

CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

**Basis, Structure, and Administration of
Conflicts of Interest (Government Ethics) Laws and
Annual Financial Disclosure (Asset Declaration) Laws**

New York City
March 2003

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[Training: Albany Law School Feb 2003 Table of Contents]

ETHICS/ANTI-CORRUPTION PROGRAM

I. Types of Ethics/Anti-corruption Laws and Rules

- Ethics law (conflicts of interest law; financial (asset) disclosure law)

Purpose: To promote the reality and perception of integrity in government by preventing unethical conduct *before* it occurs

- Anti-corruption (official misconduct criminal) laws

Purpose: To punish the corrupt and deter the corruptible

- Personnel rules (*e.g.*, time and attendance requirements; reimbursement of expenses; sexual harassment)

Purpose: To establish guidelines on personnel matters for elected and appointed officials and a basis for disciplining appointed public servants

- Related laws and regulations: transparency laws (*e.g.*, freedom of information, open meetings); whistleblower laws; purchasing regulations (*e.g.*, requirements for competitive bidding); laws protecting individual rights (*e.g.*, anti-discrimination laws)

Intersection and overlap

E.g., A mid-level manager accepts tickets to a soccer game from a contractor with whom he is dealing on behalf of the government

– probably a matter for ethics enforcement

The manager, on government time and using a government car and driver, goes to the game

– probably a matter for ethics enforcement and disciplinary action

The tickets were merely one of many gifts the manager accepted from contractors with whom he dealt on behalf of the government, gifts that coincided with his approving the award of a contract to the contractor

– probably a corruption (criminal) investigation; ethics/disciplinary proceedings will probably await the outcome of the criminal proceeding (unless it is delayed)

II. Types of Officials in Ethics/Anti-corruption Context

- The incorruptible

Will comply with the applicable laws and rules, *provided that they know what those laws and rules are and understand them*

- The corrupt

Will regard public service as a means of personal enrichment, disregarding applicable laws and rules

- The corruptible

Will generally follow the applicable laws and rules, but are susceptible to the temptation to violate them

III. Application of Laws and Regulations to Officials

- The incorruptible

To guide their actions, these officials require only an understandable code of ethics and clear personnel rules

- The corrupt

Having little regard for ethics laws or personnel rules, these officials must be removed from public service as quickly as possible

- The corruptible

These officials require not only knowledge of the ethics laws and personnel rules but also convincing proof that those laws and rules, as well as anti-corruption (official misconduct criminal) laws will be strictly enforced

HOW TO MAKE AN ETHICS PROGRAM WORK

Educate public officials, the public, and the press about what the ethics law and the ethics board are and are not

- That the **purpose of ethics laws** is to promote both the reality *and the perception* of integrity in government by *preventing* unethical conduct *before* it occurs
- That the **focus** of ethics laws is therefore **upon prevention**, not punishment
- That ethics laws assume that the vast majority of **public servants are honest** and want to do the right thing, and thus that these laws are not meant to catch corrupt officials
- That ethics laws **do not regulate morality**, or even ethics, **but** conflicts (usually financial conflicts) between a public servant's official duties and private interests (*i.e.*, **divided loyalty**)
- That ethics laws should **encourage good people** to serve in government by providing guidance to officials and reassurance to citizens that their public servants are serving the public and not themselves

Facilitate the enactment of an effective government ethics law that promotes the above purpose and principles

- By resting upon the **three pillars** of
 - A clear, comprehensive, simple, and sensible **code of ethics**
 - Sensible transactional, applicant, and annual **disclosure**
 - Effective **administration** that provides quick and confidential advice, training and education, public disclosure, and reasonable enforcement
- By establishing an **independent ethics board**
 - With **pro bono members**, who have no other government position, engage in no political activities, have no government contracts, do not lobby the government, have fixed terms, and are removable only for cause
 - With **budget protection**

Develop a relationship with elected officials in the government

- To sensitize the board to the **political and real life implications** of ethics issues
- To sensitize the officials to the need to **ask before acting**
- To convince them that the ethics board focuses primarily on **prevention not punishment** and does not play “gotcha”
- To give them a **heads up** on minor violations that can (and should) be corrected administratively

Cultivate the press and civic groups, without allowing them to set the ethics board’s agenda

- By **educating** them about the purpose and principles of the ethics law and the need for confidentiality (to protect sources, to protect officials against unjustified accusations, and to encourage officials and witnesses to contact the board to obtain advice and file complaints)
- By understanding their role as the **eyes, ears, and mouth of the board**, which lacks the press’s and civic groups’ resources to ferret out conflicts of interest and get the word out about the ethics law
- By providing **background information** on the law, without commenting on pending or potential matters or on closed enforcement cases
- By ensuring that **findings of violations** are always public (no secret settlements)
- By seeking a **balance between confidentiality and openness** (e.g., public post-petition proceedings)

*See Mark Davies, **Addressing Municipal Ethics: Adopting Local Ethics Laws**, Chapter 11 in **ETHICS IN GOVERNMENT: UNDERSTANDING THE LEGAL AND REGULATORY CLIMATE IN NEW YORK STATE** (NYSBA Fall 2002 (scheduled)); Mark Davies, **Ethics in Government and the Issue of Conflicts of Interest**, Chapter 7 in **GOVERNMENT ETHICS AND LAW ENFORCEMENT: TOWARD GLOBAL GUIDELINES** (Praeger 2000); Mark Davies, **Considering Ethics at the Local Government Level**, Chapter 7 in **ETHICAL STANDARDS IN THE PUBLIC SECTOR** (American Bar Association 1999)*



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GOVERNMENT ETHICS LAWS

I. Purpose of Government Ethics Laws

To promote the reality and perception of integrity in government by preventing unethical conduct before it occurs

II. Fundamental Principles of Governments Ethics Laws

- Prevention is better than punishment.
- The vast majority of public officials are honest and want to do the “right” thing; ethics codes are for honest officials, not dishonest ones.
- Ethics codes do not regulate morality (or even ethics) but rather conflicts (usually financial conflicts) between an official’s public duties and private interests, that is, divided loyalty.
- Ethics laws must be understandable and sensible and tailored to the particular government.
- While ethics laws may promote efficiency, that is not one of their primary goals; they do, however, level the playing field.
- Ethics laws must encourage, not discourage, good citizens to serve in government by providing guidance to public officials and reassurance to citizens that those officials are acting in the public interest.
- Private citizens and companies must have a stake in government ethics laws.

III. The Three Pillars of an Effective Government Ethics Law

A. Code of Ethics

1. Requirements and Precepts

- Codes of ethics must fulfill the purpose and comply with the principles outlined above.
- The ethics code should set a minimum, uniform standard for all officers and employees, with perhaps some stricter standards for certain high level officials.
- An ethics code must set out a comprehensive list of do's and don't's that will guide and protect public officials.
- The code of ethics must be simple, sensible, straightforward, and short and must be understandable by lay persons.
- Rules should be bright line whenever possible.
- Definitions and exceptions should not be included in the code but set forth in separate sections that limit but never expand the official's obligations under the Code.

2. Provisions

- a. General prohibition on use of office for private gain
- b. Prohibited positions or ownership interests
- c. Gifts from persons doing business with the government
- d. Confidential government information
- e. Appearances and representation before government agencies
- f. Private compensation for doing one's government job
- g. Inducement of other officials to violate the code of ethics
- h. Superior-subordinate financial or business relationships
- i. Solicitation of political contributions or activity from government employees
- j. "Two-hats" restrictions (simultaneous political party and government positions)
- k. Revolving door (post-employment restrictions):
 - (i) Negotiation;
 - (ii) Appearance ban;
 - (iii) Particular matter ban;
 - (iv) Confidential government information
- l. Avoiding conflicts of interest

- m. Improper conduct generally (appearance of impropriety)
- n. Restrictions on private persons and firms
 - (i) Causing an official to violate the code of ethics;
 - (ii) Appearing before a government agency having an employee who works for the private person or firm

B. Disclosure

1. Transactional Disclosure and Recusal

2. Applicant Disclosure

3. Annual Disclosure

a. Purposes

- Focuses official's attention annually on ethics law
- Alerts public, media, supervisors, and vendors to official's possible conflicts of interest
- Provides a check on transactional disclosure
- Helps prevent conflicts of interest from occurring

b. Guidelines in Drafting Annual Disclosure Forms

- Comply with the purpose and principles of ethics laws generally
- Tailor them to the filer's position and agency
- Tie them to the code of ethics: request only information that would reveal a conflict of interest under the code
- Require disclosure only of the fact, not the amount, of the interest
- Make the forms as short and simple as possible while asking all of the relevant questions
- Compare the reports against other lists (e.g., vendor lists)
- Computerize the reports

c. Penalties for Failure to File or Failure to Supply Information

d. Public Availability

C. Administration

1. Administrative Structure

- a. Ethics board independent from political process and outside influences (appointment by chief executive with advice and consent of legislature; fixed terms, with term limits; removable only for cause)
- b. Prohibition on ethics board members having an interest in contracts with the government, lobbying the government in a private capacity, holding other offices with the government, or engaging in political activity

2. Duty to Train and Educate

- a. Most important function
- b. Raising red flags, not creating experts
- c. Training programs, starting with most susceptible first
- d. Train the trainer; ethics liaisons
- e. Interesting educational materials (whatever works)

3. Duty to Provide Legal Advice

- a. Quick oral and written advice to ethics questions
- b. Providing cover
- c. Confidentiality

4. Duty to Grant Waivers

- a. For the benefit of the government
- b. Legal standard required
- c. Agency approval
- d. Availability to public

5. Duty to Regulate Disclosure

- Collecting, reviewing, and maintaining disclosure forms and making them available to the public

6. Duty to Enforce Code of Ethics and Disclosure Law

a. Purpose

- To educate officials about the requirements of the ethics law, demonstrate that the government takes the law seriously, and deter other unethical conduct

b. Necessity

- Lack of effective enforcement authority renders an ethics board a toothless tiger that raises expectations it cannot meet and increases public cynicism; no one takes an ethics board seriously unless it possesses real enforcement power.

c. Principles of Ethics Enforcement

- Enforcement aims at prevention, not punishment.
- Government ethics laws must be largely self-enforcing through self-interest, peer pressure, whistleblowers, the public, civic groups, and particularly the media.
- Enforcement must be fair, equitable, and sensible.
- Private citizens must take responsibility for officials' compliance with the ethics law through applicant disclosure, prohibitions on inducement of violations, and penalties (e.g., debarment and voiding contracts).
- Ethics boards must fully control their own investigations through subpoena power, authority to commence investigations on the board's own initiative, assigned investigators or investigators on staff, and the power to draw upon additional investigatory resources.
- Ethics boards must have full enforcement power over every officer or employee subject to the code of ethics.
- Ethics boards must be sufficiently funded to permit adequate investigations and enforcement.

d. Stages of the Enforcement Process

- Investigation
- Petition and response
- Hearing
- Imposition of penalty

e. Penalties

- Wide range of penalties required to “make the punishment fit the crime”
- Penalties imposed by the ethics board: civil fines; voiding of contract involving an ethics violation; private letters of censure
- Penalties imposed by others: damages; disgorgement of ill-gotten gains (perhaps doubled or trebled); disciplinary action; criminal penalties; debarment of persons or firms violating the ethics law; injunctions against violations
- Public settlements at any stage of the enforcement proceeding

f. Confidentiality

- Tension between protection of officials against unjust accusations and reassurance of public and complainants that ethics board aggressively pursues ethics violations
- Possible rule: enforcement proceeding becomes public only after petition is served by ethics board

g. Whistleblower Protection

- Government officials may not retaliate against anyone who blows the whistle on government corruption or ethics violations

GOVERNMENTAL ETHICS LAWS: THEIR PURPOSE AND BASES

The purpose of governmental ethics laws is to **improve the reality and perception of integrity in government.**

Governmental ethics laws are not:

- Really ethics laws at all - instead, they address **financial conflicts of interest** between an official's private interests and public responsibilities;
- Anti-corruption laws - ethics laws are **aimed at honest officials**, not dishonest ones;
- Penal laws - ethics laws focus on **prevention of conflicts of interest** *before* they occur, not on punishment after they occur, so training and education is the first priority.

