

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



IN THE MATTER OF:

Date: October 7, 2020

M. Foster

CASE NO: 19-0016-P

AMENDED ORDER

Pursuant to the authority conferred by D.C. Official Code § 1-1162.13 and pursuant to authorization by the Board of Ethics and Government Accountability (“BEGA”), the Director of Government Ethics has conducted a preliminary investigation into allegations that the Respondent, M. Foster, violated the District Code of Conduct by failing to file accurate and complete Financial Disclosure Statements and wearing his police uniform while promoting products or entities that are not associated with the District government. The Respondent had a duty to file accurate and complete Financial Disclosure Statements and refrain from promoting products not associated with the District government while in uniform.¹

Based on the results of the preliminary investigation, the Director of Government Ethics has determined that the allegations are substantiated, and that the Respondent’s actions violated the District Code of Conduct.

Statement of the Case

This matter is a preliminary investigation into allegations that Respondent failed to report his outside business holdings on his 2016, 2017, and 2018 Financial Disclosure Statements. This office further investigated whether Respondent promoted products or entities that are not associated with the District while wearing his police uniform, creating the appearance that those products or entities are associated with his District government service.

Summary of Evidence

OGE found evidence that Respondent created the business entity Tru Sports, LLC on or about January 28, 2015. OGE found evidence that Respondent created the business entity Agent 23, LLC on or about September 29, 2017. OGE found evidence that both Tru Sports, LLC and Agent 23, LLC are currently owned and operated by Respondent. Respondent also receives income from at least one endorsement deal which he did not report on his 2017, 2018 and 2019

¹ See D.C. Official Code § 1-1162.24(a)(1) and DPM 1800.3(n).

Financial Disclosure Statements. Further, Respondent has endorsed products or entities that are not associated with his District government service, while in police uniform.

On May 2, 2017, Respondent appeared in an image on his Instagram page in police uniform and endorsed a particular brand of sporting equipment. On November 1, 2017, Respondent appeared in an image on his Instagram page in police uniform and endorsed a nutritional supplement. On May 22, 2018, Respondent appeared in an image on his Instagram page in police uniform and endorsed a particular brand of sporting equipment.²

Findings of Fact

1. Respondent was designated as a Public Financial Disclosure Statement (“PFDS”) filer in 2017, 2018 and 2019.
2. As a PFDS filer Respondent was required to submit complete and accurate financial disclosure statements.
3. Respondent did not disclose his outside business interests on his 2016 financial disclosure statement.³
4. Respondent did not disclose his outside business interests on his 2017 financial disclosure statement.⁴
5. Respondent did not disclose his outside business interests on his 2018 financial disclosure statement.⁵
6. The District of Columbia is not associated with the entities and products Respondent endorsed while in uniform.
7. Respondent was not authorized to associate the District of Columbia with the entities and products he endorsed while in uniform.
8. Respondent was professional and appeared to be forthcoming in cooperating with OGE’s preliminary inquiry.

Conclusions of Law

Based on the evidence of record, I therefore conclude:

1. D.C. Official Code § 1-1162.24(a)(1)) requires District government employees to submit a full and complete financial disclosure statements.
2. DPM § 1810 codifies the District’s financial disclosure requirements.
3. DPM § 1800.3(n) prohibits District government employees from taking action creating the appearance of a violation of the law or the ethical standards set forth in Chapter 18 of the District Personnel Manual.

² In an interview with OGE, Respondent admitted to being the owner of the business entity, Agent 23, LLC. On the webpage for Agent 23, LLC, <https://www.agent-23.com/home>, the Instagram account @mfosteragent23 is listed under the “Social Media” tab; all referenced images were found on the Instagram account @mfosteragent23.

³ Respondent’s 2016 financial disclosure statement was filed on April 18, 2017.

⁴ Respondent’s 2017 financial disclosure statement was filed on May 2, 2018.

⁵ Respondent’s 2018 financial disclosure statement was filed on April 24, 2019.

4. D.C. Official Code § 1-1162.21(a)(3) states that the Board [of Ethics and Government Accountability] may issue a schedule of fines for violations of [the Code of Conduct], which may be imposed ministerially by the Director of Government Ethics.
5. The Board has so issued that Schedule of Fines.⁶
6. The Respondent violated D.C. Official Code § 1-1162.24(a)(1)) and DPM § 1810 by failing to submit full and complete financial disclosure statements on three different occasions.
7. The Respondent violated DPM § 1800.3(n) by taking action creating the appearance of a violation of the law or the ethical standards set forth in Chapter 18 of the District Personnel Manual, when he promoted items in his police uniform, which were not associated with his District government work.
8. Because D.C. Official Code § 1-1162.24(a)(1)) and DPM § 1810 are part of the District Code of Conduct, the Respondent's failure to file full and complete financial disclosure statements violated the District Code of Conduct.
9. Because DPM § 1800.3(n) is part of the District Code of Conduct, Respondent's appearance of a violation of the law or the ethical standards set forth in Chapter 18 of the District Personnel Manual violated the District Code of Conduct.

WHEREFORE, pursuant to the authority conferred upon me by D.C. Official Code §1-1162.21 (a)(3), it is hereby **ORDERED** that a ministerial fine in the amount of Six Hundred Dollars (\$600.00) is assessed against the Respondent, Mario Foster, due to his violations of the Code of Conduct.



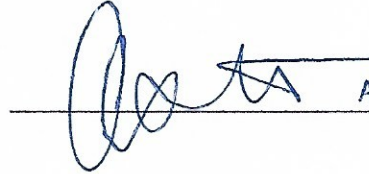
ROCHELLE FORD
Director of Government Ethics

10.7.2020
DATE

⁶ See 3 DCMR § 5530, *et seq.*

SERVICE OF ORDER

This is to certify I have served a true copy of the foregoing Order on Marieo Foster c/o Stephanie Rapp-Tully at srapptully@fedattorney.com via email on 10-22-20.


ASIA STEWART-MITCHELL

NOTICE

Any party adversely affected by this Order may file an appeal with the Board of Ethics and Government Accountability at 441 4th Street NW, Suite 830 South, Washington, DC 20001. All such appeals must be received by the Board no later than ten (10) days from the date of this Order, excluding weekends and District government holidays.