



**CUYAHOGA COUNTY
AGENCY OF INSPECTOR GENERAL**

REPORT OF INVESTIGATION

CASE NUMBER: INVEST-000002

SUBJECT(S) INFO:

Name: Linda Rybak
Position: Program Officer 4
Department: Human Resources

SOURCE OF REFERRAL: Anonymous

METHOD OF REFERRAL: Whistleblower Phone Call

INITIATED: January 20, 2011

DATE OF REPORT: February 8, 2012

ALLEGATIONS

Linda Rybak knowingly engaged in fraudulent activities that led to her improperly obtaining a promotion and increase in pay.

AUTHORITY

Cuyahoga County Agency of Inspector General Ordinance Section 2(c):

- o *The Inspector General is hereby appointed to conduct examinations under Section 2.05 of the County Charter and shall, therefore, have all such rights and duties to investigate fraud, corruption, waste, abuse, misfeasance, malfeasance, and nonfeasance without interference or pressure from any other Public Official or Employee.*

COMPLAINT SUMMARY

The County Executive received an anonymous complaint regarding the employment of Linda Rybak, an employee of the Cuyahoga County Human Resources Department ("Human Resources"). The complainant cited to the series of newspaper articles regarding the County Corruption Investigation, wherein it is alleged that Linda Rybak's husband, Robert Rybak, bribed former Cuyahoga County Commissioner Jimmy Dimora ("Dimora") in exchange for Dimora securing a promotion and raise for Linda Rybak in April of 2008. Complainant alleges that Rybak's continued receipt of the benefits of this fraudulent promotion is inappropriate.

BACKGROUND

Linda Rybak was initially hired by the County on September 11, 2000 to a full-time/temporary position as an Administrative Assistant 2 in Human Resources making \$14.99/hour (\$31,179.20). Personnel records indicate that this temporary position was scheduled to end on March 9, 2001. On December 17, 2000, she received an across-the-board cost of living adjustment ("COLA") raising her wage rate to \$15.44/hour (\$32,115.20). On March 25, 2001, her employment status was changed to a full-time/permanent Administrative Assistant 2. On December 30, 2001, she received another across-the-board COLA raising her wage rate to \$15.75/hour (\$32,760.00).

On February 23, 2003, Linda Rybak was promoted to the position of Program Officer 3 in Human Resources at the wage rate of \$20.18/hour (\$41,974.40). She subsequently received across-the-board COLA's on December 28, 2003, December 26, 2004, December 25, 2005 and December 24, 2006, raising her wage rate to \$23.26/hour (\$48,380.80). On April 27, 2008, Linda Rybak was promoted to the position of Program Officer 4 at a wage rate of \$25.83 (\$53,726.40) as part of a reorganization of the Department of Human Resources. Linda Rybak currently serves in this position at the same wage rate.

Linda Rybak's personnel file contains three (3) performance reviews that generally indicate average to above average performance. On March 3, 2011, however, Linda Rybak received a five (5) day disciplinary suspension for neglect of duty. The disciplinary letter indicates that she negligently permitted an unqualified applicant to proceed beyond initial screening in a hiring process.

INVESTIGATIVE SUMMARY

In light of the limitation contained within Section 2(d)(i) of the Inspector General Ordinance ("The Inspector General shall not interfere with any ongoing criminal, administrative, or civil investigation or prosecution in the performance of his/her duties..."), the Agency of Inspector General ("AIG") was initially unable to obtain sufficient evidence to complete investigation of this matter due to the ongoing Federal criminal investigation. On January 27, 2012, however, testimony regarding the questioned promotion was introduced by the United States in its trial against Dimora. This testimony was provided by FBI Special Agent Kirk Spielmaker ("Agent Spielmaker"). The information contained in this testimony provided the AIG sufficient information to conclude its investigation.

The following is a comprehensive summary of Rybak's employment history with the County as well as relevant information from the court testimony that was reviewed:

May 30, 2000

Linda Rybak's personnel file contained an application for employment dated May 30, 2000.

