

IN RE: MAURO GLORIOSO)
OEIG for the Agencies of the
Illinois Governor
Case #19-02400

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

Office of the Executive Inspector General
for the Agencies of the Illinois Governor
Summary Report

I. ALLEGATIONS

[Pursuant to Section IV, Part B, the OEIG concludes that an allegation is “founded” when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance. The information in this paragraph is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this paragraph pursuant to 5 ILCS 430/20-52(a).]

On October 15, 2020, the OEIG received a second complaint relating to the [Property Tax Appellant] Appeal. Specifically, the complaint alleged that on October 5, 2020, Executive Director Mauro Glorioso improperly deleted all of his emails related to the [Property Tax Appellant] Appeal, as well as additional files from both his assigned PTAB computer and office-wide computer systems.¹

II. BACKGROUND

A. Structure and Function of PTAB

PTAB is a five-member board (Board) that hears appeals from parties who are dissatisfied with property values determined by county boards of review (BOR).² While it cannot change tax rates established by local taxing bodies, PTAB has statutory authority to independently assess the property value on which such taxes are based, and thereby impact the amount of taxes due.

To effectuate its duties, PTAB employs an Executive Director to oversee its day-to-day operations, as well as ALJs and other staff to review appeals and recommend decisions.³ These employees are based in two offices – one in Springfield and another in Des Plaines. With limited exceptions, the Des Plaines ALJs handle appeals in Cook County, while the Springfield ALJs handle appeals in all other counties.⁴ ALJs are given “full authority over the conduct of [the] hearing and the responsibility for submission of the matter to the Board for decision.”⁵ Once an ALJ submits a decision, the Board makes a final determination in its own name, based on a majority vote.⁶

¹[The information in this footnote is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this section pursuant to 5 ILCS 430/20-52(a).]

² See 35 ILCS 200/16-160.

³ PTAB decides many appeals based solely on the written record but may also hold hearings on legal or factual issues as needed. See 86 Ill. Admin. Code 1910.67(a) and (b).

⁴ The primary exception is that appeals for properties connected to ALJs in one office are assigned to ALJs in the other office. Additionally, appeals decided solely on a written record may be assigned to an ALJ from either office.

⁵ See 86 Ill. Admin. Code 1910.67.

⁶ See 86 Ill. Admin. Code 1910.12(g); 35 ILCS 200/16-185.

As [Identifying Information Redacted], [PTAB Employee 1] is the ultimate supervisor for all ALJs. On a practical basis, he is also the day-to-day supervisor for the Springfield ALJs, while [PTAB Employee 2], as [Identifying Information Redacted], is the day-to-day supervisor for the Des Plaines ALJs.⁷ All ALJs are subject to the ALJ Code, and those qualified as attorneys are also subject to the Attorney Rules.⁸ Mr. Glorioso served as Executive Director from March 27, 2019 until October 14, 2020, and was responsible for carrying out PTAB directives, effectuating its mission statement, and complying with various legal and regulatory reporting requirements. Prior to serving as Executive Director, Mr. Glorioso was a voting member of PTAB from 2009 through 2019 (including a three-year period as Chairman from 2016 through 2019).

B. 2011 [Property Tax Appellant] Assessment

The Cook County Assessor is initially responsible for determining the value of all real estate in Cook County for tax purposes. The Assessor does this by first determining the “fair cash value” of the property then applying a “multiplier” linked to the property’s classification; for commercial properties like [Property Tax Appellant], the multiplier is 25%. The assessed value then forms the basis of the actual tax bill—issued by the Cook County Treasurer—after the application of an equalization factor calculated by the Illinois Department of Revenue and tax rates set by various local taxing bodies.⁹ These assessments can be appealed within the Assessor’s office, or to the Cook County BOR.¹⁰ [The remainder of the information in this subsection paragraph is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this subsection pursuant to 5 ILCS 430/20-52(a).]

III. INVESTIGATION

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⁷ [PTAB Employee 2] has served as [Identifying Information Redacted] for the Des Plaines office since 2014.

⁸ See Executive Order 2016-16 (establishing that hearing officers are subject to the ALJ Code); Attorney Rules 8.5 (establishing that “[a] lawyer admitted to practice . . . is subject to the disciplinary authority of this jurisdiction[.]”).

⁹ See <https://www.cookcountyassessor.com/how-commercial-properties-are-valued> (last visited November 5, 2020).

¹⁰ See <https://www.cookcountyassessor.com/frequently-asked-questions> (last visited November 5, 2020).

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C. Mr. Glorioso's Deletion of Relevant PTAB Files and Emails

1. Mr. Glorioso's background

Mr. Glorioso is an attorney and was first admitted to the Illinois bar on 1997. After a few years in private practice, Mr. Glorioso joined PTAB as an ALJ in 2000. He served in that role until 2009, when he became a PTAB Board member. In 2016, he was promoted to Chairman, a role he retained until 2019. In early 2019, he left his Chairman position to accept an appointment to serve as PTAB's Executive Director and General Counsel. Mr. Glorioso told the OEIG that as

Executive Director and General Counsel, he was responsible for carrying out directives from the PTAB, effectuating its mission statement, and complying with various legal and regulatory reporting requirements. He also stated that he worked primarily out of the Des Plaines office, but visited the Springfield office regularly.

In addition to his employment with PTAB, Mr. Glorioso has served in several significant volunteer roles with [Attorney-related Professional Association]. As set forth in Mr. Glorioso's resume in his personnel file, he has been a member of the [Attorney-related Professional Association] continually since 1998. He served as a member of [Attorney-related Professional Association]'s [Identifying Information Redacted] from 2004 to 2012. As a member of [Identifying Information Redacted], Mr. Glorioso was responsible for voting on advisory ethics opinions issued by [Attorney-related Professional Association].¹¹ While serving on [Identifying Information Redacted], Mr. Glorioso was also appointed to one-year terms as [Attorney-related Professional Association]'s Secretary (2008-2009) and Treasurer (2009-2010).

On October 5, 2020, PTAB internally announced that Mr. Glorioso would leave the agency on October 23, 2020. However, due to certain events discussed below, Mr. Glorioso's access to his PTAB email and other PTAB systems was terminated on October 14, 2020, and he was removed from the office.

2. Notice of the litigation hold

Based on a review of Mr. Glorioso's Illinois.gov account, the OEIG identified an email dated February 20, 2020 from [Identifying Information Redacted] [PTAB Employee 3] to Mr. Glorioso and other PTAB employees. The email had the subject line "Document Hold.docx" and attached a Word document of the same name.¹² The document – a memorandum also dated February 20, 2020 and bearing the subject line "[Property Tax Appellant]; PTAB Docket No. [Identifying Information Redacted]" – instructed all recipients that they had a "legal obligation to preserve all Documents and [Electronically Stored Information]" related to the [Property Tax Appellant] Appeal, and that such materials "must not be discarded, deleted, altered, or destroyed." The memorandum stated that it covered both "final and draft" documents, including emails, memoranda, and "any electronic data compilation from which information can be obtained." The memorandum stated that the order to preserve documents and ESI was "necessarily broad and [should be interpreted] in the broad sense it is intended." While the document had no specific end date, it stated that recipients would be contacted "when the preservation/litigation hold is lifted."

¹¹ See [Attorney-related Professional Association Website] (last visited May 12, 2021).

¹² Although the litigation hold stated that PTAB IT staff would take the necessary steps to "deactivate any program that automatically deletes stored files or e-mail," [PTAB Employee 4] stated that he was not aware of anyone within PTAB sharing the litigation hold with the Department of Innovation and Technology (DoIT). Such a step should have been taken because, as [PTAB Employee 4] explained, DoIT hosts and maintains the servers that backup PTAB's IT infrastructure. In this case, the failure to alert DoIT did not impact the investigation, as [PTAB Employee 4] was able to restore the deleted [Specified Network Drive] materials from DoIT's backups before the end of the retention period. Nevertheless, the OEIG recommends that PTAB institute formal procedures to ensure that any future litigation holds are shared with DoIT, so that backups will be preserved in a forensically sound manner.

