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September 18, 2013



RE: 12 A 0007
Dual Role of Chairman of Board of Election Commissioners for the City of Chicago

Dear 

This letter is in response to your request for an advisory opinion dated June 5, 2012. The issue your request presents is whether the Chairman of the Board of Election Commissioners for the City of Chicago can also be a registered lobbyist with the City of Chicago without violating the Cook County Ethics Ordinance. It is the opinion of the Board of Ethics (the "Board") that, based on the facts and circumstances set out below, this dual role does not violate the Cook County Ethics Ordinance.

I. BACKGROUND

Langdon Neal is a long-serving member of the Board of Election Commissioners for the City of Chicago ("CBOE").¹ CBOE oversees election matters in the City of Chicago and determines ballot access in state legislative and congressional districts where boundaries span Chicago and suburban Cook County.²

CBOE is the product of a state law, which requires that certain cities, villages and

¹ "Board of Election Commissioners for the City of Chicago," online at <http://www.chicagoelections.com/page.php?id=1> (last visited August 23, 2013).

² See *id.*

incorporated towns have a board of election commissioners composed of three election commissioners.³ See 10 ILCS 5/6-21. Per state law, each election commissioner is “appointed by the circuit court in which such city, village or incorporated town” is located, and upon that appointment “shall be an officer of such court.” *Id.* In the case of the three CBOE election commissioners, the relevant court is the Circuit Court of Cook County. State law requires that Cook County pay each election commissioner at least \$21,000 and the chairman of CBOE at least \$35,000 per year. *Id.* at 5/6-70.

Mr. Neal has served CBOE since 1997.⁴ The FY2013 budget for Cook County includes a \$91,233 salary for Mr. Neal as CBOE Chairman.⁵

In addition, Mr. Neal is a principal and owner of the law firm Neal & Leroy, LLC.⁶ Mr. Neal is also a registered lobbyist with the City of Chicago. Notably none of his lobbying clients appear to be individuals or candidates for office.⁷

Mr. Neal is not a registered lobbyist with Cook County.⁸ As such, the Cook County Board of Ethics (“Board”) presumes that Mr. Neal does not do any lobbying work before the County of Cook.

The Requestor of this advisory opinion has alleged that Mr. Neal “is helping to knock candidates off the ballot to help” his lobbying clients. Although the Requestor claimed to know about at least one specific instance in which this occurred, he refused to cite the example to the Board staff.⁹ Board staff conducted its own review to determine whether there was any

³ Article 6 of the Illinois Election Code is a continuation of “An Act regulating the holding of elections and declaring the result thereof in cities, villages and incorporated towns in this state,” approved June 19, 1885. 10 ILCS 5/6-1. Chicago adopted this 1885 Act. See James A. Rose, “Illinois Election Laws: 1908” 4 (Phillips Bros., State Printers 1908) (“The cities of Chicago, East St. Louis and Springfield have adopted the law of 1885.”). As such Article 6 is automatically applicable to Chicago. 10 ILCS 5/6-1.

⁴ Neal & Leroy, LLC, “Attorneys> Langdon D. Neal,” online at <http://www.nealandleroy.com/bioneal.htm> (last visited August 23, 2013).

⁵ Cook County, “Comptroller—Annual Salaries as of March 5, 2013; Data; Cook County, Illinois,” online at <https://cookcounty.socrata.com/Finance-Administration/Comptroller-Annual-Salaries-as-of-March-5-2013/fxa5-tdd8> (last visited August 23, 2013).

⁶ Note 4, *supra*.

⁷ City of Chicago Data Portal, “Lobbyist Data—Lobbyist Registry—2012 to present,” online at <https://data.cityofchicago.org/Ethics/Lobbyist-Data-Lobbyist-Registry-2012-to-present/ypez-j3yg?> (last visited August 23, 2013).

⁸ Cook County Clerk, “Lobbyist Online,” online at <http://lobbyist.cookcountyclerk.com/Public/SearchHome.aspx> (last visited August 23, 2013).

⁹ This same allegation was presented in a lawsuit against Mr. Neal in Cook County Circuit Court, *Jay Stone, et al vs. Langdon Neal*, 2012 COEL 000014. Upon review, court records indicate that this case was dismissed. However, that was not the situation at the time the Request was filed. The Requestor cited *Jay Stone, et al vs. Langdon Neal* and indicated that he was “working on a story about a lawsuit that Jay Stone is filing in Cook County Circuit Court to remove Langdon Neal as the Chairman of the Chicago Board of Elections.”

discernible relationship between Mr. Neal's lobbying clients and candidate who arguably benefited from CBOE decisions disqualifying another candidate in his or her race. No such relationship was found.¹⁰

II. ISSUE PRESENTED

Does the dual role of CBOE Chairman and lobbyist registered with the City of Chicago create an appearance of impropriety in violation of the Cook County Ethics Ordinance?

