

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



Office of Government Ethics

In Re: M [REDACTED] Mitchell  
Case No.: 1080-002

**PUBLIC NEGOTIATED DISPOSITION**

Pursuant to section 221 (a)(4)(E)<sup>1</sup> of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012, D.C. Law 19-124, D.C. Code § 1-1161.01 et seq.) ("Ethics Act"), the Office of Government Ethics (the "Office" or "OGE") hereby enters into this public negotiated settlement agreement with the Respondent, M [REDACTED] Mitchell. Respondent agrees that the resulting disposition is a settlement of the above-titled action, detailed as follows:

**I. FINDINGS OF FACT**

Respondent is employed as a Program Manager at the Department of Health ("DOH"). Respondent's duties and responsibilities include reviewing procurement matters, verifying the eligibility of doctors providing services to DOH, overseeing security of the DOH vehicle fleet, issuing and maintaining data card passes, and entering personnel information into the Procurement Automated Support System. Respondent's job duties require occasional travel to other DOH offices located in Washington, D.C., as well as the Office of Finance and Treasury.

Respondent is authorized to use DOH government vehicles to perform his job duties, but is prohibited from using those vehicles for personal purposes and subject to the DOH's Vehicle Management Policy (Policy No. DOH01-06) which provides that:

Authorized DOH Drivers shall:

1. Complete and submit to the FCO [Fleet Certifying Officer] a signed copy [of the] Vehicle Operator's Acknowledgement Form Annually or upon request;
2. Operate District government owned or leased vehicle on authorized District government business only;

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

and

3. Vehicle usage shall be for official government business only.

In addition, DOH requires its employees, including Respondent, to fill out a Vehicle Authorization Log, which includes the following fields:

Date	Driver	Time Out	Destination	Return	Car #

An investigation revealed that on at least eight occasions, Respondent signed out government vehicles for official purposes but also used the vehicles to travel to Virginia to conduct his personal banking transactions. For example:

1. On March 5, 2013, Respondent signed out government vehicle number 9083 from 10:00 until 11:15<sup>2</sup> and listed "441" and "gas" in the corresponding destination section of the DOH vehicle authorization log. Respondent's personal banking transactions from that same date, however, revealed that an in-person withdrawal was made at 10:57 a.m. from Respondent's bank account at the bank's physical location in Virginia.
2. On March 7, 2013, Respondent signed out government vehicle number 3622 from 10:30 until 12:30 and listed "441" in the corresponding destination section of the DOH vehicle authorization log. Respondent's personal banking transactions from that same date, however, revealed that an in-person deposit was made at 11:59 a.m. from Respondent's bank account at the bank's physical location in Virginia.
3. On April 18, 2013, Respondent signed out government vehicle number 3622 from 7:00 until 11:00 and listed "33N-Fleet" in the corresponding destination section of the DOH vehicle authorization log. Respondent's personal banking transactions from that same date, however, revealed that an in-person deposit was made at 10:17 a.m. into Respondent's bank account at the bank's physical location in Virginia.
4. On May 6, 2013, Respondent signed out government vehicle 9083 from 1:45 until 3:00 and listed "33 N" in the corresponding destination section of the DOH vehicle authorization log. Respondent's personal banking transactions from that same date, however, revealed an in-person withdrawal was made at 2:24 p.m. from Respondent's bank account at the bank's physical location in Virginia.
5. On May 10, 2013, Respondent signed out an unidentified government vehicle from 11:00 until an undisclosed time and listed "33" in the corresponding destination section of the DOH vehicle authorization log. Respondent's personal banking transactions from that same date, however, revealed an in-person withdrawal was made at 11:52 a.m. from Respondent's bank account at the bank's physical location in Virginia.

<sup>2</sup> Respondent did not specify "a.m." or "p.m." on the relevant vehicle authorization logs at issue in this matter.

