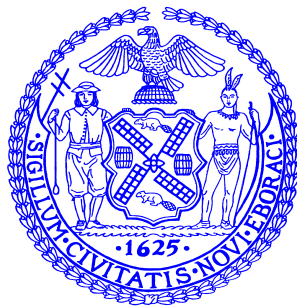


CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD

ANNUAL REPORT

2009



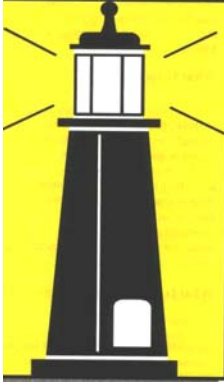
Steven B. Rosenfeld
Chair

Monica Blum
Angela Mariana Freyre
Andrew Irving
Burton Lehman
Members

Mark Davies
Executive Director

2 Lafayette Street
New York, New York 10007

<http://nyc.gov/ethics>



ETHICS LIGHTS THE WAY TO GOOD GOVERNMENT

<http://nyc.gov/ethics>

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

TABLE OF CONTENTS

	<i>Page</i>
Introduction.....	5
1. Members and Staff of the Conflicts of Interest Board.....	6
2. Training and Education.....	7
3. Requests for Guidance and Advice.....	11
4. Administrative Rules.....	18
5. Enforcement.....	18
6. Financial Disclosure.....	25
7. Budget, Administration, and Information Technology.....	31
8. Budget Protection and Other Proposed Amendments to Chapter 68.....	31
Exhibits and Appendices.....	33
Exhibit 1: Conflicts of Interest Board: 1993, 2001, 2008, 2009.....	34
Exhibit 2: Members, Staff, and Former Members of the Conflicts of Interest Board.....	37
Exhibit 3: Training and Education Classes on Chapter 68.....	39
Exhibit 4: COIB Training Classes by Agency.....	40
Exhibit 5: Legal Advice Workload: 1993 to 2009.....	41
Exhibit 6: Written Requests for Advice on Chapter 68.....	42

	<i>Page</i>
Exhibit 7: Written Responses to Requests for Advice on Chapter 68.....	43
Exhibit 8: Chapter 68 Enforcement Cases.....	44
Exhibit 9: Enforcement Workload: 1993 to 2009.....	45
Exhibit 10: Enforcement Fines Imposed: 1993 to 2009.....	46
Exhibit 11: Financial Disclosure Reports.....	60
Exhibit 12: Intro 782-A: Amendments to NYC Ad. Code § 12-110.....	61
Advisory Opinions and Enforcement Cases of the Board – Summaries and Indexes.....	74
Advisory Opinion Summaries (2009).....	75
Cumulative Index to Advisory Opinions by Charter Chapter 68 Section – 1990-2009.....	84
Cumulative Index to Advisory Opinions by Subject – 1990-2009.....	91
Enforcement Case Summaries (2009).....	98

INTRODUCTION

2009 marked a half-century in which the New York City Conflicts of Interest Board (“COIB” or “the Board”) and its predecessor agency, the Board of Ethics, have been administering, interpreting, and (in the case of the COIB) enforcing the ethics laws applicable to the more than 300,000 current public servants of the City of New York and all former City employees. In August 2009, pursuant to its statutory mandate, the Board issued a comprehensive report proposing extensive amendments (summarized in Section 8 below) to the Conflicts of Interest Law, on which it hopes to see legislative action in 2010.

The COIB was created in 1990 by Chapter 68 of the revised City Charter, which contains the City’s Conflicts of Interest Law (http://www.nyc.gov/html/conflicts/downloads/pdf2/bluebook_1-07_final.pdf). That law, together with the Lobbyist Gift Law enacted in 2006 as sections 3-224 through 3-228 of the New York City Administrative Code, vests in the Board four broad responsibilities: (1) training and educating City officials and employees about Chapter 68's ethical requirements and the City’s Lobbyist Gift Law; (2) interpreting Chapter 68 and the Lobbyist Gift Law through issuance of formal advisory opinions, promulgation of rules, and responses to requests for advice and guidance from current and former public servants and lobbyists; (3) prosecuting violators of Chapter 68 and the Lobbyist Gift Law in administrative proceedings; and (4) administering and enforcing the City's Financial Disclosure Law contained in section 12-110 of the New York City Administrative Code (http://www.nyc.gov/html/conflicts/downloads/pdf2/Local_Law_14.pdf).

This Report reviews the Board's accomplishments during 2009, as summarized in Exhibit 1 to this Report, under each of the following headings: (1) members and staff of the Board; (2) training and education; (3) requests for guidance and advice; (4) administrative rules; (5) enforcement; (6) financial disclosure; (7) budget, administration, and information technology; and (8) budget protection and other proposed amendments to Chapter 68.

1. MEMBERS AND STAFF OF THE CONFLICTS OF INTEREST BOARD

Appointed by the Mayor with the advice and consent of the City Council, the Board's five members serve staggered six-year terms and are eligible for reappointment to one additional six-year term. Under the City Charter, the members must be selected on the basis of their "independence, integrity, civic commitment and high ethical standards."

The Board's Chair is Steven B. Rosenfeld, of counsel to the law firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP. He was appointed to the Board in May 2002 to an initial term expiring March 31, 2008, and was named Chair in June 2002.

Angela Mariana Freyre, Senior Vice President and Deputy General Counsel of The Nielsen Company, was appointed to the Board in October 2002 and reappointed in March 2005 to a term expiring March 31, 2010.

Monica Blum, President of the Lincoln Square Business Improvement District, was appointed to the Board in August 2004 and reappointed in October 2006 to a term expiring on March 31, 2012.

Andrew Irving, Senior Vice President and General Counsel of Independent Fiduciary Services, Inc., was appointed to the Board in March 2005 to an initial term expiring on March 31, 2010.

Burton Lehman, of counsel to the law firm of Schulte Roth & Zabel LLP, was appointed to the Board in July 2009 to a term expiring on March 31, 2012. Mr. Lehman replaced Kevin B. Frawley, who resigned from the Board as the result of job relocation.

A list of the present and former members of the Board may be found in Exhibit 2 to this Report.

The Board's staff of 20 is divided into six units: Training and Education, Legal Advice, Enforcement, Financial Disclosure, Administration, and Information Technology. The staff, also listed in Exhibit 2, is headed by the Executive Director, Mark Davies.

2. TRAINING AND EDUCATION

Section 2603(b)(1) of the Conflicts of Interest Law directs that the Board “shall develop educational materials regarding the conflicts of interest provisions . . . and shall develop and administer an on-going program for the education of public servants regarding the provisions of this chapter.” That is the responsibility of the Board’s Training and Education Unit.

Training Sessions

In 2009 the Unit conducted 286 classes and undertook several training initiatives. The number of classes taught in 2009 was significantly lower than the record-breaking 535 classes taught in 2008. The decrease resulted from the fact that the Unit functioned with an effective staff of one for most of 2009. In comparison, in 2000, when the Unit taught 377 classes, it had a staff of three full-time trainers, one part-time trainer, and one administrative associate. Thus, last year, even with a small staff, the Unit was more than twice as productive as in 2000.

For an effective staff of one it was quite a busy year. The Unit trained the entire staffs of some agencies, including the Civilian Complaint Review Board, Commission on Human Rights, Department of Buildings, Department of Cultural Affairs, Financial Information Services Agency, Hudson Yards Development Corporation, Independent Budget Office, Landmarks Preservation Commission, Public Advocate’s Office, and Taxi & Limousine Commission. The Unit also maintained its outreach to community board members across the City, especially new community board members. Training at the Department of Education continued, with a total of 33 classes. In all, as summarized in Exhibit 4 to this Report, during 2009 the Unit presented classes at 50 City agencies and offices, reaching approximately 10,377 City employees.

The Board’s classes are interactive and engaging, explaining the basis and requirements of the law in plain language and letting public servants know how they can get answers regarding their specific situations. The sessions, often tailored to the specific agency or employees, include games, exercises, and ample opportunities for questions. The feedback received from class participants continues to be overwhelmingly positive and usually quite enthusiastic.

In 2009, the Unit, together with the Board’s attorneys, conducted 32 Continuing Legal Education (“CLE”) classes, a requirement for attorneys in New York State. CLE courses were taught in various formats and in many agencies throughout the year, including a general two-hour course for City attorneys of various agencies; several shorter “Special Topics” classes; one class on “Hot Topics in Chapter 68,” hosted by the Law Department and open to attorneys from all City agencies, continuing a model begun in 2004; several classes for Assistant District Attorneys in Brooklyn and the Bronx; a series of classes for Administrative Law Judges at the Office of Administrative Trials and Hearings; and seven classes in Chapter 68 Enforcement geared to the disciplinary counsel of City agencies.

The Unit also sought and attained accreditation for a new specialized CLE course on Chapter 68 and Political Activities. This approval brings to six the accredited classes in the Unit’s CLE portfolio: a two-hour general course; a two-hour course on Chapter 68 Enforcement; three 90-minute courses, on Gifts, Post-Employment Restrictions, and Fundraising; and a one-hour course on Political Activity. Special thanks go to the attorneys of the Enforcement Unit for their assistance in developing the curriculum for the Enforcement class and for sharing teaching responsibilities. Thanks also go to the attorneys in the Legal Advice and Financial Disclosure Units for sharing teaching responsibilities in the other offerings.

The Unit continued its cooperation with the Department of Citywide Administrative Services in offering citywide CLE classes in Chapter 68, both general and specialized, sponsored by the Citywide Training Center. Board attorneys and the Training and Education Unit also continued to write materials on Chapter 68 for publication, including a monthly column, “Ask the City Ethicist,” in *The Chief-Leader* and the Board’s own newsletter, *The Ethical Times*. Internet and email have permitted virtually cost-free citywide distribution of the newsletter to general counsel and agency heads. Several agencies have reported that they distribute the newsletter electronically to their entire staff.

“Train the Trainer”

The Board has for many years sought to leverage its ability to train large numbers of public servants by training those in City agencies whose responsibilities include ethics training of their colleagues – a program called “Train the Trainer.” In support of the Board’s ongoing “Train the Trainer”

program, the Training and Education Unit continued in 2009 hosting its Brown Bag Lunch series, a monthly lunchtime discussion group that takes a closer look at specific aspects of the Conflicts of Interest Law. Participants included the training staffs of several agencies who are involved in teaching ethics, as well as attorneys who work directly with Chapter 68 issues at their agencies. CLE credit was offered at several of the Brown Bag sessions, as the Training Unit received accreditation for a number of courses.

Website, Publications, and Media Outreach

The Internet remains one of the most essential tools for Chapter 68 outreach. In 2009 the Board's website (<http://nyc.gov/ethics>) had 262,509 views. Maintenance of regular publications and improvement of the COIB website design continue, as the Training and Education Unit strives to make the site as accessible as possible both for those unfamiliar with Chapter 68 and for those who deal with it on a regular basis. This site includes frequently asked questions (FAQs), legal publications, plain language publications, interactive exercises, and an ever-growing list of links. In 2009, the Unit began an overhaul of both the content and format of all leaflets, a project that will be completed in 2010.

The Board continues to post new publications on its website, so that every Board publication, including the texts of Chapter 68, the Board's Rules, the Financial Disclosure Law, the Lobbyist Gift Law, and all COIB booklets and leaflets, is available to be downloaded from the website (<http://www.nyc.gov/html/conflicts/html/publications/index.shtml>), as well as from CityShare, the City's Intranet. Recent articles by Board attorneys and installments of "Ask the City Ethicist" have meant a significant increase in the number of publications available online.

The Training and Education Unit began work in 2009 with the Department of Information Technology and Telecommunications on several internet-related projects, including an overhaul of the website, the creation of a search engine of Board advisory opinions and enforcement dispositions, and the creation of an online interactive training program for public servants. The Board hopes that this program will greatly increase the number of public servants the Board can reach, potentially providing every public servant who has internet access with some exposure to Chapter 68.

In 2009 the Training and Education Unit also completed production of a new 30-minute training video and began incorporating it into training classes. Clips from the video will also be used in the online training program, and the complete video will be posted on the Board's website.

Seminar

The Board's Fifteenth Annual Seminar on Ethics in New York City Government, held at New York Law School on May 20, 2009, was a great success. More than 250 public servants attended, representing approximately fifty City agencies. At the event's opening plenary session, Mayor Bloomberg gave the keynote address, and Board Chair Steven B. Rosenfeld presented a "State of the Board" overview. The Sheldon Oliensis Ethics in Government Award was presented to Ricardo Morales for his efforts in promoting a culture of integrity during his tenure as General Counsel at the New York City Housing Authority. The 2009 Powell Pierpoint Award for outstanding service to the Conflicts of Interest Board was given to Executive Director Mark Davies for his fifteen years of service to the Board.

The Board's Sixteenth Annual Seminar on Ethics in New York City Government will be held on May 18, 2010.

International Visitors and Government Ethics Associations

In 2009, the Board sent Legal Advice attorney Karrie Ann Sheridan to the annual conference of the Council on Government Ethics Laws ("COGEL"), the premier government ethics organization in North America. Ms. Sheridan participated on a panel called "The Gift Minefield: When are Gifts Undue Influence and When Can They Offer Valuable Assistance to the Operations of Government?" COGEL conferences have provided the Board with a number of ideas for new initiatives, including the Board's game show, an interactive ethics quiz, and electronic filing of financial disclosure reports.

The Board receives numerous requests, both from municipalities around the State and from foreign countries, to assist them in updating and improving their ethics laws. Resources permitting, Board staff members attempt to respond to those requests, whenever possible by e-mail, although occasionally in person. For example, in 2009 Executive Director Mark Davies participated on an American Bar Association panel on "Ethical

Considerations in the Public Sector: Counseling Government Clients Effectively.” Mark Davies and Director of Enforcement Carolyn Lisa Miller were guests on two WVOX radio talk shows focusing on government ethics. Director of Financial Disclosure and Special Counsel Julia Davis participated on a World Bank panel on Income and Asset Declaration at the request of the World Bank. Through the Federal Bureau of Investigation, members of the Board’s Financial Disclosure Unit met with officials from the Indonesian Corruption Eradication Commission. Board staff also met with officials from Shanghai and Beijing and, at the request of the U.S. State Department, with a leader of a non-governmental organization of the Czech Republic. In November, Mark Davies, Deputy Executive Director and General Counsel Wayne G. Hawley, Carolyn Lisa Miller, and Julia Davis presented a program on government ethics to 30 officials at the United Nations Development Programme (“UNDP”); as a follow up, UNDP ethics office staff met with staff of the Financial Disclosure Unit to discuss the electronic filing of financial disclosure reports.

Time permitting, Board staff also occasionally assist other jurisdictions seeking to revise their ethics laws. For example, in 2009, the Executive Director reviewed a model local government ethics code being developed by a New York State agency.

Executive Director Mark Davies continues to serve as the Co-Chair of the Government Ethics and Professional Responsibility Committee of the New York State Bar Association’s Municipal Law Section and on the Board of Directors of Global Integrity, an independent provider of information on governance and corruption trends around the world. Director of Enforcement Carolyn Lisa Miller serves as a member of the Professional and Judicial Ethics Committee of the New York City Bar. Board Chair Steven Rosenfeld teaches a seminar in “Government Ethics” at CUNY Law School.

3. REQUESTS FOR GUIDANCE AND ADVICE

Section 2603(c)(1) of the City Charter requires the Board to “render advisory opinions with respect to the matters covered by” Chapter 68, “on the request of a public servant or a supervisory official of a public servant.” Requesting advice from the Board can afford public servants a safe harbor against future enforcement action: section 2603(c)(2) provides that a public servant who requests and obtains such advice with respect to proposed future conduct or action “shall not be subject to penalties or sanctions by virtue of

acting or failing to act due to a reasonable reliance on the opinion, unless material facts were omitted or misstated in the request for an opinion.” The Board’s Legal Advice Unit is charged with responding to the hundreds of written, and thousands of telephonic, requests for advice received by the Board each year.

Previous annual reports noted the significant increase in the quality and quantity of the advisory work of the Board and its Legal Advice Unit over the past several years, and the enormous increase in that Unit’s productivity. Exhibits 1 and 5 to this Report summarize the Unit’s work in 2009 and prior years.

In 2009, the Board issued 484 pieces of written legal advice in response to requests for its advice. As shown in Exhibit 7 to this Report, this output consisted of 170 staff advice letters, 231 waiver letters signed by the Chair on behalf of the Board,¹ 76 Board letters and orders reflecting Board action, and seven public Advisory Opinions.

In 2009 Board staff also answered 3,277 telephone requests for advice. Telephone advice provides the first line of defense against violations of the Conflicts of Interest Law and thus remains one of the Board’s highest priorities. Such calls, however, consume an enormous amount of staff time, sometimes hours a day, and therefore limit attorney time available for advising the Board on advice matters pending before it and drafting written advice and advisory opinions.

As detailed in Exhibit 6 to this Report, the Board in 2009 received 557 written requests for advice. By a combination of its written answers to these requests and the administrative closing of some of the older matters in its docket, the Legal Advice Unit was able to reduce the number of the Board’s pending advice cases at year end from 161 to 138, a 14% reduction and the lowest year-end total since 2005. This reduction reflects the Board’s recognition that advice delayed is very often useless advice and the Board’s

¹ Under section 2604(e) of the City Charter, the Board may grant waivers permitting public servants to hold positions or take action “otherwise prohibited” by Chapter 68, upon the written approval of the head of the agency or agencies involved and a finding by the Board that the proposed position or action “would not be in conflict with the purposes and interests of the city.” By resolution, as authorized by City Charter § 2602(g), the Board has delegated to the Chair the authority to grant such waivers in routine cases.

commitment not only to respond promptly to all new requests for advice but also to reduce its pending docket. Thus, as reflected in Exhibit 5, the Board's median response time to written requests for advice dropped again in 2009, to 24 days, its lowest level since 2001.

The seven formal public Advisory Opinions issued by the Board in 2009 were:

(1) AO 2009-1 – Use of City-Owned Vehicle by Elected Officials

The Board's first 2009 Advisory Opinion was issued in response to a request from elected officials about the permissible personal use of the City-owned vehicles allotted to them in connection with their official duties. Largely based on the administrative and recordkeeping burden of allocating vehicle use between official and personal purposes, or of requiring officials to switch between official and personal cars during the course of the day, the Board advised, first, that elected officials for whom the New York City Police Department ("NYPD") has determined that security protection is required in the form of an official vehicle and security personnel may make any lawful use of the official vehicle and security personnel for personal purposes, including pursuit of outside business or political activities, without any reimbursement to the City, provided that such use is not otherwise a conflict of interest and further provided that the elected official is in the vehicle during all such use.

For the same reasons, the Board went on to advise that elected officials for whom security protection has *not* been mandated by the NYPD, but whose duties require them to be constantly available to respond to the needs of constituents and to public emergencies, may also make any lawful use of their allotted City vehicles and/or drivers within the five boroughs, including pursuit of outside business or political activities, without reimbursement to the City, provided that the use is not otherwise a conflict of interest and further provided that the elected official is in the vehicle during all such use. Such elected officials may also use the vehicle and/or driver, outside the five boroughs within a range permitting timely return to the City, for any lawful personal purpose, including pursuit of outside business or political activities, with reimbursement to the City. If, however, the elected official can clearly demonstrate that the particular use outside

the City's limits was for official business, reimbursement to the City is not required.

The Board noted that the Opinion applied only to elected officials who are allotted City cars, not to appointed officials or to elected officials who are not allotted City cars. The Board further cautioned that it did not opine on whether the use of City vehicles permitted in the Opinion would result in imputation of income for tax purposes or would have implications for relevant election or campaign finance laws.

(2) AO 2009-2 – Council Discretionary Funding

Having received and answered a number of requests from Members of the City Council for advice regarding their sponsoring awards of discretionary funding to not-for-profit organizations with which the Member had some sort of affiliation, the Board issued this Advisory Opinion summarizing its determinations for future guidance of Council Members and the public.

The Board concluded that the “safe harbor” of Charter section 2604(b)(1)(a), which permits certain actions by elected officials otherwise prohibited by the Conflicts of Interest Law provided there is public disclosure of the conflict, does not permit *sponsoring* of discretionary funding for an organization with which the Member has an interest, although it does allow *voting* on a budget containing an award sponsored by another Member.

To illustrate the application of this ruling, the Board set forth its determinations on the following six fact patterns, derived from specific requests for advice from Council Members regarding their sponsoring of discretionary funding:

- a) A Council Member may not sponsor discretionary funding for an entity at which the Member is a paid employee, officer, or director; but, with disclosure on the official records of the Council and to the Board, the Member may vote on a budget containing such an appropriation sponsored by another Member.
- b) A Council Member may not sponsor discretionary funding for an entity on whose board of directors the Member serves as an unpaid

member; but, with disclosure on the official records of the Council and to the Board, the Member may vote on a budget containing such an appropriation sponsored by another Member. A Council Member may, however, sponsor funding where the Member serves on the board of directors *ex officio* as part of his or her Council duties.

- c) A Council Member may sponsor discretionary funding to a not-for-profit organization of which the Member is an “honorary,” unpaid, and/or non-voting member of the board of directors, if the Member has no legal rights or responsibilities in such a role. A Council Member may likewise sponsor discretionary funding to a community association with a large membership and nominal annual dues of which the Member is merely a dues-paying member.
- d) A Council Member may sponsor discretionary funding for an entity where the Member’s spouse, domestic partner, parent, child, sibling, or other “associated” person is a paid officer or employee only where it does not appear reasonably likely that the associated person will benefit from that funding. In making that determination, the Board will look to such factors as the associated person’s position at the organization (the higher ranking the person, the more likely that he or she will benefit from Council funding), the size of the organization (the smaller the organization, the more likely that any given employee will benefit), and any nexus between the proposed funding and the associated person’s work at the organization.
- e) A Council Member may sponsor discretionary funding for a not-for-profit organization of which the Member’s spouse, domestic partner, parent, child, sibling, or other “associated” person is an unpaid member of the board of directors.
- f) A Council Member will not violate Chapter 68 merely by sponsoring discretionary funding for a not-for-profit organization with which a member of the Member’s Council staff has some affiliation, because public servants are not “associated” with their subordinates within the meaning of Chapter 68. However, the involvement of the Council staff members themselves in the sponsorship process may in some circumstances violate Chapter 68 by virtue of their affiliation, or an associated person’s affiliation, with City-funded not-for-profits. So, too, Members who knowingly involve such disqualified subordinates in the

sponsorship process may themselves violate Chapter 68's prohibition against inducing violations by other public servants.

(3) AO 2009-3 – City Pension Funds

In response to a request for advice from a trustee of one of the City's five pension systems, the Board advised that these five systems - the New York City Employees' Retirement System ("NYCERS"), the New York City Teachers' Retirement System ("TRS"), the New York City Police Pension Fund ("PPF"), the New York Fire Department Pension Fund ("FDPF"), and the New York City Board of Education Retirement System ("BERS") (collectively "the Funds") - are each a City agency for the purpose of the City's Conflicts of Interest Law. The officers and employees of each of the Funds, including without limitation, the statutorily-prescribed trustees of each of the Funds, the employees of the Funds, and those individuals whom the trustees designate to serve in their absence pursuant to statutory provisions permitting such designations, are public servants within the meaning of Charter Chapter 68, the City's Conflicts of Interest Law, and hence are subject to the provisions of Chapter 68.

(4) AO 2009-4 – Deferred Law Firm Associates

The Board advised that law firm associates who defer their work at their firms to work for City agencies for a year at their firms' expense are public servants within the meaning of the City's Conflicts of Interest Law and hence are subject to the provisions of that law.

(5) AO 2009-5 – Seeking Political Endorsements During the One-Year Post-Employment Period

The Board advised that a former public servant would not violate the ban on communicating with his or her former City agency for one year after leaving City service by communicating during that year with employees or officials of that agency to seek those persons' endorsements of candidates for elective office because such communications seek not official action by the agency but rather the personal action of those being solicited.

(6) AO 2009-6 – Water Board/Political Fundraising

The Board responded to an inquiry from a member of the New York City Water Board about fundraising for a political action committee (“PAC”) associated with her private employer. The Board first advised that the members of the Water Board are public servants subject to Chapter 68. The Board then noted that Water Board members, like members of all other City boards and commissions, are “public servants charged with substantial policy discretion” and hence are subject to the restrictions of Charter section 2604(b)(12), which prohibits such public servants from soliciting funds for certain candidates for elective office. Finally, the Board advised that section 2604(b)(12) not only prohibits solicitation of contributions that will go directly to a proscribed candidate but also prohibits solicitations of contributions to PACs whose funds may go to support a proscribed candidate.

(7) AO 2009-7 – Trading in City Bonds

In response to a request for advice from a high-ranking appointed official at one of the three City agencies most directly involved in the issuance and management of the City’s debt obligations (the Office of the Comptroller, the Office of Management and Budget, and the Law Department), the Board advised that it would violate Chapter 68 for those public servants personally and substantially involved in the issuance and management of City debt securities to buy, sell, or hold such securities for their own accounts, or on behalf of or for the accounts of any “associated” persons or firms.

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

of the Board's public advisory opinions since 1990 are annexed to this Report.

In order to help address its mandate to advise public servants in a timely manner about the requirements of the Conflicts of Interest Law, the Legal Advice Unit has relied on the services of part-time volunteers and student interns. Over the past year, seven law student interns worked part-time for the Legal Advice Unit. One "deferred associate" worked full-time for the Board pending his delayed start date at his law firm. These individuals contributed substantially to the Board's output.

The Board's appreciation for the Legal Advice Unit's substantial output and decrease in its backlog, excellent results achieved under considerable pressure, goes to Deputy Executive Director and General Counsel Wayne Hawley and his superb staff, including Deputy General Counsel Sung Mo Kim, Associate Counsel Karrie Ann Sheridan, and Assistant Counsel Jessie Beller.

4. ADMINISTRATIVE RULES

The Board neither adopted nor amended any rules in 2009.

5. ENFORCEMENT

The Board strives, through its Training and Education Unit and Legal Advice Unit, to prevent Conflicts of Interest Law violations before they occur. However, despite the Board's best efforts, public servants still do violate Charter Chapter 68, either intentionally or inadvertently. In order to address those violations, and in so doing inform the public that violations of the Conflicts of Interest Law are taken seriously by City government, sections 2603(e)-(h) and 2606 of Chapter 68 invest the Board with enforcement power. This power includes the authority to receive complaints regarding alleged violations of the Conflicts of Interest Law, refer those complaints to the Department of Investigation for investigation, and thereafter, if warranted, pursue administrative proceedings against alleged violators. The Board's Enforcement Unit is responsible for discharging these functions.

In 2009, the Enforcement Unit continued to meet its previous year's high standard of productivity, resolving and publishing 98 dispositions with

the payment of a fine and 21 dispositions as public warning letters, the latter of which reflects a 90% increase in such letters over 2008. Also, while in 2009 the Board published fewer dispositions than in 2008, the aggregate of fines imposed was \$161,050 in 2009 compared with \$155,350 in 2008. Summaries of the 119 dispositions of 2009, each of which is a matter of public record, are annexed to this Report. Summaries of all the Board's enforcement dispositions from 1990 to the present are available on the Board's website

(http://www.nyc.gov/html/conflicts/downloads/pdf2/Enforcement_Case_Summaries.pdf) for use by any interested party – City employees, members of the public or press, and individuals and attorneys appearing before the Board. The dispositions themselves, like the Board's advisory opinions, are available on the CityLaw website free of charge to all in full-text searchable form

(http://www.nyls.edu/centers/harlan_scholar_centers/center_for_new_york_city_law/cityadmin_library).

Of the 119 dispositions published in 2009, the following cases were particularly noteworthy:

(1) In 2009, the Board achieved its highest fine to date in a settlement, in *COIB v. O'Brien*, COIB Case No. 2008-960 (2009). A fine of \$20,000 was imposed on a former Custodian for the Department of Education (“DOE”) who made personal purchases using DOE funds from three DOE vendors and then instructed those vendors to falsify the invoices in order to conceal from DOE his personal use of DOE funds. The former Custodian also acknowledged that he used the custodial staff that he hired to work at his DOE school to perform personal work for him and for his brother-in-law – including painting his house, installing shelves, installing cabinets at his brother-in-law's house, moving a rug, and cleaning his deck – always without paying them and sometimes at times when the custodial staff was supposed to perform work at the Custodian's DOE school. The former Custodian admitted that in so doing he violated the Conflicts of Interest Law, which prohibits the use of City resources, including City funds and City personnel, for any non-City purpose, and prohibits public servants from using or attempting to use their positions as public servants to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for themselves or any person or firm associated with them.

(2) The Board imposed its first fines based on violations of its teaching in Advisory Opinion No. 92-28, in which the Board concluded that a public servant's provision of legal representation to a superior or subordinate, even if not compensated and even if the superior and subordinate have a personal relationship, would be a violation of the provision of the Conflicts of Interest Law that prohibits superiors and subordinates from entering into business or financial relationships with each other. The Board fined a Deputy Chief Administrative Law Judge ("ALJ") at the Parking Violations Bureau of the New York City Department of Finance \$1,450 for accepting free legal representation in connection with his divorce from his subordinate ALJ in the Parking Violations Bureau, who was fined \$750. Both the Deputy Chief ALJ and the ALJ acknowledged that their ignorance of Advisory Opinion No. 92-28 did not excuse their failure to comply with it. *See COIB v. Keeney*, COIB Case No. 2007-565 (2009); *COIB v. Horowitz*, COIB Case No. 2007-565a (2009). These cases reinforce another message found in multiple Board dispositions: ignorance of the Conflicts of Interest Law does not excuse any current or former public servant's failure to comply with its provisions.

(3) In more than one case in 2009, the Board emphasized its commitment to taking seriously any violation committed by a public servant or former public servant after having received direct contrary advice from the Board about the subject of the violation. In *COIB v. Pettinato*, COIB Case No. 2008-911 (2009), for example, the \$7,500 fine reflected the fact that the Board had previously advised the public servant, in writing, that the Conflicts of Interest Law prohibits all of the conduct in which he engaged, yet the public servant heeded almost none of the Board's advice. In *Pettinato*, the Principal of the Institute for Collaborative Education in Manhattan (P.S. 407M) admitted that in September 1998 the Board granted him a waiver of the Chapter 68 provision that prohibits City employees from having a position with a firm that has business dealings with the City. This waiver allowed him to continue working as the paid Executive Director of his not-for-profit organization while it received funding from multiple City agencies, but not from DOE. The Principal acknowledged that the Board notified him in its September 1998 waiver letter that he could not use his DOE position or title to obtain any private advantage for the not-for-profit organization or its clients and he could not use DOE

equipment, letterhead, personnel, or any other City resources in connection with that work. The Principal admitted that, notwithstanding the terms of the Board's waiver, his organization engaged in business dealings with DOE; he used his position as Principal to help a client of the not-for-profit get a job at P.S. 407M; and he intertwined the not-for-profit's operations with those of P.S. 407M, including using the school's phone numbers and mailing address for the organization. The Principal further admitted that he hired two of his DOE subordinates to work for him at his not-for-profit, including one to work as his personal assistant, and that he knew that neither DOE employee had obtained the necessary waiver from the Board to allow the employee to moonlight with a firm that does business with the City. He admitted that by doing so he caused these DOE subordinates to violate the Chapter 68 restriction on moonlighting with a firm engaged in business dealings with the City. The Principal also acknowledged that his conduct violated the provisions of the Conflicts of Interest Law that prohibit a public servant from entering into a financial relationship with a superior or subordinate City employee and from knowingly inducing or causing another public servant to engage in conduct that violates any provision of Chapter 68.

As was done in *Pettinato*, the Enforcement Unit continued its use of the "three-way settlement" procedure to resolve Board cases that overlap with disciplinary proceedings brought by other City agencies, as a way to conserve resources of both the Board and other City agencies, and achieve finality for the affected public servant. The importance of three-way settlements to the Board's enforcement practice is evidenced in the numbers for 2009: 44 of its 98 dispositions imposing fines were done in conjunction with agencies, including the Administration for Children's Services, the Department of Citywide Administrative Services, the Department of Education, the Department of Environmental Protection, the Department of Finance, the Department of Homeless Services, the Department of Health and Mental Hygiene, the Department of Parks and Recreation, the Department of Sanitation, the Department of Transportation, the Environmental Control Board, the Fire Department, the New York City Housing Authority, the Human Resources Administration, and the Office of the Chief Medical Examiner.

The Enforcement Unit also continued to prosecute cases and impose fines against former public servants for conduct that occurred while they were public servants. Of the many such enforcement actions brought by the Board in 2009, one notable case involved the former Senior Vice President of the South Manhattan Health Care Network and Executive Director of the Bellevue Hospital Center (“Bellevue”), a facility of the New York City Health and Hospitals Corporation (“HHC”). The Board fined that former public servant \$12,500 for his multiple violations of Chapter 68 and section 12-110 of the New York City Administrative Code, the City’s Financial Disclosure Law. Although the former Senior Vice President resigned from HHC in 2005, the Board did not bring its action until July 2009 because of a pending related criminal prosecution. The prosecution of cases like this serves as an important reminder to public servants that they cannot insulate themselves from enforcement of the Conflicts of Interest Law simply by leaving City service, either of their own accord or by resigning in the face of an investigation or charges. This result is also a timely reminder that, under section 2603(h)(6) of Chapter 68, the Board retains ultimate authority over violations committed by current or former public servants, regardless of what action is taken by the public servant’s agency – or a District Attorney’s Office – concerning that violation.

The Board also prosecutes cases against former public servants for conduct that occurs *after* they leave City service. Thus, in five cases in 2009 (*Buccigrossi*, *Cuffy*, *Green*, *Piscitelli*, and *Sirefman*), the Board fined former public servants for violating the City Charter’s “post-employment provisions,” which prohibit former public servants from appearing before their former City agencies within one year after leaving City service, from working on the same particular matters that they worked on personally and substantially while public servants, and from disclosing or using confidential information gained from public service that is not otherwise available to the public. Former public servants who do not comply with the post-employment provisions of the Conflicts of Interest Law after they leave public service face Board enforcement action.

In fact, this year the Board imposed its two highest fines to date for violations of the post-employment provisions of the Conflicts of Interest Law. In *Piscitelli*, the Board fined the former Director of the Mayor’s Office of State Legislative Affairs \$12,000 for making compensated appearances, in the form of numerous e-mails, to various public servants in the Mayor’s Office concerning a number of items of pending or prospective

legislation of interest to several clients of the law firm of which he had become a partner. In *Green*, the Board fined a former Department of Education (“DOE”) teacher \$15,000 for making compensated appearances before the DOE within one year of leaving City service. The former teacher admitted that, during the first year after he left DOE, he regularly appeared before DOE to enroll schools in his new employer’s Special Education Services (“SES”) Program and that, based in part on his ability to enroll schools, he was promoted twice during that year, becoming the Vice President of SES Programs. While the maximum fine for a single violation of the Conflicts of Interest Law is \$10,000, these fines are particularly significant because they reflect the imposition of penalties for multiple violations of the post-employment provisions.

The Board also takes seriously even limited violations of the post-employment restrictions. In *Sirefman*, for example, the Board fined the former Interim President of the New York City Economic Development Corporation \$1,500 for appearing just once before another City agency served by him as a public servant, the Hudson Yards Development Corporation (“HYDC”), within one year of his resignation from HYDC. The former Interim President acknowledged that, within one year of leaving HYDC, he participated in a presentation made by his new private employer before a Selection Committee composed of employees of the Metropolitan Transportation Authority (“MTA”) and HYDC at the offices of the MTA. The *Sirefman* case is also instructive because the former Interim President had been advised by Board Staff in writing not to appear before HYDC on behalf of his new employer within one year of his resignation from HYDC.

