

COOK COUNTY BOARD OF ETHICS
69 West Washington Street, Suite 3040
Chicago, Illinois 60602

IN THE MATTER OF

Omari Prince, Analyst
Cook County Board of Review

Case No.: 2016I01

Entered: August 27, 2018

ORDER DENYING REQUEST FOR RECONSIDERATION

Before the Cook County Board of Ethics (“Board”) is a Request for Reconsideration (“Request”) of its Notice of Determination in the above captioned matter. The Request was submitted by William O’Shields,¹ on behalf of the Cook County Board of Review (“BOR”), and is attached hereto as **Exhibit A**. For the reasons that follow, the Board denies BOR’s Request.

BACKGROUND

On July 12, 2018, the Board issued a Notice of Determination (“Order”), attached hereto as **Exhibit B**, finding that Omari Prince,² an appeals analyst for BOR, violated §§ 2-583(c) (political activity) and 2-573(b) (dual employment) of the Cook County Ethics Ordinance when he engaged in: 1) prohibited political activity (election related petition challenges) during County compensated time; and 2) dual employment that impaired the performance of his County duties and responsibilities.³ *In re Prince*, 16I01, at *6 (CCBE July 12, 2018).

The Board’s investigation into Prince was difficult and was often stymied or prolonged due to BOR’s lack of quality time and attendance records and poor record keeping policies for the relevant time period (November – December 2015). To BOR’s credit, many of the issues noted by Board staff throughout the Prince investigation were addressed by BOR’s adoption and implementation of the Cook County Time and Attendance System in 2017.⁴ *See In re Nelson*, 2016I12, at *3 (CCBE Nov. 2, 2017). However, a few outstanding record-keeping and administrative policy issues remain unaddressed, and, therefore, the Board decided to make the following recommendations to BOR in its Order:

1. [] update the job title and create a job description for Prince’s position so that it accurately reflects his actual job

¹ Mr. Shields is the Chief Deputy Commissioner for the Cook County Board of Review.

² Mr. Prince resigned from BOR effective August 17, 2018.

³ The Board also found that Prince’s refusal to cooperate with its investigation violated §§ 2-591(8) and 2-602(d) of the Ethics Ordinance. *Prince*, 2016I01, at *5-6.

⁴ The CCT System allows County agencies and departments to streamline their “time and attendance reporting function through an automated process in order to reduce the amount of manual processing of time and attendance and to improve the accuracy of reporting.” Cook County Time and Attendance Project, available at <https://www.cookcountyiil.gov/service/time-attendance> (last visited on Aug. 22, 2018).

duties, and that BOR do the same for all other employees to the extent that their job title or description does not match their duties, and/or they have no written job description.

2. [] establish a written policy requiring all employees to execute a dual employment form to indicate whether or not the employee has dual employment, and to require employees with dual employment (whether as an employee or an independent contractor) to update their dual employment forms annually and/or when there has been a material change in their secondary employment. In the alternative, BOR may formally adopt the Cook County Bureau of Human Resources' dual employment policy.
3. [] require all its employees and officials to attend mandatory in-person ethics training conducted by Board staff.

Prince, 16I01 at *6-7.

On August 13, 2018, BOR submitted its Request to the Board, not only petitioning the Board to amend the Order to address certain "factual errors," but also acknowledging and accepting all of the Board's recommendations.⁵ Request at 2-3. We commend BOR's decision to accept all of the Board's recommendations, but must deny its Request for the following reasons.

ANALYSIS

Under Rule 5.17(B) of the Board's Rules and Regulations, "after the Board has issued its notice of determination in cases where a violation is found, the respondent may within thirty (30) days of the date of the order, file with the Board a request for reconsideration." *See also Nelson*, 2016I12, at *2 (finding BOR lacked standing to bring a request for reconsideration when it was not a respondent in the case). Hence, only respondents have standing to file requests for reconsideration of Board orders. Here, *Prince* is the respondent, not BOR. Therefore, BOR lacks standing to bring its Request. However, for the sake of clarity, the Board will take this opportunity to comment on the substantive matters raised in BOR's Request.

