

**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 ASSESSOR'S OFFICE, et al.,)	
)	
)	
Defendants.)	

**AGREED ORDER
FOR THE COOK COUNTY ASSESSOR'S OFFICE**

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In 1972, Defendant Cook County Assessor's Office ("Assessor") entered into a Consent Decree ("1972 Consent Decree") which, among other things, prohibited the Assessor from "conditioning, basing or knowingly prejudicing or affecting any term or aspect of governmental employment, with respect to one who is at the time already a governmental employee, upon or because of any political reason or factor." On February 1, 1995, the Assessor entered into a Consent Decree which incorporated the 1972 Consent Decree's prohibitions and extended those prohibitions to include the Assessor's hiring practices, with certain exclusions. The 1972 and 1995 Consent Decrees are collectively referred to as the "Consent Decrees."

The Assessor and the Plaintiffs on behalf of classes of past, present, and future (i) candidates, (ii) voters, (iii) applicants for employment with the Assessor, and (iv) employees of the Assessor (the "Class Members") (collectively "the Parties") agree to the entry of this Agreed Order as follows:

1. Preliminary Approval Order. The Court shall enter an order in the form attached as Exhibit 1 preliminarily approving this Agreed Order and setting forth procedures for notice, public hearing, final approval of this Agreed Order, and for fully incorporating this Agreed Order into the Assessor's Consent Decrees.

2. Conditions Precedent to Final Approval. Prior to final approval of this Agreed Order by the Court:

A. Executive Order – Unlawful Political Discrimination. The Assessor will have promulgated an executive order in the form that shall be attached to the final Agreed Order as Exhibit 2.A (i) forbidding unlawful political discrimination in all aspects of employment with the Assessor, except with respect to positions that are

Exempt Positions under the Assessor's Consent Decrees as modified from time to time, and (ii) adopting the provisions of this Agreed Order.

B. Executive Order –Reporting Unlawful Political Discrimination. The Assessor will have promulgated an executive order making it a condition of employment, including but not limited to hiring, that any employee of the Assessor who learns of any unlawful political discrimination in connection with any aspect of government employment with the Assessor or seeking employment with the Assessor, except with respect to Exempt Positions, or who believes that such unlawful political discrimination has occurred or is occurring, must report this information to the Assessor's Director of Compliance directly and without undue delay. The Director of Compliance shall provide all reports to the Assessor Compliance Administrator ("ACA") appointed pursuant to Section I of this Agreed Order. No person shall be compelled to report unlawful political discrimination in violation of her or his constitutional rights. No person shall be subject to any negative employment action as a result of filing any such report in good faith.

C. Whistleblower Policy. The Assessor will have adopted a written, effective whistleblower policy, in the form that shall be attached to the final Agreed Order as Exhibit 3, that forbids retribution for reporting any suspected violations of the Assessor's Consent Decrees or this Agreed Order, so as to be fully protective of anyone who in good faith makes any complaint of any employment practice which the person may believe violates the Assessor's Consent Decrees or this Agreed Order.

3. No Effect on Other Parties to the Shakman Litigation. This Agreed Order shall have no effect on any judgments or orders in this case as to defendants other than the Assessor (collectively, “Other Parties”), or individuals who opt out of this Agreed Order to file their own lawsuits. This Court retains jurisdiction to hear and determine all claims and issues involving the validity of the Consent Judgments or this Agreed Order.

4. Assessor’s Consent Decrees. The Assessor’s Consent Decrees shall remain in full force and effect after the Court’s approval of this Agreed Order. However, the remedy provided in this Agreed Order shall be the exclusive remedy for Class Members seeking remedies for claims of political discrimination under the Consent Decree based on events occurring prior to the final approval of this Agreed Order who fail to opt out as provided in Section IV.B.

The Parties further agree and the Court orders the following:

I. ASSESSOR COMPLIANCE ADMINISTRATOR

The Court appoints the Honorable Clifford Meacham as the Assessor Compliance Administrator (“ACA”) to ensure future compliance with the Consent Decree and this Agreed Order. The Court also appoints Peter Monohan as counsel for the ACA.

A. ACA Powers. The ACA shall be an agent of the Court and shall have only the duties, responsibilities and authority conferred herein by the Court and by subsequent Court Orders regarding such duties. The ACA, subject to the supervision and orders of the Court, shall study the Assessor’s existing employment practices, policies and procedures for nonpolitical hiring, promotion, transfer, discipline and discharge. The ACA and the ACA’s staff members (including independent contractors, attorneys, non-attorneys, and their employees and agents) shall possess the same immunity from suit as the Court.

