

## MISUSE OF CITY POSITION

### •**Relevant Charter Sections:** City Charter §§ 2604(b)(2), 2604(b)(3)

The Board reached a settlement with the former Senior Director of the Corporate Support Services (“CCS”) Division of the New York City Health and Hospitals Corporation (“HHC”), who paid a \$9,500 fine to the Board. The former Senior Director admitted that he wrote letters to the company that leases vehicles to HHC, requesting that the company add a vehicle repair shop owned by the former Senior Director’s son to its list of HHC-approved repair shops and subsequently asking the company to promptly pay his son’s shop for repairs to three CSS vehicles. Second, the former Senior Director admitted that he repeatedly asked three of his subordinates to perform personal errands for him during City work hours and to use their City computers during their City work hours to produce a number of personal or non-City-business-related documents for the former Senior Director and his son. Finally, the former Senior Director admitted that he suggested to a CCS Director that she ask her subordinate, a CCS Institutional Aide, to refinish the floors in her personal residence. The CCS Director paid the CCS Institutional Aide \$100 for performing this service. The former Senior Director acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a City employee from using his or her City position to obtain a personal benefit for the City employee or any person, such as a child, or firm associated with the City employee; from using City personnel for any non-City purpose, such as personal tasks or errands; and from causing another City employee to violate the conflicts of interest law, such as by entering into a financial relationship with his or her subordinate. *COIB v. Pack*, COIB Case No. 2012-473 (2013).

An Associate Job Opportunity Specialist with the New York City Human Resources Administration (“HRA”) accepted a 60-day suspension, valued at \$9,972, for misusing his position in the HRA Rental Assistance Unit to issue an assistance check from HRA to his stepdaughter and for repeatedly misusing confidential information from his stepdaughter’s public assistance records. In a public disposition of the charges, the Associate Job Opportunity Specialist acknowledged violating the City’s conflicts of interest law by using his position in the HRA Rental Assistance Unit to authorize payment of rental assistance benefits to his stepdaughter and by misusing confidential information from public assistance case records to resolve a personal dispute. *COIB v. J. Purvis*, COIB Case No. 2012-898a (2013).

The Board issued its Findings of Facts, Conclusions of Law, and Order fining a former School Secretary for the New York City Department of Education (“DOE”) \$9,000 for using a DOE procurement credit card, also known as a P-Card, to make at least \$3,000 in personal purchases, such as at gas stations and fast food restaurants, between August 2009 and May 2011. The former School Secretary, as the school’s business manager, had been entrusted with the P-Card for the sole purpose of making purchases for the school. The Board’s Order adopts the Report and Recommendation of New York City Office of Administrative Trials and Hearings (“OATH”) Administrative Law Judge (“ALJ”) Alessandra F. Zoragniotti, issued after a trial. The Board found that the ALJ correctly determined that the former School Secretary misused the school’s P-Card and that, in so doing, violated the City of New York’s conflicts of interest law, which prohibits a public servant from using his or her City position for private financial gain and

from using City resources, such as school funds, for any non-City purpose. The former School Secretary resigned during the course of the investigation of this matter and failed to appear at the hearing at OATH; nonetheless, the Board ordered that she pay a fine of \$9,000. *COIB v. Vera*, COIB Case No. 2011-750 (2012).

The former Director of Central Budget in the Division of Finance in the New York City Department of Education (“DOE”) paid the Board a \$15,000 fine for his violations of the City’s conflicts of interest law by taking official action to obtain a DOE job for his wife. Also, in only the second case of its kind since City voters approved, in November 2010, an amendment to the conflicts of interest law giving the Board the power to order the disgorgement of any gain or benefit obtained as a result of a violation of the conflicts of interest law, the former Director of Central Budget paid the Board, in addition to the fine, the value of the benefit he received as a result of his violations, namely the total of his wife’s net earnings from her employment at DOE, in the amount of \$32,929.29, for a total financial penalty of \$49,929.29. The former Director of Central Budget admitted that, in 2011, while he was the DOE Director of Business for the Bronx, he approached his subordinate and asked her to create a budget line, at the title and pay scale he indicated, for a new Community Coordinator position in the Bronx. The pay the Director indicated was higher than the usual pay scale for that position, and his wife did not meet all the requirements for the position. Nonetheless, the Director asked another DOE employee to staff his wife to the position, and he asked a third DOE employee to contact his wife and ask his wife to send her resume for the position. Finally, the Director gave his wife’s resume to the DOE employee in charge of Human Resources for the DOE Office of School Support and directed that employee to contact his wife and set her up for processing for the job. During this entire process, there was no job posting for the position, there were no interviews, and none of the DOE employees involved met with the Director’s wife prior to her receiving the job offer. The former Director of Central Budget acknowledged that, by directing DOE employees, some of whom were at the time or had recently been his subordinates, to take official actions to benefit his wife, he violated the City’s conflicts of interest law, which prohibits City employees from using their City positions to benefit themselves or someone with whom they are associated, which would include a spouse, sibling, parent, child, or an individual with whom or firm with which the City employee has a business or financial relationship. *COIB v. Namnum*, COIB Case No. 2011-860 (2012).

