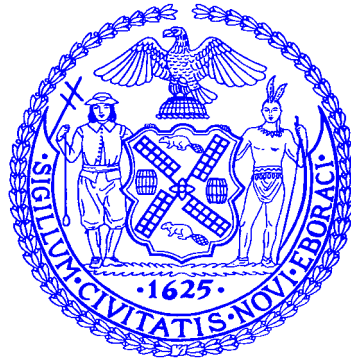


CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD



ANNUAL REPORT
2004

<http://nyc.gov/ethics>

CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

ANNUAL REPORT
2004

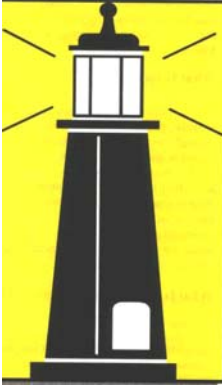
Steven B. Rosenfeld
Chair

Monica Blum
Angela Mariana Freyre
Bruce A. Green
Jane W. Parver
Members

Mark Davies
Executive Director

2 Lafayette Street
New York, New York 10007

<http://nyc.gov/ethics>



ETHICS LIGHTS THE WAY TO GOOD GOVERNMENT

<http://nyc.gov/ethics>

The New York City Conflicts of Interest Board's Annual Report is designed and produced in-house at 2 Lafayette Street, Suite 1010, New York, New York 10007.

TABLE OF CONTENTS

Page

Introduction.....	1
1. Members and Staff of the Conflicts of Interest Board.....	1
2. Training and Education.....	2
3. Requests for Guidance and Advice.....	6
4. Administrative Rules.....	9
5. Enforcement.....	9
6. Financial Disclosure.....	15
7. Budget, Administration, and Information Technology... 	18
Exhibit 1: Members and Staff of the Conflicts of Interest Board.....	21
Exhibit 2: Training and Education Classes on Chapter 68....	22
Exhibit 3: COIB Training Classes by Agency.....	23
Exhibit 4: Reinvigorating an Ethics Board and the Need for Budget Protection – Conflicts of Interest Board: 1993, 2001, 2003, 2004.....	24
Exhibit 5: Legal Advice Workload: 1993 to 2004.....	27
Exhibit 6: Requests for Advice on Chapter 68.....	28
Exhibit 7: Responses to Requests for Advice on Chapter 68... 	29
Exhibit 8: Enforcement Cases (Chapter 68).....	30
Exhibit 9: Enforcement Workload: 1993 to 2004.....	31

Exhibit 10: Enforcement Fines.....	32
Exhibit 11: Financial Disclosure Reports.....	34
Exhibit 12: New York City Conflicts of Interest Board: Proposed State Legislation.....	35
Exhibit 13: Possible Modified Annual Disclosure Form Pursuant to Proposed Amendment to NYS General Municipal Law § 811(1)(a).....	42
Advisory Opinions of the Board – Summaries and Indexes....	48
Opinion Summaries (2004).....	49
Cumulative Index to Advisory Opinions by Charter Chapter 68 Section – 1990-2004.....	52
Cumulative Index to Advisory Opinions by Subject – 1990-2004.....	58

INTRODUCTION

In 2004, the Conflicts of Interest Board (“COIB”) celebrated its fourteenth anniversary and the forty-fifth anniversary of its predecessor agency, the Board of Ethics. The Board was created in 1990 by Chapter 68 of the revised New York City Charter – the City’s Conflict of Interest Law applicable to more than 300,000 public servants of the City of New York (<http://www.nyc.gov/html/conflicts/downloads/pdf/bluebook.pdf>). Chapter 68 invests the Board with broad responsibilities, including educating City officials and employees about Chapter 68's ethical standards; interpreting Chapter 68 through the issuance of formal advisory opinions, the promulgation of rules, and 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 reviews the Board's activities in each of the following areas during 2004: (1) members and staff of the Board; (2) training and education; (3) requests for guidance and advice; (4) administrative rules; (5) enforcement; (6) financial disclosure; and (7) budget, administration, and information technology.

1. MEMBERS AND STAFF OF THE CONFLICTS OF INTEREST BOARD

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

Steven B. Rosenfeld, a partner in the law firm of Paul, Weiss, Rifkind, Wharton & Garrison, was appointed to the Board in May 2002 and was named Chair in June 2002. Jane W. Parver, a partner at Kaye, Scholer, Fierman, Hays & Handler, was appointed to the Board in August 1994 and was reappointed in May 2002. Bruce A. Green, a professor at Fordham University School of Law, was appointed to the Board in November 1995 and was also reappointed in May 2002. Angela Mariana Freyre, a partner at Coudert Brothers LLP, was appointed to the Board in October 2002.

Monica Blum, President of the Lincoln Square Business Improvement District, was appointed to the Board in August 2004, replacing Benito Romano, who had first been appointed to the Board in August 1994 and who had served as Acting Chair from February 1998 until the appointment of Mr. Rosenfeld.

The Board's staff, which budget cuts have slashed by 24% since 2002 (from 23^{3/5} to 18), is divided into six units: Training and Education, Legal Advice, Enforcement, Financial Disclosure, Administration, and Information Technology. The staff, listed in Exhibit 1, is headed by the Executive Director, Mark Davies.

2. TRAINING AND EDUCATION

Training Sessions

As reported in Exhibit 2, in 2004 the Board conducted 288 training classes for public servants throughout City government, including 119 classes for the Department of Education. This significant increase from 182 classes conducted in 2003 is in part attributable to the fact that from May until October 2003 the Board was without a training unit as a result of budget cuts. However, restoration of funding by the City Council enabled the Board to hire two trainers and resume this mandated function at the end of 2003. Even with only two trainers, this year's total number of classes exceeds the 286 classes taught in 2002, when the headcount for the training unit was 4^{3/5}. Thus, the productivity of the unit more than doubled. Indeed, although the unit was smaller than it has been at any time since 1995, it conducted more classes in 2004 than in any year other than 2000, and conducted more classes at agencies (not including the Department of Education) than in any year in the Board's history. In all, as summarized in Exhibit 3, COIB classes reached approximately 14,470 City employees in 38 City agencies and offices.

The Board's classes are interactive and engaging, explaining the basis and requirements of the law in plain language and letting public servants know how they can get answers regarding their specific situations. The sessions, which are often tailored to the specific agency or employees, can include games, exercises, and ample opportunities for questions. For example, in 2004 COIB was pleased to be invited into the Department of Buildings (DOB) to train virtually every employee of that agency. Many

participants were tradespeople (e.g. architects, electricians), so many of the 25 classes the Unit taught there focused specifically on DOB policies regarding outside practice in the trades, as well as specific post-employment questions that arise for such employees. The feedback received from class participants continues to be virtually all positive, and usually quite enthusiastic.

In 2004, the Board's attorneys continued, with the Training and Education staff, to present a two-hour continuing legal education (CLE) class to City attorneys, including one class hosted by the Law Department that was open to attorneys from all City agencies, and which will serve as a model for future Citywide CLE ethics courses. COIB attorneys continued to write materials on Chapter 68 for publication, both in-house and for outside publications, including a monthly column that began in 2004 in the *Public Employees Press* entitled "Answers from the City Ethicist."

"Train the Trainer"

In support of the Board's ongoing "Train the Trainer" initiative – a program in which the Board offers support to agencies that have chosen to conduct their own Chapter 68 training classes – the Training and Education Unit began hosting a Brown-Bag Lunch series, a monthly lunch discussion group that takes a close look at specific areas of the conflicts of interest law. Participants included staff of several agencies who are either involved in teaching ethics or who work directly with Chapter 68 issues at their agencies. This very successful program will resume in 2005.

Department of Education

The Board's training activities at the Department of Education (DOE) increased in 2004, in the wake of a high-profile ethics issue at that agency in Spring 2004. Board staff were invited to address the Chancellor's senior staff on conflicts issues, and subsequently to address top DOE management at one of their leadership retreats. These briefings led to a number of training sessions for regional staff, conducted jointly by the DOE's Ethics Office and COIB staff. Meanwhile, the Board's outreach to the schools continues apace, thanks in part to DOE itself, which included memoranda from the Chancellor regarding conflicts of interest training in the DOE's electronic "Principal's Weekly" in both November of 2003 and again in September of 2004. The Board's Training and Education Unit held 75 classes at DOE

during the 2003-2004 school year, conducted 61 classes at DOE from June to December, and at year-end was scheduled to complete 111 classes for the 2004-2005 school year, with more being set up every week. The Training and Education Unit also continues to conduct briefings for principals at region-wide meetings, in conjunction with the DOE's Ethics Officer, and then to follow up with classes at the individual schools.

Website, Publications, and Media Outreach

As a result of the layoff of the Board's website coordinator in May 2003, the agency has not been able to upgrade that critical educational resource. In particular, the Board has been forced to postpone indefinitely the development of an interactive Chapter 68 Ethics Certification Program, which would have permitted ethics officers, ethics liaisons, agency counsel, and others to learn about Chapter 68 in detail, at their own pace, by working through two dozen training modules on line and then, upon successfully answering quizzes, obtain certification of their expertise in the City's ethics law. The Board hopes that the website coordinator line can be restored in Fiscal Year 2006 to permit the continued development of this, and many other, web-based initiatives.

The Internet remains one of the most essential tools for Chapter 68 outreach. Indeed, in 2004 the Board's website (<http://nyc.gov/ethics>) had 163,263 visitors and 260,430 views. The number of visits represents nearly a 200% increase from 2003. Thus, despite the loss of the website coordinator, the Board is struggling to keep the information on the website current, and has also substantially redesigned the site for greater user friendliness and more intuitive navigability. The Board also hopes, if possible, to continue to post new publications on the website, so that in the future, as in the past, every Board publication, including the texts of Chapter 68, the Board's rules, and the financial disclosure law and all of COIB booklets and leaflets, are available to be downloaded from the website (<http://www.nyc.gov/html/conflicts/html/publications/index.shtml>), as well as from CityShare, the City's Intranet.

Outreach to the public, calling attention to the agency's activities and responsibilities, is also an important priority. Much of the success of a municipal ethics program depends upon the public perception of the integrity of City officials and the effectiveness of the City's ethics system; indeed, citizens, including City vendors, prove a significant source of

complaints of ethics violations by public servants. Accordingly, the Training and Education Unit instituted a series of 15-second Public Service Announcements, which ran on several New York City radio stations during the first few months of 2004. The announcements were designed to help increase awareness of the conflicts of interest law, and the Board and its mission, among City employees and the citizenry alike.

Seminar

The Board's "Tenth Annual Seminar on Ethics in New York City Government" at New York Law School last May was a great success. More than 220 public servants attended, representing approximately fifty City agencies. The Board's 2005 seminar will be held on May 18.

International Visitors and Government Ethics Associations

In 2004 the Board welcomed visitors from two foreign governments at the request of the U.S. Department of State: Brazil and Azerbaijan. Presenting from an outline based on the COIB's online "International Visitors Manual," the Board gives advice to foreign governments on establishing and maintaining an effective ethics program.

Budget cuts prevented the Board from sending a group of representatives to the annual conference of the international Council on Government Ethics Laws, the premier government ethics organization in North America. However, the Board's Director of Training and Education was able to attend, and served as panel moderator for a discussion titled "Ethics Training, Theory and Practice." He was also elected to COGEL's Steering Committee, and named Chair of the Publications Committee. One attorney from the Board's Enforcement Unit was also in attendance.

