA has requested that the Clerk's Office provide prior notice of hiring, discipline (including grievance hearings), promotions, and transfers. The CA does not consistently receive prior notice of the employment actions and is working with the Liaison to establish protocols for providing such notice. CA staff has monitored new employee hiring, lateral transfers, investigatory interviews for possible discipline, grievance hearings, probationary evaluations, annual performance evaluations, and intern and new employee orientation. As of January 31, 2019, the CA has monitored approximately 80 employment actions and expects to continue and expand this monitoring.

The CA also intends to conduct desk audits of Clerk's Office employees to gain a better understanding of the organizational, operational, and personnel structure of the office. The Liaison has provided the CA with a list of contacts in the various divisions who will facilitate the scheduling of the desk audits.

#### **IV. OVERVIEW OF THE HUMAN RESOURCES BUREAU**

Human Resources consists of four departments: the Personnel Services and Training and Development Department ("Personnel Services"), the Labor Relations Department ("Labor Relations"), the Employee Benefits Department ("Employee Benefits"), and Legal Research. Human Resources also coordinates with the Clerk's Inspector General's Office, Finance Bureau, and Executive Office in performing the various activities discussed below.

**A. Personnel Services**

**1. Hiring and Processing of Applications for Union Positions**

Personnel Services begins the entry level union hiring process by preparing and placing advertisements in a newspaper (generally the Chicago Sun Times) and electronically (generally on Indeed).<sup>2</sup> The Clerk's website and recorded telephone message are updated to indicate that the Clerk is hiring. Personnel Services compiles an applicant list from all applications received within 14 days after a vacancy has been posted, and all applications received during the previous one-year period. Applications for such positions may be submitted in person at the Clerk's Office on the 10<sup>th</sup> floor of the Daley Center, by mail, or by facsimile. Personnel Services will also include applications previously received by the Clerk herself.

Personnel Services staff create and maintain a scored list of applicants by entering specific categories of information contained on the applications (from the applicant list as well as any other applications received) into an electronic "application tracking system." The system contains a computerized "logic" that assigns points and ranks applicants based on the information entered. Individuals who are scored highest on this list are first in line to receive offers of employment when vacancies occur. As has been discussed, the CA has serious concerns about this system.

**2. Internal Promotions and Transfers for Union Employees**

Personnel Services, in conjunction with Labor Relations, is responsible for internally posting and processing vacancies for union positions in compliance with the lateral bid, promotion, and transfer procedures contained in the CBA. These procedures are detailed and complex, and they are subject to union oversight. Employees who feel the correct procedures have not been

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<sup>2</sup> Entry-level union positions are not filled internally, although current employees in such positions may submit bids to transfer to another entry-level position in another work location.

followed have access to the CBA's grievance procedure. Personnel Services and Labor Relations staff prepare recommendations based on provisions of the CBA.

### **3. Time and Attendance Tracking**

Human Resources coordinates with Labor Relations and the Payroll department ("Payroll"), in compliance with Cook County's electronic time and attendance system called Cook County Time ("CCT"), to track employees' attendance and use of time off. Although CCT has been in effect for over a year, there are a number of circumstances that require manual intervention, and Personnel Services staff address those situations manually in coordination with Labor Relations and Payroll.

### **4. Training and Development**

Personnel Services conducts orientation sessions for interns, volunteers, and newly hired union and non-union employees. The training includes a PowerPoint presentation and all new employees are given a manual consisting of various employment policies. Personnel Services retains outside vendors to provide online management training on topics such as sexual harassment and customer service. Until recently, there has been no training covering *Shakman*-related issues and a number of employees in Human Resources were unfamiliar with the training requirements of the SRO.

### **5. Maintenance of Personnel Files**

Personnel Services staff maintain the personnel records of all Clerk's Office employees. Files for union and non-union employees are kept separately. Non-union employee files are kept in locked file cabinets located in the office of the Chief Human Resources Officer (the "CHRO"). Union employee files are kept elsewhere in Personnel Services in unlocked file cabinets. When someone wishes to review the personnel file of a union employee, they are required to sign a

“charge out” card and place it in the file cabinet. Files may be removed at any time, and there is little oversight. Access to non-union employee files are available only through the CHRO.

## **6. Miscellaneous**

Personnel Services also performs a variety of general activities related to hiring and employment, including: (1) processing employee departures and completing exit materials and paperwork; (2) preparing paperwork necessary to get approval for hiring from the Cook County Budget Department; (3) preparing Employment Action Forms (“EAFs”)<sup>3</sup> and Personnel Action Forms (“PAFs”);<sup>4</sup> and (4) coordinating probationary and periodic evaluations of union-represented employees.

