

Ethics lights the way
to good government

The Ethical Times

A Publication of the New York City Conflicts of Interest Board



Investments

by
Rob Casimir

Question: *I was recently offered a position at a City agency. While I am interested in accepting this position, I've heard that there are limits for City employees who want to hold an ownership interest in companies that do business with the City. I inherited from my grandmother \$50,000 of stock in a large corporation that has a few City contracts. Can I keep my stock and still work for the City?*

Answer: While the answer will depend on the amount and type of stocks you own, in general there is plenty of room for most City employees to invest in the stock market. But before answering your question, let's provide some background:

One of the primary purposes of an ethics law is to reinforce the idea that a *public servant* is exactly that: when he or she acts in an official capacity, it is with the intent to further the *public* interest – not boost the value of a private investment. The City's conflicts of interest law lays out clear restrictions on the interests and conduct of a City employee at this crucial intersection between private ownership and public trust.

To start, the conflicts of interest law contains language that prohibits City employees from possessing an "ownership interest" in *any* firm that does *any* business with *any* City agency. For the purposes of this law, "ownership" is defined as:

- A) Owning more than 5% of a firm (in assets or debt);
- B) Owning investments in a firm (*e.g.* stock) valued at \$44,000 or more; or
- C) Possessing an ownership interest *of any value* while operating the firm.

Furthermore, in cases where the ownership interest is maintained by the public servant's domestic partner, spouse, or unemancipated child, these interests are imputed to the public servant and treated as their own.

If your stock ownership rises to the level of a prohibited ownership interest as described above, you should consult the Board for more guidance. Sometimes, you will have to sell or give away the prohibited interest, or place the interest into a blind trust, within ten days of beginning your City employment. However, there's another option: with the approval of your agency head, you may be able to seek an Order from the Board allowing you to keep your stock holdings. The Board reviews each request for an Order individually and, in some cases, the Board allows public servants to keep otherwise prohibited interests, provided no real conflict is found and the public servant recuses himself or herself from all future matters involving the firm.

However, even in cases where your ownership interest is not "prohibited," the law may still require additional action:

1) If your investment in a firm doing business with the City is valued between \$10,000 and \$44,000, you must completely recuse yourself from any City matters related to your holding.

2) If your investment in a firm doing business with the City is valued at less than \$10,000, you do not need to recuse yourself from City matters relating to the investment, but you must disclose your holding to the Board before you take any action involving the firm.

Now, to answer your specific question: it would seem that your possession of an investment valued at \$44,000 or greater in a firm with business dealings with the City of New York would create a conflict of interest. However, all is not lost: the final provision regarding ownership interests states that, in cases where the ownership interest is publicly traded, which sounds likely if the firm is as large as you suggest, the barometer for a conflict of interest shifts from firms with "business dealings with the City" to only those firms with "business dealings with the public servant's own agency." As long as the firm does not do business with the agency that extended to you an offer of employment, these holdings (though over the traditional threshold) would not constitute a "prohibited interest." If that's the case, you may retain the stock.

To find more information about investments and their role in the City's ethics law, or to ask a question about any other potential conflicts of interest topic, call the Conflicts of Interest Board at (212) 442-1400 and speak to the Attorney of the Day. The agency can also be reached through the website (www.nyc.gov/ethics) under the "Contact Us" tab. Remember, all calls and e-mails are strictly confidential, so if you are ever in doubt: just ask.

*Rob Casimir is a Trainer at the
New York City Conflicts of Interest Board

Recent Enforcement Cases

▶ The Board reached a settlement with a Lieutenant-in-Charge of the FDNY EMS Emergency Vehicle Operation Course training program, who worked for FAAC, Inc., a firm engaged in business dealings with FDNY, while employed by FDNY. In 2006, the former Lieutenant-in-Charge submitted to FDNY a written request for an outside employment waiver from the Board so that he could perform part-time consulting work for FAAC. FDNY denied the former Lieutenant-in-Charge's waiver request and informed him that his proposed employment with FAAC would be in direct conflict with his FDNY duties. Despite the denial of his waiver request, the former Lieutenant-in-Charge began working for FAAC as a consultant in 2007, and continued until his retirement in 2009. For these violations, the former Lieutenant-in-Charge agreed to pay a \$7,000 fine to the Board.

▶ The Board issued a public warning letter to a DOE Principal for asking a subordinate School Aide to transport

the Principal's son from the son's school to their school on three separate occasions.

▶ The Board issued a public warning letter to a DOE Teacher for disclosing confidential information in a self-published book. The Teacher disclosed the names of fifteen former students, none of which she had the approval to use.

▶ The Board and DEP reached a joint settlement with an Accountant who, during his DEP work hours, used his DEP email account and DEP computer to send emails pertaining to his private tax preparation business from his private email address to his DEP email address. The Accountant then used the information in the emails to work on his clients' tax returns using his DEP computer. The Accountant also used his DEP telephone to place calls to the Electronic Federal Tax System in order to conduct business on behalf of his tax preparation clients. The Accountant also gave the number for a DEP fax machine to his tax preparation clients and used this fax machine to receive documents faxed to him by his clients. For these violations, the Accountant agreed to pay a \$2,000 fine to the Board.

▶ The Board and DOHMH concluded a joint settlement with a City Research Scientist in the Bureau of STD Prevention and Control who, as part of her official DOHMH duties, had access to two confidential DOHMH databases that receive, track, and store data concerning STD infections from medical providers and clinical laboratories in New York City. The City Research Scientist downloaded and used confidential information from these databases to complete an assignment in furtherance of her graduate studies. The City Research Scientist did not dis-

close any confidential information from these records. For this violation, the City Research Scientist agreed to pay a \$750 fine to the Board and a \$750 fine to DOHMH, for a total financial penalty of \$1,500.

*Interested in more information?
Get in touch with COIB's Training &
Education Unit to arrange a class in
Chapter 68 for you and your staff.
Contact Alex Kipp, Director of
Training, at kipp@coib.nyc.gov*

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