The Board also receives numerous requests from municipalities around the State to assist them in updating and improving their ethics laws. Resources permitting, COIB staff attempt to respond to those requests, whenever possible by e-mail, although occasionally in person. For example, in 2004 the Executive Director testified on government ethics before the Ethics Committee of the Philadelphia 21st Century Review Forum and before the Philadelphia City Council, which is striving to revamp completely that city's ethics system. He also taught a CLE class in New Windsor for the New York State Bar Association on New York State ethics laws regulating municipal officials outside New York City.

Executive Director Mark Davies continues to serve as chair of the Government Ethics and Professional Responsibility Committee of the New York State Bar Association's Municipal Law Section. Director of Enforcement Astrid Gloade serves on the Committee on Government Ethics of the Association of the Bar of the City of New York.

Although assistance and outreach falls within their City duties, COIB attorneys as a practical matter must often undertake these bar association and municipal association activities on their own time because the Board is so inundated with work.

The Board thanks its tiny but dedicated training staff, Joel Rogers, Director of Training and Education, and Alex Kipp, Senior Trainer and Training Coordinator, for coordinating all of the extensive activities described in this section.

3. REQUESTS FOR GUIDANCE AND ADVICE

Previous annual reports noted the significant increase in the quality and quantity of the advisory work of the Board and its hard-pressed Legal Advice Unit, over the past several years, and the enormous increase in productivity. Exhibit 4 summarizes those gains.

The 2000 and 2001 annual reports stressed that the Board was reaching the maximum limits of gains in productivity, especially in the Legal Advice Unit, and that, without more attorneys, it risked becoming overwhelmed. That fear was realized in 2002 when requests for written advice skyrocketed to 691 requests, a 28% jump over 2001, and telephone requests increased to 2410, a 46% increase over 2001. As a result, as shown in Exhibit 5, despite producing a record 505 pieces of written advice in 2002, at the end of 2002 the Legal Advice Unit faced a backlog of 184 pending requests for advice, the highest in the history of the Board, compared to only 40 pending requests at the beginning of 2002.

In 2003 and 2004, requests for written advice abated slightly, as detailed in Exhibit 6, essentially returning to the already high levels prior to 2002. In 2004, the Board received 535 written requests for advice, compared to 691 and 559 for 2002 and 2003, respectively. At the same time, however, telephone requests for advice surged to a record high in

2004. In 2004, the Board's staff handled 2,633 phone calls, a 60% increase over 2001 (9% over 2002, the previous record high). Telephone advice provides the first line of defense against conflicts of interest violations and thus remains one of the Board's highest priorities, but such calls consume an enormous amount of staff time, sometimes hours a day, and therefore sharply limit the attorney time available for drafting written advice and advisory opinions.

While written requests and telephone calls continued to pour in, the Board issued 470 pieces of legal advice in 2004. As summarized in Exhibit 7, these 470 written responses included 252 staff advice letters, 157 waiver letters signed by the Chair on behalf of the Board, 58 Board letters and orders reflecting Board action, and three formal Advisory Opinions. The three Advisory Opinions were as follows:

- (1) "Public members" of community board committees who are not members of the community board itself are not public servants within the meaning of Charter Section 2601(19) and hence are not subject to the provisions of the City's conflicts of interest law.
- (2) City employees may not enter into a sou-sou¹ in which their City superiors or subordinates are also members. Public servants who are not in superior-subordinate relationships may enter into a sou-sou, provided that they do not use City time or resources in furtherance of this activity and that they do not use their City positions or titles to obtain any private advantage for other members of their sou-sou.
- (3) It would violate Chapter 68 for anyone "associated with" a community board member, including the member's spouse, domestic partner, parents, children, and siblings, to serve as staff to that member's community board. It would also violate Chapter 68 for any

¹ The participants in a sou-sou are required to pay a certain amount of money to a coordinator at regularly scheduled intervals. At each such interval, all the collected money (less any fee to the coordinator) is disbursed to one of the members; a different member receives the entire pot (or "hand") each time – the timing of one's hand often scheduled to coincide with a predicted future need. Once each member has received a hand, a new cycle begins, often with the same members, but with an adjustment of the order of receipt. A sou-sou thus serves as a method for the members to make interest-free loans to one another on a rotating basis.

other person with whom a board member has a financial relationship to serve as a staff member.

(Indexes to the Board's advisory opinions since 1990 are annexed to this report.)

Despite this output, a significant backlog of written requests remains. As of December 31, 2004, the Board had 191 pending requests for written advice, up from 160 at the start of the year.

In order to help address this backlog in the face of continued budget cuts, the Legal Advice Unit has again relied on the services of part-time volunteers and student interns. Over the year, six law student interns, one college student intern, and a high school student intern worked part-time for the Advice Unit. These people contributed substantially to the Board's output. Despite these efforts, the average age of pending requests for advice at year-end remained 8 *months*, compared to just 18 *days* at the beginning of 2002. This means that public servants must wait, on the average, several months to receive any written response to their requests for advice. Such a delay is completely unacceptable, but without more full-time legal staff, the Unit cannot significantly reduce the waiting time. For that reason, the Board continues to be desperately in need of another Legal Advice attorney.

The Board's appreciation for these excellent results under pressure go to General Counsel Wayne Hawley, Director of the Legal Advice Unit and his superb staff, including Deputy Counsel Jessica Hogan, and Attorney Intern Jesse Zigmund, who joined the staff in mid-year, replacing Special Counsel Bonnie Beth Greenball.

The Board continues to distribute its formal advisory opinions to public servants and the public and to make them available on Lexis and Westlaw. Working with the Training and Education Unit, the Legal Advice Unit has also developed a large e-distribution list, so that new advisory opinions and other important Board documents are being e-mailed to a large network of people, including the legal staff of most City agencies. In an important cost-saving measure, the Board has discontinued the distribution of these materials by mail. Working in cooperation with New York Law School's Center for New York City Law, the Board has added its advisory opinions to the Internet, where they are now available free of charge to all in full-text searchable form (<http://www.citylaw.org/cityadmin.php>).

4. ADMINISTRATIVE RULES

In 2004, the Board adopted two new rules mandated by Local Law 43 of 2003, the omnibus amendment to the City's financial disclosure law: one defining the so-called "contract" filers and one tying the definition of "policymaker" for financial disclosure purposes to "substantial policy discretion" for Chapter 68 purposes, thus eliminating the need to file duplicate lists of policymakers with the Board. The full text of the Board's rules may be found on the Board's website (<http://www.nyc.gov/html/conflicts/downloads/pdf2/rules.2.04.pdf>).

5. ENFORCEMENT

The Enforcement Unit remained productive in 2004, despite a consistently high number of new cases, the loss of an attorney for a part of the year, and significant non-enforcement related demands on the Unit's time. As reflected in Exhibits 8 and 9, in 2004, the Board received 307 new complaints of Chapter 68 violations, only slightly fewer than the record 346 complaints received in 2003. In 2004, the Board disposed of 266 complaints, a 9% increase over 2003. The Board also referred 156 matters to DOI for investigation, a 15% increase over 2003, and received 93 reports from DOI, an increase of 50% over 2003.

The number of new complaints received by the Board remained high in part because of the heightened public awareness of the Board's work, as a result of the Board's published enforcement cases and the advice and training the Board offers at all levels of City service. The Board views its enforcement mandate as a serious responsibility and recognizes that the potential consequences from a Board enforcement action can be grave for the public servant. Thus, the Enforcement Unit gives careful consideration to each matter in which it is alleged that a public servant has violated the conflict of interest law, and considerable staff time is spent on processing new complaints. At the end of 2004, the Unit's long-time Director, Joan Salzman, departed to become an OATH judge, leaving the Unit shy one lawyer. The Board urgently needs another Enforcement attorney in order keep up with the increased workload.

In 2004, the Board concluded and published six formal dispositions of enforcement cases concerning Chapter 68 violations in which fines were imposed. All such final dispositions are matters of public record. They were

as follows:

- (1) The Board concluded a settlement with Commissioner Brian G. Andersson of New York City Department of Records and Information Services (“DORIS”). Mr. Andersson agreed to pay a fine of \$1,000 and acknowledged that he had used DORIS records to conduct genealogy research for at least four private clients, in violation of City Charter provisions and Board Rules that prohibit public servants from using City office for private gain and from using City time and resources for non-City purposes. In the settlement, Mr. Andersson acknowledged that he acted contrary to the Board’s advice and his own written representations to the Board when he used DORIS records for private clients, by supplying them with DORIS marriage, birth, and death records or identifying information needed for such records, as well as DORIS photographs. He charged his clients \$25-\$75 per hour for his time performing archival research, primarily in the National Archives and the New York Public Library. Although his invoices did not show any breakdown of the time he devoted to searching DORIS records for private clients, Mr. Andersson stated that he did not charge a fee to his clients relating to DORIS records or time spent searching for DORIS records. He also acknowledged that when he sometimes deferred or waived DORIS fees in the exercise of official discretion, the “mixture of [his] private interest and [his] public duties could be construed as a conflict of interest,” given his official access to DORIS records. Mr. Andersson stated further that while he received fees for EICGR work, he never cleared a profit from his private work, and has ceased that private work and dissolved the company. *COIB v. Brian Andersson*, COIB Case No. 2001-618 (2004).

- (2) The Board concluded a settlement with a Department of Education guidance counselor in *COIB v. Gary Fleishman*, COIB Case No. 2002-528 (2004). Mr. Fleishman admitted that he met, on school property, near his office in the school, the mother of a student who attended JHS 189, and subsequently offered to provide and did provide counseling to this student’s parents, who were separated, privately for a fee. He conducted about 30 sessions with the parents and charged \$100 per session. Mr. Fleishman acknowledged that he violated New York City Charter provisions

that prohibit public servants from misusing or even attempting to misuse their official positions for private gain. As part of the settlement, the Conflicts of Interest Board fined Mr. Fleishman \$1,000, and noted that it had considered the following circumstances in connection with the penalty and the nature of the violation: (1) that the Department of Education fined Mr. Fleishman \$5,000; (2) that Mr. Fleishman made restitution to the parents of the money they had paid him, in the amount of \$1,300, provided proof that his lawsuit in Small Claims Court against the parents for additional fees has been dismissed, and promised to seek no further money from them; (3) that Mr. Fleishman has agreed to refrain from counseling privately, for pay, children who attend the City public school in which he is employed and relatives of those children; and (4) that Mr. Fleishman was removed as guidance counselor at JHS 189 and would be reinstated to his previous position only after reaching a separate agreement with the Department of Education that sets forth his obligations and penalties as described above.

- (3) In *COIB v. Patricia Campbell*, COIB Case No. 2003-569 (2004), the Board fined a former Property Manager/Supervising Appraiser for the New York City Housing Authority (“NYCHA”) \$2,000 for moonlighting as an appraiser of residential property for a firm called Scott Gallant and Associates, while she was working for NYCHA, and selecting, on behalf of NYCHA, the firm with which she was moonlighting to perform appraisals for NYCHA. Ms. Campbell also admitted that she used a NYCHA fax machine and letterhead, as well as City time, to make appointments relating to her non-City employment. The Board fined Ms. Campbell \$2,000, after taking into consideration her unemployment.
- (4) The Board concluded a settlement with former Department of Correction Commissioner William Fraser, who paid a \$500 fine for having three subordinate Correction Officers repair the leaking liner on his aboveground, private swimming pool. Two of the Officers were his personal friends for more than ten years, and they brought the third Officer, whom Mr. Fraser had not met before. The work was modest in scope, the subordinates did the repairs on their own time, not City time, and Mr. Fraser paid the two Officers he knew a total of \$100 for the work, which included replacing the

liner, replacing several clamps, and re-installing the filter. Mr. Fraser believed that the Officers acted out of friendship, but acknowledged that he had violated the Charter provisions and Board rules that prohibit public servants from misusing or attempting to misuse their official positions for private gain, from using City personnel for a non-City purpose, and from entering into a business or financial relationship with subordinates. Officials may not use subordinates to perform home repairs. This is so even if the subordinates are longstanding friends of their supervisors, because such a situation is inherently coercive. Allowing, requesting, encouraging, or demanding such favors or outside, paid work can be an imposition on the subordinate, who may be afraid to refuse the boss, or may want to curry favor with the boss in a way that creates dissension in the workplace. There was no indication here that Mr. Fraser coerced the Officers in this case, but it is important that high-level City officials set the example for the workforce by taking care to consider the potential for conflicts of interest. *COIB v. Fraser*, COIB Case No. 2002-770 (2004).

