OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

July 13, 2021

FILE NO. 21-002

PENSIONS:
Felony Forfeiture
of Pension Benefits

COPY

Mr. Timothy Blair
Executive Secretary
State Employees' Retirement System
2101 South Veterans Parkway
P.O. Box 19255
Springfield, Illinois 62794-9255

Dear Mr. Blair:

I have your letter inquiring whether, pursuant to section 14-149 of the Illinois Pension Code (the Pension Code) (40 ILCS 5/14-149 (West 2018)), Candace Wanzo, a member of the State Employees' Retirement System, has forfeited her pension benefits as a result of her conviction of mail fraud (18 U.S.C. §1341 (2012)), intentional misapplication of Secretary of State fees (18 U.S.C. §666(a)(1)(A) (2012)), and theft of Illinois Department of Revenue vehicle sales tax payments (18 U.S.C. §666(a)(1)(A) (2012)). For the reasons stated below, it is my opinion that Candace Wanzo's criminal conviction requires the forfeiture of her pension benefits.

500 South Second Street, Springfield, Illinois 62701 • (217) 782-1090 • TTY: (877) 844-5461 • Fax: (217) 782-7046
100 West Randolph Street, Chicago, Illinois 60601 • (312) 814-3000 • TTY: (800) 964-3013 • Fax: (312) 814-3806
601 South University Ave., Carbondale, IL 62901 • (618) 529-6400 • TTY: (877) 675-9339 • Fax (618) 529-6416

BACKGROUND

According to records of the United States District Court for the Central District of Illinois, on June 3, 2020, the United States filed a five-count Indictment against Wanzo. Indictment, *United States v. Wanzo*, No. 20-CR-30029 (C.D. Ill. June 3, 2020) (Indictment). Wanzo subsequently pled guilty to one count of mail fraud, one count of intentional misapplication of Secretary of State fees, and one count of theft of Illinois Department of Revenue vehicle sales tax payments.[1] Judgment in a Criminal Case, *United States v. Wanzo*, No. 20-CR-30029 (C.D. Ill. May 10, 2021) (Judgment). The court sentenced Wanzo to a term of imprisonment of eighteen months on each of the three counts, all to run concurrently, and a three-year term of supervised release on each of the counts, to run concurrently. Judgment, at 2-3. Wanzo was also ordered to make restitution to the State in the amount of $72,588.[2] Judgment, at 5. The offenses of mail fraud, intentional misapplication of Secretary of State fees, and theft of Illinois Department of Revenue vehicle sales tax payments are felonies under Federal law. *See* 18 U.S.C. §§666(a)(1)(A), 1341, 3559 (2012).[3]

---

[1]Count two (mail fraud) and count three (mail fraud) were dismissed on the motion of the United States. Judgment, at 1.

[2]Wanzo was ordered to pay $32,486 to the Office of the Secretary of State and $40,102 to the Illinois Department of Revenue. Judgment, at 5.

[3]A maximum term of imprisonment of more than one year is classified as a felony under Federal law. 18 U.S.C. §3559(a) (2012). The term of imprisonment set forth for a violation of 18 U.S.C. §1341 (2012) shall not be more than twenty years; however, when a violation is related to a presidentially declared disaster or affects a financial institution, the term of imprisonment shall not be more than thirty years. Regarding the remaining offenses, the maximum term of imprisonment authorized by statute shall not be more than ten years. *See* 18 U.S.C. §666(a)(1)(A) (2012).

The Indictment, pursuant to which the conviction was entered, indicates that from December 8, 1999, until April 6, 2018, Wanzo was employed in the Department of Vehicle Services of the Office of the Illinois Secretary of State (SOS). Indictment, at 1. Beginning on March 1, 2004, Wanzo held the position of Administrator of the Specialty Plates Section, and on April 1, 2009, Wanzo was promoted to the position of Supervisor of Vehicle Services Plates.[4] In these supervisory positions, Wanzo was responsible for the operation of the Public Service Center, located in Springfield, Illinois, and for the operation of the mobile units throughout the State of Illinois that were set up at various locations to conduct SOS business. Indictment, at 1-2. The Public Service Center and the mobile units were a means by which vehicle owners could apply for a license plate and vehicle registration in person.[5] Indictment, at 2. As a result of her position, Wanzo had access to title and registration fees and sales tax payments in the possession and custody of the SOS. Indictment, at 4.

According to the Indictment, prior to March 6, 2015, Wanzo began stealing title and registration fees and sales tax payments in the possession and custody of the SOS. Indictment, at 5. Additionally, from March 6, 2015, until April 17, 2017, Wanzo directed her staff to give her any cash title and registration fees and sales tax payments, and to conceal her theft, she replaced the funds she had stolen with title and registration fees received from other vehicle owners. Indictment, at 5. Further, without the permission or knowledge of her supervisors at the SOS and in contravention of SOS policy, Wanzo directed her staff at the

---

[4]It appears that Wanzo held both positions simultaneously. Indictment, at 1.

[5]The Indictment describes the process for the issuance of license plates and non-standard license plates at the SOS. Indictment, at 2-4.

Public Service Center to begin accepting cash for the payment of sales tax on behalf of the IDOR[6] and to deliver the cash payments to her in a yellow envelope at the end of the business day. Indictment, at 5.

