**CONFLICTS OF INTEREST BOARD**
**CHAPTER 68 ENFORCEMENT CASE SUMMARY**

Current as of April 1, 2003

## Misuse of Office

In April of 1996, in the case of the former City Comptroller, Elizabeth Holtzman, after a full trial on the merits, the Board fined Ms. Holtzman $7,500 (of a maximum $10,000) for violating section 2604(b)(3) of the City Charter (prohibiting use of public office for private gain). The Board also found that she had violated section 2604(b)(2) (prohibiting conduct that conflicts with the proper discharge of official duties) with respect to her participation in the selection of a Fleet Bank affiliate as a co-manager of a City bond issue when she had a $450,000 loan from Fleet Bank to her United States Senate campaign, a loan she had personally guaranteed. Significantly, in a landmark ruling, the Court of Appeals, New York State's highest court, upheld the Board's reading of the high standard of care applicable to public officials and rejected the asserted lack of actual knowledge of business dealings as a defense to ethics charges: "A City official is chargeable with knowledge of those business dealings that create a conflict of interest about which the official 'should have known.'" The Court also found that Ms. Holtzman had used her official position for personal gain by encouraging a "quiet period" that had the effect of preventing Fleet Bank from discussing repayment of her Senate campaign loan. The Court held: "Thus, she exhibited, if not actual awareness that she was obtaining a personal advantage from the application of the quiet period to Fleet Bank, at least a studied indifference to the open and obvious signs that she had been insulated from Fleet's collection efforts." Finally, the Court held that the Federal Election Campaign Act does not pre-empt local ethics laws. This was the Board's first full-blown trial, and it took eleven days. There were 2,000 pages of testimony, 150 trial exhibits, and more than 15 witnesses. *COIB v. Elizabeth Holtzman*, COIB Case No. 93-121 (1996), *aff'd*, 240 A.D.2d 254, 659 N.Y.S.2d 732 (1st Dep't 1997), *aff'd*, 91 N.Y.2d 488, 673 N.Y.S.2d 23, 695 N.E.2d 1104 (1998).

In another case, the Board fined Kerry Katsorhis, former Sheriff of the City of New York, $84,000 for numerous ethics violations. This is the largest fine ever imposed by the Board. The Office of Administrative Trials and Hearings Administrative Law Judge ("ALJ") found that it was appropriate for the former Sheriff to forfeit 80% of the $103,000 salary the City had paid him for the year he was Sheriff because his "improper activities cost the City money, in personnel time (his own and his secretaries') and in supplies." The ALJ found: "The full extent of respondent's abuse of his office, and the consequent financial cost to the City cannot be determined because of respondent's failure to cooperate with the investigation. However, the record of court appearances, phone calls, meetings, correspondence and court submissions shows a considerable amount of respondent's time was devoted to his private employment activities during what are normal City working hours." The fine was collected in full in December 2000. Katsorhis habitually used City letterhead, supplies, equipment, and personnel to conduct an outside law practice. He had correspondence to private clients typed by City personnel

on City letterhead during City time and mailed or faxed using City postage meters and fax machines. Katsorhis also endorsed a political candidate using City letterhead and attempted to have the Sheriff's office repair his son's personal laptop computer at City expense. Katsorhis also attempted to have a City attorney represent one of Katsorhis' private clients at a court appearance. In 2000, the New York State Supreme Court Appellate Division, First Department, twice dismissed as untimely perfected a petition to review the Board's decision, and the New York Court of Appeals dismissed as untimely a motion seeking leave to appeal the Appellate Division's orders. Accordingly, all appeals have been exhausted and the Board decision stands. The record in this case exceeded 6,000 pages. *COIB v. Kerry J. Katsorhis*, COIB Case No. 94-351 (1998), *appeal dismissed,* M-1723/M-1904 (1st Dep't April 13, 2000*), appeal dismissed,* 95 N.Y.2d 918, 719 N.Y.S.2d 645 (Nov. 21, 2000).

The Board concluded a settlement with Veronica Smith, a former ACS caseworker who admitted violating the conflicts of interest law by soliciting a $4,000 loan from a foster mother and accepting the foster mother's loan of $2,500 while continuing to evaluate her fitness as a foster mother. Ms. Smith also testified in the termination of parental rights case involving the foster mother without notifying the presiding judge of her outside financial relationship with the foster mother. The Board fined Ms. Smith $3,000 and required her to repay the foster mother in full within two years. However, if Ms. Smith makes full repayment of the loan in the time allotted, the Board's fine will be forgiven. If she fails to repay the loan, the Board will execute judgment in the full amount of the $3,000 fine, and Ms. Smith will still have to repay the loan. In setting the terms of the fine, the Board took into account Ms. Smith's circumstances, which include serious personal and family health problems. *COIB v. Smith,* COIB Case No. 2000-192 (2002).