The OEIG's review of Mr. Glorioso's emails also found that Mr. Glorioso, on February 20, 2020, referenced discussions of the litigation hold with [PTAB Employee 3], several hours before she sent it out. Additionally, Mr. Glorioso was copied on a February 13, 2020 email from [PTAB Employee 1] to [PTAB Employee 3] with the subject line "Document Hold." That email attached a document identical to the memorandum circulated by [PTAB Employee 3] on February 20, 2020, except for the date.

Documents obtained by the OEIG during this investigation also show that Mr. Glorioso was present during the Executive Session of PTAB's February 11, 2020 Board Meeting, where the litigation hold covering "any and all documents, and electronically stored information involving and pertaining to the [Property Tax Appellant] [A]ppeal" was discussed.

3. Interview of [PTAB Employee 4], PTAB [Identifying Information Redacted]

OEIG investigators interviewed [PTAB Employee 4], PTAB's [Identifying Information Redacted], on February 9, 2021. [PTAB Employee 4] stated that he had a Bachelor's degree in Computer Science from the University of Illinois, and had worked in IT for various State agencies – including CMS and PTAB – for more than a decade.

[PTAB Employee 4] stated that on October 5, 2020, PTAB internally announced that Mr. Glorioso would be leaving the agency later in the month. He stated that on October 8, 2020, he began preparing a packet of electronic materials for the incoming Executive Director to get up to speed. As a part of that effort, he used Mr. Glorioso's computer to access Mr. Glorioso's assigned network folder 9[Specified Network Drive]), so that he could include its contents in the aforementioned packet. According to [PTAB Employee 4], the [Specified Network Drive] was linked to Mr. Glorioso's Illinois.gov account, and could only be accessed by someone who knew Mr. Glorioso's login and password. He stated that it was theoretically possible for an IT employee with full backend access to access Mr. Glorioso's [Specified Network Drive], but that he saw no evidence of such access occurring in this case.

[PTAB Employee 4] stated that his review of Mr. Glorioso's computer revealed that the [Specified Network Drive] was virtually empty. He explained to the OEIG that the [Specified Network Drive] was backed up automatically on a nightly basis, and that he reviewed each night's backup to determine if and when files had been deleted. In doing so, [PTAB Employee 4] found that a large number of files were present in the October 4 backup, but were missing from the October 5 backup. According to [PTAB Employee 4], he saw no evidence of anyone other than Mr. Glorioso accessing the [Specified Network Drive].

[PTAB Employee 4] explained that the [Specified Network Drive] deletions appeared suspicious to him, in part because a few days prior, PTAB [Identifying Information Redacted] [PTAB Employee 5] reported that Mr. Glorioso had improperly transferred some emails.¹³ [PTAB

¹³ [PTAB Employee 4] recalled that [PTAB Employee 5] reported two tech-support conversations with Mr. Glorioso regarding email storage. Specifically, [PTAB Employee 5] reported that on September 30, 2020, Mr. Glorioso requested and received assistance in creating folders in his Outlook program, purportedly to make the emails easier to find. [PTAB Employee 5] also reported that on October 1, 2020, Mr. Glorioso again requested and received assistance

Employee 4] further explained that his suspicions grew after he discovered that the very first deleted file he restored from Mr. Glorioso's [Specified Network Drive] directly referenced the [Property Tax Appellant] Appeal in the filename. After conducting additional searches, [PTAB Employee 4] determined that at least 25 of the deleted files that he was able to recover related to the [Property Tax Appellant] Appeal, including various Board meeting minutes and reports, drafts of [PTAB Employee 1]'s decision, and other related materials. Accordingly, he reported the matter to PTAB Board Chairman Kevin Freeman on October 14, 2020. [PTAB Employee 4] told the OEIG that later the same day, Mr. Freeman directed him to change Mr. Glorioso's password and remove him from the network.

[PTAB Employee 4] told the OEIG that after Mr. Glorioso was removed, he contacted the Department of Innovation and Technology (DoIT) to determine how best to recover emails that Mr. Glorioso may have deleted. [PTAB Employee 4] indicated that DoIT told him that even if a user emptied the "Trash" folder via Outlook, the materials would still be retained for 45 days in a separate "Trash" folder on PTAB's Exchange email server.¹⁴ [PTAB Employee 4] told the OEIG that when he checked the "Trash" folder on the Exchange server, he found that thousands of emails had been deleted from Mr. Glorioso's Outlook "Trash" folder on October 2, 2020. According to [PTAB Employee 4], because these emails were recovered from the "Trash" folder on the Exchange server, they had to have been deleted twice – first from Mr. Glorioso's Outlook inbox, and second from Mr. Glorioso's Outlook "Trash" Folder. After conducting several searches on the deleted emails, [PTAB Employee 4] found that over 200 of them were related to the [Property Tax Appellant] Appeal. [PTAB Employee 4] explained that the materials could only have been deleted by Mr. Glorioso or by a DoIT employee with administrator access. [PTAB Employee 4] stated that he saw no evidence of the latter.

[PTAB Employee 4] documented these events in a memorandum that he authored on October 14, 2020 and provided to Mr. Freeman the same day. This memorandum was in turn provided to the OEIG on October 15, 2020. Upon review, the events [PTAB Employee 4] described in his interview were consistent with his memorandum.

4. OEIG's review of recovered materials

The OEIG obtained and independently reviewed all of the deleted materials related to the [Property Tax Appellant] Appeal that [PTAB Employee 4] was able to recover in order to determine whether the deletion substantively impacted the OEIG investigation. In doing so, the OEIG found that most of the recovered materials were identical or highly similar to materials previously obtained during this investigation, while the others were related to FOIA requests from the [News Source 1]. Due to these similarities, investigators determined that the recovered

in organizing his emails. [PTAB Employee 5] further reported on this second call, Mr. Glorioso reported that he transferred files to a personal thumb drive. [PTAB Employee 4] told the OEIG that he directed [PTAB Employee 5] to tell Mr. Glorioso that such transfers were prohibited. [PTAB Employee 5] then reported that Mr. Glorioso agreed to stop copying emails in this fashion, and to remove the previously-transferred emails from the thumb drive. [PTAB Employee 4] told the OEIG that he did not recall that Mr. Glorioso ever previously requested assistance in organizing his emails.

¹⁴ [PTAB Employee 4] also explained that DoIT maintained copies of all emails, including deleted materials that would otherwise be lost after the 45-day retention period on the Exchange server.

materials did not affect the outcome of the investigation into the underlying complaint [The information in the remainder of this sentence is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this sentence pursuant to 5 ILCS 430/20-52(a).].

On February 19, 2021, the OEIG contacted Mr. Glorioso's counsel requesting an interview with Mr. Glorioso regarding the deletion of PTAB materials. Mr. Glorioso's counsel responded on March 5, 2021 and indicated that Mr. Glorioso might agree to such an interview, but requested additional time. After sending numerous calls and emails over the next several months, the OEIG informed Mr. Glorioso's counsel via email on May 11, 2021, that it would proceed with its investigation if the interview was not scheduled by May 21, 2021. Mr. Glorioso's counsel acknowledged receipt of the email, but did not make any further contact with the OEIG.

IV. ANALYSIS

- A. [The information in this subsection is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this section pursuant to 5 ILCS 430/20-52(a).]**

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B. Allegation that Mr. Glorioso Improperly Deleted Materials Related to the [Property Tax Appellant] Appeal

PTAB's Employee Handbook requires employees to "conduct themselves in a responsible and professional manner in all work situations,"¹⁵ and specifically prohibits them from attempting to "conceal, alter, mutilate, obliterate, or destroy record or documents" belonging to the agency.¹⁶ In addition, the State Records Act provides that all records created or received by or under the authority of or coming into the custody, control, or possession of public officials of the State in the course of their public duties are the property of the State and may not be mutilated, destroyed, transferred, removed, or otherwise damaged or disposed of, in whole or in part, except as provided by law.¹⁷

On February 20, 2020, Mr. Glorioso and other PTAB employees received a litigation hold notice, instructing them to maintain all materials related to the [Property Tax Appellant] Appeal – including both draft and final copies of all documents, emails and memoranda. The OEIG's analysis of Mr. Glorioso's email records shows that he received a draft copy of the litigation hold notice a week earlier. He also acknowledged in his OEIG interview that he was aware of the

¹⁵ PTAB Employee Handbook Section 7.1 – Professional Conduct.