Our rules provide that any request for reconsideration of a Board Order must "state with specificity the reason(s) supporting the request for reconsideration. . . . [and further provides that such a request] shall be granted only in limited circumstances, such as, but not limited to, the discovery of new, relevant evidence." CCBE Rule 5.17(C).

⁵ Request at 3 ("After careful review of the Board of Ethics Notice of Determination and Investigation Report as well as the BOR's Ethics Policy and in the genuine spirit of cooperation and transparency, the Commissioners formally accept the Board of Ethics three orders. . . . BOR will update ALL job titles and descriptions; clarify its dual employment policy found at Section 2.3 of its Ethics Policy and is already planning to conduct its yearly Ethics Policy training in September.").

Here, BOR argues that the Board should amend its Order because the Prince investigation report (“Investigation Report”) and Order contain a couple of “factual errors.” See Request at 2. The first “factual error” raised by BOR relates to whether an attorney-client relationship existed between Prince and BOR Commissioner Larry Rogers, Jr. *Id.* In its Request, BOR specifically points to the following information contained in the Investigation Report, which is also paraphrased in the Order,⁶ as erroneous:

On or about April 26, 2018, Respondent Prince informed Board staff that his representative in these proceedings would be Larry Rogers. See Cook County Board of Ethics “Investigation Report” at 9 and 11, July 12, 2018. Board staff informed Prince that Commissioner Rogers may be a material witness during the Board’s investigation, and therefore that the Board would not permit Commissioner Rogers to act as Respondent Prince’s attorney. *Id.* See also Cook County Board of Ethics “Notice of Determination” at 3, July 12, 2018.

Id. BOR argues that “no attorney-client relationship ever existed between the Respondent Omari Prince and [BOR] Commissioner Larry Rogers, Jr.”

The Board has no reason to doubt BOR’s claim that no attorney-client relationship existed between Prince and Commissioner Rogers. However, the Investigation Report does not claim, for the truth of the matter asserted, that there was an attorney-client relationship between the two; it states that “Prince informed Board staff that his representative in these proceedings would be Larry Rogers.” See Investigation Report at 11. Thus, the Board finds that neither the Investigation report nor the Order contain any factual errors with regard to this matter. See *id.*; *Prince*, 16101 at *3.

The second “factual error” raised in BOR’s Request is related to whether Commissioner Rogers served as Prince’s supervisor. See Request at 2. In its Request, BOR writes:

The Board’s “Investigative Report” erroneously asserts that a supervisory relationship existed between the Respondent Prince and Commissioner Rogers, stating that “Prince initially proposed that Commissioner Rogers could serve as his attorney, which likely would have created a significant conflict of interest for Rogers and Prince, and would have been inappropriate given Rogers’ role as Prince’s apparent supervisor.” See Cook County Board of Ethics “Investigation Report” at 11 n. 38., July 12, 2018.

However, during an interview with Board staff on March 15, 2017, BOR’S Assistant Director of Human Resources and Timekeeper Debra Brown informed Board staff that Prince is considered “support staff” and reports directly to BOR Chief Clerk Allen Manuel. See Cook County Board of Ethics “Investigation Report” at 7, July 12, 2018. In addition, the attendance records at issue included “BOR Chief Clerk Attendance Verification Record(s) created by BOR staff. See Cook County Board of Ethics “Investigation Report” at 2, July 12, 2018.

⁶ *Prince*, 16101 at *3.

Id. BOR claims that “Respondent Omari Prince was not under the direct supervision of Commissioner Larry Rogers, Jr.”

Again, the Board has no reason to doubt BOR’s claim that Prince was not supervised by Commissioner Rogers. However, BOR’s reference to a footnote in the Investigation Report, which is also paraphrased in the Order, referring to Commissioner Rogers as “Prince’s apparent supervisor” simply means there was evidence that made it seem as though Commissioner Rogers was Prince’s supervisor. Indeed, there was such evidence and it was directly cited in the Investigation Report and Order. *See* Investigation Report at 11; *Prince*, 16I01 at *3 (Prince referred to himself as the Intergovernmental Affairs Liaison for BOR Commissioner Larry Rogers, Jr., and, in a September 8, 2016 email to Board staff, Prince claimed that he “officially starting [sic] doing Intergovernmental Affairs for Commissioner Larry Rogers Jr. last week.”) (internal quotations omitted).

