

LOUISIANA BOARD OF ETHICS
MINUTES
February 17, 2017

The Board of Ethics met on February 17, 2017 at 9:00 a.m. in the LaBelle Room on the 1st floor of the LaSalle Building located at 617 North Third Street, Baton Rouge, Louisiana with Board Members Bruneau, Dittmer, Ingrassia, Lavastida, Leggio, McAnelly, Michiels, Monroe, Shelton and Smith present. Also present were the Ethics Administrator, Kathleen Allen; the Executive Secretary, Deborah Grier; and Counsel Tracy Barker, David Bordelon, Jennifer Land, Suzanne Mooney, Brett Robinson and Haley Williams.

The Board considered a request for reconsideration in Docket No. 16-603 of the Board's suspension of all but \$450 of a \$1,500 late fee assessed against Vincent P. Borrello Jr., a member of the Board of Examiners of Certified Shorthand Reporters, for filing his 2014 Tier 2.1 Annual personal financial disclosure statement 108 days late. On motion made, seconded and unanimously passed, the Board continued the matter to the March meeting.

Mr. Thomas A. "Tim" Barfield, Jr., former Secretary of the Department of Revenue, and his attorney, Mr. R. Gray Sexton, appeared before the Board in connection with a request in Docket No. 16-1217 for a waiver of the \$12,500 late fee assessed against Mr. Barfield for filing his amended 2015 Tier 1 Annual personal financial disclosure statement 36 days late. After hearing from Mr. Barfield and Mr. Sexton, on motion made, seconded and passed by a vote of 8 yeas by Board Members Dittmer, Ingrassia, Lavastida, Leggio, Michiels, Monroe, Shelton and Smith and 2 nays by Board Members Bruneau and McAnelly, the Board waived the \$12,500 late fee.

Mr. Jerry L. Denton, Jr., a candidate for City Court Judge, City of Denham Springs in the November 8, 2016 election, and his attorneys, Mr. R. Gray Sexton and Ms. Alesia Ardoin, appeared

before the Board, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, in connection with a request in Docket No. 16-1279 for a waiver of the \$300 and \$960 late fees assessed against Judge Denton for filing his 30-P and 10-G campaign finance disclosure reports 5 and 16 days late. After hearing from Judge Denton, Mr. Sexton and Ms. Ardoin, on motion made, seconded and unanimously passed, the Board declined to waive the \$300 and \$960 late fees but suspended both late fees conditioned upon future compliance with the Campaign Finance Disclosure Act and affirmed that the current suspended \$400 late fee remained in effect.

Ms. Leslie Ann Ellison, a candidate for Orleans Parish School Board, District 4 in the November 8, 2016 election, appeared before the Board, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, in connection with a request in Docket No. 17-063 for a waiver of the \$540 late fee assessed against her for filing her 10-G campaign finance disclosure report 9 days late. After hearing from Ms. Ellison, on motion made, seconded and unanimously passed, the Board declined to waive the \$540 late fee but suspended the entire late fee conditioned upon future compliance with the Campaign Finance Disclosure Act.

Mr. James "Jim" Mora, a candidate for East Baton Rouge Parish Metropolitan Council, District 9 in the November 8, 2016 election, appeared before the Board, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, in connection with a request in Docket No. 17-064 for a waiver of the \$780 late fee assessed against him for filing his 10-G campaign finance disclosure report 13 days late. After hearing from Mr. Mora, on motion made, seconded and unanimously passed, the Board declined to waive the \$780 late fee but suspended the entire late fee conditioned upon future compliance with the Campaign Finance Disclosure Act.

