

BEFORE THE BOARD OF TRUSTEES
OF THE POLICE RETIREMENT SYSTEM OF ST. LOUIS

* * *

ORIGINAL SHOW CAUSE PROCEEDING
AND ADMINISTRATIVE HEARING
CONCERNING SUGGESTIONS OF ALLEGATIONS OF MISCONDUCT

* * *

IN THE MATTER OF

GARY WIEGERT,

TRUSTEE.

DECISION

Having received and reviewed the Report of the duly appointed Hearing Officer, which Report is appended hereto, the Board of Trustees of the Police Retirement System of St. Louis hereby adopts and incorporates said Report and all recitations therein in this Decision as if fully set forth herein, and determines that Trustee Gary Wiegert has failed to show sufficient cause as to why he should not be sanctioned for such violations of his fiduciary duties as set forth herein.

Having determined that Trustee Gary Wiegert has violated his fiduciary duties as a trustee of this Board in such manner as specified herein, the Board of Trustees determines that the appropriate sanction for violation of such fiduciary duties is REMOVAL FROM OFFICE.

Wherefore, Trustee Gary Wiegert is hereby removed from his position as a Trustee on the Board of Trustees of the Police Retirement System of St. Louis.



Wallace K. Leopold, Chairman
Board of Trustees for the Police
Retirement System of St. Louis

7-28-21

Date

CERTIFICATE OF SERVICE

The undersigned certifies that a true and genuine copy of this Decision was served upon Appellant by hand-delivery at such time and place as specified on the Affidavit appended hereto.

Mark Lawson

Mark Lawson
Executive Director
Police Retirement System of St. Louis

**BEFORE THE BOARD OF TRUSTEES
OF THE POLICE RETIREMENT SYSTEM OF ST. LOUIS
STATE OF MISSOURI**

In the Matter of:)
) Hearing Date: July 1, 2021
TRUSTEE GARY WIEGERT)

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Before the Board of Trustees (the “Board”) of the Police Retirement System of St. Louis (the “PRS”), and Hearing Officer Brian Malone, Attorney at Law, are Suggestions of Misconduct (the “Suggestions”) alleging unauthorized, unbecoming, and/or unlawful actions by Trustee Gary Wiegert. The Suggestions were prepared by the duly appointed Special Counsel to the Board, Neil Bruntrager. The Suggestions allege six discrete violations of the duties of a trustee by Trustee Gary Wiegert.

The Board of Trustees

The Board of Trustees is established by §§ 86.200 through 86.366, RSMo, and is granted “general administration and the responsibility for the proper operation of the retirement system” for police officers of the City of St. Louis Metropolitan Police Department. § 86.213, RSMo. The Board is composed of nine members, one of whom is the comptroller of the City of St. Louis (the “City”), or his or her designee, two members appointed by the Mayor of the City, three members of the retirement system elected¹ from the membership of the system for three-year terms, and three retired members elected from the retired members of the system, for three-year terms. Six trustees constitute a quorum for doing business. Trustee Wiegert is a retired member, currently serving a three-year term. Pursuant to § 86.220, RSMo, each trustee shall, upon his or her appointment or election, take an oath of office that “the trustee will diligently and honestly administer the affairs of the said board, and will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system.”

The Board “has exclusive original jurisdiction in all matters relating to or affecting the funds herein provided for, including, in addition to all other matters, all claims for annuities, benefits, refunds of pensions under this law.” § 86.227, RSMo. The Board’s actions and decisions are subject to judicial review under Chapter 536, RSMo. *Id.* The Board is empowered to “establish rules and regulations for the administration of the retirement system created by this law, for the transaction of its business....” *Id.* Pursuant to this authority, the Board has adopted the “Trustees’ Policy Manual,” which was most recently revised May 26, 2021, to govern operations of the Board and the PRS.

¹ Members of the Board of Trustees are not elected in a public election pursuant to Chapter 115, RSMo, but are instead elected by the members in an election administered by the Board in accordance with Chapter 86 and the Trustees’ Policy Manual. *See* § 86.213, RSMo; *see also* Trustees’ Policy Manual, § 3.09.

