



TABLE OF CONTENTS

		Page
Letter to the M	layor	1
Introduction	•••••••••••••••••••••••••••••••••••••••	5
Members and	Staff of the Conflicts of Interest Board	5
1. Training	g And Education	6
2. Request	s From City Employees For Guidance	10
3. Adminis	strative Rules	12
4. Enforcer	ment	12
5. Financia	l Disclosure	14
6. Budget,	Personnel, And Administration	16
Conclusion	••••••	16
	embers and Staff of the Conflicts of Interest oard	18
Table 2: Re	equests for Legal Advice	19
Table 3: En	aforcement Cases (Chapter 68)	20
Table 4: Fin	nancial Disclosure Reports	21
Advisory Opini	ions of the Board – Summaries and Indexes	22
Opinion	Summaries (1999)	23
	ive Index to Advisory Opinions by Charter - 1990-1999	30
	ve Index to Advisory Opinions by Subject –	36

LETTER TO THE MAYOR

December 31, 1999

Honorable Rudolph W. Giuliani Mayor of the City of New York City Hall New York, NY 10007

Dear Mayor Giuliani:

On behalf of the Conflicts of Interest Board, I am pleased to submit this report of the Board's work for 1999. While the Board's activities during this past year are set out more fully in the body of the report, the following highlights deserve special mention.

Training And Education

During 1999, the Board conducted 92 training classes, compared with 63 in 1998. This 46% increase stems from the Board's additional training personnel coming on board in the second half of 1999 and the Unit's increased emphasis on actively reaching out to other agencies, especially to the Board of Education. Indeed, in 1999 nearly a third of the Board's classes were for Board of Education personnel at the central, district, and school levels. The Board's outreach to the Board of Education also included a leaflet for community school board members, a briefing on the ethics law for school board candidates, and a Board of Education-specific booklet containing the answers to frequently asked ethics questions. The Conflicts Board also created a leaflet that the Board of Education plans to distribute to all of its 130,000 employees in January 2000.

Other Board publications include a revision of the Board's plain language guide to Conflicts of Interest Law, entitled "Ethics 2000," and new leaflets on rules for seeking temporary employment and on rules governing community board members. In addition, the Board conducted its fifth "Seminar on Ethics in New York City Government," co-sponsored by New York Law School on March 18, 1999, and in November co-hosted with the Procurement Policy Board and the Comptroller's Office, for the members of the PPB Vendor Advisory Board, a pilot mini-seminar on ethics issues in doing business with the City of New York. To assist it in its training

mission, the Board created a computerized version of its Chapter 68 game show. The Board similarly expanded its use of technology by introducing audiotext and faxback services on various Chapter 68 and financial disclosure topics and by greatly expanding its web site.

Despite these impressive efforts, the Board continues to struggle with meeting its Charter mandate to inform all New York City public servants about their obligations under the ethics law and, in particular, with convincing certain agencies of the importance of providing conflicts of interest training when they are not Charter-mandated to receive or provide it. A Charter amendment mandating that all City employees receive Chapter 68 training is thus imperative.

Requests for Advice and Rulemaking

During 1999, the Board received 530 written requests for advice from current and former public servants as to the propriety of their proposed activities or interests under Chapter 68 and issued 294 staff letters, 195 waiver letters, five 2604(b)(2) letters, and 26 Board letters, orders, or advisory opinions. These 520 responses reflect a 14% increase over the 456 letters, orders, and opinions issued in 1998 and a staggering 63% increase over 1997. At year end, the Board had pending before it 34 written requests for advice, in contrast to 70 written requests pending at the beginning of 1999, a reduction of over 50%.

During 1999, the Board amended one rule, its rule defining what "lesser political office" than that of assembly district leader a member of the City Council may hold under Charter Section 2604(b)(15). That amendment added membership on the national committee of a political party to the list of permitted positions.

Enforcement

In 1999, the Board published the enforcement results in cases concerning such Chapter 68 violations as using one's position to authorize the hiring of one's own private company and one's sister's company to clean a City office; moonlighting, without authorization, as a commissioned sales person with a company that distributed equipment to one's own City agency; giving one's private business cards to a homeowner at a site where, as a

public servant, one has just issued notices of violation; and using City letterhead, typewriters, and office facilities for one's private clients.

In 1999, the Board had the largest increase in new enforcement complaints (81) in its history and also disposed of the most complaints (83) ever in a single year. The number of dispositions imposing fines during 1999 was four; those fines amounted to \$31,000, of which \$9,050 had been collected by year end. Two of the dispositions were "three-way settlements" with other City agencies.

Financial Disclosure

The overall compliance rate with the financial disclosure law continues to exceed 98%. During 1999 the majority of active non-filers and late-filers for 1995 and 1996 were eliminated. The Board collected \$29,275 in late filing fines. Since it assumed responsibility for financial disclosure in 1990, the Board has collected, as of December 31, 1999, \$322,798 in financial disclosure fines.

As the Board has previously noted, the City's financial disclosure law far exceeds the state mandate, requiring many persons to file who have little or no likelihood of conflicts of interest, with the resultant waste of time, money, and resources by filers, their agencies, and the Board. Working with the Law Department, the Board has therefore proposed to eliminate from the list of required filers those types of public servants for whom no substantial reason exists for filing financial disclosure reports. At year-end, the amendments were pending before the Mayor's Office.

During 1999, the Board continued to press for additional funding to complete the electronic filing system project, which has been in hiatus since August 1998, although the software program itself is almost complete. The new version combines both the Department of Investigation and Board forms for those City employees who must file both.

Conclusion

Last year's annual report stressed the critical need to raise staff salaries across the board to make the Board competitive with other City, state, and federal agencies. Additional funding for fiscal year 2000 allowed the Board to raise the salaries of some of its staff. In fiscal year 2001, the

Board requires additional funds to address the remaining disparities between its salaries and those of other government agencies, for without a high quality staff, such as the Board now has, it cannot hope to maintain its current level of excellence and productivity. In addition, certain significant problems in Chapter 68 must be addressed, in particular the Board's lack of investigatory authority and subpoena power and the absence of mandated ethics training.

Even with the many advances outlined in this report, the long-term future of the Board remains a grave concern because of what may happen to ethics in City government if a future administration or Council lacks the commitment to ethics possessed by the current Mayor and Speaker, both of whom have been consistently supportive of the Board. Before that happens, a more sensible and rational budget process for the Board must be adopted that will ensure that the City retains a first rate ethics agency.

As the tenure of the current Mayor and Council Speaker draw to a close, the Board will seek the enactment of a major ethics initiative, ensuring that ethics in City government not only survives but prospers. Such an initiative would provide a lasting legacy, and a fitting tribute, to this Administration and Council.

Respectfully submitted,

Benito Romano Acting Chair

INTRODUCTION

In 1999, the Conflicts of Interest Board celebrated its tenth anniversary and the fortieth anniversary of its predecessor, the Board of Ethics, perhaps the oldest such agency in the country. Created by Chapter 68 of the revised New York City Charter, effective January 1990, and vested with broad responsibilities, the Board includes among its charter-mandated duties educating City officials and employees about Chapter 68's ethical standards, interpreting Chapter 68 through the issuance of formal advisory opinions and promulgation of rules, responding to requests from current and former public servants for advice and guidance, prosecuting violators of Chapter 68 in administrative proceedings, and administering and enforcing the City's financial disclosure law.