A Teacher for the New York City Department of Education (“DOE”) paid the Board a \$4,000 fine for selling bars of soap to his students and for incentivizing those sales by offering ten Character Incentive Program “keys” and then a “no homework pass” in exchange for each purchase. The Teacher admitted that, during the 2011-2012 school year, his school held a Character Incentive Program, designed to help students improve social skills and academics and build good character. As part of the program, teachers would give students “keys” which could later be redeemed for small items. In November 2011, during class, the Teacher told his students that he was selling soap for \$3.00 or \$4.00 a bar and, with each purchase, he would give the student 10 “keys.” In January 2012, during class, the Teacher told his students that, for each bar of soap purchased, the student would also receive one “no homework pass.” At least three students purchased one bar of soap each, receiving 10 “keys” each; one student purchased three bars of soap and received 30 “keys”; and at least one student received a “no homework pass.” The Teacher acknowledged that, in so doing, he violated the City’s conflicts of interest law

provisions prohibiting public servants from using their City positions to benefit themselves and from using City time for a non-City purpose. *COIB v. Scanterbury*, COIB Case No. 2012-328 (2012).

A former Assistant to the Chief Engineer in the Bureau of Engineering at the New York City Department of Sanitation (“DSNY”) paid the Board a \$7,500 fine for his multiple violations of the City of New York’s conflicts of interest law. Also, in the first case of its kind since City voters approved, in November 2010, an amendment to the conflicts of interest law giving the Board the power to order the disgorgement of any gain or benefit obtained as a result a violation of the conflicts of interest law, the former Assistant paid the Board, in addition to the fine, the value of the benefit he received as a result of his violations. First, the former Assistant admitted that he referred a DSNY subordinate to an attorney to represent her in a personal injury lawsuit, for which referral the former Assistant received a fee, in the amount of \$1,696.82. The former Assistant acknowledged that, in so doing, he violated the provisions of the City’s conflicts of interest law that prohibit City employees from using their City positions to obtain a personal financial benefit and from entering into a business or financial relationship with a City superior or subordinate. Second, the former Assistant admitted that he performed work on his subordinate’s personal injury lawsuit and on another compensated legal matter on City time and using City resources, including his DSNY office for meetings and his DSNY computer, telephone, and e-mail account. The former Assistant acknowledged that, in so doing, he violated the provisions of the City’s conflicts of interest law that prohibit City employees from using City time or City resources for any non-City purpose, especially for any private business purpose. Finally, the former Assistant admitted that he provided to a private law firm, for a personal, non-City purpose, disciplinary complaints concerning a DSNY employee, which complaints included the employee’s home address, date of birth, and Social Security number. The former Assistant acknowledged that, in so doing, he violated the provision of the City’s conflicts of interest law that prohibits City employees from using information that is not otherwise available to the public for the public servant’s own personal benefit or for the benefit of any person or firm associated with the public servant (including a parent, child, sibling, spouse, domestic partner, employer, or business associate) or to disclose confidential information obtained as a result of the public servant’s official duties for any reason. For these violations, the former Assistant paid the Board a \$7,500 fine as well as the value of the benefit he received as a result of the violations, namely the referral fee, in the amount of \$1,696.82. *COIB v. S. Taylor*, COIB Case No. 2011-193 (2012).

In a joint disposition with the Board and the New York City Administration for Children’s Services (ASC), a Supervisor of Mechanical Installations was fined \$1,250, payable to the Board, and five days’ pay, valued at approximately \$1,256, payable to ACS, for using a subordinate ACS employee to serve divorce papers on his wife during their City work hours. As part of his official duties, the Supervisor of Mechanical Installations was responsible for supervising Maintenance Workers at the Crossroads Juvenile Center in Brooklyn (“Crossroads”). The Supervisor of Mechanical Installations admitted that on October 22, 2010, from approximately 7:20 a.m. until 9:40 a.m., he traveled with a subordinate ACS Maintenance Worker from the Crossroads facility to his wife’s work location in downtown Manhattan so that the Maintenance Worker could serve the Supervisor’s wife with divorce papers. The Supervisor of Mechanical Installations and the Maintenance Worker were required to be performing work for the City during the time they traveled to Manhattan. The Supervisor of Mechanical

Installations admitted that: (1) by using a subordinate employee to avoid the personal expense of hiring a process server, he violated City Charter § 2604(b)(3), which prohibits any public servant from using his or her position to obtain any financial gain or personal advantage; (2) by serving divorce papers on his wife during his City work hours, he violated City Charter § 2604(b)(2), pursuant to Board Rules § 1-13(a), which prohibits any public servant from pursuing personal activities during times the public servant is required to perform services for the City; (3) by using a subordinate employee to serve divorce papers on the Supervisor's wife during the subordinate's City work hours, he violated City Charter § 2604(b)(2), pursuant to Board Rules § 1-13(b), which prohibits any public servant from using City resources, including City personnel, for any non-City purpose; and (4) by using a subordinate employee to serve divorce papers on his wife during the subordinate employee's City work hours, he caused the subordinate employee to violate Chapter 68, thereby violating City Charter § 2604(b)(2), pursuant to Board Rules § 1-13(d), which prohibits any public servant from causing another public servant to violate the conflicts of interest law. *COIB v. R. Gonzalez*, COIB Case No. 2011-055 (2012).