September 6, 2000

Former Cuyahoga County Commissioner Jane Campbell signed a Personnel Action Form¹ authorizing the hiring of Linda Rybak to a full-time/temporary position as an Administrative Assistant 2 at the wage rate of \$14.99/hour (\$31,179.20) effective September 11, 2000. Human Resources was unable to locate any records relating to a competitive hiring process for this position.²

February 23, 2003

On February 23, 2003, Linda Rybak was reassigned to the position of Program Officer 3.³ This reassignment resulted in a wage rate increase from \$15.75/hour (\$32,760.00) to \$20.18/hour (\$41,974.40). This reassignment may have been in response to a series of memorandums sent to former Human Resources Director Dennis Madden by former Human Resources employee Kay Powers.⁴

February 9, 2008

Telephone conversation between former Cuyahoga County Employee Kevin Kelley ("Kelley") and Robert Rybak. Kelley and Robert Rybak generally discuss how they're going to approach Dimora about requesting a raise for Linda Rybak.⁵ This conversation occurred prior to a lunch gathering between Robert Rybak, Dimora and Kelley.⁶ Kelley and Robert Rybak subsequently spoke again on the phone regarding the raise for Linda Rybak. Kelley commented how "naïve" Linda Rybak was to think she could obtain the promotion on her own.⁷ Robert Rybak agreed with this statement.⁸ Kelley then proceeded to instruct Robert Rybak to use his "resource" to get Linda Rybak the job.⁹ Robert Rybak then stated that he told Linda Rybak that he could get every one of those three Commissioners to vote her a raise.¹⁰ The two discuss getting Linda Rybak a \$10,000 raise during this conversation.¹¹

Later that same day, Robert Rybak and Kelley again spoke regarding a raise for Linda Rybak. Robert Rybak told Kelley that

¹ Attached as **Exhibit A**.

² The records retention policy for Human Resources only requires that competitive hiring files be retained for one (1) year.

³ See Personnel Action Form attached as **Exhibit B**.

⁴ Memorandums from Kay Powers attached as **Exhibit C**.

⁵ See Trial Testimony of Kirk Spielmaker (Volume 1), January 26, 2012 at p. 26, attached hereto as **Exhibit D**. See also Government Exhibit 2401.

⁶ Id. at p. 27. See also Government Exhibit 2401.

⁷ Attachment A to Plea Agreement of Robert W. Rybak, October 26, 2010, at paragraph 38, attached hereto as **Exhibit E**.

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Exhibit D at pp. 28 and 29. See also Government Exhibit 2403.

he laid it on "too heavy" when talking to Dimora about the raise. Kelley stated that he had Dimora right where Robert Rybak wanted him. Kelley said that he told Dimora that he needed to "take care of this" and to get her "ten grand, just, you know and it will help the whole situation." Rybak sated "f—k that five grand. Get her ten that's for sure."¹²

**Unknown (between
2/9/08 and 2/20/08)**

Telephone conversation between Dimora and former Cuyahoga County Administrator Dennis Madden ("Madden"). Madden asks Dimora if he wants him to talk to former Director of Human Resources Joe Nanni ("Nanni") regarding Linda Rybak. Dimora asked Madden to speak to Nanni regarding the issue.

February 20, 2008

Telephone conversation between Dimora and Madden regarding a new position for Linda Rybak. Madden noted that the original job that Rybak was interested¹³ in would have required her to work in the Sterling Building. Madden then stated that Nanni was going to give Rybak other responsibilities.¹⁴

February 22, 2008

Telephone conversation between Robert Rybak and Kelley regarding planning a fundraiser for former Commissioner Peter Lawson Jones ("Jones").¹⁵

March 10, 2008

Telephone conversation between Dimora and Madden regarding Linda Rybak.¹⁶

March 13, 2008

Telephone conversation between Dimora and Robert Rybak regarding installation of an ice machine in Dimora's outdoor kitchen. The ice machine was previously stored at the Local 55 Plumbers Union Hall.¹⁷

April 10, 2008

Former Assistant Director of Human Resources, Deborah Southerington ("Southerington"), submitted a memorandum¹⁸ to Nanni proposing a reorganization plan for Human Resources. Included in the plan was a proposal to upgrade four employees to higher classifications and wage rates. A proposal to promote Linda Rybak to a Program Officer 4 position was included in this plan.

