COIB | Conflicts of Interest Board of The City of New York

New York Conflicts of Interest Law, Covering New York City Public Servants
(*Plain Language Version)**

1. ***Misuse of Office.*** Public servants may not use or misuse the position to financially benefit themselves, their family members, or anyone with whom they have a business or financial relationship. [Charter § 2604(b)(3)]

2. ***Misuse of City Resources.*** Public servants may not use City letterhead, personnel, equipment, supplies, or resources for a non-City purpose, nor may they pursue personal or private activities during times when they are required to work for the City. [(b)(2), Rules § 1-13(a), (b)]

3. ***Gifts.*** Public servants may not accept anything valued at $50 or more from anyone that they know or should know is doing business or seeking to do business with the City. [(b)(5), Rules § 1-01]

4. ***Gratuities.*** Public servants may not accept anything from anyone other than the City for performing their official duties. [(b)(13)]

5. ***Seeking Other Jobs.*** Public servants may not seek or obtain a non-City job with anyone whom they are dealing with in their City job. [(d)(1)]

6. ***Moonlighting.*** Public servants may not have a job with anyone that they know or should know does business with the City or that receives a license, permit, grant, or benefit from the City. [(a)(1)]

7. ***Owning Businesses.*** Public Servants may not own any part of a business or firm that they know or should know does business with the City or that receives a license, permit, grant, or benefit from the City, nor may their spouses, or their domestic partners, nor any of their children. [(a)(1)]

8. ***Confidential Information.*** Public servants may not disclose confidential City information or use it for any non-City purpose, even after they leave City service. [(b)(4), (d)(5)]

9. ***Appearances Before the City.*** Public servants may not accept anything from anyone other than the City for communicating with any City agency or for appearing anywhere on a City matter. [(b)(6)]

10. ***Lawyers and Experts.*** Public servants may not receive anything from anyone to act as a lawyer or expert against the City's interests in any lawsuit brought by or against the City. [(b)(7), (8)]

11. ***Buying Office or Promotion.*** Public servants may not give or promise to give anything to anyone for being elected or appointed to City service or for receiving a promotion or raise. [(b)(10), (11)(b)]

12. ***Business with Subordinates.*** Public servants may not enter into any business or financial dealings with a subordinate or supervisor. [(b)(14)]

13. ***Political Solicitation of Subordinates.*** Public servants may not directly or indirectly ask a subordinate to make a political contribution or to do any political activity. [(b)(9)(b), (11)(c)]

14. ***Coercive Political Activity***. Public servants may not force or try to force anyone to do any political activity. [(b)(9)(a)]

15. ***Coercive Political Solicitation.*** Public servants may not directly or indirectly threaten anyone or promise anything to anyone in order to obtain a political contribution. [(b)(11)(a)]

16. ***Political Activities by High-Level Officials.*** Deputy mayors, agency heads, deputy or assistant agency heads, chiefs of staff, directors, or members of boards or commissions may not ask anyone to contribute to the political campaign of anyone running for City office or to the political campaign of a City elected official running for any office. These appointed officials, and elected officials as well, may not hold certain political party positions. [(b)(12), (15)]

17. ***Post-Employment One-Year Ban.*** For one year after leaving City service, former public servants may not accept anything from anyone, including the City, for communicating with their former City agency. [(d)(2)]

18. ***Post-Employment One-Year Ban for High-Level Officials.*** Elected officials, deputy mayors, the chair of the City Planning Commission, and the heads of the Office of Management and Budget, Law Department, or Departments of Citywide Administrative Services, Finance, or Investigation, for one year after they leave City service, may not accept anything from anyone, including the City, for communicating with their former branch of City government. [(d)(3)]

19. ***Post-Employment Particular Matter Bar.*** After leaving City service, former public servants may never work on a particular matter they personally and substantially worked on for the City. [(d)(4)]

20. ***Improper Conduct.*** Public servants may not take any action or have any position or interest, as defined by the Conflicts of Interest Board, that conflicts with their City duties. [(b)(2)]

21. ***Inducement of Others.*** Public servants may not cause, try to cause, or help another public servant to do anything that would violate this Code of Ethics. [Rules § 1-13(d)]

22. ***Disclosure and Recusal.*** As soon as a public servant faces a possible conflict of interest under this Code of Ethics, he or she must disclose the conflict to the Conflicts of Interest Board and comply with the Board's instructions, which may include recusal, divestiture, or other actions.

23. ***Volunteer Activities.*** Public servants may be officers or directors of a not-for-profit with business dealings with the City if they do this work on their own time, they are not compensated for such work**,** the not-for-profit has no dealings with their City agency (unless the head of the agency has given approval), and the public servant is in no way involved in the not-for-profit's business with the City. [(c)(6)]

FOR ADDITIONAL INFORMATION, CONTACT
NEW YORK CITY CONFLICTS OF INTEREST BOARD
2 LAFAYETTE STREET, SUITE 1010
NEW YORK, NY 10007
212-442-1400 (TDD 212-442-1443)
http://nyc.gov/ethics

* This material is intended as a general guide. It is not intended to replace the text of the law (NYC Charter § 2604). For more particular information or to obtain answers to specific questions, you may write or call the Board. Also, bear in mind that individual agencies may have additional restrictions on the acceptance of gifts, moonlighting, and other issues. Contact your agency counsel for more information.

RULES OF THE BOARD
Conflicts of Interest

RULES OF THE CITY OF NEW YORK
TITLE 53

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subdivision (a) of this section.

§1-03 Definition of Lesser Political Office than that of Assembly District Leader which may be Held by Members of the City Council.

For purposes of Charter §2604(b)(15), the definition of a political office which is a "lesser political office" than that of assembly district leader includes:

(a) membership on a county committee;

(b) membership on a county executive committee;

(c) membership on a state committee; and

(d) membership on a national committee.

§1-04 Definition of a Firm Whose Shares are Publicly Traded.

For purposes of Charter §2604(a)(1)(b), "a firm whose shares are publicly traded" means a firm which offers or sells its shares to the public and is listed and registered with the Securities and Exchange Commission for public trading on national securities exchanges or over-the-counter markets.

§1-05 Definition of Blind Trust.

(a) For purposes of Charter §2601(6), the term "blind trust" means a trust in which a public servant, or the public servant's spouse, domestic partner, as defined in New York City Administrative Code §1-112(21), or unemancipated child, has a beneficial interest, the holdings and sources of income of which the public servant, the public servant's spouse, domestic partner, as defined in New York City Administrative Code §1-112(21), and unemancipated child have no knowledge, and which meets the following requirements:

(1) The trust is under the management and control of a trustee who is a bank or trust company authorized to exercise fiduciary powers, a licensed attorney, a certified public accountant, a broker or an investment advisor who is:

(i) independent of any interested party;

(ii) is not or has not been an employee of any interested party or any firm in which any interested party has a substantial investment, and is not a partner of, or involved in any joint venture or other investment with any interested party; and

(iii) is not a relative of any party.

(2) The trust instrument provides that:

(i) the trustee in the exercise of his or her authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

(ii) the trust tax return shall be prepared by the trustee or his or her designee and such return and any information relating thereto (except as such information may be needed by an interested party in order to complete a personal tax return) shall not be disclosed to any interested party;

(iii) no interested party shall receive any report on the holdings and sources of income of the trust, except periodic reports with respect to the total cash value of the trust or the net income or loss of the trust;

(iv) there shall be no communications, direct or indirect, between the trustee and an interested party with respect to the trust unless such communication is in writing. Except as provided elsewhere in this subdivision, such written communications shall be limited to the general financial interest and needs of the interested party, including requests for distribution of cash or other unspecified assets of the trust;

(v) the interested parties shall make no effort to obtain, and shall take appropriate action to avoid, receiving information with respect to the holdings and the sources of income of the trust including obtaining a copy of any trust tax return filed or any information relating thereto except as such information may be needed by an interested party in order to complete a personal tax return.

(3) For purposes of this subdivision, the term "interested party" means a public servant, or the public servant's spouse, domestic partner, as defined in New York City Administrative Code §1-112(21), or unemancipated child.

(b) *Existing trusts.*

(1) Any trust existing as of the effective date of these regulations shall be deemed a blind trust for purposes of these regulations if the trust instrument is amended to comply with the requirements of paragraph 2 of subdivision (a) of this section and the trustee of the trust meets the requirements of paragraph 1 of subdivision (a) of such section, or, in the case of a trust instrument which does not by its terms permit amendment, if the trustee and the trust beneficiary (or, if the trust beneficiary is a dependent child, any other interested party) agree in writing that the trust shall be administered in accordance with the requirements of paragraph 2 of subdivision (a) of this section and the trustee of the trust meets the requirement of paragraph 1 of subdivision (a) of this section.

(c) *Establishment and dissolution of blind trust.*

(1) The preparer of a blind trust instrument, or agreement entered into pursuant to subdivision (a) of this section shall, within thirty days of the establishment of such trust or agreement, file an affidavit with the Conflicts of Interest Board stating that the blind trust instrument or trust as agreed to be administered pursuant to agreement, as the case may be, conforms to the requirements set forth in paragraph 2 of subdivision (a) of this section and that the trustee meets the requirements of paragraph 1 of subdivision (a) of such section.

(2) Within thirty days of the dissolution of blind trust, the beneficiary of such trust or other interested party shall file an affidavit with the Conflicts of Interest Board stating that such blind trust has been dissolved and identifying the date of such dissolution.

§1-06 Definition of Primary Employment with the City.

