

**COOK COUNTY BOARD OF ETHICS**

69 West Washington Street, Suite 3040  
Chicago, Illinois 60602

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IN THE MATTER OF	)	Case Nos.: 4Q16:13
	)	4Q16:14
COMMITTEE TO ELECT JOSEPH	)	4Q16:15
BERRIOS COOK COUNTY ASSESSOR and	)	4Q16:16
Joseph BERRIOS	)	4Q16:17
	)	4Q16:18
	)	4Q16:19
	)	4Q16:20
	)	4Q16:21
	)	4Q16:22
	)	4Q16:23
	)	4Q16:24
	)	4Q16:25
	)	4Q16:26
	)	4Q16:27
	)	4Q16:28
	)	4Q16:30
	)	4Q16:31
	)	4Q16:32
	)	4Q16:33
	)	4Q16:34
	)	4Q16:35
	)	4Q16:36
	)	4Q16:37
	)	4Q16:38
	)	4Q16:39
	)	1Q17:42
	)	1Q17:43
	)	1Q17:44
	)	1Q17:45
	)	
	)	Entered: January 8, 2018

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**NOTICE OF DETERMINATION**

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Before the Cook County Board of Ethics (“Board”) is whether 26 campaign contributions reported in the fourth quarter of 2016 and four campaign contributions reported in the first quarter of 2017 by the Committee to Elect Joseph Berrios Cook County Assessor (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 30 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.

The Committee is a “candidate political committee” under Illinois law, inasmuch as it is an “organization...that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$5,000 on behalf of the candidate.” *See* 10 ILCS 5/9-1.8. There is no question that the Committee was “established in support...of a specific candidate for County office or an elected County official.”

Information provided by the Cook County Assessor's Office indicates that each of the 30 contributors are property tax attorneys or firms who have appealed the assessments of multiple Cook County taxpayers over the last four years:

<b>Violation No.</b>	<b>Donor</b>	<b>Contribution</b>	<b>Excess</b>	<b>Fine</b>
4Q16:13(b) <sup>1</sup>	Amari & Locallo	\$ 2,500	\$ 1,750	\$1,000
4Q16:14	Behrens, George	\$ 1,000	\$ 250	\$1,000
4Q16:15	Chapekis & Chapekis	\$ 1,000	\$ 250	\$1,000
4Q16:16	Crane, Michael	\$ 1,500	\$ 750	\$1,000
4Q16:17	Dennis W. Hetler and Associates	\$ 1,000	\$ 250	\$1,000
4Q16:18	Deutsch Levy Engel Chartered	\$ 1,500	\$ 750	\$1,000
4Q16:19	Elliott and Associates Attorneys PC	\$ 1,000	\$ 250	\$1,000
4Q16:20	Fitzgerald Law Group	\$ 3,000	\$ 2,250	\$1,000
4Q16:21	Flanagan Bilton	\$ 5,000	\$ 4,250	\$1,000
4Q16:22	Heilingoetter & Associates	\$ 1,000	\$ 250	\$1,000
4Q16:23	John K. Norris, Attorney at Law	\$ 1,000	\$ 250	\$1,000
4Q16:24	Joseph G. Kuser Attorney at Law	\$ 3,500	\$ 2,750	\$1,000
4Q16:25	Katsaros and Steffey, PC	\$ 3,000	\$ 2,250	\$1,000
4Q16:26	Law Offices of Terrence Kennedy	\$ 3,000	\$ 2,250	\$1,000

<sup>1</sup> The Board erroneously numbered two campaign contribution violations 4Q16:13. The other violation numbered 4Q16:13 was a campaign contribution of \$3,000 by Walnut Street Properties Management, Inc. ("Walnut Street") to the Committee, which was the subject of a March 14, 2017 letter from Board staff to Walnut Street, copying the Committee. (Exh. A.) On March 20, 2017, the Committee sent the Board a copy of its \$2,250 refund check to Walnut Street to demonstrate its compliance with the Board's letter. (Exh. B.) Going forward, the Board will refer to this excess contribution from Walnut Street to the Committee as 4Q16:13(a), and the excess contribution from Amari & Locallo as 4Q16:13(b).

