

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2014 CA 0336

LOUISIANA BOARD OF ETHICS
IN THE MATTER OF SCOTT FONTENOT

Judgment Rendered: DEC 30 2014

MDK
WJC (by pm)
RHP (by pm)

APPEALED FROM
THE DIVISION OF ADMINISTRATIVE LAW
ETHICS ADJUDICATORY BOARD
STATE OF LOUISIANA
DOCKET NUMBER 2011-9164

ADMINISTRATIVE LAW JUDGES
JOHN O. KOPYNEC,
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AND SUZANNE K. SASSER

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BEFORE: PARRO, McDONALD, AND CRAIN, JJ.

McDONALD, J.

This is a companion case to **Louisiana Board of Ethics in the Matter of Scott Fontenot**, 2014-0337 (La. App. 1 Cir. 12/30/14) (not published). In this case, the Louisiana Board of Ethics (BOE) appeals an order of the Ethics Adjudicatory Board dismissing its charges against Scott Fontenot and Fontenot & Associates and finding, as a matter of law, that Mr. Fontenot and Fontenot & Associates were not public employees subject to the Code of Governmental Ethics. For the reasons set forth in **Louisiana Board of Ethics in the Matter of Scott Fontenot**, 2014-0337, we affirm.

FACTS AND PROCEDURAL BACKGROUND

On May 20, 2011, the BOE filed charges against Mr. Fontenot (president of Fontenot & Associates), asserting that when Mr. Fontenot was contracted as an insurance consultant for Jefferson Parish in 2006, 2007, 2008, 2009, and 2010, he received payments from various insurance companies when those insurance companies had or were seeking a contractual, business, or financial relationships with his agency, Jefferson Parish, as defined by La. R.S. 42:1115, in violation of La. R.S. 42:1111C(2)(d). The charges also asserted that Mr. Fontenot, as an insurance consultant for Jefferson Parish, made recommendations to Jefferson Parish concerning various insurance companies when he had separate existing contracts with those same insurance companies, in violation of La. R.S. 42:1112B(5). Also on May 20, 2011, the BOE filed charges against Fontenot & Associates, asserting that when Fontenot & Associates was contracted as an insurance consultant for Jefferson Parish in 2006, 2007, 2008, 2009, and 2010, Fontenot & Associates received payments from or had contracts with insurance companies at a time when the insurance companies had or were seeking contractual, business, or financial relationships with Jefferson Parish in violation of La. R.S. 42:1111C(2)(d) and 42:1112B(5).

On August 23, 2013, the BOE filed a motion for summary judgment, asserting that there were no genuine issues of material fact warranting trial on the merits regarding Mr. Fontenot and Fontenot & Associates' liability for violations of La. R.S. 42:1111C(2)(d) and La. R.S. 42:1112B(5). The BOE asked that summary judgment be rendered in its favor and against Mr. Fontenot and Fontenot & Associates.

On August 30, 2013, Mr. Fontenot and Fontenot & Associates filed a motion for summary judgment, asserting that there was no genuine issue of material fact that the BOE did not have jurisdiction over them, because Mr. Fontenot and Fontenot & Associates were not public employees subject to the Louisiana Code of Governmental Ethics, and they asked that summary judgment be granted in their favor, dismissing the charges.

After a hearing on November 7, 2013, the Ethics Adjudicatory Board took the matters under advisement.¹ Thereafter, the Ethics Adjudicatory Board issued orders on December 5, 2013, ruling that Mr. Fontenot and Fontenot & Associates were not public employees within the meaning of the Code of Governmental Ethics, granting Mr. Fontenot and Fontenot & Associates' motion for summary judgment, and dismissing all charges against Mr. Fontenot and Fontenot & Associates.

The BOE appealed that judgment pursuant to La. R.S. 42:1142A(2)(a), which limits the BOE's right to appeal to questions of law in a final decision. If the BOE does not prevail in the final disposition of its appeal, the BOE shall be responsible for the payment of reasonable attorney fees and court costs of the other party inclusive of all stages of litigation and appeal. La. R.S. 42:1142A(2)(b). The amount of attorney fees shall be determined by the court of appeal and shall be set

¹ In the companion cases of Louisiana Board of Ethics in the Matter of Scott Fontenot, 2011-9164 and the Louisiana Board of Ethics in the Matter of Scott Fontenot, 2012-10612, the Ethics Adjudicatory Board held one hearing on November 7, 2013, and issued one set of orders dated December 5, 2013.

forth in the court's judgment. La. R.S. 42:1142A(2)(c).

On October 30, 2014, this court ordered that, in consideration of the joint motion of Mr. Fontenot and Fontenot & Associates and the BOE, this appeal would be decided based upon the briefs and oral argument previously submitted to this court in the companion case, **Louisiana Board of Ethics in the Matter of Scott Fontenot**, 2014-0337 (La. App. 1 Cir. 12/30/14) (not published).

The December 5, 2013 orders of the Ethics Adjudicatory Board, finding in favor of Mr. Fontenot and Fontenot & Associates, and dismissing all charges against them, are affirmed for the reasons set forth in the companion case of **Louisiana Board of Ethics in the Matter of Scott Fontenot**, 2014-0337 (La. App. 1 Cir. 12/30/14) (not published). There is no evidence in the record showing the amount of attorney fees and costs incurred. However, we can make a reasonable estimate of the time involved in the appeal, and we find that \$4,000.00 is a reasonable amount of attorney fees for this appeal. The costs of this appeal, in the amount of \$816.25, are assessed against the Louisiana Board of Ethics.

JUDGMENT RENDERED AND AFFIRMED.