

Return Date: No return date scheduled
Hearing Date: 6/12/2020 9:30 AM - 9:30 AM
Courtroom Number: 2008
Location: District 1 Court
Cook County, IL

FILED
2/11/2020 5:52 PM
DOROTHY BROWN
CIRCUIT CLERK
COOK COUNTY, IL
2020CH01781

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS COUNTY DEPARTMENT
CHANCERY DIVISION

BEENA PATEL,)
)
 v.)
 Plaintiff,)
)
 THE RETIREMENT BOARD OF THE)
 COUNTY EMPLOYEES' AND OFFICERS')
 ANNUITY AND BENEFIT FUND OF COOK)
 COUNTY; THE FOREST PRESERVE)
 DISTRICT EMPLOYEES' ANNUITY)
 AND BENEFIT FUND OF COOK COUNTY,)
 LAWRENCE L. WILSON, STEPHEN HUGHES)
 JAMES M. O'ROURKE, JOSEPH NEVIUS,)
 BILL KOURUKLIS, PATRICK J. MCFADDEN,)
 JOHN BLAIR, KEVIN OCHALLA and)
 DIAHANN GOODE,)
)
 Defendant.)

8463290

2020CH01781

COMPLAINT AT LAW

NOW COMES the Plaintiff, Beena Patel, by and through her attorneys, ANGELINI, ORI + ABATE LAW, and pursuant to the Administrative Review Act, 735 ILCS 5/3-101, et seq, complaining of the Defendants, The Retirement Board of The County Employees' and Officers' Annuity and Benefit Fund of Cook County, The Forest Preserve District Employees' Annuity and Benefit Fund of Cook County, Lawrence L. Wilson, Stephen Hughes, James M. O'Rourke, Joseph Nevius, Bill Kouruklis, Patrick J. McFadden, John Blair, Kevin Ochalla and Diahann Goode and alleges as follows:

COUNT I

PETITION FOR ADMINISTRATIVE REVIEW

1. That Plaintiff resides in the City of Chicago, the County of Cook and the State of Illinois.
2. For all matters pertinent to this cause of action, the Defendants, The Retirement Board of The County Employees' and Officers' Annuity and Benefit Fund of Cook County, The Forest Preserve District Employees' Annuity and Benefit Fund of Cook County, Lawrence L. Wilson, Stephen Hughes, James M. O'Rourke, Joseph Nevius, Bill Kouruklis, Patrick J. McFadden, John Blair, Kevin Ochalla and Diahann Goode are all located within the County of Cook and State of Illinois.
3. That Plaintiff began her Cook County employment on or about July 1, 1987.
4. Some time prior to September 30, 2019, the Plaintiff, Beena Patel, retired from her employment with the County of Cook and began receiving a service retirement pension from the County Employees' and Officers' Annuity and Benefit Fund of Cook County.
5. Some time prior to September 30, 2019, the Plaintiff was charged and convicted of three (3) counts of the specific crime of perjury under 18 U.S.C. 1623(a), in the United States District Court for the Northern District of Illinois.
6. That on September 30, 2019, Plaintiff received a letter from the County Employees' and Officers' Annuity and Benefit Fund of Cook County, which informed her that the Retirement Board would be determining whether the facts that gave rise to Plaintiff's felony convictions were related to her service with Cook County. (See attached as Exhibit "A").

7. In response to the letter, Beena Patel's attorney, Donald J. Angelini, Jr., contacted the author of the letter, Margaret M. Fahrenbach, the attorney for the County Employees' and Officers' Annuity and Benefit Fund of Cook County.
8. In the September 30, 2019 letter to Beena Patel, Margaret H. Fahrenbach addressed that a hearing to determine whether Beena Patel's pension benefits would be revoked was set for the date of November 7, 2019, the time of 9:30 a.m. and the place of the County Employees' and Officers' Annuity and Benefit Fund of Cook County, 70 West Madison Street, Suite 1925, Chicago, Illinois.
9. In the conversation between Margaret Fahrenbach and attorney Donald J. Angelini, Jr., Ms. Fahrenbach communicated that the Board had already determined that Beena Patel's pension benefits would be suspended, regardless of anything that would occur or was presented at the November 7, 2019 hearing.
10. Over the course of the next several weeks, Ms. Fahrenbach and Mr. Angelini discussed how Beena Patel would proceed at the November 7, 2019 hearing. Beena Patel was due to engage in a sentencing hearing for her crime of perjury on November 19, 2019, and in that vein, attorney Donald J. Angelini, Jr. informed Margaret Fahrenbach that Beena Patel would proceed with her defense in the pension review by written submission.
11. That Plaintiff's counsel submitted a written submission to the Retirement Board. (A copy of which is attached hereto as Exhibit "B").
12. Donald J. Angelini, Jr. had no control or say in how County Employees' and Officers' Annuity and Benefit Fund of Cook County would proceed at the November 7, 2019 hearing.

13. Attorney Donald J. Angelini, Jr. attended the November 7, 2019 hearing. There were certain matters that were open to the public, and there were certain matters that were not open to the public. It appeared to attorney Donald J. Angelini, Jr. that the Beena Patel matter was presented to the Board in a session that was not open to the public.
14. The County Employees' and Officers' Annuity and Benefit Fund of Cook County never presented a single piece of evidence at the hearing of November 7, 2019 before the Board. No witnesses were called. No physical evidence was presented.
15. At the hearing, the attorney for the Benefit Fund stated that Beena Patel had submitted her position in writing, and that the Board would do the same within a month.
16. The attorney for the County Employees' and Officers' Annuity and Benefit Fund of Cook County chose not to call any witnesses or present any argument at the hearing. Effectively, the attorney for the County Employees' and Officers' Annuity and Benefit Fund of Cook County shifted the burden of proving her entitlement of her pension to Beena Patel, without the Board ever submitting a single piece of evidence at the hearing.
17. As promised to the Board by Ms. Fahrenbach, on December 2, 2019 the Retirement Board presented its "MEMORANDUM ADDRESSING APPLICATION OF 40 ILCS 4/9-235 TO MEMBER #129466". (A copy of which is attached hereto as Exhibit "C").
18. In its Memorandum, outside counsel for the County Employees' and Officers' Annuity and Benefit Fund of Cook County presented to the Board a detailed and highly prejudicial memorandum describing why Beena Patel's pension benefits should be revoked. The memorandum included both factual and legal arguments, none of which were presented at the hearing on November 7, 2019.

19. Of incredible and prejudicial significance, counsel for the County Employees' and Officers' Annuity and Benefit Fund of Cook County presented and attached the *United States Government's Sentencing Memorandum* from Beena Patel's underlying criminal trial.
20. The use of a *United States Government's Sentencing Memorandum* in support of its position that Beena Patel's perjury conviction related to her employment with the County of Cook, was highly prejudicial and improper in the matters relating to Beena Patel's pension.
21. Primarily, and most importantly, when counsel in this action submitted the *United States Government's Sentencing Memorandum* to the Board, she knew that the United States Government was not confined to events that occurred within the course of Beena Patel's criminal trial (and conviction) when it presented and filed its Sentencing Memorandum. Counsel also knew that this Sentencing Memorandum was a pleading from an interested party. They were not jury instructions which set for the "law of the case." It was not the Indictment. It was a pleading whose purpose was to maximize Beena Patel's eventual sentence.
22. That on January 10, 2020, Plaintiff received notice from the Retirement Board that they had concluded that there "was a sufficient nexus between the facts giving rise to your felony conviction in the matter identified about and the performance of your duties with Cook County." (A copy of which is attached hereto as Exhibit "D").
23. That based on their above mentioned finding, the Retirement Board terminated Plaintiff's annuity benefits effective December 1, 2019 pursuant to Section 9-235 of the Illinois Pension Code, 40 ILCS 5/9-235.

24. The particular issue at bar is whether Beena Patel's conviction for perjury related to her employment; not what the Government thought should happen to Beena Patel due to her conviction, but whether her conviction for perjury related to her employment:

Section 9-235 provides, in pertinent part:

None of the benefits provided in the Article shall be paid to any person who is convicted of any felony relating to or arising out of or in connection with his service as an employee.

25. It was absolute error for the County Employees' and Officers' Annuity and Benefit Fund of Cook County to attach the *United States Government's Sentencing Memorandum* in its submission to the Board.
26. The issue before the court is whether the **conviction** related to Beena's employment under Section 9-235.
27. The act of perjury, the crime for which Beena Patel was convicted, is a crime of dishonesty which applies equally across the lines of public and private employment.
28. The charges pleaded against Beena Patel were not, and are not, employment specific.
29. That Plaintiff was not charged with an act of public corruption, abuse of the public trust, bribery, etc.
30. The critical documents from the criminal case over which the Board should have based its decision to either revoke or uphold Beena Patel's pension, were those documents which set forth the "law of the case" under which Beena Patel was charged and convicted: the actual jury instructions. (See attached Jury Instructions which were attached to Beena Patel's Memorandum which was presented to the Board).
31. The jury instructions that were submitted to the jury never referenced Plaintiff's employment as a Cook County employee. While Beena Patel's employment may have

brought her to the grand jury, the crime for which she was convicted was not employment related.

32. That whether Plaintiff was publicly or privately employed was never at issue during the trial.
33. The jury never considered whether Plaintiff breached the public trust or acted in violation of any Cook County employment policy.
34. That Plaintiff requests that the Retirement Board file an answer consisting of the administrative record of the proceeding resulting in the final administrative decision.
35. That Plaintiff has exhausted all available remedies under the Administrative Review Law and has no further plain, speedy, adequate remedy under the law.
36. That the final determination of the Retirement Board terminating Plaintiff's annuity lacks a sufficient factual basis for the forfeiture of Plaintiff's pension and was against the manifest weight of the evidence and that the forfeiture of Plaintiff's pension is arbitrary and not reasonable in light of all the evidence.
37. That at all times relevant, Plaintiff was a party of record to the administrative proceedings.
38. That the January 10, 2020 final administrative decision by Retirement Board has adversely affected the rights and privileges of the Plaintiff.
39. That the Retirement Board's determination that there "was a sufficient nexus between the facts giving rise to your felony conviction in the matter identified about and the performance of your duties with Cook County" resulting in the termination of Plaintiff's annuity benefits is unsupported and contrary to the record.
40. That Plaintiff desires a judicial review of the final decision of the Retirement Board because it is not in accordance with the law and is unsupported by the record.

