



**New York City  
Conflicts of Interest  
Board**

**Annual Report 2001**

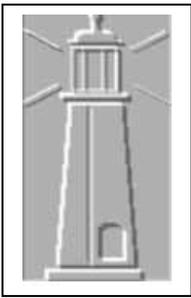


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# Letter to the Mayor

December 31, 2001

Dear Mr. Mayor:

On behalf of the Conflicts of Interest Board, I am pleased to submit this report of the Board's work for 2001. While the Board's activities during this past year are set out more fully in the body of the report, the following highlights deserve special mention.

## **Training and Education**

In 2001, the Board conducted 190 training classes, at least one class in each of 30 agencies, including 117 classes for the Board of Education and ten continuing legal education classes. The Board continued its participation in the Procurement Training Institute and the Department of Citywide Administrative Service's Citywide Orientation program for new City employees. COIB staff also participated in the "Managerial Separation Conference" organized by DCAS in November 2001.

The most significant plans to increase the Board's outreach involve establishing the "COIB Training Academy" on the COIB's website, on a CD-ROM for distribution to agency counsel and trainers for computer-based training, and as an additional classroom tool for COIB training staff. In addition, the Board made excellent progress with its "Train the Trainer" initiative and the development of an ethics curriculum for agency training staffs to present to their employees. The Board also held its "Seventh Annual Seminar on Ethics in New York City Government" at New York Law School in March 2001, which attracted more than 175 attendees, representing fifty agencies, and at which Mayor Giuliani and Council Speaker Vallone delivered keynote remarks.

## **Requests from Advice and Rulemaking**

During 2001 the Board received 525 written requests for advice from current and former public servants as to the propriety of their proposed activities or interests under Chapter 68 and issued 305 staff letters, 148 waiver and (b)(2) letters, and 46 Board letters, orders, or advisory opinions. These 499 responses were an all-time high and reflected a 6% increase over the 472 responses issued in 2000. On December 31, 2001, the Board had pending before it 40 written requests for advice, in contrast to 50 written requests pending on December 31, 2000, a decrease of 20%. The median age of the pending requests for advice continued to drop, to 18 days on December 31, 2001.

In 2001 the Board filed all its advisory opinions on a centralized index, permitting their distribution by e-mail to all interested persons, resulting in a substantial savings in postage and staff time. Advisory opinions remain available on Lexis and Westlaw, and the Board began an initiative to make them available on the Web, free of charge in searchable form.

The Board amended two rules in 2001. Its rule on public servants charged with substantial policy discretion was amended to provide for the public availability of the lists of public servants identified as having such discretion. The rule regarding the Board's retention of financial disclosure reports was amended to add a minimum retention period of one year, a change made for cases where a report is filed many years late.

## **Enforcement**

In 2001 the Board received 120 new enforcement complaints and disposed of 132 complaints (the most ever in a single year), including twelve public dispositions. The Board referred 44 matters to DOI for investigation and received 43 reports from DOI. The number of dispositions imposing fines during 2001 was ten, plus two public censure letters; the fines imposed, including those fines made

payable to other agencies in three-way settlements, amounted to \$20,450. All fines payable to the Board, except a \$700 fine payable on December 31, have been paid. As of December 31, 2001, the Board had collected approximately 90% of the \$196,625 in chapter 68 fines imposed by the Board since its inception.

The public dispositions included several high profile and important settlements involving, for example, a Housing Authority Board Member. The Board also issued enforcement orders on previously unlitigated issues, such as the Charter's requirement that a community board member refrain from voting on certain matters before the member's board where the vote may result in a personal and economic gain to the member. The Enforcement Unit also continued to utilize the "three-way settlement" procedure, resolving cases with other City agencies. In 2001, for the first time, the Board successfully brought motions for summary judgment at OATH in two matters in which the facts in the record could not be disputed. The Board extends its sincere thanks to DOI Commissioner Edward J. Kuriansky, First Deputy DOI Commissioner Alain M. Bourgeois, Deputy DOI Commissioner Peter M. Bloch, and DOI General Counsel Felicia A. Mennin, and to their entire staff for their invaluable work in these and all Board enforcement matters.

### **Financial Disclosure**

During 2001 the Board continued to have an excellent compliance record in financial disclosure, with an overall compliance rate exceeding 98%. In 2001 the Board collected \$31,700 in late filing fines. Since assuming responsibility for financial disclosure in 1990, the Board, as of December 31, 2001, had collected \$393,148 in financial disclosure fines. As of December 31, all but two active public servants, against whom the Board issued orders, had filed their reports and paid their late fines through calendar year 1999 (for reports due May 1, 2000). Litigation will be commenced in early 2002 to collect late fines and/or reports from those public servants who failed to pay their late fines or file their reports for 2000, due May 1, 2001.

As the Board has previously stated, the City's financial disclosure law far exceeds the state mandate, requiring many persons to file who have little or no likelihood of conflicts of interest, with the resultant waste of time, money, and resources by the filers, their agencies, and the Board. Working with the Law Department, the Board has therefore proposed to eliminate from the list of required filers those types of public servants for whom, in the experience of the Board, no substantial reason exists for filing financial disclosure reports. A bill incorporating that proposal, and other needed amendments to the financial disclosure law, was introduced in the Council at the request of the Mayor in July 2001 (Intro 952). During 2001 the Board also continued to press for additional funding to complete its electronic filing project.

### **Budget and Staff**

The Board's concerns about its future and about ethics in City government remain the same as in 2000. Despite the Board's efforts to make its salaries more competitive with those of other City agencies, the Board continued to lag behind. As a result, during 2001 the Board continued to lose outstanding employees to other City agencies because of salary disparities, resulting, for example, in a 50% drop in ethics training at the Board of Education. Fewer classes mean more ethics violations, more Chapter 68 enforcement, and more fines. That is business the Board does not want.

The Board still lacks post-audit authority, necessary to help ensure the Board's independence, and a rationalized budget process, similar to that of the Campaign Finance Board. As a result of September 11, the Board's proposed financial disclosure amendments (Intro 952) have not yet been enacted. Proposals for investigative authority and mandatory ethics training have also languished, as has the Board's request for minimal capital funding to complete the electronic financial disclosure project, without which the Board can never hope to meet its Charter mandate to review all financial disclosure statements for conflicts of interest. As City government is scaled back and the temptation arises to cut costs by cutting corners,

these initiatives, modest though they may be in dollars, become all the more critical. Historically, hard times and crisis have produced significant increases in conflicts of interest.

In good conscience, the Board cannot plead for additional funding or even to be spared entirely from the budget ax. But in the difficult days that lie ahead, the Board believes that the already crucial role of City watchdog agencies – like DOI and the Board – will become ever more critical if the City is to preserve integrity in City government.

Respectfully submitted,

Benito Romano

## **INTRODUCTION**

In 2001 the Conflicts of Interest Board celebrated its eleventh anniversary and the forty-second anniversary of its predecessor agency, the Board of Ethics. Created by Chapter 68 of the revised New York City Charter, effective January 1990, and vested with broad responsibilities, the Board includes among its Charter-mandated duties educating City officials and employees about Chapter 68's ethical standards, interpreting Chapter 68 through the issuance of formal advisory opinions and promulgation of rules, responding to requests from current and former public servants for advice and guidance, prosecuting violators of Chapter 68 in administrative proceedings, and administering and enforcing the City's financial disclosure law.

This report thus reviews the Board's activities in each of the following areas during 1999: (1) training and education; (2) responses to inquiries from City employees for guidance; (3) administrative rules; (4) enforcement proceedings; (5) financial disclosure; and (6) budget and staff. Table 1 at the end of this report contains a statistical comparison of the work of the Board in each of these areas in 1993 and 2001.

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

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

Benito Romano, a partner in the law firm of Willkie, Farr & Gallagher, appointed to the Board in August 1994, serves as Acting Chair, pending the filling of the Board's two vacancies and the appointment of a new Chair. Bruce A. Green, a professor at Fordham University School of Law, was appointed to the Board in November 1995. Jane W. Parver, a partner at Kaye, Scholer, Fierman, Hays & Handler, was appointed to the Board in August 1994.

The Board's 23-member staff is divided into six units: Training and Education, Legal Advice, Enforcement, Financial Disclosure, Administration, and Management Information Systems. The staff, listed in Table 2, is headed by the Executive Director, Mark Davies.

## **TRAINING AND EDUCATION**

In 2001, the Board conducted 190 training classes, including 117 for the Board of Education and ten continuing legal education classes. These figures are summarized in Table 3. Although this total was about half of the 377 classes held last year, it still far outstrips the class statistics for any previous year. The reduction can be attributed to the loss of the Board's lead Board of Education trainer, who accepted a position at the Board of Education for 32% increase in salary, to illness, and to shifts in responsibilities among the Board's four-person training unit, as well as to the aftermath of the events of September 11, such as the cancellation of seven classes for the Police Department's seminar series.

The Board continued its extensive outreach to agencies and schools, seeking to provide training for their staffs. As detailed in Table 4, the Board held at least one class in each of 30 agencies, compared with 25 agencies in 2000. Board staff once again traveled to DEP's upstate offices to conduct classes for their watershed staff. The Board continued its participation in the Procurement Training Institute and the Department of Citywide Administrative Service's Citywide Orientation program for new City employees. COIB staff also participated in the "Managerial Separation Conference" organized by DCAS in November 2001.

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 may obtain answers regarding their specific situations. The sessions include games, exercises, and ample opportunities for questions. The feedback from class participants is virtually all positive, and usually quite enthusiastic.