Ms. Leu Anne Greco, General Counsel for the LSU Foundation; Mr. Jim Marchand, LSU

Assistant General Counsel; and, Mr. Rob Stewart, LSU Foundation President appeared before the Board in connection with a request for an advisory opinion in Docket No. 16-1340 regarding the propriety of the CEO of the LSU Foundation also holding the position of LSU Vice-President for Institutional Advancement. After hearing from Ms. Greco, Mr. Marchand and Mr. Stewart, on motion made, seconded and unanimously passed, the Board concluded the following:

(1) Whether La. R.S. 42:1111 prohibits the Foundation's employment and compensation of the Foundation CEO/LSU VP position? La. R.S. 42:1111A(1)(b) would allow the LSU VP to receive supplementary compensation or benefits from funds accruing to the benefit of LSU as approved by the appropriate policy or management board, through the Foundation. Additionally, pursuant to La. R.S. 17:3390B(3), the Foundation must reimburse LSU, either directly or through in-kind services, for the cost of LSU employees furnished to support the Foundation. Therefore, the LSU VP must receive compensation directly from LSU, which the Foundation must reimburse LSU for the portion of his salary attributable to time spent on Foundation matters and away from his LSU duties.

(2) Whether the Ethics Code prohibits the LSU CFO, Dan Layzell, from serving as interim Foundation CEO? Mr. Layzell's duties and compensation as LSU CFO will be continued without change and the Foundation will reimburse LSU for the portion of his salary attributable to time spent on Foundation matters and away from his regular LSU duties. As such, it would not present a violation of the Code of Governmental Ethics if Mr. Layzell serves as interim Foundation CEO, at a time when he is employed as the LSU CFO.

(3) Whether La. R.S. 42:1112B(3) prohibits the LSU VP, who is also the Foundation CEO, from participating in a transaction involving LSU in which the Foundation has a substantial economic interest? Without more information regarding the transactions he may encounter in his capacity as LSU VP, the Board is unable to render an opinion as to this issue. However, La. R.S. 42:1112B(3) generally would prohibit the LSU VP/Foundation CEO from participating, in his capacity as LSU VP, in any transaction involving LSU in which the economic interest is of a greater benefit to the Foundation than to the other LSU affiliated foundations. As such, if a specific situation arises in the future, the LSU VP should request an advisory opinion at that time. Finally, La. R.S. 42:1115 would prohibit the LSU VP from soliciting and/or accepting donations from any person who: (1) has or is seeking to obtain contractual or other business or financial relationships with LSU; (2) is seeking, for compensation, to influence the passage or defeat of legislation by LSU; (3) conducts operations or activities which are regulated by LSU; or (4) has substantial economic interests which may be substantially affected by the performance or nonperformance of his official duties. While the LSU VP will oversee the Office of Institutional Advancement, according to the organizational chart provided, he will not directly supervise any employees. Therefore, his "agency", as that term is defined in La. R.S. 42:1102(2), will be Office of Institutional Advancement. Furthermore, pursuant to La. R.S. 17:3390B(3), LSU employees performing services on behalf of the Foundation shall remain public servants for all purposes.

The Board further instructed the staff to return a draft of the advisory opinion to the March agenda for the Board's review and adoption.

Mr. Richard Campbell, counsel for GCR Incorporated and Mr. Ted Guillot, GCR Incorporated Acting Director, Community Planning & Resilience, appeared before the Board in

connection with a request for an advisory opinion in Docket No. 17-100 regarding a request for proposal (RFP) issued by the Office of Community Development - Disaster Recovery Unit (OCD-DRU). After hearing from Mr. Campbell and Mr. Guillot, on motion made, seconded and unanimously passed, the Board concluded that GCR Incorporated is not prohibited by Section 1112 of the Code of Governmental Ethics from submitting a proposal in regards to the RFP issued by OCD-DRU.

The Board recessed at 10:05 a.m. and resumed back into general business session at 10:18 a.m.

On motion made, seconded and unanimously passed, the Board agreed to take action on items G9-G19 en globo subject to any items being removed from the en globo listing for further discussion.

On motion made, seconded and unanimously passed, the Board adopted the staff recommendations on items G9-G19, excluding Item G17, taking the following action:

Adopted an advisory opinion in Docket No. 16-1170 concluding that no violation of the Code of Governmental Ethics is presented by Bao Vu, an employee with the New Orleans Department of Public Works, performing design and construction engineering services with engineering firms who have contracts on FEMA projects with the City of New Orleans in transactions in which he did not participate at any time while employed by the City of New Orleans for a period of two years from his retirement from his employment with the City of New Orleans.