WHEREFORE, the Plaintiff, Beena Patel, respectfully requests that this Honorable Court order the Retirement Board to vacate its Order of December 2, 2019 and reinstate Beena Patel's annuity and for costs of this suit and for such other relief as this Court deems just and equitable.

Respectfully Submitted,

By: /s/ Donald J. Angelini, Jr.
Attorney for Beena Patel

Donald J. Angelini, Jr.
Angelini Ori + Abate Law (Firm ID: 59586)
155 North Michigan Ave., Suite 400
Chicago, Illinois 60601
(312) 621-0000
dangelini@aolawoffice.com

EXHIBIT A



September 30, 2019

Via Federal Express
Certified Mail – RRR 7019 0700 0001 2490 9746
Regular USPS First Class Delivery
Beena Patel
6246 N. Leona Avenue
Chicago, Illinois 60646-4812

Office# 129466

Re: Revocation of Annuity Benefits, 40 ILCS 5/9-235
United States of America v. Beena Patel, 17-CR-297

Dear Ms. Patel:

On April 26, 2019, the Honorable Sara L. Ellis, United States District Court Judge, entered an order stating that a jury found that you were guilty as to Counts One, Two and Three of the Indictment brought against you in the matter identified above and that you are to be sentenced for the conviction on November 19, 2019. Because you will be sentenced for felonies, the Retirement Board ("Board") of the County Employees' and Officers' Annuity and Benefit Fund of Cook County ("Fund") is required to determine whether the facts that gave rise to your felony conviction related to your service with Cook County. You have received annuity benefits from the Fund effective as of September 1, 2016, through the present. If the Board determines that your felony conviction related to your service with Cook County and upon the entry of a sentencing order, your rights to annuity benefits, including health benefits, may be revoked pursuant to Section 9-235 of the Illinois Pension Code, 40 ILCS 5/9-235.

The Board will conduct a hearing to determine whether your annuity benefits should be revoked subject to the sentencing hearing that is scheduled for November 19, 2019. The hearing before the Board will be conducted at the following time and place:

Date: Thursday, November 7, 2019
Time: 09:30 AM
Place: County Employees' and Officers' Annuity and
Benefit Fund of Cook County
70 W. Madison Street, Suite 1925
Chicago, Illinois 60602

You may be represented by counsel at the hearing and will have the opportunity to present witnesses and to introduce evidence. If you choose to be represented by counsel, his or her written appearance must be

FILED DATE: 2/11/2020 5:52 PM 2020CH01781

filed with the Fund by Thursday, October 31, 2019. Additionally, the list of any witnesses you might call and copies of any documents that you intend to introduce must be submitted to the Fund by Thursday, October 31, 2019. A copy of the Fund's Procedural Rules Governing Hearings is enclosed for your reference.

The Board is expected to enter a final administrative decision regarding whether your felony conviction will result in a permanent forfeiture of your annuity benefits in accordance with the provisions of Section 9-235 of the Illinois Pension Code at their meeting on November 7, 2019, but is not required to do so. The Board retains the right in their sole discretion to suspend your benefits as of November 19, 2019, or whenever thereafter a sentencing order has been entered. The Board also retains the right in their sole discretion to refer the matter to a hearing officer to make a recommendation about whether your annuity benefits, including health benefits, should be revoked. If you do not appear on November 7, 2019, the Board will enter a final administrative decision about your eligibility for annuity benefits based upon the record before it.

Any questions you might have regarding this proceeding should be directed to my attention. For your convenience, my email address is: mfahrenbach@countypension.com and my direct telephone number is: (312) 603-1230.

Sincerely,



Margaret M. Fahrenbach
Legal Department

Enclosure

EXHIBIT B

IN RE: THE MATTER OF BEENA PATEL

County Employees' and Officers' Annuity and
Benefit Fund of Cook County
70 W. Madison Street
Suite 1925
Chicago, Illinois 60602

I. Introduction

On September 30, 2019, Beena Patel received a letter from the *County Employees' and Officers' Annuity and Benefit Fund of Cook County*, informing her that the Retirement Board would be acting to determine whether the facts that gave rise to Beena Patel's felony convictions related to her service with Cook County. Since there were no other issues that were addressed in the letter, other than those issues which concerned Beena Patel's felony convictions, the attorney for the recipient, Donald J. Angelini, Jr., discussed with counsel for the Board, proceeding in the hearing of November 7, 2019 through a written submission.

There are no factual issues in dispute. There are no lay witnesses who would be able to offer testimony that would help crystalize the issues that relate to the November 7, 2019 hearing. The issue in this case is whether the felony convictions in question fall within the statutory language, which adjudicates Beena Patel's rights to her pension, under the *Illinois Pension Code*, 40 ILCS 5/9-235, which states:

“.... Felony Conviction. None of the benefits provided in the Article shall be paid to any person who is convicted of any felony **relating to or arising out of or in connection with his service as an employee.**”

Donald J. Angelini, Jr. will be attending the November 7, 2019 hearing, and he will be available to answer any and all questions concerning his written submission at the hearing.

II. Beena Patel's felony convictions for perjury do not fall within 40 ILCS 5/9-235

On April 26, 2019, the defendant, Beena Patel, was convicted after a trial by jury of three counts of perjury. The Indictment charged Beena Patel with a specific violation of federal statute, U.S. Code §1623(a). Beena Patel was not charged with an act of public corruption, abuse of the public trust, bribery, etc. She was charged and convicted of the specific crime of perjury under 18 U.S.C 1623(a), which states:

“...Whoever under oath (or in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code) in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration or makes or uses any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration, shall be fined under this title or imprisoned not more than five years, or both. U.S. Code §1623(a).

The charges which were pleaded against Beena Patel were not, and are not, employment specific. The act of perjury is a crime of dishonesty, and it applies equally across the lines of public and private employment.

More importantly, the jury instructions (See attached as Exhibit “A”), the “law of the case”, which were submitted to the jury in Beena Patel’s case never once referenced Beena Patel’s employment as a Cook County employee as a consideration of whether Beena Patel violated her oath to tell the truth to the grand jury under U.S. Code §1623(a). The determination of whether Beena Patel was either publicly or privately employed was never an issue at trial. The jury never considered whether Beena Patel breached the public trust or acted in violation of Cook County employee policy. The trier of fact convicted Beena Patel of lying, under the same oath as if Beena was employed as a nurse, iron worker or homemaker. Beena Patel’s convictions did not relate to her employment with the Cook County Clerk’s Office.

Beena Patel will be sentenced under the Federal Sentencing Guidelines, solely for the crime of perjury for her violation of U.S. Code §1623(a), under U.S. Code United States Sentencing Guidelines Sec. 2J1.3, which states,

(a) Base Offense Level: **14**

(b) Specific Offense Characteristics

- (1) If the offense involved causing or threatening to cause physical injury to a person, or property damage, in order to suborn perjury, increase by **8** levels.
- (2) If the perjury, subornation of perjury, or witness bribery resulted in substantial interference with the administration of justice, increase by **3** levels.

(b) Cross Reference

- (1) If the offense involved perjury, subornation of perjury, or witness bribery in respect to a criminal offense, apply §2X3.1 (Accessory After the Fact) in respect to that criminal offense, if the resulting offense level is greater than that determined above.

(c) Special Instruction

- (1) In the case of counts of perjury or subornation of perjury arising from testimony given, or to be given, in separate proceedings, do not group the counts together under §3D1.2 (Groups of Closely Related Counts).

Again, under the guidelines which are applicable in Beena Patel's sentencing, there is no distinction between a public or private employment, and the jury never considered such a distinction. There are very specific federal statutes which concern specific violations of the abuse of public trust by public employees, and there are specific sentencing guidelines which address conviction under those statutes. Beena Patel was never charged with any of those crimes, and her sentencing only addresses her specific actions within the grand jury.

Obviously, this case will come down to an interpretation of the language of the *Illinois Pension Code*, 40 ILCS 5/9-235, and possibly the Constitutionality of the statute, should the

Board restrict Beena Patel's pension benefits. Beena Patel will plead for a narrow interpretation of "relating to or arising out of or in connection with," and the Board may look to take a broader interpretation of that language.

Remember, however, that the Board is only looking at the possible suspension of Beena Patel's benefits for her convictions: nothing else. What was Beena Patel charged with? What did the jury consider in convicting Beena Patel? Of what crimes was Beena Patel convicted? If we look at (a) the statutes under which Beena Patel was indicted, (b) the law of the case that the trier of fact was specifically charged with, and (c) the sentencing guidelines that apply to Beena Patel, it is clear that even under the broadest interpretation of *Illinois Pension Code*, 40 ILCS 5/9-235, Beena Patel's conviction was not related to her employment.

Date: Wednesday, November 6, 2019

Respectfully Submitted:

By: /s/ Donald J. Angelini, Jr.
Attorney for Beena Patel

Donald J. Angelini, Jr.
ANGELINI, ORI + ABATE LAW
155 N. Michigan Avenue, Suite 400
Chicago, Illinois 60601
(312)621-0000
dangelini@aoalawoffice.com
Atty. No. 6194334

EXHIBIT A

48

Members of the jury, I will now instruct you on the law that you must follow in deciding this case. Each of you has a copy of these instructions to use in the jury room. You must follow all of my instructions about the law, even if you disagree with them. This includes the instructions I gave you before the trial, any instructions I gave you during the trial, and the instructions I am giving you now.

As jurors, you have two duties. Your first duty is to decide the facts from the evidence that you saw and heard here in court. This is your job, not my job or anyone else's job.

Your second duty is to take the law as I give it to you, apply it to the facts, and decide if the government has proved Ms. Patel guilty beyond a reasonable doubt.

You must perform these duties fairly and impartially. Do not let sympathy, prejudice, fear, or public opinion influence you. In addition, do not let any person's race, color, religion, national ancestry, or gender influence you.