The most significant plans to increase the Board's outreach involve establishing the "COIB Training Academy" on the COIB's website, on a CD-ROM for distribution to agency counsel and trainers for computer-based training, and as an additional classroom tool for COIB training staff. Through this initiative and the Train the Trainer program, the Board hopes to make Chapter 68 training and information available to more and more public servants

### **Train the Trainer**

In 2001 the Board made excellent progress with its "Train the Trainer" initiative and the development of an ethics curriculum for agency training staffs to present to their employees. DOT's training staff continues to offer classes on Chapter 68 and the Parks Department and DEP have signed on to the Train the Trainer program. Parks conducted four Chapter 68 classes in 2001 and has added two ethics classes to its monthly training schedule. DEP will begin offering its own Chapter 68 classes in early 2002. This breakthrough was achieved with the creation of an interactive, PowerPoint-based outline that agency trainers can use to present the basics of the conflicts of interest law and that ensures that the material is presented accurately. The Board's staff will continue to provide technical support for the agencies' training staffs and will seek to add more agencies to the "Train the Trainer" roster.

### **Board of Education**

The Board's outreach effort at the Board of Education continued to flourish in 2001. For the 2000-2001 school year, the COIB held a total of 159 classes at 131 BOE locations. From the time school resumed in September until yearend, the COIB held 34 classes, with more being set up every week. COIB staff conduct briefings for principals at district and borough-wide meetings in conjunction with the Board of Ed's Ethics Officer, and then follow up with classes at the individual schools.

### **Web Site and Publications**

In 2001 the Board continued to upgrade its web site on the City's home page and the Board's portion of City Share, the City's Intranet. Every Board publication, including the texts of Chapter 68, the Board's rules, and the Financial Disclosure Law, all of the Board's booklets and leaflets, and the most recent editions of The Board's annual report and *Ethical Times* newsletter can now be downloaded from the web site and City Share. As a result, every City employee using City Share or the Internet has access to this information. The Board is seeking to maximize its presence on City Share by posting COIB information and links to the Board's site in appropriate City Share categories.

During 2001 Kevin Moore, the Board's publications and web site coordinator, worked with New York Law School's Center for New York City Law on an initiative to have the Board's advisory opinions and its published enforcement orders and settlements posted on-line in searchable form.

The Board continues to publish and produce the Annual Report, *Ethical Times*, and all of its leaflets and booklets in-house, using its own equipment. In addition, the Board's audiotext and fax-back services continued to be available around the clock to anyone who calls the Board's main number seeking information.

### **Seminar**

The Board's "Seventh Annual Seminar on Ethics in New York City Government" at New York Law School in March 2001 proved a great success. The seminar attracted more than 175 attendees, representing fifty agencies. Mayor Giuliani and Council Speaker Peter Vallone delivered keynote remarks, and a number of City servants participated in the workshop panels.

### **International Visitors and Associations**

During 2001 the Board continued to welcome visitors from around the world, often at the request of the United States Information Agency, the United States State Department, or the United States Office of Government Ethics. This year the Board welcomed visitors from the Republics of Georgia, Armenia, and Azerbaijan, as well as from Egypt, Panama, and Senegal. In December 2001, at the request of The Carter Center in Atlanta, Mark Davies, the Board's Executive Director, made a dozen presentations over a two-day period to Jamaican anti-corruption/ethics officials.

Also in December 2001 Board staff shared their expertise with government ethics colleagues at the annual conference of the Council on Governmental Ethics Laws. Mark Davies moderated a panel at which he demonstrated the Board's pilot program for the electronic filing of financial disclosure reports, and Training Director Les Taub moderated a panel of experts in the field of ethics training.

The Board's training and education successes in 2001 would not have been possible without the hard work of the Board's dedicated Training and Education Unit staff: Director Les Taub, Senior Trainer Laura Denman, Publications and Web Site Coordinator Kevin Moore, Trainer/Writer Alex Kipp, and Community Associate Martine Multidor, as well as Joel Rogers, the lead Chapter 68 trainer for the Board of Education, who left the Board's staff in April 2001.

### **REQUESTS FROM CITY EMPLOYEES FOR GUIDANCE**

During 2001 the Board received 525 written requests for advice from current and former public servants as to the propriety of their proposed activities or interests under Chapter 68, compared to 535 in 2000, a small decrease, attributable to the events of September 11. These figures are summarized in Table 5. The Board's legal staff also fielded between five and fifteen telephone requests for advice each day, over 1,500 for the year.

In 2001, the Board issued 305 staff letters; 148 waiver and (b)(2) letters; and 46 Board letters, orders, or advisory opinions. These 499 responses reflected a 6% increase over the 472 responses issued in 2000, despite the effects of September 11, including the temporary closing of the office and the lack of telephones. Table 6 summarizes these results. To maintain the high quality of its written advice, the Board in 2001 continued to build its computerized index of ethics topics, which files in retrievable form useful resource material, from staff e-mail exchanges to advisory opinions. Similarly, the Board in 2001 filed all its advisory opinions on this centralized index, so that all Board staff can e-mail advisory opinions to public servants, to the press, and to the general public, saving postage and staff time.

On December 31, 2001, the Board had pending before it 40 written requests for advice, in contrast to 50 written requests pending on December 31, 2000, a decrease of 20%. The median age of the pending requests for advice continued to drop, to 18 days on December 31, 2001, in contrast to 24 days on December 31, 2000.

These excellent results are attributable to the Board's superb Legal Advice Unit, headed by General Counsel Wayne Hawley, with Associate Counsel Jessica Hogan and Bonnie Beth Greenball, and Patricia Green, Assistant to the Unit.

The Board's 2001 formal advisory opinions addressed solicitation of contributions by a high-ranking public servant in support of his own political campaign, restrictions on solicitation of political contributions by community school board members, and the private practice of law by public servants. These opinions are summarized at the end of this report, which also contains an index, by subject matter and by Charter section, of all formal advisory opinions issued by the Board since 1990.

During 2001 the Board continued to distribute, as they were issued, its formal advisory opinions to public servants and the public, to publish them in the *City Record*, and to include them on Lexis and Westlaw. Working with the Training and Education Unit, the Legal Advice Unit also developed a large e-distribution list, so that new advisory opinions and other important Board documents could be e-mailed to a large network of people, including

the legal staff of most City agencies. As noted above, working in cooperation with New York Law School's Center for New York City Law, the Board has begun the process of adding its advisory opinions to the Web, in full-text searchable form, where they will be available free of charge to all.

In 2001 Board Legal Advice staff continued to work with the Training and Education staff in presenting a two-hour continuing legal education (CLE) class to City attorneys, teaching CLE classes to lawyers from, among other agencies, the Board of Education and the Mayor's Office. Staff attorneys continue to write materials on Chapter 68 for publication, both in-house and for outside publications. In addition, Mark Davies served as chair of the Ethics and Professional Responsibility Committee of the New York State Bar Association's Municipal Law Section. Joan Salzman, Deputy Executive Director and Chief of Enforcement, served as the chair of the New York City Bar Association Committee on Government Ethics, for which Deputy Counsel Astrid Gloade was secretary.

## **ADMINISTRATIVE RULES**

In 2001 the Board amended two rules. Its rule on public servants charged with substantial policy discretion was amended to provide for the public availability of the lists of public servants identified as having such discretion. The rule regarding the Board's retention of financial disclosure reports was amended to add a minimum retention period of one year, a change made for cases where a report is filed many years late.

Late in 2000 the Board held a public hearing concerning an amendment to its rule on valuable gifts, this amendment governing attendance at annual events of City charities and associations. That amendment was formally adopted in December of 2000 and became effective in January of 2001.

## **ENFORCEMENT**

In 2001, the Board published the following enforcement results in a number of cases concerning Chapter 68 violations.

The Board fined a community board member \$4,000 for voting on a matter involving real property in which he and his siblings had a financial interest. Because a vote expressing the community's preference for land use "may result" in a personal and direct economic gain to the community board member, such votes are not permitted. The member may retain the financial interest and discuss the matter, but is not allowed to vote. *COIB v. Basil Capetanakis*, COIB Case No. 99-157 (2001). Respondent has appealed the decision to the State Supreme Court.

A member of the New York City Housing Authority, Kalman Finkel, was fined \$2,250 for using his office to help obtain a job for his daughter with Interboro Systems Corp., a company with a \$4.3 million contract with the Housing Authority. Two weeks after faxing to Interboro his daughter's resume, Mr. Finkel voted to increase Interboro's contract with the Authority by \$52,408. Mr. Finkel said the vote was inadvertent and that he did not realize that Interboro was the same firm to which he had sent his daughter's resume. *COIB v. Kalman Finkel*, COIB Case No. 99-199 (2001).

The Board fined a former attorney from the City Commission on Human Rights ("CHR") \$2,000 for investigating a discrimination case involving her mother and recommending agency action (a finding of probable cause to believe that her mother had suffered discrimination), without disclosing the familial relationship to her supervisors. *COIB v. Marisa Rieue*, COIB Case No. 2000-5 (2001). The Board strongly disapproved of the use or misuse of prosecutorial discretion in favor of a family member.

In a three-way settlement, the Board and the New York City Department of Transportation ("DOT") suspended, demoted, and fined a City parking official, Milton Moran, \$2,500 for using his position to solicit a subordinate to marry his daughter in Ecuador and for repairing the cars of subordinates for compensation. Moran was also placed on probation for two years and can be terminated summarily if he violates the DOT code of conduct or the conflicts of interest law again. *COIB v. Milton Moran*, COIB Case No. 99-51, OATH Index No. DOT-012261 (2001).

In a joint agreement with the Board of Education ("BOE"), a principal was fined \$4,000 and admitted that she had asked school aides to perform

personal errands for her on school time, such as delivering payment of her “scofflaw” parking fine and delivering a loan application. *In re Iris Denizac*, COIB Case No. 2000-533 (2001).

Board of Education employee Wilma Hill-Grier admitted that she appeared as a private attorney for compensation in a matter involving the City. She appeared in a lawsuit against the New York City Administration For Children’s Services and thus appeared against the interests of the City, in violation of the Charter. Hill-Grier was fined \$700. *COIB v. Wilma Hill-Grier*, COIB Case No. 2000-581 (2001).