The Board fined former Police Commissioner Kerik $2,500 for using three New York City police officers to perform private research for him. He used information the officers found in a book about his life that was published in November of 2001. The Board noted that Mr. Kerik cooperated fully and expeditiously with the investigation and resolution of this matter. Mr. Kerik acknowledged that he had violated the Charter prohibition against using office for private advantage or financial gain and the terms of the Board's waiver letter, even though one officer, a sergeant, was a close friend of his. The Board by its waiver letter had allowed Mr. Kerik to write the autobiography under contract, but only on the condition that he not use City time or his official City position to obtain a private or personal advantage for himself or the publisher, and that he use no City equipment or personnel or other City resources in connection with the book. The three officers used limited City time and resources in their research, and two of the officers had made five trips to Ohio for the project, each spending 14 days of their off-duty and weekend time. *In re Kerik,* COIB Case No. 2001-569 (2002).

In *COIB v. Birdie Blake-Reid*, COIB Case No. 2002-188 (2002), the Board and the New York City Board of Education ("BOE") concluded a settlement with Birdie Blake-Reid, Executive Director of the Office of Parent and Community Partnerships at BOE. Ms. Blake-Reid, who agreed to pay an $8,000 fine, misused her City position

habitually by directing subordinates to work on projects for her church and for a private children's organization, on City time using City copiers and computers. She also had BOE workers do personal errands for her. Ms. Blake-Reid admitted that over a four-year period, she had four of her BOE subordinates perform non-City work at her direction, including making numerous copies, typing, preparing financial charts and spreadsheets and a contact list, stuffing envelopes, e-mailing, working on brochures, typing a college application for one of Ms. Blake-Reid's children, and running personal errands for Ms. Blake-Reid. The subordinates performed this non-City work for her on City time and using City equipment. These subordinates believed that their jobs with the City could be jeopardized if they refused to work on Ms. Blake-Reid's non-BOE matters. One temporary worker sometimes fell behind in his BOE work when Ms. Blake-Reid directed him to make her private work a priority. BOE funded overtime payments to him when he stayed to finish his BOE work. Ms. Blake-Reid acknowledged that she violated City Charter provisions and Board Rules that prohibit public servants from misusing their official positions to divert City workers from their assigned City work and misapplying City resources for their private projects.

In *COIB v. RosaLee Adams*, COIB Case No. 2002-088 (2003), the Board concluded a settlement with the former First Vice President of Community School Board for School District 16, RosaLee Adams. Ms. Adams testified at an administrative hearing in her official capacity on behalf of her sister without disclosing their family connection. Ms. Adams' sister was an Interim Acting Assistant Principal in the same district and was appealing her "Unsatisfactory" rating. Her appeal of her performance rating was denied. The former Chancellor later removed Ms. Adams from the school board in February 2002, under the State Education Law, which provides further for permanent disqualification of a community school board member from employment, contracting, or membership with the City School District for the City of New York after a finding that the member knowingly interfered with the hiring, appointment, or assignment of employees. Ms. Adams paid a fine of $1,500 as part of the settlement with the Board.

In *COIB v. Cathy Mumford*, COIB Case No. 2002-463 (2003), the Board and the Department of Education concluded a settlement with Cathy Mumford, a Department of Education teacher who was involved in the hiring and payment of her husband's company to write a school song for the school where she worked and conduct workshops. Ms. Mumford certified the receipt of the song six months before the song was received. She signed a purchase order indicating receipt of the song for the purpose of remitting the purchase order for payment. The Department of Education fined Ms. Mumford $5,000 for the improper payment of $3,500 to Soul'd Out, and Ms. Mumford agreed to pay a fine of $2,500 for violating the conflicts of interest law, amounting to a fine totaling $7,500. Ms. Mumford was also transferred to another school and removed from purchasing responsibilities.