You must not take anything I said or did during the trial as indicating that I have an opinion about the evidence or about what I think your verdict should be.

17-cr-297 USA v. Beena Patel
Jury Instructions as read to Jury
April 26, 2019
Judge Sara L. Ellis

FILED

APR 26 2019

JUDGE SARA L. ELLIS
U.S. DISTRICT COURT

The charges against Ms. Patel are in a document called an indictment. You will have a copy of the indictment during your deliberations.

The indictment in this case charges that Ms. Patel committed the crime of making a false declaration before the grand jury. Ms. Patel has pled not guilty to the charges.

The indictment is simply the formal way of telling Ms. Patel what crime she is accused of committing. It is not evidence that Ms. Patel is guilty. It does not even raise a suspicion of guilt.

Ms. Patel is presumed innocent of each of the charges. This presumption continues throughout the case, including during your deliberations. It is not overcome unless, from all the evidence in the case, you are convinced beyond a reasonable doubt that Ms. Patel is guilty as charged.

The government has the burden of proving Ms. Patel's guilt beyond a reasonable doubt. This burden of proof stays with the government throughout the case.

Ms. Patel is never required to prove her innocence. She is not required to produce any evidence at all.

You must make your decision based only on the evidence that you saw and heard here in court. Do not consider anything you may have seen or heard outside of court, including anything from the newspaper, television, radio, the Internet, or any other source.

The evidence includes only what the witnesses said when they were testifying under oath, the exhibits that I allowed into evidence, and the stipulations that the lawyers agreed to. A stipulation is an agreement that certain facts are true or that a witness would have given certain testimony.

Nothing else is evidence. The lawyers' statements and arguments are not evidence. If what a lawyer said is different from the evidence as you remember it, the evidence is what counts. The lawyers' questions and objections likewise are not evidence.

A lawyer has a duty to object if he thinks a question is improper. If I sustained objections to questions the lawyers asked, you must not speculate on what the answers might have been.

If, during the trial, I struck testimony or exhibits from the record, or told you to disregard something, you must not consider it.

Give the evidence whatever weight you decide it deserves. Use your common sense in weighing the evidence, and consider the evidence in light of your own everyday experience.

People sometimes look at one fact and conclude from it that another fact exists. This is called an inference. You are allowed to make reasonable inferences, so long as they are based on the evidence.

You may have heard the terms “direct evidence” and “circumstantial evidence.” Direct evidence is evidence that directly proves a fact. Circumstantial evidence is evidence that indirectly proves a fact.

You are to consider both direct and circumstantial evidence. The law does not say that one is better than the other. It is up to you to decide how much weight to give to any evidence, whether direct or circumstantial.

Do not make any decisions simply by counting the number of witnesses who testified about a certain point.

You may find the testimony of one witness or a few witnesses more persuasive than the testimony of a larger number. You need not accept the testimony of the larger number of witnesses.

What is important is how truthful and accurate the witnesses were and how much weight you think their testimony deserves.

Ms. Patel has an absolute right not to testify. You may not consider in any way the fact that Ms. Patel did not testify. You should not even discuss it in your deliberations.

Part of your job as jurors is to decide how believable each witness was, and how much weight to give each witness' testimony. You may accept all of what a witness says, or part of it, or none of it.

Some factors you may consider include:

- the intelligence of the witness;
- the witness' ability and opportunity to see, hear, or know the things the witness testified about;
- the witness' memory;
- the witness' demeanor;
- whether the witness had any bias, prejudice, or other reason to lie or slant the testimony;
- the truthfulness and accuracy of the witness' testimony in light of the other evidence presented; and
- inconsistent or consistent statements or conduct by the witness.

It is proper for an attorney to interview any witness in preparation for trial.

You have heard a witness, namely, Paul Kerley, who gave opinions and testimony about the extraction of data from cell phones. You do not have to accept this witness' opinions. You should judge this witness' opinions and testimony the same way you judge the testimony of any other witness. In deciding how much weight to give to these opinions and testimony, you should consider the witness' qualifications, how he reached his conclusions, and the factors I have described for determining the believability of testimony.

You have heard a recorded conversation, namely the September 15, 2015 voicemail. This is proper evidence that you should consider together with and in the same way you consider the other evidence. You were also given a transcript of the voicemail to help you follow the recording as you listened to it. The recording is the evidence of what was said and who said it. The transcript is not evidence. If you noticed any differences between what you heard in the voicemail and what you read in the transcript, your understanding of the recording is what matters. In other words, you must rely on what you heard, not what you read. And if you could not hear or understand certain parts of a recording, you must ignore the transcript as far as those parts are concerned.

I am providing you with the recording and a device with instructions on its use. It is up to you to decide whether to listen to the recordings during your deliberations. You may, if you wish, rely on your recollections of what you heard during the trial.

You have heard a recording of a September 15, 2015 voicemail. This voicemail is to be considered by you only for the effect it may have had on Ms. Patel's state of mind and not for the truth of any statement in the voicemail.

You have received transcripts of Ms. Patel's grand jury testimony on October 15, 2015 and July 14, 2016. This is proper evidence that you should consider together with and in the same way you consider the other evidence. You also heard audio recordings of this testimony to help you follow the transcripts. The transcripts are the evidence of what was said and who said it. The transcripts are the evidence.

I am providing you with the recordings and a device with instructions on its use. It is up to you to decide whether to listen to the recordings during your deliberations. You may, if you wish, rely solely on the transcripts.

A summary was admitted in evidence. You may use the summary as evidence.

If you have taken notes during the trial, you may use them during deliberations to help you remember what happened during the trial. You should use your notes only as aids to your memory. The notes are not evidence. All of you should rely on your independent recollection of the evidence, and you should not be unduly influenced by the notes of other jurors. Notes are not entitled to any more weight than the memory or impressions of each juror.

Counts One through Three of the indictment charge Ms. Patel with making false declarations before a grand jury. In order for you to find Ms. Patel guilty of each charge, the government must prove each of the three following elements beyond a reasonable doubt:

1. Ms. Patel, while under oath, testified falsely before a United States grand jury as charged in the indictment; and
2. Ms. Patel's testimony concerned a material matter; and
3. Ms. Patel knew the testimony was false. Mistake, confusion, or faulty memory does not constitute knowledge that the testimony was false.

If you find from your consideration of all the evidence that the government has proved each of these elements beyond a reasonable doubt as to the charge you are considering, then you should find Ms. Patel guilty of that charge.

If, on the other hand, you find from your consideration of all the evidence that the government has failed to prove any of these elements beyond a reasonable doubt as to the charge you are considering, then you should find Ms. Patel not guilty of that charge.

Counts One through Three of the Indictment each charge Ms. Patel with making more than one false statement. The government is not required to prove that Ms. Patel made every one of the false statements alleged in the particular Count you are considering. However, the government is required to prove that Ms. Patel made at least one of the false statements that is alleged in the particular Count. To find that the government has proven this, you must agree unanimously on which particular false statement Ms. Patel made, if any, as well as all of the other elements of the crime charged.

For example, on Count One, if some of you were to find that the government has proved beyond a reasonable doubt that Ms. Patel made a false statement regarding her knowledge of whether Sivasubramani Rajaram had spoken to law enforcement, and the rest of you were to find that the government has proved beyond a reasonable doubt that Ms. Patel made a false statement regarding her knowledge of whether Sivasubramani Rajaram had testified in the grand jury, then there would be no unanimous agreement on which false statement the government has proved.

On the other hand, if all of you were to find that the government has proved beyond a reasonable doubt that Ms. Patel made a false statement regarding her knowledge of whether Sivasubramani Rajaram had spoken to law enforcement, then there would be a unanimous agreement on which false statement the government proved.

Testimony concerns a material matter if it is capable of impeding, interfering with, or influencing the grand jury. The government is not required to prove that the testimony actually impeded, interfered with, or influenced the grand jury.

In determining whether a statement was material to the grand jury, you should consider both what statement Ms. Patel made and what decision the grand jury was trying to reach.

In determining whether an answer to a question is false, you should consider both the sequence of questions in which the question and answer occurred as well as the context as an aid to understanding Ms. Patel's intent when giving the answer.

A statement is not untrue if it is based on an ambiguous question where the response may be literally true, even if the statement is not completely responsive.

A person acts knowingly if she realizes what she is doing and is aware of the nature of her conduct, and does not act through ignorance, mistake, or accident. In deciding whether Ms. Patel acted knowingly, you may consider all of the evidence, including what Ms. Patel did or said.

In deciding your verdict, you should not consider the possible punishment for Ms. Patel. If you decide that the government has proved Ms. Patel guilty beyond a reasonable doubt, then it will be my job to decide on the appropriate punishment.

Once you are all in the jury room, the first thing you should do is choose a foreperson. The foreperson should see to it that your discussions are carried on in an organized way and that everyone has a fair chance to be heard. You may discuss the case only when all jurors are present.

Once you start deliberating, do not communicate about the case or your deliberations with anyone except other members of your jury. You may not communicate with others about the case or your deliberations by any means. This includes oral or written communication, as well as any electronic method of communication, such as telephone, cell phone, smart phone, iPhone, Blackberry, computer, text messaging, instant messaging, the Internet, chat rooms, blogs, websites, or services like Facebook, Instagram, MySpace, LinkedIn, YouTube, Twitter, or any other method of communication.

If you need to communicate with me while you are deliberating, send a note through the court security officer. The note should be signed by the foreperson, or by one or more members of the jury. To have a complete record of this trial, it is important that you do not communicate with me except by a written note. I may have to talk to the lawyers about your message, so it may take me some time to get back to you. You may continue your deliberations while you wait for my answer. Please be advised that transcripts of trial testimony are not available to you. You must rely on your collective memory of the testimony.

If you send me a message, do not include the breakdown of any votes you may have conducted. In other words, do not tell me that you are split 6-6, or 8-4, or whatever your vote happens to be.

A verdict form has been prepared for you. You will take this form with you to the jury room.

[Read the verdict form.]

When you have reached unanimous agreement, your foreperson will fill in, date, and sign the verdict form. Each of you will sign it.