A Parks Department employee, Albert Peterson, was fined \$1,500 in a settlement, for using his City position to attempt to obtain City park permits for a private not-for-profit firm called Sportsworld. Mr. Peterson admittedly made inquiries with the Parks Department, his own City agency, about the status of the permit applications he had filed on behalf of his private organization and also used his position to solicit fellow Parks Department employees to join Sportsworld. *COIB v. Albert Peterson*, COIB Case No. 97-173 (2001).

The Board issued a public warning letter to an Assistant Civil Engineer at the Department of Transportation (“DOT”) for moonlighting with a private firm that he should have known had business dealings with his own agency. *In re Michael Ayo*, COIB Case No. 99-461 (2001).

The Board fined a teacher \$1,500 for owning and operating a tour company that arranged tours for Board of Education schools, including the school where he taught. The tours had been operated with the approval of the school’s principal, and the teacher sold his interest in the tour company in March of 1999. *In re Walter Steinhandler*, COIB Case No. 2000-231 (2001).

The Board issued a public warning letter to Louis Abramo, in which the Board reminded public servants who are licensed plumbers that they may file with the Department of Buildings (“DOB”) Plumbing Alteration and Repair Slips, which involve minor plumbing jobs, but not Plumbing Affidavits, involving major repairs in connection with building permits, unless they first

obtain waivers from the Conflicts of Interest Board. *In re Louis Abramo*, COIB Case No. 2000-638 (2001).

The Board fined Bert Camarata, a former Department of Employment (“DOE”) Program Manager, \$1,000 for moonlighting, while on sick leave from the City, with a firm that had business dealings with DOE. Although on leave from their City jobs, City employees are bound by the Charter’s conflicts of interest provisions. *COIB v. Bert Camarata*, COIB Case No. 99-121 (2001).

In a settlement between the New York City Department of Correction (“DOC”) and Ronald Jones, on which the Board was consulted, DOC Program Specialist Ronald Jones admitted violating the City Charter by selling t-shirts and promoting his side business (sales of essential oils and perfumes) to his City subordinates. Mr. Jones forfeited five vacation days. *In re Ronald Jones*, COIB Case No. 98-437 (2001).

The Board fined a Deputy Chief Engineer for Roadway Bridges at the Department of Transportation (“DOT”), Lawrence King, \$1,000 for asking several DOT contractors to place advertisements in a fundraising journal the proceeds of which would help financially support the hockey club on which his sons play. Eight of the DOT contractors that Mr. King solicited purchased ad space for a total contribution of about \$975. As a DOT employee, Mr. King worked on matters relating to these contractors and supervised DOT employees who worked with these contractors. Mr. King stated: “I made an error in judgment by seeking and obtaining donations from contractors whose profits I could affect in my City job. I represent that there was no *quid pro quo* for the donations.” *COIB v. Lawrence King*, COIB Case No. 98-508 (2001).

As Table 7 shows, in 2001 the Board issued twelve public dispositions. In addition, the Board received 120 new enforcement complaints and disposed of 132 complaints (the most ever in a single year). The Board referred 44 matters to DOI for investigation and received 43 reports from DOI.

As can be seen from the above case summaries, there were several high profile and important settlements in 2001 involving, for example, a Housing

Authority Board Member. The Board also issued enforcement orders on previously unlitigated issues, such as the Charter's requirement that a community board member refrain from voting on certain matters before the member's board where the vote may result in a personal and economic gain to the member. The Enforcement Unit also continued to utilize the "three-way settlement" procedure, resolving cases with other City agencies, such as those in *Moran* (with DOT) and *Steinhandler, Denizac, and Hill-Grier* (with BOE). In 2001 the unit filed several matters at the Office of Administrative Trials and Hearings ("OATH") and, for the first time, successfully brought motions for summary judgment at OATH in two matters in which the facts in the record could not be disputed; summary judgment permits a more expeditious resolution of a case because there is no need for a full trial when the only issue is the application of law to the undisputed facts. The number of dispositions imposing fines during 2001 was ten, plus two public censure letters; the fines imposed, including those fines made payable to other agencies in three-way settlements, amounted to \$20,450. All fines payable to the Board, except a \$700 fine payable on December 31, have been paid. As shown in Table 8, as of December 31, 2001, the Board had collected approximately 90% of the \$196,625 in Chapter 68 fines imposed by the Board since its inception.

The Unit and the Board continue rigorously to select only the most important and provable cases for enforcement and continue to benefit immensely from the Department of Investigation's investigation of these often-complex cases. Annexed to this report is a "Chapter 68 Enforcement Case Summary," which provides a digest of the Board's enforcement results for 2001 and years past. This document is also available on City Share and on the Board's web site for use by all City workers and members of the public as an easy reference guide to cases the Board has prosecuted.

While the deterrent effect of the fines is important, some of the Board's most important work includes public censure letters and numerous private warning letters carrying no fine. Strong enforcement sends a message to City workers and to the public that self-dealing will not be tolerated in New York City government. Furthermore, the fines alone cannot fully reflect the time and cost savings to the City when DOI's investigations and the Board's enforcement 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.

Some of the cooperative work of DOI and the Board has contributed to successful criminal prosecutions by the District Attorney. The indictment and recent felony conviction following a jury trial in Manhattan of a former high-level official in the City Department of Buildings ("DOB") is an example. That ex-official had falsely filed a financial disclosure report with the Board indicating that he had accepted no gifts when, in fact, he had taken valuable gifts from an expediter who had business before the DOB.

In regard to financial disclosure enforcement, in 2001, as a result of a financial disclosure hearing conducted at OATH in August 2000, the Board issued orders against one public servant for failing to pay a fine for the late filing of her 1997 financial disclosure report and against another public servant for failing to file his financial disclosure report for 1998. The orders imposed fines of \$1,000 and \$10,000, respectively, and were in collection at yearend. As of December 31, all other active public servants had filed their reports and paid their late fines through calendar year 1999. Litigation will be commenced in early 2002 to collect late fines and/or reports from those public servants who failed to pay their late fines or file their reports for 2000, due May 1, 2001.

For all of these excellent enforcement results, the Board wishes to thank its entire Enforcement Unit, including Joan Salzman, Deputy Executive Director and Chief of Enforcement; Peter Nadler, Deputy Chief of Enforcement; Astrid Gloade, Deputy Counsel; Beth Gluck, Associate Counsel; and Varuni Bhagwant, Assistant to the Unit. The Board also extends its sincere thanks to DOI Commissioner Edward J. Kuriansky, First Deputy DOI Commissioner Alain M. Bourgeois, Deputy DOI Commissioner Peter M. Bloch, and DOI General Counsel Felicia A. Mennin, and to their entire staff for the invaluable work of DOI in Board matters. Indeed, a review of the Chapter 68 fines imposed by the Board prior to December 31, 2001, shows

that virtually all of those fines were imposed by the Board during the tenure of these DOI personnel.

## **FINANCIAL DISCLOSURE**

During 2001 the Board continued to have an excellent compliance record in financial disclosure. As detailed in Table 9, the overall compliance rate with the financial disclosure law exceeds 98%. This superb record must be attributed in large part to the excellent work of the Financial Disclosure Unit, including Joanne Giura-Else, Deputy Director; Holli Hellman, Senior Financial Disclosure Analyst; and Veronica Martinez-Garcia, Assistant to the Unit.

At yearend the Financial Disclosure Unit was engaged in collecting financial disclosure reports and/or fines from delinquent City employees who had not filed required financial disclosure reports or paid their fines for 2000, due May 1, 2001. As noted above, the Board will commence litigation in early 2002 against those employees who fail to comply. By December 31, 2001, except for two public servants from whom the Board was in the process of collecting outstanding fines, all active City employees had filed their reports and paid their late fines for reports prior to 2000. The Board recognizes with great appreciation the successful efforts of DOI's Background Unit, through Assistant Commissioner Sam Amorese, to secure compliance with the COIB reporting requirements. Those efforts sharply reduced the need for the Board's Enforcement Unit to bring financial disclosure cases to OATH, thus saving countless hours of City time.

During 2001 the Board collected \$31,700 in late filing fines. Since assuming responsibility for financial disclosure in 1990, the Board, as of December 31, 2001, had collected \$393,148 in financial disclosure fines.

The Financial Disclosure Unit, no less than the rest of the agency, focuses first and foremost on prevention, not punishment. To that end, over the summer of 2001 the Financial Disclosure staff sought to notify all potential candidates for City elective office of their requirement to file financial disclosure reports with the Board. Anyone who ran as a candidate for Mayor, Public Advocate, Comptroller, Borough President, or the City Council in 2001 was required to file a financial disclosure report for calendar

year 2000. The reports were due when candidates filed their designating petitions with the Board of Elections (July and August 2001). Over 400 reminder notices, along with financial disclosure forms, were mailed to potential candidates. These reminder notices were also posted on the Board's web site. In addition, the Financial Disclosure Unit reached out to the county leaders for all the major parties and remained in constant contact with the Board of Elections and the Campaign Finance Board. The unit also made a presentation at a Board of Elections seminar for candidates; and, at the Board's request, the *Chief-Leader* printed a reminder notice in June and July. Staff answered over 250 calls from candidates. As a result, over 75% of all candidates who ran in the elections filed their reports with the Board without action by the Board. The COIB published on its web site a list of all candidates who did not file their reports on time.

The financial disclosure training efforts include Frequently Asked Questions, available on the Board's web site for those filing financial disclosure reports with the Board. In addition, Board staff conducted informal training sessions for new financial disclosure liaisons. The Board's goal for 2002 is to conduct on site formal training sessions for *all* agency liaisons.

### **Redefining Required Filers**

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

Working with the Law Department, the Board has therefore proposed to eliminate from the list of required filers those types of public servants for whom, in the experience of the Board, no substantial reason exists for filing financial disclosure reports, namely, members of the Management Pay Plan in levels M1-M3 not otherwise required to file. In addition, to bring the City's financial disclosure law closer to the state mandate and to eliminate the need repeatedly to raise the salary threshold, the Board has proposed to replace the salary threshold with "policymaker," the term used in the state law. The Board

has also proposed other, more technical changes for the financial disclosure law, such as requiring financial disclosure by write-in candidates who win a primary election and by candidates who fill a vacancy in a designation or nomination for City office. Currently such candidates are not required to file. These proposals were incorporated into a bill (Intro 952) introduced in the City Council in July 2001 at the request of the Mayor but, as a result of September 11, were not enacted.

