

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

LAWRENCE H. GRESS,)	
)	
Plaintiff,)	
)	Case No.: 17 CV 8067
v.)	
)	Judge: Hon. Sharon Johnson
REGIONAL TRANSPORTATION)	Coleman
AUTHORITY, an Illinois Municipal Corporation;)	
PACE SUBURBAN BUS SERVICE, A)	Magistrate Judge: Hon.
DIVISION OF THE REGIONAL)	Sidney I. Schenkier
TRANSPORTATION AUTHORITY, an Illinois)	
Municipal Corporation; SUSAN RUSHING,)	
Individually; ROCKY DONAHUE, Individually;)	
LINDA SWEDLUND, Individually; JANIKA)	
MILLER, Individually; THOMAS J. (T.J.) ROSS,)	
Individually; MARTIN SANDOVAL II)	
Individually; and SENATOR MARTIN)	
SANDOVAL, Individually; and Unknown and)	
Unnamed Defendants,)	
)	
Defendants.)	
)	

AMENDED COMPLAINT

Now comes the Plaintiff, Lawrence H. Gress (“Gress”), by and through his attorneys, KENT MAYNARD & ASSOCIATES LLC, and for his Amended Complaint against the Defendants, states as follows:

NATURE OF THE ACTION

This action involves violations of federal and state law, including violations relating to unlawful discriminatory practices in hiring, public corruption, and white-collar crime. From no later than 2012 through the present, at Arlington Heights, in the Northern District of Illinois, Eastern Division, Rocky Donahue (“Donahue”) has acted as a self-appointed patronage chief at the Pace Suburban Bus Service (“PACE”). In that capacity, Donahue, together with other

employees and officials at PACE, devised, intended to devise and participated in a scheme and artifice to defraud persons in the United States, Illinois, and the Six-County Area in which PACE operates (“the Six-County Area”) of money, property, and the intangible right to the honest services of defendant Donahue and other PACE employees, and routinely to deprive certain applicants for employment at PACE, including the Plaintiff in this case, of money, property, and honest services, by means of materially false and fraudulent pretenses, representations, promises and material omissions; and for the purpose of executing the scheme, caused the use of the U.S. Mails, including use on or about June 13, 2016 and July 28, 2016, in violation of Title 18 United States Code, Sections 1341, 1346, and 2.

In particular, Donahue and his co-conspirators Janika Miller (“Miller”), Thomas J. (T.J.) Ross (“Ross”), Susan Rushing (“Rushing”), Martin Sandoval II (“Sandoval II” or “Marty”); State Senator Martin Sandoval, the Chairman of the Senate Transportation Committee (“Sen. Sandoval”), and Linda Swedlund (“Swedlund,” and hereinafter collectively Miller, Ross, Rushing, Sandoval II, and Sen. Sandoval the “RICO Conspirators”) knowingly and willingly participated in a scheme in which Donahue and the RICO Conspirators manipulated the interview and selection process for certain PACE employment positions by disregarding the superior qualifications of disfavored applicants, omitting to interview applicants notwithstanding their superior qualifications, conducting degrading, wasteful, and humiliating sham interviews they sometimes called “courtesy” interviews, falsely inflating interview appraisals of certain candidates, and otherwise guaranteeing that certain pre-selected candidates favored by top PACE officials and members of the General Assembly would be granted employment regardless of merit.

In 2016, Donahue, Sandoval II, Sen. Sandoval, and the other RICO Conspirators secretly

and corruptly determined that Sandoval II would be awarded an employment position, to the exclusion of many other equally or better qualified candidates. In 2016, Plaintiff was one of seven candidates subjected to the cost and indignity of a sham interview before he was passed over for employment at PACE, ostensibly because a better qualified candidate had been selected. That was not true. The successful candidate had been pre-selected because of political reasons and factors, not merit, and despite his obvious lack of the pertinent qualifications. This fraudulent hiring process, as alleged more fully below, violated 70 ILCS 3615/3A.05 and 18 U.S.C. §§ 1341, 1346, and 2, in addition to being degrading, disrespectful, and deceitful.

In addition, and in the alternative, this is an action to correct discriminatory employment practices and to provide appropriate relief to Gress, who was adversely affected by such practices. As alleged with greater particularity below, Defendants discriminated and conspired to discriminate against Plaintiff when they failed to hire him as a Community Relations Representative because of his age, 66, and his ethnicity (non-Hispanic), in violation of state and federal law, including Title VI of the Civil Rights Act of 1964, as amended; 42 U.S.C. § 2000(d) *et seq.*, Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000(e)-2, 42 U.S.C. § 1981; the Age Discrimination in Employment Act, 29 U.S.C. § 621, *et. seq.* (“ADEA”); and 70 ILCS 3615/3A.05, which prohibits discrimination against a person because of, *inter alia*, his or her race, color, religion, national origin, ancestry, age, or sex.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this action pursuant to 42 U.S.C. § 2000(e)-2; 42 U.S.C. § 1981 (b); 29 U.S.C. § 621, *et. seq.*; 28 U.S.C. § 1331 and, as to Count VIII, 18 U.S.C. § 1964.

2. Jurisdiction of this Court over is invoked pursuant to 28 U.S.C. §§ 451, 1331,

1337, 1343, and 1345.

3. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964 (“Title VII”), as amended, 42 U.S.C. § 2000e-5(f)(1), (3), and pursuant to Section 402 of the Civil Rights Act of 1991, 42 U.S.C. § 1981.

4. Venue is proper in this Court under 28 U.S.C. § 1391 and, as to Count VIII, 18 U.S.C. § 1965(a) because the unlawful practices alleged herein were committed within the jurisdiction of the United States District Court for the Eastern District of Illinois and 28 U.S.C. § 1391 because the RICO Defendants are subject to personal jurisdiction in this judicial district and reside in this district.

PARTIES

5. Plaintiff, a non-Hispanic natural person, is a citizen of the United States, a resident of Downers Grove, Illinois, and older than 40.

6. As such, Plaintiff is protected by the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e-5(b) and by 18 United States Code, Sections 1341, 1346, and 2.

7. The Regional Transportation Authority (“RTA”) is a unit of local government that serves as the financial and oversight body for three operating divisions: Chicago Transit Authority, Metra and PACE.

8. As an operating division of RTA, PACE professes that “[t]he purpose of PACE is to provide a well-coordinated, safe, economical, and efficient system of public transportation [by operating or contracting with third parties to operate bus routes] . . . [in] the Northeastern area of Illinois, consisting of Cook, DuPage, Kane, Lake, McHenry and Will Counties.”

9. Office-holders of RTA and PACE are public officials because their offices were

created by legislation or a municipality or other body with authority conferred by the legislature; the office was delegated a portion of the powers of a government body, and legislative authority or law defined, either directly or indirectly, the powers conferred and the duties to be discharged by the office.

10. Paragraph 10 of the initial complaint filed in this action alleged that “[a]t times relevant hereto, Defendants RTA and PACE have been engaged in an industry affecting commerce under Sections 701 (b), (g) and (h) of Title VII, 42 U.S.C., and have been doing business in the State of Illinois.”

11. Section 701 of Title VII defines “commerce” as “trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.”

12. PACE’s answer “[a]dmit[ted] that RTA and PACE do business in the State of Illinois within an industry affecting commerce as defined in Section 701 of Title VII”

13. At times relevant hereto, PACE has continuously had at least 15 employees and as such is an “employer” as that term is defined under the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e(b), and has continuously had at least 20 employees within the contemplation of the ADEA, 29 U.S.C. § 630(b).

14. RTA and PACE oversee and operate programs and activities that receive federal financial assistance and are themselves programs or activities that receive federal financial assistance, including assistance within the contemplation of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000(d) *et. seq.*

15. As such, RTA is subject to requirements described in the U.S. Office of

Management and Budget Circular A-133, Compliance Supplement that apply to each of its major federal programs.

16. Compliance with the requirements of laws, regulations, contracts, and grants applicable to each of RTA's major federal programs is the responsibility of RTA's management and subject to regular audits conducted by independent third-party auditors.

17. In the past, RTA has received a variety of federal grants and awards, such as a Pass-Through Illinois Department of Transportation grants; Transit Planning and Research grants; Technical Assistance grants; and Metropolitan Planning grants.

18. The services provided by RTA and the service boards, including PACE, to their intended beneficiaries are degraded by corrupt or intentionally discriminatory hiring practices because such practices lead, among other things, to the engagement of unqualified or poorly qualified employees to the exclusion of better qualified employees.

19. The corporate headquarters of PACE is located at 550 West Algonquin Road, Arlington Heights, Illinois.

20. Defendant Miller was, at all times pertinent hereto, employed by PACE as a "Human Resources Specialist."

21. In her capacity as a Human Resources Specialist at PACE, in 2016, as one discrete instance in an ongoing pattern of unlawful practices, Miller knowingly and intentionally participated in and aided and abetted a corrupt and unlawful hiring process in which she intentionally discriminated against Gress because of his age and race, and also discriminated against him because he was not Sandoval II, the son of Sen. Sandoval who had been pre-selected as the "winner" of the posted job opening, Posting 523.

22. Defendant Rushing was, at all times pertinent hereto, employed by PACE as a

Manager of Community Relations, and in that capacity reported to Donahue, who was then PACE's Deputy Executive Director of External Relations.

23. In her capacity as PACE's Manager of Community Relations, in 2016, as one discrete instance in an ongoing pattern of unlawful practices, Rushing knowingly and intentionally participated in and aided and abetted a corrupt and unlawful hiring process in which she intentionally discriminated against Gress because of his age and race, and also discriminated against him because he was not Sandoval II, the son of Sen. Sandoval who had been pre-selected as the "winner" of the posted job opening, Posting 523.

24. Defendant Donahue was, at all times pertinent hereto, employed by PACE as its Deputy Executive Director of External Relations with responsibility for "government affairs" and reporting to PACE's Executive Director.

25. In his capacity as Deputy Executive Director of External Relations of PACE in 2016, as one discrete instance in an ongoing pattern of unlawful practices, Donahue knowingly and intentionally participated in and aided and abetted a corrupt and unlawful hiring process in which he intentionally discriminated against Gress because of his age and race, and also discriminated against him because he was not Sandoval II, the son of Sen. Sandoval who had been pre-selected as the "winner" of the posted job opening, Posting 523.

26. Defendant Swedlund was, at all times pertinent hereto, employed by PACE as an executive administrative assistant to Donahue.

27. In her capacity as an executive administrative assistant to Donahue, in 2016, as one discrete instance in an ongoing pattern of unlawful practices, Swedlund knowingly and intentionally participated in and aided and abetted a corrupt and unlawful hiring process in which she intentionally discriminated against Gress because of his age and race, and also discriminated

against him because he was not Sandoval II, the son of Sen. Sandoval who had been pre-selected as the “winner” of the posted job opening, Posting 523.

28. Defendant Ross was, at all times pertinent hereto, employed by PACE as its Executive Director.

29. In his capacity as the Executive Director of PACE at times pertinent hereto, in 2016, as one discrete instance in an ongoing pattern of unlawful practices, Ross knowingly and intentionally participated in and aided and abetted a corrupt and unlawful hiring process in which he intentionally discriminated against Gress because of his age and race, and also discriminated against him because he was not Sandoval II, the son of Sen. Sandoval who had been pre-selected as the “winner” of the posted job opening, Posting 523.

30. Defendant Sandoval II is the son of Sen. Sandoval and was, in 2016, a recent college graduate with a bachelor’s degree in psychology and, in 2016, one of 80 applicants for a position as a Community Relations Representative at PACE.

31. In 2016, Sandoval II knowingly and intentionally participated in and aided and abetted a corrupt and unlawful hiring process in which he and his father induced PACE intentionally to discriminate against Gress because of his age and race, and also discriminate against him because he was not pre-selected by Sen. Sandoval and the other RICO Conspirators as the “winner” of Posting 523, regardless of merit or qualifications.

32. In his capacity as Deputy Executive Director of External Relations of PACE, with responsibility for government affairs, Donahue, at all times pertinent hereto and no later than 2012 had established a pattern of frequent, personal contact with Sen. Sandoval and other legislators in the General Assembly in Springfield and had personally met with Sen. Sandoval and his son Sandoval II in Sen. Sandoval’s office in Springfield in or around December 2012,

around the time Sandoval II graduated from college.

ADMINISTRATIVE PROCEDURES

33. More than thirty days before the institution of this lawsuit, Gress filed a charge with the Equal Employment Opportunity Commission (“EEOC”) alleging violations of Title VII and ADEA by Defendant PACE.

34. Specifically, on November 3, 2016, Gress filed a Charge of Discrimination with the EEOC alleging violations of Title VII and ADEA by Defendant PACE and requesting that such Charge be filed both with the EEOC and the Illinois Department of Human Rights. *See* Exhibit 1.

35. On August 15, 2017, the EEOC issued to Plaintiff a Notice of Right to Sue within 90 Days. *See* Exhibit 2.

STATEMENT OF FACTS COMMON TO ALL COUNTS

History and Structure of PACE

36. The Regional Transportation Authority (“RTA”) was created in 1974 by the passage of the Regional Transportation Authority Act, 70 ILCS 3615/1.01 *et. seq.* (“the RTA Act”) and the passage of a referendum contemplated by that Act.

37. The RTA was initially established and empowered with taxing powers related to sales to provide financial support through grants to the Chicago Transit Authority (“CTA”) and regional suburban mass transit districts and to purchase service agreements with private bus and rail operators.

38. In 1983, the RTA Act was amended to create two new “service boards” (in addition to the already-existing CTA service board) to serve as two additional operating divisions for regional commuter rail (Metra), and suburban bus service in the Six-County Area

(PACE), respectively.

39. PACE is governed by a 13 member Board of Directors comprised of current and former suburban mayors and the Commissioner of the Mayor's Office for People with Disabilities for the City of Chicago.

40. At all times pertinent hereto, PACE has been among the 30 largest transit agencies in the United States.

41. Managed out of its headquarters in Arlington Heights, Illinois, PACE provides complementary paratransit service in the Six-County Area, including Chicago.

42. Approximately 8.3 million people live in the PACE service area, which covers approximately 3,450 square miles.

43. PACE is and was at all times pertinent hereto a recipient of funding assistance from the Federal Transit Administration of the U.S. Department of Transportation, and is therefore subject to conditions associated with the receipt and use of federal funds, including 49 U.S.C. Section 5332, FTA Circular 4704.1 and 49 CFR Part 27.

**HISTORY OF CORRUPT HIRING
PRACTICES AT RTA AND PACE**

44. The three service boards, CTA, Metra, and PACE, necessarily compete for regional transportation subsidies that often only partially fund shortfalls.