In addition to working on complaints arising out of Chapter 68, in 2009 the Enforcement Unit continued to assist the Legal Advice Unit in rendering telephonic advice to public servants and members of the public who contact the Board daily. The Enforcement Unit also participated in the work of the Training and Education Unit by conducting classes and seminars for public servants, including Enforcement Training Workshops to increase awareness of the Board’s enforcement process among agency disciplinary counsel and investigators and to promote the use of three-way settlements in parallel disciplinary proceedings. The Enforcement Unit conducted such workshops for the employees of 18 different City agencies, including the Brooklyn Borough President’s Office, the Business Integrity Commission, the Department of Buildings, the Department of Citywide Administrative Services, the Department of Education, the Department of Finance, the

Department of Health and Mental Hygiene, the Department of Investigation, the Department of Parks and Recreation, the Department of Probation, the Department of Transportation, the District Attorney's Office for Kings County, the Human Resources Administration, the New York City Housing Authority, the Office of Administrative Trials and Hearings, the Office of Collective Bargaining, the Office of Management and Budget, and the Police Department.

From these workshops, the Unit has developed a large e-distribution list for Board dispositions, so that disciplinary counsel and other interested staff at agencies are regularly informed about recent Board fines and as a result can identify Conflicts of Interest Law violations in their own cases for possible referral to the Board. Anyone, whether a public servant or a member of the public, who wishes to be included in the Board's e-distribution list for Board dispositions can contact Director of Enforcement Carolyn Lisa Miller at miller@coib.nyc.gov.

The awareness of Chapter 68's enforcement procedures fostered by these workshops, and the Board's many other training, education, and outreach efforts, continue to feed the workload of the Enforcement Unit. Exhibits 8 and 9 to this Report show that in 2009 the Board received 443 new complaints, closed 472 cases, and referred 77 matters to the Department of Investigation ("DOI") for investigation.

The Board relies on the public, public servants, and the media to bring to its attention possible violations of Chapter 68, including violations of advice given by Board. Written complaints may be submitted to the Board by mail to the attention of the Director of Enforcement or through the Board's website at the "Contact COIB" link.

As Exhibit 10 to this Report shows, the Chapter 68 fines imposed in Board proceedings in 2009, including those fines made payable in part to other agencies in three-way settlements, amounted to \$161,050, reflecting a 4% increase from 2008. Total civil fines imposed in Board and criminal proceedings for substantive violations of Chapter 68 from 1990 through 2009 have amounted to \$1,447,054.08.

In addition to its public dispositions with the imposition of fines, the Board is also able to educate public servants about violations of the Conflicts of Interest Law through public and private warning letters carrying

no fine. In 2009, the Board issued 21 public warning letters and 51 private warning letters. Furthermore, fines alone cannot fully reflect the time and cost savings to the City when investigations by DOI and enforcement by the Board put a stop to the waste of City resources by City employees who abuse City time and resources for their own gain. Nor do fines show the related savings when DOI's findings and Board enforcement actions lead to agency disciplinary proceedings that result in termination, demotion, suspension, and forfeiture of leave time.

The Board thanks the Enforcement Unit staff for their continued professionalism and productivity, including Carolyn Lisa Miller, Director of Enforcement; Dinorah S. Nunez, Deputy Director of Enforcement; Vanessa Legagneur, Associate Counsel for Enforcement; Bre Injeski, Assistant Counsel for Enforcement; and Maritza Fernandez, Litigation Coordinator. The Board also extends sincere thanks to DOI Commissioner Rose Gill Hearn, Special Commissioner of Investigation for the New York City School District ("SCI") Richard J. Condon, and their entire staffs for the invaluable work of DOI and SCI in investigating and reporting on complaints of violations of the Conflicts of Interest Law.

6. FINANCIAL DISCLOSURE

The Board's final – but by no means least important – mandated function, imposed under section 2603(d) of Chapter 68, is to receive “[a]ll financial disclosure statements required to be filed by [City] public servants, pursuant to state or local law...” Under current law, nearly 8,000 City public servants are required to file financial disclosure reports with the Board. Thanks to the Electronic Financial Disclosure (“EFD”) initiative begun by the Board in 2005, all such reports are now filed with the Board electronically.

City employees continue to show an excellent compliance rate in filing these mandated annual financial disclosure reports. As detailed in Exhibit 11 to this Report, the overall rate of compliance with the Financial Disclosure Law, set forth in section 12-110 of the New York City Administrative Code (http://www.nyc.gov/html/conflicts/downloads/pdf2/Local_Law_14.pdf), for the past six years has been 97.2%. This superb record must be attributed in large part to the excellent work of the Financial Disclosure Unit: Julia Davis, Director of Financial Disclosure and Special Counsel; Joanne Giura-

Else, Deputy Director of Financial Disclosure; Sung Mo Kim, EFD Project Manager; Holli Hellman, Associate EFD Project Manager and Supervising Financial Disclosure Analyst; Audra Palacio, Financial Disclosure Analyst (until June 2009); Veronica Martinez Garcia, Assistant to the Unit; and Daisy Rodriguez, Assistant Financial Disclosure Analyst and Agency Receptionist.

Financial Disclosure Amendments

The Board continued its efforts to modify the scope of the financial disclosure form to eliminate irrelevant questions and, even more importantly, to tie the information required to be disclosed directly to the substantive mandates of the Conflicts of Interest Law. In 2008, the Board obtained State approval to develop at least two financial disclosure forms, tailored to Chapter 68 and requiring lesser and more targeted disclosure for unpaid volunteers (the minimum requirements for the two levels of disclosure are set forth in the State law). Also in 2008, at the request of the Mayor, the Council introduced Intro. 782, the Board's proposed amendments to the City's Financial Disclosure Law, implementing the State law. Intro. 782, an updated version of which appears in Exhibit 12, would enable the Board to create three different financial disclosure forms: one for current City filers, a second for uncompensated members of New York City boards and commissions, and a third for those board members and staff of City-affiliated not-for-profit organizations now required by the Public Authorities Accountability Act of 2005 (2005 N.Y. Laws ch. 766) ("PAAA") to file annual financial disclosure reports with the Board.

The enactment of PAAA makes obtaining authority for the Board to modify the scope of the City's financial disclosure form an urgent priority. In the absence of the amendments contained in Intro. 782, PAAA, if broadly construed, could require members and certain staff of City-affiliated public authorities, public benefit corporations, industrial development agencies and authorities, and not-for-profit corporations, as well as the affiliates of all such entities, to file the current 32-page financial disclosure form. Such a requirement may adversely affect the willingness of individuals to serve as volunteer board members of such not-for-profit organizations. Despite continuing efforts by the Board, Intro. 782 was not enacted by the Council in 2009.

Electronic Filing of Financial Disclosure Reports

The electronic application continued to make the filing of financial disclosure easier for filers, especially since the reports appear “pre-populated” for all filers who had electronically filed the previous year’s report. Those filers merely had to review and update that prior year’s report, an effort that for most filers required only a few minutes. Filers also continued to file remotely, that is, from home or other non-work locations.

In 2009, the Board instituted a requirement that filers’ email addresses be entered into the electronic filing application. Agency liaisons obtained and entered email addresses for all filers for whom email addresses had not previously been entered in the application. This requirement enabled both the Board and the Department of Information Technology and Telecommunications (“DoITT”) to improve their respective communications with filers. For example, periodic email blasts reminding filers of filing deadlines now reach all filers. In addition, letters addressing late fines and failure to file or to file timely can now be sent via email, saving both paper and staff time to draft and print letters and envelopes.

During the 2009 filing period, the Financial Disclosure Unit responded to over 1,500 calls requesting assistance with filing. Upon the conclusion of the filing period, the Unit reviewed for completeness and possible conflicts of interest those reports that had been filed. During 2009, the Unit conducted 8,428 reviews of reports filed for reporting years 2007 and 2008, more than three times the number of reviews conducted in 2008. The Unit also reviewed Board waiver letters issued pursuant to Charter section 2604(e) granting permission for second jobs, to insure that these jobs were properly reported on the filer’s financial disclosure report, and similarly reviewed financial disclosure reports to ensure that such Board letters had been obtained for second jobs requiring them. These two reviews resulted in requests to filers to address potential violations of the Conflicts of Interest Law and to amend their financial disclosure reports.

Finally, the Financial Disclosure Unit, in conjunction with DoITT, continued to build a reporting application. That application, which is scheduled to be implemented in 2010, would enable authorized users to conduct searches of the information provided in financial disclosure reports, thus making reviews for possible conflicts of interest easier, quicker, and more efficient.

Financial Disclosure Appeals

Public servants who dispute determinations that they are required to file financial disclosure reports are permitted to appeal those determinations. On July 14, 2009, the Board issued a decision and order concerning an appeal by employees of the Comptroller's Office who contested their designation as required filers. The Comptroller's Office had designated employees in the title of Claims Specialists Level II as filers pursuant to New York City Administrative Code section 12-110(b)(3)(a)(4), which requires filing by employees whose work involves "the negotiation, authorization or approval of contracts, leases, franchises, revocable consents, variances and special permits." Seven employees appealed to both their agency and the Board. Pursuant to an agreement between the Board and the employee's union, District Council 37 – AFSCME AFL-CIO ("DC-37"), the appeals were first heard by a neutral arbitrator, who recommended that the employees not be required to file financial disclosure reports. In its decision and order, the Board rejected the arbitrator's conclusions and recommendation, holding that the work of the Claims Specialists, particularly their authority to negotiate and conclude settlements of tort claims against the City, constituted "negotiations...or approval of contracts" within the meaning of Administrative Code section 12-110(b)(3)(a)(4), and that the reasons behind the disclosure provision required filing by these employees. The Board's decision and order can be found on the Board's website at:

http://www.nyc.gov/html/conflicts/downloads/pdf2/fd%20docs/coib_dec_and_order_071409.pdf. The Claims Specialists have challenged the Board's order in court by filing a proceeding pursuant to Article 78 of the Civil Practice Law and Rules; the case was pending at year's end.

Financial Disclosure Late Fines

Section 12-110(g) of the City's Financial Disclosure Law empowers the Board to impose fines of up to \$10,000 for the non-filing or late filing of a financial disclosure report. During 2009, the Board collected \$31,575 in late filing fines for reporting years 2006, 2007, and 2008, more than twice the amount of fines collected in 2008 and including a fine of \$1,250 from a filer who filed her 2006 report more than one and a half years late and her 2007 report eight months late. Since the Board assumed responsibility for

financial disclosure in 1990, the Board has collected \$525,348 in financial disclosure fines.

Request for Financial Disclosure Reports

Section 12-110(e) of the City's Financial Disclosure Law provides that certain information contained in financial disclosure reports shall be made available for public inspection. In 2009, requests for reports reached an all time high of 1,423; previously, the average number of requests processed each year was 644. The significant increase likely resulted from the 2009 citywide elections, considerable press coverage, and greater overall exposure of financial disclosure filings.² To streamline the request process, the Financial Disclosure Unit developed an online inspection request form. Added to the Financial Disclosure page of the Board's website was a section on requesting Financial Disclosure Reports, which can be found at <http://www.nyc.gov/html/conflicts/html/fd/fdpage.shtml>. This section includes a pdf document outlining the procedure for requesting a financial disclosure report and a pdf template of the inspection request form. Requesters can now complete the necessary paperwork at their convenience at their office or home, rather than in the Board's waiting room immediately before obtaining the reports, and the Board will no longer incur the expense of ordering the triplicate forms previously used. With the addition of email addresses in the EFD application, letters notifying filers that their reports had been requested are sent via email.

The Financial Disclosure Unit also receives requests for certifications of compliance for departing City employees who need such documents to receive their final paycheck and/or any lump sum payment, pursuant to section 12-110 (b)(3)(b) of the Administrative Code. In 2009, 349 such certifications were issued. They are now emailed to requesting filers and their respective agencies.

² For example, an unusually high number of financial disclosure requests were received the day after three articles discussing financial disclosure reports were published in the August 19, 2009, issues of the *New York Daily News* and the *New York Post*. Shortly thereafter, an entry reporting on the financial disclosure filings of deputy mayors and agency heads appeared in the September 2, 2009, *New York Daily News* blog "Brawl for the Hall."

Financial Disclosure on COIB's Website

In addition to providing all information about requesting financial disclosure reports on line, the Board's website now also includes the legislative history of the City's Financial Disclosure Law, section 12-110 of the City's Administrative Code. The legislative history can be found on the Law page of the Board's website at:
http://www.nyc.gov/html/conflicts/downloads/pdf3/fd_leg_hist/leg_his_fd_1975_to_2006.pdf.

2009 Citywide Elections

Candidates for public office also must file financial disclosure reports pursuant to section 12-110(b)(2) of the City's Financial Disclosure Law. Elections in 2009, including races for Mayor, Comptroller, Public Advocate, City Council, and Manhattan District Attorney, caused the filing of over 200 reports. (Candidate reports are filed on paper, not electronically.) The Financial Disclosure Unit responded to 161 calls from candidates for assistance in completing their reports and processed 228 certificates of compliance for candidates seeking matching funds from the Campaign Finance Board.

The large number of citywide races generated several newspaper articles discussing the financial disclosure filings of the candidates, for example:

- The July 23, 2009, issue of the *New York Times* contained an article discussing the financial disclosure reports of mayoral candidates Mayor Bloomberg and Comptroller Thompson.
- The August 19, 2009, issues of the *New York Daily News* and the *New York Post* each contained an article concerning the financial disclosure reports of the Democratic candidates for Manhattan District Attorney and other candidates for public office, such as Comptroller and Public Advocate.³

³ A third article entitled "8 millionaires on enriched council" also appeared in the *New York Post* on the same day.

- The August 27, 2009, *New York Law Journal* article entitled “Race for Manhattan DA” included a section on “Aborn, Vance Earn More Than Snyder, Filings Find,” which discussed the three candidates’ financial disclosure reports and instructed readers how to obtain reports.
- The September 5, 2009, issue of the *New York Times* discussed the “Naked Cowboy’s” abandonment of his candidacy for Mayor, and referenced his experience with the financial disclosure filing requirements. The September 6, 2009, issue of the *New York Post* also contained an article on this subject, and NY1 aired this news on the same date. The Associated Press ran an article on this topic, and newspapers around the country and the world published articles and blurbs about the termination of his candidacy.

7. BUDGET, ADMINISTRATION, AND INFORMATION TECHNOLOGY

The Board thanks its Director of Administration, Ute O’Malley, and Deputy Director of Administration, Varuni Bhagwant, for their continued perseverance in the face of increasing administrative burdens. The Board also thanks its Director of Information Technology, Derick Yu, who single-handedly keeps the Board’s computer and other technology resources running, has provided the Board with the technical expertise necessary to implement electronic financial disclosure filing, and has supervised the implementation of upgrades to the Board’s IT infrastructure.

Like most City agencies, the Board suffered budget cuts in Fiscal Year 2009. Unlike most agencies, these cuts have a disproportionate impact on the functioning of the Board because of its small size (a staff of only 20) and the leanness of its budget. Even a small cut can have a major impact. Any further budget cuts will require significant layoffs and severely impair the ability of the Board to meet its Charter-mandated functions.

8. BUDGET PROTECTION AND OTHER PROPOSED AMENDMENTS TO CHAPTER 68

In August 2009, pursuant to the mandate of City Charter section 2603(j), the Board issued a comprehensive report proposing extensive amendments to Charter Chapter 68, the Conflicts of Interest Law. That

report reiterated a number of amendments to Chapter 68 the Board has proposed over the years, in particular the enactment of a Charter amendment granting the Board budget protection. Such protection has been at the top of the Board's list of legislative priorities for many years. Virtually alone among City agencies, the Board has the power to sanction violations of the law by the very public officials who set its budget, in itself an unseemly conflict that can only undermine the Board's independence in the eyes of the public and of public servants. That situation should finally be rectified through a Charter amendment removing the Board's budget from the discretion of the public officials who are subject to the Board's jurisdiction.

The Board's report also recommended many other long-pending initiatives for Charter amendments, such as obtaining investigative authority, making ethics training mandatory for all City employees, increasing to \$25,000 the maximum permissible fine for each violation, and adding the remedy of disgorgement of ill-gotten gains to the Board's enforcement powers. It proposed numerous other significant substantive amendments to the provisions of Chapter 68, as well as many long-overdue technical and language changes needed to make the law internally consistent and intelligible, as well as in harmony with established Board practice and interpretation. All of the proposed amendments, together with comments on each provision and a summary of the amendments, may be found on the Board's home page at <http://www.nyc.gov/html/conflicts/html/home/home.shtml>.

The Board expresses the hope that these needed amendments will be enacted in 2010.

EXHIBITS
AND
APPENDICES

EXHIBIT 1
CONFLICTS OF INTEREST BOARD: 1993, 2001, 2008, 2009

<i>Agencywide</i>	1993	2001	2008	2009
Adopted Budget (Fiscal Year)	\$1,132,000 (FY94)	\$1,698,669 (FY02)	\$1,989,348 (FY09)	\$1,882,779 (FY10)
Staff (budgeted)	26	23 ^{3/5} ¹	22	20 ²
Highlights		Virtually all ethics publications on website; opinions & enforcement decisions on Westlaw & Lexis	Highest number of training sessions and enforcement dispositions ever	Highest amount of enforcement fines ever imposed by Board
<i>Legal Advice</i>	1993	2001	2008	2009
Staff	6½ (4½ attorneys)	4 (3 attorneys)	4 attorneys	4 attorneys
Telephone requests for advice	N/A	1,650	3,797	3277
Written requests for advice	321	539	624	557
Issued opinions, letters, waivers, orders	266	501	574	484
Opinions, etc. per attorney	53	167	144	121
Pending requests at year end	151	40	161	138
Median time to respond to requests	N/A	23 days	26 days	24 days
<i>Enforcement</i>	1993	2001	2008	2009
Staff	½	5 (4 attorneys)	5 (4 attorneys)	5 (4 attorneys)
Complaints received	29	124	509	443
Cases closed	38	152	509	472
Dispositions imposing fines	1	9	135	98
Public warning letters	0	2	11	21
Fines imposed	\$500	\$20,450	\$155,350	\$161,050
Referrals to DOI	19	49	108	77
Reports from DOI	N/A	43	179	132

Training and Education	1993	2001	2008	2009
Staff	1	4 ³ / ₅ ¹	2	2 ³
Training sessions	10	190 24 agencies; CLE	535 45 agencies; Brown Bag Lunches; new outreach to Sanitation; new CLE offerings through DCAS; new interactive presentation for the Citywide seminar	286 50 agencies; Brown Bag Lunches; new outreach to City Council; new CLE offering; new interactive presentation for Citywide seminar
Board of Education training	None	116 training sessions; BOE leaflet, booklet, videotape	51 training sessions; DOE leaflet updated	33 training sessions
Publications	6 Poster, Chapter 68, Plain Language Guide, Annual Reports	Over 50 Ethics & Financial Disclosure Laws & Rules; leaflets; <i>Myth of the Month</i> (CHIEF LEADER); Plain Language Guide; Board of Ed pamphlet; outlines for attorneys; <i>CityLaw</i> , <i>NY Law Journal</i> , <i>NYS Bar Ass'n</i> articles; chapters for ABA, NYSBA, & international ethics books; Annual Reports; poster; newsletter	Over 50 Continued monthly column in <i>The Chief</i> and column in <i>Public Employees' Press</i> ; <i>Plain Language Guide</i> overhauled, expanded, and updated; new FDNY leaflet: <i>Heads-Up for NY Firefighters</i>	Over 50 Continued monthly column in <i>The Chief</i> ; new leaflet for NYCHA employees; new follow-up flyer created; revision of all leaflets begun
Ethics newsletter	None	<i>Ethical Times</i> (Quarterly)	<i>Ethical Times</i> continued	<i>Ethical Times</i> continued
Videotapes	None	3 half-hour training films; 2 PSA's	Video in post-production	Video finished and incorporated into training

<i>Training and Education (cont'd)</i>	1993	2001	2008	2009
Electronic training	None	Computer game show; Crosswalks appearances	Regular website maintenance and updates; new interactive feature: <i>Reportable Travel Expenses</i> exercise for FD filers; new training video of live session at 2008 Citywide Seminar posted	Regular website maintenance and updates; development of online interactive training, website overhaul, and creation of search engine of Board AOs and enforcement dispositions begun with DoITT
<i>Financial Disclosure</i>	1993	2001	2008	2009
Staff	12	5	6	5 ⁴
6-year compliance rate	99%	98.6%	96.9%	97.2%
Fines collected	\$36,051	\$31,700	\$15,350	\$31,575
Reports reviewed for completeness (mandated by Charter & NYS law)	All (12,000)	400	All	All
Reports reviewed for conflicts (mandated by law)	350	38	2,301	8,428
Filing by City-affiliated entities (e.g., n-f-ps)	0	0	In process	In process
Electronic filing	None	In development	All filers file electronically	All filers file electronically

¹ The part-time (½) position, a senior trainer, was not part of the Board's budgeted headcount of 23.

² One member (5%) of the staff was required to be laid off on June 30, 2009, to meet budget reduction targets.

³ For five months during 2009 the Unit had a staff of only one.

⁴ As of June 30, 2009, when one of the six Financial Disclosure staff was required to be laid off to meet budget reduction targets.

EXHIBIT 2

COIB MEMBERS, STAFF, AND FORMER MEMBERS

Members

Steven B. Rosenfeld, Chair
Monica Blum
Kevin B. Frawley (*until July 2009*)
Angela Mariana Freyre
Andrew Irving
Burton Lehman (*beginning July 2009*)

Staff

Executive

Mark Davies, Executive Director

Legal Advice

Wayne G. Hawley, Deputy Executive Director & General Counsel
Sung Mo Kim, Deputy General Counsel
Karrie Ann Sheridan, Associate Counsel
Jessie Beller, Assistant Counsel

Enforcement

Carolyn Lisa Miller, Director of Enforcement
Dinorah S. Núñez, Deputy Director of Enforcement
Vanessa Legagneur, Associate Counsel
Bre Injeski, Assistant Counsel
Maritza Fernandez, Litigation Coordinator

Training and Education

Alex Kipp, Director of Training and Education
Harold Lehmann, Senior Trainer/Training Coordinator (*from March to Oct. 2009*)

Financial Disclosure

Julia Davis, Director of Financial Disclosure & Special Counsel
Joanne Giura-Else, Deputy Director of Financial Disclosure
Sung Mo Kim, EFD Project Manager*
Holli R. Hellman, Associate EFD Project Manager and Supervising Financial Disclosure Analyst
Veronica Martinez Garcia, Administrative Assistant
Audra Palacio, Financial Disclosure Analyst (*until June 2009*)
Daisy Rodriguez, Assistant Financial Disclosure Analyst and Agency Receptionist

Administrative

Ute O'Malley, Director of Administration
Varuni Bhagwant, Deputy Director of Administration

Information Technology

Derick Yu, Director of Information Technology

Former Members of the Board

Merrill E. Clarke, Jr., Chair	1989
Beryl Jones	1989-1995
Robert J. McGuire	1989-1994
Sheldon Oliensis, Chair	1990-1998
Shirley Adelson Siegel	1990-1998
Benjamin Gim	1990-1994
Benito Romano, Acting Chair (1998-2002)	1994-2004
Jane W. Parver	1994-2006
Bruce A. Green	1995-2005
Kevin J. Frawley	2006-2009

* Mr. Kim serves part-time in this position in addition to his duties as Deputy General Counsel and a member of the Legal Advice Unit.

EXHIBIT 3
TRAINING AND EDUCATION CLASSES ON CHAPTER 68

<u>Year</u>	<u>Department of Ed Classes</u>	<u>Other Agency Classes</u>	<u>Total Classes¹</u>
1995	0	24	24
1996	0	30	30
1997	0	90	90
1998	10	53	63
1999	23	69	92
2000	221	156	377
2001	116	74	190
2002	119	167	286
2003 ²	43	139	182
2004	119	169	288
2005	80	162	242
2006 ³	43	151	194
2007	75	341	416
2008	51	484	535
2009 ⁴	33	253	286

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

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

³ From December 2005 to September 2006, the Training and Education Unit had an effective staff of one, as the Senior Trainer position was vacant from December 2005 to mid-July 2006, and the new trainer then needed to be trained before he could begin teaching classes.

⁴ For five months during 2009 the Unit had a staff of only one.

EXHIBIT 4

COIB TRAINING CLASSES BY AGENCY

Agencies that held ten or more classes are in bold.

Agencies that held three to nine classes are in italics.

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

2002	2003 ¹	2004	2005	2006 ²	2007	2008	2009 ⁴
Buildings Correction DCAS Education Finance Sanitation SCA <i>ACS</i> <i>City Planning</i> <i>DDC</i> <i>DEP</i> <i>DOT</i> <i>Health</i> <i>HPD</i> <i>NYCERS</i> <i>Parks</i> <i>Transportation</i>	Correction Education DOHMH HRA NYCERS <i>Buildings</i> <i>DCAS</i> <i>DHS</i> <i>DYCD</i> <i>Finance</i> <i>Law</i>	Buildings DCAS Education DHS HRA <i>DCLA</i> <i>DFTA</i> <i>Finance</i> <i>DOHMH</i> <i>DOITT</i> <i>NYCERS</i>	Parks Finance DCA DYCD DOB Education <i>DDC</i> <i>HRA</i> <i>TLC</i> <i>DOITT</i> <i>DCAS</i> <i>Community</i> <i>Boards</i> <i>HHC</i> <i>HPD</i> <i>DOC</i> <i>DOHMH</i> <i>Comptroller</i>	Comptroller DCAS DDC DOB Education Finance Sanitation <i>Community</i> <i>Boards</i> <i>DOC</i> <i>DOHMH</i> <i>DoITT</i> <i>DYCD</i> <i>Manhattan</i> <i>Borough Pres</i> <i>TLC</i>	Buildings DCAS DDC DOHMH Education FDNY Finance FISA HHC NYCHA TLC <i>ACS</i> <i>CCR</i> <i>Community</i> <i>Boards</i> <i>DCP</i> <i>DoITT</i> <i>DYCD</i> <i>EDC</i> <i>HPD</i> <i>HRA</i> <i>NYCERS</i> <i>NYPD</i> <i>Parks</i>	Buildings DCAS DDC Education OATH/ECB Health Sanitation TLC <i>ACS</i> <i>Aging</i> <i>City Council</i> <i>Community</i> <i>Boards</i> <i>Correction</i> <i>DoITT</i> <i>EDC</i> <i>Finance</i> <i>Fire Dept.</i> <i>Law</i> <i>MOCS</i> <i>NYCERS</i> <i>NYCHA</i>	Buildings City Council DCAS DoITT Education FISA NYCHA TLC <i>CCHR</i> <i>CCRB</i> <i>Community</i> <i>Boards</i> <i>DCA</i> <i>DDC</i> <i>DOHMH</i> <i>DOF</i> <i>DOT</i> <i>DPR</i> <i>DSNY</i> <i>DYCD</i> <i>EDC</i> <i>FDNY</i> <i>HRA</i> <i>NYCERS</i> <i>OATH</i> <i>SBS</i>
Agencies Holding One or Two Classes: 29	Agencies Holding One or Two Classes: 12	Agencies Holding One or Two Classes: 27	Agencies Holding One or Two Classes: 17	Agencies Holding One or Two Classes: 21	Agencies Holding One or Two Classes: 39	Agencies Holding One or Two Classes: 23	Agencies Holding One or Two Classes: 24
Total Classes: 286³	Total Classes: 182³	Total Classes: 288³	Total Classes: 242³	Total Classes: 194³	Total Classes: 416³	Total Classes: 535³	Total Classes: 286³

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

² From December 2005 to September 2006, the Training and Education Unit had an effective staff of one, as the Senior Trainer position was vacant from January to mid-July, and the new hire needed to be trained before he could begin teaching classes.

³ These totals do not include classes conducted by agency training/legal staff under COIB's "Train the Trainer" program nor briefings set up and conducted exclusively by DOI.

⁴ For five months during 2009 the Unit had a staff of only one.

EXHIBIT 5
LEGAL ADVICE WORKLOAD: 1993 TO 2008

	1993	2004 (Increase v. 2003)	2005 (Increase v. 2004)	2006 (Increase v. 2005)	2007 (Increase v. 2006)	2008 (Increase v. 2007)	2009 (Increase v. 2008)
Staff	5 attorneys	3 attorneys	3 attorneys	4 attorneys	4 attorneys	4 attorneys	4 attorneys
Telephone requests for advice	N/A	2,633 (+12%)	2,926 (+11%)	2,895 (-1%)	3,326 (+15%)	3797 (+14%)	3277 (-14%)
Written requests for advice	321	535 (-4%)	515 (-4%)	568 (+10%)	613 (+8%)	624 (+2%)	557 (-11%)
Issued opinions, letters, waivers, orders	266	470 (-12%)	543 (+16%)	415 (-24%)	605 (+46%)	574 (-5%)	484 (-16%)
Opinions, etc. per attorney	53	157 (-12%)	181 (+15%)	172 (-5%)	151 (-12%)	144 (-5%)	121 (-16%)
Pending written requests at year end	151	191 (+19%)	127 (-34%)	225 (+77%)	178 (-21%)	161 (-10%)	138 (-14%)
Median time to respond to requests	N/A	30 days	28 days	31 days	30 days	26 days	24 days

EXHIBIT 6
WRITTEN REQUESTS FOR ADVICE ON CHAPTER 68

<u>Year</u>	<u>Requests Received</u>
1996	359
1997	364
1998	496
1999	461
2000	535
2001	539
2002	691
2003	559
2004	535
2005	515
2006	568
2007	613
2008	624
2009	557

EXHIBIT 7
WRITTEN RESPONSES TO REQUESTS FOR ADVICE ON CHAPTER 68

<u>Year</u>	<u>Staff Letters</u>	<u>Waivers/ (b)(2) Letters</u>	<u>Board Letters, Orders, Opinions</u>	<u>Total</u>
1996	212	49	25	286
1997	189	116	24	329
1998	264	111	45	420
1999	283	152	28	463
2000	241	179	52	472
2001	307	148	46	501
2002	332	147	26	505
2003	287	165	83	535
2004	252	157	61	470
2005	241	223	79	543
2006	178	158	79	415
2007	269	246	90	605
2008	253	226	95	574
2009	170	231	83	484

EXHIBIT 8 CHAPTER 68 ENFORCEMENT CASES

	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
New Complaints	8	20	22	29	31	29	50	64	63	81	148	124	221	346	307	370	328	465	509	443
Cases Closed	2	6	25	38	4	33	32	54	76	83	117	152	179	243	266	234	530	429	509	472
Dispositions Imposing Fines	0	0	1	1	2	1	1	2	9	4	10	9	6	3	6	11	19	61	135	98
Public Warning Letters	0	0	0	0	0	0	1	0	0	0	2	2	0	0	0	1	7	26	11	21

EXHIBIT 9

ENFORCEMENT WORKLOAD: 1993 to 2009

	1993	2002 (Increase v. 2001)	2003 (Increase v. 2002)	2004 (Increase v. 2003)	2005 (Increase v. 2004)	2006 (Increase v. 2005)	2007 (Increase v. 2006)	2008 (Increase v. 2007)	2009 (Increase v. 2008)
Staff	½ attorney	5 (4 attorneys)	5 (4 attorneys)	5 (4 attorneys)	4 (3 attorneys ¹)	4 (2 attorneys ²)	5 (4 attorneys)	5 (4 attorneys ³)	5 (4 attorneys ⁴)
Complaints received	29	221 (+78%)	346 (+57%)	307 (-11%)	370 (+21%)	328 (-11%)	465 (+42%)	509 (+9%)	443 (-13%)
Cases closed	38	179 (+16%)	243 (+36%)	266 (+9%)	234 (-12%)	530 (+126%)	429 (-19%)	509 (+19%)	472 (-7%)
Dispositions imposing fines	1	6	3	6	11 (+83%)	19 (+73%)	61 (+221%)	135 (+121%)	98 (-27%)
Public warning letters	0	0	0	0	1	7	26 (+271%)	11 (-58%)	21 (+90%)
Fines imposed	\$500	\$15,300	\$6,500	\$8,450	\$37,050	\$30,460	\$87,100	\$155,350	\$161,050
Referrals to DOI	19	84 (+71%)	136 (+62%)	156 (+15%)	110 (-29%)	154 (+40%)	137 (-11%)	108 (-21%)	77 (-29%)
Reports from DOI	N/A	74 (+72%)	62 (-16%)	93 (+50%)	117 (+26%)	120 (+3%)	143 (+19%)	179 (+25%)	132 (-26%)

¹ The Enforcement Unit lacked one attorney for almost 11 months in 2005.

² The Enforcement Unit had only two attorneys for several months in 2006.

³ The Enforcement Unit had one attorney on leave for several months in 2008.

⁴ The Enforcement Unit had one attorney on leave for several months in 2009.