### **Electronic Filing System**

In 2001 the Board continued to seek funding to institute its electronic filing system proposal. The software program itself is essentially complete, but the project has been under review since August 1998. The Board hopes that the E-Government Office and the Office of Operations will approve funding for the project, without which the Board cannot possibly hope to meet its Charter mandate to review every financial disclosure report for completeness and conflicts of interest. The new version of the program combines the DOI and COIB forms for those City employees who must file both. The Board hopes to initiate a pilot for May 2003, in which 1,000 public servants would file electronically. The Board's goal is to have all filers filing electronically within the next few years.

### **BUDGET AND STAFF**

The ramifications of September 11 have reached even the Conflicts of Interest Board. Much of the Board's OTPS budget, like that of other City agencies, was still frozen at yearend. The Board's administrative staff - Director of Administration Ute O'Malley, Deputy Director Myrna Mateo, and Jorge Matos, assistant to the unit - are to be commended for their efforts to meet the additional burdens these events have imposed on the agency.

The Board's concerns about its future and about ethics in City government remain the same as in 2000. Despite the Board's efforts to make its salaries more competitive with those of other City agencies, the Board continued to lag behind. As a result, during 2001 the Board continued to lose outstanding employees to other City agencies because of salary disparities. It was largely the loss of the Board's lead trainer to the Board of Education for a

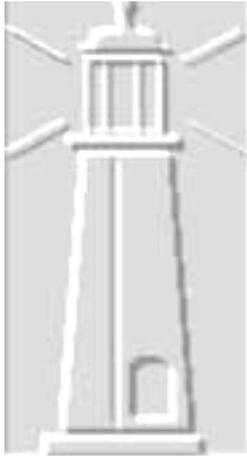
32% salary increase that caused the COIB's training classes to drop by 50% in comparison to 2000. Fewer classes mean more ethics violations, more Chapter 68 enforcement, and more fines. That is business the Board does not want.

The Board still lacks post-audit authority, necessary to help ensure the Board's independence, and a rationalized budget process, similar to that of the Campaign Finance Board. As noted above, as a result of September 11 the Board's proposed financial disclosure amendments, introduced at the request of the Mayor (Intro 952), have not yet been enacted. Proposals for investigative authority and mandatory ethics training have also languished, as has the Board's request for minimal capital funding to complete the electronic financial disclosure project, without which the Board can never hope to meet its Charter mandate to review all financial disclosure statements for conflicts of interest. As City government is scaled back and the temptation arises to cut costs by cutting corners, these initiatives, modest though they may be in dollars, become all the more critical.

Historically, hard times and crisis have produced significant increases in conflicts of interest. Indeed, government ethics laws in this country largely grew out of the contracting scandals in the Civil War. And Senator Harry Truman made his political mark as head of the Truman Committee, investigating abuses in government procurement during World War II.

In good conscience, the Board cannot plead for additional funding or even to be spared entirely from the budget ax. But in the difficult days that lie ahead, the Board believes that the already crucial role of City watchdog agencies – like DOI and the Board – will become ever more critical if the City is to preserve integrity in City government.

# Tables



# Table 1

## NEW YORK CITY CONFLICTS OF INTEREST BOARD: 1993-2001

Agencywide	1993	2001
<i>Budget</i>	\$1,132,000 (FY94)	\$1,698,669 (FY02) <sup>1</sup>
<i>Staff (budgeted)</i>	25	23 <sup>3/5</sup> <sup>2</sup>
Training and Education	1993	2001
Staff	1	4 <sup>3/5</sup> <sup>2</sup>
Training sessions	10	190 (377 in 2000)
Publications	6 Poster, Chapter 68, Plain Language Guide, Annual Reports	ca. 50 Chapter 68, Financial Disclosure Law, Board Rules; 19 leaflets; <i>Myth of the Month</i> (CHIEF LEADER); Revised Plain Language Guide; Board of Ed pamphlet; 8 outlines for attorneys; <i>CityLaw</i> , <i>NY Law Journal</i> , <i>NYS Bar Ass'n</i> articles; chapters for ABA & international ethics books; Annual Reports; poster; newsletter

Ethics newsletter	None	<i>Ethical Times</i> (Quarterly)
Videotapes	None	3 half-hour training films; 2 PSA's
Board of Education training	None	117 training sessions (221 in 2000); BOE leaflet, booklet, videotape
Electronic training	None	Website with most COIB publications; 24/7 audiotext service; 24/7 faxback service; computer game show; numerous appearances on Crosswalks (e.g., mock trial)
<b>Legal Advice</b>	<b>1993</b>	<b>2001</b>
Staff	7 (5 attorneys)	4 (3 attorneys)
Requests for advice (written)	321	525
Issued opinions, letters, waivers, orders	266	499
Opinions, etc. per attorney	53	166
Pending requests at year end	151	40
Median age of pending requests	8 <sup>1</sup> / <sub>2</sub> months	18 days
<b>Enforcement</b>	<b>1993</b>	<b>2001</b>
Staff	½	5 (4 attorneys)
Complaints received	29	120
Dispositions	38	132
Dispositions imposing fines	1	10
Fines collected	\$500	\$20,450 (\$105,766 in 2000)
Referrals to DOI	19	44
Reports from DOI	?	43

<b>Financial Disclosure</b>	<b>1993</b>	<b>2001</b>
Staff	12	5
6-year compliance rate	99%	98.6%
Fines collected	\$36,051	\$31,700
Reports reviewed for completeness (mandated by Charter) <sup>3</sup>	12,000	400
Reports reviewed for conflicts (mandated by Charter) <sup>3</sup>	350	38
Electronic filing	None	In development

<sup>1</sup> Exclusive of \$100,000 added by the Council, funds that are unavailable because they were not added for the out years.

<sup>2</sup> The part-time (<sup>3</sup>/<sub>5</sub>) position is not part of the Board's budgeted headcount of 23.

<sup>3</sup> NYC Charter § 2603(d)(2) mandates that the Board review every report for completeness and conflicts of interest.

**TABLE 2**  
**MEMBERS AND STAFF**  
**OF THE CONFLICTS OF INTEREST BOARD**  
**AS OF DECEMBER 31, 2001**

*Members*

**Benito Romano, Acting Chair**  
**Bruce A. Green** **Jane W. Parver**

*Staff*

*Executive*

**Mark Davies Executive Director**

*Legal Advice*

**Wayne Hawley, General Counsel**  
**Jessica Hogan, Associate Counsel**  
**Bonnie Beth Greenball, Associate Counsel**  
**Patricia E. Green, Legal Secretary**

*Enforcement*

**Joan R. Salzman, Deputy Executive Director/Chief of  
Enforcement**  
**Peter M. Nadler, Deputy Chief of Enforcement**  
**Astrid B. Gloade, Deputy Counsel**  
**Isabeth Ann Gluck, Associate Counsel**  
**Varuni Bhagwant, Legal Secretary**

*Training and Education*

**Les Taub, Director of Training and Education**  
**Laura Denman, Senior Trainer**  
**Kevin Z. Moore, Publications/Web Site Coordinator**  
**Alex Kipp, Trainer/Writer**  
**Martine Multidor, Community Associate**

*Financial Disclosure*

**Jerry Rachnowitz, Director of Financial Disclosure**  
**Joanne Giura-Else, Deputy Director of Financial  
Disclosure**  
**Holli R. Hellman, Senior Financial Disclosure Analyst**  
**Veronica Martinez Garcia, Administrative Assistant**

*Administrative*

**Ute O'Malley, Director of Administration**  
**Myrna Mateo, Deputy Director of Administration**  
**Jorge S. Matos, Administrative Assistant**

*Management Information Services*

**Anthony Bonelli, MIS Director**

**TABLE 3**

**TRAINING AND EDUCATION CLASSES ON CHAPTER 68  
AS OF DECEMBER 31, 2001**

<b>Year</b>	<b>Board of Ed Classes</b>	<b>Other Agency Classes</b>	<b>Total Classes</b>
<b>1995</b>	<b>0</b>	<b>24</b>	<b>24</b>
<b>1996</b>	<b>0</b>	<b>30</b>	<b>30</b>
<b>1997</b>	<b>0</b>	<b>90</b>	<b>90</b>
<b>1998</b>	<b>10</b>	<b>53</b>	<b>63</b>
<b>1999</b>	<b>23</b>	<b>69</b>	<b>92</b>
<b>2000</b>	<b>221</b>	<b>156</b>	<b>377</b>
<b>2001</b>	<b>117</b>	<b>73</b>	<b>190</b>

## TABLE 4

### TRAINING CLASSES BY AGENCY AS OF DECEMBER 31, 2001

**Agencies that held ten or more classes are bolded**

*Agencies that held three to nine classes are italicized*

**Agencies that held one or two classes are not separately listed**

1998	1999	2000	2001
<b>Finance</b> <b>Homeless Services</b> <i>Board of Education</i> <i>DCAS</i> <i>HRA</i> <i>NYPD</i>	<b>Board of Education</b> <b>DCAS</b> <b>Finance</b> <i>Correction</i> <i>DOT</i> <i>Sanitation</i> <i>School Const. Auth.</i>	<b>Board of Education</b> <b>Buildings</b> <b>DEP</b> <b>DOT</b> <b>Finance</b> <b>Parks</b> <b>Sanitation</b> <i>Correction</i> <i>DCAS</i> <i>DDC</i> <i>EDC</i> <i>Health</i> <i>HPD</i> <i>HRA</i> <i>Dept. of Investigation</i> <i>NYPD</i> <i>TLC</i>	<b>Board of Education</b> <b>DCAS</b> <b>Finance</b> <b>HPD</b> <i>DEP</i> <i>DDC</i> <i>FIRE</i> <i>DOITT</i> <i>Sanitation</i> <i>School Const. Auth.</i> <i>Transportation</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: 19
<b>Total Classes: 63</b>	<b>Total Classes: 92</b>	<b>Total Classes: 377</b>	<b>Total Classes: 190</b>

