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BenchNOTES

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The New BenchNOTES

Welcome to the first edition of the new BenchNOTES, a more streamlined incarnation of OATH's venerable publication. We have revised BenchNOTES to be a monthly publication so that the most current noteworthy decisions and OATH news will be shared with our subscribers. We hope you find it interesting and useful.

Roberto Velez
Chief Administrative Law Judge

Last Month's OATH Decisions

Personnel

Dismissal recommended for falsifying time sheets

ALJ Julio Rodriguez recommended that an assistant civil engineer be terminated for making false entries on time sheets. Based on discrepancies between when respondent's arrival time was recorded by an automated access control card and the

time he entered on the sign-in sheet, respondent was found to have made 115 false entries on the sign-in sheet in a seven-month period. Dep't of Environment Protection v. Egonu, OATH Index No. 1944/07 (July 24, 2007)

Vehicle Retention

Car ordered returned where no showing of probable cause for arrest

ALJ Kara Miller ordered the Police Department to release a vehicle where it failed to demonstrate that probable cause existed for the arrest pursuant to which the vehicle was seized. The fiancée of the registered owner was arrested for possession of firearms and marijuana. However, nothing in the documentary evidence presented by the Department established reasonable suspicion for the police to approach the vehicle or to conduct the search. Police Dep't v. James, OATH Index No. 2389/07, (July 23, 2003).

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Real Property

IMD owner found to have diminished elevator service

In a Loft Law case, ALJ Kevin Casey found that the building owner had diminished services to the protected occupants. The tenants proved that the owner had improperly restricted access to the building's elevator, whereas they previously had enjoyed round-the-clock access. The ALJ rejected the owner's contention that the elevator was unsafe or illegal because the tenants'; leases provided for elevator service, the Department of Buildings never issued a violation, there was no evidence that it would be too costly to permit the tenants to operate the elevator or that the elevator posed an unacceptable insurance risk, and the owner permitted other tenants in the buildings to operate the elevator. Matter of 25 Jay Street Tenants Assoc., OATH Index No. 1210/07 (July 19, 2007).

Licensing

Marriage license applicant granted appeal; incarcerated at time of purported earlier marriage

In a marriage license appeal, ALJ Alessandra Zorgniotti granted the applicant's appeal after the City Clerk denied him a marriage license because a license had previously been granted to an individual with the same name and birth date. The respondent showed he was incarcerated on the date of the previous license and could not have appeared at the Clerk's office. Office of the City Clerk v. Johnson, OATH Index No. 1639/07 (July 3, 2007).

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Conflicts of Interest

Former engineer fined \$1,500 for negotiating for new job with a vendor whose invoices he approved

The Conflicts of Interest Board adopted a recommendation by ALJ Kevin Casey that the former Director of Engineering at the Department of Transportation be fined \$1,500 for violating the City Conflicts of Interest Law. In particular, the former employee negotiated and accepted a job with a vendor during a period when he was reviewing invoices submitted by the vendor as part of his City job. Conflicts of Interest Bd. v. Pentangelo, OATH Index No. 422/07 (Mar. 7, 2007), adopted, Bd. Decision (July 13, 2007).

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OATH Staff News

David E. Guinn joins OATH as its Judicial Education Specialist for the Administrative Judicial Institute. Dr. Guinn is a moral, political and legal philosopher and human rights lawyer with a broad and diverse range of scholarship. He has written

extensively on issues of national and international human rights, pluralism, and law, writing, cowriting and/or editing thirteen books and over 60 articles.

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