

**IN THE MATTER OF FRANK SCUDIERI
COIB CASE NO. 2015-520
DECEMBER 16, 2016**

SUMMARY: In a three-way settlement with the Board and New York City Department of Sanitation (“DSNY”), a Sanitation Supervisor agreed to serve a five-workday suspension, valued at approximately \$1,906, for misusing his assigned DSNY vehicle on approximately ten occasions to transport produce to a restaurant in Brooklyn as a favor to the restaurant owner. The City’s conflicts of interest law prohibits using City resources, such as a City vehicle, for any non-City purpose. *COIB v. Scudieri*, COIB Case No. 2015-520 (2016).

STIPULATION AND DISPOSITION:

WHEREAS, the New York City Department of Sanitation (“DSNY”) served disciplinary charges against Frank Scudieri (“Respondent”), pursuant to Section 16-106 of the New York City Administrative Code; and

WHEREAS, given that related disciplinary action was pending at DSNY that alleged violations of the City of New York’s conflicts of interest law, found in Chapter 68 of the New York City Charter (“Chapter 68”), the New York City Conflicts of Interest Board (the “Board”) referred this matter to DSNY pursuant to Section 2603(e)(2)(d) of Chapter 68; and

WHEREAS, the Board, DSNY, and Respondent wish to resolve this matter on the following terms;

IT IS HEREBY AGREED by and among the parties as follows:

1. In full satisfaction of the above-captioned matter, Respondent admits to the following:

- a. Since March 22, 2004, I have been employed by DSNY, most recently as a Sanitation Supervisor. As such, I have been and continue to be a “public servant” within the meaning of Chapter 68.
- b. On approximately ten occasions between April 2015 and January 2016, I used a DSNY vehicle to transport produce to a restaurant in Brooklyn as a favor to the restaurant’s owner.
- c. I acknowledge that, by using a City resource, namely a City vehicle, for a personal, non-City purpose, I violated Chapter 68, specifically 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. [City Charter § 2604(b)(2)]

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. [Board Rules § 1-13(b)]

2. Taking into consideration that there is no evidence that Respondent was compensated for making the improper restaurant deliveries, DSNY has determined that a five-workday suspension without pay, which has the value of approximately \$1,906, is the appropriate penalty to resolve this matter.

3. The Board accepts the penalty imposed by DSNY as sufficient for the Chapter 68 violation described above.

4. Respondent agrees to the following:

- a. I accept this determination and agree to serve a five-workday suspension, valued at approximately \$1,906, on dates to be determined by DSNY.
- b. I agree that this Disposition is a public and final resolution of the above-captioned matter only.
- 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 or the DSNY 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 the DSNY, 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 after having been represented by the 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 or the DSNY; and that I fully understand all the terms of this Disposition.
- e. I agree that any material misstatement of the facts of this 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.

5. The Board and the DSNY accept 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 or the DSNY against Respondent based upon the facts and circumstances set forth herein, except that the Board and the DSNY shall be entitled to take any and all actions necessary to enforce the terms of this Disposition.

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

Dated: November 30, 2016

Frank Scudieri
Respondent

Dated: November 30, 2016

Richard Biaggi
Biaggi & Biaggi.
Counsel for Respondent

Dated: November 30, 2016

Rita Brackeen
Employment Counsel/Department Advocate
Office of Employment & Disciplinary Matters
NYC Department of Sanitation

Dated: December 16, 2016

Richard Briffault
Chair
NYC Conflicts of Interest Board