**TABLE 5**  
**REQUESTS FOR ADVICE ON CHAPTER 68**  
**AS OF DECEMBER 31, 2001**

<u>Year</u>	<u>Requests Received</u>
1996	359
1997	364
1998	496
1999	461
2000	535
2001	525

**TABLE 6****RESPONSES TO REQUESTS FOR ADVICE ON CHAPTER 68  
AS OF DECEMBER 31, 2001**

<b>Year</b>	<b>Staff Letters</b>	<b>Waivers/ (b)(2) Letters</b>	<b>Board Letters, Orders, Opinions</b>	<b>Total</b>
<b>1996</b>	<b>212</b>	<b>49</b>	<b>25</b>	<b>286</b>
<b>1997</b>	<b>189</b>	<b>116</b>	<b>24</b>	<b>329</b>
<b>1998</b>	<b>264</b>	<b>111</b>	<b>45</b>	<b>420</b>
<b>1999</b>	<b>283</b>	<b>152</b>	<b>28</b>	<b>463</b>
<b>2000</b>	<b>241</b>	<b>179</b>	<b>52</b>	<b>472</b>
<b>2001</b>	<b>305</b>	<b>148</b>	<b>46</b>	<b>499</b>

**TABLE 7**  
**ENFORCEMENT CASES (CHAPTER 68)**  
**AS OF DECEMBER 31, 2001**

	<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>
New Complaints Received	8	20	22	29	31	29	50	64	63	81	148	120
Dispositions	2	6	25	38	4*	33	32	54	76	83	117	132
Dispositions Imposing Fines	0	0	1	1	2	1	1	2	9	4	10	10
Public Censure Letters	0	0	0	0	0	0	1	0	0	0	2	2

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

## Table 8

### ENFORCEMENT FINES AS OF DECEMBER 31, 2001

DATE	CASE NAME OR NUMBER	AMOUNT
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*	6,000
9/17/98	Katsorhis	84,000
7/15/98	Weinstein**	5,000

Date	Case Name or Number	Amount
6/29/98	Fodera	3,100
6/24/98	Wills	1,500
6/24/98	Hahn	1,000
6/24/98	Harvey***	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****	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: \$197,625**

\* 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 investigation alone actually represented nearly \$100,000 in penalties recovered by the City.

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

\*\*\* This fine was forgiven due to extreme financial hardship.

\*\*\*\* 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.

**TABLE 9**  
**FINANCIAL DISCLOSURE REPORTS**  
**AS OF DECEMBER 31, 2001**

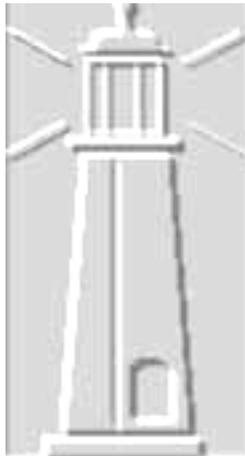
Calendar Year ( <u>"C.Y."</u> )	Number of Reports Required for C.Y.	Reports Filed for C.Y.	Compliance Rate for C.Y.	Number of Fines Waived for C.Y.	Number of Fines Paid for C.Y.	Amount of Fines Paid for C.Y.	Current Non-Filers for C.Y.		Current Non-Payers for C.Y.	
							<u>Act.</u>	<u>Inact.*</u>	<u>Act.</u>	<u>Inact.*</u>
1995	11,463	11,322	98.8%	314	298	\$29,715	0	141	0	65
1996	11,684	11,557	98.9%	364	369	\$37,050	0	127	0	146
1997	11,468	11,389	99.3%	294	250	\$25,600	0	79	1	15
1998	12,027	11,899	98.9%	246	317	\$32,150	1	127	0	26
1999	12,388	12,243	98.8%	243	307	\$30,700	0	145	0	48
2000	<u>12,865</u>	<u>12,507</u>	<u>97.2%</u>	<u>179</u>	<u>300</u>	<u>\$30,000</u>	<u>62</u>	<u>296</u>	<u>38</u>	<u>70</u>
TOTALS:	71,895	70,917	98.6%	1,640	3,821**	393,148**	63	915	39	370

\* "Act." indicates 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 non-filers or non-payers who are no longer City employees.

\*\* Includes fines collected for calendar years 1989 through 1994, the reports for which have been discarded pursuant to the Board's retention policy.

# **ADVISORY OPINIONS OF THE BOARD**

## **SUMMARIES AND INDEXES**



**ADVISORY OPINION SUMMARY****OPINION NO:** 2001-1**DATE:** 1/30/01**CHARTER SECTION(S) INTERPRETED:** 2604(b)(3), (9), (11), (12)**SUBJECT(S):** Political Fundraising**OTHER OPINION(S) CITED:** 92-25  
93-6  
95-13

**SUMMARY:** The prohibition in Charter Section 2604(b)(12) against appointed public servants charged with substantial policy discretion requesting contributions for candidates for City elective office applies even when the public servant is the candidate, and even when the public servant is running against a City elected official for an office other than that which the elected official holds. The prohibition means that both the public servant candidate and those acting on his or her behalf, including without limitation his or her campaign committee, may not solicit contributions from anyone.

**ADVISORY OPINION SUMMARY**

**OPINION NO:** 2001-2

**DATE:** 4/10/01

**CHARTER SECTION(S) INTERPRETED:** 2601(2)  
2604(b)(2), (3), (4), (9), (11), (12)  
2606(b)  
2606(d)

**SUBJECT(S):** Community School Boards  
Political Fundraising

**OTHER OPINION(S) CITED:** 91-12  
2001-1

**SUMMARY:** Community school board members will violate Chapter 68 if they solicit funds in support of their candidacies for elective office from their district superintendent or their board secretary. Community school board members will violate Chapter 68 if they “target” other BOE personnel from their district for campaign contributions. Prohibited “targeted” fundraising includes face-to-face requests; requests sent to an employee’s BOE workplace; and requests that identify the recipient by BOE title or position. Requests to a general mailing list that happens to contain names of some BOE employees will not violate Chapter 68. Unsolicited contributions do not violate Chapter 68. Use of BOE facilities, or any BOE resources, in support of a school board member’s candidacy will violate Chapter 68.

**ADVIORY OPINION SUMMARY**

**OPINION NO:** 2001-3

**DATE:** 4/27/01

**CHARTER SECTION(S) INTERPRETED:** 2601(4), (5), (12), (18), (20)  
2604(a)(1)(a), (a)(1)(b)  
2604(b)(2), (3), (4), (6), (7), (14)  
2604(e)

**SUBJECT(S):** Outside Practice of Law

**OTHER OPINION(S) CITED:** 91-7  
92-5  
92-28  
98-10

**SUMMARY:** It will violate Chapter 68 for public servants engaged in the outside practice of law, regardless of whether they receive compensation, to: (1) use City time, resources, facilities, or letterhead in connection with this practice, except in the case of pro bono legal work which has been approved by the Board pursuant to Board Rules § 1-13(c), which approval would permit the limited use of City time, resources, and facilities but not letterhead; (2) use or attempt to use

their City positions to obtain a benefit for themselves or their clients; (3) disclose or use confidential City information; (4) work on City-related matters on behalf of outside clients (or, for part-time public servants, work on agency-related matters); (5) represent private interests in litigation against the City (or, for part-time public servants, against their City agencies); and (6) provide legal services to a superior or subordinate.

In addition, for outside compensated practice, it will violate Chapter 68 for an attorney to represent, on any matter, a client that has business dealings with the City (or, for part-time public servants, with their agencies), absent a Board waiver. In contrast, it will not violate Chapter 68 for public servants to provide outside uncompensated legal services to a client that has business dealings with the City, provided that: 1) the public servant is not involved in such City matters; 2) the client has no business dealings with the public servant's agency; and 3) all work is done without the use of City time or resources (again, except where there Board has approved pro bono work pursuant to Board Rules § 1-13(c)).

It is not a violation of Chapter 68 for a public servant to engage in otherwise permitted outside legal work without written approval from or notice to his or her City agency. To the extent that Advisory Opinion No. 91-7 may be read to mandate such approval or notice, even where not required by Charter Section 2604(e), it is overruled.

In addition to the requirements of Chapter 68, some City agencies have set stricter rules regarding the outside practice of law.

**CUMULATIVE INDEX TO ADVISORY OPINIONS  
BY CHARTER SECTION  
1990-2001**

<u>CHARTER §</u>	<u>OPINION #</u>				
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2601(5)	90-4 92-4 00-02	90-5 92-7 01-03	90-6 92-14	91-3 93-21	91-15 98-1
2601(6)	91-3	94-18			
2601(8)	90-1 93-7	90-2 94-27	90-3 95-11	92-5 98-2	92-7 00-04
2601(11)	90-1 93-1 94-6 99-6	91-2 93-3 94-10	92-11 93-5 94-13	92-16 93-17 95-26	92-31 94-1 98-5
2601(12)	90-2 93-3 94-1 95-26	92-7 93-7 94-6 98-7	92-22 93-17 94-8 99-6	92-31 93-22 94-18 01-03	92-34 93-29 95-18
2601(15)	91-8 92-38	92-5 93-12	92-17 94-5	92-32	92-36
2601(16)	90-1 92-9 94-10 95-21	91-2 93-7 94-13 97-3	92-5 93-17 94-18 98-2	92-6 93-22 95-10 98-3	92-7 94-3 95-18 98-5
2601(17)	93-8	93-12	95-23	00-02	