45. As a result of the scarcity of resources and rivalry among the service boards, each of the service boards seeks independently to monitor legislation that might affect its financial interests and to curry favor with influential lawmakers, generally through unregistered lobbyists working in departments devoted to "governmental affairs."

46. "Government affairs" lobbyists for the service boards are under intense pressure

to ensure that the General Assembly takes actions that are favorable to the service boards and RTA.

47. As a result, there is a long and sad history of unlawful patronage hiring at RTA and its three service boards.

48. In 2012 an anonymous group of “Concerned Employees” triggered an independent inquiry of the RTA when they complained that then RTA Executive Director Joseph Costello had unlawfully hired an unqualified and incompetent Chief of Staff (Jordan Matyas) solely because Matyas was the son-in-law of Michael Madigan, the speaker of the Illinois House of Representatives and longest-serving leader of any state or federal legislative body in the history of the United States, having held the position for all but two years since 1983.

49. The anonymous complaint alleged that “. . . politics and a dysfunctional executive director [(Costello)] have created the environment where someone [(Jordan Matyas, the son-in-law of Speaker Michael Madigan)] with no management experience, no transit experience and barely any work experience at all becomes Chief of Staff with an accompanying pay increase while other dedicated, qualified employees are passed over, pushed out or given motivation to leave.”

50. In April 2013, Alex Clifford, then the Executive Director and Chief Executive Officer of the RTA’s Metra service board, sent a memorandum to the Metra Board of Directors alleging that two Metra directors, Chairman of the Board Brad O’Halloran and Director Larry Huggins, had sought improperly to pressure Clifford into applying political factors to employment decisions and that O’Halloran had expressed concern that Clifford’s refusal to accede to political hiring pressures from members of the General Assembly, including Speaker Madigan, had jeopardized funding for the RTA and all of its three operating divisions.

51. Clifford's memorandum alleged that O'Halloran and Huggins had said that Clifford must be ousted from his position as Executive Director and Chief Executive Officer of Metra for not complying with Speaker Madigan's requests to make politically-motivated employment decisions and that such noncompliance would result in a loss of future funding from the General Assembly.

52. In August 2013, after the Clifford patronage scandal broke, hard on the heels of the Matyas scandal at RTA, Governor Pat Quinn issued an Executive Order directing that a blue-ribbon Task Force be created to create a report as to as to "how the Northeastern Illinois Transit Agencies can . . . repair the damage done to the public trust"

53. A blue-ribbon Task Force was formed and issued its written Report on March 31, 2104.

54. The 21-page Report mentions "patronage" 48 times, *passim*, including the following (emphasis supplied):

[i]n recent years . . . one scandal after another has plagued the transit agencies. Reports emerged of patronage, financial impropriety, hidden conflicts of interest, and inappropriate influence over contracts. These ethical failures, along with deep concerns for the future of our transit system prompted Governor Quinn to appoint this Task Force.

* * *

. . . , we need to be aware that **the transit agencies transit system operates in a state and region in which political hiring and patronage have long been conducted by persons in positions of power**. we cannot make great plans for northeastern Illinois transportation if we do not address the handicap patronage places on the transit agencies and transit boards and agencies. In particular, we cannot recommend any effort to seek additional funding for transit needs without addressing the need to regain the public trust.

* * *

[p]atronage has been a longstanding (and bipartisan) reality in Illinois. . . . The pervasiveness of patronage in Illinois was evidenced by lists that became public in the series of prosecutions of former Governor George Ryan and his

associates. Over a period of eight years, the Ryan administration parceled out jobs and state contracts to amass influence. When catalogued at trial, the list of favors dispensed by the Ryan administration was 555 pages long. . . . endemic patronage led to a lawsuit against a number of entities . . . that resulted in [the Shakman Decree] prohibiting patronage in government hiring in more than 40 state and citywide offices The pervasiveness of patronage in Chicago was made plain in the federal criminal prosecution of city of Chicago officials for honest services fraud in the case known as *United States v. Sorich*. In that case as well, a “clout” list relating to patronage hiring became public. **Reports of patronage continue to the present.**

55. The Report also summarized the findings of prior commissions and panels that had previously found systemic and unlawful patronage, stating that (emphasis supplied):

In 2004, the Office of the Executive Inspector General for Illinois compiled a report showing that employees aligned with Governor Blagojevich’s Office of Intergovernmental Affairs were controlling hiring in “complete and utter contempt for the law.”

* * *

In January 2009, the Special Investigative Committee of the Illinois House of Representatives identified state offices that directed patronage efforts to provide jobs to political allies and donors of former Governor Blagojevich.

* * *

In early 2009, Governor Quinn appointed a blue ribbon panel called the “Illinois Reform Commission” which was charged with looking into meaningful ethics reform for the State of Illinois. The Commission issued a “100-Day Report” on April 28, 2009. That report spoke of “**widespread abuse involving patronage hiring, manipulation of the personnel system, and the need for improvement in ethics training.**” In addressing these issues, that Commission proposed reforms noting that “[t]he **dispiriting effect on employee morale, and the deleterious consequences for the People of Illinois, cannot be [overstated].** To be meaningful, legislative solutions must be accompanied by a corresponding change in attitudes.” Early in the report, the Commission asked: “What will Illinois’ response to this current crisis of integrity be? Our nation is watching.”

* * *

This Task Force was created by Governor Quinn in response to the outcry that followed the departure of the former Chief Executive Officer of Metra, Alex Clifford, and the settlement agreement offered to him by Metra to terminate his employment contract. Mr. Clifford **claimed that he was fired in response to his refusal to engage in patronage hiring on behalf of elected officials or approve**

of deviations from Metra's contracting process. In particular, in a now publicly available April 2013 memorandum, Mr. Clifford claimed that there was undue influence by the Speaker of the Illinois House of Representatives and two Metra directors on hiring and promotion decisions within the agency.

* * *

In addition, since the time that this Task Force was appointed, some further historical information has come to light regarding Metra patronage hiring. In particular, **we were advised by Metra that there were historical materials dating from roughly 1983 until 1991 which reflected patronage hiring at Metra. The files included 3 boxes of index cards, holding more than 800 three by five inch cards, relating to persons who were referred for jobs, promotions, or raises by various public officials or persons influential with political parties.** While there is nothing inherently improper (much less illegal) about a person recommending someone else for a job or promotion, **there is something systemically wrong when such references on behalf of politically connected individuals seem to dominate and control the process to the detriment of better qualified candidates.** And **these referrals and hiring and promotion decisions need to be viewed in light of the law generally prohibiting political hires for the transportation agencies involved.** A fair reading of these concededly dated materials shows that a large number of people made references, while a smaller number of people made multiple references on behalf of multiple people. When candidates were recommended by politically connected people, those candidates were at times hired or promoted or provided raises and at times not. But **in a number of cases it appears that recommendations from particular officials carried greater weight and caused candidates to obtain jobs, raises or promotions.**

* * *

. . . the current Speaker of the Illinois House of Representatives . . . allegedly sponsored patronage hiring in 2012 leading to the creation of this Task Force. The records, fairly read, show that **in some cases he did not recommend people to be hired – he in effect decided they were hired.**

* * *

One of the points made by the transit agencies other than Metra is that it is not their conduct which has occasioned the work of this Task Force. There is some merit to that observation. **But we would be remiss if we were blithely to assume that patronage issues are confined to Metra.**

* * *

. . . in late February 2011, at a time when the press was reporting that there were rumors that [] Speaker [Madigan] might have been seeking to abolish the RTA

and an amendment to a Senate bill sought to remove the RTA Chairman, the Speaker's son-in-law was hired as the RTA's chief lobbyist with a salary of \$130,000 per year. **The RTA denied that the hiring had anything to do with the familial connection to the Speaker. According to a press report in *Crain's Chicago Business*: "We wouldn't call it a peace offering," the [RTA] spokeswoman said. "We'd call it the hiring of a person for a posted vacancy who we have determined is very highly qualified."**

* * *

The harm that is caused by patronage is insidious but severe. It is appropriate for high ranking policy positions to be given to persons who share a common approach with elected officials. But for other positions, **hiring based upon political considerations is corrosive to good government. First, it deprives honest, ordinary citizens of a fair chance at employment or promotion that can affect their ability to provide for their families. It also is demoralizing to a workforce to learn that merit takes a back seat to other considerations.** It fosters a work force tilted towards one political ideology or another. And it **creates an environment where it is easier for both corruption and mismanagement to flourish.** One other aspect of corruption that is little discussed is the unfair taint of suspicion that it casts on the ethics and qualifications of those employees not hired due to political influence. Indeed, there is a risk that persons hired due to political influence may be well qualified and work diligently and honestly but have their performance judged by how they were hired. In short, **there is every reason to believe that patronage costs taxpayers in terms of honesty and efficiency, and undermines public confidence. And, not to put too fine a point on it: patronage hiring for non-policy positions, as a general matter, is illegal under the relevant statutes.**

56. To fight the scourge of illegal patronage, the Report recommended, among other things, "[t]he implementation of a firewall prohibiting communications between elected officials . . . and the transit agencies regarding matters of hiring, promotion, or raises for individuals."

57. The recommended "firewall" has never been implemented.

58. However, RTA, Metra, and PACE are subject to a provision that prohibits politically-motivated hiring, in pertinent part, thus:

No unlawful discrimination, as defined and prohibited in the Illinois Human Rights Act, shall be made in any term or aspect of employment **nor shall there be discrimination based upon political reasons or factors.** The [RTA/Metra/Suburban Bus Board] **shall establish regulations to insure [sic] that its discharges shall not be arbitrary and that hiring and promotion are based on merit. . . .** The [RTA/Metra/Suburban Bus Board] shall file an affirmative action

program for employment by it with the Department of Human Rights to ensure that applicants are employed and that employees are treated during employment, without regard to unlawful discrimination.

See 70 ILCS 3615/2.14 (RTA); 70 ILCS 3615/3B.05 (Metra); 70 ILCS 3615/3A.04 (PACE).

59. The forgoing prohibition against hiring based on political reasons or factors became effective January 1, 2015.

60. However, PACE's official anti-discrimination policy statement omits any mention of discriminatory hiring based on political reasons or factors, years after RTA's employment of Speaker Madigan's son-in-law was all but universally perceived as a bribe to induce Speaker Madigan not to act on threats to abolish the RTA and removed its Executive Director.

61. It is against this cynical, lengthy, and degrading history of deeply entrenched and persistently corrupt hiring practices that the allegations of this complaint must be viewed.

**The Sham Review and Interview Process that
Found Marty Sandoval was the most qualified of
80 Applicants for Posting 523**

62. On or around March 18, 2016, PACE published Job Posting 523 ("Posting 523") internally at PACE. *See* Exhibit 3.

63. Posting 523 sought a "Community Relations Representative" to report to Defendant Rushing in her capacity as PACE's Manager of Community Relations and work out of PACE's Arlington Heights headquarters.

64. Posting 523 stated that "PACE [would] select the candidate who possesses the best qualifications in accordance with standard hiring procedures."

65. As such, Rushing's role in the standard hiring procedures involved her review of the submissions PACE received for Posting 523 and her participation, with Miller, in all of the interviews of the candidates whom Rushing deemed worthy to be called in for interviews.

66. After interviewing a hand-picked subset of the candidates for Posting 523, it was incumbent on Rushing to make a recommendation as to which one of the candidates was best qualified and should be hired.

67. Pursuant to PACE's standard hiring procedures Rushing was required to set forth her ultimate recommendation in a "Justification for Hire" that she would tender to Donahue for his signature.

68. The Justification for Hire would also require a sign-off from Marion Roglich, PACE's head of Human Resources, and Ross, in his capacity as PACE's Executive Director.

69. Posting 523 provided the following "Summary Job Description" for the desired Community Relations Representative:

Develops and maintains positive relationships within an assigned territory. Acts as liaison for PACE with External stake holders [sic] including communities, businesses, local elected officials, staff and community organizations to market PACE services, foster good will [sic] and convey information on PACE initiatives. Executes local outreach campaigns for promotion of PACE related programs and services. Works closely with PACE staff. Conducts or represents agency at formal or informal hearings. Knowledge of complex activities and operations of local government. Assess and implement programs as it pertains to geographic territory. Negotiate very complex and sensitive issues. Effectively advocate the PACE agenda. Manage and direct numerous and various complex issues simultaneously. Develop effective advocacy networks and build effective coalitions. Performs other duties of similar nature and level as assigned.

70. Posting 523 recited the following Qualifications for the Community Relations Representative:

Bachelor's degree in Business Administration, Political Science, Public Administration or related field. Minimum two years of experience in government affairs. Equivalent combination of education and experience sufficient to successfully perform the essential duties such as those listed above. Transit or government related [sic] experience is desirable. Excellent verbal and written communication skills. Experience in tracking and managing multiple projects, writing, research and community relations. Intermediate to advanced MS Windows applications is required. Strong customer service skills are essential and frequent travel, early morning, evening and weekend hours may be required.

Fluency in Spanish desirable, but not required.

71. Posting 523 stated that the Community Relations Representative would have a Pay Grade of E4 and a Pay Range of \$56,043–\$99,337.

72. On March 25, 2016, Posting 523 was published on PACE's website, and thereafter online applications began rolling in, as they were filled out by applicants and automatically forwarded by email to Miller.

73. On April 2, 2016, an applicant named Connor Fitzpatrick filled out an online application for Posting 523 and emailed a copy of his resume to an employee in PACE's Human Resources Department, who forwarded the resume to Miller.

74. Fitzpatrick's submission stated that he had a Bachelor of Arts in Public Policy and Public Administration from Michigan State University and was fluent in both German and Spanish (having studied it for 12 years and lived in Spain) and had work experience as a public relations associate, an aid in the Colorado Senate and Michigan House of Representatives, and a research associate at the Institute for Public Policy and Social Research.

75. During business hours on April 4, 2016, Miller forwarded the application from Fitzpatrick along with a handful of other online applications for Posting 523 to Rushing, with a copy to Swedlund.

76. In addition, Miller's email forwarded online applications from:

Clint Sabin, which indicated that Sabin had a bachelor's degree in Public Relations and a Master of Public Administration and had previously worked in government affairs at the RTA, where he was paid a salary of \$92,000 per annum and reported to Steve Schlickman, RTA's Executive Director;

Elizabeth Norden, who reportedly had a bachelor's degree in political science and

government experience working at the Illinois Department of Natural Resources, the Illinois Toll Highway Authority, the Office of the Illinois Attorney General, and the Office of the Illinois Lieutenant Governor, at salaries as high as \$99,000 per annum; and

Seville Spearman, who reportedly had a bachelor's degree in sociology and a master's degree in public administration, and work experience in transportation planning for Northern Illinois University.

