

*Ethics lights the
way to good gov-
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The Ethical Times

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Quinn Haisley, Editor



The Small Stuff IS the Big Stuff

By Alex Kipp

When thinking about the Conflicts of Interest Law, it's easy to throw all of one's focus on compliance with the restrictions it sets forth. Compliance is important. But if we focus ONLY on compliance, we can lose sight of the law's bigger-picture purpose: preserving the public's trust in government. So for this article, let's look at two big-picture concepts that come up in small-picture details.

As I ask in my classes sometimes, "why is it that good people sometimes do bad things?" Invariably, I get answers that run the gamut – "ignorance," "laziness," "lack of training," "greed," just to name a few. While those answers might be correct in some cases, I don't think they are in the majority of cases. I think the two culprits in many cases are The Slippery Slope, and the notion of "Invisible Victims." Let's start with "Invisible Victims."

Have you ever passed a dispenser of hand sanitizer or a sink at work and said to yourself, "I know I should probably use that – I've just been outside." And, yet, for some inexplicable reason, you don't get around to it? I have. Did I do it out of greed? No. I don't get a bonus for not washing my hands (or for anything else, for that matter). Did I do it out of ignorance? Nah, I know how germs spread. Laziness?

I don't think it's laziness. I think all of us are busy doing our City jobs. We have to prioritize. And we're always told, "don't sweat the small stuff," or "don't miss the forest for the trees." When I pass that sanitizer or that sink, I'm thinking of all the things I have to do in order to do my job well, and sometimes sanitizer just isn't going to make the cut. And then I justify my decision by asking one little, dangerous question: "what's the harm?" But I rarely wait around to figure out the answer.

If someone at the office gets a cold as the result of shaking your dirty, virus-carrying hands, neither she nor you will ever know that it was your dirty hands that caused it. It could've been anyone else in the office, or anyone else in the City, for that matter. Because I can't see the effect my action or lack of action creates, it becomes easy to convince myself that I have no relation to the harm done.

Now let's look at The Slippery Slope, a concept which, when combined with "Invisible Victims," can easily blossom into a problem. Ever bought a bag of chips with the intention of eating just one serving, only to find yourself half an hour later with an empty bag, greasy fingers, and a scorching case of self-loathing? That's The

Slippery Slope.

Now let's combine these two concepts. Let's say I've got an outside business that involves private clients, like a real estate practice. I have all the permissions from my agency I need, and everything is going along smoothly. Then one day the personal cell phone I use for my private practice dies. But I really need to make a call to a client. I decide to use my City phone, asking, "what's the harm?" (The invisible victim here is the taxpaying public, which is now underwriting my real estate business.) I make my call, conclude my business in five minutes, and get back to work. Seems harmless enough.

But now that client has my City number. The next day he calls me on my City phone, resulting in a seven-minute call, which feels almost as harmless as the first call. However, on the following day the client calls me at my City office, asking me to review some documents for him ASAP. I have a lot of work in the office, though, so I tell him to send it to my City email address: that way I can give it a harmless ten-minute look and get back to work. All these little slips down the slope can quickly turn into an enforcement case where hundreds of hours of City work time have been used for an outside job. This is why the Conflicts of Interest Law takes such a hard line on use of City resources for an outside job or political campaign: it is strictly prohibited in any amount. One small indiscretion against invisible victims puts me on a slippery slope to make many more.

So how do we avoid these problems? Don't treat "what's the harm?" as a rhetorical question. Try to answer it. Taking just that small moment may be all you need to get a little perspective on the situation. It's important to not lose the forest for the trees. But it's also important, while you're navigating that forest, to keep an eye out for brambles, so your clothes don't get snagged and start to unravel.

If the answer to that question provokes more questions related to the Conflicts of Interest Law, that's the time to reach out to us for free legal advice. A Board attorney is available to answer your questions Monday through Friday, from 9am to 5pm, and can be reached by phone at 212-442-1400, or through our website at www.nyc.gov/ethics. All questions about proposed future activities are confidential, and you may even request advice anonymously.

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Recent Enforcement Cases

▶ A now former Commissioner of the New York City Board of Elections paid a \$5,500 fine for using her BOE position to help her sister get a job at BOE by submitting her sister's resume to the other Commissioners of Election for consideration for hiring during a September 2008 Commissioner's Meeting. The Commissioners voted to approve the hire.

▶ A now former member of Manhattan Community Board 2 paid a \$10,660 fine for accepting ten years of free membership to Soho House, an entity with matters before Community Board 2. Soho House provided the complimentary membership for reasons related to the Respondent's position on the community board. The amount of the fine represents the total value of the membership, estimated to be \$8,160, plus a \$2,500 penalty.

▶ A Climber & Pruner for the New York City Department of Parks and Recreation accepted a 15-day suspension, valued at \$4,952, for taking a DPR Log Loader without authorization to pick up and load wood from a private residence while DPR was paying him overtime.

▶ A Senior Associate Director in the Patient Account at Elmhurst Hospital Center paid a \$1,000 fine for accepting the birthday gift of a Coach bag from her subordinate, a Hospital Care Investigator; the Director later gave her subordinate a check for the cost of the bag, including tax (\$431.33) but she failed to insure that her subordinate deposited the check, and he never did.

▶ A now former managerial Admin-

istrative Public Health Nurse agreed to resign from DOHMH for two violations of the City's conflicts of interest law: first, having a second job with North Shore-LIJ Health System, a firm with business dealings with the City; and, second, participating in the interview for a position at DOHMH of one of her subordinates at North Shore-LIJ without disclosing that association to anyone at DOHMH.

▶ A Sanitation Worker had a second job with Brooklyn Baseball, LLC, a firm with business dealings with the City, without authorization from the Department of Sanitation and a waiver from the Board. The Sanitation Worker resigned from the second job and agreed to the publication of a letter warning him and other City employees that, prior to accepting any second job with a firm doing business with any City agency, agency head authorization and a waiver from the Board must be obtained.

▶ A now former Associate Director for Ambulatory Care Services at the New York City Health and Hospital Corporation's Kings County Hospital Center paid a \$4,500 fine for multiple violations of the City's conflicts of interest law. First, the former Associate Director held an 8.5% ownership interest in and a compensated position with a private commercial cleaning services company that did business with KCHC. The former Associate Director had sought an order from the Board to permit him to retain the ownership interest, but did not receive such an order, after which he continued to hold the interest in the commercial cleaning services company for nearly four years. Second, the former Associate Director used two HHC subordinates to move his personal furniture during their City work hours.

Congratulations! to the winner of the Conflict of Interest Board's December Public Service Puzzler contest:

Rachel Cline, an Administrative Public Information Specialist at the Department of Education.

You can read Ms. Cline's bio and get the details for the January Public Service Puzzler by clicking [here](#).



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Get in touch with COIB's Training & Education Unit to arrange a class in Chapter 68 for you and your staff.
Contact Alex Kipp, Director of Training, at kipp@coib.nyc.gov*

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