

IN THE MATTER OF MICHELLE GILLENWATER
COIB CASE NO. 2016-593
ACS FILE NO. 66051-583-003
MARCH 24, 2017

SUMMARY: In a joint disposition with the Board and the New York City Administration for Children’s Services (“ACS”), a Child Protective Specialist agreed to pay a \$1,250 fine to ACS for using her City position to benefit an associated relative. The Child Protective Specialist admitted that, in March 2016, she contacted the ACS employee assigned to a case involving her associated relative, invoked her ACS title, inquired about the investigation, and stated that her associated relative would not speak to the ACS employee unless she was also present. *COIB v. Gillenwater*, COIB Case No. 2016-593 (2017).

STIPULATION AND DISPOSITION:

WHEREAS, the New York City Administration for Children’s Services (“ACS”) served disciplinary charges against Michelle Gillenwater (“Respondent”), pursuant to Section 75 of New York State Civil Service Law, alleging violations of the City’s conflicts of interest law, found in Chapter 68 of the New York City Charter (“Chapter 68”) and the ACS Code of Conduct; and

WHEREAS, given that related disciplinary charges were pending at ACS, the New York City Conflicts of Interest Board (the “Board”) referred this matter to ACS pursuant to Section 2603(e)(2)(d) of Chapter 68; and

WHEREAS, the Board, ACS, and Respondent wish to resolve these matters on the following terms,

IT IS HEREBY AGREED, by and between the parties, as follows:

1. In full satisfaction of the above-captioned matter, Respondent admits to the following:
 - a. I have been employed by ACS and its predecessor agency since May 21, 1990, most recently as a Child Protective Specialist. As such, I have been and continue to be a “public servant” within the meaning of and subject to Chapter 68.
 - b. On or about March 10, 2016, I contacted the Child Protective Specialist (“CPS”) assigned to a case involving an associated relative, invoked my ACS title, inquired about the investigation, and stated that my associated relative would not speak to the CPS unless I was also present. The CPS promptly reported this interaction to my supervisor.
 - c. I acknowledge that, by intervening in an ACS case that involved my associated relative, I used my City position to attempt to obtain a benefit for that associated

person in violation of Chapter 2604(b)(3) of Chapter 68. City Charter § 2604(b)(3) states:

No public servant shall use or attempt to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant.

City Charter § 2601(5) states:

A person or firm “associated” with a public servant includes a spouse, domestic partner, child, parent or sibling; a person with whom the public servant has a business or other financial relationship; and each firm in which the public servant has a present or potential interest.

- d. On or about September 7, 2016, ACS served me with Charges and Specifications related to the above described conduct. I acknowledge that my above-described conduct violated the ACS Code of Conduct, as set forth in the disciplinary charges.
2. ACS has determined that a fine of \$1,250, paid to ACS, is the appropriate penalty to resolve this matter.
 3. The Board accepts a \$1,250 fine paid to ACS as sufficient penalty for the violations of Chapter 68 cited above and imposes no additional penalty.
 4. Respondent agrees to the following:
 - a. I agree to pay a fine of One Thousand Two Hundred and Fifty Dollars (\$1,250.00) to ACS to be deducted by ACS from my paycheck in six installments of approximately \$208.33.
 - b. I agree that this Disposition is a public and final resolution of the ACS charges and the Board’s action against me.
 - 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 ACS 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 ACS, 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 union representative 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 ACS; 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.

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

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

Dated: January 19, 2016

_____/s/
Michelle Gillenwater
Respondent

Dated: January 19, 2016

_____/s/
Darek Robinson
Vice President of Grievances and Legal Services
SSEU Local 371, DC 37
Union Representative for Respondent

Dated: February 10, 2016

_____/s/
Joseph Cardieri
General Counsel and Deputy Commissioner
NYC Administration for Children's Services

Dated: March 24, 2016

_____/s/
Richard Briffault
Chair
NYC Conflicts of Interest Board