- (5) The Board concluded a three-way settlement with the Department of Education and the Interim Acting Principal of PS 73 in *COIB v. Joelle McKen*, COIB Case No. 2004-305 (2004). Ms. McKen paid a \$900 fine (half to the Board and half to the Department of Education) for arranging with her subordinate to transport McKen's children from school on City time. The subordinate used her own vehicle, and the fine was twice the amount Ms. McKen saved on the van service she would have paid for the five months she used the subordinate to transport her children. Officials may not use City employees to perform their personal errands.
- (6) The Board concluded a settlement with Michael Berkowitz, a Deputy Commissioner at the Office of Emergency Management ("OEM") who hired his girlfriend to work on an OEM project that he supervised. Mr. Berkowitz oversaw the creation and production of OEM's "Ready New York" household preparedness guide, and proposed that OEM obtain the services of a photographer to take photographs for use in the guide. The photographer who was selected was Mr. Berkowitz's girlfriend, and Mr. Berkowitz approved and signed the OEM purchase form relating to obtaining

the photography services of his girlfriend. Mr. Berkowitz and the photographer had a financial relationship that included a joint bank account and co-ownership of shares in a cooperative apartment. Mr. Berkowitz paid a fine of \$3,500. *COIB v. Michael Berkowitz*, COIB Case No. 2004-180 (2004).

The Board took the occasion of the *Berkowitz* disposition to remind all City workers that they may not take any official action, or use their City positions, to obtain a private or personal advantage for themselves or persons with whom they are associated, as that term is defined by the conflicts of interest law. Therefore, City workers are prohibited from having any role in procuring, for City purposes, goods or services from persons or firms with which they are associated. Even if a public servant believes that the City will benefit from procuring the goods or services of a person or firm with which the public servant is associated, or even if the City will obtain a discount by using that person or firm, the public servant must not participate in any way in procuring those services or hiring that person.

The Board's 2004 enforcement dispositions included several important cases involving high-level City officials who misused their official positions. The Board took the occasion of those dispositions to remind City officials to take care to separate their private business matters from their official City work. The Board also reminded City officials that public servants may not use their City positions to obtain a financial gain or a private or personal advantage for themselves or their family members or associates. The Board stated that high-level officials have a special obligation to set an example of honesty and integrity for the City workforce.

The Board's "Summaries of Enforcement Cases" provides a useful digest of the Board's enforcement results from 1990 to date. This document is available on the City's Intranet and on the Board's website (http://www.nyc.gov/html/conflicts/downloads/pdf2/enf_summary.pdf) for use by all City workers and members of the public as an easy reference guide to cases the Board has prosecuted. The dispositions themselves, like the Board's advisory opinions, are available on the City Law website free of charge to all in full-text searchable form (<http://www.citylaw.org/cityadmin.php>).

The Enforcement Unit continues to utilize the "three-way settlement" procedure in resolving cases with other City agencies, such as the Department of Education in *McKen*.

In addition to working on complaints arising out of Chapter 68, the Enforcement Unit continued to assist the Advice Unit in rendering telephone advice to public servants and members of the public who contact the Board daily. The Unit also devoted considerable time to other matters that were not directly related to enforcement of the City's ethics laws but that went towards fulfilling the agency's broader mandate to promote public confidence in government and protect the integrity of government decision-making. For example, the Unit participated in training and education efforts by conducting classes and seminars for public servants.

A significant part of the Unit's time in 2004 was spent working with the Board's Financial Disclosure Unit to pursue cases involving public servants who failed to comply with their obligations to file with the Board financial disclosure reports or who failed to file such reports in a timely manner and then failed to pay late filing fees. Unit personnel also spent a significant amount of time working on agency administrative and non-Chapter 68 matters. The Unit continued to bring matters at the Office of Administrative Trials and Hearings ("OATH") for trial or settlement, and appreciates the continued professionalism and assistance from the OATH staff.

As Exhibit 10 shows, the fines imposed in 2004, including those fines made payable in part to other agencies in three-way settlements, amounted to \$15,200 (\$8,500 of which was collected by the Board). Total fines for substantive violations of Chapter 68 from 1990 through 2004 amounted to \$240,625.

While the deterrent effect of the fines is important, some of the Board's most important work includes censure letters and numerous private warning letters carrying no fine. Furthermore, the fines alone cannot fully reflect the time and cost savings to the City when investigations by the Department of Investigation ("DOI") and enforcement by the Board put a stop to the waste of City resources by City employees who abuse City time and resources for their own gain. Nor do the fines show the related savings from disciplinary proceedings based on DOI's findings and Board enforcement actions that result in termination, demotion, suspension, and forfeiture of leave time.

The Board thanks the entire Enforcement Unit staff for their continued excellence, particularly Joan Salzman, who completed ten years as Chief of Enforcement, and several of those years as Deputy Executive Director, and left at the end of 2004 to become an OATH Judge. She was succeeded as Director of Enforcement by Deputy Director Astrid Gloade, who will carry on the Unit's impressive work, along with Marie Louise Victor, Associate Counsel; Susan Bronson, Assistant Counsel; and Varuni Bhagwant, Litigation Coordinator. The Board also extends sincere thanks to DOI Commissioner Rose Gill Hearn and Special Commissioner for the New York City School District Richard J. Condon, and their entire staffs, for the invaluable work of DOI and the Special Commissioner in investigating and reporting on complaints received by the Board.

6. FINANCIAL DISCLOSURE

City employees continue to show an excellent compliance record in filing mandated annual financial disclosure reports. As detailed in Exhibit 11, the overall compliance rate with the financial disclosure law exceeds 97%. This superb record must be attributed in large part to the excellent work of the Financial Disclosure Unit: Acting Director of Financial Disclosure Joanne Giura-Else; Holli Hellman, Senior Financial Disclosure Analyst; Veronica Martinez-Garcia, Assistant to the Unit; and Michelle Burgos, Financial Disclosure Assistant.

Financial Disclosure Amendments

On July 14, 2003, Mayor Bloomberg signed into law the Board's proposed financial disclosure amendments bill, Intro 64-A, effective January 1, 2004. This law, Local Law 43 of 2003, was a comprehensive overhaul of the City's financial disclosure law, set forth in section 12-110 of the New York City Administrative Code (<http://www.nyc.gov/html/conflicts/downloads/pdf/locallaw43.pdf>), and designed to ensure that *only* public servants at risk for conflicts of interest be required to file annual financial disclosure reports.

Local Law 43 expanded the number of offices covered by the City's financial disclosure law, while at the same time reducing by nearly 40% the number of required filers, by narrowing the criteria for those who must comply with it. The law now explicitly includes employees in the offices of the New York City District Attorneys, Special Narcotics Prosecutor, and the New York City Industrial Development Agency. On the other hand, Local

Law 43 replaced the salary threshold that formerly served as one of the criteria for filing a financial disclosure report with a more appropriate criterion based on the degree of an employee's policymaking discretion, consistent with the criterion mandated by New York State law. In addition, Local Law 43 eliminated filing by managers in levels M1 to M3.

In early 2004, staff worked with the agencies whose employees are newly required to file disclosure reports with the COIB pursuant to Local Law 43 or amendments to State law, including the Housing Development Corporation. The collection process for the 2003 reports, due May 1, 2004, was extremely smooth. As a result of the changes to the financial disclosure law, approximately 8,000 filers, rather than the previous 13,000 filers, filed reports in 2004 for calendar year 2003. The Board also adopted rules required to implement the amendments, namely a rule defining the so-called "contract" filers and a rule tying the definition of "policymaker" for financial disclosure purposes to "substantial policy discretion" for Chapter 68 purposes. The financial disclosure staff also worked on citywide guidelines for financial disclosure filers departing City service, who must receive clearance from the Board before receiving their lump sum payments and/or final paycheck.

The Board has also been working for years to reduce the length and scope of the required disclosure form – an amendment to the financial disclosure law that would require State legislation. As the Board has repeatedly stated, the current financial disclosure form is far too long and far too invasive for most public servants. Although it is often said, in the context of disclosure, that sunlight is the best disinfectant, too much sunlight can also cause cancer. A financial disclosure form that is too long and too invasive just makes financial disclosure burdensome for both the filers and the COIB. It may even drive good citizens out of public service, particularly as members of boards and commissions. For most public servants, a short form, consisting of approximately six questions and four pages, would suffice to provide all *material* information necessary for the public to assess potential conflicts of interest. However, the scope of the current form is mandated by State law, so State law must be amended before the Board can adopt a shorter financial disclosure form. The Board hopes that with the support of the City Administration, the City Council, unions, and civic groups, it may convince the State legislature and the Governor to enact legislation authorizing the Board to reduce the scope of the financial disclosure form for most City employees. Exhibit 12 sets out a draft bill that

would implement this proposal. Exhibit 13 provides one possible version of a reduced financial disclosure form.

The Board has also proposed a bill to make certain technical amendments to the financial disclosure law; to conform that law to the recent amendments to State law relating to financial disclosure, such as the inclusion of tax assessors and the Housing Development Corporation; and to conform the financial disclosure law to Board practices, such as permitting a filer whose privacy request the Board has denied 10 days in which to challenge that denial. In addition, to remedy confusion among filers, the proposed amendment specifies that direct payments by non-governmental entities for the travel expenses of City employees traveling on official City business would be reportable as a reimbursement, not as a gift.

Electronic Filing of Financial Disclosure Reports

In 2004, the Board finally achieved the beginning of a Citywide electronic financial disclosure system (“EFD”). Having financial disclosure reports filed electronically was a project on which the Board has been working since 1994. The effort was resurrected in 2003, and Local Law 43, discussed above, authorized such filing as of January 1, 2004, and made it mandatory for all filers as of January 1, 2006. Accordingly, the Board instituted pilot electronic filing programs in 2004 and 2005. The Board’s staff worked closely with the Department of Information Technology and Telecommunications (“DoITT”) and the Department of Investigation (“DOI”) to implement the electronic filing system. In December 2004, 100 filers from five agencies (including two members of the Board itself) voluntarily participated in the Board’s electronic financial disclosure filing pilot. Phase 2 of the implementation of electronic filing is scheduled for the summer of 2005 and will include 1,000 filers from a variety of City agencies. By May of 2006, all City employees required to file financial disclosure reports will do so electronically. That will relieve the Financial Disclosure Unit staff of the extremely burdensome chore of receiving, checking, and filing thousands of lengthy paper report forms, and will allow the Board to devote its scarce financial disclosure staff resources to reviewing reports for conflicts of interest, as mandated by both City and State law.

Financial Disclosure Late Fines and Litigation

During 2004 the Board collected \$15,075 in late filing fines. Since the Board assumed responsibility for financial disclosure in 1990, the Board has collected \$450,673 in financial disclosure fines.

