

the Ethical Times

A Review of the Best Picture Oscar Nominees

As the COIB's unofficial resident film critic, Oscars season is always an opportunity to combine my love of cinema with my enthusiasm for the City's conflicts of interest law, contained in [Chapter 68 of the New York City Charter](#). Sadly, my love has turned to unmitigated horror as the 2020 Best Picture nominees offer a cesspool of films that not only ignore our conflicts of interest law, but actually celebrate a rogue's gallery of characters and violations that trample upon the very basic standards of ethical governance. With much vexation, I present a recap of this year's nominees. Consider yourself warned.

Once Upon a Time in Hollywood Quentin Tarantino's love letter to 1960s Hollywood is a hate crime against ethics! It focuses on the relationship between Rick Dalton and his stunt double Cliff Booth, who is also his subordinate employee. I'm frankly appalled that this film was nominated for Best Picture; it should instead be considered Best Misuse of



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Position by a Superior: Dalton is shown accepting all manner of valuable gifts and services from Booth, such as free rides all over town, home repairs, even a six-pack of beer. As we all know, Chapter 68 prohibits superiors from accepting more than a token gift from their subordinates. Mr. Tarantino demonstrates his contempt for good taste AND good government!

Joker While many praise this gritty reinvention of the comic book film, I condemn its flaunting of the confidentiality provisions of Chapter 68! At one point, the main character, Arthur Fleck, steals a confidential file from a government hospital and uses the information to springboard himself to fame as the "Joker." City employees are prohibited from using confidential information for any non-City purpose or personal advantage. Yet Mr. Fleck receives no fine for this flagrant violation of the law. I take comfort in the fact that the "Joker" wouldn't be laughing if he encountered the Enforcement Unit in real life!

Little Women Early in this vulgarization of the classic novel, a wealthy neighbor recognizes the charitable work of the "little women" by donating an expensive breakfast spread to them. Like any engaged viewer, I recognized this instantly as a prohibited gratuity: extra payment just for doing what was already expected. Yet the March sisters do not return the food, but eat it all! Little Women? More like Big Violations!

Ford V. Ferrari As a proud owner of one of these types of cars, I have recused myself from reviewing this movie.

Parasite Not only does the conflicts of interest law prohibit us from using our City positions for our own personal financial advantage, but also of our close family members. Apparently the people in this film did NOT know this, as they are a family that gets one another hired without disclosing that conflict to their employer or recusing themselves from the hiring process – they even actively hide this fact! Sure, there are consequences for this prohibited activity (no spoilers, but it's much more than a warning letter), but for once I'd like to see a family film about learning the definition of "associated parties" as set forth in the City Charter.

Marriage Story This film had the potential to be a potent tale highlighting the need for our City's one-year post-employment communication ban. Instead, the main characters keep contacting one another after their relationship has clearly terminated. A real tear-jerker, I cried every time this provision of the law was violated.

The Irishman Sure, Martin Scorsese's 3½ hour epic contains problematic political activity, but the real takeaway is that you should not use City time or City resources to watch this film at your desk. While it is personal use, it is neither minimal, incidental, nor acceptable, and therefore not covered by the [Acceptable Use Policy](#). Nice try, Mr. Scorsese.

1917 During World War I, two British soldiers must cross into enemy territory to deliver a message that could save the lives of many troops, including the brother of one of the soldiers. Granted, acting in such a fashion in the exigent circumstances presented

in this unique situation does *not* present a Chapter 68 violation, but sadly and unforgivably, the film's "single-take" narrative never shows what we all demand and deserve from these heroes: a scene showing them holding themselves to the highest possible standard by seeking [formal written advice](#) from the Board.

Jojo Rabbit I enjoyed this film a great deal until the end credits, when I learned that one of its stars, Taika Waititi, is ALSO the director. This is a clear case of self-dealing; Chapter 68 prohibits City employees from awarding contracts or business to themselves. I've no idea how this slipped past us, but don't worry, I've already filed a [complaint](#), and there were many witnesses in the theater.

Conclusion

Each nominated film completely ignores the restrictions of the conflicts of interest law, making this yet another year of disappointing and un-recommendable movies. All the more reason for me to keep plugging away on my screenplay adaptation of Chapter 68!

(EDITOR'S NOTE: Mr. Koshy has been reminded, once again, that COIB only has jurisdiction over activities that have occurred since the enactment of the 1989 Charter reform, by current or former New York City employees, who are not fictional characters.