EXHIBIT 10
ENFORCEMENT FINES IMPOSED: 1993 to 2009

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENSION	
							# OF DAYS	DOLLAR EQUIVALENT
2009								
DECEMBER								
12/22/09	2009-351	Wright ¹	1,000					
12/22/09	2008-948	Gray ²	750					
12/22/09	2008-805	Mateo ³	2,000					
12/16/09	2009-391	Paige			1,500 Loan repayment	X	5	1,136
12/15/09	2009-923a	Jack				X	9	2,412
12/15/09	2008-923	Coward				X	9	2,412
12/14/09	2009-048	Racicot		3,000		X		
12/14/09	2009-085	Hicks		750		X		
12/08/09	2008-861	Smart*	10,000					
12/02/09	2008-792	Bryant	1,250					
12/02/09	2009-381	Watts				X	5	870
12/02/09	2009-082	Winfrey ⁴				X	10	1,586
12/01/09	2008-911	Pettinato	6,000	1,500		X		
NOVEMBER								
11/24/09	2008-271	Cuffy	1,500					
11/23/09	2006-045	Williams ⁵	1,500					
11/23/09	2008-390	Brewster	3,000					
OCTOBER								
10/26/09	2007-588	Fox	1,000					
10/21/09	2004-220	Perez	12,500					
10/21/09	2009-416	Mason-Bell	1,250					
10/20/09	2009-140	Brown	1,500	1,300		X		
10/20/09	2009-024	Beza ⁶	7,500					
10/19/09	2009-479	Anthony		1,400		X		
10/15/09	2008-531	Maslin	1,000					
10/15/09	2009-576	King				X	60	6,100.33
SEPTEMBER								
09/29/09	2007-626	Eisenberg	1,000					
09/29/09	2009-482	Pittman				X	5 suspension & 5 annual leave forfeited	1,523
09/29/09	2009-224	McNeil				X	10	1,420.08
09/29/09	2008-274	Proctor	1,000					
09/09/09	2009-481	Patrick				X	2 suspension & 3 annual leave forfeited	549.85
09/29/09	2009-144	DeSanctis				X	15	4,695
09/29/09	2008-303	Kundu	1,000					

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(S)	3/WAY SETTLEMENT	SUSPENSION	
							# OF DAYS	DOLLAR EQUIVALENT
09/29/09	2008-802	Baksh				X	15	1,644
09/29/09	2009-480	Ayinde				X	7	1,412.46
09/29/09	2007-847	Sirefman	1,500					
09/08/09	2009-122	Campbell				X	15 suspension & 10 annual leave forfeited	\$4,993
AUGUST								
08/27/09	2008-872	Cora	2,500					
08/27/09	2009-029	Finkenberg	1,500					
08/27/09	2008-729	Calvin				X	16	2,491.55
08/27/09	2008-582	Knowles	1,250					
08/27/09	2009-498	Purvis				X	10	1,433
08/10/09	2007-218 2008-530	Dorsinville	3,500					
JULY								
07/28/09	2008-881	Green	15,000					
07/28/09	2008-825	Byrne	1,000					
07/28/09	2008-910	Samuels ⁷	1,000					
07/23/09	2009-399	Spann				X	10	1,325
07/20/09	2008-348	Hall	2,000	1,500		X		
07/13/09	2007-565	Keeney	1,450					
07/13/09	2009-241	Vazquez				X	44	10,164
07/09/09	2009-227	Miller				X	6	1,597
07/09/09	2008-131	Edwards	2,500		Demoted & reassigned	X		
07/08/09	2009-177	Sheiner				X	5	1,274
07/07/09	2009-279	Belenky	2,000					
07/06/09	2008-260	Keene				X	30	2,300
07/06/09	2009-262	Fenves				X	12 annual leave forfeited	6,290
JUNE								
06/09/09	2008-962a	Lucks	1,500					
06/08/09	2008-355	Constantino	1,000					
06/01/09	2008-929	Hahn	600					
06/01/09	2009-192	Gabrielsen				X	7	1,492
05/06/09	2008-237a	Core, Sr.				X	30	7,904
05/05/09	2008-922	Guerrero				X	15	3,822
05/04/09	2008-960	O'Brien	20,000					
05/04/09	2008-527	Richardson	1,500					
05/04/09	2008-687	Purdie	400			X	11	1,671
05/04/09	2008-236	Tharasavat	6,000					
05/04/09	2008-744	Medal			41,035 Criminal restitution			

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(S)	3/WAY SETTLEMENT	SUSPENSION	
							# OF DAYS	DOLLAR EQUIVALENT
05/04/09	2008-635	Davey	2,750					
05/04/09	2005-612	Abiodun				X	13	1,466
APRIL								
04/16/09	2008-823	Winfield	2,000					
04/13/09	2007-565a	Horowitz	750					
04/08/09	2009-063	Pottinger				X	5	817
04/08/09	2008-688	Chen	500					
04/07/09	2008-478	Ribowsky	3,250					
04/06/09	2008-192	Forsythe	4,000					
04/06/09	2008-301	Smith	1,200					
04/06/09	2008-387	Candelario				X	21	3,074
04/06/09	2008-555	Borowiec	1,150					
04/06/09	2009-045	Bastawros				X	25	5,000
MARCH								
03/10/09	2007-745	Piscitelli	12,000					
03/05/09	2007-297	Benson	2,000					
03/04/09	2006-462	James ⁸	2,000					
03/03/09	2008-941	McFadzean				X	11	1,472
03/03/09	2008-943	Hayes				X	3	699
03/02/09	2008-006	Henry ⁹	6,626.04					
03/02/09	2008-760	Qureshi	1,000					
03/02/09	2008-504	Kwok	500					
FEBRUARY								
02/26/09	2008-326	Burgos				X	60	8,232
02/19/09	2008-681	King				X	3	562
02/18/09	2008-581	Alejandro	2,000					
02/10/09	2008-434	Tangredi				X	5	839
02/09/09	2008-368a	Geraghty				X	30	4,826
02/09/09	2008-481	Murrell ¹⁰	1,000					
02/04/09	2008-719	Teriba				X	5 suspension & 10 annual leave forfeited	3,104.55
02/04/09	2008-921	Conton				X	3 suspension & 3 annual leave forfeited	676.62
02/04/09	2004-750	Buccigrossi	2,000					
02/03/09	2006-640	Leigh	500					
JANUARY								
01/29/09	2008-716	Brenner		11,000				
01/29/09	2007-330	Dodson	2,500					
01/12/09	2008-374	Santana	1,000					
2008								
DECEMBER								
12/30/08	2008-267a	Hubert				X	20	2,882
12/22/08	2005-748	Bryan*	7,500					
12/22/08	2008-604	Wiltshire				X	30	3,495

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENSION	
							# OF DAYS	DOLLAR EQUIVALENT
							& restitution to ACS	290.80
12/18/08	2008-478b	Shaler	2,500					
12/17/08	2008-423b	Bradley	600					
12/17/08	2005-588	LaBush	750					
12/15/08	2007-813	Miraglia	2,000					
12/15/08	2007-686	Alfred	1,000			X		
12/10/08	2007-479	Valvo	800					
NOVEMBER								
11/24/08	2008-376	Rosado	3,000			X		
11/24/08	2007-431	Ballard	3,000					
11/24/08	2008-706	Bryk	1,800			X		
11/17/08	2008-077	Pittari	1,000					
11/05/08	2005-132	Okanome*	7,000					
11/05/08	2007-627	Ramsami	750					
OCTOBER								
10/30/08	2008-331	Elliott		1,000		X		
10/30/08	2007-442	Bourbeau	3,000		Resign from DOE	X		
10/29/08	2008-296	Salgado				X	44	11,020
10/29/08	2008-122	Geddes	250			X	3	561
10/28/08	2008-217	Ng-A-Qui				X	6	1,563
10/27/08	2007-261	Soto ¹¹	1,500					
10/27/08	2007-680	DeFabbia	1,500					
10/22/08	2008-543	Adkins				X	8	1,003.76
10/21/08	2008-256	Proctor				X	10 suspension & 7 annual leave forfeited	1,499.50 770
10/20/08	2008-609	Grandt	500					
10/20/08	2008-624	Tsarsis	750					
SEPTEMBER								
09/29/08	2005-243	Byrne ¹²	5,000					
09/24/08	2008-472	Nash-Daniel				X	8	1,496
09/24/08	2008-536	Miller				X	5	550
09/24/08	2008-585	Wordsworth				X	5	623
09/23/08	2008-423	Greco	2,000					
09/22/08	2007-777	Gray	2,500					
09/22/08	2008-421	Mir	11,500					
09/17/08	2007-672	Siegel	1,500					
09/16/08	2008-396	Solo	1,250					
09/16/08	2008-396a	Militano	1,250					
09/11/08	2007-436h	Carmenaty	1,500					
AUGUST								
08/25/08	2007-827	Heaney	1,500			X		
08/14/08	2008-436ss	Stephenson	1,500					

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENSION	
							# OF DAYS	DOLLAR EQUIVALENT
JULY								
07/28/08	2008-207	Berger	1,750					
07/28/08	2008-217	Passaretti				X	30	7,306
07/23/08	2008-295	Lowry				X	30	7,307.10
07/15/08	2007-436	Arzuza				X	5	1,172.09
07/15/08	2007-436a	Baerga				X	5	1,206.09
07/15/08	2007-436b	Baldi				X	20	4,940.40
07/15/08	2007-436c	Barone				X	5	862.50
07/15/08	2007-436d	Bellucci				X	5	1,172.09
07/15/08	2007-436e	Bostic				X	5	1,172.09
07/15/08	2007-436f	Bracone				X	5	1,223.81
07/15/08	2007-436g	Branaccio				X	15	2,587.50
07/15/08	2007-436i	Castro				X	15	3,705.30
07/15/08	2007-436j	Cato				X	5	1,189.33
07/15/08	2007-436k	Colorundo				X	5	1,206.57
07/15/08	2007-436l	Congimi				X	5	1,235.10
07/15/08	2007-436m	Cutrone				X	5	1,252.30
07/15/08	2007-436n	Damers				X	5	1,235.10
07/15/08	2007-436o	Desanctis				X	5	1,189.33
07/15/08	2007-436p	Dixon				X	5	1,252.30
07/15/08	2007-436q	Drogsler				X	5	829.31
07/15/08	2007-436r	Gallo				X	15	3,808.65
07/15/08	2007-436s	Garcia				X	5	1,217.85
07/15/08	2007-436t	Georgios				X	5	821.40
07/15/08	2007-436u	Grey				X	30	7,410.60
07/15/08	2007-436v	Harley				X	5	1,172.09
07/15/08	2007-436w	Hayden				X	5	1,189.33
07/15/08	2007-436x	Jaouen				X	5	1,252.30
07/15/08	2007-436y	Kane				X	5	1,217.85
07/15/08	2007-436z	Keane				X	5	1,206.57
07/15/08	2007-436aa	Kopczynski				X	4	1,223.81
07/15/08	2007-436bb	Lagalante				X	5	1,206.57
07/15/08	2007-436cc	Lampasona				X	5	959.70
07/15/08	2007-436dd	La Rocca				X	15	3,705.30
07/15/08	2007-436ee	La Salle	1,500					
07/15/08	2007-436ff	MacDonald				X	15	3,705.30
07/15/08	2007-436gg	Mann, A.				X	15	3,757.05
07/15/08	2007-436hh	Mann, C.				X	5	1,189.33
07/15/08	2007-436ii	Mastrocco				X	15	3,808.68
07/15/08	2007-436jj	McDermott				X	5	829.31
07/15/08	2007-436kk	McMahon				X	5	1,172.09

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(S)	3/WAY SETTLEMENT	SUSPENSION	
							# OF DAYS	DOLLAR EQUIVALENT
07/15/08	2007-436ll	Morales, A.				X	5	1,252.30
07/15/08	2007-436mm	Morales, J.				X	15	3,705.30
07/15/08	2007-436nn	Moscarelli				X	5	1,217.85
07/15/08	2007-436oo	Prendergrast				X	15	2,587.50
07/15/08	2007-436pp	Puhi				X	5	1,206.57
07/15/08	2007-436qq	Ruocco				X	5	1,269.55
07/15/08	2007-436rr	Smith, M.				X	5	1,217.85
07/15/08	2007-436tt	Sterbenz				X	5	2,217.85
07/15/08	2007-436uu	Taylor				X	4	1,189.33
07/15/08	2007-436vv	Torres				X	5	1,206.57
07/15/08	2007-436ww	Valerio				X	5	1,172.09
07/15/08	2007-436xx	Wallace				X	5	1,217.85
07/15/08	2007-436yy	Williams				X	15	3,705.30
07/15/08	2007-436zz	Zaborsky	1,500					
07/15/08	2007-436ab	Guifre				X	5	821.40
07/15/08	2007-436ac	Sullivan				X	5	821.40
07/15/08	2007-436ae	Pretakiewicz				X	5	1,252.30
07/08/08	2008-132	Hwang	1,250					
07/08/08	2007-015c	Klein	1,500					
07/08/08	2007-015	Montemarano	2,500					
07/07/08	2008-025	Harmon	7,500					
07/07/08	2007-237	Philemy	2,250			X		
07/07/08	2007-774	Harrington	1,000					
07/07/08	2004-746	Lemkin	500					
07/07/08	2004-746a	Renna	500					
07/07/08	2004746b	Schneider	500					
JUNE								
06/17/08	2002-325	Anderson ¹³	7,100					
MAY								
05/22/08	2006-559a	Cross	500			X		
05/22/08	2006-559	Richards	500			X		
05/22/08	2007-433	Jafferalli				X	30	4,151
05/22/08	2007-433a	Edwards				X	21	3,872
05/22/08	2007-570	Mouzon		1,279.48		X	10	1,046
05/20/08	2007-636	Blundo	1,000			X		

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENSION	
							# OF DAYS	DOLLAR EQUIVALENT
05/09/08	2006-617	Johnson	300			X		
05/08/08	2008-037	Zigelman	1,500	1,500		X		
05/01/08	2006-775	Childs	500			X	5	1,795
APRIL								
04/30/08	2003-373k	Rider	1,000					
04/29/08	2007-873	Shaler	2,000					
04/29/08	2005-236	Mizrahi	2,000					
04/29/08	2007-744	Deschamps	1,500			X	5	892
MARCH								
03/20/08	2003-373a	Lee	3,000					
03/20/08	2003-373k	Gwiazdzinski	3,000					
03/06/08	2004-530	Murano	1,250					
03/05/08	2007-058	Saigbovo	750					
03/05/08	2007-157	Aldorasi	3,000	1,500		X		
03/04/08	2003-550	Amar	4,500					
03/03/08	2007-723	Namnum	1,250			X		
03/03/08	2005-665	Osindero	500			X	15	2,205.97
03/03/08	2007-825	Namyotova	1,000			X	15	1,952
FEBRUARY								
02/07/08	2001-566d	Moran	1,500			X		
02/07/08	2001-566c	Guarino	1,500			X		
02/07/08	2001-566b	Sender	5,000			X		
02/07/08	2001-566a	Diaz	1,500			X		
02/07/08	2001-566	Ferro	2,500			X		
JANUARY								
01/28/08	2004-610	Riccardi	1,500					
01/23/08	2006-350	Schlein	15,000					
2007								
DECEMBER								
12/17/07	2006-632	Blenman	2,000					
12/17/07	2006-233	Osagie	5,000			X		
12/04/07	2004-188	Pratt ¹⁴	500		3,961 Restitution			
NOVEMBER								
11/29/07	2007-519	Tamayo	100		900 Loan repayment	X	Resign as Principal & reinstated as teacher w/pay reduction; must resign from DOE by 8/31/08	52,649
11/29/07	2006-562b	McLeod				X	5	1,105.62
11/27/07	2006-618	Hall	1,500					
11/27/07	2004-517	Williams	4,000					
11/05/07	2005-365	Norwood*	4,000					

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(S)	3/WAY SETTLEMENT	SUSPENSION	
							# OF DAYS	DOLLAR EQUIVALENT
OCTOBER								
10/29/07	2006-423	S. Fraser	2,000					
10/29/07	2003-785a	Speiller	1,000					
10/29/07	2007-138	Basile	2,000					
10/26/07	2007-039	Tulce				X	30	4,550
10/09/07	2003-200	Lastique	2,000			X	21 plus reassignment & probation	1,971.69
10/02/07	2007-441	Larson	1,000					
10/02/07	2006-423a	Russell	1,000					
SEPTEMBER								
09/26/07	2006-411	Allen*	5,000					
09/18/07	2004-246	Margolin	3,250					
09/12/07	2006-551	Davis	700					
09/04/07	2007-016	Graham					5	896
AUGUST								
08/30/07	2007-362	Lucido	500					
JULY								
07/31/07	2003-785	Gennaro	2,000					
07/23/07	2003-152a	Bergman	1,000					
07/18/07	1999-026	Pentangelo	1,500					
07/16/07	2006-706	Carlson	500	4,820.92		X		
07/12/07	2006-461	Greenidge	500					
07/11/07	2006-098	Barreto	2,500			X		
07/11/07	2005-244	Clair	6,500					
07/10/07	2007-056	Glover				X	30	7,742
JUNE								
06/29/07	2005-200	Cetera	2,000			X		
06/05/07	2005-442	Sanders	1,000					
06/04/07	2005-240	Mazer	2,000					
MAY								
05/31/07	2006-383	Ianniello	1,000			X		
05/31/07	2006-684	Cooper	2,500	2,500		X		
05/31/07	2006-684a	Reilly	750	750		X		
05/31/07	2006-460	Amofo-Danquah	3,000			X	5	1,273.25
05/30/07	2007-053	Cammarata	1,500					
05/30/07	2002-678	Murphy	750					
05/30/07	2004-556	Cagadoc	500					
05/02/07	2005-690	Cantwell	1,500					
APRIL								
04/30/07	2006-068	Henry	1,000					
04/30/07	2005-739a	Oquendo	500					
04/25/07	2004-570	Matos	1,000			X		
04/17/07	2006-562a	Wade	500					
MARCH								

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENSION	
							# OF DAYS	DOLLAR EQUIVALENT
03/28/07	2006-554	Bassy	500					
03/27/07	2006-349	Vale	2,250					
03/27/07	2005-240	Sahm	1,250					
FEBRUARY								
02/28/07	2005-505	Martino-Fisher	1,000					
02/28/07	2003-752	Kessock	500					
02/28/07	2006-519	Lepkowski	500					
02/28/07	2002-503	Maith	500					
02/05/07	2002-458	Aquino	500					
02/05/07	2006-064	Tarazona	2,000					
02/05/07	2001-494	Russo	2,000			X		
JANUARY								
01/29/07	2005-031	Marchuk	750					
01/29/07	2006-635	Bayer	1,000		Retire from DDC	X	18	1,000
01/24/07	2005-178	Davis	1,000			X		
01/24/07	2005-098	Rosenfeld	500					
01/05/07	2004-697	Della Monica	1,500					
01/03/07	2004-712	McHugh	2,000					
2006								
DECEMBER								
12/19/06	2005-685	Diaz	500					
12/15/06	2002-140	Fenster	500					
12/11/06	2006-562b	Jefferson				X	25	3,085
12/11/06	2006-562	Nelson				X	25	4,262
NOVEMBER								
11/10/06	2003-655	Sorkin	500					
11/10/06	2005-271a	Parlante	460			X		
11/10/06	2005-271	Marchesi	750			X		
AUGUST								
08/24/06	2004-324a	Neira	4,500					
08/24/06	2006-048	Tyner				X	45	6,224
JULY								
07/28/06	2004-700a	L. Golubchick	4,000					
07/28/06	2004-700	J. Golubchick	1,000					
JUNE								
06/30/06	2003-097	Kerik	10,000		5,000 FD & 206,000 Criminal			
06/20/06	2004-159	Goyol	2,500					
06/06/06	2005-155	Okowitz	1,250			X		
MAY								
05/10/06	2003-423a	Coppola	500					
MARCH								
03/28/06	2005-590	Whitlow		1,818		X		
FEBRUARY								

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENSION	
							# OF DAYS	DOLLAR EQUIVALENT
02/23/06	2005-238	Valsamedis				X	50 w/o pay plus 10 days annual leave	11,267.50
02/15/06	2005-146	Vance	1,500				Annual leave	1,122
02/03/06	2002-716	Green	2,500	1,500		X		
2005								
NOVEMBER								
11/16/05	2004-214	Guttman	2,800					
11/16/05	2004-418	Trica	4,000					
JULY								
07/23/05	2002-677y	Serra ¹⁵	10,000					
JUNE								
06/22/05	2005-151	Carroll	3,000			X	Suspension w/out pay	3,000
06/07/05	2004-082a	Romano	4,000					
MAY								
05/25/05	2004-082	Hoffman	4,000					
MARCH								
03/29/05	2003-788	Asemota	500			X	Annual leave	1,000
03/29/05	2004-466	Powery	1,000					
FEBRUARY								
02/28/05	2004-515	Genao	1,000					
02/28/05	2004-321a	Vasquez	1,750			X	Annual leave	1,600
JANUARY								
01/31/05	2003-127	Thomas	2,000				Annual leave	3,915
01/31/05	2002-782	Bonamarte	3,000					
2004								
DECEMBER								
12/21/04	2004-180	Berkowitz	3,500					
OCTOBER								
10/30/04	2002-770	W. Fraser	500					
10/21/04	2004-305	McKen	450	450		X		
JUNE								
06/22/04	2003-359	Campbell	2,000					
MAY								
05/20/04	2002-528	Fleishman	1,000	5,000	1,300 Restitution			
MARCH								
03/05/04	2001-618	Andersson	1,000					
2003								
APRIL								
04/03/03	2002-304	Arriaga	1,000	2,500		X	30	
MARCH								
03/25/03	2002-088	Adams	1,500					
JANUARY								

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENSION	
							# OF DAYS	DOLLAR EQUIVALENT
01/07/03	2002-463	Mumford		2,500	5,000 for violation of Reg. C-110			
2002								
JULY								
07/18/02	2002-188	Blake-Reid	4,000				Annual leave	4,000
JUNE								
06/27/02	2001-593	Cottes	500			X		
06/21/02	2000-456	Silverman	500					
MARCH								
03/27/02	2000-192	Smith ¹⁶			2,433 Restitution			
FEBRUARY								
02/27/02	2001-569	Kerik	2,500					
02/22/02	2000-407	Loughran	800					
2001								
DECEMBER								
12/13/01	1998-508	King	1,000			X		
NOVEMBER								
11/13/01	2000-581	Hill-Grier	700			X		
SEPTEMBER								
09/25/01	2000-533	Denizac		4,000		X		
AUGUST								
08/15/01	1999-501	Moran					Annual leave (plus 30 days w/out pay and demoted)	2,500
JULY								
07/16/01	1999-157	Capetanakis	4,000					
JUNE								
06/25/01	2000-005	Rieue	2,000					
06/07/01	2000-231	Steinhandler	1,500			X		
MAY								
05/23/01	1999-121	Camarata	1,000					
MARCH								
03/08/01	1991-173	Peterson	1,500					
FEBRUARY								
02/26/01	1999-199	Finkel	2,250					
2000								
OCTOBER								
10/24/00	1999-200	Hoover	8,500					
10/16/00	1999-200	Turner	6,500					
AUGUST								
08/14/00	1999-511	Paniccia	1,500					
08/07/00	1999-500	Chapin	500					

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(s)	3/WAY SETTLEMENT	SUSPENSION	
							# OF DAYS	DOLLAR EQUIVALENT
JULY								
07/24/00	2000-254	Lizzio	250					
MAY								
05/24/00	1999-358	Rosenberg	1,000					
APRIL								
04/26/00	1998-169	Marrone	5,000					
MARCH								
03/26/00	1998-288	Sullivan	625			X		
03/10/00	1999-250	Carlin	800			X		
JANUARY								
01/06/00	1997-237d	Rene		2,500		X		
1999								
NOVEMBER								
11/23/99	1994-082	Davila	500					
11/22/99	1999-334	McGann	3,000			X		
JUNE								
06/29/99	1998-190	Sass	20,000					
FEBRUARY								
02/03/99	1997-247	Ludewig	7,500			X		
1998								
OCTOBER								
10/09/98	1997-247	Morello	6,000				Resigned & forfeited annual leave	93,105
SEPTEMBER								
09/17/98	1994-351	Katsorhis	84,000					
JULY								
07/14/98	1997-394	Weinstein	1,250			X	Annual leave	3,750
JUNE								
06/22/98	1996-404	Fodera	3,000		100 for late FD filing			
06/22/98	1995-045	Wills	1,500					
06/15/98	1998-102	Hahn	1,000			X		
MAY								
05/22/98	1997-368	Harvey ¹⁷	200					
05/08/98	1997-247	Cioffi	100					
1997								
DECEMBER								
12/22/97	1997-076	N. Ross	1,000					
12/10/97	1997-225	M. Ross	1,000			X		
JUNE								
06/17/97	1997-060	Quennell	100					
1996								
APRIL								
04/03/96	1993-121	Holtzman	7,500					

DATE	CASE NUMBER	CASE NAME	AMOUNT PAID TO COIB	AMOUNT PAID TO AGENCY	ADDITIONAL FINE(S)	3/WAY SETTLEMENT	SUSPENSION	
							# OF DAYS	DOLLAR EQUIVALENT
MARCH								
03/08/96	1994-368	Matos ¹⁸	1,000/250					
1995								
AUGUST								
08/04/95	1993-282a	Baer	5,000					
1994								
FEBRUARY								
02/11/94	1993-282	Bryson	500					
JANUARY								
01/24/94	1991-214	McAuliffe	2,500					
1993								
APRIL								
04/27/93	1991-223	Ubinas	500					
TOTALS			683,211.04	52,788.92	262,368			458,822.12

TOTAL: \$1,447,054.08

¹ This fine was reduced to \$1,000 from \$3,000 on proof of financial hardship, including exhaustion of savings and accumulation of significant debt.

² In reducing this fine from \$1,500 to \$750, the Board took into consideration that for this conduct Gray was suspended by her agency for three days, valued at approximately \$500, and her showing of financial hardship, including her current unemployment and receipt of public assistance.

³ This fine was forgiven by the Board on proof of financial hardship, including unemployment and significant outstanding balances on her mortgage and utility bills.

⁴ In accepting the penalty imposed by the agency of \$1,586, instead of a Board fine of \$3,000, the Board took into consideration Winfrey's showing of financial hardship, including exhaustion of savings and accumulation of significant debt.

⁵ This fine is due to be paid by Respondent on or before December 23, 2009.

⁶ This fine was forgiven by the Board on proof of financial hardship, including unemployment, application for and receipt of multiple forms of public assistance, and outstanding rent and utility bills.

⁷ In setting the amount of this fine, the Board took into consideration that for this conduct Samuels was suspended by his agency for three days, valued at approximately \$586.

⁸ This fine was forgiven by the Board on proof of extreme financial hardship, including unemployment, exhaustion of savings, and accumulation of significant debt.

⁹ This fine was forgiven by the Board on proof of extreme financial hardship, including unemployment, exhaustion of savings, and accumulation of significant debt.

¹⁰ This fine was reduced on proof of financial hardship, including exhaustion of savings and accumulation of significant debt.

¹¹ This fine was reduced to \$1,500 from \$3,500 on proof of financial hardship, including exhaustion of savings and accumulation of significant debt.

¹² In setting the amount of this fine, the Board took into consideration that Byrne forfeited terminal leave valued at approximately \$37,000 as a result of departmental charges pending against him at the time of his retirement, which charges arose, in part, out of the same facts as in the Board's disposition.

¹³ This fine was reduced to \$7,100 from \$20,000 on proof of financial hardship, including an injury, extended unemployment, exhaustion of savings, and accumulation of significant debt

¹⁴ The total fine was \$4,750, of which \$500 was paid to the Board upon signing of the Disposition. The remaining \$4,250 of this fine was forgiven when, by March 1, 2009, Pratt fully repaid his former subordinate the outstanding portion of the loan (in the amount of \$3,961).

¹⁵ This fine was paid to the Board as part of Serra's plea of guilty to grand larceny and violation of the conflicts of interest law.

¹⁶ The total fine was \$3,000, but was to be forgiven if, by March 1, 2004, Smith had fully paid the foster mother the outstanding portion of the loan (in the amount of \$2,433).

¹⁷ This fine was reduced to \$200 on proof of financial hardship, including unemployment and receipt of public assistance.

¹⁸ 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.

* As the respondent did not appear at the trial of this matter, the fine imposed by the Board has not yet been collected.

EXHIBIT 11 FINANCIAL DISCLOSURE REPORTS

Reporting Year ¹ ("R.Y.")	Number of Reports Required for R.Y.	Reports Filed for R.Y.	Compliance Rate for R.Y. ²	Number of Fines Waived for R.Y.	Number of Fines Paid for R.Y.	Amount of Fines Paid for R.Y.	Current Non-Filers for R.Y. Act.Inact. ³		Current Non-Payers for R.Y. Act.Inact.	
2003	7,827	7,477	96.8%	293	62	\$13,700	0	248	0	30
2004	7,550	7,233	97.1%	945	46	\$17,925	0	219	0	43
2005 ⁴	7,625	7,298	96.4%	226	12	\$3,050	0	215	0	17
2006	7,693	7,453	97.6%	298 ⁵	56	\$15,300	2	169	0	66
2007	7,770	7,530	97.5%	92	73	\$20,500	0	164	0	89
2008*	7,877	7,653	97.9%	84	34	\$9,075	23	67	13	43
TOTALS	46,342	44,644	97.2%	1,938	283	\$79,550⁶	25	1,082	13	288

¹ The reporting year is the year to which the financial disclosure report pertains; the report is submitted the following calendar year.

² Includes those individuals who have appealed their agency's determination that they are required filers and who are thus currently in compliance.

³ "Act." indicates active City employees; "inact." indicates inactive City employees.

⁴ In 2006, virtually all reports were filed electronically for the first time, for reporting year 2005.

⁵ Reporting year 2006 was the first time the Department of Investigation EO 91 report was integrated into electronic filing.

⁶ The total amount of fines collected since the Board assumed responsibility for financial disclosure in 1990 is \$525,348.

* These numbers are preliminary as efforts to obtain compliance are ongoing.

EXHIBIT 12

PROPOSED AMENDMENTS TO NYC AD. CODE § 12-110¹

A Local Law to amend the administrative code of the city of New York, in relation to the filing of annual disclosure reports

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 12-110 of the administrative code of the city of New York, as added by local law number 43 for the year 2003, paragraphs 2 and 9 as amended by local law number 14 for the year 2006, is amended to read as follows:

§12-110 Annual disclosure.

a. Definitions. As used in this section:

1. The term ["business dealings with a state or local agency" shall mean any transaction with any state or local agency involving the sale, purchase, rental, disposition or exchange of any goods, services or property, any license, permit, grant or benefit, and any performance of or litigation with respect to any of the foregoing, but shall not include any transaction involving a public servant's residence or any ministerial matter] "affiliated" shall mean a firm that is a subsidiary of another firm, or if such firms have a parent in common, or if they have a stockholder in common who owns at least twenty-five per cent of the shares of each such firm.

2. The term "agency" or "city agency" shall mean a county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation, committee or other agency of government, the expenses of which are paid in whole or in part from the city treasury, and shall include but not be limited to, the council, the offices of each elected official, the board of education, community boards, the health and hospitals corporation, the New York city industrial development agency, the offices of the district attorneys of the counties of Bronx, Kings, New York, Queens and Richmond, and of the special narcotics prosecutor, the New York city housing authority, and the New York city housing development corporation, but shall not include any court or any corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility or any advisory committee as that term is defined in subdivision one of section twenty-six hundred one of the charter.

3. The term "business dealings with the city" shall mean any transaction with the city involving the sale, purchase, rental, disposition or exchange of any goods, services, or property, any license, permit, grant or benefit, and any performance of or litigation with respect to any of the foregoing, but shall not include any transaction involving a public servant's residence or any ministerial matter.

[2. The term "city employee" shall be defined as an employee of a city, county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation or other agency of government, the expenses of which are

¹ These proposed amendments are identical to Intro. 782 (2008), introduced at the request of the Mayor, with certain technical changes.

paid in whole or in part from the city treasury and shall include but not be limited to employees of the New York city health and hospitals corporation, the New York city industrial development agency, the offices of the district attorneys of the counties of Bronx, Kings, New York, Queens and Richmond, and of the special narcotics prosecutor, and the New York city housing development corporation].

4. The term "city" shall mean the city of New York and shall include an agency of the city.

[3.] 5. The term "conflicts of interest board" or "board" shall mean the conflicts of interest board appointed pursuant to section twenty-six hundred two of the New York city charter.

[4.] 6. The term "domestic partners" shall mean persons who have a registered domestic partnership, which shall include any partnership registered pursuant to section 3-240 of the administrative code of the city of New York.

7. The term "gift" shall mean anything of value for which a person pays nothing or less than fair market value and may be in the form of money, services, reduced interest on a loan, travel, travel reimbursement, entertainment, hospitality, thing, promise, or in any other form.

[5.] 8. The term "independent body" shall mean any organization or group of voters which nominates a candidate or candidates for office to be voted for at an election, and which is not a political party as defined in paragraph [seven] twelve of this subdivision.

9. The term "local authority" or "local public authority" shall be given the same meaning as the term "local authority" is defined in subdivision two of section two of the public authorities law.

[6.] 10. The term "local political party official" shall mean:

(1) any chair of a county committee elected pursuant to section 2-112 of the election law, or his or her successor in office, who received compensation or expenses, or both, from constituted committee or political committee funds, or both, during the reporting period aggregating thirty thousand dollars or more;

(2) that person (usually designated by the rules of a county committee as the "county leader" or "chair of the executive committee") by whatever title designated, who pursuant to the rules of a county committee or in actual practice, possesses or performs any or all of the following duties or roles, provided that such person received compensation or expenses, or both, from constituted committee or political committee funds, or both, during the reporting period aggregating thirty thousand dollars or more:

(i) the principal political, executive and administrative officer of the county committee;

(ii) the power of general management over the affairs of the county committee;

(iii) the power to exercise the powers of the chair of the county committee as provided for in the rules of the county committee;

(iv) the power to preside at all meetings of the county executive committee if such a committee is created by the rules of the county committee or exists de facto, or any other committee or subcommittee of the county committee vested by such rules with or having de facto the power of general management over the affairs of the county committee at times when the county committee is not in actual session;

(v) the power to call a meeting of the county committee or of any committee or subcommittee vested with the rights, powers, duties or privileges of the county committee

pursuant to the rules of the county committee, for the purpose of filling an office at a special election in accordance with section 6-114 of the election law, for the purpose of filling a vacancy in accordance with section 6-116 of such law or for the purpose of filling a vacancy or vacancies in the county committee which exist by reason of an increase in the number of election districts within the county occasioned by a change of the boundaries of one or more election districts, taking effect after the election of its members, or for the purpose of determining the districts that the elected members shall represent until the next election at which such members of such committee are elected; provided, however, that in no event shall such power encompass the power of a chair of an assembly district committee or other district committee smaller than a county and created by the rules of the county committee, to call a meeting of such district committee for such purpose;

(vi) the power to direct the treasurer of the party to expend funds of the county committee; or

(vii) the power to procure from one or more bank accounts of the county committee the necessary funds to defray the expenses of the county committee. The terms "constituted committee" and "political committee" as used in this subparagraph shall have the same meanings as those contained in section 14-100 of the election law.

The terms "constituted committee" and "political committee" as used in this subparagraph shall have the same meanings as those contained in section 14-100 of the election law.

11. The term "policymaking position" shall refer to persons charged with "substantial policy discretion" as referenced in paragraphs twelve and fifteen of subdivision b of section twenty-six hundred four of the New York city charter, and as defined by rule of the conflicts of interest board.

[7.] 12. The term "political party" shall mean any political organization which at the last preceding election for governor polled at least fifty thousand votes for its candidate for governor.

[8.] 13. The term "political organization" shall mean any political party as defined in paragraph [seven] twelve of this subdivision, or independent body, as defined in paragraph [five] eight of this subdivision, or any organization that is affiliated with or a subsidiary of a party or independent body.

[9.] 14. The term "relative" shall mean the spouse, domestic partner, [parent, grandparent,] child, stepchild, brother, sister, parent, or stepparent of the person reporting, or any person [who is the direct descendant of the grandparents of the person reporting or of the spouse or domestic partner of the person reporting] whom the person reporting claimed as a dependent on his or her latest personal income tax return, and each such relative's spouse or domestic partner.

[10.] 15. The [terms "state agency" and "local agency" shall be given the same meanings as such terms are given in section eight hundred ten of the general municipal law] term "unemancipated child" shall mean any son, daughter, stepson or stepdaughter who is under age eighteen, unmarried and living in the household of the person reporting, and shall also include any son or daughter of the spouse or domestic partner of such person who is under age eighteen, unmarried and living in the household of the person reporting.

§ 2. Subdivision b of section 12-110 of the administrative code of the city of New York, as added by local law number 43 for the year 2003, paragraph 3 as amended by local law number 14 for the year 2006, is amended to read as follows:

b. Persons required to file [a financial] an annual disclosure report.

The following persons shall file with the conflicts of interest board an annual disclosure report, in such form as the board shall determine, disclosing certain financial interests as hereinafter provided. Reports [filed prior to January first, two thousand six may be filed electronically, in such form as the board may determine, and thereafter] shall, except as otherwise provided by the board [in consultation with the filer's agency], be filed electronically, in such form as the board may determine.

1. Elected and political party officials.

(a) Each elected officer described in sections four, twenty-four, twenty-five, eighty-one, ninety-one and eleven hundred twenty-five of the New York city charter, and each local political party official described in paragraph [six] ten of subdivision a of this section, shall file such report not later than [May first of] such date as designated by the conflicts of interest board each year.

(b) A local political party official required to file a report pursuant to subparagraph (a) of this paragraph who is also subject to the financial disclosure filing requirements of subdivision two of section seventy-three-a of the public officers law may satisfy the requirements of paragraph one by filing with the conflicts of interest board a copy of the statement filed pursuant to section seventy-three-a of the public officers law, on or before the filing deadline provided in such section seventy-three-a, notwithstanding the filing deadline otherwise imposed by paragraph one of this subdivision.

2. Candidates for public office.

(a) Each person, other than any person described in paragraph one, who has declared his or her intention to seek nomination or election and who has filed papers or petitions for nomination or election, or on whose behalf a declaration or nominating paper or petition has been made or filed which has not been declined, for an office described in paragraph one of subdivision b of this section shall file such report on or before the last day for filing his designating petitions pursuant to the election law.

(b) Each person, other than any person described in paragraph one, who was a write-in candidate at the primary election for an office described in paragraph one of subdivision b of this section and whose name is thereafter entered in the nomination book at the board of elections, shall file such report within twenty days after such primary election.

(c) Each person, other than any person described in paragraph one, who has been designated to fill a vacancy in a designation or nomination for an office described in paragraph one of subdivision b of this section shall file such report within fifteen days after a certificate designating such person to fill such vacancy is filed with the board of elections, or within five days before the election for which the certificate is filed, whichever is earlier.