In *COIB v. David Cottes*, COIB Case No. 2001-593, the Board and the New York City Department of Consumer Affairs ("DCA") concluded a settlement with David Cottes, Director of Collections at DCA, who paid a $500 fine. As Director of Collections at DCA, Mr. Cottes supervises a staff responsible for collecting fines that DCA imposes

on restaurants and other businesses. Mr. Cottes acknowledged that he created menus for two restaurants in 2001. After agreeing to supply the menus, he learned that these restaurants operate sidewalk cafés licensed by DCA. He prepared the menus on his home computer. In June 2001, he received $1,500 from the first restaurant for the menus. He completed work on menus for the second restaurant but did not accept payment for the second set of menus. One of these restaurants had been delinquent in paying fines owed to DCA for regulatory violations relating to its sidewalk café. Those fines were outstanding during the time Mr. Cottes created the menus for the restaurants. After Mr. Cottes agreed to make the menus, the restaurant owner asked him to intercede on the owner's behalf with the former DCA Commissioner to help the restaurant regarding a DCA order suspending one of its sidewalk café licences. Mr. Cottes reviewed the status of the matter and determined that the penalties were fair based on the history of violations. Mr. Cottes stated that he did not intercede with the former DCA Commissioner on behalf of the restaurant owner and did not give any preferential treatment to the owner. He added that he would provide the same service for any vendor who asked about the status of a matter pending before DCA. The Board took the occasion of this disposition to remind all City workers who are contemplating private employment that they must find out, *before* accepting private work, whether their potential private employers are engaged in, or intend to engage in, business dealings with the City. If so, they probably face a conflict of interest and should contact the Conflicts of Interest Board for advice. This case shows that private projects can place a City worker in violation of the conflicts of interest law. A request by a City worker's private employer to intervene in a pending matter with City agency management puts the City employee in a bind and creates opportunities for serious conflicts of interest. Mr. Cottes acknowledged that he had violated City Charter provisions that prohibit moonlighting with a firm a City employee knows is engaged in business dealings with his own agency; that prohibit use or attempted use of official position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the City worker or his family or associates; and that prohibit private employment that conflicts with the proper discharge of official duties.

In *COIB v. Janet Silverman*, COIB Case No. 2000-456 (2002), the Board concluded a settlement with Janet Silverman, a former New York City Department For The Aging ("DFTA") field auditor who admitted violating the conflicts of interest law by misusing official City letterhead to gain a private or personal advantage. Without authorization, Ms. Silverman sent a notice to a DFTA contractor, on official, City letterhead, as if from the City, threatening the vendor with litigation if she were injured on the contractor's property. Ms. Silverman paid a fine of $500.

In *COIB v. Lawrence King,* COIB Case No. 98-508 (2001), the Board fined a Deputy Chief Engineer for Roadway Bridges at the Department of Transportation ("DOT") $1,000 for asking several DOT contractors to place advertisements in a fundraising journal the proceeds of which would help financially support the hockey club on which his sons play. Eight of the DOT contractors that Mr. King solicited purchased ad space for a total contribution of about $975. As a DOT employee, Mr. King worked on matters relating to these contractors and supervised DOT employees who worked with

these contractors. Mr. King stated: "I made an error in judgment by seeking and obtaining donations from contractors whose profits I could affect in my City job. I represent that there was no *quid pro quo* for the donations."

In *COIB v. Jason Turner,* COIB Case No. 99-200 (2000), the Board fined Human Resources Administration ("HRA") Commissioner Jason Turner $6,500 for hiring his business associate, Mark Hoover, as First Deputy Commissioner of HRA, without seeking or obtaining a waiver from the Board, using his Executive Assistant to perform tasks for Turner's private consulting company, as well as for using his City title on a fax cover sheet (on one occasion inadvertently), using City time, phone, computer, and fax machine for his private consulting work, and renting an apartment for over a year from his subordinate, First Deputy Commissioner Hoover. These acts violated rules intended to eliminate coercion and favoritism in government and to prevent misuse of government workers and equipment for personal gain.

The Board also fined HRA First Deputy Commissioner Mark Hoover $8,500 for leasing his own apartments to five of his HRA subordinates and to HRA Commissioner Jason Turner, for using an HRA subordinate to perform private, non-City work for him, and for using his official position to arrange for the state of Wisconsin to loan an employee to HRA and then housing that visiting consultant in his own apartment and charging and receiving $500 for the stay, for which the City ultimately paid. Hoover also admitted using City equipment in furtherance of his private consulting business. *COIB v. Mark Hoover,* COIB Case No. 99-200 (2000). This fine was the largest settlement fine ever obtained by the Board. Like Commissioner Turner, Mr. Hoover violated rules intended to eliminate coercion and favoritism in government and to prevent misuse of government workers and equipment for personal gain.

