

COOK COUNTY BOARD OF ETHICS

69 West Washington, Suite 3040

Chicago, Illinois 60602

IN THE MATTER OF)	
)	
Dan Patlak, Commissioner)	Case No. 2012 I 0001
Cook County Board of Review)	
)	

NOTICE OF DETERMINATION

On January 13, 2012, the Board of Ethics (“Board”) received a written complaint from counsel for Sean M. Morrison. Mr. Morrison’s complaint alleged, *inter alia*, that Cook County Board of Review Commissioner Dan Patlak posted notice for a political event on the Board of Review’s official website as a community outreach event. The event in question was a November 30, 2011 meeting of the Tinley Orland Palos (“TOP”) Tea Party.

Based on this complaint, on February 10, 2012, the Board undertook an investigation of Commissioner Patlak to determine whether he directed a County employee to post the notice of a political meeting on a County website during compensated County time in violation of Section 2-576 – County-owned Property and/or Section 2-583 – Political Activity of the Cook County Ethics Ordinance. The Board has completed its investigation and determined that a violation of both provisions of the Ethics Ordinance occurred. The Board declines to issue fines in connection with these violations but requests corrective action.

INVESTIGATION SUMMARY

An investigation directed by the Board found evidence supporting the following:

In November 2011, Mr. Morrison and Commissioner Patlak were running against each other in the March 2012 Republican primary election for a seat on the Cook County Board of Review. Commissioner Patlak already held the position and had a staff of County employees that included Elly Drake. Ms. Drake’s responsibilities for the Board of Review included gathering Board of Review and community outreach meeting information for posting to the Board of Review website. Separate and apart from her employment with the County, Ms. Drake also worked as part of Commissioner Patlak’s re-election campaign staff. There her responsibilities included updating the Patlak campaign website.

During the primary election, the TOP Tea Party invited Commissioner Patlak to speak at its monthly meeting, scheduled for November 30, 2011. Although open to the public, both

Commissioner Patlak and the Director of the TOP Tea Party characterized the meeting as political in nature.

On or about Friday, November 18, 2011, during regular business hours at the Board of Review's County-owned office (*i.e.* The County Building, 118 N. Clark Street, Chicago, Illinois 60602), Commissioner Patlak directed Ms. Drake to post notice of the November 30, 2011 TOP Tea Party event to the web. He did not specify to Ms. Drake what website he wanted the notice posted to, and Ms. Drake, assuming the event was a Board of Review community outreach meeting, posted the notice to the Board of Review website.

On November 30, 2011, Commissioner Patlak attended and spoke at the TOP Tea Party meeting. In addition to speaking on Board of Review-related topics, Commissioner Patlak solicited campaign contributions and political support from meeting attendees.

In January 2012, a media outlet notified Commissioner Patlak that notice of the November 30, 2011 TOP Tea Party meeting was posted to the Board of Review website as a community outreach event. Commissioner Patlak immediately directed his staff to remove notice of the event from the website. He also put into place safeguards by which senior Board of Review staff would review items uploaded to the Board of Review website periodically and before these items become available for public display to ensure that only County events are posted.

When the Board opened this investigation, Commissioner Patlak fully cooperated. He submitted to two interviews with Board staff and made Board of Review staff available for interviews. He was forthcoming about the facts and circumstances giving rise to Mr. Morrison's complaint, even to the extent that they were unfavorable.

DISCUSSION

Section 2-576 – County-owned Property

Section 2-576 of the Cook County Ethics Ordinance states that “property owned or leased by the County” or any County Board or Commission “shall only be used for official County or Board or Commission business.” County Code, § 2-576. The Board of Ethics has taken the position that County-owned property includes, *inter alia*, office space, computers and the compensated time of County employees. In the case at hand, “property owned . . . by the County” includes the website for the Board of Review.

The Ethics Ordinance prohibits Commissioner Patlak from using or permitting someone else to use that property for his or her own purposes. *See id.* Yet when Commissioner Patlak permitted the Board of Review website to be used to promote his re-election – not the ordinary constituent services and community outreach of the Board of Review – he used County property impermissibly. Section 2-576 does not include a scienter requirement. As such, Commissioner Patlak's unspoken intention about where notice of a political meeting should have been posted is irrelevant. Section 2-576 was violated by the posting of notice for a political event to the Board

of Review website whether or not Commissioner Patlak intended to misappropriate that property to promote his campaign.