III. DISCUSSION

A. Jurisdiction

The first step in determining whether any individual's actions violate the Cook County Ethics Ordinance ("Ethics Ordinance") is to determine whether the ordinance is applicable. The Ethics Ordinance provides that "[t]his Ordinance shall apply to all officials, board or commission appointees and employees of Cook County[.]" County Code, § 2-562. The Ethics Ordinance defines "official" to mean "any elected County official or appointed official, regardless of whether the official is compensated." *Id.* at § 2-561.

Mr. Neal was appointed to CBOE by the Circuit Court of Cook County and, under state law, is an official of that court.¹¹ See 10 ILCS 5/6-21. Under these circumstances, Mr. Neal is without a doubt an "official" for the purposes of the Ethics Ordinance and subject to its regulations.

B. Appearance of Impropriety

County officials, such as Mr. Neal, owe the County a fiduciary duty, the breach of which would violate the Ethics Ordinance. County Code, § 2-571. However, as a general principle, conduct that is governed by a more specific law cannot form the basis of an official or employee's alleged breach of his or her fiduciary duty to the County. Instead the Board must look to the more specific law in analyzing the challenged conduct.

¹⁰ Board staff examined every published CBOE decision in 2012 that disqualified a candidate for office from appearing on a general or primary ballot. See Board of Election Commissioners for the City of Chicago, "Library of Electoral Board Decisions: 1980-2012," online at http://www.chicagoelections.com/dm/general/document_3195.pdf (visited Sept. 6, 2013). None of Mr. Neal's 43 disclosed Chicago lobbying clients in 2012 was an objector in any of these matters. See note 7, *supra*. Moreover, none of these lobbying clients was a candidate that remained on the ballot in the election contest that was the subject of one of these decisions. Finally, Board staff analyzed the disclosed campaign contributions of the 27 candidates that remained on the ballot after a 2012 CBOE disqualifying decision. Mr. Neal's lobbying clients contributed to only two of these candidates in the form of a \$1,000 contribution to one Illinois Senate candidate from Walmart and a \$250 contribution to another Illinois House candidate from North Community Bank.

¹¹ Moreover, Mr. Neal is on Cook County's payroll. Cook County, "Comptroller—Annual Salaries as of March 5, 2013; Data; Cook County, Illinois," online at <https://cookcounty.socrata.com/Finance-Administration/Comptroller-Annual-Salaries-as-of-March-5-2013/fxa5-tdd8> (last visited August 23, 2013).

The Ethics Ordinance includes two provisions directed specifically at the lobbying activities of County officials. First, the Ethics Ordinance specifically prohibits certain officials from engaging any lobbying activity or having any direct affiliation with any Lobbying Enterprise. See County Code, § 2-641. Election commissioners are not enumerated among the list of prohibited officials.

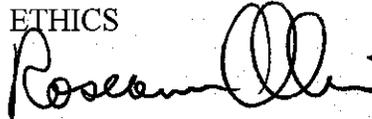
Second, the Ethics Ordinance provides that “[n]o County official . . . shall receive compensation for lobbying County government other than from the County.” County Code, § 2-636(d). It does not appear that Mr. Neal lobbies the County in any capacity, with or without compensation. Under the circumstances presented, Mr. Neal’s lobbying of the City of Chicago on behalf of his clients is not specifically prohibited by the Ethics Ordinance and can neither form the basis of an alleged violation nor create the appearance of impropriety.

The State Election Code does prohibit any election commissioner from “participat[ing] in any manner, in any activity or interests of any political party or any candidate for public office of for nomination thereof[.]” 10 ILCS 5/6-70. But the Requestor could not cite (and the Board staff did not find) a specific instance in which Mr. Neal voted as an election commissioner to knock a candidate off the ballot in order to benefit his lobbying clients or the challenged candidate’s opponent for office. If that grave allegation was substantiated, it would, of course, be grounds for removal from CBOE.¹² *Id.*

We trust this advisory opinion addresses your concerns. We thank you for your inquiry and commend you for seeking to uphold the guiding principles of the Cook County Ethics Ordinance. Under the rules and regulations of the Cook County Board of Ethics, all requests for reconsideration of an advisory opinion must be filed within twenty days of the date of this decision. Please do not hesitate to contact our office if you have questions or require additional information.

Sincerely,

THE COOK COUNTY BOARD OF
ETHICS



Roseann Oliver,
Chairperson

¹² The Ethics Ordinance also specifically prohibits a County official from accepting other employment “which will impair his or her independence of judgment in the exercise of official duties” or “will impair his or her ability to perform County duties and responsibilities. County Code, § 2-573(a), (b). Once again the Requestor did not provide (and the Board staff did not find) evidence that Mr. Neal’s lobbying activity with respect to the City of Chicago has impaired the performance of his official duties and responsibilities as a member of CBOE.