

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

IN THE MATTER OF)	Case No.: 2016I06
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Larry Rogers, Jr. , (Cook County Board of Review Commissioner))	Entered: May 20, 2021
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NOTICE OF DETERMINATION

Before the Cook County Board of Ethics (“Board”) is whether Cook County Board of Review Commissioner Larry Rogers, Jr. (“Rogers”) has an economic interest in the representation of parties against Cook County (“County”) in violation of §§2-571(a) - (b)(1) and 2-579(b) of the Cook County Ethics Ordinance (“Ethics Ordinance”). The Ethics Ordinance prohibits County elected officials from having an economic interest in the representation of Cook County. *See* Cook County Ordinance §2-579(b). The Ethics Ordinance further provides that County officials owe a fiduciary duty to the County and must avoid the appearance of impropriety. *See* Cook County Ordinance §2-571(a) - (b)(1).

The Board concludes that Rogers, an elected County official, violated §§2-571(a) - (b)(1) and 2-579(b) in three separate instances by having an economic interest in the representation of parties in judicial proceedings adverse to the County. The Board further determines that Rogers should be fined, for each violation, for a total amount of \$3,000.00.

FACTUAL BACKGROUND:

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

Rogers was elected as a Commissioner to the Cook County Board of Review in 2004. As an elected Commissioner of the Board of Review, Rogers is charged with the duty of reviewing filings by property owners who believe that they were over assessed property taxes by the Cook County Assessor’s Office. He began working for the law firm Power, Rogers & Smith, L.L.P. (initially named Power Rogers)¹, first as a law clerk in 1992 and then as an Associate Attorney in 1994. Rogers stated that he became a partner with equity interest in the firm in 2016. *See* Interview

¹In 1994 “Power Rogers” changed its name to “Power, Rogers & Smith P.C.”. The firm again changed its name from “Power, Rogers & Smith P.C.” to “Power Rogers & Smith, L.L.P.” in 2016.

Transcript (“Tr.”), attached here as Exhibit A., P. 17. Rogers advised that the Firm does not receive any compensation unless a case has settled in the Firm’s client’s favor. *See Tr.*, P. 33. Rogers stated that he is certain his compensation is related to cases he handled or for which he was responsible, and clients have chosen him as counsel. *See Tr.*, Pp. 38,46.

On August 23, 2010 Rogers sought an Advisory Opinion from the Board as to whether it was permissible for him or another attorney from his firm to represent a party in a judicial proceeding against Cook County. Rogers informed the Board that he was a salaried associate attorney, who was not directly involved in the representation and did not have a direct financial interest in the case. Based on the information provided, the Board found no violation of §2-579 of the Ethics Ordinance. However, the Board stated that if Rogers remains a Cook County elected official, the appearance of impropriety exists if “the law firm of Power, Rogers, and Smith, P.C. continues to represent [plaintiff] in the pending court case” against the County.

On December 15, 2015, the Subcommittee on Litigation for the County Board of Commissioners requested a Staff Opinion from the Ethics Board Staff concerning whether an elected County Official can also represent a plaintiff in a lawsuit against the Cook County Health and Hospitals System (“CCHHS”) without violating the Ethics Ordinance. The Board’s staff issued Staff Opinion 16 S 0002, advising that a County Official who has an economic interest in the representation of a person in an adverse judicial proceeding against the County would violate the Ethics Ordinance.

The Civil Action Bureau of the Cook County State’s Attorney’s Office, in a memorandum dated May 10, 2016, identified several cases that were allegedly handled by Rogers on behalf of Power, Rogers & Smith, L.L.P., against the County. Three of those cases are at issue here: *Toro, et al. v. County of Cook, et al.*, No. 2015-L-5487 (filed May 29, 2015; dismissed based on settlement between parties on or about September 19, 2018); *Fuller, et al. v. G, et al.*, No. 2011-L-2213 (filed February 28, 2011 and closed May 21, 2016); and *The Estate of Kenyatta Brack, Jr., Deceased* (The Cook County Board approved settlement in the amount of \$6 million dollars on January 13, 2016). In *Fuller* and *Estate of Kenyatta Brack*, the County approved million-dollar settlements payable to the named plaintiffs via Power, Rogers & Smith, L.L.P.

Rogers confirmed that he initially participated in the representation of plaintiffs in all three cases, which named Cook County as a defendant, and that the cases were later transferred to other attorneys at his firm. *See Interview Transcript (“Tr.”)*, P. 17. Rogers noted that in *Fuller* and *Estate of Kenyatta Brack* he later resumed involvement in the case by taking depositions towards the end of each matter. *See Interview Transcript (“Tr.”)*, P. 17. He specifically acknowledged that his compensation was, in part, based on his work on *Brack*. *See Tr.*, P. 57.