This report thus reviews the Board's activities in each of the following areas during 1999: (1) training and education; (2) responses to inquiries from City employees for guidance; (3) administrative rules; (4) enforcement proceedings; (5) financial disclosure; and (6) budget, personnel, and administration.

MEMBERS AND STAFF OF THE CONFLICTS OF INTEREST BOARD

Appointed by the Mayor and confirmed by the City Council, the Board's five members serve six-year staggered terms. Under the Charter, the members must be selected on the basis of their "independence, integrity, civic commitment and high ethical standards." They may not hold public office or political party office while serving on the Board.

Benito Romano, a partner in the law-firm of Willkie, Farr & Gallagher, appointed to the Board in August 1994, serves as Acting Chair, pending the filling of the Board's two vacancies and the appointment of a new Chair.

Bruce A. Green, a professor at Fordham University School of Law, was appointed to the Board in November 1995.

Jane W. Parver, a partner at Kaye, Scholer, Fierman, Hays & Handler, was appointed to the Board in August 1994.

The Board's 21-member staff is divided into six units: Training and Education, Legal Advice, Enforcement, Financial Disclosure, Administration, and Management Information Systems. The staff, listed in Table 1 at the end of this report, is headed by the Executive Director/Counsel, Mark Davies.

TRAINING AND EDUCATION

Training Sessions

Under the able guidance of the Board's Training and Education Director, Les Taub, the Board conducted 92 training classes in 1999, compared with 63 in 1998. This 46% increase stems from the Board's additional training personnel coming on board in the second half of 1999 and the Unit's increased emphasis on actively reaching out to other agencies, especially to the Board of Education. In 1999, Board staff conducted classes for the first time for the Department of Sanitation, the Police Department's Executive Development Program, the Department of Correction, and the Board of Standards and Appeals, and, at year end, were poised to begin classes, also for the first time, at the Department of Environmental Protection, the Department of Citywide Administrative Services, and the Housing Authority. These training sessions are in addition to the Board's ongoing programs with the Department of Finance, the Procurement Training Institute, and the Department of Citywide Administrative Service's Citywide Orientation program for new City employees, plus periodic classes at a host of other agencies.

Board staff began working in 1999 with the Training and Legal Divisions of the Department of Transportation on an initiative to develop a ethics training curriculum that DOT's training staff can present to that agency's 4,000 employees. Thanks to the efforts of DOT General Counsel Seth Cummins, who committed to having all DOT employees receive ethics training, and DOT Learning Center Director Eleanor DiPalma, the Learning Center's staff devoted much time and effort to studying the ethics law and the Board's training materials to prepare for delivering DOT's own classes. If the Board is to have any chance of meeting its Charter mandate to train all public servants in the conflicts of interest law, the Board must develop such a "Train the Trainer" program throughout the City. DOT's hard work and initiative places them at the forefront of this critical Board program.

One factor has worked in the Board's favor in convincing some public servants to receive Chapter 68 training, namely the introduction of mandatory continuing legal education for all attorneys licensed in New York State. In late 1999, the Board therefore submitted an application for state certification of its Chapter 68 courses for continuing legal education credit, so that City attorneys can receive credit for attending Chapter 68 courses.

Despite these impressive efforts, the Board continues to struggle with meeting its Charter mandate to inform all New York City public servants about their obligations under the ethics law and, in particular, with convincing certain agencies of the importance of providing conflicts of interest training when they are not Charter-mandated to receive or provide it. For example, Board staff have spoken with the training staffs of a few large agencies about a "Train the Trainer" program similar to DOT's, but once they discover they are not legally required to provide the training, their interest rapidly wanes. The Board will continue to press the administration for its support in encouraging agencies to offer ethics training, to craft a Charter amendment mandating this training for all City employees, and to push these reluctant agencies to provide ethics training.

Board of Education

Prior to 1999, training by the Conflicts Board at the Board of Education was negligible. By contrast, in 1999 nearly a third of the Board's classes were for Board of Education personnel at the central, district, and school levels. During the last three months of the year, Conflicts Board staff conducted briefings for principals of two-thirds of the City's 200-plus high schools, which will be followed by classes at the individual schools. Board trainers will continue meeting in early 2000 with elementary and middle school principals at district-wide sessions and have already conducted classes at many middle and elementary schools. In the spring of 1999, the Board produced a leaflet for community school board members, and conducted a briefing on the ethics law for school board candidates. In November, the Board published a Board of Education-specific booklet containing the answers to frequently asked ethics questions. Over a thousand copies of the booklet were distributed by year-end to Board of Education employees at training classes. The Conflicts Board also created a leaflet that the Board of Education plans to distribute to all of its 130,000 employees in January 2000. All of the Board's trainers – Les Taub, Laura

Denman, Kevin Moore, and Joel Rogers – have taken responsibility for ethics training at the Board of Education.

Publications

Updated and retitled "Ethics 2000," the Board's plain language guide to the Conflicts of Interest Law rolled off the presses in December 1999. In addition to the new Board of Education publications noted above, the Conflicts Board created new leaflets on rules for seeking temporary employment and on rules governing community board members.

With its new publication equipment in place, all of the Board's publications, including this annual report, are now produced in-house, in color, in the quantities needed, with the quality the Board desires, maximizing efficiency while minimizing expense and inventories. The Board's Training and Education community assistant, Martine Multidor, oversaw the production and distribution of thousands of Board publications in 1999.

Seminar

The Board's fifth "Seminar on Ethics in New York City Government," co-sponsored by New York Law School on March 18, 1999, was a stunning success, with almost 400 participants on hand, the most ever, including the Mayor and the Speaker of the City Council. One of the most successful parts of the 1999 seminar was a workshop on ethics issues for firms doing business with the City. The goal at that workshop was to inform the vendor community of the requirements that City employees must follow when dealing with private sector firms, so that vendors may do their part to avoid putting public servants in situations that potentially violate the Conflicts of Interest Law. As a follow-up to the workshop, in November the Board's staff held a "mini-seminar," co-hosted by the Procurement Policy Board and the Comptroller's Office, for the members of the PPB Vendor Advisory Board. The Board intends to continue to work with those agencies to increase its outreach to the companies and not-for-profit agencies doing business with the City, to further their awareness and understanding of the ethics law.

Game Show

One of the Board's most effective and entertaining education tools is its ethics game, called "It's a Question of Ethics." The Board was limited in its opportunities to employ the game in training classes because the game board was large and difficult to transport. Creation of a computerized version of the game, using a software program called Game Show Pro, solved that transportation problem, as the game can now run on a laptop computer, connected to a lightweight video projector.

Phone System

Another valuable source for information on the Conflicts of Interest Law is now available through the Board's new phone system. Callers can hear recorded information on conflicts of interest and financial disclosure topics, and automatically receive by fax reformatted versions of the Board's 16 leaflets. This service is available 24 hours a day, 365 days a year, just by calling the Board's main number.

