

## **JOB-SEEKING VIOLATIONS**

- **Relevant Charter Sections:** City Charter § 2604(d)(1)

The Board fined a former Assistant Director of Information Services for the Division of Tenant Resources at the New York City Department of Housing Preservation and Development (“HPD”) \$2,000 for interviewing for and accepting a position with a firm with which he was involved, in his HPD capacity, in the project to convert that firm’s housing project from a Mitchell-Lama regulated housing complex to a privately-run rental housing complex. The former Assistant Director further acknowledged that once he began working for the firm, he contacted HPD’s Director of Continued Occupancy on behalf of the firm via e-mail within the first year after he left HPD. The former Assistant Director acknowledged that his conduct violated the City’s conflicts of interest law. The conflicts of interest law prohibits a public servant from soliciting for, negotiating for, or accepting any position with a firm involved in a particular matter with the City while the public servant is directly concerned or personally participating with that particular matter, and also prohibits any former public servant from appearing before his or her former City agency within one year of the termination of employment with the City. *COIB v. Mizrahi*, COIB Case No. 2005-236 (2008).

The Board issued a public warning letter to a former Research Scientist for the New York City Department of Environmental Protection (“DEP”) for submitting her resume to a private firm that was preparing the Environmental Impact Statement for a DEP project while, on behalf of DEP, she was reviewing and commenting on the firm’s work on that DEP project. Although the private firm to which she submitted her resume was a sub-consultant to DEP, the firm was nonetheless involved in the Environmental Impact Statement for the DEP project. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that Chapter 68 of the City Charter prohibits public servants from soliciting for, negotiating for, or accepting any position with a firm involved in a particular matter with the City while the public servant is directly concerned with or personally participating in that particular matter. *COIB v. Matic*, COIB Case No. 2006-703 (2008).

The Board fined a former New York City Department of Housing Preservation and Development (“HPD”) Housing Development Specialist and Project Manager in the Office of Development, New Construction Finance, \$1,000 for negotiating for and accepting a position with a bank that was a co-lender with HPD on a project for which the public servant served as the Project Manager. In his capacity as Project Manager, the public servant was personally dealing with the bank and/or issues involving the bank. The former Project Manager acknowledged that this conduct violated the City’s conflicts of interest law, which prohibits a public servant from soliciting for, negotiating for, or accepting any position with a firm involved in a particular matter with the City while the public servant is directly concerned or personally participating with that particular matter. *COIB v. Larson*, COIB Case No. 2007-441 (2007).

The Board adopted the Report and Recommendation of Administrative Law Judge Kevin F. Casey at the Office of Administrative Trial and Hearings (“OATH”), issued after a full trial of this matter on the merits, that a former Director of Engineering with the New York City Department of Transportation (“DOT”) applied for and accepted a position with a vendor whose invoices he approved as part of his DOT job. The Board found that, during July and August 1998, the DOT Director of Engineering certified and signed ten invoices which verified that City-owned parking garages were properly managed and operated by a City vendor, Kinney Systems, Inc., and authorized DOT’s payment of over \$290,000 in management fees to Kinney. During this same period when he was certifying and signing these Kinney invoices, the DOT Director of Engineering was actively negotiating for, and ultimately accepted, a position with Central Parking Corporation, which he knew was the parent corporation of Kinney. The OATH ALJ found, and the Board adopted as its own findings, that this conduct violated the City’s conflicts of interest law, which prohibits a public servant from soliciting, negotiating for, or accepting any position with a firm involved in a particular matter with the City while the public servant is directly concerned or personally participating with that particular matter. The Board fined the former DOT Director of Engineering \$1,500. *COIB v. Pentangelo*, COIB Case No. 1999-026 (2007).

The Board and the Human Resources Administration (“HRA”) concluded a settlement involving an HRA management auditor who solicited a job with an HRA vendor that he audited. The auditor paid a fine of \$500 to the Board and forfeited six days’ annual leave, which is equivalent to approximately \$1,000, for a total fine of \$1,500. As part of his HRA duties, the auditor conducted internal audits of HRA vendors and facilitated audits of HRA vendors by other HRA employees. In the fall of 2002, the auditor, in a conversation with a vendor that he oversaw as part of his official duties, expressed interest in being considered for employment with the vendor. The auditor also received from the same vendor information regarding an organization to which he later applied for a job. The auditor admitted that he sought a job with a City vendor while he was actively considering, directly concerned with, or personally participating in the vendor’s dealings with the City, and that he misused his official position for private gain. *COIB v. Asemota*, COIB Case No. 2003-788 (2005).