### **B. Labor Relations**

#### **1. Compliance with the CBA**

Labor Relations, in coordination with Personnel Services and the operational units, is responsible for assuring all employment activities involving union positions are done in compliance with the CBA, which contains detailed procedures for transfers, discipline, performance evaluations, promotions, job postings, overtime, leaves of absence, and grievances. Labor Relations staff also work with the IG’s Office when there are complaints of sexual harassment and workplace violence, allegations of theft, and fraud, and complaints from the public or judiciary. The IG is charged with receiving and investigating allegations of political discrimination and inappropriate political consideration.

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<sup>3</sup> EAF forms contain information regarding individual employees’ job titles, pay rates, grade, etc., that is entered into the Clerk’s computer system for tracking purposes.

<sup>4</sup> A PAF is the County’s form for tracking data regarding individual employees. It contains the same information that is on the EAF.

## **2. Administration of Discipline Under the CBA**

Labor Relations is responsible for responding to, and resolving complaints of, misconduct by union and non-union employees. Complaints are received from managers, Clerk's Office customers, the judiciary, and attorneys. When a complaint is received, Labor Relations makes an initial assessment to determine whether the situation creates a potential danger to employees and/or the public, *e.g.*, complaints of sexual harassment, physical violence, or drinking on the job. If so, the employee may be removed from the workplace immediately. If no such danger exists, Labor Relations will issue a "seven-day" letter to the involved parties, asking them to respond in writing and provide any relevant information they may have. This information is then evaluated and Labor Relations makes recommendations. Labor Relations staff then meet with the CHRO to decide what action will be recommended. The Clerk may be present at these meetings. If she is not, the recommendation will be presented to her by the COS and/or the CHRO, and the Clerk will review any actions recommended.

## **3. Administration of Discipline Under the CCT Attendance Program**

Labor Relations oversees the administration of attendance points and discipline under the CCT system, which applies to both union and non-union employees. Employee attendance information is maintained by timekeepers (who are part of Payroll) located at each of the Clerk's work locations. When an employee violates the attendance policy, the timekeeper enters points into the CCT system based upon the information that is available to him/her. Labor Relations receives the points reports on a daily and weekly basis, and Personnel Services works with the timekeepers to make sure time entries are accurate and points are assessed properly.

When an employee's accumulated points reach a level that triggers discipline as designated by the CCT system, Labor Relations verifies the validity of the points via review of CCT entries

and communicates with the employee's Chief Deputy Clerk ("CDC"), the timekeeper assigned to the employee's worksite, Employee Benefits staff, the Pension Board, the Risk Management Bureau, and/or the employee as applicable. Errors are corrected and points may be deleted in certain circumstances, *e.g.*, verified train delay, documented disability, incorrect designation of time. Discipline is issued only when it is proven to be warranted.

Labor Relations administers points-related progressive discipline of up to 3-day suspensions without management pre-approval. If a 5-day suspension is to be issued, Labor Relations holds a meeting with the employee and makes a recommendation based on that meeting. The recommendation is sent to the CHRO, who then sends it to the COS and the Clerk for a final decision. If the recommended discipline is issued, the employee has two weeks to respond before the suspension has to be served.

Any potential discipline for attendance violations of non-union employees is referred to the CHRO, who contacts the employee's CDC for an explanation. The CHRO contacts the COS and/or Clerk, who may initiate discipline, and/or meet with the employee.

#### **4. Grievances**

Labor Relations administers the grievance procedure contained in the CBA. Labor Relations staff investigate and respond to complaints, conduct grievance hearings, and meet with union representatives to resolve issues. There is no written policy relating to grievances by non-union employees and such matters appear to be handled on a case-by-case basis.

#### **5. Claims for Unemployment Compensation**

Labor Relations coordinates with an outside vendor that represents the Clerk before the Illinois Department of Employment Security ("IDES"). Labor relations staff investigate the circumstances surrounding the claims and participate in IDES hearings.

## **6. Probationary and Annual Evaluations**

Labor Relations staff coordinates with Personnel Services to ensure that probationary and periodic evaluations are conducted in a timely manner and in accordance with the CBA. There is no written or formal evaluation process for non-union employees.

### **C. Employee Benefits**

Employee Benefits processes requests for medical and other leaves of absence, compassionate care leave, and light duty requests and assignments. The department is also responsible for assuring the Clerk is in compliance with the Family and Medical Leave Act and the Americans with Disabilities Act and coordinates its actions with Legal Research.