(d) The conflicts of interest board shall obtain from the board of elections lists of all candidates for the elected positions set forth below, and from such lists, shall determine and publish lists of those candidates who have not, within ten days after the required date for filing such reports, filed the reports required by this section.

3. (a) The following categories of persons who had such status during the preceding calendar year or up until the date of filing their [financial] annual disclosure report

shall be required to file a report not later than [May first of] the date designated by the conflicts of interest board each year:

(1) Each agency head, deputy agency head, assistant agency head and member of any board or commission[, other than a member of a board or a commission who serves without compensation, provided, however, that a member of the New York city housing development corporation shall be deemed to be a compensated member of such corporation for purposes of this section];

(2) Each officer or employee of the city in the mayor's office, the city council, a district attorney's office, the office of the special narcotics prosecutor, or any other agency that does not employ M-level mayor's management plan indicators for its managers, whose responsibilities [on April thirtieth of each year] involve the independent exercise of managerial or policymaking functions or who holds a policymaking position, as annually determined by the appointing authority of his or her agency, subject to review by the conflicts of interest board;

(3) Each officer or employee of the city, other than an officer or employee of the city in the mayor's office, the city council, a district attorney's office or the special narcotics prosecutor's office, who, on April thirtieth of each year, is paid in accordance with the mayor's management pay plan at level M4 or higher, or who holds a policymaking position on such date, as defined by rule of the conflicts of interest board and as annually determined by the head of his or her agency, subject to review by the conflicts of interest board;

(4) Each officer or employee of the city whose duties at any time during the preceding calendar year involved the negotiation, authorization or approval of contracts, leases, franchises, revocable consents, concessions and applications for zoning changes, variances and special permits, as defined by rule of the conflicts of interest board and as annually determined by his or her agency head or employer, subject to review by the conflicts of interest board.

(5) Each assessor required to file a report solely by reason of section three hundred thirty-six of the real property tax law[, provided, however, that the report filed by any such assessor shall be the report prescribed by such section of the real property law];

(6) Any person required by New York state law to file [a financial] an annual disclosure report with the conflicts of interest board.

(b) Separation from service:

(1) Each person described in this paragraph shall, following separation from service, file such report for the portion of the last calendar year in which he or she served in his or her position within sixty days of his or her separation from service or on or before the [May first next succeeding] date designated by the conflicts of interest board for filing pursuant to subparagraph (a) of this paragraph, whichever is earlier, if such person met the criteria of this subparagraph on his or her last day of service. Each such person who leaves service prior to [May first] the date designated by the conflicts of interest board for filing pursuant to subparagraph (a) of this paragraph shall also file a report for the previous calendar year within sixty days of his or her separation from service or [on the May first next succeeding] on or before such date designated by the conflicts of interest board, whichever is earlier.

(2) Each [such] person described in this subdivision who is terminating or separating from service shall not receive his or her final paycheck, and/or any lump sum payment to which he or she may be entitled, until such person has complied with the requirements of this section.

(3) Each elected officer and each local political party official described in paragraph [six] ten of subdivision a of this section shall, after leaving office, file such report for

the previous calendar year, if such officer or local political party official has not previously filed such report, and shall file such report for the portion of the last calendar year in which he or she served in office, within sixty days of his or her last day in office or on or before the [May first next succeeding] date designated by the conflicts of interest board for filing pursuant to subparagraph (a) of paragraph one of this subdivision, whichever is earlier.

§ 3. Subdivision c of section 12-110 of the administrative code of the city of New York, as added by local law number 43 for the year 2003, is amended to read as follows:

c. Procedures involving the filing of [financial] annual disclosure reports.

1. Each agency shall file with the conflicts of interest board, prior to the date required for the filing of reports, a list of persons obligated to report pursuant to this section.

2. Each agency head shall determine, subject to review by the conflicts of interest board, which persons within the agency occupy positions that are described in clauses three and four of subparagraph (a) of paragraph three of subdivision b of this section, and shall, prior to the date on which the filing of the report is required, inform such employees of their obligation to report. The conflicts of interest board shall promulgate rules establishing procedures whereby any employee may seek review of the agency's determination that he or she is required to report.

3. The speaker of the council, each district attorney and the special narcotics prosecutor shall determine, subject to review by the conflicts of interest board, which persons on their staff occupy positions that are described in clause two of subparagraph (a) of paragraph three of subdivision b of this section, and shall, prior to the date required for the filing of the reports, inform such employees of their obligation to report.

4. The conflicts of interest board shall promulgate rules establishing procedures whereby a person required to file [a financial] an annual disclosure report may request an additional period of time within which to file such report, due to justifiable cause or undue hardship. Such rules shall include, but not be limited to, the establishment of a date beyond which in all cases of justifiable cause or undue hardship no further extension of time will be granted.

5. Any amendments and changes to [a financial] an annual disclosure report made after its filing shall be made on a [separate] form to be [provided] prescribed by the conflicts of interest board [and attached to the report. Said form shall contain the corresponding page and item numbers of the report, the amendment, the signature of the person making such amendment and the initials of the chair of the board or his or her designee]. Amendments shall be made only by the person who originally filed such report.

§ 4. Subdivision d of section 12-110 of the administrative code of the city of New York is REPEALED and a new subdivision d is added to read as follows:

d. Information to be reported.

1. Officers and employees of the city; compensated members of city boards and commissions; candidates for public office; elected and political party officials. The report filed by officers and employees of the city, compensated members of city boards and commissions, candidates for public office, elected and political party officials shall contain the information required by this paragraph, unless such person is required to file a report solely by paragraphs two, three, and/or four of this subdivision.

For purposes of filing an annual disclosure report, members or representatives, or their alternates, of the New York city housing development corporation, the New York city

industrial development agency, the teachers retirement board, the board of trustees of the New York city employees retirement system, the board of trustees of the police pension fund, the board of trustees of the board of education retirement system, and the board of trustees of the fire department pension fund shall be deemed to be compensated members of a city board or commission.

(a) The name of the person reporting; each of his or her city titles and positions; the city agency or agencies of which the person reporting is an official, officer, or employee; his or her city employee identification number, if any; his or her office address, email address, if any, and telephone number; his or her home address, personal email address, if any, and home telephone number; whether he or she has a spouse or domestic partner and, if so, the full name of such spouse or domestic partner; and the names of all unemancipated children.

(b) The location, size, and general nature of any residential, commercial, retail or industrial real property that is owned by, rented to or rented by the reporting person or his or her spouse or domestic partner or unemancipated child. Only real property (i) within the city of New York or (ii) within the county of Westchester or the county of Nassau and within one quarter mile of the city of New York shall be reported. Residential property in which the person reporting or a relative resides shall not be reported. For other residential property, only the borough, city (if outside New York city), town, or village shall be reported.

(c) The name of each employer or business, other than the city of New York, from which the person reporting or a relative received one thousand dollars or more for services performed or for goods sold or produced or as compensation as a member, officer, director, or employee during the reporting period. The name of individual clients, customers or patients shall not be reported, nor shall any business in which the reporting person or his or her relative was an investor only. The nature of the business shall also be identified, as well as the relationship between the reporting person or his or her relative and the employer or business (owner, partner, officer, director, member, employee, and/or shareholder).

(d) The name of any entity in which the person reporting or his or her spouse or domestic partner or unemancipated child has an interest that exceeds five percent of the firm or an investment of ten thousand dollars, whichever is less. The nature of the business and the type of business shall also be identified.

(e) Gifts having a value of fifty dollars or more received by the person reporting or his or her spouse or domestic partner or unemancipated child during the reporting period, including the recipient of the gift, the donor of the gift, the relationship between the recipient and the donor, and the nature of the gift. The value of separate gifts from the same or affiliated donors during the reporting period shall be aggregated.

A gift shall not be reported where (i) the gift is from a relative; or (ii) from the beginning of the reporting period until the date the report is filed, the donor engaged in no business dealings with the city; or (iii) the gift consists of attendance, including meals and refreshments, at a meeting, public affair, function, or occasion and complies with the rules of the board governing the acceptance of such attendance, meals or refreshments.

(f) Where the person reporting holds a policymaking position with the city, he or she shall list any membership in the national or state committee of a political party; or service as an assembly district leader of a political party; or service as the chair or as an officer of the county committee or county executive committee of a political party.

(g) The name, title, and position of any relative of the person reporting who holds a position, whether paid or unpaid, with the city; the city agency in which such position is held; and the relationship between such relative and the person reporting.

(h) Any volunteer office or position held by the person reporting or his or her spouse or domestic partner with any not-for-profit organization, except where the person volunteers exclusively in a non-policymaking, non-administrative capacity, and the nature of the organization's business.

(i) Any agreement that is between the person reporting or his or her spouse or domestic partner and any person or entity engaged in business dealings with the agency served by the person reporting and that involves future payment to or employment of the person reporting or his or her spouse or domestic partner.

(j) Any person or entity to whom or to which the person reporting or his or her spouse or domestic partner owes ten thousand dollars or more as of the date of filing the report and the type of obligation.

The following debts shall not be reported: (i) debt to a relative; (ii) credit card debt, unless such debt has been outstanding for at least sixty days; (iii) loans from pension funds or deferred compensation accounts.

(k) Any person or entity, except a relative, who owed the person reporting or his or her spouse or domestic partner ten thousand dollars or more as of the date of filing the report and the type of obligation.

2. Uncompensated members of boards and commissions of the city. Where a report is filed by a person required to file a report by reason of membership on a board or commission of the city and such person is not entitled to compensation for such service, the report shall contain the information required by this paragraph. For purposes of filing an annual disclosure report, members or representatives, or their alternates, of the New York city housing development corporation, the New York city industrial development agency, the teachers retirement board, the board of trustees of the New York city employees retirement system, the board of trustees of the police pension fund, the board of trustees of the board of education retirement system, and the board of trustees of the fire department pension fund shall be deemed to be compensated members of a city board or commission.

(a) The name of the person reporting; each of his or her city titles and positions; the city agency or agencies of which the person reporting is an official, officer, or employee; his or her city employee identification number, if any; his or her office address, email address, if any, and telephone number; his or her home address, personal email address, if any, and home telephone number; whether he or she has a spouse or domestic partner and, if so, the full name of such spouse or domestic partner; and the names of all unemancipated children.

(b) The location, size, and general nature of any residential, commercial, retail or industrial real property that is owned by, rented to or rented by the reporting person or his or her spouse or domestic partner or unemancipated child. Only real property (i) within the city of New York or (ii) within the county of Westchester or the county of Nassau and within one quarter mile of the city of New York shall be reported. Residential property in which the person reporting or a relative resides shall not be reported. For other residential property, only the borough, city (if outside New York city), town, or village shall be reported.

(c) The name of each employer or business, other than the city of New York, from which the person reporting or his or her spouse or domestic partner or unemancipated child received one thousand dollars or more for services performed or for goods sold or produced or as

compensation as a member, officer, director, or employee during the reporting period. The name of individual clients, customers or patients shall not be reported, nor shall any business in which the reporting person or his or her spouse or domestic partner or unemancipated child was an investor only. The nature of the business shall also be identified, as well as the relationship between the reporting person or his or her spouse or domestic partner or unemancipated child and the employer or business (owner, partner, officer, director, member, employee, and/or shareholder). An employer or business shall not be reported where, from the beginning of the reporting period until the date the report is filed, the employer or business engaged in no business dealings with any city agency of which the person reporting is an official, officer, or employee.

(d) The name of any entity in which the person reporting or his or her spouse or domestic partner or unemancipated child has an interest that exceeds five percent of the firm or an investment of ten thousand dollars, whichever is less. The nature of the business and the type of business shall also be identified. An entity shall not be reported where, from the beginning of the reporting period until the date the report is filed, the entity engaged in no business dealings with any city agency of which the person reporting is an official, officer, or employee.

(e) Gifts having a value of fifty dollars or more received by the person reporting or his or her spouse or domestic partner or unemancipated child during the reporting period, including the recipient of the gift, the donor of the gift, the relationship between the recipient and the donor, and the nature of the gift. The value of separate gifts from the same or affiliated donors during the reporting period shall be aggregated.

A gift shall not be reported where (i) the gift is from a relative; or (ii) from the beginning of the reporting period until the date the report is filed, the donor engaged in no business dealings with the agency of which the person reporting is an official, officer or employee; or (iii) the gift consists of attendance, including meals and refreshments, at a meeting, public affair, function, or occasion and complies with the rules of the board governing the acceptance of such attendance, meals, or refreshments.

(f) Membership in the national or state committee of a political party; or service as an assembly district leader of a political party; or service as the chair or as an officer of the county committee or county executive committee of a political party.

(g) The name, title, and position of any relative of the person reporting who holds a position, whether paid or unpaid, with any board or commission of which the person reporting is an official, officer, or employee and the relationship between the person and the person reporting.

3. Members, officers and employees of city public authorities. Where a report is filed by a person required to file a report pursuant to subdivision three of section twenty-eight hundred twenty-five of the public authorities law, the report shall contain the following information:

(a) The name of the person reporting; the name of the local public authority, within the meaning of subdivision three of section twenty-eight hundred five of the public authorities law, of which the person reporting is a board member, officer or employee; his or her title and position with such entity; any city title and position that he or she holds; any city agency of which the person reporting is an official, officer, or employee; his or her city employee identification number, if any; his or her office address, email address, if any, and telephone number; his or her home address, personal email address, if any, and home telephone number;

whether he or she has a spouse or domestic partner and, if so, the full name of such spouse or domestic partner; and the names of all unemancipated children.

(b) The location, size, and general nature of any residential, commercial, retail or industrial real property that is owned by, rented to or rented by the person reporting, or his or her spouse or domestic partner or unemancipated child. Only real property (i) within the city of New York or (ii) within the county of Westchester or the county of Nassau and within one quarter mile of the city of New York shall be reported. Residential property in which the person reporting or a relative resides shall not be reported. For other residential property, only the borough, city (if outside New York city), town, or village shall be reported.

(c) The name of each employer or business, other than the city of New York, from which the person reporting or his or her spouse or domestic partner or unemancipated child received one thousand dollars or more for services performed or for goods sold or produced or as compensation as a member, officer, director, or employee during the reporting period. The name of individual clients, customers or patients shall not be reported, nor shall any business in which the reporting person or his or her spouse or domestic partner or unemancipated child was an investor only. The nature of the business shall also be identified, as well as the relationship between the reporting person or his or her spouse, domestic partner, or unemancipated child and the employer or business (owner, partner, officer, director, member, employee, and/or shareholder). An employer or business shall not be reported where, from the beginning of the reporting period until the date the report is filed, the employer or business engaged in no business dealings with the local public authority of which the person reporting is a board member, officer or employee.

(d) The name of any entity in which the person reporting or his or her spouse or domestic partner or unemancipated child has an interest that exceeds five percent of the firm or an investment of ten thousand dollars, whichever is less. The nature of the business and the type of business shall also be identified. An entity shall not be reported where, from the beginning of the reporting period until the date the report is filed, the entity engaged in no business dealings with the local public authority of which the person reporting is a board member, officer or employee.

(e) Gifts having a value of fifty dollars or more received by the person reporting or his or her spouse or domestic partner or unemancipated child during the reporting period, including the recipient of the gift, the donor of the gift, the relationship between the recipient and the donor, and the nature of the gift. The value of separate gifts from the same or affiliated donors during the reporting period shall be aggregated.

A gift shall not be reported where (i) the gift is from a relative; or (ii) from the beginning of the reporting period until the date the report is filed, the donor engaged in no business dealings with the local public authority of which the person reporting is a board member, officer or employee; or (iii) the gift consists of attendance, including meals and refreshments, at a meeting, public affair, function, or occasion and complies with the rules of the board governing the acceptance of such attendance, meals, or refreshments.

4. Tax assessors. Where a report is filed by any person by reason of section three hundred thirty-six of the real property tax law, the report filed by any such person shall be the report prescribed by such section of the real property tax law.

5. Filers in multiple filing categories. If a person is required to file an annual disclosure report by more than one paragraph of subdivision b of this section, he or she shall file the most comprehensive report required for such provisions by paragraphs one through four of

this subdivision. The most comprehensive report shall be deemed to be the report required by paragraph one of this subdivision; the second most comprehensive report shall be deemed to be the report required by paragraph four of this subdivision; the third most comprehensive report shall be deemed to be the report required by paragraph two of this subdivision; and the least comprehensive report shall be deemed to be the report required by paragraph three of this subdivision.

§ 5. Subparagraph (d) of paragraph 1 of subdivision e of section 12-110 of the administrative code of the city of New York, as relettered by local law number 14 for the year 2006, is amended to read as follows:

(d) [Any information regarding any financial interests of the spouse, domestic partner or an unemancipated child] The existence and identity of any relative of a person filing [in which the person filing has no financial interest] shall be withheld from public inspection, except the identity of any relative in city service, as an unwarranted invasion of privacy unless the conflicts of interest board determines that such information involves an actual or potential conflict of interest on the part of the person filing, subject to the factors set forth in subparagraph (b) of paragraph one of this subdivision. The employee identification number of the person reporting and his or her home address, personal email address, and home telephone number shall also be withheld from public inspection as an unwarranted invasion of privacy.

§ 6. Paragraph 2 of subdivision e of section 12-110 of the administrative code of the city of New York, as amended by local law number 14 for the year 2006, is amended to read as follows:

2. Requests to examine reports.

Whenever pursuant to this section the conflicts of interest board produces a report for public inspection, the board shall notify the person who filed the report of the production and of the identity of the person to whom such report was produced, except that no such notification shall be required if the request to examine the report is made by the department of investigation or any governmental unit, or component thereof, which performs as one of its principal functions any activity pertaining to the enforcement of criminal laws, provided that such report is requested solely for a law enforcement function. Nothing in this section shall preclude the conflicts of interest board from disclosing any and all information in [a financial] an annual disclosure report to the department of investigation or any other governmental unit, or component thereof, which performs as one of its principal functions any activity pertaining to the enforcement of criminal laws, provided that such report is requested solely for a law enforcement function.

§ 7. Subdivision f of section 12-110 of the administrative code of the city of New York, as added by local law number 43 for the year 2003, is amended to read as follows:

f. Retention or reports. Reports filed pursuant to this section shall be retained by the conflicts of interest board for a period of two years following the termination of the public employment of the person who filed the report. In the case of candidates for office who have filed reports pursuant to this section and who were not elected, the reports shall be retained by the board for a period of two years following the day of an election on which the candidates were defeated. Notwithstanding the foregoing, the board, in consultation with the department of records and information services and the department of investigation, may establish by rule a

different period of periods of retention of [financial] annual disclosure reports which takes into account the need for efficient records management and the need to retain such reports for a reasonable period for the investigatory and other purposes. Such reports shall thereafter be destroyed by the board unless a request for public disclosure of an item contained in such report is pending. In lieu of the destruction of such reports, the board, in its discretion, may establish procedures providing for their return to the persons who filed them.

§ 8. Paragraphs 1 and 3 of subdivision g of section 12-110 of the administrative code of the city of New York, as added by local law number 43 for the year 2003, are amended to read as follows:

1. Any person required to file a report pursuant to this section who has not so filed at the end of one week after the date required for filing shall be subject to a fine of not less than two hundred fifty dollars or more than ten thousand dollars. Factors to be considered by the conflicts of interest board in determining the amount of the fine shall include but not be limited to the person's failure in prior years to file a report in a timely manner, and the length of the delay in filing. In addition, within two [weeks] months after the date required for filing, the conflicts of interest board shall inform the appropriate agency and the commissioner of investigation of the failure to file of any such person.

3. Any intentional and willful unlawful disclosure of confidential information that is contained in a report filed in accordance with this section, by a city officer or employee or by any other person who has obtained access to such a report or confidential information contained therein, shall constitute a misdemeanor punishable by imprisonment for not more than one year or a fine not to exceed one thousand dollars, or by both, and shall constitute grounds for imposition of disciplinary penalties, including removal from office in the manner provided by law.

§ 9. Persons required to file a report of annual disclosure by paragraph 1 of subdivision d of section 12-110 of the administrative code of the city of New York, as added by this local law, shall in 2011 file reports for calendar year 2010, such reports containing information required by section 12-110 of such code as it was in effect prior to the effective date of this local law; thereafter such persons shall file reports for the prior calendar year containing information required by section 12-110 of such code as added by this local law.

§ 10. Persons required to file a report of annual disclosure by paragraph 2 of subdivision d of section 12-110 of the administrative code of the city of New York, as added by this local law, shall in 2011 file reports for calendar year 2010, such reports containing information required by section 12-110 of such code as added by this local law; thereafter such persons shall file reports for the prior calendar year containing information required by section 12-110 of such code as added by this local law.

§ 11. Persons required to file a report of annual disclosure by paragraph 3 of subdivision d of section 12-110 of the administrative code of the city of New York, as added by this local law, shall in 2011 file reports for calendar year 2010, such reports containing information required by section 12-110 of such code as added by this local law; thereafter such persons shall file reports for the prior calendar year containing information required by section 12-110 of such code as added by this local law.

§ 12. Persons required to file a report of annual disclosure by paragraph 4 of subdivision d of section 12-110 of the administrative code of the city of New York, as added by this local law, shall in 2011 file reports for calendar year 2010, such reports containing information required by section 336 of the real property tax law; thereafter such persons shall file for the prior calendar year, such reports containing information required by section 336 of the real property tax law.

§ 13. This law shall take effect immediately.

ADVISORY OPINIONS & ENFORCEMENT CASES OF THE BOARD

SUMMARIES AND INDEXES

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

OPINION SUMMARY

OPINION NO: 2009-1

DATE: 3/12/09

CHARTER SECTION(S) INTERPRETED:

2601(5)

2604(b)(2),(b)(3)

SUBJECT(S): Use of City-Owned Vehicles

SUMMARY: Elected Officials for whom the NYPD has determined that security in the form of an official vehicle and security personnel is required may make any lawful use of the official vehicle and security personnel for personal purposes, including pursuit of outside business or political activities, without any reimbursement to the City, provided that such use is not otherwise a conflict of interest and further provided that the Elected Official is in the vehicle during all such use.

Elected Officials for whom security protection has not been mandated by the NYPD, but whose duties require them to be constantly available to respond to the needs of constituents and to public emergencies, may make any lawful use of their allotted City vehicles and/or drivers within the five boroughs, including pursuit of outside business or political activities, without reimbursement to the City, provided that the use is not otherwise a conflict of interest and further provided that the Elected Official is in the vehicle during all such use. Outside the five boroughs within a range permitting timely return to the City, such Elected Officials may use the vehicle and/or driver for any lawful personal purpose, including pursuit of outside business or political activities, with reimbursement to the City. If, however, the Elected Official can clearly demonstrate that the particular use outside the City's limits was for official business, reimbursement to the City is not required.

The Board wishes to emphasize that this Opinion applies only to Elected Officials who are allotted City cars. The Opinion does not apply to appointed officials nor does it apply to Elected Officials who are not allotted City cars. Moreover, the Board cannot anticipate all possible scenarios involving non-City use of City cars and drivers – either by Elected Officials or by appointed public servants who are not subject to this Opinion. Any public servant, elected or appointed, who has a question regarding a particular vehicle use should request advice from the Board. What the Board has sought to do in this Opinion is to promulgate certain bright line rules for certain Elected Officials. To the extent that a particular situation does not fit clearly within those guidelines, public servants are urged to contact the Board for guidance.

The Board does not opine on whether the use of City vehicles permitted in the Opinion will result in imputation of income for tax purposes or will have implications for relevant election or campaign finance laws. It is incumbent on Elected Officials to ascertain and comply with any such applicable laws.

OPINION SUMMARY

OPINION NO: 2009-2

DATE: 5/4/09

CHARTER SECTION(S) INTERPRETED:

2601(5), (10), (12), (18), (20)
2604(a)(1)(a), (a)(1)(b)
2604(b)(1)(a), (b)(2), (b)(3)
2604(c)(6)(b)
2604(e)
2605

SUBJECT(S): Council Discretionary Funding

OTHER OPINION(S) CITED: 92-22, 93-21, 94-28, 99-6,
2008-2, 2008-6

SUMMARY: 1) A Council Member may not sponsor discretionary funding for an entity at which the Member is a paid employee, officer, or director; but, with disclosure on the official records of the Council and to the Board, the Member may vote on a budget containing such an appropriation sponsored by another Member.

2) A Council Member may not sponsor discretionary funding for an entity on whose board of directors the Member serves as an unpaid member; but, with disclosure on the official records of the Council and to the Board, the Member may vote on a budget containing such an appropriation sponsored by another Member. A Council Member may, however, sponsor funding where the Member serves on the board of directors *ex officio* as part of his or her Council duties.

3) A Council Member may sponsor discretionary funding to a not-for-profit entity of which the Member is an “honorary,” unpaid, and/or non-voting member of the board of directors, if the Member has no legal rights or responsibilities in such a role. A Council Member may likewise sponsor discretionary funding to a community association of which the Member is merely a dues-paying member and where the association has a large number of members and the annual dues are nominal.

4) A Council Member may sponsor discretionary funding for an entity where the Member’s spouse, domestic partner, parent, child, sibling, or other “associated” person is a paid officer or employee only where it does not appear reasonably likely that the associated person will benefit from that funding. In making that determination, the Board will look to such factors as the associated person’s position at the organization (the higher-ranking the person, the more likely that he or she will benefit), the size of the organization (the smaller the organization, the more likely that any given employee will benefit), and the nexus between the proposed funding and the associated person’s work at the organization.

5) A Council Member may sponsor discretionary funding for a not-for-profit organization where the Member’s spouse, domestic partner, parent, child, sibling, or other “associated” person is an unpaid member of the board of directors.

6) A Council Member will not violate Chapter 68 merely by sponsoring discretionary funding for a not-for-profit organization where a member of the Member’s Council staff has some affiliation, because public servants are not “associated” with their subordinates within the meaning of Chapter 68. However, the involvement of the Council staff members themselves in the sponsorship process may in some circumstances violate Chapter 68 by virtue of their affiliation, or an associated person’s affiliation, with City-funded not-for-profits. So, too, Members who knowingly involve such disqualified subordinates in the sponsorship process may themselves violate Chapter 68’s prohibition against inducing violations by other public servants.

* * *

Because, as noted above, some of the conflicts in this area are fact-dependent, the six common scenarios discussed above are illustrative and not exhaustive. Any Council Member who is in doubt about when sponsoring discretionary funding is permissible should consult with the Board before sponsoring funding for any organization with which the Member or any “associated” person may be affiliated.

OPINION SUMMARY

OPINION NO: 2009-3

DATE: 5/21/09

CHARTER SECTION(S) INTERPRETED:

94, 394, 395
2601(1), (2), (9), (19)
2604(b)(2), (b)(3), (b)(14)
2604(d)(2)

SUBJECT(S): Pension Funds

OTHER OPINION(S) CITED: 93-10, 2008-1

SUMMARY: The City's five pension systems, namely, the New York City Employees' Retirement System ("NYCERS"), the New York City Teachers' Retirement System ("TRS"), the New York City Police Pension Fund ("PPF"), the New York Fire Department Pension Fund ("FDPF"), and the New York City Board of Education Retirement System ("BERS") (collectively "the Funds") are each a City agency for the purpose of the City's conflicts of interest law. The officers and employees of each of the Funds, including without limitation, the statutorily prescribed trustees of each of the Funds, the employees of the Funds, and those individuals whom the trustees designate to serve in their absence, pursuant to statutory provisions permitting such designations, are public servants of the City within the meaning of Charter Chapter 68, the City's conflicts of interest law, and hence are subject to the provisions of that law.

OPINION SUMMARY

OPINION NO: 2009-4

DATE: 6/15/09

CHARTER SECTION(S) INTERPRETED:

2601(1), (19)
2604(a)(1)(b)
2604(b)(5), (b)(13)
2604(d)(2), (d)(4), (d)(5)
2604(e)

SUBJECT(S): Definition of Public Servant

OTHER OPINION(S) CITED: 93-10

SUMMARY: Law firm associates who defer their work at their firm to work for a year, at their firm's expense, for City agencies will be public servants within the meaning of Charter Chapter 68, the City's conflicts of interest law, and hence will be subject to the provisions of that law.

OPINION SUMMARY

OPINION NO: 2009-5

DATE: 7/1/09

CHARTER SECTION(S) INTERPRETED:
2601(4), (15)
2604(d)(2)

SUBJECT(S): One-Year Post-Employment
Appearance Ban
Political Endorsements

OTHER OPINION(S) CITED: 2003-6, 2008-1

SUMMARY: A former public servant will not violate the ban on communicating with his or her former City agency for one year after leaving City service by communicating during that year with employees or officials of that agency to seek those persons' endorsements of candidates for elective office because such communications seek not official action by the agency but rather the personal action of those being solicited.

OPINION SUMMARY

OPINION NO: 2009-6

DATE: 12/3/09

CHARTER SECTION(S) INTERPRETED:

2601(2), (9), (19)

2604(b)(12)

2607

SUBJECT(S):

Water Board

Political Fundraising

SUMMARY: The members of the New York City Water Board are subject to Charter Chapter 68, the City's conflicts of interest law. The members of the Water Board are "public servants charged with substantial policy discretion" and hence are subject to the restrictions of Charter Section 2604(b)(12), which prohibits such public servants from soliciting funds for certain candidates for elected office. That provision not only prohibits solicitation of contributions that will go directly to a proscribed candidate but also prohibits solicitations of contributions to PACs whose funds may go to support a proscribed candidate.

OPINION SUMMARY

OPINION NO: 2009-7

DATE: 12/14/09

CHARTER SECTION(S) INTERPRETED:
8(c)
2601(5), (11), (12), (16)
2603(a)
2604(a)(1)(b)
2604(b)(2), (b)(3)

SUBJECT(S): New York City Municipal Bonds
Ownership Interests
Use of Position

OTHER OPINION(S) CITED: 94-10, 94-13, 2002-1

SUMMARY: It would violate Chapter 68 for those public servants personally and substantially involved in the issuance and management of City debt securities to buy, sell, or hold such securities for their own accounts, or on behalf of or for the accounts of any “associated” persons or firms.

**CUMULATIVE INDEX TO ADVISORY OPINIONS
BY CHARTER CHAPTER 68 SECTION
1990-2009**

<u>CHARTER §</u>	<u>OPINION #</u>				
2601(1)	03-5	04-1	09-3	09-4	
2601(2)	90-2 03-1	91-3 08-5	91-12 09-3	93-11 09-6	01-2
2601(3)	90-7 96-1	90-8	91-14	93-11	93-19
2601(4)	91-8 92-38 01-3 08-5	92-13 93-12 03-6 09-5	92-17 93-18 05-2	92-32 94-5 08-1	92-36 00-2 08-4
2601(5)	90-4 92-4 00-2 07-2 09-1	90-5 92-7 01-3 07-4 09-2	90-6 92-14 02-1 08-2 09-7	91-3 93-21 03-7 08-3	91-15 98-1 04-2 08-6
2601(6)	91-3	94-18	03-7	07-4	
2601(8)	90-1 93-7 02-1	90-2 94-27 03-6	90-3 95-11 03-7	92-5 98-2 05-3	92-7 00-4 07-4
2601(9)	03-1	09-3	09-6		
2601(10)	03-1	09-2			
2601(11)	90-1 93-1 94-6 99-6	91-2 93-3 94-10 05-2	92-11 93-5 94-13 07-2	92-16 93-17 95-26 09-7	92-31 94-1 98-5
2601(12)	90-2 93-3 94-1 95-26 03-2 07-4	92-7 93-7 94-6 98-7 03-7 09-2	92-22 93-17 94-8 99-6 05-2 09-7	92-31 93-22 94-18 01-03 06-1	92-34 93-29 95-18 02-1 07-2

CHARTER §**OPINION #**

2601(15)	91-8 92-38 09-5	92-5 93-12	92-17 94-5	92-32 08-4	92-36 08-5
2601(16)	90-1 92-9 94-10 95-21 02-1 09-7	91-2 93-7 94-13 97-3 03-2	92-5 93-17 94-18 98-2 03-7	92-6 93-22 95-10 98-3 07-2	92-7 94-3 95-18 98-5 07-4
2601(17)	93-8	93-12	95-23	00-2	08-4
2601(18)	91-14 92-30 93-22 98-8	92-5 93-5 93-29 99-6	92-6 93-7 94-6 01-3	92-7 93-16 98-5 07-2	92-9 93-17 98-7 09-2
2601(19)	90-7 93-10 (Revised) 98-7 09-6	91-2 03-5	91-3 93-29 04-1	91-12 94-6 09-3	93-7 98-5 09-4
2601(20)	91-12 01-3	93-7 08-5	94-6 09-2	98-5	98-7
2603	07-2				
2603(a)	09-7				
2603(c)	90-2	92-19			
2603(c)(3)	92-6 08-3	92-9	02-1	03-7	07-4
2603(j)	03-1				
2604(a)	91-2	92-7	92-22		
2604(a)(1)	90-1	91-14	98-8		
2604(a)(1)(a)	91-2 93-3 93-19 95-8 98-5 06-1	91-3 93-7 93-22 95-12 98-7 07-1	92-5 93-10 (Revised) 93-29 95-18 01-3 07-2	92-31 93-32 95-26 02-1 07-1	93-2 93-17 94-6 96-4 03-2 07-4

CHARTER §**OPINION #**

	08-2	09-2			
2604(a)(1)(b)	90-2 92-30 93-10 (Revised) 94-1 94-13 94-26 95-11 95-25 98-3 00-1 09-2	91-7 92-34 94-3 94-16 94-27 95-15 95-26 98-5 01-3 09-4	92-6 92-35 93-16 94-8 94-18 95-3 95-16 96-2 98-7 03-6 09-7	92-9 93-4 93-20 94-10 94-20 95-8 95-17 97-3 99-2 03-7	92-11 93-27 94-11 94-25 95-10 95-21 98-2 99-6 05-2
2604(a)(3)	92-5 93-7 94-8 95-26 07-4	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 02-01
2604(a)(4)	92-5 93-7 94-8 95-26 07-4	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 02-1
2604(a)(5)(a)	02-1	07-4			
2604(a)(5)(b)	91-14				
2604(b)(1)(a)	92-22 09-2	94-28 (Revised)		05-3	08-3
2604(b)(1)(b)	91-3 99-1	93-2 03-2	93-3 04-1	95-18 05-3	96-4 08-2
2604(b)(2)	90-2 91-3 91-10 92-8 92-34 93-12 93-21 93-31 94-13 94-26 95-9	90-4 91-4 91-11 92-20 92-36 93-15 93-24 93-32 94-14 94-29 95-11	90-5 91-5 91-16 92-25 93-1 93-16 93-25 94-1 94-16 95-2 95-12	90-7 91-6 91-18 92-28 93-5 93-17 93-26 94-8 94-24 95-3 95-16	91-1 91-7 92-7 92-30 93-9 93-19 93-28 94-11 94-25 95-7 95-17

CHARTER §

OPINION #

	95-19	95-20	95-22	95-24	95-25
	95-26	95-27	95-28	95-29	96-2
	96-5	98-2	98-5	98-6	98-7
	98-8	98-10	98-12	98-13	98-14
	99-2	99-4	99-5	99-6	00-3
	01-2	01-3	02-01	03-1	03-3
	03-4	03-6	03-7	04-2	04-3
	05-1	05-2	06-2	06-3	06-5
	07-2	07-4	08-3	08-6	09-1
	09-2	09-3	09-7		
2604(b)(3)	90-4	90-5	90-6	90-9	91-1
	91-4	91-5	91-6	91-7	91-11
	91-15	91-16	91-18	92-3	92-4
	92-6	92-7	92-10	92-12	92-14
	92-23	92-25	92-28	92-30	92-31
	92-33	92-36	93-1	93-4	93-9
	93-10 (Revised)		93-12	93-14	93-16
	93-19	93-21	93-23	93-24	93-25
	93-26	93-28	93-31	93-32	94-1
	94-2	94-6	94-8	94-9	94-11
	94-12	94-13	94-16	94-17	94-20
	94-24	94-25	94-26	94-27	
	94-28 (Revised)		94-29	95-3	95-5
	95-9	95-11	95-12	95-14	95-16
	95-17	95-19	95-20	95-21	95-22
	95-24	95-25	95-26	95-27	95-28
	95-29	96-2	97-2	97-3	98-1
	98-2	98-3	98-5	98-7	98-8
	98-10	98-12	98-13	99-2	99-4
	99-5	99-6	00-3	00-4	01-1
	01-2	01-3	02-1	03-1	03-2
	03-3	03-4	03-6	03-7	04-2
	04-3	05-2	05-3	06-2	06-3
	06-4	06-5	07-2	07-4	08-2
	08-3	08-6	09-1	09-2	09-3
	09-7				
2604(b)(4)	91-11	92-30	92-34	92-36	
	93-10 (Revised)		93-16	93-24	93-25
	93-26	93-28	93-31	93-32	94-1
	94-2	94-6	94-8	94-11	94-13
	94-16	94-20	94-25	94-26	94-29
	95-3	95-9	95-12	95-16	95-17
	95-19	95-20	95-21	95-26	95-29
	96-2	97-3	98-1	98-3	98-5
	98-7	98-8	98-10	98-13	99-2

