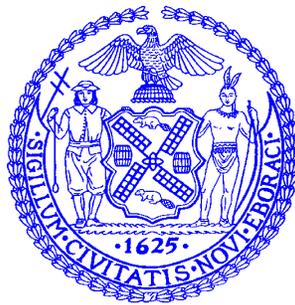


CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

ANNUAL REPORT

2008



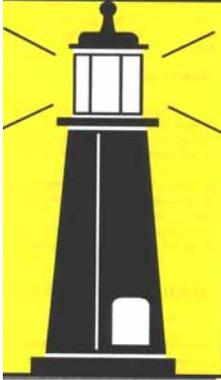
Steven B. Rosenfeld
Chair

Monica Blum
Kevin B. Frawley
Angela Mariana Freyre
Andrew Irving
Members

Mark Davies
Executive Director

2 Lafayette Street
New York, New York 10007

<http://nyc.gov/ethics>



ETHICS LIGHTS THE WAY TO GOOD GOVERNMENT

<http://nyc.gov/ethics>

The New York City Conflicts of Interest Board's Annual Report is designed and produced in-house at 2 Lafayette Street, Suite 1010, New York, New York 10007.

TABLE OF CONTENTS

	<i>Page</i>
Introduction.....	5
1. Members and Staff of the Conflicts of Interest Board.....	5
2. Training and Education.....	6
3. Requests for Guidance and Advice.....	12
4. Administrative Rules.....	19
5. Enforcement.....	19
6. Financial Disclosure.....	26
7. Budget, Administration, and Information Technology.....	29
8. Amendments to Chapter 68.....	29
Exhibits and Appendices.....	31
Exhibit 1: Conflicts of Interest Board: 1993, 2001, 2007, 2008.	32
Exhibit 2: Members, Staff, and Former Members of the Conflicts of Interest Board.....	35
Exhibit 3: Training and Education Classes on Chapter 68.....	37
Exhibit 4: COIB Training Classes by Agency.....	38
Exhibit 5: Legal Advice Workload: 1993 to 2008.....	39
Exhibit 6: Requests for Advice on Chapter 68.....	40
Exhibit 7: Responses to Requests for Advice on Chapter 68....	41
Exhibit 8: Chapter 68 Enforcement Cases.....	42

Exhibit 9: Enforcement Workload: 1993 to 2008.....	43
Exhibit 10: Enforcement Fines Imposed: 1993 to 2008.....	44
Exhibit 11: Financial Disclosure Reports.....	54
Exhibit 12: 2008 N.Y. Laws Ch. 41.....	55
Exhibit 13: Intro 782: Amendments to NYC Ad. Code § 12-110.....	60
Advisory Opinions and Enforcement Cases of the Board – Summaries and Indexes.....	73
Advisory Opinion Summaries (2008).....	74
Cumulative Index to Advisory Opinions by Charter Chapter 68 Section – 1990-2008.....	82
Cumulative Index to Advisory Opinions by Subject – 1990-2008.....	89
Enforcement Case Summaries (2008).....	95

INTRODUCTION

In 2008, the New York City Conflicts of Interest Board (“COIB”) celebrated its eighteenth anniversary (and the forty-ninth anniversary of its predecessor agency, the Board of Ethics) and had its most productive year to date.

The COIB was created in 1990 by Chapter 68 of the revised City Charter, which also contains the City’s Conflicts of Interest Law (http://www.nyc.gov/html/conflicts/downloads/pdf2/bluebook_1-07_final.pdf), applicable to more than 300,000 public servants of the City of New York and all former public servants. That law, together with the Lobbyist Gift Law enacted in 2006 as sections 3-224 through 3-228 of the New York City Administrative Code, vests in the Board four broad responsibilities: (1) training and educating City officials and employees about Chapter 68's ethical requirements and the City’s Lobbyist Gift Law; (2) interpreting Chapter 68 and the Lobbyist Gift Law through issuance of formal advisory opinions, promulgation of rules, and responses to requests for advice and guidance from current and former public servants and lobbyists; (3) prosecuting violators of Chapter 68 and the Lobbyist Gift Law in administrative proceedings; and (4) administering and enforcing the City's Financial Disclosure Law contained in section 12-110 of the New York City Administrative Code (http://www.nyc.gov/html/conflicts/downloads/pdf2/Local_Law_14.pdf).

This Report reviews the Board's accomplishments during this record-setting year of 2008, as summarized in Exhibit 1 to this Report, under each of the following headings: (1) members and staff of the Board; (2) training and education; (3) requests for guidance and advice; (4) administrative rules; (5) enforcement; (6) financial disclosure; (7) budget, administration, and information technology; and (8) amendments to Chapter 68.

1. MEMBERS AND STAFF OF THE CONFLICTS OF INTEREST BOARD

Appointed by the Mayor with the advice and consent of the City Council, the Board's five members serve staggered six-year terms and are eligible for reappointment to one additional six-year term. Under the City Charter, the members must be selected on the basis of their "independence, integrity, civic commitment and high ethical standards." While serving on

the Board, they may not hold any other public office or any political party office.

The Board's Chair is Steven B. Rosenfeld, of counsel to the law firm of Paul, Weiss, Rifkind, Wharton & Garrison. He was appointed to the Board in May 2002 to an initial term expiring March 31, 2008, and was named Chair in June 2002.

Angela Mariana Freyre, Senior Vice President and Deputy General Counsel of The Nielsen Company, was appointed to the Board in October 2002 and reappointed in March 2005 to a term expiring March 31, 2010.

Monica Blum, President of the Lincoln Square Business Improvement District, was appointed to the Board in August 2004 and reappointed in October 2006 to a term expiring on March 31, 2012.

Andrew Irving, Senior Vice President and General Counsel of Independent Fiduciary Services, Inc., was appointed to the Board in March 2005 to an initial term expiring on March 31, 2010.

Kevin B. Frawley, Executive Vice-President for Financial Administration Services at Crawford & Company, was appointed to the Board in October 2006 to an initial term expiring on March 31, 2012.

A list of the present and former members of the Board may be found in Exhibit 2 to this Report.

The Board's staff of 21 is divided into six units: Training and Education, Legal Advice, Enforcement, Financial Disclosure, Administration, and Information Technology. The staff, also listed in Exhibit 2, is headed by the Executive Director, Mark Davies.

2. TRAINING AND EDUCATION

Section 2603(b)(1) of the Conflicts of Interest Law directs that the Board "shall develop educational materials regarding the conflicts of interest provisions . . . and shall develop and administer an on-going program for the education of public servants regarding the provisions of this chapter." That is the responsibility of the Board's Training and Education Unit.

Training Sessions

2008 was the Unit's busiest year ever, with record numbers of classes taught and several new initiatives undertaken. This comes on the heels of a record-breaking year in 2007. As detailed in Exhibit 3 to this Report, in 2008 the Board's Training and Education Unit conducted an all-time-record 535 training classes for public servants throughout City government, including 51 classes for the Department of Education ("DOE"). This represents an increase of 29% over the 416 classes taught in 2007, the previous record. While the numbers are already remarkable, they are even more so when one compares the previous record-setting year of 2000, when 377 classes were taught with a staff of three full-time trainers, one part-time trainer and one administrative associate. This year's record number of 535 classes reflects an increase of 42% over the 2000 figure and was achieved with a 57% decrease in staff, from 4 $\frac{3}{4}$ to only 2.

The number of classes taught at agencies other than the DOE surpassed the previous record of 341 by 42%, for a new record of 484, as the COIB expanded its outreach to a number of City agencies. The Unit trained the entire staffs of some agencies, including the Department of Buildings, the Department of Health & Mental Hygiene, the Department for the Aging, the Department of Transportation, the Tax Commission, and the Taxi & Limousine Commission. In other instances, the Unit targeted certain staff of agencies, as it did when it undertook to train City Council staffers and all Sanitation supervisors. The latter mission took the staff to garages located throughout the five boroughs, at all hours of the day and night. The Unit also maintained its outreach to community board members across the City, especially new community board members.

Training at DOE schools dropped by 32%, from 75 to 51 total classes taught, reflecting a lack of clarity of the professional development policy at the schools. This drop, however, was more than offset by the increase in numbers of classes taught at other agencies. In all, as summarized in Exhibit 4 to this Report, during 2008 the Unit presented classes at 45 City agencies and offices, reaching approximately 19,862 City employees.

The dramatic increase in the number of classes this year reflects the Unit's effective functioning as a team of two. Many thanks go to the Board's Senior Trainer Jonathan Wingo, who in 2008 finished his second

full year with the Board and without whom these record-breaking numbers would not have been achievable. December 23, 2008, was Mr. Wingo's last day with the COIB. The Training & Education Unit will initiate a search for his replacement in January of 2009.

The Board's classes are interactive and engaging, explaining the basis and requirements of the law in plain language and letting public servants know how they can get answers regarding their specific situations. The sessions, which are often tailored to the specific agency or employees, include games, exercises, and ample opportunities for questions. The feedback received from class participants continues to be overwhelmingly positive and usually quite enthusiastic.

In 2008, the Unit, together with the Board's attorneys, conducted a record number of Continuing Legal Education ("CLE") classes, a requirement for attorneys in New York State, surpassing last year's record of 32 by 3%, for a new record of 33. CLE courses were taught in various formats and in many agencies during the year, including a general two-hour course targeted at City attorneys of various agencies; one class on "Hot Topics in Chapter 68," hosted by the Law Department and open to attorneys from all City agencies, continuing a model begun in 2004; several classes targeted at Assistant District Attorneys in Queens, Manhattan, and the Bronx; and over 15 classes in Chapter 68 Enforcement targeted at disciplinary counsel of City agencies. As in 2007, the Unit sought and attained accreditation in two new specialized CLE courses. This brings to five the Unit's CLE portfolio: a two-hour general course, a two-hour course on Chapter 68 Enforcement, and three 90-minute courses, on Gifts, Post-Employment Restrictions, and Fundraising. Special thanks go to the staff of the Enforcement Unit for assistance in the development of a curriculum for the Enforcement class and for sharing teaching responsibilities. Thanks also go to attorneys in the Legal Advice and Financial Disclosure Units for sharing teaching responsibilities of the other offerings.

The Unit continued its cooperation with the Department of Citywide Administrative Services ("DCAS") in offering citywide CLE classes in Chapter 68, both general and specialized, sponsored by the Citywide Training Center. COIB attorneys and Training staff also continued to write materials on Chapter 68 for publication, including a monthly column, "Ask the City Ethicist," in *The Chief-Leader* and the Board's own newsletter, *The Ethical Times*. Internet and email have permitted virtually cost-free

Citywide distribution of the newsletter to general counsels and agency heads. Several agencies have reported that they distribute it electronically to their entire staff. Finally, the Unit's relationship continued with the *Public Employees' Press*, for which Training & Education staff members write short capsule pieces on Chapter 68.

“Train the Trainer”

The Training & Education Unit continued its “Train the Trainer” program, in which the Board offers support to agencies that have chosen to conduct their own Chapter 68 training classes. The Unit worked with the training staff of the Department of Correction to update its existing program. The New York City Housing Authority (“NYCHA”) successfully rolled-out its program this year and has completed training for all 13,000 NYCHA employees. The Training Unit worked with NYCHA staffers on several Train-the-Trainer sessions in 2008, supplementing the groundwork that was laid in 2007.

In support of the Board's ongoing “Train the Trainer” program, the Training and Education Unit continued hosting its Brown Bag Lunch series, a monthly lunchtime discussion group that takes a closer look at specific aspects of the Conflicts of Interest Law. Participants included the training staffs of several agencies who are involved in teaching ethics, as well as attorneys who work directly with Chapter 68 issues at their agencies. CLE credit was offered at several of the Brown Bag sessions, as the Training Unit received accreditation for a number of curricula.

Website, Publications, and Media Outreach

The Internet remains one of the most essential tools for Chapter 68 outreach. Indeed, in 2008 the Board's website (<http://nyc.gov/ethics>) had 484,568 views, a number only slightly lower than in 2007. Maintenance of regular publications and improvement of the COIB website design continue as the Unit strives to make the site as accessible as possible both for those unfamiliar with Chapter 68 as well as for those who deal with it on a regular basis. This site includes frequently asked questions (FAQs), legal publications, plain language publications, interactive exercises, and an ever-growing list of links. 2008 also saw the addition of a new interactive web exercise designed to assist financial disclosure filers in determining whether and where to report reimbursements for travel expenses. This exercise was

developed by the Training & Education Unit, with the assistance of the Financial Disclosure Unit.

The Board continues to post new publications on the website, so that every Board publication, including the texts of Chapter 68, the Board's Rules, the Financial Disclosure Law, the Lobbyist Gift Law, and all COIB booklets and leaflets, is available to be downloaded from the website (<http://www.nyc.gov/html/conflicts/html/publications/index.shtml>), as well as from CityShare, the City's Intranet.

The Board's Plain Language Guide, known as the "Orange Book," underwent an extensive overhaul and expansion in 2008. The Board also published a new leaflet, "Heads-up for NY Firefighters," targeting ethics issues and situations that occur most frequently for New York's Bravest. These, combined with recent articles by COIB attorneys and installments of *Ask the City Ethicist*, have meant a significant increase in the number of publications available online.

Seminar

The Board's Thirteenth Annual Seminar on Ethics in New York City Government, held at New York Law School on May 21, 2008, was a great success. More than 300 public servants attended, representing approximately fifty City agencies. At the event's opening plenary session, Mayor Bloomberg gave the keynote address and Board Member Andrew Irving presented a short "State of the Board" overview. The 2008 Powell Pierpoint Award for outstanding service to the Conflicts of Interest Board was given to actor Robert Weinstein for the extensive donation of his time and talent to the Training & Education Unit at past seminars, as well as for the soon-to-be released training video.

The Board's Fifteenth Annual Seminar on Ethics in New York City Government will be held on May 20, 2009.

International Visitors and Government Ethics Associations

In 2008, the Board sent three staff members – Executive Director Mark Davies, Director of Training Alex Kipp, and Assistant Counsel for Enforcement Bre Injeski - to the annual conference of the Council on Government Ethics Laws (COGEL), the premier government ethics

organization in North America. At the Conference, Mr. Davies led a panel on “Personal Financial Disclosure: How Much is Too Much?” Also participating in the panel were Noran Camp, Ethics and Employment Counsel for the New York City Council; Elia Armstrong, Head of the Ethics Office for the United Nations Development Programme; and Steven Leventhal, former chair of the Nassau County Ethics Board. COGEL conferences have provided the Board with a number of ideas for new initiatives, including the Board’s game show, an interactive ethics quiz, and electronic filing of financial disclosure reports.

The Board receives numerous requests, both from municipalities around the State and from foreign countries, to assist them in updating and improving their ethics laws. Resources permitting, COIB staff members attempt to respond to those requests, whenever possible by e-mail, although occasionally in person. For example, in 2008 Executive Director Mark Davies spoke on *Adopting a Town Ethics Law* at the annual meeting of the New York State Association of Towns; on *Making an Ethics Program Work* to the Colorado Independent Ethics Commission (while on vacation and thus at no cost to the City or the State of Colorado); and on *Beyond Article 18: Local Ethics Laws – Drafting Tips for Local Codes of Ethics* at a CLE session of the New York State Bar Association. Vanessa Legagneur, Associate Counsel for Enforcement, and Mr. Davies gave presentations on *Everyday Ethics for Government Attorneys* at an American Bar Association Teleconference. Mr. Davies, Wayne Hawley, the Board’s General Counsel, and Karrie Ann Sheridan, Associate Counsel for Legal Advice, conducted a panel discussion on *Conflicts of Interest Board Primer and Update for Those Doing Business with the City* at another New York State Bar Association CLE program.

In 2008, Director of Enforcement Carolyn Lisa Miller spoke on *An Ethics Law for Local Government: Purpose, Principles, and Precepts* at a CLE program at the Robert H. Jackson Center in Jamestown, New York. Also in 2008, at the invitation and expense of the U.S. State Department, Ms. Miller traveled to Slovakia, where she participated in two days of meetings with local officials and served as a panelist on enforcement of government ethics laws at a conference sponsored by Transparency International entitled *Regulation of Conflicts of Interest and Proposals for Improvement*. Similarly, at the request of (and funded by) the International Law Development Organization and the Egyptian Government’s Council of State, Alex Kipp, Director of Training and Education, spent three weeks

working with nearly 300 Egyptian judges in workshops on ethics in the public sector and on models of conflicts of interest management.

The Board's staff gave presentations at the Board's offices to representatives from South Africa, the Czech Republic, and two separate delegations from Taiwan. Most of the presentations to foreign visitors were made in response to requests from the U.S. Department of State's International Visitors Program. Board staff also met with representatives of the United Nations Development Programme Ethics Office.

Time permitting, COIB staff also occasionally assist other jurisdictions seeking to revise their ethics laws. For example, in 2008, the Executive Director assisted the County of Albany, the County of St. Lawrence, the Town of Clifton Park, and the Village of Tarrytown in revising their ethics codes.

Executive Director Mark Davies continues to serve as the Chair of the Government Ethics and Professional Responsibility Committee of the New York State Bar Association's Municipal Law Section and on the Board of Directors of Global Integrity, an independent provider of information on governance and corruption trends around the world. In January 2008 the New York State Bar Association honored him with the Association's Public Service Award.

Beginning in January 2009, Board Chair Steven Rosenfeld will be teaching a seminar in "Government Ethics" at CUNY Law School.

The Board salutes its small but dedicated training staff - Alex Kipp, Director of Training and Education, and Jonathan Wingo, Senior Trainer/Training Coordinator - for undertaking all of the various Training and Education activities described above.

3. REQUESTS FOR GUIDANCE AND ADVICE

The Board is required, pursuant to section 2603(c)(1) of the City Charter, to "render advisory opinions with respect to the matters covered by" Chapter 68, "on the request of a public servant or a supervisory official of a public servant." Requesting advice from the Board can afford public servants a safe harbor against future enforcement action: the law provides, in section 2603(c)(2), that a public servant who requests and obtains such

advice with respect to proposed future conduct or action “shall not be subject to penalties or sanctions by virtue of acting or failing to act due to a reasonable reliance on the opinion, unless material facts were omitted or misstated in the request for an opinion.” The Board’s Legal Advice Unit is charged with responding to the hundreds of written, and thousands of telephonic, requests for advice received by the Board each year.

Previous annual reports noted the significant increase in the quality and quantity of the advisory work of the Board and its Legal Advice Unit over the past several years, and the enormous increase in productivity. Exhibits 1 and 5 to this Report summarize those gains, which continued in 2008, reflecting record levels of advice output.

In 2008, in response to requests for its advice, the Board issued 574 pieces of written legal advice, its second highest annual total, just below its record total of 605 writings achieved in 2007. As shown in Exhibit 7 to this Report, these 574 written outputs consisted of 253 staff advice letters, 226 waiver letters signed by the Chair on behalf of the Board,¹ 89 Board letters and orders reflecting Board action, and six public Advisory Opinions.

The Board’s staff also handled a record number of telephone requests for advice. In 2008, the Board’s staff handled 3,797 telephone calls, 14% higher than the previous high of 3,326 telephone calls in 2007. Telephone advice provides the first line of defense against violations of the Conflicts of Interest Law and thus remains one of the Board’s highest priorities. Such calls, however, consume an enormous amount of staff time, sometimes hours a day, and therefore limit attorney time available for legal research and drafting written advice and advisory opinions.

Given the increased volume of advisory output, it is no surprise that written requests for advice have continued to grow. As detailed in Exhibit 6 to this Report, the Board in 2008 received 624 written requests for advice, a

¹ Under section 2604(e) of the City Charter, the Board may grant waivers permitting public servants to hold positions or take action “otherwise prohibited” by Chapter 68, upon the written approval of the head of the agency or agencies involved, and a finding by the Board that the proposed position or action “would not be in conflict with the purposes and interests of the city.” By resolution, as authorized by City Charter § 2602(g), the Board has delegated to the Chair the authority to grant such waivers in routine cases.

2% increase over 2007 and the highest total for any year except 2002. Despite the growing demand for this service, the number of the Board's pending advice cases at year end dropped from 178 to 161, a 10% reduction. This reduction reflects the Board's recognition that advice long delayed is very often useless advice and the Board's commitment not only to respond promptly to all new requests for advice but also to reduce its pending docket. Thus, as reflected in Exhibit 5, the Board's median response time to written requests for advice dropped again in 2008, to 26 days, its lowest level since 2001.

The six formal public Advisory Opinions issued by the Board in 2008 were:

(1) AO 2008-1 – Post-Employment Restrictions on Those Who Serve Multiple City Agencies

Construing the prohibition in City Charter § 2604(d)(2) against appearances before one's City agency within one year of leaving public service, the Board ruled that a public servant who has served multiple City agencies may appear before none of those City agencies for one year after the service to *each* such agency ends. A prohibited appearance is any compensated communication, other than on ministerial matters, with any officer or employee of the City agency acting in his or her capacity as a representative of that agency.

(2) AO 2008-2 – Voting at, and Chairing Meetings of, Community Boards

The Board set forth its determinations to questions posed by community board members facing matters at their community boards concerning organizations, often not-for-profit organizations, with which the member has some affiliation, as follows:

- a) A community board member who serves as an employee or board member of an organization may not vote on any matter before the community board that may provide a direct financial benefit to the organization and may not chair any meeting considering that matter.
- b) A community board member who serves as an executive director of an organization may not vote on (or chair a meeting

considering) any matter before the community board that may provide a direct financial benefit to a member of the board of directors of the organization. Voting *may* be permitted where the community board member is an employee of the organization and where it does not otherwise appear that the affected member of the board of directors determines the terms and conditions of employment of the employee/community board member.

- c) A community board member whose spouse, sibling, or other “associated” party is employed by an organization that would be materially affected by a matter before the community board may not vote on that matter (or chair a meeting considering it) if it appears reasonably likely that the associated party may receive a direct financial benefit from the matter before the community board. The higher ranking the associated party is in the organization, the more likely that he or she will benefit, and accordingly the more likely that voting will be impermissible. For example, where the associated party is the chief executive of the organization, the Board will presume that he or she would benefit. Other relevant factors are the size of the organization (the smaller the organization, the more likely that voting will be impermissible) and the nexus between the work of the associated party at the organization and the matter before the community board.
- d) A community board member who serves as an employee of a not-for-profit entity may not vote on (or chair a meeting considering) any matter before the community board that may provide a direct financial benefit to a donor of such a significant part of the revenues of the not-for-profit that these funds could underwrite the salary of the community board member. In contrast, where the community board member is an unpaid member of the board of directors of the not-for-profit, the member may vote on matters at the community board that may benefit even major funders of the organization. In no case, however, may a community board member, whether an employee *or* a board member of a not-for-profit, solicit contributions for that not-for-profit from any person or firm with a matter before, or about to be before, the community board.
- e) Even where a community board member is prohibited from voting on, or chairing a meeting considering, a matter, the board member may participate in the community board’s discussion of the matter, provided that he or she discloses the disqualifying interest.

(3) AO 2008-3 – Term Limits

In response to requests for advice from the Public Advocate and members of the City Council as to whether they might participate in the Council’s consideration of proposed amendments to the City’s term limits law, the Board advised that Members of the City Council and the Public Advocate would not violate Charter § 2604(b)(2), prohibiting public servants from taking actions “in conflict with the proper discharge of [their] official duties,” or § 2604(b)(3), prohibiting use of one’s “position as a public servant to obtain any financial gain, . . . privilege or other private or personal advantage,” by participating in the legislative process in relation to the modification, extension, or abolition of term limits, including but not limited to voting for or against any such changes.

(4) AO 2008-4 – Post-Employment Waivers

Over its first decade, the Board sparingly granted waivers of the post-employment restrictions of Chapter 68 for former public servants seeking to appear before their former agencies as employees of private entities, requiring a showing of “exigent circumstances” under a four-factor test that considered: (1) the private entity’s relationship to the City; (2) the waiver’s benefits to the City; (3) the chance of harming competing private entities if the waiver were granted; and (4) the public servant’s unique skills or experience. In Advisory Opinion No. 2000-2, however, the Board articulated a different standard for former public servants who “effectively remain in public service” by working for private “partners” of the City. In such cases, the Board announced, all of the four historic factors need not be satisfied; waivers would be granted if any one of the factors were especially compelling.

Now, in the instant opinion, the Board reviewed its post-employment waiver determinations since 2000, observing that not all applications for employees leaving City service to work for non-profit organizations are evaluated under the more permissive “public-private partnership” standard of Advisory Opinion No. 2000-2. Rather, when an organization’s relationship to the City would be more accurately described as one of a compensated provider of goods or services – that

is, as a vendor – the application is judged under the historic “exigent circumstances” standard. On the other hand, when the prospective employer is a City-affiliated not-for-profit, or at least one that contributes private resources to the City in a joint venture with a City agency, the entity will more likely be deemed a “partner,” and the application for a post-employment waiver will accordingly be evaluated under the less stringent standard of Opinion No. 2000-2.

(5) AO 2008-5 – Private Practice of Criminal Law

The Board was asked whether a City employee, who was an attorney, could accept a fee for referring a criminal matter before a State court within the five boroughs to an attorney in private practice. That question, the Board ruled, in turn depended on whether a City employee may directly engage in compensated criminal defense work before such courts. The Board concluded that it would violate Chapter 68 for a lawyer who is a regular City employee to engage in compensated criminal defense work in State courts within the City. Because legal ethical rules prohibit receipt of referral fees for case in which the referring lawyer has no role or responsibility, it would likewise violate Chapter 68 for a City-employed lawyer to accept payment for referring such cases.

(6) AO 2008-6 – Official Fundraising for Not-for-Profit Organizations Not Affiliated with the City

In Advisory Opinion No. 2003-4, the Board addressed the question of fundraising by City officials for the City itself and for not-for-profit entities closely affiliated with City offices and agencies. But the Board reserved the question of “what *other* kinds of not-for-profit entities might be permissible beneficiaries of officials’ fundraising,” preferring to consider that question on a “case-by-case basis,” leading to a possible future advisory opinion based on its experience with those cases. On the basis of its experience in the intervening five years, the Board issued the instant opinion, determining that elected officials and agency heads, and their designees, may in their official capacities, using City time and resources, solicit and otherwise encourage private contributions to not-for-profit organizations, after a personal determination by the elected official or agency head that the not-for-profit’s work supports the mission of their City office or

agency. Such solicitations must in all other respects comply with the requirements of Advisory Opinion 2003-4, including an express statement that a decision whether or not to give will not result in official favor or disfavor, a prohibition against soliciting any person or firm with a matter pending or about to be pending before their City office or agency, and a requirement that each City office or agency must file a public report with the Board by May 15 and November 15 of each year disclosing the identity of each not-for-profit organization for which the office or agency sought private contributions in the six-month period ending March 31 and September 30. Finally, contributions may not be sought for the benefit of any person or organization with whom or with which the elected official or agency head is “associated,” as that term is defined in Charter § 2601(5).

The Board continues to distribute its formal advisory opinions to public servants and the public and to make them available on Lexis and Westlaw. Working with the Training and Education Unit, the Legal Advice Unit has also developed a large e-distribution list, so that new advisory opinions and other important Board documents are being e-mailed to a large network of people, including the legal staff of most City agencies. In an important cost-saving measure, the Board has discontinued the distribution of these materials by mail. Working in cooperation with New York Law School’s Center for New York City Law, the Board has made its advisory opinions available on-line, free of charge to all in full-text searchable form (<http://www.citylaw.org/cityadmin.php>). Indexes to all of the Board’s public advisory opinions since 1990 are annexed to this Report.

In order to help address its mandate to advise public servants in a timely manner about the requirements of the Conflicts of Interest Law, the Legal Advice Unit has relied on the services of part-time volunteers and student interns. Over the past year, seven law student interns and one college student worked part-time for the Legal Advice Unit. These individuals contributed substantially to the Board’s output.

The Board’s appreciation for the Legal Advice Unit’s substantial output and decrease in its backlog, excellent results achieved under considerable pressure, go to Deputy Executive Director and General Counsel Wayne Hawley and his superb staff, including Deputy General Counsel Sung Mo Kim, Associate Counsel Karrie Ann Sheridan, and Assistant Counsel Jessie Beller.

4. ADMINISTRATIVE RULES

The Board neither adopted nor amended any rules in 2008.

5. ENFORCEMENT

Most public servants are law-abiding and ethical and – as shown by the marked increase in requests for advice from the Board – want to comply with Chapter 68. But there are some transgressors, and so sections 2603(e)-(h) and 2606 of Chapter 68 invest the Board with the power to receive complaints regarding alleged violations of the Conflicts of Interest Law, refer them to the Department of Investigation for investigation and report, and thereafter, if warranted, pursue administrative proceedings against alleged violators and impose penalties. The Board’s Enforcement Unit is responsible for discharging these functions.

In 2008, the Enforcement Unit set a new benchmark of productivity, resolving and publishing 146 dispositions, a 68% increase over 2007, following that year’s 235% increase over 2006. Of the 146 dispositions in 2008, 11 were public warning letters and 135 involved fines – a 121% increase over the 61 dispositions imposing fines in 2007. Summaries of the 146 dispositions of 2008, each of which is a matter of public record, are annexed to this Report. Summaries of all the Board’s enforcement dispositions from 1990 to the present are available on the Board’s website (http://www.nyc.gov/html/conflicts/downloads/pdf2/Enforcement_Case_Summaries.pdf) for use by any interested party – City employees, members of the public or press, individuals and attorneys appearing before the Board. The dispositions themselves, like the Board’s advisory opinions, are available on the CityLaw website free of charge to all in full-text searchable form (<http://www.citylaw.org/cityadmin.php>).