Adopted an advisory opinion in Docket No. 16-1203 concluding that no violation of the Code of Governmental Ethics is presented by David Ellis, as an elected member of the Mandeville City Council (Council), continuing his employment with Arthur J. Gallagher & Company (Gallagher), at a time when it serves as the benefits consultant for STARC, since as an employee of Gallagher, the

benefits consultant for STARC's voluntary insurance benefits, Mr. Ellis will be providing services to STARC employees, which will be paid by those employees through payroll deductions. Moreover, it would not present a violation of the Code of Governmental Ethics if Mr. Ellis performs such services, as an employee of Gallagher, in connection with STARC's voluntary insurance benefits. However, without more information, the Board is unable to render an advisory opinion regarding similar services that may be provided by Gallagher in connection with STARC's employer sponsored insurance benefits in the future. As such, if a specific situation arises in the future, the Board suggested that Mr. Ellis should request an advisory opinion at that time. Finally, Mr. Ellis is not an officer, director, trustee, partner, or employee of STARC. Additionally, the Council approves the total amount of grant funding available each year as part of the budget process, but the individual funding requests are not included as line items in the proposed budget. As such, it would not present a violation of Section 1112B(3) of the Code of Governmental Ethics if he participates in the vote regarding the annual grant funds to be allocated by the City, while his employer, Gallagher, serves as STARC's benefits consultant.

Adopted an advisory opinion in Docket No. 16-1301 with respect to the Kenner Historic District Commission and its qualified architect member's ability to represent a party before the Commission during his service and post-termination, concluding the following:

1. Is recusal sufficient?

Pursuant to Section 1120.4 of the Code of Governmental Ethics, the board member must recuse himself from the vote, as well as any discussion, to avoid a violation of Section 1112 of the Code of Governmental Ethics.

2. Is the qualified architect member precluded from representing a party before the

commission?

The appointed board member would be prohibited by Section 1111E(1) of the Code of Governmental Ethics from assisting a third party in a transaction involving the Commission while he is a member of the Commission. The appointed board member would also be prohibited by Section 1113 of the Code of Governmental Ethics from entering into a transaction with the Commission while he is a member of the Commission.

3. Is the qualified architect member precluded from representing a party before the Commission for two years from the date he resigns or his term ends?

Pursuant to Section 1121 of the Code of Governmental Ethics, the appointed board member would be prohibited for two years following the termination of his public service, from assisting another person in a transaction involving the Commission. The prohibition would also extend to any legal entity in which the former board member is an officer, director, trustee, partner, or employee for two years following the termination of public service.

Adopted an advisory opinion in Docket No. 16-1311 concluding that no violation of the Code of Governmental Ethics is presented by the Caddo Parish District Attorney's Office (CPDAO) paying Accurate Reporting, owned by Virginia Conlin, for providing court reporters for the grand jury, since this is not a service that Ms. Conlin formerly rendered as an employee of the First Judicial District Court, and the contract to provide those services would not involve her former agency, the First Judicial District Court.

Adopted an advisory opinion in Docket No. 16-1313 concluding that Section 1121B of the

Code of Governmental Ethics would prohibit Leo Williams, a former employee of the Town of Berwick, from rendering services on a contractual basis to his former agency for a period of two years following the termination of his public employment. The Board further advised that no violation of the Code of Governmental Ethics would be presented by Mr. Williams being re-employed by the Town of Berwick.

Allowed the withdrawal of the request for an advisory opinion in Docket No. 17-017 regarding whether Erin Guerra can be employed with Woodward Design+Build while she is employed by the City of New Orleans as a Building Plan Examiner, since Ms. Guerra will not be employed with Woodward Design+Build at this time.

Declined to render an advisory opinion in Docket No. 17-018 regarding whether Jonathan Glover, a member of the Opelousas Board of Alderman, can accept a position in the office of US Representative Clay Higgins, since the dual office holding issue presented is not under the Board's jurisdiction. The Board further instructed the staff to advise Mr. Glover to contact the Attorney General's Office.