(a) For purposes of Charter §2601(20), "primary employment with the City" means the employment of those public servants who receive compensation from the City and are employed on a full-time basis or the equivalent or who are regularly scheduled to work the equivalent of 20 or more hours per week.

(b) "Primary employment with the City" shall not mean employment of:

(i) members of the City Planning Commission, except for the Chair;

(ii) interns employed in connection with a program at an educational institution or full-time students;

(iii) persons employed for a period not to exceed six consecutive months; or

(iv) persons employed on special projects, investigations or programs, in excess of six months but of limited duration, as the Board shall determine.

(c) For purposes of Charter §2601(20), the term "compensation" shall not mean reimbursement for expenses or per diem payments to members of commissions and boards.

§1-07 Definition of Agency Served by a Former Public Servant.

For the purposes of Charter §2604(d)(2), when a former public servant has served more than one agency within one year prior to the termination of such person's service with the City, the former public servant shall not appear before each such City agency for a period of one year after the termination of service from each such agency.

§1-08 Procedures for Obtaining an Extension of Time Within Which to File a Financial Disclosure Report.

CITY OF NEW YORK
CONFLICTS OF INTEREST BOARD
2 Lafayette Street, Suite 1010
New York, New York 10007
(212) 442-1400
Fax: (212) 442-1455 TDD: (212) 442-1443

Ownership Interests

Charter Sections: 8(c), 373, 2601(5), 2601(8), 2601(12), 2601(16), 2603(c)(3), 2604(a)(1)(a), 2604(a)(3), 2604(a)(4), 2604(a)(5)(a), 2604(b)(2), 2604(b)(3), 2604(b)(4), 2606(d)

Opinions Cited: 92-6, 92-9, 94-10, 94-13, 94-18, 94-25, 94-26

Advisory Opinion No. 2002-1

Mayor Michael R. Bloomberg has requested an opinion from the Conflicts of Interest Board (the "Board") concerning the application of the conflicts of interest provisions of Chapter 68 of the City Charter to his outside financial interests.[1]

Background

Mr. Bloomberg had a career in the financial services industry before his election, in November of 2001, as Mayor of the City of New York. As he has disclosed to the Board, and as set forth in some detail in the disclosure reports that he has filed with the Board pursuant to

[1] Charter Section 2603(c)(3) provides that the Board's advisory opinions will be made public "with such deletions as may be necessary to prevent disclosure of the identity of any public servant." Mayor Bloomberg has, however, agreed that the Board may forego such deletions, which would otherwise have been so substantial as to deprive this opinion of virtually all instructive value.

Administrative Code Section 12-110, his financial interests include, in summary form, the following:

1) **Bloomberg L.P.**: Mr. Bloomberg is a founder and majority owner of Bloomberg L.P., a firm whose primary business is the leasing of terminals that provide "real time financial information, news, analytics, and related services" to banks, investment banking firms, and other institutions. Directly and through various subsidiaries, Bloomberg L.P. also operates a wire service, Bloomberg News; a news radio station, Bloomberg Radio; and a cable and satellite television network, Bloomberg Television. Mr. Bloomberg owns 84.55% of Bloomberg Inc., which in turn is an 80% owner of Bloomberg L.P., its only asset. The remaining 15.45% of Bloomberg Inc. is owned by several employees of Bloomberg L.P. The remaining 20% of Bloomberg L.P. is owned by Merrill Lynch & Co., Inc. ("Merrill"). Prior to taking office on January 1, 2002, Mr. Bloomberg resigned from all positions at the various Bloomberg entities, including all memberships on governing boards.

2) **Publicly traded stocks**: According to his financial disclosure statement, Mr. Bloomberg owns the publicly traded shares of a considerable number of companies. For example, as of December 31, 2001, through managed accounts he owned shares with a market value of over $500,000 in each of eighty-five publicly traded stocks and had holdings valued at between $250,000 and $500,000 in each of ten other stocks. He also holds a significant interest in a hedge fund.

3) **Government bonds**: Mr. Bloomberg also owns a large portfolio of government bonds, mostly tax-exempt bonds of New York State and New York City. For example, as of December 31, 2001, he owned bonds, with each holding worth over $500,000, issued by

the following: the City University of New York, the Metropolitan Transportation Authority, the New York City Municipal Water Finance Authority, the Municipal Assistance Corporation, the New York State Dormitory Authority, and the New York City Transitional Finance Authority, as well as general obligation bonds of both the State and the City.

Discussion

Following Mr. Bloomberg's initial request for advice from the Board, made even prior to his taking office, the Board and its staff held extensive consultations with Mr. Bloomberg's representatives, and the Chapter 68 issues raised thereby were analyzed and discussed at several Board meetings (Mr. Romano not participating). In the course of the discussions between the Board and Mr. Bloomberg's representatives, he made further representations and agreements regarding his financial interests, as reflected in the determinations of the Board set forth below.

Relevant Charter Sections

Charter Section 2604(a)(1)(a) provides that no public servant shall have an interest in a firm which is engaged in business dealings with the agency served by that public servant. Charter Section 2604(a)(5)(a) provides that, for the purposes of Charter Section 2604(a), the "agency served" by an elected official, other than a member of the City Council, shall be the executive branch of City government. Charter Section 2601(8) defines "business dealings" to mean any transaction involving the "sale, purchase, rental, disposition or exchange of any goods, services, or property, any license, permit, grant or benefit." As defined in Charter Section 2601(12), "interest" includes an ownership interest in a firm. Charter Section 2601(16) defines

an "ownership interest" as, inter alia, "an interest in a firm held by a public servant, or the public servant's spouse, domestic partner, or unemancipated child, which exceeds five percent of the firm or an investment of [thirty-two] thousand dollars in cash or other form of commitment, whichever is less. . . .but shall not include interests held in any... mutual fund, the investments of which are not controlled by the public servant" or by members of his or her immediate family. See also Board Rules Section 1-11.

Charter Section 2604(a)(3) provides that a public servant who holds an ownership interest prohibited by Charter Section 2604(a)(1)(a) must either divest the ownership interest or disclose such ownership interest to the Board and comply with its order. Charter Section 2604(a)(4) provides that, after such disclosure, the Board may issue an order setting forth its determination as to whether such interest, if maintained, would conflict with the proper discharge of the public servant's official duties. In making such a determination, the Board takes into account the nature of the public servant's official duties, the manner in which the interest may be affected by any action of the City, the appearance of conflict to the public, and the financial burden of any decision on the public servant.

Charter Section 2604(b)(2) prohibits a public servant from engaging in any private transaction, or having any private interest, which conflicts with the proper discharge of his or her official duties. As provided for in Charter Section 2606(d), the Board has identified by rule the use of City resources for non-City purposes and the performance of private activities during time when one is required to perform service for the City as conduct by a public servant that will violate Section 2604(b)(2). See Board Rules Sections 1-13(a) and (b).

Charter Section 2604(b)(3) prohibits a public servant from using or attempting to use his or her City position for the private advantage of the public servant or of anyone associated with

the public servant. The Charter defines those "associated" with a public servant to include 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." See Charter Section 2601(5).

Charter Section 2604(b)(4) forbids a public servant from disclosing confidential City information or using such information for his or her private interest.

The Board's Determinations

1) Bloomberg L.P.:

a. *Gift of terminals*: Prior to Mr. Bloomberg taking office on January 1, 2002, neither Bloomberg L.P. nor any of its subsidiaries or affiliates had business dealings with any agency of the City, with the exception of the rental of approximately seven Bloomberg terminals to the Office of the Comptroller and the New York City Housing Authority. Prior to January 1, 2002, Bloomberg L.P. made a gift of those terminals to those two agencies – and at the Board's request waived any rental on those terminals for as long as Mr. Bloomberg is Mayor. After Mr. Bloomberg took office, Bloomberg L.P. similarly donated an additional number of these terminals to the Office of the Mayor. At the Board's request, Bloomberg L.P. has pledged that it will not use the fact of any of these donations in its promotions or sales activities. Except in an unusual case, such as the gift of an untested product, a gift to the City will not constitute a "benefit" from the City to the donor within the meaning of Charter Section 2601(8). Here, the gift by Bloomberg L.P. of several Bloomberg terminals, with the accompanying pledge

not to use the fact of this donation in Bloomberg L.P.'s promotion or sales efforts, does not constitute "business dealings" by Bloomberg L.P. with the City. Accordingly, Mr. Bloomberg's ownership interest in Bloomberg L.P. does not violate Charter Section 2604(a).

b. *Bloomberg Television*: Bloomberg Television, a division of Bloomberg L.P., produces programming that is distributed by various outlets, including cable and satellite television systems, but does not itself operate any such system. In New York City, Bloomberg Television is carried on one or more cable systems. While Bloomberg Television is not regulated by the City, the cable systems that operate in the City obtain their franchises through the City's Franchise and Concession Review Committee ("FCRC"). As set forth in Charter Section 373, the members of the FCRC are the Mayor, the Director of the Office of Management and Budget, the Corporation Counsel, the Comptroller, an additional appointee of the Mayor, and the borough president of the borough where the franchise or concession is located. Approvals of franchise agreements require five affirmative votes. Because Bloomberg Television is carried on systems franchised by the FCRC, because of the importance of the City's award of franchises to these cable carriers, and because of the possibility that offering Bloomberg Television programs may affect a particular system's franchise, Mr. Bloomberg has agreed, at the Board's request, to recuse himself from *all* City cable matters, including all cable matters coming before the FCRC. The Board is satisfied that such recusal is sufficient to remove any appearance of a conflict of interest and, for that reason,

concludes that Mr. Bloomberg's interest in Bloomberg Television, and his conduct with respect to that interest, will not violate Chapter 68.