BOR further claims that the inclusion of BOR’s Assistant Director of Human Resources and Timekeeper Debra Brown’s March 15, 2017 statement that “Prince is considered support staff and reports directly to BOR Chief Clerk Allen Manuel” further supports its argument that the Investigation Report includes factually incorrect statements with regard to Commissioner Rogers’ supervision of Prince. *See* Request at 2.

However, the Board views the inclusion of such evidence quite differently. The Board’s decision to include both Prince’s claim that Larry Rogers was his supervisor and BOR’s contradictory claim that Prince was simply a support staff member that reported to the Chief Clerk in both the Investigation Report and Order was intentional. The inclusion of both BOR and Prince’s claims in the Investigation Report and Order ensures that all relevant evidence, including contradictory or conflicting evidence, is included in the factual record. The Board, therefore, finds that neither the Investigation Report nor the Order contain any factual errors with regard to this matter.

Furthermore, even if the Investigation Report and Order contained the two “factual errors” referenced in the Request, such errors would in no way alter the Order’s legal conclusions or recommendations and would amount to nothing more than two small harmless errors. As such, they would not meet the threshold required under Rule 5.17(C) for the Board to grant a request for reconsideration.

CONCLUSION

For all the foregoing reasons, BOR’s Request is denied.

IT IS SO ORDERED.

August 27, 2018

THE COOK COUNTY BOARD OF ETHICS

Peggy Daley,
Chairperson

EXHIBIT A

RECEIVED

AUG 13 2018

COOK COUNTY
Board of Ethics

IN THE MATTER OF)

CASE NO.: 2016-I-01

OMARI PRINCE,)

ANALYST, COOK COUNTY BOARD OF REVIEW)

ENTERED: JULY 12, 2018

REQUEST FOR RECONSIDERATION TO CORRECT CERTAIN FACTUAL ERRORS

Pursuant to Cook County Board of Ethics Rule Section 5.17 (B), the Cook County Board of Review hereby requests a review of the July 12, 2018 "Notice of Determination" to correct the following factual errors:

SUMMARY OF JULY 12, 2018 COOK COUNTY BOARD OF ETHICS "FINAL DETERMINATION"

The Cook County Board of Ethics' Investigation Report made the following nine recommendations to the Board of Ethics:

1. \$3,000 fine reflecting a \$1,000 fine for the three instances of performing political activity while on County time
2. \$594.91 fine reflecting his salary for those three dates
3. \$2,500 for Mr. Prince's lack of cooperation with the investigation
4. BOR update Mr. Prince's job title and job description
5. BOR establish a written policy regarding dual employment
6. BOR require all BOR employees to attend ethics training conducted by Board of Ethics staff
7. BOR establish that any violations of the Cook County ethics policy as determined by the Board of Ethics will result in BOR disciplinary action
8. BOR must – at a minimum – issue a written warning that any further political activity on County time by Mr. Prince will result in suspension and/or termination
9. Request be made to Clerk's Office requiring all persons involved in petition review must sign in even if known to Clerk staff.

The Board of Ethics considered the Investigation Report and the nine recommendations and in turn made the following three orders to the BOR:

1. \$3,000 fine reflecting a \$1,000 fine for the three instances of performing political activity while on County time
2. \$594.91 fine reflecting his salary for those three dates
3. \$5,000 for Mr. Prince's lack of cooperation with the investigation

The Board of Ethics made the following four recommendations to the BOR:

1. BOR update Mr. Prince's job title and job description (as well as for the entire BOR)
2. BOR establish a written policy regarding dual employment (or adopt the Cook County Bureau of HR's policy)
3. BOR require all BOR employees to attend ethics training conducted by Board of Ethics staff
4. BOR terminate Mr. Prince

A careful review of both the "Investigation Report" and "Final Determination" revealed several factual errors that the BOR is compelled to address. Please consider the following:

FACTUAL ERRORS CONTAINED IN THE JULY 12, 2018 "NOTICE OF DETERMINATION"

AS IT RELATES TO CASE NO. 2016-I-01, NO ATTORNEY-CLIENT RELATIONSHIP EVER EXISTED BETWEEN THE RESPONDENT OMARI PRINCE AND COMMISSIONER LARRY ROGERS, JR.