- B. Initial Report. Within 60 days of being appointed, the ACA shall file a report with the Court recommending: (i) additional powers the ACA should be given to carry out the ACA's duties, (ii) appropriate staff for the ACA, and (iii) mechanisms for ensuring employment actions are in compliance with the orders of this Court in this case.
- C. Compensation of ACA. The ACA shall be compensated at a rate of \$250 per hour. The ACA's counsel shall be compensated at a rate of \$250 per hour. The ACA's staff shall be compensated at reasonable hourly rates which shall be set by the Court or by agreement between the ACA and the Assessor. These rates may periodically be adjusted with Court approval or by agreement between the Assessor and the ACA. Cook County (the "County") shall promptly pay any and all reasonable fees and costs necessary to fulfill the work of the ACA.
- D. Ex Parte Communications. The ACA and the ACA's counsel and staff shall be permitted to conduct *ex parte* communications with the Court, the Parties and their counsel, the Director of Compliance and employees of the Assessor's Office.
- E. Assessor's Cooperation. The Assessor shall cooperate with the ACA in connection with the ACA's efforts to oversee and ensure implementation of the remaining portions of the Assessor's Consent Decrees and this Agreed Order, including providing reasonable access to all relevant non-privileged documents and to current employees at all levels. The ACA shall attempt to minimize disruption to the workplace during the course of the ACA's activity. The Assessor will designate an executive employee to act as a liaison with the ACA

and the Director of Compliance to ensure that they receive cooperation from all Assessor employees.

- F. Confidentiality. Given the need of the ACA to review confidential business information maintained by the Assessor, the ACA, and anyone working in conjunction with the ACA, shall sign a confidentiality agreement. The language of the confidentiality agreement will be agreed to by the Parties. The confidentiality agreement will not prohibit or interfere with the ACA's obligation to perform the duties provided in this Agreed Order. Within two weeks of receiving a request from the ACA, the Assessor shall either produce all requested documents or provide a time frame for when documents will be produced. Documents produced to the ACA may be subject to the confidentiality agreement. In addition, the ACA, the Assessor and the Plaintiffs shall agree to a Protective Order to be entered by the Court to address disclosure of relevant employee information or documents absent authorization from the employee.
- G. Review Employment Practices and Recommend Changes. The ACA shall review the Assessor's employment practices including observing actual hiring and promotion sequences to determine whether the Assessor is complying with the Assessor's Consent Decrees and hiring procedures. The ACA shall make recommendations for changes, to achieve better compliance from the Assessor's employment procedures. The ACA shall work with the Assessor's employees to observe current employment practices and answer questions and provide guidance as deemed necessary.

H. Training Trainers. The ACA shall assist in establishing a “train the trainer” program for supervisors to educate and train employees on appropriate politics-free employment practices.

II. NEW EMPLOYMENT PLAN.

A. Review of Current Employment Practices.

1. The Assessor and the ACA shall review the Assessor’s employment practices for non-Exempt employees and shall make recommendations for change as warranted.
2. The Assessor and the ACA shall define appropriate and inappropriate employment practices, consistent with law, the Assessor’s Consent Decrees and this Agreed Order.

B. Director of Compliance. The Assessor shall recruit and hire a Director of Compliance whose primary responsibilities will include, but not be limited to:

1. overseeing compliance with this Agreed Order;
2. overseeing compliance with the Employment Plan;
3. maintaining and reviewing the Exempt List to ensure continued compliance;
4. accepting complaints related to Employment Actions and the Employment Plan;
5. taking steps to evaluate, eliminate, remedy and report instances of Unlawful Political Discrimination;
6. implementation of training programs and preparing training materials; and

7. work with the Assessor's employees to observe current employment practices and answer questions and provide guidance as deemed necessary.

C. Notification to Current and Potential Employees; Training Employees.

1. The Assessor and the ACA shall train the Assessor's employees in order to effectuate a culture free of political consideration in all aspects of governmental employment for non-Exempt Positions, including but not limited to, hiring, promotion, discharge, overtime and transfers of the Assessor's employees.
2. The Assessor shall provide notification to job applicants regarding the Assessor's employment practices and prohibitions as well as how to report allegations of non-compliance.

D. New Employment Plan Development. After the ACA has actively monitored the Assessor's employment practices for sixty days, the ACA and the Parties shall negotiate, in good faith, a new employment plan ("New Employment Plan") that will govern the Assessor's employment practices, policies and procedures, including, but not limited to, nonpolitical hiring, promotion, transfer, assignment of overtime, discipline and discharge. This negotiation obligation may be met by preparation of a proposed plan by the Assessor and the ACA, so long as Plaintiffs have a meaningful opportunity for input before the plan is presented to the Court for approval. The New Employment Plan shall be presented to the Court for approval. When adopted and approved by the Court, the New Employment Plan

shall be fully incorporated into the Assessor's Consent Decrees and Agreed Order.