The Board and the New York City Human Resources Administration ("HRA") concluded a joint settlement with a Job Opportunity Specialist who agreed to irrevocably resign his position with HRA and not seek future employment with HRA for, among other conduct, asking an HRA client to care for his pet ferret in exchange for a sum of money. As part of his official HRA duties, the Job Opportunity Specialist was responsible for conducting home visits to HRA clients who receive public benefits. The Job Opportunity Specialist admitted that, during the course of a home visit to an HRA client, he asked the client to care for his pet ferret in exchange for a sum of money. The Job Opportunity Specialist admitted that his conduct violated the City's conflicts of interest law, which prohibits a City employee from using his or her position to obtain any personal or private advantage. *COIB v. K. Hope*, COIB Case No. 2012-230 (2012).

A former City Planner at the New York City Department of City Planning ("DCP") paid a \$6,500 fine to the Board for using City resources and her City position for her personal benefit. The former City Planner admitted that in 2007 she created a fake City parking placard and, from 2007 to 2011, displayed it in her private vehicle to avoid receiving parking tickets for parking in otherwise prohibited spaces. The fake City parking placard fraudulently utilized the logo of the City of New York and fraudulently stated that it was issued by DCP. The former City Planner admitted that, on three occasions, she used the fake City parking placard to have parking summons dismissed at the New York City Department of Finance Parking Violations Operations ("PVO") hearings. At each PVO hearing, the former City planner presented the fake City parking placard as if it were legitimate and represented herself as a DCP employee; as a result, each time, the summons was dismissed. The former City Planner acknowledged she violated the City's conflicts of interest law by using her DCP position to obtain a personal benefit and by using a City resource for a non-City purpose. *COIB v. K. Stewart*, COIB Case No. 2012-162 (2012).

In a joint disposition with the Board and the New York City Department of Education ("DOE"), the Principal of The Bay School PS/MS 105 acknowledged that on November 10, 2010, her son, who was not a Bay School student, visited the school and, while there, was approached by a Bay School math teacher about how he was doing in college. The Principal's son responded that he was struggling in calculus; the Bay School math teacher offered to help him, which the teacher did during his lunch break. In order to give Bay School math teacher

more time to tutor her son, the Principal cancelled the math teacher's next class and directed the affected students to the school's auditorium to join another class watching "The Karate Kid." The Principal acknowledged that this conduct violated the City's conflicts of interest law, which prohibits a public servant from using his or her City position to benefit himself or herself or a person or firm with which he or she is associated. The Principal was "associated" with her son within the meaning of the City's conflicts of interest law. For this misconduct, the Principal agreed to pay a \$2,000 fine to the Board and to have the disposition constitute a formal reprimand by DOE. *COIB v. L. Shapiro*, COIB Case No. 2011-445 (2012).

The Board fined the former Commissioner of the New York City Department of Finance \$22,000 for her multiple violations of the City's conflicts of interest law. The former Finance Commissioner acknowledged that, in February 2005, advice was sought from the Board on her behalf as to whether, in light of her position as Finance Commissioner, she could serve as a paid independent member of the Board of Directors of Tarragon Realty Investors Inc., a publicly-traded real estate investment company with no real estate in New York City. The Board advised, in writing, that she could serve as a Tarragon Board Member, provided that, among other things, she not use her City position to obtain any advantage for Tarragon or its officers or directors and she not use any City equipment, letterhead, personnel, or resources in connection with her Board service. Despite these written instructions from the Board, the former Finance Commissioner proceeded to engage in such prohibited conduct. First, the Finance Commissioner admitted that, from March 2005 through April 2009, she used her City computer and City e-mail account to send and receive approximately 300 e-mails related to Tarragon. The former Finance Commissioner acknowledged that this conduct violated the City's conflicts of interest law, which prohibits any public servant from using City equipment or resources for any non-City purpose. Second, the former Finance Commissioner admitted that, in August 2007, she sent two e-mails in particular from her Finance e-mail account on behalf of Tarragon. The first was to a Senior Client Manager at a bank, with whom and with which bank she had dealt in her official capacity as Finance Commissioner, inquiring about the time frame for the bank's decision to extend loan commitments and provide additional financing to Tarragon on some of its properties for which the bank held mortgages and about whether that time frame might be extended. The second was to a Senior Program Analyst in the Governmental Liaison Office of the Internal Revenue Service inquiring about the issuance of a federal tax refund owed to Tarragon and the IRS's then current timeframe for issuing refund checks and when the refund might be issued in light of the major liquidity issues being faced by Tarragon. In both e-mails, the former Finance Commissioner identified herself as the Finance Commissioner. The former Finance Commissioner acknowledged that this conduct violated the City's conflicts of interest law, which prohibits a public servant from using his or her City position to benefit himself or herself or a person or firm with which he or she is associated. As a paid independent director of Tarragon, the former Finance Commissioner was "associated" with Tarragon within the meaning of the City's conflicts of interest law. Third, the former Finance Commissioner admitted that she asked the First Deputy Commissioner at Finance and the former Commissioner's Executive Assistant at Finance to perform administrative tasks for her on Tarragon-related matters, which tasks these subordinates performed. The former Finance Commissioner acknowledged that this conduct violated the City's conflicts of interest law, which prohibits any public servant from using City personnel for any non-City purpose. Separately, the former Finance Commissioner admitted that she sent an e-mail from her Finance e-mail account to the Vice President and General Counsel at