The Unit undertook to collect financial disclosure reports and/or fines from delinquent City employees who failed to file required financial disclosure reports for 2003, due May 1, 2004, or who filed their reports late but failed to pay their late fine. The Unit will commence litigation in 2005 against any public servants who remain in non-compliance for 2002 and 2003.

The financial disclosure amendments, Local Law 43 of 2003, significantly reduced the substantial burden upon the Board of litigating financial disclosure non-filer and late-filer cases. As noted, those amendments require that every public servant departing City service who is required to file a financial disclosure report obtain from the Board certification of compliance with the financial disclosure law, including the payment of any late fines, before receiving his or her lump sum payment and/or final paycheck. In addition, the amendments raised the late filing fine to a minimum of \$250.

7. BUDGET, ADMINISTRATION, AND INFORMATION TECHNOLOGY

The Board thanks its Director of Administration, Ute O'Malley, and her Deputy, Myrna Mateo, for their perseverance in the face of increasing administrative burdens, particularly those occasioned by the layoff of their assistant. The Board also thanks its Director of Information Technology, Christopher Lall, who single-handedly keeps the Board's computer and other technology resources running and has provided the Board with the technical expertise necessary to implement electronic financial disclosure filing.

The across-the-board budget cuts in 2002, 2003, and 2004, while difficult for all City agencies, have proven to be extremely detrimental to the Board, a small agency with no ability to increase revenue, only a minimal budget for Other Than Personal Services (OTPS), and no vacancies. The Fiscal Year 2006 Preliminary Budget projects additional cuts which, if

implemented, would mean that, since Fiscal Year 2003, the Board has sustained a cumulative budget cut of **23%** and reduction in staff of **32%**.

At the same time that the Board will have lost almost a quarter of its budget and almost a third of its staff, its mandated advice and enforcement workloads have dramatically increased. Even the \$6,000 OTPS cut imposed by the January 2005 Plan, a cut that would not even be noticed by most agencies, is a severe one for the COIB's already inadequate non-personnel budget. Most devastating, however, is that the Preliminary Budget would again require the Board, as it was forced to do in 2002, *to lay off the entire Training and Education Unit*, as of June 30, 2005. Unless the City Council once again acts to restore those funds, COIB ethics training in City government, one of the Board's four Charter-mandated responsibilities, will come to an abrupt halt on July 1.

No ethics training can only mean more ethics violations and lost revenue to the City. As reported by *The Hartford Courant* on February 25, 2004, a study by the University of Connecticut concluded that "each federal conviction for misconduct per 100 elected officials reduced job growth by 1.1 percentage points. That is more than double the 0.5-percent decline attributed to a \$100 increase in per-capita state taxes." Conversely, avoiding such violations, through a vigorous and effective ethics training program, saves the City money. Indeed, not infrequently, ethics training sessions at a City agency engender a spike in requests for legal advice and in complaints of unethical conduct – requests that avoid violations and complaints that ferret them out and prevent their continuance and recurrence. Perhaps even more significantly, the absence of ethics training and the consequent increase in ethics violations can cause incalculable damage to the perception of integrity in City government, discourage investment, and distract public officials from their primary responsibilities. This past year, the governors of two neighboring states, Connecticut and New Jersey, resigned under ethics clouds. New York City has been spared such devastating events – so far.

Despite these predictable consequences, if the Preliminary Budget for 2006 becomes a reality, and the funds are not restored by the Council, the Board will have no choice but again to close down its Training and Education Unit.

At the same time, in order to meet the unfunded mandate of electronic filing, the Board has been compelled to transfer the personnel line of the

Deputy Director of Enforcement to the Financial Disclosure Unit. As a result, the Enforcement Unit, whose workload has increased exponentially (two and a half times) since 2001, suffers a critical shortage of staff. Similarly, as noted above, the Legal Advice Unit, despite productivity gains, cannot keep up with the surge in requests for advice, particularly telephone requests for advice (an increase of almost 60% since 2001). As a result, public servants must wait longer and longer to receive answers to their conflicts of interest questions. At some point, public servants may conclude that the delay in obtaining advice outweighs the risk in not obtaining it.

Accordingly, the Board's highest priorities remain, first, a partial restoration of the budget cuts in order to maintain a minimal level of ethics training and education; second, the restoration of the line for an Enforcement attorney and the addition of a line for a Legal Advice attorney; third, a Charter amendment granting the Board budget protection. This last priority has been high on the Board's list of legislative priorities for many years. Virtually alone among City agencies, the Board has the power to find and sanction violations of the law by the very public officials who set its budget, in itself an unseemly conflict that can only undermine the Board's independence in the eyes of the public and of public servants. That circumstance should finally be rectified through a Charter amendment removing the Board's budget from the discretion of the public officials subject to the Board's jurisdiction.

The Board has sponsored many other long-pending initiatives for Charter amendments, such as obtaining investigative authority, making ethics training mandatory for all City employees, and adding the remedy of disgorgement of ill-gotten gains to the Board's enforcement powers. These initiatives are set out in Exhibit 12, in the form of proposed State legislation. For now, the Board seeks to salvage ethics education, restore the Enforcement attorney line and add a Legal Advice attorney line, implement the electronic filing requirement, and protect the Board's budget, in order to enable the Board to do what the people of the City of New York have mandated in Chapter 68 of their Charter.

EXHIBIT 1

**MEMBERS AND STAFF
OF THE
CONFLICTS OF INTEREST BOARD**

Members

Steven B. Rosenfeld, Chair

Monica Blum
Bruce A. Green

Angela Mariana Freyre
Jane W. Parver

Staff

Executive

Mark Davies, Executive Director

Legal Advice

Wayne G. Hawley, Deputy Executive Director & General Counsel

Jessica Hogan, Deputy Counsel

Bonnie Beth Greenball, Special Counsel (*until June 2004*)

Jesse Zigmund, Attorney Intern (*beginning Aug. 2004*)

Patricia E. Green, Legal Secretary (*until Feb. 2004*)

Enforcement

Joan R. Salzman, Deputy Executive Director & Chief of
Enforcement (*until Dec. 2004*)

Astrid B. Gloade, Director of Enforcement (*beginning Jan. 2005*)

Marie Louise Victor, Associate Counsel

Isabeth A. Gluck, Associate Counsel (*until May 2004*)

Susan Bronson, Assistant Counsel (*beginning Sept. 2004*)

Varuni Bhagwant, Litigation Coordinator

Training and Education

Joel A. Rogers, Director of Training and Education

Alex Kipp, Senior Trainer and Training Coordinator

Financial Disclosure

Felicia A. Mennin, Director of Financial Disclosure &
Litigation Counsel (*beginning Jan. 2005*)

Joanne Giura-Else, Deputy Director of Financial Disclosure

Holli R. Hellman, Senior Financial Disclosure Analyst

Veronica Martinez Garcia, Administrative Assistant

Michelle Burgos, Financial Disclosure Assistant

Administrative

Ute O'Malley, Director of Administration

Myrna Mateo, Deputy Director of Administration

Information Technology

Christopher M. Lall, Director of Information Technology

EXHIBIT 2
TRAINING AND EDUCATION CLASSES ON CHAPTER 68

Year	Department of Ed Classes	Other Agency Classes	Total Classes¹
1995	0	24	24
1996	0	30	30
1997	0	90	90
1998	10	53	63
1999	23	69	92
2000	221	156	377
2001	116	74	190
2002	119	167	286
2003²	43	139	182
2004	119	169	288

¹ These totals do not include classes conducted by agency training/legal staff under COIB's "Train the Trainer" program nor briefings set up and conducted exclusively by DOI.

² As a result of layoffs, the Board had no Training and Education Unit and therefore no training and education classes from May 15, 2003, to October 15, 2003.

EXHIBIT 3
COIB TRAINING CLASSES BY AGENCY

Agencies that held ten or more classes are in bold
Agencies that held three to nine classes are in italics
Agencies that held one or two classes are not separately listed

1998	1999	2000	2001	2002	2003¹	2004
Finance Homeless Svcs. <i>Bd. of Education</i> <i>DCAS</i> <i>HRA</i> <i>NYPD</i>	Bd. of Education DCAS Finance <i>Correction</i> <i>DOT</i> <i>Sanitation</i> <i>School Const.</i> <i>Auth.</i>	Bd. of Education Buildings DEP DOT Finance Parks Sanitation <i>Correction</i> <i>DCAS</i> <i>DDC</i> <i>DOI</i> <i>EDC</i> <i>Health</i> <i>HPD</i> <i>HRA</i> <i>NYPD</i> <i>TLC</i>	Bd. of Education DCAS Finance HPD <i>DEP</i> <i>DDC</i> <i>FIRE</i> <i>DOITT</i> <i>Sanitation</i> <i>Transportation</i>	Buildings Correction DCAS Education Finance Sanitation SCA <i>ACS</i> <i>City Planning</i> <i>DDC</i> <i>DEP</i> <i>DOT</i> <i>Health</i> <i>HPD</i> <i>NYCERS</i> <i>Parks</i> <i>Transportation</i>	Correction Education DOHMH HRA NYCERS <i>Buildings</i> <i>DCAS</i> <i>DHS</i> <i>DYCD</i> <i>Finance</i> <i>Law</i>	Buildings DCAS Education DHS HRA <i>DCLA</i> <i>DFTA</i> <i>Finance</i> <i>DOHMH</i> <i>DOITT</i> <i>NYCERS</i>
Agencies Holding One or Two Classes: 4	Agencies Holding One or Two Classes: 15	Agencies Holding One or Two Classes: 22	Agencies Holding One or Two Classes: 14	Agencies Holding One or Two Classes: 29	Agencies Holding One or Two Classes: 12	Agencies Holding One or Two Classes: 27
Total Classes: 63²	Total Classes: 92²	Total Classes: 377²	Total Classes: 190²	Total Classes: 286²	Total Classes: 182²	Total Classes: 288²

¹ As a result of layoffs, the Board had no Training and Education Unit and therefore no training and education classes from May 15, 2003, to October 15, 2003.

² These totals do not include classes conducted by agency training/legal staff under COIB's "Train the Trainer" program nor briefings set up and conducted exclusively by DOI.

EXHIBIT 4
REINVIGORATING AN ETHICS BOARD AND THE NEED FOR BUDGET PROTECTION
CONFLICTS OF INTEREST BOARD: 1993, 2001, 2003, 2004

<i>Agencywide</i>	1993	2001	2003	2004
Adopted Budget (Fiscal Year)	\$1,132,000 (FY94)	\$1,698,669 (FY02)	\$1,499,752 (FY04) ¹	\$1,533,852 (FY05) ²
Staff (budgeted)	26	23 ³ /5 ³	19 ⁴	19 ⁴
Availability of materials	Hard copy only	Virtually all ethics publications on website; opinions & enforcement decisions on Westlaw & Lexis; 24/7 audiotext & faxback services	2002: Added to website all advisory opinions & all enforcement decisions 2003: No additions	Redesigned website
<i>Legal Advice</i>	1993	2001	2003 (Increase v. 2002)	2004
Staff	6-½ (4-½ attorneys)	4 (3 attorneys)	4 (3 attorneys)	4 (3 attorneys)
Telephone requests for advice	?	1,650	2,342 (-3%)	2,633 (+12%)
Written requests for advice	321	539	559 (-19%)	535 (-4%)
Issued opinions, letters, waivers, orders	266	501	535 (+6%)	470 (-12%) ⁵
Opinions, etc. per attorney	53	167	178 (+6%)	157 (-12%)
Pending requests at year end	151	40	160	191
Median age of pending requests	8-½ months	18 days	5-½ months	8 months
<i>Enforcement</i>	1993	2001	2003 (Increase v. 2002)	2004
Staff	½	5 (4 attorneys)	5 (4 attorneys)	5 (4 attorneys)
Complaints received	29	124	346 (+57%)	307 (-11%)
Dispositions	38	154	243 (+36%)	266 (+9%)
Dispositions imposing fines	1	10	3 ⁶	6
Fines collected	\$500	\$20,450	\$6,500	\$8,450
Referrals to DOI	19	49	136 (+62%)	156 (+15%)
Reports from DOI	?	43	62 (-16%)	93 (+50%)

¹ Of the Board's total FY04 budget, only \$1,357,464 is baselined. The remaining \$142,288 was restored by the Council for FY2004 only.

