

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



Office of Government Ethics

In Re: ████████ Shaikh
Case No.: 1080-001

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, I███████ Shaikh. Respondent agrees that the resulting disposition is a settlement of the above-titled action, detailed as follows:

I. FINDINGS OF FACT

Respondent was the Deputy Director of Programs and Policy at the D.C. Department of Health (“DOH”) from December 19, 2011, to July 9, 2013. While working for DOH, Dr. Shaikh applied for and obtained a temporary position as a Health Policy and Planning Officer with the United Nations (“U.N.”) Relief and Works Agency for Palestine Refugees in the Near East, stationed in Amman, Jordan. Dr. Shaikh received the U.N. offer letter and letter of appointment on November 20, 2012, and began working for the U.N., in Amman, Jordan, on February 7, 2013, while still a DOH employee.

At various times during the period February 7, 2013, through July 9, 2013,² Dr. Shaikh: (a) used District government earned paid sick leave; (b) received paid administrative leave; and (c) received employer-paid benefits such as health benefits. In addition, Dr. Shaikh was entitled to receive a severance payment upon separation from District government service, and the time period for the calculation of the amount of his severance payment included the period February 7, 2013, through July 9, 2013, when he was still a DOH employee but living and working in Amman, Jordan.

Dr. Shaikh did not inform DOH, including his direct supervisor, his agency head, or the DOH Human Resources personnel, of his position with the U.N. However, Dr. Shaikh did submit signed Family Medical Leave Act (“FMLA”) forms requesting unpaid leave to care for and attend to his ailing mother who underwent surgery on November 7, 2012, at George Washington University Hospital, and who later received treatment in Jordan and Pakistan. At the request of his direct supervisor, Dr. Shaikh resubmitted his FMLA forms in April 2013 to his supervisor. Although Dr. Shaikh submitted to DOH documentation for leave under FMLA both before and

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.”

² For the period April 26, 2013, through May 10, 2013, Dr. Shaikh returned to DOH and was paid his regular salary.

after February 7, 2013, to care for his ailing mother, Dr. Shaikh's FMLA requests were never processed by DOH, unbeknownst to him.

By working in Amman, Jordan for the U.N., rather than at and for DOH, for the period February 7, 2013, to July 9, 2013, Dr. Shaikh's private business activity, his outside employment with the U.N., interfered with his ability to perform his job. In addition, by engaging in his work for the U.N. without resigning his position with DOH or otherwise ending his DOH employment, Dr. Shaikh prevented DOH from seeking or being able to seek his replacement. DOH's inability to search for and hire Dr. Shaikh's replacement because Dr. Shaikh still was a DOH employee and Dr. Shaikh's failure to perform his DOH duties, impaired the efficient operation of the District of Columbia government.

In addition, by virtue of his position with DOH, by May 15, 2013, Dr. Shaikh was required to file a Confidential Financial Disclosure Statement with DOH for calendar year 2012. Dr. Shaikh was notified of this requirement, via email sent by the DOH Chief Operating Officer on behalf of the DOH agency head, on April 15, 2013. This request was sent as part of a mass email during Dr. Shaikh's absence from the agency. Dr. Shaikh did not recall receiving this email and, therefore, he did not file the required Financial Disclosure Statement.

II. NATURE OF MISCONDUCT

Respondent's conduct is in violation of four sections of the District Code of Conduct, as set forth below:

- ❖ **Count One:** District Personnel Manual ("DPM") Chapter 18, § 1803.1(a)(3), which states: "An employee shall avoid action, whether or not specifically prohibited by this chapter, which might result in or create the appearance of . . . [i]mpeding government efficiency or economy[.]"
- ❖ **Count Two:** DPM § 1804.1(a), which states: "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 . . . [e]ngaging in any outside employment, private business activity, or other interest which may interfere with the employee's ability to perform his or her job . . . [.]"
- ❖ **Count Three:** DPM § 1804.1(a), which states: "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 . . . [e]ngaging in any outside employment, private business activity, or other interest which . . . may impair the efficient operation of the District of Columbia government . . . [.]"
- ❖ **Count Four:** D.C. Official Code § 1-1162.25(a), which states: "Any employee, other than a public official, who advises, makes decisions, or participates substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, . . . policy-making, . . . or acts in areas of responsibility that may create a conflict of interest or the appearance of a conflict of

interest, as determined by the appropriate agency head, shall file, before May 15th of each year, with that agency head a report containing a full and complete statement of the information required by section 224 [D.C. Official Code § 1-1162.24].”

Respondent’s conduct in maintaining his position at DOH while securing and engaging in employment for the U.N. in Amman, Jordan, without properly disclosing this employment to appropriate DOH personnel, created at least the appearance of impairing the efficient operation of District government and, in fact, interfered with Dr. Shaikh’s ability to perform his job and impaired the efficient operation of District government. In addition, Dr. Shaikh was required to file a Financial Disclosure Statement with DOH and failed to do so, despite being notified of this requirement one month before the filing deadline.

III. TERMS OF THE NEGOTIATED SETTLEMENT

Respondent acknowledges that his conduct was in violation of the District Code of Conduct. Respondent agrees to pay a fine in the amount of \$16,000 and promises not to engage in such conduct in the future. The \$16,000 fine represents a fine of \$5,000 per violation for each of the three DPM violations set forth above and a \$1,000 fine for the violation of D.C. Official Code § 1-1162.25(a). In return for Respondent’s acknowledgement and promise, the Office will not seek any further remedy or take any further action relating to the above misconduct. Respondent understands that the \$16,000 fine is due upon the full execution of this Negotiated Settlement Agreement and is payable as follows: \$1,000 shall be paid on the date of the execution of this settlement. The remaining \$15,000 shall be paid in three installments of \$4,000 each on April 1, 2014, July 1, 2014 and October 1, 2014, and one final installment of \$3,000 on December 31, 2014. Payment will be accepted by money order, made out to the D.C. Treasurer, and provided to the Office of Government Ethics.

Respondent also understands that if he fails to pay the \$16,000 fine in the manner and within the time limit provided above, pursuant to section 221(a)(5)(A) of the Ethics Act (D.C. Official Code § 1-1162.21(a)(5)(A)), the Ethics Board may file a petition in the Superior Court of the District of Columbia for enforcement of this settlement and the accompanying Board Order assessing the fine. Respondent agrees that this Negotiated Disposition is not just an admission of wrongdoing, but constitutes various factual admissions by him that may be used in any subsequent enforcement or judicial proceeding that may result from his failure to comply with this agreement.

Respondent further understands that if he fails to adhere to this agreement, the Office may instead, at its sole option, recommend that the Ethics Board nullify this settlement and hold an open and adversarial hearing on this matter, after which the Ethics Board may impose sanctions up to the full statutory amount (\$5,000 per violation) as provided in the Ethics Act.³ Because the Office is, at this time, foregoing requesting that the Ethics Board hold an open and adversarial hearing on this matter, Respondent agrees to waive any statute of limitation defenses should the Ethics Board decide to proceed in that manner as a result of Respondent’s breach of this agreement.

³ Section 221(a)(1) (D.C. Official Code § 1-1162.21(a)(1)).

The mutual promises outlined herein constitute the entire agreement in the above-titled action. 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.

Ishtiaq A. Shaikh
Ishtiaq Shaikh

01/07/201
Date

Darrin Sobin
Darrin Sobin
Director of Government Ethics

1/9/14
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:

Robert J. Spagnolotti
Robert J. Spagnolotti (by LMR)
Chairman, Board of Ethics and Government Accountability

1-9-14
Date