If you have a question about such an activity, call COIB's Advice hotline at 212-442-1400 or visit nyc.gov/ethics and click on "Contact Us." All calls and emails are confidential, and you may speak to us anonymously.)



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Recent Enforcement Cases

Job-Seeking; Misuse of City Resources.

A now-former Director of Mixed Income Programs in the New Construction Finance Division at the NYC Department of Housing Preservation & Development (HPD) inquired about, interviewed for, and accepted a job with Ridgewood Bushwick Senior Citizens Council, Inc. (RSBCC) – now Riseboro Community Partnership – while he was a member of a review committee at HPD that was considering an application that included RSBCC as a member of the development team. The Director used his HPD email account to exchange 21 emails with RSBCC to pursue this job. The Director paid a \$4,000 fine to the Board. In determining the appropriate penalty, the Board considered that the Director's job-seeking violation took place over a short period of time during which his actions on the review committee were limited.

Ownership Interest; Appearance Before the City.

A NYC Fire Department (FDNY) Firefighter owned and operated a daycare that received subsidized child care reimbursements from the NYC Administration for Children's Services (ACS) and was regulated by the NYC Department of Health and Mental Hygiene (DOHMH). Over the course of approximately eight years, the Firefighter communicated with the City on behalf of the daycare by:

- (1) submitting 87 reimbursement claim forms to ACS;
- (2) sending a letter to ACS in response to a request for the daycare's records;
- (3) attending a meeting at ACS in connection with an audit of the daycare's records; and
- (4) appearing in person at an inspection of the daycare conducted by DOHMH.

The Firefighter paid a \$4,000 fine to the Board.

Ownership Interest; Appearance Before the City.

An FDNY Paramedic owned and operated a gourmet custard business, which had its desserts sold at three promotional events at the CityStore, a gift shop operated by the NYC Department of Citywide Administrative Services (DCAS). Over the course of approximately one year, the Paramedic communicated with the City on behalf of his gourmet custard business by:

- (1) exchanging emails with the CityStore manager to coordinate and secure participation in these promotional events;
- (2) distributing free samples to DCAS employees at the CityStore while being considered for these promotional events; and
- (3) attending two of the promotional events.

In a joint settlement with the Board and FDNY, the Paramedic paid a four-day pay fine, valued at \$1,079, to FDNY and an \$800 fine to the Board.

Gifts. Over the course of a year, the Chief Executive Officer of Coney Island Hospital and Senior Vice President for Post-Acute Care Operations at New York City Health + Hospitals (H+H) accepted two gifts from PharmScript LLC – a lunch for herself and a golf outing for her live-in partner – that together totaled approximately \$160 while she was working with PharmScript to lay the groundwork for H+H to issue a Request for Proposal for the outsourcing of pharmaceutical services. After the RFP was issued, PharmScript submitted an application and was selected by H+H to provide pharmacy services management. The Chief Executive Officer paid a \$2,000 fine to the Board. In determining the appropriate penalty, the Board considered both the Chief Executive Officer's high-level position and the relatively modest value of the gifts.

Recent Enforcement Cases

Misuse of City Position. The Board issued a public warning letter to a now-former NYC Department of Education (DOE) teacher who requested and received a \$5,000 loan from the parent of a student assigned to the teacher's class. The teacher and the parent had been friends since middle school, and the teacher had repaid part of the loan at the time of the Board's enforcement action. In issuing a public warning letter instead of seeking a fine, the Board considered that the teacher was subject to disciplinary action by DOE and is no longer a City employee, that the loan was motivated by a friendship that pre-dated the student-teacher relationship, and that the teacher repaid the outstanding balance of the loan after receiving notice of the Board's enforcement action.

Misuse of City Resources. The Board issued a public warning letter to a NYC Department of Sanitation (DSNY) Sanitation Worker who used his assigned DSNY sanitation truck to collect and dispose of personal trash. After completing his assigned collection route, the Sanitation Worker drove the truck to his home to collect construction debris and appliances, drove the truck to a dumpsite where he removed the trash, and returned the truck to the DSNY garage. In issuing a public warning letter instead of seeking a fine, the Board considered that the Sanitation Worker misused the sanitation truck on one occasion and that his home and the dumpsite were on the way between his assigned collection route and the DSNY garage.