c. *Bloomberg L.P. customers*: Mr. Bloomberg advises the Board that the customers for Bloomberg L.P.'s financial information terminals include virtually every major bank and investment banking firm; that these customers each generally pay the same fee, regardless of usage, to lease the service; and that no one customer accounts for a material portion of Bloomberg L.P.'s revenues. Indeed, he has represented that the largest customer accounts for less than 4% of Bloomberg L.P.'s total revenues, and several others each account for between 1% and 3% of total revenues. Mr. Bloomberg has provided the Board with an alphabetical listing of Bloomberg L.P.'s one hundred largest customers, a copy of which is attached to this opinion as Appendix A. Some of the firms on this list have business dealings with the City and/or are eligible for various City benefits. Whether the customers of a public servant's outside business are "associated" with the public servant within the meaning of Charter Section 2601(5) will turn on the facts and circumstances of the particular case. If the customers were determined to be "associated," the Board would then consider how the public servant might avoid using his or her City position to benefit those "associates." Without deciding whether Bloomberg L.P.'s customers are "associated" with Mr. Bloomberg, the Board determines that, under the circumstances presented here — including the fact that these customers are spread throughout the financial services industry, that none accounts for more than 4% of the revenue of Bloomberg L.P., and that Mr. Bloomberg has publicly revealed the identities of

Bloomberg L.P.'s 100 largest customers — both the risk and the appearance are minimal that Mr. Bloomberg could use his position to benefit any of those customers. Accordingly, Chapter 68 does not require Mr. Bloomberg to recuse himself from City matters involving the customers of Bloomberg L.P. However, if any customer should in the future come to constitute 10% or more of Bloomberg L.P.'s total sales, we would expect Mr. Bloomberg to seek further advice from the Board.

d. *Merrill*: Beyond being one of Bloomberg L.P.'s customers, Merrill owns a 20% ownership interest in the Bloomberg firm and, through its subsidiaries, conducts business dealings with the City. In particular, a Merrill subsidiary frequently serves as an underwriter for the issuance of City bonds. Another Merrill subsidiary provides asset management services to City pension systems. In addition, because Merrill has offices and a large number of employees in the City, it, like other City employers, may potentially be considered for City job retention benefits, such as those offered through the City's Economic Development Corporation ("EDC"). As a major downtown employer, it may also be eligible for various grants and other benefits administered by the Lower Manhattan Development Corporation ("LMDC").

Merrill certainly has a financial relationship with both Bloomberg L.P. and Bloomberg, Inc., its fellow partner in Bloomberg L.P. Indeed, since Mr. Bloomberg owns almost 85% of the privately held Bloomberg Inc., which is Merrill's partner in the ownership of Bloomberg L.P., Mr. Bloomberg is clearly "associated" with Merrill within the meaning of Charter Section 2601(5). Charter

Section 2604(b)(3) therefore prohibits his using his City position to benefit Merrill. Mr. Bloomberg accordingly proposed to recuse himself from all of Merrill's actual or prospective business dealings with the City, including the procurement process in cases where Merrill is seeking City business (*e.g.*, bond underwriting), and decisions concerning grants or benefits for which Merrill has applied (*e.g.*, EDC job retention benefits or LMDC grants). Based upon this broad recusal, the Board concludes that Mr. Bloomberg's relationship with Merrill does not violate Chapter 68.

e. *Mr. Bloomberg's continued involvement in Bloomberg L.P.:* As noted above, prior to taking office, Mr. Bloomberg resigned all management and board positions that he then held at the various Bloomberg entities. He is therefore no longer an employee, officer, or director of any of these entities. He advises that he will have no involvement in the day-to-day operations of Bloomberg L.P., but wishes to maintain the type of involvement that he believes is consistent with his being the majority shareholder of Bloomberg Inc. In particular, Mr. Bloomberg proposes to remain involved in those business matters that might significantly affect the value of his ownership interest, examples of which include 1) the sale of Bloomberg L.P. or a significant interest in Bloomberg L.P., 2) the sale or purchase of a significant asset, 3) a major financial commitment, such as a major borrowing, and 4) a major change in Bloomberg L.P.'s employee compensation policy or structure.

The Board noted in Advisory Opinion No. 94-18 that owning a business that did not engage in business dealings with the City did not "raise an issue under

Chapter 68." However, the Board construes Opinion No. 94-18 as holding only that such ownership does not raise an issue under Charter Section 2604(a), the provision governing prohibited interests. Whether an owner's active participation in the affairs of such a business raises issues under Charter Section 2604(b)(2), the provision governing a public servant's conduct "which conflicts with the proper discharge of his or her official duties," or under Charter Section 2604(b)(3), which prohibits use of a public servant's City position for his or her private advantage, are separate questions. The answers to those questions will turn on whether and how the outside business intersects with the public servant's official duties.

As the Board has observed before, "there has been a tradition of distinguished executives in the private sector who have devoted their time and talent to public service. This tradition has been of great value to the City, particularly in difficult fiscal times. We believe that the public is well served by encouraging this tradition, where... significant safeguards have been created to insure that both the fact and the appearance of impropriety have been avoided." Advisory Opinion No. 92-6, pp. 8-9. See also Advisory Opinion No. 92-9, pp. 9-10. Neither Opinion No. 92-6 nor Opinion No. 92-9 involved public servants who continued to be involved in management decisions at their former firms, in which they retained ownership interests (and, in the case of Opinion No. 92-9, a consulting position). However, both opinions stressed the necessity of recusal as a means of "insuring that both the fact and appearance of impropriety have been avoided." Indeed, in those opinions the Board based its determinations that the

public servants' holdings would not conflict with the proper discharge of their duties under Charter Section 2604(a)(4), on each official's undertaking not only to recuse himself from his former employer's business dealings with the City, but also to have no communication with his former employer regarding any City matters.

Consistent with these prior Advisory Opinions, Mr. Bloomberg agreed to recuse himself from all cable matters and all matters involving Merrill. However, the same considerations apply to deliberations or negotiations in which Mr. Bloomberg may be involved regarding significant actual or potential financial commitments by his firm (e.g., major sales, purchases, or borrowings), if the parties with which the Bloomberg firm will be negotiating have actual or prospective "business dealings with the City" (as that term is defined in Charter Section 2601(8)). Mr. Bloomberg's participation in such matters could create an appearance that the terms of such transactions might affect, or be affected by, the counterparty's actual or prospective dealings with the City. For that reason, the Board cannot conclude that Mr. Bloomberg's participation in all such major decisions as majority owner of Bloomberg L.P. would raise no issues under Charter Sections 2604(b)(2) or (b)(3). Rather, Mr. Bloomberg is advised to be sensitive to the need, before becoming involved in any such "major matter" for Bloomberg, L.P., to (a) ascertain whether any entity engaged in, or negotiating to be engaged in, the "major matter" affecting Bloomberg L.P. is involved in any actual or prospective "business dealings with the City" (as defined in Charter

Section 2601(8)), and, (b) if it is, to seek the Board's advice on a case-by-case basis.[2]

f. *Other Bloomberg L.P. matters*: While the Board has no reason to doubt that the foregoing sections cover all the foreseeable instances in which Mr. Bloomberg's continued ownership interest in Bloomberg L.P. could raise questions under Chapter 68, because we necessarily lack a full understanding of the details of Bloomberg L.P.'s business, the Mayor is advised to be sensitive to the need to seek the Board's guidance if and when any other matter involving any of the Bloomberg entities comes before any agency of the City government.

2) **Publicly traded stock**: As noted above, Mr. Bloomberg owns a large number of publicly traded stocks and an interest in a hedge fund. His portfolio is large, highly diversified, and professionally managed; he reports that he has little if any involvement in the selection of the shares that he owns. However, because Mr. Bloomberg owns his stock directly and not, for example, through a mutual fund, because many of the firms in his portfolio have business dealings with the City's executive branch, and because of the size of his holdings, many of Mr. Bloomberg's stock ownership interests violate Charter Section 2604(a)(1)(a). Although the Board has previously approved blind trusts as an appropriate means of addressing such prohibited ownership interests (*see* Board Rules Section 1-05 and Advisory Opinion Nos. 94-18, 94-25, and 94-26), Mr. Bloomberg proposed to dispose of all these holdings, selling some and donating some to charities, and agreed to invest the proceeds of the sales in large, highly diversified mutual funds

[2] An exception can be made for decisions concerning Bloomberg L.P.'s "employee compensation structure and policy," because by definition they do not involve third parties that may do business with New York City. The representation has been made that Mr. Bloomberg will play no role in setting individual salaries or deferred payments, or in determining the size of the deferred payment pool.

and in exchange traded funds representing market indices, managed by money managers with whom he has had no relationships. Based on the size of his individual holdings, the Board determines, pursuant to Charter Section 2604(a)(4), that Mr. Bloomberg should dispose of all his publicly traded shares and the hedge fund within 90 days of the date of this advisory opinion and also advises that his holding of such mutual funds and exchange traded funds will not violate Chapter 68. See Charter Section 2601(16).