Ethics laws can and will be obeyed only if they are **understandable and make sense.**

Ethics laws should also **punish contractors and applicants** who cause an official to violate the ethics law.

Ethics laws must be easy and **inexpensive to administer and enforce.**

Ethics laws are **enforced mainly by self-interest**, peer pressure, whistle blowers, concerned citizens, and the media - not by prosecutors or even by ethics boards.

An ethics law (especially a clear code of ethics) is a **government official's best friend** because it tells him or her what the rules are and protects the official against pressure from contractors, outside employers, relatives, and superiors.

Governmental ethics laws rest on **three pillars**:

- (1) A **code of ethics** - a simple, sensible, comprehensive, and understandable list of do's and don'ts
- (2) **Disclosure** -
 - (a) Disclosure and recusal when a conflict actually arises;
 - (b) Necessary annual disclosure to avoid conflicts of interest before they happen and to provide information to the media and the public, as a mechanism to enforce the ethics code;
 - (c) Disclosure by applicants submitting a bid, application, or other paper to a government official; the disclosure states the name and nature of any interest that any government official has in the applicant or the application;
- (3) **Enforcement and administration**, including an independent ethics office with the authority and resources to:
 - (a) Educate officials about the ethics law;
 - (b) Provide quick oral and written answers to ethics questions;
 - (c) Maintain disclosure forms and make them available to the public;
 - (d) Investigate violations of the code of ethics; and
 - (e) Impose civil fines and other penalties.

A government ethics law must be **tailored to the particular government and society**.

ORAL AND WRITTEN ADVICE

- Purpose:** To prevent conflicts of interest by giving government officers and employees quick answers to their ethics questions.
- Confidentiality:** The ethics commission's communications with government officials seeking advice must be protected against disclosure to the public or to other government agencies, at least to the extent that the government official asks for advice on future conduct. (Past conduct is a matter for enforcement, and officials should be told that.)
- Oral advice:** Ethics commission attorneys should be available every day to answer questions by telephone. An official should be able to ask a question without revealing his or her name.
- Written advice:** Written opinions should be given quickly. Simple questions should be answered by staff. Only complicated questions should go to the commission.
- Ethics officers:** If possible, set up ethics officers in every agency, who will act as a liaison to the ethics commission. But officials must always be able to come directly to the ethics commission.
- Opinions:** Written advisory opinions should be distributed to every agency so that officials may consult them. The opinions should not reveal who requested the opinion.
- Waivers:** Ethics commissions should have limited power to waive certain provisions of the code of ethics where they do not make sense in the particular case.

TRAINING AND EDUCATION

Purpose: To prevent conflicts of interest by teaching officials about the code of ethics. Ethics training is the most important function of an ethics agency.

Target: (1) Eventually, every government officer and employee should receive some ethics training. Even low-level employees, who have little danger of a conflict of interest, should know the law in order to keep an eye on their supervisors.

(2) Education should start with high level officials and attorneys.

(3) If possible, set up ethics trainers in each agency, who will train that agency's employees.

(4) Vendors and contractors who work with the government should also receive training about the ethics law.

Programs: (1) Workshops, briefings, and seminars for various groups;

(2) A large seminar for high level officials, which they are required to attend and at which the head of the government stresses how important the ethics law is;

(3) An ethics compliance program in each agency that insures that the agency employees know and understand the law;

(4) Participation in international ethics organizations, such as the Council on Governmental Ethics Laws (COGEL), which offers extensive resources.

Ethics officers: If possible, set up ethics officers in every agency, who will be responsible for making sure ethics training is given and who will act as a liaison to the ethics commission.

Materials: (1) A plain language guide on the law;

(2) Videotapes that can be shown to government employees;

(3) Short leaflets on various ethics topics and for various types of employees (e.g., purchasing agents) and for contractors.

Evaluations: Ethics commissions should evaluate how effective their training and education programs are.

DISCLOSURE

TRANSACTIONAL DISCLOSURE AND RECUSAL

- What it is:** A transactional disclosure discloses the name of the official and the nature of a conflict of interest when it actually arises. In a recusal, the official disqualifies himself or herself from discussing, acting on, or voting on the matter. Example: "This contractor is my brother-in-law, and I recuse myself from this matter."
- Purposes:**
- (1) Transactional disclosure informs the public, other government officials, persons doing business with the government, and the media about the conflict of interest.
 - (2) Recusal (disqualification) prevents the conflict of interest from occurring.
- Form:**
- (1) If the disclosure is made at a public meeting, an oral disclosure is sufficient if it is put in the minutes of the meeting.
 - (2) If the disclosure is not made at a public meeting, the disclosure must be in writing and filed with the official's agency and the ethics commission.

APPLICANT DISCLOSURE

- What it is:** Applicant disclosure is disclosure by a private person or non-government entity that is bidding on government business or requesting a permit or license from the government.
- Purposes:**
- (1) To make government officials aware of their own possible conflicts of interest;
 - (2) To alert other government officials, other bidders or applicants, the public, and the media of possible conflicts of interest.
- Form:** The bidder or applicant must state in the bid or application the name of any official in the government that has an interest in the bidder or applicant or in the bid or application itself, to the extent the applicant knows. "Interest" should include the interest of family members of the official. Example: "Mr. _____, an owner of the company, is the brother of _____, the [government's] Director of _____."

ANNUAL DISCLOSURE

- What it is:** Annual disclosure discloses once each year certain basic information about the filer, such as the location of his or her real property and the names of his or her private employer (if any).
- Purposes:**
- (1) To focus the attention of officials at least once each year on where their potential conflicts of interest lie - for example, if an official's brother is a builder, that official will have a possible conflict if his or her agency deals with the brother.
 - (2) To let the public, the media, the government, and people who do business with the official's agency know what the official's private interests are.
 - (3) To provide a check on "transactional" disclosure - that is, disclosure when a potential conflict actually occurs.
 - (4) To help prevent conflicts of interest from occurring.
- Who Discloses:** Only those officials who are in a position to have a significant conflict of interest, including elected officials; candidates for elective office; members of commissions and boards; department heads and their deputies; officials who set government policy; officials involved in negotiating, approving, paying, or auditing contracts; officials involved in adopting or changing laws or regulations.
- Form:**
- (1) Should be tailored to the position and agency, if possible.
 - (2) Must be tied to the code of ethics; an annual disclosure form should only ask for information that would show a possible violation of the code of ethics.
 - (3) Must be as short and simple as possible. See two-page form by New York State Temporary State Commission on Local Government Ethics.

AVAILABILITY OF DISCLOSURE FORMS

Disclosure forms must be easily and quickly available to the public, the media, other government officials, and people who do business with the official's agency.

ENFORCEMENT

- Purposes:**
- (1) To educate officials about the requirements of the code of ethics;
 - (2) To show officials that the government is serious about the ethics law;
 - (3) To punish unethical behavior and discourage other officials from committing conflicts of interest (deterrence).
- Stages:**
- (1) Receipt of a complaint (oral or written; identified or anonymous) or other information showing a possible ethics violation (for example, from a newspaper article);
 - (2) Determination if an ethics violation may have occurred;
 - (3) Investigation;
 - (4) Notification to the official that he or she may have violated the code of ethics and receipt of the official's answer to the charges;
 - (5) Hearing on the charges;
 - (6) Imposition of penalty (for example, a civil fine).
- Penalties:**
- (1) Civil fines (not a criminal penalty) (e.g., up to \$10,000 in NYC);
 - (2) Disciplinary action (censure, suspension, removal from office);
 - (3) Damages (for harm to the government - for example, because the contract with the official's brother cost more than it should have);
 - (4) Disgorgement of ill-gotten gains (the official must give up any gains he or she received from the ethics violation, even if the government was not hurt);
 - (5) Criminal penalties (jail, fines), where the official was corrupt (for example, where he or she took a kickback to award a contract) - but usually these cases fall under other criminal laws and are handled by the prosecutors, not by the ethics commission;
 - (6) Debarment (prohibiting the official or company from doing any business with the government for, say, three years);
 - (7) Nullification of government contracts obtained as a result of an ethics violation.

[Training: Senegal_Governmental_Ethics_Laws]

PRINCIPLES OF ENFORCEMENT OF GOVERNMENT ETHICS LAWS

1. Government ethics laws aim at prevention, not punishment.

Enforcement must be educational, not punitive.

2. Government ethics laws must be largely self-enforcing.

Absent an army of investigators, ethics boards must rely for enforcement primarily upon self-interest, peer pressure, whistle blowers, concerned citizens, and particularly the media.

3. Enforcement must be not only fair and equitable, both in reality and perception, but also sensible.

Time should not be wasted on unimportant issues.

4. A range of penalties must be available.

The law must authorize private letters of censure, negotiated dispositions (settlements), civil fines, nullification of improper contracts, damages, disgorgement of ill gotten gains (potentially trebled), disciplinary action, criminal penalties (in limited circumstances), injunctive relief, and debarment from future government contracts.

5. Private citizens must take responsibility for officials' compliance with ethics laws.

The law must require applicant disclosure, prohibit inducing a public servant to violate the ethics law, and provide appropriate penalties, including debarment, for violations.

6. In decentralized governments, enforcement should be conducted at the local level, with state oversight.

The state should intervene only in four instances: upon request of the local ethics board; where the local board cannot act because of vacancies or absence of a quorum; where the complaint lies against a member of the

ethics board itself; or where the municipality lacks an ethics board. Municipalities should have the option of forming joint ethics boards or contracting out to another municipality for an ethics board.

7. Ethics boards must be independent.

Provisions on appointment and qualifications of members must, to the extent possible, ensure their impartiality.

8. Ethics laws must empower ethics boards to conduct their own investigations.

Ethics boards must have subpoena power and investigators on staff, with authority to initiate investigations without a complaint, but also the power to draw upon additional resources, such as a department of investigation.

9. Ethics boards must be funded sufficiently to permit adequate investigation and enforcement.

The very nature of their business requires that ethics boards be lean and mean, but not cadaverous. Inadequate resources invite public censure and cynicism.

10 Confidentiality rules must protect officials from unfounded accusations while reassuring other officials, complainants, and the public that the ethics board will address accusations of ethical impropriety quickly, aggressively, and fairly.

To permit the ethics board to weed out unsubstantiated or unfair accusations, ethics laws should provide for a confidential probable cause notice to the alleged violator. Only after an ethics board receives the answer to the notice and sustains probable cause should the pleadings and proceedings become public.

[Training: Senegal_Enforcement_Principles]

MODEL ANNUAL DISCLOSURE FORM

ANNUAL DISCLOSURE STATEMENT FOR CALENDAR YEAR 2002

Last Name	First Name	Initial
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Title	Department or Agency
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Work Address	Work Phone No.
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If the answer to any of the following questions is “none,” please so state.