- E. Senior Manager Hiring Process. The New Employment Plan shall provide for a Senior Manager Hiring Process for certain listed non-Exempt positions. The Assessor shall present a list of Senior Manager Positions to Plaintiffs' Class Counsel for comment and discussion in a good faith effort to reach agreement on the list. Any disagreements shall be presented to the Court for resolution. A final Senior Manager List shall be approved by the Court and incorporated into this Agreed Order. The New Employment Plan shall include a procedure for amending the list of Senior Manager positions agreed to by the parties.
- F. Executive Assistant Hiring Process. The New Employment Plan shall provide for an Executive Assistant Hiring Process for non-Exempt private secretary positions. The Assessor shall present a list of Executive Assistant Positions to Plaintiffs' Class Counsel for comment and discussion in a good faith effort to reach agreement on the list. Any disagreements shall be presented to the Court for resolution. A final Executive Assistant List shall be approved by the Court and incorporated into this Agreed Order. The New Employment Plan shall include a procedure for amending the list of Executive Assistant positions agreed to by the parties.
- G. Exemptions. A list of Exempt Positions, those positions that, consistent with federal court guidance thereon, are exempt from the hiring procedures provided for in the Assessor's Consent Decrees and this Agreed Order, shall be filed with the Court for approval. The Assessor shall present the new list of Exempt

Positions to Plaintiffs' Class Counsel for comment and discussion in a good faith effort to reach agreement on the list. Any disagreements shall be presented to the Court for resolution. The Assessor may amend the Exempt List from time to time. Prior to submitting any such amendments to the Court for approval, the Assessor shall present the amendment to Plaintiff's Class Counsel for comment and discussion in a good faith effort to reach agreement on the amendment.

- H. Impasse Resolution. If, at any time prior to the adoption of the New Employment Plan, the ACA, the Assessor, and Plaintiffs reach an impasse regarding any component of the New Employment Plan, the ACA shall report to the Court the nature of the unresolved issue(s) and may make a written recommendation as how to resolve such issue(s) for the Court's determination. The Parties shall have the right to be heard and make submissions concerning the resolution of any unresolved issue(s), and the Court shall then rule on the unresolved issue(s). Provisions directed by the Court pursuant to such ruling(s) shall become part of the New Employment Plan.

III. MONITORING AND ENFORCEMENT.

- A. Covered Employees. The prohibitions of the Assessor's Consent Decrees and this Agreed Order cover all employment by or for the Assessor, or by or for any person or entity under the direction and control of the Assessor, except for Exempt Positions. For this purpose "employment" means the relationship that constitutes employment at common law by the Assessor or by or for any person or entity under the direction and control of the Assessor except for Exempt Positions and includes probationary, temporary, part time and permanent employment, whether pursuant to a written contract or otherwise. The prohibitions do not

apply to the retention of independent contractors by the Assessor except that any independent contractor hired to fill non-exempt employment positions or to direct the Assessor's non-exempt employees shall be subject to the requirements of this Agreed Order. Nothing in this Agreed Order shall have any effect on any other consent decree applying to any other governmental body or public office.

- B. Continued Jurisdiction of the Court. The Court retains jurisdiction for purposes of enforcement and ongoing monitoring of the Assessor's compliance with the Assessor's Consent Decrees and this Agreed Order, including monitoring by the ACA and the ACA's counsel and staff, until such time as the Assessor's Consent Decrees and this Agreed Order terminate.
- C. ACA Reports. The ACA shall prepare and file reports with the Court on the fifteenth day of April, August, and December providing an update regarding the Assessor's compliance with this Agreed Order and progress made toward substantial compliance. The Parties may provide input to the Court regarding information contained in the ACA's reports.
- D. Continued ACA Monitoring. The ACA, with the ACA's counsel and staff, shall continue to actively monitor the Assessor's compliance with the Assessor's Consent Decrees, this Agreed Order, and the New Employment Plan until their termination.
- E. Monitoring by Plaintiffs. Plaintiffs shall monitor the Assessor's performance under the Assessor's Consent Decrees, this Agreed Order (including the Claims Process and the Complaint Procedure), and the New Employment Plan through counsel of their choice, may present matters to the Court including enforcement

actions, and may petition the Court for payment of costs and attorneys' fees incurred as part of their reasonable, appropriate, non-duplicative monitoring and enforcement and for carrying out any of their obligations under this Agreed Order.