Of the 146 dispositions published in 2008, the following cases were particularly noteworthy:

- (1) Demonstrating optimum cooperation between the Board and a City agency in its disciplinary process – an ongoing goal of the Enforcement Unit, as discussed in more detail below – the Board and the New York City Department of Sanitation (“DSNY”) concluded 52 three-way settlements with sanitation workers, and the Board concluded two

separate settlements with former sanitation workers, who, while on City time and using their DSNY trucks, collected scrap metal for their private benefit. Scrap metal is a valuable recyclable that DSNY collects as part of the City-wide recycling program and for which DSNY has contracted with a private entity to accept, process, and/or sell. Instead of collecting this valuable recyclable for the City, the 54 sanitation workers sold scrap metal for their personal benefit. Each sanitation worker acknowledged that his conduct violated section 2604(b)(3) of the Conflicts of Interest Law, which prohibits public servants from using or attempting to use their positions as public servants to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for themselves, and section 2604(b)(2), which bars use of City time or City letterhead, personnel, equipment, resources, or supplies for any non-City purpose. The Board and DSNY, in their three-way settlements, imposed on the 52 sanitation workers suspensions of five to thirty days, valued at \$892 to \$7,410. The Board, in its separate settlements, fined the two former sanitation workers \$1,500 each. *COIB v. Arzuza*, COIB Case No. 2007-436 (2008), *et al.*

(2) While the overwhelming majority of the 146 dispositions reflect dispositions by agreement, governed by Board Rules § 2-05(h), the Board decided two cases in 2008 in which the Enforcement Unit conducted full hearings on the merits at the New York City Office of Administrative Trials and Hearings (“OATH”), the agency designated by the Board to conduct its trials.

(a) In *COIB v. Bryan*, COIB Case No. 2005-748 (2008), the Board adopted the Report and Recommendation of OATH Administrative Law Judge (“ALJ”) Kevin F. Casey, finding that, while employed by DOE, a then-Assistant Principal misused her position by using funds from the general school fund account for her own personal financial gain; the Board fined the former Assistant Principal \$7,500. The Board found that, while employed by DOE, during the 2003-2004 school year, the former Assistant Principal was placed in charge of her school’s general school fund account; over the course of the year, she used approximately \$4,224 of the account’s funds for non-City purposes, including cash withdrawals and debit card purchases for personal clothing.

(b) In *COIB v. Okanome*, COIB Case No. 2005-132 (2008), the Board adopted the Report and Recommendation of OATH ALJ Tynia D. Richard finding that, while employed by the New York City Administration for Children’s Services (“ACS”), a then-Child Protective Specialist received the benefit of a substantial amount of free work on his two homes from an ACS client; the Board fined the former Child Protective Specialist \$7,000. The Board found that, in the course of an ACS assignment, the Child Protective Specialist learned of his client’s profession as a private contractor and solicited his client to perform work on the Child Protective Specialist’s two homes, which included renovating a bathroom; rebuilding and repairing floors; sheet rocking, painting, and carpeting various rooms; and performing electrical work. The client was not compensated for any of this work, other than one payment of \$70.

(3) In 2008, the Board also achieved two firsts in settlements: its highest settlement to date – \$15,000 in *COIB v. Schlein*, COIB Case No. 2006-350 (2008) – and a settlement of \$10,000 for a single violation in *COIB v. Mir*, COIB Case No. 2008-421 (2008), the maximum fine currently prescribed by the City Charter for a single violation of Chapter 68 (*see* City Charter § 2606(b)).

(a) In *COIB v. Schlein*, the Board fined the former Chair of the New York City Civil Service Commission (“CCSC”) \$15,000 for multiple violations related to his misuse of City resources and personnel to perform tasks involving his private law practice. The former CCSC Chair acknowledged that he had asked the CCSC Office Manager and a CCSC Administrative Associate to perform non-City tasks for him while on City time, using a CCSC computer, telephone, photocopy machine, and facsimile machine, related to his private law practice, including: typing, copying, and mailing letters to private clients; retrieving and sending facsimiles; greeting visitors; preparing invoices for clients; preparing an inventory list of documents related to a litigation and then meeting one of the parties to that litigation to review the inventory and the items; preparing an Affirmation of Services concerning the Chair’s legal work; and delivering packages. The former CCSC Chair further acknowledged that he personally used his CCSC telephone for non-City related matters, totaling over 2,000 calls from January 2004 to September 2006. The former CCSC Chair

acknowledged that this conduct violated the Conflicts of Interest Law, which prohibits a public servant from using or attempting to use his or her position as a public servant 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, and prohibits a public servant from using City personnel or City resources for any non-City purpose.

(b) In *COIB v. Mir*, the Board fined the former Vice President of Capital Programs for the New York City Economic Development Corporation (“EDC”) \$11,500 for accepting gifts from Kiska Construction, a firm doing business with EDC and the Department of Parks and Recreation, consisting of (1) a portion of his son’s honeymoon trip to Istanbul, Turkey – which included accommodations, transportation to and from the airport and around the city of Istanbul, group tours, and room service – valued at \$4,000; and (2) two meals at New York City restaurants, valued collectively in excess of \$50.00. Kiska had been awarded three major contracts by EDC and Parks related to construction at the High Line; in his job duties at EDC, the former Vice President was responsible for twelve capital projects, one of which was the High Line Project. The former Vice President acknowledged that his conduct violated the Conflicts of Interest Law, which prohibits a public servant from accepting a valuable gift – defined by Board Rules as anything which has a value of \$50.00 or more, whether in the form of money, travel, entertainment, hospitality, object, or any other form – from a firm doing business with the City. The Board fined the former Vice President \$10,000 for accepting a portion of his son’s honeymoon trip (which is the maximum fine permitted under the City Charter for a single violation of the Conflicts of Interest Law) and \$1,500 for accepting the meals, for a total fine of \$11,500.

The Enforcement Unit continued to increase its use of the “three-way settlement” procedure to resolve cases that overlap with disciplinary proceedings brought by other City agencies, with a 456% increase in such dispositions in 2008 over 2007, from 16 to 89. The Board concluded these 89 three-way settlements with the Administration for Children’s Services, the Department of Correction, the Department of Education, the Department of Homeless Services, the Department of Health and Mental Hygiene, the

New York City Housing Authority, the Human Resources Administration, and the Department of Sanitation.

The Enforcement Unit also continued to prosecute cases and impose fines against former public servants for conduct that occurred while they were public servants. Of the many such enforcement actions brought by the Board in 2008, one notable case involved a former Captain with the New York City Police Department (“NYPD”), who was fined \$5,000 for using six subordinates to perform remodeling and landscaping work on his private residence (*COIB v. Byrne*, COIB Case No. 2005-243 (2008)). The former Captain resigned from the NYPD in November 2005, and the Board did not bring its action until it learned of the Chapter 68 violations in early 2008. The prosecution of cases like *Byrne* is an important reminder to public servants that they cannot insulate themselves from enforcement of the Conflicts of Interest Law simply by leaving City service, either of their own accord or by resigning in the face of an investigation or charges. Also of note in *Byrne* is that the former Captain had forfeited terminal leave to NYPD valued at approximately \$37,000 as a result of departmental charges pending against him at the time of his retirement, which charges arose, in part, out of the same facts that formed the basis of the Board’s enforcement action. This result is also a timely reminder that, under section 2603(h)(6) of Chapter 68 of the City Charter, the Board retains ultimate authority over any Conflicts of Interest Law violation committed by a current or former public servant, regardless of what action is taken by the public servant’s agency concerning that violation.

The Board also prosecutes cases against former public servants for conduct that occurs *after* they leave City service. Thus, in *LaBush*, *Mizrahi*, *Tsarsis*, and *Heaney*, the Board fined former public servants for violating the City Charter’s “post-employment provisions,” which prohibit former public servants from appearing before their former City agencies within one year after leaving City service, from working on the same particular matters that they worked on personally and substantially while public servants, and from disclosing or using confidential information gained from public service that is not otherwise available to the public. Former public servants who do not comply with these post-employment provisions of the Conflicts of Interest Law after they leave public service face Board enforcement action.

Notably, in *Heaney*, the former public servant had received written advice from the Board after his resignation from City service that contact

with his former agency, the Department of Education, on behalf of his new employer was prohibited by the Conflicts of Interest Law. Notwithstanding this advice, he made a phone call and sent an e-mail to the DOE on behalf of his new employer within one year after termination of his DOE employment. After committing this violation, the former public servant himself actually informed the Board of his own misconduct. The *Heaney* case is instructive for a number of principles: first, the Board takes seriously any violation committed by a public servant or former public servant after having received direct advice from the Board about the subject of the violation; second, the Board also takes seriously even limited violations of the post-employment restrictions contained in the Conflicts of Interest Law; and third, the Board may consider, as a mitigating factor in its imposition of penalties, that the public servant stepped forward to admit the misconduct to the Board.

In addition to working on complaints arising out of Chapter 68, in 2008 the Enforcement Unit continued to assist the Legal Advice Unit in rendering telephone advice to public servants and members of the public who contact the Board daily and participated in the work of the Board's Training and Education Unit by conducting classes and seminars for public servants, including Enforcement Training Workshops to increase awareness of the Board's enforcement process among agency disciplinary counsel and investigators and to promote the use of three-way settlements in parallel disciplinary proceedings. The Enforcement Unit conducted such workshops with the employees of 35 different City agencies, including the Administration for Children's Services, the Brooklyn Borough President's Office, the Department for the Aging, Department of Correction, the Department of Education, the Department of Finance, the Fire Department, the Department of Homeless Services, the Department of Probation, the Department of Youth and Community Development, the Health and Hospitals Corporation, the Human Resources Administration, the Office of the Chief Medical Examiner, the Office of Labor Relations, the Office of Management and Budget, the School Construction Authority, and the Special Commissioner of Investigation for the New York City School District.

From these workshops, the Unit has developed a large e-distribution list for Board dispositions, so that disciplinary counsel and other interested staff at agencies are regularly informed about recent Board fines and as a result can identify Chapter 68 violations in their own cases for possible referral to the Board. Anyone, whether a public servant or a member of the

public, who wishes to be included in the Board's e-distribution list for Board dispositions can contact the Director of Enforcement, Carolyn Lisa Miller, at miller@coib.nyc.gov.

The awareness of Chapter 68's enforcement procedures fostered by these workshops, and the Board's many other training, education, and outreach efforts, have substantially increased the workload of the Enforcement Unit. Exhibits 8 and 9 to this Report show that in 2008 the Board received 509 new complaints, representing a 9% increase from 2007, closed 509 cases, representing a 19% increase from 2006, and referred 108 matters to the Department of Investigation ("DOI") for investigation.

The Board relies on the public, public servants, and the media to bring to its attention possible violations of Chapter 68, including violations of advice given by Board. Written complaints may be submitted to the Board by mail to the attention of the Director of Enforcement or through the Board's website at the "Contact COIB" link.

As Exhibit 10 to this Report shows, the Chapter 68 fines imposed in Board proceedings in 2008, including those fines made payable in part to other agencies in three-way settlements, amounted to \$155,350, reflecting a 78% increase from 2007. Total civil fines imposed in Board and criminal proceedings for substantive violations of Chapter 68 from 1990 through 2008 have amounted to \$891,738.14.

In addition to its public dispositions with the imposition of fines, the Board is also able to educate public servants – both publicly and privately – about violations of the Conflicts of Interest Law through warning letters carrying no fine. In 2008, the Board issued 11 public warning letters and 46 private warning letters. Furthermore, fines alone cannot fully reflect the time and cost savings to the City when investigations by DOI and enforcement by the Board put a stop to the waste of City resources by City employees who abuse City time and resources for their own gain. Nor do fines show the related savings when DOI's findings and Board enforcement actions lead to agency disciplinary proceedings that result in termination, demotion, suspension, and forfeiture of leave time.

The Board thanks the Enforcement Unit staff for their continued excellence under pressure, including Carolyn Lisa Miller, Director of Enforcement; Dinorah S. Nunez, Deputy Director of Enforcement; Vanessa

Legagneur, Associate Counsel for Enforcement; Bre Injeski, Assistant Counsel for Enforcement; and Maritza Fernandez, Litigation Coordinator. The Board also extends sincere thanks to DOI Commissioner Rose Gill Hearn, Special Commissioner of Investigation for the New York City School District (“SCI”) Richard J. Condon, and their entire staffs for the invaluable work of DOI and SCI in investigating and reporting on complaints of violations of the Conflicts of Interest Law.

6. FINANCIAL DISCLOSURE

The Board’s final – but by no means least important – mandated function, imposed under section 2603(d) of Chapter 68, is to receive “[a]ll financial disclosure statements required to be filed by [City] public servants, pursuant to state or local law....” Under current law, approximately 7,700 City public servants are required to file financial disclosure reports with the Board. All such reports are now filed with the Board electronically.

City employees continue to show an excellent compliance rate in filing these mandated annual financial disclosure reports. As detailed in Exhibit 11 to this Report, the overall rate of compliance with the Financial Disclosure Law, set forth in section 12-110 of the New York City Administrative Code (http://www.nyc.gov/html/conflicts/downloads/pdf2/Local_Law_14.pdf), for the past six years is 96.9%. This superb record must be attributed in large part to the excellent work of the Financial Disclosure Unit: Julia Davis, Director of Financial Disclosure and Special Counsel; Joanne Giura-Else, Deputy Director of Financial Disclosure; Sung Mo Kim, EFD Project Manager; Holli Hellman, Associate EFD Project Manager and Supervising Financial Disclosure Analyst; Veronica Martinez Garcia, Assistant to the Unit; and the Unit’s three former staff members, Felicia A. Mennin, Director of Financial Disclosure and Special Counsel; Candice Flament, Financial Disclosure Analyst; and James Wilson, Financial Disclosure Assistant. (In December, Ms. Flament and Mr. Wilson were replaced by Audra Palacio and Daisy Rodriguez, respectively. Ms. Rodriguez also serves as the Board’s receptionist.)

Financial Disclosure Amendments

The Board continued its efforts to modify the scope of the financial disclosure form to eliminate irrelevant questions and, even more

importantly, to tie the information required to be disclosed directly to the substantive mandates of the Conflicts of Interest Law. Since such an amendment to the City's Financial Disclosure Law may require State legislation, the Board, with the support of the City Administration and the City Council, and with the assistance of the Mayor's Office of State Legislative Affairs, successfully convinced the State Legislature and the Governor to enact legislation authorizing the Board to modify the scope of the financial disclosure form, so as to tie it to the City's Conflicts of Interest Law.

On April 7, 2008, Governor David A. Paterson signed into law 2008 N.Y. Laws Ch. 41 (Exhibit 12 to this Report), which permitted the Board to develop at least two financial disclosure forms, tailored to Chapter 68 and requiring lesser and more targeted disclosure for unpaid volunteers (the minimum requirements for the two levels of disclosure are set forth in the law). Thereafter, at the request of the Mayor, the Council introduced Intro. 782 (Exhibit 13 to this Report), the Board's proposed amendments to the City's Financial Disclosure Law implementing Chapter 41. Intro. 782 would enable the Board to create three different financial disclosure forms: one for current City filers, a second for uncompensated members of New York City boards and commissions, and a third for board members and certain staff of City-affiliated not-for-profit organizations required by the Public Authorities Accountability Act of 2005 to file annual financial disclosure reports with the Board.

The enactment of the Public Authorities Accountability Act of 2005 ("the PAA Act") (2005 N.Y. Laws ch. 766) made obtaining authority for the Board to modify the scope of the City's financial disclosure form an urgent priority. If broadly construed, this State law could require a significantly greater number of individuals to file financial disclosure reports, by mandating annual financial disclosure by members and certain staff of City-affiliated public authorities, public benefit corporations, industrial development agencies and authorities, and not-for-profit corporations, as well as the affiliates of all such entities. Such a requirement may adversely affect the willingness of individuals to serve as volunteer board members of such not-for-profit organizations. At year's end, Intro. 782 had not yet been enacted by the Council. On December 11, 2008, the Board's Director of Financial Disclosure and Executive Director, along with City Hall representatives, testified about issues the Board has confronted in implementing the PAA Act before a hearing held by the New York State

Assembly Committee on Corporations, Authorities and Commissions and Committee on Cities.

Electronic Filing of Financial Disclosure Reports

Throughout 2008, the Financial Disclosure Unit continued to work closely with the New York City Department of Information Technology and Telecommunications (“DoITT”) to improve the electronic filing application. The reports appeared “pre-populated” for the 2008 filing period for all filers who filed electronically in 2007 for reporting year 2006. Those filers merely had to review and update the prior year’s report, an effort that for most filers required only a few minutes. Filers also continued to file remotely, that is, from home or other non-work locations. During the 2008 filing period, staff responded to over 1,600 calls requesting assistance with filing, the highest number of callers to date.

New enhancements to the electronic filing system for the 2008 filing period included enabling filers to complete amendment and termination reports electronically. Employees who must amend their previously filed financial disclosure report or file a termination report upon departure from City service must now do so electronically.

Upon the conclusion of the filing period, staff reviews the filed reports for completeness and possible conflicts of interest. Staff conducted 2,301 reviews for reports filed for reporting years 2006 and 2007; these reviews resulted in requests to filers to address potential conflicts of interest violations and in some cases referrals to a law enforcement agency for possible forgery of the electronic receipts required to be submitted as proof of an employee having filed his or her report.

Financial Disclosure Late Fines

Section 12-110(g) of the City’s Financial Disclosure Law empowers the Board to impose fines of up to \$10,000 for the non-filing or late filing of a financial disclosure report. During 2008, the Board collected \$15,350 in late filing fines for reporting years 2005, 2006, and 2007. Since the Board assumed responsibility for financial disclosure in 1990, the Board has collected \$495,773 in financial disclosure fines.

7. BUDGET, ADMINISTRATION, AND INFORMATION TECHNOLOGY

The Board thanks its Director of Administration, Ute O'Malley, and Deputy Director of Administration, Varuni Bhagwant, for their continued perseverance in the face of increasing administrative burdens. The Board also thanks its Director of Information Technology, Derick Yu, who single-handedly keeps the Board's computer and other technology resources running, has provided the Board with the technical expertise necessary to implement electronic financial disclosure filing, and has supervised the implementation of upgrades to the Board's IT infrastructure.

Like most City agencies, the Board suffered budget cuts in Fiscal Year 2009. Unlike most agencies, these cuts have a disproportionate impact on the functioning of the Board because of its small size (a staff of only 21) and the leanness of its budget. Even a small cut can have a major impact. Any further budget cuts will require significant layoffs and severely impair the ability of the Board to meet its Charter-mandated functions.

8. AMENDMENTS TO CHAPTER 68

Pursuant to the mandate of City Charter § 2603(j), the Board has proposed a number of amendments to Chapter 68, in particular the enactment of a Charter amendment granting the Board budget protection. Such protection has been at the top of the Board's list of legislative priorities for many years. Virtually alone among City agencies, the Board has the power to sanction violations of the law by the very public officials who set its budget, in itself an unseemly conflict that can only undermine the Board's independence in the eyes of the public and of public servants. That situation should finally be rectified through a Charter amendment removing the Board's budget from the discretion of the public officials who are subject to the Board's jurisdiction.

The Board has sponsored many other long-pending initiatives for Charter amendments, such as obtaining investigative authority, making ethics training mandatory for all City employees, increasing to \$25,000 the maximum permissible fine for each violation, and adding the remedy of disgorgement of ill-gotten gains to the Board's enforcement powers.

In the fourth quarter of 2008, the Board began a comprehensive review of the entirety of Chapter 68, encompassing not only the substantive changes set forth above and in previous annual reports but also an effort to harmonize various provisions of Chapter 68 with nearly two decades of Board interpretation and to eliminate many ambiguities and inconsistencies in statutory language. As a result of this effort, the Board anticipates issuing a separate report containing a revised set of Charter amendments in the spring of 2009.

EXHIBITS

AND

APPENDICES

EXHIBIT 1
CONFLICTS OF INTEREST BOARD: 1993, 2001, 2007, 2008

<i>Agencywide</i>	1993	2001	2007	2008
Adopted Budget (Fiscal Year)	\$1,132,000 (FY94)	\$1,698,669 (FY02)	\$1,916,476 (FY08)	\$1,989,348 (FY09)
Staff (budgeted)	26	23 ^{3/5} ¹	22	22
Highlights		Virtually all ethics publications on website; opinions & enforcement decisions on Westlaw & Lexis	Highest number ever of advice letters; dramatic increase in training sessions, enforcement dispositions imposing fines, and public warning letters; full electronic filing	Highest number of training sessions and enforcement dispositions ever
<i>Legal Advice</i>	1993	2001	2007	2008
Staff	6½ (4½ attorneys)	4 (3 attorneys)	4 attorneys	4 attorneys
Telephone requests for advice	N/A	1,650	3,326	3,797
Written requests for advice	321	539	613	624
Issued opinions, letters, waivers, orders	266	501	605	574
Opinions, etc. per attorney	53	167	151	144
Pending requests at year end	151	40	178	161
Median time to respond to requests	N/A	23 days	30 days	26 days
<i>Enforcement</i>	1993	2001	2007	2008
Staff	½	5 (4 attorneys)	5 (4 attorneys)	5 (4 attorneys)
Complaints received	29	124	465	509
Cases closed	38	152	429	509
Dispositions imposing fines	1	9	61	135
Public warning letters	0	2	26	11
Fines imposed	\$500	\$20,450	\$87,100 ²	\$155,350
Referrals to DOI	19	49	137	108
Reports from DOI	N/A	43	143	179

<i>Training and Education</i>	1993	2001	2007	2008
Staff	1	4 ³ /5 ³	2	2
Training sessions	10	190 24 agencies; CLE	416 62 agencies, Brown Bag Lunches; expanded community board outreach; new CLE curricula approved; interactive theatrical presentation; new collaborations with MOCS in procurement training	535 45 agencies; Brown Bag Lunches; new outreach to Sanitation; new CLE offerings through DCAS; new interactive presentation for the Citywide seminar
Board of Education training	None	116 training sessions; BOE leaflet, booklet, videotape	75 training sessions, DOE leaflet updated	51 training sessions; DOE leaflet updated
Publications	6 Poster, Chapter 68, Plain Language Guide, Annual Reports	Over 50 Ethics & Financial Disclosure Laws & Rules; leaflets; <i>Myth of the Month</i> (CHIEF LEADER); Plain Language Guide; Board of Ed pamphlet; 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	Over 50 Monthly column in <i>The Chief</i> ; new article in <i>Public Employees' Press</i> ; New leaflet: <i>Financial Relationships between Co-Workers</i> ; <i>Plain Language Guide</i> overhauled and reformatted, new poster created and produced	Over 50 Continued monthly column in <i>The Chief</i> and column in <i>Public Employees' Press</i> ; <i>Plain Language Guide</i> overhauled, expanded, and updated; new FDNY leaflet: <i>Heads-Up for NY Firefighters</i>
Ethics newsletter	None	<i>Ethical Times</i> (Quarterly)	<i>Ethical Times</i> continued	<i>Ethical Times</i> continued
Videotapes	None	3 half-hour training films; 2 PSA's	New video developed and shot	Video in post-production

<i>Training and Education (cont'd)</i>	1993	2001	2007	2008
Electronic training	None	Computer game show; Crosswalks appearances	DoITT working on bid for creation of electronic learning platform; regular website maintenance and updates	Regular website maintenance and updates; new interactive feature: <i>Reportable Travel Expenses</i> exercise for FD filers; new training video of live session at 2008 Citywide Seminar posted
<i>Financial Disclosure</i>	1993	2001	2007	2008
Staff	12	5	6	6
6-year compliance rate	99%	98.6%	97.3%	96.9%
Fines collected	\$36,051	\$31,700	\$2,100	\$15,350
Reports reviewed for completeness (mandated by Charter & NYS law)	All (12,000)	400	All	All
Reports reviewed for conflicts (mandated by law)	350	38	134	2,301
Filing by City-affiliated entities (e.g., n-f-ps)	0	0	In process	In process
Electronic filing	None	In development	All filers file electronically	All filers file electronically

¹ The part-time (¾) position, a senior trainer, was not part of the Board's budgeted headcount of 23.

² The Board imposed fines totaling \$87,100 but has collected only \$76,750 as the result of a payment plan in one case, allowed to the respondent after a showing of financial hardship, and the default in two other cases by the respondents after adverse judgments against them by the Board in adopting the Report and Recommendation of Administrative Law Judges at the Office of Administrative Trials and Hearings.

EXHIBIT 2

COIB MEMBERS, STAFF, AND FORMER MEMBERS

Members

Steven B. Rosenfeld, Chair
Monica Blum
Kevin B. Frawley
Angela Mariana Freyre
Andrew Irving

Staff

Executive

Mark Davies, Executive Director

Legal Advice

Wayne G. Hawley, Deputy Executive Director & General Counsel
Sung Mo Kim, Deputy General Counsel
Karrie Ann Sheridan, Associate Counsel
Jessie Beller, Assistant Counsel

Enforcement

Carolyn Lisa Miller, Director of Enforcement
Dinorah Núñez, Deputy Director of Enforcement
Vanessa Legagneur, Associate Counsel
Bre Injeski, Assistant Counsel
Maritza Fernandez, Litigation Coordinator

Training and Education

Alex Kipp, Director of Training and Education
Jonathan Wingo, Senior Trainer/Training Coordinator (*until December 2008*)

Financial Disclosure

Julia Davis, Director of Financial Disclosure & Special Counsel
(*beginning April 2008*)
Felicia Mennin, Director of Financial Disclosure & Special Counsel
(*until February 2008*)
Joanne Giura-Else, Deputy Director of Financial Disclosure
Sung Mo Kim, EFD Project Manager*
Holli R. Hellman, Associate EFD Project Manager and Supervising Financial
Disclosure Analyst
Veronica Martinez Garcia, Administrative Assistant
Audra Palacio, Financial Disclosure Analyst (*beginning December 2008*)
Candice Flament, Financial Disclosure Analyst (*until November 2008*)
Daisy Rodriguez, Assistant Financial Disclosure Analyst and Agency
Receptionist (*beginning December 2008*)
James Wilson, Assistant Financial Disclosure Analyst (*until August 2008*)

Administrative

Ute O'Malley, Director of Administration
Varuni Bhagwant, Deputy Director of Administration

Information Technology

Derick Yu, Director of IT

Former Members of the Board

Merrill E. Clarke, Jr., Chair	1989
Beryl Jones	1989-1995
Robert J. McGuire	1989-1994
Sheldon Oliensis, Chair	1990-1998
Shirley Adelson Siegel	1990-1998
Benjamin Gim	1990-1994
Benito Romano, Acting Chair (1998-2002)	1994-2004
Jane W. Parver	1994-2006
Bruce A. Green	1995-2005

* Mr. Kim serves part-time in this position in addition to his duties and responsibilities as Deputy General Counsel and a member of the Legal Advice Unit.

EXHIBIT 3
TRAINING AND EDUCATION CLASSES ON CHAPTER 68

<u>Year</u>	<u>Department of Ed Classes</u>	<u>Other Agency Classes</u>	<u>Total Classes¹</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	119	167	286
2003 ²	43	139	182
2004	119	169	288
2005	80	162	242
2006 ³	43	151	194
2007	75	341	416
2008	51	484	535

¹ These totals do not include classes conducted by agency training/legal staff under COIB’s “Train the Trainer” program nor briefings set up and conducted exclusively by DOI.

² As a result of layoffs, the Board had no Training and Education Unit and therefore no training and education classes from May 15, 2003, to October 15, 2003.

³ From December 2005 to September 2006 the Training and Education Unit had an effective staff of one, as the Senior Trainer position was vacant from December to mid-July, and the new hire needed to be trained before he could begin teaching classes.