Advise the court security officer once you have reached a verdict. When you come back to the courtroom, I will read the verdicts aloud.

The verdict must represent the considered judgment of each juror. Your verdict, whether it is guilty or not guilty, must be unanimous.

You should make every reasonable effort to reach a verdict. In doing so, you should consult with each other, express your own views, and listen to your fellow jurors' opinions. Discuss your differences with an open mind. Do not hesitate to re-examine your own view and change your opinion if you come to believe it is wrong. But you should not surrender your honest beliefs about the weight or effect of evidence just because of the opinions of your fellow jurors or just so that there can be a unanimous verdict.

The twelve of you should give fair and equal consideration to all the evidence. You should deliberate with the goal of reaching an agreement that is consistent with the individual judgment of each juror.

You are impartial judges of the facts. Your sole interest is to determine whether the government has proved its case beyond a reasonable doubt.

EXHIBIT C

**BEFORE THE
RETIREMENT BOARD OF THE COUNTY EMPLOYEES' AND OFFICERS'
ANNUITY AND BENEFIT FUND OF COOK COUNTY**

IN THE MATTER OF

BEENA PATEL

)
)
)
)

Member No. 129466

COOK COUNTY ANNUITY
AND BENEFIT FUND
2019 DEC -2 PM 3:36

**MEMORANDUM ADDRESSING APPLICATION OF
40 ILCS 5/9-235 TO MEMBER #129466**

INTRODUCTION

Under the Illinois Pension Code ("Code"), the retirement board of a retirement system has exclusive original jurisdiction over all matters relating to the payment of benefits. 40 ILCS 9-196. Thus, the decision as to whether Ms. Beena Patel, Member #129466, has forfeited her right to receive any further annuity benefits from the Cook County Fund pursuant to Section 9-235 of the Code lies squarely with this Board.

Section 9-235 provides, in pertinent part, as follows:

None of the benefits provided in this Article shall be paid to any person who is convicted of any felony relating to or arising out of or in connection with his service as an employee.

Ms. Patel's attorney has acknowledged in his submission to the Board on Ms. Patel's behalf, that "there are no factual issues in dispute."¹ Thus, the sole issue for this Board to determine is whether those uncontested facts establish that the three felony counts of perjury of which Ms. Patel was convicted were felonies "relating to or arising out of or in connection with [her] service as an employee" of the County.

¹ Of note, Ms. Patel's Memorandum cites no case law in support of her position.

FACTUAL AND PROCEDURAL BACKGROUND

Beena Patel was an employee of Cook County beginning on or about July 1, 1987. She continued in such service through her resignation date on August 31, 2016. Ms. Patel was a deputy to the Cook County Circuit Court Clerk at the time she separated from County service.

On October 15, 2015, and again on July 14, 2016, while she was employed with the County, Ms. Patel testified before a federal grand jury that was investigating allegations related to solicitation of campaign donations and loans from County employees. In her testimony, she denied that she and other employees had sold tickets to County employees for fundraising events for the Clerk of the Circuit Court. She also denied that she had assisted another employee's promotion within the office because that employee's relative donated to the Clerk of the Circuit Court's campaign. She denied any knowledge about whether another employee had spoken to law enforcement officers.² [Tr. pp 87-89]

Ms. Patel was charged with three counts of perjury related to her testimony before the federal grand jury. See *United States of America v. Beena Patel*, 17 CR 297. Some of the evidence introduced during the trial included text messages and voice mail messages recovered from Ms. Patel's cell phone that were inconsistent with her grand jury testimony. [Tr. pp 122-215] On April 26, 2019, a jury returned a verdict finding Ms. Patel guilty of perjury on all three counts. The District Court set an initial sentencing hearing date of November 19, 2019. On November 19th, the sentencing hearing was continued until December 12, 2019.

In connection with the sentencing hearing, the federal government filed with the District Court its Government's Sentencing Memorandum.³ The Sentencing Memorandum provides detail as to the underlying facts presented at trial that resulted in the perjury convictions. Specifically, the Sentencing Memorandum reveals that in 2015 the Federal Bureau of Investigation and U.S. Attorneys' office were investigating "allegations that jobs, promotions and pay raises within the Office of the Clerk of the Circuit Court of Cook County were being exchanged for certain benefits including money and loans to the Clerk, her campaign or to businesses owned by the Clerk and her husband." According to the Memorandum, the lies told

² References to "Tr" refer to the transcript of the trial in *United States of America v. Beena Patel*, 17 CR 297, that occurred from April 23 - 26, 2019 in the United States District Court for the Northern District of Illinois.

³ A copy of the Government's Sentencing Memorandum is attached hereto as Exhibit 1.

by Ms. Patel to the grand jury related in part to (i) Ms. Patel brokering a bribe from a potential applicant in exchange for a job in the Clerk's office; (ii) her knowledge of ticket sales to campaign fundraisers by Clerk's office employees, including herself; and (iii) her recommendation of employees for promotion within the Clerk's office in part in exchange for campaign contributions made to the Clerk. At trial, Ms. Patel's denials before the grand jury as to knowledge relating to the above referenced topics were proven to be lies. The Government sums up its position in the Sentencing Memorandum stating that Ms. Patel, "a Cook County employee herself, was an active participant in Cook County's seminal problem of 'pay to play' corruption, and she took active, intentional and repeated measures to cover up that corruption."

After her resignation in August 2016, Ms. Patel applied for and began receiving a monthly annuity from the County Fund. Effective September 1, 2016, Ms. Patel began receiving a monthly annuity in the amount of \$7,606.11. She continued to receive that monthly annuity amount until November 1, 2019 when her annuity benefit was suspended by the Board pending Ms. Patel's expected sentencing date of November 19, 2019.

To date, the contributions and interest attributable to Ms. Patel total \$204,009.04. The total annuity benefits paid to her through October 1, 2019, is \$296,402.44, which exceeds her contributed amount.

LEGAL ANALYSIS

As stated above, the inquiry for this Board is whether the felonies of which Ms. Patel was convicted relate to arise out of or were in connection with her Cook County employment. If the Board concludes the felonies meet that standard, the Board would be required under the terms of Section 9-235 to terminate her annuity benefits. If the Board concludes there is no nexus between the convictions for perjury and her employment, then the annuity benefits continue.

Illinois courts have had many opportunities over the years to interpret the felony forfeiture provision found in most Articles of the Code. These cases establish that "the pivotal inquiry [for a Board] is whether a nexus exists between the employee's criminal wrongdoing and the performance of his official duties." *DiFiore v. Ret. Bd. of the Policemen's Annuity & Benefit Fund*, 313 Ill.App.3d 546, 551, 729 N.E.2d 878 (1st Dist. 2000). In making the inquiry, the Board must review the particular facts and circumstances surrounding the crime to determine

whether the criminal act was the product of an employee's status as well as whether the criminal conviction satisfies the plain language of the applicable pension forfeiture statute. *Bauer v. State Employees' Retirement System of Illinois*, 366 Ill.App.3d 1007, 1017, 852 N.E.2d 497, 505 (1st Dist. 2006). In analyzing whether the particular facts and circumstances of a criminal act establish the requisite "nexus" under pension forfeiture provisions, reviewing courts have invoked at least four (4) different tests: the "causal connection" test; the "but-for" test; the "substantial factor" test; and the "clear and specific connection" test.

As a preliminary matter, we note the Code imposes on trustees a fiduciary duty to act in the interest of all participants, not any single participant. *Marconi v. The Chicago Heights Police Pension Board*, 225 Ill. 2d 497, 544 (2007). Furthermore, the Code does not confer on the Board any "equitable" type powers or authority to pay any benefits in any manner not otherwise provided in the Code. Thus, in making this determination, the Board is precluded from considering Ms. Patel's motives behind her felonious conduct or her personal circumstances. In Illinois, "a pension board has neither the right nor the power to pay monies to anyone not within the terms of the act fixing those conditions under which a pension is payable." *People ex rel. Langan v. Hanson*, 252 Ill. App. 212, 221 (1929).

As noted above, reviewing courts have invoked at least four (4) different tests as appropriate in applying the standard pension forfeiture language: the "causal connection" test; the "but-for" test; the "substantial factor" test; and the "clear and specific connection" test. In *Goff v. Teachers' Retirement System*, the appellate court applied the "causal connection" test, which requires only a showing that there is a causal connection between the employment and the conviction. *Goff v. Teachers' Retirement Sys.*, 305 Ill.App.3d 190, 195, 713 N.E.2d 578, 582 (5th Dist. 1999). In *Romano v. Municipal Employees' Annuity and Benefit Fund*, the court applied the "but for" and "clear and specific connection" test to reverse the forfeiture of benefits based on the lack of evidence to support the inference that the offense related to the employee's municipal employment. *Romano v. Municipal Employees' Annuity and Benefit Fund*, 402 Ill.App.3d 857, 931 N.E.2d 827 (1st Dist. 2010). In *Bloom v. Municipal Employees' Annuity and Benefit Fund*, the court applied the "substantial factor" test, which requires that for a sufficient nexus to exist the wrongdoing must be a material element and a substantial factor in bringing about the subsequent occurrence. *Bloom v. Municipal Employees' Annuity & Benefit Fund of*

FILED DATE: 2/11/2020 5:52 PM 2020CH01781

Chi., 339 Ill.App.3d 807, 815, 791 N.E.2d 1254, 1259 (1st Dist. 2003). The different causation tests used by the reviewing courts are independent of one another. Each test is merely one acceptable method of establishing the “nexus” between crime and public employment required for forfeiture under the pension statutes. Accordingly, each test is equally permissible, standing alone, as a method of establishing the link required under the standard forfeiture language. *Bloom*, 339 Ill.App.3d at 816, 791 N.E.2d at 1260.

In this case, under any of the tests, it appears Ms. Patel’s felonies relate to arise out of or in connection with her County employment.