### **D. Legal Research**

Legal Research employees engage in a variety of activities. They counsel Human Resources staff on issues relating to discipline, transfers, sexual harassment, substance abuse, and *Shakman* compliance.<sup>5</sup> They respond to charges of employment discrimination against the Clerk and coordinate with the Cook County State's Attorney's Office in court actions filed against the Clerk. Legal Research staff oversee investigations by Labor Relations, process requests for leave, and draft policies relating to employment. The department is also responsible for reinstating employees who return from leave or are recalled after layoff, responding to requests covered by the Freedom of Information Act, as well as conducting a number of other administrative activities.

## **V. INTERIM EMPLOYMENT PLAN**

Transparent employment procedures and practices are integral to eliminating political considerations in hiring, promotion, transfer, overtime, performance evaluation, discipline, and discharge of non-*Shakman* exempt employees. After completing interviews with Human

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<sup>5</sup> The Clerk's Inspector General's Office is charged with receiving complaints of *Shakman* violations.



Resources and many current employees, the CA has determined that there is no formal process in place for the hiring, promotion or transfer of non-union employees.

The CA has proposed an Interim Employment Plan, which outlines a process to fill non-union, non-*Shakman* exempt positions in the Clerk's Office, in order to address these serious problems immediately, rather than waiting until the New Employment Plan is completed. Under the Interim Employment Plan as proposed by the CA, these positions must be posted inside of the office, advertised outside of the office, and posted on the Clerk's website. There is a specified procedure for receipt and processing of applications which will be monitored by the CA. Candidates who do not submit complete applications or do not possess the minimum qualifications for that specific position will be rejected. Preliminary lists of qualified candidates will be compiled in random order and candidates will be interviewed in that order. Interview questions must be prepared in advance. The questions must directly relate to the candidate's ability and qualifications to perform the specific job in question and must be provided to the CA prior to the interview. At the conclusion of each interview, the interviewers shall prepare and sign an interview ranking sheet along with a No Political Consideration Certification ("NPCC"). In addition, at the conclusion of the interview process, there shall be a selection meeting and a combined rank selection form shall be compiled. Offers will be extended to the interviewees in the order in which they appear on the combined rank selection form. Supervisors must be trained in this process.

The Clerk and Plaintiffs have suggested some changes to the Interim Employment Plan and the CA is in the process of evaluating the proposed changes. The CA anticipates that an Interim Employment Plan will be in place within 30 days. The CA will then monitor the Clerk's implementation of the Interim Employment Plan and will work with the parties to develop a comprehensive New Employment Plan to include procedures for all employment actions.

## **VI. DIRECTOR OF COMPLIANCE**

The CA and Plaintiffs' Counsel have advised the Clerk's Office that they believe that the Director of Compliance ("DOC") position must be posted and filled by an external candidate to ensure independence from the Clerk's Office. The CA will monitor the posting, recruitment and selection process. The position will be non-exempt and the CA hopes the Clerk's Office will have a DOC in place by the filing of the CA's next report.

## **VII. INSPECTOR GENERAL**

The IG is charged with investigating complaints of political discrimination filed after August 10, 2018. When interviewed, however, the IG stated that she had never received such a complaint. She was also unfamiliar with the *Shakman* cases and seemed unclear about what such a complaint might entail. To date, no Post-SRO complaints have been filed. The CA is concerned that the lack of complaints may be due, in part, to the fact that the IG reports directly to the Clerk and is in a *Shakman* exempt position. Pursuant to the SRO, the IG is also responsible, in conjunction with Human Resources, for conducting *Shakman* training for all Clerk employees. No training by the IG has been done to date.

The CA does not believe that the Clerk's current way of addressing *Shakman* issues is consistent with the requirements of the SRO. This investigatory function needs not only to be independent, but to be perceived as independent by the employees, and the IG is neither. It is clear that the Clerk will have to remedy this apparent lack of attention and concern for potential complaints by employees in order to comply with the SRO.

## **VIII. EXEMPT LIST**

The SRO provides that the Clerk's Office must propose a list of Exempt Positions to Plaintiff's Class Counsel for approval. (Section II(E)). These positions are not subject to the

protection of the *Shakman* Decrees and are reserved for policy makers and certain confidential assistants. As has been stated, the term “exempt” is not used in a consistent manner within the Clerk’s Office. Most of the senior staff interviewed consider “exempt” positions to be non-union, at-will, FLSA exempt, and *Shakman* exempt. In common usage, employees are either union employees or exempt employees. In addition, the “exempt” designation does not seem to bear any relationship to the employee’s job duties.

The Revised Plan of Compliance of the Clerk of the Circuit Court of Cook County, which was intended to implement the 1983 Judgement, contained a list of 80 exempt positions. The Clerk’s Office has recently submitted a proposed list of exempt positions which consists of the original 80 positions as well as 27 new exempt positions and has provided job descriptions for all of these positions. Counsel for the Clerk and Plaintiffs are in the process of reviewing the proposed exempt list. For purposes of interviewing and auditing Clerk’s Office employees, the CA will consider only the 80 positions listed in the Revised Plan of Compliance to be *Shakman* exempt until a final list has been agreed upon. Once the list is finalized, the CA believes that an employment procedure for the *Shakman* exempt positions, which addresses the hiring process and minimum qualifications for these positions, should be developed.

