

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

MICHAEL L. SHAKMAN and PAUL M. LURIE, et al., Plaintiffs,)	
)	Case No. 69 C 2145
)	
v.)	Wayne R. Andersen
)	United States District Court Judge
)	
DEMOCRATIC ORGANIZATION OF COOK COUNTY, et al., Defendants.)	

MARCH 27, 2008 REPORT OF THE MONITOR

The Agreed Settlement Order and Accord (the “Accord”), approved by the Court on May 31, 2007, required that the City of Chicago establish a \$12 million Claim Fund to compensate Class Members for any and all injuries (including but not limited to back pay, front pay, emotional distress, or compensatory damages) arising out of alleged violations of the 1972 or 1983 *Shakman* Consent Decrees between the period of January 1, 2000 and May 31, 2007.¹ Under the various Consent Decrees and Accord, the definition of “Class Members” includes all past and current employees or applicants for employment with the City of Chicago and any candidate for public office who allege that they were victims of unlawful patronage practices. In total, fifteen hundred and twenty-eight (1528) Claim Forms were submitted to the Monitor’s office.

A. INELIGIBLE CLAIMANTS

Of the fifteen hundred and twenty-eight claims submitted, one hundred and four potential Claimants were deemed ineligible. Claims were deemed ineligible for one or more of the following reasons:

- 1) the Claimant alleged violations against entities not covered by the Claim Fund (e.g., the Chicago Park District, Chicago Public Schools, Chicago Transit Authority, Chicago Housing Authority);

- 2) the Claimant alleged only violations outside the liability period of January 1, 2000 to May 31, 2007;

¹ There is a separate complaint and remedial process administered by the City of Chicago’s Inspector General’s Office for individuals who allege patronage practices occurring after May 31, 2007.

- 3) the Claimant alleged violations involving only *Shakman* exempt positions;
- 4) the Claimant failed to allege any violation of the *Shakman* Decree(s);
- 5) the Claimant failed to submit the Claim Form before the deadline (and short grace period); or
- 6) the Claimant's submission appeared on its face to be fraudulent, a fact confirmed upon investigation.

B. ELIGIBLE CLAIMANTS

Individuals seeking to recover a monetary award from the Claim Fund were required to complete and submit a signed Claim Form and Release to the Monitor's office by September 28, 2007. Each Claim Form was to include a sworn statement setting forth the individual's allegations including: 1) the date of the violation(s); 2) the job(s) or job-related benefit(s) the Claimant sought and was denied; 2) the department(s) involved; 3) a narrative description of the alleged political discrimination; 4) the types and amounts of damages sought; and 5) all supporting documentation and/or evidence of the individual's claim. Pursuant to the Accord and the Court's subsequent orders, by March 26, 2008 the Monitor was to assess whether each Claimant was eligible for relief under the Claim Fund and, if so, the amount of relief to be awarded.² The Accord instructed the Monitor to "interpret the Claim Forms in a liberal, non-technical manner."

In assessing Award Amounts for each eligible Claimant, the Accord required that the Monitor consider all relevant factors and evidence regarding a particular claim, including, but not limited to: 1) the ratio of applicants to the actual number of positions filled; 2) the facts presented regarding the alleged violation; 3) the salary of the position sought; 4) the economic benefit of the action at issue and number of eligible recipients; 5) the strength of the evidence presented; 6) the amount of the Claim Fund; and 7) the number of claims submitted. Due to the large number of eligible Claimants, the primary factors in assessing Award Amounts were *necessarily* the amount of the Claim Fund and the number of eligible Claims. Based on those two factors alone, the average Award Amount was approximately \$8,400.

The total number of eligible Claimants was fourteen hundred and twenty-four (1424). The eligible Claimants (hereinafter "Claimants") were assigned to one of eight tiers that correspond to different Award Amounts. The awards are summarized as follows:

² Individuals that elected *not* to participate in the Claims Process were required to submit an Opt-Out request to the Monitor's office by September 28, 2007. The Monitor's office received fifty-two Opt-Out requests and those requests were forwarded to the City.

TIER	NUMBER INDIVIDUALS INCLUDED	AWARD AMOUNTS
1	86	\$250
2	421	\$1,500
3	232	\$4,000
4	286	\$7,000
5	187	\$12,500
6	120	\$20,000
7	75	\$30,000
8	18	\$45,000 - \$100,000

The Tier 8 awards were distributed as follows: two awards of \$45,000; three awards of \$55,000; six awards of \$65,000; six awards of \$75,00; and one award of \$100,000.

C. INVESTIGATION OF CLAIMS

At the close of the submission period, the Monitor and five other attorneys began conducting initial reviews and assessments of each Claim Form. The Claim Forms were initially separated by department (i.e., Aviation, Streets and Sanitation) and then each department was assigned to a particular attorney. The initial review consisted of determining whether the Claimant alleged a timely violation against the City; the number of hiring sequences complained of; the type of hiring sequences (e.g., whether they are high volume “laborer” positions or low volume “general foreman” positions); whether there were other claims (i.e., failure to transfer or denial of overtime); the strength of any evidence presented (e.g., documents demonstrating that the Claimant applied for and was qualified for a particular position); and the specificity of the patronage evidence.

