



THE CITY OF NEW YORK  
OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

40 RECTOR STREET • NEW YORK, N. Y. 10006 - 1705  
212-442-4900 • FAX 212-442-8910 • TDD 212-442-4939  
NYC.GOV/OATH

**SUZANNE A. BEDDOE**  
COMMISSIONER / CHIEF JUDGE

**TYNIA D. RICHARD**  
ADMINISTRATIVE LAW JUDGE

October 28, 2011

Lila Ayers, Esq.  
[Address redacted]

Re: *HHC v. Bibian Chime*, OATH Index No. 2969/09

Dear Ms. Ayers:

As you know, the above-referenced case was filed at OATH in 2009 and resolved pursuant to a stipulation of settlement. You have moved, on Ms. Chime's behalf, to vacate the stipulation on the grounds of coercion. Ms. Chime was represented by counsel at the time she entered into the stipulation. I have reviewed the papers submitted by HHC opposing the motion, and I have reviewed your reply dated October 27, 2011.

I find that your motion must be denied for two reasons: OATH has not been designated to hear the matter as you propose, and OATH is not a court of general jurisdiction of such matters.

OATH is the City of New York's central tribunal, as set forth in section 1048 of the City Charter. It was created by Executive Order of the Mayor to adjudicate cases on behalf of the city agencies, upon designation by those agencies. Charter § 1048; Exec. Order No. 32, § 2 (July 25, 1979) ("The Office shall conduct administrative trials and hearings at the direction of the Mayor and may conduct such trials upon the written request and delegation of the head of any City agency."). Thus, OATH is not a court and it has no original jurisdiction of its own, as do the courts of the State of New York. *See* Judiciary Law §§ 2, 3 (Lexis 2011) (specifying courts of record, prohibiting any other body from using the term "court" in its name). In accordance with Executive Order 32, HHC designates OATH to conduct its disciplinary hearings and it did so in the case of Ms. Chime. When that matter was concluded by stipulation, OATH no longer held any authority over the matter. Moreover, because OATH must receive a designation from HHC and HHC refuses consent to reopen the matter, OATH has no authority upon which to act in this instance. *See Dep't of Health and Mental Hygiene v. Khedr*, OATH Index No. 144/99, mem. dec. at 2 (Nov. 12, 1998) ("respondent's motion must fail because there is no longer an active case pending before this tribunal"). In *Khedr*, a case also involving a challenged stipulation, we held that a stipulation of settlement constitutes the final disposition of a proceeding that "cannot be set aside, absent consent" of the agency with whom the settlement was entered. *Id.* at 2; *compare with Teitelbaum Holdings, Ltd. v. Gold*, 48 N.Y.2d 51, 54 (1979) (a trial court has the

power to exercise supervisory control over all aspects of a pending case including the discretionary power to relieve parties from the consequences of a stipulation entered during the course of litigation). Moreover, a challenge to the validity of a duly executed stipulation is a contract claim more appropriately asserted in state court which has general jurisdiction of such claims. *See* NY Const. Art. VI, § 7a (“The supreme court shall have general original jurisdiction in law and equity and the appellate jurisdiction herein provided.”); *see also* Jud. Law § 140-b. Thus, even if consent had been given to vacate the stipulation, it is unclear that OATH would have the authority to decide the question posed.

You should also be advised that, in addition to the written stipulation of settlement, Ms. Chime confirmed her acceptance of the terms of agreement on the record. I am attaching to the copy of this letter being sent by e-mail a digital file of that in-court session conducted on July 8, 2009.

Very truly yours,

Tynia D. Richard  
Administrative Law Judge

TDR:

c: Andrew Hodes, Esq.  
James Brown, Esq.