

COOK COUNTY BOARD OF ETHICS

69 West Washington Street, Suite 3040
Chicago, Illinois 60602

IN THE MATTER OF

31st WARD DEMOCRATIC
ORGANIZATION and Joseph BERRIOS

)
) Case Nos.: 1Q17:29

) 1Q17:30

) 1Q17:31

) 1Q17:32

) 1Q17:33

) 1Q17:35

) 1Q17:36

) 1Q17:37

) 1Q17:38

) 1Q17:40

) 1Q17:41

)
) Entered: January 8, 2018
)
)
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NOTICE OF DETERMINATION

Before the Cook County Board of Ethics (“Board”) is whether eleven campaign contributions reported in the first quarter of 2017 by the 31st Ward Democratic Organization (the “Committee”) were made in violation of Cook County Code of Ordinances (“County Code”) Section 2-585(b), which bars persons who have sought “official action” from the County within the last four years from contributing more than \$750 per year (or per election cycle, in an election year) to any County official or candidate, or to any political committee established to support such an official or candidate. *See* County Code § 2-585(b). The Board concludes that each of these eleven contributions are subject to the \$750 limit in Section 2-585(b), yet unlawfully exceed that limit. Because the Committee has failed to return these contributions within 30 days of being notified of the violations, as required by Section 2-585(f), the Board hereby imposes a fine of \$1,000 per violation jointly upon the Committee and the County official the Committee was established to support, Cook County Assessor Joseph Berrios.

ANALYSIS

County Code Section 2-585(b) provides:

No person who does business with the County or who has done business with the County within the preceding four years; or is seeking to do business with the County; or is a person required to register as a lobbyist with the County; or who has sought official action by the County within

the preceding four years, or is an officer, director or partner of a firm, contracted by the County to act as financial counsel, bond counsel, underwriter's counsel, legal counsel, or financial manager for the issuance of any bond and directly working on said bond transaction; or firm, officers, directors or partners, contracted by the County to provide financial audits of County finances and directly working on said contract shall make contributions in an aggregate amount exceeding \$750.00:

(1) To any candidate for County office or elected County official during a single candidacy; or

(2) To any elected official of the government of the County during any nonelection year of his or her term.

(3) To any local, state, or federal political committee that is established in support of, a specific candidate for County office or an elected County official. The combined effect of these provisions is intended to permit total contribution up to, but not exceeding, \$1,500.00 in a year in which a candidacy occurs. A year, for purposes of this Section, is from January 1 to December 31 of each year.

Section 2-585(b)(3) does not distinguish between a “candidate political committee” (defined by 10 ILCS 5/9-1.8 to mean “the candidate himself or herself or any natural person, trust, partnership, corporation, or other organization or group of persons designated by the candidate that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$5,000 on behalf of the candidate”) and a “political party committee” (defined by defined by 10 ILCS 5/9-1.8 to include “a committee formed by a ward or township committeeman of a political party”), so long as the committee is “established in support...of a specific candidate for County office or an elected County official.”

Data retrieved from the Illinois Board of Elections indicates that Joseph Berrios is sole enumerated candidate that the 31st Ward exists to support. (Exh. A, Committee’s 12/27/10 Amended D-1 (Statement of Organization) at 1.) Joseph Berrios is the elected Cook County Assessor. As such, the Board of Ethics concludes that the Committee is “established in support of...an elected County official,” and is thereby covered by Section 2-585(b).¹

Information provided by the Cook County Assessor’s Office indicates that each of the eleven contributors are property tax attorneys or firms who have appealed the assessments of multiple Cook County taxpayers over the last four years:

Violation No.	Donor	Contribution	Excess	Fine
1Q17:29	Amari and Locallo	\$3,000	\$2,250	\$1,000

¹ Assessor Berrios is also the 31st Ward Committeeman and serves as the Committee’s Chairman. (Exh. A at 2.)