Hearing

The Suggestions were prepared on or about May 27, 2021. On page 4 of the Suggestions, it is stated that “[t]his matter is set for hearing and consideration of these claims on July 1, 2021 at 10:00 a.m. before the Board of Trustees.” Trustee Wiegert was served with a copy of the Suggestions on or about June 2, 2021 by personal service at his home address. *See Exhibit 10*; p. 36. The following exhibits accompanied the Suggestions:

- Exhibit 1 – Undated letter of Trustee Wiegert;
- Exhibit 2 – Undated redacted letter of Trustee Wiegert;
- Exhibit 3 – Email from Trustee Wiegert dated February 22, 2021;
- Exhibit 4 – Email from Trustee Wiegert dated May 25, 2021;
- Exhibit 5 – Facebook post from Trustee Wiegert dated January 28, 2021;
- Exhibit 6 – Facebook post from Trustee Wiegert dated May 21, 2021;
- Exhibit 7 – Facebook post from Trustee Wiegert dated December 17, 2020;
- Exhibit 8 – Facebook post from Trustee Wiegert dated December 22, 2020; and
- Exhibit 9 – Facebook post from Trustee Wiegert dated December 21, 2020.

On June 22, 2021, a Notice of Intent to Rely Upon Business Record Exceptions, together with the records that Mr. Bruntrager intended to introduce into evidence, was sent by Mr. Bruntrager by certified mail to Trustee Wiegert. Such notice was delivered to Trustee Wiegert on June 24, 2021. *See Exhibit 10*; p. 33. No objection to the use of such records as evidence was received by the Board of Trustees or by Mr. Bruntrager.

The hearing was called to order at 10:04 a.m. on July 1, 2021. A quorum of the Board of Trustees was present. A court reporter was present to transcribe the proceedings. The hearing was open to the public, both to attend in person or to observe or participate via Zoom. Trustee Wiegert was authorized to attend the hearing in person, or to participate via Zoom, and instructions to log in to Zoom were provided to him in advance of the hearing. In spite of receiving notice of the hearing, Trustee Wiegert did not attend, either in person or via Zoom. Prior to going on the record, Chairman Leopold noted that Trustee Wiegert had, on June 30, 2021, emailed him to request a 45-day continuance. No reason was given for the request. The Board of Trustees voted to deny the request, and the hearing proceeded with Trustee Wiegert absent.

At the hearing, Mr. Bruntrager offered three additional exhibits into the record:

- Exhibit 10 – Return of Service to Trustee Wiegert and receipts of service;
- Exhibit 11 – Letter from the PRS Board of Trustees dated January 8, 2021; and
- Exhibit 12 – Letter and Email from Michael Ruff dated May 6, 2021 and May 4, 2021.

Mr. Bruntrager represented to the Board that all twelve exhibits had been provided to Trustee Wiegert in advance of the hearing, and that no response was received. *See Exhibit 10*; *Transcript*, p. 13. The Hearing Officer took official notice of the Trustees’ Policy Manual, as amended through May 26, 2021, the pertinent records of the PRS, and of the statutes governing the Board. *See* § 536.070(6), RSMo.

All parties were afforded the opportunity to present witnesses, to cross-examine witnesses, to subpoena and introduce documents or records for use at the hearing, and to object to the introduction of any evidence or testimony. All evidence offered without objection was received and admitted into the record, and the failure to object to any evidence or testimony offered, or to the manner in which the hearing was conducted, shall be deemed a waiver of any such objection. *See* §§ 536.060, 536.070(8), RSMo; Weber v. Firemen’s Ret. Sys., 872 S.W.2d 477, 479 (Mo. banc 1994).

Mr. Bruntrager presented no witnesses on behalf of the PRS. He relied solely on documentary evidence to support the allegations contained in the Suggestions. Exhibits 1 – 12 were admitted² into the record without objection. Trustee Wiegert presented no witnesses, and offered no evidence into the record at the hearing. The hearing was concluded at 10:45 a.m. on July 1, 2021.

