

the EthicalTimes

Epic Moonlighting

...And maybe Mars-lighting?

By Alex Kipp

For this month's Ethical times, we welcome special guest columnist Enzo Tek, self-described Self-Made Man, Entrepreneur, and Genius.

Hello, public servants. Or, should I say, "fellow public servants." It's me, Enzo Tek. Whiz kid. Genius. Founder of a company that sells electric cars at a price significantly beyond your means. As a way to give back (more like a "give away," really, since I am a completely self-made man and have never relied on anything but my genius intellect, my father's emerald mine, and favorable tax subsidies for my success) to the community I so very much tolerate, I am serving as this month's guest columnist for this fine publication. Let me be the first of many to congratulate the editors on their choice.

These are concerning times for us public servants. Inflation has affected us all, especially my ego, which has become so inflated I had to buy it its own island. Shopping for



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groceries has become impossible. Just the other day, I went to one of those "supermarkets" (don't know what's supposed to be so super about them, but I digress) to buy some eggs. And when I went to pay for them, the person working at the little money-calculating thing with the conveyor belt could not make change for a thousand dollar bill! Outrageous!

It's in these tough economic times that common people start scrounging around for some extra income. Let's talk about how to do it the right way, staying in compliance with the City's Conflict of Interest Law.

For those of you struggling to put food on your tables, my first and best suggestion would be to buy a famous company that has rarely been profitable and for which you have no expertise in running. "But Enzo," I hear you say, "won't my lack of experience in running such a company make this a risky proposition?" Not if you pick a company whose product you use. I love to tweet, so I'm going to buy Twitter. If you love bowling, maybe you could buy a bowling ball company; if you love watching TV, maybe you could buy Netflix; if you love eating Five Guys, maybe you could buy a company that makes herbal laxative teas.

"But Enzo," you say, "I don't own millions of shares of stock in one of most historically over-valued companies in the world AND I don't have access to loans from the sovereign wealth funds of countries with very questionable human rights records." Well, to that I must respond: have you ever tried?

It's not like getting the attention of such people is hard. Just write an article about them for the Washington Post.

However, I realize not all of you are as ambitious as I am, so let's make the fact pattern a little more ordinary. Let's say you don't have the money to buy Netflix right now. Perhaps you could get a job there! Yes -- get a job there, preferably close to the founder, claim their ideas as your own, force them out, and you'll be running Netflix in no time at all. But before you do, keep these provisions of the Conflicts of Interest Law in mind.

First Stop: Agency Disclosure Rules on Outside Employment.

Many City agencies require their employees to disclose all outside employment on an annual basis. Does this include your agency? I have no idea where you work—why are you asking me? I may be a genius, but part of genius is keeping your head clear of useless and personally un-concerning information. Perhaps you could check with your agency's Champion of People (also known as the Director of HR).

Next Stop: Does your private employer have business dealings with any part of New York City government?

If the answer is yes, you will need agency head permission (in writing) and a waiver from the Conflicts of Interest Board to hold this position. Are waivers easy to get? For me, yes. I have an army of personal assistants who are paid to satisfy my needs be-

fore I am aware of them, in addition to praising my "meme game." But waivers are pretty easy for you non-geniuses, as well. The Conflicts of Interest Board has a web-form dedicated to this very purpose: <https://www.nyc.gov/site/coib/contact/get-a-waiver.page>

Once you have your waiver, keep the following in mind:

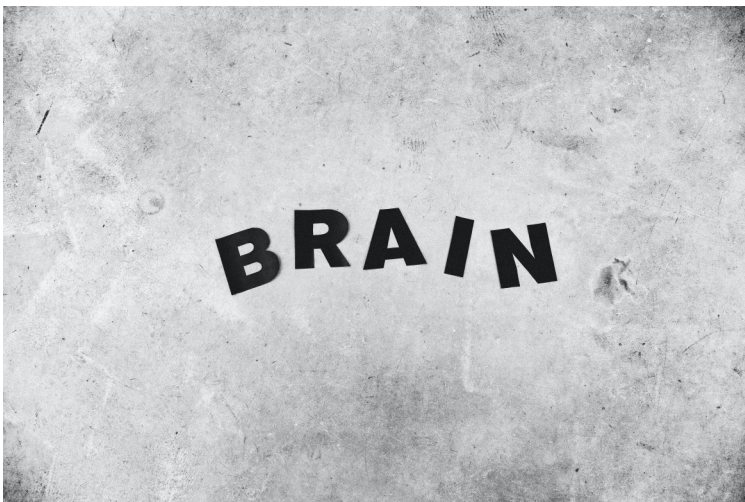
City Time and City Resources:

