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The Ethical Times

A Publication of the New York City Conflicts of Interest Board

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How the Cookie Crumbles

By Quinn Haisley

Question: *My daughter just joined the Girl Scouts, and, as you know, a big part of the organization is its annual cookie sale. I would like to help her out by selling the cookies to my co-workers, many of whom have a weakness for Thin Mints. Would this be a conflict of interest?*

Answer: Ah yes, the Girl Scout cookie question. The answer to your question is a bit more in-depth than just a simple “yes” or “no.” It is not uncommon for City employees to want to participate in various fundraising activities around the office, whether it is selling Girl Scout cookies or raising money for a walk-a-thon, but there are a few things to keep in mind if you would like to do so.

First off, under the conflicts of interest law, City employees are prohibited from using any City resource, including email, letterhead, and even time, in order to conduct a non-City activity. Now when it comes to selling fundraising items such as Girl Scout cookies, some agencies will allow for a minimal amount of such activity so long as it is not taking place when an employee should be doing his or her City job. For example, selling cookies during lunch or before and after work would typically be acceptable. It would *never* be a good idea, however, to turn selling Girl Scout cookies into your new eight-hour-a-day job. That means no setting up a Girl Scout cookie booth in the hallway of your agency. Employees should also refrain from sending out mass emails, plastering up flyers around the office, or hanging a giant Girl Scout cookie sign on their desk in order to drum up some business, as this would be a misuse of the City’s resources. In addition, although some agencies do allow for sales in the office, you should **always** check with a supervisor or Agency Counsel beforehand to make sure that your agency doesn’t have stricter rules.

If you have ascertained from your agency that you are permitted to sell the Girl Scout cookies in the office, there are a couple of other rules that you must make sure to follow. Under the conflicts of interest law, superiors and

subordinates are not allowed to enter into any sort of business or financial relationship with each other. When it comes to certain fundraising items like Girl Scout cookies, however, this rule has one tiny exception. Subordinates may sell to a superior, so long as the superior does not buy more than \$25 worth of whatever the subordinate is selling. This exception does not, however, work the other way around, meaning that a superior is **never** allowed to sell anything to their subordinate, or ask for a charitable donation for that matter. This is because the subordinate is more vulnerable to coercion than the superior. No one ever wants to feel as though her future employment hinges upon how many boxes of Thin Mints she bought from her boss. Lastly, although selling Girl Scout cookies in the office may be acceptable, a City employee, no matter what his or her position, is prohibited from selling fundraising items to, or soliciting charitable donation from, a private citizen the employee is dealing with in his or her City job.

You may be wondering if these rules similarly apply to an employee who would like to sell items such as Tupperware or Mary Kay cosmetics to their co-workers. The rules for that would be a bit different because, as opposed to selling Girl Scout cookies and other fundraising items, the City employee would profit directly from the sales of these items, rather than the money going to a charitable organization. If you would like to read more about the rules regarding outside business ventures, you can do so [here](#).

If you have any further questions, feel free to contact the Conflicts of Interest Board for free legal advice. Someone is available to speak with you Monday through Friday 9am-5pm. The number is 212-442-1400. All calls are confidential, and you can even call anonymously.

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Recent Enforcement Cases

▶ A member of Manhattan Community Board 2 paid a \$3,192 fine for accepting a free dinner and a one-year 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 \$1,192, plus a \$2,000 penalty.

▶ An Office Manager at the Brooklyn Forestry Office for the New York City Department of Parks and Recreation paid a \$1,000 fine to the Board for accepting a bottle of chocolate liqueur from an arborist whose permit applications she processed.

▶ COIB issued a public warning letter to a Network Engineer at the DOE for using City resources—namely his DOE computer, a DOE network closet, and the DOE network—to attempt to mine the digital currency Bitcoin. The Network Engineer maintained that he did not successfully mine Bitcoin.

▶ An Architect II for HRA agreed to resign her City position for, among other conduct that does not implicate the City's conflicts of interest law, directing her subordinate to accompany her offsite during work hours to cut out a template of a kitchen counter for the Architect II's private residence. The Architect also used her HRA email account to send and receive twelve emails concerning her private tenant's rent payments and used her HRA computer to create, edit, and/or save two documents concerning her rental property.

▶ The Board fined two former NYPD Captains for violating the Valuable Gift rule while working in the NYPD Office of Information Technology, Communications Division. The Captains—one a Commanding Officer, the other an Executive Officer—both admitted they each accepted \$784.97 worth of meals and entertainment from Black Box Network Systems, which had a multi-million-dollar contract to update the NYPD telecommunications system. The Commanding Officer also misused his position by soliciting a charitable contribution to his designated charity from Black Box, which donated \$500 to the cause. The Board fined the Executive Officer \$5,000, and the Commanding Officer \$7,500 for their respective violations.

▶ A Supervising Electrician at NYCHA paid a \$1,750 fine for leaving during his NYCHA workday to tend to his private electrical business. Specifically, he would travel to the business every morning to collect the mail and sweep the sidewalk. The Supervising Electrician also used NYCHA resources to print copies of a bid form for his electrical business.

▶ The Board issued a public warning letter to a Child Welfare Specialist at ACS who accessed his godson's confidential case records in the central repository for all ACS cases without authorization because he was concerned about his godson's welfare and wanted to speak with the ACS Child Protective Specialist Supervisor assigned to the case.

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

Bill Steyer, the Director of Manhattan Forestry at the Department of Parks and Recreation.

You will be able to read Mr. Steyer's bio and get the details for the May Public Service Puzzler by clicking [here](#).



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*Interested in more information?
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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A searchable index of all the COIB Enforcement Dispositions and Advisory Opinions is available courtesy of New York Law School here:

http://www.nyls.edu/center-for-new-york-city-law/cityadmin_library/