1. **Real Estate.** List the address of each piece of property that you or your relatives own or have a financial interest in. List only real estate that is located in the counties of _____. For residential property, list as the address only the city, town, or village in which the property is located. “Relative” means your spouse, registered domestic partner, child, step-child, brother, sister, parent, step-parent, or a person you claimed as a dependent on your latest income tax return.

<u>Name of Family Member</u>	<u>Relationship to You</u>	<u>Address of Real Estate</u>	<u>Type of Investment</u>
------------------------------	----------------------------	-------------------------------	---------------------------

[E.g.: John Smith Father 2 Main St., Teatown Owns]

2. Outside Employers and Businesses. List the name of every employer or business, other than the [municipality of which the filer is an officer or employee], from which you received more than \$1,000 for services performed or for goods sold or produced or of which you were a paid member, officer, director, or employee during the year 2000. Also include any entity in which you have an ownership interest of at least 5% or \$5,000, whichever is less. Identify the nature of the business and the type of business, such as a partnership, corporation, or sole proprietorship, and list your relationship to the employer or business (*i.e.*, owner, partner, officer, director, employee, or shareholder). Provide the same information for your relatives, as defined in Question 1.

Name of Family Member	Relationship to You	Name of Employer or Business	Nature of Business	Type of Business	Relationship to Business
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[E.g.: Rose Smith Wife Monument Realty Real Estate Partnership Employee]

3. Gifts. List each gift that you or your spouse or registered domestic partner received worth \$75 or more during the year 2000, except gifts from relatives, as defined in Question 1. A “gift” means anything of value for which you or your spouse paid nothing or paid less than the fair market value and may be in the form of money, services, reduced interest on a loan, travel, travel reimbursements, entertainment, hospitality, or in any other form. Separate gifts from the same or affiliated donors during the year must be added together for purposes of the \$75 rule.

Recipient of Gift	Donor of Gift	Relationship to Donor	Nature of Gift
--------------------------	----------------------	------------------------------	-----------------------

[E.g.: John Smith Acme Corp. Former employer Free trip to Las Vegas]

4. **Money You Owe.** List each person or firm to which you or your spouse or your registered domestic partner owe \$1,000 or more. Do not list money owed to relatives, as defined in Question 1. Do not list credit card debts unless you have owed the money for at least 60 days.

<u>Debtor</u>	<u>Creditor</u>	<u>Type of Obligation</u>
<i>E.g.: John & Rose Smith</i>	<i>Chase Bank</i>	<i>Mortgage loan]</i>

5. **Money Owed to You.** List each person or firm which owes you or your spouse or your registered domestic partner \$1,000 or more. Do not list money owed by relatives, as defined in Question 1.

<u>Creditor</u>	<u>Debtor</u>	<u>Type of Obligation</u>
<i>E.g.: John Smith</i>	<i>Alexis Doe</i>	<i>Mortgage loan]</i>

Signed: _____

Date Signed: _____

THE STRUCTURE AND FUNCTION
OF THE
NEW YORK CITY CONFLICTS OF INTEREST BOARD

- I. Introduction: NYC Charter Chapter 68; Ad. Code § 12-110

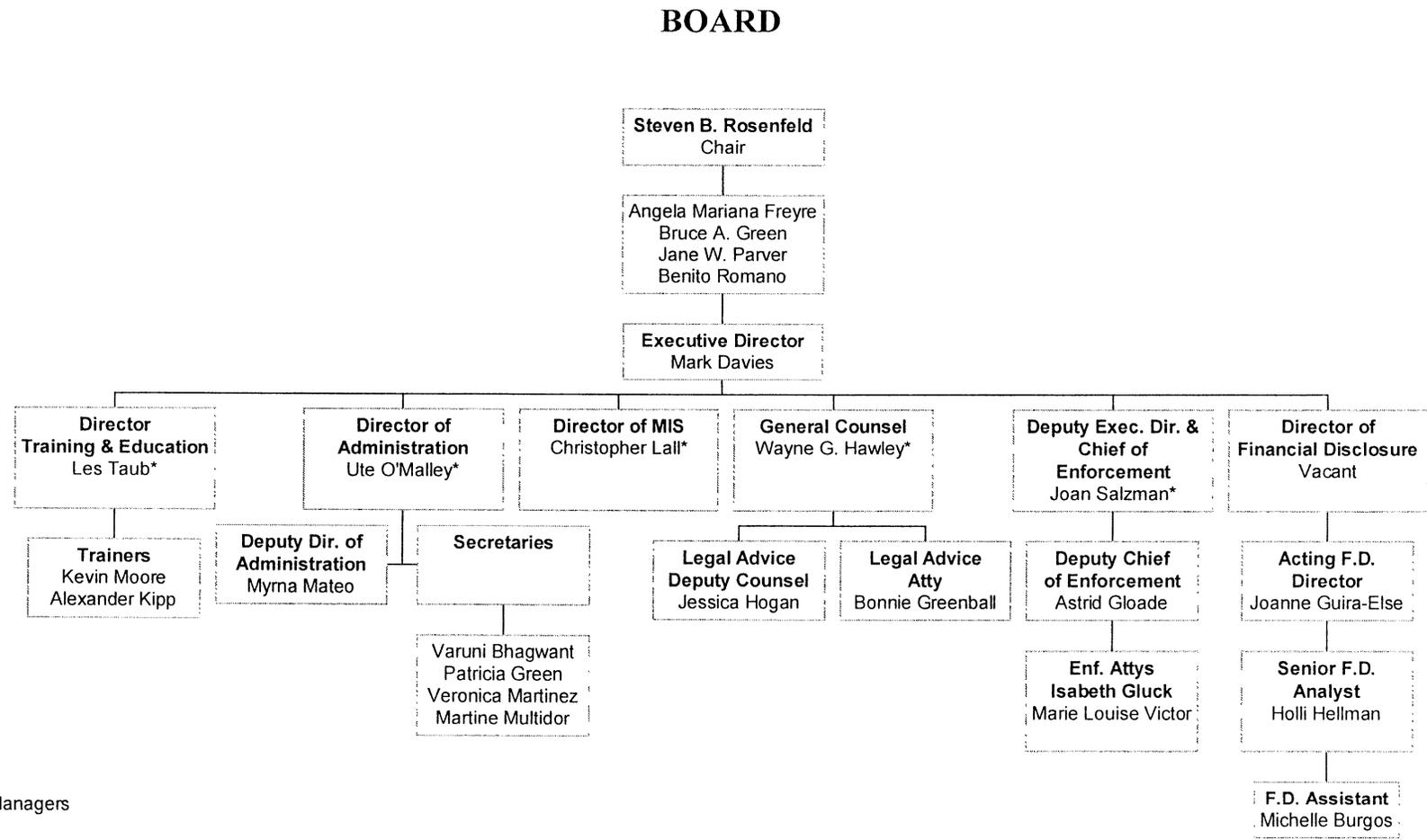
- II. NYC Conflicts of Interest Board
 - A. Structure (Charter § 2602)
 - B. Duties
 - 1. Education and Training (§ 2603(b))
 - 2. Advice (oral, advisory opinions, staff letters) (§ 2603(c))
 - 3. Orders and Waivers (§ 2604(a)(3)-(4), (e))
 - 4. Investigation and Enforcement (§ 2603(e)-(h))
 - 5. Financial Disclosure (§ 2603(d); Ad. Code § 12-110)
 - 6. Legislative and Administrative Initiatives (§ 2603(a), (j))
 - C. Confidentiality (Charter § 2603(c)(3), (f), (h)(4)-(5), (k); Ad. Code § 12-110(c))

- III. Conflicts of Interest Provisions (Charter § 2604(a)-(d))
 - A. Use of Public Position for Private Gain (§ 2604(b)(1)-(3))
 - B. Appearances before City Agencies (§ 2604(b)(6)-(8))
 - C. Prohibited Interests (positions; ownership) (§ 2604(a))
 - D. Gifts, Gratuities, and Honoraria (§ 2604(b)(5), (13))
 - E. Moonlighting (§§ 2604(a), (b)(2)-(4), (6)-(8), (14))
 - F. Not-for-Profit Activities (§ 2604(c)(6))
 - G. Political Activities (§ 2604(b)(9), (11), (12), (15))
 - H. Post-Employment (Revolving Door) (§ 2604(d))
 - I. Miscellaneous (confidential information, purchase of position, contracts with subordinates) (§ 2604(b)(4), (10), (14))

- IV. Disclosure
 - A. Financial (Ad. Code § 12-110; Charter § 2603(d))
 - B. Transactional (Charter §§ 2604(b)(1), 2605)

- V. Enforcement
 - A. Complaints, Investigations, Hearings, Orders (Charter § 2603(e)-(h))
 - B. Penalties (Charter § 2606; Ad. Code § 12-110(h))

CONFLICTS OF INTEREST BOARD ORGANIZATION CHART



*Managers

**REINVIGORATING A GOVERNMENT ETHICS BOARD
NYC CONFLICTS OF INTEREST BOARD: 1993 V. 2002**

<i>Agencywide</i>	1993	2002
Adopted Budget (Fiscal Year)	\$1,132,000 (FY94)	\$1,745,074 (FY03)
Staff (budgeted)	25	23 ^{3/5} ¹
<i>Training and Education</i>	1993	2002
Staff	1	4 ^{3/5} ²
Training sessions	10	273
Publications	6 Poster, Chapter 68, Plain Language Guide, Annual Reports	ca. 50 Chapter 68, Financial Disclosure Law, Board Rules; 19 leaflets; <i>Myth of the Month</i> (CHIEF LEADER); Revised Plain Language Guide; Board of Ed pamphlet; 8 outlines for attorneys; <i>CityLaw</i> , <i>NY Law Journal</i> , <i>NYS Bar Ass'n</i> articles; chapters for ABA, NYSBA, & international ethics books; Annual Reports; poster; newsletter
Ethics newsletter	None	<i>Ethical Times</i> (Quarterly)
Videotapes	None	3 half-hour training films; 2 PSA's
Board of Education training	None	109 training sessions; BOE leaflet, booklet, videotape
Electronic training	None	Website with almost all COIB publications & game show; 24/7 audiotext service; 24/7 faxback service; computer game show; numerous appearances on Crosswalks (e.g., mock trial)

<i>Legal Advice</i>	1993	2002
Staff	7 (5 attorneys)	4 (3 attorneys)
Requests for advice (written)	321	691
Issued opinions, letters, waivers, orders	266	505
Opinions, etc. per attorney	53	168
Pending requests at year end	151	184 (40 on 12/31/01)
Median age of pending requests	8- ¹ / ₂ months	3- ¹ / ₂ months (18 days on 12/31/01)
<i>Enforcement</i>	1993	2002
Staff	½	5 (4 attorneys)
Complaints received	29	221
Dispositions	38	179
Dispositions imposing fines	1	6 (10 in 2001) ²
Fines collected	\$500	\$15,300 (\$105,766 in 2000)
Referrals to DOI	19	84
Reports from DOI	?	74
<i>Financial Disclosure</i>	1993	2002
Staff	12	4
6-year compliance rate	99%	98.7%
Fines collected	\$36,051	\$19,525
Reports reviewed for completeness (mandated by Charter) ³	12,000	400
Reports reviewed for conflicts (mandated by Charter) ³	350	200
Electronic filing	None	In development

¹ The part-time (³/₅) position is not part of the Board's budgeted headcount of 23.