CHARTER §**OPINION #**

	99-4	99-5	99-6	01-2	01-3
	02-1	03-6	03-7	05-1	05-2
	07-4				
2604(b)(5)	90-3	92-19	92-33	93-10 (Revised)	
	94-4	94-9	94-23	95-28	96-3
	99-4	00-1	00-4	03-4	06-2
	06-3	06-4	06-5	07-3	09-4
2604(b)(6)	91-7	92-7	92-26 (Revised)		92-28
	92-36	93-10 (Revised)		93-32	94-24
	95-6	95-8	95-9	95-15	96-4
	96-5	98-2	98-9	98-10	00-1
	01-3	03-6	05-2	06-1	07-2
	08-1	08-5			
2604(b)(7)	90-7	91-7	92-18	92-28	
	93-10 (Revised)		93-23	95-8	98-10
	01-3	08-5			
2604(b)(8)	91-7				
2604(b)(9)	93-24	95-13	95-24	01-1	01-2
	03-1	03-6			
2604(b)(11)	93-24	95-13	01-1	01-2	03-1
	03-6				
2604(b)(12)	91-12	92-25	93-6	93-24	95-13
	01-1	01-2	03-1	03-5	03-6
	09-6				
2604(b)(13)	92-34	93-25	95-28	99-4	99-5
	99-6	00-4	05-1	06-3	06-4
	06-5	09-4			
2604(b)(14)	92-28	98-12	01-3	03-6	04-2
	04-3	06-3	08-3	09-3	
2604(b)(15)	91-12	91-17	93-20	03-1	03-5
2604(c)	93-10 (Revised)				
2604(c)(1)	90-6	91-10			
2604(c)(5)	98-4				

CHARTER §**OPINION #**

2604(c)(6)	92-22 94-18 98-8 07-2	92-24 94-25 99-1	93-9 94-26 00-1	93-26 95-7 01-3	94-13 95-12 05-2
2604(c)(6)(a)	92-25				
2604(c)(6)(b)	09-2				
2604(c)(7)	91-18				
2604(d)	89-1	90-8	92-37	93-13	
2604(d)(1)	92-37	93-8	93-18	93-31	95-4
2604(d)(1)(ii)	92-16	92-37			
2604(d)(2)	90-8 92-36 93-10 (Revised) 93-30 95-1 97-1 07-1 09-5	91-8 92-37 93-31 93-31 95-4 98-11 08-1	91-19 92-38 93-11 94-7 95-8 99-1 08-4	92-17 93-8 93-12 94-15 96-1 99-3 09-3	92-32 93-18 94-22 96-6 00-2 09-4
2604(d)(3)	92-13	94-19	94-21	98-11	99-1
2604(d)(4)	90-8 93-8 93-30 94-21 96-1 08-4	92-2 93-10 (Revised) 93-31 94-22 96-6 09-4	92-36 94-5 95-1 97-1	92-37 93-11 94-7 95-4 99-1	92-38 93-12 94-19 95-23 00-2
2604(d)(5)	92-38 95-4	93-8 96-6	93-11 00-2	93-30 08-4	94-5 09-4
2604(d)(6)	93-12 95-1 00-2	93-13 97-1 05-2	93-31 99-1 08-4	94-7 99-3	94-21 99-6
2604(d)(7)	93-11	08-4			
2604(e)	90-2 92-17 93-4	91-8 92-30 93-5	92-5 92-31 93-7	92-6 92-34 93-18	92-9 92-37 93-20

CHARTER §**OPINION #**

	93-22	93-26	93-27	93-30	94-1
	94-6	94-8	94-11	94-15	94-16
	94-19	94-22	95-1	95-3	95-15
	95-16	95-17	95-26	96-1	96-2
	98-5	98-7	98-8	98-9	99-1
	99-2	99-3	99-4	99-5	99-6
	00-1	00-2	01-3	03-6	05-1
	05-2	06-1	07-1	07-2	08-4
	09-2	09-4			
2605	94-28 (Revised)		09-2		
2606(b)	01-02				
2606(d)	01-2	02-1	04-2		
2607	09-6				
2700	03-3				
2800	91-3 08-2	03-2	03-3	04-1	
2800(d)(7)	91-12				
2800(c)(9)	92-27				
2800(f)	91-12	92-27	04-3		
2800(g)	04-3				

**CUMULATIVE INDEX TO ADVISORY OPINIONS
BY SUBJECT
1990-2009**

<u>SUBJECT</u>	<u>OPINION #</u>				
Advisory Board	90-9	92-1	98-8		
Agency Charging Fees	94-14				
Agency Heads	90-2 92-15	90-9 98-6	91-13 00-3	92-8	92-12
Agency Served	93-19	95-8			
Appearance Before City Agency	90-8 92-32 93-12 93-32 94-21 95-15	91-8 92-36 93-13 94-5 94-22 96-4	91-19 92-37 93-18 94-7 94-24 98-9	92-13 92-38 93-28 94-15 95-1	92-17 93-11 93-31 94-19 95-6
Appearance of Impropriety	90-3 91-4 91-16 92-10 92-23 93-15 94-28 (Revised) 95-17	90-4 91-5 91-18 92-14 92-25 93-22 98-6	90-5 91-7 92-3 92-15 92-28 94-2 95-7 00-3	90-8 91-10 92-4 92-17 92-33 94-17 95-10	91-1 91-15 92-6 92-21 93-14 95-11
Appearance on Matter Involving Public Servant's City Agency	96-5				
Blind Trust	94-18	94-25	94-26		
Brooklyn Public Library	97-1				

<u>SUBJECT</u>	<u>OPINION #</u>				
Business Dealings with the City	90-1 91-14 92-11 92-26 (Revised) 92-33 93-22 94-16 95-16	90-2 92-5 92-22 92-34 93-27 94-20 95-17	90-3 92-6 92-24 92-28 93-9 94-6 94-29 95-21	91-4 92-7 92-25 92-30 93-16 94-9 95-3 96-2	91-10 92-9 92-31 93-20 94-13 95-15 98-2
Charitable Fundraising – see Fundraising					
Charter Schools	00-01	05-2			
City Planning Commissioners	07-2				
City Position, Use of	90-6 91-15 92-12 93-23 94-28 (Revised) 97-2	90-9 91-16 92-33 93-25 98-1	91-1 91-18 92-35 94-2 95-2 08-3	91-5 92-3 93-9 94-12 95-5 09-7	91-10 92-10 93-14 94-17 95-14
City Vehicles, Use of	09-1				
Commercial Discounts	06-4				
Community Boards	91-3 93-2 96-4 04-3	91-9 93-3 98-9 05-3	91-12 93-21 03-2 08-2	92-27 95-18 03-3	92-31 95-27 04-1
Community Education Councils	06-1	07-1			
Community School Boards	90-7	98-10	01-02		
Consulting	91-9 93-24	91-16 95-15	92-2 98-7	93-12	93-19
Contracts	91-2	91-15	92-2		
Cooperative Corporations	92-7 95-25	94-25	94-27	95-11	95-22

<u>SUBJECT</u>	<u>OPINION #</u>				
Council Discretionary Funding	09-2				
Dual City Employment	95-26				
Elected Officials	90-3 92-10 93-21	90-4 92-22 95-20	90-5 92-23 98-14	90-6 93-6 99-1	91-10 93-15
Endorsements	98-6	00-03			
Ex Officio	99-1				
Expert Witness	91-9	96-6			
Family Relationships	90-1 91-15 94-3	90-4 92-4 94-13	90-5 92-14 94-20	90-6 93-21 98-1	91-2 93-28
FOIL	91-19				
Franchises	90-4	90-5			
Frequent Flyer Miles	06-5				
Fundraising	91-10 93-15 98-14	92-15 93-26 01-01	92-25 94-29 01-02	92-29 95-7 03-4	93-6 95-27 08-6
Gifts	91-20 94-4 95-28 06-4	92-21 94-9 96-3 06-5	92-27 94-12 00-04 07-3	92-29 94-23 06-2	92-33 94-29 06-3
Gifts-Travel	90-3	92-10	92-19	92-23	
Honoraria	91-4	91-6	94-29		
Labor Union Conventions	06-3				
Lectures	91-6				
Letterhead	90-9				
Lobbyists	07-3				

<u>SUBJECT</u>	<u>OPINION #</u>				
Local Development Corporation	93-1	93-3	93-13	94-7	
Mayor	90-4				
Ministerial Matters	92-32	92-36	94-5	95-6	
Moonlighting	90-2	91-7	91-9	91-13	91-16
	92-6	92-28	92-30	92-34	92-36
	93-4	93-5	93-24	93-25	94-1
	94-8	94-16	95-6	95-9	95-16
	95-17	95-19	95-20	95-22	96-2
	98-4	98-5	98-7	99-2	99-4
	99-5	99-6	00-1	01-3	06-1
Municipal Bonds, NYC	09-7				
Not-For-Profit Organizations	91-10	91-16	92-8	92-14	92-15
	92-22	92-24	92-25	92-28	92-31
	92-34	92-37	93-1	93-4	93-9
	93-14	93-15	93-26	94-6	94-13
	94-15	94-18	94-19	94-25	94-26
	95-2	95-5	95-7	95-12	98-8
	98-14	99-1			
Orders - see Waivers/Orders					
Outside Practice of Law	91-7	93-23	95-17	01-3	08-5
Ownership Interests	90-1	91-2	91-3	92-5	92-6
	92-7	92-9	92-11	92-26 (Revised)	
	92-30	92-35	93-7	93-16	93-22
	93-27	93-32	94-1	94-3	94-8
	94-10	94-11	94-13	94-20	94-25
	94-26	95-10	95-12	95-18	95-21
	97-3	98-2	98-3	02-01	03-7
	07-4	09-7			
Particular Matter	92-37	93-8	95-23		
Pension Funds	09-3				
Personnel Order 88/5	91-12	92-25			

<u>SUBJECT</u>	<u>OPINION #</u>				
Police Officers	97-2	98-4			
Political Activities	91-12 93-24	91-17 95-13	92-25 95-24	93-6 03-5	93-20 03-6
Political Fundraising	01-1	01-2	03-1	09-6	
Political Endorsements	09-5				
Post-Employment Restrictions	89-1 92-13 92-38 93-18 94-15 95-4 98-11 08-1	90-8 92-16 93-8 93-30 94-19 95-23 99-1 08-4	91-8 92-17 93-11 93-31 94-21 96-1 99-3 09-5	91-19 92-32 93-12 94-5 94-22 96-6 00-2	92-2 92-37 93-13 94-7 95-1 97-1 07-1
Practice of Law – see Outside Practice of Law					
Prohibited Interests	90-1 92-5 92-26 (Revised) 93-3 93-22 94-3 94-13 95-10 98-3	90-2 92-6 93-4 93-27 94-5 94-16 95-12 03-2	91-2 92-7 92-30 93-7 93-29 94-8 94-20 95-18	91-3 92-9 92-35 93-9 93-32 94-10 94-25 95-21	91-15 92-11 93-1 93-16 94-1 94-11 94-26 96-2
Public Benefit Corporation	93-17				
Public Servants	91-14 94-6	93-10 (Revised) 09-4		93-29	93-32
Real Property	93-16				
Recusal	90-4 92-5 92-20 92-30 93-19 94-18	90-5 92-6 92-25 93-1 93-31 94-24	91-3 92-8 92-26 (Revised) 93-4 94-6 96-2	91-11 92-9 93-7 94-11 98-1	91-15 92-18 92-28 93-17 94-17
Regular Employees	93-10 (Revised)		95-8		

SUBJECT**OPINION #**

Renting Property to Public Assistance Recipients	95-29	98-13			
Salary Supplements	05-1				
Sale of Products	98-12				
Savings Clubs	04-2				
School Boards	93-2				
Separation from City Service	98-11				
Sole Proprietorship	98-7				
Subcontractors	99-2				
Superior-Subordinate Relationship	98-12	04-2	04-3		
Tax Assessors	93-16				
Teaching	90-2 96-2	91-5 99-4	93-20 99-5	94-16 99-6	95-3
Temporary Employment	98-5				
Term Limits	08-3				
Tickets	00-4	06-2			
Uncompensated Appearances	98-10				
Use of City Position – see City Position, Use of					
Use of City Vehicles – see City Vehicles, Use of					
Volunteer Activities	98-10				
Voting & Chairing Meetings	08-2				
Waivers/Orders	90-2 92-17 93-27 94-8	91-8 92-37 93-30 94-11	92-6 93-18 94-1 94-15	92-9 93-20 94-3 94-16	92-13 93-22 94-6 94-19

SUBJECT

OPINION #

	94-20	94-22	95-1	95-3	95-16
	95-17	96-1	96-2	98-8	98-9
	99-2	99-4	99-5	99-6	00-2
	06-1	07-1	08-4		
Water Board	09-6				

CHAPTER 68 ENFORCEMENT CASE SUMMARIES 2009

Note: Some of the following summaries include more than one case, and some cases appear in more than one category.

MOONLIGHTING WITH A FIRM ENGAGED IN CITY BUSINESS DEALINGS

- **Relevant Charter Sections:** City Charter §§ 2604(a)(1)(a), 2604(a)(1)(b)
- (1) The Board and the New York City Department of Education (“DOE”) concluded a three-way settlement with a teacher who agreed to pay a \$750 fine to DOE for having a second job with Touro College, a firm with City business dealings, without first seeking a waiver from the Board. The teacher acknowledged that, since January 2003, she had been employed by Touro College and that, on one occasion, she performed work for Touro College on City time. The teacher acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from pursuing private activities when the public servant is required to perform services to the City. The teacher also acknowledged that, although she obtained a waiver from the Board in April 2009, she should have requested the waiver *before* she began working for Touro College. *COIB v. Hicks*, COIB Case No. 2009-085 (2009).
 - (2) The Board fined a New York City Administration for Children’s Services (“ACS”) Youth Advocate Liaison \$1,250 for working for 5 years at Steinway Family and Children’s Services (“Steinway”), a firm with business dealings with ACS, without a waiver from the Board. The Youth Advocate Liaison acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from having a position with a firm which such public servant knows, or should know, is engaged in business dealings with the agency served by that public servant. Here, the Youth Advocate Liaison should have known Steinway did business with ACS because Steinway provides services directly to the youth and families he aides since it was part of his position at ACS to acquire for them services from private sources. *COIB v. Bryant*, COIB Case No. 2008-792 (2009).
 - (3) The Board and the New York City Department of Education (“DOE”) concluded a three-way settlement with a DOE Principal who paid a total fine of \$7,500 for, among other things, intertwining the operations of his not-for-profit organization with those of his school, despite having received written instructions from the Board that the City’s conflicts of interest law prohibits such conduct. The Principal of the Institute for Collaborative Education in Manhattan (P.S. 407M) admitted that in September 1998 the Board granted him a waiver of the Chapter 68 provision that prohibits City employees from having a position with a firm that has business dealings with the City. This waiver allowed him to continue working as the paid Executive Director of his not-for-profit organization while it received funding from multiple City agencies, but not from DOE. The Principal acknowledged that the Board notified him in its September 1998 waiver letter that under Chapter 68 he may not use his official DOE position or title to obtain any private advantage for the not-for-profit

organization or its clients and he may not use DOE equipment, letterhead, personnel, or any other City resources in connection with this work. The Principal admitted that, notwithstanding the terms of the Board's waiver, his organization engaged in business dealings with DOE; he used his position as Principal to help a client of the not-for-profit get a job at P.S. 407M; and he intertwined the not-for-profit's operations with those of P.S. 407M, including using the school's phone numbers and mailing address for the organization. The Principal further admitted that he hired two of his DOE subordinates to work for him at his not-for-profit, including one to work as his personal assistant, and that he knew that neither DOE employee had obtained the necessary waiver from the Board to allow them to moonlight with a firm that does business with the City. He admitted that by doing so he caused these DOE subordinates to violate the Chapter 68 restriction on moonlighting with a firm engaged in business dealings with the City. The Principal acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from entering into a financial relationship with a superior or subordinate City employee and from knowingly inducing or causing another public servant to engage in conduct that violates any provision of Chapter 68. The Principal paid a \$6,000 fine to the Board and \$1,500 in restitution to DOE, for a total financial penalty of \$7,500. The amount of the fine reflects that the Board previously advised the Principal, in writing, that the City's conflicts of interest law prohibits nearly all of the aforementioned conduct, yet he heeded almost none of the Board's advice. *COIB v. Pettinato*, COIB Case No. 2008-911 (2009).

- (4) The Board fined a former Associate Fraud Investigator for the NYC Human Resources Administration ("HRA") \$3,000 for using his City position to obtain confidential information about his private tenant to use to collect rent from her and for having a prohibited ownership interest in a firm engaged in City business dealings. The former Associate Fraud Investigator admitted that he had used his HRA position to access his private tenant's confidential case records on the Welfare Management System ("WMS") in order to obtain his tenant's current financial information. WMS is a system maintained by the New York State Office of Temporary and Disability Assistance ("OTDA") containing information about all persons who have applied for or have been determined to be eligible for benefits under any program for which OTDA has supervisory responsibility. The former Associate Fraud Investigator admitted that he used his tenant's confidential information to advance his financial interest in collecting past due and/or monthly rental payments from her. In addition, the former Associate Fraud Investigator admitted that his wife received approximately \$113,744 from the NYC Administration for Children's Services for providing childcare at a daycare center she operated out of their home. He also admitted that he used his HRA computer to store letters pertaining to his tenant and the daycare center. The former Associate Fraud Investigator acknowledged that his conduct violated the City's conflicts of interest law, which prohibits public servants from using confidential information obtained as a result of their official duties to advance any private financial interest of the public servant, from having an interest in a firm that does business with any City agency, and from using City resources for any non-City purpose. *COIB v. Brewster*, COIB Case No. 2008-390 (2009).
- (5) The Board fined a New York City Department of Education ("DOE") Teacher \$1,000 for owning and operating a firm that contracted with DOE and for appearing before DOE on behalf of that firm. The Teacher acknowledged that from September 1997 through

September 2007, she owned and operated a nursery school that contracted with DOE to provide Universal Pre-Kindergarten services and that she appeared before DOE on behalf of the nursery school by responding to DOE's Request for Proposals, submitting invoices for payment under the contract, and filling out VENDEX questionnaires. The Teacher acknowledged that her conduct violated the City's conflicts of interest law, which prohibits a public servant from owning a firm that is engaged in business dealings with the City and also from representing that firm before any City agency. In setting the amount of the fine, the Board took into consideration that the Teacher disclosed her employment with DOE when she first entered into the Universal Pre-Kindergarten contract with DOE; that upon learning that her conduct was prohibited, the Teacher immediately reported the conflict to the DOE Ethics Officer; and that DOE resolved the conflict by terminating its contract with the Teacher's firm. *COIB v. Fox*, COIB Case No. 2007-588 (2009).

- (6) The Board fined a former Assistant Commissioner at the New York City Administration for Children's Services ("ACS") \$2,750 for working for a firm doing business with the City and with ACS, despite receiving a Board Order advising him not to do such work. The former Assistant Commissioner admitted that his wife was the owner of a day care center with business dealings with ACS and with the New York City Department of Education. The Assistant Commissioner sought an Order from the Board permitting him to retain his otherwise prohibited imputed ownership interest in a firm doing business with the City, which Order was granted, based in part on the Assistant Commissioner's representation, both to the ACS Commissioner and to the Board, that he had no involvement in his wife's day care center. In its Order, the Board advised the Assistant Commissioner that he must continue to have no involvement in his wife's day care center. However, notwithstanding his own representations to the Board and the Board's written admonition, the former Assistant Commissioner continued to work as the day care center's accountant or Chief Financial Officer, for which work the Assistant Commissioner was compensated. The former Assistant Commissioner acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from having an interest in a firm which the public servant knows does business with the City or with his own agency. *COIB v. Davey*, COIB Case No. 2008-635 (2009).
- (7) The Board fined an Administrative Engineer for the New York City Department of Environmental Protection ("DEP") \$6,000 for representing his private plumbing business in business dealings with the Department of Buildings ("DOB") on more than 232 occasions and attending DOB inspections of his private plumbing work during his DEP work hours. The DEP Administrative Engineer admitted that, in connection with his private plumbing business, he filed 224 Plumber's Affidavits and eight Fire Suppression Piping permits with DOB and attended DOB inspections of his plumbing work during his DEP work hours. He further admitted that he had previously signed a statement acknowledging that he understood that the City's conflicts of interest law prohibited him, as a public servant, from filing Plumber's Affidavits with DOB. The DEP Administrative Engineer admitted that, by filing Plumber's Affidavits and Fire Suppression Piping permits with DOB, he engaged in business dealings with and represented private interests before DOB. The DEP Administrative Engineer acknowledged that he violated the City's conflicts of interest law, which prohibits a public servant from engaging in business dealings with the City and from representing private interests before the City. *COIB v. Tharasavat*, COIB Case No. 2008-236 (2009).

- (8) The Board issued a public warning letter to a Special Project Coordinator at the New York City Department of Parks and Recreation for, in violation of City's conflicts of interest law: (a) serving as the volunteer President of a not-for-profit organization having business dealings with Parks without the approval of the Parks Commissioner; (b) being directly involved in that not-for-profit's City business dealings, through her solicitation of grants and contracts from the City for the not-for-profit; (c) performing work for the not-for-profit while on City time and using City resources, such as Parks personnel and her Parks office and telephone; and (d) misusing her position to schedule events at Parks facilities for the not-for-profit on terms and conditions not available to other entities. Here, the Board did not pursue further enforcement action against the Special Project Coordinator for her multiple violation of Chapter 68 of the City Charter because her supervisor at Parks had knowledge of and apparently approved her use of City time and resources on behalf of the not-for-profit organization. Nonetheless, the Board took the opportunity of the issuance of this public warning letter to remind public servants that, in order to hold a position at a not-for-profit having business dealings with their own agency, public servants must obtain approval from their agency head, not merely their supervisor, to have that position *and* must have no involvement in the City business dealings of the not-for-profit. Under certain circumstances the Board may grant a waiver of that prohibition, subject to certain conditions, after receiving written approval of the public servant's agency head. However, even with such a waiver, public servants would still not be permitted to use their City positions to obtain a benefit for the not-for-profit with which they have a position – such as obtaining access to City facilities on terms not available to other not-for-profits. *COIB v. Rowe-Adams*, COIB Case No. 2008-126 (2009).
- (9) The Board and the New York City Department of Health and Mental Hygiene (“DOHMH”) - Office of the Chief Medical Examiner (“OCME”) concluded a three-way settlement with an OCME Mortuary Technician who, in 2008, had a position with Building Services International (“BSI”), which firm contracted with OCME to clean its facilities. The OCME Mortuary Technician acknowledged that by working for BSI, a firm with business dealings with OCME, he violated the City's conflicts of interest law, which prohibits a City employee from having a position with a firm doing business with his agency or, for full-time employees, with any City agency. The OCME Mortuary Technician also acknowledged that, on at least five occasions in April and May 2008, he performed work for BSI during times when he was required to be working for OCME. The OCME Mortuary Technician admitted that his conduct violated the City's conflicts of interest law, which prohibits a public servant from using City time to pursue private activities. For these violations, the OCME Mortuary Technician agreed to an eleven-day suspension, which has the approximate value of \$1,472, to be imposed by OCME. *COIB v. McFadzean*, COIB Case No. 2008-941 (2009).
- (10) The Board issued a public warning letter to a former Computer Service Technician for the New York City Department of Education (“DOE”) for working for a DOE vendor (the “Vendor”) that provides supplemental educational services (“SES”) to DOE students. The Computer Service Technician did not obtain a waiver from the Board to allow her work for the Vendor. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that Chapter 68 of the City Charter

prohibits a public servant from working for any firm that does business with the City but that under certain circumstances the Board may grant a waiver of that prohibition, subject to certain conditions, after receiving written approval of the public servant's agency head. *COIB v. Gardner*, COIB Case No. 2007-347 (2009).

OWNERSHIP INTEREST IN A FIRM ENGAGED IN BUSINESS DEALINGS WITH THE CITY

- **Relevant Charter Sections:** City Charter §§ 2604(a)(1)(a), 2604(a)(1)(b)

(11) The Board issued a public warning letter to a Watershed Maintainer for the New York City Department of Environmental Protection (“DEP”) Bureau of Water Supply for having a part-time position with and an imputed ownership interest in a firm that engaged in business dealings with DEP through a contract to perform road striping and paving at DEP facilities. The Watershed Maintainer did not seek a waiver from the Board to allow him to maintain these otherwise prohibited interests in the firm until after the firm was awarded the DEP contract. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that Chapter 68 of the City Charter prohibits public servants from have a position with or ownership interest in any firm that does business with the City, but that the Board may grant a waiver of that prohibition, subject to certain conditions, after receiving written approval of the public servant's agency head. *COIB v. Naccarato*, COIB Case No. 2008-446a (2009).

MISUSE OF CITY TIME & CITY RESOURCES

- **Relevant Charter Sections:** City Charter § 2604(b)(2)
- **Relevant Board Rules:** Board Rules §§ 1-13(a), 1-13(b)

(12) The Board and the New York City Department of Education (“DOE”) concluded a three-way settlement with a teacher who agreed to pay a \$750 fine to DOE for having a second job with Touro College, a firm with City business dealings, without first seeking a waiver from the Board. The teacher acknowledged that, since January 2003, she had been employed by Touro College and that, on one occasion, she performed work for Touro College on City time. The teacher acknowledged that her conduct violated the City's conflicts of interest law, which prohibits a public servant from pursuing private activities when the public servant is required to perform services to the City. The teacher also acknowledged that, although she obtained a waiver from the Board in April 2009, she should have requested the waiver *before* she began working for Touro College. *COIB v. Hicks*, COIB Case No. 2009-085 (2009).

(13) The Board and the New York City Department of Sanitation (“DSNY”) concluded three-way settlements with two DSNY Sanitation Workers who were each fined 9 work-days' pay, valued at \$2,412, by DSNY for, while in the course of conducting their regular collection route, giving a business card for their private carting company to a homeowner in an effort to solicit future private business from the homeowner. The Sanitation Workers each acknowledged that their conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant to obtain any financial gain, contract,

license, privilege, or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant and prohibits a public servant from using City time to pursue private activities. *COIB v. Coward*, COIB Case No. 2008-923 (2009); *COIB v. Jack*, COIB Case No. 2008-923/a (2009).

- (14) The Board and the New York City Department of Education (“DOE”) concluded a three-way settlement with a DOE Principal who paid a total fine of \$7,500 for, among other things, intertwining the operations of his not-for-profit organization with those of his school, despite having received written instructions from the Board that the City’s conflicts of interest law prohibits such conduct. The Principal of the Institute for Collaborative Education in Manhattan (P.S. 407M) admitted that in September 1998 the Board granted him a waiver of the Chapter 68 provision that prohibits City employees from having a position with a firm that has business dealings with the City. This waiver allowed him to continue working as the paid Executive Director of his not-for-profit organization while it received funding from multiple City agencies, but not from DOE. The Principal acknowledged that the Board notified him in its September 1998 waiver letter that under Chapter 68 he may not use his official DOE position or title to obtain any private advantage for the not-for-profit organization or its clients and he may not use DOE equipment, letterhead, personnel, or any other City resources in connection with this work. The Principal admitted that, notwithstanding the terms of the Board’s waiver, his organization engaged in business dealings with DOE; he used his position as Principal to help a client of the not-for-profit get a job at P.S. 407M; and he intertwined the not-for-profit’s operations with those of P.S. 407M, including using the school’s phone numbers and mailing address for the organization. The Principal further admitted that he hired two of his DOE subordinates to work for him at his not-for-profit, including one to work as his personal assistant, and that he knew that neither DOE employee had obtained the necessary waiver from the Board to allow them to moonlight with a firm that does business with the City. He admitted that by doing so he caused these DOE subordinates to violate the Chapter 68 restriction on moonlighting with a firm engaged in business dealings with the City. The Principal acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from entering into a financial relationship with a superior or subordinate City employee and from knowingly inducing or causing another public servant to engage in conduct that violates any provision of Chapter 68. The Principal paid a \$6,000 fine to the Board and \$1,500 in restitution to DOE, for a total financial penalty of \$7,500. The amount of the fine reflects that the Board previously advised the Principal, in writing, that the City’s conflicts of interest law prohibits nearly all of the aforementioned conduct, yet he heeded almost none of the Board’s advice. *COIB v. Pettinato*, COIB Case No. 2008-911 (2009).
- (15) The Board fined a former Associate Fraud Investigator for the NYC Human Resources Administration (“HRA”) \$3,000 for using his City position to obtain confidential information about his private tenant to use to collect rent from her and for having a prohibited ownership interest in a firm engaged in City business dealings. The former Associate Fraud Investigator admitted that he had used his HRA position to access his private tenant’s confidential case records on the Welfare Management System (“WMS”) in order to obtain his tenant’s current financial information. WMS is a system maintained by the New York State Office of Temporary and Disability Assistance (“OTDA”) containing information about all persons

who have applied for or have been determined to be eligible for benefits under any program for which OTDA has supervisory responsibility. The former Associate Fraud Investigator admitted that he used his tenant's confidential information to advance his financial interest in collecting past due and/or monthly rental payments from her. In addition, the former Associate Fraud Investigator admitted that his wife received approximately \$113,744 from the NYC Administration for Children's Services for providing childcare at a daycare center she operated out of their home. He also admitted that he used his HRA computer to store letters pertaining to his tenant and the daycare center. The former Associate Fraud Investigator acknowledged that his conduct violated the City's conflicts of interest law, which prohibits public servants from using confidential information obtained as a result of their official duties to advance any private financial interest of the public servant, from having an interest in a firm that does business with any City agency, and from using City resources for any non-City purpose. *COIB v. Brewster*, COIB Case No. 2008-390 (2009).

- (16) The Board fined the former Senior Vice President of the South Manhattan Health Care Network and Executive Director of the Bellevue Hospital Center ("Bellevue"), a facility of the New York City Health and Hospital Corporation ("HHC"), \$12,500 for his multiple violations of Chapter 68 of the New York City Charter, the City's conflicts of interest law, and Section 12-110 of the New York City Administrative Code, the City's financial disclosure law. Among those violations, the former Executive Director acknowledged that he directed his Bellevue subordinates to perform personal tasks for him on City time. Specifically, he asked the Bellevue Information Service staff to make several trips to his home to perform repairs on his personal computer during their City work hours and directed his assigned HHC driver to perform personal errands for him, including making personal trips to the bank, purchasing lottery tickets, and driving him to the dentist, during her City work hours and often in an HHC vehicle. The former Executive Director admitted that in so doing he violated the City's conflicts of interest law, which prohibits the use of City resources – which include City personnel and City vehicles – for any non-City purpose and prohibits a public servant from using or attempting to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant. *COIB v. Perez*, COIB Case No. 2004-220 (2009).
- (17) The Board fined a former New York City Department of Education ("DOE") teacher \$1,250 for working for her outside employer during her City work hours. The DOE teacher acknowledged that, on twenty-one occasions from November 2008 through January 2009, she left her City job in Queens prior to the end of her scheduled teaching hours in order to work for her outside employer, Long Island Center, tutoring a student in Valley Stream, Long Island. The teacher acknowledged that her conduct violated the City's conflicts of interest law, which prohibits a public servant from using City time to pursue non-City activities, in particular any private business or financial activities. *COIB v. Mason-Bell*, COIB Case No. 2009-416 (2009).
- (18) The Board and the New York City Department of Education ("DOE") concluded a three-way settlement with an Assistant Principal who agreed to pay \$1,300 in restitution to DOE and a \$1,500 fine to the Board for misusing his DOE position and DOE resources by using a DOE procurement card ("P-Card") for personal purposes. The Assistant Principal acknowledged that, at the beginning of the 2007-2008 school year, he had been given a P-Card for the sole purpose of

making purchases for the school. During the month of September 2008, the Assistant Principal made multiple personal purchases using the P-Card, totaling \$1,295.98. He acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from using his or her City position for private financial gain and from using City resources, such as school funds, for any non-City purpose. *COIB v. Brown*, COIB Case No. 2009-140 (2009).

- (19) The Board and the New York City Department of Health and Mental Hygiene (“DOHMH”) concluded a three-way settlement in which a Hearing Officer in the Administrative Tribunal of DOHMH’s Office of the General Counsel paid a \$1,400 fine to DOHMH for, while on City time, using City resources to pursue an online degree at Capella University. The Hearing Officer admitted that, at times when he was supposed to be doing work for DOHMH, he used a City computer and his DOHMH e-mail account in an amount substantially in excess of the *de minimis* amount permitted by the City of New York’s Policy on Limited Personal Use of City Office and Technology Resources (also known as the “Acceptable Use Policy”) to complete coursework related to an online degree at Capella University. The Hearing Officer acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue private activities. *COIB v. Anthony*, COIB Case No. 2009-479 (2009).
- (20) The Board and the New York City Housing Authority (“NYCHA”) concluded a three-way settlement with a NYCHA Supervisor Elevator Mechanic who was suspended by NYCHA for 15 days, valued at approximately \$4,695, for performing his private employment while on City time and using his City computer, despite having received written advice from the Board advising him that he could not use City time or City resources for any outside employment. The Supervisor Elevator Mechanic acknowledged that, in addition to working for NYCHA, he also had a part-time position for Uplift Elevator and had performed work for Uplift on City time and using his City computer. The Supervisor Elevator Mechanic acknowledged that this conduct violated the City’s conflicts of interest law, which prohibits any public servant from pursuing private activities during times when that public servant is required to perform services for the City and from using City letterhead, personnel, equipment, resources, or supplies for any non-City purpose. The value of the financial penalty imposed reflected the fact that, although the use of City time and resources was limited, the Supervisor Elevator Mechanic had been notified by the Board in writing that this conduct is prohibited by the conflicts of interest law. *COIB v. DeSanctis*, COIB Case No. 2009-144 (2009).
- (21) The Board and the New York City Department of Health and Mental Hygiene (“DOHMH”) concluded a three-way settlement with a Supervising Public Health Advisor in the DOHMH Bureau of Sexually Transmitted Diseases who was suspended for 7 days by DOHMH, with the approximate value of \$1,412.46, for using City resources, while on City time, to pursue an online degree at the University of Phoenix. The Supervising Public Health Advisor admitted that, at times when he was supposed to be doing work for DOHMH, he used a City computer and his DOHMH e-mail account in an amount substantially in excess of the *de minimis* amount permitted by the City of New York’s Policy on Limited Personal Use of City Office and Technology Resources (also known as the “Acceptable Use Policy”) to complete coursework related to the online degree. The Supervising Public Health Advisor acknowledged that his conduct violated the

City's conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue private activities. *COIB v. Ayinde*, COIB Case No. 2009-480 (2009).