F. Sunset Procedures.

1. Motion to Dissolve. No sooner than six months after the New Employment Plan is implemented or at any time that the Court shall order, the Assessor may file a Motion to Dissolve the Assessor's Consent Decrees and this Agreed Order. The Assessor shall provide a copy of the Motion to Dissolve to Plaintiffs' Class Counsel and the ACA thirty (30) days prior to filing the Motion to Dissolve. The Assessor has the burden of showing that it is in Substantial Compliance (as defined below).
2. Certification of Substantial Compliance. As a condition precedent to filing a Motion to Dissolve, the Assessor, the Assessor's Director of Human Resources, and the Director of Compliance must each certify in writing in the form that is attached as Exhibit III.E.2, that, after appropriate review and inquiry, each believes that the Assessor is in Substantial Compliance with the Assessor's Consent Decrees and this Agreed Order and that there is no material non-compliance (together, the "Certifications of Substantial Compliance"). The Certifications of Substantial Compliance must be attached as exhibits to the Motion to Dissolve.

3. ACA's Opinion. Within fourteen (14) days after the Motion to Dissolve is filed with the Court, the ACA shall advise the Court whether, in the opinion of the ACA ("ACA's Opinion"), the Assessor is or is not in Substantial Compliance with the Assessor's Consent Decrees and this Agreed Order. The Assessor and Plaintiffs' Counsel have the right to challenge the ACA's Opinion and to request a hearing from the Court.
4. Plaintiffs' Response. Within fourteen (14) days of service of the ACA's Opinion, Plaintiffs may file a response to the Motion to Dissolve.
5. Conditions to Termination of the Assessor's Consent Decrees and this Agreed Order. The Assessor's Consent Decrees and this Agreed Order shall terminate if (i) the Certifications of Substantial Compliance have certified that the Assessor is in Substantial Compliance, (ii) the ACA has advised the Court of the ACA's Opinion, and (iii) the Court has determined, after such procedures as the Court deems appropriate, that the Assessor is in Substantial Compliance.
6. Effective Date of Termination. The effective date of termination shall be the date upon which all judicial proceedings, and expiration of rights to appeal, have concluded following a final judicial decision that Substantial Compliance has been achieved. Termination of the Assessor's Consent Decrees and this Agreed Order shall have no effect on any claim under Section IV of this Agreed Order or any complaint under Section V filed within one-hundred eighty (180) days after the date this Agreed Order and

Assessor's Consent Decrees are terminated if based on alleged conduct occurring prior to termination.

7. Reinitiating Substantial Compliance Process. If the Assessor's Consent Decrees and this Agreed Order are not terminated after the filing of a Motion to Dissolve by the Assessor, the Assessor's Consent Decrees and this Agreed Order shall remain in effect. In its order denying the Motion to Dissolve, the Court, with the input of the Parties, shall set a new date after which the Assessor may reinitiate the above Substantial Compliance certification and ACA Opinion process.
8. Substantial Compliance Definition. Substantial Compliance means:
 - (1) the Assessor has implemented the New Employment Plan, including procedures to ensure compliance with the New Employment Plan and identify instances of non-compliance;
 - (2) the Assessor has acted in good faith to remedy instances of non-compliance that have been identified, and prevent a recurrence;
 - (3) the Assessor 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 Assessor's Consent Decrees and this Agreed Order's essential purpose. However, technical violations or isolated incidents of noncompliance shall not be a basis for a finding that the Assessor is not in substantial compliance; and

(5) the Assessor has implemented procedures that will effect long-term prevention of the use of impermissible political considerations in connection with employment with the Assessor.

9. Recommendations and Definition of Political Reasons and Factors.

Nothing in this Agreed Order shall limit the right of any citizen, including elected officials, to make recommendations not based on political reasons or factors, to personnel involved in making employment decisions on behalf of the Assessor. In the case of hiring for positions that are not exempt from the requirement that political reasons or factors be excluded from consideration, recommendations from public office holders or political party officials that are based on their personal knowledge of the person's work skill, work experience or other job-related qualifications are permitted and may be considered. Recommendations based on political reasons or factors shall not be given any effect, and shall be reported as provided in the New Employment Plan. As used herein, "political reasons or factors" include:

- (1) Recommendations for hiring, promotion or other employment terms for specific persons from public office holders or political party officials that are not based on personal knowledge of the person's work skills, work experience or other job-related qualifications.
- (2) The fact that the person worked in a political campaign or belongs to a political organization or political party, or the fact that the

person chose not to work in a political campaign or to belong to a political organization or a political party. The mere fact that a person worked for a political campaign for elective office does not prohibit consideration of a recommendation related to that person insofar as the basis for that recommendation relates to the person's relevant work experience.

- (3) The fact that the person contributed money, raised money or provided something else of value to a candidate for public office or a political organization, or the fact that the person chose not to contribute or raise money for a candidate for public office or a political organization.
- (4) The fact that the person is a Democrat or a Republican or a member of any other political party or group. Or the fact that the applicant is not a member.
- (5) The fact that the person expressed views or beliefs on political matters such as which candidates or elected officials he or she favored or opposed, which public policy issue he or she favored or opposed, or which views on government actions or failures to act he or she expressed.