Web Site

The Board continues to upgrade its site on the City's home page. The texts of Chapter 68, the Board's rules, and the Financial Disclosure Law can now be downloaded, and frequently asked questions are available for all of the topics covered by our leaflets. As it develops plans to improve the site, the Board also plans to hire a website consultant, as recommended by DoITT, who is familiar with the City's Internet protocol. With this assistance, the Board will be able to link its site with appropriate state and federal agencies, have its advisory opinions in searchable form, and eventually have its "Attorney of the Day" answer inquiries sent via e-mail.

International Visitors

The Board's presence on the Internet has meant that virtually anyone with a computer and a modem can learn about the Board. As the Board continues to welcome visitors from other cities, states, and nations who wish to learn about the City's ethics law, this point is reinforced, as many of the visitors arrive carrying copies of Board materials downloaded from the

website. During 1999 the Board welcomed visitors from Italy, the Republic of China (Taiwan), and Vietnam.

10th Anniversary Reception

In November, the Board celebrated its tenth anniversary, and the fortieth anniversary of the creation of the Board's predecessor agency, the New York City Board of Ethics, perhaps the first ethics board in the country. Colleagues in government and the private sector, as well as former Board members and staff, were invited to a reception in the lobby of the Surrogate's Court Building. The event was sponsored by Acting Chair Benito Romano, Board member Jane Parver, and their respective law firms, Willkie Farr & Gallagher and Kaye, Scholer, Fierman, Hays & Handler.

At that event, the Board honored the long-time service of its former Chair, Sheldon Oliensis, with the first Ethics in City Government Award and the commitment of former Board member Shirley Adelson Siegel with the Powell Pierpoint Award, named for the late Powell Pierpoint, who contributed seventeen years of service to the Board of Ethics, the last six as Chair. The Board also honored members of the law firms of Simpson, Thatcher & Bartlett and Sullivan & Cromwell with Pro Bono Awards for their generous contributions of time and expertise to the Board in two landmark enforcement cases. The Board itself was, in turn, honored by a City Council proclamation, presented by the Honorable Malave-Dilan, Chair of the Council's Committee on Standards and Ethics. That proclamation cited the Board's "historical commitment to preserving the trust placed in the City's public servants."

2. REQUESTS FROM CITY EMPLOYEES FOR GUIDANCE

During 1999, the Board received 530 written requests for advice from current and former public servants as to the propriety of their proposed activities or interests under Chapter 68. As the Board's training and education and enforcement efforts make the Board ever more widely known, the Board expects these numbers to continue to grow. Board staff have also fielded between five and fifteen oral request for advice each day, over 1,500 for the year.

During 1999, as summarized in Table 2, the Board issued 294 staff letters; 195 waiver letters; 5 (b)(2) letters; and 26 Board letters, orders, or

advisory opinions. These 520 responses reflect a 14% increase over the 456 letters, orders, and opinions issued in 1998 and a staggering 63% increase over 1997. To maintain the high quality of its written advice, the Board in 1999 computerized its index of ethics topics and filed in retrievable form useful resource material, from staff e-mail exchanges to advisory opinions.

At year end, the Board had pending before it 34 written requests for advice, in contrast to 70 written requests pending at the beginning of 1999, a reduction of over 50%.

These excellent results are attributable to the Board's superb Legal Advice Unit, headed by its new Deputy Counsel, Wayne Hawley, former Executive Director of MFY Legal Services, with Assistant Counsel Jennifer Siegel, Assistant Counsel Bonnie Beth Greenball, and Patricia Green, Assistant to the Unit.

Among the Board's most notable 1999 advisory opinions were one setting forth when a City subcontractor is sufficiently involved with the City to be deemed to have "business dealings with the City" (Advisory Opinion No. 99-2); companion opinions on outside compensated writing and teaching by public servants, which opinions clarified, in particular, the circumstances under which a public servant may teach or write on a subject which involves his or her official duties (Advisory Opinions Nos. 99-4 and 99-5); and one which determined that public servants who moonlight at CUNY or SUNY need not obtain a Board waiver in order to do so (Opinion No. 99-6). The official summaries of these and the Board's other 1999 advisory opinions are reproduced at the end of this report.

The Board continues to distribute its formal advisory opinions to public servants and the public, to publish them in the City Record, and to include them on Lexis and Westlaw. During the first half of 2000, the Board will add its advisory opinions to its website, in searchable form.

Board attorneys continue to write ethics articles for publication. In November Ms. Siegel and Mr. Davies published pieces in a new journal of the New York State Bar Association. Joan Salzman, Director of Enforcement, and Mr. Davies contributed chapters to a 1999 American Bar Association book entitled ETHICAL STANDARDS IN THE PUBLIC SECTOR. Mr. Davies also authored a piece on local government ethics for the newsletter of

the New York State County Attorneys' Association. All of the Board's attorneys continued to write Myths of the Month for the Chief-Leader.

3. ADMINISTRATIVE RULES

During 1999, the Board amended one rule, its rule defining what "lesser political office" than that of assembly district leader a member of the City Council may hold under Charter Section 2604(b)(15). That amendment added membership on the national committee of a political party to the list of permitted positions.

4. ENFORCEMENT

In 1999, the Board published the following enforcement results in cases concerning Charter Chapter 68 violations:

Mildred Sass, 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. Sass was fined \$20,000 and found to have violated Charter §§ 2604(a)(1)(a), (b)(2), and (b)(3). [COIB v. Mildred Sass]

A City firefighter was fined \$7,500 for unauthorized moonlighting as a commissioned sales person with a company that distributed equipment to the Fire Department. The fine was collected from the proceeds of a commission that respondent was scheduled to receive from the distributor. [COIB v. Wayne Ludewig]

A Construction Inspector from the Department of Buildings was fined \$3,000 for giving one of his private business cards to a homeowner at a site where this Inspector had just issued six notices of violation. The Inspector had written on his private business card the words, "ALL TYPES OF CONSTRUCTION ALTERATIONS," and he told the homeowner that he used to do construction work and could advise her on such work. The private business cards used by this Inspector also contained his Department of Buildings' pager number and the name "B.E.S.T. Vending Service." Respondent admitted violating sections 2604(b)(2) and (b)(3) of the Charter. This matter was a three-way settlement with the Department of Buildings. The Inspector was put on an innovative "two strikes" probation, so that, if he commits another Chapter 68 violation, he can be terminated summarily. He

was also required to cease using the name "B.E.S.T." in his private business because that name could be confused with the name of his City unit, the "B.E.S.T. Squad" (Building Enforcement Safety Team). [COIB v. John McGann]

Raymond Davila, a former employee of the City Commission on Human Rights, was fined for using Human Rights letterhead, typewriters, and office facilities for his own private clients. Davila wrote four letters on department letterhead to agencies such as the U.S. Veteran's Administration and a U.S. Consulate on behalf of his private clients. He also listed his agency telephone number as the contact number on these letters. Finally, Davila admitted using his Human Rights office to meet with a private client during his City work hours to discuss the client's case and to receive payment from the client. Davila admitted violating Charter §§ 2604(b)(2) and (b)(3) and agreed to pay a \$500 fine. The fine, which would ordinarily have been substantially higher, reflected the fact that Davila is retired and ill and has very limited financial means. [COIB v. Raymond Davila]

As Table 3 shows, in 1999 the Board had the largest increase in new enforcement complaints (81) in its history and also disposed of the most complaints (83) ever in a single year. This increase in new complaints may be attributed to the increased visibility of the Board's enforcement efforts, in addition to the increased awareness of the ethics law through the efforts of the Training and Education Unit. With a full enforcement staff of four lawyers and one secretary, the Board finally had the resources to close out nearly all of its numerous old cases. The number of dispositions imposing fines during 1999 was four; those fines amounted to \$31,000, of which \$9,050 had been collected by year end. Two of the dispositions were "three-way settlements" with other City agencies. Several other cases were nearing completion by year end but had not yet been published.