## ONE-YEAR POST-EMPLOYMENT APPEARANCES

- **Relevant Charter Sections:** City Charter § 2604(d)(2)

The Board fined a former Principal \$2,500 for appearing before the New York City Department of Education (“DOE”) within one year of the end of her DOE employment. The former Principal acknowledged that, after leaving DOE in June 2010, she began working at a firm that does business with DOE, specifically by operating a public school in Brooklyn. Throughout the 2010-2011 school year, the former Principal regularly communicated with DOE staff at that public school to provide technical assistance and program development support on behalf of her firm, and communicated with the DOE Office of Portfolio Development about her firm’s proposal to open a second school, which proposal was later withdrawn. The former Principal admitted that her conduct violated the City’s conflicts of interest law, which prohibits a former public servant from appearing before that public servant’s former agency within one year of terminating employment with the agency. In setting the amount of the fine, the Board took into account that the former Principal had reported her own conduct to the Board. Without the Principal’s affirmative and voluntary act in reporting her own violations, the fine imposed upon her would have been significantly higher. *COIB v. Fabrikant*, COIB Case No. 2011-544 (2012).

The Board fined a former Agency Attorney for the New York City Police Department (“NYPD”) \$1,000 for appearing before NYPD within one year of the termination of his NYPD employment. The former Agency Attorney acknowledged that, within one year after leaving NYPD, he sent a letter on behalf of a client of his private law practice to the New York City Office of Payroll Management, on which letter he copied the Director of the Payroll Section at NYPD. The Agency Attorney’s letter sought an evaluation of his client’s claim that the City of New York had wrongfully taken out tax deductions from his paycheck. The former Agency Attorney admitted that his conduct violated the City’s conflicts of interest law, which prohibits a former public servant from appearing before that public servant’s former agency within one year of terminating employment with the agency. *COIB v. Pawar*, COIB Case No. 2011-765 (2012).

The Board fined a former City Research Scientist IV for the New York City Department of Health and Mental Hygiene (“DOHMH”) Office of Emergency Preparedness and Response \$1,000 for appearing before DOHMH within one year of the termination of his DOHMH employment. The former Research Scientist acknowledged that, within one year after leaving DOHMH, he sent an e-mail on behalf of his new employer to the Deputy Director of the DOHMH Office of Emergency Preparedness and Response with a proposal for expanding emergency preparedness capacity development to community and residential health care providers. The former Research Scientist admitted that his conduct violated the City’s conflicts of interest law, which prohibits a former public servant from appearing before that public servant’s former agency within one year of terminating employment with the agency. *COIB v. Godfrey*, COIB Case No. 2011-343 (2011).

The Board fined a former Tobacco Media Manager for the New York City Department of Health and Mental Hygiene (“DOHMH”) \$1,500 for appearing before DOHMH on behalf of private interests during his first year of post-City employment. The former Tobacco Media Manager admitted that, seven or eight months after leaving his position in the DOHMH Communications Bureau, he contracted with an advertising agency to consult on a DOHMH anti-smoking campaign and then communicated with a person in the DOHMH Communications Bureau

about the campaign. Shortly after that communication, the former Media Manager was alerted to the conflict of interest created by his consulting on a DOHMH media campaign, and he stopped immediately. The former Media Manager admitted that his conduct violated the City's conflicts of interest law, which prohibits a former public servant from "appearing" before his or her former agency within one year of terminating employment with the agency. *COIB v. K. James*, COIB Case No. 2008-747 (2011).