<b>Violation No.</b>	<b>Donor</b>	<b>Contribution</b>	<b>Excess</b>	<b>Fine</b>
4Q16:27	Law Offices of Thomas Battista, LLC	\$ 1,000	\$ 250	\$1,000
4Q16:28	Mayster and Chaimson, Ltd.	\$ 2,500	\$ 1,750	\$1,000
4Q16:30	O'Keefe Lyons Hynes LLC	\$ 5,000	\$ 4,250	\$1,000
4Q16:31	Rieff Schramm & Kanter	\$ 1,200	\$ 450	\$1,000
4Q16:32	Rubin & Associates	\$ 1,000	\$ 250	\$1,000
4Q16:33	Schiller, Strauss and Lavin	\$ 2,500	\$ 1,750	\$1,000
4Q16:34	Schmidt, Salzman & Moran	\$ 5,000	\$ 4,250	\$1,000
4Q16:35	Siegel & Callahan, PC	\$ 3,000	\$ 2,250	\$1,000
4Q16:36	Skidelsky and Associates, P.C.	\$ 1,000	\$ 250	\$1,000
4Q16:37	Thomas J. McCracken, Attorney at Law	\$ 1,000	\$ 250	\$1,000
4Q16:38	Tully, Thomas	\$ 5,000	\$ 4,250	\$1,000
4Q16:39	Weis DuBrock and Doody	\$ 5,000	\$ 4,250	\$1,000
1Q17:42	Gertner & Gertner Ltd.	\$ 5,000	\$ 4,250	\$1,000
1Q17:43	Law Offices of Adam E. Bossov P.C.	\$ 5,000	\$ 4,250	\$1,000
1Q17:44	Law Offices of Gary H. Smith P.C.	\$ 1,500	\$ 750	\$1,000
1Q17:45	Steven B. Pearlman and Associates	\$ 1,000	\$ 250	\$1,000
	<b>Totals:</b>	\$74,700	\$52,200	\$30,000

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 \$74,700 to the Committee. These contributions are collectively \$52,200 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.<sup>2</sup> When the Committee was notified of similar violations 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 30 violations of Section 2-585(b) and been given ample opportunity to return the excess contributions.

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<sup>2</sup> The Board's July 21, 2017 letter also listed an excess campaign contribution to the Committee from Terrence P. McCormick (Violation No. 4Q16:29). The Board declines to pursue that potential violation 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 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.

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.”

Thus, the Board hereby imposes a \$1,000 fine for each of the 30 violations, or \$30,000, jointly on the Committee and Joseph Berrios, whose candidacy for office the Committee exists to support.

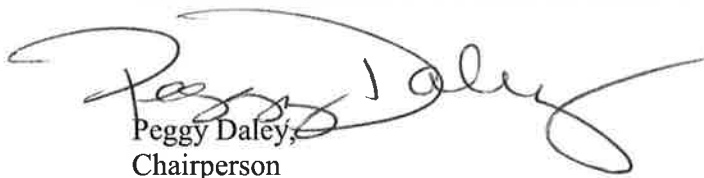
#### CONCLUSION

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 30 contributions made in violation of Section 2-585(b), or a total of \$30,000. These fines must be paid within 30 days of the date of this order, unless a request 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

TONI PRECKWINKLE  
PRESIDENT, COOK COUNTY  
BOARD OF COMMISSIONERS

RANJIT HAKIM  
EXECUTIVE DIRECTOR



**BOARD OF ETHICS MEMBERS**

PEGGY DALEY  
DAVID GROSSMAN  
JULIET SORENSEN  
THOMAS SZROMBA

**COOK COUNTY BOARD OF ETHICS**

69 W. WASHINGTON STREET, SUITE 3040  
CHICAGO, ILLINOIS 60602  
312/603-4304 OFFICE - 312/603-9988 FAX

March 14, 2017

**VIA U.S. MAIL**

Jim Bolduc  
President  
Walnut Street Properties Management, Inc.  
1639 W. Walnut Street  
Chicago, IL 60612