G. Waiver of Challenge to Assessor's Consent Decrees and Agreed Order Validity and Class Member Standing; Preservation of Other Defenses. The Assessor shall not seek to vacate, appeal or otherwise challenge the validity of the Assessor's Consent Decrees or this Agreed Order.

IV. CLAIMS PROCEDURE FOR ELIGIBLE CLAIMANTS

Any past employee with the Assessor who alleges that he or she suffered injury as a result of unlawful political discrimination in connection with his or her termination from the Assessor's Office which occurred between December 6, 2010 and the date of final approval of this Agreed Order may file a claim under the Claims Procedure under Section IV of this Agreed Order ("Claimant"). If an individual elects to file a claim under Section IV of this Agreed Order, that individual is barred from also filing a complaint in federal court. If an individual files a complaint in federal court, that individual is barred from also filing a claim under Section III of this Agreed Order. Pursuant to Local Rule 40.4, either party to a lawsuit alleging a violation of the Consent Decrees may file a motion to have the case reassigned to the judge presiding over the 69 C 2145 case.

- A. Notice. The Assessor shall provide notice of the Claims Procedure and Opt-Out Rights to all Eligible Claimants as soon as practicable, and in any event, no later than fourteen (14) days prior to the final approval hearing. No later than fourteen (14) days following final approval of this Agreed Order by the Court, the Assessor shall provide Claim Forms and Opt-Out Request Forms in the form attached as Form 1 and Form 2 to anyone who was terminated from their employment by the Assessor from December 6, 2010 and the date of final approval of this Agreed Order ("Eligible Claimants").
- B. Opt-Out Rights. The Claims Procedure for Eligible Claimants is the sole recourse for Class Members seeking to enforce the Assessor's Consent Decrees for violations occurring prior to final approval of this Agreed Order who fail to opt-out of this Agreed Order. Any Class Member, including Eligible Claimants, may opt out of this Agreed Order and file a separate lawsuit under a theory of

relief other than a violation of the Assessor's Consent Decrees by submitting a written Opt-Out Request Form (Form 2) to the ACA. The Opt-Out Request Form must be received by the ACA or be postmarked by a United States Post Office by October 31, 2012 (the "Opt-Out Date"). Class Members who opt out would be free to file suit to pursue any claim for political discrimination other than one alleging a violation of the Assessor's Consent Decrees. Unless a Class Member opts out of this Agreed Order in the manner provided herein, his or her rights regarding any such claim shall be governed solely by the Claims Procedures set forth in this Agreed Order. Within seven (7) days of the Opt-Out Date, the ACA shall provide copies of all Opt-Out Request Forms to the Parties.

- C. Eligible Claimants. Any past employee with the Assessor who alleges that he or she suffered injury as a result of unlawful political discrimination in connection with his or her termination from the Assessor's Office which occurred between December 6, 2010 and the date of final approval of this Agreed Order may file a Claim under Section IV ("Claimant").
- D. Claim Forms. An Eligible Claimant who wishes to file a claim against the Assessor must submit a notarized Claim Form and Release (Form 1) to the ACA. All Claim Forms must be received by the ACA or be postmarked by a United States Post Office by October 31, 2012 (the "Claim Deadline").
 - 1. Contents. The Claim Form shall consist of a sworn statement explaining why the individual believes his or her termination was the result of unlawful political discrimination. Eligible Claimants shall also provide identifying information including the Eligible Claimant's full name,

address and telephone number; a statement of the relief requested including the amount of any damages; and a release of certain claims as defined below. An Eligible Claimant must attach any documentation supporting his or her Claim to the Claim Form.

2. Interpretation. The ACA shall interpret the Claim Forms in a liberal, non-technical manner, and may request amplification or clarification of claims to facilitate identifying valid claims and eliminating those that are not valid. Subsequent amplification and clarification shall be deemed part of the Claim Form as of the date filed.
3. Cooperation of Assessor and Claimants. During the claims review process the Assessor and the Claimant will provide any and all information and documents reasonably requested by the ACA. No person shall be compelled to provide privileged information or information in violation of her or his constitutional rights. The ACA will provide the Assessor with copies of all Claim Forms and supporting documentation filed. The Assessor will be afforded the opportunity to investigate the claims and provide the ACA with information and documentation relative to the claims. The Assessor will provide the ACA with the names of any present or former employee of the Assessor with whom the Assessor intends to discuss a claim at least 48 hours prior to the discussion/interview. At the ACA's requests, the Assessor shall delay any discussion/interview until after the ACA has completed his interview of the individual or until the ACA gives his consent. The intent is to create a

cooperative and collaborative relationship between the ACA and the Assessor for the purpose of investigating and resolving the Claims.

