

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**



Office of Government Ethics

In Re: T. Malone
Case No.: 1028-003

NEGOTIATED DISPOSITION

Pursuant to section 221(a)(4)(E)¹ of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (“Ethics Act”), effective April 27, 2012, D.C. Law 19-124, D.C. Official Code § 1-1161.01 et seq., the Office of Government Ethics (the “Office”) hereby enters into this negotiated settlement agreement with the Respondent, T. Malone. Ms. Malone agrees that the resulting disposition is a settlement of the above-titled action, detailed as follows:

I. FINDINGS OF FACT

Ms. Malone has been a Contact Representative at the D.C. Department of Consumer and Regulatory Affairs (“DCRA”) for more than ten years. On May 9, 2013, Ms. Malone’s regularly scheduled tour of duty was 7:00 a.m. to 3:30 p.m. and she was required to be at work during those hours. On May 9, 2013, at approximately 8:15 a.m., Ms. Malone was recorded by M.B., Manager of the Safeway at 1100 4th St. SW, exiting the store with two cases of soda that she stole from the cart of another customer, who already had paid for the items. In addition, Ms. Malone’s actions were recorded on Safeway’s security system. In the recordings, Ms. Malone’s D.C. government employee ID clearly is visible hanging from a lanyard around her neck.

After Ms. Malone exited the Safeway with the two cases of stolen soda, she returned to her DCRA office, which also is located at 1100 4th Street SW, with the stolen merchandise. DCRA personnel reported the incident to the Metropolitan Police Department (MPD). Ms. Malone admitted to MPD Officers that she had stolen the two cases of soda from the other customer. One of the cases of soda was recovered at Ms. Malone’s DCRA work station; the other was recovered from the locked cabinet of another workstation, where Ms. Malone admitted that she regularly stored items. Ms. Malone was arrested and charged with Theft in the second degree, D.C. Official Code § 22-3211.

¹ Section 221(a)(4)(E) of the Ethics Act provides, in pertinent part, that “[i]n addition to any civil penalty imposed under this title, a violation of the Code of Conduct may result in the following: . . . Any negotiated disposition of a matter offered by the Director of Government Ethics, and accepted by the respondent, subject to approval by the Ethics Board.”

Ms. Malone acknowledges that she went to the Safeway store during her regularly scheduled District government work hours, stole the two cases of soda from another customer, brought them to her work location, and stored them there.

II. NATURE OF MISCONDUCT

Ms. Malone's conduct is in violation of the District Personnel Manual ("DPM") Chapter 18, §§ 1804.1(a),(b), and (i), which state:

An employee may not engage in any outside employment or other activity which is not compatible with the full and proper discharge of his or her duties and responsibilities as a government employee. Activities or actions which are not compatible with government employment include, but are not limited to, the following:

- (a) Engaging in any outside employment, private business activity, or other interest which may interfere with the employee's ability to perform his or her job, or which may impair the efficient operation of the District of Columbia government;
- (b) Using government time or resources for other than official business, or government approved or sponsored activities, except that a District employee may spend a reasonable amount of government time and resources on such projects, reports, and studies as may be considered in aid of other government jurisdictions (local, state, or federal), provided the work so performed is within the scope of the individual's regular assignments as a District employee;
- (i) Engaging in any outside employment, private business activity, or other interest which is in violation of federal or District law.

Because the theft occurred during Ms. Malone's tour of duty and she subsequently was arrested in the DCRA office building, she engaged in an interest which impaired the efficient operation of the District of Columbia government, which is a violation of 1804.1(a).

Because the theft occurred during Ms. Malone's tour of duty and she returned to the DCRA office building with the stolen merchandise and stored the stolen merchandise at her work location, she used both government time and resources for other than official business, which is a violation of 1804.1(b).

Because Ms. Malone was charged with Theft in the second degree, she engaged in an interest which is in violation of District law, which is a violation of 1804.1(i).

III. TERMS OF THE NEGOTIATED SETTLEMENT

Ms. Malone acknowledges that her conduct was in violation of the District Code of Conduct. Ms. Malone agrees to pay a fine in the amount of \$500 and promises not to engage in such conduct in the future. In return for Ms. Malone's acknowledgement and promise, the Office will not seek any further remedy or take any further action relating to the above misconduct.

Ms. Malone understands that \$100 of the \$500 fine is due upon the full execution of this Negotiated Settlement Agreement. If Ms. Malone successfully completes an eight week xxxx xxxx program, the remaining \$400 balance will be forgiven. If she does not successfully complete xxxx xxxx by the scheduled completion date of August 14, 2013, the remaining \$400 will be payable, \$100 per month until the balance is paid, beginning on August 21, 2013, and every thirty (30) days thereafter (September 20, 2013, October 21, 2013, and November 20, 2013). Payment(s) will be accepted by money order, made out to the D.C. Treasury.

Ms. Malone also understands that if she fails to pay the \$500 fine in the manner and within the time limit provided above, pursuant to Section 221(a)(5)(A) of the Ethics Act, the Ethics Board may file a petition for enforcement of this order assessing this penalty in the Superior Court of the District of Columbia.

Ms. Malone further understands that if she fails to adhere to this agreement, the Office will recommend that the Ethics Board hold an open and adversarial hearing on this matter.² Because the Office is, at this time, foregoing requesting that the Ethics Board hold an open and adversarial hearing on this matter, Ms. Malone agrees to waive any statute of limitation defenses should the Board decide to proceed in that manner as a result of Ms. Malone's breach of this agreement.

The mutual promises outlined herein constitute the entire agreement in this case. Failure to adhere to any provision of this agreement is a breach rendering the entire agreement void. By our signatures, we agree to the terms outlined herein.

_____/s/_____
T. Malone

Date

_____/s/_____
Darrin P. Sobin
Director of Government Ethics

Date

This agreement shall not be deemed effective unless and until it is approved by the Board of Ethics and Government Accountability, as demonstrated by the signature of the Chairman below.

APPROVED:

_____/s/_____
Robert J. Spagnoletti
Chair, Board of Ethics and Government Accountability

Date

² D.C. Official Code § 1-1162.14(a)(1)