3) **Government bonds**: As also noted above, Mr. Bloomberg has substantial holdings in New York City bonds and in New York State bonds, including bonds issued by such State entities as the Metropolitan Transportation Authority, to whose governing board he nominates four members, and others, such as the Dormitory Authority, which finance substantial development projects in the City. Advisory Opinion No. 94-10 found no violation of Chapter 68 in a high-level public servant holding government bonds. Advisory Opinion No. 94-13, which involved an agency head but not the Mayor, in fact explicitly determined that "a public servant's holding of municipal bonds is not prohibited by Chapter 68." Opinion No. 94-13, p.5. However, the Mayor's authority under the Charter includes that of a "finance board under the local finance law...[so] that whenever the mayor determines that obligations should be issued and the amount thereof, he shall certify such determination to the comptroller who shall thereupon determine the nature and term of such obligations and shall arrange for the issuance thereof" (Charter Section 8(c)). In addition, Mr. Bloomberg holds bonds issued by State authorities to whose governing boards the Mayor makes appointments. Thus, while the Mayor's mere ownership of municipal and State bonds may not be a violation of the Charter Section 2604(a) (involving prohibited interests), it does raise questions under Charter Section

2604(b)(2), the prohibition against conduct or interests which conflict with the proper discharge of official duties, and Section 2604(b)(3), which prohibits us or attempted use of a City position "to obtain financial gain . . . direct or indirect, for the public servant."

The proper discharge of the Mayor's duties under Charter Section 8(c) requires that he have detailed knowledge about the City's finances, giving rise to the appearance that the Mayor could be using that knowledge in making decisions about whether to sell his extensive holdings of municipal bonds. Similarly, to the extent that the Mayor is involved in decisions to call City bond issues while at the same time holding such callable City bonds, there may be the appearance that his City decisions are influenced by his personal holdings. On the other hand, the Board has no wish to discourage anyone, especially the City's chief executive officer, from investing in City bonds. Indeed, the Mayor surely has an important role to play in encouraging such investment and, to the extent he or she has the means, ought to be able to lead by example. Likewise, the Board understands that it is critical for the Mayor to be involved in budget strategy and efforts to reduce City debt—including the possible strategy of calling bonds generally.

Mr. Bloomberg's agreement with the Board well balances these competing concerns. Mr. Bloomberg has agreed that, during his mayoralty, he will not sell City or State bonds, except in unforeseen circumstances, and then only on approval by the Board. He has further agreed that, to the extent that he holds government bonds that may be called by the issuer, he will not participate in decisions on which particular issues of such bonds may be called. The Board has concluded that Mr. Bloomberg may, however, continue to purchase City and State bonds. In these circumstances, Mr. Bloomberg's

interest in government bonds, and his conduct with respect to that interest, will not violate Chapter 68.

Summary

To summarize the Board's conclusions:

1) Mr. Bloomberg's ownership in Bloomberg L.P. will not violate Chapter 68, provided that, as he has agreed, (a) the gift of Bloomberg L.P. terminals to the City under the terms described above remains in effect, (b) Mr. Bloomberg recuses himself from all City cable television matters, including all cable matters coming before the FCRC; (c) he recuses himself from all City matters involving Merrill; and (d) he seeks the Board's advice if, in the future, any Bloomberg entity has any matter before any City agency.

2) Mr. Bloomberg is advised that his actions as Mayor with respect to customers of Bloomberg L.P. will not violate Chapter 68, provided that, as he has done here, he discloses the one hundred leading customers of Bloomberg L.P. and that he seeks the Board's guidance if, in the future, any one customer comprises 10% or more of Bloomberg L.P.'s sales.

3) Mr. Bloomberg is further advised to be sensitive to the need to ascertain the extent of any City business dealings involving entities engaged in, or negotiating to become engaged in, Bloomberg L.P. matters that may significantly affect the value of his ownership interest (e.g., major purchases, sales, or borrowings) and to consult the Board for further guidance before becoming involved in such Bloomberg L.P. matters.

4) If Mr. Bloomberg disposes of all his current holdings in publicly traded stock and the hedge fund, as he has agreed, and, for the remainder of his service as Mayor, invests only in large, professionally-managed mutual funds and exchange traded funds, he will not violate Chapter 68.

5) Finally, if Mr. Bloomberg maintains his holdings of government bonds – that is, if he buys but does not sell New York City and New York State bonds – during his service as Mayor, and if he also does not participate in decisions to call any particular issue of City bonds, he will not violate Chapter 68.

Steven B. Rosenfeld
Chair

Bruce A. Green

Jane W. Parver

Benito Romano did not participate in the consideration or decision of this matter.

Dated: August 29, 2002

2001-570.ao/wh

COIB Advisory Opinion No. 2002-1: Appendix A

Bloomberg L.P. Top 100 Customers (As Of May 31, 2002)

Customer Name

ABN-Amro
AIM Advisors Inc
Alliance Capital Management
American Express
American International Group
AXA Sun Life
Banco Bilbao Vizcaya
Banco Santander (BSCH)
Bank Julius Baer & Co. Ltd.
Bank Of America
Bank of Montreal
Bank of Tokyo-Mitsubishi
Bankone
Barclays De Zoete Wedd Services Ltd.
Bayerische Hypo Vereinsbank AG
Bayerische Landesbank Girozentrale
Bear Stearns & Company
Caboto Securities Ltd.
Cantor Fitzgerald & Co.
Cazenove & Co.
CDC Marches
Charles Schwab
CIBC World Markets PLC
Citadel Investment Group
Citigroup
Commerzbank
Commonwealth Bank of Australia
Credit Agricole
Credit Lyonnais
Credito Italiano
CS First Boston
Daiwa Securities
Den Danske Bank
Deutsche Bank
Dexia Bank N.V.
DG Bank
Dresdner Bank
Edwards (A.G.) & Sons Inc.
Fidelity Management & Research Co.
First Tennessee Bank
First Union National Bank
FleetBoston
Franklin Resources
Goldman Sachs & Co.
HSBC Bank Plc
IMI Bank
ING Bank
Jeffries & Company
JP Morgan Chase & Co.
Knight Securities L.P.

Top 100 (cont.)

Customer Name

Kokusai Europe
Kreditbank (KBC)
Landesbank Baden-Wuerttember
Lazard Freres
Legg Mason Inc.
Lehman Brothers Inc.
Loomis Sayles & Company LP
MeesPierson/Fortis Advisors inc.
Mellon Bank
Merita Bank
Merrill Lynch
Mizuho Holdings
Monte Dei Paschi Di Siena
Morgan Stanley
NatWest
NBC Financial
Nikko Securities Co.
Nomura
Nordeutsche Landesbank
Northern Trust Securities Inc.
Paribas Corp.
Pictet & CIE
PNC Bank N.A.
Prudential
Prudential PLC
Putnam Investment Management
Rabobank Nederland
Raymond James & Associates
Royal Bank of Canada (RBC)
Schroder Investment Management
Scotia Capital Markets
Scudder Kemper Investments
SG Securities
Skandinaviska Enskilda Banken
State Street Bank & Trust Co.
STI Trust and Inv. Operations
Sumitomo Bank Ltd.
Swiss Reinvestors Limited
The Bank of New York
The Norinchukin Bank
Titus & Donnelly
Toronto Dominion Bank
Toyo Trust & Banking Co.
Tradition (U.K.) Ltd.
Tullett & Tokyo Liberty
U.S. Bancorp Piper Jaffray Inc.
UBS Warburg
Wells Fargo Bank
Westdeutsche LB Girozentrale
Zurcher Kantonalbank

NEW YORK CITY CONFLICTS OF INTEREST
SELECTED ENFORCEMENT DISPOSITIONS
OCTOBER-DECEMBER 2016

Misuse of City Resources. A New York City Department of Environmental Protection ("DEP") Engineering Technician misused multiple DEP-issued gasoline cards to purchase, over the course of a year, $3,167.21 of gasoline for his personal use. This violation of both the Conflicts of Interest law and DEP policy was handled in a "three-way" disposition between the Technician, the Board, and DEP, with the following penalties: (1) his resignation from DEP; (2) his acceptance of DEP's prior imposition of a 30-day unpaid suspension valued at approximately $2,969; and (3) payment of $3,167.21 in restitution to DEP. (In re Mingo-Bellony, COIB Case No. 2016-416 (10/19/16))

Misuse of City Resources. A Recreational Specialist for the Department of Parks and Recreation ("DPR") misused City resources by removing a PlayStation 4 game console from DPR's Red Hook Recreation Area and keeping it at his home for approximately six weeks while he was on a leave of absence. This was a violation of the Conflict of Interest Law's prohibition on the misuse of City resources for non-City purposes, as well as DPR personnel rules. The case was handled in a "three way" disposition between the Recreational Specialist, the Board and DPR, with the resulting DPR-imposed forfeiture of 10 days of annual leave, valued at approximately $1,578. The Board imposed no additional penalty. (In re Deberry, COIB Case No. 2016-222 (10/19/16))

Misuse of City Resources. On several occasions, a Lieutenant with the New York City Police Department ("NYPD") misused his official vehicle for personal, non-City travel and also, on two occasions, to transport an unauthorized passenger. The Board fined the Lieutenant $800. In determining the amount of the fine, the Board took into consideration that the Lieutenant had been involuntarily transferred by NYPD for this misconduct. (In re Murtha, COIB Case No. 2015-656 (10/19/16))

Misuse of City Position; Acceptance of Gift. A New York City School Construction Authority ("SCA") Technical Inspector misused his position when he asked an employee of an SCA contractor to lend him sidewalk scaffolding material to use on a project at his home. The Technical Inspector took home the contractor's material, an illegal gift. He did, however, return it after learning of SCA's investigation of his conduct. A "three-way" disposition between the Technical Inspector, the Board and SCA yielded the following penalties: (1) a $1,500 fine to be paid to the Board; and (2) a six-month extension of his probationary period by SCA. In determining the amount of the fine, the Board considered the power the Technical Inspector wielded over the contractor's work and the grave appearance of impropriety created by soliciting such an entity for personal benefits. (In re Flynn, COIB Case No. 2016-473 (10/19/16)