¹⁶ PTAB Employee Handbook Section 7.2(c) – Care of Official Documents, Money and Property.

¹⁷ 5 ILCS 160/3(a). "Records" includes physical and electronic materials made, produced, executed, or received by any State agency in pursuance of State law or in connection with the transaction of public business and preserved as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the State, or because of the informational data contained therein (*Id.* at 160/2). Any person who knowingly and without lawful authority alters, destroys, defaces, removes, or conceals any public record commits a Class 4 felony (*Id.* at 160/11).

OEIG's investigation of the appeal. As an attorney with more than 20 years of experience in State government and high-level volunteer positions with [Attorney-related Professional Association], Mr. Glorioso should have realized the seriousness of the litigation hold.

Nevertheless, on October 2, 2020 – three days after his interview with the OEIG – more than 200 emails related to the [Property Tax Appellant] Appeal were deleted from Mr. Glorioso's email account. The following week, on October 5, 2020, dozens of additional files related to the [Property Tax Appellant] Appeal were deleted from Mr. Glorioso's [Specified Network Drive]. [PTAB Employee 4] informed the OEIG that these deletions could only have been performed by Mr. Glorioso or DoIT employees with full administrative access to State IT systems, and that he saw no evidence of any such activity by DoIT. It is also clear, at least with respect to the emails, that Mr. Glorioso's deletions were intentional, as they required Mr. Glorioso to first move the items to his Outlook "Trash" folder and then empty that folder. Despite repeated efforts – extending over several months – to reach out to Mr. Glorioso via his counsel, the OEIG was unable to schedule a second interview with Mr. Glorioso to obtain his explanation for this conduct.

Based on this record, the OEIG finds that there is reasonable cause to conclude that Mr. Glorioso deleted numerous emails and other documents related to the [Property Tax Appellant] Appeal, and that in so doing, Mr. Glorioso violated the PTAB Employee Handbook's general document retention rules, the litigation hold notice specifically in place for the [Property Tax Appellant] Appeal, and the State Records Act. Accordingly, the allegation that Mr. Glorioso violated PTAB policy, directives, and State law relating to the maintenance of records by deleting PTAB files and emails in October 2020 is **FOUNDED**.¹⁸

V. FINDINGS AND RECOMMENDATIONS

As a result of its investigation, the OEIG concludes that there is **REASONABLE CAUSE TO ISSUE THE FOLLOWING FINDINGS**:

- **UNFOUNDED** – [The information in this paragraph is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this paragraph pursuant to 5 ILCS 430/20-52(a).]
- **FOUNDED** – Mauro Glorioso violated PTAB policy, directives, and State law relating to the maintenance of records by deleting PTAB files and emails in October 2020.

Because Mr. Glorioso is no longer a State employee, the OEIG recommends that a copy of this report be placed in Mr. Glorioso's employment file, and that he not be rehired by the State.

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¹⁸ The OEIG concludes that an allegation is "founded" when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance.

Date: May 25, 2021

Office of Executive Inspector General
for the Agencies of the Illinois Governor
69 W. Washington St., Suite 3400
Chicago, IL 60602

Francis Sohn
Assistant Inspector General #157

Jasmine Velazquez
Supervising Investigator #133



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**AGENCY OR ULTIMATE JURISDICTIONAL AUTHORITY
RESPONSE FORM**

Case Number: 19-02400

Return 20 Days After Receipt

Please check the box that applies. (Please attach additional materials, as necessary.)

☐ ~~We have implemented all of the OEIG recommendations. Please provide details as to actions taken:~~

☐ We will implement some or all of the OEIG recommendations but will require additional time to do so.
We will report to OEIG within **30** days from the original return date.

☐ ~~We do not wish to implement some or all of the OEIG recommendations. Please provide details as to what actions were taken, if any, in response to OEIG recommendations:~~



Signature

Property Tax Appeal Board – Executive Director

Print Agency and Job Title

Michael O'Malley

Print Name

06/10/2021

Date



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for the Agencies of the Illinois Governor**

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**AGENCY OR ULTIMATE JURISDICTIONAL AUTHORITY
RESPONSE FORM**

Case Number: 19-02400

Return 20 Days After Receipt

Please check the box that applies. (Please attach additional materials, as necessary.)

☐ We have implemented all of the OEIG recommendations. Please provide details as to actions taken:

- PTAB followed the recommendation of the OEIG and placed a copy of the OEIG report in Mr. Glorioso's employment file.
- PTAB followed the recommendation of the OEIG and drafted the policies of the agency regarding the assignment, reassignment, drafting, reviewing and approval of ALJ recommendations to the board (decisions). These policies are the subject of a memorandum which will be sent to staff and discussed at an all-staff meeting in July 2021. These policies will also be incorporated into the employee manual which is in the process of being updated.

☐ ~~We will implement some or all of the OEIG recommendations but will require additional time to do so.~~

~~We will report to OEIG within 30 days from the original return date.~~

☐ ~~We do not wish to implement some or all of the OEIG recommendations. Please provide details as to what actions were taken, if any, in response to OEIG recommendations:~~



Signature

Michael O'Malley

Print Name

Property Tax Appeal Board – Executive Director

Print Agency and Job Title

07/15/2021

Date

IN THE EXECUTIVE ETHICS COMMISSION
OF THE STATE OF ILLINOIS

IN RE: MAURO GLORIOSO

) #19-02400

RESPONDENT'S SUGGESTIONS FOR REDACTION / PUBLIC RESPONSE

Please check the appropriate line and sign and date below. If no line is checked, the Commission will not make your response public if the redacted report is made public.

☒ Below is my public response. Please make this response public if the summary report is also made public; or

☒ Below are my suggestions for redaction. I do not wish for these suggestions to be made public.


Respondent's Signature

09/09/2021
Date

Instructions: Please write or type suggestions for redaction or a public response on the lines below. If you prefer, you may attach separate documents to this form. Return this form and any attachments to:

EEC.CMS@illinois.gov
Illinois Executive Ethics Commission
401 S. Spring Street, Room 513 Wm. Stratton Building
Springfield, IL 62706

Please see attached documents
Response letter
Redaction suggestions
Affidavit

September 9, 2021

Via Email & FedEx

Executive Ethics Commission
401 S. Spring St.
513 Wm. Stratton Building
Springfield, IL 62706

Via email to: [REDACTED]

Re: Release of Redacted OEIG Report

Dear Ms. Casey and the Executive Ethics Commission:

We represent Mauro Glorioso. We are in receipt of your August 17, 2021 letter and Report regarding the investigation conducted by the Office of Executive Inspector General for the Agencies of the Illinois Governor (“OEIG”) relating to the October 15, 2020 complaint (the “Second Complaint”) filed against Mr. Glorioso, alleging that Mr. Glorioso, while still employed by the Property Tax Appeal Board (“PTAB”), purposefully and wrongfully deleted certain emails from his PTAB email account. Thank you for the opportunity to respond to these allegations.

The Report concludes that Mr. Glorioso intentionally destroyed PTAB emails and computer files related to an ongoing investigation of the OEIG. According to the Report, the OEIG found that “there is reasonable cause to conclude that Mr. Glorioso deleted numerous emails and other documents related to the [Property Tax Appellant] Appeal, and that in so doing, Mr. Glorioso violated the PTAB Employee Handbook’s general document retention rules, the litigation hold notice specifically in place for the [Property Tax Appellant] Appeal, and the State Records Act.” (Report, pg. 11.)

These conclusions are unfounded and unwarranted. Mr. Glorioso knew that his emails had been backed-up by the PTAB IT department when he deleted them from his local inbox, and further had been told by the OEIG investigator investigating the first complaint relating to the [Property Tax Appellant] Appeal that the OEIG did not need any further materials.

Not only does the Report lack any factual predicate to support its conclusion, it further wrongly applies the State Records Act, 5 ILCS 160/3. The Report concludes that Mr. Glorioso

violated the Act because he deleted from his email inbox previously backed-up emails (Report, pgs. 10-11); but if that were correct, then any time a state employee deletes an email from his or her work email account, that employee violates the Act. Such a result is untenable. The application of the Act in this matter merely castigates Mr. Glorioso for the same actions that state employees likely do daily.