In a summary judgment based upon stipulated facts and the report and recommendation of an Administrative Law Judge of the Office of Administrative Trials and Hearings, the Board fined a community board member $4,000 for voting on a matter involving real property which he and his siblings owned. Because a vote expressing the community's preference for land use "may result" in a personal and direct economic gain to the community board member, such votes are not permitted. The Board ruled that the language "may result" in the relevant City Charter provision means even a possibility greater than zero. The member may even retain the financial interest and discuss the matter, but is not allowed to vote. *COIB v. Basil Capetanakis,* COIB Case No. 99-157 (2001). This case was the first one in the Board's history that resulted in a summary judgment (eliminating the need for trial in the absence of any genuine issues of material fact). Respondent has appealed the decision.

A member of the New York City Housing Authority, Kalman Finkel, was fined $2,250 for using his office to help obtain a computer programmer's job for his daughter with Interboro Systems Corp., a company with a $4.3 million contract with the Housing Authority. Two weeks after faxing to Interboro his daughter's resume, Mr. Finkel voted to increase Interboro's contract with the Authority by $52,408. Mr. Finkel said the vote was inadvertent and that he did not realize that Interboro was the same firm to which he

had sent his daughter's resume. Interboro hired Mr. Finkel's daughter. *COIB v. Kalman Finkel,* COIB Case No. 99-199 (2001).

The Board fined a former attorney from the City Commission on Human Rights ("CHR") $2,000 for investigating a discrimination case involving her mother and recommending agency action (a finding of probable cause to believe that her mother had suffered discrimination), without disclosing the familial relationship to her supervisors. The Board strongly disapproved of the use or misuse of prosecutorial discretion in favor of a family member. *COIB v. Marisa Rieue,* COIB Case No. 2000-5 (2001).

In *COIB v. Frances T. Vella-Marrone,* COIB Case No. 98-169 (2000), the Board fined Frances T. Vella-Marrone, a former School Construction Authority official, $5,000 for using her position to obtain a job for her husband at her agency and for attempting to obtain a promotion for him in 1996 and 1997. A 16-year-old girl was killed on January 9, 1998, in the area where Marrone's husband had removed a security fence at a public school construction site in Brooklyn. Mr. Marrone had not been supervisor on that site in the three months prior to the accident.

In a three-way settlement, the Board and the New York City Department of Transportation ("DOT') suspended, demoted to a non-supervisory position with a $1,268 annual pay cut, and fined a City parking official $2,500 for using his position to solicit a subordinate to marry his daughter in Ecuador and for repairing the cars of subordinates for compensation. Moran was also placed on probation for two years, during which time he is ineligible for promotions or salary increases. In addition, Moran can be terminated summarily if he violates the DOT code of conduct or the conflicts of interest law again. This is a "two strikes" provision originally developed in the *McGann* case, noted below. *COIB v. Milton Moran,* COIB Case No. 99-51*,* OATH Index No. DOT-012261 (2001). A court challenge by Mr. Moran of the settlement was dismissed by the New York State Supreme Court on November 5, 2001, Index No. 118741/01 (DeGrasse, J.).

In a joint agreement with the Board of Education ("BOE"), an interim acting principal was fined $4,000 and admitted that she had asked school aides to perform personal errands for her on school time. Specifically, she asked them to go to a New York City Marshal's Office to deliver payment of a "scofflaw" fine that had been imposed on her car, and she asked several subordinate employees to deliver a loan application on her behalf. Those employees made these trips on City time. *In re Iris Denizac,* COIB Case No. 2000-533 (2001).

In January 1998, after a full trial, the Board imposed a $1,000 fine on a former Assistant District Attorney who issued a false grand jury summons to a police officer to interfere with his scheduled testimony against the Assistant District Attorney's husband in traffic court on the same day. The Assistant District Attorney had previously been dismissed by the District Attorney's office. *COIB v. Nancy Campbell Ross*, COIB Case No. 97-76 (1997).

In *COIB v. John McGann*, COIB Case No. 99-334 (2000), a construction inspector from the Department of Buildings was fined $3,000 for giving one of his private business cards to a homeowner at a site where this inspector had just issued six notices of violation. The inspector had written on his private business card the words, "ALL TYPES OF CONSTRUCTION ALTERATIONS," and he told the homeowner that he used to do construction work and could advise her on such work. The private business cards used by this inspector also contained his Department of Buildings pager number and the name "B.E.S.T. Vending Service." The inspector was required to cease using the name "B.E.S.T." in his private business because that name could be confused with the name of his City unit, the "B.E.S.T. Squad" (Building Enforcement Safety Team). He admitted violating sections 2604(b)(2) and (b)(3) of the Charter. This matter was a "three-way" settlement with the Board, the Department of Buildings, and the inspector. An innovative provision in this disposition was a "two strikes" provision, first used by the Board in this case, in which the inspector agreed to summary termination in case of any further violation of the conflicts of interest law.