Rogers was advised that the Ordinance did not apply to him. *Tr.*, P. 71. He relied on advice from former Cook County State’s Attorney Anita Alvarez’s Office that the “Board of Commissioners could not pass ordinances or create offices such as the Inspector General for example, that govern the actions of independently elected officials”. *Tr.*, P. 70. He stated that he received that advice as it relates to the Inspector General. *Tr.*, P. 70.

ANALYSIS:

Rogers violated §2-579(b) of the Ethics Ordinance.

The Ethics Ordinance prohibits elected officials from having an economic interest in the representation of “any person in any judicial proceeding in which the County is a party and that person’s interest is directly adverse to that of the County.” See Cook County Ordinance §2-579(b). Power, Rogers, & Smith, L.L.P. represented plaintiffs in *Fuller*, *Brack*, and *Toro* in their lawsuits against the County. Rogers acknowledged that he initially handled the representation of plaintiffs in all three matters before it was assigned to another attorney in his firm. He also noted that he also worked on *Fuller* and *Brack* towards the end of the case.

Rogers has provided no evidence that his compensation did not include payment for the firm’s representation of plaintiffs in *Fuller*, *Brack*, and *Toro*. Rogers stated that he benefited economically from cases he handled, and specifically admitted that he received compensation for his work on *Brack*. Absent any evidence to the contrary, we must conclude that Rogers received compensation resulting from his work on *Toro*, *Fuller*, and *Brack*. The Board has determined that Rogers’ own admissions provide sufficient proof that he had an economic interest in the representation of *Brack* and *Fuller* in adverse judicial proceedings against the County, violating §2-579(b) of the Ethics Ordinance.

Rogers violated §2-571(a) - (b)(1) of the Ethics Ordinance.

As fiduciaries for the public, Cook County elected officials must perform their duties with the interest of the public in mind and not participate in any action that is deemed improper or in any action that may even give the appearance of impropriety. Cook County Ordinance § 2-571(b)(1). Power, Rogers, & Smith, L.L.P.’s continued representation of parties suing the County creates an appearance of impropriety in violation of §2-571(1) - (b)(1) of the Ethics Ordinance. Significantly, this Board previously advised Rogers in a 2010 opinion that the appearance of impropriety exists so long as Power, Rogers, & Smith, L.L.P. continues to represent parties in matters against the County while Rogers holds elected office in the County. This Board further advised Rogers that if his firm continue to handle representation of parties against the County that he provide a written document addressing this issue. Finally, this Board told Rogers that he should not receive any financial benefit as a result of such representation.

On August 15, 2018, in a document directed to the Cook County Board of Commissioners, Rogers indicated that his firm would screen him from any involvement in matters against Cook County while he serves as an elected County official. The letter also stated that Rogers would not receive any portion of fees earned from any firm matter against the County. Yet when requests were made that Rogers provide evidence that he did not receive or that he divested compensation he received for the firm’s representation of plaintiffs in *Fuller*, *Brack*, and *Toro*, Rogers failed to do so. In the absence of evidence to the contrary, this Board concludes that Rogers retained compensation resulting from his firm’s representation of parties against the County, which is a violation of the Ethics Code and creates an appearance of impropriety such that it will harm the public’s perception of the County.

The Board imposes fines in the amount of \$3,000 pursuant to §2-602(d) of the Ethics Ordinance.

Rogers knowingly violated §§2-579(b) and 2-571(a)-(b)(1) of the Ethics Ordinance by representing plaintiffs in three separate cases against the County. The Board may impose a maximum fine of \$1,000 upon a finding that an official or candidate knowingly violated a provision of the Ethics Ordinance. Cook County Ordinance §2-602(d).

Here, as evidenced largely by Rogers' own admissions, not only did Rogers violate the Ordinance through his representation of and his compensation from cases brought against the County. Rogers did so after this Board specifically stated that continued representation would result in a violation. The Board, therefore, applies the maximum fine for violations of §§2-571(a)-(b)(1) and 2-579(b) for each of the three cases where he represented parties against the County for a total fine of \$3,000 (\$1,000 for each case).

CONCLUSION

The Board has considered the Report in this investigation and finds that Rogers violated §§2-571(a)-(b)(1) and §2-579(b) of the Ethics Ordinance. The Board hereby orders the following:

1. A fine of \$1,000.00, for each of the three offenses, representing parties against the County in (1) *Fuller*, (2) *Brack*, and (3) *Toro*, totaling \$3,000.00, to be paid to the Board within 30 days. This fine amount represents the maximum penalty allowed under the Ethics Ordinance.

IT IS SO ORDERED.

July 2, 2021

THE COOK COUNTY BOARD OF ETHICS



Thomas Szromba
Chairperson