a corporation that owns approximately twenty luxury rental apartment buildings in the City, with whom and with which owner she had dealt in her official capacity as Finance Commissioner, asking the Vice President to assist her registered domestic partner in looking for an apartment, which ultimately resulted in her renting an apartment in one of the corporation's buildings. In this e-mail, the former Finance Commissioner identified herself as the Finance Commissioner. The former Finance Commissioner acknowledged that this conduct violated the City's conflicts of interest law, which prohibits a public servant from using his or her City position to benefit himself or herself or a person or firm with which he or she is associated. The former Finance Commissioner acknowledged that she was "associated" with her domestic partner within the meaning of the City's conflicts of interest law. The former Finance Commissioner also admitted that she sent an e-mail from her Finance e-mail account to the Senior Vice President of a trade association representing real estate interests in New York State, with whom and with which entity she had dealt in her official capacity as Finance Commissioner, and who was also a personal friend, for assistance for her recently laid off step-sister in finding a new job. In this e-mail, the former Finance Commissioner identified herself as the Finance Commissioner. The former Finance Commissioner acknowledged that this conduct violated the City's conflicts of interest law, which prohibits a public servant from using his or her City position to benefit himself or herself or a person or firm with which he or she is associated. The former Finance Commissioner acknowledged that she was "associated" with her step-sister within the meaning of the City's conflicts of interest law. Finally, the former Finance Commissioner admitted that, in June and July 2008, she was personally and directly involved in the employment of her half-brother, who was employed at Finance as a paid summer and part-time college aide, including intervening with her half-brother's supervisor concerning supervisory and performance issues. The former Finance Commissioner acknowledged that this conduct violated the City's conflicts of interest law, which prohibits a public servant from using his or her City position to benefit himself or herself or a person or firm with which he or she is associated. The former Finance Commissioner acknowledged that she was "associated" with her half-brother within the meaning of the City's conflicts of interest law. *COIB v. Stark*, COIB Case No. 2011-480 (2012).

The Board issued its Findings of Facts, Conclusions of Law, and Order fining an Inspector for the New York City Department of Buildings ("DOB") who, on January 17, 2009, invoked his City position and used his Inspector's badge in an effort to get special treatment for his incarcerated son. The Board's Order adopts the Report and Recommendation of the Office of Administrative Trials and Hearings ("OATH"), issued after a full trial before Administrative Law Judge ("ALJ") Kevin F. Casey. The Board found that the ALJ correctly determined that the Inspector called the New York City Police Department ("NYPD") Transit District No. 12, where his son was being held for subway fare evasion, and identified himself as a City Inspector and asked that his son be treated with courtesy; the Inspector arrived at Transit District No. 12 later that night, again identified himself as a City Inspector, showed his DOB inspector shield, and demanded to see his son, that the charges against his son be dropped, and that his son be released. The ALJ found, and the Board adopted as its own findings, that the Inspector's conduct violated the City's conflicts of interest law, which prohibits a public servant from using his City position to benefit himself or any person or firm associated with the public servant and which also prohibits a public servant from using a City resource – which includes one's City identification, badge, or shield – for any personal, non-City purpose, such as attempting to obtain a special advantage not available to a member of the general public. For these violations, the ALJ

recommended, and the Board ordered, that the Inspector pay a fine of \$2,500. *COIB v. Maldonado*, COIB Case No. 2010-548 (2011).

The Board fined a former Bronx Borough President \$10,000 in connection with renovating his home with help from the architect of a development project that sought his official approval. The former Borough President admitted to hiring an architect to design a porch and balcony for his City Island home sometime in 2006 when the architect was involved in a project that would require the Borough President's official review and to causing a two-year delay in being billed for the architect's work. The former Bronx Borough President admitted that hiring the architect created a conflict of interest between his public duties and personal interests because, at the time of the hiring, the architect was part of a team seeking the City's approval of a Bronx development, known as "Boricua Village," and, as the affected Borough President, he would play an official role in that approval process. Even though he was not certain of the architect's involvement in Boricua Village when he hired him, the former Borough President knew the architect was associated with similar projects that had come before the Borough President's Office and was chargeable with exercising reasonable care in ascertaining the relevant facts that could create a conflict of interest with his official duties. The former Bronx Borough President further admitted that, even though the initial construction work on the porch was finished in March 2007 and he paid the builders at that time, he did not receive a bill from the architect until after the *New York Daily News* contacted him in March 2009 about the architect's services, at which time he paid the architect for his work. The former Borough President acknowledged his conduct violated the provision of the City's conflicts of interest law that prohibits the City's elected officials and other public servants from using, or attempting to use, their City positions to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the public servant or any individual or firm associated with the public servant. *COIB v. Carrión*, COIB Case No. 2009-159 (2011).