The Board fined a former housing inspector for working at a gas station in New Jersey at times when he was required to inspect buildings in New York. *COIB v. John Lizzio,* COIB Case No. 2000-254 (2000). The fine was $250, which ordinarily would have been higher, but took into account the fact that inspector John Lizzio had agreed to resign from the City's Department of Housing Preservation and Development. This was the first prosecution of abuse of City time under the Board's Rule § 1-13, which prohibits City employees from engaging in personal and private activities on City time, absent approval from their agency head and the Board.

In the case of *In re Sara Pecker,* COIB Case No. 2000-322 (2000), the Board issued a public warning letter to the Traffic Safety Director, Sara Pecker, of the Queens Borough President's Office ("QBPO"). Ms. Pecker acted as one of three QBPO employees who voted to select the winning bidder (of two bidders responding) on a QBPO request for proposals ("RFP") dated September 22, 1999. At the time of her vote, Ms. Pecker knew that one of the bidders (who later won the bid unanimously) had entered into a barter relationship in April of 1998 with Ms. Pecker's husband, an attorney, to provide computer services in exchange for office space. Although it declined to bring an enforcement action, the Board wrote that the better practice under Charter § 2604(b)(2) would have been for Ms. Pecker to disclose her husband's business relationship and to offer to recuse herself from the selection process. This was so because the failure to disclose the family business relationship could have given rise to an appearance of impropriety and could have compromised Ms. Pecker's duty of undivided loyalty to the City. Ms. Pecker agreed to allow the Board to make the warning letter public.

In *COIB v. Christopher Sullivan,* COIB Case No. 98-288 (2000), a Tax Assessor working for the City's Department of Finance ("DOF"), assessed a residential building in Queens and noticed a vacant basement apartment. The apartment was not publicly advertised for rent. Several days after conclusion of the assessment, the inspector telephoned the landlord and asked to rent the apartment. The landlord rented the

apartment to him. The assessor admitted that he violated the ethics laws by using his position to obtain a benefit for himself (*i.e.*, the apartment) that was not available to anyone else. He entered into a three-way settlement with the Board and the DOF and paid a $625 fine.

The Board fined Raymond Davila, a former employee of the City Commission on Human Rights, $500 for using Human Rights letterhead, typewriters, and office facilities for his own private clients, in *COIB v. Raymond Davila*, COIB Case No. 94-82 (1999). Davila wrote four letters on behalf of his private clients on Commission letterhead to agencies such as the U.S. Veteran's Administration and a U.S. Consulate. He also listed his agency telephone number as the contact number on these letters. Finally, Davila admitted using his Human Rights office to meet with a private client during his City work hours to discuss the client's case and to receive payment from the client. Davila admitted violating Charter §§ 2604(b)(2) and (b)(3). The fine would ordinarily have been substantially higher, but reflected the fact that Davila is retired and ill and has very limited financial means.

In *COIB v. Naomi Rubin*, COIB Case No. 94-242 (1995), an administrative law judge from the City's Parking Violations Bureau admitted violating her official duties by adjudicating her father-in-law's parking tickets. The Board, however, imposed no fine because of the absence at the time of a Board rule identifying conduct prohibited by the "catch-all" section of the Charter, section 2604(b)(2), which prohibits transactions that conflict with the proper discharge of official duties. As of 1998, the Board has a rule, Board Rule § 1-13, which spells out the misuse of public office (such as use of City resources, like letterhead, for non-City purposes) sufficiently to allow the Board to issue fines for violating the general provision as amplified by the rule. Significantly, the rule also prohibits aiding and abetting a violation and holds officials liable for intentionally or knowingly "inducing" or "causing" another City official to violate the Charter.

The Board fined a City manager $1,250 for conducting a part-time private printing business from his City office; the employee was also forced to retire and forfeit 24 days of accrued annual leave. The fine was worth $5,000, including the forfeited leave time. *COIB v. Edmund Weinstein*, COIB Case No. 97-394 (1998).

The Board fined a Department of Buildings employee $1,000 for using a City telephone for his private home inspection business. The employee, a City building inspector, had had business cards printed that showed that City telephone number. As a result of this case, he ceased the practice of using the phones and destroyed all the offending business cards. *COIB v. Rudolph Hahn*, COIB Case No. 98-102 (1998).