The Board fined the former Deputy Chief Engineer for the Roadway Bridges Bureau in the Division of Bridges at the New York City Department of Transportation ("DOT") \$1,000 for, communicating with DOT on behalf of his new employer within one year of his resignation from DOT. The former Deputy Chief Engineer acknowledged that, within one year after leaving DOT, he called the Director of Capital Projects in the DOT Division of Bridges with questions about a DOT Request for Proposals, and he e-mailed the Director of Quality Assurance in the DOT Division of Bridges to obtain a copy of a manual he had worked on in 1992. Both communications were made on behalf of his new employer, an engineering firm. The former Deputy Chief Engineer admitted that his conduct violated the City's conflicts of interest law, which prohibits a former public servant from "appearing" before that public servant's former agency within one year of terminating employment with the agency. *COIB v. L. King*, COIB Case No. 2010-299 (2010).

The Board fined a former Administrative Engineer at the New York City Department of Buildings ("DOB") \$2,000 for appearing before DOB within one year of his resignation from DOB. The former Administrative Engineer acknowledged that, within one year after leaving DOB, he attended weekly meetings at the Lower Manhattan Construction Command Center ("LMCCC") on behalf of his private employer. LMCCC is an organization created by New York State and New York City to oversee, facilitate, and mitigate the effects of construction in Lower Manhattan and to communicate with the public regarding such construction by bringing together private developers, government agencies, utility companies, private businesses, and residents. At these meetings, the former Administrative Engineer would provide updates about construction projects being performed by his private employer. At five of the LMCCC meetings he attended on behalf of his private employer, DOB employees were also present. The former Administrative Engineer admitted that his conduct violated the City's conflicts of interest law, which prohibits a former public servant from appearing before that public servant's former agency within one year of terminating employment with the agency. *COIB v. E. Reid*, COIB Case No. 2008-547 (2010).

The Board and the Department of Education ("DOE") concluded three-way settlements with five former DOE Technology Staff Developers who each appeared before DOE on behalf of a private company within one year of resigning from DOE. The Technology Staff Developers each admitted that when they left DOE they formed and jointly owned a company to market and to sell vendors' products to DOE. Two of the former Technology Staff Developers admitted that they served as the President and the CEO of the company, respectively, and they organized a conference for DOE on behalf of their company. Several DOE vendors paid the company to feature the vendors' products during the DOE conference. Each former DOE Technology Staff Developer made presentations at the DOE conference, and they all acknowledged that they violated the City's conflicts of interest law, which prohibits any former public servant from appearing before his or her former City agency within one year of terminating employment with the City. The Board issued \$1,500 fines to three of the former Technology Staff Developers and a \$2,500 fine to the former Technology Staff Developer who acted as the company's president. The former Technology Staff Developer who acted as the company's CEO was fined \$5,000 total,

for these and unrelated Chapter 68 violations in a separate matter. *COIB v. Ferro*, COIB Case No. 2001-566 (2008); *COIB v. Diaz*, COIB Case No. 2001-566a (2008); *COIB v. Sender*, COIB Case No. 2001-566b (2008); *COIB v. Guarino*, COIB Case No. 2001-566c (2008); *COIB v. Moran*, COIB Case No. 2001-566d (2008).

The Board issued a public warning letter to a former Chief Administrator of the Board of Review for the New York City Department of Education (“DOE”) who called an Administrator in the DOE Office of Purchasing and Management three weeks prior to the conclusion of his first year post-employment year concerning the status of a bid objection filed by a DOE contract vendor who was then his private employer. While not pursuing further enforcement action, the Board took the opportunity to remind public servants that the City Charter prohibits former City employees from appearing before their City agency within one year of the termination of their City employment. *COIB v. Avedon*, COIB Case No. 2003-508 (2006).

## LIFETIME POST-EMPLOYMENT PARTICULAR MATTER BAN

- **Relevant Charter Sections:** City Charter § 2604(d)(4)

The Board issued a public warning letter to a former New York City Department of Buildings (“DOB”) Construction Inspector for calling the DOB Cranes and Derricks Unit on behalf of his new employer within his first post-employment year and for appearing before the New York City Environmental Control Board to represent a client who wished to dispute a Notice of Violation issued by DOB for failure to comply with a Stop Work Order that the former Construction Inspector had reviewed, approved, and signed when a DOB employee. The former Construction Inspector acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits former public servants from appearing before their former City agency within a year after leaving City service and from appearing before any City agency in connection with a particular matter with which the former public servant had substantial personal participation while a public servant. *COIB v. Plass*, COIB Case No. 2009-725 (2013).