Upon consideration of all the evidence presented, the Hearing Officer makes the following findings of fact and conclusions of law for approval by the Board of Trustees:

Findings of Fact

1. On or about December 17, 2020, Trustee Wiegert posted on his personal Facebook page³ regarding the Board of Trustees’ vote to accept claims for disability related to COVID-19, pursuant to Emergency Rule 8 CSR 50-5.005 – “Presumption of Occupational Disease for First Responders.” In the post, Trustee Wiegert expressed his personal opinions that the decision by the Board to accept COVID-19 claims under this rule was “insane.” Additionally, Trustee Wiegert expressed his personal beliefs that disability payments should not be available for PTSD due to COVID-19, as well as his belief that COVID-19 cannot cause disabilities. Trustee Wiegert expressed that COVID-19 “does not disable anyone, their diabetes or high blood pressure does.” Exhibit 5, p. 14; Exhibit 7, pgs. 17-18.

2. On or about December 22, 2020, Trustee Wiegert posted on his personal Facebook page regarding a recent meeting he initiated with Missouri State Senator Bob Onder to discuss what he alleged to be fraud within the PRS. Trustee Wiegert stated that “the state has oversight over the St. Louis Police Pension and Senator Onder chairs the Health and Pensions Committee and was the appropriate person to approach.” Exhibit 8, p. 19; Exhibit 9, pgs. 23-24.

² A compiled copy of the Suggestions and all twelve exhibits was submitted to the hearing officer and to the Board at the hearing, with page numbers 1-43. Throughout this document, exhibits will be referred to by exhibit number and the page number from this compiled set.

³ Many of the Suggestions relate to statements or content posted on the personal Facebook page of Gary Wiegert. While these posts have not been conclusively authenticated, the content of the posts indicates that the posts were written/created by Trustee Wiegert. No objection has been received regarding the Facebook posts and no challenge has been made to the authenticity of the posts. As noted by Mr. Bruntrager, the posts indicate familiarity with the workings of the Board available only to the Trustees and select other individuals, suggesting that they were, in fact, made by Trustee Wiegert. Transcript, pgs. 20, 32. Therefore, the Hearing Officer finds by preponderance of the evidence that the statements/content purporting to have been posted on the personal Facebook page of Gary Wiegert were posts made by Trustee Wiegert.

3. On December 27, 2020, Trustee Wiegert posted on his personal Facebook page the contents of a letter he had sent to attorney Kelly L. Camilleri regarding his allegations of fraud within the PRS. Exhibit 9, pgs. 25-26.

4. On January 8, 2021, all members of the Board of Trustees, except for Trustee Wiegert, were signatories to a letter sent to members of the PRS stating that Trustee Wiegert had used his personal social media account to make accusations of fraud against the PRS. The letter stated that the Board had encouraged Trustee Wiegert to come forth with details regarding the exact nature of these allegations as well as any information regarding who Trustee Wiegert believed to be involved in the fraud, but Trustee Wiegert had failed to complete any such proper report or supply sufficient information regarding his allegations at the time to allow for a complete investigation into the claims. The letter encouraged any member of the PRS with relevant information relating to Trustee Wiegert's allegations of fraud to contact the executive director of the PRS regarding the matter. Exhibit 11, p. 40.

5. On February 22, 2021, Trustee Wiegert sent an email entitled "[SLPVA] pension" to the "SLPVA" Google group. In the email, Trustee Wiegert alleged that the Board was engaging in fraudulent activity. Trustee Wiegert offered no proof or specific evidence to substantiate his allegations of fraud. Trustee Wiegert further stated that the Board had stripped him of his positions as Legal [Committee] Chairman and from the Disabilities Committee in retaliation for his unreported allegations of fraud. Trustee Wiegert stated that: "I have sent a letter to Attorney General Eric Schmitt to investigate the PRS Board's conduct.... I personally know AG Schmitt and believe he is a fair man. When Eric makes a decision on my appeal, I will publish my letter at his direction." Exhibit 3, pgs. 9-10.