The Commission should not exercise its discretion, *see* 5 ILCS 430/20-52(a), and publish the Report, with Mr. Glorioso's name unredacted, based solely on the fact that Mr. Glorioso deleted emails from his local inbox that he knew were backed-up and that were already in the hands of the OEIG. As detailed below, and supported by the enclosed Affidavit of Mr. Glorioso, Mr. Glorioso engaged in no wrongdoing, and this Report should be overturned.

I. This Matter is Independent of, and Should not be Included with, the First Complaint.

Initially, we do not agree that this subject should be included with the first complaint, #19-02400 (the "First Complaint"), submitted to the Office of Executive Inspector General, which was the subject of the [Property Tax Appellant] Appeal. The subject of this matter is a separate issue and should be referred to independent of the First Complaint, which was determined to be unfounded.

Section 1620.330 of the OEIG Investigation Policy Procedures Manual provides that "multiple case initiation forms that relate to the same alleged acts of misconduct may be consolidated for purposes of investigation." But, the alleged acts of misconduct in the two complaints are not "the same." Indeed, as discussed below, considering the OEIG interviewed Mr. Glorioso regarding the First Complaint and informed him that they had all the documents they needed, and only after that did Mr. Glorioso delete any emails, it is clear that these two complaints are unrelated and should not have been treated as such by the OEIG. Combining the two complaints into one Report only serves to prejudice Mr. Glorioso and creates an unfair implication that Mr. Glorioso's actions in deleting certain emails was directly related to the First Complaint, of which the OEIG has presented no evidence.

II. Mr. Glorioso's Conduct Was Consistent with PTAB Practices and He Did Not Intentionally Destroy Any PTAB Emails or Records.

Mr. Glorioso did not intentionally destroy or remove the materials referenced in the Report. The emails were backed-up by the PTAB IT department and maintained by the Illinois Department of Innovation & Technology ("DoIT"). Indeed, the Report itself acknowledges that the recovered emails were identical or highly similar to the emails already obtained by the OEIG, and that investigators determined that the recovered materials did not affect the outcome of the investigation in the First Complaint. (Report, pg. 8.)

A. Background

Mr. Glorioso worked at the PTAB from December 1, 2000, until October 14, 2020. (Aff., ¶¶ 3-6.) He began as an administrative law judge from 2000–2008. (Aff., ¶ 3.) He served as a PTAB Board member from 2008–2019 (Aff., ¶ 4), and was promoted to Chairman of the Board from 2016–2019. (Aff., ¶ 5.) From March 27, 2019–October 14, 2020, he served as the Executive Director of the PTAB. (Aff., ¶ 6.) In his 20 years of service, Glorioso never had an OEIG complaint filed against him and was never the subject of an ethics investigation. (Aff., ¶ 25.) [REDACTED] the First Complaint was ultimately concluded to be unfounded [REDACTED]

Mr. Glorioso knew the PTAB's procedures for backing up emails. He knew that the PTAB's IT department backed-up employees' email accounts regularly, if not daily. (Aff., ¶ 10-11.) The [REDACTED] also informed staff that information on their work computers was backed-up regularly with DoIT. (Aff., ¶ 10.) Should anyone need access to the PTAB's backed-up information, staff were to notify [REDACTED], and he would submit a request to DoIT to obtain it. (Id.) Based on [REDACTED] direction, Mr. Glorioso understood that, pursuant to the PTAB's document retention policy, backups of these emails and files continued to be available with the DoIT should anyone need to view them. (Aff., ¶ 22.) He understood that the backups would be available as he deleted the files. (Id.) Indeed, the nightly backup of Mr. Glorioso's email was confirmed by the OEIG. (Report, pg. 7).

Mr. Glorioso also knew that, when litigation holds were in place, the standard procedure was for investigators to retrieve any applicable emails via the backup disks that were maintained by DoIT. (Aff., ¶ 12.) Indeed, while Mr. Glorioso did provide documents to the OEIG as part of its investigation, the OEIG had accessed every document, including Mr. Glorioso's emails, that it needed as part of its investigation of the First Complaint. (Aff. ¶¶ 15, 17-19.) The OEIG implicitly acknowledges this latter point, noting that "the OEIG found that most of the recovered materials were identical or highly similar to materials previously obtained during this investigation." (Report, pg. 8.)

B. Mr. Glorioso Neither Intended to Destroy nor Actually Destroyed Any Emails or Files upon Departing from the PTAB

Throughout his long history at the PTAB, Mr. Glorioso found that the PTAB's electronic storage practices routinely allowed employees to delete emails and electronic files from their work computers. (Aff., ¶¶ 8-11, 20-22.) This was because the PTAB backed-up its employees' email accounts nightly. (Report, pg. 7.) Mr. Glorioso further understood that employees regularly deleted emails and files as a matter of practice. (Aff., ¶ 8.) Departing employees did the same so that their replacements could have an easier time transitioning into their new roles, as was done here. (Aff., ¶¶ 20-21.)

On September 23, 2020, Mr. Glorioso was informed that he was being terminated. (Aff., ¶ 16.) Six days later, he sat for an interview with the OEIG regarding the First Complaint. (Aff., ¶ 17.) [REDACTED], an OEIG investigator, conducted the interview, which was transcribed. At that interview, [REDACTED] specifically told Mr. Glorioso that they had all the

documents they needed regarding the First Complaint and their investigation, and that he did not need to retain any of those documents, including emails. (Aff., ¶ 19.) We request the Commission to review the transcript and further provide us a copy.¹

After the interview, and while preparing for his departure, Mr. Glorioso discussed with [REDACTED] of the PTAB IT Department, how to best clean out his emails prior to his replacement's start date. (Aff., ¶ 20.) [REDACTED] provided him with guidance about how to properly delete his emails and how to delete a number of emails at any one time. (Id.) No member of the PTAB IT staff informed him that he could not delete information from his computer or suggested he not do so once it came to their attention. (Aff., ¶ 22.)

After discussing cleaning up his email inbox and computer with the IT Department, Glorioso deleted certain emails and files on his work computer. (Aff., ¶ 21.) Specifically, he deleted emails or files that pertained to matters not presently before the PTAB, routine Board administrative functions, and other old emails. (Id.) Every email he deleted locally had already been backed-up by the IT department and maintained by DoIT. (Aff., ¶ 23.) Indeed, the Commission has not presented any evidence that Mr. Glorioso permanently deleted any email that had not already been backed-up.

As for the litigation hold, based on his knowledge that all PTAB emails were backed-up nightly, and further based on his understanding that OEIG investigators often accessed the backups of employees' emails as part of their investigations, Mr. Glorioso reasonably presumed that any emails or files meeting the requirement of the litigation hold would automatically be backed-up and that the investigators would have access to those emails. (Aff., ¶ 12.) Indeed, this is what happened, as investigators had access to, and questioned Mr. Glorioso about, all relevant emails and documents that pertained to the First Complaint. (Aff., ¶¶ 15-19.)

III. Mr. Glorioso Has Fully Cooperated with the OEIG Investigation

Mr. Glorioso fully cooperated with the OEIG's investigation. In December of 2019, the OEIG launched an investigation [REDACTED] based on the First Complaint. During this investigation, the OEIG requested—and Glorioso provided—numerous documents, including all of the emails from his time as the Executive Director of the PTAB, that related to the decision in question. (Aff., ¶¶ 14-15.) He also issued written responses to OEIG requests and agreed to submit for an interview with OEIG officials. (Aff., ¶¶ 15-17.) He provided the OEIG with any and all materials requested. (Aff., ¶¶ 18-19.) He never obstructed or otherwise failed to comply with any OEIG request.

¹ Similarly, Mr. Glorioso has submitted a FOIA request to the PTAB for all documents related to the First and Second Complaint.