The initial review also included a determination as to whether independent evidence relevant to the alleged violation exists. For example, were the complained of sequence(s) discussed in the testimony and/or exhibits from the *Sorich* trial? Did the Monitor’s own investigations uncover evidence of improper practices during a particular hiring sequence? Did representatives from the Monitor’s office attend interviews or tests regarding the complained of sequence? Does the complained of sequence involve individuals accused of wrongdoing in other instances? Finally, the initial review assessed whether the *complainant* was the beneficiary of patronage in other instances. Based on an analysis of the above-described information, each Claim Form was preliminarily assigned to one of several Tiers based on the strength of the evidence.

Thereafter, a second attorney reviewed each Claim Form by Department and Tier. For example, all Claims regarding violations in Streets and Sanitation were reviewed by one attorney. This method permitted the reviewer to become more knowledgeable about the function of the Department at issue; the alleged bad actors; the number of Claims alleging manipulation of the same hire sequence; and the relative qualifications of certain Claimants. It also permitted the attorney to be able to make distinctions within the Tiers and further refine those groups. This second stage review often included an assessment as to whether or not the Claimant had been identified as a former recipient of patronage. This review could have involved one or more of the following steps: 1) reviewing the

“Clout List;” 2) re-reviewing testimony and exhibits in the *Sorich* trial; 3) checking databases maintained by the Monitor’s office regarding prior complaints; 4) conferring with the Inspector General’s office; and/or 5) requesting job histories or other information from the City. If an individual was identified as having been a former patronage beneficiary, that information often resulted in moving the individual to a lower Tier.

The information gathered during the second attorney review resulted in further differentiation and in the expansion of the original Five Tiers into Eight Tiers. As a result of the second review, a majority of Claims were moved into slightly different groups that contained individuals and evidence that was similar in strength and support to that Claim. This second review allowed the reviewer to make accurate comparisons between Claim Forms and make further distinctions regarding the strength of an individual Claim. In addition, it was a second opportunity to determine whether any further evidence was required. When relevant, additional evidence reviewed included: examining and/or comparing work histories; examining hiring packets, including eligibility lists, referral lists and interview rating forms; identifying the hired candidate and his/her work history; and reviewing other individual Claim Forms that alleged similar violations to the Claim Form being reviewed. Finally, throughout the second review, there was a constant dialogue among and between the Monitor’s staff and attorneys regarding the various claims assessments and the appropriate levels of evidence required for each Award Amount.

Next, there was a third attorney review of most of the Claims that were designated to receive Award Amounts on the higher end. This review consisted of comparing and contrasting the strength of some Claim Forms, both within the newly assigned Tier, within the same department and compared to other departments. Often a joint decision would be made regarding whether the evidence warranted the inclusion of a Claimant in a particular Tier.

Finally, for those Claimants who were designated to receive the highest Award Amounts, each Claim Form and accompanying evidence was reviewed for individual monetary determinations and comparisons by a committee of attorneys. Each of those Claimants’ Award Amounts was agreed upon by at least five attorneys.

The City of Chicago cooperated fully in providing or giving the Monitor’s office access to all requested information and documents.

E. DEFINITION/ASSIGNMENT OF TIERS AND AMOUNTS

Below are explanations and summaries of the nature and types of claims that were included in the various tiers and explanations for such determinations. As discussed above, the Accord instructed the Monitor to review all relevant evidence including: 1) the ratio of applicants to the actual number of positions filled; 2) the facts presented regarding the alleged violation; 3) the salary of the position sought; 4) the economic benefit of the action at issue and number of eligible recipients; 5) the strength of the

evidence presented; 6) the amount of the Claim Fund; and 7) the number of claims submitted.

1. Tier One:

Tier One consisted of eighty-six individuals who made minimal allegations regarding political discrimination. Many Tier One Claimants did not accurately identify the particular job sought or failed to identify the date of application. In addition, most Tier One Claimants offered little or no supporting evidence or details to support their claims. Similarly, Tier One Claimants often failed to include any documentation relevant to their allegations. Absent the Monitor's instruction to interpret the Claim Forms in a "liberal non-literal fashion," these Claimants would likely not have been eligible for any Award Amount. Thus, pursuant to factors 2, 5, 6 and 7, individuals in Tier One received two hundred and fifty dollars.

2. Tier Two:

Tier Two consisted of four hundred and twenty-two individuals who provided some detail regarding their claims but provided little, if any, relevant documentation supporting their claims. Moreover, the alleged discrimination often was limited to a single employment action or hiring sequence and involved a failure to hire violation regarding a "high volume" (i.e., Laborer, Motor Truck Driver) position. Thus, pursuant to factors 1, 2, 4, 5, 6 and 7, individuals in Tier Two received one thousand and five hundred dollars.

3. Tier Three:

Tier Three consisted of two hundred and thirty-two individuals who provided a more detailed narrative describing the alleged violation(s) and/or documentation supporting their claims. In many cases, individuals in this Tier alleged discrimination in more than one job sequence, but the sequence(s) at issue were often "high volume" positions. Thus, pursuant to factors 1, 2, 5, 6 and 7, individuals in Tier Three received four thousand dollars.