In *COIB v. Mildred Sass*, COIB Case No. 98-190 (1999), the Board found that the former Director of Administration of the Manhattan Borough President's Office used her position to authorize the hiring of her own private company and her sister's company to clean the Borough President's offices. Sass, who decided to forego a hearing, was fined $20,000 and found to have violated the prohibitions against abuse of office for private gain and against moonlighting with a firm doing business with one's own City agency.

The Board fined Kevin McAuliffe, a former Press and Speech Aide in the Mayor's Office, $2,500 in 1994 for using official City letterhead to contest a parking ticket. COIB Case No. 91-214.

The Board fined a former community board member $200 for soliciting money from a church that was interested in acquiring land in the community board's area. Local community boards are set up to discuss and solve problems affecting their local areas. Their normal procedures do not involve the payment of money to community boards or their members for the acquisition of land. The fine would have been higher had the community board member not been under a severe financial hardship. *COIB v. Samuel Harvey*, COIB Case No. 97-368 (1998).

A former First Assistant Commissioner with the New York City Fire Department, Robert Ungar, admitted that he violated the Charter by identifying himself by his official title in seeking restoration of his personal electrical service with Con Edison, and that his conduct had created the appearance that he was using his position to obtain a personal advantage. COIB Case No. 90-383 (1992).

## Gift Cases

In 2000, the Board announced that it had rebuked former NYC Police Commissioner Howard Safir for accepting a free trip to the 1999 Academy Awards festivities in Los Angeles. Revlon was the donor of the trip, valued at over $7,000. The Board defined for the first time the duties of high-level public servants to inquire about the business dealings of the donor. Because this was the first public announcement of this duty in the context of gifts, and the business dealings of Revlon were small and difficult to discover, the Board declined to charge Safir with violating the Board's Valuable Gift Rule, which prohibits public servants from accepting gifts valued at $50 or more from persons they know or should know engage or intend to engage in business dealings with the City. Safir repaid the cost of the trip. *Acceptance of Valuable Gift (Howard Safir),* COIB Case No. 99-115 (2000).

The Board imposed a $5,000 fine in 1995 on a former high-level City official, Ellen Baer, who interviewed for a job with a City bidder, Lockheed Information Management Services Company, Inc. ("Lockheed"), and accepted meals worth more than $50 per year from Lockheed while working on the City matter involving Lockheed, without disclosing the receipt of those meals. COIB Case No. 93-282. In 1994, the Board fined Marvyn Bryson, a contract manager in the Parking Violations Bureau, $500 for accepting meals from Lockheed worth more than $50 in the aggregate without disclosing the receipt of those meals. COIB Case No. 93-282. In a case against a former Battalion Chief for Technical Services with the New York City Fire Department, *COIB v. John Morello*, COIB Case No. 97-247 (1998), the Board imposed a $6,000 fine for the acceptance of valuable gifts of meals, theater tickets, and the free use of a ski condo from companies that had business dealings with the Fire Department and whose work the Chief had directly supervised.

## Appearing as an Attorney Against the Interests of the City

Board of Education employee Wilmer Hill-Grier admitted that she appeared, for compensation, as an attorney on behalf of her private client, in a matter involving the City. In appearing on behalf of her client in a litigation in which the New York City Administration For Children's Services was a party, she appeared against the interests of the City. Hill-Grier made five appearances before Family Court and Criminal Court on her client's behalf. The City's Charter and the Board's Rules prohibit public servants from appearing on behalf of private interests in matters involving the City and appearing against the interests of the City in any litigation to which the City is a party. Hill-Grier was fined $700. *COIB v. Wilmer Hill-Grier,* COIB Case No. 2000-581 (Nov. 16, 2001).

## Resume Cases

In *COIB v. Sergio Matos*, COIB Case No. 94-368 (1996), a Department of Environmental Protection ("DEP") project manager admitted that he violated the City Charter by sending his resume to a City contractor while he was directly concerned with that contractor's particular matter with the City and had recommended that contractor for a $10 million dollar City contract. Mr. Matos was not even interviewed for the private job. The Board issued a $1,000 fine. In the *Baer* matter noted above, the former Chief of Staff to a Deputy Mayor solicited a job with Lockhheed at a time when various City agencies were engaged in developing a request for proposals in which Lockheed was interested and involved as a prospective bidder, and Ms. Baer was involved in that City matter. COIB Case No. 93-282.