6. On or before April 22, 2021, Trustee Wiegert sent a letter to Attorney General Eric Schmitt asking for state oversight regarding his belief that fraud was being perpetrated within the PRS. The letter contained allegations of fraud by the former Executive Director and Assistant Executive Director, asserting that benefits were improperly awarded to ineligible members, and assertions of pay to play schemes involving a lobbying firm retained by the Board, and allegations of fraud relating to the hiring of the PRS's current Executive Director. Exhibit 1, pgs. 5-6; Exhibit 2, pgs. 7-8.

7. In his letter to the Attorney General, Trustee Wiegert asks that the Attorney General "intercede and send an attorney to oversee these fraudulent acts and ask that you place the PRS Board in a receivership." Exhibit 1, p. 6; Exhibit 2, p. 8.

8. On April 22, 2021, Trustee Wiegert posted on his personal Facebook page the contents of the letter he sent to Attorney General Eric Schmitt regarding his allegations of fraud within the PRS. Trustee Wiegert's post disclosed information about an applicant for disability benefits that was not available to the general public, though the information provided risked identifying the member in question. Exhibit 9, pgs. 27-28; Transcript, p. 26.

9. On May 6, 2021, Mr. Michael Ruff, Executive Director of the Joint Committee on Public Employee Retirement, sent a letter to the Executive Director of the PRS, regarding his meeting with Trustee Wiegert in Jefferson City on May 4, 2021, where they discussed the ongoing

Lane/McCrary lawsuit⁴, to which the PRS is a party (the "Lawsuit"). Mr. Ruff additionally attached a copy of the email Trustee Wiegert sent Mr. Ruff on May 4, 2021, as well as a screen capture of the Facebook post from Trustee Wiegert's personal Facebook page dated May 5, 2021, which states that Mr. Wiegert met with Mr. Ruff and two members of the Joint Commission on Public Employee Retirement. Exhibit 12, pgs. 40-43.

10. Trustee Wiegert's May 4, 2021 email to Mr. Ruff refers to the Lawsuit as an attempt to "place the costs [of the benefits administered by the PRS] on the state of Missouri. Any help to defeat this would be appreciated." Exhibit 12, pg. 41.

11. The Facebook post of Gary Wiegert that was included with Mr. Ruff's letter to the PRS's executive director states that Trustee Wiegert and another retired police officer met with Mr. Ruff and Rep. Patricia Pike, who chairs the House Pension Committee in the Missouri House of Representatives. The post indicates that Trustee Wiegert sought "assistance in defeating" the Lawsuit and that they were directed to seek the Attorney General's assistance. Exhibit 12, p. 42.

12. On May 17, 2021, Trustee Wiegert sent an email to members of the PRS entitled "Pension Update #5," where Trustee Wiegert stated that he and Mr. Gary Phelps had driven to Jefferson City and initiated discussions with members of the Missouri General Assembly regarding the Lawsuit. Trustee Wiegert also disclosed that he had contacted Mr. Charles Lane, the plaintiff in the Lawsuit, who is represented by counsel. This email also referenced Trustee Wiegert's "fraud inquiry." Furthermore, Trustee Wiegert's email disclosed information about the "pending sale of our PRS office building," which was not publicly available. Exhibit 4, pgs. 11-13.

13. On May 20, 2021, Trustee Wiegert posted on his personal Facebook page that he and another retired officer had driven to Jefferson City and initiated discussions with members of the Missouri General Assembly, including Rep. Dottie McKenna Bailey, regarding the Lawsuit. Exhibit 6, p. 15; Exhibit 9, pgs. 22, 30.

14. The Board has retained the services of John Bardgett, Bardgett & Associates to lobby the General Assembly and Missouri Executive Branch officials on behalf of the PRS. Transcript, p. 40.

15. At no time did the Board, or any employee of the PRS, direct or authorize Trustee Wiegert to lobby members of the Missouri General Assembly or to lobby Missouri Executive Branch officials, including the Attorney General, on behalf of the PRS. Transcript, pgs. 40-41.