Misuse of City Position; Misuse of City Resources. A Teacher for the New York City Department of Education ("DOE") used a number of her students to help her package a cake that she sold to a colleague for $100. In a separate incident, she used a student to help her cook and clean up after preparing a private dinner for her church that she and the student prepared in the school's kitchen. The Teacher paid the student $10. By using students to assist her with her personal and business activities, the Teacher used her City position to obtain a personal benefit. By using the school classroom and kitchen to prepare a cake for sale and prepare a meal for a private

event, she misused those City resources for a non-City purpose. She was fined $150 for this misconduct. (In re Watson, COIB Case No. 2016-334 (10/19/16))

Misuse of City Resources. In a three-way settlement with the Board and the New York City Department of Environmental Protection ("DEP"), a DEP Air Pollution Inspector agreed to resign his DEP employment for having misused a DEP vehicle on approximately 50 occasions, over a span of two months, to travel to various destinations, including fast food restaurants, grocery stores, shopping malls, and a doctor's office, all for personal purposes and without authorization. The Board, taking into account the Air Pollution Inspector's resignation from DEP and, after a review of prior cases involving similar misuse of City vehicles, imposed no additional penalty. (In re Romano, COIB Case No. 2016-675 (12/12/16))

Misuse of City Resources. In a three-way settlement with the Board and the New York City Department of Sanitation ("DSNY"), a Sanitation Worker agreed to serve a five-workday suspension, valued at approximately $1,193, for misusing his assigned DSNY sanitation truck by departing from his assigned collection route to bring his partner to his son's baseball game, then to drive to a motel so he could meet someone for approximately one hour. His partner, also a Sanitation Worker, agreed to a three-workday suspension, valued at approximately $861, for using the DSNY sanitation truck to drive to his son's baseball game. In both cases, the Board accepted these agency-imposed penalties as sufficient for the Chapter 68 violations committed. (In re Puglia, COIB Case No. 2016-704 (12/12/16); In re Torres, COIB Case No. 2016-704a (12/12/16))

Misuse of City Resources. In a three-way settlement with the Board and the New York City Housing Authority ("NYCHA"), a Lead Abatement Worker agreed to serve a ten-workday suspension, valued at approximately $1,996 for multiple misuses of his assigned NYCHA van: driving it 46 miles to transport materials from Home Depot to a private residence; twice using it to transport his wife and a friend to locations unrelated to his City work; and twice driving it home without authorization to do so. In addition to the suspension, the Lead Abatement Worker consented to one-year General Probationary Evaluation Period, during which he may be terminated without a hearing on the basis of incompetency, misconduct, or unsatisfactory service. This settlement resolves both the Lead Abatement Worker's violations of the City's conflicts of interest law as well as other violations of the NYCHA Human Resources Manual, the Board having determined that the agency-imposed suspension and Probationary Period are sufficient penalty for the violations of Chapter 68 committed. (In re Sampath, COIB Case No. 2016-193 (12/12/16))

Misuse of City Resources. In a three-way settlement with the Board and the New York City Department of Sanitation ("DSNY"), a Sanitation Worker agreed to serve a five-workday suspension, valued at approximately $1,486, for misusing his assigned DSNY parking placard by copying, laminating, and then giving the fraudulent copy to a non-DSNY employee. The Board accepted the agency-imposed suspension as sufficient penalty for the Chapter 68 violation committed. (Cumberbatch, COIB Case No. 2016-684 (12/13/16))

Misuse of City Resources. In a three-way settlement with the Board and DSNY, a Sanitation Worker agreed to serve a three-workday suspension, valued at approximately $871, for misusing his assigned DSNY parking placard while off-duty by placing it in the windshield of his personal vehicle to avoid receiving a parking ticket while he was inside a bar. The Board accepted the agency-imposed suspension as sufficient penalty for the Chapter 68 violation committed. (In re Papp, COIB Case No. 2016-700 (12/13/16)

Public Officers Law §73

Business or professional activities by state officers and employees and party officers.

1. As used in this section:

(a) The term **"compensation"** shall mean any money, thing of value or financial benefit conferred in return for services rendered or to be rendered. With regard to matters undertaken by a firm, corporation or association, compensation shall mean net revenues, as defined in accordance with generally accepted accounting principles as defined by the joint commission on public ethics or legislative ethics commission in relation to persons subject to their respective jurisdictions.

(b) The term **"licensing"** shall mean any state agency activity, other than before the division of corporations and state records in the department of state, respecting the grant, denial, renewal, revocation, enforcement, suspension, annulment, withdrawal, recall, cancellation or amendment of a license, permit or other form of permission conferring the right or privilege to engage in (i) a profession, trade, or occupation or (ii) any business or activity regulated by a regulatory agency as defined herein, which in the absence of such license, permit or other form of permission would be prohibited.

(c) The term **"legislative employee"** shall mean any officer or employee of the legislature but it shall not include members of the legislature.

(d) The term **"ministerial matter"** shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.

(e) The term **"regulatory agency"** shall mean the department of financial services, state liquor authority, department of agriculture and markets, department of education, department of environmental conservation, department of health, division of housing and community renewal, department of state, other than the division of corporations and state records, department of public service, the industrial board of appeals in the department of labor and the department of law, other than when the attorney general or his agents or employees are performing duties specified in section sixty-three of the executive law.

(f) The term **"representative capacity"** shall mean the presentation of the interests of a client or other person pursuant to an agreement, express or implied, for compensation for services.

(g) The term **"state agency"** shall mean any state department, or division, board, commission, or bureau of any state department, any public benefit corporation, public authority or commission at least one of whose members is appointed by the governor, or the state university of New York or the city university of New York, including all their constituent units except community colleges of the state university of New York and the independent institutions operating statutory or contract colleges on behalf of the state.

(h) The term **"statewide elected official"** shall mean the governor, lieutenant governor, comptroller or attorney general.

(i) The term **"state officer or employee"** shall mean:
   (i) heads of state departments and their deputies and assistants other than members of the board of regents of the university of the state of New York who receive no compensation or are compensated on a per diem basis;
   (ii) officers and employees of statewide elected officials;
   (iii) officers and employees of state departments, boards, bureaus, divisions, commissions, councils or other state agencies other than officers of such boards, commissions or councils who receive no compensation or are compensated on a per diem basis; and
   (iv) members or directors of public authorities, other than multi-state authorities, public benefit corporations and commissions at least one of whose members is appointed by the governor, who receive compensation other than on a per diem basis, and employees of such authorities, corporations and commissions.

(j) The term **"city agency"** shall mean a city, county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation or other agency of government, the expenses of which are paid in whole or in part from the city treasury, and shall include the board of education, the board of higher education, school boards, city and community colleges, community boards, the New York city transit authority, the New York city housing authority and the Triborough bridge and tunnel authority, but shall not include any court or corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility.

(k) The term **"political party chairman"** shall mean:
   (i) the chairman of the state committee of a party elected as provided in section 2-112 of the election law and his or her successor in office;
   (ii) the chairman of a county committee elected as provided in section 2-112 of the election law and his or her successor in office from a county having a population of three hundred thousand or more or who receives compensation or expenses, or both, during the calendar year aggregating thirty thousand dollars or more; and
   (iii) that person (usually designated by the rules of a county committee as the "county leader" or "chairman of the executive committee") by whatever title designated, who pursuant to the

rules of a county committee or in actual practice, possesses or performs any or all of the following duties or roles, provided that such person was elected from a county having a population of three hundred thousand or more or was a person who received compensation or expenses, or both, from constituted committee or political committee funds, or both, during the reporting period aggregating thirty thousand dollars or more:

(A) the principal political, executive and administrative officer of the county committee;

(B) the power of general management over the affairs of the county committee;

(C) the power to exercise the powers of the chairman of the county committee as provided for in the rules of the county committee;

(D) the power to preside at all meetings of the county executive committee, if such a committee is created by the rules of the county committee or exists de facto, or any other committee or subcommittee of the county committee vested by such rules with or having de facto the power of general management over the affairs of the county committee at times when the county committee is not in actual session;

(E) the power to call a meeting of the county committee or of any committee or subcommittee vested with the rights, powers, duties or privileges of the county committee pursuant to the rules of the county committee, for the purpose of filling an office at a special election in accordance with section 6-114 of the election law, for the purpose of filling a vacancy in accordance with section 6-116 of such law; or

(F) the power to direct the treasurer of the party to expend funds of the county committee.

The terms “constituted committee" and "political committee", as used in this paragraph (k), shall have the same meanings as those contained in section 14-100 of the election law.

(l) A person has a **"financial interest"** in any entity if that person:

(i) owns or controls ten percent or more of the stock of such entity (or one percent in the case of a corporation whose stock is regularly traded on an established securities exchange); or

(ii) serves as an officer, director or partner of that entity.

(m) The **"relative"** of any individual shall mean any person living in the same household as the individual and any person who is a direct descendant of that individual's grandparents or the spouse of such descendant.