77. On information and belief, Swedlund, who was copied on Miller's email to Rushing, advised Donahue that Miller had begun forwarding applications for Posting 523 to Rushing, and the applications did not include an application from Sandoval II, the pre-selected applicant.

78. By then, Donahue had advised all of the other RICO Conspirators that Marty had been pre-selected as the successful candidate for Posting 523 as a bribe to Sen. Sandoval for favorable treatment in the Senate Transportation Committee.

79. When he realized that applications had begun to arrive at PACE, Donahue contacted Sen. Sandoval and told him to encourage Marty to tender an online application as soon as possible, and to send his resume to Donahue at Donahue's personal email address, an address that Sen. Sandoval knew and had used before.

80. Not coincidentally, after 10 pm on April 4, 2016, Sandoval II filed out an online application for Posting 523 on PACE's website and also emailed a copy of his resume to Donahue at what must have been Donahue's personal email address, inasmuch as no email from Sandoval II to Donahue on PACE's official servers was produced in discovery.

81. On April 4, 2016, Donahue received Sandoval II's resume at his personal email address, and on April 5, 2016, Donahue forwarded the resume to Swedlund, who in turn used her

official PACE email to forward the resume to Miller, on April 6, 2016.

82. Sandoval II's online application and resume reported that Marty had recently received a bachelor's degree in psychology and was working on a master's degree in social work, with work experience limited to a string of part-time jobs, some of which lasted no more than a month.

83. On April 13, 2016, Miller forwarded to Rushing a résumé from another applicant, Sean Arden.

84. Arden's résumé showed that he had a Bachelor's degree in Political Science and a Master's Degree in Public Administration and had work experience as a paralegal and intern at Hanover Township and the Village of Skokie.

85. On April 15, 2016, Miller forwarded to Rushing by means of a single email 32 online applications for Posting 523 as well as the resume that Arden had emailed to PACE and the emailed submission of Connor Fitzpatrick.

86. Thereafter, for reasons that have not been elucidated in admittedly incomplete written or oral discovery, only Arden was called in for an interview from the group of highly-qualified applicants that included Fitzpatrick, Sabin, Norden, Spearman, and Arden.

87. Rushing chose not to interview all highly qualified applicants because Rushing, along with Donahue, Swedlund, Miller, Sandoval II, and Sen. Sandoval, knew that any interviews of any applicants other than Sandoval II would be a sham whose sole purpose was to camouflage the fact that the "winner" of Posting 523 had been pre-selected.

88. On April 15, 2016, Miller forwarded to Swedlund, Donahue's executive assistant, by means of a separate, single-purpose email, the online application Sandoval II had filled out on the PACE website on April 4, 2016; the subject line read simply "Job Application from Web

Site.”

89. Nothing in the over 500 pages of documents produced by PACE in discovery says a single word about the fact that one of the applicants for Posting 523 was the son of an influential state senator who held substantial power over PACE and the RTA, nor is there any recognition of the heightened need to avoid an appearance of impropriety or expressly to certify that the final selection had not been motivated by an unlawful political purpose.

90. On April 29, 2016, Rushing and Miller conducted the first interviews for Posting 523.

91. On that day, they interviewed three applicants: two PACE incumbents, Fischer and Lawson, who lacked the minimum qualifications set forth in Posting 523, and one highly-qualified applicant, Sean Arden.

92. On May 3, 2016, Rushing and Miller interviewed three Hispanic-surnamed candidates (Hernandez, Ortiz, and Sandoval) for Posting 523.

93. Hernandez’ résumé stated that he had a Bachelor’s degree in political science with a minor (and fluency) in Spanish, and work experience in various private-sector non-transit related firms.

94. Ortiz’ résumé stated that he had a Bachelor’s degree in Communications and an MBA, but no discernible experience in government affairs.

95. As stated, Sandoval’s résumé stated that he had a Bachelor’s degree in psychology and was working on a master’s degree in social work, and had, during college and graduate school, held a string of part-time jobs, most recently in a hospital.

96. Significantly, it appears that Sandoval II’s description of his “work experience” at Saint Anthony’s Hospital is a slightly modified cut-and-paste of the Summary Job Description in

Posting 523.

97. By way of one example, the Summary Job Description says, “Develops and maintains positive relationships within an assigned territory. Acts as liaison for PACE with External stake holders including communities, businesses, local elected officials, staff and community organizations to market PACE services, foster good will and convey information on PACE initiatives.”

98. Marty’s description of his experience at Saint Anthony’s says “Acts as a liaison in maintaining and building strong relationships and collaborations with key community stakeholders and elected officials as well as hospital management, physicians, and associates.”

See Id.

99. Even so, Sandoval II was one of seven candidates that Rushing chose from a field of 80 for an interview.

100. The interview notes taken by Miller in all of the interviews that she attended are almost entirely illegible (even to Miller herself) and substantively undecipherable.

101. Neither the interview notes taken by Miller nor by Rushing purport to score or rank the candidates in any discernible fashion, let alone a fashion that is quantitative and comparative.

102. On May 11, 2016, another highly-qualified candidate, Joshua Steinberg, was subjected to a sham interview by Rushing and Miller.

103. Steinberg’s résumé showed a Bachelor’s degree in Public Affairs and Spanish (with fluency) and a long history of government experience.

104. During Steinberg’s sham interview, neither Rushing nor Miller was in a position to assess Steinberg’s claimed Spanish-language fluency because neither Rushing nor Miller has

any knowledge of Spanish.

105. But a good faith, comparative appraisal of Steinberg, or any other candidate for Posting 523, was not necessary or within the contemplation of Donahue and the RICO Conspirators because Donahue had already made a decision corruptly to hire Marty and enlisted the RICO Conspirators to execute the predicate acts alleged herein to achieve that objective by managing the affairs of the RICO Conspiracy.

106. As before, the interview notes of the interview of Steinberg, to the extent they are legible, do not purport quantitatively or comparatively to assess Steinberg relative to any other candidate.

107. Like Arden, Steinberg was not called back for a second interview for reasons that are not clear from the record, notwithstanding his substantial qualifications and experience.

108. Later, Rushing testified that Steinberg did not express an interest in transit, notwithstanding the fact that he applied for Posting 523 and appeared at PACE's offices for an interview.

109. Rushing testified that, by contrast, the successful candidate had demonstrated an interest in transit by taking buses from time to time.

110. After the interview of Steinberg on May 11, 2016, a total of seven candidates out of a universe of 80 had been interviewed by Rushing and Miller in April and May 2016, including the two PACE incumbents, Arden, Hernandez, Steinberg, Ortiz, and Sandoval.

111. However, only Ortiz and Sandoval were called back for second interviews.

112. The two call-back interviews of Ortiz and Sandoval were conducted on May 16, 2016, by Rushing and Miller, with an appearance, for the first time, by Donahue.

113. Rushing recalled that Donahue was present for the entirety of both of the call-

back interviews.

114. By contrast, Donahue testified that he did not attend the interviews and that the candidates were merely taken to his office and introduced to him.

115. On or around May 17, 2016, Kirk Dillard, a Republican who became chairman of the RTA Board of Directors in June 2014, and was familiar with Gress, called Donahue to inquire about Gress' application and to recommend that Gress be given serious consideration for Posting 523.

116. The next day, at 2:53 pm on May 17, 2016, Miller, at the behest of Swedlund and Donahue, asked Marsha Borek in PACE's HR Department whether Lawrence Gress had submitted an application for Posting 523.

117. Borek searched only among the online applications submitted through PACE's website and answered (incorrectly) in the negative.

118. That same day, May 17, 2016, at 5:48 pm, while Dillard's inquiry about Gress was still pending, Rushing hurriedly prepared and tendered to Donahue, a one-page "Justification to Hire" identifying Sandoval II as the most highly qualified of all candidates (many of whom were highly qualified but never interviewed) and recommending that Sandoval II be hired for Posting 523. *See* Exhibit 4.

119. It was the intention of Donahue, Swedlund, Rushing, and the other RICO Conspirators to act quickly to offer Posting 523 to Sandoval II, and to tell Dillard that his inquiry about Gress was moot because the position had already been offered and accepted by someone else.

120. The Justification for Hire had signature blocks for Donahue, Marion Roglich, PACE's head of Human Resources, and Thomas J. Ross, the Executive Director of PACE. *Id.*

121. Neither Roglich nor Ross had any personal involvement in the process to fill Posting 523 and were therefore entirely dependent on the grounds set forth in the one-page Justification for Hire.

122. The next morning, on Wednesday, May 18, 2016, at 8:29 am, Donahue responded as follows to Rushing's email of the prior evening: "This is approved. I will be in Friday to sign the original but you can start the process now if you want. Thanks, Rocky."

123. On information and belief, on May 18, 2016 Donahue was anxious quickly to approve the Justification for Hire because he wanted to moot Dillard's inquiry and deliver in person to Sen. Sandoval the good news about the happy coincidence that Sandoval II had bested 79 other applicants -- many of whom appeared on paper to be vastly better qualified than Sandoval II.

124. By approximately 11:00 am on May 18, 2016, just hours after Donahue had approved the hiring of Sandoval II, Miller found the resume that Gress had faxed to PACE in April as his application for Posting 523 and forwarded it to Swedlund, who shared it with Donahue.

125. Donahue decided that the best course was quickly to conclude the hiring of the pre-selected candidate so that Dillard's inquiry would not result in any disappointing news for Sen. Sandoval.

126. Thereafter, Miller telephoned Sandoval II to tell him what he by then had already heard from his father, Sen. Sandoval, namely, that Sandoval II had beaten out 79 other candidates, including former high-ranking employees of RTA such as Clint Sabin, to win Posting 523.

127. On May 31, 2016, Miller sent Rushing an email stating that "Martin has accepted

the position, however he is [un]able to start on June 27, 2016.”

128. Sandoval II’s acceptance of Posting 523 did not moot concerns about the status of Gress’s application for that position.

129. Donahue, Swedlund, Rushing, Miller and the other RICO Conspirators decided that Rushing and Miller would conduct a sham interview of Gress, in order to mollify Dillard and hide any appearance of corruption or favoritism in the hiring process.

130. On June 9, 2019, Rushing sent an email to Miller asking her to schedule an interview with Gress, subject to her availability.

131. On or around June 13, 2016, by means of a letter of even date, Miller, at the behest of the other RICO Conspirators, used the United States mail to tender a conditional written offer of employment to Sandoval II, knowing that the conditional offer was the result of a bogus review and interview process.

132. Also on June 13, 2016, Miller proposed to Rushing, in an email, some possible dates and times for a sham interview of Gress.

133. Miller and Rushing and the other RICO Conspirators knew it was important to avoid any mention of Marty’s parentage and “go through the motions” of a non-corrupt interview process by conducting sham interviews so as to hide the fact that Marty had been pre-selected.

134. It was also important to interview Gress to create a false appearance that all highly qualified applicants had been interviewed, especially one recommended by the RTA Chairman.

135. On June 14, 2016, Rushing suggested an interview of Gress the following day at 11 am.

136. Gress appeared on June 15, 2016, at PACE for an interview with Rushing and

Miller.

137. At no time before the commencement of this civil action did Gress have any reason to think that he had spent time and money to appear for a sham interview -- a sham because it was for a position that was no longer available.

138. Indeed, Gress never imagined that public officials, entrusted with taxpayer dollars, would stoop to using citizens as unwitting pawns in order to stage a scene to hide their own misconduct.

139. PACE had received Gress' submission long before Rushing tendered the Justification for Hire to Donahue and before Posting 523 had been orally offered to and accepted by Marty.

140. As stated, on June 15, 2016, Rushing and Miller conducted the sham interview of Gress for the Community Relations Representative position.

141. During the interview, neither Rushing nor Miller attempted to assess Gress' Spanish-language fluency, and neither appeared to be in a position to do that because neither had any knowledge of Spanish.

142. During the interview, Gress confirmed that which was set forth in his résumé, namely, that he had previously worked for PACE and RTA in the Six-County Area as a marketer, manager and outreach coordinator, and that he had established a nationally-recognized record of success in those roles, and that Rushing could confirm that by speaking to RTA and PACE professionals and consulting their own books and records.

143. Gress felt that the interview had confirmed he was an ideal and uniquely qualified candidate for the Community Relations Representative position.

144. However, as a former employee and agent of PACE and RTA and a citizen of the

State of Illinois, Gress was aware of the long history of corrupt, politically-motivated hiring at the RTA and its service boards.

145. Gress knew, for example, about the 2012 scandal when RTA Executive Director Joseph Costello hired an unqualified and incompetent Chief of Staff (Jordan Matyas) solely because Matyas was the son-in-law of Speaker Michael Madigan and notwithstanding his utter lack of qualifications or pertinent experience.

146. Gress also knew about the allegations of unlawful pressure to make patronage hires in the April 2013 memo from Alex Clifford, and that Clifford's memorandum alleged that two Metra board members had said that Clifford must be ousted from his position for not acceding to Speaker Madigan's requests for politically-motivated employment actions because that would result in a loss of future funding from the General Assembly.

147. Gress also knew about the March 2014 Task Force Report that had documented a longstanding and deeply entrenched culture of patronage hiring at RTA and its service boards.

148. Notwithstanding the patronage-riddled past of RTA and its operating divisions, Gress hoped that after years of scandal and loss of public trust, RTA and PACE had redoubled efforts to curtail unlawful hiring practices, such as hiring based on racial discrimination, age discrimination, political patronage, cronyism, and political pressures, and that such efforts would permit his merit and superior qualifications to carry the day.

149. However, Gress soon began to suspect that, as in the past, PACE's hiring practices might be influenced by "pay to play" politics in Springfield, where low-stress sinecures were gifted to inexperienced candidates in order to curry favor with politicians yielding control over PACE.

150. On July 19, 2016, having heard nothing from PACE, Gress sent an email to

Rushing inquiring about the status of his application.

151. On July 28, 2016, Miller used the United States mail to tender to Gress a letter that she knew was a sham, intended to create the false impression that Gress had been considered for Posting 523, but passed over in favor of a more highly qualified candidate.

152. Shortly thereafter, Gress received from PACE a letter dated July 28, 2016, signed by Miller, stating as follows:

Dear Mr. Gress,

Thank you for taking the time to interview with PACE Suburban Bus for the Community Relations Representative position at our PACE Headquarters. It was a pleasure meeting you.

Your work background was certainly of interest to us and warranted careful consideration. The decision was a difficult one, but we have concluded that another candidate is best suited to our specific requirements at this time.