16. At no time did the Board, or any employee of the PRS, or its attorneys, direct or authorize Trustee Wiegert to contact any of the parties of the Lawsuit, or their attorneys, or to engage in discussions or negotiations about the substance of the Lawsuit, on behalf of the PRS.

⁴ Charles Lane, et al., v. Police Retirement System of the City of St. Louis, et al., 2122-CC00751. This case is pending in the 22nd Judicial Circuit, and could affect the funding mechanism of the PRS. The Plaintiffs are represented by Elkin Kistner. The PRS is represented by David Luce and Zachary McMichael of Capes, Sokol, Goodman, and Sarachan, P.C. Official notice is taken of the records of this case. *See* § 490.130, RSMo.

17. There is no record of Trustee Wiegert referring his allegations of fraud or misconduct in the award of disability benefits to a Compliance Officer in accordance with the Compliance Reporting Policy, § 10.10; Appendix 10.10 in the Trustees' Policy Manual.

18. There is no record of Trustee Wiegert referring his allegations of fraud or misconduct, or criminal activity regarding members of the Board, current or former executive officials of the PRS, or fraud by contractors of the PRS to a Compliance Officer in accordance with the Compliance Reporting Policy, § 10.10; Appendix 10.10 in the Trustees' Policy Manual.

Conclusions of Law

The Board finds that the documentary evidence contained in Exhibits 1 – 12 is competent evidence, and finds such evidence credible. No information appears in the record to rebut the evidence contained therein, or that calls into question the authenticity of Exhibits 1 – 12.

The allegations of misconduct appear in paragraphs lettered (A) through (F) of the Suggestions. They are addressed herein in corresponding lettered paragraphs:

(A) Lobbying Guidelines

Trustee Wiegert is alleged to have violated § 10.03 of the Trustees' Policy Manual. Section 10.03 authorizes the Board to hire a lobbyist to serve at the discretion of the Board, provides that such lobbyist shall be accountable for his/her activities and expenditures, and will present a report each month to the Board. Further, a lobbyist hired by the Board is given authority to implement certain lobbying efforts, and to, "at any Trustee's request, discuss any proceedings, efforts and strategies concerning pending legislation."

For purposes of registration and regulation by the State, Missouri law defines a "legislative lobbyist" as a person "attempting to influence the taking, passage, amendment, delay or defeat of any official action on any bill, resolution, amendment, nomination, appointment, report or any other action or any other matter pending or proposed in a legislative committee in either house of the general assembly..." subject to certain exceptions. § 105.470, RSMo. While it is not contended that Trustee Wiegert is subject to, or is in violation of, the provisions of Chapter 105, RSMo, the Board concludes that Trustee Wiegert's actions in contacting and meeting with members of the General Assembly – which Wiegert describes generally as requests for assistance regarding the Lawsuit – meet the definition of "lobbying." While members of the General Assembly would not be able to influence the Lawsuit itself, the General Assembly would have the ability to change the statutes affecting the funding mechanisms of the Board, which are at issue in the Lawsuit. Trustee Wiegert's posts give no indication that he was acting in his individual capacity, and a member of the General Assembly could reasonably (though falsely) conclude that his efforts were authorized by the Board. Similarly, Trustee Wiegert's communications to the Attorney General seeking to place the PRS in receivership would constitute lobbying of executive branch officials.

It requires no inferential leap to determine that Trustee Wiegert's actions could frustrate or interfere with the authorized actions of the duly hired lobbyist authorized by the Board to lobby on behalf of the PRS. Furthermore, because Trustee Wiegert was not acting as the duly authorized

lobbyist, he was not subject to the accountability measures in § 10.03 of the Trustees' Policy Manual. Trustee Wiegert would have been permitted, under § 10.03, to meet individually with the Board's lobbyist and discuss the lobbyist's efforts. There is no indication in the record that he did so.

Therefore, the Board concludes that Trustee Wiegert's actions violated § 10.03 of the Trustees' Policy Manual.