His cooperation with the OEIG demonstrates that his deletion of certain emails was neither meant to nor actually obstructed the OEIG's investigation of the First Complaint. During his September 29, 2020 interview with OEIG officials, the officials questioned Glorioso using copies of the very same emails that the Report suggests he deleted. (Aff., ¶ 17) (Report, pg. 8.) Mr. Glorioso had previously sent copies of these emails to the OEIG, and he answered questions to the officials' satisfaction. (Aff., ¶¶ 17-18.) The OEIG did not request any additional information during or following this interview. (Aff., ¶ 18.) There is no evidence to support the false accusation that he somehow sought to obstruct the OEIG investigation or to stymie any FOIA response.

In short, none of Mr. Glorioso's actions impeded any investigation by the OEIG because, as referenced in the Report, the recovered emails and files "were identical or highly similar to materials previously obtained during the investigation." (Report, pg. 8.) Indeed, the Report neglects to note that, as Executive Director, Mr. Glorioso was well aware that his emails had been backed-up and were maintained by DoIT. (Aff., ¶¶ 10-12, 22-23.) Further, before he had even locally deleted a single email, [REDACTED] of the OEIG told him that they had every document they needed. (Aff., ¶ 19.) Mr. Glorioso could not possibly have deleted his emails locally intending to impede the OEIG's investigation. Any conclusion to the contrary is unfounded.

IV. Mr. Glorioso Did Not Commit Sufficient Misconduct for the Commission to Exercise Its Discretion and Publish the Report. At a Minimum, the Report must be Redacted.

Initially, there has been a mishandling of this Second Complaint. First, Mr. Glorioso was completely unaware that there was a second complaint, as he was never served with a copy, in violation of 5 ILCS 430/20-50(d) ("A copy of the complaint filed with the Executive Ethics Commission must be served on all respondents named in the complaint"). Likewise, the OEIG's conclusions and recommendations were reached without his input, further in violation of Section 430/20-50(e).

Indeed, the OEIG is using Mr. Glorioso's silence — his not sitting for a second interview and thus not commenting directly on the allegations — to conclude that he knowingly deleted his emails to obstruct the OEIG's investigation. That is improper. Under the doctrine of use immunity, "when a government employee is coerced, under threat of disciplinary action, to account for his activities while on the job, any statements he may make are inadmissible against him in any subsequent criminal proceedings Moreover, the employee's refusal to answer can form the basis for disciplinary action *if he has been informed that use immunity has attached.*" *Blunier v. Board of Fire and Police Com'rs of City of Peoria*, 190 Ill. App. 3d 92, 103-04 (3d Dist. 1989) (emphasis added).² The OEIG did not comply with these requirements, but is now attempting to use Mr. Glorioso's silence against him. This is especially relevant considering the OEIG has recommended that Mr. Glorioso violated the State Records Act, which amounts to a Class 4 felony. See 5 ILCS 160/11. (Report, page 10 n.17.)

And regarding the purported violation of the State Records Act, the Act does not even

² To the extent this does not apply because Mr. Glorioso is no longer an employee, it is apparent that the OEIG lacks jurisdiction to investigate and issue the Report as it relates to the Second Complaint, which was filed after Mr. Glorioso's employment with the PTAB ended.

apply, as it explicitly states that “extra copies of documents preserved only for convenience of reference . . . are not included within the definition of records as used in this Act.” 5 ILCS 160/2. Every email that Mr. Glorioso deleted from his inbox was backed-up by the IT department and was always available. (Aff., ¶¶ 10-11, 23.) Instead, Mr. Glorioso merely deleted old emails from his local inbox — emails that were ultimately redundant and in the possession of the OEIG — that were preserved only for convenience of reference, as they had already been permanently preserved by the IT department through its nightly backups. Applying the Act in this matter would lead to absurd results. If Mr. Glorioso is found to have violated the Act because he deleted old emails that had already been backed-up by the IT Department, then every state employee that has ever deleted an email from his or her computer would have violated the Act. Such a result is untenable. Thus, the Act does not apply or it appears that the Act is being arbitrarily applied to Mr. Glorioso.

Similarly, the Report’s reliance on the PTAB Employee Handbook is misplaced. (Report, pgs. 10-11.) The Handbook mirrors the State Record Act and provides that “it is unlawful to conceal, alter, obliterate, or destroy records or documents, or to remove or attempt to remove such records or documents with the intention of performing such actions.” Regarding the first clause, the Report acknowledges that Mr. Glorioso’s emails had been backed-up and retained by the PTAB. (Report, pg. 8.) It thus is clear that Mr. Glorioso did not “conceal, alter, mutilate, obliterate, or destroy records or documents,” as those documents had already been permanently maintained by DoIT — and Mr. Glorioso knew this to be the case. Regarding the second clause, the Report fails to identify a single piece of evidence that Mr. Glorioso removed or attempted to remove such records “with the intention” of concealing or destroying those documents. Again, Mr. Glorioso deleted his emails only because he knew they had been backed-up, and further because the OEIG had told him that they had every document they needed. If the PTAB intended its Handbook to prevent all employees from deleting any emails, the Handbook should say as much. It does not, however, and the OEIG is seeking to punish Mr. Glorioso for deleting already backed-up emails that the OEIG always had access to.

Likewise, by publishing the Report as written, Mr. Glorioso may be deprived of his liberty interest in his post-employment reputation. To demonstrate such a deprivation, a plaintiff would have to “show that (1) he was stigmatized by the defendant’s conduct, (2) the stigmatizing information was publicly disclosed, and (3) he suffered a tangible loss of other employment opportunities as a result of public disclosure.” *Johnson v. Martin*, 943 F.2d 15, 16 (7th Cir. 1991).

Finally, comparing Mr. Glorioso’s purported conduct with that of other state employees subject to OEIG investigations demonstrates that the Commission’s recommendations, especially as it relates to recommending that Glorioso not be rehired by the State, are unduly oppressive. For example, in one instance, a State employee was found to have made sexually-oriented comments and used “highly-offense race-based language,” but the Commission did not even recommend that he not be rehired by the State. (See *In re Sawyer*, Case No. 18-00921, published Aug. 20, 2019.) In another case, the Commission found that a University of Illinois employee violated the University’s computer and network systems policy by using his University email for commercial or profit-making purposes, but the Commission did not recommend terminating his employment, let alone that he not be rehired by the State. (See *In re Gallivan*, Case No. 17-02400, published Aug. 20, 2019.) In yet another case, the Commission concluded that a state employee had failed to cooperate with the OEIG investigation by making false statements to the OEIG, in violation of

the Ethics Act, and merely recommended that her employer “discipline” her. (*See In re Campbell*, Case No. 15-01145, published Nov. 16, 2017.) Mr. Glorioso being recommended to not be rehired by the State after he deleted emails that were redundant and backed-up, and only after being given permission to do so, is unreasonable.

Perhaps most telling, though, is that we have not been able to find a single report issued by the Commission, based on a complaint and OEIG investigation, concluding that an employee engaged in wrongful conduct by deleting emails from his local inbox that had already been backed-up and that, in no way, impacted an OEIG investigation.

V. Conclusion

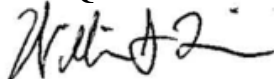
Context matters, and here, the OEIG’s Report is disconnected from context. As Executive Director, Mr. Glorioso was well aware that the PTAB, and DoIT, had maintained all of his emails. He fully cooperated with the OEIG’s investigation of the First Complaint, and sat for a three-hour interview on September 29, with [REDACTED]. After that interview, [REDACTED] told Mr. Glorioso that the OEIG had all the documents they needed regarding their investigation. Only then did Mr. Glorioso delete old emails; emails that Mr. Glorioso knew were already backed-up and maintained by DoIT.

Accordingly, no facts substantiate any misconduct. Mr. Glorioso has no history of misconduct at the PTAB, or otherwise, and he took his obligations at the PTAB very seriously. We respectfully request you issue a finding of UNFOUNDED and further request that this Report NOT be published. Additionally, we request that the recommendation that Mr. Glorioso not be considered for rehiring be REVERSED. At a minimum, the Commission should redact Mr. Glorioso’s name from the final Report, with further appropriate redactions. (See the attached Recommended Redactions, attached hereto as Exhibit A.) This response should also be published along with the Report, with Mr. Glorioso’s name redacted. If the Commission still chooses to exercise its discretion and publish this Report without redactions, we request that this response be publicly filed along with the Report.