## Moonlighting

The Board fined a firefighter $7,500 for unauthorized moonlighting with a distributor of fire trucks and spare parts to the Fire Department. As part of the settlement, the firefighter agreed to disgorge income from his after-hours job, and the vendor, in effect, funded the settlement. *COIB v. Wayne Ludewig*, COIB Case No. 97-247 (1999). *See also Matter of David C. Begel*, COIB Case No. 96-40 (1996) (former spokesman for the Chancellor of the Board of Education was found to have a prohibited interest in a firm engaged in business dealings with the City, but no penalty was imposed because of mitigating circumstances). In *Matter of Nicholas Quennell*, COIB Case No. 97-60 (1997), a former Art Commission President who inadvertently failed to recuse himself from Commission matters involving his architecture firm was fined $100.

A Parks Department employee, Albert Peterson, was fined $1,500 in a settlement, for using his City position to attempt to obtain City park permits for a private not-for-profit firm called Sportsworld. Mr. Peterson directed basketball programs for the Parks Department and filed five permit applications for basketball courts with the Department on behalf of Sportsworld. These filings are considered business dealings under the conflicts of interest law because the award of these permits is discretionary. Mr. Peterson admittedly made inquiries with the Parks Department, his own City agency, about the status of the permit applications he had filed on behalf of his private organization and

also used his position to solicit fellow Parks Department employees to join Sportsworld**.** *COIB v. Albert Peterson,* COIB Case No. 97-173 (2001).

The Board issued a public warning letter to an Assistant Civil Engineer at the Department of Transportation ("DOT") who inspected bridges for DOT, including the Williamsburg Bridge. He accepted a position with a sub-consultant on a DOT contract involving inspections of that bridge. He worked for the sub-consultant during four weeks of vacation from DOT. Although he claimed he did not know that his second employer had business dealings with the City, the Board stated that he should have known of those dealings and should not have taken the job. He resigned upon learning that the matter on which he was working for the private employer was a DOT contract. There was no fine and Mr. Ayo agreed to publication of the Board's letter. *In re Michael Ayo,* COIB Case No. 99-461 (2001).

The Board fined a teacher $1,500 for owning and operating a tour company that arranged tours for Board of Education schools, including the school where he taught. The tours had been operated with the approval of the school's principal, and the teacher sold his interest in the tour company in March of 1999. *In re Walter Steinhandler,* COIB Case No. 2000-231 (2001).

The Board issued a public warning letter to Louis Abramo, in which the Board reminded public servants who are licensed plumbers that they may file with the Department of Buildings ("DOB") Plumbing Alteration and Repair Slips, which involve minor plumbing jobs, but not Plumbing Affidavits, involving major repairs in connection with building permits, unless they first obtain waivers from the Conflicts of Interest Board. *In re Louis Abramo,* COIB Case No. 2000-638 (2001).

The Board fined City employee James Loughran, a plumbing inspector with the New York City Housing Authority, $800 for filing seventeen "plumber's affidavits" with the Department of Buildings in connection with his private plumbing business. City employees, like Mr. Loughran, who are also licensed plumbers and operate private part-time plumbing businesses, are not permitted to file plumber's affidavits under the City Charter as interpreted in a Board opinion. In this matter, Mr. Loughran had agreed in writing at the time he began working for the City, that he would not file such plumber's affidavits. Such filings are not permitted because they involve applications to do major repairs or installations and are deemed to be "representing private interests before a City agency," the Department of Buildings. Applications to perform minor repair work, the so-called plumbing alteration and repair slips, are permitted to be filed with the Department of Buildings by City employees. *In re James Loughran,* COIB Case No. 2000-407 (2002).

The Board fined Bert Camarata, a former Department of Employment ("DOE") Program Manager, $1,000 for moonlighting with a firm that had business dealings with DOE. Although on leave from their City jobs, City employees are bound by the Charter's conflicts of interest provisions. While on sick leave from DOE, Mr. Camarata took a job with a contractor to DOE. Because he repeatedly changed his separation date, Mr.

Camarata received twice the sick leave payments he would have received had he resigned his job at DOE on the date he originally agreed to do so. *COIB v. Bert Camarata,* COIB Case No. 99-121 (2001).

In *COIB v. Michael Cioffi,* COIB Case No. 97-247 (1998), the Board fined a City firefighter $100 for working part-time without permission for a company that supplies the Fire Department with equipment. In *Cioffi*, mitigating factors, including financial hardship, affected the size of the fine. *See also COIB v. David Carlin,* COIB Case No. 99-250 (2000), where a sewage treatment worker at the Department of Environmental Protection ("DEP") entered into a three-way settlement with COIB and DEP in a case where he admitted using DEP equipment to service a private wastewater facility where he was moonlighting and agreed to pay an $800 fine.