The *Goff* case involved a former principal at a high school who was convicted of aggravated criminal sexual assault. In attempting to keep his pension, Mr. Goff asserted that his pension could only be revoked if the felonies actually took place on school time or on school grounds and in his case since the abuse occurred while he was serving as a church volunteer and Boy Scout leader there was no such evidence. In rejecting that “narrow” interpretation, the court noted that the felony forfeiture language of “arising out of” or “relating to” or “in connection with” were “very broad terms”. “[A]n injury can be said to arise out of one’s employment if its origin is *in some way* connected with the employment so that there is a causal connection with the employment and the injury.” [emphasis in original]. *Goff*, 305 Ill.App.3d at 195. The court concluded that Goff used his former experience as a teacher to exert influence over victims and induce parents to trust him. In affirming the forfeiture of his pension, the court noted that his service as a teacher was merely one of the tools that Goff used to carry out his felonies and that such felonies were connected both to his service as a teacher and to other unrelated endeavors and thus the causal connection required for the forfeiture of his teacher’s pension had been established.

Applying the *Goff* standard to this case it is clear that while Ms. Patel was convicted of perjury as opposed to actual underlying crimes of bribery or public corruption, the transcripts and sentencing reports make clear that the lies she was convicted of telling the grand jury related directly to matters that arose out of and related to her employment at the Clerk’s office. Each felony count was connected to either campaign fundraisers for the Clerk’s office, the granting of promotions in the Clerk’s office or to the treatment of potential job applicants in the Clerk’s office. It was her position as a high- ranking Clerk office employee that provided her with the

knowledge that she then intentionally lied about to the grand jury. As with *Goff*, while Ms. Patel seemingly asserts that her bad acts were separate from her employment because they occurred outside of the office and did not depend specifically on her day to day duties, the facts establish that Ms Patel's perjury convictions were connected to her employment.

Similarly, applying the *Bloom* court's "substantial factor" test, the same conclusion is warranted. In *Bloom*, a former city alderman pled guilty to filing false federal tax returns. In arguing to keep his pension, Bloom asserted that in sentencing him, the federal judge had commented that Bloom's crime did not constitute an abuse of his position of public trust. Thus, Bloom argued, it could not be said his felony related to his employment as a City employee. In rejecting Bloom's argument, the court looked at the underlying factors that lead to the tax fraud conviction. The court was persuaded by the fact that Bloom admitted as part of his plea that he had received a bribe while an alderman which he failed to report on his taxes. The court concluded that John Christopher's bribe payments to Bloom while he was an alderman were "material elements and substantial factors in his resulting tax conviction." *Bloom*, 339 Ill.App.3d at 816.

So here, while Ms. Patel asserts her perjury convictions are crimes of "dishonesty" unrelated to public or private employment, the reality is that her position as Deputy Clerk was a substantial factor in her perjury conviction as she was convicted of lying about material matters that were specifically and directly related to her County employment and to alleged wrong doing occurring within that public office. As in *Bloom*, the existence of a connection to her employment in the Clerk's office is enough of a connection under the cases to result in a forfeiture of her pension under Section 9-235.

Lastly, although the Board must construe the Code in the manner most beneficial to the member, in these types of cases the Illinois Supreme Court has noted that such an approach must also be balanced with the important public policy aims that underlie pension forfeiture provisions. In denying former Governor Ryan's pension, the Court reiterated that "pension forfeiture statutes were enacted to 'deter felonious conduct in public employment by affecting the pension rights of public employees convicted of a work-related felony....Their purpose is to 'discourage official malfeasance by denying the public servant convicted of unfaithfulness to [her] trust the retirement benefits to which [she] otherwise would have been entitled'." *Ryan v.*

FILED DATE: 2/11/2020 5:52 PM 2020CH01781

General Assembly Retirement System, 236 Ill.2d 315, 322-323 (2010). Here, Ms. Patel was unfaithful to the trust put in her by the people of Cook County either by engaging in direct wrongdoing or, as convicted, of lying to a grand jury about alleged wrongdoing taking place in the Clerk's office. Allowing her now to continue collecting her pension would not only run afoul of the plain language of Section 9-235, but also would undermine the public policy underlying that statute, "which is to ensure that the retirement of a corrupt public servant is never financed by the very constituency whose trust was betrayed." *Id.* at 323.

CONCLUSION

The facts and circumstances in this case, as set forth in the transcript and sentencing reports, establish a firm basis for the Board to conclude that Ms. Patel's perjury convictions were related to her position and service as a County employee. Accordingly, under Section 9-235 of the Code, her pension should be forfeited.

Respectfully submitted,

**COUNSEL FOR THE COUNTY EMPLOYEES'
AND OFFICERS' ANNUITY AND BENEFIT FUND
OF COOK COUNTY**

By 

One of Its Attorneys

Mary Patricia Burns
Burke Burns & Pinelli, Ltd.
70 West Madison Street
Suite 4300
Chicago, Illinois 60602
(312)541-8600

EXHIBIT 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

Case No. 17 CR 297

v.

Judge Sara L. Ellis

BEENA PATEL

GOVERNMENT'S SENTENCING MEMORANDUM

FOREPERSON: Do you solemnly swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

WITNESS: I do.

—Oath, Sworn to before the Grand Jury by Defendant Beena Patel on October 15, 2015, and July 14, 2016

On two separate occasions, defendant Beena Patel, after swearing to that oath to tell the truth, lied repeatedly to a federal grand jury. In doing so, she successfully threw a wrench in the wheels of justice and ground them to a halt. Defendant was called before the grand jury to provide testimony related to allegations that individuals were purchasing jobs and promotions at the Circuit Court of Cook County Clerk's Office. Rather than testify truthfully and assist the grand jury in this portion of its investigation, defendant chose to willfully obstruct it by lying. Defendant not only had answers to the questions the grand jury was asking, but had information that went to the very heart of its investigation when it was examining why a job applicant to the Clerk's Office paid \$15,000 in cash to the Clerk of Court: defendant had critical information that was at the crux of the grand jury's investigation because defendant was not only aware of the bribe payment, she had herself brokered it.

As described below and established at trial, in August 2014 Sivasubramani Rajaram gave \$15,000 to Goat Masters, a business owned by the Clerk of the Circuit Court of Cook County and her husband. In exchange, Rajaram was rehired at the Clerk's Office. Defendant herself orchestrated this bribe, and then lied about it. Defendant was an active participant in Cook County's seminal problem of "pay-to-play" corruption, and she took active measures to cover up that corruption when she lied. Yet even now, after a jury convicted defendant on all three counts of the indictment, defendant still refuses to accept responsibility for her actions. Despite sitting through her own trial, defendant preposterously states in her version of the offense that she "is without information as to what effect [] her false statements had on the grand jury's ability to understand the dynamic of what was going on, and to what extent her false testimony prevented the government from proceeding with prosecutions." As a result of defendant's crimes, and her continued unwillingness to accept responsibility for those crimes, the government seeks a within-guidelines sentence of 30 months' imprisonment.¹

I. BACKGROUND

A. The Grand Jury Investigation of the Clerk of the Circuit Court of Cook County.

In light of defendant's decision to proceed to trial, the following is a summary of the grand jury's investigation prior to defendant's first appearance on October 15,

¹ Probation has calculated defendant's advisory Guidelines range to be 30 to 37 months' imprisonment. The government's Guidelines calculation is lower, detailed below, resulting in an advisory Guidelines range of 24 to 30 months' imprisonment.

2015, set forth to address the materiality of defendant's lies.

In the summer and fall of 2015, the Federal Bureau of Investigation, federal prosecutors, and the grand jury were well over a year into a grand jury investigation that included allegations that jobs, promotions, and pay raises within the Office of the Clerk of the Circuit Court of Cook County were being exchanged for certain benefits, including money and loans to the Clerk, her campaign, or to businesses owned by the Clerk and her husband.

Up until late August 2016, defendant worked in the Clerk's Office for almost thirty years and most recently held the title of Associate Clerk, earning approximately \$110,000 per year.

Prior to defendant's first appearance before the grand jury on October 15, 2015, one aspect of the government's investigation was centered on the conduct of two Clerk's Office employees, one of whom was Rajaram. The FBI had information that Rajaram may have loaned \$15,000 to Goat Masters Corporation, a company with ties to the Clerk and her husband, and that just weeks after those two financial transactions, Rajaram was hired at the Clerk's Office. Less than a year after those payments, Rajaram received a promotion in the Clerk's Office. On October 1, 2015, Rajaram testified before the grand jury and lied about various topics, including the nature of a payment he made to the Clerk, which payment was brokered by the defendant.

The investigation's second person of interest was Clerk's Office employee, Pinal Patel, who has no relation to defendant. The FBI had information that Pinal Patel's

brother had made two \$5000 contributions to the Clerk's campaign, and, shortly after each of those contributions to the campaign, Pinal Patel received promotions in the Clerk's Office.

B. Defendant Lies to the Grand Jury in Two Separate Appearances on Multiple Topics.

It is against this backdrop that the defendant first appeared before the grand jury on October 15, 2015. The FBI subpoenaed defendant to testify before the grand jury to determine whether the defendant could shed any light on these two people of interest—specifically, what information defendant had regarding Rajaram and Pinal Patel's employment and promotion history with the Clerk's Office, and whether their history had any relation to payments that they or their family members made to the Clerk's campaign or the Clerk's personal business. The FBI subpoenaed defendant to testify before the grand jury on a second occasion, on July 14, 2016, to address these same issues, and to confront defendant with additional information acquired during the course of the investigation, including information which was obtained from judicially authorized searches of cell phones belonging to defendant, Rajaram, and the Clerk.

On each occasion when the defendant testified in front of the grand jury, she took an oath swearing or affirming to tell the truth. After taking that oath, on both occasions, the defendant was advised that lying under oath was a crime with serious consequences. On both occasions, defendant was also advised that she could stop the

proceeding at any time should she wish to consult with her attorney, who was seated outside the grand jury room.

As set forth in the indictment, defendant lied about three topics that were of interest to the grand jury: 1) her knowledge of Rajaram's contacts with law enforcement and grand jury testimony, as well as her own contacts with Rajaram; 2) her knowledge of ticket sales to campaign fundraisers by Clerk's office employees, including herself; and 3) her contacts with Wasiu Fashina (the Clerk's Chief of Staff) and Pinal Patel. The third topic was relevant after investigators uncovered evidence that defendant recommended to Fashina that Pinal Patel be promoted because Pinal Patel and her brother done a lot for the Clerk's Office (as demonstrated at trial, Pinal Patel's brother had made \$10,000 in campaign contributions to the Clerk). On April 26, 2019, a jury convicted defendant on all three counts of the indictment, finding that the defendant knowingly made material false statements before the grand jury during both of her appearances.