Recent Enforcement Cases

Misuse of City Resources. A DSNY Sanitation Worker used a DSNY police placard to park his personal vehicle illegally on a street near his home. The Sanitation Worker had no work-related reason to have this placard, which was intended for use in a DSNY police vehicle. In a joint settlement with the Board and DSNY, the Sanitation Worker agreed to serve a three-day suspension, valued at approximately \$928.

Misuse of City Time, Resources, and Position; Superior-Subordinate Financial Relationship. At times when he was supposed to be performing work for the NYC Housing Authority (NYCHA), a NYCHA Assistant Property Maintenance Supervisor used his NYCHA computer and email account to edit and send the cover letter of one NYCHA Caretaker and the résumé of another NYCHA Caretaker, who each paid \$50 to him for doing so. The Assistant Property Maintenance Supervisor was the supervisor of one of the Caretakers, and he had offered to review that Caretaker's cover letter. In a joint settlement with the Board and NYCHA, the Assistant Property Maintenance Supervisor agreed to serve an eight-day suspension, valued at approximately \$2,006, and a one-year probationary period. In determining the appropriate penalty, the Board considered the small amount of City time and City resources used and the small amount of money paid.

Misuse of City Time & Resources. A now-former DOE Assistant Technology Evaluation Coordinator also owns and operates an interior design business. Over the course of five years, the Coordinator used her DOE computer to download and store more than 8,000 files for her interior design business and occasionally used a DOE photocopier to make copies for her business. In addition, at times when she was supposed to be per-

forming work for DOE, the Coordinator made and received multiple business-related telephone calls on her personal cell phone and downloaded numerous business-related documents to her DOE computer. The Coordinator paid a \$7,000 fine to the Board.

Misuse of City Position & Resources. Over the course of 19 months, a NYC Department of Homeless Services (DHS) Supervising Special Officer regularly directed on-duty subordinate DHS peace officers to use DHS vehicles to drive him to personal destinations and run personal errands for him, including driving him:

- from work to at or near his home or his girlfriend's home on almost a daily basis;
- grocery shopping;
- to a United States passport office;
- to the airport for vacation; and
- to and from a funeral.

To hide his conduct, the Supervising Special Officer regularly instructed his subordinates to exclude these trips from official trip records or to identify the nearest DHS location as their trip destination.

The Board accepted the DHS-imposed disciplinary penalty – a 30-day suspension, valued at approximately \$4,789, and a demotion, resulting in a pay reduction of approximately \$7,000 per year – as sufficient and imposed no additional penalty.

Misuse of City Position & Acceptance of Outside Compensation for Performing Official Duties. A NYC Department of Youth and Community Development (DYCD) Administrative Procurement Analyst managed a portfolio of DYCD contracts with various organizations, including the 71st Precinct Community Council. The Analyst recommended that the 71st Precinct Community

Recent Enforcement Cases

Council hire her and her friend to prepare its contract documents to be submitted to DYCD. The following year, while overseeing the 71st Precinct Community Council as part of her DYCD portfolio, the Analyst was paid \$220 by the 71st Precinct Community Council to complete its contract documents for DYCD. The Analyst was required to do this type of work as part of her official DYCD duties. In a joint settlement with the Board and DYCD, the Analyst agreed to accept a 15-day suspension without pay, valued at approximately \$4,408.

Misuse of City Time & Position. An Administrative Manager at the NYC Department of Transportation (DOT), serving as Chief of Staff for the Bureau of Permit Management and Office of Construction Mitigation and Coordination, also worked as an Avon representative. Over the course of five years, at times when she was supposed to be performing work for DOT, the Administrative Manager tried to sell Avon products to her subordinates by placing catalogs on their desks, displaying Avon samples on her desk, and telling a subordinate which products were on sale. The Administrative Manager successfully sold a total of \$775 in Avon products to four subordinates. In a joint disposition with the Board and DOT, the Administrative Manager paid a \$1,500 fine to the Board.

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



THE PUBLIC SERVICE PUZZLER

Congratulations to the winner of our recent Public Service Puzzler, **Ivan Santiago** of DSS, who's got some fun facts to share about deserts.



This month's [caption contest](#) will take entries through Tuesday, Feb 4th. Make us laugh!

Schedule a Chapter 68 Class

COIB's Education & Engagement Unit can arrange a class in Chapter 68 for you and your staff.

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