On or about April 26, 2018, Respondent Prince informed Board staff that his representative in these proceedings would be Larry Rogers. See Cook County Board of Ethics "Investigation Report" at 9 and 11, July 12, 2018. Board staff informed Prince that Commissioner Rogers may be a material witness during the Board's investigation, and therefore that the Board would not permit Commissioner Rogers to act as Respondent Prince's attorney. Id. See also Cook County Board of Ethics "Notice of Determination" at 3, July 12, 2018.

At no time related to the subject investigation did an attorney-client relationship exist between the Respondent Prince and Commissioner Larry Rogers, Jr.

RESPONDENT OMARI PRINCE WAS NOT UNDER THE DIRECT SUPERVISION OF COMMISSIONER LARRY ROGERS, JR.

The Board's "Investigative Report" erroneously asserts that a supervisory relationship existed between the Respondent Prince and Commissioner Rogers, stating that "Prince initially proposed that Commissioner Rogers could serve as his attorney, which likely would have created a significant conflict of interest for Rogers and Prince, and would have been inappropriate given Rogers' role as Prince's apparent supervisor." See Cook County Board of Ethics "Investigation Report" at 11 n. 38., July 12, 2018.

However, during an interview with Board staff on March 15, 2017, BOR'S Assistant Director of Human Resources and Timekeeper Debra Brown informed Board staff that Prince is considered "support staff" and reports directly to BOR Chief Clerk Allen Manuel. See Cook County Board of Ethics "Investigation Report" at 7, July 12, 2018. In addition, the attendance records at issue included "BOR Chief Clerk Attendance Verification Record(s) created by BOR staff. See Cook County Board of Ethics "Investigation Report" at 2, July 12, 2018.

RELEVANT SECTIONS OF THE COOK COUNTY ETHICS ORDINANCE

Section 5.17 "Request for Reconsideration"

Subsection (B) "Violation Found"

After the Board has issued its notice of determination in cases where a violation is found, the respondent may within thirty (30) days of the date of the order, file with the Board a request for reconsideration.

Subsection (C) "Content of Request for Reconsideration"

The party requesting review must state with specificity the reason(s) supporting the request for reconsideration. Requests for reconsideration shall be granted only in limited circumstances, such as, but not limited to, the discovery of new, relevant evidence.

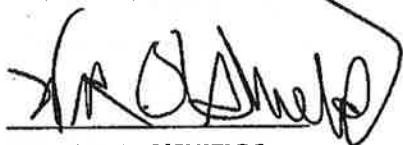
CONCLUSION

After careful review of the Board of Ethics Notice of Determination and Investigation Report as well as the BOR's Ethics Policy and in the genuine spirit of cooperation and transparency, the Commissioners formally accept the Board of Ethics three orders. In addition, the BOR will update ALL job titles and descriptions; clarify its dual employment policy found at Section 2.3 of its Ethics Policy and is already planning to conduct its yearly Ethics Policy training in September. In addition, Mr. Prince has submitted his resignation effective August 17, 2018 which the Board of Review has accepted.

In short, the Board of Review Commissioners take ANY and ALL allegations of misconduct very seriously and remain committed to enforcing the Board's Ethics Policy.

In addition, THE COOK COUNTY BOARD OF REVIEW, hereby respectfully request the Ethics Board to reconsider its ruling outlined in the "Notice of Determination" entered July 12, 2018 and correct the factual errors cited above by amending the subject "Notice of Determination" accordingly.

Respectfully Submitted,



WILLIAM R. O'SHIELDS
CHIEF DEPUTY COMMISSIONER
pCOOK COUNTY BOARD OF REVIEW

EXHIBIT B

69 West Washington Street, Suite 3040
Chicago, Illinois 60602

Entered: July 12, 2018

According to the Report, an audit of the sign-in records at the County Clerk's Election Department, Prince signed into the Clerk's Office 92 times over the course of a six-week period from November 2015 to January 2016 during which petition challenges were ongoing. (Report at 2.) There is no evidence that Prince was at the Clerk's Office for any reason related to his position at BOR; on the line of the log provided to enter one's "Company," Prince frequently listed his "Company" as "Blue States," and on more than one occasion, listed the "Person/Department Visiting" as "Petitions." (*Id.*) According to campaign finance reports filed with the Illinois State Board of Elections, Prince was paid a total of \$9,690 in the fourth quarter of 2015 and first quarter of 2016 for work conducted on behalf of four campaigns for Cook

County judge. (*Id.* at 5-6.) Since December 2015, Board of Elections data indicates that Prince has been paid a total of \$43,882.50 for his campaign work. (*Id.* at 6.)