Quite simply, no City time or City resources can be used for any outside job. If your agency is anything like the one where my assistant is currently typing this article, this prohibition should be an easy one to follow, given the utter lack of amenities. But whatever resources you may have in your City role – computers, cell phones, printers, uniforms, badges, vehicles, etc. – can only be used for City purposes.

Your City Position:

Remember that, once you have a job with a company, you are "associated" with that company. The City's Conflicts of Interest Law prohibits public servants from using our positions in any way to benefit ourselves or any entities with which we are associated. So if, say, you work for one of those pesky City agencies that slows down geniuses like me with stifling rules on consumer and worker protection and you also worked for my company on the side, you would have to recuse yourself from taking any action as a City employee that affected my company. Speaking of which, we are currently hiring, as we are expanding downstate. Looking specifically for people who work for New York City regulatory agencies.

Also, if you were to work for me as a side job, you wouldn't be permitted to promote my astonishingly stylish electric vehicles to people you have power over in your City work. So, for example, if you worked for a City agency where you interact with the public and you also worked for me, you couldn't try to sell my life-changing gadgets to people with whom you are dealing with on behalf of your City agency.



Your Private Position:

You are prohibited from communicating with the City on behalf of a private employer or client. So, if you were to take a second job with my company, you could not represent my company before the City, unless you receive agency permission and a waiver from the Board to so do. Waivers of this kind of situation are not automatic, but can be gotten if the facts are right. Kinda like the “full autopilot” feature in my electric vehicles. It works great in the right conditions: like in a parking lot, going less than 12 MPH, and at least five miles away from any children.

Confidential Information:

This should be obvious. Confidential information you have access to as a public servant can't be disclosed to anyone who shouldn't know it and can't be used for personal gain. So, again, if you had a side job with me, you couldn't disclose your precious City confidential information to me for any reason. Not that I need it. As a genius, I already know everything I need to know. And it's not