- (22) The Board and the New York City Department of Health and Mental Hygiene (“DOHMH”) concluded a three-way settlement with a Clerical Associate in the DOHMH Bureau of Communicable Diseases who was suspended by DOHMH for two days and forfeited three days of annual leave, with the total approximate value of \$549.85, for using City resources, while on City time, to pursue an online degree at the University of Phoenix. The Clerical Associate admitted that, at times when she was supposed to be doing work for DOHMH, she used a City computer and her DOHMH e-mail account in an amount substantially in excess of the *de minimis* amount permitted by the City of New York’s Policy on Limited Personal Use of City Office and Technology Resources (also known as the “Acceptable Use Policy”) to complete coursework related to the online degree. The Clerical Associate acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue private activities. *COIB v. Patrick*, COIB Case No. 2009-481 (2009).
- (23) The Board and the New York City Department of Health and Mental Hygiene (“DOHMH”) concluded a three-way settlement with a Clerical Associate in the DOHMH Bureau of Health Care Access and Improvement who was suspended for five days by DOHMH and forfeited five days of annual leave, with the total approximate value of \$1,523.20, for using City resources, while on City time, to pursue an degree at Monroe College. The Clerical Associate admitted that, at times when she was supposed to be doing work for DOHMH, she used a City computer and her DOHMH e-mail account in an amount substantially in excess of the *de minimis* amount permitted by the City of New York’s Policy on Limited Personal Use of City Office and Technology Resources (also known as the “Acceptable Use Policy”) to complete coursework related to the degree. The Clerical Associate acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue private activities. *COIB v. Pittman*, COIB Case No. 2009-482 (2009).
- (24) The Board fined a former New York City Human Resources Administration (“HRA”) Assistant Deputy Commissioner \$1,000 for using his City telephone to make and receive approximately 43 calls during his City work hours related to his real estate business. The former Deputy Commissioner acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from using City resources for any non-City purpose and prohibits public servants from pursuing personal and private activities during times when the public servant is required to perform services for the City. *COIB v. Kundu*, COIB Case No. 2008-303 (2009).
- (25) The Board fined a former Special Officer in the Security Division of the New York City Department of Homeless Services (“DHS”) \$1,000 for using DHS facilities and City time to perform work related to his private tax preparation business. The former Special Officer admitted that he posted flyers to solicit clients around the DHS staff locker room and exchanged documents and received fees for services relating to his tax preparation business with multiple DHS employees on City time and at DHS facilities. The former Special Officer acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from

using City time or City resources for any non-City purpose. *COIB v. Proctor*, COIB Case No. 2008-274 (2009).

- (26) The Board and the New York City Administration for Children's Services ("ACS") concluded a three-way settlement in which a Secretary in the ACS Division of Child Protection was suspended for 16 days by ACS, valued at approximately \$2,491.55, for, while on City time, using City resources to work on a variety of private business ventures. The ACS Secretary admitted that, in 2007 and 2008, at times when she was supposed to be doing work for ACS, she used a City computer and her ACS e-mail account to send and receive information regarding a variety of private business ventures, including foreign exchange investments, real estate investments, investment clubs, insurance and pension plan pools, and energy-bill-savings programs. The Secretary acknowledged that her conduct violated the City's conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue private activities. *COIB v. Calvin*, COIB Case No. 2008-729 (2009).
- (27) The Board and the New York City Department of Health and Mental Hygiene ("DOHMH") - Office of the Chief Medical Examiner ("OCME") concluded a three-way settlement in which an OCME Mortuary Technician was suspended for ten days by OCME, valued at approximately \$1,433, for taking an OCME Morgue Van without agency permission for two hours during the middle of his shift to attend a family member's wake. The Mortuary Technician was not authorized by OCME to drive any agency vehicles. The Mortuary Technician admitted that his conduct violated the City's conflicts of interest law, which prohibits a public servant from using a City resource for a non-City purpose. *COIB v. Purvis*, COIB Case No. 2009-498 (2009).
- (28) The Board fined a former New York City Human Resources Administration ("HRA") Executive Agency Counsel \$1,500 for using her City-issued LexisNexis password to access LexisNexis for non-City purposes. The former Executive Agency Counsel admitted that in order to access records on LexisNexis using her City-issued password, she was required to certify that the information she sought was for a "permissible use," defined by HRA as use for a City purpose, such as to detect and prevent fraud by HRA clients. The former Executive Agency Counsel admitted that, between October 2007 and July 2008, she conducted public records searches on thirty-one individuals for personal, non-City purposes. The former Executive Agency Counsel acknowledged that her conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant, and prohibits a public servant from using City resources, such as City-issued passwords, for any non-City purpose. *COIB v. Finkenberg*, COIB Case No. 2009-029 (2009).
- (29) The Board fined a New York City Department of Education ("DOE") Computer Science Technician \$1,250 for using his DOE cellular phone during City time, communicating with his private clients from his DOE e-mail address, and using his DOE cellular telephone number as his contact number in both the e-mails and in an online real estate advertisement

he created, all for his private business as a real estate agent. The DOE Computer Science Technician acknowledged that he violated the City's conflicts of interest law, which prohibits a public servant from using any City time or City resources for non-City purposes. *COIB v. Knowles*, COIB Case No. 2008-582 (2009).

- (30) The Board issued a public warning letter to a seasonal New York City Department of Education ("DOE") Parent Coordinator for using his DOE e-mail to send a PowerPoint Presentation endorsing a political candidate to over 600 DOE employees. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that Chapter 68 of the City Charter prohibits public servants from using City resources (such as a City e-mail address or computer), in any amount, for political activities. *COIB v. Durmo*, COIB Case No. 2009-016 (2009).
- (31) The Board issued a public warning letter to a seasonal Chief Lifeguard for the New York City Department of Parks and Recreation ("Parks") for using Parks resources in connection with his private work as a tax preparer. While working for Parks during the summer months, the Chief Lifeguard occasionally used a Parks telephone to answer his private clients' tax-related questions and at least one client visited him at his Parks work location to discuss tax matters. The phone calls and visits occurred during the Chief Lifeguard's breaks or lunch hours and not during times when he was required to perform his official City duties. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that Chapter 68 of the City Charter prohibits public servants from using even a minimal amount of City resources, which includes City work locations, for any private work. *COIB v. Williams*, COIB Case No. 2007-464 (2009).
- (32) The Board fined a New York City Housing Authority ("NYCHA") Supervising Housing Caretaker \$1,000 for receiving fees from two tax preparation companies for referring five of his subordinates to the companies and for receiving faxes at his job in connection with this private business. The NYCHA Supervising Housing Caretaker acknowledged that he violated the City's conflicts of interest law, which prohibits a public servant from using his or her City position to attempt to obtain any financial gain for the public servant or any person or firm associated with the public servant and prohibits public servants from using City resources for non-City purposes. In setting the amount of the fine, the Board took into consideration that for this conduct the Supervising Housing Caretaker was suspended by NYCHA for three days, valued at approximately \$586. *COIB v. Samuels*, COIB Case No. 2008-910 (2009).
- (33) The Board fined a former New York City Housing Authority ("NYCHA") Plumbing Supervisor \$1,000 for using four hours of City time to work for his private plumbing company. The former NYCHA Plumbing Supervisor acknowledged that he violated the City's conflicts of interest law, which prohibits a public servant from using City time for non-City purposes. *COIB v. Byrne*, COIB Case No. 2008-825 (2009).
- (34) The Board and the New York City Department of Health and Mental Hygiene ("DOHMH") concluded a three-way settlement in which a Special Consultant in the DOHMH Bureau of Mental Health was suspended for six days, valued at \$1,597, for using

City time and City resources to work on a variety of private business ventures. The DOHMH Special Consultant admitted that, at times when she was supposed to be doing work for DOHMH, she used a City computer and her DOHMH e-mail account to store and send offers for a variety of private business ventures, including real estate short sales, travel packages, and her second job at the Learning Annex. The Special Consultant acknowledged that her conduct violated the City's conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue private activities. *COIB v. Miller*, COIB Case No. 2009-227 (2009).

- (35) The Board and the New York City Department of Health and Mental Hygiene ("DOHMH") concluded a three-way settlement in which an Associate Staff Analyst, holding an underlying civil service title of Public Health Educator, in the DOHMH Bureau of School Health was suspended for five days by DOHMH, valued at approximately \$1,274, for giving two paid lectures which he could have been reasonably assigned to do as part of his DOHMH duties and then communicating about those paid lectures using City technology resources and while on City time. The DOHMH Associate Staff Analyst admitted that he gave two paid lectures on HIV/AIDS to incoming students at The Cooper Union for the Advancement of Science and Art and that he could have been reasonably assigned to deliver these lectures as part of his DOHMH duties. The Associate Staff Analyst further admitted that, at times when he was supposed to be doing work for DOHMH, he used a City computer and his DOHMH e-mail account to communicate with Cooper Union about those lectures. The Associate Staff Analyst acknowledged that his conduct violated the City's conflicts of interest law, which prohibits public servants from receiving compensation from any entity other than the City for performing their official duties and prohibits public servants from using City time and City resources to pursue private activities. *COIB v. Sheiner*, COIB Case No. 2009-177 (2009).
- (36) The Board fined a former Community Coordinator at the New York City Administration for Children's Services ("ACS") \$2,000 for using City resources and City time to perform work related to his private counseling practice and for appearing before another City agency on behalf of that practice. The former Community Coordinator admitted that, at times he was supposed to be performing work for ACS, he used his City computer and ACS e-mail account to conduct activities related to his private mental health counseling practice. The former Community Coordinator also admitted that he had submitted documentation to the New York City Department of Education ("DOE") in order to be included on a list of providers to be selected by DOE parents to provide services to their children, which services would have been paid for by DOE. The former Director acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from using City time or City resources for any non-City purpose and prohibits a public servant from appearing for compensation before any City agency. In determining the amount of the fine, the Board took into account that the former Community Coordinator had resigned from ACS while related disciplinary charges were pending. *COIB v. Belenky*, COIB Case No. 2009-297 (2009).
- (37) The Board and the New York City Department of Health and Mental Hygiene ("DOHMH") concluded a three-way settlement in which a Principal Administrative Associate in the DOHMH Bureau of Correctional Health Service was suspended for seven days by DOHMH, with the approximate value of \$1,492, for using City resources on City

time to complete an online degree at the University of Phoenix. The DOHMH Principal Administrative Associate admitted that, at times when she was supposed to be doing work for DOHMH, she used a City computer and her DOHMH e-mail account in an amount substantially in excess of the *de minimis* amount permitted by the City of New York's Policy on Limited Personal Use of City Office and Technology Resources (also known as the "Acceptable Use Policy") to complete an online degree at the University of Phoenix. The Principal Administrative Associate acknowledged that her conduct violated the City's conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue private activities. *COIB v. Gabrielsen*, COIB Case No. 2009-192 (2009).

- (38) The Board, the New York City Department of Education ("DOE"), and the DOE Division of School Facilities concluded a settlement in which a DOE Custodian Engineer received a DOE-imposed penalty valued at more than \$7,904 for, among other misconduct, using City resources for non-City purposes. The DOE Custodian Engineer admitted that he removed two 55-gallon drums belonging to DOE from a DOE school for his personal use. He further admitted that he removed the drums without permission or authorization from DOE to do so. The DOE Custodian Engineer acknowledged that this conduct violated the City's conflicts of interest law, which prohibits public servants from using City resources for any non-City purpose. He further admitted that he engaged in other misconduct that violated DOE Rules and Procedures, but not Chapter 68 of the New York City Charter, the City's conflicts of interest law. The DOE Custodian Engineer agreed to the imposition of several penalties by DOE, including waiving thirty days of back pay, which has an approximate value of \$7,904. The Board accepted the DOE-imposed penalty as a sufficient penalty for the Custodian Engineer's violations of Chapter 68. *COIB v. Core*, COIB Case No. 2008-237 (2009).
- (39) The Board and the New York City Department of Sanitation ("DSNY") concluded a three-way settlement with a DSNY Sanitation Worker who, while on City time, sold unauthorized DSNY merchandise for personal profit from his personal vehicle outside of a DSNY garage. The Sanitation Worker acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from using City time and resources to pursue private activities. The Sanitation Worker was fined 15 work days, valued at \$3,822, by DSNY. *COIB v. Guerrero*, COIB Case No. 2008-922 (2009).
- (40) The Board fined a former Custodian for the New York City Department of Education ("DOE") \$20,000, the highest fine to date in a Board settlement. The former Custodian acknowledged he had made personal purchases using DOE funds from three DOE vendors and then instructed those vendors to falsify the invoices in order to conceal from DOE his use of DOE funds for personal purchases. The former Custodian also acknowledged that he used the custodial staff that he hired to work at his DOE school to perform personal work for him and for his brother-in-law – including painting his house, installing shelves, installing cabinets at his brother-in-law's house, moving a rug, and cleaning his deck – always without paying them and sometimes at times when the custodial staff was supposed to performing work at the Custodian's DOE school. The former Custodian admitted that he violated the City's conflicts of interest law, which prohibits the use of City resources – which include City monies or City personnel – for any non-City purpose and prohibits a public servant from using or attempting to use his or her position as a

public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant. *COIB v. O'Brien*, COIB Case No. 2008-960 (2009).

- (41) The Board and the New York City Human Resources Administration (“HRA”) concluded a three-way settlement with an HRA Food Stamps Eligibility Specialist who agreed to an eleven work-day fine, valued at \$1,671, to be imposed by HRA, and a \$400 fine payable to the Board, for a total financial penalty of \$2,071, for using City time and City resources to do work for his private business. The HRA Food Stamps Eligibility Specialist admitted that, at times when he was supposed to be doing work for HRA, he used his City office, computer, e-mail account, and telephone to perform work related to his private process-serving and bankruptcy services business. The Food Stamps Eligibility Specialist acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue private activities. *COIB v. Purdie*, COIB Case No. 2008-687 (2009).
- (42) The Board concluded a settlement with a former Caseworker for the New York City Human Resources Administration (“HRA”) who, in 2003, used her HRA letterhead to create a phony letterhead, purportedly from her HRA supervisor, stating that she no longer worked for HRA when, in fact, she did. The former Caseworker admitted that she prepared this phony letter on HRA letterhead for the purpose of misrepresenting her income to the U.S. Department of Housing and Urban Development (“HUD”) in order to obtain a greater amount of rent subsidies through the HUD-funded Section 8 rental assistance program. The former Caseworker admitted that, by using City letterhead for the non-City purpose of fraudulently obtaining a lower rent for herself, she violated the City’s conflicts of interest law, which prohibits a public servant from using a City resource for a non-City purpose. The former Caseworker had previously plead guilty to charges based on this misconduct in U.S. District Court and was sentenced in June 2008 to two years’ probation and six months’ home confinement and was ordered to pay restitution in the full amount that she had defrauded the government, \$41,035. In light of these criminal penalties, the Board did not impose its own separate penalty. *COIB v. Medal*, COIB Case No. 2008-744 (2009).
- (43) The Board issued a public warning letter to a Special Project Coordinator at the New York City Department of Parks and Recreation for, in violation of City’s conflicts of interest law: (a) serving as the volunteer President of a not-for-profit organization having business dealings with Parks without the approval of the Parks Commissioner; (b) being directly involved in that not-for-profit’s City business dealings, through her solicitation of grants and contracts from the City for the not-for-profit; (c) performing work for the not-for-profit while on City time and using City resources, such as Parks personnel and her Parks office and telephone; and (d) misusing her position to schedule events at Parks facilities for the not-for-profit on terms and conditions not available to other entities. Here, the Board did not pursue further enforcement action against the Special Project Coordinator for her multiple violation of Chapter 68 of the City Charter because her supervisor at Parks had knowledge of and apparently approved her use of City time and resources on behalf of the not-for-profit organization. Nonetheless, the Board took the opportunity of the issuance of this public warning letter to remind public servants that, in order to hold a position at a not-for-profit having business dealings with their own agency, public servants must obtain approval from

their agency head, not merely their supervisor, to have that position *and* must have no involvement in the City business dealings of the not-for-profit. Under certain circumstances the Board may grant a waiver of that prohibition, subject to certain conditions, after receiving written approval of the public servant's agency head. However, even with such a waiver, public servants would still not be permitted to use their City positions to obtain a benefit for the not-for-profit with which they have a position – such as obtaining access to City facilities on terms not available to other not-for-profits. *COIB v. Rowe-Adams*, COIB Case No. 2008-126 (2009).

- (44) The Board fined a City Planner for the New York City Department of City Planning (“City Planning”) \$500 for using a City-owned City Planning vehicle for unauthorized personal purposes. The City Planner admitted that, on a Saturday when she was not working for City Planning, she drove a City-owned vehicle from the City Planning Queens Borough Office to Jersey City, New Jersey, to attend a personal meeting. The City Planner acknowledged that she violated the City’s conflicts of interest law, which prohibits a public servant from using a City resource for a non-City purpose. *COIB v. Chen*, COIB Case No. 2008-688 (2009).
- (45) The Board and the New York City Department of Health and Mental Hygiene (“DOHMH”) concluded a three-way settlement in which a DOHMH Principal Administrative Associate was suspended by DOHMH for five days, valued at \$817, for using City resources to do non-City work during times when she was required to be working for DOHMH. The Principal Administrative Associate admitted that, on numerous occasions when she was required to perform services for DOHMH, she used a DOHMH computer and her DOHMH e-mail account to engage in activities related to her private tenant, including e-mailing New York State and City officials seeking assistance with rental issues she was having with her tenant. The Principal Administrative Associate acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue non-City business. *COIB v. Pottinger*, COIB Case No. 2009-063 (2009).
- (46) The Board fined the former Director of Special Projects at the Office of the Chief Medical Examiner (“OCME”) \$3,250 for using City resources and his City position to perform work related to a private consulting venture. The former Director acknowledged that when he was still employed by OCME, he had several substantive conversations about his proposed private consulting firm with representatives of an OCME vendor, specifically about the prospect of the OCME vendor doing business with his private consulting firm. He also used OCME facilities to engage in a number of substantive conversations, with an OCME colleague and others, about the creation of the private consulting firm. The former Director acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant, and prohibits a public servant from using City letterhead, personnel, equipment or supplies for any non-City purpose. *COIB v. Ribowsky*, COIB Case No. 2008-478 (2009).

- (47) The Board and the New York City Department of Health and Mental Hygiene (“DOHMH”) concluded a three-way settlement with a Coordinating Manager in the DOHMH Bureau of Health Care Access and Improvement in which the Coordinator Manager was suspended for twenty-five days by DOHMH, with the approximate value of \$5,000, for using City time and City resources to perform work relating to her family’s import-export business and to complete an online defensive driving course. The DOHMH Coordinating Manager admitted that, at times when she was supposed to be doing work for DOHMH, she used a City computer and her DOHMH e-mail account to prepare, store, and transmit hundreds of documents relating to an import-export business owned by her and her husband. The Coordinating Manager also admitted that, at times when she was supposed to be doing work for DOHMH, she used a City computer to access and to complete an online defense driving course. The Coordinating Manager acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue private activities. *COIB v. Bastawros*, COIB Case No. 2009-045 (2009).
- (48) The Board fined the Director of Facilities Management for the Division of School Facilities at the New York City Department of Education (“DOE”) \$1,150 for using DOE subordinates to perform a personal favor for him using a City vehicle. The Director acknowledged that, in a room containing a number of DOE employees, including his subordinates, he stated that he was having difficulty locating a tricycle for his grandchild. One of his subordinates volunteered to purchase the tricycle for the Director during his lunch break, an offer the Director accepted. The subordinate could not purchase it during his lunch break, so he offered to look for the tricycle at a different store on his way home from work with a second subordinate, an offer which the Director also accepted. The Director was aware that both shopping trips would be made using the subordinate’s regularly-assigned DOE vehicle. The Director acknowledged that his conduct violated the City’s conflict of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant and prohibits a public servant from using any City resource, such as a City vehicle, for a non-City purpose. *COIB v. Borowiec*, COIB Case No. 2008-555 (2009).
- (49) The Board fined a former Department of Homeless Services (“DHS”) Attorney \$2,000 for using her City office during her City work hours to hold a meeting to discuss her professional resume services with a DHS Security Officer, whom she charged to prepare his resume, and using her City computer to send an e-mail message to a DHS employee inquiring if DHS accepted applications for Agency Attorney Intern positions from individuals with a law degree from outside of the United States (the DHS Security Officer with whom the former DHS Attorney met had a law degree from outside the United States). The DHS Attorney also acknowledged that she sent an e-mail message from her personal e-mail account to her work e-mail account with the DHS security officer’s resume and cover letter as attachments. The former DHS Attorney acknowledged that her conduct violated the City’s conflicts of interest law, which, among other things: (a) prohibits a public servant from pursuing private activities during times when that public servant is required to perform services for the City; and (b) prohibits a public servant from using City resources for any

non-City purpose. After taking into consideration the former DHS Attorney's extraordinary financial hardship, including her current unemployment status, the Board suspended collection of the \$2,000 fine. *COIB v. James*, COIB Case No. 2006-462 (2009).

- (50) The Board and the New York City Department of Health and Mental Hygiene ("DOHMH") - Office of the Chief Medical Examiner ("OCME") concluded a three-way settlement with an OCME Mortuary Technician who, in 2008, had a position with Building Services International ("BSI"), which firm contracted with OCME to clean its facilities. The OCME Mortuary Technician acknowledged that by working for BSI, a firm with business dealings with OCME, he violated the City's conflicts of interest law, which prohibits a City employee from having a position with a firm doing business with his agency or, for full-time employees, with any City agency. The OCME Mortuary Technician also acknowledged that, on at least five occasions in April and May 2008, he performed work for BSI during times when he was required to be working for OCME. The OCME Mortuary Technician admitted that his conduct violated the City's conflicts of interest law, which prohibits a public servant from using City time to pursue private activities. For these violations, the OCME Mortuary Technician agreed to an eleven-day suspension, which has the approximate value of \$1,472, to be imposed by OCME. *COIB v. McFadzean*, COIB Case No. 2008-941 (2009).
- (51) The Board fined a Deputy Chief of Emergency Medical Services ("EMS") for the New York City Fire Department ("FDNY") \$500 for using a City-owned FDNY vehicle for unauthorized personal purposes. The EMS Deputy Chief admitted that, while she was off-duty, she used a FDNY vehicle, without authorization from FDNY, to pick up officers from a ship docked in Manhattan and drive them to a restaurant in Manhattan for a personal meeting. The EMS Deputy Chief acknowledged that she violated the City's conflicts of interest law, which prohibits a public servant from using a City resource for a non-City purpose. *COIB v. Kwok*, COIB Case No. 2008-504 (2009).
- (52) The New York City Conflicts of Interest Board (the "Board") fined a former Administration for Children's Services ("ACS") Child Protective Specialist \$6,626.04 for using her City-issued cellular telephone to make over 1,000 personal telephone calls from June 30 to September 24, 2007, including over 250 long-distance calls to Jamaica, amounting to a \$6,126.04 telephone bill for which she failed to reimburse ACS. These telephone calls were made on City time and without authorization from ACS. The Child Protective Specialist acknowledged that her conduct violated the City's conflicts of interest law, which, among other things: (a) prohibits a public servant from using City resources for any non-City purpose; and (b) prohibits a public servant from pursuing private activities during times when that public servant is required to perform services for the City. The \$6,626.04 fine imposed by the Board includes restitution of the \$6,126.04 incurred in personal telephone bills at ACS and a \$500 fine to the Board. However, after taking into consideration the Child Protective Specialist's extraordinary financial hardship, including her current unemployment status, the Board agreed to suspended collection of the fine. *COIB v. Henry*, COIB Case No. 2008-006 (2009).
- (53) The Board and the New York City Department of Health and Mental Hygiene ("DOHMH") concluded a three-way settlement in which a DOHMH Supervising Public Health Advisor was suspended by DOHMH for three days, valued at \$562, for using City

resources to do non-City work during times when he was required to be working for DOHMH. The DOHMH Supervising Public Health Advisor admitted that, on numerous occasions when he was required to perform services for DOHMH, he used a DOHMH computer and his DOHMH e-mail account to engage in activities related to his outside work as a musician, including sending and receiving e-mails to solicit business and advertise performances. The Supervising Public Health Advisor acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue non-City business. *COIB v. King*, COIB Case No. 2008-681 (2009).

- (54) The Board and the New York City Department of Environmental Protection (“DEP”) concluded a three-way settlement with a DEP Police Officer who was suspended by DEP for 5 days without pay, valued at \$839, for using envelopes with the DEP insignia with the intent to send personal letters to New York City Council Members, urging them to support a change to the Administrative Code that would change the status of DEP police officers and provide them with greater benefits. The DEP Police Officer acknowledged that her conduct violated the City's conflicts of interest law, which prohibits a public servant from using City resources for any non-City purpose. *COIB v. Tangredi*, COIB Case No. 2008-434 (2009).
- (55) The Board fined a New York City Department of Education (“DOE”) teacher \$1,000 for selling a small self-composed framed poem to the parent of a student from her school and attempting to sell five self-composed framed poems to the parent of another student in her class, some of which conduct was done on DOE time. The teacher admitted that her conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant, and prohibits a public servant from using City time for any non-City purpose. *COIB v. Murrell*, COIB Case No. 2008-481 (2009).
- (56) The Board and the New York City Department of Health and Mental Hygiene (“DOHMH”) concluded a three-way settlement with a DOHMH Associate Public Health Sanitarian who used DOHMH letterhead for the personal purpose of sending a “Letter of Sponsorship” to the Visa Officer at the British High Commission in Nigeria for an individual who was planning to study at the West London College of Business & Management. This use of DOHMH letterhead was done without the knowledge or consent of the DOHMH Commissioner. The DOHMH Associate Public Health Sanitarian acknowledged that his use of City letterhead violated the City's conflicts of interest law, which prohibits a public servant for using City letterhead, personnel, equipment, resources, or supplies for any non-City purpose. The DOHMH Associate Public Health Sanitarian agreed to a five-day suspension and the forfeiture of ten days of annual leave, for a total penalty of \$3,104, to be imposed by DOHMH. This penalty was for both the above-described violation and additional violations by the Associate Public Health Sanitarian of the DOHMH Standard of Conduct Rules unrelated to the City's conflicts of interest law. *COIB v. Teriba*, COIB Case No. 2008-719 (2009).

(57) The Board and the New York City Department of Health and Mental Hygiene (“DOHMH”) concluded a three-way settlement with a DOHMH Clerical Associate who, while on City time, used City resources to do perform work related to his outside business, a jazz band. The DOHMH Clerical Associate admitted that, on numerous occasions when he was supposed to be doing work for DOHMH, he used a City computer and his DOHMH e-mail account to perform work related to his jazz band, for which work he was compensated. He acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from using City time and City resources to pursue private activities. The Clerical Associate agreed to a three-day suspension and the forfeiture of three days of annual leave, which has the total approximate value of \$676, to be imposed by DOHMH. *COIB v. Conton*, COIB Case No. 2008-921 (2009).

(58) The Board concluded a settlement with a Deputy Director for the Department of Parks and Recreation (“Parks”) who used a City-owned vehicle without authorization from Parks to do personal errands on the weekend and a Parks-issued E-ZPass for personal purposes on thirteen occasions, which cost the City \$52. The Deputy Director acknowledged that he violated the City’s conflicts of interest law, which prohibits a public servant from using City resources for a non-City purpose. As a result of the same misconduct, the Deputy Director had previously entered into a stipulation of settlement with Parks whereby he agreed to pay an \$11,000 fine to Parks and to accept a demotion from the position of Director to Deputy Director. The Board took the Agency disciplinary action into consideration and did not seek a separate, additional fine. *COIB v. Brenner*, COIB Case No. 2008-716 (2009).

AIDING OR INDUCING A VIOLATION OF THE CONFLICTS OF INTEREST LAW

- **Relevant Charter Sections:** City Charter § 2604(b)(2)
- **Relevant Board Rules:** Board Rules § 1-13(d)

(59) The Board and the New York City Department of Education (“DOE”) concluded a three-way settlement with a DOE Principal who paid a total fine of \$7,500 for, among other things, intertwining the operations of his not-for-profit organization with those of his school, despite having received written instructions from the Board that the City’s conflicts of interest law prohibits such conduct. The Principal of the Institute for Collaborative Education in Manhattan (P.S. 407M) admitted that in September 1998 the Board granted him a waiver of the Chapter 68 provision that prohibits City employees from having a position with a firm that has business dealings with the City. This waiver allowed him to continue working as the paid Executive Director of his not-for-profit organization while it received funding from multiple City agencies, but not from DOE. The Principal acknowledged that the Board notified him in its September 1998 waiver letter that under Chapter 68 he may not use his official DOE position or title to obtain any private advantage for the not-for-profit organization or its clients and he may not use DOE equipment, letterhead, personnel, or any other City resources in connection with this work. The Principal admitted that, notwithstanding the terms of the Board’s waiver, his organization engaged in business dealings with DOE; he used his position as Principal to help a client of the not-for-profit get a job at P.S. 407M; and he intertwined the not-for-profit’s operations with those of P.S. 407M, including using the school’s phone numbers and mailing address for the organization.

The Principal further admitted that he hired two of his DOE subordinates to work for him at his not-for-profit, including one to work as his personal assistant, and that he knew that neither DOE employee had obtained the necessary waiver from the Board to allow them to moonlight with a firm that does business with the City. He admitted that by doing so he caused these DOE subordinates to violate the Chapter 68 restriction on moonlighting with a firm engaged in business dealings with the City. The Principal acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from entering into a financial relationship with a superior or subordinate City employee and from knowingly inducing or causing another public servant to engage in conduct that violates any provision of Chapter 68. The Principal paid a \$6,000 fine to the Board and \$1,500 in restitution to DOE, for a total financial penalty of \$7,500. The amount of the fine reflects that the Board previously advised the Principal, in writing, that the City's conflicts of interest law prohibits nearly all of the aforementioned conduct, yet he heeded almost none of the Board's advice. *COIB v. Pettinato*, COIB Case No. 2008-911 (2009).

- (60) The Board fined a former New York City Department of Education Principal \$1,500 for allowing one of his subordinates to hire and supervise her children and for allowing another subordinate to hire and supervise her brother. The subordinates' conduct violated the City's conflict of interest law, which prohibits a public servant from using his or her position to benefit a person associated with the public servant, including children and siblings. The former Principal acknowledged that his conduct — allowing his subordinates to benefit persons associated with them — violated the City's conflicts of interest law, which prohibits a public servant from aiding another public servant to violate the conflicts of interest law. *COIB v. Lucks*, COIB Case No. 2008-962a (2009).

MISUSE OF CITY POSITION

- **Relevant Charter Sections:** City Charter §§ 2604(b)(2), 2604(b)(3)

- (61) The Board issued a public warning letter to a New York City Department of Education (“DOE”) School Aide for borrowing \$2,300 from an individual whom she knew only through his child's attendance at the school where she worked. Under the arrangement described above, the School Aide obtained the financial benefit of what was effectively an interest-free loan, which she mostly repaid. Under these circumstances, it did not appear that the School Aide could have taken any official action to affect her lender's interests had he refused to lend her the money. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that the City's conflict of interest law prohibits them from using their City positions for personal financial gain, which includes borrowing money from an individual whom they know only through their City position, regardless of whether the money is repaid. *COIB v. Thorne*, COIB Case No. 2009-200 (2009).

- (62) The Board imposed, and then forgave based on demonstrated financial hardship, a \$2,000 fine on a former New York City Department of Education (“DOE”) Substitute Teacher who allowed students from her fifth-grade class to work, without pay, at a restaurant that she owned. The former Substitute Teacher acknowledged that, in January and February 2008, without

authorization from the DOE, she spoke to her students about an internship opportunity to work at her restaurant. The former Substitute Teacher further acknowledged that, although she did not receive permission from her school, at least three of her students worked at her restaurant passing out flyers, for which work they were not paid. The former Substitute Teacher admitted that her conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant. For this misconduct, the Board imposed a fine of \$2,000, but forgave this fine upon the former Substitute Teacher's showing to the Board of financial hardship, including her current unemployment and significant outstanding balances on her mortgage and utility bills. *COIB v. Mateo*, COIB Case No. 2008-805 (2009).

- (63) The Board and the New York City Department of Sanitation ("DSNY") concluded three-way settlements with two DSNY Sanitation Workers who were each fined 9 work-days' pay, valued at \$2,412, by DSNY for, while in the course of conducting their regular collection route, giving a business card for their private carting company to a homeowner in an effort to solicit future private business from the homeowner. The Sanitation Workers each acknowledged that their conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant and prohibits a public servant from using City time to pursue private activities. *COIB v. Coward*, COIB Case No. 2008-923 (2009); *COIB v. Jack*, COIB Case No. 2008-923/a (2009).
- (64) The Board and the New York City Department of Finance ("DOF") concluded a three-way settlement with a Deputy Sheriff who was fined \$3,000 by DOF for using his City position to borrow and not fully repay \$5,000 from the manager of a firm that contracted with the City Sheriff's Office, which is a division of DOF. The Deputy Sheriff admitted that, while assigned to towing-related duties in Staten Island, he solicited and accepted a \$5,000 personal loan from the general manager of a towing services firm that contracted with DOF to provide the Sheriff's Office with scofflaw towing and vehicle-storage services in Staten Island. He admitted that he did not fully repay the loan. The Deputy Sheriff acknowledged that he violated the City's conflicts of interest law, which prohibits a public servant from having a financial interest that conflicts with the proper discharge of the public servant's official duties and from using his City position for private financial gain. *COIB v. Racicot*, COIB Case No. 2009-046 (2009).
- (65) The Board issued its Findings of Facts, Conclusions of Law, and Order fining a former Medical Insurance and Community Services Administration ("MICA") Eligibility Specialist for the New York City Human Resources Administration ("HRA") \$10,000 for using her City position to access confidential information about an HRA client whose name was similar to hers in order to steal that client's identity for the Eligibility Specialist's personal use to obtain a cell phone contract and a credit card. The Board's Order adopts the Report and Recommendation of the Office of Administrative Trials and Hearings ("OATH"), issued after a full trial before Administrative Law Judge ("ALJ") Kara J. Miller. The Board found that the ALJ correctly determined that the former HRA Eligibility Specialist, without authorization to do so, accessed on at least 7 occasions the confidential records of an HRA

client, whose name was similar to hers, in the Welfare Management System (“WMS”). WMS is a system maintained by the New York State Office of Temporary and Disability Assistance (“OTDA”) containing information about all persons who have applied for or have been determined to be eligible for benefits under any program for which OTDA has supervisory responsibility. The Eligibility Specialist then used the confidential information she had obtained, namely the HRA client’s social security number and date of birth, to open a Verizon Wireless account and a Bank of America credit card in the client’s name. The ALJ found, and the Board adopted as its own findings, that the former HRA Eligibility Specialist’s conduct violated the City of New York’s conflicts of interest law, which (a) prohibits a public servant from engaging in any business, transaction, or private employment, or having any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties; (b) prohibits a public servant from disclosing or using confidential information obtained as a result of his or her official duties to advance any direct or indirect financial or other private interest of the public servant or any person or firm associated with the public servant; and (c) prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the public servant. The ALJ recommended and the Board imposed a fine of \$10,000. In setting the amount of the fine, the Board agreed with the ALJ’s characterization of the former HRA Eligibility Specialist’s use of confidential information as “self-serving and malicious” and took into consideration her “disregard of the charges and the proceedings at OATH, thus requiring Board staff to expend time and public resources to prove the case at OATH.” *COIB v. Smart*, COIB Case No. 2008-861 (2009).