Adopted an advisory opinion in Docket No. 17-020 concluding that no violation of the Code of Governmental Ethics is presented by Kenneth Boudreaux, a member of the Lafayette City -Parish Council, entering into a professional services contract with the Lafayette Parish Sheriff's Office, since Councilman Boudreaux would not be transacting with his agency. The Board further advised that the opinion request may present an issue associated with the dual office holding laws which are under the jurisdiction of the Attorney General's Office.

Approved the disqualification plan submitted in Docket No. 17-026 regarding the employment of Lisa Ivey within the Criminal Investigations Division of the Jefferson Davis Parish Sheriff's Office

while her father, Christopher Ivey, serves as Chief Deputy of the Jefferson Davis Parish Sheriff's Office, since the disqualification plan complies with Section 1112 of the Code of Governmental Ethics and the Rules of the Board of Ethics.

Adopted an advisory opinion in Docket No. 17-061 concluding that no violation of the Code of Governmental Ethics is presented by Vickie Sergent accepting employment with the Rapides Parish Coliseum Authority while her uncle, Oliver Overton, serves as an elected member of the Rapides Parish Police Jury, since Ms. Sergent does not fall within the definition of "immediate family" pursuant to Section 1119 of the Code of Governmental Ethics.

Allowed the withdrawal of the request for an advisory opinion in Docket No. 17-024 regarding whether Gerald Michel, a member of the Terrebonne Parish Council, District 3, may collect insurance commissions from the Terrebonne Parish Government Agent of Record or the Third Party Administrator for referrals to other public officials not associated with the Terrebonne Parish Consolidated Government (TPCG), since the situation no longer exists.

In connection with an Answer filed in Docket No. 16-1000 by John Rolling, a member of the Hammond Airport Authority, in response to a notice of delinquency regarding his failure to file a 2015 Tier 2.1 Annual personal financial disclosure statement, instructed the staff to advise Mr. Rolling that he is not required to file a 2015 Tier 2.1 Annual personal financial disclosure statement, since the City of Hammond has a population, according to the latest decennial census, of less than 25,000 and the members of the Hammond Airport Authority are not required to file Annual personal financial disclosure statements.

In connection with an Answer filed in Docket No. 17-011 by Mary Jane Whitty, a member of the St. Tammany Parish Sewerage District No.2, in response to a notice of delinquency regarding

her failure to file a 2015 Tier 2.1 Annual personal financial disclosure statement, instructed the staff to advise Ms. Whitty that she is required to file a 2015 Tier 2.1 Annual personal financial disclosure statement and that failure to file may result in the assessment of late fees.

In connection with an Answer filed in Docket No. 17-012 by Chris Smith, a former member of the Sparta Groundwater Conservation District, in response to a notice of delinquency regarding his failure to file a 2015 Tier 2.1 Annual personal financial disclosure statement, instructed the staff to advise Mr. Smith that he is required to file a 2015 Tier 2.1 Annual personal financial disclosure statement and that failure to file may result in the assessment of late fees.

In connection with an Answer filed in Docket No. 17-014 by Edward Gongre, constable for Grant Parish, District A, in response to a notice of delinquency regarding his failure to file a 2015 Tier 3 Annual personal financial disclosure statement, instructed the staff to advise Mr. Gongre that he is required to file a 2015 Tier 3 Annual personal financial disclosure statement and that failure to file may result in the assessment of late fees.

In connection with an Answer filed in Docket No. 17-015 by John Gallaspy, a member of the Northshore Charter School Board, in response to a notice of delinquency regarding his failure to file a 2015 Tier 3 Annual personal financial disclosure statement, instructed the staff to advise Mr. Gallaspy that he is required to file a 2015 Tier 3 Annual personal financial disclosure statement and that failure to file may result in the assessment of late fees. Board Member Dittmer recused himself.

The Board considered the following general business agenda items:

On motion made, seconded and unanimously passed, the Board approved the minutes of the January 19-20, 2017 meetings.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board

considered an Ethics Adjudicatory Board Order regarding the assessment of additional penalties pursuant to Section 1505.4A(4)(a)and(b) of the Campaign Finance Disclosure Act against Isaiah Marshall, a candidate for East Baton Rouge Metro Councilman in the October 4, 2008 election, who failed to file his 2011 and 2012 Supplemental campaign finance disclosure reports. On motion made, seconded and unanimously passed, the Board instructed the staff to issue orders assessing penalties in accordance with Section 1505.4A(4) (b) of the Campaign Finance Disclosure Act in the amount of \$10,000 for each report.

