

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

MICHAEL L. SHAKMAN and)	
PAUL M. LURIE, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	No. 69 C 2145
vs.)	
)	Magistrate Judge Sidney I. Schenkier
THE DEMOCRATIC ORGANIZATION)	
OF COOK COUNTY, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

1. The Shakman Decree Compliance Monitor ("Monitor") has requested confirmation of the Monitor's authority to investigate City employees and employment practices that came to public attention as a result of federal criminal prosecutions that led to the convictions of a number of City employees, and guilty pleas by others, for conduct related to City hiring and promotion practices. *See United States v. Sorich, et al.*, 523 F.3d 702 (7th Cir. 2008). These matters led directly to, and were cited by the plaintiffs as reasons for, the plaintiffs' application in July 2005 for the appointment of a special master to oversee City compliance with its orders. That motion led to the appointment of the Monitor, to the negotiation of the Agreed Settlement Order and Accord (the "Accord"), which was entered by the Court pursuant to the agreement of the City of Chicago on May 31, 2007, (doc. # 624). The Monitor has requested confirmation of her authority to investigate such matters, and to make recommendations to the City and the Court on those matters.

2. The Court finds that this authority is within the scope of the Monitor's duties, among others, to monitor the City's compliance with the Accord (Accord, § I.D.), and to report to the Court her opinion on whether the Accord should be terminated because the City has achieved substantial compliance (*Id.*, § I.G.3.).

3. To further the discharge of those duties, we reaffirm the Monitor's authority is reaffirmed to conduct investigations of the City's efforts to obtain substantial compliance, including investigating whether and to what extent the City has addressed and remedied the employment practices brought to light as a result of the *Sorich* case. The Monitor may investigate those employment practices, including the conduct of current and past City employees who engaged in, or have been alleged to have engaged in, assisted or accepted those employment practices. The Monitor may make such recommendations to the City and to the Court as the Monitor deems appropriate as a result of such investigations.

4. The Monitor shall advise the City's Inspector General of the investigations she undertakes hereunder, either prior to undertaking such investigations or within a reasonable time thereafter, so as to minimize the possibility of dual investigations, unnecessary expense and inconsistent recommendations. This Order shall not limit the discretion of the Inspector General to undertake such investigations and make such recommendations as the Inspector General deems appropriate, or limit the ability of the Monitor to investigate matters that the Inspector General is also investigating. The Monitor shall confer with the Inspector General to attempt to resolve any issues that arise from such concurrent investigations, and either the Monitor or the Inspector General may present to the Court any requests related thereto if they are unable to resolve differences that may arise.

5. The City and its employees shall continue to cooperate fully with the Monitor's investigations by, among other things, promptly providing any and all requested documents and information and providing access to all requested documents and records. In the course of performance of these investigations, the Monitor may also interview present or former City employees under oath, cause stenographic records to be made of such interviews, and – to the extent information cannot be obtained voluntarily – cause subpoenas for documents and testimony to be issued. The City and the plaintiffs shall be advised of the issuance of such subpoenas; the Court will resolve any objections to the subpoenas. The Monitor may, in her discretion, conduct interviews and take testimony, *ex parte*; the Monitor shall make a complete record of any such interviews and testimony. Prior to each interview, the Monitor will inform the interviewee that the Monitor wishes to interview the individual as part of an investigation into past employment actions disclosed in the *Sorich* case. The Monitor will also notify the interviewee that he or she may bring a union representative and/or attorney to the interview.

6. In the event the Monitor makes recommendations to the City as a result of investigations conducted under this order, any such recommendations shall include a detailed statement of the basis for the Monitor's conclusions, a summary of the information relied upon, and specific recommendations for corrective action to be instituted by the City. Such report shall be sent to the Mayor's Office, the Law Department, applicable department heads, plaintiffs' counsel and the Inspector General. If requested by any of the foregoing, the Monitor shall provide the complete evidentiary record upon which the Monitor's recommendations are based.

7. Under the Accord, City employees or officials are prohibited from retaliating against, punishing or penalizing any job applicant, City employee or City official for cooperating or assisting with the Monitor's investigations.

8. The Monitor shall determine whether and to what extent all or any part of the record of individual investigations shall be treated as confidential, and shall inform the City and the plaintiffs' counsel of the Monitor's decision in writing. Either the City or plaintiffs may seek review by the Court of the Monitor's designation of material as confidential, or failure to so designate. The material shall be maintained in confidence until the Court rules on any such motion, which shall be brought by the party seeking to alter the Monitor's determination. The burden of establishing confidentiality shall be borne by whoever seeks confidential treatment, and shall be decided under applicable law.

9. Within 30 days of receipt of a Monitor's report with respect to an investigation or investigations, the City shall respond in writing to the Monitor and the plaintiffs' counsel, stating whether and to what extent it will implement the Monitor's recommendations, implement an alternative corrective plan or action, and/or dispute the Monitor's conclusions and/or recommendations. The City's written response shall state the basis for the decision that the City makes in connection with a Monitor's report, and shall provide all supporting data for that decision. If the City requires more than thirty days to consider any Monitor's report, it shall ask the Monitor for additional time in writing; the written request shall state why additional time is needed, and the amount of additional time that is sought. Unless altered by the Court upon motion, the City's request for additional time shall be deemed granted.

10. The Monitor shall provide quarterly reports – within 30 days after the completion of each calendar quarter – to the Court, the City, the plaintiffs’ counsel listing the number of investigations underway pursuant to this Order, the period of time each has been underway, and providing a description of the general nature of the investigations. In the event the City objects to an investigation, the City may request the Monitor to terminate or limit the investigation, and if the Monitor does not agree, the City may present a motion to the Court with regard to any such investigation.

11. Payment of fees and expenses of the Monitor incurred pursuant to this Order shall be governed by the Accord. The Monitor shall submit invoices therefore to the Corporation Counsel on a monthly basis. Invoices may be redacted or edited to eliminate material the Monitor deems sensitive.

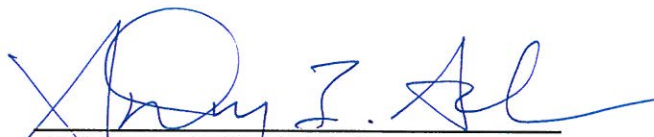
12. This Order does not change, reduce or limit the terms or conditions of the Accord, including but not limited to provisions dealing with the Monitor’s powers or plaintiffs’ or the City’s rights and responsibilities, the definition of substantial compliance, the sunset procedures, or the City’s right to seek to terminate the Accord as provided therein. The Monitor’s authority under this Order will terminate when the Accord terminates, unless otherwise ordered by the Court.

13. As with the other activities undertaken by the Monitor pursuant to the Agreed Order entered August 8, 2005 and the Accord, the Monitor and her counsel carries out her duties under this Order as an agent of the Court and have the same immunity from suit as does the Court.

14. The Court may amend this Order from time to time for good cause upon the motion of the Monitor or any party.

It is so ordered.

ENTER:


SIDNEY I. SCHENKIER
United States Magistrate Judge

Dated: April 29, 2011