During 1999, the Board referred to the Department of Investigation 36 matters for investigation and received 20 reports.

The Unit and the Board continued rigorously to select only the most important and provable cases for enforcement. The Board, however, has substantial need of its own in-house investigators to resolve smaller cases on its own. The Board would continue to benefit from DOI's investigation of complex cases.

Finally, the staff devoted some of its resources to follow-up efforts in enforcement matters concluded in previous years, namely, the appeal in Katsorhis and collection of fines in Fodera and Sass, which the staff handled in-house, rather than referring these matters to the Law Department, as had been done in previous years. The Board continued to develop strong ties with other agencies, as evidenced by the fact that half of the Board's public dispositions in 1999 involved three-way settlements with other agencies, namely the Department of Buildings and the Fire Department.

In addition, in 1999, the Board collected financial disclosure reports and/or late fines from all but two City employees who failed to file required financial disclosure reports and/or pay late fines for 1995 and 1996. At year end the Board was also engaged in collecting financial disclosure reports and/or fines from delinquent City employees who had not filed required financial disclosure reports or paid their fines for 1997 and 1998. The Board plans to commence new litigation early in 2000 against these employees who fail to comply.

These excellent results must be attributed to the Board's entire Enforcement Unit, including Joan Salzman, Director of Enforcement, Peter Nadler, Deputy Director, Astrid Gloade, Associate Counsel, Beth Gluck, Assistant Counsel, and Varuni Bhagwant, Assistant to the Unit.

5. FINANCIAL DISCLOSURE

The Board continues to have an excellent compliance record in financial disclosure. As detailed in Table 4, the overall compliance rate with the financial disclosure law exceeds 98%. This superb record must be attributed in large part to the excellent work of the Financial Disclosure Unit: Jerry Rachnowitz, Director of Financial Disclosure; Joanne Giura-Else, Deputy Director; and Veronica Garcia-Martinez, Assistant to the Unit.

The Financial Disclosure Unit worked closely with the Enforcement Unit in eliminating the majority of active non-filers and late-filers for 1995 and 1996. At year end the Board was in the early stages of litigation against the two public servants who remained in non-compliance for those years. Also at year end the Board was pursuing all active 1997 and 1998 non-filers and late filers, and anticipated litigating against those public servants early in 2000.

During 1999 the Board collected \$29,275 in late filing fines. Since it assumed responsibility for financial disclosure in 1990, the Board has collected, as of December 31, \$322,798 in financial disclosure fines.

Redefining Required Filers

The City's financial disclosure law far exceeds the state mandate, requiring many persons to file who have little or no likelihood of conflicts of interest. Requiring filing by public servants who are in positions unlikely to involve conflicts of interest wastes time – of the filers, of their agencies, and of the Conflicts Board - and robs the Board of money and resources it needs to conduct substantive reviews of targeted reports filed by officials who do face significant potential conflicts of interest.

Working with the Law Department, the Board therefore proposed to eliminate from the list of required filers those types of public servants for whom, in the experience of the Board, no substantial reason exists for filing financial disclosure reports, namely members of the Management Pay Plan in levels M1-M3 not otherwise required to file. In addition, to bring the City's financial disclosure law closer to the state mandate and to eliminate the need to repeatedly raise the salary threshold, the Board proposed to replace the salary threshold with "policymaker," the term used in the state law. The Board has also proposed other, more technical changes for the financial disclosure law, such as requiring financial disclosure by write-in candidates who win a primary election and by candidates who fill a vacancy in a designation or nomination for City office. Currently such candidates are not required to file.

Electronic Filing System

By year end the Board was in the final stages of its electronic filing system for financial disclosure. The software program itself was essentially complete, but the project had been suspended since August 1998. However, the Board expects that its request for additional capital technology funds to complete the project will be approved in early 2000. The new version combines both the Department of Investigation and Board forms for those City employees who must file both. The Board has planned a pilot for May 2000, in which 1,000 public servants would file electronically. The Board's goal has been to have all filers filing electronically within the next few years.

6. BUDGET, PERSONNEL, AND ADMINISTRATION

Last year's annual report stressed the critical need to raise staff salaries across the board to make the Board competitive with other City, state, and federal agencies. Indeed, early in 1999, the Board lost its Deputy Director, Jo-Ann Frey, who brought extensive administrative experience to the Board, in part because of this salary disparity.

The Board is pleased to report that additional funding during fiscal year 2000 allowed the Board to raise some of the salaries of its non-legal staff to make the Board more competitive in that area. The Board intends to seek in its Fiscal Year 2001 budget sufficient funds to correct other egregious salary disparities. All of the Board's staff are exceptional, but the Board cannot hope to keep them unless it pays a competitive wage.

In the administrative area, the Director of Administration, Ute O'Malley, and her Deputy, Myrna Mateo, managed to keep the Board's administrative boat afloat during 1999, despite, since the department of Ms. Frey, being critically understaffed. The Board's new MIS Director, Anthony Bonelli, made great strides in substantially upgrading the Board's information technology. In particular, he oversaw the installation of a new telephone system that finally gives the Board not only voicemail but also audiotext and faxback capabilities.

Despite these advances, the long-term future of the Board remains troubling. Steps must be taken to ensure that the remaining salary disparities are addressed, and promptly, for, without a high quality staff, such as the Board now has, it cannot hope to maintain its current level of excellence and productivity. The Board is also disturbed about what may happen to ethics in City government if a future Mayor or future Council Speaker lacks the commitment to ethics possessed by the current Mayor and Speaker, both of whom have been consistently supportive of the Board. Before that happens, a more sensible and rational budget process for the Board must be adopted.

CONCLUSION

Outlined above are some of the highlights of the Board's activities during 1999. As noted, in 2000 the Board must continue to address the disparities between its salaries and those of other government agencies. In

addition, certain significant problems in Chapter 68 itself must be addressed, in particular the Board's lack of investigatory authority and subpoena power and the absence of mandated ethics training. The Board also hopes that a more sensible and rational budget process may be adopted that will ensure that the City retains the first rate ethics agency it now has.

As the tenure of the current Mayor and Council Speaker draw to a close, the Board will seek the enactment of a major ethics initiative, ensuring that ethics in City government not only survives but prospers. Such an initiative would provide a lasting legacy, and a fitting tribute, to this Administration and Council.