<u>CHARTER §</u>	<u>OPINION #</u>				
2601(18)	91-14 92-30 93-22 98-8	92-5 93-5 93-29 99-6	92-6 93-7 94-6 01-03	92-7 93-16 98-5	92-9 93-17 98-7
2601(19)	90-7 93-10 (Revised) 98-7	91-2	91-3 93-29	91-12 94-6	93-7 98-5
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2603(c)(3)	92-6	92-9			
2604(a)	91-2	92-7	92-22		
2604(a)(1)	90-1	91-14	98-8		
2604(a)(1)(a)	91-2 93-3 93-19 95-8 98-5	91-3 93-7 93-22 95-12 98-7	92-5 93-10 (Revised) 93-29 95-18 01-03	92-31 93-32 95-26	93-2 93-17 94-6 96-4
2604(a)(1)(b)	90-2 92-30 93-10 (Revised) 94-1 94-13 94-26 95-11 95-25 98-3 00-01	91-7 92-34 94-3 94-16 94-27 95-15 95-26 98-5 01-03	92-6 92-35 93-16 94-8 94-18 95-3 95-16 96-2 98-7	92-9 93-4 93-20 94-10 94-20 95-8 95-17 97-3 99-2	92-11 93-27 94-11 94-25 95-10 95-21 98-2 99-6
2604(a)(3)	92-5 93-7 94-8 95-26	92-6 93-22 94-11 97-3	92-9 93-27 94-13 98-2	92-11 94-1 94-20 98-3	92-35 94-3 95-21

<u>CHARTER §</u>	<u>OPINION #</u>				
2604(a)(4)	92-5 93-7 94-8 95-26	92-6 93-22 94-11 97-3	92-9 93-27 94-13 98-2	92-11 94-1 94-20 98-3	92-35 94-3 95-21
2604(a)(5)(b)	91-14				
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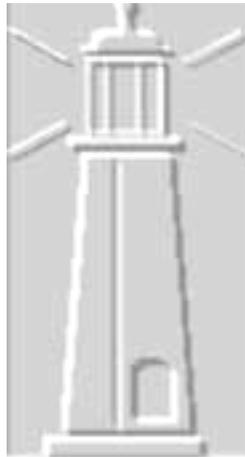
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# **ENFORCEMENT CASES**

## **SUMMARIES**



## SUMMARIES OF ENFORCEMENT CASES 1990-2001

### Misuse of Office

In April of 1996, in the case of the former City Comptroller, Elizabeth Holtzman, after a full trial on the merits, the Board fined Ms. Holtzman \$7,500 (of a maximum \$10,000) for violating section 2604(b)(3) of the City Charter (prohibiting use of public office for private gain). The Board also found that she had violated section 2604(b)(2) (prohibiting conduct that conflicts with the proper discharge of official duties) with respect to her participation in the selection of a Fleet Bank affiliate as a co-manager of a City bond issue when she had a \$450,000 loan from Fleet Bank to her United States Senate campaign, a loan she had personally guaranteed. Significantly, in a landmark ruling, the Court of Appeals, New York State's highest court, upheld the Board's reading of the high standard of care applicable to public officials and rejected the asserted lack of actual knowledge of business dealings as a defense to ethics charges: "A City official is chargeable with knowledge of those business dealings that create a conflict of interest about which the official 'should have known.'" The Court also found that Ms. Holtzman had used her official position for personal gain by encouraging a "quiet period" that had the effect of preventing Fleet Bank from discussing repayment of her Senate campaign loan. The Court held: "Thus, she exhibited, if not actual awareness that she was obtaining a personal advantage from the application of the quiet period to Fleet Bank, at least a studied indifference to the open and obvious signs that she had been insulated from Fleet's collection efforts." Finally, the Court held that the Federal Election Campaign Act does not pre-empt local ethics laws. This was the Board's first full-blown trial, and it took eleven days. There were 2,000 pages of testimony, 150 trial exhibits, and more than 15 witnesses. *COIB v. Elizabeth Holtzman*, COIB Case No. 93-121 (1996), *aff'd*, 240 A.D.2d 254, 659 N.Y.S.2d 732 (1st Dep't 1997), *aff'd*, 91 N.Y.2d 488, 673 N.Y.S.2d 23, 695 N.E.2d 1104 (1998).

In another case, the Board fined Kerry Katsorhis, former Sheriff of the City of New York, \$84,000 for numerous ethics violations. This is the largest fine ever imposed by the Board. The Office of Administrative Trials and Hearings Administrative Law Judge ("ALJ") found that it was

appropriate for the former Sheriff to forfeit 80% of the \$103,000 salary the City had paid him for the year he was Sheriff because his “improper activities cost the City money, in personnel time (his own and his secretaries’) and in supplies.” The ALJ found: “The full extent of respondent’s abuse of his office, and the consequent financial cost to the City cannot be determined because of respondent’s failure to cooperate with the investigation. However, the record of court appearances, phone calls, meetings, correspondence and court submissions shows a considerable amount of respondent’s time was devoted to his private employment activities during what are normal City working hours.” The fine was collected in full in December 2000. Katsorhis habitually used City letterhead, supplies, equipment, and personnel to conduct an outside law practice. He had correspondence to private clients typed by City personnel on City letterhead during City time and mailed or faxed using City postage meters and fax machines. Katsorhis also endorsed a political candidate using City letterhead and attempted to have the Sheriff’s office repair his son’s personal laptop computer at City expense. Katsorhis also attempted to have a City attorney represent one of Katsorhis’ private clients at a court appearance. In 2000, the New York State Supreme Court Appellate Division, First Department, twice dismissed as untimely perfected a petition to review the Board’s decision, and the New York Court of Appeals dismissed as untimely a motion seeking leave to appeal the Appellate Division’s orders. Accordingly, all appeals have been exhausted and the Board decision stands. The record in this case exceeded 6,000 pages. *COIB v. Kerry J. Katsorhis*, COIB Case No. 94-351 (1998), *appeal dismissed*, M-1723/M-1904 (1<sup>st</sup> Dep’t April 13, 2000), *appeal dismissed*, 95 N.Y.2d 918, 719 N.Y.S.2d 645 (Nov. 21, 2000).

In *COIB v. Lawrence King*, COIB Case No. 98-508 (2001), the Board fined a Deputy Chief Engineer for Roadway Bridges at the Department of Transportation (“DOT”) \$1,000 for asking several DOT contractors to place advertisements in a fundraising journal the proceeds of which would help financially support the hockey club on which his sons play. Eight of the DOT contractors that Mr. King solicited purchased ad space for a total contribution of about \$975. As a DOT employee, Mr. King worked on matters relating to these contractors and supervised DOT employees who worked with these contractors. Mr. King stated: “I made an error in judgment by seeking and obtaining donations from contractors whose profits

I could affect in my City job. I represent that there was no *quid pro quo* for the donations.”

In *COIB v. Jason Turner*, COIB Case No. 99-200 (2000), the Board fined Human Resources Administration (“HRA”) Commissioner Jason Turner \$6,500 for hiring his business associate, Mark Hoover, as First Deputy Commissioner of HRA, without seeking or obtaining a waiver from the Board, using his Executive Assistant to perform tasks for Turner’s private consulting company, as well as for using his City title on a fax cover sheet (on one occasion inadvertently), using City time, phone, computer, and fax machine for his private consulting work, and renting an apartment for over a year from his subordinate, First Deputy Commissioner Hoover. These acts violated rules intended to eliminate coercion and favoritism in government and to prevent misuse of government workers and equipment for personal gain.

The Board also fined HRA First Deputy Commissioner Mark Hoover \$8,500 for leasing his own apartments to five of his HRA subordinates and to HRA Commissioner Jason Turner, for using an HRA subordinate to perform private, non-City work for him, and for using his official position to arrange for the state of Wisconsin to loan an employee to HRA and then housing that visiting consultant in his own apartment and charging and receiving \$500 for the stay, for which the City ultimately paid. Hoover also admitted using City equipment in furtherance of his private consulting business. *COIB v. Mark Hoover*, COIB Case No. 99-200 (2000). This fine was the largest settlement fine ever obtained by the Board. Like Commissioner Turner, Mr. Hoover violated rules intended to eliminate coercion and favoritism in government and to prevent misuse of government workers and equipment for personal gain.

In a summary judgment based upon stipulated facts and the report and recommendation of an Administrative Law Judge of the Office of Administrative Trials and Hearings, the Board fined a community board member \$4,000 for voting on a matter involving real property which he and his siblings owned. Because a vote expressing the community’s preference for land use “may result” in a personal and direct economic gain to the community board member, such votes are not permitted. The Board ruled that the language “may result” in the relevant City Charter provision means even a possibility greater than zero. The member may even retain the financial interest and discuss the matter, but is not allowed to vote. *COIB v.*

*Basil Capetanakis*, COIB Case No. 99-157 (2001). This case was the first one in the Board's history that resulted in a summary judgment (eliminating the need for trial in the absence of any genuine issues of material fact). Respondent has appealed the decision.

A member of the New York City Housing Authority, Kalman Finkel, was fined \$2,250 for using his office to help obtain a computer programmer's job for his daughter with Interboro Systems Corp., a company with a \$4.3 million contract with the Housing Authority. Two weeks after faxing to Interboro his daughter's resume, Mr. Finkel voted to increase Interboro's contract with the Authority by \$52,408. Mr. Finkel said the vote was inadvertent and that he did not realize that Interboro was the same firm to which he had sent his daughter's resume. Interboro hired Mr. Finkel's daughter. *COIB v. Kalman Finkel*, COIB Case No. 99-199 (2001).

The Board fined a former attorney from the City Commission on Human Rights ("CHR") \$2,000 for investigating a discrimination case involving her mother and recommending agency action (a finding of probable cause to believe that her mother had suffered discrimination), without disclosing the familial relationship to her supervisors. The Board strongly disapproved of the use or misuse of prosecutorial discretion in favor of a family member. *COIB v. Marisa Rieue*, COIB Case No. 2000-5 (2001).

In *COIB v. Frances T. Vella-Marrone*, COIB Case No. 98-169 (2000), the Board fined Frances T. Vella-Marrone, a former School Construction Authority official, \$5,000 for using her position to obtain a job for her husband at her agency and for attempting to obtain a promotion for him in 1996 and 1997. A 16-year-old girl was killed on January 9, 1998, in the area where Marrone's husband had removed a security fence at a public school construction site in Brooklyn. Mr. Marrone had not been supervisor on that site in the three months prior to the accident.