2. In addition to the prohibitions contained in subdivision seven of this section, no statewide elected official, state officer or employee, member of the legislature or legislative employee shall receive, or enter into any agreement express or implied for, compensation for services to be rendered in relation to any case, proceeding, application, or other matter before any state agency, or any executive order, or any legislation or resolution before the state legislature, whereby his or her compensation is to be dependent or contingent upon any action by such agency or legislature with respect to any license, contract, certificate, ruling, decision, executive order, opinion, rate schedule, franchise, legislation, resolution or other benefit; provided, however, that nothing in this subdivision

shall be deemed to prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

3. (a) No statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee shall receive, directly or indirectly, or enter into any agreement express or implied for, any compensation, in whatever form, for the appearance or rendition of services by himself, herself or another against the interest of the state in relation to any case, proceeding, application or other matter before, or the transaction of business by himself, herself or another with, the court of claims.

   (b) No state officer or employee who is required to file an annual statement of financial disclosure pursuant to the provisions of section seventy-three-a of this article, and is not otherwise subject to the provisions of this section, shall receive, directly or indirectly, or enter into any agreement express or implied, for any compensation, in whatever form, for the appearance or rendition of services by himself, herself or another against the interest of the state agency by which he or she is employed or affiliated in relation to any case, proceeding, application or other matter before, or the transaction of business by himself, herself or another with, the court of claims.

4. (a) No statewide elected official, state officer or employee, member of the legislature, legislative employee or political party chairman or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any state agency, or (ii) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised, directly or indirectly, by a state agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

   (b) No political party chairman of a county wholly included in a city with a population of more than one million, or firm or association of which such person is a member, or corporation, ten per centum or more of the stock of which is owned or controlled directly or indirectly by such person, shall (i) sell any goods or services having a value in excess of twenty-five dollars to any city agency, or (ii) contract for or provide such goods or services with or to any private entity where the power to contract, appoint or retain on behalf of such private entity is exercised directly or indirectly, by a city agency or officer thereof, unless such goods or services are provided pursuant to an award or contract let after public notice and competitive bidding. This paragraph shall not apply to the publication of resolutions, advertisements or other legal propositions or notices in newspapers designated pursuant to law for such purpose and for which the rates are fixed pursuant to law.

(c) For purposes of this subdivision, the term "services" shall not include employment as an employee.

5. No statewide elected official, state officer or employee, individual whose name has been submitted by the governor to the senate for confirmation to become a state officer or employee, member of the legislature or legislative employee shall, directly or indirectly:

(a) solicit, accept or receive any gift having more than a nominal value, whether in the form of money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or her, or could reasonably be expected to influence him or her, in the performance of his or her official duties or was intended as a reward for any official action on his or her part. No person shall, directly or indirectly, offer or make any such gift to a statewide elected official, or any state officer or employee, member of the legislature or legislative employee under such circumstances.

(b) solicit, accept or receive any gift, as defined in section one-c of the legislative law, from any person who is prohibited from delivering such gift pursuant to section one-m of the legislative law unless under the circumstances it is not reasonable to infer that the gift was intended to influence him or her; or

(c) permit the solicitation, acceptance, or receipt of any gift, as defined in section one-c of the legislative law, from any person who is prohibited from delivering such gift pursuant to section one-m of the legislative law to a third party including a charitable organization, on such official's designation or recommendation or on his or her behalf, under circumstances where it is reasonable to infer that the gift was intended to influence him or her.

5-a. (a) For the purpose of this subdivision only, the term **"honorarium"** shall mean any payment made in consideration for any speech given at a public or private conference, convention, meeting, social event, meal or like gathering.

(b) No statewide elected official or head of any civil department shall, directly or indirectly, solicit, accept or receive any honorarium while holding such elected office or appointed position.

(c) No member of the legislature or legislative employee shall, directly or indirectly, solicit, accept or receive any honorarium while holding such elected office or employment, other than honorarium paid in consideration for a speech given on a topic unrelated to the individual's current public employment or as earned income for personal services that are customarily provided in connection with the practice of a bona fide business, trade or profession, such as teaching, practicing law, medicine or banking, unless the sole or predominant activity thereof is making speeches.

6. (a) Every legislative employee not subject to the provisions of section seventy-three-a of this chapter shall, on and after December fifteenth and before the following January fifteenth, in each year, file with the joint commission on public ethics and the legislative ethics commission a financial disclosure statement of
   (1) each financial interest, direct or indirect of himself or herself, his or her spouse and his or her unemancipated children under the age of eighteen years in any activity which is subject to the jurisdiction of a regulatory agency or name of the entity in which the interest is had and whether such interest is over or under five thousand dollars in value.
   (2) every office and directorship held by him or her in any corporation, firm or enterprise which is subject to the jurisdiction of a regulatory agency, including the name of such corporation, firm or enterprise.
   (3) any other interest or relationship which he or she determines in his or her discretion might reasonably be expected to be particularly affected by legislative action or in the public interest should be disclosed.

   (b) Copies of such statements shall be open for public inspection and copying.

   (c) Any such legislative employee who knowingly and willfully with intent to deceive makes a false statement or gives information which he or she knows to be false in any written statement required to be filed pursuant to this subdivision, shall be assessed a civil penalty in an amount not to exceed ten thousand dollars. Assessment of a civil penalty shall be made by the legislative ethics commission in accordance with the provisions of subdivision ten of section eighty of the legislative law. For a violation of this subdivision, the commission may, in lieu of a civil penalty, refer a violation to the appropriate prosecutor and upon conviction, but only after such referral, such violation shall be punishable as a class A misdemeanor.

7. (a) No statewide elected official, or state officer or employee, other than in the proper discharge of official state or local governmental duties, or member of the legislature or legislative employee, or political party chairman shall receive, directly or indirectly, or enter into any agreement express or implied for, any compensation, in whatever form, for the appearance or rendition of services by himself, herself or another in relation to any case, proceeding, application or other matter before a state agency where such appearance or rendition of services is in connection with:
   (i) the purchase, sale, rental or lease of real property, goods or services, or a contract therefor, from, to or with any such agency;
   (ii) any proceeding relating to rate making;
   (iii) the adoption or repeal of any rule or regulation having the force and effect of law;
   (iv) the obtaining of grants of money or loans;
   (v) licensing; or
   (vi) any proceeding relating to a franchise provided for in the public service law.

(b) No political party chairman in a county wholly included in a city having a population of one million or more shall receive, directly or indirectly, or enter into any agreement express or implied for, any compensation, in whatever form, for the appearance or rendition of services by himself, herself or another in relation to any case, proceeding, application or other matter before any city agency where such appearance or rendition of services is in connection with:
   (i) the purchase, sale, rental or lease of real property, goods or services, or a contract therefor, from, to or with any such agency;
   (ii) any proceeding relating to ratemaking;
   (iii) the adoption or repeal of any rule or regulation having the force and effect of law;
   (iv) the obtaining of grants of money or loans;
   (v) licensing. For purposes of this paragraph, the term "licensing" shall mean any city agency activity respecting the grant, denial, renewal, revocation, enforcement, suspension, annulment, withdrawal, recall, cancellation or amendment of a license, permit or other form of permission conferring the right or privilege to engage in (i) a profession, trade, or occupation or (ii) any business or activity regulated by a regulatory agency of a city agency which in the absence of such license, permit or other form of permission would be prohibited; and
   (vi) any proceeding relating to a franchise.

(c) Nothing contained in this subdivision shall prohibit a statewide elected official, or a state officer or employee, unless otherwise prohibited, or a member of the legislature or legislative employee, or political party chairman, from appearing before a state agency in a representative capacity if such appearance in a representative capacity is in connection with a ministerial matter.

(d) Nothing contained in this subdivision shall prohibit a member of the legislature, or a legislative employee on behalf of such member, from participating in or advocating any position in any matter in an official or legislative capacity, including, but not limited to, acting as a public advocate whether or not on behalf of a constituent. Nothing in this paragraph shall be construed to limit the application of the provisions of section seventy-seven of this chapter.

(e) Nothing contained in this subdivision shall prohibit a state officer or employee from appearing before a state agency in a representative capacity on behalf of an employee organization in any matter where such appearance is duly authorized by an employee organization.

(f) Nothing contained in this subdivision shall prohibit a political party chairman from participating in or advocating any matter in an official capacity.

(g) Nothing contained in this subdivision shall prohibit internal research or discussion of a matter, provided, however, that the time is not charged to the client and the person does not share in the net revenues generated or produced by the matter.

(h) Nothing contained in this subdivision shall prohibit a state officer or employee, unless otherwise prohibited, from appearing or rendering services in relation to a case, proceeding, application or transaction before a state agency, other than the agency in which the officer or employee is employed, when such appearance or rendition of services is made while carrying out official duties as an elected or appointed official, or employee of a local government or one of its agencies.

7-a. No member of the legislature, legislative employee, statewide elected official, or state officer or employee shall receive, directly or indirectly, or enter into any agreement express or implied, for any compensation, in whatever form, for the rendering of consulting, representational, advisory or other services by himself or herself or another in connection with any proposed or pending bill or resolution in the senate or assembly.

8. (a) (i) No person who has served as a state officer or employee shall within a period of two years after the termination of such service or employment appear or practice before such state agency or receive compensation for any services rendered by such former officer or employee on behalf of any person, firm, corporation or association in relation to any case, proceeding or application or other matter before such agency.

(ii) No person who has served as a state officer or employee shall after the termination of such service or employment appear, practice, communicate or otherwise render services before any state agency or receive compensation for any such services rendered by such former officer or employee on behalf of any person, firm, corporation or other entity in relation to any case, proceeding, application or transaction with respect to which such person was directly concerned and in which he or she personally participated during the period of his or her service or employment, or which was under his or her active consideration.