Many of Prince's visits to the Clerk's Office were on vacation days or weekend days. (*Id.* at 2.) But during three County workdays, Prince performed political activity at the Clerk's Office without taking appropriate benefit time:

First, on December 17, 2015, Prince logged into the Clerk's Office three separate times between 9:20 a.m. and 1:30 p.m. for a total of nearly an hour, yet was clocked in from 9:45 a.m. to 5:00 p.m. and was paid for a regular workday.¹ (*Id.* at 3.) Thus, Prince was compensated as a County employee for time that he was actually performing political work at the Clerk's Office.

Second, on December 18, 2015, Prince logged into the Clerk's Office twice, once from 9:12 a.m. to 9:20 a.m., and once from 1:25 p.m. to 1:35 p.m. (*Id.* at 3-4.) But according to BOR records, he worked from 9:00 a.m. to 11:30 a.m. that day. (*Id.*) One BOR record reflected that he took six hours of vacation leave, but the final BOR record that went to the County Comptroller indicates that he took six hours of paid sick leave that day. (*Id.*) Thus, he again performed political work while on the clock for the County in the morning, and spent at least part of his "sick" time doing the same.

Third, on December 22, 2015, Prince was logged into the Clerk's Office three separate times for a total of 25 minutes between 9:55 a.m. and 1:45 p.m. (*Id.* at 4.) He took a full paid sick day that day. (*Id.* at 4.) BOR time records reflect that initially the day was reflected as a comp day, but handwritten notes reflecting "Changes/Corrections" suggest that his time was later changed to sick time, and indeed, the Comptroller processed it as sick time. (*Id.* at 4-5.)

If any of Prince's time records for these days were inaccurate, he could have sought to correct them after the fact, but there is no evidence that he attempted to do so. And as discussed below, Prince failed to cooperate with Board staff's attempts to schedule an interview, so the Board lacks any exculpatory or mitigating explanations that Prince might have offered if interviewed.²

¹ The Report notes that there is a separate issue with the fact that Prince was only signed in at BOR for 7.25 hours that day, yet was paid for a full eight hours. Based on the fact that Prince's timesheets routinely reflect his use of increments of benefit time to reach a full eight hours worked, and that he was paid comp time for hours worked over 40 per week, Prince was or is apparently an FLSA-non-exempt employee, paid on an hourly basis for actual hours worked.

² It is worth noting that Board staff only had access to one small data point, the Clerk's Office sign-in logs, for purposes of investigating the extent of Prince's political activity on a given County workday. Prince's visits to the Clerk's Office may have been short in duration because he was overseeing the volunteers or low-level campaign workers who were actually reviewing signatures to support or rebut a challenge. However, Prince's petition coordination efforts might well have also involved telephone calls or meetings with candidates or their attorneys, scheduling and coordination with the individuals reviewing signatures, or other campaign activity totally unrelated to petition challenges or defense. Thus, Prince may well have been engaging in more prohibited political activity on these days than is reflected on the Clerk's logs. Moreover, staff more recently observed Prince in the room where petition signatures were being reviewed during Board staff's random visit to the Clerk's Office in December 2017, yet Board staff observed that Prince never signed in or out on the log that day. Thus, it is also not clear that the Clerk's Office sign-in logs even captured all of Prince's activity at the Clerk's Office.