TABLE 1 MEMBERS AND STAFF OF THE CONFLICTS OF INTEREST BOARD AS OF DECEMBER 31, 1999

Members

Benito Romano, Acting Chair

Bruce A. Green

Jane W. Parver

Staff

Executive

Mark Davies, Executive Director/Counsel

Legal Advice

Wayne G. Hawley, Deputy Counsel

Jennifer K. Siegel, Assistant Counsel

Bonnie Beth Greenball, Assistant Counsel

Patricia E. Green, Legal Secretary

Enforcement

Joan R. Salzman, Director of Enforcement

Peter M. Nadler, Deputy Director of Enforcement

Astrid Gloade, Associate Counsel

Isabeth Ann Gluck, Special Assistant Counsel

Varuni Bhagwant, Legal Secretary

Training and Education

Les Taub, Director of Training and Education

Laura Denman, Senior Trainer

Kevin Z. Moore, Publications Coordinator/Trainer

Joel A. Rogers, Trainer/Writer

Martine Multidor, Community Assistant

Financial Disclosure

Jerry Rachnowitz, Director of Financial Disclosure

Joanne Giura-Else, Deputy Director of Financial Disclosure

Veronica Martinez Garcia, Secretary to the Unit

Administrative

Ute O'Malley, Director of Administration

Myrna Mateo, Deputy Director of Administration

Management Information Systems

Anthony Bonelli, MIS Director

TABLE 2
REQUESTS FOR LEGAL ADVICE
AS OF DECEMBER 31, 1999

Issued	520	456	320
Issued Board Letters, Orders, Opinions	26	42	21
Issued Waivers/ (h)(2) Letters	200	150	112
Issued Staff Letters	294	264	187
Requests for Advice	530	539	425
Year	1999	8661	1997

TABLE 3
ENFORCEMENT CASES (CHAPTER 68)
AS OF DECEMBER 31, 1999

1999	81	83	4
8661	63	92	6
<u>1997</u>	2	54	2
<u>1996</u>	50	32	-
1995	59	33	,,,,,, ,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,
1994	31	*	2
1993	29	38	
1992	22	25	_
1991	20	9	0
1990	∞	2	0
	New Complaints Received	Dispositions	Dispositions Imposing Fines

* The Board lacked an enforcement attorney during much of 1994.

FINANCIAL DISCLOSURE REPORTS AS OF DECEMBER 31, 1999

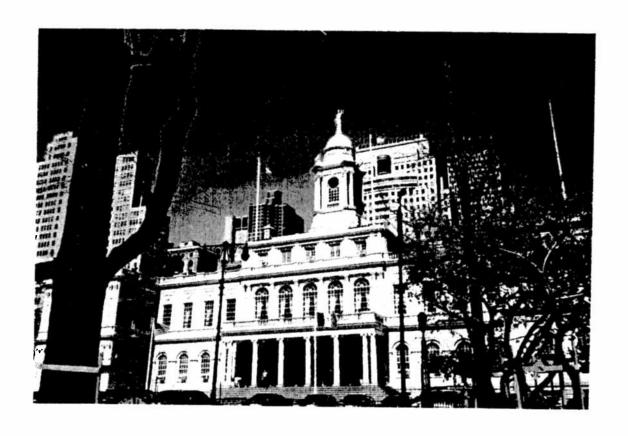
	Number of			Number of			Current	ت ت	urent
Calendar Year	Reports Required	Reports Filed	Compliance Rate	Fines Waived	Number of Fines Paid	Amount of Fines Paid	Non-Filers for C.Y.	Non for	Non-Payers for C.Y.
("CX")	for C.Y.	for C.Y.		for C.Y.	forCX	forCX	Act Inact.*	Act	Inact.*
1993	11,874	11,853	88.66	431	321	\$32,980	0 21	0	99 0
1994	11,898	11,703	98.4%	358	370	\$37,800	961 0	0	65
1995	11,462	11,314	98.7%	314	298	\$29,715	0 141	0	31
1996	11,846	11,716	98.9%	362	368	\$36,950	0 129		146
1997	11,664	1 i,542	%6'86	273	225	\$22,500	42 80	7	11
8661	12,198	12,014	98.5%	219	271	\$27,100	41 143	H	30
TOTALS:	70,942	70,142	%6'86	1,957	1,853	\$322,798	83 709	48	355

"Act." indicates current non-filers or non-payers who are current City employees. ("Non-payers" are late filers who have failed to pay their late filing fine.) "Inact." indicates current non-filers or non-payers who are no longer City employees.

[&]quot; Includes fines collected for calendar years 1989 through 1992, the reports for which have been discarded pursuant to the Board's retention policy.

ADVISORY OPINIONS OF THE BOARD

SUMMARIES AND INDEXES



OPINION NO:

99-1

DATE:

2/16/99

CHARTER SECTION(S) INTERPRETED: 2604(b)(1)(b)

2604(c)(6)

2604(d)(2), (d)(3), (d)(4), (d)(6)

2604(e)

SUBJECT(S): Elected Officials

Ex Officio

Not-For-Profit Organizations Post-Employment Restrictions

OTHER OPINION(S) CITED:

92-22

SUMMARY: Elected officials may serve as *ex officio* members of the board of directors of not-for-profit organizations and may designate members of their staffs to serve as their representatives, provided that such service is part of the elected official's and staff member's official duties.

When elected officials and members of their staff serve as *ex officio* members of the board of directors of not-for-profit organizations, the post-employment restrictions contained in Chapter 68 of the City Charter will apply.

OPINION NO.: 99-2

DATE: July 7, 1999

CHARTER SECTION(S) INTERPRETED: 2604(a)(1)(b), (b)(2), (b)(3), (b)(4)

2604(e)

SUBJECT(S): Moonlighting

Subcontractors

Waiver

OTHER OPINION(S) CITED: n/a

SUMMARY: It would not be a violation of Chapter 68 for a public servant to work part-time for a subcontractor when the subcontractor is not engaged in business dealings with the City. To determine whether the subcontractor is engaged in business dealings with the City, the Board will look at several factors, including the following: (1) whether the subcontractor receives any payment directly from the City; (2) whether the subcontractor reports to the City on any matters, for example, whether the City inspects the subcontractor's work; and (3) whether the work for the City is being done at a City site or off-site.

In addition, any such part-time work must be performed at times when the public servant is not required to perform services for the City, the public servant may not use his official position or title to obtain any private advantage for himself or the subcontractor, and may not disclose or use for private advantage any confidential information concerning the property, affairs, or government of the City which was obtained as a result of his official duties.

OPINION NO.:

99-3

DATE:

October 29, 1999

CHARTER SECTION(S) INTERPRETED: 2604(d)(2), (d)(6)

2604(e)

SUBJECT(S):

Post-Employment Restrictions

OTHER OPINION(S) CITED:

93-12, 93-13, 95-1

SUMMARY: A public servant is resigning from City service to accept a position as an employee of a private consulting firm which has a contract with a State agency to undertake an environmental review of a proposed State project. In that position, he would need to communicate with employees of his former City agency. Such communications would not violate Chapter 68, since he is a "representative" of the State within the meaning of Charter Section 2604(d)(6), the "government to government" exception to the post-employment restrictions of Chapter 68.