The Board adopted the Report and Recommendation of an Administrative Law Judge ("ALJ") of the New York City Office of Administrative Trials and Hearings ("OATH") fining, after a full trial, the Brooklyn Borough President \$20,000 for accepting free foreign travel and related accommodations for his wife on three occasions: a trip to Turkey in May 2007, a trip to the Netherlands in March 2009, and a second trip to Turkey in November 2009. For each of these trips, it was undisputed that the Brooklyn Borough President was conducting official business and thus could accept free airfare and related accommodations for himself. However, at no time was the Brooklyn Borough President's wife an employee of the Borough President's Office or of any other City agency. Therefore, her travel was not an expense that could have been properly paid for with City funds; and, thus, if the Borough President wished to have his wife accompany him, he was required to pay for her travel expenses himself. As stated in the Board's Order, the Brooklyn Borough President was so advised by the Board in writing of this requirement prior to the first of the three trips at issue. Notwithstanding that prior notice from the Board, the Brooklyn Borough President accepted travel-related expenses for his wife from the Republic of Turkey for a trip in May 2007, from the Kingdom of the Netherlands in March 2009, and from the Federation of Turkish American Associations in November 2009. While none of these entities has business dealings with the City, and thus the acceptance of gifts from these entities is not proscribed by the Board's Valuable Gift Rule (found in Charter Section 2604(b)(5)), the Board in its Order restated its long-standing advice that "a public servant may

violate Charter Section 2604(b)(3) by accepting a gift even if the donor does not have such business dealings, if the public servant is receiving the gift only because of his or her City position.” Here, the ALJ made a finding, which the Board adopted, that “Respondent received these trips abroad because of his position as Borough President of Brooklyn and his wife went on all three trips because of her relationship to him. By accepting travel expenses for his wife for each trip, respondent used his position as a public servant for private or personal advantage. Simply put, his wife was able to travel with him abroad – for free.” As a penalty, the ALJ recommended, and the Board imposed, a total fine of \$20,000, apportioned by the Board follows: \$3,000 for the 2007 Turkey trip, \$7,000 for the 2009 Netherlands trip, and \$10,000 for the 2009 Netherlands trip, which came after the Brooklyn Borough President was most recently on notice that it would be a violation to accept such expenses on behalf of his wife. *COIB v. Markowitz*, COIB Case No. 2009-181 (2011).

The Board imposed a \$5,000 fine and \$345.02 in restitution on a former Supervisor at the New York City Human Resources Administration (“HRA”) who used the Electronic Benefit Transfer Card (“EBT card”) of an HRA client to make personal purchases. EBT is the method by which the New York State Office of Temporary and Disability Assistance delivers cash and food stamp benefits to New York State's recipient population. Cash and food stamp benefits are deposited into electronic benefit accounts which can be accessed using an EBT Card and a Personal Identification Number (“PIN”). The former Supervisor acknowledged that, in September 2008, she asked an HRA client to give her his EBT card and PIN and then, without authorization, used the HRA client’s EBT card to make personal purchases totaling \$345.02. The former Supervisor 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. The Board forgave the \$5,000 fine, after taking into consideration the former Supervisor’s extraordinary financial hardship, but still required her to make full restitution. *COIB v. Belle*, COIB Case No. 2010-156 (2011).

The Board concluded a joint settlement with the New York City Administration for Children’s Services/Department of Juvenile Justice (“ACS/DJJ”) and an ACS/DJJ Juvenile Counselor who abused the power of her position for personal gain. In a public disposition, the Juvenile Counselor admitted to refusing to allow a female resident of Horizon Juvenile Center, who was then 32-weeks pregnant, to use the restroom facility unless the resident wrote a statement in favor of the Juvenile Counselor. The Juvenile Counselor acknowledged that this conduct violated the City’s conflicts of interest law provision prohibiting City employees from using their City positions to obtain any personal and private advantage. As a penalty, the Juvenile Counselor agreed to serve a 30-day suspension (valued at approximately \$3,352). *COIB v. Lowe*, COIB Case No. 2010-573 (2011).

The Board concluded a joint settlement with the New York City Department of Environmental Protection (“DEP”) and an Environmental Police Sergeant who abused the authority of his City position to intimidate car wash employees in order to avoid paying for services they had performed on his personal car. In a public disposition, the DEP Police Sergeant admitted that he left his assigned DEP work location, while on duty and in his DEP Police



uniform, and travelled in a DEP Police vehicle to a car wash and lube business, which was outside of his assigned patrol area, to contest a bill for repairs made to his personal vehicle. The Sergeant admitted that, through the use of intimidation and threats, he received services on his personal vehicle for which he did not pay. The Police Sergeant acknowledged that his conduct violated the City's conflicts of interest law, specifically the provision prohibiting public servants from using, or attempting to use, their City positions to obtain any financial gain and the provision prohibiting use of City resources and City time for any non-City purpose. As a penalty, the Sergeant agreed to be demoted to the position of Environmental Police Officer, to serve a 30-day suspension without pay (valued at approximately \$3,772), and to serve a one-year probationary period at DEP. *COIB v. Ginty*, COIB Case No. 2011-002 (2011).