B. Prince's Work For BOR.

The Report indicates that Board staff was never, in the absence of Prince's cooperation, fully able to discover Prince's actual position and job duties. Although his job title is "Appeals Analyst I," a position for which he is currently paid \$26.181 per hour (or \$54,456.48 annualized), no documentation or witnesses mentioned that Prince worked on property tax appeals. (*Id.* at 7.) Instead, BOR Human Resources staff referred to Prince as "support staff," working at BOR's reception desk and pulling files. (*Id.*) On one date when Board staff tried to reach Prince, another BOR employee stated that Prince was unavailable because he was delivering packages. (*Id.*)

For his part, Prince has referred to himself as the "Intergovernmental Affairs Liaison" for BOR Commissioner Larry Rogers, Jr., and in a September 8, 2016 email, Prince stated that he "officially starting [sic] doing Intergovernmental Affairs for Commissioner Larry Rogers Jr. last week." (*Id.* at 7-8.) Prince's LinkedIn account indicates that he has held the position of "Government Affairs Director" for "Cook County Government" since April 2012. (*Id.*) Rogers's political committee has paid Prince for campaign consulting work in the past. (*Id.* at 6.)³

C. Prince's Failure to Cooperate with Board Staff's Investigation.

The Report details a long chronology of Board staff's attempts to schedule an interview with Prince over a three-month period from February 1, 2018 to April 30, 2018. (*Id.* at 8-9.) Prince initially told staff on February 6 that he intended to cooperate, but needed to retain an attorney to represent him in the interview. (*Id.* at 8.) However, he then went weeks without responding to communications with Board staff. (*Id.*) Finally, on April 10, Prince scheduled his interview for April 30, but indicated that he still did not know who would be representing him. (*Id.*)

Finally, on April 26, 2018, Prince informed Board staff that his representative would be Larry Rogers. (*Id.* at 9.) Board staff appropriately indicated to Prince that this was unacceptable, since Rogers might be a material witness in the Board's investigation, having employed and/or overseen Prince at BOR, and having retained him as a political consultant as well. It was also inappropriate for Rogers to attempt to insert himself into this investigation as an advocate for a County employee alleged to have violated the Ethics Ordinance.⁴

³ The Board has previously expressed concerns about "the potential use of political affiliation to hire for non-policymaking positions at the Board of Review," see *In re Nelson*, 2016I12, at *3 (CCBE Aug. 29, 2017), and it reiterates those concerns here. The Report does not identify whether Prince had a preexisting personal or political relationship, but such a relationship would not be surprising given Rogers's dual employment of Prince in government and political contexts, and Rogers's apparent willingness to represent Prince in this ethics investigation.

⁴ It gives the Board cold comfort to know that the recommendations in this case will be delivered to BOR commissioners for them to act upon, given that Rogers apparently condones and supports Prince's dual role as County employee and paid political consultant, even if the lines between the two may be occasionally blurred.

After learning that the elected official who employs him could not represent him, Prince did not respond to Board staff's request that he provide another representative by noon on April 27. And once Board staff indicated that, as a result of Prince's failure to timely provide the name of a new representative, the interview would not go forward on April 30, but would need to be rescheduled, Prince failed to respond to Board staff's request that he contact staff to reschedule. (*Id.*) Board staff thus has not heard from Prince since April 26, 2018.

ANALYSIS

A. Prince Violated Section 2-583(c) of the Ethics Ordinance.

Section 2-583(c) of the Ethics Ordinance provides: "County employees shall not intentionally perform any prohibited political activity during any compensated time (other than vacation, personal, or compensatory time off)." "Prohibited political activity" is defined by a broad list of campaign-related activities, including "(1) [p]reparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event;" "(8) [i]nitiat[ing] for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question;" and "(11) [m]anaging or working on a campaign for elective office or for or against any referendum question." *Id.* § 2-562.

The Report leaves no doubt that Prince was intentionally engaged in prohibited political activity while signed-in at the Clerk's Office on December 17th, 18th and 22nd of 2015. (*Id.* at 3.) Prince was performing his side job as a political consultant on workdays in which he was reflected as working at the Board of Review and/or as sick. (*Id.*) Section 2-583(c) makes clear that prohibited political activity may not be performed during an employee's County work, or on a sick day.