EXHIBIT 4

COIB TRAINING CLASSES BY AGENCY

Agencies that held ten or more classes are in bold

Agencies that held three to nine classes are in italics

Agencies that held one or two classes are not separately listed

2001	2002	2003 ¹	2004	2005	2006 ²	2007	2008
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>	Correction Education DOHMH HRA NYCERS <i>Buildings</i> <i>DCAS</i> <i>DHS</i> <i>DYCD</i> <i>Finance</i> <i>Law</i>	Buildings DCAS Education DHS HRA <i>DCLA</i> <i>DFTA</i> <i>Finance</i> <i>DOHMH</i> <i>DOITT</i> <i>NYCERS</i>	Parks Finance DCA DYCD DOB Education <i>DDC</i> <i>HRA</i> <i>TLC</i> <i>DOITT</i> <i>DCAS</i> <i>Community</i> <i>Boards</i> <i>HHC</i> <i>HPD</i> <i>DOC</i> <i>DOHMH</i> <i>Comptroller</i>	Comptroller DCAS DDC DOB Education Finance Sanitation <i>Community</i> <i>Boards</i> <i>DOC</i> <i>DOHMH</i> <i>DoITT</i> <i>DYCD</i> <i>HHC</i> <i>Manhattan</i> <i>Borough Pres</i> <i>TLC</i>	Buildings DCAS DDC DOHMH Education FDNY Finance FISA HHC NYCHA Taxi & Limo Transportation <i>CCRB</i> <i>Community</i> <i>Boards</i> <i>DCP</i> <i>DoITT</i> <i>DYCD</i> <i>EDC</i> <i>HPD</i> <i>HRA</i> <i>NYCERS</i> <i>NYPD</i> <i>Parks</i>	Buildings DCAS DDC Education OATH/ECB Health Sanitation Taxi & Limo Transportation <i>ACS</i> <i>Aging</i> <i>City Council</i> <i>Community</i> <i>Boards</i> <i>Correction</i> <i>DoITT</i> <i>EDC</i> <i>Finance</i> <i>Fire Dept.</i> <i>Law</i> <i>MOCS</i> <i>NYCERS</i> <i>NYCHA</i>
Agencies Holding One or Two Classes: 14	Agencies Holding One or Two Classes: 29	Agencies Holding One or Two Classes: 12	Agencies Holding One or Two Classes: 27	Agencies Holding One or Two Classes: 17	Agencies Holding One or Two Classes: 21	Agencies Holding One or Two Classes: 39	Agencies Holding One or Two Classes: 23
Total Classes: 190³	Total Classes: 286³	Total Classes: 182³	Total Classes: 288³	Total Classes: 242³	Total Classes: 194³	Total Classes: 416³	Total Classes: 535³

¹ As a result of layoffs, the Board had no Training and Education Unit and therefore no training and education classes from May 15, 2003, to October 15, 2003.

² From December 2005 to September 2006, the Training and Education Unit had an effective staff of one, as the Senior Trainer position was vacant from January to mid-July, and the new hire needed to be trained before he could begin teaching classes.

³ These totals do not include classes conducted by agency training/legal staff under COIB's "Train the Trainer" program nor briefings set up and conducted exclusively by DOI.

EXHIBIT 5
LEGAL ADVICE WORKLOAD: 1993 TO 2008

	1993	2003	2004 (Increase v. 2003)	2005 (Increase v. 2004)	2006 (Increase v. 2005)	2007 (Increase v. 2006)	2008 (Increase v. 2007)
Staff	4½ attorneys	3 attorneys	3 attorneys	3 attorneys	4 attorneys	4 attorneys	4 attorneys
Telephone requests for advice	N/A	2,342	2,633 (+12%)	2,926 (+11%)	2,895 (-1%)	3,326 (+15%)	3,797 (+14%)
Written requests for advice	321	559	535 (-4%)	515 (-4%)	568 (+10%)	613 (+8%)	624 (+2%)
Issued opinions, letters, waivers, orders	266	535	470 (-12%) ¹	543 (+16%)	415 (-24%) ²	605 (+46%)	574 (-5%)
Opinions, etc. per attorney	53	178	157 (-12%) ¹	181 (+15%)	172 (-5%)	151 (-12%)	144 (-5%)
Pending written requests at year end	151	160	191 (+19%)	127 (-34%)	225 (+77%)	178 (-21%)	161 (-10%)
Median time to respond to requests	N/A	34 days	30 days	28 days	31 days	30 days	26 days

¹ The Legal Advice Unit lost its longtime Special Counsel and lacked an attorney for two months in 2004 before hiring an attorney intern.

² The FY2007 budget added a fourth line for the Legal Advice Unit, which had only two attorneys from April through October 2006, when the third line was backfilled, and did not add the fourth attorney until December, for an average of 2.4 attorneys in 2006.

EXHIBIT 6
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
2003	559
2004	535
2005	515
2006	568
2007	613
2008	624

EXHIBIT 7
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
2003	287	165	83	535
2004	252	157	61	470
2005	241	223	79	543
2006	178	158	79	415
2007	269	246	90	605
2008	253	226	95	574

EXHIBIT 8
CHAPTER 68 ENFORCEMENT CASES

	<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>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
New Complaints Received	8	20	22	29	31	29	50	64	63	81	148	124	221	346	307	370	328	465	509
Cases Closed	2	6	25	38	4	33	32	54	76	83	117	152	179	243	266	234	530	429	509
Dispositions Imposing Fines	0	0	1	1	2	1	1	2	9	4	10	9	6	3	6	11	19	61	135
Public Warning Letters	0	0	0	0	0	0	1	0	0	0	2	2	0	0	0	1	7	26	11

EXHIBIT 9

ENFORCEMENT WORKLOAD: 1993 to 2008

	1993	2002 (Increase v. 2001)	2003 (Increase v. 2002)	2004 (Increase v. 2003)	2005 (Increase v. 2004)	2006 (Increase v. 2005)	2007 (Increase v. 2006)	2008 (Increase v. 2007)
Staff	½ attorney	5 (4 attorneys)	5 (4 attorneys)	5 (4 attorneys)	4 (3 attorneys ¹)	4 (2 attorneys ²)	5 (4 attorneys)	5 (4 attorneys ³)
Complaints received	29	221 (+78%)	346 (+57%)	307 (-11%)	370 (+21%)	328 (-11%)	465 (+42%)	509 (+9%)
Cases closed	38	179 (+16%)	243 (+36%)	266 (+9%)	234 (-12%)	530 (+126%)	429 (-19%)	509 (+19%)
Dispositions imposing fines	1	6	3	6	11 (+83%)	19 (+73%)	61 (+221%)	135 (+121%)
Public warning letters	0	0	0	0	1	7	26 (+271%)	11 (-58%)
Fines imposed	\$500	\$15,300	\$6,500	\$8,450	\$37,050	\$30,460	\$87,100	\$155,350
Referrals to DOI	19	84 (+71%)	136 (+62%)	156 (+15%)	110 (-29%)	154 (+40%)	137 (-11%)	108 (-21%)
Reports from DOI	N/A	74 (+72%)	62 (-16%)	93 (+50%)	117 (+26%)	120 (+3%)	143 (+19%)	179 (+25%)

¹ The Enforcement Unit lacked one attorney for almost 11 months in 2005.

² The Enforcement Unit had only two attorneys for several months in 2006.

³ The Enforcement Unit had one attorney on leave for several months in 2008.

EXHIBIT 10
ENFORCEMENT FINES IMPOSED: 1993 to 2008

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENDED DAYS/EQUAL TO DOLLAR AMOUNT
2008							
DECEMBER							
12/30/08	2008-267a	Hubert				X	20 2,882
12/22/08	2005-748	Bryan*	7,500				
12/22/08	2008-604	Wiltshire				X	30 plus restitution to ACS 3,495 290.80
12/18/08	2008-478b	Shaler	2,500				
12/17/08	2008-423b	Bradley	600				
12/17/08	2005-588	LaBush	750				
12/15/08	2007-813	Miraglia	2,000				
12/15/08	2007-686	Alfred	1,000			X	
12/10/08	2007-479	Valvo	800				
NOVEMBER							
11/24/08	2008-376	Rosado	3,000			X	
11/24/08	2007-431	Ballard	3,000				
11/24/08	2008-706	Bryk	1,800			X	
11/17/08	2008-077	Pittari	1,000				
11/05/08	2005-132	Okanome*	7,000				
11/05/08	2007-627	Ramsami	750				
OCTOBER							
10/30/08	2008-331	Elliott		1,000		X	
10/30/08	2007-442	Bourbeau	3,000		Resign from DOE	X	
10/29/08	2008-296	Salgado				X	44 11,020
10/29/08	2008-122	Geddes	250			X	3 561
10/28/08	2008-217	Ng-A-Qui				X	6 1,563
10/27/08	2007-261	Soto ¹	1,500				
10/27/08	2007-680	DeFabbia	1,500				
10/22/08	2008-543	Adkins				X	8 1,003.76
10/21/08	2008-256	Proctor				X	10 suspension & 7 vacation forfeited 1,499.50 770
10/20/08	2008-609	Grandt	500				
10/20/08	2008-624	Tsarsis	750				
SEPTEMBER							
09/29/09	2005-243	Byrne	5,000				
09/24/08	2008-472	Nash-Daniel				X	8 1,496
09/24/08	2008-536	Miller				X	5 550
09/24/08	2008-585	Wordsworth				X	5 623
09/23/08	2008-423	Greco	2,000				
09/22/08	2007-777	Gray	2,500				

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENDED DAYS/EQUAL TO DOLLAR AMOUNT	
09/22/08	2008-421	Mir	11,500					
09/17/08	2007-672	Siegel	1,500					
09/16/08	2008-396	Solo	1,250					
09/16/08	2008-396a	Militano	1,250					
09/11/08	2007-436h	Carmenaty	1,500					
AUGUST								
08/25/08	2007-827	Heaney	1,500			X		
08/14/08	2008-436ss	Stephenson	1,500					
JULY								
07/28/08	2008-207	Berger	1,750					
07/28/08	2008-217	Passaretti				X	30	7,306
07/23/08	2008-295	Lowry				X	30	7,307.10
07/15/08	2007-436	Arzuza				X	5	1,172.09
07/15/08	2007-436a	Baerga				X	5	1,206.09
07/15/08	2007-436b	Baldi				X	20	4,940.40
07/15/08	2007-436c	Barone				X	5	862.50
07/15/08	2007-436d	Bellucci				X	5	1,172.09
07/15/08	2007-436e	Bostic				X	5	1,172.09
07/15/08	2007-436f	Bracone				X	5	1,223.81
07/15/08	2007-436g	Branaccio				X	15	2,587.50
07/15/08	2007-436i	Castro				X	15	3,705.30
07/15/08	2007-436j	Cato				X	5	1,189.33
07/15/08	2007-436k	Colorundo				X	5	1,206.57
07/15/08	2007-436l	Congimi				X	5	1,235.10
07/15/08	2007-436m	Cutrone				X	5	1,252.30
07/15/08	2007-436n	Damers				X	5	1,235.10
07/15/08	2007-436o	Desanctis				X	5	1,189.33
07/15/08	2007-436p	Dixon				X	5	1,252.30
07/15/08	2007-436q	Drogsler				X	5	829.31
07/15/08	2007-436r	Gallo				X	15	3,808.65
07/15/08	2007-436s	Garcia				X	5	1,217.85
07/15/08	2007-436t	Georgios				X	5	821.40
07/15/08	2007-436u	Grey				X	30	7,410.60
07/15/08	2007-436v	Harley				X	5	1,172.09
07/15/08	2007-436w	Hayden				X	5	1,189.33
07/15/08	2007-436x	Jaouen				X	5	1,252.30
07/15/08	2007-436y	Kane				X	5	1,217.85
07/15/08	2007-436z	Keane				X	5	1,206.57
07/15/08	2007-436aa	Kopczynski				X	4	1,223.81
07/15/08	2007-436bb	Lagalante				X	5	1,206.57
07/15/08	2007-436cc	Lampasona				X	5	959.70
07/15/08	2007-436dd	La Rocca				X	15	3,705.30
07/15/08	2007-436ee	La Salle	1,500					
07/15/08	2007-436ff	MacDonald				X	15	3,705.30
07/15/08	2007-436gg	Mann, A.				X	15	3,757.05

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENDED DAYS/EQUAL TO DOLLAR AMOUNT	
07/15/08	2007-436hh	Mann, C.				X	5	1,189.33
07/15/08	2007-436ii	Mastrocco				X	15	3,808.68
07/15/08	2007-436jj	McDermott				X	5	829.31
07/15/08	2007-436kk	McMahon				X	5	1,172.09
07/15/08	2007-436ll	Morales, A.				X	5	1,252.30
07/15/08	2007-436mm	Morales, J.				X	15	3,705.30
07/15/08	2007-436nn	Moscarelli				X	5	1,217.85
07/15/08	2007-436oo	Prendergrast				X	15	2,587.50
07/15/08	2007-436pp	Puhi				X	5	1,206.57
07/15/08	2007-436qq	Ruocco				X	5	1,269.55
07/15/08	2007-436rr	Smith, M.				X	5	1,217.85
07/15/08	2007-436tt	Sterbenz				X	5	2,217.85
07/15/08	2007-436uu	Taylor				X	4	1,189.33
07/15/08	2007-436vv	Torres				X	5	1,206.57
07/15/08	2007-436ww	Valerio				X	5	1,172.09
07/15/08	2007-436xx	Wallace				X	5	1,217.85
07/15/08	2007-436yy	Williams				X	15	3,705.30
07/15/08	2007-436zz	Zaborsky	1,500					
07/15/08	2007-436ab	Guifre				X	5	821.40
07/15/08	2007-436ac	Sullivan				X	5	821.40
07/15/08	2007-436ae	Pretakiewicz				X	5	1,252.30
07/08/08	2008-132	Hwang	1,250					
07/08/08	2007-015c	Klein	1,500					
07/08/08	2007-015	Montemarano	2,500					
07/07/08	2008-025	Harmon	7,500					
07/07/08	2007-237	Philemy	2,250			X		
07/07/08	2007-774	Harrington	1,000					
07/07/08	2004-746	Lemkin	500					
07/07/08	2004-746a	Renna	500					
07/07/08	2004746b	Schneider	500					
JUNE								
06/17/08	2002-325	Anderson ²	7,100					
MAY								
05/22/08	2006-559a	Cross	500			X		
05/22/08	2006-559	Richards	500			X		

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENDED DAYS/EQUAL TO DOLLAR AMOUNT	
05/22/08	2007-433	Jafferalli				X	30	4,151
05/22/08	2007-433a	Edwards				X	21	3,872
05/22/08	2007-570	Mouzon		1,279.48		X	10	1,046
05/20/08	2007-636	Blundo	1,000			X		
05/09/08	2006-617	Johnson	300			X		
05/08/08	2008-037	Zigelman	1,500	1,500		X		
05/01/08	2006-775	Childs	500			X	5	1,795
APRIL								
04/30/08	2003-373k	Rider	1,000					
04/29/08	2007-873	Shaler	2,000					
04/29/08	2005-236	Mizrahi	2,000					
04/29/08	2007-744	Deschamps	1,500			X	5	892
MARCH								
03/20/08	2003-373a	Lee	3,000					
03/20/08	2003-373k	Gwiazdzinski	3,000					
03/06/08	2004-530	Murano	1,250					
03/05/08	2007-058	Saigbovo	750					
03/05/08	2007-157	Aldorasi	3,000	1,500		X		
03/04/08	2003-550	Amar	4,500					
03/03/08	2007-723	Namnum	1,250			X		
03/03/08	2005-665	Osindero	500			X	15	2,205.97
03/03/08	2007-825	Namyotova	1,000			X	15	1,952
FEBRUARY								
02/07/08	2001-566d	Moran	1,500			X		
02/07/08	2001-566c	Guarino	1,500			X		
02/07/08	2001-566b	Sender	5,000			X		
02/07/08	2001-566a	Diaz	1,500			X		
02/07/08	2001-566	Ferro	2,500			X		
JANUARY								
01/28/08	2004-610	Riccardi	1,500					
01/23/08	2006-350	Schlein	15,000					
2007								
DECEMBER								
12/17/07	2006-632	Blenman	2,000					
12/17/07	2006-233	Osagie	5,000			X		
12/04/07	2004-188	Pratt ³	500		3,961 Restitution			
NOVEMBER								
11/29/07	2007-519	Tamayo	100		900	X	Resign as Principal & reinstated as teacher w/pay reduction; must resign from DOE by 8/31/08	52,649
11/29/07	2006-562b	McLeod				X	5	1,105.62
11/27/07	2006-618	Hall	1,500					

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENDED DAYS/EQUAL TO DOLLAR AMOUNT	
11/27/07	2004-517	Williams	4,000					
11/05/07	2005-365	Norwood*	4,000					
OCTOBER								
10/29/07	2006-423	S. Fraser	2,000					
10/29/07	2003-785a	Speiller	1,000					
10/29/07	2007-138	Basile	2,000					
10/26/07	2007-039	Tulce				X	30	4,550
10/09/07	2003-200	Lastique	2,000			X	21 plus reassignment & probation	1,971.69
10/02/07	2007-441	Larson	1,000					
10/02/07	2006-423a	Russell	1,000					
SEPTEMBER								
09/26/07	2006-411	Allen*	5,000					
09/18/07	2004-246	Margolin	3,250					
09/12/07	2006-551	Davis	700					
09/04/07	2007-016	Graham					5	896
AUGUST								
08/30/07	2007-362	Lucido	500					
JULY								
07/31/07	2003-785	Gennaro	2,000					
07/23/07	2003-152a	Bergman	1,000					
07/18/07	1999-026	Pentangelo	1,500					
07/16/07	2006-706	Carlson	500	4,820.92		X		
07/12/07	2006-461	Greenidge	500					
07/11/07	2006-098	Barreto	2,500			X		
07/11/07	2005-244	Clair	6,500					
07/10/07	2007-056	Glover				X	30	7,742
JUNE								
06/29/07	2005-200	Cetera	2,000			X		
06/05/07	2005-442	Sanders	1,000					
06/04/07	2005-240	Mazer	2,000					
MAY								
05/31/07	2006-383	Ianniello	1,000			X		
05/31/07	2006-684	Cooper	2,500	2,500		X		
05/31/07	2006-684a	Reilly	750	750		X		
05/31/07	2006-460	Amofo-Danquah	3,000			X	5	1,273.25
05/30/07	2007-053	Cammarata	1,500					
05/30/07	2002-678	Murphy	750					
05/30/07	2004-556	Cagadoc	500					
05/02/07	2005-690	Cantwell	1,500					
APRIL								
04/30/07	2006-068	Henry	1,000					
04/30/07	2005-739a	Oquendo	500					
04/25/07	2004-570	Matos	1,000			X		
04/17/07	2006-562a	Wade	500					

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENDED DAYS/EQUAL TO DOLLAR AMOUNT	
MARCH								
03/28/07	2006-554	Bassy	500					
03/27/07	2006-349	Vale	2,250					
03/27/07	2005-240	Sahm	1,250					
FEBRUARY								
02/28/07	2005-505	Martino-Fisher	1,000					
02/28/07	2003-752	Kessock	500					
02/28/07	2006-519	Lepkowski	500					
02/28/07	2002-503	Maith	500					
02/05/07	2002-458	Aquino	500					
02/05/07	2006-064	Tarazona	2,000					
02/05/07	2001-494	Russo	2,000			X		
JANUARY								
01/29/07	2005-031	Marchuk	750					
01/29/07	2006-635	Bayer	1,000		Retire from DDC	X	18	1,000
01/24/07	2005-178	Davis	1,000			X		
01/24/07	2005-098	Rosenfeld	500					
01/05/07	2004-697	Della Monica	1,500					
01/03/07	2004-712	McHugh	2,000					
2006								
DECEMBER								
12/19/06	2005-685	Diaz	500					
12/15/06	2002-140	Fenster	500					
12/11/06	2006-562b	Jefferson				X	25	3,085
12/11/06	2006-562	Nelson				X	25	4,262
NOVEMBER								
11/10/06	2003-655	Sorkin	500					
11/10/06	2005-271a	Parlante	460			X		
11/10/06	2005-271	Marchesi	750			X		
AUGUST								
08/24/06	2004-324a	Neira	4,500					
08/24/06	2006-048	Tyner				X	45	6,224
JULY								
07/28/06	2004-700a	L. Golubchick	4,000					
07/28/06	2004-700	J. Golubchick	1,000					
JUNE								
06/30/06	2003-097	Kerik	10,000		5,000 FD & 206,000 Criminal			
06/20/06	2004-159	Goyol	2,500					
06/06/06	2005-155	Okowitz	1,250			X		
MAY								
05/10/06	2003-423a	Coppola	500					
MARCH								
03/28/06	2005-590	Whitlow		1,818		X		

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENDED DAYS/EQUAL TO DOLLAR AMOUNT	
FEBRUARY								
02/23/06	2005-238	Valsamedis				X	50 (plus 10 days annual leave)	11,267.50
02/15/06	2005-146	Vance	1,500				Annual leave	1,122
02/03/06	2002-716	Green	2,500	1,500		X		
2005								
NOVEMBER								
11/16/05	2004-214	Guttman	2,800					
11/16/05	2004-418	Trica	4,000					
JULY								
07/23/05	2002-677y	Serra ⁴	10,000					
JUNE								
06/22/05	2005-151	Carroll	3,000			X	Suspension w/out pay	3,000
06/07/05	2004-082a	Romano	4,000					
MAY								
05/25/05	2004-082	Hoffman	4,000					
MARCH								
03/29/05	2003-788	Asemota	500			X	Annual leave	1,000
03/29/05	2004-466	Powery	1,000					
FEBRUARY								
02/28/05	2004-515	Genao	1,000					
02/28/05	2004-321a	Vasquez	1,750			X	Annual leave	1,600
JANUARY								
01/31/05	2003-127	Thomas	2,000				Annual leave	3,915
01/31/05	2002-782	Bonamarte	3,000					
2004								
DECEMBER								
12/21/04	2004-180	Berkowitz	3,500					
OCTOBER								
10/30/04	2002-770	W. Fraser	500					
10/21/04	2004-305	McKen	450	450		X		
JUNE								
06/22/04	2003-359	Campbell	2,000					
MAY								
05/20/04	2002-528	Fleishman	1,000	5,000	1,300 Restitution			
MARCH								
03/05/04	2001-618	Andersson	1,000					
2003								
APRIL								
04/03/03	2002-304	Arriaga	1,000	2,500		X	30	
MARCH								
03/25/03	2002-088	Adams	1,500					

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENDED DAYS/EQUAL TO DOLLAR AMOUNT	
JANUARY								
01/07/03	2002-463	Mumford		2,500	5,000 for violation of Reg. C-110			
2002								
JULY								
07/18/02	2002-188	Blake-Reid	4,000				Annual leave	4,000
JUNE								
06/27/02	2001-593	Cottes	500			X		
06/21/02	2000-456	Silverman	500					
MARCH								
03/27/02	2000-192	Smith ⁵			2,433 Restitution			
FEBRUARY								
02/27/02	2001-569	Kerik	2,500					
02/22/02	2000-407	Loughran	800					
2001								
DECEMBER								
12/13/01	1998-508	King	1,000			X		
NOVEMBER								
11/13/01	2000-581	Hill-Grier	700			X		
SEPTEMBER								
09/25/01	2000-533	Denizac		4,000		X		
AUGUST								
08/15/01	1999-501	Moran					Annual leave (plus 30 days w/out pay and demoted)	2,500
JULY								
07/16/01	1999-157	Capetanakis	4,000					
JUNE								
06/25/01	2000-005	Rieue	2,000					
06/07/01	2000-231	Steinhandler	1,500			X		
MAY								
05/23/01	1999-121	Camarata	1,000					
MARCH								
03/08/01	1991-173	Peterson	1,500					
FEBRUARY								
02/26/01	1999-199	Finkel	2,250					
2000								
OCTOBER								
10/24/00	1999-200	Hoover	8,500					
10/16/00	1999-200	Turner	6,500					
AUGUST								
08/14/00	1999-511	Paniccia	1,500					
08/07/00	1999-500	Chapin	500					

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENDED DAYS/EQUAL TO DOLLAR AMOUNT	
JULY								
07/24/00	2000-254	Lizzio	250					
MAY								
05/24/00	1999-358	Rosenberg	1,000					
APRIL								
04/26/00	1998-169	Marrone	5,000					
MARCH								
03/26/00	1998-288	Sullivan	625			X		
03/10/00	1999-250	Carlin	800			X		
JANUARY								
01/06/00	1997-237d	Rene		2,500		X		
1999								
NOVEMBER								
11/23/99	1994-082	Davila	500					
11/22/99	1999-334	McGann	3,000			X		
JUNE								
06/29/99	1998-190	Sass	20,000					
FEBRUARY								
02/03/99	1997-247	Ludewig	7,500			X		
1998								
OCTOBER								
10/09/98	1997-247	Morello	6,000				Resigned & forfeited annual leave	93,105
SEPTEMBER								
09/17/98	1994-351	Katsorhis	84,000					
JULY								
07/14/98	1997-394	Weinstein	1,250			X	Annual leave	3,750
JUNE								
06/22/98	1996-404	Fodera	3,000		100 for late FD filing			
06/22/98	1995-045	Wills	1,500					
06/15/98	1998-102	Hahn	1,000			X		
MAY								
05/22/98	1997-368	Harvey ⁶	200					
05/08/98	1997-247	Cioffi	100					
1997								
DECEMBER								
12/22/97	1997-076	N. Ross	1,000					
12/10/97	1997-225	M. Ross	1,000			X		
JUNE								
06/17/97	1997-060	Quennell	100					
1996								
APRIL								
04/03/96	1993-121	Holtzman	7,500					
MARCH								
03/08/96	1994-368	Matos ⁷	1,000/250					

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENDED DAYS/EQUAL TO DOLLAR AMOUNT
1995							
AUGUST							
08/04/95	1993-282a	Baer	5,000				
1994							
FEBRUARY							
02/11/94	1993-282	Bryson	500				
JANUARY							
01/24/94	1991-214	McAuliffe	2,500				
1993							
APRIL							
04/27/93	1991-223	Ubinas	500				
TOTALS			514,685	32,338.92			354,769.22

TOTAL: \$891,738.14

¹ This fine was reduced to \$1,500 from \$3,500 on proof of financial hardship, including exhaustion of savings and accumulation of significant debt.

² This fine was reduced to \$7,100 from \$20,000 on proof of financial hardship, including an injury, extended unemployment, exhaustion of savings, and accumulation of significant debt

³ The total fine was \$4,750, of which \$500 was paid to the Board upon signing of the Disposition. The remaining \$4,250 of the fine will be forgiven, if, by March 1, 2009, Pratt has fully paid his former subordinate the outstanding portion of the loan (in the amount of \$3,961).

⁴ This fine was paid to the Board as part of Serra's plea of guilty to grand larceny and violation of the conflicts of interest law.

⁵ The total fine was \$3,000, but was to be forgiven if, by March 1, 2004, Smith had fully paid the foster mother the outstanding portion of the loan (in the amount of \$2,433).

⁶ This fine was forgiven on proof of extreme financial hardship.

⁷ 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.

* The respondent did not appear at the trial of this matter, so the fine imposed by the Board has not yet been collected.

EXHIBIT 11 FINANCIAL DISCLOSURE REPORTS

Reporting Year ¹ ("R.Y.")	Number of Reports Required for R.Y.	Reports Filed for R.Y.	Compliance Rate for R.Y. ²	Number of Fines Waived for R.Y.	Number of Fines Paid for R.Y.	Amount of Fines Paid for R.Y.	Current Non-Filers for R.Y. Act.Inact. ³		Current Non-Payers for R.Y. Act.Inact.	
2002	13,636	13,233	98.1%	626	230	\$25,525	0	254	0	77
2003	7,827 ⁴	7,477	96.8%	293	62	\$13,700	0	248	0	30
2004	7,550	7,233	97.1%	945	46	\$17,925	0	219	0	43
2005 ⁵	7,625	7,298	96.4%	226	12	\$3,050	0	215	0	17
2006	7,697	7,448	97.3%	298 ⁶	55	\$14,550	8*	169	0	66
2007*	7,769	7,441	96.2%	56	3	\$750	74	166	99	58
TOTALS	52,104	50,130	96.9%	2,444	408	\$75,500⁷	82	1,271	99	291

¹ The reporting year is the year to which the financial disclosure report pertains; the report is submitted the following calendar year.

² Includes those individuals who have appealed their agency's determination that they are required filers and who are thus currently in compliance.

³ "Act." indicates active City employees; "inact." indicates inactive City employees.

⁴ Local Law 43 of 2003 amended the financial disclosure law, NYC Ad. Code § 12-110, to, among other things, eliminate certain classifications of filers and add others, resulting in a decrease of approximately 6,000 filers.

⁵ In 2006, virtually all reports were filed electronically for the first time, for reporting year 2005.

⁶ Reporting year 2006 was the first time the Department of Investigation EO 91 report was integrated into electronic filing.

⁷ The total amount of fines collected since the Board assumed responsibility for financial disclosure in 1990 is \$495,773.

* These numbers are preliminary as efforts to obtain compliance are ongoing.

EXHIBIT 12
2008 N.Y. Laws Ch. 41

STATUS:

S6331-A MALTESE Same as A 8023-B Brennan (MS)

General Municipal Law

TITLE....Relates to annual statements of disclosure for any city with a population of one million or more

06/18/07 REFERRED TO RULES

10/10/07 AMEND AND RECOMMIT TO RULES

10/10/07 PRINT NUMBER 6331A

01/09/08 REFERRED TO CITIES

02/05/08 1ST REPORT CAL.225

02/06/08 AMENDED 6331B

02/06/08 2ND REPORT CAL.

02/11/08 ADVANCED TO THIRD READING

02/11/08 AMENDED BY RESTORING TO PREVIOUS PRINT 6331A

03/12/08 PASSED SENATE

03/12/08 DELIVERED TO ASSEMBLY

03/12/08 referred to codes

03/17/08 substituted for a8023b

03/17/08 ordered to third reading cal.772

03/17/08 passed assembly

03/17/08 returned to senate

03/28/08 DELIVERED TO GOVERNOR

04/07/08 SIGNED CHAP.41

SPONSORS MEMO:

NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1

BILL NUMBER: S6331A

SPONSOR: MALTESE

TITLE OF BILL:

An act to amend the general municipal law, in relation to annual statements of disclosure for any city with a population of one million or more

SUMMARY OF PROVISIONS:

This bill would amend paragraph (a) of subdivision 1 of General Municipal Law § 811, to authorize the City of New York, through its local ethics board, the Conflicts of Interest Board

("COIB"), to modify the requirements of the City's financial disclosure that are submitted annually by its officers, employees, and, as a result of the Public Authorities Accountability Act of 2005, numerous additional people working for certain City-affiliated entities.