C. The Materiality of Defendant's Lies.

As explained at trial, each group of lies was material. With respect to Rajaram, the grand jury was investigating whether the \$15,000 that Rajaram gave to the Clerk several weeks before being hired at the Clerk's office constituted a bribe. Defendant's lies on each of these topics mattered, and affected the course of the grand jury's investigation. For example, after a round of questioning in which she continually attempted to obfuscate the truth, defendant was eventually forced to admit that she was present at the Corner Bakery when Rajaram handed over a \$5,000 cash payment.

Her knowledge of that payment, and the circumstances surrounding it, went to the very heart of what the grand jury was investigating with respect to Rajaram's suspected bribe payment.

With respect to ticket sales, the grand jury was investigating whether employees were receiving promotions, raises, or other benefits in exchange for raising money for the Clerk. Defendant was asked several times, and in several ways, whether she was involved in selling tickets or knew of other employees at the Clerk's Office who sold tickets. She unequivocally denied any knowledge of these matters. That was proven to be a lie at trial after multiple witnesses—and defendant's own forensically recovered text messages—clearly established that defendant was not only aware of employees selling tickets within the Clerk's Office, but that she herself sold tickets, collected money from other employees from ticket sales, and organized fundraisers. As Special Agent O'Leary explained at trial, in a pay-to-play investigation, whether employees were receiving benefits in exchange for raising money for the Clerk was a topic of interest to the grand jury, and defendant's lies on that topic were material.

A third aspect of the investigation was whether Pinal Patel's brother had paid bribes in exchange for Pinal Patel's promotions. Defendant herself drew a connection between Pinal Patel's brother's donations and Pinal Patel's job prospects when she recommended in a text message to the Clerk's Chief of Staff that Pinal Patel be promoted because her brother had done a lot for the Clerk's Office. Again, defendant's lies on this topic were clearly material, and were designed to impede the investigation

of corruption at the Clerk's Office.

II. SENTENCING GUIDELINES CALCULATION

The government's guidelines calculation does not include two points for a multiple count adjustment,² resulting in an adjusted offense level of 17 and a Guidelines range of 24 to 30 months' imprisonment. Otherwise, the government agrees with Probation's guidelines calculation, specifically the application of Guideline §2J1.3(b)(2) and that defendant does not receive credit for acceptance of responsibility, as follows.

First, contrary to defendant's objection, Probation's application of Guideline §2J1.3(b)(2) is appropriate given the impact that defendant's lies had on the government's investigation of job buying in the Clerk's Office and the government's ability to bring charges against those involved in this illegal activity—and the unnecessary expenditure of governmental and court resources. See PSR at ¶33. According to the Application Notes to Guideline §2J1.3(b)(2):

"Substantial interference with the administration of justice" includes a premature or improper termination of a felony investigation; an indictment, verdict, or any judicial determination based upon perjury, false testimony, or other false evidence; or the unnecessary expenditure of substantial governmental or court resources.

²The PSR calculates the adjusted offense level as 19 and a Guidelines range of 30 to 37 months' imprisonment. PSR at ¶44. To arrive at that offense level, Probation applied a two-point multiple count adjustment, finding that defendant's two appearances before the grand jury constituted separate proceedings pursuant to Guideline §2J1.3(d)(1). PSR at ¶¶38-40. The government agrees with defendant that the multiple counts of conviction are grouped *together* for purposes of Guideline §3D1.2 because, pursuant to Application Note 5 of Guideline §2J1.3(d)(1), multiple grand jury proceedings do not constitute "separate proceedings."

U.S.S.G. §2J1.3(b)(2), Application Note 1. Both the first and third examples of this Application Note apply to defendant's conduct. First, because of defendant's lies to the grand jury—which extended beyond the Indictment and made it impossible for the grand jurors to distinguish between defendant's lies and later-extracted truthful information—and resulting perjury conviction, defendant compromised herself and the government's ability to use her as a testifying witness in any future proceeding of those involved in buying and selling jobs and promotions in the Clerk's Office. As a result, defendant's lies directly impacted the government's ability to charge those most culpable in the illegal activity.³

In addition, defendant's perjury resulted in the unnecessary expenditure of substantial government and court resources, resulting from: defendant's trial; the need to put defendant, Pinal Patel, and others before the grand jury multiple times; and the need for the government to obtain search warrants and subpoenas and conduct additional witness interviews. Such additional investigative steps were necessary to attempt to ferret out defendant's lies from the truth, and to attempt to determine what really was occurring within the Clerk's Office in light of the defendant's improbable grand jury testimony. Accordingly, the three-point

³The government would note that defendant had the ability to assert her Fifth Amendment privilege against self-incrimination, and was advised by the government of her right to do so. Had she exercised that right, the government would have had other options available to secure her truthful testimony, such as immunizing her. Instead, the defendant intentionally led the government astray on multiple topics in two separate grand jury appearances. In a case such as this, where defendant had firsthand knowledge of a bribe payment, defendant's lies had a significant negative impact on the government's investigation.

enhancement pursuant to Guideline §2J1.3(b)(2) is appropriately applied here. See *United States v. O'Neill*, 116 F.3d 245, 250 (7th Cir. 1997) (affirming district court's application of Guideline §2J1.3(b)(2) resulting from unnecessary expenditure of government or court resources based on government's need to look elsewhere for evidence it had sought from defendant: "O'Neill submits that his sentence cannot be enhanced for forcing the government to expend additional resources because he was merely asked to corroborate information the government already possessed, rather than to furnish 'new' information the government did not already possess. This argument is meritless. Regardless of whether the government was seeking new facts or verification of facts it already possessed, O'Neill's lies forced the government to look elsewhere for the information it sought, thereby expending additional resources."); *United States v. Atkin*, 29 F.3d 267, 269-70 (7th Cir. 1994) (affirming district court's application of Guideline §2J1.3(b)(2) to perjury conviction where defendant's lies to grand jury resulted in government's presentation of five additional witnesses before grand jury, including one that had to be flown in from Texas, constituting unnecessary expenditure of substantial government or court resources);¹

¹In *Atkin*, the Seventh Circuit affirmed the lower court's holding based solely on the prosecutor's statements to Probation with respect to the resources which were extended as a result of defendant's lies. 29 F.3d at 269. In this case, and contrary to defendant's statements in her sentencing memorandum that the only support for this enhancement stems from "conclusory" statements to Probation by the case agent and prosecutors, the evidence at defendant's trial supports the proper application of Guideline §2J1.3(b)(2). For example, the trial evidence included the testimony of multiple witnesses who testified about appearing before the grand jury (some on multiple occasions, for example, Pinal Patel) and being interviewed by federal law enforcement, as well as the admission of text messages resulting from searches of the various cell phones.

United States v. Bradach, 949 F.2d 1461, 1463 (7th Cir. 1991) (affirming district court's finding of proper application of Guideline §2J1.3(b)(2) in light of unnecessary expenditure of government resources including impairing the grand jury's proceedings and four perjury-related trials); *United States v. Lueddeke*, 908 F.2d 230, 234-35 (7th Cir. 1990) (affirming application of Guideline §2J1.3(b)(2), resulting from unnecessary expenditure of government resources, where FBI agents spent two weeks sorting out the truth following defendant's initial perjury).

Probation is also correct that defendant does not receive credit for acceptance of responsibility pursuant to Guideline §3E1.1. PSR at ¶43. This is clear in light of defendant's decision to proceed to trial, pursuant to Application Note 2 to Guideline §3E1.1; defendant's statements to Probation, particularly when she expressed that she had not done anything illegal, *see* PSR at ¶43; defendant's statements in the Defendant's Version of the Offense, including her claim that she "is without information as to what effect [] her false statements had on the grand jury's ability to understand the dynamic of what was going on, and to what extent her false testimony prevented the government from proceeding without prosecutions; and, defendant's statements in her Sentencing Memorandum, *see, e.g.*, Defendant's Sentencing Memorandum at 4-5 (questioning materiality of the lies in the counts of conviction, despite jury's conviction on all three counts which necessitated a materiality finding), at 8 ("While there was not a single jury instruction, which was submitted to the jury, that referenced whether Beena Patel was a public servant, an assistant circuit court clerk or a friend of Dorothy Brown, Beena Patel appreciates

and understands that her lies *could* have seriously affected an investigation into public corruption.") (emphasis added).

As a result, it is the government's position that defendant's advisory Guidelines range is 24 to 30 months' imprisonment. For reasons further discussed below, the government seeks a sentence of 30 months' imprisonment.

III. SENTENCING RECOMMENDATION

The factors set forth in Section 3553(a) support a sentence of 30 months' imprisonment, the high end of the applicable Guidelines range.

A. The Nature, Circumstances, and Seriousness of the Offense.

The nature, circumstances, and seriousness of the offense favor a sentence at the high end of the Guidelines range. *See* 18 U.S.C. §§ 3553(a)(1) & (2)(A). The public's expectation that witnesses appearing before a grand jury will testify truthfully is a fundamental lynchpin of federal law enforcement. Witnesses who lie during the course of a grand jury investigation not only violate their solemn oath to tell the truth, but also impede the grand jury's ability to gather evidence.

Here, defendant's lies impacted a significant public corruption investigation into illegal job-buying within the Clerk's Office, and constituted an assault on the truth-finding function of the grand jury in this case and the justice system in general. This Court should send a clear message to anyone, such as the defendant, who seeks to thwart, by lying under oath, the investigation and prosecution of public servants who abuse their positions of trust.

B. Defendant's History and Characteristics.

The government acknowledges that defendant has no criminal history and has made significant contributions to her community. In addition, defendant has presented letters of support from both family and community members that reflect positively on defendant's character. These letters paint a portrait of a family-minded individual who has given back to her community. The government acknowledges that these are significant factors in mitigation, and does not lightly recommend a high-end guidelines sentence of 30 months' imprisonment in view of that mitigation.