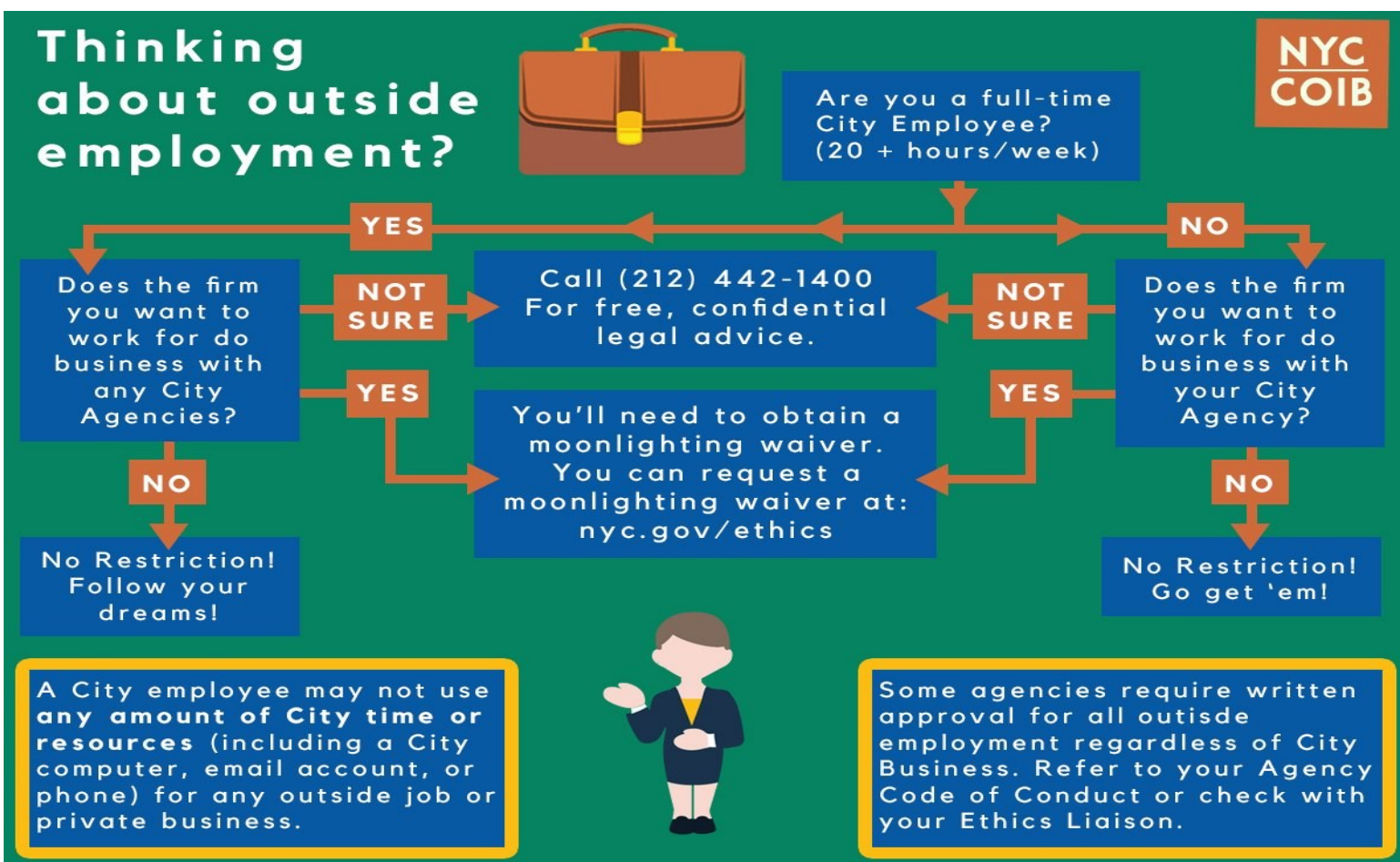
just me that thinks that; everyone in my entourage thinks so, too.

And with that, I'd say we're about as done as a client-funds-mingling crypto exchange! Public service is a noble calling. Not as noble as putting more cars on the road or putting more cars on Mars, but it's pretty good. Making more money on the side is neither necessarily noble nor reprehensible, but this much is sure: none of this will ever be of any concern to me personally. It may be to you, though. Whatever side job you choose, following the conflicts rules will keep your private interests and public duties far apart from each other and protect the integrity of the City work you do. And if you ever need

confidential legal advice about outside jobs or other aspect of the conflicts of interest law, you can always contact the Conflicts of Interest Board at nyc.gov/ethics or (212) 442-1400.



Alex Kipp is the Director of Education & Engagement at the New York City Conflicts of Interest Board.



Recent Enforcement Cases

Misuse of City Position. In March 2021, a New York City Department of Correction (“DOC”) Captain was suspended without pay for use of excessive force. In response, a DOC Correction Officer who was the Captain’s subordinate created a GoFundMe fundraiser to benefit the Captain and four other DOC employees who were suspended in connection with the same incident. Sixteen of the Captain’s subordinates donated a total of \$6,250 to the GoFundMe. The Captain received \$8,015.41 in total from the GoFundMe, which included money donated by people who were not the Captain’s subordinates. By accepting money donated by his subordinates, the Captain misused his City position for his personal benefit; he paid a \$6,250 fine to the Board.

Misuse of City Time & City Resources. In addition to her Health + Hospitals employment, a Social Worker at New York City Health + Hospitals/Coney Island was paid to do clinical evaluations of children for a private early intervention services provider. The Social Worker used her Health + Hospitals email account to send and receive 24 emails related to her outside work, 12 of which were sent at times she was required to be working for Health + Hospitals. The Social Worker paid a \$1,200 fine to resolve these violations.