² Of the Board's total FY05 budget, only \$1,390,852 is baselined. The remaining \$143,000 was restored by the council for FY2005 only.

³ The Part-time (3/5) position, a senior trainer, was not part of the Board's budgeted headcount of 23.

⁴ 17 staff are baselined. The two trainers restored by the council are not baselined.

⁵ The Legal Advice Unit lost its longtime Special Counsel and lacked an attorney for two months in 2004, before hiring an attorney intern.

⁶ The amounts of fines assessed and collected vary from year to year, depending on when lengthy litigation involving complex or multiple violations is concluded.

Training and Education	1993	2001	2003	2004
Staff	1	4 ³ /5 ³	2 (-57%) ⁷	2
Training sessions	10	190 24 agencies; CLE	182 (-33%) ⁸ 23 agencies	288 38 agencies Trained entire DOB; train the trainer lunches; citywide CLE classes
Ethics newsletter	None	<i>Ethical Times</i> (Quarterly)	Discontinued	Reinstituted <i>Ethics Times</i>
Videotapes	None	3 half-hour training films; 2 PSA's	No additions	Template for agency-specific videotapes
Board of Education training	None	116 training sessions; BOE leaflet, booklet, videotape	43 training sessions (-61%); no additions	Expanded training to Chancellor's staff, central staff, ROC's, senior administrators
Electronic training	None	Computer game show; Crosswalks appearances	2002: Game show on website 2003: no additions	PSA's on commercial radio stations
Publications	6 Poster, Chapter 68, Plain Language Guide, Annual Reports	Over 50 Ethics & Financial Disclosure Laws & Rules; leaflets; <i>Myth of the Month</i> (CHIEF LEADER); Plain Language Guide; Board of Ed pamphlet; outlines for attorneys; <i>CityLaw</i> , <i>NY Law Journal</i> , <i>NYS Bar Ass'n</i> articles; chapters for ABA, NYSBA, & international ethics books; Annual Reports; poster; newsletter	Over 50 2002: Wholly revised Plain Language Guide; one-page summary of ethics law distributed to all 300,000 City employees; shift to paperless publications (distribution by e-mail and website) 2003: No additions	Over 50 Monthly column in <i>Public Employees Press</i> ; new leaflets (e.g., on Community Education Councils); revised and updated all leaflets

⁷ The Training & Education Unit was abolished in May 2003 and in the FY2004 and FY2005 Executive Budget. It was partially restored by the Council for FY2004 and FY2005, but the Council restoration is not baselined. Thus, unless restored, the Unit ceases to exist on June 30, 2005.

⁸ In May 2003, budget cuts forced the Board to lay off its entire Training Unit. Upon the partial restoration of funding by the Council, the Board hired two trainers in October 2003. Thus, the Board conducted virtually no conflicts of interest training sessions from May until October 2003.

<i>Financial Disclosure</i>	1993	2001	2003	2004
Staff	12	5	4 (-20%)	4
6-year compliance rate	99%	98.6%	98.5%	97.6%
Fines collected	\$36,051	\$31,700	\$22,625	\$15,075
Reports reviewed for completeness (mandated by Charter & NYS law)	12,000	400	400	400
Reports reviewed for conflicts (mandated by law)	350	38	200	200

EXHIBIT 5
LEGAL ADVICE WORKLOAD: 1993 TO 2004

	1993	2001	2002 (Increase v. 2001)	2003 (Increase v. 2002)	2004 (Increase v. 2003)
Staff	5 attorneys	3 attorneys	3 attorneys	3 attorneys	3 attorneys
Telephone requests for advice	N/A	1,650	2,410 (+46%)	2,342 (-3%)	2,633 (+12%)
Written requests for advice	321	539	691 (+28%)	559 (-19%)	535 (-4%)
Issued opinions, letters, waivers, orders	266	501	505	535 (+6%)	470 (-12%) ¹
Opinions, etc. per attorney (productivity)	53	167	168	178 (+6%)	157 (-12%) ¹
Pending written requests at year end	151	40	184	160 (-13%)	191 (+19%)
Median age of pending requests at year end	8- ¹ / ₂ months	18 days	3- ¹ / ₂ months	5- ¹ / ₂ months	8 months

¹ The Legal Advice Unit lost its longtime Special Counsel and lacked an attorney for two months in 2004 before hiring an attorney intern.

EXHIBIT 6
REQUESTS FOR ADVICE ON CHAPTER 68

<u>Year</u>	Requests Received
1996	359
1997	364
1998	496
1999	461
2000	535
2001	539
2002	691
2003	559
2004	535

EXHIBIT 7
RESPONSES TO REQUESTS FOR ADVICE ON CHAPTER 68

<u>Year</u>	<u>Staff Letters</u>	<u>Waivers/ (b)(2) Letters</u>	<u>Board Letters, Orders, Opinions</u>	<u>Total</u>
1996	212	49	25	286
1997	189	116	24	329
1998	264	111	45	420
1999	283	152	28	463
2000	241	179	52	472
2001	307	148	46	501
2002	332	147	26	505
2003	287	165	83	535
2004	252	157	61	470

EXHIBIT 8
ENFORCEMENT CASES (CHAPTER 68)

	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>
New Complaints Received	8	20	22	29	31	29	50	64	63	81	148	124	221	346	307
Dispositions	2	6	25	38	4*	33	32	54	76	83	117	152	179	243	266
Dispositions Imposing Fines	0	0	1	1	2	1	1	2	9	4	10	9	6	3	6
Public Censure Letters	0	0	0	0	0	0	1	0	0	0	2	2	0	0	0

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

EXHIBIT 9
ENFORCEMENT WORKLOAD: 1993 to 2004

	1993	2001	2002 (Increase v. 2001)	2003 (Increase v. 2002)	2004 (Increase v. 2003)
Staff	½ attorney	5 (4 attorneys)	5 (4 attorneys)	5 (4 attorneys)	5 (4 attorneys)
Complaints Received	29	124	221 (+78%)	346 (+57%)	307 (-11%)
Dispositions	38	154	179 (+16%)	243 (+36%)	266 (+9%)
Dispositions Imposing Fines ¹	1	10	6	3	6
Fines Collected	\$500	\$20,450 (\$105,766 in 2000)	\$15,300	\$6,500	\$8,450
Referrals to DOI	19	49	84 (+71%)	136 (+62%)	156 (+15%)
Reports from DOI	?	43	74 (+72%)	62 (-16%)	93 (+50%)

¹ The amounts of the fines assessed and collected vary from year to year, depending on when lengthy litigation involving complex or multiple violations is concluded.

**EXHIBIT 10
ENFORCEMENT FINES**

DATE	CASE NAME OR NUMBER	AMOUNT
12/28/04	Berkowitz	3,500
11/9/04	McKen*	900
10/30/04	Fraser	500
6/25/04	Campbell	2,000
6/2/04	Fleishman ¹	7,300
3/8/04	Andersson	1,000
4/9/03	Arriaga*	3,500
3/31/03	Adams	1,500
1/9/03	Mumford*	7,500
7/30/02	Blake-Reid*	8,000
7/2/02	Cottes	500
6/26/02	Silverman	500
4/1/02	Smith	3,000
2/28/02	Kerik	2,500
2/26/02	Loughran	800
12/18/01	King	1,000
11/16/01	Hill-Grier	700
9/28/01	Denizac	4,000
8/16/01	Moran	2,500
7/17/01	Capetanakis	4,000
7/26/01	Rieue	2,000
6/13/01	Steinhandler	1,500
5/24/01	Camarata	1,000
4/19/01	Peterson	1,500
3/5/01	Finkel	2,250
10/25/00	Hoover	8,500
10/16/00	Turner	6,500
8/15/00	Paniccia	1,500
8/7/00	Chapin	500
7/24/00	Lizzio	250
6/6/00	Rosenberg	1,000
5/3/00	Sullivan	625
4/27/00	Vella-Marrone	5,000
4/4/00	Carlin	800
1/7/00	Rene	2,500
11/23/99	Davila	500
11/22/99	McGann	3,000
7/1/99	Sass	20,000
2/3/99	Ludewig	7,500
10/15/98	Morello ²	6,000
9/17/98	Katsorhis	84,000
7/15/98	Weinstein ³	5,000
6/29/98	Fodera	3,100
6/24/98	Wills	1,500

DATE	CASE NAME OR NUMBER	AMOUNT
6/24/98	Hahn	1,000
6/24/98	Harvey ⁴	200
5/14/98	Cioffi	100
4/30/98	Holtzman	7,500
1/8/98	Ross	1,000
6/17/97	Quennell	100
3/11/96	Matos ⁵	1,000
7/6/95	Baer	5,000
1/28/94	Bryson	500
1/14/94	McAuliffe	2,500
4/9/93	Ubinas	500

TOTAL: \$240,625

* Includes fines made payable in part to other agencies in three way settlements.

¹ Includes Restitution in the amount of \$1,300 plus Department of Education fine in the amount of \$5,000.

² As a result of departmental charges arising out of the same matter, Mr. Morello resigned from the New York City Fire Department and forfeited his entire accrued leave balances, worth \$93,105. Therefore, this case actually represented nearly \$100,000 in penalties recovered by the City.

³ Includes a \$1,250 fine and forfeited annual leave worth \$3,750.

⁴ This fine was forgiven due to extreme financial hardship.

⁵ This fine was reduced to \$250 on proof of financial hardship one year following the settlement of the matter, pursuant to the terms of the settlement.

EXHIBIT 11
FINANCIAL DISCLOSURE REPORTS

Calendar Year ("C.Y.")	Number of Reports Required for C.Y.	Reports Filed for C.Y.	Compliance Rate for C.Y.	Number of Fines Waived for C.Y.	Number of Fines Paid for C.Y.	Amount of Fines Paid for C.Y.	Current Non-Filers for C.Y.		Current Non-Payers for C.Y.	
							Act.	Inact. ¹	Act.	Inact.
1998	12,027	11,901	99.0%	247	318	\$32,250	1	125	0	29
1999	12,386	12,245	98.9%	246	308	\$30,800	0	140	0	48
2000	12,813	12,546	97.9%	572	338	\$34,250	0	267	0	62
2001	12,062	11,908	98.7%	532	174	\$18,725	1	152	1	33
2002	13,638	13,216	98.0%	614	215	\$21,500	15	258	14	74
2003	8,106 ²	7,539	94.3%	354	58	\$12,700	12	449	4	24
TOTALS	71,032	69,355	97.6%	2,565	1,411	\$450,673³	29	1,391	19	270

¹ "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.

² Local Law 43 of 2003 amended the financial disclosure law, NYC Ad. Code § 12-110, to, among other things, eliminate certain classifications of filers and add others.

³ Includes fines collected for calendar years 1989 through 1997, the reports for which have been discarded pursuant to the Board's retention policy.