However, the positive attributes detailed in those letters must be considered against the backdrop of a complete picture of defendant's history and characteristics. In contrast to the picture portrayed in her letters of support, the Court must also consider how defendant conducted herself during her tenure as a high-ranking Clerk's Office employee. She lied under oath in two separate appearances before the grand jury in order to prevent the grand jury from learning the truth about illegal bribery and extortion activity within the Clerk's Office. Moreover, defendant was the one who brokered the deal and facilitated the bribe payment while defendant was herself employed at the Clerk's Office and making a six-figure salary. When Rajaram arrived at the Sabre Room with \$10,000 of cash in an envelope in order to obtain employment within the Clerk's Office, it was defendant who received that money. When Rajaram sat at a Corner Bakery dining table across the street from the Daley Center and handed over an envelope containing \$5,000 of cash in order to secure employment in the Clerk's Office, it was, again, defendant who accepted the envelope

full of cash.⁵

Defendant's lies to the grand jury also extended beyond the allegations contained in the indictment. As shown through the transcript excerpts of defendant's testimony which were introduced into evidence at trial (and are attached to the Government's Version of the Offense at Exhibits 1 and 2), along with the audio recordings of defendant's testimony, defendant clearly attempted to obstruct the investigation about a number of topics. For example, when originally asked questions about the meeting at the Corner Bakery at which Rajaram promised to make a \$5,000 cash payment in order to receive a job within the Clerk's Office, defendant clearly attempted to mislead the Grand Jury multiple times. It was only after an extended period of questioning that defendant finally admitted that the Corner Bakery

⁵As noted above, in August of 2014, Rajaram made payments totaling \$15,000, purportedly for the purpose of investing in Goat Masters. Rajaram also testified before the grand jury about these payments on October 1, 2015, two weeks prior to the defendant's first appearance before the same grand jury. Rajaram lied, and was convicted of perjury in case number 15 CR 692; Rajaram pled guilty on April 20, 2016. However, Rajaram did submit to a proffer with the government prior to his indictment in which he admitted that he paid a bribe (in the form of \$15,000 to Goat Masters) to receive his job, and that defendant brokered the bribe payment. A copy of the FBI 302 memorializing Rajaram's proffer is attached to the Government's Version of the Offense at Exhibit 3.

An under-seal filing is being simultaneously submitted to the Court with this memorandum which presents confidential information that the Court should be aware of in considering Rajaram's proffer.

The information provided by Rajaram during his proffer is credible for several reasons. At the time of his proffer, Rajaram sought immunity from the government, and therefore had every incentive to provide truthful information. The government did not provide Rajaram with immunity; however, the information Rajaram provided was confirmed by the statements Rajaram and his attorney made at his own sentencing hearing. Rajaram's information was also corroborated through: toll records; forensic evidence obtained from the cell phones of Rajaram, defendant, and the Clerk; historical cell site data; Cook County employment records; Goat Masters' bank records; and, records obtained from Goat Masters, including the two promissory notes introduced at trial.

Meeting even took place, or that she was present. When defendant did finally admit her presence, she attempted to minimize her own involvement by stating that Rajaram slid the envelope containing \$5,000 in cash directly to the Clerk.⁶ By then, her testimony had been so misleading and had contradicted itself in so many respects that it was difficult for the Grand Jury to credit or follow anything that she said. Unfortunately, just as one example, defendant's lies, and others, on this topic successfully derailed the Grand Jury's investigation of this bribe payment.

Ultimately, defendant, a Cook County employee herself, was an active participant in Cook County's seminal problem of "pay-to-play" corruption, and she took active, intentional, and repeated measures to cover up that corruption.

C. To Afford Adequate Deterrence and to Promote Respect for the Law.

Both Probation and defendant recommend a sentence of probation in this matter. This Court should outright reject that position.

Probation cites to Rajaram's sentence of probation received from Judge Coleman in support of their recommendation in this case that defendant, too, receive a sentence of probation. Sentencing defendant to a high-end guidelines term of imprisonment does not constitute an unwarranted sentencing disparity with respect to Rajaram for a number of reasons. Defendant is a different person from Rajaram, and while they were both convicted of the same offense, the circumstances

⁶According to Rajaram's proffer, *defendant* accepted these cash payments, both when Rajaram made a \$10,000 bribe payment at the Sabre Room, and again when he made a \$5,000 bribe payment outside the Corner Bakery.

surrounding defendant's offense are much more serious.

While the government does not believe it is appropriate to discuss Rajaram's personal attributes in this sentencing paper, the record is clear that Rajaram received a sentence of probation based, in part, upon significant health and mental health issues which would have made a term of imprisonment particularly deleterious for both him and his family.⁷ Sentencing Rajaram to a period of incarceration was of serious concern in Rajaram's case in light of the representations made about Rajaram's health, which were credited by the sentencing court.

In addition, different guidelines calculations apply to defendant than applied to Rajaram. In Rajaram's case, the government recommended a guidelines sentence of 15 months' imprisonment from the Court (the range was 15 to 21 months' imprisonment). Probation did not apply, and the government did not seek application of the enhancement at Guideline §2J1.3(b)(2) for substantial interference with respect to Rajaram.⁸ In addition, Rajaram pled guilty. All of these factors lead to defendant having a higher guidelines sentence.

In total, the 3553(a) factors weigh much more heavily in favor of incarceration with respect to defendant than they did with respect to Rajaram. Even though Rajaram's lies impacted the investigation, the fact that he paid a bribe was

⁷A copy of the transcript of Rajaram's sentencing hearing is attached as Exhibit 4.

⁸At the time of Rajaram's sentencing in February 2017, it was unclear to the government the full effect of Rajaram's obstruction, particularly because defendant had not yet even been indicted and the question of defendant's ability and willingness to cooperate remained an open question.

documented in promissory notes and corroborated in multiple ways. *See supra* note 5. In contrast, defendant's perjury had a much more significant impact on the investigation. For example, only defendant, who was a highly-placed insider within the Clerk's Office, is aware of the conversations she had with others outside of Rajaram's presence concerning the bribes Rajaram paid to obtain a job in the Clerk's Office. Defendant not only refused to provide this information, but lied in an attempt—a successful attempt—to derail this entire topic of inquiry.

To this day, even after sitting through a trial in which her abundant lies were proven beyond a reasonable doubt, defendant insists that she did nothing wrong and refuses to accept the materiality of her lies and impact of her conduct. While both defendant and Rajaram demonstrated moral ineptness in their repeated lies to the grand jury and willingness to protect others who participated in bribery and extortion, on the spectrum of culpability defendant is much higher, and her higher guidelines calculation accounts for defendant's more culpable role, her decision to not accept responsibility and to proceed to trial, and her ongoing refusal to accept responsibility even *after* her conviction.

In addition to citing to Rajaram's sentence, Probation's additional reasoning for its recommendation of a sentence of probation is inconsistent and illogical. Probation cites on the one hand the seriousness of defendant's crimes and the impact that her obstruction had on the grand jury's investigation into corruption in the Clerk's Office, but on the other states that defendant's lack of criminal history and good deeds in the community warrant a 100% departure from the Guidelines range

of 24 to 30 months' imprisonment. Probation, without any basis, also states that such a sentence is not a "slap on the wrist" because defendant is now a convicted felon. Rest assured, even if Probation's curious conclusion that probation is not a slap on the wrist were true with respect to defendant, it most certainly will be seen as a slap on the wrist by the public, and does nothing to promote general deterrence. A sentence of probation will send a message to future witnesses in public corruption cases that it is okay to lie under oath because, even if you get successfully prosecuted, you will still walk free. The bizarre recommendation of the Probation Office, that this Court depart from the Sentencing Guidelines on the most tenuous of grounds—even though the guidelines call for a term of imprisonment of 24 to 30 months—is unfair, unjust, and inconsistent with the very goals that led to the passage of the Sentencing Guidelines by Congress.

The Guidelines in this case call for the imposition of a term of imprisonment of between 24 to 30 months' imprisonment, and the Court should impose sentence within this range. Of course, as the Court well knows, it has the power to impose a sentence outside this range, unbridled by the Guidelines. But the government submits that a Guidelines sentence is appropriate in this case, and, in particular, that a sentence of 30 months appropriately balances the defendant's significant mitigation against the seriousness of the crime and the other factors this Court must consider under 18 U.S.C. § 3553. The defendant lied on multiple occasions regarding multiple topics under oath before the grand jury in order to protect herself and other public servants who were within the scope of the illegal job-buying investigation. The time

between defendant's two grand jury appearances spanned nine months, and in those nine months, rather than reconsidering her prior lies and coming clean, defendant doubled-down and lied again. Only when confronted multiple times by prosecutors did defendant provide any truthful information, and even then, defendant minimized and provided incomplete information. As demonstrated by her role in Rajaram's bribe payments to obtain a job, defendant was an active participant in Cook County's seminal problem of "pay-to-play" corruption, and took active measures to cover up that corruption. Defendant participated in serious crimes, and her actions have been calculated and deliberate. Moreover, a sentence within the Guidelines range is essential to promote respect for the law and provide just punishment. A sentence below the Guidelines range, while obviously desired by the defendant and beneficial to her interests, would not promote respect for the law; rather, it would merely breed contempt for it, by suggesting that people who choose to ignore the law and lie under oath in public corruption investigations can simply get away with their crimes without facing any substantial punishment.