Violation No.	Donor	Contribution	Excess	Fine
1Q17:30	Flanagan/Bilton LLC	\$3,000	\$2,250	\$1,000
1Q17:31	Boyle, Thomas	\$1,500	\$750	\$1,000
1Q17:32	Fitzgerald Law Group, PC	\$1,500	\$750	\$1,000
1Q17:33	Katsaros & Steffey, PC	\$1,500	\$750	\$1,000
1Q17:35	Sarnoff & Baccash	\$1,500	\$750	\$1,000
1Q17:36	Schiller Strauss & Lavin	\$1,500	\$750	\$1,000
1Q17:37	Siegel and Callahan, P.C.	\$1,500	\$750	\$1,000
1Q17:38	Steven B. Pearlman & Associates	\$1,500	\$750	\$1,000
1Q17:40	Carlisle, Whitney	\$1,000	\$250	\$1,000
1Q17:41	Heilingoetter & Associates	\$800	\$50	\$1,000
	Totals:	\$18,300	\$10,050	\$11,000

The Cook County Assessor is charged with determining the assessed value of all properties in Cook County subject to tax. As agents retained by Cook County property taxpayers to appeal the taxpayers' assessments to the Assessor, the donors identified in the table above are persons who have sought "official action" from the Assessor. In aggregate, they contributed \$18,300 to the Committee (and by extension to Assessor Berrios, the sole candidate the Committee was established to support per its own filings with the Illinois State Board of Elections). These contributions are collectively \$10,050 in excess of the contribution limits established by Section 2-585(b).

The Committee was first notified by this Board that these contributions violated Section 2-585(b) in a letter dated July 21, 2017.² When the Committee was notified of similar violations

² The Board's July 21, 2017 letter also listed excess campaign contributions from McCormick & Wagner (Violation No. 1Q17:34) and Urban Real Estate Research (Violation No. 1Q17:39). The Board declines to pursue these potential violations at this time.

Up to the date of this order, the Committee and, presumably, Joseph Berrios individually, have been ably represented by James Nally. At the Board's January 8, 2018 meeting, Kevin Forde appeared for the first time as separate counsel for Joseph Berrios. Forde informed the Board at that meeting that his application to be appointed Special State's Attorney for Joseph Berrios was still pending with the Cook County State's Attorney's Office. The Board notes that any application to appoint Forde as special counsel could have been made at any time after the Board's July 21, 2017 notice of violation. In any event, Forde submitted, for the Board's review, a joint memorandum with Nally regarding the enforceability of Section 2-585 of the Cook County Ethics Ordinance. The

of the County's campaign finance rules in the past, it has returned the excess contributions within 30 days. However, this time, the Committee declined to do so, asserting through counsel that Section 2-585, as a whole, is an unconstitutional assertion of the County's home rule authority. This Board rejects that argument, finding that the belated argument that the State has implicitly pre-empted the County from regulating campaign contributions to candidates for County office to be inconsistent with the Committee's past practice and impossible to square with the Illinois Supreme Court's most recent precedent on the topic.

The Illinois Supreme Court has repeatedly rejected the idea that the General Assembly can implicitly preempt the plenary powers of local home rule jurisdictions such as Cook County to make laws that impact its own governance. *Palm v. 2800 Lake Shore Drive Condominium Assn.*, 401 Ill. App. 3d 868, 874-75 (2010) (noting that "a statute intended to limit or deny home rule powers must contain an express statement to that effect" (internal quotation omitted)). In addition, the Illinois Supreme Court has concluded that the imposition of ethics and anti-corruption regulations upon Cook County elected officials, including those whose offices and whose duties may be established, in part, by state law, is within the home rule authority of the Cook County Board of Commissioners. *Blanchard v. Berrios*, 2016 IL 120315, at ¶ 32 (holding that the establishment of the County Inspector General's office, the stated purpose of which is to detect, deter and prevent corruption and misconduct in government, fell within the police power granted to home rule units "'to regulate for the protection of the public health, safety, morals, and welfare[.]'" and that this regulatory power extended over the Cook County Assessor) (citing Ill. Const. 1970, art. VII, § 6(a))). The Committee has been notified of these eleven violations of Section 2-585(b) and been given ample opportunity to return the excess contributions.