OPINION NO.: 99-4

DATE: November 8, 1999

CHARTER SECTION(S) INTERPRETED: 2604(b)(2), (b)(3), (b)(4), (b)(5), (b)(13)

2604(e)

BOARD RULE(S): 1-01(h)

SUBJECT(S): Moonlighting

Teaching Waiver

OTHER OPINION(S) CITED: 91-5, 95-3

SUMMARY: It would be a violation of Chapter 68 for a public servant to teach a course for compensation about the workings of his agency and in particular about recent new initiatives at the agency. It would not, however, be a violation for a public servant to teach a State University course for compensation the subject of which is similar to the subject of a course he teaches as part of his City job, where the audience for the State University course is different from that for the City course.

The first factor to be considered in making determinations regarding teaching for private compensation is whether the public servant could reasonably have been assigned to teach that course as part of his official duties. Under this test, a public servant who wishes to teach a course for compensation about new initiatives at his agency may not do so since he could reasonably have been assigned to teach that course as part of his official duties. Conversely, under this test, the public servant who wishes to teach a course at a State University for

compensation may do so since he could not reasonably have been assigned to teach that course as part of his official duties, because the audience is different from the audience served by his agency.

Other factors the Board will look to are: (1) in teaching the class, the public servant does not divulge any confidential City information; (2) the public servant does not utilize City time, resources, personnel, or equipment for the teaching or the preparation of any materials to be used for the course; (3) the public servant does not use his or her position as a public servant to obtain a disproportionate rate of pay for teaching a course or to obtain compensation except from the City for performing his or her official duties; and (4) the public servant does not use his or her official title or position in any marketing of the course, although such information may be listed as part of biographical information about the public servant.

OPINION NO.: 99-5

DATE: November 8, 1999

CHARTER SECTION(S) INTERPRETED: 2604(b)(2), (b)(3), (b)(4), (b)(13)

2604(e)

SUBJECT(S): Moonlighting

Teaching Waiver

OTHER OPINION(S) CITED: 93-25, 99-4

SUMMARY: It would be a violation of Chapter 68 for a public servant to write a book for compensation the subject matter of which is related to his official duties where this writing is something he might reasonably have been assigned to perform as part of his City job.

OPINION NO.: 99-6

DATE: November 23, 1999

CHARTER SECTION(S) INTERPRETED: 2601(11), 12), (18)

2604(a)(1)(b), (b)(2), (b)(3), (b)(4), (b)(13)

2604(d)(6) 2604(e)

SUBJECT(S): Moonlighting

Teaching Waiver

OTHER OPINION(S) CITED: 94-10, 99-4

SUMMARY: The Board determined that the City University of New York ("CUNY") and the State University of New York ("SUNY") are governmental bodies and not firms within the meaning of Charter Section 2601(11). Accordingly, public servants who seek to teach part time courses at CUNY or SUNY need not obtain waivers from the Board in order to do so, provided that they teach at times when they are not required to perform services for the City; they do not use their official City positions or titles to obtain any private advantage for themselves, CUNY, SUNY, or their students; and they do not use City equipment, letterhead, personnel, or other City resources in connection with their positions with CUNY or SUNY. In addition, they may not teach for outside compensation anything that they are assigned to teach, or might reasonably be assigned to teach, as part of their official duties.

CUMULATIVE INDEX TO ADVISORY OPINIONS BY CHARTER SECTION 1990-1999

CHARTER §		<u>o</u>	PINION #		
2601(2)	90-2	91-3	91-12	93-11	
2601(3)	90-7 96-1	90-8	91-14	93-11	93-19
2601(4)	91-8 92-38	92-13 93-12	92-17 93-18	92-32 94-5	92-36
2601(5)	90-4 92-4	90-5 92-7	90-6 92-14	91-3 93-21	91-15 98-1
2601(6)	91-3	94-18			
2601(8)	90-1 93-7	90-2 94-27	90-3 95-11	92-5 98-2	92-7
2601(11)	90-1 93-1 94-6 99-6	91-2 93-3 94-10	92-11 93-5 94-13	92-16 93-17 95-26	92-31 94-1 98-5
2601(12)	90-2 93-3 94-1 95-26	92-7 93-7 94-6 98-7	92-22 93-17 94-8 99-6	92-31 93-22 94-18	92-34 93-29 95-18
2601(15)	91-8 92-38	92-5 93-12	92-17 94-5	92-32	92-36
2601(16)	90-1 92-9 94-10 95-21	91-2 93-7 94-13 97-3	92-5 93-17 94-18 98-2	92-6 93-22 95-10 98-3	92-7 94-3 95-18 98-5
2601(17)	93-8	93-12	95-23		

CHARTER § OPINION # 2601(18) 91-14 92-5 92-6 92-7 92-9 92-30 93-5 93-7 93-16 93-17 93-22 93-29 94-6 98-5 98-7 98-8 99-6 2601(19) 90-7 91-2 91-3 91-12 93-7 93-10 (Revised) 93-29 94-6 98-5 98-7 2601(20) 91-12 93-7 94-6 98-5 98-7 2603(c) 90-2 92-19 2603(c)(3) 92-6 92-9 2604(a) 91-2 92-7 92-22 2604(a)(1) 90-1 91-14 98-8 2604(a)(1)(a) 91-2 91-3 92-5 92-31 93-2 93-3 93-7 93-10 (Revised) 93-17 93-19 93-22 93-29 93-32 94-6 95-8 95-12 95-18 95-26 96-4 98-5 98-7 2604(a)(1)(b) 90-2 91-7 92-6 92-9 92-11 92-30 92-34 92-35 93-4 93-10 (Revised) 93-16 93-20 93-27 94-1 94-3 94-8 94-10 94-11 94-13 94-16 94-18 94-20 94-25 94-26 94-27 95-3 95-8 95-10 95-11 95-15 95-16 95-17 95-21 95-25 95-26 96-2 97-3 98-2 98-3 98-5 98-7 99-2 99-6 2604(a)(3) 92-5 92-6 92-9 92-11 92-35 93-7 93-22 93-27 94-1 94-3 94-8 94-11 94-13 94-20 95-21 95-26 97-3 98-2 98-3 2604(a)(4) 92-5 92-6 92-9 92-11 92-35 93-7 93-22 93-27 94-1 94-3 94-8 94-11 94-13 94-20 95-21 95-26 97-3 98-2 98-3

