

## **VOLUNTEERING FOR A NOT-FOR-PROFIT ENGAGED IN BUSINESS DEALINGS WITH THE CITY**

- **Relevant Charter Sections:** City Charter §§ 2604(a)(1)(a), 2604(a)(1)(b), 2604(c)(6)

The Board issued a public warning letter to the former Chief of Staff to Council Member James Sanders who, while employed by the City Council, was also involved in an unpaid, volunteer capacity in the day-to-day running of the Federation of African, Caribbean, and American Organization, Inc. (“FACAO”), a not-for-profit organization that he founded in 1999 and had previously served as its paid director. Starting in fiscal year 2003 and continuing through fiscal year 2008, FACAO was awarded discretionary funds, allocated by Council Member Sanders and administered by the New York City Department of Youth and Community Development (“DYCD”), to provide youth, recreational, and immigration services in Council District 31. The former Chief of Staff served as the unpaid Director/Chairperson of FACAO without the permission of the City Council Speaker and signed at least six timesheets for FACAO employees as the Director/Chairperson of FACAO, with the knowledge and understanding that these timesheets would be submitted for payment to DYCD. The Board advised the former Chief of Staff that the safe harbor provision of City Charter § 2604(6) does not apply and his volunteer position with FACAO violated City Charter § 2604(a)(1)(b) because (1) he was directly involved in FACAO’s business dealings with DYCD as the signatory on documents submitted for payment to DYCD; and (2) he lacked the City Council Speaker’s permission to serve as the Director/Chairperson of FACAO when FACAO had business dealings with the City Council. *COIB v. M. Duncan*, COIB Case No. 2012-250 (2012).

The Board issued a public warning letter to a former Supervisor of Nurses for the New York City Health and Hospitals Corporation (“HHC”) who, from 2002 through 2006, acted as the paid Executive Director of a not-for-profit organization and, while acting in that capacity, signed and submitted multiple contracts and financial documents to the New York City Department for the Aging (“DFTA”) on behalf of the organization. The Supervisor of Nurses resigned her position as Executive Director of the not-for-profit organization in 2006, but she continued to volunteer for the not-for-profit until her retirement from HHC in 2010; while serving as a volunteer, on behalf of the organization she signed DFTA contracts and acted as the contact person for DFTA audits. While not pursuing further enforcement action, the Board took the opportunity of this public warning letter to remind public servants that the City’s conflicts of interest law prohibits: (1) public servants from representing any private interest, for compensation, before any City agency, and (2) City employees who volunteer for a not-for-profit organization from participating directly in that organization’s business dealings with the City. *COIB v. Jamoona*, COIB Case No. 2011-649 (2012).

The Board fined a New York City Department of Education (“DOE”) Principal \$1,000 (a) for being an unpaid Board Member of a not-for-profit organization doing business with the DOE *and* for participating in those business dealings; and (b) for, within one year of leaving City service, communicating with the DOE on behalf of that not-for-profit for compensation. The Principal first acknowledged that his conduct violated the City’s conflicts

of interest law, which prohibits a public servant from having a position, such as being an unpaid Board Member, at a not-for-profit organization engaged in business dealings with his or her agency without first obtaining permission from the head of his agency and further requires public servants to obtain a waiver from the Board in order to participate, on behalf of the not-for-profit, in any City-related matters. The Principal also admitted that, approximately three months after leaving his position at the DOE in summer 2008, he became the Interim Acting Executive Director of the not-for-profit, for which work he was compensated; between January and March 2009, he sent multiple e-mails and made two phone calls to the DOE on behalf of the not-for-profit. The Principal acknowledged that this conduct violated the conflicts of interest law's prohibition on a former public servant "appearing" before his or her former agency within one year of terminating employment with the agency. In setting the amount of the fine, the Board took into consideration that, upon being informed of the possible post-employment conflict of interest, the Principal immediately contacted the DOE Ethics Officer and, at her request, took steps to end all his post-employment appearances before DOE and reported his conduct to the Board. *COIB v. Solomon*, COIB Case No. 2009-807 (2011).

The Board issued a public warning letter to a Special Project Coordinator at the New York City Department of Parks and Recreation for, in violation of City's conflicts of interest law: (a) serving as the volunteer President of a not-for-profit organization having business dealings with Parks without the approval of the Parks Commissioner; (b) being directly involved in that not-for-profit's City business dealings, through her solicitation of grants and contracts from the City for the not-for-profit; (c) performing work for the not-for-profit while on City time and using City resources, such as Parks personnel and her Parks office and telephone; and (d) misusing her position to schedule events at Parks facilities for the not-for-profit on terms and conditions not available to other entities. Here, the Board did not pursue further enforcement action against the Special Project Coordinator for her multiple violation of Chapter 68 of the City Charter because her supervisor at Parks had knowledge of and apparently approved her use of City time and resources on behalf of the not-for-profit organization. Nonetheless, the Board took the opportunity of the issuance of this public warning letter to remind public servants that, in order to hold a position at a not-for-profit having business dealings with their own agency, public servants must obtain approval from their agency head, not merely their supervisor, to have that position *and* must have no involvement in the City business dealings of the not-for-profit. Under certain circumstances the Board may grant a waiver of that prohibition, subject to certain conditions, after receiving written approval of the public servant's agency head. However, even with such a waiver, public servants would still not be permitted to use their City positions to obtain a benefit for the not-for-profit with which they have a position – such as obtaining access to City facilities on terms not available to other not-for-profits. *COIB v. Rowe-Adams*, COIB Case No. 2008-126 (2009).