The Board issued a public warning letter to a former Commanding Officer at the New York City Police Department (“NYPD”) Office of Labor Relations (“OLR”) who, after retiring from the NYPD, was retained as an expert witness in a lawsuit against the City, in which lawsuit he had personally and substantially participated while at the NYPD. While at the NYPD Office of Labor Relations, the former Commanding officer attended one meeting at which he was consulted by the City’s attorneys concerning the allegations in a lawsuit brought by police officers who claimed that NYPD violated the Fair Labor Standards Act by, among other things, failing to approve, and at times pay, their requests for overtime compensation. After leaving the NYPD, the former Commanding Officer was retained as an expert witness by the police officers in that same lawsuit. The Board found that, although the former Commanding Officer had attended only one meeting concerning the lawsuit while at the NYPD Office of Labor Relations, his participation in the lawsuit was personal and substantial because, at the time, he was the highest uniformed officer at NYPD OLR and he was not merely an attendee at the meeting but was consulted with and asked to gather documents for the City’s defense. While the former Commanding Officer represented that he did not recall participating in the meeting while at the NYPD, the Board took the opportunity of this public letter to make clear that public servants have a duty to conduct a reasonable inquiry to determine whether they have ever personally and substantially participated in a particular matter on which they are considering working after leaving City service. With respect to the former Commanding Officer, that reasonable inquiry required that he ask the NYPD *and* the New York City Law Department Labor and Employment Division, which participated in the City’s defense, whether he had participated in the lawsuit in any way. *COIB v. McCabe*, COIB Case No. 2008-129 (2010).

The Board fined the former Director of the Division of SEQRA (“State Environmental Quality Review Act”) Coordination and the Watershed Management Program for the New York City Department of Environmental Protection (“DEP”) \$2,000 for violating the “lifetime particular matter ban.” The former Director admitted that, while a DEP employee, he was in charge of a DEP program into which a specific development was seeking admission and that he met with the development’s representatives on multiple occasions to discuss requirements for participation in the program. The former Director then left DEP and took a job in the private sector where he worked on part of the development’s application for the same DEP program in which he had, as a DEP employee, participated personally and substantially through decision,

approval, recommendation, and other similar activities. The former DEP Director acknowledged that he violated the City's conflicts of interest law, which prohibits a former public servant from rendering services, for pay, in relation to a particular matter on which he or she had worked personally and substantially as a City employee. *COIB v. Benson*, COIB Case No. 2007-297 (2009).

The Board concluded a settlement with the former Human Resources Administration ("HRA") Agency Chief Contracting Officer ("ACCO"). While serving as ACCO at HRA, he was involved in every stage of awarding to a vendor an Employment Services Placement contract with HRA. He left HRA to serve as the vendor's Vice President and, as such, he worked on issues concerning the same contract that he had worked on as ACCO at HRA. In addition, the former ACCO contacted HRA on behalf of his non-City employer within one year of leaving City service. He acknowledged that he violated the New York City Charter's post-employment provisions and was fined \$3,000. *COIB v. Bonamarte*, COIB Case No. 2002-782 (2005).

## **POST-EMPLOYMENT DISCLOSURE OF CONFIDENTIAL INFORMATION**

- **Relevant Charter Sections:** City Charter § 2604(d)(5)

The Board fined the former General Counsel and Deputy Commissioner for Legal Affairs for the New York City Taxi and Limousine Commission (“TLC”) \$2,000 for disclosing, after he left City service, confidential information he gained while at the TLC. The former General Counsel admitted that after he left City service, he prepared and executed an affidavit in which he revealed that he had expressed disagreement with and to TLC’s First Deputy Commissioner concerning TLC’s application of the rules regarding alternative fuel medallions that were bid at an October 2004 auction. The former General Counsel admitted that this internal TLC disagreement was not public at the time the affidavit was prepared, and that his disclosure of these internal, non-public agency discussions violated the City’s conflicts of interest law, which prohibits a former City employee from disclosing or using for private advantage any confidential information gained from City service. *COIB v. Mazer*, COIB Case No. 2005-467 (2007).