² The amounts of the fines assessed and collected vary from year to year, depending on when lengthy litigation involving complex or multiple violations is concluded.

³ NYC Charter § 2603(d)(2) mandates that the Board review every report for completeness and conflicts of interest.

NEW YORK CITY
CONFLICTS OF INTEREST BOARD

REPRESENTATIVES OF FOREIGN GOVERNMENTS
VISITING THE BOARD

Armenia	Kyrgyzstan
Azerbaijan	Latvia
Brazil	Lithuania
China	Macedonia
Colombia	Mexico
Costa Rica	New South Wales, Australia
Dominican Republic	Nicaragua
Ecuador	Panama
Egypt	Paraguay
El Salvador	Peru
Georgia	Queensland, Australia
Guatemala	Russia
Haiti	Senegal
Honduras	South Africa
Israel	Taiwan
Italy	Tanzania
Jamaica	Thailand
Kazakhstan	Vietnam
Korea	

[Training: Website Ethics Link: Foreign Visitors 2002]

NYC Conflicts of Interest Law (Plain Language Version*)

1. **Misuse of Office.** You may not take an action or fail to take an action as a public servant if doing so might financially benefit you, a family member, or anyone with whom you have a business or financial relationship.
2. **Misuse of City Resources.** You may not use City letterhead, personnel, equipment, supplies, or resources for a non-City purpose, nor may you pursue personal or private activities during times when you are required to work for the City.
3. **Gifts.** You may not accept anything of value for less than its fair market value from anyone that you know or should know is seeking or receiving anything of value from the City.
4. **Gratuities.** You may not accept anything from anyone other than the City for doing your City job.
5. **Seeking Other Jobs.** You may not seek or obtain a non-City job with anyone you are dealing with in your City job.
6. **Moonlighting.** You may not have a job with anyone that you know or should know does business with the City or receives a license, permit, grant, or benefit from the City.
7. **Owning Businesses.** You may not own any part of a business or firm that you know or should know does business with the City or receives a license, permit, grant, or benefit from the City, nor may your spouse, nor your domestic partner, nor any of your children if they are under 18.
8. **Confidential Information.** You may not disclose confidential City information or use it for any non-City purpose, even after you leave City service.
9. **Appearances.** You may not accept anything from anyone other than the City for communicating with any City agency or for appearing anywhere on a matter involving the City.
10. **Lawyers and Experts.** You may not receive anything from anyone to act as a lawyer or expert against the City's interests in any lawsuit brought by or against the City.
11. **Buying Office or Promotion.** You may not give or promise to give anything to anyone for being elected or appointed to City service or for receiving a promotion or raise.
12. **Business with Subordinates.** You may not enter into any business or financial dealings with a subordinate or superior.
13. **Political Solicitation of Subordinates.** You may not directly or indirectly ask a subordinate to make a political contribution or to do any political activity.
14. **Coercive Political Activity.** You may not force or try to force anyone to do any political activity.
15. **Coercive Political Solicitation.** You may not directly or indirectly threaten anyone or promise anything to anyone in order to obtain a political contribution.

16. **Political Activities by High-Level Officials.** If you are a deputy mayor, agency head, deputy or assistant agency head, chief of staff, or director or member of a board or commission, you may not hold political party office or ask anyone to contribute to the political campaign of a City officer or City employee or to the political campaign of anyone running for City office. If you are an elected official, you may not hold certain political party offices.
17. **Post-Employment One-Year Ban.** For one year after you leave City service, you may not accept anything from anyone, including the City, for communicating with your former City agency.
18. **Post-Employment One-Year Ban for High-Level Officials.** If you are an elected official, deputy mayor, chair of the city planning commission, or head of the office of management and budget, law department, or department of citywide administrative services, finance, or investigation, for one year after you leave City service, you may not accept anything from anyone, including the City, for communicating with your former branch of City government.
19. **Post-Employment Particular Matter Bar.** After you leave City service, you may never work on a particular matter you personally and substantially worked on for the City.
20. **Improper Conduct.** You may not take any action or have any position or interest, as defined by the Conflicts of Interest Board, that conflicts with your City duties.
21. **Inducement of Others.** You may not cause, try to cause, or help another public servant to do anything that would violate this Code of Ethics.
22. **Disclosure and Recusal.** As soon as you face a possible conflict of interest under this Code of Ethics, you must disclose the conflict to the Conflicts of Interest Board and recuse yourself from dealing with the matter.
23. **Volunteer Activities.** You may be an officer or director of a not-for-profit with business dealings with the City if you do this work on your own time, you are unpaid, the not-for-profit has no dealings with your City agency (unless your agency head approves), and you are in no way involved in the not-for-profit's business with the City.

FOR ADDITIONAL INFORMATION, CONTACT

**NEW YORK CITY CONFLICTS OF INTEREST BOARD
2 LAFAYETTE STREET, SUITE 1010
NEW YORK, NY 10007
212-442-1400 (TDD 212-442-1443)**

OR VISIT THE BOARD'S WEB SITE AT

<http://nyc.gov/ethics>

* This material is intended as a general guide. It is not intended to replace the text of the law (NYC Charter § 2604). For more particular information or to obtain answers to specific questions, you may write or call the Board.

NEW YORK CITY CONFLICTS OF INTEREST BOARD

REQUESTS FOR ADVICE ON CHAPTER 68

<u>Year</u>	<u>Requests Received</u>
1996	359
1997	364
1998	496
1999	461
2000	535
2001	539
2002	691

NEW YORK CITY CONFLICTS OF INTEREST BOARD
RESPONSES TO REQUESTS FOR ADVICE ON CHAPTER 68

<u>Year</u>	<u>Staff Letters</u>	<u>Waivers/ (b)(2) Letters</u>	<u>Board Letters, Orders, Opinions</u>	<u>Total</u>
1996	212	49	25	286
1997	189	116	24	329
1998	264	111	45	420
1999	283	152	28	463
2000	241	179	52	472
2001	307	148	46	501
2002	332	147	26	505



CITY OF NEW YORK CONFLICTS OF INTEREST BOARD

2 Lafayette Street, Suite 1010

New York, New York, 10007

(212) 442-1400

Fax: (212) 442-1407 TDD: (212) 442-1443

Charitable Contributions
Superior-Subordinate Relationship
Sale of Products

Charter Sections: 2604(b)(2), (b)(3), (b)(4) and (b)(14)

Advisory Opinion No. 98-12

The Conflicts of Interest Board (the "Board") has received a request for an opinion from a public servant employed by a City agency (the "Agency"), asking whether, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, she may sell beauty products to her subordinates within the Agency. The Board has also been asked whether a superior may ask a subordinate to contribute to a charitable organization.

For the reasons discussed below, it is the opinion of the Board that it would be a violation of Chapter 68 for the public servant to sell beauty products to her subordinates within the Agency. It would also be a violation of Chapter 68 for a superior to solicit charitable contributions from a subordinate. The Board has determined, however, that a subordinate may sell products to a superior, or solicit donations for charitable purposes from a superior, if the amount involved is de minimis. The Board considers de minimis to be \$25.00 or less. Further, the Board has also determined that agencies may determine whether and to what extent employees who are peers may sell products to each other or solicit donations from each other for charitable purposes.

Background

From time to time, the Board receives requests from public servants regarding the propriety of selling items within their agency or soliciting donations to charitable causes. As examples, public servants sell sweets for their children's schools, seek sponsors within their agency for walkathons, or sell cosmetic products to earn outside, non-City income. The sale of items can include anything from Girl Scout cookies to raffle tickets for charity. In some cases it is a superior selling to a subordinate and in others it is a subordinate selling to a superior or a peer selling to a peer.

Discussion

The sale of items, whether for charitable purposes or as part of a side business, is governed by several Charter provisions. These provisions are contained in Charter Sections 2604(b)(2), (b)(3) and (b)(14). The purpose of all of these provisions is to preserve the integrity of public service, to prevent City employees from being exposed to official coercion in their City positions, and to prevent employees from using their City positions for personal gain.

Charter Section 2604(b)(2) provides that no public servant shall engage in any business, transaction, or private employment, or have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of

his or her official duties. Charter Section 2604(b)(3) provides that no public servant shall use or attempt to use his or her official position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant.

Charter Section 2604(b)(14) states, "No public servant shall enter into any business or financial relationship with another public servant who is a superior or subordinate of such public servant."

The Charter Revision Commission defined the superior-subordinate relationship as follows:

Subordinates are not limited to individuals directly under and reporting to the public servant, but include all individuals in lower positions in the organizational hierarchy of the agency, whose work the public servant has the power to direct or whose terms and conditions of employment the public servant has the power to affect.

See Volume II, Report of the New York City Charter Revision Commission,
December 1986 - November 1988, p.178.

Conclusion

It is the opinion of the Board that superiors may not ask subordinates to purchase items or contribute to charitable causes. Accordingly, the sale of raffle tickets, Girl Scout cookies, cosmetic products or similar items by a superior to a subordinate is entirely proscribed by Charter Section 2604(14) and therefore

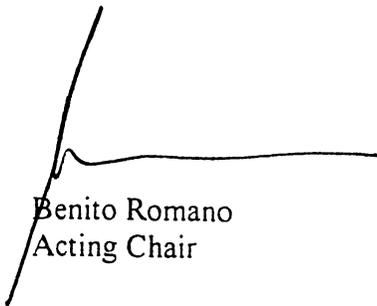
would violate Chapter 68. In addition, it is the opinion of the Board that for a superior to request a subordinate to sign up for a bike-a-thon, walk-a-thon, or similar charitable activity or to request a charitable donation would also be in contravention of Charter Section 2604(14) and therefore would violate Chapter 68, unless the charitable activity or fundraiser is sponsored by the City.

The question then remains as to whether a subordinate may sell products to or solicit donations from superiors. In this regard, it is the opinion of the Board that if the amount involved is de minimis, then such an exchange would not violate Chapter 68. The Board considers de minimis to be \$25.00 or less. However, City agencies may determine that a lesser amount is appropriate. Further, it is the opinion of the Board that agencies may determine whether and to what extent employees who are peers may sell products to each other or solicit donations from each other for charitable purposes.

In addition, to the extent the above-mentioned activities are permitted, they must be conducted in accordance with Charter Sections 2604(b)(2) and (b)(3). This means that these activities must be performed at times when the public servants are not required to perform services for the City and that the public servants may not use their official City position or title to obtain any private or personal advantage; and that public servants do not use City equipment, letterhead, personnel or other City resources in connection with this non-City work. See Charter Sections 2604(b)(2) and (b)(3), respectively.

The Board notes that the City endorses and promotes certain charitable initiatives on an on-going or annual basis. The Board's decision excludes these types of charitable events sponsored by the City. Such events would include the annual Combined Municipal Campaign, blood drives, toy drives, or other City sponsored charitable activities.

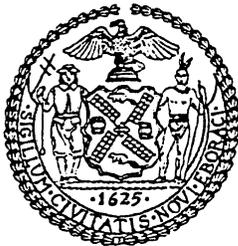
The Board's decision on this matter is conditioned on the correctness and completeness of the facts supplied to us. If such facts are in any respect incorrect or incomplete, the advice we have given in this opinion may not apply.