Once again, thank you very much for your time and interest in PACE. Best wishes to you in all of your future endeavors.

153. The letter to Gress was a lie.

154. After Marty was pre-selected for Posting 523, Gress' background was a matter of complete indifference to Donahue and the RICO Conspirators and was given no consideration, inasmuch as the decision to hire Marty was an easy one, given who his father was.

155. The letter was truthful to the extent it said that hiring Marty as a bribe to Sen. Sandoval for favorable treatment was perceived by Donahue and the RICO Conspirators as better suited to PACE's specific requirements than hiring a better-qualified candidate who could actually do the job.

156. Gress, himself a former HR professional with many years of experience in that field, was shocked by Miller's letter and sent a reply dated August 1, 2016, in which he threatened to investigate whether PACE had in fact selected another candidate who possessed

superior qualifications, in accordance with PACE's standard hiring procedures.

157. PACE did not respond to Gress' letter.

158. Thereafter, Gress learned that the successful candidate for the Community Relations Representative position, known as "Marty," was a young, 20-something Hispanic male who had recently (in December 2012) graduated from Northeastern Illinois University with a Bachelor's degree in Psychology (not political science) and was enrolled at the University of Illinois, pursuing a master's degree in social work, which he expected to pursue while employed at PACE.

159. Gress also learned that Marty's résumé claimed:

- no prior experience marketing or doing business on behalf of PACE or RTA (or anyone else) in the Six-County Area;

- experience in the spring of 2012, while Marty was still enrolled in college, "[c]onduct[ing] an observational study at the Chicago Children's museum to study the correlation between crowdedness [sic] in the exhibits and the visitors' engagement";

- post-college experience during one month, January 2013 (the month after he graduated from college), as a "facilitator trainer" for the "ACT program";¹

- experience in another month (October 2013) as a "Certified Application Counselor," which apparently meant that Marty assisted citizens to apply for insurance under the Affordable Care Act;

- experience as a part-time employee at Saint Anthony Hospital from 2012 (when

¹ The resume described the ACT program as "a national research-based initiative designed to educate families to create safe, nurturing, healthy environments that protect children and youth from violence and its consequences; in that one-month capacity, the successful candidate educate[d] families on basic information on child development, risk factors for violence and its consequences, protective factors and skills for effective parenting, such as anger management, peaceful conflict resolution, discipline, and media violence education, and about participating in the community's efforts on prevention."

he was enrolled in college) through the time of his 2016 application for the Community Relations Representative position as a “Community Resource Educator,” where he “provid[ed] services to clients [sic] based on client needs,” and as a “Community Relations Network Specialist,” maintaining and building relationships with unspecified community “stakeholders” and elected officials (presumably Sen. Sandoval) as well as hospital management, physicians, and associates; and

-- employment from 2008 through 2012 (while Marty was reportedly still enrolled in either high school or college) by the Pilsen Wellness Center, Inc., as a Quality Assurance Analyst, Corporate Compliance Assistant, and Assistant to the President.

See Exhibit 5.

160. In sum, Gress found that the successful candidate had: no transit or government-related experience; no Bachelor’s degree in Political Science; less than two years of experience in government affairs, if he had any at all; no experience developing and maintaining relationships between PACE and stakeholders of PACE in the Six-County Area; and no experience as a senior marketing officer, general manager, or sales director for any transit-based entity.

**PACE Studiously Disregarded Gress’
Application and Superior Qualification for
Posting 523**

161. As stated, *supra*, on April 28, 2016, Gress saw Posting 523 and concluded that his qualifications were a close match for the Qualifications of the Community Relations Representative sought by PACE.

162. Thinking he was an ideal candidate for Posting 523, on April 28, 2016, Gress faxed his résumé to PACE. *See* Exhibit 6.

163. Gress' resume reported that he had previously worked for the RTA from 1993 through 2005.

164. From 1993 through 1998, Gress was the human resources generalist manager for RTA.

165. In that capacity, Gress was responsible for a full range of human-resource general manager duties and developed an intimate familiarity with the RTA and its three service boards, including PACE, and their professionals and transit-related missions in the Six-County Area.

166. In 1998, Gress was promoted into the newly-created role of Manager of the RTA Transit Benefit program.

167. By all accounts, Gress was remarkably successful in the new role.

168. As such, Gress had been recognized and promoted for his work at RTA before he left RTA on good terms when he was recruited to work for various contractors of RTA and PACE.

169. Posting 523 sought a Community Relations Representative with a Bachelor's degree in Political Science or related field.

170. As reflected in his résumé, Gress had received a Bachelor's degree in Political Science from St. Ambrose University in Davenport, Iowa.

171. Posting 523 sought a minimum of two years of experience in government affairs and also stated that "[t]ransit *or* government related experience [was] desirable." (Emphasis supplied.)

172. By the time Gress applied for Posting 523, he had in excess of 20 years of transit experience and dealing with governmental entities in the Six-County Area in respect of the Transit Benefit Program.

173. Gress had been personally responsible for developing and maintaining positive relationships between PACE and various stakeholders in the Six-County Area where the Community Relations Representative would be expected to work.

174. As reflected in his résumé, from 2012 through 2015, Gress had marketed VENTRA-linked computerized human resource benefit programs to corporate executives in the Six-County Area on behalf of a contractor to PACE and CTA.

175. Similarly, from 2005 through 2008, Gress was the Director of Sales and Marketing of Human Resource Benefits for ACCOR Corporate Services pursuant to a contract between ACCOR and the RTA.

176. In that capacity, Gress successfully marketed RTA Transit Check, a “Qualified Transportation Fringe” benefits program allowed under Section 132(f) of the Internal Revenue Code to senior human resource corporate executives throughout the Six-County Area, adding over 300 new corporate clients and increasing program participation to over \$65 million in annual sales with the participation of over 7,000 corporate customers.

177. In marketing this tax-advantaged commuter benefits program, Gress spoke on behalf of PACE, in addition to RTA’s other operating divisions, and traveled throughout the Six-County Area marketing the new employer-provided benefit program, in tandem with a third-party contractor that provided back-end fulfillment support services.

178. As a human resources generalist manager for the RTA, Gress called on human resources contemporaries throughout the Six-County Area.

179. Thus, by the spring of 2016, Gress had experience i) in both transit and government-related endeavors of RTA and PACE in the Six-County Area; ii) acting on behalf of, or working for both RTA and PACE in the Six-County Area; iii) in tracking and managing

multiple projects for RTA and PACE in the Six-County Area; and iv) in writing, research, and community relations on behalf of RTA and PACE in the Six-County Area.

180. At the time he applied for Posting 523, Gress also had a demonstrated record of success as a marketer and strong customer service skills.

181. In his previous engagements involving RTA, PACE, and the Qualified Transportation Fringe and Ventra program, Gress had traveled frequently and worked early morning, evening and weekend hours.

182. Admittedly, Gress was not fluent in Spanish, but Posting 523 said that was desirable, but not required, and the previous incumbent (Mary Robb) had retired from the Community Relations Representative position after receiving consistently positive reviews -- without ever having fluency in Spanish.

183. In addition, by the time of his faxed application for the CRR position, Gress was already a nationally recognized transit expert who had already established a track record of making lasting contributions to community relations for the transit benefit fare-paying program on behalf of RTA, CTA, Metra, and PACE.

184. As stated in his résumé, Gress helped establish RTA's transit benefit program in the 1990s and was recognized for his work on behalf of the RTA by the American Public Transportation Association, the national industry association (APTA).

185. In recognition of his successful career, in 1997 the APTA invited Gress to address its National Convention.

186. By the time of his application for the Community Relations Representative position, Gress had also been recognized by the RTA for the quality of his work.

187. Gress co-chaired an industry committee that investigated obstacles to the

implementation of the transit benefit program and helped re-design and streamline the “RTA Transit Check” in the process.

188. During his career at the RTA, Gress collaborated with a Senior Vice President of the CTA, John Flynn, on the rollout of the “Chicago Card” electronic transit payment program.

189. When Flynn left the CTA to work for the outside contractor providing back-end services related to the VENTRA program, Flynn recruited Gress to assist with the rollout of those products on behalf of CTA, Metra, and PACE.

190. When RTA fare collection became a public-private partnership, Gress worked with community and business groups throughout the region to speed acceptance of the new cost-cutting fare collection program.

191. Gress’ work was of such consistently high quality that he assisted private vendors who had community relations as their top priority, all the while relating to RTA and CTA on their behalf.

192. Moreover, to the extent that PACE had any doubt about Gress’ prior qualifications and experience, as adumbrated in Gress’ résumé, it could have easily consulted the books and records of RTA, which reflected in detail Gress’ long and successful career promoting transit-related agendas of RTA in the Six-County Area.

193. In addition, PACE could have easily consulted senior managers at RTA and its Chairman, Kirk Dillard, who had recommended Gress and knew him to be a top-notch professional.

194. To be sure, Marty, unlike Gress, claimed that he was fluent in Spanish, but Posting 523 said that was desirable, but not required, and the previous incumbent in the job (Mary Robb) was uniformly deemed successful without any proficiency in Spanish.

195. To all outward appearances, Gress, a Caucasian seasoned professional with years of highly pertinent and successful experience, had been passed over in favor of a young and inexperienced Hispanic recent college graduate with a degree in Psychology and a string of temporary short-term, part-time jobs while in college and graduate school.

196. Moreover, it appeared that PACE could not articulate a legitimate, nondiscriminatory reason for refusing to hire Gress for the Community Relations Representative position.

197. Gress filed a charge of race and age discrimination with the EEOC and the Illinois Department of Human Rights, alleging he had been denied employment because of his protected status as to race and age; that charge was assigned docket number 440-2017-00581.

198. PACE, through its employees Rushing, Donahue, Miller, and Ross, discriminated against Gress, a seasoned professional, based on his age and race in order to hire a young Hispanic candidate.

199. It would appear that PACE may have also discriminated against Gress for not being the politically-connected son of a State Senator who exercises oversight over PACE and the RTA.

200. However, neither age nor race nor inherited political clout has any principled bearing on Gress or Marty's qualifications *vel non* for the Community Relations Representative position.

201. In addition, Gress noted with dismay that Donahue had participated in the final interview of Sandoval.

202. Gress viewed this as an ominous portent because he knew that Donahue had a long-established reputation as a "fixer" for political patronage requests from members of the

General Assembly, beginning in his days as a Director of Governmental Affairs for PACE.

203. Even after Donahue had been promoted to PACE's Deputy Executive Director of External Relations, the governmental affairs section continued to report directly to him.

204. PACE cannot articulate any principled basis for its professed belief that Sandoval is minimally qualified for the Community Relations Representative position, let alone better qualified than Gress.

205. PACE's inability to articulate a legitimate, nondiscriminatory reason for refusing to hire Gress for the Community Relations Representative position was confirmed on December 12, 2016, when PACE submitted its Position Statement in EEOC Charge No. 440-2017-00581.

206. In its Position Statement, PACE asserts that the decision to not hire Gress was made without regard to age, race, *or any other illicit factor*, without expressly mentioning the political factors proscribed by Section 3A.05 of the RTA Act, 70 ILCS 3615/3A.05.

207. In its Position Paper, PACE contends, conclusorily, that Gress was denied employment because Gress' experience, interview performance, and salary expectations "compared unfavorably" to the experience, interview performance and salary expectations of Marty.

208. This cannot be true.

209. The salary range for the Community Relations Representative position was set forth in Posting 523; Gress never expressed any salary expectation outside that range.

210. PACE attempts to justify its hiring of Sandoval by stating that Marty speaks Spanish.

211. However, even if Marty's "interview performance" included an assessment of his fluency in the Spanish language as it relates to conducting business, this is of no moment

because the vacancy that Marty was being interviewed to fill had been created by the retirement of an incumbent (Mary Robb), who received positive performance reviews during her incumbency, and did not speak Spanish.

212. In any event, PACE's purported focus on Sandoval's professed ability to speak Spanish conflicts with Posting 523, which states that Spanish language fluency was "desirable," but not an essential qualification for the Community Relations Representative position.

213. PACE attempts to justify its hiring of Sandoval by stating that before accepting a job application from Gress and interviewing him, PACE had already extended an offer of employment to Sandoval.

214. The notion that Gress was not hired because at the time PACE interviewed Gress, PACE had already extended an offer to Sandoval is ludicrous on its face, inasmuch as it suggests that after recognizing Gress' résumé as among the "most worthy" it had received, PACE delayed interviewing Gress until after the Community Relations Representative position had been filled, and then, without telling anyone, let alone Gress, only interviewed Gress for the already-filled position as a "courtesy."

215. Whatever it may be, delaying the interview of an obviously meritorious candidate and then deliberately wasting his time by inviting him to interview for an already-filled position is not a "courtesy."

216. In light of the foregoing facts, PACE's justifications for favoring the son of Sen. Sandoval, Chairman of the Senate Transit Committee, over Gress are clearly pretextual and obviously intended to camouflage PACE's discrimination based on race and age and/or the political factors prohibited by Section 3A.05 of the RTA Act, 70 ILCS 3615/3A.05 and the honest services fraud act, 18 U.S.C. § 1346.

217. If PACE indeed focused on Spanish language fluency in this instance, it did so only as a dog-whistle marker for Marty's Hispanic background, not as the deciding factor in his selection.

218. PACE cannot credibly claim that the ability to speak Spanish is so essential to success in the Community Relations Representative position that an unqualified Spanish speaker was preferable to a highly qualified English-only (read: White) transportation expert, with 20 years of intimate familiarity with PACE, its services, territory, and fares, as evidenced by the fact that Mary Robb, the previous incumbent in that position, had by all accounts done a commendable job without any fluency in Spanish.

219. PACE has practiced the invidious discrimination prohibited by federal and state laws and regulations, by disguising it with an opaque and senseless hiring process followed by ludicrous and pretextual explanations.

220. At all times pertinent hereto, Section 2-102(A) of the Illinois Human Rights Act has stated that it “[i]t is a civil rights violation . . . for any employer to refuse to hire, to segregate, or to act with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges or conditions of employment on the basis of unlawful discrimination.” 775 ILCS 5/1 - 102(A).

221. At all times pertinent hereto, Section 1-103(Q) of the Illinois Human Rights Act has defined “[u]nlawful discrimination” as “discrimination against a person because of his or her race, color, religion, national origin, ancestry, age, sex, marital status, handicap or unfavorable discharge from military service as those terms are defined in this Section.” 775 ILCS 5/1-103(Q).