JUSTIFICATION:

General Municipal Law ("GML") §§810(1) and 811(1)(a) mandate that every county, city, town, and village with a population of 50,000 or more require the filing of annual financial disclosure statements by certain officers and employees. Of those municipalities, only New York City is required by the statute to have a financial disclosure form "at least as stringent in scope and substance" as the State form set forth in GML § 812. See Gen. Mun. Law § 811(1)(a).

Furthermore, in mandating who must file financial disclosure reports, State law makes no distinction between paid and unpaid public servants.

New York City's Financial Disclosure Law, now set forth in Administrative Code § 12-110, has been in existence since 1975, long before the 1987 "Ethics in Government Act" which established the State legislative scheme concerning ethics and financial disclosure, and the City's law has historically been among the most far-reaching laws of this kind in the State. This local law has always exempted from filing unpaid members of boards and commissions, for it has been acknowledged that requiring such volunteers to file the State-mandated 32-page financial disclosure report would devastate efforts to recruit and retain them, and thus threaten the existence of these boards and commissions, many of which play a critical role in the life of the City.

This problem has been compounded by the enactment of the "Public Authorities Accountability Act of 2005" (Chapter 766 of the Laws of 2005). That law ("PAAA") requires board members, officers, and employees of certain municipal-affiliated entities (collectively called "local authorities") to file financial disclosure reports with the local ethics board, which, in the case of New York City, is the COIB. These entities include: (a) public authorities and public benefit corporations created by or existing under State law, unless the members hold a civil office of the State or are appointed by the Governor not upon the recommendation of local government; (b) not-for-profit corporations affiliated with, sponsored by, or created by a county, city, town, or village government; (c) local industrial development agencies and authorities and other local public benefit corporations; and (d) affiliates of any of those entities. Thus, in New York City, the PAAA requires such persons to file the current 32-page financial disclosure report with the COIB. Moreover, it is apparent that the PAAA intends to require disclosure by volunteer board members of "local authorities." This new law would therefore, beginning in 2007, require that all of these volunteer members of City boards and commissions file a financial disclosure report. Requiring volunteer board members of City-affiliated not-for-profit entities, such as the Gracie Mansion Conservancy, to file a 32-page financial disclosure report will destroy many of those crucial institutions. Preservation of the City's affiliated not-for-profit institutions and its volunteer boards and commissions necessitates that the scope of the current financial disclosure form be modified. The COIB has indicated that it would not support any reduction in the scope of the financial disclosure form that addresses only volunteers because, as the COIB has repeatedly stated, the scope of the form must also be reduced for certain other City officials and must be tied directly to the City's own conflicts of interest law. See COIB 2005 Annual Report,

pp. 22, 43-44, 49-54. Accordingly, GML § 811(1)(a) should be amended to authorize the COIB to change the scope of the financial disclosure form, not just for volunteers but for other public servants as well.

The proposal would provide that the COIB require, on two or more types of forms for annual statements of financial disclosure, disclosure of the type of information that could reveal potential conflicts of interest as defined by Chapter 68 of the New York City Charter. The disclosure required would include, but not be limited to, information about non-city employment or interests that may give rise to a conflict of interest, including but not limited to interests in real property located in such city, or positions with, financial interests in, gifts from, or business dealings with, persons or firms or entities engaged in business dealings with the City.

This does not mean that the City intends to dilute in any way its financial disclosure law. To the contrary, this authorization by the State Legislature would allow the City to craft a realistic scheme of reporting that is consistent with the ethical considerations embodied in its conflicts of interest law, as set forth in Chapter 68 of the New York City Charter. We note that this ethics code was first enacted as a legislative scheme in 1959, and since that time has been expanded several times, leading to the creation of one of the most comprehensive and well respected of such laws in the nation. In the City's experience, the exceedingly long form of questions mandated in 1987 has undercut the ability of the COIB to focus on those private interests that raise potential for significant conflicts of interest, as defined by Chapter 68 of the City Charter.

LEGISLATIVE HISTORY:

New bill.

FISCAL IMPLICATIONS:

None.

EFFECTIVE DATE:

Immediately. Applies to forms being filled out for calendar year 2007.

CHAPTER TEXT:

Additions are indicated by underlining; deletions by ~~strikethrough~~.

LAWS OF NEW YORK, 2008
CHAPTER 41
S. 6331-A
ANNUAL STATEMENTS OF DISCLOSURE

Approved and effective April 7, 2008

AN ACT to amend the general municipal law, in relation to annual statements of disclosure for any city with a population of one million or more

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. Paragraph (a) of subdivision 1 of section 811 of the general municipal law, as added by chapter 813 of the laws of 1987, is amended to read as follows:

(a) The governing body of each political subdivision may, not later than January first, nineteen hundred ninety-one, and the governing body of any other municipality may at any time subsequent to the effective date of this section, adopt a local law, ordinance, or resolution: (i) wherein it promulgates a form of annual statement of financial disclosure which is designed to assure disclosure by municipal officers and employees, which for the purposes of this section, the definition for which shall be modified so as to also include a city with a population of one million or more, and (in the case of a political subdivision or any other county, city, town or village) which is designed to assure disclosure by local elected officials and/or by local political party officials of such financial information as is determined necessary by the governing body, or (ii) wherein it resolves to continue the use of an authorized form of annual statement of financial disclosure in use on the date such local law, ordinance or resolution is adopted. In either event, such local law, ordinance or resolution if and when adopted shall specify by name of office or by title or classification those municipal officers and employees and (in the case of a political subdivision or any other county, city, town or village) those local elected officials and/or those local political party officials which shall be required to complete and file such annual statement.

(a-1) In a city with a population of one million or more, such local law, ordinance or resolution shall be at least as stringent in scope and substance as the provisions of section eight hundred twelve of this article **require, on two or more types of forms for annual statements of financial disclosure, disclosure of information that could reveal potential conflicts of interest as defined by chapter sixty-eight of the New York city charter.**

(i) The disclosure required by such law, ordinance or resolution of such city shall, at a minimum, include information about any non-city employment or interests that may give rise to a conflict of interest, including, but not limited to, interests of the filer and his or her spouse or registered domestic partner, and unemancipated children, in: (A) real property located in such city, and (B) positions or business dealings with, financial interests in, or gifts from, any persons or firms or entities engaged in business dealings with such city.

(ii) In any such city, local elected officials and compensated local officers and employees, as defined in subdivisions two and three, respectively, of section eight hundred ten of this article, shall, at a minimum, disclose in addition to the information required by subparagraph (i) of this paragraph: (A) interests in a firm where the value of the interest is ten thousand dollars or more; (B) where the official, officer, or employee holds a policy-making position with such city, membership in the national or state committee of a political party or service as assembly district leader of a political party or service as the chair or as an officer of the county committee or county executive committee of a political party; (C) the names and positions of any spouse or registered domestic partner, child, stepchild, brother, sister, parent or stepparent holding a position with any such city; (D) each volunteer office or position held by the filer or his or her spouse or registered domestic partner with any not-for-profit organization engaged in business dealings with such city,

except where the person volunteers only in a non-policymaking, non-administrative capacity; and (E) agreements between the filer and any person or firm or entity engaged in business dealings with such city for future payment to or employment of the filer.

(iii) For purposes of this paragraph, the term “firm” shall have the same meaning as set forth in subdivision eleven of section twenty-six hundred one of the New York city charter.

§ 2. This act shall take effect immediately and shall apply to annual statements of financial disclosure required to be filed for the calendar year 2007.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOSEPH L. BRUNO
Temporary President of the Senate

SHELDON SILVER
Speaker of the Assembly

EXHIBIT 13
INTRO 782
AMENDMENTS TO NYC AD. CODE § 12-110

Int. No. 782

By Council Members Dickens, Comrie, James, Palma and Stewart (by request of the Mayor)

A Local Law to amend the administrative code of the city of New York, in relation to the filing of annual disclosure reports.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 12-110 of the administrative code of the city of New York, as added by local law number 43 for the year 2003, paragraphs 2 and 9 as amended by local law number 14 for the year 2006, is amended to read as follows:

§12-110 Annual disclosure.

a. Definitions. As used in this section:

1. The term ["business dealings with a state or local agency" shall mean any transaction with any state or local agency involving the sale, purchase, rental, disposition or exchange of any goods, services or property, any license, permit, grant or benefit, and any performance of or litigation with respect to any of the foregoing, but shall not include any transaction involving a public servant's residence or any ministerial matter] "affiliated" shall mean a firm that is a subsidiary of another firm, or if such firms have a parent in common, or if they have a stockholder in common who owns at least twenty-five per cent of the shares of each such firm.

2. The term "agency" or "city agency" shall mean a county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation, committee or other agency of government, the expenses of which are paid in whole or in part from the city treasury, and shall include but not be limited to, the council, the offices of each elected official, the board of education, community boards, the health and hospitals corporation, the New York city industrial development agency, the offices of the district attorneys of the counties of Bronx, Kings, New York, Queens and Richmond, and of the special narcotics prosecutor, the New York city housing authority, and the New York city housing development corporation, but shall not include any court or any corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility or any advisory committee as that term is defined in subdivision one of section twenty-six hundred one of the charter.

3. The term "business dealings with the city" shall mean any transaction with the city involving the sale, purchase, rental, disposition or exchange of any goods, services, or property, any license, permit, grant or benefit, and any performance of or litigation with respect to any of the foregoing, but shall not include any transaction involving a public servant's residence or any ministerial matter.

[2. The term “city employee” shall be defined as an employee of a city, county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation or other agency of government, the expenses of which are paid in whole or in part from the city treasury and shall include but not be limited to employees of the New York city health and hospitals corporation, the New York city industrial development agency, the offices of the district attorneys of the counties of Bronx, Kings, New York, Queens and Richmond, and of the special narcotics prosecutor, and the New York city housing development corporation].

4. The term "city" shall mean the city of New York and shall include an agency of the city.

[3.] 5. The term "conflicts of interest board" or "board" shall mean the conflicts of interest board appointed pursuant to section twenty-six hundred two of the New York city charter.

[4.] 6. The term “domestic partners” shall mean persons who have a registered domestic partnership, which shall include any partnership registered pursuant to section 3-240 of the administrative code of the city of New York.

7. The term "gift" shall mean anything of value for which a person pays nothing or less than fair market value and may be in the form of money, services, reduced interest on a loan, travel, travel reimbursement, entertainment, hospitality, thing, promise, or in any other form.

[5.] 8. The term “independent body” shall mean any organization or group of voters which nominates a candidate or candidates for office to be voted for at an election, and which is not a political party as defined in paragraph [seven] twelve of this subdivision.

9. The term "local authority" or "local public authority" shall be given the same meaning as the term "local authority" is defined in subdivision two of section two of the public authorities law.

[6.] 10. The term "local political party official" shall mean:

(1) any chair of a county committee elected pursuant to section 2-112 of the election law, or his or her successor in office, who received compensation or expenses, or both, from constituted committee or political committee funds, or both, during the reporting period aggregating thirty thousand dollars or more;

(2) that person (usually designated by the rules of a county committee as the “county leader” or “chair of the executive committee”) by whatever title designated, who pursuant to the rules of a county committee or in actual practice, possesses or performs any or all of the following duties or roles, provided that such person received compensation or expenses, or both, from constituted committee or political committee funds, or both, during the reporting period aggregating thirty thousand dollars or more:

(i) the principal political, executive and administrative officer of the county committee;

(ii) the power of general management over the affairs of the county committee;

(iii) the power to exercise the powers of the chair of the county committee as provided for in the rules of the county committee;

(iv) the power to preside at all meetings of the county executive committee if such a committee is created by the rules of the county committee or exists de facto, or any other committee or subcommittee of the county committee vested by such rules with or having de

facto the power of general management over the affairs of the county committee at times when the county committee is not in actual session;

(v) the power to call a meeting of the county committee or of any committee or subcommittee vested with the rights, powers, duties or privileges of the county committee pursuant to the rules of the county committee, for the purpose of filling an office at a special election in accordance with section 6-114 of the election law, for the purpose of filling a vacancy in accordance with section 6-116 of such law or for the purpose of filling a vacancy or vacancies in the county committee which exist by reason of an increase in the number of election districts within the county occasioned by a change of the boundaries of one or more election districts, taking effect after the election of its members, or for the purpose of determining the districts that the elected members shall represent until the next election at which such members of such committee are elected; provided, however, that in no event shall such power encompass the power of a chair of an assembly district committee or other district committee smaller than a county and created by the rules of the county committee, to call a meeting of such district committee for such purpose;

(vi) the power to direct the treasurer of the party to expend funds of the county committee; or

(vii) the power to procure from one or more bank accounts of the county committee the necessary funds to defray the expenses of the county committee. The terms "constituted committee" and "political committee" as used in this subparagraph shall have the same meanings as those contained in section 14-100 of the election law.

The terms "constituted committee" and "political committee" as used in this subparagraph shall have the same meanings as those contained in section 14-100 of the election law.

11. The term "policymaking position" shall refer to persons charged with "substantial policy discretion" as referenced in paragraphs twelve and fifteen of subdivision b of section twenty-six hundred four of the New York city charter, and as defined by rule of the conflicts of interest board.

[7.] 12. The term "political party" shall mean any political organization which at the last preceding election for governor polled at least fifty thousand votes for its candidate for governor.

[8.] 13. The term "political organization" shall mean any political party as defined in paragraph [seven] twelve of this subdivision, or independent body, as defined in paragraph [five] eight of this subdivision, or any organization that is affiliated with or a subsidiary of a party or independent body.

[9.] 14. The term "relative" shall mean the spouse, domestic partner, [parent, grandparent,] child, stepchild, brother, sister, parent, or stepparent of the person reporting, or any person [who is the direct descendant of the grandparents of the person reporting or of the spouse or domestic partner of the person reporting] whom the person reporting claimed as a dependent on his or her latest personal income tax return, and each such relative's spouse or domestic partner.

[10.] 15. The [terms "state agency" and "local agency" shall be given the same meanings as such terms are given in section eight hundred ten of the general municipal law] term "unemancipated child" shall mean any son, daughter, stepson or stepdaughter who is under age eighteen, unmarried and living in the household of the person reporting, and shall also include

any son or daughter of the spouse or domestic partner of such person who is under age eighteen, unmarried and living in the household of the person reporting.

§ 2. Subdivision b of section 12-110 of the administrative code of the city of New York, as added by local law number 43 for the year 2003, paragraph 3 as amended by local law number 14 for the year 2006, is amended to read as follows:

b. Persons required to file [a financial] an annual disclosure report.

The following persons shall file with the conflicts of interest board an annual disclosure report, in such form as the board shall determine, disclosing certain financial interests as hereinafter provided. Reports [filed prior to January first, two thousand six may be filed electronically, in such form as the board may determine, and thereafter] shall, except as otherwise provided by the board [in consultation with the filer's agency], be filed electronically, in such form as the board may determine.

1. Elected and political party officials.

(a) Each elected officer described in sections four, twenty-four, twenty-five, eighty-one, ninety-one and eleven hundred twenty-five of the New York city charter, and each local political party official described in paragraph [six] ten of subdivision a of this section, shall file such report not later than [May first of] such date as designated by the conflicts of interest board each year.

(b) A local political party official required to file a report pursuant to subparagraph (a) of this paragraph who is also subject to the financial disclosure filing requirements of subdivision two of section seventy-three-a of the public officers law may satisfy the requirements of paragraph one by filing with the conflicts of interest board a copy of the statement filed pursuant to section seventy-three-a of the public officers law, on or before the filing deadline provided in such section seventy-three-a, notwithstanding the filing deadline otherwise imposed by paragraph one of this subdivision.

2. Candidates for public office.

(a) Each person, other than any person described in paragraph one, who has declared his or her intention to seek nomination or election and who has filed papers or petitions for nomination or election, or on whose behalf a declaration or nominating paper or petition has been made or filed which has not been declined, for an office described in paragraph one of subdivision b of this section shall file such report on or before the last day for filing his designating petitions pursuant to the election law.

(b) Each person, other than any person described in paragraph one, who was a write-in candidate at the primary election for an office described in paragraph one of subdivision b of this section and whose name is thereafter entered in the nomination book at the board of elections, shall file such report within twenty days after such primary election.

(c) Each person, other than any person described in paragraph one, who has been designated to fill a vacancy in a designation or nomination for an office described in paragraph one of subdivision b of this section shall file such report within fifteen days after a certificate designating such person to fill such vacancy is filed with the board of elections, or within five days before the election for which the certificate is filed, whichever is earlier.

(d) The conflicts of interest board shall obtain from the board of elections lists of all candidates for the elected positions set forth below, and from such lists, shall determine and

publish lists of those candidates who have not, within ten days after the required date for filing such reports, filed the reports required by this section.

3. (a) The following categories of persons who had such status during the preceding calendar year or up until the date of filing their [financial] annual disclosure report shall be required to file a report not later than [May first of] the date designated by the conflicts of interest board each year:

(1) Each agency head, deputy agency head, and assistant agency head[, member of any board or commission, other than a member of a board or a commission who serves without compensation, provided, however, that a member of the New York city housing development corporation shall be deemed to be a compensated member of such corporation for purposes of this section];

(2) Each employee of the mayor's office, the city council, a district attorney's office, the office of the special narcotics prosecutor, or any other agency that does not employ M-level mayor's management plan indicators for its managers, whose responsibilities on April thirtieth of each year involve the independent exercise of managerial or policymaking functions or who holds a policymaking position on such date, as annually determined by the appointing authority of his or her agency, subject to review by the conflicts of interest board;

(3) Each employee of the city, other than an employee of the mayor's office, the city council, a district attorney's office or the special narcotics prosecutor's office, who, on April thirtieth of each year, is paid in accordance with the mayor's management pay plan at level M4 or higher, or who holds a policymaking position on such date, as defined by rule of the conflicts of interest board and as annually determined by the head of his or her agency, subject to review by the conflicts of interest board;

(4) Each employee of the city whose duties at any time during the preceding calendar year involved the negotiation, authorization or approval of contracts, leases, franchises, revocable consents, concessions and applications for zoning changes, variances and special permits, as defined by rule of the conflicts of interest board and as annually determined by his or her agency head or employer, subject to review by the conflicts of interest board.

(5) Each assessor required to file a report solely by reason of section three hundred thirty-six of the real property tax law[, provided, however, that the report filed by any such assessor shall be the report prescribed by such section of the real property law];

(6) Any person required by New York state law to file [a financial] an annual disclosure report with the conflicts of interest board.

(b) Separation from service:

(1) Each person described in this paragraph shall, following separation from service, file such report for the portion of the last calendar year in which he or she served in his or her position within sixty days of his or her separation from service or on or before the [May first next succeeding] date designated by the conflicts of interest board for filing pursuant to subparagraph (a) of this paragraph, whichever is earlier, if such person met the criteria of this subparagraph on his or her last day of service. Each such person who leaves service prior to [May first] the date designated by the conflicts of interest board for filing pursuant to subparagraph (a) of this paragraph shall also file a report for the previous calendar year within sixty days of his or her separation from service or [on the May first next succeeding] on or before such date designated by the conflicts of interest board, whichever is earlier.

(2) Each such person who is terminating or separating from service shall not receive his or her final paycheck, and/or any lump sum payment to which he or she may be entitled, until such person has complied with the requirements of this section.

(3) Each elected officer and each local political party official described in paragraph [six] ten of subdivision a of this section shall, after leaving office, file such report for the previous calendar year, if such officer or local political party official has not previously filed such report, and shall file such report for the portion of the last calendar year in which he or she served in office, within sixty days of his or her last day in office or on or before the [May first next succeeding] date designated by the conflicts of interest board for filing pursuant to subparagraph (a) of paragraph one of this subdivision, whichever is earlier.

§ 3. Subdivision c of section 12-110 of the administrative code of the city of New York, as added by local law number 43 for the year 2003, is amended to read as follows:

c. Procedures involving the filing of [financial] annual disclosure reports.

1. Each agency shall file with the conflicts of interest board, prior to the date required for the filing of reports, a list of persons obligated to report pursuant to this section.

2. Each agency head shall determine, subject to review by the conflicts of interest board, which persons within the agency occupy positions that are described in clauses three and four of subparagraph (a) of paragraph three of subdivision b of this section, and shall, prior to the date on which the filing of the report is required, inform such employees of their obligation to report. The conflicts of interest board shall promulgate rules establishing procedures whereby any employee may seek review of the agency's determination that he or she is required to report.

3. The speaker of the council, each district attorney and the special narcotics prosecutor shall determine, subject to review by the conflicts of interest board, which persons on their staff occupy positions that are described in clause two of subparagraph (a) of paragraph three of subdivision b of this section, and shall, prior to the date required for the filing of the reports, inform such employees of their obligation to report.

4. The conflicts of interest board shall promulgate rules establishing procedures whereby a person required to file [a financial] an annual disclosure report may request an additional period of time within which to file such report, due to justifiable cause or undue hardship. Such rules shall include, but not be limited to, the establishment of a date beyond which in all cases of justifiable cause or undue hardship no further extension of time will be granted.

5. Any amendments and changes to [a financial] an annual disclosure report made after its filing shall be made on a [separate] form to be [provided] prescribed by the conflicts of interest board [and attached to the report. Said form shall contain the corresponding page and item numbers of the report, the amendment, the signature of the person making such amendment and the initials of the chair of the board or his or her designee]. Amendments shall be made only by the person who originally filed such report.

§ 4. Subdivision d of section 12-110 of the administrative code of the city of New York is REPEALED and a new subdivision d is added to read as follows:

d. Information to be reported.

1. Officers and employees of the city; compensated members of city boards and commissions; candidates for public office; elected and political party officials. The report filed by officers and employees of the city, compensated members of city boards and commissions, candidates for public office, elected and political party officials shall contain the information required by this paragraph, unless such person is required to file a report solely by paragraphs two, three, and/or four of this subdivision.

For purposes of filing an annual disclosure report, members or representatives, or their alternates, of the New York city housing development corporation, the New York city industrial development agency, the teachers retirement board, the board of trustees of the New York city employees retirement system, the board of trustees of the police pension fund, the board of trustees of the board of education retirement system, and the board of trustees of the fire department pension fund shall be deemed to be compensated policymakers, and shall file a report containing the information required by this paragraph.

(a) The name of the person reporting; each of his or her city titles and positions; the city agency or agencies of which the person reporting is an official, officer, or employee; his or her city employee identification number, if any; his or her office address, email address, if any, and telephone number; his or her home address, personal email address, if any, and home telephone number; whether he or she has a spouse or domestic partner and, if so, the full name of such spouse or domestic partner; and the names of all unemancipated children.

(b) The location, size, and general nature of any residential, commercial, retail or industrial real property that is owned by, rented to or rented by the reporting person or his or her spouse or domestic partner or unemancipated child. Only real property (i) within the city of New York or (ii) within the county of Westchester or the county of Nassau and within one quarter mile of the city of New York shall be reported. Residential property in which the person reporting or a relative resides shall not be reported. For other residential property, only the borough, city (if outside New York city), town, or village shall be reported.

(c) The name of each employer or business, other than the city of New York, from which the person reporting or a relative received one thousand dollars or more for services performed or for goods sold or produced or as compensation as a member, officer, director, or employee during the reporting period. The name of individual clients, customers or patients shall not be reported, nor shall any business in which the reporting person or his or her relative was an investor only. The nature of the business shall also be identified, as well as the relationship between the reporting person or his or her relative and the employer or business (owner, partner, officer, director, member, employee, and/or shareholder).

(d) The name of any entity in which the person reporting or his or her spouse or domestic partner or unemancipated child has an interest that exceeds five percent of the firm or an investment of ten thousand dollars, whichever is less. The nature of the business and the type of business shall also be identified.

(e) Gifts having a value of fifty dollars or more received by the person reporting or his or her spouse or domestic partner or unemancipated child during the reporting period, including the recipient of the gift, the donor of the gift, the relationship between the recipient and the donor, and the nature of the gift. The value of separate gifts from the same or affiliated donors during the reporting period shall be aggregated.

A gift shall not be reported where (i) the gift is from a relative; or (ii) from the beginning of the reporting period until the date the report is filed, the donor engaged in no business dealings with the city; or (iii) the gift consists of attendance, including meals and

refreshments, at a meeting, public affair, function, or occasion and complies with the rules of the board governing the acceptance of such attendance, meals or refreshments.

(f) Where the person reporting holds a policymaking position with the city, he or she shall list any membership in the national or state committee of a political party; or service as an assembly district leader of a political party; or service as the chair or as an officer of the county committee or county executive committee of a political party.

(g) The name, title, and position of any relative of the person reporting who holds a position, whether paid or unpaid, with the city; the city agency in which such position is held; and the relationship between such relative and the person reporting.

(h) Any volunteer office or position held by the person reporting or his or her spouse or domestic partner with any not-for-profit organization, except where the person volunteers exclusively in a non-policymaking, non-administrative capacity, and the nature of the organization's business.

(i) Any agreement that is between the person reporting or his or her spouse or domestic partner and any person or entity engaged in business dealings with the agency served by the person reporting and that involves future payment to or employment of the person reporting or his or her spouse or domestic partner.

(j) Any person or entity to whom or to which the person reporting or his or her spouse or domestic partner owes ten thousand dollars or more as of the date of filing the report and the type of obligation.

The following debts shall not be reported: (i) debt to a relative; (ii) credit card debt, unless such debt has been outstanding for at least sixty days; (iii) loans from pension funds or deferred compensation accounts.

(k) Any person or entity, except a relative, who owed the person reporting or his or her spouse or domestic partner ten thousand dollars or more as of the date of filing the report and the type of obligation.

2. Uncompensated members of boards and commissions of the city. Where a report is filed by a person required to file a report by reason of membership on a board or commission of the city and such person is not entitled to compensation for such service, the report shall contain the information required by this paragraph. For purposes of filing an annual disclosure report, members or representatives, or their alternates, of the New York city housing development corporation, the New York city industrial development agency, the teachers retirement board, the board of trustees of the New York city employees retirement system, the board of trustees of the police pension fund, the board of trustees of the board of education retirement system, and the board of trustees of the fire department pension fund shall be deemed to be compensated policymakers, and shall file a report containing the information required by paragraph one of this subdivision.

(a) The name of the person reporting; each of his or her city titles and positions; the city agency or agencies of which the person reporting is an official, officer, or employee; his or her city employee identification number, if any; his or her office address, email address, if any, and telephone number; his or her home address, personal email address, if any, and home telephone number; whether he or she has a spouse or domestic partner and, if so, the full name of such spouse or domestic partner; and the names of all unemancipated children.

(b) The location, size, and general nature of any residential, commercial, retail or industrial real property that is owned by, rented to or rented by the reporting person or his or her spouse or domestic partner or unemancipated child. Only real property (i) within the city of New

York or (ii) within the county of Westchester or the county of Nassau and within one quarter mile of the city of New York shall be reported. Residential property in which the person reporting or a relative resides shall not be reported. For other residential property, only the borough, city (if outside New York city), town, or village shall be reported.

(c) The name of each employer or business, other than the city of New York, from which the person reporting or his or her spouse or domestic partner or unemancipated child received one thousand dollars or more for services performed or for goods sold or produced or as compensation as a member, officer, director, or employee during the reporting period. The name of individual clients, customers or patients shall not be reported, nor shall any business in which the reporting person or his or her spouse or domestic partner or unemancipated child was an investor only. The nature of the business shall also be identified, as well as the relationship between the reporting person or his or her spouse or domestic partner or unemancipated child and the employer or business (owner, partner, officer, director, member, employee, and/or shareholder). An employer or business shall not be reported where, from the beginning of the reporting period until the date the report is filed, the employer or business engaged in no business dealings with any city agency of which the person reporting is an official, officer, or employee.

(d) The name of any entity in which the person reporting or his or her spouse or domestic partner or unemancipated child has an interest that exceeds five percent of the firm or an investment of ten thousand dollars, whichever is less. The nature of the business and the type of business shall also be identified. An entity shall not be reported where, from the beginning of the reporting period until the date the report is filed, the entity engaged in no business dealings with any city agency of which the person reporting is an official, officer, or employee.

(e) Gifts having a value of fifty dollars or more received by the person reporting or his or her spouse or domestic partner or unemancipated child during the reporting period, including the recipient of the gift, the donor of the gift, the relationship between the recipient and the donor, and the nature of the gift. The value of separate gifts from the same or affiliated donors during the reporting period shall be aggregated.

A gift shall not be reported where (i) the gift is from a relative; or (ii) from the beginning of the reporting period until the date the report is filed, the donor engaged in no business dealings with the agency of which the person reporting is an official, officer or employee; or (iii) the gift consists of attendance, including meals and refreshments, at a meeting, public affair, function, or occasion and complies with the rules of the board governing the acceptance of such attendance, meals, or refreshments.