41 public and complainants that an enforcement matter is being pursued and would
42 perform an educational function by alerting city employees to the requirements of
43 the conflicts of interest law, the confidentiality restrictions upon the board
44 significantly exceed those imposed upon the state ethics commission, discouraging
45 complainants and generating cynicism about the efficacy of the conflicts of interest
46 law. Moreover, the maximum fine for a violation of chapter 68, currently \$10,000,
47 has not been increased since 1989. Finally, inequity results when a violation of the
48 conflicts of interest law produces a profit to the violator that far exceeds the
49 maximum civil fine. Similarly, many public servants, though subject to the board's
50 jurisdiction, may not be fined at all by the board. It is therefore declared that New
51 York City requires an independent agency with the power and resources to enforce
52 effectively the New York City conflicts of interest law and the related financial
53 disclosure law. In particular, the conflicts of interest board of that city requires a
54 guaranteed budget protected against retribution by the very officials the board
55 regulates; investigative authority and subpoena power; mandated conflicts of
56 interest training and education for all public servants of the city; the power to
57 impose civil fines upon all public servants subject to its jurisdiction who commit
58 conflicts of interest law violations; an increase in the maximum civil fine for a
59 violation of the conflicts of interest law; and the authority to seek civil forfeiture of
60 economic benefits received by anyone in violation of that law. The board also
61 requires the authority to modify the scope of the annual statement of financial
62 disclosure for those types of public servants for whom the board finds the current
63 form unnecessarily extensive and to tie the form to the city's conflicts of interest
64 law.

65
66 § 3. Paragraph (a) of subdivision (1) of section 811 of the general municipal law is
67 amended to read as follows:
68

69 (a) The governing body of each political subdivision may, not later than
70 January first, nineteen hundred ninety-one, and the governing body of any other
71 municipality may at any time subsequent to the effective date of this section, adopt
72 a local law, ordinance, or resolution: (i) wherein it promulgates a form of annual
73 statement of financial disclosure which is designed to assure disclosure by
74 municipal officers and employees, which for the purposes of this section, the
75 definition for which shall be modified so as to also include a city with a population
76 of one million or more, and (in the case of a political subdivision or any other
77 county, city, town or village) which is designed to assure disclosure by local
78 elected officials and/or by local political party officials of such financial
79 information as is determined necessary by the governing body, or (ii) wherein it
80 resolves to continue the use of an authorized form of annual statement of financial

81 disclosure in use on the date such local law, ordinance or resolution is adopted. In
82 either event, such local law, ordinance or resolution if and when adopted shall
83 specify by name of office or by title or classification those municipal officers and
84 employees and (in the case of a political subdivision or any other county, city,
85 town or village) those local elected officials and/or those local political party
86 officials which shall be required to complete and file such annual statement. In a
87 city with a population of one million or more, such local law, ordinance or
88 resolution shall be at least as stringent in scope and substance as the provisions of
89 section eight hundred twelve of this article, **except as otherwise provided by the**
90 **conflicts of interest board of any such city.**

91
92 § 4. Subdivision (a) of section 2602 of the charter of the city of New York is
93 amended to read as follows:
94

95 (a) There shall be a conflicts of interest board, **which shall be an independent**
96 **non-mayoral agency,** consisting of five members, appointed by the mayor with the
97 advice and consent of the council. The mayor shall designate a chair. **The**
98 **appropriations available to pay for the expenses of the board during each fiscal**
99 **year shall not be less than seven thousandths of one percent of the net total**
100 **expense budget of the city. Not later than three months after the close of each**
101 **fiscal year, the board shall submit to the mayor and the council a public detailed**
102 **accounting of all of its expenditures during such fiscal year.**

103
104 § 5. Paragraph (2) of subdivision (b) of section 2603 of the charter of the city of New
105 York is amended to read as follows:
106

107 (2) **Training as to the provisions of this chapter shall be mandatory for all**
108 **public servants.** The board shall [provide training to all individuals who become
109 **public servants to inform them of the provisions of this chapter, shall**] assist
110 agencies in conducting ongoing training programs, **as determined by rule of the**
111 **board in consultation with the agencies,** and shall make information concerning
112 this chapter available and known to all public servants, **with such assistance by the**
113 **agency as determined by rule of the board in consultation with the agency.** On or
114 before the tenth day after an individual becomes a public servant, such public servant
115 must [file] **sign** a written statement [with the board], **which shall be maintained in**
116 **his or her personnel file,** that such public servant has read and shall conform with
117 the provisions of this chapter, **provided, however, that the failure of a public**
118 **servant to receive such training or to sign such a statement or to receive a copy**
119 **of this chapter or the failure to maintain the statement on file shall have no**

120 **effect on the duty of compliance with this chapter or on the enforcement of the**
121 **provisions thereof.**
122

123 § 6. Paragraph (2) of subdivision (e) of section 2603 of the charter of the city of New
124 York is amended to read as follows:
125

126 (2) Whenever a written complaint is received by the board, it shall:

127 (a) dismiss the complaint if it determines that no further action is required by the
128 board; or

129 (b) refer the complaint to the commissioner of investigation if further investigation
130 **by that agency** is required for the board to determine what action is appropriate; or

131 (c) make an initial determination that there is probable cause to believe that a
132 public servant has violated a provision of this chapter; or

133 (d) refer an alleged violation of this chapter to the head of the agency served by the
134 public servant, if the board deems the violation to be minor or if related disciplinary
135 charges are pending against the public servant, **in which event the agency shall**
136 **consult with the board before issuing a final decision; or**

137 **(e) conduct an investigation; or**

138 **(f) refer the complaint to a law enforcement agency.**
139

140 § 7. Paragraph (1) of subdivision (f) of section 2603 of the charter of the city of
141 New York is amended to read as follows:
142

143 (1) The board shall have the power to **conduct or** direct the department of
144 investigation to conduct an investigation of any matter related to the board's
145 responsibilities under this chapter. The commissioner of investigation shall, within a
146 reasonable time, investigate any such matter and submit a confidential written report
147 of factual findings to the board. **For the purpose of ascertaining facts in**
148 **connection with any investigation authorized by this chapter, any two members**
149 **or the chair of the board shall have full power to compel the attendance of**
150 **witnesses and the production of books, papers, records, documents, and other**
151 **things. Each member of the board or any agent or employee of the board duly**
152 **designated by the board in writing for such purposes may administer oaths or**
153 **affirmations, and examine such persons as he or she may deem necessary,**
154 **examine witnesses in a public or private hearing, receive evidence and preside at**
155 **or conduct any such investigation, but subpoenas issued in connection with an**
156 **investigation may be issued only by two members or the chair of the board.**
157

158 § 8. Subdivision (h) of section 2603 of the charter of the city of New York is
159 amended to read as follows:

160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199

(h) Hearings. (1) If the board makes an initial determination, based on a complaint, investigation or other information available to the board, that there is probable cause to believe that the public servant has violated a provision of this chapter, the board shall notify the public servant of its determination in writing. **This notification shall be confidential and shall not be public.** The notice shall contain a statement of the facts upon which the board relied for its determination of probable cause and a statement of the provisions of law allegedly violated. The board shall also inform the public servant of the board's procedural rules. Such public servant shall have a reasonable time to respond, either orally **to board staff** or in writing **to the board or, in the board's discretion, orally to the board,** and shall have the right to be represented by counsel or any other person.

(2) If, after receipt of the public servant's response **or upon the failure of the public servant to respond within the time permitted by rule of the board,** the board determines that there is no probable cause to believe that a violation has occurred, the board shall dismiss the matter and inform the public servant **and the complainant, if any,** in writing of its decision. If, after the consideration of the response by the public servant **or the expiration of the time permitted by rule of the board for the public servant to respond,** the board determines there remains probable cause to believe that a violation of the provisions of this chapter has occurred, the board shall hold or direct a hearing to be held on the record to determine whether such violation has occurred, or **[shall] may** refer the matter to the appropriate agency if the public servant is subject to the jurisdiction of any state law or collective bargaining agreement which provides for the conduct of disciplinary proceedings, provided that when such a matter is referred to any agency, the agency shall consult with the board before issuing a final decision. **Any notification to the public servant that the board has determined there remains probable cause to believe that a violation of the provisions of this chapter has occurred shall, upon expiration of the time set by rule of the board, be public, except as, and to the extent, otherwise expressly provided by the board in its discretion, including upon application by the public servant, in the manner and time specified by rule of the board. Any hearing conducted by the board or at the direction of the board pursuant to this paragraph shall be open to the public, except as, and to the extent, otherwise expressly provided by the board in its discretion, including upon application of the public servant, in the manner and time specified by rule of the board.**

(3) **If the board determines, after a hearing or the opportunity for a hearing, that a public servant has not violated any of the provisions of this chapter, it shall issue an order to that effect.** If the board determines, after a hearing or the opportunity for a hearing, that a public servant has violated provisions of this chapter, it shall, after consultation with the head of the agency served or formerly served by the

200 public servant, or in the case of an agency head, with the mayor, issue an order either
201 imposing such penalties provided for by this chapter as it deems appropriate, or
202 recommending such penalties to the head of the agency served or formerly served by
203 the public servant, or in the case of an agency head, to the mayor; provided, however,
204 that the board shall not impose penalties against members of the council, or public
205 servants employed by the council or by members of the council, but may recommend
206 to the council such penalties as it deems appropriate. **[The] An order determining**
207 **that a violation occurred** shall include findings of fact and conclusions of law. When
208 a penalty is recommended, the head of the agency **or the mayor, in the case of an**
209 **agency head,** or the council shall report to the board what action was taken; **such**
210 **report shall be public, to the extent permitted by law. Orders issued pursuant to**
211 **this paragraph, whether or not they determine that a violation of this chapter**
212 **occurred, shall be public.**

213 **[(4) Hearings of the board shall not be public unless requested by the public**
214 **servant. The order and the board's findings and conclusions shall be made**
215 **public.]**

216 **[(5)](4) The board shall maintain [an] a public index of all persons found to be in**
217 **violation of this chapter, by name, office and date of order. [The index and the**
218 **determinations of probable cause and orders in such cases shall be made**
219 **available for public inspection and copying.]**

220 **[(6)](5) Nothing contained in this section shall prohibit the appointing officer of a**
221 **public servant from terminating or otherwise disciplining such public servant, where**
222 **such appointing officer is otherwise authorized to do so; provided, however, that such**
223 **action by the appointing officer shall not preclude the board from exercising its powers**
224 **and duties under this chapter with respect to the actions of any such public servant.**
225 **Nothing contained in this section shall prohibit the board from referring any**
226 **matter to a law enforcement agency at any time.**

227 **[(7)](6) For the purposes of this subdivision, the term public servant shall include a**
228 **former public servant.**

230 § 9. Subdivision (k) of section 2603 of the charter of the city of New York is
231 amended to read as follows:

233 (k) **Confidentiality.** Except as otherwise provided in this chapter, the records,
234 reports, memoranda and files of the board shall be confidential and shall not be subject
235 to public scrutiny. **The board may, but need not, release such documents if their**
236 **confidentiality is waived by the public servant. Nothing contained in this section**
237 **shall prohibit the board from releasing records, reports, memoranda or files of**
238 **the board to a law enforcement agency, pursuant to subpoena.**

240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257

§ 10. Subdivision (b) of section 2606 of the charter of the city of New York is amended and a new subdivision (e) is added to read as follows:

(b) Upon a determination by the board that a violation of section twenty-six hundred four or twenty-six hundred five of this chapter has occurred, the board, after consultation with the head of the agency involved, or in the case of an agency head, with the mayor, **shall have the power** to impose fines of up to **[ten] twenty-five** thousand dollars, and **if applicable**, to recommend to the appointing authority, or person or body charged by law with responsibility for imposing such penalties, suspension or removal from office or employment.