## Revolving Door

The Board fined a former Resident Engineer of the Department of Citywide Administrative Services $3,000 for consulting for pay for a private firm on the same City project on which the engineer had worked personally and substantially as a City employee. The engineer had been in charge of the project -- the renovation of the Manhattan Criminal Court building -- and then crossed over to the private sector on the same project. The Board also fined him $100 for failing to file his financial disclosure report on time. This was the first reported enforcement case on the lifetime ban against appearing before the City on the same project, involving the same parties, that one had worked on while with the City. *COIB v. Vincent Fodera*, COIB Case No. 96-404 (1998). The Board fined the former Deputy Agency Chief Contracting Officer ("ACCO") of the Department of Transportation ("DOT") $1,500 for violating the revolving door rules. Within two weeks of leaving City office for a firm that sought business with DOT, Egidio Paniccia phoned his former supervisor, the DOT ACCO, and the Mayor's Office of Contracts and asked whether a contract had been awarded to his new employer, the GA Group, Inc. This violated both the one-year ban on contacting one's former City agency on non-ministerial matters and the lifetime ban on appearing before the City on the same particular matter one worked on for the City. *COIB v. Egidio Paniccia,* COIB Case No. 99-511 (2000).

## Superior-Subordinate

The Board also fined a Deputy Commissioner of the City Human Rights Commission $1,500 for subleasing an apartment from a subordinate attorney and for using City equipment in the private practice of law. *COIB v. Randolph Wills*, COIB Case No. 95-45 (1998). In *COIB v. Marilyn Ross*, COIB Case No. 97-225 (1997), an assistant principal of a City school was fined $1,000 for borrowing $1,000 from a subordinate teacher in the first "three-way" disposition among the Conflicts of Interest Board, a City official, and the agency employing her, the Board of Education. *See also COIB v. Jason Turner,* COIB Case No. 99-200 (2000) and *COIB v. Mark Hoover,* COIB Case No. 99-200 (2000), in which the fines of $6,500 and $8,500, respectively, encompassed admissions concerning rental of apartments by a First Deputy Commissioner to his superior, the Commissioner, and to five HRA subordinates. And in *COIB v. Ivan Rosenberg,* COIB Case No. 99-358 (2000),

a manager at the Department of Information Technology and Telecommunications settled a case in which he admitted purchasing a computer from his subordinate for $1,350. The ethics law prohibits superiors and subordinates from entering into business transactions. The manager agreed to settle the case by paying a $1,000 fine.

In a settlement between the New York City Department of Correction ("DOC") and Ronald Jones, a DOC Program Specialist, Mr. Jones admitted violating the City Charter by selling t-shirts and promoting his side business (sales of essential oils and perfumes) to his City subordinates. Mr. Jones forfeited five vacation days. *In re Ronald Jones,* COIB Case No. 98-437 (2001).

The Board fined William Ubinas, then Superintendent of Community School District 1, $500 for asking a subordinate to guarantee personally the lease for the Superintendent's rental apartment in Manhattan. COIB Case No. 91-223 (1993).

## Political Activities

The Board resolved a political activities claim in a three-way disposition among a school principal, the Conflicts of Interest Board, and the Board of Education in *COIB v. Serge Rene*, COIB Case No. 97-237 (2000). In *Rene*, the Conflicts of Interest Board fined a former principal of P.S. 72 $2,500 for selling tickets to a political fundraiser to a subordinate teacher during school hours and on school grounds, in violation of Charter § 2604(b)(11)(c), which prohibits a superior from even requesting subordinates to make campaign contributions. This case exemplifies the Board's efforts to resolve cases in "three-way" settlements, among the City official facing departmental charges and Board claims of Charter violations, the Board, and the agency employing the official. Among the benefits of this approach is that it provides finality for the City official and the City employer, and fosters consistent oversight by the Board of agencies' treatment of conflicts of interest cases.

The Board fined Cultural Affairs Commissioner Schuyler Chapin $500 for holding a political fundraiser in his home for Fran Reiter, then a candidate for Mayor, and inviting guests who had business dealings with his agency or the City. *COIB v. Schuyler Chapin,* COIB Case No. 99-500 (2000). The fine took into account that Commissioner Chapin believed he had sought legal advice and been advised incorrectly that the fundraiser was legal. Agency heads are not permitted to request any person to make political contributions to any candidate for elective office of the City.