Should you or the Committee have any further questions or concerns, please contact me so that we can reach an expeditious resolution of this matter.

Sincerely,

THE QUINLAN LAW FIRM, LLC



William J. Quinlan

Enclosures

cc: Mauro Glorioso (via email only)
David Hutchinson (via email only)
Alex Walsdorf (via email only)

IN THE EXECUTIVE ETHICS
COMMISSION OF THE STATE OF
ILLINOIS

IN RE: [REDACTED]

)

OEIG Case [REDACTED]

PUBLICATION OF REDACTED VERSION OF OEIG FINAL
REPORT

Below is the redacted final summary report from an Executive Inspector General. The General Assembly has directed the Executive Ethics Commission (Commission) to redact information from this report that may reveal the identity of witnesses, complainants or informants and "any other information it believes should not be made public." 5 ILCS 430/20-52(b).

The Commission exercises this responsibility with great caution and with the goal of balancing the sometimes-competing interests of increasing transparency and operating with fairness to the accused and others uninvolved. To balance these interests, the Commission may redact certain information contained in this report. Additionally, the Commission redacts certain information that relates to allegations against a person who was found not to have committed a violation. The redactions are made with the understanding that the subject or subjects of the investigation have had no opportunity to rebut the report's factual allegations or legal conclusions before the Commission.

The Commission received this report from the Governor's Office of Executive Inspector General ("OEIG") and a response from the agency in this matter. The Commission, pursuant to 5 ILCS 430/20-52, redacted the final report and mailed copies of the redacted version and responses to the Attorney General, the Executive Inspector General for the Governor, and [REDACTED] last known address.

The Commission reviewed all suggestions received and makes this document available pursuant to 5 ILCS 430/20-52.

OEIG SUMMARY REPORT

I. ALLEGATIONS

[Pursuant to Section IV, Part B, the OEIG concludes that an allegation is “founded” when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance. The information in this paragraph is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this paragraph pursuant to 5 ILCS 430/20-52(a).]

On October 15, 2020, the OEIG received a second complaint relating to the [Property Tax Appellant] Appeal. Specifically, the complaint alleged that on October 5, 2020, [REDACTED] improperly deleted all of his emails related to the [Property Tax Appellant] Appeal, [REDACTED]

II. BACKGROUND

A. Structure and Function of PTAB

PTAB is a five-member board (Board) that hears appeals from parties who are dissatisfied with property values determined by county boards of review (BOR).² While it cannot change tax rates established by local taxing bodies, PTAB has statutory authority to independently assess the property value on which such taxes are based, and thereby impact the amount of taxes due.

To effectuate its duties, PTAB employs an Executive Director to oversee its day-to-day operations, as well as ALJs and other staff to review appeals and recommend decisions.³ These employees are based in two offices – one in Springfield and another in Des Plaines. With limited exceptions, the Des Plaines ALJs handle appeals in Cook County, while the Springfield ALJs handle appeals in all other counties.⁴ ALJs are given “full authority over the conduct of [the] hearing and the responsibility for submission of the matter to the Board for decision.”⁵ Once an ALJ submits a decision, the Board makes a final determination in its own name, based on a majority vote.⁶

As [Identifying Information Redacted], [PTAB Employee 1] is the ultimate supervisor for all ALJs. On a practical basis, he is also the day-to-day supervisor for the Springfield ALJs, while

¹ [The information in this subsection paragraph is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this section pursuant to 5 ILCS 430/20-52(a).]

² See 35 ILCS 200/16-160.

³ PTAB decides many appeals based solely on the written record but may also hold hearings on legal or factual issues as needed. See 86 Ill. Admin. Code 1910.67(a) and (b).

⁴ The primary exception is that appeals for properties connected to ALJs in one office are assigned to ALJs in the other office. Additionally, appeals decided solely on a written record may be assigned to an ALJ from either office.

⁵ See 86 Ill. Admin. Code 1910.67.

⁶ See 86 Ill. Admin. Code 1910.12(g); 35 ILCS 200/16-185.

[PTAB Employee 2], as [Identifying Information Redacted], is the day-to-day supervisor for the Des Plaines ALJs.⁷ All ALJs are subject to the ALJ Code, and those qualified as attorneys are also subject to the Attorney Rules.⁸ [REDACTED]

[REDACTED] was responsible for carrying out PTAB directives, effectuating its mission statement, and complying with various legal and regulatory reporting requirements. [REDACTED]

B. 2011 [Property Tax Appellant] Assessment

The Cook County Assessor is initially responsible for determining the value of all real estate in Cook County for tax purposes. The Assessor does this by first determining the “fair cash value” of the property then applying a “multiplier” linked to the property’s classification; for commercial properties like [Property Tax Appellant], the multiplier is 25%. The assessed value then forms the basis of the actual tax bill—issued by the Cook County Treasurer—after the application of an equalization factor calculated by the Illinois Department of Revenue and tax rates set by various local taxing bodies.⁹ These assessments can be appealed within the Assessor’s office, or to the Cook County BOR.¹⁰ [The remainder of the information in this subsection paragraph is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this subsection pursuant to 5 ILCS 430/20-52(a).]

III. INVESTIGATION

[The information in this paragraph is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this paragraph pursuant to 5 ILCS 430/20-52(a).]

A. [The information in this subsection is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this subsection pursuant to 5 ILCS 430/20-52(a).]

1. [The information in this subsection is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this subsection pursuant to 5 ILCS 430/20-52(a).]

⁷ [PTAB Employee 2] has served as [Identifying Information Redacted] for the Des Plaines office since 2014.

⁸ See Executive Order 2016-16 (establishing that hearing officers are subject to the ALJ Code); Attorney Rules 8.5 (establishing that “[a] lawyer admitted to practice . . . is subject to the disciplinary authority of this jurisdiction[.]”).

⁹ See <https://www.cookcountyassessor.com/how-commercial-properties-are-valued> (last visited November 5, 2020).

¹⁰ See <https://www.cookcountyassessor.com/frequently-asked-questions> (last visited November 5, 2020).

[The information in this paragraph is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this paragraph pursuant to 5 ILCS 430/20-52(a).]

2. [The information in this subsection is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this subsection pursuant to 5 ILCS 430/20-52(a).]

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B. [The information in this subsection is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this subsection pursuant to 5 ILCS 430/20-52(a).]

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b. [The information in this subsection is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this subsection pursuant to 5 ILCS 430/20-52(a).]

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c. [The information in this subsection is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this subsection pursuant to 5 ILCS 430/20-52(a).]

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C. [REDACTED] Deletion of Relevant PTAB Files and Emails

1. [REDACTED] background

[REDACTED] is an attorney and was first admitted to the Illinois bar on 1997. After a few years in private practice, [REDACTED] joined PTAB [REDACTED] in 2000. [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] he was responsible for carrying out directives from the PTAB, effectuating its mission statement, and complying with various legal and regulatory reporting requirements. He also stated that he worked primarily out of the Des Plaines office, but visited the Springfield office regularly.

[REDACTED]

On October 5, 2020, PTAB internally announced that [REDACTED] would leave the agency on October 23, 2020. However, due to certain events discussed below, [REDACTED] access to his PTAB email and other PTAB systems was terminated on October 14, 2020, and he was removed from the office.

2. Notice of the litigation hold

Based on a review of [REDACTED] Illinois.gov account, the OEIG identified an email dated February 20, 2020 from [Identifying Information Redacted] [PTAB Employee 3] to [REDACTED] and other PTAB employees. The email had the subject line “Document Hold.docx” and attached a Word document of the same name.¹² The document – a memorandum also dated February 20, 2020 and bearing the subject line “[Property Tax Appellant]; PTAB Docket No. [Identifying Information Redacted]” – instructed all recipients that they had a “legal obligation to preserve all Documents and [Electronically Stored Information]” related to the [Property Tax Appellant] Appeal, and that such materials “must not be discarded, deleted, altered, or destroyed.” The memorandum stated that it covered both “final and draft” documents, including emails, memoranda, and “any electronic data compilation from which information can be obtained.” The memorandum stated that the order to preserve documents and ESI was “necessarily broad and [should be interpreted] in the broad sense it is intended.” While the document had no specific end date, it stated that recipients would be contacted “when the preservation/litigation hold is lifted.”