## **IX. RECOMMENDATIONS**

### **A. Applications**

The CA believes that the application process needs to be overhauled. Each application should be for a specific position and should solicit information about the minimum qualifications contained in the position description for that position. The scoring system currently employed by the Clerk’s Office bears no relationship to the qualifications of the potential hire for the position being filled. Points for irrelevant qualifications should not be awarded. Further, candidates should

not receive points for their employment as a volunteer, intern, or seasonal worker as this gives an unfair advantage to candidates who may have worked in one of these categories for a very short period of time. Finally, the Clerk's Office should invest in a web-based Application Tracking System similar to the one utilized by Cook County, the Forest Preserve District, and other governmental entities subject to similar *Shakman*-related requirements.

### **B. Interim Employment Plan and Procedures**

As stated above, there is no meaningful transparent process for non-union hires, transfers and promotions. The CA recommends that an Interim Employment Plan be put in place as soon as possible. The CA also recommends the Clerk's Office evaluate the role and qualifications of managers. The CA will be continuing interviews as part of the auditing process.

In addition, the CA recommends prioritizing the development of transparent procedures for all employment actions, including but not limited to hiring, promotions, transfers, discipline and discharge, overtime, and performance evaluations that will eventually comprise the New Employment Plan. The CA intends to work with the Liaison and Human Resources on the development of the New Employment Plan.

### **C. Training**

Under the SRO, Human Resources and the IG are required to train the Clerk's Office's employees to effectuate a culture free from political considerations in all aspects of governmental employment for non-exempt positions. To date, the CA does not believe that there is any meaningful *Shakman* training in place and recommends that the training aspect be given priority by the Clerk's Office. In addition, based upon conversations with Clerk's Office employees, it is apparent that many of them, including those in management positions, do not understand the CA's role despite his attempts to explain both the SRO and his obligations under the SRO. The CA

believes that if the employees have a better understanding of what constitutes unlawful political discrimination, and his role in investigating any evidence of political discrimination under the SRO, he may receive more cooperation from the employees. Toward this end, the CA intends to conduct *Shakman* training separate and apart from the Clerk's Office. The CA is in the process of developing training materials and intends to begin training as soon as the materials have been compiled.

**D. Director of Compliance and Inspector General**

The Liason has been extremely helpful in facilitating interviews, monitoring, and document production. The Clerk's Office, however, needs to establish and fill the position DOC to ensure that the monitoring, auditing, and development of transparent procedures will continue once the Clerk obtains substantial compliance. Hiring an independent DOC is a necessary step to accomplish this. Similarly, the Clerk must implement an independent and transparent investigative process which will necessarily include a non-exempt investigator role. The CA is currently discussing options, including combining the DOC and IG roles, with the parties.

**X. CONCLUSION**

Since August, 2018, the CA has made progress auditing the past employment practices of the Clerk's Office, monitoring current employment practices, conducting in-depth interviews of the Bureau of Human Resources, Finance and the Executive Office, developing an Interim Employment Plan, and creating a positive working relationship with the litigants and counsel. This has been done consistent with the CA's commitment to perform all assigned duties under the SRO thoroughly and fairly.

Much progress has been made but there is much more to do to ensure the Clerk's Office has transparent employment procedures and a culture free from political discrimination. Moving

forward, the CA intends to monitor the implementation of the Interim Employment Plan and develop and monitor procedures for other employment actions that will contribute to establishing a culture free from political discrimination. The CA will conduct his *Shakman* training for all Clerk's employees and will assist the Clerk's Office with developing their training as needed. In addition, the CA will continue his auditing efforts and will investigate any allegations of unlawful political discrimination arising from these audits.

The CA expects that the Interim Employment Plan, the Exempt List, the DOC, and a new process for evaluating Post-SRO claims, will be in place in relatively short order and will update the Court on that progress in the next Report.

Respectfully Submitted,

/s/ Clifford L. Meacham

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**CERTIFICATE OF ELECTRONIC FILING**

I, Margarita Kulys Hoffman, the undersigned, do hereby certify that on February 8, 2019, I electronically filed a true and correct copy of the foregoing **Second Report of the Compliance Administrator for the Clerk of the Circuit Court of Cook County** using the CM/ECF system, which sends notification of such filing to all registered users.

/s/ Margarita Kulys Hoffman  
Counsel to the CA