CHARTER §		<u>OPINIO</u>	ON #		
2604(a)(5)(b)	91-14				
2604(b)(1)(a)	92-22	94-28 (Re	evised)		
2604(b)(1)(b)	91-3 99-1	93-2	93-3	95-18	96-4
2604(b)(2)	90-2 91-3 91-10 92-8	90-4 91-4 91-11 92-20	90-5 91-5 91-16 92-25	90-7 91-6 91-18 92-28	91-1 91-7 92-7 92-30
	92-34 93-12 93-21 93-31 94-13	92-36 93-15 93-24 93-32 94-14	93-1 93-16 93-25 94-1 94-16	93-5 93-17 93-26 94-8 94-24	93-9 93-19 93-28 94-11 94-25
	94-26 95-9 95-19 95-26 96-5	94-29 95-11 95-20 95-27 98-2	95-2 95-12 95-22 95-28 98-5	95-3 95-16 95-24 95-29 98-6	95-7 95-17 95-25 96-2 98-7
	98-8 99-2	98-10 99-4	98-12 99-5	98-13 99-6	98-14
2604(b)(3)	90-4 91-4 91-15 92-6 92-23	90-5 91-5 91-16 92-7 92-25	90-6 91-6 91-18 92-10 92-28	90-9 91-7 92-3 92-12 92-30	91-1 91-11 92-4 92-14 92-31
	92-33 93-10 (Re ^o 93-19	93-21	93-1 93-12 93-23	93-4 93-14 93-24	93-9 93-16 93-25
	93-26 94-2 94-12 94-24	93-28 94-6 94-13 94-25	93-31 94-8 94-16 94-26	93-32 94-9 94-17 94-27	94-1 94-11 94-20
	94-28 (Rev 95-9 95-17 95-24	vised) 95-11 95-19 95-25	94-29 95-12 95-20 95-26	95-3 95-14 95-21 95-27	95-5 95-16 95-22 95-28
,	95-29 98-2 98-10 99-5	96-2 98-3 98-12 99-6	97-2 98-5 98-13	97-3 98-7 99-2	98-1 98-8 99-4

CHARTER §		OPINIO	ON #		
2604(b)(4)	91-11	92-30	92-34	92-36	
	93-10 (Re	,	93-16	93-24	93-25
	93-26	93-28	93-31	93-32	94-1
	94-2	94-6	94-8	94-11	94-13
	94-16	94-20	94-25	94-26	94-29
	95-3 95-19	95-9 95-20	95-12	95-16 05-26	95-17
	95-19 96-2	93-20 97-3	95-21 98-1	95-26	95-29
	98-7	97-3 98-8	98-1 98-10	98-3 98-13	98-5 99-2
	99-4	99-5	98-10 99-6	90-13	99-2
	<i>}}-</i>	77-3	77-0		
2604(b)(5)	90-3	92-19	92-33	93-10 (Rev	viced)
200 ((0)(0)	94-4	94-9	94-23	95-28	96-3
	99-4	,,,	74-23	75-20	70-3
2604(b)(6)	91-7	92-7	92-26 (Rev	vised)	92-28
	92-36	93-10 (Re	•	93-32	94-24
	95-6	95-8	95-9	95-15	96-4
	96-5	98-2	98-9	98-10	
2604(b)(7)	90-7	91-7	92-18	92-28	
	93-10 (Rev	rised)	93-23	95-8	98-10
2604(b)(8)	91-7				
2604(b)(9)	93-24	95-13	95-24		
2604(b)(11)	93-24	95-13			
2604(b)(12)	91-12	92-25	93-6	93-24	95-13
2604(b)(13)	92-34 99-6	93-25	95-28	99-4	99-5
2604(b)(14)	92-28	98-12			
2604(b)(15)	91-12	91-17	93-20		
2604(c)	93-10 (Rev	ised)			
2604(c)(1)	90-6	91-10			
2604(c)(5)	98-4				

CHARTER §		<u>OPINI</u>	ON #			
2604(c)(6)	92-22 94-18 98-8	92-24 94-25 99-1	93-9 94-26	93-26 95-7	94-13 95-12	
2604(c)(6)(a)	92-25					
2604(c)(7)	91-18					
2604(d)	90-8	92-37	93-13			
2604(d)(1)	92-37	93-8	93-18	93-31	95-4	
2604(d)(1)(ii)	92-16	92-37				
2604(d)(2)	90-8 92-36	91-8 92-37	91-19 92-38	92-17 93-8	92-32	
	93-10 (Re		93-11	93-12	93-18	
	93-30	93-31	94-7	94-15	94-22	
	95-1	95-4	95-8	96-1	96-6	
	97-1	98-11	99-1	99-3	<i>3</i> 0 0	
2604(d)(3)	92-13	94-19	94-21	98-11	99-1	
2604(d)(4)	90-8	92-2	92-36	92-37	92-38	
	93-8	93-10 (Rev	vised)	93-11	93-12	
	93-30	93-31	94-5	94-7	94-19	
	94-21	94-22	95-1	95-4	95-23	
	96-1	96-6	97-1	99-1		
2604(d)(5)	92-38	93-8	93-11	93-30	94-5	
	95-4	96-6		, , , ,	713	
2604(d)(6)	93-12	93-13	93-31	94-7	94-21	
	95-1	97-1	99-1	99-3	99-6	
2604(d)(7)	93-11					

CHARTER § OPINION # 2604(e) 90-2 91-8 92-5 92-6 92-9 92-17 92-30 92-31 92-34 92-37 93-4 93-5 93-7 93-18 93-20 93-22 93-26 93-27 93-30 94-1 94-6 94-8 94-11 94-15 94-16 94-19 94-22 95-1 95-3 95-15 95-16 95-17 95-26 96-1 96-2 98-5 98-7 98-8 98-9 99-1 99-2 99-3 99-4 99-5 99-6 2605 94-28 (Revised) 2800 91-3 2800(d)(7) 91-12 2800(c)(9) 92-27 2800(f) 91-12 92-27

CUMULATIVE INDEX TO ADVISORY OPINIONS BY SUBJECT 1990-1999

SURJECT		ΩΡΙ	NION#		
Advisory Board	90-9	92-1	98-8		
Agency Charging Fees	94-14				
Agency Heads	90-2 92-15	90-9 98-6	91-13	92-8	92-12
Agency Served	93-19	95-8			
Appearance Before City					
Agency	90-8	91-8	91-19	92-13	92-17
	92-32	92-36	92-37	92-38	93-11 93-12
	93-13	93-18	93-28		93-31 93-32
	94-5	94-7	94-15		94-19
	94-21	94-22	94-24	95-1	95-6 95-15
	96-4	98-9			
Appearance of Impropriety	90-3	90-4	90-5	90-8	91-1 91-4
	91-5	91-7	91-10		91-15 91-16
	91-18	92-3	92-4		92-6 92-10
	92-14	92-15	92-17		92-21
	92-23	92-25	92-28	92-33	93-14 93-15
	93-22	94-2	94-17		
	94-28 (Re		95-7	95-10	95-11
	95-17	98-6			
Appearance on Matter Involving Public					
Servant's City Agency	96-5				
Blind Trust	94-18	94-25	94-26		
Brooklyn Public Library	97-1				