The OEIG’s review of [REDACTED] emails also found that [REDACTED] on February 20, 2020, referenced discussions of the litigation hold with [PTAB Employee 3], several hours

¹¹ See <https://www.isba.org/committees/professionalconduct> (last visited May 12, 2021).

¹² Although the litigation hold stated that PTAB IT staff would take the necessary steps to “deactivate any program that automatically deletes stored files or e-mail,” [PTAB Employee 4] stated that he was not aware of anyone within PTAB sharing the litigation hold with the Department of Innovation and Technology (DoIT). Such a step should have been taken because, as [PTAB Employee 4] explained, DoIT hosts and maintains the servers that backup PTAB’s IT infrastructure. In this case, the failure to alert DoIT did not impact the investigation, as [PTAB Employee 4] was able to restore the deleted P: Drive materials from DoIT’s backups before the end of the retention period. Nevertheless, the OEIG recommends that PTAB institute formal procedures to ensure that any future litigation holds are shared with DoIT, so that backups will be preserved in a forensically sound manner.

before she sent it out. Additionally, [REDACTED] was copied on a February 13, 2020 email from [PTAB Employee 1] to [PTAB Employee 3] with the subject line "Document Hold." That email attached a document identical to the memorandum circulated by [PTAB Employee 3] on February 20, 2020, except for the date.

Documents obtained by the OEIG during this investigation also show that [REDACTED] was present during the Executive Session of PTAB's February 11, 2020 Board Meeting, where the litigation hold covering "any and all documents, and electronically stored information involving and pertaining to the [Property Tax Appellant] [A]ppeal" was discussed.

3. Interview of [PTAB Employee 4], [Identifying Information Redacted]

OEIG investigators interviewed [PTAB Employee 4], PTAB's [Identifying Information Redacted], on February 9, 2021. [PTAB Employee 4] stated that he had a Bachelor's degree in Computer Science from the University of Illinois, and had worked in IT for various State agencies – including CMS and PTAB – for more than a decade.

[PTAB Employee 4] stated that on October 5, 2020, PTAB internally announced that [REDACTED] would be leaving the agency later in the month. He stated that on October 8, 2020, he began preparing a packet of electronic materials for the incoming [REDACTED] to get up to speed. As a part of that effort, he used [REDACTED] computer to access [REDACTED] assigned network folder (P: Drive), so that he could include its contents in the aforementioned packet. According to [PTAB Employee 4], the P: Drive was linked to [REDACTED] Illinois.gov account, and could only be accessed by someone who knew [REDACTED] login and password. He stated that it was theoretically possible for an IT employee with full backend access to access [REDACTED] P: Drive, but that he saw no evidence of such access occurring in this case.

[PTAB Employee 4] stated that his review of [REDACTED] computer revealed that the P: Drive was virtually empty. He explained to the OEIG that the P: Drive was backed up automatically on a nightly basis, and that he reviewed each night's backup to determine if and when files had been deleted. In doing so, [PTAB Employee 4] found that a large number of files were present in the October 4 backup, but were missing from the October 5 backup. According to [REDACTED] he saw no evidence of anyone other than [REDACTED] accessing the P: Drive.

[PTAB Employee 4] explained that the P: Drive deletions appeared suspicious to him, in part because a few days prior, PTAB [Identifying Information Redacted] [PTAB Employee 5] reported that [REDACTED] had improperly transferred some emails.¹³ [PTAB Employee 4] further

¹³ [PTAB Employee 4] recalled that [PTAB Employee 5] reported two tech-support conversations with [REDACTED] regarding email storage. Specifically, [PTAB Employee 5] reported that on September 30, 2020, [REDACTED] requested and received assistance in creating folders in his Outlook program, purportedly to make the emails easier to find. [PTAB Employee 5] also reported that on October 1, 2020, [REDACTED] again requested and received assistance in organizing his emails. [PTAB Employee 5] further reported on this second call, [REDACTED] reported that he transferred files to a personal thumb drive. [PTAB Employee 4] told the OEIG that he directed [PTAB Employee 5] to tell [REDACTED] that such transfers were prohibited. [PTAB Employee 5] then reported that [REDACTED] agreed to stop copying emails in this fashion, and to remove the previously-transferred emails from the thumb drive. [PTAB Employee 4] told the OEIG that he did not recall that [REDACTED] ever previously requested assistance in organizing his emails.

explained that his suspicions grew after he discovered that the very first deleted file he restored from [REDACTED] P: Drive directly referenced the [Property Tax Appellant] Appeal in the filename. After conducting additional searches, [PTAB Employee 4] determined that at least 25 of the deleted files that he was able to recover related to the [Property Tax Appellant] Appeal, including various Board meeting minutes and reports, drafts of [PTAB Employee 1]’s decision, and other related materials. Accordingly, he reported the matter to PTAB Board Chairman Kevin Freeman on October 14, 2020. [PTAB Employee 4] told the OEIG that later the same day, Mr. Freeman directed him to change [REDACTED] password and remove him from the network.

[PTAB Employee 4] told the OEIG that after [REDACTED] was removed, he contacted the Department of Innovation and Technology (DoIT) to determine how best to recover emails that [REDACTED] may have deleted. [PTAB Employee 4] indicated that DoIT told him that even if a user emptied the “Trash” folder via Outlook, the materials would still be retained for 45 days in a separate “Trash” folder on PTAB’s Exchange email server.¹⁴ [PTAB Employee 4] told the OEIG that when he checked the “Trash” folder on the Exchange server, he found that thousands of emails had been deleted from [REDACTED] Outlook “Trash” folder on October 2, 2020. According to [REDACTED] because these emails were recovered from the “Trash” folder on the Exchange server, they had to have been deleted twice – first from [REDACTED] Outlook inbox, and second from [REDACTED] Outlook “Trash” Folder. After conducting several searches on the deleted emails, [PTAB Employee 4] found that over 200 of them were related to the [Property Tax Appellant] Appeal. [PTAB Employee 4] explained that the materials could only have been deleted by [REDACTED] or by a DoIT employee with administrator access. [PTAB Employee 4] stated that he saw no evidence of the latter.

[PTAB Employee 4] documented these events in a memorandum that he authored on October 14, 2020 and provided to Mr. Freeman the same day. This memorandum was in turn provided to the OEIG on October 15, 2020. Upon review, the events [PTAB Employee 4] described in his interview were consistent with his memorandum.

4. OEIG’s review of recovered materials

The OEIG obtained and independently reviewed all of the deleted materials related to the [Property Tax Appellant] Appeal that [PTAB Employee 4] was able to recover in order to determine whether the deletion substantively impacted the OEIG investigation. In doing so, the OEIG found that most of the recovered materials were identical or highly similar to materials previously obtained during this investigation, while the others were related to FOIA requests from the [News Source 1]. Due to these similarities, investigators determined that the recovered materials did not affect the outcome of the investigation into the underlying complaint [The information in the remainder of this sentence is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this sentence pursuant to 5 ILCS 430/20-52(a).].

¹⁴ [PTAB Employee 4] also explained that DoIT maintained copies of all emails, including deleted materials that would otherwise be lost after the 45-day retention period on the Exchange server.

On February 19, 2021, the OEIG contacted [REDACTED] counsel requesting an interview with [REDACTED] regarding the deletion of PTAB materials. [REDACTED] counsel responded on March 5, 2021 and indicated that [REDACTED] might agree to such an interview, but requested additional time. After sending numerous calls and emails over the next several months, the OEIG informed [REDACTED] counsel via email on May 11, 2021, that it would proceed with its investigation if the interview was not scheduled by May 21, 2021. [REDACTED] counsel acknowledged receipt of the email, but did not make any further contact with the OEIG.

IV. ANALYSIS

- A. [The information in this subsection is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this section pursuant to 5 ILCS 430/20-52(a).]

