

the Ethical Times

Ethical Violations Through History

By Isaiah Tanenbaum

Chapter 68! It's the body of law we spend so much time talking about in these pages, a comprehensive set of ethics rules that helps keep public servants' official duties separate from their private interests. You might think such a fine and important statute is as venerable as the City itself, perhaps even older, but in fact its first incarnation was only written about 60 years ago, and overhauled as recently as 30 years ago. What did public servants do before Chapter 68?

Well, most of them worked hard and honestly at their jobs and then went home to tend to their private lives, just as most public servants do today. But a few, unencumbered by today's ethics restrictions, were able to harness their public positions to accumulate eye-watering levels of personal wealth and power. In this issue, we'll look at a few of those Titans of Un-Ethics, and examine how today's law would treat their shenanigans.

Marcus Licinus Crassus

Imagine you own a building in ancient Rome. You're hanging out in your toga, being fed a quiet after-dinner snack of wine and figs, when you smell something burning. You look up and see smoke billowing out of your kitchen and flames licking up the wood-and-plaster walls. Your house is on fire! Rushing out onto the street, you shout for Rome's Fire Brigade to save your home. Within minutes, as many as 500 men in heavy tunics and hobnailed sandals are at your door-

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step with buckets of water and sand, led by Fire Chief Marcus Licinus Crassus.

Only instead of directing them to douse the blaze, Crassus *offers to buy your property*. Hesitate, and his offer decreases as more of your building is destroyed. Agree, and it will be Crassus's newest real estate acquisition to be saved by the brigade. You're left with whatever he paid you – a fraction of the home's market value – and after he rebuilds, he can re-sell or rent it out (quite possibly, to you!).

It's a profitable scheme – a classic fire sale, if you will – and in this way Crassus became the richest man in Rome, with a level of wealth so staggering that he parlayed it into a position as Co-Emperor with Pompey and Julius Caesar. Later, he would lead an ill-advised military expedition against the



Parthians; legend has it that when he was defeated and captured in the Battle of Carrhae, they chopped off his head and filled it with molten gold.

If Roman law had a version of Chapter 68, Crassus would have been prohibited from engaging in business dealings with members of the public with whom he interacted in his official capacity – we call this sort of thing “Misuse of Position.” Bad news for Crassus’s real estate ambitions, but on the other hand the penalty for violating Chapter 68 is usually a civil fine, not brutal (if poetic) molten justice.

Heshen

An ambitious and affable bodyguard in Qing-dynasty China, Heshen managed to catch the aging Emperor’s ear and affections. Within a year, he had shot to the very top of the imperial power structure, serving as Grand Councilor for the next quarter century. Along the way, he was placed in charge of the empire’s entire revenue stream as well as its personnel recruitment system, and his son was married to the Emperor’s youngest and favorite daughter.

When a rebellion broke out in 1796, Heshen made sure his cronies were put in charge of the military response. They conspired to prolong the empire’s efforts to suppress the rebellion, while steering many of the funds intended for the campaign into their own (and Heshen’s) pockets. In all, Heshen amassed a personal fortune in silver and treasure equivalent to \$270 billion in today’s money.

In 1799, the Emperor died and was replaced by a new one, who, after a brief trial, confiscated Heshen’s ill-gotten wealth and ordered his death. New generals were appointed, putting an end to the still-simmering rebellion. However, the damage was done. Many historians see Heshen’s mismanagement as the start of a century-long decline that ended the Qing dynasty and, with it, the empire itself. In China today, Heshen is remem-

bered as the prototypical corrupt official and shows up as a stock character in stories, plays, and films, usually to steal and take bribes and generally be evil.

Heshen’s acts were over the line even in his era, but one thing that kept him safe from reprisal for so long was his son’s marriage to the Emperor’s daughter. Chapter 68 prohibits City public servants from supervising their close family members, including in-laws, and for good reason: it’s hard (if not impossible) to be an unbiased supervisor of one’s own family.

Donald Manes

Donald Manes, the well-connected boss of the Queens Democratic Party machine, served as that borough’s president from the 1970s through the mid-80s. In that time, he used a combination of official power and party influence to install two of his buddies as Director and Deputy Director of the City’s Parking Violations Bureau, effectively taking control of the agency. The three of them then spent the next decade taking hundreds of thousands of dollars’ worth of kickbacks from vendors vying for lucrative City contracts, often in the form of envelopes of cash literally passed to them under tables in seedy restaurants.

When news of these bribes broke, and with one of the friends cooperating with the feds, Manes resigned in disgrace. Two months later, while on the phone with his psychiatrist, he died by suicide.