- (66) The Board and the New York City Department of Education (“DOE”) concluded a three-way settlement with a DOE Principal who paid a total fine of \$7,500 for, among other things, intertwining the operations of his not-for-profit organization with those of his school, despite having received written instructions from the Board that the City’s conflicts of interest law prohibits such conduct. The Principal of the Institute for Collaborative Education in Manhattan (P.S. 407M) admitted that in September 1998 the Board granted him a waiver of the Chapter 68 provision that prohibits City employees from having a position with a firm that has business dealings with the City. This waiver allowed him to continue working as the paid Executive Director of his not-for-profit organization while it received funding from multiple City agencies, but not from DOE. The Principal acknowledged that the Board notified him in its September 1998 waiver letter that under Chapter 68 he may not use his official DOE position or title to obtain any private advantage for the not-for-profit organization or its clients and he may not use DOE equipment, letterhead, personnel, or any other City resources in connection with this work. The Principal admitted that, notwithstanding the terms of the Board’s waiver, his organization engaged in business dealings with DOE; he used his position as Principal to help a client of the not-for-profit get a job at P.S. 407M; and he intertwined the not-for-profit’s operations with those of P.S. 407M, including using the school’s phone numbers and mailing address for the organization. The Principal further admitted that he hired two of his DOE subordinates to work for him at his not-for-profit, including one to work as his personal assistant, and that he knew that neither DOE employee had obtained the necessary waiver from the Board to allow them to moonlight with a firm that does business with the City. He admitted that by doing so he

caused these DOE subordinates to violate the Chapter 68 restriction on moonlighting with a firm engaged in business dealings with the City. The Principal acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from entering into a financial relationship with a superior or subordinate City employee and from knowingly inducing or causing another public servant to engage in conduct that violates any provision of Chapter 68. The Principal paid a \$6,000 fine to the Board and \$1,500 in restitution to DOE, for a total financial penalty of \$7,500. The amount of the fine reflects that the Board previously advised the Principal, in writing, that the City's conflicts of interest law prohibits nearly all of the aforementioned conduct, yet he heeded almost none of the Board's advice. *COIB v. Pettinato*, COIB Case No. 2008-911 (2009).

(67) The Board issued its Findings of Facts, Conclusions of Law, and Order fining a Police Captain for the New York City Human Resources Administration ("HRA") \$1,500 for using his City position to obtain a personal benefit from three subordinate officers and then entering into financial relationships with each of the officers. The Board's Order adopts in substantial part the Report and Recommendation of the Office of Administrative Trials and Hearings ("OATH"), issued after a full trial before Administrative Law Judge ("ALJ") Julio Rodriguez. The Board found that the ALJ correctly determined that the HRA Police Captain solicited and hired three of his then subordinates to work for him and his video production company at a private fashion show. The Board found that the HRA Police Captain used his City position to solicit his subordinates to work at the fashion show, which work benefitted the Captain and his company. Although the HRA Police Captain promised to pay each subordinate \$60 for their work at the show, he did not pay them until several months after they performed the work for him and after they had made repeated requests for payment. The ALJ found, and the Board adopted as its own findings, that the HRA Police Captain's conduct violated the City's conflicts of interest law, which prohibits a public servant from using his or her City position for private financial gain *and* from entering into a business or financial relationship with a subordinate public servant. The Board rejected the recommended fine of \$750 and instead determined that a \$1,500 fine is the appropriate penalty. In setting the amount of the fine, the Board took into consideration that this case "required a full trial at OATH and the consequent expenditure of scarce government resources, and that there was no acceptance of responsibility by Respondent." The Board noted its policy of encouraging settlements, which it uses as opportunities for violators to accept personal responsibility for violating the City's conflicts of interest law and as educational tools to help prevent future violations. *COIB v. D. Williams*, COIB Case No. 2006-045 (2009).

(68) The Board fined the former Senior Vice President of the South Manhattan Health Care Network and Executive Director of the Bellevue Hospital Center ("Bellevue"), a facility of the New York City Health and Hospital Corporation ("HHC"), \$12,500 for his multiple violations of Chapter 68 of the New York City Charter, the City's conflicts of interest law, and Section 12-110 of the New York City Administrative Code, the City's financial disclosure law. Among those violations, the former Executive Director acknowledged that, between January 2001 and July 2004, he failed to pay the required copayment for 7 prescriptions, in violation of the Bellevue pharmacy policy. The former Executive Director admitted that in so doing he violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her

position to obtain any private or personal advantage for himself or herself. *COIB v. Perez*, COIB Case No. 2004-200 (2009).

(69) The Board imposed, and then forgave based on a showing of extreme financial hardship, a \$7,500 fine on a former Eligibility Specialist at the New York City Human Resources Administration (“HRA”) who accessed the confidential records of her sister and of her tenant, who was also her paid child-care provider, and used her City position to benefit her paid child-care provider by processing his applications for recertification of his food stamps benefits. The former Eligibility Specialist admitted that she used her HRA position to gain unauthorized access to the Welfare Management System (“WMS”) to obtain confidential public assistance records concerning her sister and her tenant, who was also her paid child-care provider. WMS is a system maintained by the New York State Office of Temporary and Disability Assistance (“OTDA”) containing information about all persons who have applied for or have been determined to be eligible for benefits under any program for which OTDA has supervisory responsibility. The Eligibility Specialist accessed her sister’s confidential records twice and her live-in child-care provider’s records 22 times. The former Eligibility Specialist further admitted that she used her HRA position to benefit her live-in child-care provider, a person with whom she was associated within the meaning of the conflicts of interest law, by processing his applications for recertification of his food stamps benefits on three occasions. In these three recertifications, she intentionally failed to include his income from working as her child-care provider, resulting in his receipt of increased food stamps benefits. This conduct also conflicted with the proper discharge of her official HRA duties as an Eligibility Specialist. The former Eligibility Specialist acknowledged that her conduct violated the City’s conflicts of interest law, which (a) prohibits a public servant from engaging in any business, transaction, or private employment, or having any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties; (b) prohibits a public servant from disclosing or using confidential information obtained as a result of his or her official duties to advance any direct or indirect financial or other private interest of the public servant or any person or firm associated with the public servant; and (c) prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant, which would include an individual with whom the public servant is residing *or* someone with whom the public servant otherwise has a business or financial relationship. For this misconduct, the Board imposed a fine of \$7,500, but forgave this fine upon the Eligibility Specialist’s showing of extreme financial hardship, including her current unemployment, application for and receipt of a number of forms of public assistance, and outstanding balances on her rent and utility bills. *COIB v. Beza*, COIB Case No. 2009-024 (2009).

(70) The Board and the New York City Department of Education (“DOE”) concluded a three-way settlement with an Assistant Principal who agreed to pay \$1,300 in restitution to DOE and a \$1,500 fine to the Board for misusing his DOE position and DOE resources by using a DOE procurement card (“P-Card”) for personal purposes. The Assistant Principal acknowledged that, at the beginning of the 2007-2008 school year, he had been given a P-Card for the sole purpose of making purchases for the school. During the month of September 2008, the Assistant Principal made multiple personal purchases using the P-Card, totaling \$1,295.98. He acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from using

his or her City position for private financial gain and from using City resources, such as school funds, for any non-City purpose. *COIB v. Brown*, COIB Case No. 2009-140 (2009).

- (71) The Board fined a former New York City Department of Education (DOE) Substance Abuse Prevention and Intervention Specialist \$1,000 for using his position to benefit a not-for-profit organization he created. The former Substance Abuse Prevention and Intervention Specialist admitted that he solicited two students to join his not-for-profit, which they did, and that he created a website for his not-for-profit on which he posted four photographs of DOE students. He also admitted that he posted information concerning two DOE events that he had coordinated as part of his duties as a Substance Abuse Prevention and Intervention Specialist, which postings created the appearance that the events had been coordinated by the not-for-profit, when in fact these were DOE events. The former Substance Abuse Prevention and Intervention Specialist acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant. *COIB v. Eisenberg*, COIB Case No. 2007-626 (2009).
- (72) The Board and the New York City Department of Citywide Administrative Services ("DCAS") concluded a three-way settlement with a DCAS Senior Special Officer who was suspended for fifteen days by DCAS, valued at \$2,999.40, and forfeited ten days of annual leave, valued at \$1,993.60, for a total financial penalty of \$4,984, for using his position to obtain a \$4,600 loan from his DCAS subordinate, a City Security Aide. The Senior Special Officer repaid the Security Aide only after he was interviewed by the New York City Department of Investigation ("DOI") about this matter. The DCAS Senior Special Officer acknowledged that his conduct violated the City of New York's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant and prohibits a public servant from entering into any business or financial relationship with another public servant who is a superior or subordinate of such public servant. *COIB v. Campbell*, COIB Case No. 2009-122 (2009).
- (73) The Board fined a former New York City Human Resources Administration ("HRA") Executive Agency Counsel \$1,500 for using her City-issued LexisNexis password to access LexisNexis for non-City purposes. The former Executive Agency Counsel admitted that in order to access records on LexisNexis using her City-issued password, she was required to certify that the information she sought was for a "permissible use," defined by HRA as use for a City purpose, such as to detect and prevent fraud by HRA clients. The former Executive Agency Counsel admitted that, between October 2007 and July 2008, she conducted public records searches on thirty-one individuals for personal, non-City purposes. The former Executive Agency Counsel acknowledged that her conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant, and prohibits a public servant from using City resources, such as

City-issued passwords, for any non-City purpose. *COIB v. Finkenberg*, COIB Case No. 2009-029 (2009).

- (74) The Board fined a former New York City Department of Education Supervisor of School Aides \$2,500 for using her school’s address and tax exempt identification number to open four personal cellular phone accounts over an eight-year period. The former Assistant Supervisor of School Aides acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant. *COIB v. Cora*, COIB Case No. 2008-872 (2009).
- (75) The Board issued its Findings of Facts, Conclusions of Law, and Order fining a former Community Service Aide for the New York City Housing Authority (“NYCHA”) \$2,000 for accepting, in addition to his City salary, compensation from a private entity for performing his duties as a NYCHA employee. The Board’s Order adopts the Report and Recommendation of Administrative Law Judge (“ALJ”) Kara J. Miller, issued after a full trial at the Office of Administrative Trials and Hearings, except with regard to the recommended fine. The Board found that the ALJ correctly determined that the former Community Service Aide received \$1,000 in improper compensation. The Community Service Aide was assigned to oversee private events at a NYCHA Community Center to make sure that the events ended at the scheduled times and that the event organizers cleaned the Center. Rather than enforcing these rules, the Community Service Aide collected money from the Center’s advisory board—an independent, private entity that is not affiliated with NYCHA—for staying late to oversee events and for cleaning the Center. He collected this money in addition to compensation he received from NYCHA for the extra time he spent at the events. The ALJ found, and the Board adopted as its own findings, that the former NYCHA employee’s conduct violated the City’s conflicts of interest law, which prohibits a public servant from using his or her City position for private financial gain and from accepting compensation, except from the City, for performing tasks that he or she could be reasonably assigned to do as part of his or her official City duties. The Board rejected the recommended fine of \$1,000 and instead determined that a \$2,000 fine is the appropriate penalty. In setting the amount of the fine, the Board took into consideration that this case “required a full trial at OATH and the consequent expenditure of scarce government resources, and that there was no acceptance of responsibility by Respondent.” The Board noted its policy of encouraging settlements, which it uses as opportunities for violators to accept personal responsibility for violating the City’s conflicts of interest law and as educational tools to help prevent future violations. *COIB v. Huertas*, COIB Case No. 2009-725f (2009).
- (76) The Board fined a Health Services Manager for the New York City Department of Health and Mental Hygiene (“DOHMH”) \$3,500 for using her DOHMH position to help her brother get a job in the DOHMH bureau that she supervised and for using her position to steer a DOHMH contract to a vendor with which she had a financial relationship. The Health Services Manager admitted that, while working in the DOHMH Bureau of Tuberculosis Control (“TB Bureau”) as the Director of Clinical Services and as the Program Management

Officer, she directed her DOHMH subordinate to interview her brother for a job in the TB Bureau, which job he obtained. She then indirectly supervised the DOHMH employment of both her brother and her sister, who was also employed in the TB Bureau. She further admitted that, while working in the TB Bureau and in direct contravention to the City's purchasing directives, she unilaterally entered into an oral agreement with a vendor for installation of flooring in her TB Bureau office. She backed the agreement with a \$6,350 security deposit from her personal funds, with the understanding that the vendor would refund her money only after it received payment from the City for the same work. At that time, DOHMH had not approved requisition of the flooring. She admitted that she compromised her objectivity as a public servant when she ensured repayment of her security deposit by using her DOHMH position to award a contract to the vendor. The DOHMH Health Services Manager acknowledged that she violated the City's conflicts of interest law, which prohibits a public servant from using his or her City position to obtain a financial gain, direct or indirect, for any person or firm associated with the public servant. *COIB v. Dorsinville*, COIB Case Nos. 2007-218 and 2008-530 (2009).

- (77) The Board fined a New York City Housing Authority ("NYCHA") Supervising Housing Caretaker \$1,000 for receiving fees from two tax preparation companies for referring five of his subordinates to the companies and for receiving faxes at his job in connection with this private business. The NYCHA Supervising Housing Caretaker acknowledged that he violated the City's conflicts of interest law, which prohibits a public servant from using his or her City position to attempt to obtain any financial gain for the public servant or any person or firm associated with the public servant and prohibits public servants from using City resources for non-City purposes. In setting the amount of the fine, the Board took into consideration that for this conduct the Supervising Housing Caretaker was suspended by NYCHA for three days, valued at approximately \$586. *COIB v. Samuels*, COIB Case No. 2008-910 (2009).
- (78) The Board and the New York City Housing Authority ("NYCHA") concluded a three-way settlement with a NYCHA Superintendent who was fined \$2,000 by the Board and \$1,500 by NYCHA for misusing his NYCHA position to obtain free services from his subordinates. The NYCHA Superintendent admitted that he used his City position to have two subordinate maintenance workers diagnose problems with the electricity and the refrigerator at his mother's house. The Superintendent acknowledged that he violated the City's conflicts of interest law, which prohibits a public servant from using his or her City position to attempt to obtain any financial gain for the public servant or any person or firm associated with the public servant, including a parent. *COIB v. Hall*, COIB Case No. 2008-348 (2009).
- (79) The Board and the New York City Housing Authority ("NYCHA") concluded a three-way settlement with a NYCHA Assistant Resident Buildings Superintendent who was suspended from NYCHA for 44 work days, valued at approximately \$10,164, for misusing his NYCHA position and NYCHA letterhead in an attempt to avoid paying a parking ticket he had received. The NYCHA Assistant Resident Buildings Superintendent admitted that he used his City position to purchase a fraudulent or otherwise unauthorized NYCHA parking permit. He further admitted that he submitted a photocopy of the unauthorized parking

permit with a letter that he wrote on NYCHA letterhead, without authorization from the NYCHA Chairman, to the New York City Department of Finance to attempt to avoid paying a parking ticket that he had received. The Assistant Resident Buildings Superintendent acknowledged that he violated the City's conflicts of interest law, which prohibits a public servant from using City resources for any non-City purpose and also from using his or her City position to attempt to obtain any personal financial gain. *COIB v. Vazquez*, COIB Case No. 2009-241 (2009).

(80) The Board and the New York City Environmental Control Board ("ECB") concluded a three-way settlement with the Operations Manager of the Brooklyn Office of ECB who agreed to pay a \$2,500 fine to the Board, to be demoted by ECB in title (but not in salary), and to be reassigned from the Brooklyn Office to the Manhattan Office of ECB for using her ECB position and ECB resources to facilitate and promote her sister's use of an ECB job that she never held on her resume. The ECB Operations Manager admitted that she searched for, obtained, and then provided information about an ECB job title to her sister for use on her resume, knowing that her sister had never worked for ECB. The Operations Manager then brought her sister's resume, containing that phony ECB job, to work and faxed it to a potential employer using an ECB fax cover sheet and an ECB fax machine. The Operations Manager acknowledged that her conduct violated the City's conflict of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant, and prohibits a public servant from using City letterhead, personnel, equipment, resources, or supplies for any non-City purpose. *COIB v. Edwards*, COIB Case No. 2008-131 (2009).

(81) The Board and the New York City Department of Parks & Recreation ("Parks") concluded a three-way settlement with the Parks Recreation Supervisor of the St. John's Recreation Center, who agreed to serve a 30-day suspension from Parks, valued at approximately \$2,300, for misusing his Parks position to obtain paid work from an organization that was using the Parks facility he supervised. The Parks Recreation Supervisor admitted that, while performing his official Parks duties, he offered to provide private cleaning and security services to the organizers of an event that was going to be held at St. John's Recreation Center. The Recreation Supervisor admitted that he had offered to provide these services while discussing the organization's use of the Center, including cleaning the Center after their event. He further admitted that he received \$2,000 from the event organizers for his services. The Recreation Supervisor acknowledged that he violated the City's conflicts of interest law, which prohibits a public servant from using his or her City position to obtain any personal financial gain. *COIB v. Keene*, COIB Case No. 2008-260 (2009).

(82) The Board and the New York City Department of Environmental Protection ("DEP") concluded a three-way settlement with the DEP Agency Chief Contracting Officer, who forfeited \$6,290 in annual leave for misusing her position at DEP to obtain DEP water-pumping services on an expedited basis not regularly afforded to the general public. The Agency Chief Contracting Officer admitted that in July 2007 she sent an e-mail to the Deputy Commissioner of the DEP Bureau of Water & Sewer Operations ("BWSO"),

requesting that he send a BWSO response crew to alleviate flood conditions at her private residence. She further admitted that, approximately two hours after sending the e-mail, a BWSO response crew arrived and pumped water from the basement, driveway, and garage of her home. The services she received from the BWSO response crew were estimated to be valued at \$642. The Agency Chief Contracting Officer acknowledged that her conduct violated the City's conflicts of interest law, which prohibits a public servant from using his or her City position for personal advantage or financial gain. The Agency Chief Contracting Officer agreed to forfeit 12 days of annual leave, which has an approximate value of \$6,290. This forfeiture represents the financial equivalent of a 15-day suspension plus the value of the BWSO services she received. *COIB v. Fenves*, COIB Case No. 2009-262 (2009).

(83) The Board issued a public warning letter to a Department of Education ("DOE") Nursing Supervisor for using or attempting to use her City position in order to obtain a benefit for her son by intervening in the disciplinary proceedings on his behalf. After learning of an allegation of use of corporal punishment involving her son, a DOE Substitute Paraprofessional, the Nursing Supervisor called her son's school, identified herself as a DOE Nursing Supervisor, and asked to speak to the school's Principal; only after the Principal took her call did she identify herself as the mother of the Substitute Paraprofessional. Thereafter, the Nursing Supervisor accompanied her son to his school on the morning of his disciplinary hearing related to the allegations against him, at which he was also accompanied by his union representative, and again attempted to speak to the school's Principal. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that Chapter 68 of the City Charter prohibits a public servant from using or attempting to use his or her City position to obtain a personal benefit for an individual with whom the public servant is associated, which would include a child. *COIB v. Robinson*, COIB Case No. 2009-109 (2009).

(84) The Board fined an Executive Director of a New York City Health and Hospitals Corporation ("HHC") hospital \$1,000 for not paying the required fee for multiple prescriptions he filled at his hospital's pharmacy until seven months after the last of the prescriptions was dispensed to him. The Executive Director admitted that from November 1, 2004, to August 5, 2005, he filled eleven prescriptions at his hospital's pharmacy for his personal use but failed to pay the required \$10 processing fee at the time the prescriptions were dispensed to him, as is required of every other employee of his hospital. The Executive Director further admitted that he paid for all the prescriptions in March 2006 with a backdated check. The Executive Director acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his City position for personal advantage or financial gain. In setting the amount of the fine, the Board took into consideration that HHC previously imposed other penalties on the Executive Director for this misconduct. *COIB v. Constantino*, COIB Case No. 2008-355 (2009).

(85) The Board issued a public warning letter to a New York City Department of Education Assistant Principal for hiring her brother to work as a teacher in her department and approving his timesheets. In hiring her brother, the Assistant Principal relied on the permission she obtained from her principal; however, such permission was improperly granted and does not alleviate her Chapter 68 violation. While not pursuing further enforcement action under these circumstances,

the Board took the opportunity of the public warning letter to remind public servants that Chapter 68 of the City Charter prohibits public servants from using their City positions to obtain any private or personal advantage for themselves or any person or firm associated with them, which would include a spouse, parent, child, or sibling. *COIB v. Baumfeld*, COIB Case No. 2008-962 (2009).

- (86) The Board fined a former Custodian for the New York City Department of Education (“DOE”) \$20,000, the highest fine to date in a Board settlement. The former Custodian acknowledged he had made personal purchases using DOE funds from three DOE vendors and then instructed those vendors to falsify the invoices in order to conceal from DOE his use of DOE funds for personal purchases. The former Custodian also acknowledged that he used the custodial staff that he hired to work at his DOE school to perform personal work for him and for his brother-in-law – including painting his house, installing shelves, installing cabinets at his brother-in-law’s house, moving a rug, and cleaning his deck – always without paying them and sometimes at times when the custodial staff was supposed to performing work at the Custodian’s DOE school. The former Custodian admitted that he violated the City’s conflicts of interest law, which prohibits the use of City resources – which include City monies or City personnel – for any non-City purpose and prohibits a public servant from using or attempting to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant. *COIB v. O’Brien*, COIB Case No. 2008-960 (2009).
- (87) The Board fined a former Superintendent for the New York City Housing Authority (“NYCHA”) \$1,500 for repeatedly attempting to make sales to his NYCHA subordinates at times when he and they were supposed to be performing work for NYCHA. The former Superintendent acknowledged that, in addition to his NYCHA position, he also worked for Prepaid Legal Services. The former Superintendent acknowledged that he made numerous presentations about Prepaid Legal Services to his NYCHA subordinates during his and their NYCHA workdays in an attempt to sell a membership to Prepaid Legal Services, which efforts were unsuccessful. The former Superintendent acknowledged that his conduct violated the City’s conflict of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant and prohibits a public servant from using City time for any non-City purpose. *COIB v. Richardson*, COIB Case No. 2008-527 (2009).
- (88) The Board concluded a settlement in which it accepted an agency-imposed penalty of a 13-day suspension, valued at \$1,466, against a Case Manager for the New York City Human Resources Administration (“HRA”) for using her HRA position to enable her husband, a real estate broker, to earn a rental fee from an HRA client. The Case Manager acknowledged that, among her HRA duties, she is responsible for assisting HRA clients in finding housing. In June 2004, she introduced an HRA client looking for housing to her husband, a real estate broker; her husband showed the HRA client an apartment, which the client rented, and thus entitled the Case Manager’s husband to receive compensation from the rental agency that employed him. The Case Manager admitted that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect,

for the public servant or any person or firm associated with the public servant, which would include the public servant's spouse. *COIB v. Abiodun*, COIB Case No. 2005-612 (2009).

- (89) The Board fined a former Assistant Supervisor for the Office of Payroll Administration (“OPA”) Garnishment Unit \$2,000 for using her City position and City resources to improperly lower the amount of money that was garnished from her brother’s City salary. The former Assistant Supervisor admitted that, while employed by OPA, her duties included processing and inputting income executions against City employees into the Garnishment Information System. She admitted that, without authorization, she inputted an amount that was lower than the amount that was supposed to be garnished from her brother’s City salary and, later, prematurely stopped the garnishments entirely, even though approximately \$2,867 remained to be collected from her brother. The former Assistant Supervisor acknowledged that she violated the City’s conflicts of interest law, which prohibits a public servant from using his or her City position to obtain a financial gain, direct or indirect, for a person associated with the public servant. *COIB v. Winfield*, COIB Case No. 2008-823 (2009).
- (90) The Board issued a public warning letter to a Special Project Coordinator at the New York City Department of Parks and Recreation for, in violation of City’s conflicts of interest law: (a) serving as the volunteer President of a not-for-profit organization having business dealings with Parks without the approval of the Parks Commissioner; (b) being directly involved in that not-for-profit’s City business dealings, through her solicitation of grants and contracts from the City for the not-for-profit; (c) performing work for the not-for-profit while on City time and using City resources, such as Parks personnel and her Parks office and telephone; and (d) misusing her position to schedule events at Parks facilities for the not-for-profit on terms and conditions not available to other entities. Here, the Board did not pursue further enforcement action against the Special Project Coordinator for her multiple violation of Chapter 68 of the City Charter because her supervisor at Parks had knowledge of and apparently approved her use of City time and resources on behalf of the not-for-profit organization. Nonetheless, the Board took the opportunity of the issuance of this public warning letter to remind public servants that, in order to hold a position at a not-for-profit having business dealings with their own agency, public servants must obtain approval from their agency head, not merely their supervisor, to have that position *and* must have no involvement in the City business dealings of the not-for-profit. Under certain circumstances the Board may grant a waiver of that prohibition, subject to certain conditions, after receiving written approval of the public servant’s agency head. However, even with such a waiver, public servants would still not be permitted to use their City positions to obtain a benefit for the not-for-profit with which they have a position – such as obtaining access to City facilities on terms not available to other not-for-profits. *COIB v. Rowe-Adams*, COIB Case No. 2008-126 (2009).
- (91) The Board fined the former Director of Special Projects at the Office of the Chief Medical Examiner (“OCME”) \$3,250 for using City resources and his City position to perform work related to a private consulting venture. The former Director acknowledged that when he was still employed by OCME, he had several substantive conversations about his proposed private consulting firm with representatives of an OCME vendor, specifically about the prospect of the OCME vendor doing business with his private consulting firm. He also used OCME facilities to

engage in a number of substantive conversations, with an OCME colleague and others, about the creation of the private consulting firm. The former Director acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant, and prohibits a public servant from using City letterhead, personnel, equipment or supplies for any non-City purpose. *COIB v. Ribowsky*, COIB Case No. 2008-478 (2009).

- (92) The Board and the New York City Human Resources Administration ("HRA") concluded a three-way settlement in which an HRA Job Opportunity Specialist was fined twenty-one-days' pay by HRA, valued at \$3,074, for accessing confidential information about her mother and using her HRA position in an attempt to expedite her mother's request for a reimbursement check from HRA. The Job Opportunity Specialist admitted that she improperly accessed her mother's confidential records on HRA's Welfare Management System database on over one hundred occasions in an effort to determine if her mother's request for a reimbursement check from HRA had been approved and also used her HRA position in an attempt to expedite the approval of her mother's request. The Job Opportunity Specialist acknowledged that her conduct violated the City's conflicts of interest law, which (a) prohibits a public servant from disclosing or using confidential information obtained as a result of his or her official duties to advance any direct or indirect financial or other private interest of the public servant or any person or firm associated with the public servant; and (b) prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant, which includes a public servant's parent. *COIB v. Candelario*, COIB Case No. 2008-387 (2009).
- (93) The Board fined the Director of Facilities Management for the Division of School Facilities at the New York City Department of Education ("DOE") \$1,150 for using DOE subordinates to perform a personal favor for him using a City vehicle. The Director acknowledged that, in a room containing a number of DOE employees, including his subordinates, he stated that he was having difficulty locating a tricycle for his grandchild. One of his subordinates volunteered to purchase the tricycle for the Director during his lunch break, an offer the Director accepted. The subordinate could not purchase it during his lunch break, so he offered to look for the tricycle at a different store on his way home from work with a second subordinate, an offer which the Director also accepted. The Director was aware that both shopping trips would be made using the subordinate's regularly-assigned DOE vehicle. The Director acknowledged that his conduct violated the City's conflict of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant and prohibits a public servant from using any City resource, such as a City vehicle, for a non-City purpose. *COIB v. Borowiec*, COIB Case No. 2008-555 (2009).
- (94) The Board and the New York City Department of Health and Mental Hygiene ("DOHMH") concluded a three-way settlement in which a Scientist in the Office of

Radiological Health in the DOHMH Bureau of Environmental Science and Engineering was fined 3 work days by DOHMH, valued at \$699, for identifying himself as a DOHMH employee – using his DOHMH address, telephone number, and e-mail address – in order to facilitate the publication of a personal article in the International Journal of Low Radiation. The Scientist acknowledged that he was aware of, but had not complied with, the DOHMH vetting process required for the publication of such an article. The DOHMH Scientist acknowledged that his use of his DOHMH position to facilitate the publication of a personal article violated both the DOHMH Standard of Conduct and the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant. *COIB v. Hayes*, COIB Case No. 2008-943 (2009).

- (95) The Board and the New York City Human Resources Administration (“HRA”) concluded a three-way settlement in which an HRA Principal Administrative Associate was suspended by HRA for 60 days, valued at \$8,232, for approving her mother’s food stamp application and authorizing a food stamp case be opened for her mother. The Principal Administrative Associate acknowledged that on February 25, 2005, she reviewed and approved her mother’s food stamp application as the group supervisor authorizing the opening of the case. The Principal Administrative Associate’s authorization caused HRA to open a food stamp case for her mother and reactivate her mother’s expired Electronic Benefit Transfer card. The Principal Administrative Associate acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant, which includes a public servant’s parent. *COIB v. Burgos*, COIB Case No. 2008-326 (2009).
- (96) The Board fined a New York City Department of Education (“DOE”) teacher \$2,000 for using his DOE position to obtain two laptop computers for his personal use, which were given to him by a private citizen, who served as Principal for a Day at his school. The teacher acknowledged that after the private citizen had volunteered as Principal for a Day, he met with the teacher and discussed the Teacher’s work with the school’s chess team, for which the teacher served as coach. The private citizen said that he would like to give the teacher a gift in recognition of his work with the chess team, and the teacher told the private citizen that he would like two laptop computers. The private citizen then purchased two laptop computers, delivered them to the teacher’s school, and the teacher took them home and had them in his exclusive custody for his use for the next two years. The teacher admitted that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position as a public servant to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant. *COIB v. Alejandro*, COIB Case No. 2008-581 (2009).
- (97) The Board fined a New York City Department of Education (“DOE”) teacher \$1,000 for selling a small self-composed framed poem to the parent of a student from her school and attempting to sell five self-composed framed poems to the parent of another student in her class, some of which conduct was done on DOE time. The teacher admitted that her conduct violated

the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant, and prohibits a public servant from using City time for any non-City purpose. *COIB v Murrell*, COIB Case No. 2008-481 (2009).

(98) The Board fined the former Director of the DDC Office of Community Outreach and Notification ("OCON") \$2,500 for using her City position to help her two adult children obtain jobs with private companies that did business with DDC. The former OCON Director admitted that she helped her son obtain a position with a DDC vendor by asking the vendor's President whether he knew of any positions in the private sector for her son. She also admitted that she helped her daughter obtain a position with a DDC contracting firm by giving her daughter's resume to a representative of the contractor and then allowing DDC to approve the hiring of her daughter by the contractor. The former OCON Director acknowledged that, by this conduct, she violated the City's conflicts of interest law, which prohibits a public servant from using his or her City position to obtain a financial gain, direct or indirect, for a person associated with the public servant, which includes a child. *COIB v. Dodson*, COIB Case No. 2007-330 (2009).

(99) The Board fined a New York City Fire Department ("FDNY") firefighter \$1,000 for attempting to use his position to avoid receiving a parking ticket for illegally parking near a fire hydrant. The FDNY firefighter acknowledged that on May 11, 2008, he parked his personal vehicle three feet away from a fire hydrant on Van Cortlandt Park South in the Bronx, near his residence, and placed on the dashboard, alongside a Uniformed Firefighters' Association union placard, a handwritten note addressed to City traffic agents that read: "I'm really a fireman. I work in Engine 46. Ask Traffic Agent Maria Daniel. Thank you for your courtesy." The FDNY firefighter acknowledged that this conduct violated the City's conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant. *COIB v Santana*, COIB Case No. 2008-374 (2009).

USE OR DISCLOSURE OF CONFIDENTIAL INFORMATION

- **Relevant Charter Sections:** City Charter § 2604(b)(4)

(100) The Board imposed, and then partially forgave based on demonstrated financial hardship, a \$1,500 fine on a former Child Welfare Specialist at the New York City Administration for Children's Services ("ACS") who accessed the New York State Central Registrar's confidential database, CONNECTIONS, to view information concerning her aunt's children, to whom she became a foster parent. CONNECTIONS is a confidential database of child abuse and maltreatment investigations and is used by ACS and other child protective services throughout New York State. The former Child Welfare Specialist acknowledged that, from November 2007 through September 2008, without authorization, she accessed CONNECTIONS 17 times. The former Child Welfare Specialist further acknowledged that, in October 2008, she discussed the information she accessed from CONNECTIONS with her

aunt's children's foster care agency. The Child Welfare Specialist admitted that her conduct violated the City's conflicts of interest law, which prohibits a City employee from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant and from disclosing or using confidential information obtained as a result of his or her official duties to advance any direct or indirect financial or other private interest of the City employee or any person associated with him or her. The former Child Welfare Specialist was fined \$1,500 by the Board. In setting the amount of the fine, the Board considered that, for the same conduct, the former Child Welfare Specialist had been suspended by ACS for three days, valued at approximately \$500. The Board forgave \$750 of the \$1,500 fine based on the former Child Welfare Specialist's demonstrated financial hardship, including her current unemployment and receipt of public assistance. *COIB v. S. Gray*, COIB Case No. 2008-948 (2009).

- (101) The Board issued its Findings of Facts, Conclusions of Law, and Order fining a former Medical Insurance and Community Services Administration ("MICA") Eligibility Specialist for the New York City Human Resources Administration ("HRA") \$10,000 for using her City position to access confidential information about an HRA client whose name was similar to hers in order to steal that client's identity for the Eligibility Specialist's personal use to obtain a cell phone contract and a credit card. The Board's Order adopts the Report and Recommendation of the Office of Administrative Trials and Hearings ("OATH"), issued after a full trial before Administrative Law Judge ("ALJ") Kara J. Miller. The Board found that the ALJ correctly determined that the former HRA Eligibility Specialist, without authorization to do so, accessed on at least 7 occasions the confidential records of an HRA client, whose name was similar to hers, in the Welfare Management System ("WMS"). WMS is a system maintained by the New York State Office of Temporary and Disability Assistance ("OTDA") containing information about all persons who have applied for or have been determined to be eligible for benefits under any program for which OTDA has supervisory responsibility. The Eligibility Specialist then used the confidential information she had obtained, namely the HRA client's social security number and date of birth, to open a Verizon Wireless account and a Bank of America credit card in the client's name. The ALJ found, and the Board adopted as its own findings, that the former HRA Eligibility Specialist's conduct violated the City of New York's conflicts of interest law, which (a) prohibits a public servant from engaging in any business, transaction, or private employment, or having any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties; (b) prohibits a public servant from disclosing or using confidential information obtained as a result of his or her official duties to advance any direct or indirect financial or other private interest of the public servant or any person or firm associated with the public servant; and (c) prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the public servant. The ALJ recommended and the Board imposed a fine of \$10,000. In setting the amount of the fine, the Board agreed with the ALJ's characterization of the former HRA Eligibility Specialist's use of confidential information as "self-serving and malicious" and took into consideration her "disregard of the charges and the proceedings at OATH, thus requiring

Board staff to expend time and public resources to prove the case at OATH.” *COIB v. Smart*, COIB Case No. 2008-861 (2009).