Section 2-583 – Political Activity

Section 2-583 prohibits County officials from intentionally misappropriating County resources for “prohibited political activities.” *See* County Code, § 2-583(c) (“County employees and officials shall not intentionally misappropriate any County property or resources by engaging in any prohibited political activity for the benefit of any campaign for elective office or any political organization.”). “Prohibited political activities” include “[p]reparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event” and “[m]anaging or working on a campaign for elective office.” *Id.* at § 2-561.

Based on Commissioner Patlak’s candid statements to staff for the Board of Ethics, his frank solicitation of campaign support at the November 30, 2011 Tea Party meeting and his prompt action upon being notified that notice of that meeting had been posted to the Board of Review’s website, the Board of Ethics does not believe that Commissioner Patlak intended that notice of this political meeting be posted to a County website. If the Board of Review website was the only County resource at issue, the posting of the notice of the Tea Party meeting could be written off as no more than a regrettable (and quickly corrected) mistake.

Commissioner Patlak’s recognition that the Tea Party meeting was a political event, however, raises a more endemic issue. It is not unusual for County employees to also work with a County official in a dual capacity as a campaign worker or volunteer. The Ethics Ordinance certainly prohibits County officials from *requiring* this political service, *see* County Code, § 2-583(d), but it also ensures that two willing parties do not misuse publicly funded facilities and time for political purposes. Commissioner Patlak may not have intended to publicize his appearance at a Tea Party event on the Board of Review’s website, but he did intend to prepare for a political meeting and manage his campaign for elective office when he met with his campaign worker during her compensated County time in a County-owned facility. That is an intentional misappropriation of County resources, and it is a violation of the Ethics Ordinance.

RECOMMENDATION

In light of Commissioner Patlak’s frank admissions and his extensive cooperation with the Board of Ethics investigation, the Board of Ethics has exercised its discretion under Section 2-602 of the Ethics Ordinance not to issue any fines in connection with either violation. Instead, the underlying issues that gave rise to this matter are better addressed through a request for corrective action, pursuant to Section 2-591(9)(a) of the Ethics Ordinance.

With respect to the violation of Section 2-576, Commissioner Patlak has already put into place controls to prevent the mis-posting of political events to the Board of Review’s website. By having management-level staff regularly review the website and Ms. Drake’s proposed postings, Commissioner Patlak has already taken corrective action to avoid a repetition of these

events. The Board of Ethics notes that it has not received further complaints about the Board of Review's website nor discovered its own mis-postings during the course of this long investigation.

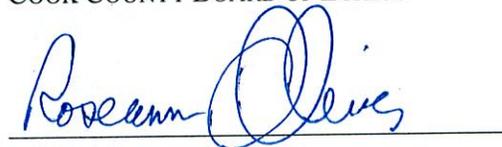
With respect to the violation of Section 2-583, Commissioner Patlak must establish a better process by which it is clear to him and County employees with a dual role that report to him when they are allowed to perform campaign work and when they must focus solely on the County's business. The ideal circumstance would be a complete separation of Commissioner Patlak's campaign staff from his County staff. Mistakes get made and the temptation to misuse County resources is greatest when a County official's campaign staff surrounds him or her at a County facility during compensated time. By hiring two separate sets of employees – one who performs exclusively County work and one who performs exclusively campaign work – a County official can avoid both mistakes and temptation. But failing that, the Board of Ethics recommends that Commissioner Patlak maintain a separate campaign office. Having a dedicated space for campaign work that is very clearly separate from the Board of Review's facilities may be useful for reminding Commissioner Patlak and dual role employees about what work is appropriate to do where.

CONCLUSION

For the forgoing reasons, with respect to the above-captioned matter, the Board of Ethics concludes that Commissioner Patlak VIOLATED Sections 2-576 and 2-583 of the Ethics Ordinance. The Board of Ethics has declined to issue any fines but has requested corrective action. Pursuant to Section 2-591(9) of the Ethics Ordinance, a written report of actions taken on any recommendations are due within thirty (30) days of receipt of this notice. Any request for reconsideration of this determination must also be made within thirty (30) days of receipt of this notice.

November 20, 2013

So ordered
COOK COUNTY BOARD OF ETHICS

A handwritten signature in blue ink, appearing to read "Roseann Oliver", is written over a horizontal line.

Roseann Oliver
Chairperson