4. Tier Four:

Tier Four consisted of two hundred and eighty-six individuals who typically were able to provide the following information: 1) allegations of a hiring sequence that was known to be suspect; 2) names of clouted individuals who were either responsible for an allegedly discriminatory employment action or pre-selected for a specific position; and/or 3) alleged discrimination with regard to two or more hiring sequences or employment actions; and/or 4) information about alleged damages. Many of these individuals included some, but not significant, documentary evidence relevant to their claims. Thus, pursuant to factors 2, 3, 4, 5, 6 and 7, individuals in Tier Four received seven thousand dollars.

5. Tier Five:

Tier Five consisted of one hundred and eighty-seven individuals who had claims similar to individuals in Tier Four, but also provided more persuasive evidence supporting their allegations. Such individuals often provided evidence of the following: 1) specific dates of applications; 2) receipts of applications and/or bids; and/or 3) information regarding their individual qualifications. Moreover, Tier Five included many individuals who were unable to attain career service status over a period of approximately ten years, despite several applications. Thus, pursuant to factors 1, 2, 3, 4, 5, 6 and 7, individuals in Tier Five received twelve thousand five-hundred dollars.

6. Tier Six:

Tier Six consisted of one hundred and twenty individuals who were largely long-time City employees. These individuals typically alleged numerous, specific instances in which they were denied promotions or subject to other adverse job actions due to their political affiliation or lack of political involvement. In addition, there was evidence suggesting that, on more than one occasion, clouted individuals who were less (or equally) qualified were promoted over the Claimant due to political patronage. In some cases, individuals in this Tier were City employees who provided evidence that they were either terminated or suffered numerous adverse actions because of their political affiliation. In limited circumstances, Tier Six included non-employee applicants with overwhelming evidence demonstrating that less-qualified, pre-selected individuals were hired in lieu of the Claimant. Thus, pursuant to factors 1, 2, 3, 5, 6, 7 and 8, individuals in Tier Six received twenty-thousand dollars.

7. Tier Seven:

Tier Seven consisted of seventy-five individuals who alleged numerous and extreme instances of political discrimination and submitted extensive documentary evidence supporting their claims and damages. In addition to the evidence submitted by the Claimant, independent evidence which supported the Claimant's allegations of denied opportunities. For instance, many of these individuals were long-time city employees who had been relegated to low-level positions for years. These Claimants provided evidence of multiple applications for positions and/or promotions for which they were qualified. Tier Seven Claimants also provided detailed information about their economic and other damages. Substantial evidence established that the individuals who were ultimately chosen for the majority of these positions were either, less-qualified, clouted and/or pre-selected. In addition, many individuals in this Tier were candidates in hiring sequences that were identified as manipulated sequences in court documents and filings during the *Sorich* trial. Thus, based on factors 1, 2, 3, 4, 5, 6 and 7, individuals in Tier Seven received thirty-thousand dollars.

8. Tier Eight:

Tier eight consisted of eighteen individuals. The awards in this tier ranged from Forty-Five Thousand Dollars to One Hundred Thousand Dollars. Claimants in Tier Eight provided detailed accounts of discrimination and numerous pages of supporting documentation. In general, Tier Eight Claimants meticulously detailed several years of ongoing discrimination during the liability period. The largest category of Tier Eight Claimants involved individuals who were employed by the City for years, systematically prevented from advancement and retaliated against for not supporting the political views of decision-makers. Several Claimants spent the bulk of their careers relegated to low-level positions and were not promoted despite their experience and advanced qualifications. Some Claimants detailed sham interviews in which they were asked irrelevant questions and told that the position was already filled by a pre-selected candidate. Claimants were told that they would never be promoted unless they contributed time and/or money to City sponsored candidates. In some cases, individuals in this Tier were City employees who provided evidence that they were either terminated or suffered numerous adverse actions because of their political affiliation.

F. CANDIDATE CLASS CLAIMANTS

It is worth noting that four individuals filed Claim Forms alleging, in part, patronage violations during their failed candidacy for election to a public office.³ Although most of those claims are typically difficult to prove, one Claimant submitted compelling evidence demonstrating that City of Chicago employees, at the direction of their superiors, interfered with the Claimant's ability to engage in a fair campaign. City employees publicly stated that candidates are not eligible to participate in the Claim Fund. The original lawsuit, however, was brought by Michael Shakman, as a candidate and on behalf of a class of candidates. There has been no decision holding that candidates are no longer class members.

CONCLUSION

The Monitor's Office's review of the fifteen hundred and twenty-eight Claim Forms demonstrated that many Claimants alleged violations by the same group of distinct individuals. Some of these individuals still hold high-ranking positions within the City of Chicago and, despite testimony and evidence presented in the *Sorich* trial, with regard to their practices, have evaded any form of discipline over these violations. This issue creates a continuing concern regarding the City of Chicago's substantial compliance with the Accord.

³ Some Claimants had both employment claims and candidate claims.

Respectfully submitted this 27th day of March, 2008.

____/s/ Noelle C. Brennan_____

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