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B. Allegation that [REDACTED] Improperly Deleted Materials Related to the [Property Tax Appellant] Appeal

PTAB's Employee Handbook requires employees to "conduct themselves in a responsible and professional manner in all work situations,"¹⁵ and specifically prohibits them from attempting to "conceal, alter, mutilate, obliterate, or destroy record or documents" belonging to the agency.¹⁶ In addition, the State Records Act provides that all records created or received by or under the authority of or coming into the custody, control, or possession of public officials of the State in the course of their public duties are the property of the State and may not be mutilated, destroyed, transferred, removed, or otherwise damaged or disposed of, in whole or in part, except as provided by law.¹⁷

On February 20, 2020, [REDACTED] and other PTAB employees received a litigation hold

¹⁵ PTAB Employee Handbook Section 7.1 – Professional Conduct.

¹⁶ PTAB Employee Handbook Section 7.2(c) – Care of Official Documents, Money and Property.

¹⁷ 5 ILCS 160/3(a). "Records" includes physical and electronic materials made, produced, executed, or received by any State agency in pursuance of State law or in connection with the transaction of public business and preserved as evidence of the organization, function, policies, decisions, procedures, operations, or other activities of the State, or because of the informational data contained therein (*Id.* at 160/2). Any person who knowingly and without lawful authority alters, destroys, defaces, removes, or conceals any public record commits a Class 4 felony (*Id.* at 160/11).

notice, instructing them to maintain all materials related to the [Property Tax Appellant] Appeal – including both draft and final copies of all documents, emails and memoranda. The OEIG’s analysis of [REDACTED] email records shows that he received a draft copy of the litigation hold notice a week earlier. He also acknowledged in his OEIG interview that he was aware of the OEIG’s investigation of the appeal. [REDACTED]

Nevertheless, on October 2, 2020 – three days after his interview with the OEIG – more than 200 emails related to the [Property Tax Appellant] Appeal were deleted from [REDACTED] email account. The following week, on October 5, 2020, dozens of additional files related to the [Property Tax Appellant] Appeal were deleted from [REDACTED] P: Drive. [PTAB Employee 4] informed the OEIG that these deletions could only have been performed by [REDACTED] or DoIT employees with full administrative access to State IT systems, and that he saw no evidence of any such activity by DoIT. It is also clear, at least with respect to the emails, that [REDACTED] deletions were intentional, as they required [REDACTED] to first move the items to his Outlook “Trash” folder and then empty that folder. Despite repeated efforts – extending over several months – to reach out to [REDACTED] via his counsel, the OEIG was unable to schedule a second interview with [REDACTED] to obtain his explanation for this conduct.

Based on this record, the OEIG finds that there is reasonable cause to conclude that [REDACTED] deleted numerous emails and other documents related to the [Property Tax Appellant] Appeal, and that in so doing, [REDACTED] violated the PTAB Employee Handbook’s general document retention rules, the litigation hold notice specifically in place for the [Property Tax Appellant] Appeal, and the State Records Act. Accordingly, the allegation that [REDACTED] violated PTAB policy, directives, and State law relating to the maintenance of records by deleting PTAB files and emails in October 2020 is **FOUNDED**.¹⁸

V. FINDINGS AND RECOMMENDATIONS

As a result of its investigation, the OEIG concludes that there is **REASONABLE CAUSE TO ISSUE THE FOLLOWING FINDINGS:**

- **UNFOUNDED** – [The information in this paragraph is redacted because it relates to an allegation that the OEIG determined was unfounded. Therefore, the Commission exercises its discretion to redact this paragraph pursuant to 5 ILCS 430/20-52(a).]
- **FOUNDED** – [REDACTED] violated PTAB policy, directives, and State law relating to the maintenance of records by deleting PTAB files and emails in October 2020.

Because [REDACTED] is no longer a State employee, the OEIG recommends that a copy of this report be placed in [REDACTED] employment file, [REDACTED]

¹⁸ The OEIG concludes that an allegation is “founded” when it has determined that there is reasonable cause to believe that a violation of law or policy has occurred, or that there has been fraud, waste, mismanagement, misconduct, nonfeasance, misfeasance, or malfeasance.

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Date: May 25, 2021

Office of Executive Inspector General
for the Agencies of the Illinois Governor
69 W. Washington St., Suite 3400
Chicago, IL 60602

Francis Sohn
Assistant Inspector General #157

Jasmine Velazquez
Supervising Investigator #133

AFFIDAVIT OF MAURO GLORIOSO

I, Mauro Glorioso, state as follows:

1. I am a licensed attorney in Illinois.
2. I have personal knowledge of the matters and facts set forth in this Affidavit and, if sworn as a witness, I can testify competently to those matters and facts.
3. From 2000–2008, I served as an Illinois Property Tax Appeal Board (“PTAB”) Administrative Law Judge.
4. From 2008–2019, I served as a Board member at the PTAB.
5. I served as Chairman of the PTAB Board from 2016–2019.
6. From March 27, 2019, to October 14, 2020, I served as the Executive Director of the PTAB.
7. While I worked at the PTAB, I primarily worked out of its Des Plaines office.
8. In my experience at the PTAB, I recall other employees cleaning their computers of outdated or unnecessary files, including emails, before they left their positions.
9. IT staff would often suggest to me that I clean my email inbox by deleting emails, as I had a large amount of emails in my inbox.
10. [REDACTED] had informed the PTAB staff, including me, that information on our work computers was regularly, if not daily, backed up with the Illinois Department of Innovation & Technology (“DoIT”). He stated that if we needed to access backed up information, we should ask him to submit a “slip” (a request) to the DoIT to obtain it.
11. Based on my experience and 20-year career, I was aware that every employee’s email was regularly backed up by the PTAB’s IT department and maintained by DoIT.

12. I was also aware that, in the event a litigation hold was placed on any documents, DoIT would have backups of all emails. Indeed, it was customary for investigators from the OEIG to work with DoIT to access any emails related to their investigations.
13. On [REDACTED]
[REDACTED]
14. In December of 2019, the Illinois Office of Executive Inspector General ("OEIG") began investigating [REDACTED] regarding the decision-making process in the [REDACTED]
15. During its investigation, I cooperated with all of the OEIG's requests for information. In response to OEIG requests, I produced many documents, issued written responses to OEIG questions, and agreed to participate in an interview with OEIG officials. When producing documents, I produced all work emails and any other documents requested by the OEIG in my possession relating to the [REDACTED].
16. On September 23, 2020, I was informed that I would be terminated from my position as Executive Director of the PTAB due to the fact that the Governor desired a change and wanted to go in a different direction.
17. On September 29, 2020, the OEIG interviewed me as part of its investigation concerning the [REDACTED] appeal. Two officials questioned me about the events surrounding the appeal. During the interview, they used copies of my work emails and other documents to question me. I remember sending those emails to the OEIG as part of the documents I produced to them.

18. The OEIG officials did not request any additional information from me during or after my interview. Nor have the officials suggested to me that they believed my production of documents during the investigation has been incomplete.
19. One of the officials, [REDACTED], specifically told me that the OEIG had every document they needed relating to the investigation.
20. After learning of my impending termination as the [REDACTED], I contacted [REDACTED] of the PTAB IT department to notify him that I wanted to clean my email and files so there was no unnecessary or outdated information for my replacement. [REDACTED] showed me how to delete my emails and any other documents.
21. After discussing cleaning my emails and files with the IT department, I began deleting emails and files from my work computer. I deleted emails and files that did not pertain to matters presently before the PTAB, other old emails, and emails relating to routine Board administrative functions (such as setting agendas for old Board meetings). Any removal from my work computer of emails or other data was done in an effort to reduce the clutter on the computer for the benefit of my replacement.
22. When that information was removed from my computer, I was under the firm good-faith belief (based on conversations with and/or information from [REDACTED] and [REDACTED]) that backups of that information would be readily available at the DoIT should anyone need to view the information. No one from the PTAB IT department, or any other individual, had ever suggested to me that such a practice was not allowed.
23. To the best of my knowledge, backups of any emails or files I deleted on my work computer are available today at the DoIT should anyone wish to view them.
24. I officially left the PTAB on October 14, 2020.

25. In my 20-year tenure at the PTAB, I had no history of misconduct or any ethical violation.

I declare under penalty of perjury of the laws of this state that the foregoing statements are true and correct.

Date: 09/09/2021



Mauro Glorioso