**Re: Notice of Excess Contribution, Violation No. 4Q16:13**

Dear Mr. Bolduc:

The Cook County Ethics Ordinance, Section 2-585, prohibits persons who have done business with Cook County within the preceding four years, or who are seeking to do business with the County, or who lobby with respect to any County matter, from making political contributions in an aggregate amount of more than \$750.00 to (i) any candidate for County office or elected County official during a single candidacy, (ii) any elected County official during any non-election year of his or her term, or (iii) any local, state, or federal campaign committee that is controlled by, or established in support of, a candidate for County office or an elected County official. If a person is a candidate in both the primary and general elections, total contributions to the candidate from persons doing or seeking to business with the County may not exceed \$1,500.00 in that year, *i.e.*, \$750 in the primary and \$750 in the general.

With respect to entities doing business with the County, please note that an entity and its subsidiaries, parent company, and any of their employees, officers, directors and partners who make a political contribution for which they are reimbursed by the entity or its affiliates shall be considered a single person. *See* Ethics Ordinance § 2-585(c). However, the Ethics Ordinance does not prohibit such an employee, officer, director or partner from making a political contribution for which he is not reimbursed by a person with whom he or she is affiliated.

A County candidate, elected official, or campaign committee who fails to return any campaign contributions determined to be in excess of the limits set by Section 2-585 within 30 days of notice of the same by the Board of Ethics (the "Board") will be in violation of the Cook County Ethics Ordinance and subject to monetary fines as set forth in Section 2-602(d) of the Ordinance.

According to campaign contribution data from the Illinois State Board of Elections, Walnut Street Properties Management Inc. ("Walnut Street") made a monetary contribution in the amount of \$3,000.00 on December 14, 2016 to the Committee to Elect Joseph Berrios Assessor. Based on our

Jim Bolduc  
Walnut Street Properties Management, Inc.  
Page 2

information, Walnut Street is a corporate affiliate of, or shares common ownership with, Walnut Paulina LLC and 1640 PMBT LLC, which do business with the County. As such, this contribution is \$2,250 in excess of the amount permitted by the Ordinance.

You have the right to respond to this notice by demonstrating that (i) the Board's determination of an excess contribution is incorrect or that (ii) the Committee to Elect Joseph Berrios Assessor has complied with the Ordinance by returning the excess contribution. Please submit your response within thirty (30) days of the date of this letter. The Board will review your response and supporting documentation to determine if further action, including a finding of violation and issuance of fines, is warranted.

If you have any questions, please do not hesitate to contact Ms. Jarrie Brown, Ethics Investigator, at (312) 603-4304. We appreciate your timely cooperation and compliance with the Ethics Ordinance.

Sincerely,

A handwritten signature in black ink, appearing to read 'Amy Crawford', is positioned above the printed name.

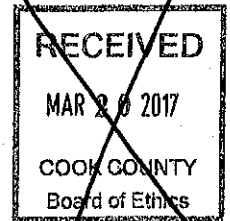
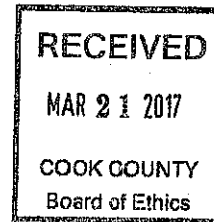

Amy Crawford  
Deputy Director

cc: Committee to Elect Joseph Berrios Assessor



# **EXHIBIT B**

ATTD: Amy CRAWFORD 3/20/17

ENCLOSE PLEASE FIND COPY OF  
RETURN CHECK



*John*

<b>COMMITTEE TO ELECT JOSEPH BERRIOS</b>		03-13	1106
<b>COOK COUNTY ASSESSOR</b>			
DATE <u>3/20/17</u>		70-160/719	54000
PAY TO THE ORDER OF	<u>WALNUT STREET PROPERTIES</u>	\$ <u>2250.00</u>	
<u>Twenty Two Hundred FIFTY &amp; 00/100</u>		DOLLARS	
 <b>First Midwest Bank</b> <a href="http://www.firstmidwest.com">www.firstmidwest.com</a>			
FOR	