222. Section 3A.05 of the Regional Transportation Authority Act, 70 ILCS 3615/1.01, et seq., provides that “[n]o unlawful discrimination, as defined and prohibited in the Illinois

Human Rights Act, shall be made in any term or aspect of employment nor shall there be discrimination based upon political reasons or factors. The Suburban Bus Board shall establish regulations to insure that its discharges shall not be arbitrary and that hiring and promotion are based on merit.” 70 ILCS 3615/3A.05.

223. The foregoing facts demonstrate that the only possible motivation behind PACE’s refusal to hire Gress in deference to a vastly less-qualified applicant is unlawful discrimination.

COUNT I
VIOLATION OF TITLE VII
(AGAINST PACE AND RTA)

224. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1 through 223 of this Complaint.

225. Plaintiff brings this Count I pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e *et. seq.*, as amended by the Civil Rights Act of 1991.

226. As alleged, Plaintiff has filed this Complaint after the timely filing of a Charge of Discrimination based on his age and race (Caucasian) with the Equal Employment Opportunity Commission, a true and correct copy of which is attached hereto as Exhibit 1.

227. The actions of the managers of PACE alleged herein are inconsistent with good faith efforts to comply with Title VII.

228. Plaintiff has filed this cause pursuant to a Right to Sue Letter issued by the Equal Employment Opportunity Commission within the statutory time requirements, a true and correct copy of which is attached hereto as Exhibit 2.

229. Plaintiff, at all times pertinent hereto, was a person older than 40 protected by the provisions of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000e-5(b).

230. Gress was indisputably and clearly qualified for the Community Relations Representative position, and vastly better qualified than the younger Hispanic candidate who was awarded the position, supposedly for his superior “community outreach,” “interview demeanor,” and fluency in Spanish.

231. As such, Gress was subject to an adverse employment action, inasmuch as he was refused employment based on his race and age even though he was obviously better qualified than the successful candidate.

232. By hiring Sandoval, PACE gave disparate treatment to Sandoval, an inferior candidate outside of Gress’ protected class.

233. PACE at all times pertinent hereto, operated and did business within the venue and jurisdiction of this judicial circuit and is an employer as defined by 42 U.S.C. 2000e(b) and employed more than fifteen individuals as defined by 42 U.S.C. 2000e(b).

234. In direct violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e *et. seq.*, PACE engaged in the discriminatory acts alleged herein and described in the attached Charge of Discrimination attached hereto as Exhibit 1 and incorporated herein by reference.

235. As a result of Defendant’s discriminatory conduct, as aforesaid, Plaintiff has suffered an injury to his career as well as emotional pain, suffering, inconvenience, mental anguish, professional embarrassment, and loss of enjoyment of life, and other non-pecuniary losses for which he is entitled to compensatory damages pursuant to 42 U.S.C. 1981a.

236. Defendant’s racially discriminatory conduct, as aforesaid, was done with malice and/or reckless indifference to Plaintiff’s civil rights. Plaintiff is therefore entitled to punitive damages pursuant to 42 U.S.C. Sec. 1981a.

WHEREFORE, plaintiff prays as follows:

- A. for an award of back pay from June 2016, through the present, including wages, pension benefits, insurance benefits, accrued sick leave and other fringe benefits;
- B. for an award of front pay in an amount to be determined by this Court, including wages, pension benefits, insurance benefits, accrued sick leave and other fringe benefits;
- C. for an award of compensatory damages for emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life and other non-pecuniary damages;
- D. for an award of punitive damages in an amount to be determined at the time of trial;
- E. for attorney's fees and costs of this suit, including expert witness fees;
- F. for pre-judgment interest in an amount to be determined at the time of trial; and
- G. for such other relief as is just and equitable.

~~**COUNT II**~~
~~**VIOLATION OF TITLE VI**~~
~~**(AGAINST PACE AND RTA)**~~

~~237. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1 through 134 of this Complaint.~~

~~238. Section 601 of Title VI, codified at 42 U.S.C. § 2000d, states that “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”~~

~~239. At all times pertinent hereto, PACE and RTA have been recipients of federal financial assistance, the primary objective of which is to provide employment.~~

~~240. In addition, the racially discriminatory employment practices alleged herein and in the Charge of Discrimination are subject to Title VI because those practices negatively affect the delivery of PACE services to their ultimate beneficiaries.~~

~~241. As such, PACE and RTA are prohibited from intentionally subjecting any person to discrimination based on race, or excluding any person from participation in PACE or RTA activities on grounds of race.~~

~~242. As alleged above, PACE and RTA intentionally subjected Plaintiff to discrimination based on race and excluded him from employment because of his race by favoring a demonstrably unqualified and inexperienced candidate over Gress.~~

~~243. In denying Gress employment, PACE and RTA, acting through Defendants Rushing, Donahue, Miller and Ross, took a tangible employment decision that inflicted direct economic harm on Gress and required an official act of the enterprise; was documented in official company records; was subject to review by higher level supervisors; and required the formal approval of the enterprise and use of its internal processes.~~

~~WHEREFORE, plaintiff prays as follows:~~

~~A. for an award of back pay from June 2016, through the present, including wages, pension benefits, insurance benefits, accrued sick leave and other fringe benefits;~~

~~B. for an award of front pay in an amount to be determined by this Court, including wages, pension benefits, insurance benefits, accrued sick leave and other fringe benefits;~~

~~C. for an award of compensatory damages for emotional pain, suffering,~~

~~inconvenience, mental anguish and loss of enjoyment of life and other non-pecuniary damages;~~

~~D. for attorney's fees and costs of this suit, including expert witness fees;~~

~~E. for pre-judgment interest in an amount to be determined at the time of trial; and~~

~~F. for such other relief as is just and equitable.~~

COUNT III
ADEA VIOLATION
(AGAINST PACE AND RTA)

244. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1 through 223 of this Complaint.

245. Plaintiff has filed this Count III pursuant to the requirements of Section 14(b) of the ADEA, 29 U.S.C. § 633(b), and the requirements of the EEOC.

246. Plaintiff, at all times pertinent hereto, was a resident within the venue and jurisdiction of this judicial district and was within the protected age group (over the age of 40) as provided by the ADEA.

247. At all times pertinent hereto, Defendant operated and did business within the venue and jurisdiction of this judicial district.

248. Plaintiff was denied employment by Defendants in June 2016 because of Plaintiff's age.

249. In direct violation of the ADEA, Defendants, both directly and by and through their agents and employees, willfully engaged in the discriminatory acts described in the Charge of Discrimination alleged above.

250. As a result of Defendant's discriminatory conduct, as aforesaid, Plaintiff has been

damaged in his career and has otherwise suffered monetary damage.

251. WHEREFORE, plaintiff prays as follows:

A. for an award of back pay from June 2016, through the present, including lost wages, pension benefits, insurance benefits, accrued sick leave and other fringe benefits;

B. for an award of front pay in an amount to be determined by this Court, including wages, pension benefits, insurance benefits, accrued sick leave and other fringe benefits;

C. for attorney's fees and costs of this suit, including expert witness fees;

D. for pre-judgment interest in an amount to be determined at the time of trial; and

E. for such other relief as is just and equitable.

COUNT IV
VIOLATION OF 42 U.S.C. § 1981 INTENTIONAL RACIAL
DISCRIMINATION
(AGAINST ALL DEFENDANTS EXCEPT THE SANDOVALS)

252. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1 through 223 of this Complaint.

253. Section 1981 prohibits intentional race discrimination that inhibits the right "to make and enforce contracts." 42 U.S.C. § 1981(a).

254. As alleged above, all Defendants, including Defendants PACE, Donahue, Miller, Ross, Rushing, and Swedlund intentionally engaged in racially discriminatory practices while acting under color of law and thereby inhibited Gress' right to enter into an employment contract with PACE.

255. Defendants PACE, Donahue, Miller, Ross, Rushing, and Swedlund caused PACE to discriminate against Gress and to refuse to enter into an employment contract with Gress because of his race.

256. WHEREFORE, plaintiff prays as follows:

A. for an award of back pay from June 2016, through the present, including wages, pension benefits, insurance benefits, accrued sick leave and other fringe benefits;

B. for an award of front pay in an amount to be determined by this Court, including wages, pension benefits, insurance benefits, accrued sick leave and other fringe benefits;

C. for an award of compensatory damages for emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life (“hedonic damages”) and other non-pecuniary damages;

D. for an award of punitive damages in an amount to be determined at the time of trial;

E. for attorney’s fees and costs of this suit, including expert witness fees;

F. for pre-judgment interest in an amount to be determined at the time of trial; and

G. for such other relief as is just and equitable.

~~COUNT Va~~
~~VIOLATION OF 42 U.S.C. § 1983 – CONSPIRACY~~
~~(AGAINST ALL DEFENDANTS EXCEPT PACE AND RTA)~~

~~257. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1 through 134 of this Complaint.~~

~~258. This Count pleads a claim that is like or reasonably related to the EEOC Charge~~

~~and can be reasonably expected to grow out of an investigation of the EEOC charges.~~

~~259. Defendants knowingly, impliedly and expressly conspired and agreed to violate Plaintiff's constitutional right to be subject to hiring decisions based on his merit and qualifications and free from discrimination based on age, race, or perceived political connections and cronyism.~~

~~260. In furtherance of this conspiracy, Defendants committed overt and unlawful acts in concert and under color of law to interfere with Plaintiff's application for the CRR position by secretly undermining his application in order to hire a demonstrably inferior candidate.~~

~~261. The Executive Director of PACE is a final policymaker who authorized, directed, induced or ratified the actions of Defendants.~~

~~262. As a direct and proximate result of such violations, Plaintiff has suffered actual damages.~~

~~263. Defendants' actions were undertaken with malice, willfulness and reckless indifference to Plaintiff's rights.~~

~~264. Defendants' actions are willful, wanton, malicious, reckless and support punitive damages.~~

~~WHEREFORE, plaintiff prays as follows:~~

~~A. for an award of back pay from June 2016, through the present, including wages, pension benefits, insurance benefits, accrued sick leave and other fringe benefits;~~

~~B. for an award of front pay in an amount to be determined by this Court, including wages, pension benefits, insurance benefits, accrued sick leave and other fringe benefits;~~

~~C. for an award of compensatory damages for emotional pain, suffering,~~

~~inconvenience, mental anguish and loss of enjoyment of life and other non-pecuniary damages;~~

~~C. for an award of punitive damages in an amount to be determined at the time of trial;~~

~~E. for attorney's fees and costs of this suit, including expert witness fees;~~

~~F. for pre-judgment interest in an amount to be determined at the time of trial; and~~

~~G. for such other relief as is just and equitable.~~

~~**COUNT Vb**~~
~~**VIOLATION OF RTA ACT SECTION 2.14**~~
~~**(AGAINST ALL DEFENDANTS EXCEPT PACE AND RTA)**~~

~~265. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1 through 134 of this Complaint.~~

~~266. This Count pleads a claim that is like or reasonably related to the EEOC Charge and can be reasonably expected to grow out of an investigation of the EEOC charges.~~

~~267. Section 2.14 of the RTA Act expressly prohibits discrimination based upon political reasons or factors: "No unlawful discrimination, as defined and prohibited in the Illinois Human Rights Act, shall be made in any term or aspect of employment nor shall there be discrimination based upon political reasons or factors."~~

~~268. RTA is required to comply with Section 2.14 and the principles enunciated by the United States Supreme Court in *Rutan v. Republican Party of Illinois*, 497 U.S. 62 (1990), such that non-exempt hiring, promotion, transfer and other employment-related decisions may not be based upon political affiliation or support.~~

~~269. However, by contrast to *Rutan*, which permits employment decisions based upon~~

~~political factors for certain “exempt” employees, Section 2.14 states categorically that there shall be no discrimination based upon political reasons or factors in employment decisions, without distinction between any class or type of employees.~~

~~270. The prohibitions against political factors in section 2.14 apply to the appointment of all employees, including the Executive Director.~~

~~271. Notwithstanding Section 2.14’s clear prohibition against hiring motivated by discrimination based on race and age or patronage, cronyism or nepotism the Defendants intentionally chose, *inter se*, to disregard that prohibition.~~

~~272. The Executive Director of PACE is a final policymaker who authorized, directed, induced or ratified the actions of Defendants.~~

~~273. As a direct and proximate result of such violations, Plaintiff has suffered actual damages.~~

~~274. Defendants’ actions were undertaken with malice, willfulness and reckless indifference to Plaintiff’s rights.~~

~~275. Defendants’ actions are willful, wanton, malicious, reckless and support punitive damages.~~

~~WHEREFORE, plaintiff prays as follows:~~

~~A. for an award of back pay from June 2016, through the present, including wages, pension benefits, insurance benefits, accrued sick leave and other fringe benefits;~~

~~B. for an award of front pay in an amount to be determined by this Court, including wages, pension benefits, insurance benefits, accrued sick leave and other fringe benefits;~~

~~C. for an award of compensatory damages for emotional pain, suffering,~~

~~inconvenience, mental anguish and loss of enjoyment of life and other non-pecuniary damages;~~

~~D. for an award of punitive damages in an amount to be determined at the time of trial;~~

~~E. for attorney's fees and costs of this suit, including expert witness fees;~~

~~F. for pre-judgment interest in an amount to be determined at the time of trial; and~~

~~G. for such other relief as is just and equitable.~~

~~**COUNT VI**~~
~~**INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC**~~
~~**ADVANTAGE**~~
~~**(AGAINST ALL DEFENDANTS EXCEPT PACE AND RTA)**~~

~~276. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1 through 134 of this Complaint.~~

~~277. Gress had a reasonable expectation of entering into a valid business relationship with the RTA and its operating division, PACE because his qualifications were nearly a mirror-image of the qualifications set forth in the Posting.~~

~~278. Defendants PACE, Rushing, Donahue, Miller and Ross had knowledge of the Plaintiff's reasonable expectation.~~

~~279. Purposeful interference by Defendants PACE, Rushing, Donahue, Miller and Ross prevented Plaintiff's reasonable expectation from ripening into a valid business relationship.~~

~~280. Defendants' purposeful interference was both intentional and improper and included actions that violated Title VI and Section 2.14.~~

~~281. Defendants' actions were motivated by self-interest to advance the interests of Defendants by permitting them to curry favor with Senator Martin Sandoval and thereby safeguard funding and privileges enjoyed by RTA and PACE.~~

~~282. Defendants' actions interfered with Plaintiff's civil rights and the fundamental right of a citizen to expect that public entities and federally funded entities will obey the law and refrain from engaging in discrimination based on age, race or political connections.~~