The Board considered a request for an advisory opinion in Docket No. 17-027 regarding whether John Broussard, an Assistant State Treasurer, would be prohibited from accepting the Executive Director position with the Louisiana Municipal Police Employees' Retirement System. On motion made, seconded and unanimously passed, the Board concluded that Section 1121A(2) of the Code of Governmental Ethics would prohibit Mr. Broussard from being employed as the Executive Director of MPERS until at least April 20, 2018, which is two years from the date of the last MPERS meeting he attended as a designee of the State Treasurer.

The Board considered a request for an advisory opinion in Docket No. 17-169 submitted by William Goode, on behalf of Devin Hebert, a member of the Crowley Police Department, regarding Captain Janet Kneeland's participation on the Crowley Municipal Fire and Police Civil Service Board in a matter of which she is the subject of a complaint by Corporal Hebert. On motion made, seconded and unanimously passed, the Board allowed the withdrawal of the request for an advisory opinion as requested by Mr. Goode.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board unanimously agreed to take action on the requests for “good cause” waivers of late fees assessed

against candidates and committees included in the Campaign Finance Waiver Chart en globo subject to any items being removed from the en globo listing for further discussion.

On motion made, seconded and unanimously passed, the Board adopted the staff recommendations on the items in the Campaign Finance Waiver Chart, excluding Docket Nos. 16-1298, 16-1299 and 17-021, taking the following action:

The Board unanimously declined to waive the late fees assessed against the following:

Docket No. 16-1036 from Kenneth Hedrick of a \$600 late fee and a \$2,000 late fee; and, Docket No. 17-022 from Natalie Lopez-Robin of a \$400 late fee.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered a request in Docket No. 16-925 for a waiver of the \$2,000 late fee assessed against Donald W. Smith, a candidate for Bienville Parish Coroner in the October 24, 2015 election, for filing his 10-G campaign finance disclosure report 662 days late. On motion made, seconded and unanimously passed, the Board declined to waive the \$2,000 late fee but suspended \$1,800 conditioned upon future compliance with the Campaign Finance Disclosure Act. The Board further instructed that a payment plan must be entered into within 30 days, including the payment of the first installment, or the late fee must be paid within 30 days or the suspended portion becomes due and owing.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered a request in Docket No. 16-1302 for a waiver of the \$420 late fee assessed against Bruce M. McCarthy, a candidate for City Marshal, City Court, City of Winnsboro in the November 8, 2016 election, for filing his 30-P campaign finance disclosure report 7 days late. On motion made, seconded and unanimously passed, the Board declined to waive the \$420 late fee but suspended the

entire late fee conditioned upon future compliance with the Campaign Finance Disclosure Act.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered a request in Docket No. 17-023 for a waiver of the \$600 late fee assessed against Andrew Randall, Jr., a candidate for Judge, Juvenile Court, Elec. Sect. 1C in the November 8, 2016 election, for filing his 10-P campaign finance disclosure report 10 days late. On motion made, seconded and unanimously passed, the Board declined to waive the \$600 late fee but suspended \$400 conditioned upon future compliance with the Campaign Finance Disclosure Act and provided payment is made within 30 days. If the payment is not received in 30 days, the full amount becomes due and owing.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered a request in Docket No. 16-1298 for a waiver of the \$320 late fee assessed against Jules R. Green, Councilman, District 3, City of Alexandria in the November 8, 2016 election, for filing his 10-P campaign finance disclosure report 8 days late. On motion made, seconded and unanimously passed, the Board declined to waive the \$320 late fee but suspended the entire late fee conditioned upon future compliance with the Campaign Finance Disclosure Act. Board Member Michiels recused herself.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered a request in Docket No. 16-1299 for a waiver of the \$420 late fee assessed against Rani Whitfield, a candidate for East Baton Rouge Parish Council, Metro District 3 in the November 8, 2016 election, for filing his 30-P campaign finance disclosure report 7 days late. On motion made, seconded and unanimously passed, the Board declined to waive the \$420 late fee but suspended the entire late fee conditioned upon future compliance with the Campaign Finance Disclosure Act.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board

