

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

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

**APRIL 23, 2008 REPORT OF THE MONITOR**

Pursuant to the Agreed Settlement Order and Accord (the “Accord”), approved by the Court on May 31, 2007, the City of Chicago established 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, and/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.<sup>1</sup> On March 26, 2008, pursuant to the Accord, the Monitor’s office notified all claimants of their eligibility and their award amount. On April 22, 2008, the Monitor’s Office provided the City of Chicago and the Plaintiffs’ attorneys with the eligible Claimants’ names, award amounts, social security numbers and addresses. The City is now required to mail checks to all eligible claimants by June 23, 2008.

**A. RELEASE OF CLAIMANTS’ NAMES AND AWARDS**

Aside from providing the award amounts and names to the City and Plaintiffs’ attorneys, the Monitor is prohibited from releasing any names, amounts or other information regarding any particular claimant, unless that claimant has consented to such release. The City, however, informed the Monitor that, pursuant to the Freedom of Information Act (“FOIA”), if a request was made, it would be required to release the names and award amounts of eligible Claimants. Both the City and the Monitor were aware of the fact that the Chicago Tribune was going to make a FOIA request. In light of the fact that this information would likely become public, the Monitor raised significant concerns that individuals who filed Claim Forms may be subject to retaliation for their

---

<sup>1</sup> 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.

participation in the claims process. These concerns were raised on numerous occasions with various City officials.

As expected, the Chicago Tribune made a FOIA request on April 22, 2008. The City released the requested information the next day, despite having at least 7 days to respond to the request. The City's immediate release of the Claimants' names and award amounts without any notice to the Monitor's Office and without taking steps to limit retaliation poses serious concerns. The City could have preempted some forms of retaliation by taking basic steps to protect Claimants. First, it could have alerted all employees that the information was going to become public. Second, it could have notified or reminded all of its employees of the Executive Order entered on September 27, 2005 which prohibits any employee or City officer from retaliating against any employee for complaining to, cooperating with, or assisting the Monitor. Third, it could have directed individuals who encounter retaliation to the Inspector General's Office. Finally, it could have reminded individuals that violating the anti-retaliation provision can result in suspension or termination. None of these actions were taken. The City's failure to take any of these potentially preemptive measures (or any others) increases the likelihood that retaliation will occur.

Retaliation complaints for having submitted a Claim Form have already been presented to the Monitor's Office. For example, individuals who have been identified as having filed Claim Forms (e.g., those who requested personnel file information during the claims submissions process) have already alleged retaliation from supervisors and/or managers. In one instance, after a Claimant requested information needed to complete his Claim Form from a department manager, several pictures of a rat were posted around his work area. If retaliation is already occurring, the publication of the Claimants' names and award amounts will likely increase instances of retaliation. The City's failure to address this issue, and instead respond to a FOIA request within approximately 24 hours, impairs its attempt to move toward Substantial Compliance with the Accord.

## **B. CHALLENGES TO AWARD AMOUNTS**

As previously explained, the Settlement Order and Accord did not provide for any appeals process. Despite the absence of such a provision, the Monitor's office wanted to ensure that Claimants' concerns about their particular award amounts were properly addressed. As an initial matter, the Monitor's office received complaints from fewer than 10% of Claimants. Individuals who articulated a basis to believe that a mistake had been made in their award amounts were instructed to submit written challenges to the Monitor's Office. All challenges to award amounts that were submitted in writing were thoroughly considered. Two attorneys reviewed each of those challenge letters along with the original Claim Forms to determine whether any inadvertent errors had been made. Of all challenges submitted, only three individuals presented evidence that an actual mistake had been made in the original assessment.<sup>2</sup>

---

<sup>2</sup> Two individuals who were previously determined ineligible presented evidence that they were in fact eligible for an award and were therefore added to the list of eligible Claimants.

Most of the challenges received by the Monitor's Office fell into one of the following categories: 1) individuals who were expecting to receive \$100,000; 2) individuals who believed they should have received a higher award amount based on the information they provided in their Claim Forms; and 3) individuals who submitted new information and documentation in an effort to demonstrate that their awards were too low.

In response to those challengers who simply alleged that they should have received the maximum award of \$100,000 available under the Settlement Fund, the Monitor's Office explained that there was a limited amount of money to distribute; that \$100,000 was the maximum award; and that comparisons were necessarily made based on the strength of each claim and the level of detail and documentation provided. In response to challengers who claimed that they should have received a higher award, the Monitor's Office explained to those individuals that there was a limited amount of money to distribute and that comparisons had to be made based on the strength of each claim and the level of detail and documentation provided. Thus, even though the Claimant *may* have actually provided information detailing damages that would entitle him or her to a higher award, because of the limited funds, increasing that award was not possible.

Some Claimants submitted new information and documentation in an effort to have their awards increased. In response, the Monitor's Office explained that new information and documentation could not **now** be considered. The instructions for submitting a Claim Form placed the responsibility for providing detailed information and documentation on the Claimant. As clearly stated in the Claim Form instructions:

Accord Claim Forms should include as much detail as possible showing the evidence supporting your claim that you were subjected to unlawful political discrimination in connection with any aspect of employment with the City of Chicago. You *must* attach any supporting documentation in your possession to your Accord Claim Form. (emphasis added)

Upon re-review of the original Claim Forms of those individuals who submitted additional information and/or documentation as a challenge to their awards, it was determined that the large majority of them had provided very little, if any, documentation with their original Claim Forms. As noted above, these individuals had been advised to include such documentation in the instructions for submitting their Claim Forms.