(B) Confidentiality

Trustee Wiegert is alleged to have violated § 10.05 of the Trustees' Policy Manual. Section 10.05 provides that “[n]o Trustee shall disclose, disseminate or transmit confidential or privileged information relating to System matters except to persons authorized by the Board to receive such information or as otherwise authorized by law or judicial authority.” It is alleged that his actions in contacting the Attorney General and members of the General Assembly regarding the Lawsuit and matters relating to the potential sale of the PRS building violated Section 10.05. Further, Trustee Wiegert's communication to the Attorney General dated April 22, 2021 disclosed information about a claim for benefits by a member of the system, and that such information was sufficient to identify the claimant.

The Board is a public governmental body subject to the Missouri Sunshine Law, Chapter 610, RSMo. See § 600.010(4), RSMo. Section 610.021 authorizes the Board to close records, meetings, and votes relating to “legal actions,” “leasing, purchase or sale of real estate ... where public knowledge of the transaction might adversely affect the legal consideration therefor,” and “[n]onjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment...” Further, with regard to medical information of members, the Trustees' Policy Manual expressly requires applicants to sign a waiver authorizing the Board to discuss such information in *closed session*. See Trustees' Policy Manual, Appendix 14.03, p. 106. Section 14.04 of the Trustees' Policy Manual provides that records which Chapter 610, RSMo authorizes to be closed *shall be closed*. See Trustees' Policy Manual, § 14.04. Therefore, matters regarding the Lawsuit, the potential sale of PRS's real estate, and the medical information of members would be closed to the public. Trustees are authorized to access records closed to the public. *Id.*, § 14.04.3. Trustee Wiegert's public dissemination of matters that are closed to the public (but available to him as a Trustee) was counter to express action of the Board in closing such matters. There is no indication in the record that the Board improperly closed any records, votes, or meetings. Likewise, there is no indication in the record that Trustee Wiegert was authorized to discuss matters closed by the Board to other persons.

Therefore, the Board finds that Trustee Wiegert's actions – discussing the Lawsuit with the Missouri Attorney General and members of the General Assembly (in person and by letter), publishing information about the potential sale of real estate, and publishing information about an applicant for disability benefits that was gleaned from a member's application – violated § 10.05 of the Trustees' Policy Manual.

(C) Conflict of Interest

Trustee Wiegert is alleged to have violated § 10.07 of the Trustees' Policy Manual. It is alleged that Trustee Wiegert violated his duties under § 10.07 by "his false and specious claims regarding misconduct" and by his assertion "without proof, [of] fraud regarding disability pensions by the Board of Trustees and has refused to provide any information or evidence to support his claim." Suggestions, p. 3.

Section 10.07 requires a Trustee to be "entirely free from the influence of any personal considerations when negotiating for the System with third parties," and to "perform their duties solely on the basis of what is in the best interest of the System." Trustees are required to notify the Board in writing of potential or actual conflicts.

The evidence in the record does not indicate Trustee Wiegert undertook any actions described herein for the purpose of obtaining any benefit, financial or otherwise, for himself and/or members of his family. While his actions were not in the best interest of the System, it does not appear from the evidence that such actions were undertaken due to the influence of personal considerations or relationships.

The Board concludes that the allegation that Trustee Wiegert violated § 10.07 of the Trustees' Policy Manual is not substantiated.

(D) Compliance Reporting Policy

Trustee Wiegert is alleged to have violated § 10.10 of the Trustees' Policy Manual. Section 10.10 provides that each Trustee "shall comply with applicable laws, rules, and regulations relating to the Compliance Reporting Policy as outlined in Appendix 10.10."

Appendix 10.10 provides trustees and employees of the PRS shall "report criminal conduct and/or suspicious activity without fear of retaliation." Trustees' Policy Manual, p. 39. The Policy provides for one or two trustees to be designated as Compliance Officers. Reports can be submitted confidentially. Reports should contain the date of the alleged criminal/suspicious activity, and a description of such activity. Reports are date-stamped and reviewed by the Compliance Officer. The Compliance Officer will confer with legal counsel, review and act upon complaints within 30 days. Depending on the nature of the complaint and the conduct alleged, the "System will take reasonable steps to respond appropriately to the offense and to prevent further similar offenses" Id., p. 39. Failure to report criminal activity or offenses may be grounds for discipline. Further, the Policy provides that "an employee will be subject to disciplinary action if the System reasonably concludes that the report of wrongdoing was knowingly fabricated by the employee or was knowingly distorted, exaggerated or minimized to either injure someone else or to protect the reporting party or others." Id. p. 40.