Particular Matter Prohibition. From 2009 to 2012, a Plans Examiner at the New York City Department of Buildings (“DOB”) reviewed and approved plans for the renovation of an apartment building in Manhattan. From 2017 to 2022, after leaving DOB, the now-former Plans Examiner worked as the architect of record on that same renovation and, in that capacity, filed multiple forms with DOB

and met with DOB. Through this conduct, the former Plans Examiner violated the Particular Matter Ban, which prohibits public servants working in their private capacity on particular matters they worked on personally and substantially for the City. To resolve his violation, the former Plans Examiner paid a \$6,000 fine.

Prohibited Job Seeking. A Geologist for the New York City Department of Environmental Protection (“DEP”) worked on 20 projects involving a private firm while she applied for, interviewed for, and accepted a position with that firm. To resolve her violation of the prohibition against public servants pursuing employment with a firm while they are working on a particular matter involving that firm, the now-former Geologist paid a \$1,250 fine to the Board, which took into account that she self-reported her violation to the Board.

Misuse of City Resources. A Computer Technician for the New York City Department of Education (“DOE”) was responsible for managing his school’s electronic equipment. During the summer of 2020, the Computer Technician removed a camera, laptop, desktop computer, and a printer from the school. The Computer Technician sold the camera on Craigslist and made personal use of the remaining items before returning them to the school at the beginning of the 2020-2021 school year. In addition, the Computer Technician used DOE funds to purchase \$64.98 of wood sealer for his personal use. The Computer Technician paid a \$1,000 fine to the Board, which took into account that he had already served a 35-day suspension, valued

at approximately \$10,189, to resolve a DOE disciplinary action for the same conduct.

Misuse of City Position. In 2014, the Brooklyn Deputy Borough President loaned \$2,500 to a personal friend (the “Debtor”); this loan remained outstanding until it was forgiven in November 2022, by which point the Deputy Borough President had become Chief Advisor to the Mayor. While the loan was outstanding, the Deputy Borough President/Chief Advisor took several actions that benefited the Debtor:

In 2015, she recommended that the Brooklyn Borough President’s Office hire the Debtor as her Special Assistant; the Debtor was hired for this position on December 21, 2015.

In 2019, she recommended the Debtor for promotion at the Borough President’s Office; the Debtor received the promotion on April 21, 2019.

In 2021, she was consulted regarding the possibility of hiring the Debtor as her Personal Assistant at the Mayor’s Office and agreed to the hiring effective January 1, 2022.

In 2022, she was consulted regarding the Debtor’s request for a promotion at the Mayor’s Office and agreed that the Debtor was a good candidate for the promotion, which became effective May 1, 2022.

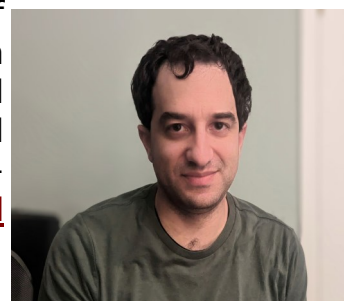
The Chief Advisor paid a \$1,000 fine for using her City position to benefit a person with whom she was associated through their financial relationship. In determining the appropriate penalty, the Board considered that the Chief Advisor is a high-level public servant who should be held to a high standard of compliance with the conflicts of interest law, the relatively small amount of the loan, and that the loan has been forgiven.

Misuse of City Resources. In March 2020, a Custodian for the New York City Department of Citywide Administrative Services (“DCAS”) created a fake parking placard using a DCAS insignia. From March 2020 to September 2021, the Custodian used that placard on several occasions to illegally park his personal vehicle near his workplace in Lower Manhattan. To resolve his misuse of the DCAS insignia, the Custodian agreed to a three-way settlement with the Board and DCAS in which he would serve a DCAS-imposed six-day suspension, valued at \$948, and forfeit one day of annual leave, valued at \$158.

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

THE PUBLIC SERVICE PUZZLER

This month’s [contest](#) is a real jumble. The essential elements of Chapter 68 have been mixed up into a word scramble, and we need you to identify the correct answers and [send them to us!](#)



Also meet last month’s winner **Alexander Yellen**, Deputy Director & Senior Counsel at NYCHA who is also a jazz musician skilled in many different instruments.



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