Under Section 2-585(f) of the County Code, "[a]ny candidate for County office or any current elected official in Cook County government" must return excess contributions "within 30 days of notification from the Board of Ethics." "Failure to return contributions within 30 days shall be a violation of this Section and subject to fines under Section 2-602." *Id.* Section 2-602(d) provides for the imposition of "a fine of up to \$1,000.00 per offense on any person, including officials or candidates, found by the Board to have knowingly violated any provision of this article other than Section 2-574 or 2-583[.]"

Under the design of the Ordinance, both the recipient political committee and the beneficiary candidate or elected County official are culpable when, as here, more than 30 days have elapsed between notice of an excess campaign contribution and failure to return that excess contribution. Under Section 2-602(d), the Committee having been notified by this Board to return the campaign contributions in July 2017 has, at this point, engaged in a knowing violation of the County's campaign finance rules. In addition, Section 2-585(f) places the obligation to return the contribution on the "candidate for County office" or the "current elected official in Cook County government."

Board also afforded Forde the opportunity to speak at the meeting on behalf of his putative client. Forde both explicitly incorporated arguments raised by other Special State's Attorneys appointed on behalf of other County officials who spoke about related matters at the Board's meeting and raised an additional argument of his own. The Board has reviewed Forde's arguments on behalf of Joseph Berrios – written, raised orally, and incorporated by reference – in rendering this determination. The Board has done so notwithstanding that Forde's application to be appointed as Special State's Attorney for Joseph Berrios has yet to be granted by the Cook County State's Attorney's Office.

Thus, the Board hereby imposes a \$1,000 fine for each of the eleven violations, or \$11,000, jointly on the Committee and Joseph Berrios, whose candidacy for office the Committee exists to support.

CONCLUSION

The Board hereby orders that the Committee and Joseph Berrios pay a fine of \$1,000 for failing to return the excess portion of each of the eleven contributions made in violation of Section 2-585(b), or a total of \$11,000. These fines must be paid within 30 days of the date of this order, unless a request for reconsideration is made under Section 5.17 of the Board's Amended Rules and Regulations.

IT IS SO ORDERED.

January 8, 2018

THE COOK COUNTY BOARD OF ETHICS

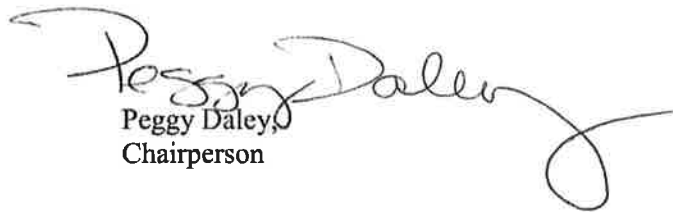

Peggy Daley,
Chairperson

EXHIBIT A



FORM

D-1

STATEMENT OF ORGANIZATION

PLEASE TYPE OR PRINT IN BLACK INK

10

FOR OFFICE USE ONLY

CHICAGO

DEC 27 PM 12:58

STATE BOARD OF ELECTIONS

Full name and complete mailing address of Political Committee:

31st Ward Democratic Organization
33 North LaSalle Street, Suite 3300
Chicago, Illinois 60602

E-MAIL ADDRESS: jbermosini@aol.com



CHECK HERE IF ADDRESS CHANGE

POLITICAL COMMITTEE
IDENTIFICATION No.

471-09

SEE PAMPHLET "A GUIDE TO CAMPAIGN DISCLOSURE" FOR GUIDANCE.