considered a request in Docket No. 17-021 for a waiver of the two (2) \$3,000 late fees assessed against MIKE PAC, a political action committee, its committee's chairperson, Michael Walsworth and treasurer, Stuart Clason, in connection with the November 8, 2016 Primary Election for filing the 90-P campaign finance disclosure report 103 days late and the 10-P campaign finance disclosure report 21 days late. On motion made, seconded and unanimously passed, the Board declined to waive the two (2) \$3,000 late fees but suspended \$2,500 of each \$3,000 late fee conditioned upon future compliance with the Campaign Finance Disclosure Act and provided payment is made within 30 days. If the payment is not received in 30 days, the full amount becomes due and owing.

The Board considered a request in Docket No. 16-1300 for a waiver of the \$50 late fee assessed against Tommy Hebert for the late filing of the October 2016 Lobbying Expenditure Report. On motion made, seconded and unanimously passed, the Board waived the \$50 late fee, since it was Mr. Hebert's first late filing.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered an untimely request in Docket No. 17-072 for a waiver of the \$280 late fee assessed against Don Marshall, a candidate for Tangipahoa Parish Constable, Ward 8 in the November 4, 2014 election, for filing his EDE-P campaign finance disclosure report 7 days late. On motion made, seconded and unanimously passed, the Board declined to waive the \$280 late fee but suspended the entire late fee conditioned upon future compliance with the Campaign Finance Disclosure Act.

The Board considered a request in Docket No. 16-803 for reconsideration of the Board's suspension of all but \$650 of a \$1,500 late fee assessed against Philomene Burrell Allain, a former member of the New Orleans Council on Aging, for filing her 2014 Tier 2.1 Annual personal financial disclosure statement 182 days late. On motion made, seconded and unanimously passed, the Board

affirmed its prior suspension of all but \$650 of the \$1,500 late fee conditioned upon future compliance with the Code of Governmental Ethics and with the option of a payment plan.

On motion made, seconded and unanimously passed, the Board, in its capacity as the Supervisory Committee on Campaign Finance Disclosure, agreed to reopen the discussion on Docket No. 16-925.

In its capacity as the Supervisory Committee on Campaign Finance Disclosure, the Board considered a request in Docket No. 16-925 for a waiver of the \$2,000 late fee assessed against Donald W. Smith, a candidate for Bienville Parish Coroner in the October 24, 2015 election, for filing his 10-G campaign finance disclosure report 662 days late. On motion made, seconded and unanimously passed, the Board declined to waive the \$2,000 late fee but suspended \$1,800 conditioned upon future compliance with the Campaign Finance Disclosure Act. The Board further instructed that a payment plan setting forth a minimum payment of \$100 per month must be entered into within 30 days, including the payment of the first installment, or the late fee must be paid within 30 days or the suspended portion becomes due and owing.

On motion made, seconded and unanimously passed, the Board agreed to add consideration of Docket Nos. 13-344 and 13-1258A to the general business agenda.

Ms. Allen provided an overview to the Board regarding the Order rendered by the Ethics Adjudicatory Board in Docket No. 13-344 continuing the hearing without date with respect to the Board's Motion for Summary Judgment in the matter of Tarren Johnson and regarding the Order rendered by the Ethics Adjudicatory Board (EAB) in Docket No. 13-1258A continuing the hearing without date with respect to the Board's Motion for Summary Judgment in the matter of Doris Hicks, et al. On motion made, seconded and unanimously passed, the Board authorized the staff to seek

appropriate appellate review if the EAB issues an order that the Board of Ethics does not have the authority to file a motion for summary judgment or is not entitled to a hearing on its motions for summary judgment.

The Board unanimously adjourned at 11:15 a.m.

Secretary

APPROVED:

Chairman

