

**IN THE MATTER OF MELISSA WORTHY-SMITH
COIB CASE NO. 2016-698
JANUARY 27, 2017**

SUMMARY: In a three-way settlement with the New York City Department of Health and Mental Hygiene (“DOHMH”), a DOHMH Public Health Advisor agreed to serve a six-workday suspension, valued at approximately \$936, and pay a \$300 fine to the Board for, during hours she was supposed to be working for DOHMH, using a DOHMH vehicle on two occasions for personal trips to the Green Acres Mall in Nassau County. *COIB v. Worthy-Smith*, COIB Case No. 2016-698 (2017).

STIPULATION AND DISPOSITION:

WHEREAS, the New York City Department of Health and Mental Hygiene (“DOHMH”) served disciplinary charges against Melissa Worthy-Smith (“Respondent”), pursuant to Section 75 of the New York Civil Service Law, alleging conduct that violated the DOHMH Standards of Conduct and Chapter 68 of the City Charter (“Chapter 68”); and

WHEREAS, given that related disciplinary charges were pending at DOHMH, the New York City Conflicts of Interest Board (the “Board”) referred this matter to DOHMH pursuant to Section 2603(e)(2)(d) of Chapter 68; and

WHEREAS, the Board, DOHMH, and Respondent wish to resolve this matter on the following terms,

IT IS HEREBY AGREED by and between the parties as follows:

1. In full satisfaction of the above-captioned matter, Respondent admits to the following:
 - a. I have been employed by DOHMH since October 14, 2014, as a Public Health Advisor. As such, I have been and continue to be a “public servant” within the meaning of and subject to Chapter 68.
 - b. On December 22, 2015, and December 24, 2015, during hours I was required to work for DOHMH, I twice drove a DOHMH vehicle to the Green Acres Mall in Valley Stream, Nassau County, New York for personal purposes.
 - c. I acknowledge that, by going to a shopping mall for personal purposes at times when I was required to perform services for the City, I misused City time in violation of DOHMH Standards of Conduct Rules 1.5 and 4.1, and the City’s conflicts of interest law (Chapter 68), specifically City Charter § 2604(b)(2), pursuant to Board Rules § 1-13(a), which state respectively:

No public servant shall engage in any business, transaction or private employment, or have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties.

Except as provided in subdivision (c) of this section, it shall be a violation of City Charter § 2604(b)(2) for any public servant to pursue personal and private activities during times when the public servant is required to perform services for the City.

- d. I acknowledge that, by using a City vehicle for a personal purpose, I misused a City resource in violation of DOHMH Standards of Conduct Rules 1.15 and 4.1, and Chapter 68, specifically City Charter § 2604(b)(2) which is cited above, pursuant to Board Rules § 1-13(b), which states:

Except as provided in subdivision (c) of this section, it shall be a violation of City Charter § 2604(b)(2) for any public servant to use City letterhead, personnel, equipment, resources, or supplies for any non-City purpose.

2. DOHMH and the Board, after reviewing prior cases involving vehicle misuse, have determined that the appropriate penalty for Respondent's violations is a four (4)-day unpaid suspension, valued at approximately \$624.00, and a \$624.00 fine.

3. In recognition of the foregoing, Respondent agrees to the following:

- a. I agree to serve a four (4)-day unpaid suspension.
- b. I agree to pay a fine of Two Hundred and Fifty Dollars (\$250) to the Board by money order or by cashier, bank, or certified check, made payable to the Conflicts of Interest Board, by January 15, 2017.
- c. I agree to pay a fine of Three Hundred and Seventy-Four Dollars (\$374) to DOHMH, to be deducted by DOHMH from my paycheck.
- d. I agree that this Disposition is a public and final resolution of the DOHMH charges and the Board's action against me.
- e. I knowingly waive on my behalf and on behalf of my successors and assigns any rights to commence any judicial or administrative proceeding or appeal before any court of competent jurisdiction, administrative tribunal, political subdivision, or office of the City or the State of New York or the United States, and to contest the lawfulness, authority, jurisdiction, or power of the Board or DOHMH in imposing the penalty which is embodied in this Disposition, and I waive any right to make any legal or equitable claims or to initiate legal proceedings of any kind

against the Board or DOHMH, or any members or employees thereof relating to or arising out of this Disposition or the matters recited herein.

- f. I confirm that I have entered into this Disposition freely, knowingly, and intentionally, without coercion or duress, and after having been represented by the union representative of my choice; that I accept all terms and conditions contained herein without reliance on any other promises or offers previously made or tendered by any past or present representative of the Board or DOHMH; and that I fully understand all the terms of this Disposition.
- g. I agree that any material misstatement of the facts of this matter, including of the Disposition, by me or by my attorney or agent shall, at the discretion of the Board, be deemed a waiver of confidentiality of this matter.

4. The Board and DOHMH accept this Disposition and the terms contained herein as a final disposition of the above-captioned matter only, and affirmatively state that other than as recited herein, no further action will be taken by the Board or DOHMH against Respondent based upon the facts and circumstances set forth herein, except that the Board and DOHMH shall be entitled to take any and all actions necessary to enforce the terms of this Disposition.

6. This Disposition shall not be effective until all parties have affixed their signatures below.

Dated: December 20, 2016

_____/s/
Melissa Worthy-Smith
Respondent

Dated: December 20, 2016

_____/s/
Shayvonne Jones
District Council 37
Union Representative for Respondent

Dated: January 5, 2017

_____/s/
Karrie Ann Sheridan
Deputy Director, Employment Law Unit
NYC Department of Health and Mental Hygiene

Dated: January 27, 2017

_____/s/
Richard Briffault
Chair
NYC Conflicts of Interest Board