(e) Any entity or person, whether or not a public servant, which or who realizes an economic benefit knowing it to be the result of conduct by a public servant that violates section twenty-six hundred four or twenty-six hundred five of this chapter shall be liable in a civil action brought by the board in a court of appropriate jurisdiction for the value of the benefit.

§ 11. This act shall take effect immediately.

EXHIBIT 13
POSSIBLE MODIFIED ANNUAL DISCLOSURE FORM
PURSUANT TO PROPOSED AMENDMENT TO
NYS GEN. MUN. LAW § 811(1)(a)

ANNUAL DISCLOSURE STATEMENT
FOR CALENDAR YEAR 2005

Last Name	First Name	Initial
-----------	------------	---------

Title	Department or Agency
-------	----------------------

Work Address	Work Phone No.
--------------	----------------

If the answer to any of the following questions is “none,” please so state. Attach additional pages if necessary.

1. Outside Employers and Businesses. List the name of every employer or business, other than the City of New York, from which you received more than \$1,000 for services performed or for goods sold or produced, or of which you were a paid member, officer, director, or employee during the year 2003. Do not list individual customers or clients of the business. Do not list businesses in which you were an investor only (they are listed in Question 2 below). Identify the nature of the business and the type of business, such as a partnership, corporation, or sole proprietorship, and list your relationship(s) to the employer or business (*i.e.*, owner, partner, officer, director, member, employee, and/or shareholder). Provide the same information for your relatives. “Relative” means your spouse, registered domestic partner, child, stepchild, brother, sister, parent, stepparent, or a person you claimed as a dependent on your latest income tax return.

Name of Family Member	Relationship to You	Name of Employer or Business	Nature of Business	Type of Business	Relationship to Business
------------------------------	----------------------------	-------------------------------------	---------------------------	-------------------------	---------------------------------

<i>[E.g.: Rose Smith]</i>	<i>Wife</i>	<i>Monument Realty</i>	<i>Real Estate</i>	<i>Partnership</i>	<i>Employee]</i>
<i>[E.g.: John Smith]</i>	<i>Self</i>	<i>IBM</i>	<i>Computers</i>	<i>Corp.</i>	<i>Pres./Shareholder]</i>

2. **Investments.** List the name of any entity in which you have an investment of at least 5% of the stock or debt of the entity or \$10,000, whichever is less. Do not list any entity listed in response to Question 1 above. Identify the nature of the business and the type of business (e.g., corporation). Provide the same information for your spouse and any of your children who are under age 18.

Name of Family Member	Relationship to You	Name of Entity	Nature of Business	Type of Business
------------------------------	----------------------------	-----------------------	---------------------------	-------------------------

<i>[E.g.: John Smith]</i>	<i>Self</i>	<i>Verizon</i>	<i>Communications</i>	<i>Corp.]</i>

3. **Real Estate.** List the address of each piece of real estate that you or your relatives , as defined in Question 1, own or have a financial interest in. List only real estate that is located in the City of New York and the counties of Nassau and Westchester. If you or your relative lives at the address, list as the address only the city, town, or village in which the property is located.

Name of Family Member	Relationship to You	Address of Real Estate	Type of Investment
------------------------------	----------------------------	-------------------------------	---------------------------

<i>[E.g.: Robert Smith]</i>	<i>Father</i>	<i>2 Main St., Yonkers</i>	<i>Rent]</i>

4. **Gifts.** List each gift that you or your spouse or registered domestic partner received worth \$50 or more during the year 2003, except gifts from relatives, as defined in Question 1. A “gift” means anything of value for which you or your spouse paid nothing or paid less than the fair market value and may be in the form of money, services, reduced interest on a loan, travel, travel reimbursements, entertainment, hospitality, or in any other form. Separate gifts from the same or affiliated donors during the year must be added together for purposes of the \$50 rule. You do not need to list a gift if you know that the donor has no business dealings with the City of New York.

Recipient of Gift	Donor of Gift	Relationship to Donor	Nature of Gift
--------------------------	----------------------	------------------------------	-----------------------

[E.g.: John Smith Acme Corp. Former employer Free trip to Las Vegas]

5. **Money You Owe.** List each person or firm to which you or your spouse or your registered domestic partner owes \$1,000 or more. Do not list money owed to relatives, as defined in Question 1. Do not list credit card debts unless you have owed the money for at least 60 days.

Debtor	Creditor	Type of Obligation
---------------	-----------------	---------------------------

[E.g.: John & Rose Smith Chase Bank Mortgage loan]

ETHICS GUIDE: NYC CONFLICTS OF INTEREST LAW (PLAIN LANGUAGE VERSION*)

1. **Misuse of Office.** You may not take an action or fail to take an action as a public servant if doing so might financially benefit you, a family member, or anyone with whom you have a business or financial relationship.
2. **Misuse of City Resources.** You may not use City letterhead, personnel, equipment, supplies, or resources for a non-City purpose, nor may you pursue personal or private activities during times when you are required to work for the City.
3. **Gifts.** You may not accept anything of value for less than its fair market value from anyone that you know or should know is seeking or receiving anything of value from the City.
4. **Gratuities.** You may not accept anything from anyone other than the City for doing your City job.
5. **Seeking Other Jobs.** You may not seek or obtain a non-City job with anyone you are dealing with in your City job.
6. **Moonlighting.** You may not have a job with anyone that you know or should know does business with the City or receives a license, permit, grant, or benefit from the City.
7. **Owning Businesses.** You may not own any part of a business or firm that you know or should know does business with the City or receives a license, permit, grant, or benefit from the City, nor may your spouse, nor your domestic partner, nor any of your children if they are under 18.
8. **Confidential Information.** You may not disclose confidential City information or use it for any non-City purpose, even after you leave City service.
9. **Appearances.** You may not accept anything from anyone other than the City for communicating with any City agency or for appearing anywhere on a matter involving the City.
10. **Lawyers and Experts.** You may not receive anything from anyone to act as a lawyer or expert against the City's interests in any lawsuit brought by or against the City.
11. **Buying Office or Promotion.** You may not give or promise to give anything to anyone for being elected or appointed to City service or for receiving a promotion or raise.
12. **Business with Subordinates.** You may not enter into any business or financial dealings with a subordinate or superior.
13. **Political Solicitation of Subordinates.** You may not directly or indirectly ask a subordinate to make a political contribution or to do any political activity.

* This material is intended as a general guide. It is not intended to replace the text of the law (NYC Charter § 2604). For more particular information or to obtain answers to specific questions, you may write or call the Board.

14. **Coercive Political Activity.** You may not force or try to force anyone to do any political activity.
15. **Coercive Political Solicitation.** You may not directly or indirectly threaten anyone or promise anything to anyone in order to obtain a political contribution.
16. **Political Activities by High-Level Officials.** If you are an elected official, deputy mayor, agency head, deputy or assistant agency head, chief of staff, or director or member of a board or commission, you may not hold political party office or ask anyone to contribute to the political campaign of a City officer or City employee or to the political campaign of anyone running for City office.
17. **Post-Employment One-Year Ban.** For one year after you leave City service, you may not accept anything from anyone, including the City, for communicating with your former City agency.
18. **Post-Employment One-Year Ban for High-Level Officials.** If you are an elected official, deputy mayor, chair of the city planning commission, or head of the office of management and budget, law department, or department of citywide administrative services, finance, or investigation, for one year after you leave City service, you may not accept anything from anyone, including the City, for communicating with your former branch of City government.
19. **Post-Employment Particular Matter Bar.** After you leave City service, you may never work on a particular matter you personally and substantially worked on for the City.
20. **Improper Conduct.** You may not take any action or have any position or interest, as defined by the Conflicts of Interest Board, that conflicts with your City duties.
21. **Inducement of Others.** You may not cause, try to cause, or help another public servant to do anything that would violate this Code of Ethics.
22. **Disclosure and Recusal.** As soon as you face a possible conflict of interest under this Code of Ethics, you must disclose the conflict to the Conflicts of Interest Board and recuse yourself from dealing with the matter.
23. **Volunteer Activities.** You may be an officer or director of a not-for-profit with business dealings with the City if you do this work on your own time, you are unpaid, the not-for-profit has no dealings with your City agency (unless your agency head approves), and you are in no way involved in the not-for-profit's business with the City.

FOR ADDITIONAL INFORMATION, CONTACT

**NEW YORK CITY CONFLICTS OF INTEREST BOARD
2 LAFAYETTE STREET, SUITE 1010
NEW YORK, NY 10007
212-442-1400 (TDD 212-442-1443)**

OR VISIT THE BOARD'S WEB SITE AT

<http://nyc.gov/ethics>

ADVISORY OPINIONS OF THE BOARD

SUMMARIES AND INDEXES

*A link to the full text of the Board's advisory opinions
may be found on the publications page of the Board's
website at <http://nyc.gov/ethics>.*

OPINION SUMMARY

OPINION NO: **2004-1**

DATE: 11/8/04

CHARTER SECTION(S) INTERPRETED: 2601(1), (19)
2604(b)(1)(b)
2800

SUBJECT(S): Community Boards

OTHER OPINION(S) CITED: 93-10
2003-5

SUMMARY: “Public members” of community board committees who are not members of the community board itself are not public servants within the meaning of Charter Section 2601(19) and hence are not subject to the provisions of the City’s conflicts of interest law.

OPINION SUMMARY

OPINION NO:	2004-2
DATE:	11/22/04
CHARTER SECTION(S) INTERPRETED:	2601(5) 2604(b)(2), (b)(3), (b)(14) 2606(d)
SUBJECT(S):	Savings Clubs Superior-Subordinate Relationships
OTHER OPINION(S) CITED:	98-12

SUMMARY: City employees may not enter into a sou-sou in which their City superiors or subordinates are also members. Public servants who are not in superior-subordinate relationships may enter into a sou-sou, provided that they do not use City time or resources in furtherance of this activity and that they do not use their City positions or titles to obtain any private advantage for other members of their sou-sou.

OPINION SUMMARY

OPINION NO: 2004-3

DATE: 12/16/04

CHARTER SECTION(S) INTERPRETED: 2604(b)(2), (b)(3),
(b)(14)
2800(f), (g)

SUBJECT(S): Community Boards
Superior-Subordinate
Relationships

OTHER OPINION(S) CITED: 93-21
94-20

SUMMARY: It would violate Chapter 68 for anyone “associated with” a community board member, including the member’s spouse, domestic partner, parents, children, and siblings, to serve as staff to that member’s community board. It would also violate Chapter 68 for any other person with whom a board member has a financial relationship to serve as a staff member.