The Board fined the Director of Field Operations for the New York City Board of Correction \$4,000 for using the authority and power of his City position to circumvent New York City Department of Correction ("DOC") procedures to expedite and accommodate his incarcerated nephew's after-hours funeral request. The Director admitted to making a request to DOC around 9:00 p.m. on July 12, 2008, for his nephew to attend a funeral scheduled to begin at 9:00 a.m. the next morning. Due to time constraints, the Director of Field Operations circumvented certain procedures and then used his unquestioned, unrestricted access to all DOC facilities to personally usher his nephew's funeral request through each phase of the DOC approval process until final approval. The Director of Field Operations involved himself in his nephew's funeral request after the Director's sister asked for his help. The Director of Field Operations acknowledged that his conduct violated the City's conflicts of interest law, which prohibits City employees from using, or attempting to use, their City position to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the public servant or any individual or firm "associated" with the public servant. *COIB v. Armstead*, COIB Case No. 2008-503 (2011).

The Board fined the former Senior Deputy Director for Infrastructure Technology in the Information Technology Division at the New York City Housing Authority ("NYCHA") \$20,000 for his multiple violations of the City's conflicts of interest law related to his work at his restaurant, 17 Murray. The former Senior Deputy Director acknowledged that, in October 2005, he sought an opinion from the Board as to whether, in light of his position at NYCHA, he could acquire a 50% ownership interest in the restaurant 17 Murray. The Board advised him, in writing, that he could own the restaurant, provided that, among other things, he not use any City time or resources related to the restaurant, he not use his City position to benefit the restaurant, and he not appear before any City agency on behalf of the restaurant. Despite these specific written instructions from the Board, the former Senior Deputy Director proceeded to engage in the prohibited conduct. The former Senior Deputy Director admitted that, among his violations, from at least August 2006 through June 2009, he used his NYCHA subordinate, a Data Technician, to perform work on a regular basis at the restaurant without compensation. He further admitted that he caused his subordinate to use his NYCHA computer, e-mail account, and Blackberry to perform work related to the restaurant, at times the subordinate was required to be working for the City. The former Senior Deputy Director acknowledged that this conduct violated the City's conflicts of interest law, which prohibits a public servant from using his City position to benefit himself or a person or firm with which he is associated and prohibits a public servants from soliciting, requesting, commanding, aiding, inducing, or causing another public

servant to violate the City's conflicts of interest law. The former Senior Deputy Director also acknowledged that he had resigned from NYCHA while disciplinary proceedings were pending against him for this misconduct. *COIB v. Fischetti*, COIB Case No. 2010-035 (2010).

The Board fined a former Supervisor of Caretakers at the Sheepshead/Nostrand Houses of the New York City Housing Authority ("NYCHA") \$6,000 for lending money to at least two Caretakers he supervised at an approximately 30% interest rate. The former Supervisor of Caretakers acknowledged that, from at least January 2007 through February 2009, he loaned to at least two Caretakers he supervised money in cash that he required to be paid back, in cash, plus approximately 30% interest, by the next payday. If the Caretaker did not pay the Supervisor back the following payday, the Supervisor would require payment of double the amount owed. The Supervisor of Caretakers acknowledged that this conduct violated the City's conflicts of interest law, which prohibits a public servant from using his City position to benefit himself or a person or firm with which he is associated and prohibits a public servant from entering into a financial relationship with a superior or subordinate public servant. In addition to the Board fine, for this misconduct the former Supervisor of Caretakers also pled guilty to one count of Criminal Usury in the Second Degree, a Class E Felony, and was sentenced to five years' probation. *COIB v. D. Mitchell*, COIB Case No. 2008-397 (2010).

The Board fined a Supervisor at the New York City Department of Sanitation ("DSNY") \$2,250 for using his DSNY position to enlist two of his DSNY subordinates, both Sanitation Workers, to chauffeur his girlfriend and his aunt. The Supervisor acknowledged that, in addition to his DSNY job, he is also the sole owner and employee of a limousine business. Approximately six times over the course of a year, the Supervisor asked two subordinate Sanitation Workers to drive a limousine for him, which would entail the subordinate driving his personal vehicle from Brooklyn to the Supervisor's home or his girlfriend's home in Long Island to pick up the limousine; drive the Supervisor's girlfriend or his aunt to LaGuardia Airport, JFK Airport, or the theater in Manhattan; return the limousine to where it had been picked up in Long Island; and then drive his personal vehicle back to his home in Brooklyn, all on the subordinate's own time. For all this, the Supervisor would give his subordinate \$20 or \$25 for "lunch"; he did not reimburse his subordinate for gas or pay him for his time driving back and forth between various points in New York City and Long Island. The Supervisor acknowledged that his conduct violated the City'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. Kayola*, COIB Case No. 2010-491 (2010).