Benito Romano
Acting Chair

Bruce A. Green
Jane W. Parver

Dated: December 31, 1998



CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

2 Lafayette Street, Suite 1010

New York, New York 10007

(212) 442-1400

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August 13, 2001

Neal L. Cohen, M.D.
Commissioner
New York City Department of Mental Health,
Mental Retardation and Alcoholism Services
93 Worth Street
New York, N.Y. 10013

Re: Conflicts of Interest Board Case No. 2001-242 (Marcella Ross)

Dear Commissioner Cohen:

This is in response to your August 1, 2001, letter to the Conflicts of Interest Board (the "Board"), requesting a waiver of the conflicts of interest provisions of Chapter 68 of the City Charter to allow Marcella Ross to work for the Romanian Information and Referral Center, Inc. (the "Organization"), a not-for-profit organization, in light of her position with the Department of Mental Health, Mental Retardation and Alcohol Services (the "Department").

You have informed the Board that Ms. Ross is an Associate Staff Analyst in the Department's Office of Contract Management ("OCM"). You advise that in this position, Ms. Ross's duties include working with her supervisor in signing off, on behalf of OCM, on appropriate changes in contract agency budgets.

You further inform the Board that Ms. Ross, herself an immigrant from Romania, started the Organization in 1994 as a service organization for the Romanian community in New York City and that she now plans to receive a salary from the Organization. Ms. Ross advises that the Organization is the only not-for-profit community-based group specifically serving the Romanian community in Queens, which amounts to approximately 125,000 individuals, including refugees from the prior communist regime and those who were able to leave after the fall of communism.

You indicate that the Organization has a contract with the New York City Department of Youth and Community Development, but not with the Department. You advise that, given Ms. Ross's position as founder, executive director, and ultimate driving force behind the Organization, it will be necessary for her to be involved in the Organization's business dealings with the City, specifically DYCD. By your letter to the Board, you approve of Ms. Ross's outside work for the Organization, including allowing her to take part in the Organization's business dealings with the City, noting that it is in the interests of the City to preserve the operation of the Organization and that Ms. Ross is vital to that operation.

Pursuant to Charter Section 2604(a)(1)(b), except as otherwise provided in Charter Section 2604(e), a public servant whose primary employment is with the City may not hold a position with a firm which is engaged in business dealings with the City.

Charter Section 2604(b)(6) provides that "[n]o public servant shall, for compensation, represent private interests before any city agency or appear directly or indirectly on behalf of private interests in matters involving the city. For a public servant who is not a regular employee, this prohibition shall apply only to the agency served by the public servant." "Appear" means to make any communication, for compensation, other than those involving ministerial matters. See Charter Sections 2601(4).

Charter Section 2604(e) provides that a public servant may hold a position or engage in conduct that would otherwise violate Chapter 68 if the Board determines, after receiving the written approval of the public servant's agency head, that such position or conduct does not involve a conflict with the purposes and interests of the City.

You are advised, based on your representations and written approval, that the Board has determined that Ms. Ross's position with and work for the Organization, as described above, including working with and appearing before DYCD regarding the Organization's contracts, would not conflict with the purposes and interests of the City, *provided that* her work for the Organization may be performed only at times when she is not required to perform services for the City; she may not use her official City position or title to obtain any private advantage for herself, the Organization, or any customers thereof; she may not use City equipment, letterhead, personnel, or other City resources in connection with her outside work; and she may not disclose or use for private advantage any confidential information concerning the City. See Charter Sections 2604(b)(2), (b)(3) and (b)(4), respectively.

The requirement that Ms. Ross not use her City position, or City time or resources, in support of her work for the Organization means, among other things, the following:

- 1) **She may not in her work for the Organization identify herself to anyone as an employee of the Department, unless explicitly asked.**
- 2) **She may not make or receive telephone calls regarding the Organization on her, or any other, City telephone. For this reason, she may not give her City telephone number to anyone in connection with her work for the Organization.**
- 3) **She may not perform any activities for the Organization, including telephone calls, during her work days at the Department, except during her lunch hour and other Department approved breaks.**

The views expressed in this letter are conditioned on the correctness and completeness of the facts supplied to us. If such facts are in any respect incorrect or incomplete, the advice we have given to you may not apply. If at any time you would like further advice based on a change of circumstances or additional information, please contact us.

Very truly yours,



Benito Romano
Acting Chair

cc: Bruce A. Green
Jane W. Parver

William G. Martin, Esq.
Marcella Ross

2001-242e.ch/jh



CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

2 Lafayette Street, Suite 1010

New York, New York 10007

(212) 442-1400

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Order No. 88

The Conflicts of Interest Board (the "Board") has received a request on behalf of David Klasfeld, the recently appointed Deputy Chancellor for Operations of the New York City Board of Education ("BOE"), disclosing, pursuant to Section 2604(a)(3) of Chapter 68 of the City Charter, that he has an ownership interest in Oracle Corporation (the "Firm"), a firm which engages in business dealings with the BOE. Mr. Klasfeld has requested an order pursuant to Charter Sections 2604(a)(3) and (4) permitting him to retain his ownership interest in the Firm. For the reasons set forth below, the Board has determined that Mr. Klasfeld may retain his ownership interest in the Firm, subject to the conditions set forth in this order.

Background

Mr. Klasfeld has advised the Board that he owns equities in the Firm with a value in excess of \$60,000, but less than \$100,000, and that his wife likewise owns equities in the Firm with a value in that range. He further advises that the

Firm has a market capitalization of \$224 billion. The Firm has business dealings with the BOE, including a requirements contract through which the BOE has purchased approximately \$25,000 in services from the Firm over the past four years. In addition, the Firm has recently approached the BOE about expanding the Firm's role in providing information technology to the BOE.

By letter to the Board dated June 9, 2000, BOE Chancellor Harold O. Levy has approved Mr. Klasfeld's ownership interest in the Firm.

Discussion

Charter Section 2604(a)(1)(a) provides that no public servant shall have an interest in a firm which is engaged in business dealings with the public servant's own agency. As defined in Charter Section 2601(12), "interest" includes an ownership interest in a firm. Charter Section 2601(16) defines an "ownership interest" as, *inter alia*, "an interest in a firm held by a public servant, **or the public servant's spouse**, domestic partner, or unemancipated child, which exceeds five percent of the firm or an investment of [thirty-two] thousand dollars in cash or other form of commitment, whichever is less. . . ." (Emphasis added.) See also Board Rules Section 1-11. Since Mr. Klasfeld's interest in the Firm (which interest, as noted, includes those shares owned by his wife) has a value in excess of \$32,000, he has an ownership interest within the meaning of Charter Section 2601(16), as amended by Board Rules Section 1-11. Further, since the Firm engages in business dealings with the BOE, this interest would be prohibited by

Charter Section 2604(a)(1)(a).¹

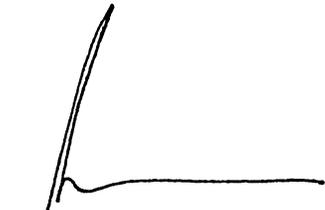
Charter Section 2604(a)(3) provides that a public servant who holds an ownership interest prohibited by Charter Section 2604(a)(1)(a) must either divest the ownership interest or disclose such ownership interest to the Board and comply with its order. Charter Section 2604(a)(4) provides that, after such disclosure, the Board may issue an order setting forth its determination as to whether such interest, if maintained, would conflict with the proper discharge of the public servant's official duties. In making such a determination, the Board takes into account the nature of the public servant's official duties, the manner in which the interest may be affected by any action of the City, the appearance of conflict to the public, and the financial burden of any decision on the public servant.

Here, the Firm's business dealing with the BOE do not appear to be substantial, particularly given the size of the Firm. In addition, Mr. Klasfeld's ownership interest is in publicly traded shares.

Based on the foregoing, the Board has determined that Mr. Klasfeld's retention of his ownership interest in the Firm, including his interest in those shares in his wife's name, would not conflict with the proper discharge of his official duties for the City. See Charter Sections 2604(a)(4). Accordingly, the

¹ The Board notes that the exception in Charter Section 2604(a)(1)(b) for publicly traded stock does not apply to an interest in a firm doing business with one's own agency. Compare Sections 2604(a)(1)(a) and 2604(a)(1)(b). Mr. Klasfeld therefore has appropriately sought the Board's determination in the instant case.

Board hereby orders that Mr. Klasfeld may retain his ownership interest in the Firm, provided that he recuses himself from any involvement in the Firm's business dealing with the City, including any involvement in discussions following on the Firm's recent expression of interest in expanding its business relationship with the BOE. Recusal means that Mr. Klasfeld will not be involved, directly or indirectly, in such matters. This includes, but is not limited to, not participating in discussions concerning the Firm, not attending meetings with City officials and others to discuss the Firm, and not receiving copies of relevant documents.



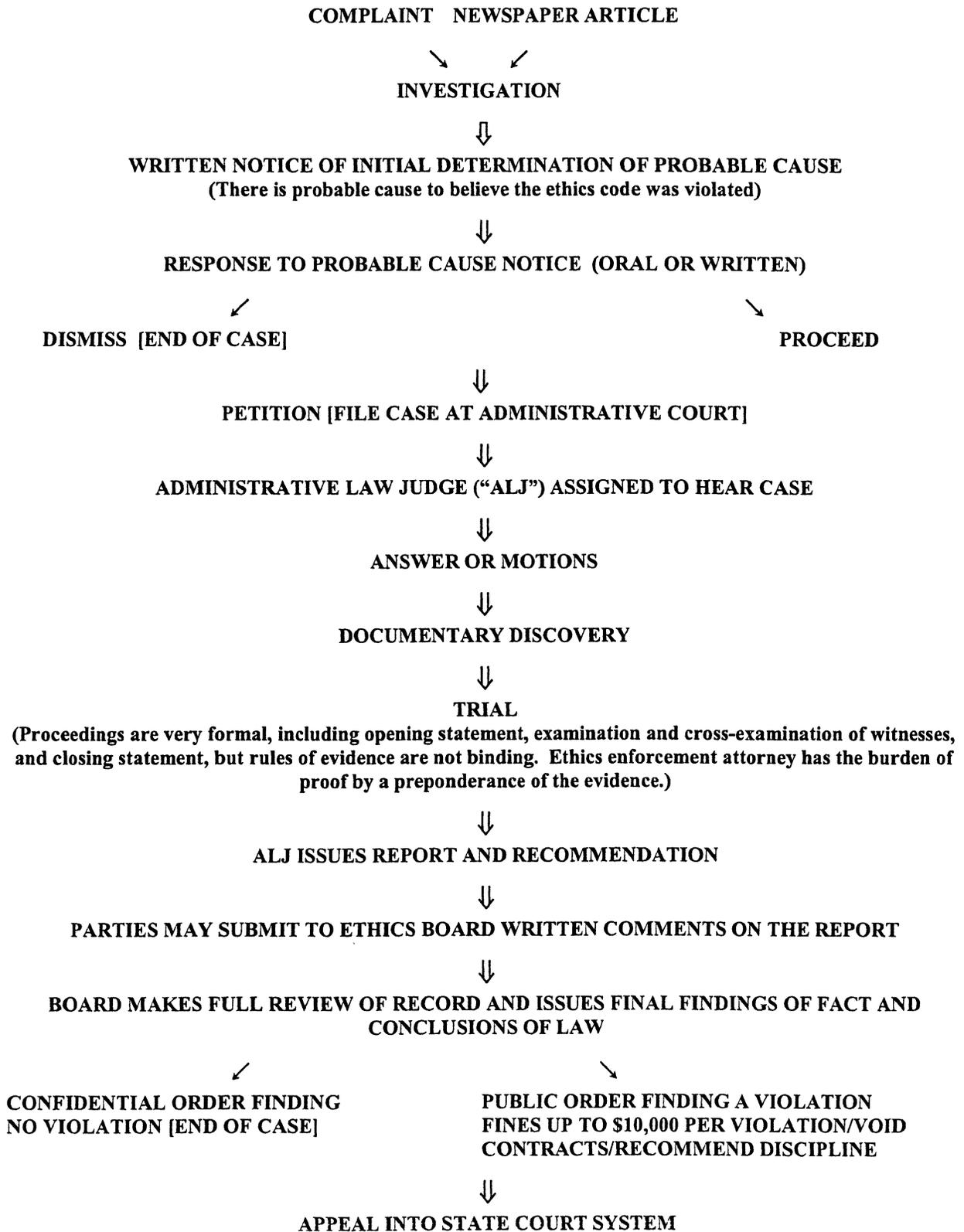
Benito Romano
Acting Chair

Bruce A. Green

Jane W. Parver

Dated: July 26, 2000

ETHICS ENFORCEMENT PROCESS IN NEW YORK CITY



NEW YORK CITY CONFLICTS OF INTEREST BOARD

ENFORCEMENT CASES (CHAPTER 68)