In a three-way settlement, the Board and the New York City Department of Transportation ("DOT") suspended, demoted to a non-supervisory position with a \$1,268 annual pay cut, and fined a City parking official \$2,500 for using his position to solicit a subordinate to marry his daughter in Ecuador and for repairing the cars of subordinates for compensation. Moran was also placed on probation for two years, during which time he is ineligible for promotions or salary increases. In addition, Moran can be terminated summarily if he violates the DOT code of conduct

or the conflicts of interest law again. This is a "two strikes" provision originally developed in the *McGann* case, noted below. *COIB v. Milton Moran*, COIB Case No. 99-51, OATH Index No. DOT-012261 (2001). A court challenge by Mr. Moran of the settlement was dismissed by the New York State Supreme Court on November 5, 2001, Index No. 118741/01 (DeGrasse, J.).

In a joint agreement with the Board of Education ("BOE"), an interim acting principal was fined \$4,000 and admitted that she had asked school aides to perform personal errands for her on school time. Specifically, she asked them to go to a New York City Marshal's Office to deliver payment of a "scofflaw" fine that had been imposed on her car, and she asked several subordinate employees to deliver a loan application on her behalf. Those employees made these trips on City time. *In re Iris Denizac*, COIB Case No. 2000-533 (2001).

In January 1998, after a full trial, the Board imposed a \$1,000 fine on a former Assistant District Attorney who issued a false grand jury summons to a police officer to interfere with his scheduled testimony against the Assistant District Attorney's husband in traffic court on the same day. The Assistant District Attorney had previously been dismissed by the District Attorney's office. *COIB v. Nancy Campbell Ross*, COIB Case No. 97-76 (1997).

In *COIB v. John McGann*, COIB Case No. 99-334 (2000), a construction inspector from the Department of Buildings was fined \$3,000 for giving one of his private business cards to a homeowner at a site where this inspector had just issued six notices of violation. The inspector had written on his private business card the words, "ALL TYPES OF CONSTRUCTION ALTERATIONS," and he told the homeowner that he used to do construction work and could advise her on such work. The private business cards used by this inspector also contained his Department of Buildings pager number and the name "B.E.S.T. Vending Service." The inspector was required to cease using the name "B.E.S.T." in his private business because that name could be confused with the name of his City unit, the "B.E.S.T. Squad" (Building Enforcement Safety Team). He admitted violating sections 2604(b)(2) and (b)(3) of the Charter. This matter was a "three-way" settlement with the Board, the Department of Buildings, and the inspector. An innovative provision in this disposition was a "two strikes" provision, first used by the

Board in this case, in which the inspector agreed to summary termination in case of any further violation of the conflicts of interest law.

The Board fined a former housing inspector for working at a gas station in New Jersey at times when he was required to inspect buildings in New York. *COIB v. John Lizzio*, COIB Case No. 2000-254 (2000). The fine was \$250, which ordinarily would have been higher, but took into account the fact that inspector John Lizzio had agreed to resign from the City's Department of Housing Preservation and Development. This was the first prosecution of abuse of City time under the Board's Rule § 1-13, which prohibits City employees from engaging in personal and private activities on City time, absent approval from their agency head and the Board.

In the case of *In re Sara Pecker*, COIB Case No. 2000-322 (2000), the Board issued a public warning letter to the Traffic Safety Director, Sara Pecker, of the Queens Borough President's Office ("QBPO"). Ms. Pecker acted as one of three QBPO employees who voted to select the winning bidder (of two bidders responding) on a QBPO request for proposals ("RFP") dated September 22, 1999. At the time of her vote, Ms. Pecker knew that one of the bidders (who later won the bid unanimously) had entered into a barter relationship in April of 1998 with Ms. Pecker's husband, an attorney, to provide computer services in exchange for office space. Although it declined to bring an enforcement action, the Board wrote that the better practice under Charter § 2604(b)(2) would have been for Ms. Pecker to disclose her husband's business relationship and to offer to recuse herself from the selection process. This was so because the failure to disclose the family business relationship could have given rise to an appearance of impropriety and could have compromised Ms. Pecker's duty of undivided loyalty to the City. Ms. Pecker agreed to allow the Board to make the warning letter public.

In *COIB v. Christopher Sullivan*, COIB Case No. 98-288 (2000), a Tax Assessor working for the City's Department of Finance ("DOF"), assessed a residential building in Queens and noticed a vacant basement apartment. The apartment was not publicly advertised for rent. Several days after conclusion of the assessment, the inspector telephoned the landlord and asked to rent the apartment. The landlord rented the apartment to him. The assessor admitted that he violated the ethics laws by using his position to obtain a benefit for himself (*i.e.*, the apartment) that was not available to anyone else. He entered into a three-way settlement with the Board and the

DOF and paid a \$625 fine.

The Board fined Raymond Davila, a former employee of the City Commission on Human Rights, \$500 for using Human Rights letterhead, typewriters, and office facilities for his own private clients, in *COIB v. Raymond Davila*, COIB Case No. 94-82 (1999). Davila wrote four letters on behalf of his private clients on Commission letterhead to agencies such as the U.S. Veteran's Administration and a U.S. Consulate. He also listed his agency telephone number as the contact number on these letters. Finally, Davila admitted using his Human Rights office to meet with a private client during his City work hours to discuss the client's case and to receive payment from the client. Davila admitted violating Charter §§ 2604(b)(2) and (b)(3). The fine would ordinarily have been substantially higher, but reflected the fact that Davila is retired and ill and has very limited financial means.

In *COIB v. Naomi Rubin*, COIB Case No. 94-242 (1995), an administrative law judge from the City's Parking Violations Bureau admitted violating her official duties by adjudicating her father-in-law's parking tickets. The Board, however, imposed no fine because of the absence at the time of a Board rule identifying conduct prohibited by the "catch-all" section of the Charter, section 2604(b)(2), which prohibits transactions that conflict with the proper discharge of official duties. As of 1998, the Board has a rule, Board Rule § 1-13, which spells out the misuse of public office (such as use of City resources, like letterhead, for non-City purposes) sufficiently to allow the Board to issue fines for violating the general provision as amplified by the rule. Significantly, the rule also prohibits aiding and abetting a violation and holds officials liable for intentionally or knowingly "inducing" or "causing" another City official to violate the Charter.

The Board fined a City manager \$1,250 for conducting a part-time private printing business from his City office; the employee was also forced to retire and forfeit 24 days of accrued annual leave. The fine was worth \$5,000, including the forfeited leave time. *COIB v. Edmund Weinstein*, COIB Case No. 97-394 (1998).

The Board fined a Department of Buildings employee \$1,000 for using a City telephone for his private home inspection business. The employee, a City building inspector, had had business cards printed that showed that City telephone number. As a result of this case, he ceased the practice of using the phones and destroyed all the offending business cards. *COIB v. Rudolph Hahn*, COIB Case No. 98-102 (1998).

In *COIB v. Mildred Sass*, COIB Case No. 98-190 (1999), the Board found that the former Director of Administration of the Manhattan Borough President's Office used her position to authorize the hiring of her own private company and her sister's company to clean the Borough President's offices. Sass, who decided to forego a hearing, was fined \$20,000 and found to have violated the prohibitions against abuse of office for private gain and against moonlighting with a firm doing business with one's own City agency.

The Board fined Kevin McAuliffe, a former Press and Speech Aide in the Mayor's Office, \$2,500 in 1994 for using official City letterhead to contest a parking ticket. COIB Case No. 91-214.

The Board fined a former community board member \$200 for soliciting money from a church that was interested in acquiring land in the community board's area. Local community boards are set up to discuss and solve problems affecting their local areas. Their normal procedures do not involve the payment of money to community boards or their members for the acquisition of land. The fine would have been higher had the community board member not been under a severe financial hardship. *COIB v. Samuel Harvey*, COIB Case No. 97-368 (1998).

A former First Assistant Commissioner with the New York City Fire Department, Robert Ungar, admitted that he violated the Charter by identifying himself by his official title in seeking restoration of his personal electrical service with Con Edison, and that his conduct had created the appearance that he was using his position to obtain a personal advantage. COIB Case No. 90-383 (1992).

### **Gift Cases**

In 2000, the Board announced that it had rebuked former NYC Police Commissioner Howard Safir for accepting a free trip to the 1999 Academy Awards festivities in Los Angeles. Revlon was the donor of the trip, valued at over \$7,000. The Board defined for the first time the duties of high-level public servants to inquire about the business dealings of the donor. Because this was the first public announcement of this duty in the context of gifts, and the business dealings of Revlon were small and difficult to discover, the Board declined to charge Safir with violating the Board's Valuable Gift Rule, which prohibits public servants from accepting gifts valued at \$50 or more from persons they know or should know engage or intend to engage in

business dealings with the City. Safir repaid the cost of the trip. *Acceptance of Valuable Gift (Howard Safir)*, COIB Case No. 99-115 (2000).

The Board imposed a \$5,000 fine in 1995 on a former high-level City official, Ellen Baer, who interviewed for a job with a City bidder, Lockheed Information Management Services Company, Inc. (“Lockheed”), and accepted meals worth more than \$50 per year from Lockheed while working on the City matter involving Lockheed, without disclosing the receipt of those meals. COIB Case No. 93-282. In 1994, the Board fined Marvyn Bryson, a contract manager in the Parking Violations Bureau, \$500 for accepting meals from Lockheed worth more than \$50 in the aggregate without disclosing the receipt of those meals. COIB Case No. 93-282. In a case against a former Battalion Chief for Technical Services with the New York City Fire Department, *COIB v. John Morello*, COIB Case No. 97-247 (1998), the Board imposed a \$6,000 fine for the acceptance of valuable gifts of meals, theater tickets, and the free use of a ski condo from companies that had business dealings with the Fire Department and whose work the Chief had directly supervised.