The Board imposed a \$7,500 fine on a former Community Coordinator for the New York City Administration for Children's Services ("ACS") for using her ACS computer and e-mail account to do outside legal work—despite not being a licensed attorney—and misleading non-City government agencies and offices to believe that she was acting on behalf ACS in her private clients' U.S. immigration matters in which ACS had no official involvement or interest. The former ACS Community Coordinator admitted using her ACS e-mail account to request that the office of a country's diplomatic mission expedite an individual's U.S. visa application and to send a similar e-mail, wherein she falsely identified herself as both an attorney and ACS Child

Protective Specialist acting on behalf of a U.S. visa applicant. ACS had no involvement or interest in either visa application. The former Community Coordinator further admitted sending another e-mail from her ACS account, in which she asked an Assistant Chief of Counsel for the enforcement division of a non-City government agency about the status of another private client's legal matter that was pending before a tribunal of that agency. The former Community Coordinator acknowledged that she attempted to use her ACS position to give her private client an advantage in the U.S. visa application process, in violation of the City's conflicts of interest law prohibition on public servants using or attempting to use their City positions to obtain an advantage for any person associated with the public servant, which includes a private client. She further acknowledged that her above-described use of her ACS e-mail account and computer violated the conflicts of interest law prohibition on using City resources for non-City purposes. The Board imposed a \$7,500 fine on the former Community Coordinator for her violations. However, after taking her current financial hardship into consideration, the Board agreed to forgive the total amount of the fine unless and until she becomes employed. *COIB v. Tiekou*, COIB Case No. 2009-009 (2010).

The Board imposed, and then forgave based on demonstrated financial hardship, a \$2,000 fine on a former New York City Department of Education ("DOE") substitute teacher who allowed students from her fifth-grade class to work, without pay, at a restaurant that she owned. The former substitute teacher acknowledged that, in January and February 2008, without authorization from the DOE, she spoke to her students about an internship opportunity to work at her restaurant. The former substitute teacher further acknowledged that, although she did not receive permission from her school, at least three of her students worked at her restaurant passing out flyers, for which work they were not paid. The former substitute teacher 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. For this misconduct, the Board imposed a fine of \$2,000, but forgave this fine upon the former substitute teacher's showing to the Board of financial hardship, including her current unemployment and significant outstanding balances on her mortgage and utility bills. *COIB v. Mateo*, COIB Case No. 2008-805 (2009).

The Board issued its Findings of Facts, Conclusions of Law, and Order fining a former Medical Insurance and Community Services Administration ("MICSA") Eligibility Specialist for the New York City Human Resources Administration ("HRA") \$10,000 for using her City position to access confidential information about an HRA client whose name was similar to hers in order to steal that client's identity for the Eligibility Specialist's personal use to obtain a cell phone contract and a credit card. The Board's Order adopts the Report and Recommendation of the Office of Administrative Trials and Hearings ("OATH"), issued after a full trial before Administrative Law Judge ("ALJ") Kara J. Miller. The Board found that the ALJ correctly determined that the former HRA Eligibility Specialist, without authorization to do so, accessed on at least 7 occasions the confidential records of an HRA client, whose name was similar to hers, in the Welfare Management System ("WMS"). WMS is a system maintained by the New York State Office of Temporary and Disability Assistance ("OTDA") containing information about all persons who have applied for or have been determined to be eligible for benefits under any program for which OTDA has supervisory responsibility. The Eligibility Specialist then used

the confidential information she had obtained, namely the HRA client's social security number and date of birth, to open a Verizon Wireless account and a Bank of America credit card in the client's name. The ALJ found, and the Board adopted as its own findings, that the former HRA Eligibility Specialist's conduct violated the City of New York's conflicts of interest law, which (a) prohibits a public servant from engaging in any business, transaction, or private employment, or having any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties; (b) prohibits a public servant 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 public servant or any person or firm associated with the public servant; and (c) 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. The ALJ recommended and the Board imposed a fine of \$10,000. In setting the amount of the fine, the Board agreed with the ALJ's characterization of the former HRA Eligibility Specialist's use of confidential information as "self-serving and malicious" and took into consideration her "disregard of the charges and the proceedings at OATH, thus requiring Board staff to expend time and public resources to prove the case at OATH." *COIB v. Smart*, COIB Case No. 2008-861 (2009).

The Board fined a former Custodian for the New York City Department of Education ("DOE") \$20,000, the highest fine to date in a Board settlement. The former Custodian acknowledged he had made personal purchases using DOE funds from three DOE vendors and then instructed those vendors to falsify the invoices in order to conceal from DOE his use of DOE funds for personal purchases. The former Custodian also acknowledged that he used the custodial staff that he hired to work at his DOE school to perform personal work for him and for his brother-in-law – including painting his house, installing shelves, installing cabinets at his brother-in-law's house, moving a rug, and cleaning his deck – always without paying them and sometimes at times when the custodial staff was supposed to be performing work at the Custodian's DOE school. The former Custodian admitted that he violated the City's conflicts of interest law, which prohibits the use of City resources – which include City monies or City personnel – for any non-City purpose and 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. O'Brien*, COIB Case No. 2008-960 (2009).

The Board fined a New York City Department of Education ("DOE") teacher \$1,000 for selling a small self-composed framed poem to the parent of a student from her school and attempting to sell five self-composed framed poems to the parent of another student in her class, some of which conduct was done on DOE time. The teacher 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. Murrell*, COIB Case No. 2008-481 (2009).