	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
New Complaints Received	8	20	22	29	31	29	50	64	63	81	148	124	221
Dispositions	2	6	25	38	4*	33	32	54	76	83	117	152	179
Dispositions Imposing Fines	0	0	1	1	2	1	1	2	9	4	10	9	6
Public Censure Letters	0	0	0	0	0	0	1	0	0	0	2	2	0

* The Board lacked an enforcement attorney during much of 1994.



CITY OF NEW YORK CONFLICTS OF INTEREST BOARD

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FOR IMMEDIATE RELEASE

August 15, 2000

Contact: Joan R. Salzman  Deputy Executive Director & Chief of Enforcement,
(212) 442-1434

Astrid B. Gloade Associate Counsel for Enforcement 

FORMER DEPARTMENT OF TRANSPORTATION DEPUTY AGENCY CHIEF CONTRACTING OFFICER FINED \$1,500 FOR VIOLATING REVOLVING DOOR RULES.

The New York City Conflicts of Interest Board announced today that it had settled a case involving Egidio Paniccia, a former Department of Transportation ("DOT") Deputy Agency Chief Contracting Officer ("ACCO"). A copy of the Disposition is attached.

From July 1998 until July 1999, Paniccia was Deputy ACCO at DOT, and was in charge of the DOT's Office of Consultant Programs, which office is responsible for analyzing and recommending awards of contracts. As Deputy ACCO, Paniccia's duties included supervising the evaluation process for responses to DOT Requests for Proposals ("RFP"), and ensuring that proposals were evaluated according to established procedures. Paniccia also recommended to the DOT Commissioner particular bidders to whom contracts should be awarded.

In October 1998, Paniccia was DOT's contact person for an RFP for resident engineering inspection services (the "Testing RFP"). Shah Associates Engineering & Land Survey, Inc./Ambric Testing and Engineering ("Shah/Ambric") responded to DOT's RFP, but was not the successful bidder. The GA Group, Inc., corporate parent of Shah/Ambric, complained to Paniccia and Mayor Rudolph Giuliani about the procurement process. Paniccia, in his capacity as DOT Deputy ACCO, responded to the GA Group, Inc.'s complaints in written and oral communication, as well as in meetings with representatives of the GA Group, Inc.

Paniccia retired from City service on July 2, 1999, and began to work for the GA Group, Inc. on or about July 12, 1999. On or about July 14, 1999, while he was at the GA Group, Inc., Paniccia telephoned DOT's ACCO, his former direct supervisor. During that conversation, Paniccia advised DOT's ACCO that he was working for the GA Group, Inc., and asked about the status of the award of the Testing RFP. On or about

July 14, 1999, while he was at the GA Group, Inc., Paniccia contacted the Mayor's Office of Contracts to inquire about the status of the award of the Testing RFP.

Paniccia admitted that he violated Section 2404(d)(2) of the City Charter by communicating, for compensation, with his former agency within a period of one year after termination of his service with the City, and that he violated Section 2604(d)(4) of the City Charter by communicating with his former agency and another City agency with respect to a particular matter (the Testing RFP) involving the same parties, on which particular matter he worked personally and substantially as a public servant.

Paniccia agreed to pay a fine of \$1,500 to the Conflicts of Interest Board.

The Conflicts of Interest Board is the City's ethics board and is responsible for enforcing Chapter 68 of the New York City Charter, the City's ethics law. The Board is presently composed of three members appointed by the Mayor and confirmed by the City Council.

The Board gratefully acknowledges the excellent work of the New York City Department of Investigation which, pursuant to the City Charter, serves as the investigative arm of the Board.

THE CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

-----X
:
In the Matter of :
:
EGIDIO PANICCIA : DISPOSITION
:
Respondent. : COIB Case No. 99-511
:
-----X

Respondent Egidio Paniccia states the following:

1. From approximately July 1998 until my retirement on July 12, 1999, I was Deputy Agency Contracting Officer ("Deputy ACCO") at the Department of Transportation ("DOT"). I was employed by the City in various capacities from 1984 to 1999.

2. While I was employed as DOT Deputy ACCO, I was in charge of the Office of Consultant Programs, which was responsible for analyzing and recommending awards of contracts. As Deputy ACCO, I supervised the evaluation process for responses to DOT Requests For Proposals ("RFP") and ensured that proposals were evaluated according to established procedures. I, along with a selection committee, also recommended to the DOT Commissioner particular bidders to whom contracts should be awarded.

3. In October 1998, DOT advertised an RFP for resident engineering inspection services in connection with inspection of a material testing and sampling contract (the "Testing RFP"). I was DOT's contact person for all matters concerning this RFP.

4. Shah Associates Engineering & Land Survey, Inc./Ambric Testing & Engineering ("Shah/Ambric") responded to DOT's Testing RFP. However, Shah/Ambric's proposal was not selected by DOT. The GA Group, Inc., corporate parent of Shah/Ambric,

complained to me orally and in writing about DOT's procurement process for the Testing RFP. In addition, the GA Group, Inc. sent a letter of complaint, dated May 3, 1999, addressed to Mayor Rudolph Giuliani. In my capacity as DOT Deputy ACCO, I responded to the GA Group, Inc.'s complaints by letter, in telephone conversations with representatives of the GA Group, Inc., and at meetings with representatives of the GA Group, Inc.

5. On or about July 2, 1999, I retired from DOT, and on or about July 12, 1999, I began to work for the GA Group, Inc.

6. On or about July 14, 1999, while I was at the GA Group, Inc., I telephoned Paul Stanton, DOT's Agency Chief Contracting Officer. Mr. Stanton had been my direct supervisor at DOT. I advised Mr. Stanton that I was working with the GA Group, Inc., and I inquired about the status of the award of the Testing RFP. On or about July 14, 1999, while I was at the GA Group, Inc., I contacted Jeffrey Weinstein, Acting Director of the Mayor's Office of Contracts, to inquire about the status of the award of the Testing RFP.

7. I admit that my conduct constituted a conflict of interest in violation of Section 2604(d)(2) of the City Charter in that I communicated, for compensation, with my former agency (DOT) within a period of one year after termination of my service with the City, and in violation of Section 2604(d)(4) of the City Charter in that I communicated with my former agency and with another City agency with respect to a matter (the Testing RFP) involving the same parties (the GA Group, Inc., and its affiliated companies, Shah/Ambic, and the City), that I participated in personally and substantially as a public servant.

8. Section 2604(d)(2) provides, in pertinent part, that:

No former public servant shall, within a period of one year after termination of such person's service with the city, appear before the city agency served by such public servant.

9. Section 2604(d)(4) provides that:

No person who has served as a public servant shall appear, whether paid or unpaid, before the city, or receive compensation for any services rendered, in relation to any particular matter involving the same party or parties with respect to which particular matter such person had participated personally and substantially as a public servant through decision, approval, recommendation, investigation or other similar activities.

10. I understand that my communicating with DOT and the Mayor's Office of Contracts with respect to the Testing RFP was improper and violated Charter Sections 2604(d)(2) and (d)(4). At the time that I made those telephone calls, I did so in part out of personal interest in determining whether the GA Group, Inc.'s complaint had been successful in reversing DOT's award of the testing RFP, in which case I would have recused myself from any activity at the GA Group, Inc. relating to the Testing RFP. I did not tell Mr. Stanton or Mr. Weinstein that I was concerned that I might have to recuse myself at GA Group, Inc. from working on the DOT contract if GA Group, Inc.'s complaint had succeeded and GA Group, Inc. won the contract. I understand that they would have no way of knowing that I might be calling to ensure that I had no conflict of interest. I also understand that in my calls, I appeared to be representing GA Group, Inc., my new private employer. I did not request, and to my knowledge GA Group, Inc. did not receive, any benefit as a result of my telephone calls.

11. I represent that I resigned from the GA Group, Inc. in May 2000, and that I am retired from employment.

12. In acknowledgement of the foregoing, I agree to pay a fine of One Thousand, Five Hundred Dollars (\$1,500) to the New York City Conflicts of Interest Board, to be paid upon the signature by all the parties to this Disposition.

13. I agree that this statement is a public and final resolution of the charges against me. Furthermore, I agree to provide a copy of this Disposition to any City agency where I apply for employment upon the request of such agency or in response to any inquiry calling for such information.

14. This agreement constitutes a waiver by me or my successor of any right to commence any judicial or administrative proceeding or appeal before any court of competent jurisdiction, administrative tribunal, political subdivision, or office of the City or the State of New York or of the United States to contest the lawfulness, authority, jurisdiction, or power of the Conflicts of Interest Board in imposing the penalty which is embodied in this agreement.

15. I confirm that, having entered into this agreement knowingly and intentionally, without coercion or duress, and after having freely and voluntarily waived the right to be represented by an attorney or any other person, I accept all terms and conditions contained herein without reliance on any other promises or offers previously made or tendered by any past or present representative of DOT or the Conflicts of Interest Board and that I fully understand all the terms of the agreement.

16. This Disposition shall not be effective until all parties have affixed their signatures below.

17. The New York City Conflicts of Interest Board accepts this Disposition and the terms and conditions contained herein as a final disposition of the above-captioned matter, and, accordingly, hereby closes the case, and affirmatively states that no further action will be taken by the Conflicts of Interest Board against respondent based on the facts and circumstances referred to herein.

Dated: New York, New York
August 14, 2000


EGIDIO PANICCIA

7/31/00
Date

THE CITY OF NEW YORK
CONFLICTS OF INTEREST
BOARD


By: Benito Romano, Acting Chair

8/14/00
Date

CONFLICTS OF INTEREST BOARD
CHAPTER 68 ENFORCEMENT CASE SUMMARY

Current as of January 10, 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. 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.³ 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 "inducing²³ 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 Wilma 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. Wilma 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 Lockheed 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. Beigel*, 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.