(f) Membership in the national or state committee of a political party; or service as an assembly district leader of a political party; or service as the chair or as an officer of the county committee or county executive committee of a political party.

(g) The name, title, and position of any relative of the person reporting who holds a position, whether paid or unpaid, with any board or commission of which the person reporting is an official, officer, or employee and the relationship between the person and the person reporting.

3. Members, officers and employees of city public authorities. Where a report is filed by a person required to file a report pursuant to subdivision three of section twenty-eight hundred twenty-five of the public authorities law, the report shall contain the following information:

(a) The name of the person reporting; the name of the local public authority, within the meaning of subdivision three of section twenty-eight hundred five of the public authorities law, of which the person reporting is a board member, officer or employee; his or her title and position with such entity; any city title and position that he or she holds; any city agency of which the person reporting is an official, officer, or employee; his or her city employee identification number, if any; his or her office address, email address, if any, and telephone number; his or her home address, personal email address, if any, and home telephone number; whether he or she has a spouse or domestic partner and, if so, the full name of such spouse or domestic partner; and the names of all unemancipated children.

(b) The location, size, and general nature of any residential, commercial, retail or industrial real property that is owned by, rented to or rented by the person reporting, or his or her spouse or domestic partner or unemancipated child. Only real property (i) within the city of New York or (ii) within the county of Westchester or the county of Nassau and within one quarter mile of the city of New York shall be reported. Residential property in which the person reporting or a relative resides shall not be reported. For other residential property, only the borough, city (if outside New York city), town, or village shall be reported.

(c) The name of each employer or business, other than the city of New York, from which the person reporting or his or her spouse or domestic partner or unemancipated child received one thousand dollars or more for services performed or for goods sold or produced or as compensation as a member, officer, director, or employee during the reporting period. The name of individual clients, customers or patients shall not be reported, nor shall any business in which the reporting person or his or her spouse or domestic partner or unemancipated child was an investor only. The nature of the business shall also be identified, as well as the relationship between the reporting person or his or her spouse, domestic partner, or unemancipated child and the employer or business (owner, partner, officer, director, member, employee, and/or shareholder). An employer or business shall not be reported where, from the beginning of the reporting period until the date the report is filed, the employer or business engaged in no business dealings with the local public authority of which the person reporting is a board member, officer or employee.

(d) The name of any entity in which the person reporting or his or her spouse or domestic partner or unemancipated child has an interest that exceeds five percent of the firm or an investment of ten thousand dollars, whichever is less. The nature of the business and the type of business shall also be identified. An entity shall not be reported where, from the beginning of the reporting period until the date the report is filed, the entity engaged in no business dealings with the local public authority of which the person reporting is a board member, officer or employee.

(e) Gifts having a value of fifty dollars or more received by the person reporting or his or her spouse or domestic partner or unemancipated child during the reporting period, including the recipient of the gift, the donor of the gift, the relationship between the recipient and the donor, and the nature of the gift. The value of separate gifts from the same or affiliated donors during the reporting period shall be aggregated.

A gift shall not be reported where (i) the gift is from a relative; or (ii) from the beginning of the reporting period until the date the report is filed, the donor engaged in no business dealings with the local public authority of which the person reporting is a board member, officer or employee; or (iii) the gift consists of attendance, including meals and

refreshments, at a meeting, public affair, function, or occasion and complies with the rules of the board governing the acceptance of such attendance, meals, or refreshments.

4. Tax assessors. Where a report is filed by any person by reason of section three hundred thirty-six of the real property tax law, the report filed by any such person shall be the report prescribed by such section of the real property tax law.

5. Filers in multiple filing categories. If a person is required to file an annual disclosure report by more than one paragraph of subdivision b of this section, he or she shall file the most comprehensive report required for such provisions by paragraphs one through four of this subdivision. The most comprehensive report shall be deemed to be the report required by paragraph one of this subdivision; the second most comprehensive report shall be deemed to be the report required by paragraph four of this subdivision; the third most comprehensive report shall be deemed to be the report required by paragraph two of this subdivision; and the least comprehensive report shall be deemed to be the report required by paragraph three of this subdivision.

§ 5. Subparagraph (d) of paragraph 1 of subdivision e of section 12-110 of the administrative code of the city of New York, as relettered by local law number 14 for the year 2006, is amended to read as follows:

(d) [Any information regarding any financial interests of the spouse, domestic partner or an unemancipated child] The existence and identity of any relative of a person filing [in which the person filing in which the person filing has no financial interest] shall be withheld from public inspection, except the identity of any relative in city service, as an unwarranted invasion of privacy unless the conflicts of interest board determines that such information involves an actual or potential conflict of interest on the part of the person filing, subject to the factors set forth in subparagraph (b) of paragraph one of this subdivision. The employee identification number of the person reporting and his or her home address, personal email address, and home telephone number shall also be withheld from public inspection as an unwarranted invasion of privacy.

§ 6. Paragraph 2 of subdivision e of section 12-110 of the administrative code of the city of New York, as amended by local law number 14 for the year 2006, is amended to read as follows:

2. Requests to examine reports.

Whenever pursuant to this section the conflicts of interest board produces a report for public inspection, the board shall notify the person who filed the report of the production and of the identity of the person to whom such report was produced, except that no such notification shall be required if the request to examine the report is made by the department of investigation or any governmental unit, or component thereof, which performs as one of its principal functions any activity pertaining to the enforcement of criminal laws, provided that such report is requested solely for a law enforcement function. Nothing in this section shall preclude the conflicts of interest board from disclosing any and all information in [a financial] an annual disclosure report to the department of investigation or any other governmental unit, or component thereof, which performs as one of its principal functions any activity pertaining to the

enforcement of criminal laws, provided that such report is requested solely for a law enforcement function.

§ 7. Subdivision f of section 12-110 of the administrative code of the city of New York, as added by local law number 43 for the year 2003, is amended to read as follows:

f. Retention or reports. Reports filed pursuant to this section shall be retained by the conflicts of interest board for a period of two years following the termination of the public employment of the person who filed the report. In the case of candidates for office who have filed reports pursuant to this section and who were not elected, the reports shall be retained by the board for a period of two years following the day of an election on which the candidates were defeated. Notwithstanding the foregoing, the board, in consultation with the department of records and information services and the department of investigation, may establish by rule a different period of periods of retention of [financial] annual disclosure reports which takes into account the need for efficient records management and the need to retain such reports for a reasonable period for the investigatory and other purposes. Such reports shall thereafter be destroyed by the board unless a request for public disclosure of an item contained in such report is pending. In lieu of the destruction of such reports, the board, in its discretion, may establish procedures providing for their return to the persons who filed them.

§ 8. Paragraphs 1 and 3 of subdivision g of section 12-110 of the administrative code of the city of New York, as added by local law number 43 for the year 2003, are amended to read as follows:

1. Any person required to file a report pursuant to this section who has not so filed at the end of one week after the date required for filing shall be subject to a fine of not less than two hundred fifty dollars or more than ten thousand dollars. Factors to be considered by the conflicts of interest board in determining the amount of the fine shall include but not be limited to the person's failure in prior years to file a report in a timely manner, and the length of the delay in filing. In addition, within two [weeks] months after the date required for filing, the conflicts of interest board shall inform the appropriate agency and the commissioner of investigation of the failure to file of any such person.

3. Any intentional and willful unlawful disclosure of confidential information that is contained in a report filed in accordance with this section, by a city officer or employee or by any other person who has obtained access to such a report or confidential information contained therein, shall constitute a misdemeanor punishable by imprisonment for not more than one year or a fine not to exceed one thousand dollars, or by both, and shall constitute grounds for imposition of disciplinary penalties, including removal from office in the manner provided by law.

§ 9. Persons required to file a report of annual disclosure by paragraph 1 of subdivision d of section 12-110 of the administrative code of the city of New York, as added by this local law, shall in 2008 file reports for calendar year 2007, such reports containing information required by section 12-110 of such code as it was in effect prior to the effective date of this local law; thereafter such persons shall file reports for the prior calendar year containing information required by section 12-110 of such code as added by this local law.

§ 10. Persons required to file a report of annual disclosure by paragraph 2 of subdivision d of section 12-110 of the administrative code of the city of New York, as added by this local law, shall in 2009 file reports for calendar year 2008, such reports containing information required by section 12-110 of such code as added by this local law; thereafter such persons shall file reports for the prior calendar year containing information required by section 12-110 of such code as added by this local law.

§ 11. Persons required to file a report of annual disclosure by paragraph 3 of subdivision d of section 12-110 of the administrative code of the city of New York, as added by this local law, shall in 2008 file reports for calendar year 2007, such reports containing information required by section 12-110 of such code as added by this local law; thereafter such persons shall file reports for the prior calendar year containing information required by section 12-110 of such code as added by this local law.

§ 12. Persons required to file a report of annual disclosure by paragraph 4 of subdivision d of section 12-110 of the administrative code of the city of New York, as added by this local law, shall in 2008 file reports for calendar year 2007, such reports containing information required by section 336 of the real property tax law; thereafter such persons shall file for the prior calendar year, such reports containing information required by section 336 of the real property tax law.

§ 13. This law shall take effect immediately.

ADVISORY OPINIONS & ENFORCEMENT CASES OF THE BOARD

SUMMARIES AND INDEXES

A link to the full text of the Board's advisory opinions and enforcement cases may be found on the Board's website at <http://nyc.gov/ethics>.

ADVISORY OPINION SUMMARY

OPINION NO: 2008-1

DATE: 8/19/08

CHARTER SECTION(S) INTERPRETED:
2601(4)
2604(b)(6)
2604(d)(2)

SUBJECT(S): Post-Employment Restrictions

OTHER OPINION(S) CITED: None

SUMMARY: A public servant who serves multiple City agencies may appear before none of those City agencies for one year after the service to *each* such agency ends. A prohibited appearance is any compensated communication, other than on ministerial matters, with any officer or employee of the City agency in question, where that officer or employee is acting in his or her capacity as a representative of that agency.

ADVISORY OPINION SUMMARY

OPINION NO: 2008-2

DATE: 9/18/08

CHARTER SECTION(S) INTERPRETED:
2601(5)
2604(a)(1)(a)
2604(b)(1)(b), (b)(3)
2800

SUBJECT(S): Community Boards
Voting and Chairing Meetings

OTHER OPINION(S) CITED: 91-3, 93-2, 93-3, 95-18, 96-8,
2003-2, 2003-4

SUMMARY: 1) A community board member who serves as an employee or board member of an organization may not vote on any matter before the community board that may provide a direct financial benefit to the organization, or chair any meeting considering that matter.

2) A community board member who serves as an executive director of an organization may not vote on (or chair a meeting considering) any matter before the community board that may provide a direct financial benefit to a more senior executive or a member of the board of directors of the organization. Similarly, a community board member who serves as an executive of an organization may not vote on (or chair any committee considering) any matter that may provide a direct financial benefit to a more senior executive or board member of the organization. Voting *may* be permitted where the community board member is an employee of the organization, and where it does not otherwise appear that the affected

executive or member of the board of directors determines the terms and conditions of employment of the employee/community board member.

3) A community board member whose spouse, sibling, or other “associated” party is employed by an organization that would be materially affected by a matter before the community board may not vote on that matter (or chair a meeting considering it) if it appears reasonably likely that the associated party may receive a direct financial benefit from the matter before the board. The higher ranking the associated party is in the organization, the more likely that he or she will benefit, and accordingly the more likely that voting will be impermissible; where the associated party is the chief executive of the organization, the Board will presume that he or she would benefit. Other relevant factors are the size of the organization (the smaller the organization, the more likely voting will be impermissible) and the nexus between the work of the associated party at the organization and the matter before the community board.

4) A community board member who serves as an employee of a not-for-profit may not vote on (or chair a meeting considering) any matter before the community board that may provide a direct financial benefit to a donor of such a significant part of the revenues of the not-for-profit that these funds could underwrite the salary of the community board member. In contrast, where the community board member is an unpaid member of the board of directors of the not-for-profit, the member may vote on matters at the community board that may benefit even major funders of the organization. In no case, however, may a community board member, whether an employee *or* a board member of a not-for-profit, solicit contributions for that not-for-profit from any person or firm with a matter before, or about to be before, the community board.

5) Even where a community board member is prohibited from voting on, or chairing a meeting considering, a matter, the board member may participate in the community board’s discussion of the matter, provided that he or she discloses the disqualifying interest.

* * *

Because many potential conflicts in this area are fact-dependent, the four common scenarios discussed above are merely illustrative. Any community board members who are in doubt about when voting or chairing a meeting is permissible should consult with the Board before voting or chairing a meeting on matters involving *any* organizations with which they or their “associated” persons may be affiliated.

ADVISORY OPINION SUMMARY

OPINION NO: 2008-3

DATE: 10/15/08

CHARTER SECTION(S) INTERPRETED:
38, 1137, 1138
2601(5)
2603(c)(3)
2604(b)(1)(a), (b)(2),(b)(3),
(b)(14)

SUBJECT(S): Term Limits
Use of Position

OTHER OPINION(S) CITED: 94-17, 94-28, 95-24

SUMMARY: Members of the City Council and the Public Advocate will not violate Charter Chapter 68, the City's conflicts of interest law, by participating in the legislative process in relation to the modification, extension, or abolition of term limits, including but not limited to voting for or against any such changes.

ADVISORY OPINION SUMMARY

OPINION NO: 2008-4

DATE: 10/27/08

CHARTER SECTION(S) INTERPRETED:
2601(4), (15), (17)
2604(d)(2), (d)(4), (d)(5), (d)(6),
(d)(7)
2604(e)

SUBJECT(S): Post-Employment Waivers

OTHER OPINION(S) CITED: 91-8, 92-17, 93-8, 93-13, 94-7,
94-15, 94-19, 94-21, 97-1,
2000-2, 2003-4

SUMMARY: Over its first decade, the Board sparingly granted waivers of the post-employment restrictions of Chapter 68 for former public servants seeking to work for private entities, requiring a showing of “exigent circumstances” under a four-factor test that considered: (1) the private entity’s relationship to the City; (2) the waiver’s benefits to the City; (3) the chance of harming competing private entities if the waiver were granted; and (4) the public servant’s unique skills or experience. In Advisory Opinion No. 2000-2, however, the Board articulated a different standard for former public servants who “effectively remain in public service” by working for private “partners” of the City. In such cases, the Board announced, all of the four historic factors need not be satisfied, and waivers would be granted if any one of the factors were especially compelling.

In its post-employment waiver determinations since 2000, the Board has not treated all applications for employees leaving City service to work for worthy non-profit organizations as falling under the more permissive “public-

private partnership” standard of Advisory Opinion No. 2000-2. Instead, when an organization’s relationship would be more accurately described as one of a compensated provider of goods or services – that is, as a vendor – the application is judged under the historic “exigent circumstances” standard. On the other hand, when the prospective employer is a City-affiliated not-for-profit, or at least one that contributes private resources to the City in a joint venture with a City agency, the entity will more likely be deemed a “partner,” and the application for a post-employment waiver will accordingly be evaluated under the less stringent standard of Opinion No. 2000-2.

ADVISORY OPINION SUMMARY

OPINION NO: 2008-5

DATE: 12/17/08

CHARTER SECTION(S) INTERPRETED:
2601(2), (4), (15), (20)
2604(b)(6), (b)(7)

SUBJECT(S): Outside Practice of Criminal
Law

OTHER OPINION(S) CITED: 93-23 and 2001-3

SUMMARY: It will violate Chapter 68 for a lawyer who is a regular City employee to engage in compensated criminal defense work within the City. In addition, a lawyer who is a regular City employee may not accept fees for referring a criminal case within the City.

ADVISORY OPINION SUMMARY

OPINION NO: **2008-6**

DATE: 12/29/08

CHARTER SECTION(S) INTERPRETED:

2601(5)
2604(b)(2), (b)(3)

SUBJECT(S): Charitable Fundraising

OTHER OPINION(S) CITED: 91-10, 92-15, 93-15, 95-2,
98-14, 2000-3, 2003-4

SUMMARY: Elected officials and agency heads, and their designees, may in their official capacities, using City time and resources, solicit and otherwise encourage private contributions to not-for-profit organizations, after a personal determination by the elected official or agency head that the not-for-profit's work supports the mission of their City office or agency. Such solicitations must include a statement that a decision whether or not to give will not result in official favor or disfavor. But they may not target for these solicitations any person or firm with a matter pending or about to be pending before their City office or agency, and they may take no such action on behalf of any organization with which they are associated or that would benefit a person or firm with whom or which they are associated. Each City office or agency must file a public report with the Board by May 15 and November 15 of each year disclosing the identity of each not-for-profit organization for which the office or agency sought private contributions in the six-month period ending March 31 and September 30.

**CUMULATIVE INDEX TO ADVISORY OPINIONS
BY CHARTER CHAPTER 68 SECTION
1990-2008**

<u>CHARTER §</u>	<u>OPINION #</u>				
2601(1)	03-5	04-1			
2601(2)	90-2 03-1	91-3 08-5	91-12	93-11	01-2
2601(3)	90-7 96-1	90-8	91-14	93-11	93-19
2601(4)	91-8 92-38 01-3 08-5	92-13 93-12 03-6	92-17 93-18 05-2	92-32 94-5 08-1	92-36 00-2 08-4
2601(5)	90-4 92-4 00-2 07-2	90-5 92-7 01-3 07-4	90-6 92-14 02-1 08-2	91-3 93-21 03-7 08-3	91-15 98-1 04-2 08-6
2601(6)	91-3	94-18	03-7	07-4	
2601(8)	90-1 93-7 02-1	90-2 94-27 03-6	90-3 95-11 03-7	92-5 98-2 05-3	92-7 00-4 07-4
2601(9)	03-1				
2601(10)	03-1				
2601(11)	90-1 93-1 94-6 99-6	91-2 93-3 94-10 05-2	92-11 93-5 94-13 07-2	92-16 93-17 95-26	92-31 94-1 98-5
2601(12)	90-2 93-3 94-1 95-26 03-2 07-4	92-7 93-7 94-6 98-7 03-7	92-22 93-17 94-8 99-6 05-2	92-31 93-22 94-18 01-03 06-1	92-34 93-29 95-18 02-1 07-2
2601(15)	91-8 92-38	92-5 93-12	92-17 94-5	92-32 08-4	92-36 08-5

CHARTER §**OPINION #**

2601(16)	90-1	91-2	92-5	92-6	92-7
	92-9	93-7	93-17	93-22	94-3
	94-10	94-13	94-18	95-10	95-18
	95-21	97-3	98-2	98-3	98-5
	02-1	03-2	03-7	07-2	07-4
2601(17)	93-8	93-12	95-23	00-2	08-4
2601(18)	91-14	92-5	92-6	92-7	92-9
	92-30	93-5	93-7	93-16	93-17
	93-22	93-29	94-6	98-5	98-7
	98-8	99-6	01-3	07-2	
2601(19)	90-7	91-2	91-3	91-12	93-7
	93-10 (Revised)		93-29	94-6	98-5
	98-7	03-5	04-1		
2601(20)	91-12	93-7	94-6	98-5	98-7
	01-3	08-5			
2603	07-2				
2603(c)	90-2	92-19			
2603(c)(3)	92-6	92-9	02-1	03-7	07-4
	08-3				
2603(j)	03-1				
2604(a)	91-2	92-7	92-22		
2604(a)(1)	90-1	91-14	98-8		
2604(a)(1)(a)	91-2	91-3	92-5	92-31	93-2
	93-3	93-7	93-10 (Revised)		93-17
	93-19	93-22	93-29	93-32	94-6
	95-8	95-12	95-18	95-26	96-4
	98-5	98-7	01-3	02-1	03-2
	06-1	07-1	07-2	07-1	07-4
	08-2				
2604(a)(1)(b)	90-2	91-7	92-6	92-9	92-11
	92-30	92-34	92-35	93-4	
	93-10 (Revised)		93-16	93-20	93-27

CHARTER §**OPINION #**

	94-1	94-3	94-8	94-10	94-11
	94-13	94-16	94-18	94-20	94-25
	94-26	94-27	95-3	95-8	95-10
	95-11	95-15	95-16	95-17	95-21
	95-25	95-26	96-2	97-3	98-2
	98-3	98-5	98-7	99-2	99-6
	00-1	01-3	03-6	03-7	05-2
2604(a)(3)	92-5	92-6	92-9	92-11	92-35
	93-7	93-22	93-27	94-1	94-3
	94-8	94-11	94-13	94-20	95-21
	95-26	97-3	98-2	98-3	02-01
	07-4				
2604(a)(4)	92-5	92-6	92-9	92-11	92-35
	93-7	93-22	93-27	94-1	94-3
	94-8	94-11	94-13	94-20	95-21
	95-26	97-3	98-2	98-3	02-1
	07-4				
2604(a)(5)(a)	02-1	07-4			
2604(a)(5)(b)	91-14				
2604(b)(1)(a)	92-22	94-28 (Revised)		05-3	08-3
2604(b)(1)(b)	91-3	93-2	93-3	95-18	96-4
	99-1	03-2	04-1	05-3	08-2
2604(b)(2)	90-2	90-4	90-5	90-7	91-1
	91-3	91-4	91-5	91-6	91-7
	91-10	91-11	91-16	91-18	92-7
	92-8	92-20	92-25	92-28	92-30
	92-34	92-36	93-1	93-5	93-9
	93-12	93-15	93-16	93-17	93-19
	93-21	93-24	93-25	93-26	93-28
	93-31	93-32	94-1	94-8	94-11
	94-13	94-14	94-16	94-24	94-25
	94-26	94-29	95-2	95-3	95-7
	95-9	95-11	95-12	95-16	95-17
	95-19	95-20	95-22	95-24	95-25
	95-26	95-27	95-28	95-29	96-2
	96-5	98-2	98-5	98-6	98-7
	98-8	98-10	98-12	98-13	98-14
	99-2	99-4	99-5	99-6	00-3
	01-2	01-3	02-01	03-1	03-3
	03-4	03-6	03-7	04-2	04-3

CHARTER §**OPINION #**

	05-1	05-2	06-2	06-3	06-5
	07-2	07-4	08-3	08-6	
2604(b)(3)	90-4	90-5	90-6	90-9	91-1
	91-4	91-5	91-6	91-7	91-11
	91-15	91-16	91-18	92-3	92-4
	92-6	92-7	92-10	92-12	92-14
	92-23	92-25	92-28	92-30	92-31
	92-33	92-36	93-1	93-4	93-9
	93-10 (Revised)		93-12	93-14	93-16
	93-19	93-21	93-23	93-24	93-25
	93-26	93-28	93-31	93-32	94-1
	94-2	94-6	94-8	94-9	94-11
	94-12	94-13	94-16	94-17	94-20
	94-24	94-25	94-26	94-27	
	94-28 (Revised)		94-29	95-3	95-5
	95-9	95-11	95-12	95-14	95-16
	95-17	95-19	95-20	95-21	95-22
	95-24	95-25	95-26	95-27	95-28
	95-29	96-2	97-2	97-3	98-1
	98-2	98-3	98-5	98-7	98-8
	98-10	98-12	98-13	99-2	99-4
	99-5	99-6	00-3	00-4	01-1
	01-2	01-3	02-1	03-1	03-2
	03-3	03-4	03-6	03-7	04-2
	04-3	05-2	05-3	06-2	06-3
	06-4	06-5	07-2	07-4	08-2
	08-3	08-6			
2604(b)(4)	91-11	92-30	92-34	92-36	
	93-10 (Revised)		93-16	93-24	93-25
	93-26	93-28	93-31	93-32	94-1
	94-2	94-6	94-8	94-11	94-13
	94-16	94-20	94-25	94-26	94-29
	95-3	95-9	95-12	95-16	95-17
	95-19	95-20	95-21	95-26	95-29
	96-2	97-3	98-1	98-3	98-5
	98-7	98-8	98-10	98-13	99-2
	99-4	99-5	99-6	01-2	01-3
	02-1	03-6	03-7	05-1	05-2
	07-4				
2604(b)(5)	90-3	92-19	92-33	93-10 (Revised)	
	94-4	94-9	94-23	95-28	96-3
	99-4	00-1	00-4	03-4	06-2
	06-3	06-4	06-5	07-3	

CHARTER §**OPINION #**

2604(b)(6)	91-7 92-36 95-6 96-5 01-3 08-1	92-7 93-10 (Revised) 95-8 98-2 03-6 08-5	92-26 (Revised) 93-32 95-9 98-9 05-2	92-28 93-15 98-10 06-1	92-28 94-24 96-4 00-1 07-2
2604(b)(7)	90-7 93-10 (Revised) 01-3	91-7 08-5	92-18 93-23	92-28 95-8	98-10
2604(b)(8)	91-7				
2604(b)(9)	93-24 03-1	95-13 03-6	95-24	01-1	01-2
2604(b)(11)	93-24 03-6	95-13	01-1	01-2	03-1
2604(b)(12)	91-12 01-1	92-25 01-2	93-6 03-1	93-24 03-5	95-13 03-6
2604(b)(13)	92-34 99-6 06-5	93-25 00-4	95-28 05-1	99-4 06-3	99-5 06-4
2604(b)(14)	92-28 04-3	98-12 06-3	01-3 08-3	03-6	04-2
2604(b)(15)	91-12	91-17	93-20	03-1	03-5
2604(c)	93-10 (Revised)				
2604(c)(1)	90-6	91-10			
2604(c)(5)	98-4				
2604(c)(6)	92-22 94-18 98-8 07-2	92-24 94-25 99-1	93-9 94-26 00-1	93-26 95-7 01-3	94-13 95-12 05-2
2604(c)(6)(a)	92-25				
2604(c)(7)	91-18				
2604(d)	89-1	90-8	92-37	93-13	

CHARTER §**OPINION #**

2604(d)(1)	92-37	93-8	93-18	93-31	95-4
2604(d)(1)(ii)	92-16	92-37			
2604(d)(2)	90-8	91-8	91-19	92-17	92-32
	92-36	92-37	92-38	93-8	
	93-10 (Revised)		93-11	93-12	93-18
	93-30	93-31	94-7	94-15	94-22
	95-1	95-4	95-8	96-1	96-6
	97-1	98-11	99-1	99-3	00-2
	07-1	08-1	08-4		
2604(d)(3)	92-13	94-19	94-21	98-11	99-1
2604(d)(4)	90-8	92-2	92-36	92-37	92-38
	93-8	93-10 (Revised)		93-11	93-12
	93-30	93-31	94-5	94-7	94-19
	94-21	94-22	95-1	95-4	95-23
	96-1	96-6	97-1	99-1	00-2
	08-4				
2604(d)(5)	92-38	93-8	93-11	93-30	94-5
	95-4	96-6	00-2	08-4	
2604(d)(6)	93-12	93-13	93-31	94-7	94-21
	95-1	97-1	99-1	99-3	99-6
	00-2	05-2	08-4		
2604(d)(7)	93-11	08-4			
2604(e)	90-2	91-8	92-5	92-6	92-9
	92-17	92-30	92-31	92-34	92-37
	93-4	93-5	93-7	93-18	93-20
	93-22	93-26	93-27	93-30	94-1
	94-6	94-8	94-11	94-15	94-16
	94-19	94-22	95-1	95-3	95-15
	95-16	95-17	95-26	96-1	96-2
	98-5	98-7	98-8	98-9	99-1
	99-2	99-3	99-4	99-5	99-6
	00-1	00-2	01-3	03-6	05-1
	05-2	06-1	07-1	07-2	08-4
2605	94-28 (Revised)				
2606(b)	01-02				

CHARTER §

OPINION #

2606(d)	01-2	02-1	04-2	
2700	03-3			
2800	91-3 08-2	03-2	03-3	04-1
2800(d)(7)	91-12			
2800(c)(9)	92-27			
2800(f)	91-12	92-27	04-3	
2800(g)	04-3			

**CUMULATIVE INDEX TO ADVISORY OPINIONS
BY SUBJECT
1990-2007**

<u>SUBJECT</u>	<u>OPINION #</u>				
Advisory Board	90-9	92-1	98-8		
Agency Charging Fees	94-14				
Agency Heads	90-2 92-15	90-9 98-6	91-13 00-3	92-8	92-12
Agency Served	93-19	95-8			
Appearance Before City Agency	90-8 92-32 93-12 93-32 94-21 95-15	91-8 92-36 93-13 94-5 94-22 96-4	91-19 92-37 93-18 94-7 94-24 98-9	92-13 92-38 93-28 94-15 95-1	92-17 93-11 93-31 94-19 95-6
Appearance of Impropriety	90-3 91-4 91-16 92-10 92-23 93-15 94-28 (Revised) 95-17	90-4 91-5 91-18 92-14 92-25 93-22 98-6	90-5 91-7 92-3 92-15 92-28 94-2 95-7 00-3	90-8 91-10 92-4 92-17 92-33 94-17 95-10	91-1 91-15 92-6 92-21 93-14 95-11
Appearance on Matter Involving Public Servant's City Agency	96-5				
Blind Trust	94-18	94-25	94-26		
Brooklyn Public Library	97-1				

