

**IN THE MATTER OF HAYDEN O'BRIEN
COIB CASE NO. 2014-216
OATH INDEX NO. 162079
MARCH 24, 2017**

SUMMARY: The Board fined an Associate Fraud Investigator for the New York City Human Resources Administration (“HRA”) \$1,500 for writing and submitting to a New York City Parking Violations Bureau (“PVB”) Administrative Law Judge a letter written on HRA letterhead; in the letter, the Associate Fraud Investigator invoked his City employment and misrepresented that HRA was appealing a PVB ruling relating to a parking ticket that he was personally responsible for paying. HRA had not authorized his submission of the appeal letter or use of HRA letterhead. *COIB v. H. O'Brien*, COIB Case No. 2014-216 (2017).

STIPULATION AND DISPOSITION:

WHEREAS, the New York City Conflicts of Interest Board (the “Board”) commenced an enforcement action pursuant to Section 2603(h)(1) of Chapter 68 of the New York City Charter (“Chapter 68”) against Hayden O’Brien (“Respondent”); and

WHEREAS, the Board 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 the New York City Human Resources Administration (“HRA”) since February 20, 1995, most recently as an Associate Fraud Investigator. As such, during this time, I was and remain a “public servant” within the meaning of and subject to Chapter 68.
 - b. At some point prior to April 2009, I was given a vehicle by HRA to perform my official job duties.
 - c. On April 24, 2009, I parked the HRA vehicle assigned to me in a No Standing Zone in front of 250 Church Street in Manhattan. While parked at 250 Church Street, a parking ticket was issued to the vehicle (the “Parking Ticket”).
 - d. In accordance with HRA policy, I was personally responsible for paying the fine associated with the Parking Ticket.

- e. I initially challenged the issuance of the Parking Ticket with the New York City Parking Violations Bureau (“PVB”) in accordance with HRA policy by completing and submitting to HRA’s PVB Liaison a City of New York Official Business Affidavit for Parking Violation Summons, dated May 11, 2009, indicating that I believed I had a defense to the Parking Ticket because I had properly displayed my HRA parking placard. The PVB upheld the issuance of the Parking Ticket.
- f. I appealed the PVB ruling through a letter to a PVB Administrative Law Judge dated August 5, 2010 (the “Letter”).
- g. I indicated in the Letter, which I submitted on HRA letterhead, that HRA was appealing the PVB’s earlier ruling by writing: “It was HRA’s intention to respond to this violation in a timely manner”; “[w]e apologize that there was a delay”; “we respectfully request to appeal the hearing decision”; and “[w]e appreciate your consideration in this matter.”
- h. No one at HRA had authorized my use of HRA letterhead to write the Letter or my speaking on HRA’s behalf in challenging the Parking Ticket.
- i. I represent that I submitted the Letter on HRA letterhead and indicated that HRA was appealing the PVB ruling because I understood that a letter from HRA was needed to process the appeal.
- j. Although I was unaware at the time, I now acknowledge that, by using HRA letterhead, without HRA authorization, for the non-City purpose of challenging a parking ticket for which I was personally responsible, I violated City Charter § 2604(b)(2), pursuant to Board Rules § 1-13(b), 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 use City letterhead, personnel, equipment, resources, or supplies for any non-City purpose.

- k. I acknowledge that, by invoking my City employment while challenging a ticket for which I was personally responsible, I attempted to use my City position for personal gain in violation of City Charter § 2604(b)(3), which states:

No public servant shall use or attempt 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.

2. The Board, after examining prior cases in which a public servant invoked his City position and used City letterhead, without authorization or a City purpose, for his personal financial gain, has determined that the appropriate penalty in this case is a \$1,500 fine.

3. Respondent agrees to the following:

- a. I agree to pay a fine of One Thousand Five Hundred Dollars (\$1,500.00) to the Board by money order or by cashier check, bank check, or certified check, made payable to the “New York City Conflicts of Interest Board,” as follows: Three Hundred Seventy-Five Dollars (\$375.00) on or before October 31, 2016; Three Hundred Seventy-Five Dollars (\$375.00) on or before November 30, 2016; Three Hundred Seventy-Five Dollars (\$375.00) on or before December 31, 2016; and Three Hundred Seventy-Five Dollars (\$375.00) on or before January 31, 2017.
- b. I agree that this Disposition is a public and final resolution of the Board’s action against me.
- c. 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 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 any members or employees thereof relating to, or arising out of this Disposition or the matters recited therein.
- d. I confirm that I have entered into this Disposition freely, knowingly, and intentionally, without coercion or duress and having been represented by an attorney 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; and that I fully understand all the terms of this Disposition.
- e. I agree that any material misstatement of the facts of this Chapter 68 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 accepts 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 against Respondent based upon the facts and circumstances set forth herein, except that the Board shall be entitled to take any and all actions necessary to enforce the terms of this Disposition.

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

Dated: October 28, 2016

_____/s/
Hayden O'Brien
Respondent

Dated: October 28, 2016

_____/s/
Jean O'Hearn
Kreisberg & Maitland
Attorney for Respondent

Dated: March 24, 2017

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