If, as the Probation Office suggests, allowing the defendant to avoid any term of imprisonment is the appropriate sentence in this case, then why should anyone feel compelled to respect the law? Why should anyone hesitate before lying under oath and obstructing investigations of corrupt elected officials, when all that lies ahead is a possible lecture from the sentencing court before a return to the comfort of one's home and a cozy retirement? In these circumstances, why should extortion and bribery victims and third parties who are forced to work for corrupt elected officials

be expected to respect and uphold the law, and rely on the law and the legal system to deliver just punishment, when those intimately involved in corrupt activity and its cover-up receive a sentence of probation? Will the citizens of Cook County be satisfied upon hearing the Probation Office's explanation that time in prison was ruled out because yes, the defendant lied under oath, prevented the government from bringing charges arising from illegal job-buying and the extortion of low-level employees, but otherwise the defendant led a good life and should therefore not serve prison time? A federal sentence "may not be based on idiosyncratic penological views (such as that the severity of criminal punishment has no significance for the victims of crime, but only for the criminals), disagreement with congressional policy, or weighing criminals' interests more heavily than those of victims and potential victims." *United States v. Goldberg*, 491 F.3d 668, 673-74 (7th Cir. 2007) (collecting cases). The logical conclusion that should be drawn, and which the government urges this Court to draw in this case, is that the Guidelines provide a meaningful benchmark for courts, and a sentence of probation for this defendant will *not* send the appropriate message to the public. A guidelines sentence of 30 months *will* send the appropriate message that there is no place in the criminal justice system for those who lie under oath and obstruct federal investigations in order to protect corrupt public servants. For these reasons, the government submits that a Guideline sentence is appropriate, and the Probation Office's idiosyncratic approach to sentencing in this case should be rejected and a sentence of 30 months' imprisonment should be imposed.

D. Consideration of supervised release conditions.

While the PSR provides for conditions of probation, the government seeks that those same conditions be imposed as conditions of supervised release within the Guidelines range of 1 to 3 years. See PSR at ¶105. In addition to the mandatory conditions, PSR at ¶ 109 (items 1-3, 7, 9, 10), the government asserts that discretionary conditions are appropriate in this case, as well. See PSR at ¶110, 111.

CONCLUSION

The government seeks a sentence of 30 months' imprisonment. Such a sentence is well supported under Section 3553(a), as it will reflect the seriousness of the offense, promote respect for the law, provide just punishment for the offense, afford adequate deterrence to criminal conduct, protect the public from future crimes of defendant, properly account for defendant's history and characteristics, and ensure a fair and uniform sentence.

Dated: November 12, 2019

Respectfully submitted,

JOHN R. LAUSCH, Jr.
United States Attorney

By: /s/ Heather K. McShain
Heather McShain
Ankur Srivastava
Assistant United States Attorneys
United States Attorney's Office
219 South Dearborn Street
Chicago, Illinois 60604
(312) 353-1414

EXHIBIT D



January 10, 2020

Via Federal Express
Certified Mail – RRR 7019 0700 0001 2490 7506
Regular USPS First Class Delivery
Beena Patel

Office# 129466

Re: Revocation of Annuity Benefits, 40 ILCS 5/9-235
United States of America v. Beena Patel, 17-CR-297

Dear Ms. Patel:

The Retirement Board ("Board") of the County Employees' and Officers' Annuity and Benefit Fund of Cook County ("Fund") determined at their regular meeting on January 10, 2020, after consideration of the record, that there was a sufficient nexus between the facts giving rise to your felony conviction in the matter identified about and the performance of your duties with Cook County, and terminated your annuity benefits effective December 1, 2019, pursuant to Section 9-235 of the Illinois Pension Code, 40 ILCS 5/9-235. A copy of the Board's written Decision is enclosed.

Please be advised that under the Administrative Review Law, you have 35 days from the date of the Decision to request a review by the Circuit Court of Cook County.

Sincerely,

A handwritten signature in dark ink, appearing to read "M. Fahrenbach", is written over the typed name.

Margaret M. Fahrenbach
Legal Department

Enclosure

cc: Donald Angelini (w/encl.)

**THE RETIREMENT BOARD OF THE COUNTY
EMPLOYEES' AND OFFICERS'
ANNUITY AND BENEFIT FUND OF COOK COUNTY
AND EX OFFICIO FOR THE FOREST PRESERVE DISTRICT EMPLOYEES'
ANNUITY AND BENEFIT FUND OF COOK COUNTY**

In the matter of the Annuity Benefit)	Member No. 129466
of Beena Patel)	
)	
)	
)	
)	

DECISION

The Retirement Board ("Retirement Board") of the County Employees' and Officers' Annuity and Benefit Fund of Cook County ("Fund"), having notified annuitant Member Beena Patel ("Patel") of her right to a hearing pursuant to Section 40 ILCS 5/9-235 to determine whether her annuity benefits should be forfeited as a result of her having been convicted of felonies that may be related to, have arisen out of or been connected to her employment with the County of Cook; and whereas Patel's attorney, having asserted that only legal issues were raised by the matter, elected to forgo a hearing and instead submitted a written memorandum to the Retirement Board on November 6, 2019; and whereas in response to Patel's submission, fiduciary counsel to the Retirement Board submitted a "Memorandum Addressing Application of 40 ILCS 5/9-235 to Member #129466" on December 2, 2019; and the Retirement Board, having considered all of the written submissions, and taking judicial notice of the official records confirming Patel's sentencing by the United States District Court of the Northern District of Illinois on December 12, 2019, all of which documents are hereby made part of the administrative record, including exhibits

thereto, hereby renders its decision based on the following findings of fact and conclusions:

A.

FINDINGS OF FACT

Based upon a preponderance of the evidence, the Retirement Board makes the following findings of fact:

1. Patel entered service with the County of Cook ("County") on or about July 1, 1987. She continued in that service with the County until her resignation date of August 31, 2016. At the time of her resignation, Patel held the title of Associate Clerk in the office of the elected Cook County Circuit Court Clerk, earning approximately \$120,000 per year.

2. Patel's date of birth is September 29, 1961 and she is currently 58 years old. On September 1, 2016 Patel began receiving a monthly annuity from the Fund in the amount of \$7,606.11. At the time of her resignation, the total contributions plus interest remaining in Patel's account was \$204,009.04. The total annuity paid to her by the Fund through November 1, 2019 is \$304,471.76.

3. On October 15, 2015 and again on July 14, 2016, while employed by the County, Patel testified before a federal grand jury that was investigating allegations related to solicitation of campaign contributions and loans from County employees in exchange for jobs or promotions within the Office of the Clerk for the Circuit Court of Cook County. Later, Patel was charged by the federal government with three counts of perjury related to her testimony before the grand jury in violation of Title 18, United States Code, Section 1623(a).

4. On April 26, 2019, a jury found Patel guilty of perjury on the three counts in violation of Title 18, United States Code, Section 1623(a).

5. On November 7, 2019, the Retirement Board suspended Patel's annuity benefits effective December 1, 2019, pending Patel's sentencing, scheduled to occur on November 19, 2019 and pending a determination of whether Patel's felony conviction related to her employment with the County. The sentencing hearing was rescheduled to December 12, 2019.

6. On December 12, 2019, the Northern District of the United States District Court sentenced Patel to two years in prison, with one year of supervision following her imprisonment. In imposing the sentence, the Court noted that Patel's felony conviction was equivalent to a conviction for public corruption and that the length of her sentence was needed for "general deterrence".

7. Section 9-235 of the Pension Code mandates that none of the benefits provided in Article 9 shall be paid to any person who is convicted of any felony relating to or arising out of or in connection with his or her service as a county employee. 40 ILCS 5/9-235.

B.

CONCLUSION

1. The Retirement Board has jurisdiction of this matter.
2. The annuitant Member was convicted of three felony counts in violation of 18 U.S.C. §§1623(a).

3. The evidence in the record establishes that the annuitant Member's felony convictions for perjury were related directly to matters that arose out of, were connected to and related to her official duties in the Office of the Clerk for the Circuit Court of Cook County. *Goff v. Teachers' Retirement Sys.*, 305 Ill.App.3d 190, 195, 713 N.E.2d 578, 582 (5th Dist. 1999); *Romano v. Municipal Employees' Annuity and Benefit Fund*, 402 Ill.App.3d 857, 931 N.E.2d 827 (1st Dist. 2010); *Bloom v. Municipal Employees' Annuity & Benefit Fund of Chi.*, 339 Ill.App.3d 807, 815, 791 N.E.2d 1254, 1259 (1st Dist. 2003). Each of the perjury counts on which Patel was convicted was connected to either campaign fundraisers for the Clerk of the Circuit Court, the granting of promotions in the Clerk's office or to the treatment of potential job applicants in the Clerk's office, which matters Patel was engaged in because of her senior position within the Clerk's office.

4. The evidence in the record, therefore, establishes that a nexus exists between Patel's felonious acts and the performance of her official duties with the County.

5. The purpose of the Pension Code's felony forfeiture provisions is to discourage official malfeasance and to implement the public's right to conscientious service from those in governmental positions, by denying the public servant convicted of unfaithfulness to the pension benefits to which he/she otherwise would be entitled.

6. Accordingly, the Retirement Board finds that pursuant to Section 9-235 a sufficient nexus exists between Patel's felonious acts and the performance of her official duties with the County sufficient to form a legal basis to terminate Beena Patel's annuity from the Fund effective as of December 1, 2019, the month in which her sentence for her

felony convictions was imposed.

The Retirement Board of the County
Employees' and Officers' Annuity and Benefit
Fund of Cook County and Ex Officio for the
Forest Preserve District Employees' Annuity
and Benefit Fund of Cook County



President

Stephen C. Hughes

James O. Pender

R. H. Pender

Justin Pender

Bill Pender

Dated: January 9, 2020

STATE OF ILLINOIS)
)
COUNTY OF COOK)

CERTIFICATE OF SERVICE

MARGARET M. FAHRENBACH being first duly sworn upon oath, deposes and states that he/she served a copy of the attached Decision on the persons named below by depositing same this 10TH day of JANUARY, 2020 in the U.S. Mail Box located at 70 West Madison Street, Chicago, Illinois 60602 properly posted for:.

(X) FIRST CLASS MAIL () CERTIFIED MAIL() PERSONAL DELIVERY

TO: Ms. Beena Patel.
 6246 N. Leona Avenue
 Chicago, IL 60646-4812

Donald Angelini, Jr., Esq.
Angelini, Ori and Abate Law
155 N. Michigan Ave, Suite 1400
Chicago, IL 60601

(FIRST CLASS MAIL)

[X] Under penalties as provided by law pursuant to 735 ILCS 5/1-109, I certify that the statements set forth herein are true and correct.