~~283. Defendants' actions were direct and illegal as Defendants took direct actions against Plaintiff knowing that such actions were forbidden by law including by the Regional Transportation Authority Employment Policy and constituted Official Misconduct under the Illinois Criminal Code, 720 ILCS 5/33-3.~~

~~284. As a direct and proximate result of the Defendants' Official Misconduct and criminal misconduct, Plaintiff has suffered actual damages.~~

~~285. Defendants' actions were unjustified and undertaken with malice, willfulness and reckless indifference to the rights of others.~~

~~WHEREFORE, plaintiff prays as follows:~~

~~A. for an award of back pay from June 2016, through the present, including wages, pension benefits, insurance benefits, accrued sick leave and other fringe benefits;~~

~~B. for an award of front pay in an amount to be determined by this Court, including wages, pension benefits, insurance benefits, accrued sick leave and other fringe benefits;~~

~~C. for an award of compensatory damages for emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life and other non-pecuniary damages;~~

~~C. for an award of punitive damages in an amount to be determined at the time of trial;~~

~~E. for attorney's fees and costs of this suit, including expert witness fees;~~

~~F. for pre-judgment interest in an amount to be determined at the time of trial; and~~

~~G. for such other relief as is just and equitable.~~

~~**COUNT VII**~~
~~**ILLINOIS CIVIL CONSPIRACY**~~
~~**(ALL DEFENDANTS EXCEPT PACE AND RTA)**~~

~~286. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1 through 134 of this Complaint.~~

~~287. Defendants PACE, Rushing, Donahue, Miller and Ross knowingly and impliedly and expressly conspired and agreed for the purpose of accomplishing an unlawful purpose by unlawful means by concerted action to circumvent Section 2.14 and violate Plaintiff's civil rights, to engage in tortuous and criminal actions including intentional interference with economic advantage and to engage in racial and age discrimination as well as politically motivated patronage, cronyism, and nepotism.~~

~~288. In furtherance of this agreement and as a means thereof, Defendants committed overt tortuous or unlawful acts.~~

~~289. As a direct and proximate result of such conspiracy, Plaintiff has suffered actual damages.~~

~~290. Defendants' actions were unjustified and undertaken with malice, willfulness and reckless indifference to the rights of others.~~

~~291. Defendants' actions were willful, wanton, malicious and deserving of punitive~~

~~damages.~~

~~WHEREFORE, plaintiff prays as follows:~~

~~A. for an award of compensatory damages for emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life and other non-pecuniary damages;~~

~~B. for an award of punitive damages in an amount to be determined at the time of trial;~~

~~C. for attorney's fees and costs of this suit, including expert witness fees;~~

~~D. for pre-judgment interest in an amount to be determined at the time of trial; and~~

~~E. for such other relief as is just and equitable.~~

COUNT VIII
VIOLATION OF 18 U.S.C. § 1962(C) – RACKETEER
INFLUENCED CRIMINAL ORGANIZATION (RICO) ACT

(AGAINST DEFENDANTS ROCKY DONAHUE, JANIKA MILLER,
THOMAS J. (T.J.) ROSS, SUSAN RUSHING, MARTIN SANDOVAL II,
SENATOR MARTIN SANDOVAL, AND LINDA SWEDLUND)

292. Plaintiff repeats and realleges each of the allegations set forth in paragraphs 1 through 223 of this Complaint.

293. Since approximately 1999, it has been a class 3 felony in Illinois for “[a]ny officer, agent, or employee of, or anyone who is affiliated in any capacity with any unit of local government . . . [to] make[] a false entry in any book, report, or statement of any unit of local government . . . with the intent to defraud the unit of local government” 720 ILCS § 5/33E-15.

294. Moreover, under Illinois law, it is unlawful for any public officer or employee

knowingly to perform an act that he knows he is forbidden by law to perform.
720 ILCS § 5/33-3(b).

295. At all times pertinent hereto, the Illinois Criminal Code, 720 ILCSA 5/33-3, has defined Official Misconduct as follows:

Sec. 33-3. Official misconduct.

(a) A public officer or employee . . . commits misconduct when, in his official capacity or capacity as a special government agent, he or she commits any of the following acts:

(1) Intentionally or recklessly fails to perform any mandatory duty as required by law; or

(2) Knowingly performs an act which he knows he is forbidden by law to perform; or

(3) With intent to obtain a personal advantage for himself or another, he performs an act in excess of his lawful authority; or

(4) Solicits or knowingly accepts for the performance of any act a fee or reward which he knows is not authorized by law.

* * *

(c) A public officer or employee or special government agent convicted of violating any provision of this Section forfeits his or her office or employment or position as a special government agent. In addition, he or she commits a Class 3 felony.

720 ILCS 5/33-3(a), (c).

296. Section 3A.05 of the RTA Act, 70 ILCS 3615/3A.05 prohibits PACE from engaging in unlawful discrimination in hiring, as defined and prohibited in the Illinois Human Rights Act, prohibits “hiring discrimination based upon political reasons or factors;” and requires regulations be established to “insure [sic] that its discharges shall not be arbitrary and that hiring and promotion are based on merit.” 70 ILCS 3615/3A.05.

297. At all times pertinent hereto 18 U.S.C. § 1341 has provided generally that mail fraud has two elements, (1) a scheme to defraud, and (2) the mailing of a letter, etc., for the

purpose of executing the scheme.

298. At all times pertinent hereto, the “honest services fraud” statute, found at 18 U.S.C. § 1346, has been an adjunct to the general federal fraud statutes that prohibit mail fraud, wire fraud, and other types of fraud, including 18 U.S.C. § 1341, and has provided, in its entirety, that “[f]or the purposes of this [Chapter 18 of the United States Code], the term ‘scheme or artifice to defraud’ includes a scheme or artifice to deprive another of the intangible right of honest services.” 18 U.S.C. § 1346.

299. In interpreting the honest services fraud statute, the United States Supreme Court has found that it has “always been ‘as plain as a pikestaff that’ bribes and kickbacks constitute honest services fraud,” including bribes and kickbacks paid to public officials for favorable treatment.

The Fraudulent Scheme

300. On or around March 18, 2016, PACE published internally and, a week later, on its website, “Posting 523,” which publicly announced PACE’s intent to hire the best-qualified applicant for the “Community Relations Representative” position described in that Posting. *See* Exhibit 3.

301. Posting 523 stated that “PACE [would] select the candidate who possesses the best qualifications in accordance with standard hiring procedures.”

302. The “standard” hiring procedures followed with respect to the job vacancy described in Posting 523 included multiple steps.

303. First, the Government Affairs Department decided to hire a new Community Relations Representative to fill the vacancy created by the retirement of Mary Robb.

304. The position to be filled was then described in a Posting circulated internally at

PACE for five business days, visible only to existing PACE employees.

305. Posting 523 would contain qualifications a candidate must have, such as a bachelor's degree in Business Administration, Political Science, Public Administration "or related field."

306. Thereafter, after about five business days, the Posting was published on the PACE website where applicants who could apply online by filling out a form summarizing their qualifications and work experience.

307. The statement in Posting 523 that standard hiring procedures would be employed was a lie, because by then or shortly thereafter Donahue and the RICO Conspirators had already determined and knew that Marty had been secretly and corruptly pre-selected to fill Posting 523.

308. By April 2016 Sen. Sandoval had communicated to Donahue his desire that Marty be gifted a sinecure at PACE, to provide income to Marty as he completed a master's degree in social work.

309. Sen. Sandoval was concerned that Marty might otherwise have difficulty getting his first salaried full-time position, because of the Catch-22 that one generally needs work experience to get hired, but can't get work experience without being hired.

310. Donahue knew that an opening in his department had been created for a Community Relations Representative after the retirement of Mary Robb.

311. Before her retirement, Robb had successfully carried out her duties as a Community Relations Representative in the Six-County Area without fluency in the Spanish language.

312. Donahue was anxious to ensure that Sen. Sandoval would continue to provide favorable treatment to PACE in the General Assembly and the Transportation Committee of the

Senate.

313. Donahue asked Sen. Sandoval if the position left vacant by Robb's retirement would be acceptable to him and Marty.

314. Donahue and Sen. Sandoval agreed that the vacancy created by the retirement of a non-Spanish speaking incumbent (Mary Robb) in the job contemplated by Posting 523 would, if given to Marty, permit Marty to collect a salary from PACE while completing his master's degree.

315. Donahue advised Rushing and the other RICO Conspirators that Donahue had agreed with Sen. Sandoval that PACE would give the position contemplated by Posting 523 to Marty in order to curry favor with Sen. Sandoval and ensure that Sen. Sandoval would be lenient and indulgent in his oversight of PACE in the Transportation Committee and give favorable treatment to PACE that might otherwise not be forthcoming.

316. Donahue told Rushing and the other RICO Conspirators that giving Marty a job was a cost-effective way to curry favor with Sen. Sandoval and that they should make sure Marty got the job while making it appear that Marty had received the job through merit, not a corrupt, back-room deal.

317. By being subjected to the shocking and cynical humiliation of sham interviews, Gress and the six other interviewees (other than Marty) suffered injuries to their property and their persons.

318. PACE did not pay the interview-related out-of-pocket and other expenses incurred to prepare for and appear at the sham interviews or otherwise compensate the sham interviewees for serving as unwitting pawns in the fraudulent scheme.

319. Donahue admonished the RICO Conspirators that participating in the fraudulent

scheme would benefit PACE and thereby enhance their job security as employees of PACE, and that refusal to participate in the fraudulent scheme would expose them as “non-team players” who, like Alex Clifford, might find themselves subject to diminished status in the organization.

320. Rushing and the other RICO Conspirators decided that Rushing and Miller would “stage the scene” by interviewing a few of the most highly qualified applicants for Posting 523 in order to create the appearance of a rational, non-corrupt hiring process but, at the last, quietly give the job to Marty, based, pretextually, on intangibles in his interview performance.

321. Donahue and Sen. Sandoval discussed the fact that Marty did not have the minimum qualifications that a Community Relations Representative for PACE was expected to have.

322. For example, Marty did not have a bachelor’s degree in Business Administration, Political Science, Public Administration or related field, except to the highly dubious extent that psychology is deemed to be a close substitute for business administration or political science.

323. However, Donahue and Sen. Sandoval resolved to obfuscate Marty’s lack of minimum qualifications by suggesting that Spanish language fluency was a factor.

324. Donahue and Sen. Sandoval agreed that after Posting 523 was “live” on PACE’s website, Marty would tender an application and PACE would pretend to conduct a normal, non-corrupt hiring process in which Marty would eventually and quietly prevail.

325. Thereafter, Posting 523 indicated that the successful candidate would be eligible to receive a salary in a range of \$56,043 to \$99,337.

326. In his capacity as a PACE official, Donahue and the other RICO Conspirators each owed a duty of honest services to PACE and the taxpayers who funded PACE in the performance of their respective duties.

327. The submissions received from existing PACE employees, from the website, or from submissions sent directly to insiders at PACE totaled 80 in all.

328. As they were received, the online and other applications were subjected to a review to determine what subset of applicants was qualified and should be brought in for an interview.

329. Significantly, not every “qualified” applicant was granted an interview.

330. The selection of applicants to review was based on an exercise of discretion by Defendant Rushing, based on a heuristic that is obscure at best.

331. That is because Rushing and the other RICO Conspirators had resolved to “stage the scene” by conducting a relatively small number of sham interviews.

332. The sham interviews would be subject to a “Goldilocks Rule” in that they would include candidates who were qualified but not too qualified so as to create the false appearance that the fundamentally corrupted hiring process was genuinely seeking the best candidate for the job.

333. After qualified – but not too highly qualified -- applicants were identified and earmarked for interviews, interviews were scheduled by Miller, Rushing, and Swedlund, at the behest of the other RICO Conspirators, all of whom knew the interviews were a sham to hide the bribe being paid to Sen. Sandoval.

334. Here, of the 80 applicants who tendered a submission for Posting 523, only eight applicants were interviewed, with the last sham interview (of Gress) occurring after, unbeknownst to Gress, the position had already been offered and accepted by the winning candidate.

335. The sham interviews to fill Posting 523 were scheduled by Defendant Miller, who

copied Rushing and Swedlund on all correspondence regarding the interviews so as to ensure that Donahue and all of the RICO Conspirators were kept abreast of the progress of the fraudulent scheme.

336. The interviews in this case were conducted by two persons, Rushing and Miller, except that Donahue participated in the call-back interviews of Marty and one other candidate.

337. The notion that Posting 523 required fluency in Spanish was inserted into the process in order to create a red herring that would help obscure Marty's lack of minimum qualifications.

338. Interviewers Rushing and Miller partially completed note-taking forms for the applicants they interviewed (all of them).

339. However, Miller's forms were mostly blank or all but completely illegible, even to her, and did not assess any overall score for any candidate.

340. Similarly, Rushing's notes do not compare or discernibly rate any of the candidates but seem instead to consist of scattershot, disconnected recitations of words or phrases that she heard during the interview.

341. Neither Rushing nor Miller ranked any of the Candidates by any discernible scoring method.

342. After seven of the 80 persons interested in Posting 523 had been interviewed, Rushing and Miller advised Donahue's secretary Swedlund that they had identified two finalists, candidates who would be called back for a second interview, which interview was to be a head to head comparison that would identify the successful candidate.

343. The candidates called back were Marty and one another applicant called Daniel Ortiz.

344. Ortiz, like all the other interviewees for Posting 523 except Marty, was being used as a human prop to create a false appearance that Marty had some competition for Posting 523 and therefore was not a shoo-in for the job.

345. On May 16, 2019, Ortiz and Marty were each interviewed one after the other.

346. On that date, Donahue attended the call-back interview of Marty and Ortiz, cynically to lend an air of legitimacy to what Donahue knew were sham interviews.

347. Donahue had met Marty some years before, in December 2012, in Sen. Sandoval's office in Springfield and therefore knew who Marty was and that he could expect special consideration from Sen. Sandoval for hiring Marty.

348. Like Donahue and the other RICO Conspirators, Rushing knew early in the hiring process for Posting 523 that Marty was Sen. Sandoval's son.

349. Donahue and the RICO Conspirators studiously avoided creating any paper trail that mentioned Marty's parentage; there is no mention of that in any of the over 500 pages of discovery produced by PACE in this dispute, nor any mention in the Justification for Hire prepared by Rushing and submitted to Donahue and Ross for approval.

350. Moreover, the Justification for Hire contains no certification that the recommendation is not motivated by political reasons or factors, as required by Section 3A.05 of the Regional Transportation Authority Act, 70 ILCS 3615/1.01, et seq.