(iii) No person who has served as a member of the legislature shall within a period of two years after the termination of such service receive compensation for any services on behalf of any person, firm, corporation or association to promote or oppose, directly or indirectly, the passage of bills or resolutions by either house of the legislature. No legislative employee shall within a period of two years after the termination of such service receive compensation for any services on behalf of any person, firm, corporation or association to appear, practice or directly communicate before either house of the legislature to promote or oppose the passage of bills or resolutions by either house of the legislature.

(iv) No person who has served as an officer or employee in the executive chamber of the governor shall within a period of two years after termination of such service appear or practice before any state agency.

(b) (i) The provisions of subparagraph (i) of paragraph (a) of this subdivision shall not apply to any state officer or employee whose employment was terminated on or after January first, nineteen hundred ninety-five and before April first, nineteen hundred ninety-nine or on or after January first, two thousand nine and before April first, two thousand fourteen because of economy, consolidation or abolition of functions, curtailment of activities or other reduction in the state work force. On or before the date of such termination of employment, the state agency shall provide to the terminated employee a written certification that the employee has been terminated because of economy, consolidation or abolition of functions, curtailment of activities or other reduction in the state work force, and that such employee is covered by the provisions of this paragraph. The written certification shall also contain a notice describing the rights and responsibilities of the employee pursuant to the provisions of this section. The certification and notice shall contain the information and shall be in the form set forth below:

CERTIFICATION AND NOTICE

TO: Employee's Name:

State agency:

Date of Termination:

I, (name and title) of (state agency), hereby certify that your termination from State service is because of economy, consolidation or abolition of functions, curtailment of activities or other reduction in the State work force. Therefore, you are covered by the provisions of paragraph (b) of subdivision eight of section seventy-three of the Public Officers Law.

You were designated as a policy maker: YES_____NO_____

_____

(TITLE)

TO THE EMPLOYEE:

This certification affects your right to engage in certain activities after you leave state service.

Ordinarily, employees who leave State service may not, for two years, appear or practice before their former agency or receive compensation for rendering services on a matter before their former agency. However, because of this certification, you may be exempt from this restriction.

If you were not designated as a Policymaker by your agency, you are automatically exempt. You may, upon leaving State service, immediately appear, practice or receive compensation for services rendered before your former agency.

If you were designated as a Policymaker by your agency, you are eligible to apply for an exemption to the Commission on Public Integrity at 540 Broadway, Albany, New York 12207.

Even if you are or become exempt from the two year bar, the lifetime bar of the revolving door statute will continue to apply to you. You may not appear, practice, communicate or otherwise render services before any State agency in relation to any case, proceeding, application or transaction with respect to which you were directly concerned and in which you personally participated during your State service, or which was under your active consideration.

If you have any questions about the application of the post-employment restrictions to your circumstances, you may contact the Commission on Public Integrity at (518) 408-3976 or 1-800-87ETHIC (1-800-873-8442).

(ii) The provisions of subparagraph (i) of this paragraph shall not apply to any such officer or employee who at the time of or prior to such termination had served in a policymaking position as determined by the appointing authority, which determination had been filed with the state ethics commission or the commission on public integrity, provided that such officer or employee may so appear or practice or receive such compensation with the prior approval of the state ethics commission or the commission on public integrity. In determining whether to grant such approval the state ethics commission or the commission on public integrity shall consider:

A. whether the employee's prior job duties involved substantial decision-making authority over policies, rule or contracts;
B. the nature of the duties to be performed by the employee for the prospective employer;
C. whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee;
D. whether the prospective employment may be beneficial to the state or the public; and
E. the extent of economic hardship to the employee if the application is denied.

(c) The provisions of paragraph (b) of this subdivision shall not apply to employees whose employment has been discontinued as a result of retirement or to employees who, prior to termination, have declined to exercise a right to another position with a state agency unless such position would require the employee to travel more than thirty-five miles in each direction to the new position or accept a reduction in base salary of more than ten per centum.

(d) Nothing contained in this subdivision shall prohibit any state agency from adopting rules concerning practice before it by former officers or employees more restrictive than the requirements of this subdivision.

(e) This subdivision shall not apply to any appearance, practice, communication or rendition of services before any state agency, or either house of the legislature, or to the receipt of compensation for any such services, rendered by a former state officer or employee or former member of the legislature or legislative employee, which is made while carrying out official

duties as an elected official or employee of a federal, state or local government or one of its agencies.

(f) Nothing in this subdivision shall be deemed to prevent a former state officer or employee who was employed on a temporary basis to perform routine clerical services, mail services, data entry services or other similar ministerial tasks, from subsequently being employed by a person, firm, corporation or association under contract to a state agency to perform such routine clerical services, mail services, data entry services or other similar ministerial tasks; provided however, this paragraph shall in no event apply to any such state officer or employee who was required to file an annual statement of financial disclosure pursuant to section seventy-three-a of this article.

(g) Notwithstanding the provisions of subparagraphs (i) and (ii) of paragraph (a) of this subdivision, a former state officer or employee may contract individually, or as a member or employee of a firm, corporation or association, to render services to any state agency when the agency head certifies in writing to the state ethics commission that the services of such former officer or employee are required in connection with the agency's efforts to address the state's year 2000 compliance problem.

(h) Notwithstanding the provisions of subparagraphs (i) and (ii) of paragraph (a) of this subdivision, a former state officer or employee may contract individually, or as a member or employee of a firm, corporation or association, to render services to any state agency when the agency head certifies in writing to the joint commission on public ethics that the services of such former officer or employee are required in connection with the agency's response to a disaster emergency declared by the governor pursuant to section twenty-eight of the executive law.

(i) The provisions of subparagraphs (i) and (ii) of paragraph (a) of this subdivision shall not apply to any person as a result of his or her temporary employment by the New York state department of agriculture and markets in the civil service title of veterinarian one or animal health inspector one and their service, in that capacity, as a member of the New York state emergency veterinary corps.

8-a. The provisions of subparagraphs (i) and (ii) of paragraph (a) of subdivision eight of this section shall not apply to any such former state officer or employee engaged in any of the specific permitted activities defined in this subdivision that are related to any civil action or proceeding in any state or federal court, provided that the attorney general has certified in writing to the joint commission on public ethics, with a copy to such former state officer or employee, that the services are rendered on behalf of the state, a state agency, state officer or employee, or other person or entity represented by the attorney general, and that such former state officer or employee has expertise, knowledge or experience which is unique or outstanding in a field or in a particular matter or which would otherwise be generally unavailable at a comparable cost to the state, a state agency, state officer or employee, or other person or entity represented by the attorney general in such civil

action or proceeding. In those instances where a state agency is not represented by the attorney general in a civil action or proceeding in state or federal court, a former state officer or employee may engage in permitted activities provided that the general counsel of the state agency, after consultation with the joint commission on public ethics, provides to the joint commission on public ethics a written certification which meets the requirements of this subdivision. For purposes of this subdivision the term "permitted activities" shall mean generally any activity performed at the request of the attorney general or the attorney general's designee, or in cases where the state agency is not represented by the attorney general, the general counsel of such state agency, including without limitation:

(a) preparing or giving testimony or executing one or more affidavits;
(b) gathering, reviewing or analyzing information, including documentary or oral information concerning facts or opinions, attending depositions or participating in document review or discovery;
(c) performing investigations, examinations, inspections or tests of persons, documents or things;
(d) performing audits, appraisals, compilations or computations, or reporting about them;
(e) identifying information to be sought concerning facts or opinions; or
(f) otherwise assisting in the preparation for, or conduct of, such litigation.

Nothing in this subdivision shall apply to the provision of legal representation by any former state officer or employee.

8-b. Notwithstanding the provisions of subparagraphs (i) and (ii) of paragraph (a) of subdivision eight of this section, a former state officer or employee may contract individually, or as a member or employee of a firm, corporation or association, to render services to any state agency if, prior to engaging in such service, the agency head certifies in writing to the joint commission on public ethics that such former officer or employee has expertise, knowledge or experience with respect to a particular matter which meets the needs of the agency and is otherwise unavailable at a comparable cost. Where approval of the contract is required under section one hundred twelve of the state finance law, the comptroller shall review and consider the reasons for such certification. The joint commission on public ethics must review and approve all certifications made pursuant to this subdivision.

* 8-c. Notwithstanding the provisions of subparagraphs (i) and (ii) of paragraph (a) of subdivision eight of this section, a former state officer or employee who, prior to his or her separation from state service, was employed as a health care professional and, in conjunction with his or her state duties, provided treatment and/or medical services to individuals residing in or served by a state-operated facility is not barred from rendering services to such individuals in their care prior to leaving state service, at the state-operated facility which employed the former state officer or employee.

* NB There are 2 sub 8-c's

* 8-c. Notwithstanding the provisions of subparagraphs (i) and (ii) of paragraph (a) of subdivision eight of this section, a former state officer or employee who, prior to his or her separation from state service, was employed performing direct care, clinical care, case management, service coordination or other related support duties with the state of New York is not barred from rendering such services in the future to individuals who were receiving such services from that individual prior to leaving the state service.

* NB There are 2 sub 8-c's

9. No party officer while serving as such shall be eligible to serve as a judge of any court of record, attorney-general or deputy or assistant attorney-general or solicitor general, district attorney or assistant district attorney. As used in this subdivision, the term "party officer" shall mean a member of a national committee, an officer or member of a state committee or a county chairman of any political party.