- (102) The Board and the New York City Human Resources Administration (“HRA”) concluded a three-way settlement with an HRA Job Opportunity Specialist who was fined ten days’ pay, valued at \$1,586, by HRA for accessing the Welfare Management System (“WMS”) to view her daughter’s and granddaughter’s confidential public assistance records for the Job Opportunity Specialist’s personal use. WMS is a system maintained by the New York State Office of Temporary and Disability Assistance (“OTDA”) containing confidential information about all persons who have applied for or have been determined to be eligible for benefits under any program for which OTDA has supervisory responsibility. The Job Opportunity Specialist acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a City employee from disclosing or using confidential information obtained as a result of his or her official duties to advance any direct or indirect financial or other private interest of the City employee or any person associated with the employee and from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege, or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant. *COIB v. Winfrey*, COIB Case No. 2009-082 (2009).
- (103) The Board fined a former Associate Fraud Investigator for the NYC Human Resources Administration (“HRA”) \$3,000 for using his City position to obtain confidential information about his private tenant to use to collect rent from her and for having a prohibited ownership interest in a firm engaged in City business dealings. The former Associate Fraud Investigator admitted that he had used his HRA position to access his private tenant’s confidential case records on the Welfare Management System (“WMS”) in order to obtain his tenant’s current financial information. WMS is a system maintained by the New York State Office of Temporary and Disability Assistance (“OTDA”) containing information about all persons who have applied for or have been determined to be eligible for benefits under any program for which OTDA has supervisory responsibility. The former Associate Fraud Investigator admitted that he used his tenant’s confidential information to advance his financial interest in collecting past due and/or monthly rental payments from her. In addition, the former Associate Fraud Investigator admitted that his wife received approximately \$113,744 from the NYC Administration for Children’s Services for providing childcare at a daycare center she operated out of their home. He also admitted that he used his HRA computer to store letters pertaining to his tenant and the daycare center. The former Associate Fraud Investigator acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits public servants from using confidential information obtained as a result of their official duties to advance any private financial interest of the public servant, from having an interest in a firm that does business with any City agency, and from using City resources for any non-City purpose. *COIB v. Brewster*, COIB Case No. 2008-390 (2009).
- (104) The Board imposed, and then forgave based on a showing of extreme financial hardship, a \$7,500 fine on a former Eligibility Specialist at the New York City Human Resources Administration (“HRA”) who accessed the confidential records of her sister and of her tenant, who was also her paid child-care provider, and used her City position to benefit her paid child-care

provider by processing his applications for recertification of his food stamps benefits. The former Eligibility Specialist admitted that she used her HRA position to gain unauthorized access to the Welfare Management System (“WMS”) to obtain confidential public assistance records concerning her sister and her tenant, who was also her paid child-care provider. WMS is a system maintained by the New York State Office of Temporary and Disability Assistance (“OTDA”) containing information about all persons who have applied for or have been determined to be eligible for benefits under any program for which OTDA has supervisory responsibility. The Eligibility Specialist accessed her sister’s confidential records twice and her live-in child-care provider’s records 22 times. The former Eligibility Specialist further admitted that she used her HRA position to benefit her live-in child-care provider, a person with whom she was associated within the meaning of the conflicts of interest law, by processing his applications for recertification of his food stamps benefits on three occasions. In these three recertifications, she intentionally failed to include his income from working as her child-care provider, resulting in his receipt of increased food stamps benefits. This conduct also conflicted with the proper discharge of her official HRA duties as an Eligibility Specialist. The former Eligibility Specialist acknowledged that her conduct violated the City’s conflicts of interest law, which (a) prohibits a public servant from engaging in any business, transaction, or private employment, or having any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties; (b) prohibits a public servant from disclosing or using confidential information obtained as a result of his or her official duties to advance any direct or indirect financial or other private interest of the public servant or any person or firm associated with the public servant; and (c) prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant, which would include an individual with whom the public servant is residing *or* someone with whom the public servant otherwise has a business or financial relationship. For this misconduct, the Board imposed a fine of \$7,500, but forgave this fine upon the Eligibility Specialist’s showing of extreme financial hardship, including her current unemployment, application for and receipt of a number of forms of public assistance, and outstanding balances on her rent and utility bills. *COIB v. Beza*, COIB Case No. 2009-024 (2009).

- (105) The Board and the New York City Human Resources Administration (“HRA”) concluded a three-way settlement with an HRA Eligibility Specialist II, who was suspended by HRA for 60 calendar-days, valued at \$6,100, for disclosing confidential City information. The Eligibility Specialist II admitted that she used her HRA position to gain unauthorized access to the Welfare Management System (“WMS”) to obtain confidential public assistance records concerning her husband, her landlord, her landlord’s girlfriend, and the girlfriend’s sister, and then printed out copies of some of the confidential records. WMS is a system maintained by the New York State Office of Temporary and Disability Assistance (“OTDA”) containing information about all persons who have applied for or have been determined to be eligible for benefits under any program for which OTDA has supervisory responsibility. The Eligibility Specialist II further admitted that she took the printed copies of the confidential records home with her and that her landlord discovered them in her apartment. The Eligibility Specialist II acknowledged that her conduct violated the City of New York’s conflicts of interest law, which prohibits a public servant from disclosing any confidential information concerning the property, affairs, or government of the City which is obtained as a result of the official duties of such public servant

and which is not otherwise available to the public. *COIB v. B. King*, COIB Case No. 2009-576 (2009).

- (106) The Board issued a public letter to a Board Member of the Civil Complaint Review Board (“CCRB”) who released two draft letters written by the CCRB Chair, one to the Corporation Counsel and one to the Police Commissioner, which letters, at the time of the Board Member’s release, were not otherwise available to the public. As such, the letters themselves were “confidential information” within the meaning of City Charter § 2604(b)(4), even if the subjects of the letters had been discussed publicly. While the CCRB Board Member represented that he did not disclose this confidential information “to advance any direct or indirect financial or other private interest,” the Conflicts of Interest Board took the opportunity of this public letter to remind public servants that proof of such a private interest is not necessary to establish a violation of § 2604(b)(4) based on *disclosure* of confidential information, as opposed to *use* of confidential information. City Charter § 2604(b)(4) provides that a public servant would violate the provision *either* by *disclosing* confidential information obtained as a result of the public servant’s official duties *or* by *using* for any financial or other private interest such confidential information, regardless of whether the public servant also disclosed the confidential information. *COIB v. Kuntz*, COIB Case 2008-227 (2009).
- (107) The Board and the New York City Administration for Children’s Services (“ACS”) concluded a three-way settlement with an ACS Child Protective Specialist who was suspended for 10 days by ACS, valued at approximately \$1,420.08, for accessing confidential information about her close family friend. The Child Protective Specialist admitted that she improperly accessed confidential records concerning her close family friend on CONNECTIONS on three occasions. CONNECTIONS is a confidential database of child abuse and maltreatment investigations and is used by ACS and other child protective services throughout New York State. The Child Protective Specialist acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from using confidential information obtained as a result of his or her official duties to advance any direct or indirect financial or other private interest of the public servant or any person or firm associated with the public servant. *COIB v. McNeil*, COIB Case No. 2009-224 (2009).
- (108) The Board and the New York City Human Resources Administration (“HRA”) concluded a three-way settlement in which an HRA Clerical Associate was fined 10-days’ pay by HRA, valued at \$1,325, for accessing confidential information about her private tenant. The HRA Clerical Associate admitted that she improperly accessed confidential records concerning her private tenant on the Welfare Management System (“WMS”) on forty-four occasions. WMS is a system maintained by the New York State Office of Temporary and Disability Assistance (“OTDA”) containing information about all persons who have applied for or have been determined to be eligible for benefits under any program from which OTDA has supervisory responsibility. The Clerical Associate acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from using confidential information obtained as a result of his or her official duties to advance any direct or indirect financial or other private interest of the public servant or any person or firm associated with the public servant. *COIB v. Spann*, COIB Case No. 2009-399 (2009).

(109) The Board and the New York City Human Resources Administration (“HRA”) concluded a three-way settlement in which an HRA Job Opportunity Specialist was fined twenty-one-days’ pay by HRA, valued at \$3,074, for accessing confidential information about her mother and using her HRA position in an attempt to expedite her mother’s request for a reimbursement check from HRA. The Job Opportunity Specialist admitted that she improperly accessed her mother’s confidential records on HRA’s Welfare Management System database on over one hundred occasions in an effort to determine if her mother’s request for a reimbursement check from HRA had been approved and also used her HRA position in an attempt to expedite the approval of her mother’s request. The Job Opportunity Specialist acknowledged that her conduct violated the City’s conflicts of interest law, which (a) prohibits a public servant from disclosing or using confidential information obtained as a result of his or her official duties to advance any direct or indirect financial or other private interest of the public servant or any person or firm associated with the public servant; and (b) prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant, which includes a public servant’s parent. *COIB v. Candelario*, COIB Case No. 2008-387 (2009).

APPEARANCE BEFORE THE CITY ON BEHALF OF PRIVATE INTEREST

- **Relevant Charter Sections:** City Charter § 2604(b)(6)

(110) The Board fined a New York City Department of Education (“DOE”) Teacher \$1,000 for owning and operating a firm that contracted with DOE and for appearing before DOE on behalf of that firm. The Teacher acknowledged that from September 1997 through September 2007, she owned and operated a nursery school that contracted with DOE to provide Universal Pre-Kindergarten services and that she appeared before DOE on behalf of the nursery school by responding to DOE’s Request for Proposals, submitting invoices for payment under the contract, and filling out VENDEX questionnaires. The Teacher acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from owning a firm that is engaged in business dealings with the City and also from representing that firm before any City agency. In setting the amount of the fine, the Board took into consideration that the Teacher disclosed her employment with DOE when she first entered into the Universal Pre-Kindergarten contract with DOE; that upon learning that her conduct was prohibited, the Teacher immediately reported the conflict to the DOE Ethics Officer; and that DOE resolved the conflict by terminating its contract with the Teacher’s firm. *COIB v. Fox*, COIB Case No. 2007-588 (2009).

(111) The Board fined a former Community Coordinator at the New York City Administration for Children’s Services (“ACS”) \$2,000 for using City resources and City time to perform work related to his private counseling practice and for appearing before another City agency on behalf of that practice. The former Community Coordinator admitted that, at times he was supposed to be performing work for ACS, he used his City computer and ACS e-mail account to conduct activities related to his private mental health counseling practice. The former Community Coordinator also admitted that he had submitted documentation to the New York City Department of Education (“DOE”) in order to be included on a list of providers to be selected by DOE parents

to provide services to their children, which services would have been paid for by DOE. The former Director acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from using City time or City resources for any non-City purpose and prohibits a public servant from appearing for compensation before any City agency. In determining the amount of the fine, the Board took into account that the former Community Coordinator had resigned from ACS while related disciplinary charges were pending. *COIB v. Belenky*, COIB Case No. 2009-297 (2009).

- (112) The Board fined a Senior Electrical Estimator for the New York City Department of Sanitation ("DSNY") \$1,000 for twice submitting bids for contracts with the New York City Department of Parks and Recreation on behalf of his private electrical company. The DSNY Senior Electrical Estimator acknowledged that his conduct violated the City of New York's conflicts of interest law, which prohibits a public servant from appearing for compensation before any City agency. *COIB v. Qureshi*, COIB Case No. 2008-760 (2009).

ACCEPTING COMPENSATION FOR CITY JOB FROM SOURCE OTHER THAN THE CITY

- **Relevant Charter Sections:** City Charter § 2604(b)(13)

- (113) The Board issued its Findings of Facts, Conclusions of Law, and Order fining a former Community Service Aide for the New York City Housing Authority ("NYCHA") \$2,000 for accepting, in addition to his City salary, compensation from a private entity for performing his duties as a NYCHA employee. The Board's Order adopts the Report and Recommendation of Administrative Law Judge ("ALJ") Kara J. Miller, issued after a full trial at the Office of Administrative Trials and Hearings, except with regard to the recommended fine. The Board found that the ALJ correctly determined that the former Community Service Aide received \$1,000 in improper compensation. The Community Service Aide was assigned to oversee private events at a NYCHA Community Center to make sure that the events ended at the scheduled times and that the event organizers cleaned the Center. Rather than enforcing these rules, the Community Service Aide collected money from the Center's advisory board—an independent, private entity that is not affiliated with NYCHA—for staying late to oversee events and for cleaning the Center. He collected this money in addition to compensation he received from NYCHA for the extra time he spent at the events. The ALJ found, and the Board adopted as its own findings, that the former NYCHA employee's conduct violated the City's conflicts of interest law, which prohibits a public servant from using his or her City position for private financial gain and from accepting compensation, except from the City, for performing tasks that he or she could be reasonably assigned to do as part of his or her official City duties. The Board rejected the recommended fine of \$1,000 and instead determined that a \$2,000 fine is the appropriate penalty. In setting the amount of the fine, the Board took into consideration that this case "required a full trial at OATH and the consequent expenditure of scarce government resources, and that there was no acceptance of responsibility by Respondent." The Board noted its policy of encouraging settlements, which it uses as opportunities for violators to accept personal responsibility for violating the City's conflicts of interest law and as

educational tools to help prevent future violations. *COIB v. Huertas*, COIB Case No. 2009-725f (2009).

- (114) The Board issued public warning letters to four current and former Community Center staff members for the New York City Housing Authority (“NYCHA”) for accepting compensation from an entity other than NYCHA for performing their official City duties. The staff members were assigned to work at the NYCHA Independence Tower Community Center and were paid by NYCHA to supervise Community Center events, including private rentals, for the duration of the events. Each of the Community Center staff members accepted money from the Independence Tower Advisory Board – an entity that is not part of NYCHA – for supervising private rentals of the Community Center that went longer than scheduled and/or for cleaning the Community Center after such events. At NYCHA’s request, the NYCHA employees returned to NYCHA all monies they received from the Advisory Board. While not pursuing further enforcement action, the Board took the opportunity of these public warning letters to remind public servants that they may accept compensation only from the City for performing any of their official City duties. *COIB v. Jackson*, COIB Case No. 2007-725 (2009); *COIB v. Morales*, COIB Case No. 2007-725a (2009); *COIB v. Blackmon*, COIB Case No. 2007-725b (2009); and *COIB v. Foster*, COIB Case No. 2007-725c (2009).
- (115) The Board and the New York City Department of Health and Mental Hygiene (“DOHMH”) concluded a three-way settlement in which an Associate Staff Analyst, holding an underlying civil service title of Public Health Educator, in the DOHMH Bureau of School Health was suspended for five days by DOHMH, valued at approximately \$1,274, for giving two paid lectures which he could have been reasonably assigned to do as part of his DOHMH duties and then communicating about those paid lectures using City technology resources and while on City time. The DOHMH Associate Staff Analyst admitted that he gave two paid lectures on HIV/AIDS to incoming students at The Cooper Union for the Advancement of Science and Art and that he could have been reasonably assigned to deliver these lectures as part of his DOHMH duties. The Associate Staff Analyst further admitted that, at times when he was supposed to be doing work for DOHMH, he used a City computer and his DOHMH e-mail account to communicate with Cooper Union about those lectures. The Associate Staff Analyst acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits public servants from receiving compensation from any entity other than the City for performing their official duties and prohibits public servants from using City time and City resources to pursue private activities. *COIB v. Sheiner*, COIB Case No. 2009-177 (2009).
- (116) The Board fined a former Senior Inspector for the Enforcement Division, Petroleum Product Squad, at the New York City Department of Consumer Affairs (“DCA”) \$4,000, after he had retired from DCA while disciplinary charges were pending, for accepting money from a gas station owner whose station he was inspecting as part of his official DCA duties. The former Senior Inspector acknowledged that, after he completed his inspection of a Shell gas station in Brooklyn, he informed the owner that there were violations at the gas station, which the owner disputed. The owner then offered the former Senior Inspector \$100, which he accepted, and then the Senior Inspector handed the owner a Certificate of Inspection indicating no violations. The former Senior Inspector acknowledged that his conduct violated the City’s conflicts of interest

law, which prohibits a public servant from accepting or receiving any gratuity from any person whose interests may be affected by the public servant's official action. *COIB v. Forsythe*, COIB Case No. 2008-192 (2009).

(117) The Board fined the former Chief Dockmaster at the 79th Street Boat Basin for the New York City Department of Parks and Recreation ("Parks") \$1,200 for accepting tips from Boat Basin customers. The former Chief Dockmaster acknowledged that, as part of his official duties as Dockmaster, he dealt directly with customers of the Boat Basin. Over the course of three boating seasons, he accepted cash tips from Boat Basin customers in the amount of approximately \$5 each, for a total of \$125, and a tip from one customer in the form of 5 checks of \$25 each. The former Chief Dockmaster acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from accepting or receiving any gratuity from any person whose interests may be affected by the public servant's official action. *COIB v. Smith*, COIB Case No. 2008-301 (2009).

SUPERIOR-SUBORDINATE FINANCIAL RELATIONSHIPS

- **Relevant Charter Sections:** City Charter § 2604(b)(14)

(118) The Board fined a former Child Protective Manager for the New York City Administration for Children's Services \$1,000 for obtaining a \$13,000 loan from one of her subordinates, which she fully repaid within two months of the loan. The former Child Protective Manager admitted that her conduct violated the City's conflicts of interest law, which prohibits a public servant from entering into any business or financial relationship with another public servant who is a superior or subordinate of such public servant. In setting the amount of the fine, the Board took into consideration the former Child Protective Manager's demonstrated financial hardship and that she repaid the loan within a short period of time. *COIB v. Wright*, COIB Case No. 2009-351 (2009).

(119) The Board and the New York City Fire Department ("FDNY") concluded a three-way settlement with a Lieutenant in the Emergency Medical Service ("EMS") who, in 2004, borrowed \$1,500 from her subordinate, an FDNY Emergency Medical Technician. The FDNY EMS Lieutenant admitted that, by borrowing money from her subordinate, she violated the City's conflicts of interest law, which prohibits a public servant from entering into any business or financial relationship with another public servant who is a superior or subordinate of such public servant. In resolution of this violation, the FDNY EMS Lieutenant agreed to be suspended by FDNY for five days, valued at \$1,136, and to repay her subordinate in full, which she did. *COIB v. Paige*, COIB Case No. 2009-140 (2009).

(120) The Board issued public warning letters to a Department of Education ("DOE") Principal and a School Aide for entering into a loan arrangement with each other. The Principal loaned \$4,750 to a School Aide at his school after the School Aide's direct supervisor informed the Principal that the School Aide was facing a personal financial emergency and asked the Principal if he could assist the School Aide. The School Aide accepted a loan of \$4,750 from the Principal and promptly began repaying the loan. While not pursuing further enforcement action, the Board took the opportunity of these public warning letters to remind

public servants that Chapter 68 of the City Charter prohibits public servants from having any business or financial relationship, which includes a personal loan, with their superiors or subordinates. *COIB v. Lepore*, COIB Case No. 2009-199 (2009); *COIB v. DeJesus*, COIB Case No. 2009-199a (2009).

(121) The Board and the New York City Department of Homeless Services (“DHS”) concluded a three-way settlement with a DHS Senior Special Officer who was fined five days’ pay, valued at \$870, by DHS for soliciting and selling Avon products to several of her subordinates. The Senior Special Officer acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits a public servant from entering into a financial relationship with his or her subordinate. *COIB v. Watts*, COIB Case No. 2009-381 (2009).

(122) The Board and the New York City Department of Education (“DOE”) concluded a three-way settlement with a DOE Principal who paid a total fine of \$7,500 for, among other things, intertwining the operations of his not-for-profit organization with those of his school, despite having received written instructions from the Board that the City’s conflicts of interest law prohibits such conduct. The Principal of the Institute for Collaborative Education in Manhattan (P.S. 407M) admitted that in September 1998 the Board granted him a waiver of the Chapter 68 provision that prohibits City employees from having a position with a firm that has business dealings with the City. This waiver allowed him to continue working as the paid Executive Director of his not-for-profit organization while it received funding from multiple City agencies, but not from DOE. The Principal acknowledged that the Board notified him in its September 1998 waiver letter that under Chapter 68 he may not use his official DOE position or title to obtain any private advantage for the not-for-profit organization or its clients and he may not use DOE equipment, letterhead, personnel, or any other City resources in connection with this work. The Principal admitted that, notwithstanding the terms of the Board’s waiver, his organization engaged in business dealings with DOE; he used his position as Principal to help a client of the not-for-profit get a job at P.S. 407M; and he intertwined the not-for-profit’s operations with those of P.S. 407M, including using the school’s phone numbers and mailing address for the organization. The Principal further admitted that he hired two of his DOE subordinates to work for him at his not-for-profit, including one to work as his personal assistant, and that he knew that neither DOE employee had obtained the necessary waiver from the Board to allow them to moonlight with a firm that does business with the City. He admitted that by doing so he caused these DOE subordinates to violate the Chapter 68 restriction on moonlighting with a firm engaged in business dealings with the City. The Principal acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from entering into a financial relationship with a superior or subordinate City employee and from knowingly inducing or causing another public servant to engage in conduct that violates any provision of Chapter 68. The Principal paid a \$6,000 fine to the Board and \$1,500 in restitution to DOE, for a total financial penalty of \$7,500. The amount of the fine reflects that the Board previously advised the Principal, in writing, that the City’s conflicts of interest law prohibits nearly all of the aforementioned conduct, yet he heeded almost none of the Board’s advice. *COIB v. Pettinato*, COIB Case No. 2008-911 (2009).

- (123) The Board issued its Findings of Facts, Conclusions of Law, and Order fining a Police Captain for the NYC Human Resources Administration (“HRA”) \$1,500 for using his City position to obtain a personal benefit from three subordinate officers and then entering into financial relationships with each of the officers. The Board’s Order adopts in substantial part the Report and Recommendation of the Office of Administrative Trials and Hearings (“OATH”), issued after a full trial before Administrative Law Judge (“ALJ”) Julio Rodriguez. The Board found that the ALJ correctly determined that the HRA Police Captain solicited and hired three of his then subordinates to work for him and his video production company at a private fashion show. The Board found that the HRA Police Captain used his City position to solicit his subordinates to work at the fashion show, which work benefitted the Captain and his company. Although the HRA Police Captain promised to pay each subordinate \$60 for their work at the show, he did not pay them until several months after they performed the work for him and after they had made repeated requests for payment. The ALJ found, and the Board adopted as its own findings, that the HRA Police Captain’s conduct violated the City’s conflicts of interest law, which prohibits a public servant from using his or her City position for private financial gain *and* from entering into a business or financial relationship with a subordinate public servant. The Board rejected the recommended fine of \$750 and instead determined that a \$1,500 fine is the appropriate penalty. In setting the amount of the fine, the Board took into consideration that this case “required a full trial at OATH and the consequent expenditure of scarce government resources, and that there was no acceptance of responsibility by Respondent.” The Board noted its policy of encouraging settlements, which it uses as opportunities for violators to accept personal responsibility for violating the City’s conflicts of interest law and as educational tools to help prevent future violations. *COIB v. D. Williams*, COIB Case No. 2006-045 (2009).
- (124) The Board fined the former Senior Vice President of the South Manhattan Health Care Network and Executive Director of the Bellevue Hospital Center (“Bellevue”), a facility of the New York City Health and Hospital Corporation (“HHC”), \$12,500 for his multiple violations of Chapter 68 of the New York City Charter, the City’s conflicts of interest law, and Section 12-110 of the New York City Administrative Code, the City’s financial disclosure law. Among those violations, the former Executive Director acknowledged that he hired two of his Bellevue subordinates to work at his wedding in 2004 for pay. The former Executive Director admitted that in so doing he violated the City’s conflicts of interest law, which prohibits a public servant from entering into a financial relationship with his or her superior or subordinate. *COIB v. Perez*, COIB Case No. 2004-220 (2009).
- (125) The Board fined a former Assistant Principal for the New York City Department of Education (“DOE”) \$1,000 for entering into a financial relationship with five of her DOE subordinates by participating in a “sou-sou” savings club with them. The Board also issued the five subordinate DOE employees Public Warning Letters for their respective involvement in a financial relationship with a superior. According to the terms of the sou-sou, the participants agreed that they would each contribute \$200 every pay period and one participant would receive all the money contributed for that pay period (\$1,600 total, as two of the participants were not DOE employees). In a public Disposition, the former Assistant Principal admitted that, after she received her \$1,600 payout, she failed to contribute her final payment to the sou-sou. The former Assistant Principal acknowledged that her conduct violated the City’s conflicts of interest law, which prohibits public servants from entering

into a financial relationship with a superior or subordinate City employee. While not pursuing further enforcement action against the subordinate DOE employees, the Board took the opportunity of these Public Warning Letters to remind public servants that a “sou-sou” or other informal savings club is a “financial relationship” within the meaning of the City’s conflicts of interest law and that such a financial relationship between superiors and subordinates is prohibited, regardless of whether they fulfill all of their financial obligations to the sou-sou. *COIB v. Maslin*, COIB Case No. 2008-531; *COIB v. Trotman*, COIB Case No. 2008-531a (2009); *COIB v. Ighadaro*, COIB Case No. 2008-531b, (2009); *COIB v. Green*, COIB Case No. 2008-531c (2009); *COIB v. Alleyne*, COIB Case No. 2008-531d (2009); *COIB v. Ra*, COIB Case No. 2008-531e (2009).

(126) The Board issued a public disposition against a New York City Department of Transportation (“DOT”) Floor Supervisor, who was suspended by DOT for fifteen days, valued at \$1,644, for borrowing \$660 from his DOT subordinate, a Maintenance Service Worker. In light of the suspension by DOT, the Board did not impose its own separate penalty. The DOT Floor Supervisor acknowledged that he violated the City’s conflicts of interest law, which prohibits a public servant from having a financial relationship with his or her superior or subordinate. The Board issued the DOT Maintenance Service Worker a public warning letter. *COIB v. Baksh*, COIB Case No. 2008-802 (2009); *COIB v. Singh*, COIB Case No. 2008-802a (2009).

(127) The Board and the New York City Department of Citywide Administrative Services (“DCAS”) concluded a three-way settlement with a DCAS Senior Special Officer who was suspended for fifteen days by DCAS, valued at \$2,999.40, and forfeited ten days of annual leave, valued at \$1,993.60, for a total financial penalty of \$4,984, for using his position to obtain a \$4,600 loan from his DCAS subordinate, a City Security Aide. The Senior Special Officer repaid the Security Aide only after he was interviewed by the New York City Department of Investigation (“DOI”) about this matter. The DCAS Senior Special Officer acknowledged that his conduct violated the City of New York’s conflicts of interest law, which prohibits a public servant from using or attempting to use his or her position to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant and prohibits a public servant from entering into any business or financial relationship with another public servant who is a superior or subordinate of such public servant. *COIB v. Campbell*, COIB Case No. 2009-122 (2009).

(128) The Board fined a Deputy Chief Administrative Law Judge (“ALJ”) at the Parking Violations Bureau for the New York City Department of Finance \$1,450 for accepting free legal representation from his subordinate, a business relationship prohibited by Chapter 68 of the New York City Charter.

(129) The Deputy Chief ALJ acknowledged that he was the superior of an ALJ in the Parking Violations Bureau who provided the Deputy Chief ALJ with free legal representation, from the winter of 2006 through the summer of 2007, in connection with his divorce, which representation included the ALJ’s attendance at two meetings at the office of the attorney of the Deputy Chief ALJ’s wife and the ALJ’s designation as the individual to receive and review a draft settlement agreement to be prepared by the Deputy Chief ALJ’s wife’s

attorney. The Deputy Chief ALJ acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from entering into a business or financial relationship with the public servant's superior or subordinate. The Board has previously stated, in its Advisory Opinion No. 92-28, that a public servant's provision of legal representation to a superior or subordinate, even if not compensated and even if the superior and subordinate are personal friends, would be a violation of this provision of the City's conflicts of interest law. *COIB v. Keeney*, COIB Case No. 2007-565 (2009).

- (130) The Board issued public warning letters to a Department of Education ("DOE") Principal and teacher for entering into a loan arrangement with each other. The Principal loaned \$500 to a teacher at his school because the teacher did not receive a paycheck from DOE for his first two weeks of work, which the teacher had still not repaid to the Principal. While not pursuing further enforcement action, the Board took the opportunity of these public warning letters to remind public servants that Chapter 68 of the City Charter prohibits public servants from having any business or financial relationship, such as a loan, with a superior or subordinate who is also a public servant. *COIB v. Laub*, COIB Case No. 2009-026 (2009); *COIB v. Reyes*, COIB Case No. 2009-026a (2009).
- (131) The Board fined a New York City Department of Education School Food Manager \$600 for selling Avon products to her subordinates. The School Food Manager acknowledged that her conduct violated the City's conflicts of interest law, which prohibits a public servant from entering into a business or financial relationship with the public servant's superior or subordinate. The Board has previously stated, in its Advisory Opinion No. 98-12, that while public servants may sell items, such as Avon products, to their peers, the sale of any item by a superior to a subordinate is prohibited by the City's conflicts of interest law. *COIB v. M. Hahn*, COIB Case No. 2008-929 (2009).
- (132) The Board fined an Administrative Law Judge ("ALJ") at the Parking Violations Bureau for the New York City Department of Finance \$750 for providing free legal representation to his supervisor, a business relationship prohibited by Chapter 68 of the New York City Charter. The ALJ acknowledged that he was the subordinate of the Deputy Chief ALJ in the Parking Violations Bureau and that, from the winter of 2006 through the summer of 2007, he provided free legal representation to the Deputy Chief ALJ in connection with his divorce, which included the ALJ's attendance at two meetings at the office of the attorney of the Deputy Chief ALJ's wife and the ALJ's designation as the individual to receive and review a draft settlement agreement to be prepared by the Deputy Chief ALJ's wife's attorney. The ALJ acknowledged that his conduct violated the City of New York's conflicts of interest law, which prohibits a public servant from entering into a business or financial relationship with the public servant's superior or subordinate. The Board has previously stated, in its Advisory Opinion No. 92-28, that a public servant's provision of legal representation to a superior or subordinate, even if not compensated and even if the superior and subordinate are personal friends, would be a violation of this provision of the City's conflicts of interest law. *COIB v. Horowitz*, COIB Case No. 2007-565a (2009).
- (133) The Board and the New York City Department of Environmental Protection ("DEP") concluded a three-way settlement in which a DEP Instrumentation Specialist was suspended by DEP for thirty days, valued at \$4,826, for entering into a prohibited financial relationship with his DEP superior. The DEP Instrumentation Specialist admitted that he sold a handgun

to his DEP superior and that, as part of that sale, he used a DEP fax machine. The Instrumentation Specialist acknowledged that this conduct violated the City's conflicts of interest law, which prohibits any public servant from entering into a financial relationship with his superior or subordinate and from using City resources for such a non-City purpose. *COIB v. Geraghty*, COIB Case No. 2008-368a (2009).

- (134) The Board fined a Supervisor for the New York City Administration for Children's Services ("ACS") \$500 for, from March to October 2006, participating in a "sou-sou" in which three of her ACS subordinates also participated. A "sou-sou" is an informal savings club, in which the participants pay a certain amount of money to the sou-sou coordinator at regularly scheduled times. At each such time, all the money collected from the group is dispersed to one of the participants in the sou-sou. A different participant receives the dispersed amount each time until all members of the sou-sou have received the lump-sum payment. Prior to the Supervisor's participation in the sou-sou savings club with her subordinates, the Board had issued its Advisory Opinion No. 2004-02, which states that it would be a violation of the conflicts of interest law for any public servant to enter into any sou-sou savings club with his or her superior or subordinate. The Supervisor acknowledged that by participating in this sou-sou savings club with her subordinates, she violated the City's conflicts of interest law, which prohibits a public servant from entering into a business or financial relationship with his or her superior or subordinate. This is the Board's first public disposition enforcing its decision in Advisory Opinion No. 2004-02, a factor that was taken into account by the Board in assessing the fine. *COIB v. Leigh*, COIB Case No. 2006-640 (2009).

ONE-YEAR POST-EMPLOYMENT APPEARANCES

- **Relevant Charter Sections:** City Charter § 2604(d)(2)

- (135) The Board fined a former Paralegal for the Section 8 Subpoena Unit at the New York City Department of Housing Preservation and Development ("HPD") \$1,500 for appearing before HPD within one year of his resignation from HPD. The former Paralegal acknowledged that, within one year after leaving HPD, he (1) called and sent a follow-up email to the HPD Section 8 Unit to inquire about the non-payment of rental subsidies for several tenants of his new employer, for whom he worked as a Building Manager; (2) left a message, which was not returned, for the Director of Continued Occupancy at HPD in regard to that same rental-subsidies inquiry; and (3) faxed two other inquiries concerning tenants of his new employer to the HPD Division of Tenant Resources, Subpoena Unit, and to the HPD Section 8 Unit, respectively. The former Paralegal admitted that his conduct violated the City's conflicts of interest law, which prohibits a former public servant from appearing before that public servant's former agency within one year of terminating employment with the agency. *COIB v. Cuffy*, COIB Case No. 2008-271 (2009).

- (136) The Board fined the former Interim President of the New York City Economic Development Corporation ("EDC") \$1,500 for appearing before the Hudson Yards Development Corporation ("HYDC") within one year of his resignation from EDC. The HYDC Bylaws provide that the President of EDC shall serve as a Member and Director of HYDC and, as such, HYDC was an "agency served" by the former Interim President of EDC within the meaning of Chapter 68 of the

City Charter, the City of New York's conflicts of interest law. The former Interim President acknowledged that, within one year of leaving EDC, he participated in a presentation made by his new private employer before a Selection Committee composed of employees of the Metropolitan Transportation Authority ("MTA") and HYDC at the offices of the MTA. The President of HYDC was present in her official capacity at the presentation and asked the former Interim President questions. Prior to this presentation, and subsequent to his resignation from EDC, the former Interim President had sought advice from the Board's General Counsel as to whether he could communicate with HYDC on behalf of his new employer during his first post-employment year; he was advised that he could not. The former Interim President admitted that his conduct violated the City's conflicts of interest law, which prohibits a former public servant from appearing before any "agency served" by that public servant within one year of terminating service to that agency. *COIB v. Sirefman*, COIB Case No. 2008-847 (2009).

- (137) The Board fined a former Department of Education ("DOE") teacher \$15,000 for making compensated appearances before the DOE within one year of leaving City service. The former teacher admitted that during the first year after he left DOE, he regularly appeared before DOE to enroll schools in his new employer's Special Education Services ("SES") Program and that, based in part on his ability to enroll schools, he was promoted twice during that year, becoming the Vice President of SES Programs. The former teacher acknowledged that his conduct violated the City of New York's conflicts of interest law, which prohibits a public servant from appearing before the City agency served by the public servant within a period of one year after leaving City service. *COIB v. R. Green*, COIB Case No. 2008-881 (2009).
- (138) The Board fined the former Director of the Mayor's Office of State Legislative Affairs ("SLA") \$12,000 for making compensated appearances, in the form of numerous e-mails, to various public servants in the Mayor's Office concerning a number of items of pending or prospective legislation of interest to several clients of his law firm, at which he was a partner. The former Director acknowledged that his conduct violated the City's conflicts of interest law, which prohibits a public servant from appearing before the City agency served by the public servant within a period of one year after leaving City service. *COIB v. Piscitelli*, COIB Case No. 2007-745 (2009).
- (139) The Board fined a former Sergeant for the New York City Police Department ("NYPD") \$2,000 for appearing before NYPD within one year of his resignation from NYPD. The former Sergeant acknowledged that, within one year after leaving NYPD, he visited the NYPD Laboratory multiple times on behalf of his new employer, for whom he worked as East Coast Regional Sales Manager. The former Sergeant admitted that his conduct violated the City's conflicts of interest law, which prohibits a former public servant from appearing before that public servant's former agency within one year of terminating employment with the agency. *COIB v. Buccigrossi*, COIB Case No. 2004-750 (2009).

LIFETIME POST-EMPLOYMENT PARTICULAR MATTER BAN

- **Relevant Charter Sections:** City Charter § 2604(d)(4)

(140) The Board fined the former Director of the Division of SEQRA (“State Environmental Quality Review Act”) Coordination and the Watershed Management Program for the New York City Department of Environmental Protection (“DEP”) \$2,000 for violating the “lifetime particular matter ban.” The former Director admitted that, while a DEP employee, he was in charge of a DEP program into which a specific development was seeking admission and that he met with the development’s representatives on multiple occasions to discuss requirements for participation in the program. The former Director then left DEP and took a job in the private sector where he worked on part of the development’s application for the same DEP program in which he had, as a DEP employee, participated personally and substantially through decision, approval, recommendation, and other similar activities. The former DEP Director acknowledged that he violated the City’s conflicts of interest law, which prohibits a former public servant from rendering services, for pay, in relation to a particular matter on which he or she had worked personally and substantially as a City employee. *COIB v. Benson*, COIB Case No. 2007-297 (2009).