In the Facebook posts described herein, and in his letter to the Attorney General, Trustee Wiegert: (1) alleged that the Board was fraudulently awarding benefits to persons who should, in his view, be ineligible for benefits; (2) alleged criminal activity and/or misconduct in the administration of the PRS by the alleged back-dating of pay raises for former PRS employees and hiring of the current Executive Director; (3) alleged a "pay-to-play" scandal by the PRS's lobbyist;

and (4) sought for the Attorney General to take legal action to place the PRS in receivership for such alleged fraud.

There is no indication in the record that Trustee Wiegert reported such misconduct to a Compliance Officer as required by the Policy. Had he done so, he would have been afforded the protections against retaliation provided by the Policy. Reporting these alleged frauds and abuses would have permitted a proper investigation of the claims. Instead, by publicly posting allegations on social media, for which Trustee Wiegert has declined to provide corroboration or supporting evidence, he has impugned the reputations of his fellow Trustees and employees of the PRS. Submitting a claim in writing to a Compliance Officer would have afforded Trustee Wiegert with documentation of his claims, and of his efforts to comply with the Policy. Even if the complaint had been improperly rejected, his attempted submission would have provided at least some indicia of a good faith allegation. Trustee Wiegert's failure to avail himself of the Compliance Reporting Policy, and his public airing of his allegations, undermines his claims of fraud.

The Board's letter of January 8, 2021 (Exhibit 11) indicates that the Board was aware of Trustee Wiegert's allegations of fraud, and invited members with any pertinent information to contact the Executive Director. Trustee Wiegert's apparent refusal to utilize the Compliance Reporting Policy prevented a fair investigation of his claims, and his public, unsubstantiated allegations have damaged PRS employees and other trustees.

Therefore, the Board finds that Trustee Wiegert has violated Section 10.10 of the Trustees' Policy Manual.

(E) Trustee Authority

Trustee Wiegert is alleged to have violated § 10.06 of the Trustees' Policy Manual. Section 10.06 provides that "[n]o individual Trustee shall have authority to commit the Board to any policy, action or agreement unless specifically granted such authority by the Board or by law."

The rules and guidelines applicable to the conduct of trustees as set forth in the Trustees' Policy Manual are duly enacted pursuant to the Board's authority granted by § 86.227, RSMo. The evidence before the Board demonstrates that Trustee Wiegert took action to lobby legislative and executive branch officials without authorization by the Board, and attempted without authorization to take actions to attempt to settle or resolve the Lawsuit. The Board concludes that Trustee Wiegert's failure to conduct himself in accordance with these rules is a violation of his oath under § 86.220, RSMo, obligating each trustee to "diligently and honestly administer the affairs of the said board," and to "not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system." The evidence before the Board indicates that Trustee Wiegert was aware or should have been aware of his obligations under the Trustees' Policy Manual. Trustee Wiegert's violations of the Trustees' Policy Manual described herein went to the heart of his duties as a Trustee. Furthermore, Trustee Wiegert's actions in publicly documenting his efforts to lobby elected representatives and to influence litigation involving the PRS suggest that his actions were purposeful and were calculated to undermine his fellow Trustees in their efforts to faithfully administer the affairs of the PRS.

