

MISUSE OF CITY TIME & CITY RESOURCES

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

In a joint disposition with the Board and the New York City Comptroller's Office, a Claims Specialist in the Classifications Unit of the Comptroller's Bureau of Labor Law agreed to pay a fine equal to twenty-five days' pay, valued at \$5,513. The Claims Specialist admitted that from March 2007 through December 2012, during hours he was required to be performing work for the Comptroller's Office, he used his City computer and e-mail account to perform work for his private job as a real estate agent. This conduct violated the Comptroller's Office Rules and Procedures and the City's conflicts of interest law, which prohibit the use of City time or resources for any non-City purpose. *COIB v. Starkey*, COIB Case No. 2013-135 (2013).

The Board and the New York City Department of Sanitation ("DSNY") concluded a joint settlement with a Sanitation Worker who, between 2009 and 2012, took DSNY property from various DSNY facilities without authorization for his personal purposes, including 44 DSNY truck batteries, 10 car batteries, 2 DSNY truck steps, and 5 bags full of computer cables, telephone cables, data cables, and extension cords. All of this property was ultimately reclaimed by DSNY. As a penalty, the Sanitation Worker agreed to be suspended for 39 work days, valued at \$10,718.84. *COIB v. Hila*, COIB Case No. 2012-493 (2013).

Four employees of the New York City Department of Environmental Protection ("DEP") misused DEP "swipe cards" to gain unauthorized access to a parking garage and avoided paying between \$800 and \$1,322 for parking. DEP authorizes its employees to use swipe cards—either a DEP vehicle access card or an activated employee ID card—to access the DEP-designated area of the garage, which the agency rents from the garage's operator to park agency vehicles. No DEP employee is authorized to use a swipe card to park in the public area of the garage. In joint settlements with the Board and DEP, each of the four DEP employees acknowledged this conduct violated the DEP Uniform Code of Discipline and the City's conflicts of interest law, which prohibit using City resources for non-City purposes. As a penalty, each agreed to make full restitution to the private parking garage for the value of their illicit parking. In addition, to resolve the agency's disciplinary charges, one employee agreed to resign, one employee agreed to a fifteen-day suspension, and two employees forfeited fifteen days of annual leave. The Board did not seek additional penalties in any of these cases. *COIB v. E. Hernandez*, COIB Case No. 2012-894 (2013); *COIB v. Valencia*, COIB Case No. 2012-894a (2013); *COIB v. Abrams*, COIB Case No. 2012-894b (2013); *COIB v. Ramnarine*, COIB Case No. 2012-894c (2013).

A Construction Project Manager for the New York City Department of Design and Construction ("DDC") misused DDC office and technology resources to manage his private rental properties on City time. In a joint settlement of an agency disciplinary action and a Board enforcement action, the Construction Project Manager admitted that, to conduct his private business, he used a DDC computer to create and store documents relating to his rental properties and used his DDC office phone and email account to communicate with attorneys and others about managing and financing those rental properties. As a penalty for these conflicts of interest

law violations and for unrelated misconduct that violated agency rules, the Construction Project Manager served a 30-day suspension without pay, worth \$5,195, and agreed to forfeit thirteen days of annual leave, valued at \$3,376. *COIB v. Patel*, COIB Case No. 2011-816 (2013).

The Board and the New York City Department of Health and Mental Hygiene (“DOHMH”) concluded a three-way settlement with a Motor Vehicle Operator in the DOHMH Bureau of Facilities, Planning and Administrative Service who, from January 3, 2011, to March 11, 2011, during approximately 99 hours of time she was required to be performing work for DOHMH, used a City computer to engage in online trading. The Motor Vehicle Operator acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from using City time or City resources to pursue private, non-City activities and agreed to pay a \$1,500 fine to DOHMH. *COIB v. Gibson*, COIB Case No. 2012-041 (2012).

A Complaint Investigator at the Office of Equal Opportunity (“OEO”) for the New York City Department of Education (“DOE”) paid a \$500 fine to the Board for using a City car for a personal purpose. The Complaint Investigator was assigned a City vehicle by DOE to travel for his OEO investigative work. He admitted that one night, at 12:30 a.m., he drove the City vehicle from his home in Brooklyn to Manhattan to pick up his girlfriend at her job, which he was not authorized by DOE to do. The Complaint Investigator acknowledged that, in so doing, he violated the City’s conflicts of interest law, which prohibits a public servant from using any City resource – which would include a City vehicle in addition to office resources like a computer, telephone, or fax machine – for any non-City purpose. *COIB v. Brennan*, COIB Case No. 2012-540 (2012).