SUBJECT

OPINION #

Business Dealings					
with the City	90-1	90-2	90-3	91-4	91-10
	91-14	92-5	92-6	92-7	92-9
	92-11	92-22	92-24	92-25	
	92-26 (R	levised)	92-28	92-30	92-31
	92-33	92-34	93-9	93-16	93-20
	93-22	93-27	94-6	94-9	94-13
	94-16	94-20	94-29	95-3	95-15
	95-16	95-17	95-21	96-2	98-2
City Position, Use of	90-6	90-9	91-1	91-5	91-10
	91-15	91-16	91-18	92-3	92-10
	92-12	92-33	92-35	93-9	93-14
	93-23	93-25	94-2	94-12	94-17
	94-28 (R	evised)	95-2	95-5	95-14
	97-2	98-1			
Community Boards	91-3	91-9	91-12	92-27	92-31 93-2
,	93-3	93-21	95-18	, 2 2,	95-27 96-4
	98-9	, , <u> </u>	75 10)5 2 /)0 ¥
Community School Boards	90-7	98-10			
Consulting	91-9	91-16	02.2	02.12	02.10
Consuming	91-9	91-16 95-15	92-2	93-12	93-19
	93-24	93-13	98-7		
Contracts	91-2	91-15	92-2		
		0.4.5.5			
Cooperative Corporations	92-7	94-25	94-27	95-11	95-22
	95-25				
Dual City Employment	95-26				
Zum ony Zmproyment)3 2 0	• *			
Elected Officials	90-3	90-4	90-5	90-6	91-10
	92-10	92-22	92-23	93-6	93-15
	93-21	95-20	98-14	99-1	
Endorsements	98-6				
LITAGUESCHICHES	70 * 0				
Ex Officio	99-1				
Expert Witness	91-9	96-6			

SUBJECT			OPINION.	#	
Family Relationships	90-1 91-15 94-3	90-4 92-4 94-13	90-5 92-14 94-20	90-6 93-21 98-1	91-2 93-28
FOIL	91-19				
Franchises	90-4	90-5			
Fundraising	91-10 93-15 98-14	92-15 93-26	92-25 94-29	92-29 95-7	93-6 95-27
Gifts	91-20 94-4 95-28	92-21 94-9 96-3	92-27 94-12	92-29 94-23	92-33 94-29
Gifts-Travel	90-3	92-10	92-19	92-23	
Honoraria	91-4	91-6	94-29		
Lectures	91-6				
Letterhead	90-9				
Local Development Corporation	93-1	93-3	93-13	94-7	
Mayor	90-4				
Ministerial Matters	92-32	92-36	94-5	95-6	
Moonlighting	90-2 92-6 93-4 94-8 95-17 98-4 99-5	91-7 92-28 93-5 94-16 95-19 98-5 99-6	91-9 92-30 93-24 95-6 95-20 98-7	91-13 92-34 93-25 95-9 95-22 99-2	91-16 92-36 94-1 95-16 96-2 99-4

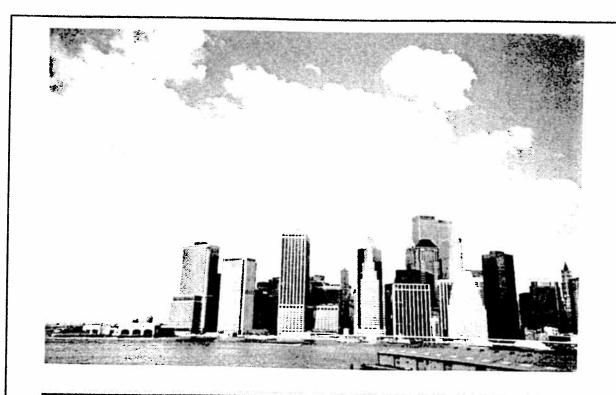
SURJECT			OPINION	#		
Not-For-Profit						
Organizations	91-10	91-16	92-8	92-14	92-1	5
	92-22	92-24	92-25	92-28	92-3	
	92-34	92-37	93-1	93-4	93-9	
	93-14	93-15	93-26	94-6	94-1	
	94-15	94-18	94-19	94-25	94-2	
	95-2	95-5	95-7	95-12	98-8	
	98-14	99-1				
Orders - see Waivers/Order	rs					
Ownership Interests	90-1	91-2	91-3	92-5		92-6
	92-7	92-9	92-11	92-26 (R	Revised)	220
	92-30	92-35	93-7	93-16	,	93-22
	93-27	93-32	94-1	94-3		94-8
	94-10	94-11	94-13	94-20		94-25
	94-26	95-10	95-12	95-18		95-21
	97-3	98-2	98-3			
Particular Matter	92-37	93-8	95-23			
Personnel Order 88/5	91-12	92-25				
Police Officers	97-2	98-4				
Political Activities	91-12	91-17	92-25	93-6	93-20)
	93-24	95-13	95-24			
Post-Employment						
Restrictions	90-8	91-8	91-19	92-2	92-13	
	92-16	92-17	92-32	92-37	92-38	
	93-8	93-11	93-12	93-13	93-18	
	93-30	93-31	94-5	94-7	94-15	
	94-19	94-21	94-22	95-1	95-4	
	95-23	96-1	96-6	97-1	98-11	
	99-1	99-3				

SUBJECT OPINION #

Prohibited Interests	90-1	90-2	91-2	91-3	91-15
	92-5	92-6	92-7	92-9	92-11
	92-26 (Re	vised)	92-30	92-35	93-1
	93-3	93-4	93-7	93-9	93-16
	93-22	93-27	93-29	93-32	94-1
	94-3	94-5	94-8	94-10	94-11
	94-13	94-16	94-20	94-25	94-26
	95-10	95-12	95-18	95-21	96-2
	98-3				
Public Benefit Corporation	93-17				
	, , , ,				
Public Servants	91-14	93-10 (Rev	ised)	93-29	93-32
	94-6		,		
Real Property	93-16				
Recusal	90-4	90-5	91-3	91-11	91-15
	92-5	92-6	92-8	92-9	92-18
	92-20	92-25	92-26 (Rev		92-28 92-30
	93-1	93-4	93-7	iscu)	
				04.11	93-17
	93-19	93-31	94-6	94-11	94-17
	94-18	94-24	96-2	98-1	
Regular Employees	93-10 (Revised)		95-8		
Regular Employees	93-10 (KeV	(ISCU)	93-0		
Renting Property to Public					
Assistance Recipients	95-29	98-13			
Assistance Recipients	73-27	96-13			
Sale of Products	98-12				
Sale of Froducts	90-12				
School Boards	93-2				
School Boards	93-2				
Separation from City Service	09 11				
separation from City service	90-11				
Sole Proprietorship	09.7				
Sole Proprietorship	98-7				
Subcontractors	00.2				
Subcontractors	99-2				
Superior-Subordinate					
	00.12				
Relationship	98-12				
T					
Tax Assessors	93-16				

SUBJECT OPINION

Teaching	90-2 96-2	91-5 99-4	93-20 99-5	94-16 99-6	95-3
Temporary Employment	98-5				
Uncompensated Appearances	98-10				
Volunteer Activities	98-10				
Waivers/Orders	90-2 92-17 93-27 94-8 94-20 95-17 99-2	91-8 92-37 93-30 94-11 94-22 96-1 99-4	92-6 93-18 94-1 94-15 95-1 96-2 99-5	92-9 93-20 94-3 94-16 95-3 98-8 99-6	92-13 93-22 94-6 94-19 95-16 98-9

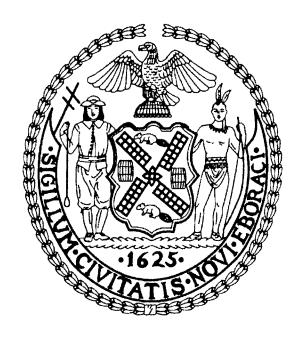


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