<u>SUBJECT</u>	<u>OPINION #</u>				
Business Dealings with the City	90-1 91-14 92-11 92-26 (Revised) 92-33 93-22 94-16 95-16	90-2 92-5 92-22 92-34 93-27 94-20 95-17	90-3 92-6 92-24 92-28 93-9 94-6 94-29 95-21	91-4 92-7 92-25 92-30 93-16 94-9 95-3 96-2	91-10 92-9 92-31 93-20 94-13 95-15 98-2
Charitable Fundraising – see Fundraising					
Charter Schools	00-01	05-2			
City Planning Commissioners	07-2				
City Position, Use of	90-6 91-15 92-12 93-23 94-28 (Revised) 97-2	90-9 91-16 92-33 93-25 98-1	91-1 91-18 92-35 94-2 95-2 08-3	91-5 92-3 93-9 94-12 95-5	91-10 92-10 93-14 94-17 95-14
Commercial Discounts	06-4				
Community Boards	91-3 93-2 96-4 04-3	91-9 93-3 98-9 05-3	91-12 93-21 03-2 08-2	92-27 95-18 03-3	92-31 95-27 04-1
Community Education Councils	06-1	07-1			
Community School Boards	90-7	98-10	01-02		
Consulting	91-9 93-24	91-16 95-15	92-2 98-7	93-12	93-19
Contracts	91-2	91-15	92-2		
Cooperative Corporations	92-7 95-25	94-25	94-27	95-11	95-22
Dual City Employment	95-26				

<u>SUBJECT</u>	<u>OPINION #</u>				
Elected Officials	90-3	90-4	90-5	90-6	91-10
	92-10	92-22	92-23	93-6	93-15
	93-21	95-20	98-14	99-1	
Endorsements	98-6	00-03			
Ex Officio	99-1				
Expert Witness	91-9	96-6			
Family Relationships	90-1	90-4	90-5	90-6	91-2
	91-15	92-4	92-14	93-21	93-28
	94-3	94-13	94-20	98-1	
FOIL	91-19				
Franchises	90-4	90-5			
Frequent Flyer Miles	06-5				
Fundraising	91-10	92-15	92-25	92-29	93-6
	93-15	93-26	94-29	95-7	95-27
	98-14	01-01	01-02	03-4	08-6
Gifts	91-20	92-21	92-27	92-29	92-33
	94-4	94-9	94-12	94-23	94-29
	95-28	96-3	00-04	06-2	06-3
	06-4	06-5	07-3		
Gifts-Travel	90-3	92-10	92-19	92-23	
Honoraria	91-4	91-6	94-29		
Labor Union Conventions	06-3				
Lectures	91-6				
Letterhead	90-9				
Lobbyists	07-3				
Local Development Corporation	93-1	93-3	93-13	94-7	
Mayor	90-4				

<u>SUBJECT</u>	<u>OPINION #</u>				
Ministerial Matters	92-32	92-36	94-5	95-6	
Moonlighting	90-2	91-7	91-9	91-13	91-16
	92-6	92-28	92-30	92-34	92-36
	93-4	93-5	93-24	93-25	94-1
	94-8	94-16	95-6	95-9	95-16
	95-17	95-19	95-20	95-22	96-2
	98-4	98-5	98-7	99-2	99-4
	99-5	99-6	00-1	01-3	06-1
Not-For-Profit Organizations	91-10	91-16	92-8	92-14	92-15
	92-22	92-24	92-25	92-28	92-31
	92-34	92-37	93-1	93-4	93-9
	93-14	93-15	93-26	94-6	94-13
	94-15	94-18	94-19	94-25	94-26
	95-2	95-5	95-7	95-12	98-8
	98-14	99-1			
Orders - see Waivers/Orders					
Outside Practice of Law	91-7	93-23	95-17	01-3	08-5
Ownership Interests	90-1	91-2	91-3	92-5	92-6
	92-7	92-9	92-11	92-26 (Revised)	
	92-30	92-35	93-7	93-16	93-22
	93-27	93-32	94-1	94-3	94-8
	94-10	94-11	94-13	94-20	94-25
	94-26	95-10	95-12	95-18	95-21
	97-3	98-2	98-3	02-01	03-7
	07-4				
Particular Matter	92-37	93-8	95-23		
Personnel Order 88/5	91-12	92-25			
Police Officers	97-2	98-4			
Political Activities	91-12	91-17	92-25	93-6	93-20
	93-24	95-13	95-24	03-5	03-6
Political Fundraising	01-1	01-2	03-1		
Post-Employment Restrictions	89-1	90-8	91-8	91-19	92-2

<u>SUBJECT</u>	<u>OPINION #</u>				
	92-13	92-16	92-17	92-32	92-37
	92-38	93-8	93-11	93-12	93-13
	93-18	93-30	93-31	94-5	94-7
	94-15	94-19	94-21	94-22	95-1
	95-4	95-23	96-1	96-6	97-1
	98-11	99-1	99-3	00-2	07-1
	08-1	08-4			
Practice of Law – see Outside Practice of Law					
Prohibited Interests	90-1	90-2	91-2	91-3	91-15
	92-5	92-6	92-7	92-9	92-11
	92-26 (Revised)		92-30	92-35	93-1
	93-3	93-4	93-7	93-9	93-16
	93-22	93-27	93-29	93-32	94-1
	94-3	94-5	94-8	94-10	94-11
	94-13	94-16	94-20	94-25	94-26
	95-10	95-12	95-18	95-21	96-2
	98-3	03-2			
Public Benefit Corporation	93-17				
Public Servants	91-14	93-10 (Revised)		93-29	93-32
	94-6				
Real Property	93-16				
Recusal	90-4	90-5	91-3	91-11	91-15
	92-5	92-6	92-8	92-9	92-18
	92-20	92-25	92-26 (Revised)		92-28
	92-30	93-1	93-4	93-7	93-17
	93-19	93-31	94-6	94-11	94-17
	94-18	94-24	96-2	98-1	
Regular Employees	93-10 (Revised)		95-8		
Renting Property to Public Assistance Recipients	95-29	98-13			
Salary Supplements	05-1				
Sale of Products	98-12				
Savings Clubs	04-2				
School Boards	93-2				

SUBJECT**OPINION #**

Separation from City Service	98-11				
Sole Proprietorship	98-7				
Subcontractors	99-2				
Superior-Subordinate Relationship	98-12	04-2	04-3		
Tax Assessors	93-16				
Teaching	90-2 96-2	91-5 99-4	93-20 99-5	94-16 99-6	95-3
Temporary Employment	98-5				
Term Limits	08-3				
Tickets	00-4	06-2			
Uncompensated Appearances	98-10				
Use of City Position – see City Position, Use of					
Volunteer Activities	98-10				
Voting & Chairing Meetings	08-2				
Waivers/Orders	90-2 92-17 93-27 94-8 94-20 95-17 99-2 06-1	91-8 92-37 93-30 94-11 94-22 96-1 99-4 07-1	92-6 93-18 94-1 94-15 95-1 96-2 99-5 08-4	92-9 93-20 94-3 94-16 95-3 98-8 99-6	92-13 93-22 94-6 94-19 95-16 98-9 00-2

CHAPTER 68 ENFORCEMENT CASE SUMMARIES 2008

MISUSE OF CITY POSITION

- **Relevant Charter Sections:** City Charter §§ 2604(b)(2), 2604(b)(3)
- (1) The Board and the New York City Housing Authority (“NYCHA”) concluded a three-way settlement with a NYCHA Caretaker who purchased a fraudulent, counterfeit, or otherwise unauthorized NYCHA parking permit from a NYCHA Painter and then submitted a photocopy of the parking permit to the New York City Department of Finance in an attempt to avoid paying a parking ticket. The Caretaker admitted that she used her City position to obtain the unauthorized parking permit and that she attempted to use the parking permit to avoid paying a parking ticket. The Caretaker acknowledged that she violated the City’s conflicts of interest law, which prohibits a public servant from having any private interest, direct or indirect, that conflicts with the proper discharge of her official duties (as required by her official responsibilities as a NYCHA Caretaker) and from using her City position to obtain any financial gain or any other private or personal advantage, direct or indirect, for herself. The Caretaker agreed to receive a twenty work-day fine, which has an approximate value of \$2,882, to be imposed by NYCHA, and to serve a one-year General Probationary Evaluation Period. *COIB v. Hubert*, COIB Case No. 2008-267a (2008).
 - (2) The Board issued a public warning letter to the Commissioner of the New York City Department of Information Technology and Telecommunications (“DoITT”) for using his position to obtain a financial gain for a firm associated with him, a not-for-profit organization that he served as an unpaid member of the Board of Directors (the “Organization”). The Commissioner provided the Organization with a list of people to be invited to the Organization’s fundraising event, which list included persons or parties with present or potential future business before DoITT. Even though the Commissioner did not personally obtain a financial benefit and did not directly solicit any person or business to make a donation, by providing names of business contacts with the expectation that the Organization would solicit them, the Commissioner used his City position to facilitate the solicitation of donations to the Organization. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind elected officials and high-level public servants that, to avoid even the appearances of impropriety, they should request an opinion from the Board as to whether their proposed outside fundraising activities are consistent with the conflicts of interest provisions of Chapter 68. *COIB v. Cosgrave*, COIB Case No. 2007-290 (2008).
 - (3) The Board adopted the Report and Recommendation of Administrative Law Judge (“ALJ”) Kevin F. Casey at the Office of Administrative Trials and Hearings (“OATH”), issued after a full trial of this matter on the merits, that, while employed by the New York City Department of Education (“DOE”), a then-Assistant Principal misused her position by using funds from the general school fund account for her own personal financial gain. The Board found that,

while employed by DOE, during the 2003-2004 school year, the former Assistant Principal was placed in charge of her school's general school fund account, on deposit at Fleet Bank. In the spring of 2004, the Assistant Principal was given approximately \$8,565 in cash, consisting largely of funds contributed by the parents of her school's fifth-grade students to cover fifth-grade graduation and trip expenses. The Assistant Principal failed to deposit approximately \$2,460 of this money, and then, over the course of the year, used approximately \$4,224 for non-City purposes, including cash withdrawals and debit card purchases for personal clothing at Loehmann's and Century 21 Department Store, among other places. The Assistant Principal claimed that she had made deposits to reimburse the general school fund account for her personal withdrawals and debit card purchases, but the OATH ALJ and the Board rejected her claims as unsupported by reliable evidence and thus not credible. The OATH ALJ found, and the Board adopted as its own findings, that the Assistant Principal's conduct violated the City's conflicts of interest law, which prohibits a public servant from using his or her City position for private financial gain and from using a City resources, such as school funds, for any non-City purpose. The Board fined the former Assistant Principal \$7,500. *COIB v. Bryan*, COIB Case No. 2005-748 (2008).

- (4) The Board fined the former Director of the Forensic Biology Department of the Office of the Chief Medical Examiner ("OCME") \$2,500 for using City resources and his City position to perform work related to a private consulting venture. The former Director acknowledged that when he was still employed by OCME, he used OCME facilities – a City resource – to engage in a number of substantive conversations, with an OCME colleague and others, about the creation of a private consulting firm. He also has several substantive conversations about this private consulting firm with representatives of an OCME vendor, specifically about the prospect of the OCME vendor doing business with his private consulting firm. The former Director acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant 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, and prohibits a public servant from using City letterhead, personnel, equipment or supplies for any non-City purpose. *COIB v. Shaler*, COIB Case No. 2008-478a (2008).
- (5) The Board and the New York City Department of Education ("DOE") fined, in a three-way settlement, a Principal \$1,000 for using her DOE position to enable her brother to obtain multiple substitute teaching assignments at her school. The Principal admitted that she had provided her brother's name and contact information to the school secretary, whose responsibility it was to hire substitute teachers, for inclusion on the school's internal substitute teacher eligibility list, thus affording him the opportunity to receive substitute teaching assignments at her school. The Principal's brother was, in fact, hired 20 times from September 2006 to October 2007 to teach at her school. The Principal admitted that this conduct violated the City of New York's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant 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,

which would include the public servant's brother. *COIB v. Alfred*, COIB Case No. 2007-686 (2008).

- (6) The Board fined a former New York City Department of Education ("DOE") Paraprofessional \$800 for entering the classrooms of two DOE teachers and attempting to sell them clothing during her City work hours. The former DOE Paraprofessional admitted that her conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her 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 and prohibits a public servant from using City time for any non-City purpose. *COIB v Valvo*, COIB Case No. 2007-479 (2008).
- (7) The Board and the New York City Department of Education ("DOE"), in a three-way settlement, fined a Principal \$3,000 for using her DOE position to help her daughter register her sons – the Principal's grandchildren – in the schools at which the Principal worked, even though her grandchildren lived outside the zoning area for those schools and the Principal's daughter did not have the required variance waiver for the children to attend an out-of-district school. The Principal acknowledged that she had allowed her grandsons to attend, without the required variance waivers, two different schools at which she had served as Assistant Principal and then as Principal. The Principal admitted that this conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant 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, which would include the public servant's daughter. *COIB v. Rosado*, COIB Case No. 2008-376 (2008).
- (8) The Board fined a former Principal for the New York City Department of Education ("DOE") \$3,000 for misusing her City position to financially benefit her sister and niece, which actions conflicted with the proper discharge of her official duties as a DOE Principal. The former Principal admitted that, while she was a Principal, she hired her niece to work as a Family Worker at her school and that she misused DOE funds to compensate her sister (\$2,025) and niece (\$1,460) for working at an after-school program at the Principal's school. The former Principal admitted that, at that time, her sister and niece resided together, and, thus, a financial benefit to her niece indirectly benefitted her sister. The former Principal acknowledged that she violated the City of New York's conflicts of interest law, which prohibits a public servant from having any private interest, direct or indirect, that conflicts with the proper discharge of her official duties (as required by her official responsibilities as a DOE Principal) and from using her City position to obtain a financial gain, direct or indirect, for a person associated with the public servant, which includes a sibling. *COIB v. Ballard*, COIB Case No. 2007-431 (2008).
- (9) The Board adopted the Report and Recommendation of Administrative Law Judge ("ALJ") Tynia D. Richard at the Office of Administrative Trials and Hearings ("OATH"), issued after a full trial of this matter on the merits, that, while employed by the New York City Administration for Children's Services ("ACS"), a then-Child Protective Specialist received

the benefit of substantial, free work to his two homes from his ACS client. The Board found that, while employed by ACS, the then-Child Protective Specialist was assigned to a family. During that assignment, the Child Protective Specialist learned of his client's profession as a private contractor and solicited his client to perform work on the Child Protective Specialist's two homes, which work included, but was not limited to: renovating a bathroom; rebuilding and repairing floors; sheet rocking, painting, and carpeting various rooms; and electrical work. The Board also found that, other than one payment of \$70, the Child Protective Specialist did not compensate his client for the work and did not provide social services to his client's children, as promised. The Board found that this conduct violated the City's conflicts of interest law, which prohibits a public servant from using his or her City position for private financial gain and from accepting a gratuity from any person whose interest may be affected by the public servant's official action. The Board fined the former Child Protective Specialist \$7,000. *COIB v. Okanome*, COIB Case No. 2005-132 (2008).

- (10) The Board fined a New York City Employees' Retirement System Director of Human Resources \$750 for using her subordinate's credit card to buy four pieces of furniture for her home, for which purchases she paid her subordinate one month later. The Director of Human Resources admitted that this conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her 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, and prohibits a public servant from entering into any business or financial relationship with another public servant who is a superior or subordinate of such public servant. *COIB v. Ramsami*, COIB Case No. 2007-627 (2008).
- (11) The Board and the New York City Department of Education ("DOE") concluded a three-way settlement in which a DOE Principal was fined \$1,000 by DOE for using her position to invite subordinates to become members of the church where she and her husband are co-pastors. (In setting the amount of the fine, the Board and DOE also took into consideration additional allegations of misconduct relating to DOE Code of Conduct violations implicating the Principal.) The Principal acknowledged that her conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her 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. *COIB v. Elliott*, COIB Case No. 2008-331 (2008).
- (12) The Board and the New York City Department of Sanitation ("DSNY") concluded a three-way settlement in which a DSNY Medical Records Librarian was fined \$250 by the Board and suspended for 3 days by DSNY, valued at \$561, for using her position to obtain loans from two DSNY subordinates. The Medical Records Librarian acknowledged that her conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her 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 and prohibits a public servant from entering into any business or financial relationship with another public servant who is a

superior or subordinate of such public servant. *COIB v. Geddes*, COIB Case No. 2008-122 (2008).

- (13) The Board and the New York City Department of Sanitation (“DSNY”) concluded a three-way settlement in which a DSNY Sanitation Worker was suspended by DSNY for 44 days, valued at \$11,020, for attempting to bribe a New York City Department of Environmental Protection (“DEP”) Security Guard while driving a DSNY vehicle and wearing his DSNY uniform. The Sanitation Worker acknowledged that on or around March 2007, while driving a DSNY vehicle and wearing his DSNY uniform, he approached a DEP Security Guard at a DEP storage facility in Brooklyn and offered to pay him \$200 in cash to let him enter the storage facility after hours and take 100 used DEP water meters, worth an estimated \$1,000. The Sanitation Worker acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her 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 and prohibits a public servant from using City resources, such as an agency vehicle or uniform, for any non-City purpose. *COIB v. Salgado*, COIB Case No. 2008-296 (2008).
- (14) The Board and the New York City Department of Health and Mental Hygiene (“DOHMH”) concluded a three-way settlement in which a DOHMH Associate Staff Analyst was suspended for six days without pay, valued at \$1,563, for using her City computer and City e-mail during her City work hours to send several e-mail messages to DOHMH employees and vendors promoting her online clothing store. The Associate Staff Analyst acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her 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 and prohibits a public servant from using City time and resources to pursue private activities. *COIB v. Ng-A-Qui*, COIB Case No. 2008-352 (2008).
- (15) The Board fined a former New York City Human Resources Administration (“HRA”) Principal Administrative Assistant \$1,500 for accessing HRA’s computer database to view his child support case and for misappropriating funds from his child support case. The Principal Administrative Assistant acknowledged that from in or around June 2004 through January 2007, he used his HRA username and password on twenty occasions to view his child support case on the HRA Child Support database without authorization. The Principal Administrative Assistant further acknowledged that on June 16, 2004, and December 20, 2006, he accessed his HRA child support case and falsely indicated that he was owed a refund from the HRA Office of Child Support for overpayment of child support, which caused HRA to issue him a refund check for the amount of his child support payments, funds that he subsequently repaid only in part. The Principal Administrative Assistant admitted that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her 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, and prohibits a public

servant from using City resources, such as City money, for any non-City purpose. *COIB v. Soto*, COIB Case No. 2007-261 (2008).

- (16) The Board and the New York City Department of Homeless Services (“DHS”) concluded a three-way settlement with a Special Officer in the Security Division of DHS’s 30th Street Men’s Shelter for borrowing \$600 from a homeless DHS client, which he did not repay in full until at least four months later. The Special Officer admitted that his conduct violated the City of New York’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant 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. The Special Officer agreed to a ten-day suspension, which has an approximate value of \$1,499.50, and to forfeit ten vacation days, which has an approximate value of \$770, both to be imposed by DHS. *COIB v. Proctor*, COIB Case No. 2008-256 (2008).
- (17) The Board fined a Librarian for the New York City Department of Education (“DOE”) \$500 for using his position to promote a recently-published book illustrated by his daughter. The Librarian acknowledged that in the April/May 2008 edition of his school’s Library Newsletter, which newsletter it was among his job duties to prepare, he included a section on “Best New Book” featuring the name of his daughter and her recently-published book. The Librarian also acknowledged that, around the same time, he set up a table in the school’s library with copies of his daughter’s book and a sign stating “The Best Book Ever Written” with the name of his daughter and her book. The Librarian admitted that his conduct violated the City of New York’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant 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, which would include the public servant’s child. *COIB v. Grandt*, COIB Case No. 2008-609 (2008).
- (18) The Board and the New York City Department of Health and Mental Hygiene (“DOHMH”) concluded a three-way settlement with a DOHMH Pest Control Inspector who received a complaint from her uncle about quality-of-life violations near her uncle’s church and then inspected the location, issued violations, and conducted follow-up inspections, all without the knowledge or permission of her DOHMH supervisors and in contravention of DOHMH policy, which, among other things, prohibits inspectors from conducting an inspection based on a complaint from a friend or relative. The Pest Control Inspector acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits public servants from having any interest or engaging in conduct which is in conflict with the proper discharge of their official duties. The Pest Control Inspector received an eight-day suspension without pay, which has an approximate value of \$1,496, to be imposed by DOHMH. *COIB v. Nash-Daniel*, COIB Case No. 2008-472 (2008).
- (19) The Board fined a former Assistant Principal for the Department of Education (“DOE”) \$2,500 for using her DOE position to obtain paid positions for her daughter and her husband. The former Assistant Principal admitted that, on numerous occasions while she was employed by DOE, she called her daughter about available substitute paraprofessional

positions at the Assistant Principal's school; supervised her daughter's work as a substitute; and authorized payments, totaling approximately \$4,792, from DOE to her daughter. The former Assistant Principal further admitted that she had recommended that a college that contracted with DOE pay her husband to do landscaping work for the school and that, as a result of her recommendation, the college paid her husband \$300 to do landscaping work. The former Assistant Principal acknowledged that her conduct violated the City's conflicts of interest law, which prohibits a public servant from using her City position to obtain a financial gain for an "associated" person, such as a spouse or child. *COIB v. Gray*, COIB Case No. 2007-777 (2008).

- (20) The Board fined the former Director of Cross Systems Child Planning at the New York City Administration for Children's Services ("ACS") \$1,500 for using her ACS position to access information in ACS's confidential CONNECTIONS database. The former Director acknowledged that she obtained confidential information in CONNECTIONS about her own foster child, including case management records and the child's permanency report, which information was not available to other foster parents in that form, and then used the information that she obtained for her own personal benefit as a foster parent. The former Director had been previously advised in writing by the Board, when she obtained permission from the Board to become a foster parent, that the City Charter prohibits public servants from using their official positions to gain any private advantage. The former Director acknowledged that this conduct violated the City of New York's conflicts of interest law, which prohibits a City employee from using her position to benefit herself and from using confidential information obtained as a result of her official duties to advance any direct or indirect financial or other private interest of herself or any person associated with her. *COIB v. Siegel*, COIB Case No. 2007-672 (2008).
- (21) The Board issued a public warning letter to a New York City Department of Education ("DOE") Paraprofessional who invited students from his DOE school to join a not-for-profit organization that the Paraprofessional founded and served as president. Four DOE students joined the organization and paid membership fees totaling \$140. Since the Paraprofessional personally paid for the organization's expenses that were not covered by other funding sources, such as membership fees, the Paraprofessional benefitted financially from collecting the membership fees from students. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that the City's conflicts of interest law prohibits public servants from using their City positions to obtain a financial gain for themselves or for an organization in which the public servant has a financial interest. *COIB v. Winston*, COIB Case No. 2006-384 (2008).
- (22) The Board fined the Director of System and Administrative Services at the Central Warehouse for the New York City Department of Citywide Administrative Services ("DCAS") \$1,750 for misusing his City position to obtain personal benefits for himself. The Director acknowledged that he obtained free, after-hours assistance with the installation of window blinds at his home from one of his subordinates at the DCAS Central Warehouse and that he solicited and obtained at least one \$100 loan from another employee at the DCAS Central Warehouse who was subordinate in rank to the Director, but not in his direct chain of command. The Director acknowledged that his conduct violated the City of New York's

conflict of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant 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. *COIB v. Berger*, COIB Case No. 2008-207 (2008).

- (23) The Board fined a former Assistant Plans Examiner for the New York City Department of Buildings (“DOB”) \$1,250 for using his DOB position to obtain personalized, and possibly expedited, consideration of his complaint against a home improvement contractor from the New York City Department of Consumer Affairs (“DCA”). The former Assistant Plans Examiner acknowledged that he sent a “Request for Information” through the DCA website, using his DOB e-mail address and identifying himself as a DOB Project Advocate, requesting information about home improvement contractors. He then spoke with, e-mailed, and met with a DCA Community Associate concerning his request, which request turned out to be about a personal complaint he wanted to file against his own home improvement contractor. He also asked the DCA Community Associate if there was any way to expedite his complaint. The former Assistant Plans Examiner Associate admitted that his conduct violated the City of New York’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the public servant. *COIB v. Hwang*, COIB Case No. 2008-132 (2008).
- (24) The Board fined a former Principal for the New York City Department of Education (“DOE”) \$2,500 for supervising her live-in boyfriend as the Technology Coordinator at her school for five months, and for using, one weekend day, three of her DOE subordinates to assist her in moving her personal belongings to her new residence. The former Principal acknowledged that this conduct violated that City’s conflicts of interest law, which prohibits a public servant from entering into a financial relationship – such as cohabitation – with one’s superior or subordinate, and from using or attempting to use his or her position as a public servant 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. *COIB v. Montemarano*, COIB Case No. 2007-015 (2008).
- (25) The Board and the New York City Department of Education (“DOE”) have concluded a three-way settlement with a Principal, fining him \$2,250 for using his DOE position to solicit and receive donations from his subordinates on behalf of a not-for-profit organization for which he served as president. The Principal acknowledged that he solicited and received contributions for the not-for-profit from his subordinates – including, but not limited to, a school secretary, a guidance counselor, teachers, and an assistant principal – by approaching his subordinates to personally ask each of them to attend a fundraising dinner and by sending invitations to fundraising events to his subordinates at their homes or in their mailboxes at the school. The Principal admitted that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant 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, which would include a not-for-profit organization for which the public servant serves as president, and prohibits a superior from soliciting charitable

contributions from his or her subordinate. *COIB v. Philemy*, COIB Case No. 2007-237 (2008).

- (26) The Board fined a former New York City Health and Hospitals Corporation (“HHC”) Tumor Registrar \$7,100 for using her City position to benefit a private company (the “Company”) in which she maintained a managerial interest after she had sold her ownership interest in the Company and for indirectly appearing before HHC on behalf of the Company. The former Tumor Registrar admitted that she requested and received proposals from the Company to do work on behalf of the Tumor Registry, signed the contract between HHC and the Company, and signed Certificates of Necessity certifying that HHC funds were necessary to pay the Company for its services to HHC. The former Tumor Registrar acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant 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, which includes firms in which the public servant has a managerial interest, and prohibits a public servant from appearing, even indirectly, on behalf of such private interest before any City agency. *COIB v. Anderson*, COIB Case No. 2002-325 (2008).
- (27) The Board and the New York City Department of Education (“DOE”) concluded a three-way settlement in which a DOE Parent Coordinator was fined \$300 for borrowing money from the legal guardian of a student at her school. The DOE Parent Coordinator admitted that she borrowed \$100 from the guardian, whom she did not repay for several months. The Parent Coordinator acknowledged that this conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant 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. *COIB v. Johnson*, COIB Case No. 2006-617 (2008).
- (28) The Board and the New York City Department of Education (“DOE”) concluded a three-way settlement in which a DOE Principal was fined \$1,500 by the Board and \$1,500 by DOE for using three teachers at her school to tutor her daughter, without compensation. The Principal acknowledged that this conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her 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. *COIB v. Zigelman*, COIB Case No. 2008-037 (2008).
- (29) The Board and the New York City Housing Authority (“NYCHA”) concluded a three-way settlement with a Principal Administrative Associate who used her NYCHA position to solicit and obtain free computer assistance from a NYCHA job applicant. The Principal Administrative Associate acknowledged that, in addition to her other NYCHA duties and responsibilities, she has also been a member of a NYCHA panel that screens bilingual applicants for NYCHA positions. In that context, she sat on a panel in the summer of 2006 for a NYCHA job applicant who, she learned, had computer skills. The Principal Administrative Associate obtained the applicant’s home telephone number, and called him in

September 2006, when her personal home computer was not working properly, to request his assistance in fixing her personal computer. The applicant came to the Principal Administrative Associate's apartment to attempt to repair her computer, for which he did not receive any compensation. The Principal Administrative Associate admitted that her conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant. The Board and NYCHA fined the Principal Administrative Associate a total of \$2,392, consisting of a \$1,500, to be paid to the Board, and a five-day suspension, valued at approximately \$892, to be imposed by NYCHA. *COIB v. Deschamps*, COIB Case No. 2007-744 (2008).

- (30) The Board issued a public warning letter to a New York City Department of Education ("DOE") employee for soliciting a DOE vendor to provide free services to the adult literacy program of the DOE employee's church. The Board issued the public warning letter after receiving evidence that, after consulting with the DOE Ethics Officer, the public servant withdrew his request from the vendor and did not pursue the matter any further. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that the City's conflicts of interest law prohibits public servants from using or attempting to use their City positions to obtain any private benefit, such as free services from a City vendor, for themselves or for individuals or entities with which they are associated. *COIB v. Bellini*, COIB Case No. 2007-689 (2008).
- (31) The Board and the New York City Department of Education ("DOE") concluded a three-way settlement with a DOE Principal who used his position to obtain separate, unrelated financial benefits for his sister and for his private tenant. The DOE Principal admitted that he used his position to help his sister obtain a job with a DOE vendor that provided Supplemental Education Services to his school. The DOE Principal also admitted that he did not obtain any competitive bids before awarding a contract to perform electrical work at his school to his private tenant, with whom he acknowledged he had an ongoing financial relationship. The DOE Principal acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant 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. The DOE Principal paid a \$3,000 fine to the Board and paid \$1,500 in restitution to DOE, for a total financial penalty of \$4,500. *COIB v. Aldorasi*, COIB Case No. 2007-157 (2008).
- (32) The Board and the New York City Department of Education ("DOE") concluded a three-way settlement in which the then-Deputy Director of Budget for DOE Region 2 was fined \$1,250, to be paid to the Board, for using his DOE position to help his brother obtain a principal's position at DOE. The Deputy Director acknowledged that he gave his brother's name to the Deputy Director of Regional Operations for DOE Region 2 to relay to the Local Instructional Superintendent for DOE Region 2, in order that his brother would be interviewed for a principal vacancy. The Local Instructional Superintendent contacted the Deputy Director's brother concerning a principal position, for which position his brother was

interviewed, among other candidates, and eventually hired. The Deputy Director admitted that this conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant 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, which would include the public servant's brother or sister. *COIB v. Namnum*, COIB Case No. 2007-723 (2008).

