

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

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IN THE MATTER OF	)	Case No.: 2016I01
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Omari PRINCE, Appeals Analyst I, Cook	)	Entered: July 12, 2018
County Board of Review	)	
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**NOTICE OF DETERMINATION**

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Before the Cook County Board of Ethics (“Board”) is whether Omari Prince, an employee of the Cook County Board of Review (“BOR”) violated Section 2-583(c) of Cook County’s Ethics Ordinance (the “Ethics Ordinance”) by performing political activity on time for which he was compensated either as a regular work day or as a paid sick day. Also before the Board is whether Prince violated the obligation of County employees under Section 2-591(8) of the Ethics Ordinance to cooperate with the Board’s investigation.

The Board concludes that Prince, a paid political consultant, violated Section 2-583(c) on at least three separate dates when records kept by the County Clerk’s Election Department reflect that he was in that office during the period in which the ballot access petitions of local candidates are being challenged. Prince also clearly failed to cooperate with Board staff’s investigation of this case – which in the Board’s eyes, is by far the most serious of the violations. Accordingly, the Board has determined to impose a fine of \$8,594.91 in this case. *Id.*

**FACTUAL BACKGROUND**

The Board has reviewed the Final Investigation Report (“Report”) issued by Board staff in this matter, and accepts in full the facts set out in that Report. These facts are summarized briefly below.

**A. Prince’s Performance of Political Consulting Work on County Time.**

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.<sup>1</sup> (*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.<sup>2</sup>

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<sup>1</sup> 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.

<sup>2</sup> 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.)<sup>3</sup>

## **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.<sup>4</sup>

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<sup>3</sup> 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.

<sup>4</sup> 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]nitiating 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.<sup>5</sup> While Board staff

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<sup>5</sup> 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

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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.

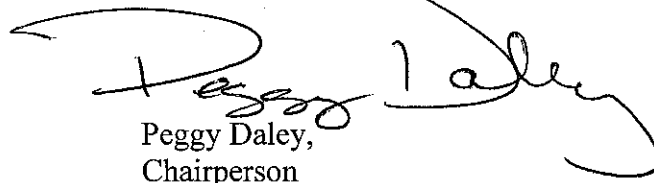
The Board also instructs Board staff to provide a copy of this Order to the Clerk's Office, with a request that it require all visitors to the Clerk's Election Department to sign in and out of the visitors logs, even if an individual is known to staff of the Clerk's Office, and that the Clerk's Office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