1.	DATE COMMITTEE CREATED:	2.	AMOUNT OF FUNDS AVAILABLE AS OF CREATION DATE :\$		
3.	<input type="checkbox"/> NEW COMMITTEE (MUST BE FILED WITHIN 10 DAYS OF CREATION OR WITHIN 2 DAYS IF CREATED WITHIN 30 DAYS BEFORE AN ELECTION.) <input type="checkbox"/> AMENDMENT (MUST BE FILED WITHIN 10 DAYS OF <u>ANY</u> CHANGES. ENTER ONLY THOSE CHANGES FROM LAST D-1 ON FILE.) <input type="checkbox"/> REACTIVATING				
4.	POLITICAL COMMITTEE'S DESIGNATION: ALL COMMITTEES CHOOSE ONE: <input type="checkbox"/> CANDIDATE POLITICAL COMMITTEE <input type="checkbox"/> POLITICAL ACTION COMMITTEE <input checked="" type="checkbox"/> POLITICAL PARTY COMMITTEE <input type="checkbox"/> BALLOT INITIATIVE COMMITTEE ALL NEW COMMITTEES MUST ALSO CHOOSE ONE: <input type="checkbox"/> STATE POLITICAL COMMITTEE <input type="checkbox"/> STATE & LOCAL POLITICAL COMMITTEE <input type="checkbox"/> LOCAL POLITICAL COMMITTEE *For purposes of contribution limits and reporting requirements a single Candidate Political Committee supporting a candidate for multiple offices elected at different elections must designate an election cycle by listing the appropriate office. This office is: _____				
5.	POLITICAL COMMITTEE'S AREA OF ACTIVITY, SCOPE, AND PARTY AFFILIATION. A. THIS COMMITTEE WILL PRIMARILY OPERATE IN THE FOLLOWING COUNTY(IES) OR DISTRICT(S): (not applicable if operating statewide or supporting/opposing statewide candidates or ballot initiatives) <u>Cook County</u> B. POLITICAL PARTY AFFILIATION: <u>Democratic</u> C. NAME AND ADDRESS OF EACH SPONSORING ENTITY:				
6.	PURPOSE OF THE POLITICAL COMMITTEE. To support the candidates of the 31st ward.				
7.	CANDIDATE(S) THE COMMITTEE IS SUPPORTING OR OPPOSING. (IF AMENDING, LIST ALL AS OF TODAY'S DATE.)				
NAME AND ADDRESS		SUPPORT	OPPOSE	OFFICE	PARTY AFFILIATION
Joseph Berrios 33 North LaSalle, Suite 3300 Chicago, Illinois 60602		<input checked="" type="checkbox"/>	<input type="checkbox"/>	31st Ward Committeeman Cook County Assessor	Democratic

IF MORE SPACE FOR INFORMATION IS REQUIRED, PLEASE ATTACH ADDITIONAL SHEETS.

COMMITTEE NAME: Joseph Berrios, 31st Ward Committee
DEMOCRATIC Org.

POLITICAL COMMITTEE IDENTIFICATION No.:

471-09

8. REQUIRED COMMITTEE OFFICERS.

POSITION	NAME	MAILING ADDRESS, DAYTIME PHONE NUMBER, AND E-MAIL ADDRESS
CHAIRMAN	Joseph Berrios	33 North LaSalle, Suite 3300 Chicago, IL 60602 312-735-5317 jberriosinil@aol.com
TREASURER	Richard Weathers	33 North LaSalle, Suite 3300 Chicago, IL 60602 312-735-5317 jberriosinil@aol.com

9. POSITION, NAME & MAILING ADDRESS OF EACH CUSTODIAN OF THE COMMITTEE'S BOOKS AND ACCOUNTS.

POSITION	NAME	MAILING ADDRESS, DAYTIME PHONE NUMBER, AND E-MAIL ADDRESS

**10. LIST OF ALL FINANCIAL INSTITUTIONS AND OTHER REPOSITORIES OF THE COMMITTEE FUNDS.
(IF AMENDING, LIST ALL AS OF TODAY'S DATE.)**

NAME	MAILING ADDRESS AND PHONE NUMBER
Bank Leumi	100 North LaSalle Street Chicago, IL 60602

11. DISPOSITION OF RESIDUAL FUNDS IN THE EVENT OF DISSOLUTION OR TERMINATION OF THE COMMITTEE:

- ☐ RETURN TO CONTRIBUTORS IN AMOUNTS NOT TO EXCEED THEIR INDIVIDUAL CONTRIBUTIONS.
- ☒ TRANSFER TO ANOTHER POLITICAL COMMITTEE: _____
- ☐ TRANSFER TO A CHARITABLE ORGANIZATION: _____

IF MORE SPACE FOR INFORMATION IS REQUIRED, PLEASE ATTACH ADDITIONAL SHEETS.