¹² Exhibit E at paragraph 39.

¹³ Position eventually filled by Janine Westlock ("Westlock")

¹⁴ Exhibit D at pp. 30 and 31. *See also* Government Exhibit 2405.

¹⁵ *Id.* at pp. 31 and 32. *See also* Government Exhibit 2406.

¹⁶ *Id.* at p. 32. *See also* Government Exhibit 2047.

¹⁷ *Id.* at pp. 38 – 40. *See also* Government Exhibit 2410.

¹⁸ Attached as **Exhibit F**.

Telephone conversation between Dimora and Linda Rybak. During the conversation Dimora and Linda Rybak discuss Human Resources' previous hiring of Westlock¹⁹. They specifically discuss the fact that Westlock was hired at an advanced pay step. Referencing the decision to not grant Linda Rybak an advanced pay step with her new promotion, Dimora states "how do we change that?" The conversation continues as follows:

- *Dimora* – "What do you want to do? So tell me then what – how do we change that?"
- *Linda Rybak* – "He's (referencing Nanni) going to buck. He's going to buck it because he's going to say nobody else is getting an advanced step."
- *Dimora* – "I was going to try to stop her from getting hired."
- *Linda Rybak* – "I don't know if Hagan is going to go with it because Hagan might back Nanni."
- *Dimora* – "You don't think if I talked to Joe (Nanni), you don't think he will do it, so we need to override him."
- *Linda Rybak* – "It could always get pulled off the agenda."
- *Dimora* – "Yeah. Oh, yeah, we could pull it off."
- *Linda Rybak* – "You could pull all of them off, and just say, 'Hey I want an explanation of what you're doing down here.'"
- *Dimora* – "Rob's (Rybak) gonna have to go after Jones here and see if he can't somehow persuade him to do this."
- *Linda Rybak* – "Well, since he's doing a fund-raiser for him in like two weeks."
- *Dimora* – "Yeah, you got to strike while the iron is hot."²⁰

April 15, 2008

Subsequent to this conversation, Dimora engaged in a telephone conversation with Robert Rybak. During this conversation, Dimora gave Robert Rybak certain advice on handling issues with respect to his wife's raise. Dimora advises that Robert Rybak will need to get another Commissioner on board to get Rybak's raise past Nanni. Dimora recommends "going after" Jones because "he's on the hook here with his election time."²¹ Dimora tells Robert Rybak to "Shoot five and then we'll figure out if we need to pull the agenda and wait until the 24th, or we would put an amended agenda on the 17th. Dimora also indicates that Kelley may be helpful to Robert Rybak in dealing with Jones.²² During this same conversation, Dimora inquired as to what he would receive from Robert Rybak. Robert Rybak replied that "I

¹⁹ See footnote 8, *supra*.

²⁰ Exhibit D at pp. 55 – 60. See also Government Exhibit 2416.

²¹ Trial Testimony of Kirk Spielmaker (Volume 2), January 27, 2012 at p 145, attached hereto as **Exhibit G**. See also Government Exhibit 2417.