In addition, Wanzo instructed her staff that any complaints from vehicle owners regarding title, registration, and other SOS fees were to be given to her and no one else at the SOS.[7] Indictment, at 6. In an effort to conceal her scheme, Wanzo caused license plates to be sent through the United Parcel Service, rather than by the United States mail, to vehicle owners who experienced delays in receiving their plates as a result of her actions. Indictment, at 6. The total amount of misapplied title and registration fees used to conceal the stolen title and registration fees was approximately $303,649. Indictment, at 5. Additionally, between December 19, 2008, and April 10, 2017, Wanzo stole approximately $40,102 in sales tax payments from the Public Service Center and mobile units. Indictment at 5.

Based on the above-described scheme, Count One of the Indictment alleged that, on May 16, 2016, for the purpose of executing or attempting to execute a scheme to defraud, Wanzo "knowingly caused to be sent and delivered by a private and commercial interstate carrier[,]" license plates to a vehicle owner in Chicago, Illinois. Indictment, at 6-7. Count Four of the Indictment alleged that Wanzo "intentionally misapplied property worth at least $5,000 and owned by and under the care, custody and control of [the SOS, a] government agency[.]"

---

[6]The SOS had discontinued the practice of accepting cash for sales tax payments in April 2007. Indictment, at 4.

[7]Wanzo created a complaint form for her staff to use to report any complaint from a vehicle owner regarding title, registration, and other SOS fees to her. Indictment, at 6.

Specifically, she misapplied "checks and money orders in the total amount of $13,196 representing title, registration, and other SOS fees." Indictment, at 8. Further, Count Five of the Indictment alleged that Wanzo, between October 14, 2015, and August 17, 2016, "stole property worth at least $5,000 and owned by and under the care, custody and control of [a] government agency" that were "vehicle sales tax payments." Indictment, at 9.

ANALYSIS

Section 14-149 of the Pension Code requires the forfeiture of a participant's retirement annuities and other pension benefits upon his or her conviction of a service-related felony and provides, in pertinent part:

> Felony conviction. *None of the benefits* herein provided for shall be paid to any person who is convicted of any felony *relating to or arising out of or in connection with his service as an employee*. (Emphasis added.)

The purpose of the felony forfeiture provisions in the Pension Code is to discourage official misconduct and to implement the public's right to conscientious service from those in governmental positions by denying retirement benefits to public servants convicted of violating the public's trust. *Ryan v. Board of Trustees of the General Assembly Retirement System*, 236 Ill. 2d 315, 322 (2010); *Kerner v. State Employees' Retirement System*, 72 Ill. 2d 507, 513 (1978), *cert. denied*, 441 U.S. 923, 99 S. Ct. 2032 (1979). The critical inquiry in determining if a felony is "relat[ed] to or ar[ose] out of or in connection with" service as an employee is whether a nexus existed between the employee's criminal wrongdoing and the performance of his or her official duties. *Devoney v. Retirement Board of the Policemen's*

Annuity & Benefit Fund for the City of Chicago, 199 Ill. 2d 414, 419 (2002); *Bauer v. State Employees' Retirement System*, 366 Ill. App. 3d 1007, 1015-16 (2006), *appeal denied*, 222 Ill. 2d 567 (2006).

Wanzo's conviction clearly related to, arose out of, and was in connection with her service as an employee of the SOS. Indeed, two of the offenses to which Wanzo pled guilty are predicated on the fact that she was acting in her capacity as a State government employee when the offenses occurred.[8] If not for her position as an Administrator of the Specialty Plates Section and a Supervisor of Vehicle Services Plates at the SOS, Wanzo would not have been in a

---

[8]Counts Four and Five of the Indictment alleged violations of 18 U.S.C. §666 (2012), which provides that an individual is guilty of the Federal felony offense of embezzlement of government-held funds if the following conditions are met:

> (a) * * * [I]f the circumstance described in subsection (b) of this section exists--
>
> (1) being an agent of * * * a State * * * government, or any agency thereof--
>
> (A) embezzles, steals, obtains by fraud, or otherwise without authority knowingly converts to the use of any person other than the rightful owner or intentionally misapplies, property that--
>
> (i) is valued at $5,000 or more, and
>
> (ii) is owned by, or is under the care, custody, or control of such organization, government, or agency; * * *
>
> * * *
>
> (b) The circumstance referred to in subsection (a) of this section is that the organization, government, or agency receives, in any one year period, benefits in excess of $10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance. 18 U.S.C. §666(a)(1)(A), (b) (2012).

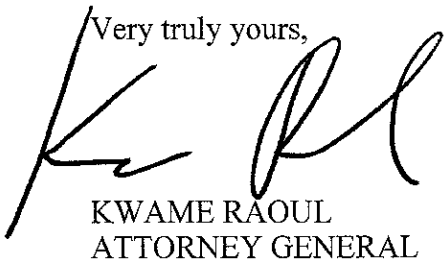
According to the Indictment, the SOS and the IDOR received Federal funds in excess of $10,000 in the one-year period beginning on July 1, 2016. Indictment, at 8-9.

position to gain access to State funds for her own personal use and enrichment. This is precisely the type of misconduct that section 14-149 of the Pension Code was designed to discourage.

CONCLUSION

Based on records of the United States District Court of the Central District of Illinois, it is my opinion that Candace Wanzo was convicted of a service-related felony requiring the forfeiture of her retirement benefits under the State Employees' Retirement System pursuant to section 14-149 of the Pension Code. In addition, the Illinois courts have determined that persons convicted of service-related felonies do retain the right to a refund of their contributions to the System. *Shields v. Judges' Retirement System*, 204 Ill. 2d 488, 497 (2003); *see also Shields v. State Employees Retirement System*, 363 Ill. App. 3d 999 (2006), *appeal denied*, 219 Ill. 2d 598 (2006).

Very truly yours,



KWAME RAOUL
ATTORNEY GENERAL