**NEW YORK CITY CONFLICTS OF INTEREST BOARD
ENFORCEMENT FINES**

Current as of January 10, 2003

DATE	CASE NAME OR NUMBER	AMOUNT
1/9/03	Mumford	\$2,500
7/30/02	Blake-Reid	\$8,000
7/2/02	Cottes	500
6/26/02	Silverman	500
4/1/02	Smith	3,000
2/28/02	Kerik	2,500
2/26/02	Loughran	800
12/18/01	King	1,000
11/16/01	Hill-Grier	700
9/28/01	Denizac	4,000
8/16/01	Moran	2,500
7/17/01	Capetanakis	4,000
7/26/01	Rieue	2,000
6/13/01	Steinhandler	1,500
5/24/01	Camarata	1,000
4/19/01	Peterson	1,500
3/5/01	Finkel	2,250
10/25/00	Hoover	8,500
10/16/00	Turner	6,500
8/15/00	Paniccia	1,500
8/7/00	Chapin	500
7/24/00	Lizzio	250
6/6/00	Rosenberg	1,000
5/3/00	Sullivan	625
4/27/00	Vella-Marrone	5,000
4/4/00	Carlin	800
1/7/00	Rene	2,500
11/23/99	Davila	500
11/22/99	McGann	3,000
7/1/99	Sass	20,000
2/3/99	Ludewig	7,500
10/15/98	Morello ¹	6,000
9/17/98	Katsorhis	84,000
7/15/98	Weinstein ²	5,000
6/29/98	Fodera	3,100
6/24/98	Wills	1,500
6/24/98	Hahn	1,000
6/24/98	Harvey ³	200
5/14/98	Cioffi	100
4/30/98	Holtzman	7,500
1/8/98	Ross	1,000
6/17/97	Quennell	100
3/11/96	Matos ⁴	1,000
7/6/95	Baer	5,000
1/28/94	Bryson	500
1/14/94	McAuliffe	2,500
4/9/93	Ubinas	500

TOTAL: \$215,425

73

¹ As a result of departmental charges arising out of the same matter, Mr. Morello resigned from the New York City Fire Department and forfeited his entire accrued leave balances, worth \$93,105. Therefore, this investigation alone actually represented nearly \$100,000 in penalties recovered by the City.

² Includes a \$1,250 fine and forfeited annual leave worth \$3,750.

³ This fine was forgiven due to extreme financial hardship.

⁴ This fine was reduced to \$250 on proof of financial hardship one year following the settlement of the matter, pursuant to the terms of the settlement.

CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

New York City Financial Disclosure Law:
City Officers and Employees* Required to File
Annual Statements of Financial Disclosure –
A Comparison of Current Law and Proposed Amendments

<u>Current Law</u>	<u>Proposed Amendments</u>
1. Elected officers (mayor, public advocate, Council members, borough presidents, comptroller) (§ 12-110(a)(1))	1. Same, except add district attorneys (§ 12-110(b)(1)(a))
2. Agency heads, deputy agency heads, assistant agency heads (§ 12-110(a)(3)(a)(1))	2. Same (§ 12-110(b)(3)(a)(1))
3. Compensated members of boards and commissions (§ 12-110(a)(3)(a)(1))	3. Same (§ 12-110(b)(3)(a)(1))
4. Members of the management pay plan (§ 12-110(a)(3)(a)(1))	4. Same, except eliminate M1-M3 (§ 12-110(b)(3)(a)(3))**
5. Employees with salary exceeding a threshold amount (currently \$83,500) (§ 12-110(a)(3)(a)(1))	5. Policymakers (§ 12-110(b)(3)(a)(2), (3))
6. Employees directly involved in negotiating, authorizing, or approving contracts, leases, franchises, revocable consents, concessions, or applications for zoning changes, variances, or special permits (§ 12-110(a)(3)(a)(2))	6. Same, except eliminate “directly” (§ 12-110(b)(3)(a)(4))

* The City’s Financial Disclosure Law also requires filing by local political party officials and candidates for elective City office. See NYC Ad. Code §§ 12-110(a)(1) and 12-110(a)(2), respectively. “Local political party official” is defined in NYC Ad. Code § 12-110(a)(3)(c).

** Council and DA employees: independent exercise of managerial or policymaking functions (§ 12-110(b)(3)(a)(2)).

NEW YORK CITY CONFLICTS OF INTEREST BOARD FINANCIAL DISCLOSURE REPORTS

Calendar Year ("C.Y.")	Number of Reports Required for C.Y.	Reports Filed for C.Y.	Compliance Rate for C.Y.	Number of Fines Waived for C.Y.	Number of Fines Paid for C.Y.	Amount of Fines Paid for C.Y.	Current Non-Filers for C.Y. Act. Inact.*	Current Non-Payers for C.Y. Act. Inact.*
1996	11,684	11,558	98.9%	365	370	\$37,150	0 126	0 145
1997	11,468	11,389	99.3%	257	250	\$25,600	0 79	0 16
1998	12,027	11,899	98.9%	246	317	\$32,150	1 127	0 29
1999	12,387	12,243	98.8%	245	308	\$30,800	0 144	0 47
2000	12,826	12,547	97.8%	482	332	\$33,200	5 274	0 62
2001	12,085	11,916	98.5%	443	158	\$15,725	16 153	8 32
TOTALS:	72,477	71,552	98.7%	2,038	1,735	\$412,673**	22 903	8 331

* "Act." indicates current non-filers or non-payers who are current City employees. ("Non-payers" are late filers who have failed to pay their late filing fine.) "Inact." indicates current non-filers or non-payers who are no longer City employees.

** Includes fines collected for calendar years 1989 through 1995, the reports for which have been discarded pursuant to the Board's retention policy.

CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

THE FINANCIAL DISCLOSURE PROCESS

1. Obtain from each agency a list of their employees who must file a disclosure report because of their purchasing or other duties (some employees appeal this determination by their agency);
2. Send to agency financial disclosure liaisons a computer printout of the agency's previous year's filers for updating;
3. Enter into the database agency liaisons' typed or handwritten additions and deletions to the agency's list of filers;
4. Incorporate changes into the financial disclosure form and instructions, prepare a camera-ready copy, and have 16,000 copies printed;
5. Contact all agencies to determine the number of forms they need;
6. Prepare the office for collection of the reports (filing cabinets, supplies, tables, temps, etc.);
7. Distribute financial disclosure forms and seals to agencies for distribution by them to their employees;
8. Send to each agency a corrected list of all employees in the agency who are required to file, obtain any corrections from each agency, and enter them into the database;
9. Process requests for extensions of time to file;
10. Receive 12,000 financial disclosure reports by certified mail or in batches from agencies (with lists of employees filing);
11. Enter into the database the date the report is filed (subsequently enter the dates of appeals, dates of non-filer letters, etc.);

12. Repeatedly check the database against the financial disclosure reports filed (name, social security number, agency, and date filed) and check that reports are filed in the correct location ("sweeps");
13. Review all reports for completeness, notify filers of incomplete reports, provide reports to filers who come into office to amend (complete) their reports (those who fail to amend are treated as non-filers);
14. Send to each agency for review a computer printout of all non-filers in the agency and enter into the database agencies' deletions from the list of required filers;
15. Request agencies to provide home addresses of non-filers, the employment status of non-filers and non-payers (*i.e.*, employees who filed late but failed to pay the \$100 statutory late filing fine), and the agency's decisions on appeals;
16. Enter responses into the database;
17. Send dunning letters to non-filers and non-payers (typically about 300);
18. Process requests for waivers of late fines;
19. Process payments of late fines;
20. Notify agency heads of the names of non-filers and non-payers;
21. Publish in the newspaper and post on the web site an agency-by-agency list of non-filers;
22. Have agency inspectors general tell non-filers and non-payers to comply with law by filing their reports and paying their late fines;
23. Send a final warning notice;
24. Commence enforcement proceedings by sending petitions to non-filers and non-payers;
25. Litigate non-filer/non-payer cases against City employees (draft documents, negotiate settlements and draft settlement agreements, prepare and try cases);

Other Activities

26. Send 1,500 to 2,000 memoranda per year to financial disclosure liaisons in regard to various aspects of the financial disclosure process;
27. Answer 3,000 telephone calls per year from filers, liaisons, the public, State and federal agencies, and the media about financial disclosure and financial disclosure reports;
28. Track the status of appeals and enter that information into the database;
29. Create and maintain a separate database of financial disclosure litigation against non-filers/non-payers (names, social security numbers, docket numbers, dates, dispositions, fines, etc.);
30. Rule on each request for privacy for part or all of a financial disclosure report (rulings are made only when someone requests to view the report);
31. Photocopy financial disclosure reports for inspection by the public and the media;
32. Process requests to inspect reports, provide reports for inspection, provide photocopies and process photocopying fees, and notify filers of the request for inspection;
33. Perform substantive reviews of reports by comparing them against databases (*e.g.*, the City's list of vendors) and reports of previous years;
34. Destroy reports after six years.

[Training: Jamaica: FD_Process]

Required Filers Report on: 11/26/01

File Year	Agency Code	Last Name	First Name	Social Security	Active	FD Filed Date	Appealed Date	Agency Det. Date	Appealed Further	Penalty Paid
Civilian Complaint Review Board										
2000	054	BROWN	TARIK		Y	04/25/01				
2000	054	BUSH	SOPHIA L.		Y	04/25/01				
2000	054	CIPRIANO	JOHN P.		Y	04/25/01				
2000	054	CONDON	RICHARD		Y	05/02/01				
2000	054	CORTES-VASQUEZ	LORRAINE		N	07/09/01				
2000	054	FINKLE	FLORENCE		Y	04/25/01				
2000	054	FORTAIN	RENEE		Y	04/25/01				
2000	054	GADDY	CEDRIC		Y	05/02/01				
2000	054	GONZALEZ	HECTOR		Y	04/19/01				
2000	054	GREINSKY	CHARLES		Y	04/25/01				
2000	054	HOBRON	ALLAN		N	03/13/00				
2000	054	HOLLAND	SHERI		N					
2000	054	HUGHES	JOSEPH		Y	04/25/01				
2000	054	JACKSON	SHERMAN		N	02/15/00				
2000	054	KUNTZ	WILLIAM F.		Y	05/02/01				
2000	054	LAM	SINGEE		Y	05/07/01				
2000	054	LIBERATORE	ROBERT		Y	04/25/01				
2000	054	LIVINGSTON	DEBRA		Y	05/04/01				
2000	054	LONERGAN	ROBERT		Y	04/25/01				
2000	054	LOPEZ	GENE R.		Y	05/03/01				
2000	054	MAROWITZ	GLENN		Y	04/25/01				
2000	054	MARTIN	JULES		Y	04/30/01				
2000	054	MC CANN	MARIE H		Y	04/25/01				
2000	054	OSMER	RICHARD		Y	04/25/01				
2000	054	PALACIOS	BELKIS		Y	04/25/01				
2000	054	PATTERSON	RAYMOND		Y	04/25/01				
2000	054	RACKMILL	STEPHEN		Y	04/25/01				
2000	054	REGAN	ARTHUR S		Y	05/03/01				
2000	054	REYES	IRIS A.		Y	04/25/01				
2000	054	SIMONETTI	TOSANO		Y	04/05/01				
2000	054	STOLL	CARL		Y	04/25/01				
2000	054	STONE	FRANKLIN		Y	05/02/01				
2000	054	TAMPA	JOHN		N					
2000	054	TERRY	STEVEN		Y	03/19/01				
2000	054	THOMPSON	ANNE E.		Y	04/25/01				
2000	054	WARD	EARL		Y	05/02/01				
2000	054	WEISHEIT	DIANNE		Y	04/25/01				
2000	054	WOHL	FRANK H.		Y	05/02/01				

Total number for agency: 38

*Grand Total number of Required Filers: 38

Active: 33

Inactive: 5

Unknown: 0

Agency Code	Last Name	First Name	Social Security	Active	Non Filer Letter Date	Appeal Date	Agency Determ. Date
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Agency Code	Last Name	First Name	Social Security	Active	Appeal Date	Agency Determ. Date	Non Filer Letter Date
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**NEW YORK CITY CONFLICTS OF INTEREST BOARD
TRAINING AND EDUCATION CLASSES ON CHAPTER 68**

<u>Year</u>	<u>Board of Ed Classes</u>	<u>Other Agency Classes</u>	<u>Total Classes</u>
1995	0	24	24
1996	0	30	30
1997	0	90	90
1998	10	53	63
1999	23	69	92
2000	221	156	377
2001	116	74	190
2002	109	164	273*

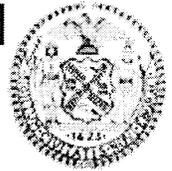
* This total does not include 13 classes conducted by agency training/legal staff under COIB's "Train the Trainer" program nor 100 briefings set up and conducted by DOI.