State law is clear that the Board of Trustees itself, and not any *individual trustee*, is authorized to manage the PRS. *See* § 86.203, RSMo (the PRS “shall be under the management of a board of trustees ... and shall be known as ‘The Police Retirement System of [St. Louis]’ and by such name **all of its business shall be transacted, all of its funds invested and all of its cash and securities and other property held.**” Emphasis added.). Individual trustees lack any authority except as a member of the Board. *See* §§ 3.08, 10.06 of the Trustees’ Policy Manual. Only those actions taken by a majority of the Board members present can bind the Board. *See* § 86.223, RSMo. Trustee Wiegert’s actions in unilaterally, and without authorization from a majority of the Board, attempting to lobby on matters affecting the PRS, and to attempt to influence litigation affecting the PRS, were fundamentally inconsistent with his duties as a member of the Board of Trustees. Proper operation of the Board requires that those members who disagree with official actions of the majority of the Board to nevertheless abide by the majority’s actions, and to not purport to act unilaterally on behalf of the Board in matters affecting the PRS.

Therefore, the Board finds that Trustee Wiegert has violated § 10.06 of the Trustees’ Policy Manual.

Sanctions

Section 10.12 of the Trustees’ Policy Manual provides that any violation of Chapter 10 of the Trustees’ Policy Manual “shall be considered a breach of a Trustee’s fiduciary duty and may, at the discretion of the Board, be grounds for sanctions ranging from censure to the institution of proceedings to remove said Trustee from office.” The Policy provides that any trustee removed from office “shall be ineligible to hold office as a trustee for a period of five (5) years” after being finally removed. At the hearing, Mr. Bruntrager was asked whether he advocated a particular sanction for Trustee Wiegert’s alleged misconduct. Mr. Bruntrager responded: “I’m advocating for removal.” Transcript, p. 44.

Courts have held that elected⁵ officials have a property interest in holding their offices. *See Fitzgerald v. City of Maryland Heights*, 796 S.W.2d 52, 56 (Mo. App. E.D. 1990). Further, the “office holder can be deprived of that property interest only upon notice of the specific causes for his proposed removal and after an opportunity to be heard.” *Id.* at 56. Therefore, such officials may only be removed “for cause.” *Id.* The “appropriate meaning of the ‘for cause’ standard for impeachment of the elected [official] here should not only ‘specifically [relate] to and [affect] the administration of [his] office, and ... be ... of a substantial nature directly affecting the rights and interests of the public,’ ... it should also be limited to objective reasons which reasonable people, regardless of their political persuasion, could agree would render any [official’s] performance ineffective. Such cause would include acts of misfeasance, the improper performance of some act which may lawfully be done, malfeasance, the commission of some act wholly beyond actor’s authority, and nonfeasance, the failure to perform a required duty.” *Id.* at 56-57 (internal citations omitted).

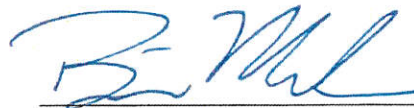
⁵ Trustees may not be properly considered as “elected” officials inasmuch as they are not elected at public elections by the qualified electors under Chapter 115, RSMo, but rather are elected from the membership under the supervision of the PRS’s certified public accountant. *See* § 86.213.1(4), RSMo; *see also* § 3.09 of the Trustees’ Policy Manual. For purposes of this document, it is assumed that trustees have a property interest in their position and are removable only for cause.

Trustee Wiegert was given notice of the allegations against him and was given an opportunity to be heard. Ample time was provided to respond to the allegations. His eleventh-hour request for a continuance was properly rejected. The Board finds that Trustee Wiegert's actions set forth above constitute misfeasance, malfeasance, and/or acts taken beyond his authority as Trustee. Furthermore, the Board finds that the actions described herein specifically relate to and affect the administration of PRS.

While lesser sanctions are within the discretion of the Board, the Board finds that the "for cause" standard for removal has been met. Though the Board has found that Trustee Wiegert violated several provisions of the rules applicable to Trustees, the Board finds that any one violation would meet the "for cause" standard for removal.

The Board of Trustees has arrived at its decision after reviewing the record before it in its entirety. Issues on which no findings are explicitly made herein will be deemed found in accordance with the result reached. To the extent that any finding herein is actually a conclusion of law, it should be interpreted as a conclusion.

Respectfully submitted by the Hearing Officer on this 23rd day of July, 2021.



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Approved by the Board of Trustees on this 28th day of JULY, 2021



Chairman