10. Nothing contained in this section, the judiciary law, the education law or any other law or disciplinary rule shall be construed or applied to prohibit any firm, association or corporation, in which any present or former statewide elected official, state officer or employee, or political party chairman, member of the legislature or legislative employee is a member, associate, retired member, of counsel or shareholder, from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with a state agency, or a city agency with respect to a political party chairman in a county wholly included in a city with a population of more than one million, otherwise proscribed by this section, the judiciary law, the education law or any other law or disciplinary rule with respect to such official, member of the legislature or officer or employee, or political party chairman, where such statewide elected official, state officer or employee, member of the legislature or legislative employee, or political party chairman does not share in the net revenues, as defined in accordance with generally accepted accounting principles by the joint commission on public ethics or by the legislative ethics commission in relation to persons subject to their respective jurisdictions, resulting therefrom, or, acting in good faith, reasonably believed that he or she would not share in the net revenues as so defined; nor shall anything contained in this section, the judiciary law, the education law or any other law or disciplinary rule be construed to prohibit any firm, association or corporation in which any present or former statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee or state officer or employee who is subject to the provisions of section seventy-three-a of this article is a member, associate, retired member, of counsel or shareholder, from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with, the court of claims, where such statewide elected official, member of the legislature, legislative employee, full-time salaried state officer or employee or state officer or employee who is subject to the provisions of section seventy-three-a of this article does not share in the net revenues, as defined in accordance with generally accepted accounting principles by the joint commission on public ethics or by the legislative ethics commission in relation to persons subject to their respective jurisdictions, resulting therefrom, or,

acting in good faith, reasonably believed that he or she would not share in the net revenues as so defined.

11. Notwithstanding any provision of the judiciary law, the education law or any other law or disciplinary rule to the contrary:
    (a) Conduct authorized pursuant to subdivision eight of this section by a person who has served as a member of the legislature or as a legislative employee shall not constitute professional misconduct or grounds for disciplinary action of any kind;

    (b) No member of the legislature or former member of the legislature shall be prohibited from appearing, practicing, communicating or otherwise rendering services in relation to any matter before, or transacting business with, any state agency solely by reason of any vote or other action by such member or former member in respect to the confirmation or election of any member, commissioner, director or other person affiliated with such state agency, but nothing in this paragraph shall limit the prohibition contained in subdivision eight of this section;

    (c) The appearance, practice, communication or rendition of services in relation to any matter before, or transaction of business with a state agency, or with the court of claims, or the promotion or opposition to the passage of bills or resolutions by either house of the legislature, by a member, associate, retired member, of counsel or shareholder of a firm, association or corporation, in accordance with subdivision ten of this section, is hereby authorized and shall not constitute professional misconduct or grounds for disciplinary action of any kind solely by reason of the professional relationship between the statewide elected official, state officer or employee, political party chairman, member of the legislature, or legislative employee and any firm, association, corporation or any member, associate, retired member, of counsel, or shareholder thereof, or by reason of the appearance created by any such professional relationship.

12. A statewide elected official, state officer or employee, or a member of the legislature or legislative employee, or political party chairman, who is a member, associate, retired member, of counsel to, or shareholder of any firm, association or corporation which is appearing or rendering services in connection with any case, proceeding, application or other matter listed in paragraph (a) or (b) of subdivision seven of this section shall not orally communicate, with or without compensation, as to the merits of such cause with an officer or an employee of the agency concerned with the matter.

13. For the purposes of this section, a statewide elected official or state officer or employee or member of the legislature or legislative employee or political party chairman who is a member, associate, retired member, of counsel to, or shareholder of any firm, association or corporation shall not be deemed to have made an appearance under the provisions of this section solely by the submission to a state agency or city agency of any printed material or document bearing his or her name, but unsigned by him or her, such as by limited illustrations the name of the firm, association or

corporation or the letterhead of any stationery, which pro forma serves only as an indication that he or she is such a member, associate, retired member, of counsel to, or shareholder.

14. (a) No statewide elected official, state officer or employee, member of the legislature or legislative employee may participate in any decision to hire, promote, discipline or discharge a relative for any compensated position at, for or within any state agency, public authority or the legislature.

    (b) This paragraph shall not apply to (i) the hiring of a relative by a legislator with a physical impairment, for the sole purpose of assisting with that impairment, as necessary and otherwise permitted by law; (ii) the temporary hiring of legislative pages, interns and messengers; or (iii) responding to inquiries with respect to prospective hires related to an individual covered by this paragraph.

15. No statewide elected official, state officer or employee, member of the legislature or legislative employee shall:
    (a) participate in any state contracting decision involving the payment of more than one thousand dollars to that individual, any relative of that individual, or any entity in which that individual or any relative has a financial interest; or

    (b) participate in any decision to invest public funds in any security of any entity in which that individual or any relative of that individual has a financial interest, is an underwriter, or receives any brokerage, origination or servicing fees.

16. (a) No statewide elected official, state officer or employee involved in the awarding of state grants or contracts may ask a current or prospective grantee or contractor, or any officer, director or employee thereof, to disclose: (i) the party affiliation of such grantee or contractor, or any officer, director or employee thereof; (ii) whether such grantee or contractor, or any officer, director or employee thereof, has made campaign contributions to any party, elected official, or candidate for elective office; or (iii) whether such grantee or contractor, or any officer, director or employee thereof, cast a vote for or against any elected official, candidate or political party.

    (b) No statewide elected official or state officer or employee may award or decline to award any state grant or contract, or recommend, promise or threaten to do so, in whole or in part, because of a current or prospective grantee's or contractor's refusal to answer any inquiry prohibited by paragraph (a) of this subdivision, or giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

17. (a) No statewide elected official, or state officer or employee may during the consideration of an employment decision ask any applicant for public employment to disclose: (i) the political party affiliation of the applicant; (ii) whether the applicant has made campaign contributions to any party, elected official, or candidate for elective office; or (iii) whether the applicant cast a vote for or against any elected official, candidate or political party. The provisions of this paragraph

shall not apply where (1) such inquiry is necessary for the proper application of any state law or regulation; or (2) such inquiry is consistent with publicly disclosed policies or practices of any state agency or public authority, whose purpose is to ensure the representation of more than one political party on any multi-member body.

(b) No statewide elected official or state officer or employee may decline to hire or promote, discharge, discipline, or in any manner change the official rank or compensation of any state official or employee, or applicant for employment, or promise or threaten to do so, based upon a refusal to answer any inquiry prohibited by paragraph (a) of this subdivision, or for giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.

(c) No state officer or employee shall, directly or indirectly, use his or her official authority to compel or induce any other state officer or employee to make or promise to make any political contribution, whether by gift of money, service or other thing of value.

18. In addition to any penalty contained in any other provision of law, any person who knowingly and intentionally violates the provisions of subdivisions two through five, seven, seven-a, eight, twelve or fourteen through seventeen of this section shall be subject to a civil penalty in an amount not to exceed forty thousand dollars and the value of any gift, compensation or benefit received in connection with such violation. Assessment of a civil penalty hereunder shall be made by the state oversight body with jurisdiction over such person. A state oversight body acting pursuant to its jurisdiction, may, in lieu of a civil penalty, with respect to a violation of subdivisions two through five, seven or eight of this section, refer a violation of any such subdivision to the appropriate prosecutor and upon such conviction such violation shall be punishable as a class A misdemeanor.

Public Officers Law §74

Code of Ethics.

1. Definition.

   As used in this section: The term **"state agency"** shall mean any state department, or division, board, commission, or bureau of any state department or any public benefit corporation or public authority at least one of whose members is appointed by the governor or corporations closely affiliated with specific state agencies as defined by paragraph (d) of subdivision five of section fifty-three-a of the state finance law or their successors.

   The term **"legislative employee"** shall mean any officer or employee of the legislature but it shall not include members of the legislature.

2. Rule with respect to conflicts of interest.
   No officer or employee of a state agency, member of the legislature or legislative employee should have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

3. Standards.

   a. No officer or employee of a state agency, member of the legislature or legislative employee should accept other employment which will impair his or her independence of judgment in the exercise of his or her official duties.

   b. No officer or employee of a state agency, member of the legislature or legislative employee should accept employment or engage in any business or professional activity which will require him or her to disclose confidential information which he or she has gained by reason of his or her official position or authority.

   c. No officer or employee of a state agency, member of the legislature or legislative employee should disclose confidential information acquired by him or her in the course of his or her official duties nor use such information to further his or her personal interests.

   d. No officer or employee of a state agency, member of the legislature or legislative employee should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others, including but not limited to, the misappropriation to himself, herself or to others of the property, services or other resources of the state for private business or other compensated non-governmental purposes.

e. No officer or employee of a state agency, member of the legislature or legislative employee should engage in any transaction as representative or agent of the state with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

f. An officer or employee of a state agency, member of the legislature or legislative employee should not by his or her conduct give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

g. An officer or employee of a state agency should abstain from making personnel investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by him or her or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

h. An officer or employee of a state agency, member of the legislature or legislative employee should endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

i. No officer or employee of a state agency employed on a full-time basis nor any firm or association of which such an officer or employee is a member nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such officer or employee, should sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the state agency in which such officer or employee serves or is employed.

4. Violations.

In addition to any penalty contained in any other provision of law any such officer, member or employee who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment in the manner provided by law. Any such individual who knowingly and intentionally violates the provisions of paragraph b, c, d or i of subdivision three of this section shall be subject to a civil penalty in an amount not to exceed ten thousand dollars and the value of any gift, compensation or benefit received as a result of such violation. Any such individual who knowingly and intentionally violates the provisions of paragraph a, e or g of subdivision three of this section shall be subject to a civil penalty in an amount not to exceed the value of any gift, compensation or benefit received as a result of such violation.