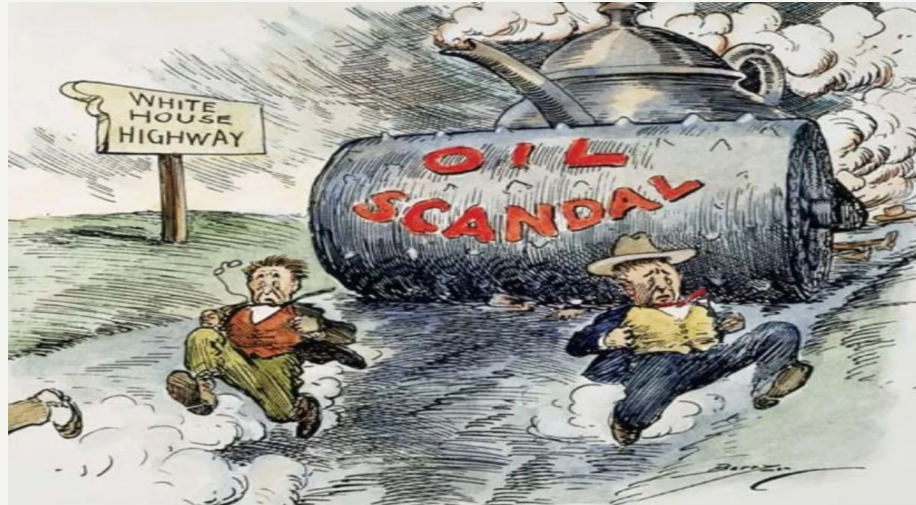


Anatomy of A Fall



By Roy Koshy

February - the month that pairs cold weather with warm celebrations. There's Valentine's Day (but if you're a public servant and receive a box of chocolates at your City office from a "secret admirer," you must report it to your Inspector General), Groundhog Day (if the early Spring is inspiring you to leave your City job, make sure to observe the one year post-employment communication ban until next Spring), Feed the Birds Day (best to do this on your lunch break with non-City seeds), and of course President's Day. For this month's issue of the Ethical Times, I'd like to focus on corruption in that highest of offices (to learn from it, of course -- not because I'm some weird corruption fan). So, let's travel back approximately 100 years ago to the presidency of Warren G. Harding and the Teapot Dome Scandal.

Under the administration of President William Taft, several oil-producing federal lands were designated as oil reserves, including the Teapot Dome Oil Field in Wyoming and the Elk Hills and Buena Vista Oil Fields in California. In 1921, President Harding appointed Albert

Fall, a Senator from New Mexico, as Secretary of the Interior. Secretary Fall proceeded to lease the drilling rights for these oil reserves to two of his wealthy friends in the oil industry - the Teapot Dome to the Mammoth Oil Company, owned by Harry F. Sinclair, and Buena Vista to Pan-American Petroleum Company, owned by Edward Doheny. Afterward, Secretary Fall's standard of living increased significantly and suspiciously, including paying off his long overdue ranch taxes. Eventually, complaints from local oil operators in Wyoming led to a Senate investigation, which discovered that Fall had received a \$100,000 no-interest loan from Doheny to expand his New Mexico ranch and a substantial livestock delivery from Sinclair, who also transferred \$300,000 in liberty bonds to Fall's son-in-law. The investigation also uncovered extensive corruption within the Harding administration, including more bribery as well as a plot involving selling confiscated alcohol during Prohibition. Sinclair also may have been behind a very high-price offer for Harding's newspaper *The Marion Star* and a year-long all-expenses-paid post-Presidency

cruise for Harding and his wife (said cruise was never embarked upon because Harding died in 1923). In 1929, Fall was convicted of bribery and sentenced to one year in prison.