A Principal for the New York City Department of Education (“DOE”) paid a \$1,000 fine to the Board for using his City position and a City resource for his personal benefit. The Principal admitted that, in July 2007, he accepted the donation of a grand piano to his school. In Spring 2009, the Principal hired a private moving company to move the piano from his school to his residence for his personal use; he did not seek permission from anyone senior to himself at DOE prior to making this move. The Principal acknowledged that he violated the City’s conflicts of interest law by using his DOE position to take a City resource home for his personal use. In setting the \$1,000 fine, the Board took into account that, in resolution of disciplinary proceedings that were brought by DOE arising out of the same conduct, the Principal resigned from DOE in March 2010 and returned the piano. *COIB v. Neblett*, COIB Case No. 2010-015 (2012).

In a joint settlement with the Board and the New York City Department of Information Technology and Telecommunications (“DoITT”), a Senior Administrative Coordinator agreed to resign in resolution of her violations of the City’s conflicts of interest law and separate violations of the DoITT Code of Conduct. The Senior Administrative Coordinator acknowledged that she used an agency-owned Blackberry to make 19,857 minutes of personal, non-City calls over the course of ten months, incurring \$3,316.10 in charges, which charges she knowingly failed to repay to DoITT. The Senior Administrative Coordinator admitted that this use of City resources was in excess of the *de minimis* amount permitted by the City’s Policy on Limited Personal Use of City Office and Technology Resources (also known as the “Acceptable Use Policy”). The Senior Administrative Coordinator acknowledged that her conduct violated

the City's conflicts of interest law provisions that prohibit a public servant from using City resources to pursue private, non-City activities. *COIB v. Mayo*, COIB Case No. 2012-326 (2012).

In a joint settlement with the Board and the New York City Department of Education ("DOE"), an Assistant Principal paid a \$25,000 fine to DOE for using City resources for a personal, non-City purpose. The Assistant Principal admitted that, in June 2011, he was given 75 Great Adventure tickets that had been donated to the school. Although he understood that these tickets were to be used by the school, the Assistant Principal instead gave some to his friend's Cub Scout troop, some to his family visiting from Puerto Rico, and twenty-five to his brother, who is not a DOE employee and who attempted to sell the tickets on eBay. The Assistant Principal acknowledged that, by using the donated Great Adventure tickets, a City resource, for the non-City purpose of giving them to his brother and his friend's Cub Scout troop, he violated the City's conflicts of interest law provision prohibiting public servants from using City resources for any non-City purpose. *COIB v. Borrero*, COIB Case No. 2012-150a (2012).

In a joint settlement with the Board and the New York City Department of Environmental Protection ("DEP"), DEP's Chief of Water Quality Construction agreed to pay full restitution to DEP and to pay a \$1,269 fine to the Board for using a City E-ZPass to pay for \$1,268.97 of tolls he incurred during personal travel. DEP had issued the Water Quality Construction Chief an E-ZPass to pay for tolls incurred while travelling to perform the official duties of that position during the workday. In a public disposition, the Chief admitted that, even though he was not authorized to use the E-ZPass to commute between his home and DEP, he did so on multiple occasions in 2009, incurring \$1,268.97 in tolls that were charged to the City. The Chief acknowledged that this unauthorized use of City resources conflicted with the proper discharge of his official duties as a public servant, in violation of the DEP Uniform Code of Discipline and the City's conflicts of interest law. *COIB v. Marandi*, COIB Case No. 2011-360 (2011).

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 and the New York City Department of Parks & Recreation (“Parks”) concluded a joint settlement with a Parks Recreation Center Manager who paid a \$2,500 fine to the Board for using a Parks vehicle and personnel to facilitate his vacation plans and for using his Parks computer to sell merchandise on eBay. The Recreation Center Manager admitted that, in August 2007, he misused his City position when he had two subordinate Parks Recreation Playground Associates use a Parks vehicle to follow him to the Brooklyn Cruise Terminal to ensure that he was able to depart on his personal vacation if his car were to break down on the way to the terminal. After leaving on the cruise, the Playground Associates took the Manager’s car back to his home in the Bronx. In addition, the Manager admitted that he used his Parks computer to sell athletic shoes and action figures for profit on eBay.com, occasionally during his Parks work day. The Recreation Center Manager acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits public servants from using City resources for any non-City purposes and from using one’s City position to obtain any personal financial gain. *COIB v. Rosa*, COIB Case No. 2009-062 (2010).

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).