²² Exhibit D at pp. 61 – 63. See also Government Exhibit 2417.

always take care of you...²³

Later that same day, Kelley and Jones had a telephone conversation regarding Linda Rybak's promotion. Kelley states that he is calling on behalf of Robert Rybak.²⁴ Jones states that he was willing to give Linda Rybak a raise if Dimora was "on board" and if they waited until after the election.²⁵ Jones states "That might be the best idea. She can wait – if she can wait until then, then she'll certainly have my vote and she will have Jimmy's vote to move her up to the 4 if she can hold off for another few months."²⁶ Kelley subsequently called Robert Rybak.²⁷ Robert Rybak expressed frustration about the delay. Kelley indicated that Jones wanted to delay Linda Rybak's raise because Robert Rybak was participating in a fundraiser for Jones and seeking the raise at the same time. Kelley then immediately called Dimora.²⁸

Telephone conversation between Dimora and Robert Rybak. Robert Rybak indicates that he spoke with Linda Rybak regarding the promotion and she told him to tell Dimora to do what made him comfortable and not to do anything that made Dimora uncomfortable. Dimora and Robert Rybak discussed different options for Linda Rybak's raise and inquired whether Linda Rybak wanted to increase the smaller raise now. Robert Rybak told Dimora to let Jones lead the charge because according to Kelley they have an agreement with Jones.²⁹

April 17, 2008

Telephone conversation between Dimora and Kelley. Dimora stated that he hated not to do something for Linda Rybak because Robert Rybak would complain. Kelley told Dimora "Without you they don't have nothing."³⁰

Telephone conversation between Dimora and Dimora's former Executive Assistant Pat Smock ("Smock"). Dimora instructs Smock to pull the Human Resources items off the Commissioner's agenda. Dimora indicated that he needed to talk to Hagan and Nanni about the item.

²³ Exhibit E at paragraph 56.

²⁴ Exhibit D at p. 63.

²⁵ Exhibit E at paragraph 57.

²⁶ Exhibit D at pp 63 and 64. *See also* Government Exhibit 2418.

²⁷ *Id.* at p. 65. *See also* Government Exhibit 2419.

²⁸ *Id.* *See also* Government Exhibit 2420.

²⁹ Exhibit E at paragraph 60.

³⁰ *Id.* at paragraph 61.

April 24, 2008

Cuyahoga County Commissioners approve promotion of Linda Rybak to Program Officer 4 position.³¹ This promotion included a wage rate increase from \$23.26/hour (\$48,380.80) to \$25.83/hour (\$53,726.40).

May 12, 2008

Telephone conversation between Robert Rybak and Dimora regarding installation of the ice machine at Dimora's residence. Robert Rybak indicates that he'll get Dimora hooked up on one sunny day this week.³²

As of the date of this report, Linda Rybak remains in the position of Program Officer 4 in the Human Resources Department.

CONCLUSION AND RECOMMENDATIONS

Allegation

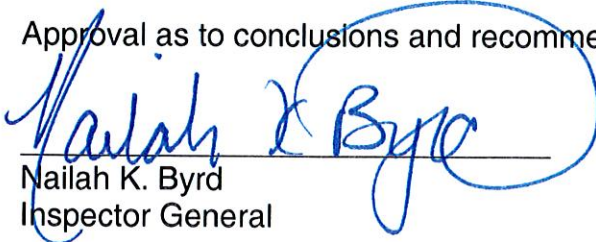
Linda Rybak knowingly engaged in fraudulent activities that led to her improperly obtaining a promotion and increase in pay.

After a careful review of the evidence collected in this investigation, it is my opinion that there is sufficient evidence to indicate that Linda Rybak did actively conspire with Robert Rybak, Dimora, Kelley and Jones to improperly secure a promotion and raise in salary. Accordingly, it is my recommendation that this matter be referred to the County Executive for disciplinary action up to and including termination.

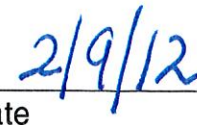


Mark Cutright
Investigator

Approval as to conclusions and recommendations:



Nailah K. Byrd
Inspector General



Date

³¹ See Personnel Action Form attached as **Exhibit F**.

³² Exhibit D at 78 and 79. See also Government Exhibit 2426.