Moreover, to the extent that Prince might be inclined to assert that these incidents in December 2015 were the result of timekeeping mistakes, the Board has previously rejected employee assertions that their performance of prohibited political activity on County time was the inadvertent result of miscommunication or other timekeeping error. As the Board previously held in *Nelson*, County employees "who intentionally engaged in prohibited political activity during the regular workday [are the ones who] bear the burden of ensuring that they are not doing so on compensated time." *In re Nelson*, 2016I12, at *3 (CCBE Aug. 29, 2017); *see also In re Doherty*, 2016I16, at *5 (CCBE Aug. 29, 2017). In any event, Prince has elected not to present any exculpatory or mitigating evidence to the Board, and thus, even if these violations could have been excused, no excuse was provided.

While Section 2-602(a) authorizes fines for up to "\$5,000.00 per violation against any person found by the Board to have violated, intentionally obstructed or interfered with an investigation of, or intentionally made a false, frivolous or bad faith allegation under Section 2-574 or 2-583," the Board finds that fines of \$1,000 for each of the three violations should be sufficient to deter Prince from future violations of this provision.

B. Prince Violated Section 2-573(b) of the Ethics Ordinance.

Section 2-573(b) forbids a County employee from engaging in dual employment “which will impair his or her ability to perform County duties and responsibilities.” Prince engaged in dual employment on three days when he was reflected as being on the clock and/or sick. This is a clear violation of Section 2-573(b).

Further, Cook County Bureau of Human Resource Rules require employees engaged in dual employment to complete and file disclosure forms, and BOR executive staff indicated that BOR follows this rule. (Report at 6.) Yet BOR indicated that Prince never completed a dual employment form. This further underscores the appearance of impropriety surrounding Prince’s dual employment as a political consultant, because Prince has failed to disclose who he is working for or the hours he is working, or averred that he will comply with the County’s dual employment rules. In the worst case, Prince may view his campaign work as an extension of his County job as Commissioner Rogers’ “Intergovernmental Affairs Liaison.” A stronger boundary line is likely needed between Prince’s outside work and his County job.

C. Prince Violated Sections 2-591(8) and 602(d) of the Ethics Ordinance.

Section 2-591(8) of the Ethics Ordinance requires County employees to cooperate with Board investigations. Further, Section 2-602(a) also allows for the imposition of fines up to \$5,000 for “intentionally obstruct[ing] or interfer[ing] with an investigation of...Section 2-574 or 2-583.” Section 2-602(a) thus allows for the imposition a fine far higher than the \$1,000 permitted by Section 2-602(d), which addresses the failure to cooperate with investigations into violations of Ethics Ordinance provisions other than Section 2-574 and 2-583. This reflects a policy determination not only by the County Board but by the Illinois General Assembly, which provided for a \$5,000 fine for obstruction of an investigation under the State Officials and Employees Ethics Act, much of which the County Board imported into the Ethics Ordinance. *See* 5 ILCS 430/50-5(e) (providing for a \$5,000 fine for obstruction), 5 ILCS 430/70-5(a) (requiring local units of government to pass an ordinance or regulation restricting much of the same conduct addressed by the Act).

Prince repeatedly failed to cooperate with Board staff’s investigation, employing delay tactics and, finally, failing to respond altogether after Board staff refused to allow Commissioner Rogers to represent him in his interview. The Board cannot countenance employees flouting the provisions of the Ethics Ordinance or the authority of the Board or its staff.⁵ While Board staff

⁵ It is worth noting that there have been challenges to the Board’s authority in the past by County tax officials. *See, e.g.,* 4/15/15 Order, *Cook County Board of Ethics v. Berrios*, Case No. 14 CH 4951 (Cir. Ct. Cook County) (finding that while the then-applicable version of the Ethics Ordinance was ambiguous with respect to the Board’s power to impose fines, “the Court unequivocally agree[d]” that the County Board had the authority to impose the Ethics Ordinance over the Cook County Assessor). However, the Ethics Ordinance is clear in its application to Board of Review employees such as Prince, the Board has repeatedly asserted the authority granted to it by the Ethics Ordinance over BOR, and the courts have upheld both the County’s home rule authority to pass anti-corruption laws over the Cook County Assessor as well as BOR. *See id., Blanchard v. Berrios*, 2016 IL 120315, at ¶44, 6/15/18 Order, *Cook County Board of Ethics v. Power Rogers & Smith, LLP*, Case No. 17 CH 11543, at 6 (Cir. Ct. Cook County) (confirming that BOR is a “county official” as that term is used in the Ethics Ordinance, and that the

recommended a fine of \$2,500, half the maximum amount permitted by Section 2-602(a) for obstruction of an investigation of a violation of Section 2-583, the Board finds that a stronger sanction is necessary to demonstrate that the Board will not tolerate a County employee's failure to cooperate. Accordingly, the Board finds that the maximum fine of \$5,000 is warranted for this violation.