351. Neither Rushing nor anyone else at PACE prepared a list summarizing the qualifications of the applicants who were interviewed and describing why two applicants were selected as finalists or certifying that political considerations played no role in the process of that selection of two final candidates – including Marty – out of a field of 80 applicants.

352. That is because Donahue and the RICO Conspirators knew all along that Marty

had been pre-selected to get Posting 523 as a bribe to Marty's father.

353. Perhaps the most obvious indication that the hiring process for Posting 523 was corrupt and that "the fix was in" from the start was the so-called "Justification for Hire" drafted by Rushing and submitted to senior managers to approve the hiring of Marty.

354. That Justification for Hire fails to include any of the putative justifications more recently set forth in PACE's Position Statement in EEOC Charge No. 440-2017-00581.

355. A cursory examination of Rushing's Justification for Hire shows that it is nothing more than a fig leaf intended to hide the fact that Marty was to get the job regardless of merit, and got it despite his demonstrably deficient qualifications.

356. Defendants are persons within the meaning of 18 U.S.C. § 1961(3).

357. At all relevant times, the coordinated efforts of Donahue and the RICO Conspirators ("the Sandoval Enterprise") constituted an "Enterprise" within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c).

358. At all relevant times, the Sandoval Enterprise was engaged in, and/or its activities affected, interstate commerce and/or foreign commerce within the meaning of 18 U.S.C. § 1962(c).

359. At all relevant times, the Defendants who comprised the Sandoval Enterprise were the natural persons named herein as the "RICO Conspirators."

360. Donahue and the RICO Conspirators participated in the operation, management, and directed the affairs of the Sandoval Enterprise.

361. The Sandoval Enterprise acted in furtherance of a criminal conspiracy that deprived taxpayers of the honest services of Donahue and the RICO Conspirators and culminated in the corrupt and unwarranted hiring of Martin Sandoval II over Gress, all by carrying out the

corrupt and deceitful acts alleged herein, thereby causing great injury to Gress and to PACE, which was saddled with an unqualified incumbent in the position contemplated by Posting 523.

362. The Defendants' activities were interrelated, not isolated, and involved a calculated series of repeated violations of the law in order to conceal and promote illegal activity, namely the politically-motivated hiring of a young and unqualified Hispanic applicant over a highly qualified and much older Caucasian applicant under a smokescreen created by "going through the motions" of a rational and non-corrupt hiring process.

363. Donahue and the RICO Conspirators are directly involved in the corrupt conspiracy as they personally performed fraudulent and deceitful acts to benefit Sen. Sandoval and his son, Marty, all in furtherance of the corrupt conspiracy furthering patronage, theft of public monies, and nepotism.

364. The predicate acts herein are numerous and exhibit a variety of actions, all of them part of an elaborate charade to hide the fact that PACE was hiring an unqualified job applicant in order to curry favor with his father, the Chairman of the Transportation Committee with oversight authority over PACE.

365. The predicate acts follow a pattern established years earlier at PACE.

366. This instance of corruption in hiring began in the spring of 2016 and has continued to the present day because Martin Sandoval II continues to receive a paycheck for a job he never deserved and never should have been given.

367. The victims in this scheme include the taxpayers who are entitled to expect better and expect honest services in exchange for the taxes collected and expended to support and subsidize PACE.

368. The charade that granted the job to Sandoval II was composed of multiple

separate schemes and is part of a larger and systematic pattern of corruption and patronage in PACE hiring practices.

369. The scheme caused multiple and distinct injuries to Gress and other applicants for the position contemplated by Posting 523, as well as to taxpayers who were deprived of honest services that they had paid for and were entitled to expect.

370. The scheme involved mail and wire fraud in order to execute, and to entice on false pretenses applicants to appear for sham interviews.

371. PACE fraudulently represented to at least seven applicants that Posting 523 would be given to the most qualified applicant in order thereby to induce applicants to appear and be used as puppets to create the appearance of a rational and non-corrupt hiring process.

372. PACE had an obligation under applicable law and its own internal policies and rules to exercise good faith discretion in selecting the most qualified job candidate.

373. The unlawful conduct of Donahue and the RICO Conspirators is continuing as of the date of this Complaint, inasmuch as it is with their knowledge and corrupt acquiescence that Sandoval II continues to receive each month an unmerited paycheck for a position that he was never qualified to fill, let alone qualified to fill over Gress.

374. But for the unlawful conduct of Donahue and the RICO Conspirators, Gress would not have incurred the costs in time and money, to say nothing of the humiliation, of appearing for a sham interview, and would have had a bona fide chance to win Posting 523.

375. It was foreseeable that the fraudulent scheme would impose costs on all of the applicants summoned for sham interviews including costs of time, travel, and preparation for the sham interviews.

376. The racketeering acts alleged herein affected individuals associated in fact, who

sought thereby to perpetuate their own continued employment by gifting tax dollars that did not belong to them.

377. The RICO Defendants' direct and indirect participation in the Sandoval Enterprise's affairs through the pattern of racketeering activity described herein constitutes a violation of 18 U.S.C. § 1346 as a scheme or artifice to defraud and to deprive another (Gress, other qualified applicants for the position contemplated by Posting 523, and the taxpayers who fund PACE) of property and the intangible right of honest services.

378. The predicate acts of racketeering alleged herein affect interstate commerce because they degrade the operations of an entity receiving federal funds, dissipate taxpayer funded subsidies by improperly gifting them, and affect an entity that is engaged in an activity that affects interstate commerce.

379. As alleged herein, the RICO Defendants committed more than two acts of continuous and related racketeering within a ten-year period.

380. As a proximate cause of the predicate acts, Gress incurred unreimbursed costs and expended personal resources to appear for a sham interview, and suffered great distress and embarrassment upon learning that he was duped into appearing by false pretenses and omissions.

381. The RICO Defendants' direct and indirect participation in the Sandoval Enterprise's affairs through the pattern of racketeering activity described herein constitutes a violation of 18 U.S.C. § 1962(c).

382. The RICO Defendants are associated with the Sandoval Enterprise.

383. The RICO Defendants abused their positions of trust in a taxpayer-funded entity and intentionally breached their duty to provide honest services therein to further yet another in a seemingly endless series of acts in furtherance of patronage, theft, and nepotism that culminated,

in 2016, with the hiring of an unqualified young Hispanic applicant over a much older but highly-qualified Caucasian applicant.

384. The predicate acts alleged herein constitute a pattern of racketeering activity within the contemplation of 18 U.S.C. § 1961(5).

385. Each of the predicate acts referred to in the preceding paragraphs was for the purpose of executing the Sandoval Enterprise's unlawful scheme, to curry favor with Sen. Sandoval by conferring an unmerited, taxpayer-funded tribute upon his son.

386. Sen. Sandoval's son received the salaried position at PACE as a gift, not the logical consequence of any merit, and because Sen. Sandoval had secretly promised favorable treatment of PACE in the Transportation Committee of the General Assembly as a quid pro quo for the pre-selected hiring.

387. Defendant members of the Sandoval Enterprise engaged in such acts with the specific intent of furthering that scheme, willfully and with knowledge of the illegality of said scheme.

388. As alleged herein, Defendants who comprise the Sandoval Enterprise have conducted or attempted to conduct activities with the intent to promote the carrying on of specified unlawful activity, namely the hiring of politically-connected individuals regardless of their qualifications.

389. It may be tempting to imagine that Sandoval II's hiring is merely an isolated instance of corrupt patronage hiring at PACE.

390. However, as alleged above, history tells us that this is not the case and that the only effective way to stop corrupt hiring practices at PACE is to expose them, by shining a light on them.

391. Defendants discriminated and conspired to discriminate against Plaintiff when they failed to hire him as a Community Relations Representative because of his lack of a secret patronage sponsor in the General Assembly, in violation of state and federal law, including Section 3A.05 of the Regional Transportation Authority Act, 70 ILCS 3615/1.01, et seq. and Title 18 United States Code, Sections 1341, 1346, and 2.

392. As a direct and proximate result of the racketeering activities and violations of 18 U.S.C. § 1962(c) alleged herein, Plaintiff has been injured in his business and property in that, among other things, he was fraudulently induced to incur costs and expenses to appear for a sham interview and thereby humiliated, degraded and denied a genuine opportunity to gain employment at PACE.

WHEREFORE, Plaintiff Gress demands judgment against Defendants Rocky Donahue, Janika Miller, T.J. Ross, Susan Rushing, Martin Sandoval II, Sen. Martin Sandoval, and Susan Swedlund jointly and severally,

- A. for an award of compensatory damages for lost wages, emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life and other non-pecuniary damages;
- B. for an award of trebled punitive damages in an amount to be determined at the time of trial;
- C. for attorney's fees and costs of this suit, including expert witness fees;
- D. for pre-judgment interest in an amount to be determined at the time of trial; and
- E. for such other relief as is just and equitable.

Respectfully submitted this 26th day of August 2019,

LAWRENCE H. GRESS,

By:



Kent Maynard, Jr.
One of his Attorneys

Kent Maynard, Jr.
KENT MAYNARD & ASSOCIATES LLC
53 West Jackson Boulevard, Suite 1240
Chicago, Illinois 60604-3632
312/423-6586
312/878-1553 (FAX)
service@kentmaynard.com

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

Respectfully Submitted,

A handwritten signature in blue ink, consisting of a stylized 'K' followed by a long horizontal flourish.

Kent Maynard, Jr.
One of his Attorneys

EXHIBIT 1

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

FEPA
 EEOC

CHARGE NUMBER
440-2017-00581

ILLINOIS DEPARTMENT OF HUMAN RIGHTS

and EEOC

State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.)
Lawrence Gress

HOME TELEPHONE (Include Area Code)

STREET ADDRESS CITY, STATE AND ZIP CODE
c/o Goldman & Ehrlich, 20 S. Clark St, Ste 500, Chicago, IL 60603

DATE OF BIRTH
11-25-50

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME
Pace Suburban Bus

NUMBER OF EMPLOYEES, MEMBERS
15+

TELEPHONE (Include Area Code)
847-364-8130

STREET ADDRESS CITY, STATE AND ZIP CODE
550 W. Algonquin Rd, Arlington Heights, IL 60005

COUNTY
Cook

NAME TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS CITY, STATE AND ZIP CODE

COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate boxes)

DATE DISCRIMINATION TOOK PLACE
EARLIEST (ADEA/EPA) LATEST (ALL)

RACE COLOR SEX RELIGION AGE
 RETALIATION NATIONAL ORIGIN DISABILITY OTHER (Specify)

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

*** SEE ATTACHED ***

RECEIVED EEOC

NOV 03 2016

CHICAGO DISTRICT OFFICE

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

Date 11/1/2016 Charging Party (Signature)

SUBSCRIBED AND SWORN TO BEFORE ME THIS

(Day, month, and year) 11/3/2016



CHARGE OF DISCRIMINATION

Lawrence Gress and Pace Suburban Bus

The Particulars Are:

I. A. ISSUES/BASIS

1. Failure to hire because of Age (over 40).

B. PRIMA FACIE ALLEGATIONS

1. In or about June 2016, the Complainant applied for a position with the respondent as a Community Relations Representative.
2. In or about July 2016, the Complainant was interviewed for the position.
3. On July 28, 2016, the Respondent issued correspondence to the Complainant notifying him that he had not been chosen for the position.
4. The Complainant is highly qualified for the position having worked in human resources at the Regional Transportation Authority for over 10 years and then with various RTA contractors.
5. The respondent selected a much younger individual with far less experience for the position.

II. A. ISSUES/BASIS

1. Failure to hire because of race (white)

B. PRIMA FACIE ALLEGATIONS

1. In or about June 2016, the Complainant applied for a position with the respondent as a Community Relations Representative.
2. In or about July 2016, the Complainant was interviewed for the position.
3. On July 28, 2016, the Respondent issued correspondence to the Complainant notifying him that he had not been chosen for the position.
4. The Complainant is highly qualified for the position having worked in human resources at the Regional Transportation Authority for over 10 years and then with various RTA contractors.

5. The respondent indicated after the selection that it was looking for someone who spoke Spanish. That requirement was not on the position posting and no one even asked the Complainant if he spoke Spanish.
6. The person selected for the position (Hispanic) is far less qualified for the position than the Complainant.

EXHIBIT 2



U.S. Department of Justice
Civil Rights Division
NOTICE OF RIGHT TO SUE WITHIN 90 DAYS

CERTIFIED MAIL
7003 0500 0002 5072 4337

950 Pennsylvania Avenue, N.W.
Karen Ferguson, EMP, PHB, Room 4701
Washington, DC 20530

August 15, 2017

Mr. Lawrence Gress
c/o John C. Goldman, Esquire
Law Offices of Goldman & Ehrlich
20 S. Clark Street
Suite 500
Chicago, IL 60603

Re: EEOC Charge Against Pace Suburban Bus
No. 440201700581

Dear Mr. Gress:

Because you filed the above charge with the Equal Employment Opportunity Commission, and more than 180 days have elapsed since the date the Commission assumed jurisdiction over the charge, and no suit based thereon has been filed by this Department, and because you through your attorney have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

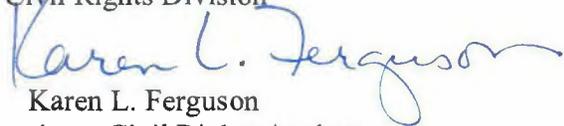
If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice.

The investigative file pertaining to your case is located in the EEOC Chicago District Office, Chicago, IL.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

John M. Gore
Acting Assistant Attorney General
Civil Rights Division

by 
Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: Chicago District Office, EEOC
Pace Suburban Bus

EEOC Form 161-B (11/16)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

To: Lawrence Gress
C/O Goldman & Ehrlich
20 South Clark Street, Suite 500
Chicago, IL 60603

From: Chicago District Office
500 West Madison St
Suite 2000
Chicago, IL 60661

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

Table with 3 columns: EEOC Charge No., EEOC Representative, Telephone No.
440-2017-00581, Lucia Garcia, Investigator, (312) 869-8175

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- More than 180 days have passed since the filing of this charge.
Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
The EEOC is terminating its processing of this charge.
The EEOC will continue to process this charge.

Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

Handwritten signature of Julianne Bowman

Julianne Bowman,
District Director

AUG 15 2017

(Date Mailed)

Enclosures(s)

cc: Nancy Carroll-zimmer
General Counsel
PACE
550 West Algonquin Road
Arlington Heights, IL 60005

Jonathan C. Goldman, Esq.
LAW OFFICES OF GOLDMAN & EHRLICH, CHTD.
20 South Clark Street
Suite 500
Chicago, IL 60603

EXHIBIT 3



An Equal Opportunity Employer

JOB POSTING - 523

Posting Date: March 18, 2016

Application Deadline: March 25, 2016

Location: Arlington Heights/Corporate

The following position is available to qualified applicants. Pace will select the candidate who possesses the best qualifications in accordance with standard hiring procedures. Please submit a written bid along with a resume directly to Human Resources. All bids will be held in strictest confidence. This job opening will be posted for no less than five (5) working days.