(33) The Board fined the former Chair of the New York City Civil Service Commission ("CCSC") \$15,000 for misusing City resources and personnel to perform tasks related to his private law practice. The former CCSC Chair acknowledged that he asked the CCSC Office Manager and a CCSC Administrative Associate to perform non-City tasks for him while on City time, using a CCSC computer, telephone, photocopy machine, and facsimile machine, related to his private law practice, including: typing, copying and mailing letters to private clients; retrieving and sending facsimiles; greeting visitors; preparing invoices for clients; preparing an inventory list of documents related to a litigation and then meeting one of the parties to that litigation to review the inventory and the items; preparing an Affirmation of Services concerning the Chair's legal work; and delivering packages. The former CCSC Chair further acknowledged that he also personally used his CCSC telephone for non-City related matters, totaling over 2,000 calls from January 2004 to September 2006. The former CCSC Chair acknowledged that this conduct violated the City of New York's conflict of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant 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, and prohibits a public servant from using City personnel or City resources for any non-City purpose. *COIB v. Schlein*, COIB Case No. 2006-350 (2008).

(34) The Board issued a public warning letter to a teacher at the New York City Department of Education ("DOE") for accepting compensation from the parents of two students from her school whom she tutored for several months. The Board issued the public warning letter after receiving evidence that the DOE teacher refunded the parents of the students all of the monies the parents paid her for the tutoring. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that Chapter 68 prohibits a public servant from having a financial relationship with the parents of students who attend their schools because it creates at least the appearance that the public servant has used his or her position for personal financial gain. *COIB v. Wilen*, COIB Case No. 2006-683 (2008).

MISUSE OF CITY RESOURCES

- **Relevant Charter Sections:** City Charter § 2604(b)(2)
- **Relevant Board Rules:** Board Rules §§ 1-13(a), 1-13(b)

(35) The Board adopted the Report and Recommendation of Administrative Law Judge ("ALJ") Kevin F. Casey at the Office of Administrative Trials and Hearings ("OATH"),

issued after a full trial of this matter on the merits, that, while employed by the New York City Department of Education (“DOE”), a then-Assistant Principal misused her position by using funds from the general school fund account for her own personal financial gain. The Board found that, while employed by DOE, during the 2003-2004 school year, the former Assistant Principal was placed in charge of her school’s general school fund account, on deposit at Fleet Bank. In the spring of 2004, the Assistant Principal was given approximately \$8,565 in cash, consisting largely of funds contributed by the parents of her school’s fifth-grade students to cover fifth-grade graduation and trip expenses. The Assistant Principal failed to deposit approximately \$2,460 of this money, and then, over the course of the year, used approximately \$4,224 for non-City purposes, including cash withdrawals and debit card purchases for personal clothing at Loehmann’s and Century 21 Department Store, among other places. The Assistant Principal claimed that she had made deposits to reimburse the general school fund account for her personal withdrawals and debit card purchases, but the OATH ALJ and the Board rejected her claims as unsupported by reliable evidence and thus not credible. The OATH ALJ found, and the Board adopted as its own findings, that the Assistant Principal’s conduct violated the City’s conflicts of interest law, which prohibits a public servant from using his or her City position for private financial gain and from using a City resources, such as school funds, for any non-City purpose. The Board fined the former Assistant Principal \$7,500. *COIB v. Bryan*, COIB Case No. 2005-748 (2008).

(36) The Board and the New York City Administration for Children’s Services (“ACS”) concluded a three-way settlement in which a Principal Administrative Associate was suspended for 30 days without pay, valued at \$3,495, and required to provide full restitution to ACS of \$290.80, for using ACS transportation vouchers to pay for a car service to transport her from work to her private residence without authorization from ACS, resulting in a \$290.80 bill to ACS. The Principal Administrative Associate acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from using City resources for any non-City purpose. *COIB v. Wiltshire*, COIB Case No. 2008-604 (2008).

(37) The Board fined the former Director of the Forensic Biology Department of the Office of the Chief Medical Examiner (“OCME”) \$2,500 for using City resources and his City position to perform work related to a private consulting venture. The former Director acknowledged that when he was still employed by OCME, he used OCME facilities – a City resource – to engage in a number of substantive conversations, with an OCME colleague and others, about the creation of a private consulting firm. He also has several substantive conversations about this private consulting firm with representatives of an OCME vendor, specifically about the prospect of the OCME vendor doing business with his private consulting firm. The former Director acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant 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, and prohibits a public servant from using City letterhead, personnel, equipment or supplies for any non-City purpose. *COIB v. Shaler*, COIB Case No. 2008-478a (2008).

(38) The Board fined the Deputy Assistant Director for Technical Services at the New York City Housing Authority (“NYCHA”) \$2,000 for performing work for his employer while on City time and using his City computer, despite having received written advice from the Board on two

occasions advising him that he could not use City time or City resources for any outside employment. (The amount of the fine imposed by the Board reflected the fact that, although the use of City time and resources was limited, the Deputy Assistant Director had been twice notified by the Board in writing that this conduct is prohibited by the conflicts of interest law.) The NYCHA Deputy Assistant Director acknowledged that, while he worked for NYCHA, he also had a part-time position for Gotham Elevator Inspection, and had performed work for Gotham on City time and using his City computer. The Deputy Assistant Director acknowledged that this conduct violated the City of New York's conflicts of interest law, which prohibits any public servant from pursuing private activities during times when that public servant is required to perform services for the City and from using City letterhead, personnel, equipment, resources, or supplies for any non-City purpose. *COIB v. Miraglia*, COIB Case No. 2007-813 (2008).

- (39) The Board and the New York City Department of Correction ("DOC"), in a three-way settlement, fined an attorney in the DOC Office of Trials and Litigation \$1,800 for, while on City time, using his City computer to store and edit documents related to his private law practice. The DOC attorney acknowledged that this conduct violated the City of New York's conflicts of interest law, which prohibits any public servant from using City resources or City time to pursue non-City activities. *COIB v. Bryk*, COIB Case No. 2008-760 (2008)
- (40) The Board and the New York City Department of Health and Mental Hygiene ("DOHMH") concluded a three-way settlement in which a DOHMH Associate Staff Analyst was suspended for six days without pay, valued at \$1,563, for using her City computer and City e-mail during her City work hours to send several e-mail messages to DOHMH employees and vendors promoting her online clothing store. The Associate Staff Analyst acknowledged that her conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her 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 and prohibits a public servant from using City time and resources to pursue private activities. *COIB v. Ng-A-Qui*, COIB Case No. 2008-352 (2008).
- (41) The Board fined a former New York City Human Resources Administration ("HRA") Principal Administrative Assistant \$1,500 for accessing HRA's computer database to view his child support case and for misappropriating funds from his child support case. The Principal Administrative Assistant acknowledged that from in or around June 2004 through January 2007, he used his HRA username and password on twenty occasions to view his child support case on the HRA Child Support database without authorization. The Principal Administrative Assistant further acknowledged that on June 16, 2004, and December 20, 2006, he accessed his HRA child support case and falsely indicated that he was owed a refund from the HRA Office of Child Support for overpayment of child support, which caused HRA to issue him a refund check for the amount of his child support payments, funds that he subsequently repaid only in part. The Principal Administrative Assistant admitted that his conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her 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, and prohibits a public servant from using City resources, such as City money, for any non-City purpose. *COIB v. Soto*, COIB Case No. 2007-261 (2008).

- (42) The Board fined a former New York City Department of Education (“DOE”) teacher \$1,500 for working for his outside employer during his City work hours. The DOE teacher acknowledged that, on twenty-one occasions from in or around February 2006 through May 2007, he left prior to the end of his scheduled teaching hours in order to work for his outside employer as a baseball coach. The teacher further acknowledged that in or around May 2007, on two occasions, he called in sick to DOE and on the same day reported to work for his outside employer. The teacher acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from using City time to pursue non-City activities. *COIB v. DeFabbia*, COIB Case No. 2007-670 (2008).
- (43) The Board and the New York City Department of Health and Mental Hygiene (“DOHMH”) concluded a three-way settlement with a DOHMH Clerical Associate III who, while on City time, used City resources to do work on her private writing, which writing she intended to be commercially published. The DOHMH Clerical Associate admitted that, on numerous occasions when she was supposed to be doing work for DOHMH, she used a City computer and her DOHMH e-mail account to engage in activities related to the writing, editing, and possible publication of multiple works of fiction. She acknowledged that her conduct violated the City of New York’s conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue private activities. The Clerical Associate agreed to an eight-day suspension, which has an approximate value of \$1,003.76, to be imposed by DOHMH. *COIB v. Adkins*, COIB Case No. 2008-543 (2008).
- (44) The Board issued a public warning letter to a New York City Council Member who used her City Council letterhead, on which her City Council position is identified, and a City Council envelope for the non-City purpose of challenging a notice of violation that had been issued to her personal residence. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that the City’s conflicts of interest law prohibits public servants from using City resources, such as letterhead, for any non-City purpose and from using their City positions to obtain any personal advantage for themselves or for any person or firm with which they are associated. *COIB v. Gonzalez*, COIB Case No. 2008-501 (2008).
- (45) The Board and the New York City Department of Health and Mental Hygiene (“DOHMH”) concluded a three-way settlement with a Competitive Stock Worker who used City time and City resources to pursue private activities related to the operation of a not-for-profit organization with which the Competitive Stock Worker held a position. The Competitive Stock Worker admitted that, on numerous occasions when he was supposed to be doing work for DOHMH, he used a City computer and his DOHMH e-mail account to engage in activities related to the operation of a not-for-profit organization that he served as Vice President. He acknowledged that his use of City time and City resources was beyond the *de minimis* amount permitted by the City of New York’s Policy on Limited Personal Use of City Office and Technology Resources (also known as the “Acceptable Use Policy”) and that his conduct thus violated the City’s conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue private activities. The Competitive Stock Worker agreed to a five work-day fine, which has an approximate value

of \$623, to be imposed by DOHMH. *COIB v. Wordsworth*, COIB Case No. 2008-585 (2008).

- (46) The Board and the New York City Department of Health and Mental Hygiene (“DOHMH”) concluded a three-way settlement with a Public Records Aide who used City time and City resources to engage in activities related to his private business. The Public Records Aide admitted that he used a DOHMH computer and his DOHMH e-mail account to send and receive e-mail correspondence related to his outside work promoting and planning entertainment events. The Public Records Aide acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue private activities. The Public Records Aide agreed to a five work-day fine, which has an approximate value of \$550, to be imposed by DOHMH. *COIB v. Miller*, COIB Case No. 2008-536 (2008).
- (47) The Board issued a public warning letter to a Forensic Anthropologist at the New York City Office of the Chief Medical Examiner (“OCME”) who used City time and City resources – specifically his OCME telephone, computer, and e-mail – in furtherance of his work on three commercial academic books. The Chief Medical Examiner at OCME had previously sought the Board’s advice as to whether, among other things, the Forensic Anthropologist could contract to write books with two different publishers in light of his OCME position, and the Board advised that such work was permissible, provided that the Forensic Anthropologist not perform such work on OCME time or using OCME resources. The Board determined not to pursue further enforcement action in light of the fact that the Forensic Anthropologist reported his own conduct to the Board. The Board further took the opportunity of this public warning letter to remind public servants that the City’s conflicts of interest law prohibits public servants from using City time or City resources for the non-City purpose of pursuing any outside employment or financial interest. *COIB v. Adams*, COIB Case No. 2008-370 (2008).
- (48) The Board and the New York City Department of Sanitation (“DSNY”) concluded a three-way settlement in which a Sanitation Worker was suspended for 4 days without pay, valued at \$974, and fined 26 work days, valued at \$6,332, for working for his outside employer on City time while wearing his DSNY uniform. The Sanitation Worker acknowledged that his conduct violated the City of New York’s conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue private activities. *COIB v. Passaretti*, COIB Case No. 2008-217 (2008).
- (49) The Board and the New York City Department of Sanitation (“DSNY”) concluded a three-way settlement with a Sanitation Worker who worked for his outside employer while on City time and using a DSNY vehicle. The Sanitation Worker admitted that he engaged in outside employment as a private security supervisor during his scheduled tour of duty with DSNY and while using his DSNY vehicle. He acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue private activities. The Sanitation Worker agreed to receive a thirty day work-day fine to be imposed by DSNY, which has an approximate value of \$7,307. *COIB v. Lowry*, COIB Case No. 2008-295 (2008).

(50) The Board and the New York City Department of Sanitation (“DSNY”) concluded fifty-two three-way settlements with Sanitation Workers, and the Board concluded two separate settlements with former Sanitation Workers, who, while on City time and using their DSNY trucks, collected scrap metal for their private benefit. Scrap metal is a valuable recyclable that DSNY collects as part of the City-wide recycling program and for which DSNY has contracted with a private entity to accept, process, and/or sell. Instead of collecting this valuable recyclable for the City, the fifty-four Sanitation Workers sold the scrap metal for their personal benefit. Each Sanitation Worker acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the public servant and from using City time or City letterhead, personnel, equipment, resources, or supplies for any non-City purpose. The Board and DSNY, in their three-way settlements, fined each of the fifty-two Sanitation Workers a suspension of five to thirty days, valued at \$892 to \$7,410, to be imposed by DSNY. The Board, in its separate settlements, fined the two former Sanitation Workers \$1,500 each. *COIB v. Arzuza*, COIB Case No. 2007-436 (2008), *COIB v. Baerga*, COIB Case No. 2007-436a (2008), *COIB v. Baldi*, COIB Case No. 2007-436b (2008), *COIB v. Barone*, COIB Case No. 2007-436c (2008), *COIB v. Belluci*, COIB Case No. 2007-436d (2008), *COIB v. Bostic*, COIB Case No. 2007-436e (2008), *COIB v. Bracone*, COIB Case No. 2007-436f (2008), *COIB v. Branaccio*, COIB Case No. 2007-436g (2008), *COIB v. Carmenaty*, COIB Case No. 2007-436h (2008), *COIB v. Castro*, COIB Case No. 2007-436i (2008), *COIB v. Cato*, COIB Case No. 2007-436j (2008), *COIB v. Colorundo*, COIB Case No. 2007-436k (2008), *COIB v. Congimi*, COIB Case No. 2007-436l (2008), *COIB v. Cutrone*, COIB Case No. 2007-436m (2008), *COIB v. Damers*, COIB Case No. 2007-436n (2008), *COIB v. Desanctis*, COIB Case No. 2007-436o (2008), *COIB v. Dixon*, COIB Case No. 2007-436p (2008), *COIB v. Drogler*, COIB Case No. 2007-436q (2008), *COIB v. Gallo*, COIB Case No. 2007-436r (2008), *COIB v. Garcia*, COIB Case No. 2007-436s (2008), *COIB v. Georgios*, COIB Case No. 2007-436t (2008), *COIB v. Grey*, COIB Case No. 2007-436u (2008), *COIB v. Harley*, COIB Case No. 2007-436v (2008), *COIB v. Hayden*, COIB Case No. 2007-436w (2008), *COIB v. Jaouen*, COIB Case No. 2007-436x (2008), *COIB v. Kane*, COIB Case No. 2007-436 y(2008), *COIB v. Keane*, COIB Case No. 2007-436z (2008), *COIB v. Kopczynski*, COIB Case No. 2007-436aa (2008), *COIB v. Lagalante*, COIB Case No. 2007-436bb (2008), *COIB v. Lampasona*, COIB Case No. 2007-436cc (2008), *COIB v. La Rocca*, COIB Case No. 2007-436dd (2008), *COIB v. La Salle*, COIB Case No. 2007-436ee (2008), *COIB v. MacDonald*, COIB Case No. 2007-436ff (2008), *COIB v. A. Mann*, COIB Case No. 2007-436gg (2008), *COIB v. C. Mann*, COIB Case No. 2007-436hh (2008), *COIB v. Mastrocco*, COIB Case No. 2007-436ii (2008), *COIB v. McDermott*, COIB Case 2007-436 jj (2008), *COIB v. McMahan*, COIB Case No. 2007-436kk (2008), *COIB v. A. Morales*, COIB Case No. 2007-436ll (2008), *COIB v. J. Morales*, COIB Case No. 2007-436mm (2008), *COIB v. Moscarelli*, COIB Case No. 2007-436nn (2008), *COIB v. Prendergrast*, COIB Case No. 2007-436oo (2008), *COIB v. Puhi*, COIB Case No. 2007-436pp (2008), *COIB v. Ruocco*, COIB Case No. 2007-436qq (2008), *COIB v. Smith*, COIB Case No. 2007-436rr (2008), *COIB v. Stephenson*, COIB Case No. 2007-436ss (2008), *COIB v. Sterbenz*, COIB Case No. 2007-436tt (2008), *COIB v. Taylor*, COIB Case No. 2007-436uu (2008), *COIB v. Torres*, COIB Case No. 2007-436vv (2008), *COIB v. Valerio*, COIB Case No. 2007-436ww (2008), *COIB v. Wallace*, COIB Case No. 2007-436xx (2008), *COIB v. Williams*, COIB Case No. 2007-436yy (2008), *COIB v. Zaborsky*, COIB Case No. 2007-436zz (2008),

COIB v. Guifre, COIB Case No. 2007-436ab (2008), *COIB v. Sullivan*, COIB Case No. 2007-436ac (2008), *COIB v. Pretakiewicz*, COIB Case No. 2007-436ae (2008).

- (51) The Board fined a New York City Department of Environmental Protection (“DEP”) Architect \$1,000 for using his DEP computer, e-mail, and telephone to communicate with employees of the New York City Department of Parks and Recreation (“Parks”) on behalf of a not-for-profit organization with which he volunteered and for allowing his DEP e-mail address to be posted on the not-for-profit’s website as his contact information. The Architect further acknowledged that he met with Parks employees, who knew he worked for DEP, on behalf of the not-for-profit. The Architect acknowledged that by using his DEP computer, e-mail, and telephone to communicate with Parks employees on behalf of the not-for-profit, allowing his DEP e-mail address to be posted as his contact information for the not-for-profit, and meeting with Parks employees on behalf of the not-for-profit, he violated the City’s conflicts of interest law, which prohibits a public servant for using City letterhead, personnel, equipment, resources, or supplies for any non-City purpose and prohibits a City employee from representing private interests before any City agency or appearing directly or indirectly on behalf of private interests in matters involving the City. *COIB v. Harrington*, COIB Case No. 2008-025 (2008).
- (52) The Board fined the former Director of the Call Center for the New York City Department of Health and Mental Hygiene (“DOHMH”) \$7,500 for, among other things, performing work for a not-for-profit organization for which she served as an unpaid Member and Vice-Chair of the Board of Directors— and in that capacity had often functioned as the organization’s *de facto* (although unpaid) Executive Director – while on City time and using City resources, such as her DOHMH computer, e-mail account, and telephone. The former Director further acknowledged that she performed a substantial amount of work for the organization, both related and unrelated to its business dealings with the City and DOHMH, on City time using her DOHMH telephone, computer, and e-mail account. The former Director acknowledged that this conduct violated the conflicts of interest law’s prohibition against using City time or City letterhead, personnel, equipment, resources, or supplies for any non-City purpose. *COIB v. Harmon*, COIB Case No. 2007-774 (2008).
- (53) The Board and the New York City Administration for Children’s Services (“ACS”) concluded two three-way settlements with an ACS Child Protective Specialist Supervisor II, who suspended for 21 days without pay, valued at \$3,872, and her subordinate, an ACS Child Protective Specialist II, who was suspended for 30 days without pay, valued at \$4,151, for starting a janitorial business with each other. The ACS Child Protective Specialist Supervisor II and the ACS Child Protective Specialist II each further acknowledged that she used her ACS computer to send e-mails to each other regarding their janitorial business. The ACS Child Protective Specialist Supervisor II and the ACS Child Protective Specialist II each acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from entering into any business or financial relationship with another public servant who is a superior or subordinate of such public servant and from using City time or City resources for any non-City purpose, particularly for engaging in any private business or financial enterprise. *COIB v. Edwards*, COIB Case Nos. 2007-433a and 2002-856b (2008), and *COIB v. Jafferalli*, COIB Case No. 2007-433 (2008).

- (54) The Board and the New York City Administration for Children’s Services (“ACS”) concluded a three-way settlement in which an ACS Community Assistant was: (a) suspended for 10 days without pay, valued at \$1,046; (b) required to provide full restitution of the \$1,279.48 she had misappropriated, of which she has already paid ACS \$532.82; and (c) placed on probation for six months, for using her position to misappropriate \$1,279.48 of ACS funds from the ACS Out-of-Town Travel Unit for personal use. The Community Assistant acknowledged that, from November 2004 through August 2007, she used her position as Community Assistant for the ACS Out-of-Town Travel Unit to misappropriate \$1,279.48 of ACS funds for her personal use. The Community Assistant acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, and from using City resources, such as City money, for any non-City purpose. *COIB v. Mouzon*, COIB Case No. 2007-570 (2008).
- (55) The Board and the New York City Department of Education (“DOE”) concluded a three-way settlement in which the Executive Director of the DOE Human Resource Connect employee service center was fined \$1,000 for using City time and resources to perform work related to his duties as the Mayor of the Township of River Vale, New Jersey. The Executive Director acknowledged that, over a three-and-one-half-month period, he made approximately 76 long-distance calls on his DOE telephone on DOE time related to his duties as the Mayor of the Township of River Vale, for which position he earned an annual stipend. He acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from pursuing personal activities while on City time and from using City letterhead, personnel, equipment, resources, or supplies for any non-City purpose. *COIB v. Blundo*, COIB Case No. 2007-636 (2008).
- (56) The Board and the New York City Human Resources Administration (“HRA”) concluded a three-way settlement with an HRA Computer Specialist who, during his City work hours, used HRA technology resources to perform work unrelated to his HRA duties. The HRA Computer Specialist admitted that, to further his outside activities as a professional singer, he used his HRA computer to create and store numerous documents and he used the HRA e-mail system to send numerous e-mails. He admitted that he posted on his personal website his HRA e-mail address and that he provided his HRA telephone number as his contact number in e-mail correspondence about his singing. The Computer Specialist acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits any public servant from pursuing private activities during times when that public servant is required to perform services for the City, and from using City resources for a non-City purpose, such as conducting a private business. The HRA Computer Specialist agreed to receive a five work-day pay fine, valued at approximately \$1,795, from HRA and to pay a \$500 fine to the Board, for a total financial penalty of \$2,295. *COIB v. Childs*, COIB Case No. 2006-775 (2008).
- (57) The Board fined a former Supervisory Engineer with the New York City Department of Environmental Protection (“DEP”) \$1,000 for performing work for his private engineering practice while on City time. The DEP Supervisory Engineer acknowledged that, while he worked for DEP, he also had a private general engineering practice, and had performed work for that practice for four different clients while on City time. The Supervisory Engineer acknowledged that this conduct violated the City of New York’s conflicts of interest law, which prohibits any

public servant from pursuing private activities during times when that public servant is required to perform services for the City. *COIB v. Rider*, COIB Case No. 2008-106 (2008).

- (58) The Board fined the former Director of the Forensic Biology Department of the Office of the Chief Medical Examiner (“OCME”) \$2,000 for using City resources and City personnel to write and edit a book that was to be commercially published. The former Director acknowledged that when he was still employed by OCME, in 2004 and 2005, he used his City computer to store chapters of his book and his City e-mail account to communicate with representatives of Simon and Shuster, Inc., about his book, *Who They Were: Inside the World Center DNA Story: The Unprecedented Effort to Identify the Missing*, which book was published by Free Press, a division of Simon & Shuster, Inc., at the end of 2005. Also, in or around late 2004 or 2005, he asked his subordinate, an OCME Lab Associate, to review the manuscript of *Who They Were* prior to his submission of the transcript to his publisher. His subordinate did so, on her own time for which she was not compensated. The former Director acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant 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, and prohibits a public servant from using City letterhead, personnel, equipment or supplies for any non-City purpose. *COIB v. Shaler*, COIB Case No. 2007-873 (2008).
- (59) The Board fined a Patrol Supervisor for the New York City Police Department (“NYPD”) \$1,250 for running his private business on City time, using City resources, and making a sale on behalf of that business to a subordinate. The Patrol Supervisor acknowledged that he was an owner and partner in All American Tent Company, and that he used City time and City resources, specifically his City telephone, NYPD computers, and papers, to conduct business for All American Tent Company. The Patrol Supervisor also acknowledged that he entered into a financial transaction on behalf of All American Tent Company with an NYPD Police Officer in his command, to provide a tent and chair rental service at the Officer’s home. The Patrol Supervisor acknowledged that this conduct violated the City of New York’s conflicts of interest law, which prohibits, among other things, any public servant from pursuing private activities during times when that public servant is required to perform services for the City, using City resources for any non-City purpose, and entering into a financial relationship with the public servant’s superior or subordinate. *COIB v. Murano*, COIB Case No. 2004-530 (2008).
- (60) The Board fined a Project Manager at New York City Department of Citywide Administrative Services (“DCAS”) \$4,500 for multiple violations related to his work for an outside investment and management company, which was performing work related to an apartment building in Manhattan (the “Company”). The Project Manager admitted that the Company had business dealings with the City, specifically the Landmarks Preservation Commission (“Landmarks”), the Department of City Planning (“City Planning”), and the Department of Buildings, and that by working for this Company, he violated the City’s conflicts of interest law, which states that a City employee cannot have a position with a firm that the employee knows or should have known has City business dealings. The Project Manager also admitted that he appeared for compensation on behalf of the Company on matters involving the City, including signing a letter to, calling, and attending meetings at Landmarks regarding the Company and calling and submitting an

application to City Planning on behalf of the Company, and that by doing so, he violated the City's conflicts of interest law, which states that a City employee may not, for compensation, represent private interests before any City agency. The Project Manager further admitted that he used City resources for his work for the Company, including, but not limited to, his City telephone, City computer on one occasion, and a DCAS-issued vehicle. The Project Manager acknowledged that this conduct violated the City's conflicts of interest law, which states that a City employee may not use City resources for any non-City purpose. *COIB v. Amar*, COIB Case No. 2003-550 (2008).

- (61) The Board issued a public warning letter to a Principal Special Officer at the New York City Human Resources Administration ("HRA") who, while he was on leave from, but still employed by, HRA, used his City-issued Blackberry to make several personal telephone calls and improperly marked those personal calls as agency-related on the agency's reimbursement forms. While not pursuing further enforcement action in this matter, the Board took the opportunity of this public warning letter to remind public servants that although a City agency may authorize its employees to use a City-issued Blackberry for personal use, provided that the employee fully reimburses the City for such personal use, Chapter 68 prohibits a public servant from utilizing a City-issued Blackberry for a non-City purpose without the authorization of his or her agency and without fully reimbursing his or her agency for those calls. The Board also took the opportunity of this public warning letter to remind public servants that while on a leave of absence from his or her agency, a public servant is still subject to the restrictions of Chapter 68. *COIB v. Smith*, COIB Case No. 2007-003 (2008).
- (62) The Board fined the former Chair of the New York City Civil Service Commission ("CCSC") \$15,000 for misusing City resources and personnel to perform tasks related to his private law practice. The former CCSC Chair acknowledged that he asked the CCSC Office Manager and a CCSC Administrative Associate to perform non-City tasks for him while on City time, using a CCSC computer, telephone, photocopy machine, and facsimile machine, related to his private law practice, including: typing, copying and mailing letters to private clients; retrieving and sending facsimiles; greeting visitors; preparing invoices for clients; preparing an inventory list of documents related to a litigation and then meeting one of the parties to that litigation to review the inventory and the items; preparing an Affirmation of Services concerning the Chair's legal work; and delivering packages. The former CCSC Chair further acknowledged that he also personally used his CCSC telephone for non-City related matters, totaling over 2,000 calls from January 2004 to September 2006. The former CCSC Chair acknowledged that this conduct violated the City of New York's conflict of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant 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, and prohibits a public servant from using City personnel or City resources for any non-City purpose. *COIB v. Schlein*, COIB Case No. 2006-350 (2008).