VERIFICATION- BALLOT INITIATIVE COMMITTEES ONLY

I DECLARE THAT THIS BALLOT INITIATIVE COMMITTEE IS FORMED FOR THE PURPOSE OF SUPPORTING OR OPPOSING A QUESTION OF PUBLIC POLICY. ALL CONTRIBUTIONS AND EXPENDITURES OF THE COMMITTEE WILL BE USED FOR THE PURPOSE DESCRIBED IN THIS STATEMENT OF ORGANIZATION. THE COMMITTEE MAY ACCEPT UNLIMITED CONTRIBUTIONS FROM ANY SOURCE, PROVIDED THAT THIS BALLOT INITIATIVE COMMITTEE DOES NOT MAKE CONTRIBUTIONS OR EXPENDITURES IN SUPPORT OF OR OPPOSITION TO A CANDIDATE OR CANDIDATES FOR NOMINATION FOR ELECTION, ELECTION, OR RETENTION, AND FAILURE TO ABIDE BY THESE REQUIREMENTS SHALL DEEM THIS COMMITTEE IN VIOLATION OF THIS ARTICLE. (10 ILCS 5/9)

Joseph Berrios

PRINTED AND WRITTEN SIGNATURE OF COMMITTEE CHAIRPERSON

12/23/10
DATE

VERIFICATION: ALL POLITICAL COMMITTEES INCLUDING BALLOT INITIATIVE COMMITTEES

I DECLARE THAT THIS STATEMENT OF ORGANIZATION (INCLUDING ANY ACCOMPANYING SCHEDULES AND STATEMENTS) HAS BEEN EXAMINED BY ME AND, TO THE BEST OF MY KNOWLEDGE AND BELIEF, IS A TRUE, CORRECT, AND COMPLETE STATEMENT OF ORGANIZATION AS REQUIRED BY ARTICLE 9 OF THE ELECTION CODE. I UNDERSTAND THAT WILLFULLY FILING A FALSE OR INCOMPLETE STATEMENT IS SUBJECT TO A CIVIL PENALTY OF AT LEAST \$1001 AND UP TO \$5000.

Joseph Berrios

PRINTED AND WRITTEN SIGNATURE OF TREASURER OR CANDIDATE

12/23/10
DATE

THE ILLINOIS STATE BOARD OF ELECTIONS REQUIRES THE DISCLOSURE OF INFORMATION THAT IS NECESSARY IF YOU QUALIFY AS A POLITICAL COMMITTEE AS OUTLINED UNDER PUBLIC ACT 78-1183. WILLFUL FAILURE TO FILE OR WILLFUL FILING OF FALSE OR INCOMPLETE INFORMATION REQUIRED BY THIS ARTICLE SHALL CONSTITUTE A BUSINESS OFFENSE SUBJECT TO A FINE OF UP TO \$5000. THIS FORM IS IN COMPLIANCE WITH THE FORMS MANAGEMENT PROGRAM ACT.

ALL POLITICAL COMMITTEES RETURN TO:

STATE BOARD OF ELECTIONS
PO BOX 4187
1020 S SPRING ST
SPRINGFIELD, IL 62708-4187
fax: 217-557-5630

e-mail: D1@ELECTIONS.IL.GOV(D-1s ONLY)

STATE BOARD OF ELECTIONS
JAMES R. THOMPSON CENTER
100 W RANDOLPH ST, STE 14-100
CHICAGO, IL 60601-3232
fax: 312-814-8485

e-mail: D1@ELECTIONS.IL.GOV(D-1s ONLY)

LOCAL POLITICAL COMMITTEES AND
STATE & LOCAL POLITICAL
COMMITTEES RETURN ORIGINAL TO:
STATE BOARD OF ELECTIONS
AND A COPY TO EACH APPROPRIATE
COUNTY CLERK.