OWNERSHIP INTEREST IN A FIRM
ENGAGED IN BUSINESS DEALINGS WITH THE CITY

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

The Board and the New York City Comptroller's Office concluded a settlement with an Accountant in the Comptroller's Bureau of Accountancy who had an ownership interest in two taxi cab medallions – his wife's since December 1989 and his own since October 2006 – which interests involve business dealings with the New York City Taxi and Limousine Commission ("TLC"). The Accountant acknowledged that he communicated with TLC on behalf of his ownership interests in the two taxi cab medallions. This conduct violated the Comptroller's Office Rules and Procedures and the City's conflicts of interest law, which prohibits City employees from (a) having an ownership interest in a firm doing business with any City agency; and (b) communicating with any City agency on behalf of any private interest. During the pendency of this proceeding, with the approval of the Comptroller, the Board issued an order permitting the Accountant to retain his ownership interest in the two taxi cab medallions and a waiver to permit the Accountant to appear before TLC in connection with those medallions. For the violations that occurred before the issuance of the Board order and waiver, the Accountant agreed to pay a fine equal to five days' pay, valued at $942. *COIB v. Mohamed*, COIB Case No. 2013-158 (2013).

The Board concluded a settlement with a former New York City Department of Education ("DOE") Occupational Therapist who admitted that she owned a firm that provided therapy to DOE students and that she appeared before DOE on behalf of her firm each time she requested payment from DOE for those services. The former Occupational Therapist further admitted that she had an ownership interest within the meaning of Chapter 68 in her husband's firm, which firm also provided physical and occupational therapy to pre-school aged children for which services it was paid by DOE. The former Occupational Therapist acknowledged that her 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 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 a private interest in matters involving the City. DOE had previously terminated the Occupational Therapist for this conduct. The Board took the DOE penalty into consideration in deciding not to impose a fine. *COIB v. Bollera*, COIB Case No. 2010-446 (2010).

The Board issued a public warning letter to a New York City Department of Education ("DOE") School Aide for having an imputed ownership interest in her husband's firm, which firm engaged in business dealings with her school. The School Aide did not seek an order from the Board to allow her to maintain her ownership interest in the firm prior to the firm's business dealings with DOE. In determining not to pursue further enforcement action, the Board took into consideration that the School Aide did not solicit business on behalf of the firm or participate in the firm's business dealings with DOE. 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 having an ownership interest in any firm that does business with the City and that public servants are required to seek an order from the Board *before* a firm in which they have an ownership interest enters into any business dealings with the City. *COIB v. Knight*, COIB Case No. 2009-243 (2010).

The Board issued public warning letters to two Firefighters for the New York City Fire Department for owning a private firm that engaged in business dealings with the New York City School Construction Authority ("SCA") by working as a subcontractor of an SCA project *and* for appearing before SCA in furtherance of their firm's work on the current SCA project and similar future projects. The Firefighters did not seek an order from the Board allowing them to hold their prohibited interests in the firm until after the firm began work on the SCA project. While not pursuing further enforcement action, the Board took the opportunity of these public warning letters to remind public servants that Chapter 68 prohibits public servants from holding ownership interests in firms engaged in business dealings with the City. Furthermore, where application of the factors identified in Advisory Opinion No. 99-2 so indicates, a firm may be engaged in business dealings with the City within the meaning of Chapter 68 as a subcontractor even if the firm has neither sought nor secured a prime contract from the City. Nonetheless, under certain circumstances, the Board may determine that an otherwise prohibited interest would not conflict with the proper discharge of a public servant's official duties and allow the public servant to retain the interest. *COIB v. Clingo*, COIB Case No. 2008-821 (2010); *COIB v. McGinty*, COIB Case No. 2008-821a (2010).

The Board fined a psychiatric technician at the New York City Health and Hospitals Corporation ("HHC") $2,500 for having an ownership interest in two companies that had business dealings with HHC. The psychiatric technician acknowledged that she was the registered owner of her husband's two companies and that these companies each bid on a contract with HHC. At least one company was awarded a contract with HHC; the other was disqualified when HHC became aware that one of its employees was part owner. *COIB v. Goyol*, COIB Case No. 2004-159 (2006).

The Board issued a public warning letter to a volunteer member of the New York City Board of Correction ("BOC") who co-owned a firm that was engaged in business dealings with the New York City Department of Correction ("DOC"). The business consisted of updating an inspirational film previously produced by the firm and producing a videotape of 9-11 memorial services. The firm offered to produce the videotape at no charge to DOC and only billed for the work after certain DOC employees declined the offer. The public servant disclosed to BOC the company's work for DOC. The Board articulated for the first time that the agency served by BOC members is both BOC and DOC and concluded that "business dealings with the city" may exist despite the absence of a profit and that a public servant's ignorance of Chapter 68 provides no excuse for failure to comply with its requirements. Under the particular circumstances of the case, the Board determined that no further action was required in the matter, beyond the issuance of the public warning letter. *COIB v. Paley-Price*, COIB Case No. 2003-096 (2005).

In a three-way settlement involving the Department of Education and the Board, the Board fined a teacher $1,500 for owning and operating a tour company that arranged tours for Department of Education schools, including the school where he taught. The tours had been operated with the approval of the school's principal, and the teacher sold his interest in the tour company in March 1999. *COIB v. Steinhandler,* COIB Case No. 2000-231 (2001).

The Board found that the former Director of Administration of the Manhattan Borough President's Office used her position to authorize the hiring of her own private company and her sister's company to clean the Borough President's offices. The former employee, who decided to forgo a hearing, was fined $20,000 and found to have violated the prohibitions against abuse of office for private gain and against moonlighting with a firm doing business with one's own City

agency. *COIB v. Sass*, COIB Case No. 1998-190 (1999).