Further, Section 2-601 provides that "[a]ny employee or official found ... to have knowingly furnished false or misleading information in any investigation ... or to have failed to cooperate with an investigation under this article shall be subject to employment sanctions, including discharge by the employing official." Although the Board can only recommend that a County official impose employment sanctions, it is worth noting that the use of the word "shall" suggests that the imposition of employment sanctions is mandatory. Failure to cooperate with the Board's investigation into violations of the Ethics Ordinance is not just itself a violation of County ordinance, but a violation that altogether threatens the good-government purposes that underlie the Ethics Ordinance. It should not be tolerated. Accordingly, the Board's recommendation is that Prince be terminated for this misconduct.

CONCLUSION

The Board has considered the Report in this case and accepts the findings of Board staff that substantial evidence exists that Prince has violated Sections 2-583(c), 2-573(b), 2-591(8), 2-602 of the Ethics Ordinance. The Board hereby orders the following sanctions pursuant to Sections 2-601 and 2-602:

- 1.) A fine of \$1,000 for each of the three documented instances on December 17, 18, and 22, 2015, when Prince was signed in at the Clerk's Office and either used no benefit time or inappropriately used sick time to engage in political activity, in violation of Section 2-583 of the Ethics Ordinance.
- 2.) A fine of \$594.91, reflecting the amount of Prince was paid on the three dates in question, be imposed for Prince's violation of Section 2-573(b), forbidding dual employment that impairs one's performance of County duties and responsibilities.
- 3.) A fine of \$5,000 for Prince's lack of cooperation with, and obstruction of, the investigation of this matter in violation of Sections 2-591(8) and 2-602(a).

These fines total \$8,594.91. These fines must be paid within 30 days of the date of this order, or if Prince seeks reconsideration of the order under Board of Ethics Rule 5.17, within 30 days of the date that this order becomes final.

The Board further recommends that BOR take the following actions:

- 1.) That BOR update the job title and create a job description for Prince's position so that it accurately reflects his actual job duties, and that BOR do the same for all other employees

County Board's inclusion of the BOR within the Ethics Ordinance was constitutional). Thus, the constitutionality of the Board's ethics enforcement efforts over BOR is now well-settled.

to the extent that their job title or description does not match their duties, and/or they have no written job description.

- 2.) That BOR establish a written policy requiring all employees to execute a dual employment form to indicate whether or not the employee has dual employment, and to require employees with dual employment (whether as an employee or an independent contractor) to update their dual employment forms annually and/or when there has been a material change in their secondary employment. In the alternative, BOR may formally adopt the Cook County Bureau of Human Resources' dual employment policy.
- 3.) That BOR require all its employees and officials to attend mandatory in-person ethics training conducted by Board staff.
- 4.) That BOR terminate Prince for failure to cooperate with the Board's investigation of this matter.

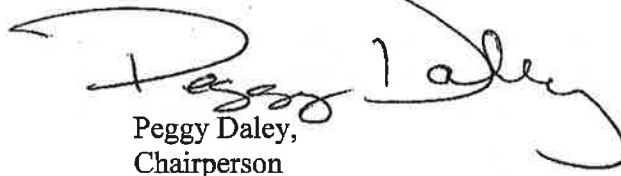
The Board also instructs Board staff to provide a copy of this Order to the Clerk's Office, with a request that it require all visitors to the Clerk's Election Department to sign in and out of the visitors logs, even if an individual is known to staff of the Clerk's Office, and that the Clerk's Office report to the Board any County employees who violate this requirement.

No further investigation into Prince's conduct is needed (although more investigation into BOR policies and procedures is likely warranted), and Board staff considers this case closed.

IT IS SO ORDERED.

July 12, 2018

THE COOK COUNTY BOARD OF ETHICS



Peggy Daley,
Chairperson