GIFTS

- **Relevant Charter Sections:** City Charter § 2604(b)(5)
- **Relevant Board Rules:** Board Rules § 1-01(a)

- (63) The Board fined an Administrative Project Manager for the New York City Department of Parks (“Parks”) \$600 for accepting the gifts of two meals, valued collectively in excess of \$50.00, from Kiska Construction, a firm doing business with the New York City Economic Development Corporation (“EDC”). Kiska had been awarded three major contracts by EDC related to construction at the High Line; at Parks, the Administrative Project Manager served as the Project Administrator for the High Line Project. The Administrative Project Manager acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from accepting a valuable gift – defined by Board Rules as anything which has a value of \$50.00 or more, whether it be in the form of money, travel, entertainment, hospitality, or any other form – from a firm doing business with the City. *COIB v. Bradley*, COIB Case No. 2008-423b (2008).
- (64) The Board fined a Vice President for the New York City Economic Development Corporation (“EDC”) \$2,000 for accepting the gift of four meals at New York City restaurants, two valued individually and two valued collectively in excess of \$50.00, from Kiska Construction, a firm doing business with EDC and the Department of Parks and Recreation. Kiska had been awarded three major contracts by EDC related to construction at a project for which the Vice President served as Lead Project Manager. The Vice President acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from accepting a valuable gift – defined by Board Rules as anything which has a value of \$50.00 or more, whether it be in the form of money, service, loan, travel, entertainment, hospitality, thing, or promise, or any other form – from a firm doing business with the City. *COIB v. Greco*, COIB Case No. 2008-423 (2008).
- (65) The Board fined the former Vice President of Capital Programs for the New York City Economic Development Corporation (“EDC”) \$11,500 for accepting gifts of (1) a portion of his son’s honeymoon trip to Istanbul, Turkey – which included accommodations, transportation to and from the airport and around the city of Istanbul, group tours, and room service – valued at \$4,000; and (2) two meals at New York City restaurants, valued collectively in excess of \$50.00, from Kiska Construction, a firm doing business with EDC and the Department of Parks and Recreation. Kiska had been awarded three major contracts by EDC and Parks related to construction at the High Line; and in his job duties at EDC, the former Vice President was responsible for twelve capital projects, one of which was the High Line Project. The former Vice President acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from accepting a valuable gift – defined by Board Rules as anything which has a value of \$50.00 or more, whether it be in the form of money, travel, entertainment, hospitality, object, or any other form – from a firm doing business with the City. The Board fined the former Vice President \$10,000 for accepting a portion of his son’s honeymoon trip (which is the maximum fine permitted under the City Charter for a violation of the conflicts of interest law) and \$1,500 for accepting the meals, for a total fine of \$11,500. *COIB v. Mir*, COIB Case No. 2008-421 (2008).

APPEARANCE BEFORE THE CITY ON BEHALF OF PRIVATE INTEREST

- **Relevant Charter Sections:** City Charter § 2604(b)(6)

- (66) The Board and the New York City Department of Education (“DOE”) concluded a three-way settlement in which a former DOE Special Education Teacher was fined \$3,000 by the Board and required by DOE to irrevocably resign by August 29, 2008, for co-owning a firm engaged in business dealings with DOE and for appearing before DOE on behalf of that firm. The Special Education Teacher acknowledged that from 2001 through 2006, he co-owned A-Plus Center for Learning, Inc., a special education support services provider that was engaged in business dealings for five years with DOE. The Special Education Teacher further acknowledged that he appeared before DOE on behalf of his firm each time his firm requested payment from DOE for the tutoring services provided by his firm to DOE students. The Special Education Teacher admitted that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from having an interest in a firm which the public servant knows is engaged in business dealings with the agency served by the public servant and prohibits a public servant from, for compensation, representing a private interest before any City agency or appearing directly or indirectly on behalf of private interests in matters involving the City. *COIB v. Bourbeau*, COIB Case No. 2007-442 (2008).
- (67) The Board fined the former Director of the Call Center for the New York City Department of Health and Mental Hygiene (“DOHMH”) \$7,500 for, among other things, being directly involved in the City business dealings of a not-for-profit organization for which she served as a member and Vice-Chair of the Board of Directors. The former Director acknowledged that, in addition to her DOHMH position, she also served, since 1998, as an unpaid Member and Vice-Chair of the Board of Directors of the not-for-profit organization and in that capacity had often functioned as the organization’s *de facto* (although unpaid) Executive Director. The former Director further acknowledged that on behalf of the organization she signed three amendments to extend the terms of the organization’s contract with DOHMH’s agent and completed a VENDEX Questionnaire as part of an application of the organization to obtain additional contracts from DOHMH. The former Director acknowledged that this conduct violated the conflicts of interest law’s prohibition against appearing on behalf of private entities in matters involving the City. *COIB v. Harmon*, COIB Case No. 2007-774 (2008).
- (68) The Board fined a former New York City Health and Hospitals Corporation (“HHC”) Tumor Registrar \$7,100 for using her City position to benefit a private company (the “Company”) in which she maintained a managerial interest after she had sold her ownership interest in the Company and for indirectly appearing before HHC on behalf of the Company. The former Tumor Registrar admitted that she requested and received proposals from the Company to do work on behalf of the Tumor Registry, signed the contract between HHC and the Company, and signed Certificates of Necessity certifying that HHC funds were necessary to pay the Company for its services to HHC. The former Tumor Registrar acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant 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, which includes firms in which the public servant has a managerial interest, and prohibits a public servant

from appearing, even indirectly, on behalf of such private interest before any City agency. *COIB v. Anderson*, COIB Case No. 2002-325 (2008).

- (69) The Board issued a public warning letter to a former New York City Department of Education (“DOE”) Attorney for the DOE Office of Legal Services (“OLS”) who, while she was on an unpaid leave of absence, was paid to represent a DOE student and the student’s parents with respect to the student’s suspension from DOE. On behalf of the client, the DOE Attorney called OLS to attempt to discuss the suspension prior to a hearing and appeared as the defense attorney of record at a Suspension Hearing before DOE. The Board issued the public warning letter after receiving evidence that the DOE Attorney had been on an unpaid leave of absence for nearly two years with no guarantee of returning to her position at the end of such leave, when she engaged in the above-described outside practice of law. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that the City’s conflicts of interest law prohibits public servants from representing, for compensation, any private client in a matter before a City agency, and that even while on an unpaid leave of absence, public servants are still obligated to comply with the City’s conflicts of interest law. *COIB v. Ferguson*, COIB Case No. 2007-305 (2008).
- (70) The Board issued a public warning letter to a Guidance Counselor at the New York City Department of Education (“DOE”) for making uncompensated appearances on behalf of the parents of a child at impartial hearings to determine whether the child was entitled to special education services from DOE. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that Chapter 68 of the City Charter prohibits a public servant from representing private interests before any City agency or appearing directly or indirectly on behalf of private interests in matters involving the City, whether or not they are compensated for this work. *COIB v. Zimmerman*, COIB Case No. 2006-471 (2008).
- (71) The Board fined a Probation Officer for the New York City Department of Probation (“DOP”) \$750 for owning and operating a firm that subcontracted to do business with the City. The Probation Officer admitted that he owned and operated a private security services firm that contracted with four private construction firms to provide subcontracted security guard services at New York City School Construction Authority (“SCA”) construction sites. The Probation Officer acknowledged that his firm was engaged in business dealings with the City through the subcontracts with SCA, in violation of the City of New York’s conflicts of interest law, which prohibits a public servant from having an interest in a firm that the public servant knows or should know is engaged in business dealings with the City and also prohibits a public servant from appearing for compensation before any City agency. *COIB v. Saigbovo*, COIB Case No. 2007-058 (2008).

SUPERIOR-SUBORDINATE FINANCIAL RELATIONSHIPS

- **Relevant Charter Sections:** City Charter § 2604(b)(14)

- (72) The Board fined a New York City Parks and Recreation Chief of Operations for Prospect Park \$1,000 for obtaining a \$5,000 loan from a subordinate. The Chief of Operations admitted that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from entering into any business or financial relationship with another public servant who is a superior or subordinate of such public servant. *COIB v. Pittari*, COIB Case No. 2008-077 (2008).
- (73) The Board issued a public warning letter to Supervisor of the District 14 Parade Grounds at the New York City Department of Parks and Recreation for lending \$5,000 to her supervisor, the Chief of Operations. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that Chapter 68 of the City Charter prohibits a public servant from entering into any business or financial relationship with another public servant who is a superior or subordinate of such public servant. *COIB v. LeGall*, COIB Case No. 2008-077a (2008).
- (74) The Board and the New York City Department of Sanitation (“DSNY”) concluded a three-way settlement in which a DSNY Medical Records Librarian was fined \$250 by the Board and suspended for 3 days by DSNY, valued at \$561, for using her position to obtain loans from two DSNY subordinates. The Medical Records Librarian acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her 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 and prohibits a public servant from entering into any business or financial relationship with another public servant who is a superior or subordinate of such public servant. *COIB v. Geddes*, COIB Case No. 2008-122 (2008).
- (75) The Board fined a former Captain of the New York City Police Department (“NYPD”) \$5,000 for using six subordinates to perform remodeling and landscaping work on his private residence. The former NYPD Captain acknowledged that, from in or around 2002 through 2003, he asked six NYPD subordinates to perform remodeling and landscaping work around his home and compensated some of those subordinates for their work. The former NYPD Captain acknowledged that this conduct violated the City’s conflicts of interest law, which: (a) prohibits a public servant from using or attempting to use his or her 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; and (b) prohibits a public servant from entering into any business or financial relationship with another public servant who is a superior or subordinate of such public servant. In setting the amount of the fine, the Board took into consideration that the former NYPD Captain forfeited terminal leave valued at approximately \$37,000 as a result of departmental charges pending against him at the time of his retirement, which charges arose, in part, out of the same facts recited above. *COIB v. Byrne*, COIB Case No. 2005-243 (2008).

- (76) The Board fined a former Principal for the New York City Department of Education (“DOE”) \$2,500 for supervising her live-in boyfriend as the Technology Coordinator at her school for five months, and for using, one weekend day, three of her DOE subordinates to assist her in moving her personal belongings to her new residence. The former Principal acknowledged that this conduct violated that City’s conflicts of interest law, which prohibits a public servant from entering into a financial relationship – such as cohabitation – with one’s superior or subordinate, and from using or attempting to use his or her position as a public servant 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. *COIB v. Montemarano*, COIB Case No. 2007-015 (2008).
- (77) The Board fined a Technology Coordinator for the New York City Department of Education \$1,500 for applying for and accepting a position at the school where his live-in girlfriend was the Principal and, for five months, for working at that school under her supervision. The Technology Coordinator acknowledged that this conduct violated that City’s conflicts of interest law, which prohibits a public servant from entering into a financial relationship – such as cohabitation – with one’s superior or subordinate. *COIB v. Klein*, COIB Case No. 2007-015c (2008).
- (78) The Board fined two Lieutenants of the New York City Police Department (“NYPD”) and a retired NYPD Police Officer \$500 each for entering into prohibited superior-subordinate financial relationships. The NYPD Lieutenants and the retired Police Officer all admitted that in 2004, the then-active Police Officer sold cars to each of his two superior Lieutenants, for which cars the Lieutenants paid the Police Officer \$1,000 and \$1,500. The NYPD Lieutenants and Police Officer acknowledged that this conduct violated the City’s conflicts of interest law, which prohibits any public servant from entering into a financial relationship with his or her superior or subordinate. *COIB v. Lemkin*, COIB Case No. 2004-746 (2008), *COIB v. Renna*, COIB Case No. 2004-746a (2008), and *COIB v. Schneider*, COIB Case No. 2004-746b (2008).
- (79) The Board fined the former Director of the Call Center for the New York City Department of Health and Mental Hygiene (“DOHMH”) \$7,500 for, among other things, hiring a subordinate DOHMH employee to perform work for a not-for-profit organization for which she served as a member and Vice-Chair of the Board of Directors and for directing her subordinate to perform some of that work on City time. The former Director acknowledged that, in addition to her DOHMH position, she also served, since 1998, as an unpaid Member and Vice-Chair of the Board of Directors of the not-for-profit organization and in that capacity had often functioned as the organization’s *de facto* (although unpaid) Executive Director. The former Director acknowledged that she had hired a DOHMH employee under her supervision to perform work for the organization, that she had communicated with that DOHMH employee concerning his work for the organization on City time using her DOHMH computer and e-mail account, and that, in one instance, she had directed that DOHMH employee to go to the organization’s office to perform work there, while he was on City time. The former Director acknowledged that this conduct violated the conflicts of interest law’s prohibitions against a public servant entering into a financial relationship with his or her superior or subordinate and against a public servant soliciting, requesting, or commanding another public servant to engage in conduct that violates the conflicts of interest law. *COIB v. Harmon*, COIB Case No. 2007-774 (2008).

- (80) The Board and the New York City Administration for Children’s Services (“ACS”) concluded two three-way settlements with an ACS Child Protective Specialist Supervisor II, who suspended for 21 days without pay, valued at \$3,872, and her subordinate, an ACS Child Protective Specialist II, who was suspended for 30 days without pay, valued at \$4,151, for starting a janitorial business with each other. The ACS Child Protective Specialist Supervisor II and the ACS Child Protective Specialist II each further acknowledged that she used her ACS computer to send e-mails to each other regarding their janitorial business. The ACS Child Protective Specialist Supervisor II and the ACS Child Protective Specialist II each acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from entering into any business or financial relationship with another public servant who is a superior or subordinate of such public servant and from using City time or City resources for any non-City purpose, particularly for engaging in any private business or financial enterprise. *COIB v. Edwards*, COIB Case Nos. 2007-433a and 2002-856b (2008), and *COIB v. Jafferalli*, COIB Case No. 2007-433 (2008).
- (81) The Board and the New York City Department of Education (“DOE”) concluded two three-way settlement with a DOE Principal and a DOE Assistant Principal, each fined \$500 by the Board for continuing to jointly own and share a mortgage on a time share unit after the DOE Principal became the Assistant Principal’s supervisor. The DOE Principal and DOE Assistant Principal each acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from entering into any business or financial relationship with another public servant who is a superior or subordinate of such public servant, even if the financial relationship also existed prior to the superior-subordinate relationship. *COIB v. Richards*, COIB Case No. 2006-559 (2008), and *COIB v. Cross*, COIB Case No. 2006-559a (2008).

MOONLIGHTING WITH A FIRM ENGAGED IN CITY BUSINESS DEALINGS

- **Relevant Charter Sections:** City Charter §§ 2604(a)(1)(a), 2604(a)(1)(b)

- (82) The Board issued a public warning letter to an Education Administrator for the New York City Department of Education (“DOE”) who entered into six contracts with a publishing firm that does business with DOE through textbooks sales. The Assistant Principal contracted to contribute editorial services to textbooks and was identified in one such textbook as a DOE employee, but the textbook did not contain a disclaimer that the views expressed therein were his alone. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that Chapter 68 of the City Charter prohibits a public servant from entering into a contract with any firm that does business with the City, but that the Board may grant a waiver of that prohibition, subject to certain conditions, after receiving written approval of the public servant’s agency head. *COIB v. Acevedo*, COIB Case No. 2008-072 (2008).
- (83) The Board fined the former Director of the Call Center for the New York City Department of Health and Mental Hygiene (“DOHMH”) \$7,500 for, among other things, serving as a member and Vice-Chair of the Board of Directors of a not-for-profit organization with substantial business dealings with the City, including with an agent of DOHMH. The former Director acknowledged that, in addition to her DOHMH position, she also served, since 1998, as an unpaid Member and

Vice-Chair of the Board of Directors of the not-for-profit organization and in that capacity had often functioned as the organization's *de facto* (although unpaid) Executive Director. From before and during her involvement with the organization, it has had substantial City business dealings, including with DOHMH, of which she was aware and in which she was directly involved. The former Director acknowledged that by having a position with a firm that she knew was involved in business dealings with a number of City agencies, including her own, she violated the City of New York's conflicts of interest law, which prohibits a public servant from having a position with a firm having business dealings with the City. A position, under the City's conflicts of interest law, would include being an officer of a not-for-profit organization or a member of its board of directors. *COIB v. Harmon*, COIB Case No. 2007-774 (2008).

- (84) The Board fined two Steamfitters at the New York City Department of Correction ("DOC") \$3,000 each for working for the same firm that had business dealings with the City. Each Steamfitter acknowledged that given the nature of that firm's City business dealings, specifically, that they were performing their work in City parks, they knew or should have known about the firm's business dealings with the City. Each Steamfitter acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from having an interest in a firm which the public servant knows – or should know – does business with the City. *COIB v. Gwiazdzinski*, COIB Case No. 2003-373k (2008); *COIB v. Lee*, COIB Case No. 2003-373a (2008).
- (85) The Board fined a Probation Officer for the New York City Department of Probation ("DOP") \$750 for owning and operating a firm that subcontracted to do business with the City. The Probation Officer admitted that he owned and operated a private security services firm that contracted with four private construction firms to provide subcontracted security guard services at New York City School Construction Authority ("SCA") construction sites. The Probation Officer acknowledged that his firm was engaged in business dealings with the City through the subcontracts with SCA, in violation of the City's conflicts of interest law, which prohibits a public servant from having an interest in a firm that the public servant knows or should know is engaged in business dealings with the City and also prohibits a public servant from appearing for compensation before any City agency. *COIB v. Saigbovo*, COIB Case No. 2007-058 (2008).
- (86) The Board fined a former Traffic Device Maintainer for the New York City Department of Transportation ("DOT") \$1,500 for working for eleven years for a firm that was doing business with DOT. The former Traffic Device Maintainer admitted that while employed by DOT, he was also working as a Company Representative for a firm that had business dealings with the City and with DOT. The former Traffic Device Maintainer acknowledged that given that size of the Company, and the duration of his dual employment (11 years), he should have known about the Company's business dealings with the City and with his own agency. The former Traffic Device Maintainer acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from having an interest in a firm which the public servant knows – or should know – does business with the City or with his agency. *COIB v. Riccardi*, COIB Case No. 2004-610 (2008).

OWNERSHIP INTEREST IN A FIRM ENGAGED IN CITY BUSINESS DEALINGS

- **Relevant Charter Sections:** City Charter §§ 2604(a)(1)(a), 2604(a)(1)(b)

- (87) The Board and the New York City Department of Education (“DOE”) concluded a three-way settlement in which a former DOE Special Education Teacher was fined \$3,000 by the Board and required by DOE to irrevocably resign by August 29, 2008, for co-owning a firm engaged in business dealings with DOE and for appearing before DOE on behalf of that firm. The Special Education Teacher acknowledged that from 2001 through 2006, he co-owned A-Plus Center for Learning, Inc., a special education support services provider that was engaged in business dealings for five years with DOE. The Special Education Teacher further acknowledged that he appeared before DOE on behalf of his firm each time his firm requested payment from DOE for the tutoring services provided by his firm to DOE students. The Special Education Teacher admitted that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from having an interest in a firm which the public servant knows is engaged in business dealings with the agency served by the public servant and prohibits a public servant from, for compensation, representing a private interest before any City agency or appearing directly or indirectly on behalf of private interests in matters involving the City. *COIB v. Bourbeau*, COIB Case No. 2007-442 (2008).
- (88) The Board fined two New York City Department of Education (“DOE”) teachers \$1,250 each for co-owning a school supplies retail store that did business with DOE and the New York City Department of Parks and Recreation. The Teachers acknowledged that their conduct violated the City’s conflict of interest law, which prohibits a public servant from having an interest in a firm which the public servant knows does business with any City agency, and with his or her own agency in particular, and also prohibits a public servant from appearing for compensation before any City agency. *COIB v. Solo*, COIB Case No. 2008-396 (2008); *COIB v. Militano*, COIB Case No. 2008-396a (2008).
- (89) The Board and the Department of Education (“DOE”) concluded a three-way settlement with a former DOE Technology Staff Developer who owned and operated a firm that did business with DOE while he was employed by DOE. The former Technology Staff Developer admitted that from September 1990 to June 2002, while he was still employed by DOE, he entered into multiple contracts with DOE on behalf of a private tour bus company that he owned and operated. He acknowledged that this conduct violated the City’s conflicts of interest law, which prohibits a public servant from having an interest in a firm that the public servant knows does business with the public servant’s agency and which also prohibits a public servant from appearing for compensation before any City agency. The former Technology Staff Developer paid a total fine of \$5,000, for these and unrelated Chapter 68 violations in a separate matter. *COIB v. Sender*, COIB Case No. 2001-566b (2008).

JOB-SEEKING VIOLATIONS

- **Relevant Charter Sections:** City Charter § 2604(d)(1)

- (90) The Board issued a public warning letter to a former Research Scientist for the New York City Department of Environmental Protection (“DEP”) for submitting her resume to a private firm that was preparing the Environmental Impact Statement for a DEP project while, on behalf of DEP, she was reviewing and commenting on the firm’s work on that DEP project. Although the private firm to which she submitted her resume was a sub-consultant to DEP, the firm was nonetheless involved in the Environmental Impact Statement for the DEP project. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that Chapter 68 of the City Charter prohibits public servants from soliciting for, negotiating for, or accepting any position with a firm involved in a particular matter with the City while the public servant is directly concerned with or personally participating in that particular matter. *COIB v. Matic*, COIB Case No. 2006-703 (2008).
- (91) The Board issued a public warning letter to the Chief of the Division of Engineering for the New York City Department of Environmental Protection (“DEP”) Bureau of Wastewater Treatment for using his DEP e-mail account to send his resume to nine employers—including one government entity—while he played an oversight role in managing the DEP projects of several of those employers. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that Chapter 68 of the City Charter prohibits public servants from using City resources for any non-City purpose and also prohibits public servants from soliciting for, negotiating for, or accepting any position with a firm—other than a local, state, or federal agency—involved in a particular matter with the City while the public servant is directly concerned with or personally participating in that particular matter. *COIB v. Maracic*, COIB Case No. 2006-756 (2008).

POST-EMPLOYMENT VIOLATIONS

- **Relevant Charter Sections:** City Charter §§ 2604(d)(2), 2604(d)(4)

- (92) The Board fined a former Mediator for the New York City Department of Consumer Affairs (“DCA”) \$750 for appearing before DCA within one year of his resignation from DCA. The former Mediator acknowledged that, within one year after leaving DCA, he called his former DCA supervisor, indicating that he was representing a consumer, and he also called a DCA inspector, hoping to get that inspector to delay enforcing a Padlock Order against another client. Both of these calls were made on behalf of the former Mediator’s new employer, Metropolitan Tow. The former Mediator admitted that his conduct violated the City’s conflicts of interest law, which prohibits a former public servant from appearing before that public servant’s former agency within one year of terminating employment with the agency. *COIB v. LaBush*, COIB Case No. 2005-588 (2008).
- (93) The Board fined a former Plans examiner for the New York City Department of Buildings (“DOB”) \$750 for, within one year after leaving DOB, sending an e-mail on behalf of his new

employer to the Executive Director of Operations Redesign at DOB, seeking his guidance with a problem his new employer was having with the DOB website. The former Plans Examiner admitted that his conduct violated the City of New York's conflicts of interest law, which prohibits a former public servant from appearing before that public servant's former agency within one year of terminating employment with the agency. *COIB v. Tsarsis*, COIB Case No. 2008-624 (2008).

- (94) The Board and the New York City Department of Education ("DOE"), in a three-way settlement, fined the former Regional Superintendent for DOE Region 9 \$1,500 for appearing before DOE within one year of his resignation from DOE, despite having received written advice from the Board advising him that he may not communicate with DOE during his first post-employment year. The fine would have been higher but for the fact that the former Regional Superintendent self-reported his own conduct to the Board. The former Regional Superintendent acknowledged that, after leaving DOE, he began working for a private firm and had sought a waiver from the Board to permit him to communicate with DOE on behalf of the private firm. This request was denied, and he was explicitly told in writing that he was prohibited from communicating with DOE on behalf of the private firm during his first post-employment year. Sometime after receiving this letter from the Board, the former Regional Superintendent contacted the Chief Executive Officer of Human Resources at DOE, by phone and by e-mail, about the process for assigning a DOE employee to serve as a liaison to his private firm. The former Regional Superintendent admitted that this conduct violated the City's conflicts of interest law, which prohibits a former public servant from appearing before that public servant's former agency within one year of terminating his or her employment with the agency. *COIB v. Heaney*, COIB Case No. 2007-827 (2008).
- (95) The Board fined a former Assistant Director of Information Services for the Division of Tenant Resources at the New York City Department of Housing Preservation and Development ("HPD") \$2,000 for interviewing for and accepted a position with a firm with which he was involved, in his HPD capacity, in the project to convert that firm's housing project from a Mitchell-Lama regulated housing complex to a privately-run rental housing complex. The former Assistant Director further acknowledged that once he began working for the firm, he contacted HPD's Director of Continued Occupancy on behalf of the firm via e-mail within the first year after he left HPD. The former Assistant Director acknowledged that his conduct violated the City's conflicts of interest law. The conflicts of interest law prohibits a public servant from soliciting for, negotiating for, or accepting any position with a firm involved in a particular matter with the City while the public servant is directly concerned or personally participating with that particular matter, and also prohibits any former public servant from appearing before his or her former City agency within one year of the termination of employment with the City. *COIB v. Mizrahi*, COIB Case No. 2005-236 (2008).
- (96) The Board and the Department of Education ("DOE") concluded three-way settlements with five former DOE Technology Staff Developers who each appeared before DOE on behalf of a private company within one year of resigning from DOE. The Technology Staff Developers each admitted that when they left DOE they formed and jointly owned a company to market and to sell vendors' products to DOE. Two of the former Technology Staff Developers admitted that they served as the President and the CEO of the company,

respectively, and they organized a conference for DOE on behalf of their company. Several DOE vendors paid the company to feature the vendors' products during the DOE conference. Each former DOE Technology Staff Developer made presentations at the DOE conference, and they all acknowledged that they violated the City of New York's conflicts of interest law, which prohibits any former public servant from appearing before his or her former City agency within one year of terminating employment with the City. The Board issued \$1,500 fines to three of the former Technology Staff Developers and a \$2,500 fine to the former Technology Staff Developer who acted as the company's president. The former Technology Staff Developer who acted as the company's CEO was fined \$5,000 total, for these and unrelated Chapter 68 violations in a separate matter. *COIB v. Ferro*, COIB Case No. 2001-566 (2008); *COIB v. Diaz*, COIB Case No. 2001-566a (2008); *COIB v. Sender*, COIB Case No. 2001-566b (2008); *COIB v. Guarino*, COIB Case No. 2001-566c (2008); *COIB v. Moran*, COIB Case No. 2001-566d (2008).

DISCLOSURE OF CONFIDENTIAL INFORMATION

- **Relevant Charter Sections:** City Charter §§ 2604(b)(4), 2604(d)(5)

(97) The Board fined the former Director of Cross Systems Child Planning at the New York City Administration for Children's Services ("ACS") \$1,500 for using her ACS position to access information in ACS's confidential CONNECTIONS database. The former Director acknowledged that she obtained confidential information in CONNECTIONS about her own foster child, including case management records and the child's permanency report, which information was not available to other foster parents in that form, and then used the information that she obtained for her own personal benefit as a foster parent. The former Director had been previously advised in writing by the Board, when she obtained permission from the Board to become a foster parent, that the City Charter prohibits public servants from using their official positions to gain any private advantage. The former Director acknowledged that this conduct violated the City of New York's conflicts of interest law, which prohibits a City employee from using her position to benefit herself and from using confidential information obtained as a result of her official duties to advance any direct or indirect financial or other private interest of herself or any person associated with her. *COIB v. Siegel*, COIB Case No. 2007-672 (2008).

(98) The Board and the New York City Human Resources Administration ("HRA") concluded a three-way settlement in which an HRA Eligibility Specialist II was fined \$1,000 by the Board and suspended for 15 work days by HRA, valued at \$1,952, for a total financial penalty of \$2,952, for accessing and disclosing confidential information. The Eligibility Specialist II acknowledged that in or about January 2006 through February 2007, she accessed the HRA Welfare Management System database to obtain confidential information concerning her cousin's public assistance record in order to ascertain if her cousin had money to pay her back the \$14,000 she had previously loaned the cousin. The Eligibility Specialist II also acknowledged that she disclosed to her husband, mother, and daughter the confidential information she obtained concerning her cousin's public assistance record. The Eligibility Specialist II acknowledged that this conduct violated the City's conflicts of interest law, which prohibits a City employee from disclosing or using confidential information obtained as a result of his or her official duties to advance any direct or indirect financial or other private interest of the City employee or any person associated with the City employee. *COIB v. Namyotova*, COIB Case No. 2007-825 (2008).

(99) The Board and the New York City Human Resources Administration (“HRA”) concluded a three-way settlement in which an HRA Job Opportunity Specialist was fined \$500 by the Board and suspended for 15 work days by HRA, valued at \$2,205, for a total financial penalty of \$2,705, for accessing and disclosing confidential information about his ex-wife. The Job Opportunity Specialist acknowledged that in June 2005, he accessed the HRA Welfare Management System database to obtain confidential information concerning his ex-wife’s HRA records to obtain information about his ex-wife to use in child support proceedings in Family Court, and then disclosed that information at child support hearings in June and August 2005 in support of his request to the Court for a downward modification of the amount of child support he had been ordered to pay. The Job Opportunity Specialist acknowledged that this conduct violated the City’s conflicts of interest law, which prohibits a City employee from disclosing or using confidential information obtained as a result of his or her official duties to advance any direct or indirect financial or other private interest of the City employee or any person associated with the City employee. *COIB v. Osindero*, COIB Case No. 2005-665 (2008).