6. On May 16, 2013, Respondent signed out government vehicle number 3622 from 10:45 until 2:00 and listed "fleet" in the corresponding destination section of the DOH vehicle authorization log. Respondent's personal banking transactions from that same date, however, revealed that an in-person withdrawal from Respondent's bank's account at the bank's physical location in Virginia occurred at 11:02 a.m.
7. On June 20, 2013, Respondent signed out government vehicle number 9083 from 9:00 until 10:30 and listed "DC Treasury" in the corresponding destination section of the DOH vehicle authorization log. Respondent's personal banking transactions from that same date, however, revealed an in-person withdrawal from Respondent's bank account at the bank's physical location in Virginia occurred at 9:47 a.m.
8. On June 25, 2013, Respondent signed out government vehicle number 4698 from 9:30 until an undisclosed time and listed "33 N / DC Treasury" in the corresponding destination section of the DOH vehicle authorization log. Respondent's personal banking transactions from that same date, however, revealed that an in-person withdrawal from Respondent's bank account at the bank's physical location in Virginia occurred at 10:06 a.m.

Respondent admitted during an interview with the Office of Inspector General that he used District government vehicles to conduct personal banking matters at the Navy Federal Credit Union in Crystal City, Virginia.

## II. NATURE OF MISCONDUCT

Respondent's conduct is in violation of at least one section of the District Personnel Manual ("DPM"), as set forth below:

- ◆ Chapter 18, § 1808.1, which states: "[a]n employee has a duty to protect and conserve government property and shall not use such property, or allow its use, for other than authorized purposes."

Respondent violated DPM § 1808.1 when he used government vehicles to travel to and from Virginia to conduct his personal banking transactions. In each of the above-referenced instances, Respondent's usage of the vehicles occurred outside the District of Columbia and during his tour of duty. As a result of his conduct, Respondent was disciplined by his agency, resulting in significant lost income.

## III. TERMS OF THE NEGOTIATED SETTLEMENT

Respondent acknowledges that his conduct was in violation of the District Code of Conduct in that he misused government property. Respondent agrees to pay a \$300 fine and attend ethics training provided by OGE within six months of the full execution of this Negotiated Disposition Agreement. Respondent also promises not to engage in such conduct in the future. In

return for Respondent's acknowledgement and promise, this Office will not seek any further remedy or take any further action relating to the above-described misconduct.

The fine shall be paid by having \$300 automatically deducted from Respondent's bi-weekly paycheck from the District government commencing immediately. By this agreement, Respondent expressly authorizes the Office of Pay and Retirement Services (OPRS) to make this one-time deduction and to transfer such funds to the Board of Ethics and Government Accountability. In the event that Respondent's employment with the District government ceases prior to complete satisfaction of the fine amount, Respondent agrees that any outstanding fine amount will be satisfied by the Respondent from the District government for unused annual leave. Respondent acknowledges that, whether or not OPRS completes this deduction as described herein, Respondent is nonetheless solely responsible for satisfying the fine amount.

Respondent also understands that if he fails to pay the \$300 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 Board may impose sanctions up to the full statutory amount (\$5,000 per violation) as provided in the Ethics Act for each violation. Because the Office is, at this time, foregoing that the Ethics Board hold an open and adversarial hearing on this matter, Respondent agrees to waive any statute of limitation defenses should the Board decide to proceed in that matter as a result of Respondent'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.

[signatures on last page]

M. Mitchell  
M. Mitchell  
Respondent

12-2-16  
Date

Darrin P. Sobin  
Darrin P. Sobin  
Director of Government Ethics

12/2/16  
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. Spagnolelli  
Robert J. Spagnolelli  
Chairman, Board of Ethics and Government Accountability

12/8/16  
Date

Carol Schwartz  
Carol Schwartz  
Board Member, Board of Ethics and Government Accountability

12/8/16  
Date

Shonari Wade  
Shonari Wade  
Board Member, Board of Ethics and Government Accountability

12/8/16  
Date

Norma Hutcheson  
Norma Hutcheson  
Board Member, Board of Ethics and Government Accountability

12/8/16  
Date

Tameka Collier  
Tameka Collier  
Board Member, Board of Ethics and Government Accountability

12/8/16  
Date