PLEASE NOTE: Resumes MUST accompany all bids. No bids will be accepted beyond the posting dates.

<u>Office</u>	<u>Department</u>	<u>Division</u>	<u>Position</u>	<u>Pay Grade/Range</u>
External Relations	Government Affairs	Corporate	Community Relations Representative	E4 - \$56,043 - \$99,337

SUMMARY JOB DESCRIPTION:

Develops and maintains positive relationships within an assigned territory. Acts as liaison for Pace with External stake holders including communities, businesses, local elected officials, staff and community organizations to market Pace services, foster good will and convey information on Pace initiatives. Executes local outreach campaigns for promotion of Pace related programs and services. Works closely with Pace staff. Conducts or represents agency at formal or informal hearings. Knowledge of complex activities and operations of local government. Assess and implement programs as it pertains to geographic territory. Negotiate very complex and sensitive issues. Effectively advocate the Pace agenda. Manage and direct numerous and various complex issues simultaneously. Develop effective advocacy networks and build effective coalitions. Performs other duties of similar nature and level as assigned.

QUALIFICATIONS:

Bachelor's degree in Business Administration, Political Science, Public Administration or related field. Minimum two years of experience in government affairs. Equivalent combination of education and experience sufficient to successfully perform the essential duties such as those listed above. Transit or government related experience is desirable. Excellent verbal and written communication skills. Experience in tracking and managing multiple projects, writing, research and community relations. Intermediate to advanced MS Windows applications is required. Strong customer service skills are essential and frequent travel, early morning, evening and weekend hours may be required. Fluency in Spanish desirable, but not required.

EXHIBIT 4



Memorandum

To: Rocky Donahue, Deputy Executive Director-External Relations

From: Sue Rushing, Department Manager-Community Relations

Date: May 17, 2016

RE: Justification for Hire – Community Relations Representative Position

In response to the job posting for the Community Relations Representative position, candidates were interviewed on April 29, May 3 and May 9, 2016. The interview team was comprised of Janika Scaife and Sue Rushing.

Those who were interviewed include:

Daniel Ortiz
Martin Sandoval
Amy Fischer
Renee Lawson
Joshua Steinberg
Sean Arden
Arabed Hernandez

Two (2) candidates were chosen for second interviews, which were conducted on May 16. Rocky Donahue, Sue Rushing, Janika Scaife and Elia Carmona interviewed the candidates.

Daniel Ortiz: Daniel currently works for Devry University as a Senior Admissions Advisor. He previously worked for the Chicago Fire and Enterprise Rent a Car. He speaks Spanish and has a BA from the University of Illinois and MBA from the Keller Graduate School of Management.

Martin Sandoval: Martin currently works for Saint Anthony Hospital as a Community Relations Network Specialist. He previously worked for the Pilsen Wellness Center as a Quality Assurance Analyst. He speaks fluent Spanish and has a BA in Psychology and is working toward a Masters of Social Work.

Based upon prior experience and interview outcome, I recommend that Martin Sandoval be hired as Community Relations Representative.

Rocky Donahue
Deputy Executive Director - External Relations

Marion Roglich
Department Manager - HR

T.J. Ross
Executive Director

EXHIBIT 5

Martin A. Sandoval II

EDUCATION

University of Illinois at Chicago, Chicago, IL
MSW, Masters in Social Work, August 2015 (Currently in School)

Northeastern Illinois University (NEIU), Chicago, IL
B.A., Psychology, December 2012
Minor, Social Work, December 2012

De La Salle Institute, Chicago, IL
H.S. Diploma, June 2008

Archbishop Quigley Seminary, Chicago, IL
Honorary Diploma, 2004 – 2007

EXPERIENCE**Saint Anthony Hospital**

January 2014 – Present

Mission and Community Development: Community Relations Network Specialist

- Acts as a liaison in maintaining and building strong relationships and collaborations with key community stakeholders and elected officials as well as hospital management, physicians, and associates. Supports in the planning and coordination of programs, services and events and is responsible for outreach/sales and dissemination of information to the community. Promotes Hospitals health fairs, special events and participates in community organizing for the purpose of linking community residents to hospital services. Provides administrative support to the Director of Community & Government Relations.

November 2012 – January 2014

Mission and Community Development: Community Resource Educator

- Provides services to clients based on client needs, areas of professional knowledge and skill, and in accordance with the mission and scope of services of the community Wellness Program. Help client's access health care, social services, and public benefits. Facilitates community-based education and support workshops, classes, and groups. Participates in community health and wellness activities. Oversees compliance with applicable grants, service contracts and reporting systems.

Pilsen Wellness Center, Inc.

June 2010 – November 2012

Quality Assurance Analyst

- Conducted administrative and clinical reviews to ensure the quality compliance of all program participants. Ensured that all Agency sites complied with the Health & Safety Plan through quarterly inspections.

June 2008 - 2010

Corporate Compliance Assistant

- Classified and sorted information according to guidelines for; content, purpose, user criteria, chronological, alphabetical, numerical order. Performed periodic/monthly inspections for all agency's vehicles and sites. Facility inspections were performed within the agency's health and safety protocols.

June 2006 - 2008

Executive Assistant to President/CEO

- Managed calendar and arranged travel plans; answered phones and directed all internal communication; arranged and facilitated appointments, meetings, conferences, and major community events; organized and drafted correspondence, including email, faxes, memos, and letters; maintained expenses reports and contact database; recorded and maintained minutes from meetings and forwarded information to respective personnel; established, maintained and revised records and filing systems.

UIC Urban Youth Trauma Center

September 2011 – November 2011

Volunteer Clinical Research Extern

ACHIEVEMENT & SKILLS

October 2013

Get Covered Illinois: Certified Application Counselor (CAC)

- Provides information sessions and meets with individuals one-on-one, answer questions about the Affordable Care Act (ACA) and the new Health Insurance Marketplace, finding health insurance that works for them, helps determine if they qualify for financial assistance, and guides the clients through the enrollment process.

January 2013

ACT Raising Safe Kids: Facilitator Training

- The ACT program is a national research-based initiative designed to educate families to create safe, nurturing, healthy environments that protect children and youth from violence and its consequences. Educate families on basic information on child development, risk factors for violence and its consequences, protective factors and skills for effective parenting, such as anger management, peaceful conflict resolution, discipline, and media violence education, and about participating in the community's efforts on prevention

Spring 2012

NEIU 20th Student Research & Creative Activities Symposium

- Conducted an observational study at the Chicago Children's museum to study the correlation between crowdedness in the exhibits and the visitors' engagement.
 - Award of Merit

Spring 2011 & 2012

NEIU Dean's List

2011

Illinois Legislative Latino Caucus Foundation (ILLCF) 9th Annual Conference

2

- Served as panelist for the Latino Student Leadership Workshop: Provided insights, knowledge, skills, and values for high school Latino students.

Fall 2011 - 2012

NEIU Student Government Association (SGA)

Council of Clubs Representative (COC)

- Council of Clubs is concerned with compliance of constitutions, by-laws, and charters of all student clubs and organizations on campus. The Council of Clubs approved, denied, renewed, suspended, and/or recommended revocations of charters of student clubs and organizations in accordance with the Charter Policy.

Spring – Fall 2011

NEIU Eagle Guide

- Served as a guide to showcase the quality and viability of Northeastern to all constituents, including prospective students and their families, donors, alumni, high school counselors, community college counselors and others.

NEIU Omega Delta Fraternity, Inc.

Spring – Fall 2012

- Vice President
- Secretary

Spring – Fall 2011

- Recruitment Chair

Spring – Fall 2010

- Philanthropy Chair
- Fundraiser Chair

Spring 2009

NEIU Leaders Emerging and Developing (L.E.A.D.)

- Participated in LEAD program for the development of leadership, skills, that included; service activities, leadership retreats, interpersonal exploration, communication skill development, and diversity encounters.

Proficient in Microsoft Office Programs, SPSS

Certified in CPR & First Aid by the American Heart Association

Bilingual Speaker in English and Spanish

VOLUNTEER SERVICE

September 2015 – Present

National Latino Education Institute: Emerging Leaders Professional Board Member

The Emerging Leaders Professional Board (ELPB) works as a catalyst to the National Latino Education Institute (NLEI) by connecting diverse, young professionals to the organization, while increasing the organization's brand visibility across the state of Illinois. ELPB will aim to provide advocacy, collaboration and innovation to its vision of promoting education, employment, economic and social progress for Latinos.

January 2015 - Present

Latino Youth High School Advisory Board: Member

3

June 2013 - Present

Senka Park Advisory Council: President

- The council promotes ways for the community to better utilize the Chicago Park District's programs and facilities; provide communication to the Chicago Park District on matters relating to their parks; increase community awareness of Chicago Park District projects; provide the community with a vehicle through which park information can be shared; and assist in locating alternate funding sources to enhance park facilities.

October 2014 - Present

St. Gall Parish Council: Member

June 2011 – August 2011

A Safe Haven Foundation

- Assisted in ordering and organizing Food Pantry distribution.

2010 – 2011

Mercy Home for Boys & Girls

- Organized Shamrock shuffle Campaign at Northeastern Illinois University

2010 - 2012

Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP)

- Served as student mentor to provide knowledge/feedback to students transitioning from high school to college.

EXHIBIT 6

Fax

To: *Human Resources Dept.*

From: *Lawrence Gress*

Company: *Pace Department.*

Company:

Fax Number: *847-228-4206*

Fax Number:

Phone Number:

Phone Number: [REDACTED]

Date/Time: *4/28/2016 19:07:31*

Total pages sent (including this one): 3

Comments:

To Whom It May Concern, Enclosed is a copy of my resume for your consideration for the position of Community Relations Representative.

Lawrence H. Gress

Cell: [REDACTED]

Home: [REDACTED]

larrygress@compast.net

**Cubic Transportation Systems-Chicago, IL
Regional H. R. Transit Benefits Representative**

Nov 2012 - December 2015

Responsible for Selling and Marketing H. R. benefit to Corporate Executives in 6-county Chicago Region via the VENTRA Transit Benefit program in accordance with the ten year contract between Cubic and CTA/PACE Transit entities.

**Standard Parking Corporation - Chicago, IL
Regional Business Development**

Oct. 2010 – November 2012

Responsible for new business growth and development. Secured two major contract bid proposals for Illinois municipalities of Rockford and Joliet. Hired directly by Corporate President.

**System Parking, L&R Group – Chicago, IL
Regional Manager Business Development**

October 2009 - June 2010

Responsible for “New Business” throughout Chicago with additional duties relating to the company nationwide. In addition was called upon for internal consultation on **Human Resources** activities within the Midwest Region of the company.

**American Lung Association – Chicago, IL
Vice President Corporate Relations**

June - November 2008

Responsible for major fund raising activities between the Lung Association and Chicagoland firms. Developed largest stair climb fund raising event currently per nationwide “Tackle the Towers.”

**ACCOR Services – Chicago, IL
Director Sales Marketing/ H R Benefit**

March 2005 - June 2008

In accordance with a contractual arrangement between Acor/ RTA (Regional Transportation Authority) performed account management duties with clients and sold the Human Resources “Commuter Benefit” program to senior corporate executives throughout the six county region. Added over 300 new clients and grew the program participation to over \$65 million in annual sales.

**Regional Transportation Authority – Chicago, IL
Human Resources Manager**

December 1993 - March 2005

Responsible for full range of H.R. generalist duties. Transitioned into newly created role of Manager of RTA Transit Benefit program in 1998. Began selling and marketing the Federal program allowed under Section (1 32-f) IRS Program in tandem with contractor that was providing fulfillment support services. Called on previous H R contemporaries throughout Chicagoland six county region. Grew the program from its inception into a \$65 million dollar program with over 7,000 corporate participating customers.

Eagle Search Associates – Oak Brook, IL

1991 - December 1993

Executive Search — owner of private search Human Resources consulting company with nationwide clients.

**Sara Lee Corp. – Chicago, IL
Booth Fisheries Division**

1987 - 1991

Director of Human Resources for 16 branch offices scattered throughout U.S. Duties included all generalist activities as well as corporate safety and labor relations activity. Company locations consisted of professional exempt staff as well as plant and labor groups covered by collective bargaining agreements. Total employees managed by HR staff were at around 500 full time employees.

Citibank – Chicago, IL

1983 - 1987

Corporate Director of Human Resources managed a staff of twelve exempt and non-exempt generalists. With the exception of training and compensation the department was responsible for all other human resource activities for the Chicago headquarters offices as well as 60 field Branch office locations.

Education - St. Ambrose University, Davenport, IA

Bachelor of Arts Political Science

Career Highlights
Lawrence H. Gress

Public Sector

Managed Regional Transportation Authority's RTA Transit Benefit Program from inception to a level of \$65 million in annual face value sales with over 7,000 corporate participants.

Trained CTA Sales/Marketing staff on the program and delivery of services through our contract fulfillment provider and also co-directed the national training program development team.

Treasurer on first board of directors for a nationwide public transit organization, The NTBA (National Transit Benefit Association). Marketed IRS Section 132-f, federally allowed pre-tax benefit to corporate employers nationwide.

Published in national benefits magazine discussing RTA program to nationwide employer groups as an appeal to induce participation locally and regionally in Chicago.

Interfaced directly with senior level management decision makers for several hundred Fortune 500 corporations regarding RTA program acceptance and installation.

Private Sector

Senior Corporate Human Resources Executive, Manager/Director for several Fortune 50 companies. These would include, Motorola, Frito-Lay, Sara Lee and Citicorp. Within these corporate structures, managed the Human Resources disciplines to include the following functions; recruitment and employment, training, compensation, EEO/affirmative action, safety and full benefits designs and vendor negotiations. Managed and directed work load for staff direct reports of up to 15 co-workers with annual budgets of over \$5 million dollars.

Successfully owned and operated an Executive Search Human Resources consulting practice.

Non Profit Sector

As the Vice President for Corporate Relations for the American Lung Association I created and instituted the first and largest, national stair climb event entitled "Tackle the Towers." This was designed for our Chicago based annual fund raising event to compete with the "Hustle up the Hancock" event put on by a rival agency.

Management Experience

- Managed up to 15 direct reports
- Developed MBO's and assessment programs
- Managed to a \$5 million budget
- Developed sales training programs
- Lead national training programs