4. Availability of Claim Forms. Claim Forms will be available from the Assessor and Plaintiffs' Class Counsel. Complaint Forms can also be obtained from the Assessor's website.
5. Distribution of Claims. Within seven (7) days of receiving a Claim, the ACA shall provide a copy of the Claim to Plaintiff's Counsel and the State's Attorney's Office – Civil Actions Bureau. The Claim shall remain confidential and shall not be disclosed to anyone except as provided herein.

E. Claim Determination.

1. Timing of Awards. Within ninety (90) days of the Claim Deadline, the ACA, in the ACA's sole discretion and after consideration of all of the evidence, shall determine whether the Claimant is eligible for recovery and, if so, shall assign a monetary award to the Claimant based on the relevant information presented to the ACA or otherwise in the ACA's possession. The decision of the ACA shall be final and not subject to appeal.
2. ACA Decision. In determining whether a claim is meritorious and the assigned award amount for any claim, the ACA may consider all relevant factors and evidence regarding the claim, including but not limited to the following, to the extent applicable: (a) the facts presented regarding the alleged violation; (b) the salary of the position sought or held; (c) the

economic benefit of the action at issue and the number of eligible recipients; and (d) the strength of the evidence. The ACA shall determine (i) whether this Agreed Order has been violated; (ii) whether the Claimant has met the burden of proof under applicable law; and (iii) the appropriate remedy. The remedy shall be limited to monetary damages. In the event additional time is required by the ACA to assess a claim, the ACA shall so inform the Claimant and the Assessor within such ninety (90) day period, and the time shall be extended for the period so specified.

3. Notice of ACA Decision. The ACA shall inform the Claimant and the Parties of the ACA's decision by sending a Notice of Determination to the Claimant, the State's Attorney's Office – Civil Actions Bureau and Plaintiffs' Class Counsel. The ACA's decision shall be final.

F. Disbursement of Awards. Within thirty (30) days following the ACA's determination on all claims, the ACA shall provide the State's Attorney's Office – Civil Actions Bureau with a list of Claimants eligible for an award, the Claimants' last known mailing address, social security number, and the amount of each award. Thereafter, the County shall pay the awards and tender to the ACA for disbursement the checks payable to each Claimant who has received an award in the amount of the award. The ACA shall provide Plaintiffs' Class Counsel with a complete list of all amounts paid, the recipients and the dates of payment.

G. Attorneys' Liens. Claimants may retain counsel to represent them. Counsel may perfect an attorney's lien on any award by following the procedures set forth under the Illinois Attorney's Lien Act, 770 ILCS 5/0.01 et seq.

H. Waiver. Any Claimant who proceeds under the Assessor's Claim Procedure, shall waive any and all rights she or he may otherwise have to bring suit to assert claims arising from the alleged violations of this Agreed Order.

I. Release.

1. Released Claims. As used herein, the term "Released Claims" means any and all claims, causes of action, rights, actions, suits, obligations, debts, demands, judgments, agreements, promises, liabilities, controversies, costs, expenses or attorneys' fees, of every nature and description whatsoever that have been or could have been asserted in this Action (including, but not limited to, violations of the Assessor's Consent Decrees, and First Amendment political discrimination lawsuits) and whether now known or unknown, suspected or unsuspected, arising out of their termination from the Assessor's Office and based on the claim that the termination was impermissibly motivated by political considerations.
2. Released Parties. As used herein, the term "Released Parties" means: the Assessor and all of the Assessor's employees, agents, advisors, and attorneys, and their heirs, executors, administrators, personal or legal representatives, successors, transferees and assigns.
3. Final Settlement of Claims. The obligations incurred by the Assessor pursuant to this Agreed Order, shall be in full and final disposition and settlement of all claims, actions, suits, causes of action, and liabilities relating to any of the facts, transactions, events, occurrences, acts or

omissions which have been asserted or could have been asserted by the Plaintiff Classes against the Released Parties in this Action.

4. Effect of Release. Once this Agreed Order has been finally approved by the Court, the time for appeal has run or all appeals have been finally exhausted and this Agreed Order has not been modified or affected by any such appeal, and the Assessor has made the payments required by this Agreed Order, all Released Claims that have been or could have been asserted by any Eligible Claimant or the Plaintiff Class representatives against the Released Parties or any of them for claims based on alleged violations of the Assessor's Consent Decrees shall be forever extinguished and released, regardless of whether any claim has been filed pursuant to the Claims provisions of this Agreed Order.