### **Appearing as an Attorney Against the Interests of the City**

Board of Education employee Wilma Hill-Grier admitted that she appeared, for compensation, as an attorney on behalf of her private client, in a matter involving the City. In appearing on behalf of her client in a litigation in which the New York City Administration For Children’s Services was a party, she appeared against the interests of the City. Hill-Grier made five appearances before Family Court and Criminal Court on her client’s behalf. The City’s Charter and the Board’s Rules prohibit public servants from appearing on behalf of private interests in matters involving the City and appearing against the interests of the City in any litigation to which the City is a party. Hill-Grier was fined \$700. *COIB v. Wilma Hill-Grier*, COIB Case No. 2000-581 (Nov. 16, 2001).

### **Resume Cases**

In *COIB v. Sergio Matos*, COIB Case No. 94-368 (1996), a Department of Environmental Protection (“DEP”) project manager admitted that he violated the City Charter by sending his resume to a City contractor while he was directly concerned with that contractor's particular matter with the City and had recommended that contractor for a \$10 million dollar City contract.

Mr. Matos was not even interviewed for the private job. The Board issued a \$1,000 fine. In the *Baer* matter noted above, the former Chief of Staff to a Deputy Mayor solicited a job with Lockheed at a time when various City agencies were engaged in developing a request for proposals in which Lockheed was interested and involved as a prospective bidder, and Ms. Baer was involved in that City matter. COIB Case No. 93-282.

### **Moonlighting**

The Board fined a firefighter \$7,500 for unauthorized moonlighting with a distributor of fire trucks and spare parts to the Fire Department. As part of the settlement, the firefighter agreed to disgorge income from his after-hours job, and the vendor, in effect, funded the settlement. *COIB v. Wayne Ludewig*, COIB Case No. 97-247 (1999). *See also Matter of David C. Begel*, COIB Case No. 96-40 (1996) (former spokesman for the Chancellor of the Board of Education was found to have a prohibited interest in a firm engaged in business dealings with the City, but no penalty was imposed because of mitigating circumstances). In *Matter of Nicholas Quennell*, COIB Case No. 97-60 (1997), a former Art Commission President who inadvertently failed to recuse himself from Commission matters involving his architecture firm was fined \$100.

A Parks Department employee, Albert Peterson, was fined \$1,500 in a settlement, for using his City position to attempt to obtain City park permits for a private not-for-profit firm called Sportsworld. Mr. Peterson directed basketball programs for the Parks Department and filed five permit applications for basketball courts with the Department on behalf of Sportsworld. These filings are considered business dealings under the conflicts of interest law because the award of these permits is discretionary. Mr. Peterson admittedly made inquiries with the Parks Department, his own City agency, about the status of the permit applications he had filed on behalf of his private organization and also used his position to solicit fellow Parks Department employees to join Sportsworld. *COIB v. Albert Peterson*, COIB Case No. 97-173 (2001).

The Board issued a public warning letter to an Assistant Civil Engineer at the Department of Transportation (“DOT”) who inspected bridges for DOT, including the Williamsburg Bridge. He accepted a position with a sub-consultant on a DOT contract involving inspections of that bridge. He worked for the sub-consultant during four weeks of vacation

from DOT. Although he claimed he did not know that his second employer had business dealings with the City, the Board stated that he should have known of those dealings and should not have taken the job. He resigned upon learning that the matter on which he was working for the private employer was a DOT contract. There was no fine and Mr. Ayo agreed to publication of the Board's letter. *In re Michael Ayo*, COIB Case No. 99-461 (2001).

The Board fined a teacher \$1,500 for owning and operating a tour company that arranged tours for Board of Education schools, including the school where he taught. The tours had been operated with the approval of the school's principal, and the teacher sold his interest in the tour company in March of 1999. *In re Walter Steinhandler*, COIB Case No. 2000-231 (2001).

The Board issued a public warning letter to Louis Abramo, in which the Board reminded public servants who are licensed plumbers that they may file with the Department of Buildings ("DOB") Plumbing Alteration and Repair Slips, which involve minor plumbing jobs, but not Plumbing Affidavits, involving major repairs in connection with building permits, unless they first obtain waivers from the Conflicts of Interest Board. *In re Louis Abramo*, COIB Case No. 2000-638 (2001).

The Board fined Bert Camarata, a former Department of Employment ("DOE") Program Manager, \$1,000 for moonlighting with a firm that had business dealings with DOE. Although on leave from their City jobs, City employees are bound by the Charter's conflicts of interest provisions. While on sick leave from DOE, Mr. Camarata took a job with a contractor to DOE. Because he repeatedly changed his separation date, Mr. Camarata received twice the sick leave payments he would have received had he resigned his job at DOE on the date he originally agreed to do so. *COIB v. Bert Camarata*, COIB Case No. 99-121 (2001).

In *COIB v. Michael Cioffi*, COIB Case No. 97-247 (1998), the Board fined a City firefighter \$100 for working part-time without permission for a company that supplies the Fire Department with equipment. In *Cioffi*, mitigating factors, including financial hardship, affected the size of the fine. See also *COIB v. David Carlin*, COIB Case No. 99-250 (2000), where a sewage treatment worker at the Department of Environmental Protection ("DEP") entered into a three-way settlement with COIB and DEP in a case

where he admitted using DEP equipment to service a private wastewater facility where he was moonlighting and agreed to pay an \$800 fine.

### **Revolving Door**

The Board fined a former Resident Engineer of the Department of Citywide Administrative Services \$3,000 for consulting for pay for a private firm on the same City project on which the engineer had worked personally and substantially as a City employee. The engineer had been in charge of the project -- the renovation of the Manhattan Criminal Court building -- and then crossed over to the private sector on the same project. The Board also fined him \$100 for failing to file his financial disclosure report on time. This was the first reported enforcement case on the lifetime ban against appearing before the City on the same project, involving the same parties, that one had worked on while with the City. *COIB v. Vincent Fodera*, COIB Case No. 96-404 (1998). The Board fined the former Deputy Agency Chief Contracting Officer ("ACCO") of the Department of Transportation ("DOT") \$1,500 for violating the revolving door rules. Within two weeks of leaving City office for a firm that sought business with DOT, Egidio Paniccia phoned his former supervisor, the DOT ACCO, and the Mayor's Office of Contracts and asked whether a contract had been awarded to his new employer, the GA Group, Inc. This violated both the one-year ban on contacting one's former City agency on non-ministerial matters and the lifetime ban on appearing before the City on the same particular matter one worked on for the City. *COIB v. Egidio Paniccia*, COIB Case No. 99-511 (2000).

### **Superior-Subordinate**

The Board also fined a Deputy Commissioner of the City Human Rights Commission \$1,500 for subleasing an apartment from a subordinate attorney and for using City equipment in the private practice of law. *COIB v. Randolph Wills*, COIB Case No. 95-45 (1998). In *COIB v. Marilyn Ross*, COIB Case No. 97-225 (1997), an assistant principal of a City school was fined \$1,000 for borrowing \$1,000 from a subordinate teacher in the first "three-way" disposition among the Conflicts of Interest Board, a City official, and the agency employing her, the Board of Education. *See also COIB v. Jason Turner*, COIB Case No. 99-200 (2000) and *COIB v. Mark Hoover*, COIB Case No. 99-200 (2000), in which the fines of \$6,500 and \$8,500, respectively, encompassed admissions concerning rental of apartments by a

First Deputy Commissioner to his superior, the Commissioner, and to five HRA subordinates. And in *COIB v. Ivan Rosenberg*, COIB Case No. 99-358 (2000), a manager at the Department of Information Technology and Telecommunications settled a case in which he admitted purchasing a computer from his subordinate for \$1,350. The ethics law prohibits superiors and subordinates from entering into business transactions. The manager agreed to settle the case by paying a \$1,000 fine.

In a settlement between the New York City Department of Correction (“DOC”) and Ronald Jones, a DOC Program Specialist, Mr. Jones admitted violating the City Charter by selling t-shirts and promoting his side business (sales of essential oils and perfumes) to his City subordinates. Mr. Jones forfeited five vacation days. *In re Ronald Jones*, COIB Case No. 98-437 (2001).

The Board fined William Ubinas, then Superintendent of Community School District 1, \$500 for asking a subordinate to guarantee personally the lease for the Superintendent’s rental apartment in Manhattan. COIB Case No. 91-223 (1993).

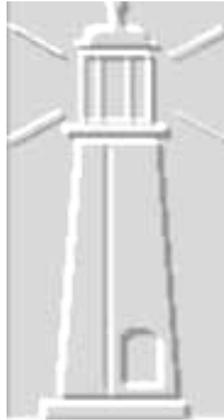
### **Political Activities**

The Board resolved a political activities claim in a three-way disposition among a school principal, the Conflicts of Interest Board, and the Board of Education in *COIB v. Serge Rene*, COIB Case No. 97-237 (2000). In *Rene*, the Conflicts of Interest Board fined a former principal of P.S. 72 \$2,500 for selling tickets to a political fundraiser to a subordinate teacher during school hours and on school grounds, in violation of Charter § 2604(b)(11)(c), which prohibits a superior from even requesting subordinates to make campaign contributions. This case exemplifies the Board’s efforts to resolve cases in “three-way” settlements, among the City official facing departmental charges and Board claims of Charter violations, the Board, and the agency employing the official. Among the benefits of this approach is that it provides finality for the City official and the City employer, and fosters consistent oversight by the Board of agencies’ treatment of conflicts of interest cases.

The Board fined Cultural Affairs Commissioner Schuyler Chapin \$500 for holding a political fundraiser in his home for Fran Reiter, then a candidate for Mayor, and inviting guests who had business dealings with his agency or the City. *COIB v. Schuyler Chapin*, COIB Case No. 99-500

(2000). The fine took into account that Commissioner Chapin believed he had sought legal advice and been advised incorrectly that the fundraiser was legal. Agency heads are not permitted to request any person to make political contributions to any candidate for elective office of the City.

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