**CUMULATIVE INDEX TO ADVISORY OPINIONS
BY CHARTER CHAPTER 68 SECTION
1990-2004**

<u>CHARTER §</u>	<u>OPINION #</u>				
2601(1)	03-5	04-1			
2601(2)	90-2 03-1	91-3	91-12	93-11	01-02
2601(3)	90-7 96-1	90-8	91-14	93-11	93-19
2601(4)	91-8 92-38 01-03	92-13 93-12 03-6	92-17 93-18	92-32 94-5	92-36 00-02
2601(5)	90-4 92-4 00-02	90-5 92-7 01-03	90-6 92-14 02-01	91-3 93-21 03-7	91-15 98-1 04-2
2601(6)	91-3	94-18	03-7		
2601(8)	90-1 93-7 02-01	90-2 94-27 03-6	90-3 95-11 03-7	92-5 98-2	92-7 00-04
2601(9)	03-1				
2601(10)	03-1				
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 03-2	92-7 93-7 94-6 98-7 03-7	92-22 93-17 94-8 99-6	92-31 93-22 94-18 01-03	92-34 93-29 95-18 02-01
2601(15)	91-8 92-38	92-5 93-12	92-17 94-5	92-32	92-36

CHARTER §**OPINION #**

2601(16)	90-1	91-2	92-5	92-6	92-7
	92-9	93-7	93-17	93-22	94-3
	94-10	94-13	94-18	95-10	95-18
	95-21	97-3	98-2	98-3	98-5
	02-01	03-2	03-7		
2601(17)	93-8	93-12	95-23	00-02	
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	01-03		
2601(19)	90-7	91-2	91-3	91-12	93-7
	93-10 (Revised)		93-29	94-6	98-5
	98-7	03-5	04-1		
2601(20)	91-12	93-7	94-6	98-5	98-7
	01-03				
2603(c)	90-2	92-19			
2603(c)(3)	92-6	92-9	02-01	03-7	
2603(j)	03-1				
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	01-03	02-01	03-2
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
	00-01	01-03	03-6	03-7	

CHARTER §**OPINION #**

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	02-01
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	02-01
2604(a)(5)(a)	02-01				
2604(a)(5)(b)	91-14				
2604(b)(1)(a)	92-22	94-28 (Revised)			
2604(b)(1)(b)	91-3	93-2	93-3	95-18	96-4
	99-1	03-2	04-1		
2604(b)(2)	90-2	90-4	90-5	90-7	91-1
	91-3	91-4	91-5	91-6	91-7
	91-10	91-11	91-16	91-18	92-7
	92-8	92-20	92-25	92-28	92-30
	92-34	92-36	93-1	93-5	93-9
	93-12	93-15	93-16	93-17	93-19
	93-21	93-24	93-25	93-26	93-28
	93-31	93-32	94-1	94-8	94-11
	94-13	94-14	94-16	94-24	94-25
	94-26	94-29	95-2	95-3	95-7
	95-9	95-11	95-12	95-16	95-17
	95-19	95-20	95-22	95-24	95-25
	95-26	95-27	95-28	95-29	96-2
	96-5	98-2	98-5	98-6	98-7
	98-8	98-10	98-12	98-13	98-14
	99-2	99-4	99-5	99-6	00-03
	01-02	01-03	02-01	03-1	03-3
	03-4	03-6	03-7	04-2	04-3
	2604(b)(3)	90-4	90-5	90-6	90-9
91-4		91-5	91-6	91-7	91-11
91-15		91-16	91-18	92-3	92-4
92-6		92-7	92-10	92-12	92-14
92-23		92-25	92-28	92-30	92-31
92-33		92-36	93-1	93-4	93-9
93-10 (Revised)			93-12	93-14	93-16
93-19		93-21	93-23	93-24	93-25
93-26		93-28	93-31	93-32	94-1
94-2		94-6	94-8	94-9	94-11
94-12		94-13	94-16	94-17	94-20
94-24		94-25	94-26	94-27	

CHARTER §**OPINION #**

	94-28 (Revised)		94-29	95-3	95-5
	95-9	95-11	95-12	95-14	95-16
	95-17	95-19	95-20	95-21	95-22
	95-24	95-25	95-26	95-27	95-28
	95-29	96-2	97-2	97-3	98-1
	98-2	98-3	98-5	98-7	98-8
	98-10	98-12	98-13	99-2	99-4
	99-5	99-6	00-03	00-04	01-01
	01-02	01-03	02-01	03-1	03-2
	03-3	03-4	03-6	03-7	04-2
	04-3				
2604(b)(4)	91-11	92-30	92-34	92-36	
	93-10 (Revised)		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	95-9	95-12	95-16	95-17
	95-19	95-20	95-21	95-26	95-29
	96-2	97-3	98-1	98-3	98-5
	98-7	98-8	98-10	98-13	99-2
	99-4	99-5	99-6	01-02	01-03
	02-01	03-6	03-7		
2604(b)(5)	90-3	92-19	92-33	93-10 (Revised)	
	94-4	94-9	94-23	95-28	96-3
	99-4	00-01	00-04	03-4	
2604(b)(6)	91-7	92-7	92-26 (Revised)		92-28
	92-36	93-10 (Revised)		93-32	94-24
	95-6	95-8	95-9	95-15	96-4
	96-5	98-2	98-9	98-10	00-01
	01-03	03-6			
2604(b)(7)	90-7	91-7	92-18	92-28	
	93-10 (Revised)		93-23	95-8	98-10
	01-03				
2604(b)(8)	91-7				
2604(b)(9)	93-24	95-13	95-24	01-01	01-02
	03-1	03-6			
2604(b)(11)	93-24	95-13	01-01	01-02	03-1
	03-6				
2604(b)(12)	91-12	92-25	93-6	93-24	95-13
	01-01	01-02	03-1	03-5	03-6

CHARTER §**OPINION #**

2604(b)(13)	92-34 99-6	93-25 00-04	95-28	99-4	99-5
2604(b)(14)	92-28 04-3	98-12	01-03	03-6	04-2
2604(b)(15)	91-12	91-17	93-20	03-1	03-5
2604(c)	93-10 (Revised)				
2604(c)(1)	90-6	91-10			
2604(c)(5)	98-4				
2604(c)(6)	92-22 94-18 98-8	92-24 94-25 99-1	93-9 94-26 00-01	93-26 95-7 01-03	94-13 95-12
2604(c)(6)(a)	92-25				
2604(c)(7)	91-18				
2604(d)	89-1	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 93-10 (Revised) 93-30 95-1 97-1	91-8 92-37 93-31 95-4 98-11	91-19 92-38 93-11 94-7 95-8 99-1	92-17 93-8 93-12 94-15 96-1 99-3	92-32 93-18 94-22 96-6 00-02
2604(d)(3)	92-13	94-19	94-21	98-11	99-1
2604(d)(4)	90-8 93-8 93-30 94-21 96-1	92-2 93-10 (Revised) 93-31 94-22 96-6	92-36 94-5 95-1 97-1	92-37 93-11 94-7 95-4 99-1	92-38 93-12 94-19 95-23 00-02
2604(d)(5)	92-38 95-4	93-8 96-6	93-11 00-02	93-30	94-5
2604(d)(6)	93-12 95-1 00-02	93-13 97-1	93-31 99-1	94-7 99-3	94-21 99-6

CHARTER §**OPINION #**

2604(d)(7)	93-11				
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
	00-01	00-02	01-03	03-6	
2605	94-28 (Revised)				
2606(b)	01-02				
2606(d)	01-02	02-01	04-2		
2700	03-3				
2800	91-3	03-2	03-3	04-1	
2800(d)(7)	91-12				
2800(c)(9)	92-27				
2800(f)	91-12	92-27	04-3		
2800(g)	04-3				

**CUMULATIVE INDEX TO ADVISORY OPINIONS
BY SUBJECT
1990-2004**

<u>SUBJECT</u>	<u>OPINION #</u>				
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 00-03	92-8	92-12
Agency Served	93-19	95-8			
Appearance Before City Agency	90-8 92-32 93-12 93-32 94-21 95-15	91-8 92-36 93-13 94-5 94-22 96-4	91-19 92-37 93-18 94-7 94-24 98-9	92-13 92-38 93-28 94-15 95-1	92-17 93-11 93-31 94-19 95-6
Appearance of Impropriety	90-3 91-4 91-16 92-10 92-23 93-15 94-28 (Revised) 95-17	90-4 91-5 91-18 92-14 92-25 93-22 98-6	90-5 91-7 92-3 92-15 92-28 94-2 95-7 00-03	90-8 91-10 92-4 92-17 92-33 94-17 95-10	91-1 91-15 92-6 92-21 93-14 95-11
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 (Revised)		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
	Charter Schools	00-01			
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 (Revised)		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	95-27
	96-4	98-9	03-2	03-3	04-1
	04-3				
Community School Boards	90-7	98-10	01-02		
Consulting	91-9	91-16	92-2	93-12	93-19
	93-24	95-15	98-7		
Contracts	91-2	91-15	92-2		
Cooperative Corporations 95-25	92-7	94-25	94-27	95-11	95-22
Dual City Employment	95-26				
Elected Officials	90-3	90-4	90-5	90-6	91-10
	92-10	92-22	92-23	93-6	93-15
	95-20	98-14	99-1		
Endorsements	98-6	00-03			
Ex Officio	99-1				

SUBJECT**OPINION #**

Expert Witness	91-9	96-6			
Family Relationships	90-1	90-4	90-5	90-6	91-2
	91-15	92-4	92-14	93-21	93-28
	94-3	94-13	94-20	98-1	
FOIL	91-19				
Franchises	90-4	90-5			
Fundraising	91-10	92-15	92-25	92-29	93-6
	93-15	93-26	94-29	95-7	95-27
	98-14	01-01	01-02	03-4	
Gifts	91-20	92-21	92-27	92-29	92-33
	94-4	94-9	94-12	94-23	94-29
	95-28	96-3	00-04		
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	91-7	91-9	91-13	91-16
	92-6	92-28	92-30	92-34	92-36
	93-4	93-5	93-24	93-25	94-1
	94-8	94-16	95-6	95-9	95-16
	95-17	95-19	95-20	95-22	96-2
	98-4	98-5	98-7	99-2	99-4
	99-5	99-6	00-01	01-03	

SUBJECT**OPINION #**

Not-For-Profit Organizations	91-10 92-22 92-34 93-14 94-15 95-2 98-14	91-16 92-24 92-37 93-15 94-18 95-5 99-1	92-8 92-25 93-1 93-26 94-19 95-7	92-14 92-28 93-4 94-6 94-25 95-12	92-15 92-31 93-9 94-13 94-26 98-8
Orders - see Waivers/Orders					
Outside Practice of Law	01-03				
Ownership Interests	90-1 92-7 92-30 93-27 94-10 94-26 97-3	91-2 92-9 92-35 93-32 94-11 95-10 98-2	91-3 92-11 93-7 94-1 94-13 95-12 98-3	92-5 92-26 (Revised) 93-16 94-3 94-20 95-18 02-01	92-6 93-22 94-8 94-25 95-21 03-7
Particular Matter	92-37	93-8	95-23		
Personnel Order 88/5	91-12	92-25			
Police Officers	97-2	98-4			
Political Activities 93-24 95-13	91-12 95-24	91-17 03-5	92-25	93-6 03-6	93-20
Political Fundraising	01-01	01-02	03-1		
Post-Employment Restrictions	89-1 92-13 92-38 93-18 94-15 95-4 98-11	90-8 92-16 93-8 93-30 94-19 95-23 99-1	91-8 92-17 93-11 93-31 94-21 96-1 99-3	91-19 92-32 93-12 94-5 94-22 96-6 00-02	92-2 92-37 93-13 94-7 95-1 97-1
Practice of Law – see Outside Practice of Law					

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 (Revised)		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	03-2			
Public Benefit Corporation	93-17				
Public Servants	91-14	93-10 (Revised)	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 (Revised)		92-28
	92-30	93-1	93-4	93-7	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		
Renting Property to Public Assistance Recipients	95-29	98-13			
Sale of Products	98-12				
Savings Clubs	04-2				
School Boards	93-2				
Separation from City Service	98-11				
Sole Proprietorship	98-7				
Subcontractors	99-2				
Superior-Subordinate Relationship	98-12	04-2	04-3		

SUBJECT**OPINION #**

Tax Assessors	93-16				
Teaching	90-2 96-2	91-5 99-4	93-20 99-5	94-16 99-6	95-3
Temporary Employment	98-5				
Tickets 00-04					
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 00-02