The Parking Violations Bureau scandal did not make Manes “ruler of an empire” wealthy, but by the end of the decade it had given rise to two important and enduring New York City institutions. First, the events were (very loosely) fictionalized in the pilot episode of *Law & Order*, which went on to air for twenty seasons and was re-launched earlier this year. Second, when the City Charter was being overhauled in 1988, public outcry over the PVB (and other scandals) increased

the appetite for ethics reform. The Board of Ethics was replaced by a new, independent agency with enforcement powers, the COIB (you may have heard of them), and the City’s ethics code was revised as Chapter 68 of the new City Charter. Chapter 68 significantly expanded the scope of the City’s ethics law and granted COIB enforcement powers, with the ability to impose financial penalties for violations. Among other new rules, it banned elected officials and high-level appointed officials from serving in party leadership positions. These provisions might have made it a bit harder for Manes and his friends to do what they did.

Conclusion

Just as passing a law that criminalizes theft doesn’t mean that burglary is impossible, no ethics law can fully prevent the minority of crooked public servants from using their City positions for private gain. When that happens, though, an independent agency with enforcement powers is indispensable.

The rest of the time, a good ethics law serves to guide diligent public servants, preserving everyone’s faith and understanding in a public sector that serves the people. And if any questions about New York’s ethics law should ever arise, City employees can always seek confidential, even anonymous, legal advice by calling COIB’s Advice Attorneys at (212) 442-1400 or filling out this handy [webform](#).



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Leaving City Service

City employees may not **seek jobs** with companies or not-for-profits they are **currently dealing with** as part of their City job.



Job Seeking Includes:

- Submitting a resume
- Discussing future job opportunities
- Interviewing

Former City employees may not **communicate** with their former City agency on behalf of a new employer or business within **one year** of leaving City service.

For elected and other high-level officials, this ban lasts for **two years**; for some of these, the ban extends to their former **branch** of government.

There is a **government-to-government exception** for public servants who leave to work at another government entity.



Former City employees may not disclose or use for personal advantage any **confidential information** obtained in the course of their City employment.

Former City employees may never work on a **particular matter** (for example, a contract) for a non-City employer if they worked on that same matter during their City employment.



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Recent Enforcement Cases

Prohibited Post-Employment Appearance. In 2021, a School Improvement Specialist left the NYC Department of Education (DOE) and began working for an education consultancy firm that primarily contracts with NYC public schools. Within one year of leaving DOE, she communicated on 41 occasions through emails and video meetings with high-level DOE administrators on behalf of the consultancy firm. In her communications, she pitched the services her new employer could provide to DOE and explicitly referenced her prior DOE position in an apparent attempt to bolster her business-seeking efforts.

To resolve her violations, the former School Improvement Specialist agreed to pay the Board a \$5,000 fine. The amount of this fine took into account that the former School Improvement Specialist had taken responsibility for her violations by self-reporting her conduct to the Board.

Misuse of City Time. At times when he was required to be working for the City, an Assistant Resident Buildings Superintendent at the NYC Housing Authority (NYCHA) did approximately 160 hours of paid work for a local union preparing union members for a technical course and civil service exam.

In a joint settlement with NYCHA and the Board, the Assistant Resident Buildings Superintendent agreed to serve a 21-workday suspension, valued at approximately \$6,127.

Misuse of City Resources. A Special Officer at NYC Health + Hospitals (H+H)/Queens used her H+H computer to download and/or store 25 documents related to her private logistics business and used a H+H printer to print 128 pages of documents related to that business. In a joint settlement with the Board and H+H, the Special Officer paid a \$1,250 fine to the Board.

Superior-Subordinate Financial Relationship, Misuse of City Resources, Misuse of City Position, Prohibited Position. A NYC School Construction Authority (SCA) Engineer had an outside position with a contractor reviewing plans for electrical work; he paid one of his SCA subordinates, now a Quality Assurance Specialist, to perform some of his work. Through these payments, the Engineer and Quality Assurance Specialist both violated the conflicts of interest law's prohibition against City employees entering into financial relationships with their superiors or subordinates. Both also violated the prohibition against misusing City resources by using their SCA computers to store design plans related to this outside work.

In a joint settlement with SCA and the Board, the Engineer paid a \$4,000 fine to the Board for his violations, which also included having a position with a firm that was doing business with the City and misusing his City position by having a subordinate perform non-City work.

The Quality Assurance Specialist paid a \$750 fine to the Board for her violations.

A [searchable index](#) of all COIB Enforcement Dispositions is available courtesy of New York Law School.

THE PUBLIC SERVICE PUZZLER

Congratulations to **Luke Szabados** of DOB, whose plants will always have beautiful homes.



In the current [contest](#), we're asking you to identify some tricky (parenthetical) songs. But good news! We've extended the deadline for submissions to **Wednesday, May 11th**.