V. PROCEDURES FOR ALLEGED VIOLATIONS OCCURRING AFTER FINAL APPROVAL OF THIS AGREED ORDER.

Any individual may make a complaint of unlawful political discrimination in connection with any aspect of government employment, including seeking employment with the Assessor, alleged to have occurred during the period that this Agreed Order is in effect by submitting a complaint to the Director of Compliance or by filing suit in federal court. Pursuant to Local Rule 40.4, either party to a lawsuit alleging a violation of this Agreed Order may file a motion to have the case reassigned to the judge presiding over 69 C 2145 case.

- A. Making a Complaint. Any individual may submit a Complaint of unlawful political discrimination in connection with any aspect of government employment with the Assessor alleged to have occurred during the period that this Agreed Order is in effect. Any individual who would like to toll the running of the

limitations period for filing a lawsuit based on a claim of unlawful political discrimination (“Complainants”) must submit a Complaint Form to the Director of Compliance. The Complaint Form must be received by the Director of Compliance or be postmarked by a United States Post Office within one-hundred eighty (180) days after the Complainant knew or should have known of the alleged unlawful conduct. A Complainant who submits a Complaint Form to the Director of Compliance may not file a lawsuit in federal court until after the Director of Compliance issues a report under Section V.I and he/she participates in a mandatory settlement conference under Section V.J.

B. Requirements for Complaint Forms. Complaints submitted on Complaint Forms shall include a sworn statement setting forth the Complainant’s claims, and should include:

1. the date or dates of the alleged violation;
2. narrative description of the alleged violation;
3. a description of the alleged damages;
4. identifying information including the Complainant's name, address, telephone number;
5. copies of the appropriate supporting documentation, if in the possession of the Complainant; and
6. a statement of the relief requested by the Complainant including the amount of any damages, if known, the Complainant seeks to recover or the nature of the injunctive relief.

Nothing in this Agreed Order shall restrict the Director of Compliance's authority or ability to investigate any allegations of unlawful political discrimination in connection with employment with the Assessor received in any other manner established by the Director of Compliance, including through the Director of Compliance's complaint hotline, through a website complaint system, by fax, by phone or by letter. The filing of a Complaint Form shall toll an individual's federal statute of limitations as described in paragraph V.L below.

- C. Availability of Complaint Forms. Complaint Forms will be available from the ACA, the Assessor, the Director of Compliance, and Plaintiffs' Class Counsel. Complaint Forms can also be obtained from the ACA's website, the Assessor's website, and the Director of Compliance's website.
- D. Director of Compliance Investigation. The Director of Compliance shall be responsible for conducting the investigation of Complaints. Except as necessary to conduct an investigation or to confirm to the States Attorney's Office that a plaintiff in a lawsuit alleging political discrimination in connection with employment with the Assessor does not have a Complaint pending with the Director of Compliance's Office, the Director of Compliance and his or her agents shall not disclose the identities of Complainants to anyone other than the Court.
- E. Distribution of Complaints to ACA. Within seven (7) days of receiving a Complaint, the Director of Compliance shall provide a copy of the Complaint to the ACA. The Complaint shall remain confidential and, except as provided herein, shall not be disclosed to anyone except as provided for in this Agreed

Order. The ACA and his agents shall not disclose the contents or existence of the Complaint to anyone other than the Court until (1) the Director of Compliance completes his or her investigation and issues his or her report, or (2) as provided in Section V.D.

- F. Cooperation with Director of Compliance. The Assessor, its departments and their employees and agents shall fully cooperate with the Director of Compliance's investigation of the Complaint, by, among other things, promptly providing all requested relevant, non-privileged documents and information to the Director of Compliance, in a manner that will preserve the confidentiality of the Director of Compliance's investigation. No person shall be compelled to respond to any request for information in violation of her or his constitutional rights.
- G. Director of Compliance's Resources. The Assessor and the County shall provide the Director of Compliance with reasonable resources to independently, effectively, and expeditiously investigate Complaints and shall maintain such resources until the Director of Compliance has completed its duties hereunder.
- H. Timing of Director of Compliance Investigation. The Director of Compliance shall investigate Complaints expeditiously. The Director of Compliance shall attempt to complete its investigation within one-hundred eighty (180) days after its initiation. If any investigation is not completed within one-hundred eighty (180) days after its initiation, the Director of Compliance shall notify the ACA, State's Attorney's Office - Civil Action Bureau, Plaintiffs' Class Counsel, and the Complainant of the general nature of the complaint and the reasons for its failure to complete the investigation within one-hundred eighty (180) days.