Why am I devoting space in a NYC-specific municipal government newsletter to this by-gone federal fiasco from the last century? Well, Chapter 68 of the City Charter, the City's Conflicts of Interest Law, helps public servants avoid their own Teapot Dome scandals. Of course, we all know bribery is both wrong and a felony. But the Conflicts of Interest Law prohibits public servants from taking any official action that would result in a private financial gain for themselves or their "associates" – including a public servant's immediate family members or any person or firm with whom the public servant has a financial relationship. So, if Albert Fall was employed by the City of New York today, he would be prohibited from being involved in any City business dealings where either he or his associates could benefit financially. Now, let's say that Fall wasn't financially associated with Sinclair or Doheny, and they are offering livestock, bonds, etc., as gifts to show their appreciation to Fall for helping them with their City business. The City's Valuable Gifts Rule prohibits public servants from accepting a gift valued at \$50 or more

from any party that does business (or is seeking to do business) with the City of New York, and that \$50 amount is cumulative and aggregate over a 12-month period. So, Fall as a public servant would have to not only decline the livestock delivery, but he also would not be allowed to accept daily batches of animal feed bags because that would add up to beyond the \$50 threshold. Perhaps Fall, Sinclair, and Doheny are long-time friends, and the gifts listed above are birthday gifts. The Conflicts of Interest Law carves out an exception for certain social occasions if the giver has business with the City. However, the relationship must precede the public servant's position with the City. Additionally, it must be clearly demonstrated that the sole motivation for the gift is the personal relationship and not City business, that accepting the gift would not produce even the appearance that the recipient will be compromised in their official City duties, and that the gift must be customary in value and scope to previous gifts from that gift-giver. For instance, if these friends usually bought each other drinks and a meal on each other's birthdays, a \$100,000 cash birthday "gift" would be suspicious. As for a public servant's in-laws accepting liberty bonds from a party with City business, this could still be considered a gift to the public servant, and therefore prohibited.

Of course, it's safe to assume that none of you reading this are plotting your own Teapot Dome scheme or any other corruption. Just know that our Conflicts of Interest Law serves as an ethics code that upholds the public trust in making sure we don't even appear to be embroiled in any corrupting of government for private gain. In upholding this mission, the Conflicts of Interest Board offers confidential (and even anonymous) advice for public servants Monday through Friday 9am-5pm. Contact us at 212-442-



1400 or at www.nyc.gov/ethics. Our advice attorneys are equipped to provide guidance on a variety of questions, be they dome-sized or little teapot-sized.

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Recent Enforcement Cases

Misuse of City Position. A New York City Housing Authority (“NYCHA”) Engagement Program Manager accepted a laptop carrying case and a computer monitor, collectively valued at approximately \$150, as gifts from two of her NYCHA subordinates. After several months of use, the Engagement Program Manager returned the monitor to the subordinates. The Program Manager agreed to pay a \$750 fine to the Board.

Misuse of City Position; Misuse of City Personnel; Superior-Subordinate Financial Relationship. A NYCHA Supervisor of Caretakers misused her City position and misused City personnel by having two of her NYCHA subordinates, while on the clock for NYCHA, drive her personal vehicle to New Jersey and the Bronx for repairs. The Supervisor of Caretakers further misused her City position and entered into a prohibited financial relationship with a subordinate by requesting \$2,440 in loans from a subordinate and receiving \$440 in loans from that subordinate. In response to this conduct, NYCHA demoted the Supervisor of Caretakers to Caretaker, with a corresponding annual salary reduction of \$8,792. The Board determined that the penalty imposed by NYCHA was sufficient to address her violations of Chapter 68 and imposed no additional penalty.

Misuse of City Time & City Resources. A full-time Senior Software Developer at the New York City Department of Finance (“DOF”) had a second full-time job as a web designer. On 195 days, the Senior Software Developer used City time to do a

significant amount of work for his outside job. The Senior Software Developer also used his City computer to store three documents related to his search for private employment. The now-former Senior Software Developer agreed to pay a \$7,500 fine to the Board. In setting this fine, the Board considered that the Senior Software Developer resigned from DOF after DOF served him with disciplinary charges related to this conduct.

Misuse of City Resources. A Parent Coordinator for the New York City Department of Education (“DOE”) had a private business managing music events. The Parent Coordinator stored 81 files on his DOE laptop related to his business, including 20 invoices requesting payment from vendors. The now-former Parent Coordinator agreed to pay a \$1,596 fine to the Board.

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