In contrast, those individuals who received higher award amounts generally included the following information: proof that they had applied for numerous jobs or promotions during the relevant time period; proof that they were qualified for the jobs for which they applied; names of politically-connected individuals who had received the jobs in question; and assurances that the Claimants themselves had refused to do political work and were therefore denied the jobs and/or promotions at issue.

### C. OPPOSITION TO CANDIDATE AWARDS

In recent weeks, certain elected officials and other individuals have publicly questioned specific awards received by individual claimants without being privy to the Claim Forms filed by those Claimants. One such Claimant is Jay Stone, who was a candidate for Alderman in 2003 and lost to former Alderman Matlak after City officials engaged in numerous activities aimed at defeating Stone's campaign. Some individuals have publicly claimed that Stone was not entitled to an award because Stone's claim alleged political discrimination with regard to a campaign rather than an employment decision. On the contrary, the lawsuit which precipitated the \$12 million settlement fund at issue resulted from allegations analogous to Stone's claims. More than thirty years ago, Michael Shakman filed a lawsuit in which he claimed that his candidacy for delegate to the Illinois Constitutional Convention was defeated because the City sent its employees out to campaign for his opponent during City time. Like Shakman, Jay Stone's opponent was aided by an arsenal of City workers who actively campaigned against Stone. Stone provided ample evidence supporting this allegation including transcript pages from the *Sorich* trial in which Donald Tomczak, a top-ranking city official, testified under oath that he sent City workers to the 32<sup>nd</sup> Ward to campaign for Stone's opponent. Tomczak testified that the instructions to send these workers to that specific campaign came directly from the Mayor's Office of Intergovernmental Affairs ("IGA").

Some individuals have also publicly claimed that Stone was never a viable candidate in 2003 and therefore not entitled to any award. First, it is impossible to know what the outcome of that election would have been absent the illegal conduct. More importantly, it is highly unlikely that the IGA would have directed its limited City employee resources to defeat a candidate who had no chance at winning. Notably, Stone's 2003 opponent lost re-election when he was forced to run without the benefit of City workers campaigning for him on City time. Finally, Stone's *Shakman* award is not premised on winning or losing a campaign. Rather, it is premised on his Constitutional right to run for office free from City-organized and funded opposition.

It has been suggested that Stone should not have received an award because his father is currently an Alderman in the 50<sup>th</sup> Ward. The implication of this claim is that Jay Stone is a recipient of "clout" and therefore should not have received compensation for his claim. However, in Stone's case, Stone's father publicly opposed Stone's bid for Alderman and supported Stone's opponent. Claims that Jay Stone benefited from being the son of an Alderman are not borne from the facts.<sup>3</sup>

---

<sup>3</sup> In a related matter, some Claimants who received awards did appear on the "clout list." Although those Claimants may not have been denied a recovery entirely, award amounts for individuals who appeared on the Clout List or were otherwise known to be clouted were significantly reduced.

#### D. BREAKDOWN OF CLAIMANT AWARDS BY DEPARTMENT

Finally, inquiries have been made regarding the distribution of Claims made with regard to each department. The following table summarizes the number of Claimants alleging political discrimination by City department. Individuals who alleged violations in more than one department are represented in the “Multiple Department” category.

DEPARTMENT	NUMBER OF CLAIMS	DEPARTMENT	NUMBER OF CLAIMS
AGING	4	INSPECTOR GENERAL'S OFFICE	3
ANIMAL CARE AND CONTROL	5	INFORMATION SERVICES	2
AVIATION	61	LAW	5
BUDGET & MANAGEMENT	1	LIBRARY	2
BUILDINGS	23	OFFICE OF EMERGENCY COMMUNICATIONS	22
BUSINESS AFFAIRS & LICENSING	1	PLANNING & DEVELOPMENT	2
CITY CLERK'S OFFICE	8	POLICE	91
CONSUMER SERVICES	2	PROCUREMENT SERVICES	1
DEPARTMENT OF CONSTRUCTION AND PERMITS	1	PROFESSIONAL STANDARDS	1
FINANCE	7	PUBLIC HEALTH	10
FIRE	31	REVENUE	18
FLEET	41	STREETS & SANITATION	482
GENERAL SERVICES	15	SPECIAL EVENTS	1
HOUSING	6	TRANSPORTATION	51
HUMAN RELATIONS	2	WATER	167
HUMAN RESOURCES	90	ZONING	1
HUMAN SERVICES	12	MULTIPLE DEPARTMENTS	258
<b>TOTAL:</b>			<b>1427</b>

Respectfully submitted this 23<sup>rd</sup> day of April, 2008.

\_\_\_\_\_/s/ Noelle C. Brennan\_\_\_\_\_

Noelle C. Brennan  
*Shakman* Decree Monitor  
 Brennan & Monte, Ltd.  
 20 S. Clark St.  
 Suite 1530  
 Chicago, IL 60603  
 (312) 422-0001