NEW YORK CITY CONFLICTS OF INTEREST BOARD COIB TRAINING CLASSES BY AGENCY

Agencies that held ten or more classes are bolded
Agencies that held three to nine classes are italicized
 Agencies that held one or two classes are not separately listed

1998	1999	2000	2001	2002
Finance Homeless Svces. <i>Bd. of Education</i> <i>DCAS</i> <i>HRA</i> <i>NYPD</i>	Bd. of Education DCAS Finance <i>Correction</i> <i>DOT</i> <i>Sanitation</i> <i>School Const. Auth.</i>	Bd. of Education Buildings DEP DOT Finance Parks Sanitation <i>Correction</i> <i>DCAS</i> <i>DDC</i> <i>DOI</i> <i>EDC</i> <i>Health</i> <i>HPD</i> <i>HRA</i> <i>NYPD</i> <i>TLC</i>	Bd. of Education DCAS Finance HPD <i>DEP</i> <i>DDC</i> <i>FIRE</i> <i>DOITT</i> <i>Sanitation</i> <i>Transportation</i>	Buildings Correction DCAS Education Finance Sanitation SCA <i>ACS</i> <i>City Planning</i> <i>DDC</i> <i>DEP</i> <i>DOT</i> <i>Health</i> <i>HPD</i> <i>NYCERS</i> <i>Parks</i> <i>Transportation</i>
Agencies Holding One or Two Classes: 4	Agencies Holding One or Two Classes: 15	Agencies Holding One or Two Classes: 22	Agencies Holding One or Two Classes: 14	Agencies Holding One or Two Classes: 29
Total Classes: 63	Total Classes: 92	Total Classes: 377	Total Classes: 190	Total Classes: 273*

* This total does not include 13 classes conducted by agency training/legal staff under COIB's "Train the Trainer" program nor 100 briefings set up and conducted by DOI.



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For a list of **agencies that currently file financial disclosure reports** with the Conflicts of Interest Board, visit the Board's [FD Agency List](#).

Want to know if you need to file a financial disclosure report? Don't know what that is or if it applies to you? Visit the [Financial Disclosure FAQ](#) pages and [Financial Disclosure Reports](#).

Executive Director



Message From The Executive Director

Bio of Executive Director

Our Mission

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Resources

Have a question regarding Chapter 68 of the New York City Charter, the conflicts of interest law?

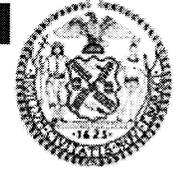
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Conflicts of Interest Board
of the City of New York



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Publications

Caution: The Conflicts of Interest Law has been extensively interpreted by the Board over the years. Readers wishing a definitive interpretation should call the Board for legal advice at (212) 442-1400.

Call us to have publications sent or you may download selected publications below in PDF format.

<p>CONFLICTS OF INTEREST: Chapter 68 of the New York City Charter (The Board's "Bluebook") The conflicts of interest law as adopted by the voters in 1989, with amendments. Blue Book (71 K) download acrobat reader</p>	<p>CONFLICTS OF INTEREST: Rules of the Board (The Board's "Redbook") The Board's rules regarding conflicts of interest, procedures for hearings, and financial disclosure. Red Book (71 K) download acrobat reader</p>
<p>FINANCIAL DISCLOSURE: Section 12-110 of the NYC Administrative Code (The Board's "Greenbook") The law on filing, failing to file, and privacy concerns regarding Financial Disclosure reports. Green Book (71 K) download acrobat reader</p>	<p>ADVISORY OPINIONS OF THE CONFLICTS OF INTEREST BOARD (1989 to date)</p> <p>Formal answers from the Board to requests for opinions regarding possible conflicts of interest, filed by year. AO 89-1 to present are available in searchable form from the CityLaw web site at NY Law School. Advisory Opinions</p>
<p>CONFLICTS OF INTEREST: <i>OUTLINES OF SELECTED TOPICS.</i> A breakdown of the law, citing Charter sections, subsequent rules, and advisory opinions regarding these topics.</p> <ul style="list-style-type: none"> • Community Boards • Enforcement • Gifts and Honoraria • Misuse of City Property • Outside Activities • Ownership Interests • Political Activities • Post-Employment Restriction 	<p>ANNUAL REPORTS OF THE CONFLICTS OF INTEREST BOARD</p> <p>Year-end summary of activities of all units, budget, staff, and training sessions, summaries of all advisory opinions, figures for financial disclosure and enforcement cases; cumulative index to advisory opinions.</p> <p>1997 Annual Report</p> <p>1998 Annual Report</p> <p>1999 Annual Report</p> <p>2000 Annual Report</p> <p>2001 Annual Report</p>

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DEPARTMENT OF EDUCATION BOOKLET

Conflicts of Interest Law and the Department of Education
You can download the DOE Booklet in PDF Format

DOE Booklet

ETHICS DIRECTORY

Below is a list of URL's (Internet addresses) for government and not-for profit ethics agencies and organizations.

A description of the type and purpose of the agency or organization accompanies each URL.

The Conflicts of Interest Board expresses no view on the content of any of these websites and includes these links merely for the convenience of visitors to our website.

By clicking on the address, your search will be transferred automatically to the selected URL.

New York State Ethics Commission

(Government) - New York State's ethics agency, which has jurisdiction over NY State executive branch officers and employees

New York State Office of the Attorney General

(Government) - New York State's attorney general

New York State Office of the State Comptroller

(Government) - New York State's auditor

New York State Commission on Judicial Conduct

(Government) - New York State agency that investigates and prosecutes ethics violations by New York State judges

New York State Temporary State Commission on Lobbying

(Government) - New York State agency that regulates lobbying in New York State

U. S. Office of Government Ethics

(Government) - Federal government ethics agency, which has jurisdiction over federal executive branch officers and employees

Council on Governmental Ethics Laws

ETHICAL TIMES

PDF publication of ET begins with the March 2001 issue

Vol. 2, Issue 1, March 1999

Vol. 2, Issue 2, June 1999

Vol. 2, Issue 3, Sept 1999

Vol. 2, Issue 4, Dec 1999

Vol. 3, Issue 1, March 2000

Vol. 3, Issue 2, June 2000

Vol. 3, Issue 3, Sept 2000

Vol. 3, Issue 4, Dec 2000

Vol. 4, Issue 1, March 2001

Vol. 4, Issue 2, June 2001

Vol. 4, issue 3, Sept 2001

Vol. 4, issue 4, Dec 2001

Vol. 5, issue 1, March 2002

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(Non-profit) - Umbrella organization of government ethics agencies in the U.S. and Canada

New York State Bar Association

(Non-profit) - The portion of the NYS Bar Association's website that contains information on filing grievances against attorneys admitted in New York State

New York State Bar Association Municipal Law Section's Committee on Government Ethics and Professional Responsibility

(Non-profit) - Contains materials on ethics laws of municipalities outside New York City

New York Law School Center for New York City Law

(Non-profit) - Contains Office of Administrative Trials and Hearings decisions and (beginning June 2002) Conflict of Interest Board advisory opinions

Vol. 5, issue 2, June 2002

Vol. 5, issue 3, Sept 2002

Vol. 5, issue 4, Dec 2002

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ETHICS 2002

A PLAIN LANGUAGE GUIDE TO CHAPTER 68, NEW YORK CITY'S CONFLICTS OF INTEREST LAW An easy to follow booklet on the basics of the conflicts of interest law and the Conflicts of Interest Board, including who is covered by Chapter 68, explanations of sections of the law, penalties, and procedures, and how to obtain a waiver.

Plain Language Guide

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CONFLICTS OF INTEREST LEAFLETS

(Download highlighted leaflets in PDF format)

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- **An Introduction**
- **Signposts: Are You Violating The City's Ethics Law?**
- **Community Boards**
- **Community School Boards**
- **Conflicts of Interest Law (Plain Language Version)**
- **Department of Education, Q & A**
- **Ethics Guide (one page)**
- **Ethics Issues in Doing Business with the City**
- **Enforcement**
- **Financial Disclosure Law: A Guide**
- **Gifts and Honoraria**
- **Job Hunting**
- **Misuse of City Resources**
- **Moonlighting**
- **Ownership of Real Property**
- **Post Employment Restrictions**
- **Practicing Law**
- **Rules on Political Activities**
- **Rules on Volunteer Activities**

NY LAW JOURNAL REPRINTS

- **Enforcement of Ethics and Financial Disclosure Laws**
- **Planning Commissioners Avoid Conflicts of Interest**

CITYLAW REPRINTS

- **Rules For City Employees Seeking A Second Job**
- **Thinking of Leaving City Government? Here Are The Rule**

ENFORCEMENT CASE SUMMARIES (01/10/03)

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"Ethics Laws for Municipal Officials Within New York City" by former COIB Assistant Counsel Jennifer

<ul style="list-style-type: none"> • Temping • The Waiver 	<p>Siegel.</p> <p style="text-align: center;">download acrobat reader</p>
<p>MYTH OF THE MONTH Reprints of the monthly column in the Chief-Leader dispelling common misunderstandings of the conflicts of interest law, e.g., moonlighting, post-employment, political activities, and others.</p>	<p>POSTER What's A Conflict of Interest? Bright orange, approx. 14" X 22", with basic information, including the Board's phone number, on a colorful wall hanging.</p>
<p>COGEL GUARDIAN REPRINT: Conflicts of Interest Board article on early ethics laws, as promulgated by French King Louis IX in 1254.</p>	
<p>VIDEOS</p>	
<p>It's A Question of Ethics Short scenes, based on hypothetical situations, with discussion afterward by the Board's Executive Director, Deputy Director, and Deputy Counsel.</p>	<p>It's A Question of Ethics: The Game Show Three City employee panelists compete in a game-show, testing their knowledge of the ethics law. Hosted by Commissioner of Finance Fred Cerullo, with commentary by the Board's Director of Enforcement.</p>
<p>It's a Question of Ethics: The Board of Ed. Game Show Three City employee panelists compete in a game-show that tests their knowledge of ethics law as it applies to the Board of Education.</p>	<p>City Rap Two-minute public service announcement on the Conflicts of Interest law according to Rap.</p>

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[Training: Website Ethics Link: Biblio Jan 2004]