The Board fined a New York City Fire Department ("FDNY") firefighter \$1,000 for attempting to use his position to avoid receiving a parking ticket for illegally parking near a fire

hydrant. The FDNY firefighter acknowledged that on May 11, 2008, he parked his personal vehicle three feet away from a fire hydrant on Van Cortlandt Park South in the Bronx, near his residence, and placed on the dashboard, alongside a Uniformed Firefighters' Association union placard, a handwritten note addressed to City traffic agents that read: "I'm really a fireman. I work in Engine 46. Ask Traffic Agent Maria Daniel. Thank you for your courtesy." The FDNY firefighter 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 Santana*, COIB Case No. 2008-374 (2009).

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).

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

In a three-way settlement, the Board and the New York City Department of Transportation ("DOT") suspended, demoted to a non-supervisory position with a \$1,268 annual pay cut, and fined a City parking official \$2,500 for using his position to solicit a subordinate to marry his daughter in Ecuador and for repairing the cars of subordinates for compensation. The parking official was also placed on probation for two years, during which time he is ineligible for promotions or salary increases. In addition, he can be terminated summarily if he violates the

DOT code of conduct or the conflicts of interest law again. A court challenge of the settlement by the parking official was dismissed by the New York State Supreme Court on November 5, 2001, Index No. 118741/01 (DeGrasse, J.). *COIB v. Moran*, COIB Case No. 1999-51, OATH Index No. DOT-012261 (2001).

The Board fined Kerry Katsorhis, former Sheriff of the City of New York, \$84,000 for numerous ethics violations. This is the largest fine ever imposed by the Board. An Office of Administrative Trials and Hearings Administrative Law Judge (“ALJ”) found that it was appropriate for the former Sheriff to forfeit 80% of the \$103,000 salary the City had paid him for the year he was Sheriff because his “improper activities cost the City money, in personnel time (his own and his secretaries’) and in supplies.” The ALJ found: “The full extent of respondent’s abuse of his office, and the consequent financial cost to the City cannot be determined because of respondent’s failure to cooperate with the investigation. However, the record of court appearances, phone calls, meetings, correspondence and court submissions shows a considerable amount of respondent’s time was devoted to his private employment activities during what are normal City working hours.” The fine was collected in full in December 2000. Katsorhis habitually used City letterhead, supplies, equipment, and personnel to conduct an outside law practice. He had correspondence to private clients typed by City personnel on City letterhead during City time and mailed or faxed using City postage meters and fax machines. Katsorhis also endorsed a political candidate using City letterhead and attempted to have the Sheriff’s office repair his son’s personal laptop computer at City expense. Katsorhis also attempted to have a City attorney represent one of Katsorhis’ private clients at a court appearance. In 2000, the New York State Supreme Court Appellate Division, First Department, twice dismissed as untimely perfected a petition to review the Board’s decision, and the New York Court of Appeals dismissed as untimely a motion seeking leave to appeal the Appellate Division’s orders. The record in this case exceeded 6,000 pages. *COIB v. Kerry J. Katsorhis*, COIB Case No. 94-351 (1998), *appeal dismissed*, M-1723/M-1904 (1st Dep’t April 13, 2000), *appeal dismissed*, 95 N.Y.2d 918, 719 N.Y.S.2d 645 (Nov. 21, 2000).

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

In April 1996, in the case of the former City Comptroller, Elizabeth Holtzman, after a full trial on the merits, the Board fined Holtzman \$7,500 (of a maximum \$10,000) for violating City Charter § 2604(b)(3) (prohibiting use of public office for private gain) and City Charter § 2604(b)(2) (prohibiting conduct that conflicts with the proper discharge of official duties) with respect to her participation in the selection of a Fleet Bank affiliate as a co-manager of a City bond issue when she had a \$450,000 loan from Fleet Bank to her United States Senate campaign, a loan she had personally guaranteed. Significantly, in a landmark ruling, the Court of Appeals, New York State’s highest court, upheld the Board’s reading of the high standard of care applicable to public officials and rejected the asserted lack of actual knowledge of business dealings as a defense to ethics charges: “A City official is chargeable with knowledge of those business dealings that create a conflict of interest about which the official ‘should have known.’”

The Court of Appeals also found that Holtzman had used her official position for personal gain by encouraging a “quiet period” that had the effect of preventing Fleet Bank from discussing repayment of her Senate campaign loan. The Court of Appeals held: “Thus, she exhibited, if not actual awareness that she was obtaining a personal advantage from the application of the quiet period to Fleet Bank, at least a studied indifference to the open and obvious signs that she had been insulated from Fleet’s collection efforts.” Finally, the Court held that the Federal Election Campaign Act does not preempt local ethics laws. This was the Board’s first full-blown trial, and it took eleven days. There were 2,000 pages of testimony, 150 trial exhibits, and more than 15 witnesses. *COIB v. Elizabeth Holtzman*, COIB Case No. 93-121 (1996), *aff’d*, 240 A.D.2d 254, 659 N.Y.S.2d 732 (1st Dep’t 1997), *aff’d*, 91 N.Y.2d 488, 673 N.Y.S.2d 23, 695 N.E.2d 1104 (1998).