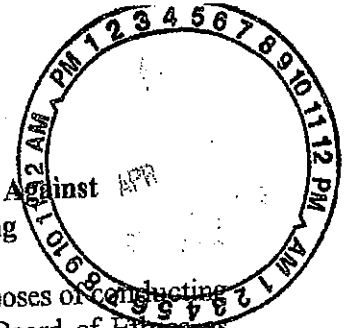


DEKALB COUNTY BOARD OF ETHICS
OPINION NUMBER 15
Complaint of Dave Carlson Regarding an Ethical Violation Against
Commissioner Elaine Boyer and Attorney Lisa Chang



The DeKalb County Board of Ethics met February 19, 2013 for the purposes of conducting a preliminary hearing, pursuant to Procedural Rules of the DeKalb County Board of Ethics as amended through February 9, 1993, § IV (B) & (C), which might tend to establish a violation of the Code of Ethics.

The relevant provision of the DeKalb County Code of Ethics that govern the Complaint is the alleged ethical violation or appearance of a conflict of interest governed by subsections 22A(c) (1) and (2).

Subsection (c) (1) provides that:

No member of the governing authority shall:

By his conduct give [a] reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official acts or actions, or that he is affected unduly by the rank or position of or kinship or association with any person;

The Board did not find sufficient evidence that Commissioner Boyer gave a reasonable and rational impression that she enjoyed favor with the Department of Law when then-County Attorney Chang, acting on an indirect investigative instruction, made inquiry of Mr. Carlson regarding the ownership and control of websites which might come under the auspices of DeKalb County in its regular conduct of the business of posting the Commissioner's execution of duties for and on behalf of the then sitting Commission for DeKalb County. In fact, the Board voted that the evidence did not sufficiently demonstrate a nexus between the acts or omissions of Commissioner Boyer in the initiation, supervision or control over Attorney Chang or the Department of Law investigation. Further, it was not credibly shown to a majority of the members of the Board that Attorney Chang gave any such impression or made any threatening or intimidating remarks to complainant other than to make reasonable inquiry, within the normal course and scope of her duties as directed generally relative to the ownership and control of the subject website which was in good faith thought to have perhaps fallen under the auspices of the County governmental authority.

Subsection (c) (2) provides that governing authority members shall not:

Directly or indirectly request, exact, receive, or agree to receive a gift, loan, favor, promise, or thing of value for himself or another person if: (i) it tends to influence him in the discharge of his official duties; or (ii) he recently has been, or is now; or in the near future may be, involved in an official act or action directly affecting the donor or lender

The Georgia Legislature provided for the liberal construction, interpretation and application of §2A, so as to effectuate its purposes and policies and to supplement the existing rules and laws as to the conduct of members of the governing authorities. (Ga. L. 1992, pp. 6137, et. seq., Senate Bill 199 & as amended; DeKalb County Georgia Code of Ethics, §§ 22 A (a) (2) sub-part (h) (1)).

The legislature empowered and directed the DeKalb County Board of Ethics to render opinions and decisions on complaints interpreting and applying the rules of ethics . . . as to whether

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a particular course of conduct would constitute a violation of the standards imposed by Section 22 A or other applicable ethical standards. Board Rule, § (i) (5) (B).

By a vote of three (3) for dismissal of the complaint and two (2) for a further hearing to determine an ethical violation, the Board found that there was insufficient evidence produced at the preliminary hearing to demonstrate the need for a full evidentiary hearing to determine if an ethical violation occurred and if so the discipline to be executed.

Commissioner Boyer was represented by Attorney Linda Dunlavy and Attorney Chang appeared *pro se*. The complainant, Mr. Carlson, appeared *pro se*.

Wherefore, the Board hereby Orders that the complaint be dismissed and the same is hereby DISMISSED.


Bryan Smith, Chair
DeKalb County Board of Ethics