- I. Director of Compliance's Report. At the conclusion of its investigation, the Director of Compliance shall report in writing the results of its investigation to the Complainant, the ACA, the Assessor, Plaintiffs' Class Counsel, and the State's Attorney's Office - Civil Action Bureau. The Director of Compliance's Report shall consist of disclosure of information that bears on the public duties of public employees and officials. If the Director of Compliance finds at the conclusion of its investigation that impermissible political factors were considered in an employment decision, the Director of Compliance's Report shall include the names of all individuals who, according to its investigation, were victims of unlawful political discrimination in connection with any aspect of government employment with the Assessor and the names of any individuals responsible for such discrimination. The copy of the Director of Compliance Report sent to the Complainant shall be accompanied by a Notice of Rights and Request for Settlement Conference Form.
- J. Mandatory Settlement Conference. Any Complainant who would like to seek relief for any injury suffered as a result of political discrimination in connection with any aspect of government employment with the Assessor must first participate in a mandatory settlement conference. The Complainant initiates the settlement conference by submitting a Request for Settlement Conference Form to the State's Attorney's Office – Civil Action Bureau within thirty (30) days of the date of the Director of Compliance Report. Within sixty (60) days from the date upon which the State's Attorney's Office - Civil Action Bureau receives the Request for Settlement Conference, the State's Attorney's Office - Civil Action

Bureau and Complainant shall hold an in person settlement conference for settlement purposes only and the statements made and the positions taken are subject to Rule 408 of the Federal Rules of Evidence and shall not be disclosed by the parties except as required under Cook County Ordinance to obtain settlement approval. The Complainant and the Assessor may agree in writing to an extension of this date. The Complainant may be represented at the settlement conference by counsel or any other representative of his or her choice. Settlement offers will be made at the discretion of the Assessor and the State's Attorney's Office. Settlement offers may include, but are not limited to, monetary damages, reinstatement, or other equitable relief. If accepted by the Complainant, copies of executed settlement agreements shall be provided to the Director of Compliance, the ACA and Plaintiffs' Class Counsel. The parties may agree to additional settlement conferences.

- K. Director of Compliance Reports to the Court. No later than the fifteenth day of April, August, and December, the Director of Compliance shall file with the Court a report, accurate as of the last day of the preceding month, indicating: the number of Complaints received since the date of the last report and the general nature of those Complaints; the number of investigations initiated since the date of the last report; the number of investigations concluded since the last report broken down by sustained and non-sustained cases and providing general information as to the nature of the concluded cases; and the number of investigations pending as of the reporting date.

L. Tolling During Director of Compliance Investigation and Settlement Conference.

The filing of a Complaint Form shall toll an individual's statute of limitations on any claims while this Agreed Order investigation and settlement conference procedures are pending. A Complainant shall have thirty (30) days after termination of the mandatory settlement conference procedures required under Section V.J to file a complaint in federal court.

VI. NO RETALIATION

No person shall take any unlawful retaliatory action against any individual who exercises any rights provided by, or who reports violations of, the Assessor's Consent Decrees or this Agreed Order. The Assessor has adopted a written, effective whistleblower policy that forbids retribution for reporting any suspected violations of this Agreed Order and shall keep it in effect during the term of this Agreed Order. Any individual who believes retaliation has occurred may seek relief under the Complaint Procedure.

VII. ATTORNEYS' FEES.

The Parties have not agreed to or discussed the amount of attorneys' fees awardable to Plaintiffs' Class Counsel or their reimbursable costs prior to entry of this Agreed Order, but shall attempt to reach agreement as to such amount within forty-five (45) days of entry of this Agreed Order for presentation to the Court for its review and approval. If the Parties are unable to reach agreement, the Plaintiffs' Class Counsel shall be entitled to petition for an award of fees and the Assessor shall be entitled to assert objections thereto.

VIII. TERMINATION OF THIS AGREED ORDER.

- A. Effect of Non-Approval. If, for any reason, this Agreed Order does not become final (that is, is finally approved and the time for appeal expires with no appeal being filed or all appellate review has been exhausted and this Agreed Order

remains in effect and unmodified), the Parties shall revert to their respective positions immediately prior to the execution of this Agreed Order.

- B. Effect of Termination. If this Agreed Order is terminated as provided for in Section VIII.A. above, this Agreed Order shall have no further force and effect. All negotiations, proceedings and statements made in connection therewith shall be without prejudice to any person or party thereto, shall not be deemed or construed to be an admission by any Party of any act, matter or proposition, and shall not be used in any manner or for any purpose in any subsequent proceeding in the Action or in any other action or proceeding.

IX. ENTIRE AGREEMENT.

All prior negotiations and agreements between the parties hereto (other than the Assessor's Consent Decrees), with respect to this Agreed Order, shall be superseded by this Agreed Order and no representation, warranties, understandings, or agreements of the parties relating to the subject matter thereof, other than those expressly set forth in this Agreed Order shall be binding.

ENTER:

Hon. Sidney I. Schenkier
United States Magistrate Judge

Exhibits

1. Preliminary Approval Order
- III.E.2. Certification of Substantial Compliance