

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



Office of Government Ethics

In Re: H. Clemm
Case No.: 1522-001

NEGOTIATED DISPOSITION

Pursuant to section 221(a)(4)(A)(v)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 ("OGE") hereby enters into this Public Negotiated Disposition with the Respondent, H. Clemm. Respondent agrees that the resulting disposition is a settlement of the above-titled action, detailed as follows:

I. FINDINGS OF FACT

Respondent was the [REDACTED] for the Solid Waste Management Administration ("SWMA") of the Department of Public Works ("DPW"). In general, SWMA is critical to providing environmentally healthy municipal services in four critical areas that include enforcement and education, public space cleaning, sanitation collection and removal, and solid waste disposal. To that end, Respondent was responsible for ensuring SWMA's compliance with its goals, both as directed by the Administrator of SWMA and independently, when no direction was provided. Among many other duties, Respondent participated in DPW's process for granting payment requests and preparing the scope of work for solicitations regarding emergency public space cleaning, including, but not limited to, emergency snow removal. Respondent's employment with DPW terminated on [REDACTED]

On August 12, 2015, Respondent emailed her resume to an employee of a company that was transacting business before DPW ("Contact A"). This occurred after Respondent had told Contact A that she was considering leaving employment with the District. Contact A forwarded Respondent's resume to a contact at another public agency ("Contact B"). Contact A, Contact B, and Respondent met for lunch on August 21, 2015, at which time Respondent talked with Contact B to obtain guidance for her job search. Email correspondence between Contact B and Respondent following the lunch shows that Contact B provided Respondent with a list of various websites where Respondent might find job openings. Also after the meeting, Contact B emailed a vacancy announcement to Contact A, who then forwarded the announcement to the Respondent. During the pendency of the above communications regarding the job search, a disputed invoice from Contact A's company was pending before Respondent's office within DPW, and had been pending as of April 13, 2015. Contact A requested that Respondent authorize payment of the

¹ Section 221(a)(4)(A) 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."

invoice, but Respondent refused to authorize payment of the invoice, as she had done in the past, because she believed the invoice was invalid. She further directed Contact A to seek payment on the invoice from other officials within DPW. Further, based upon OGE staff's interview with Respondent, she at no time sought employment with Contact A's company, which is corroborated by the documents currently available.

Respondent is currently employed with a private company as its Chief Operating Officer and has been employed as such since January 2016. The private company is not where Contact A or Contact B works. On January 4, 2016, Respondent emailed a DPW employee and introduced herself as the "point of contact for [the private company]." Respondent sent this email in response to an email from DPW requesting the private company to identify its "emergency point of contact information" for a particular Blanket Purchase Agreement that had been issued to the private company prior to Respondent's employment by that company. On February 4, 2016, again in response to a request from DPW, Respondent sent Invoice No. [REDACTED] in the amount of \$[REDACTED]. The invoice was prepared by another employee of the private company. Respondent admitted to communicating with DPW regarding the invoice after an initial dispute concerning the number of trucks that the private company used. After clarification from the Respondent, DPW authorized payment in whole. This admission is further corroborated by emails between Respondent and employees of DPW. Respondent emailed DPW's designated point of contact on February 8 regarding the status of payment of the invoice, after which she was advised that payment was authorized.

II. NATURE OF VIOLATIONS

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

- ❖ **One:** District Personnel Manual ("DPM") § 1811.10, which states: "[a] former employee (other than a special government employee who serves for fewer than one-hundred and thirty (130) days in a calendar year) shall be prohibited for one (1) year from having any transactions with the former agency intended to influence the agency in connection with any particular government matter pending before the agency or in which it has a direct and substantial interest, whether or not such matter involves a specific party."

Respondent violated DPM § 1811.10 when she communicated with employees of her former agency regarding a pending invoice that was initially disputed to provide clarification.

- ❖ **Two:** DPM § 1800.3(j), which states: "[e]mployees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with their official government duties and responsibilities."

Respondent violated DPM § 1800.3(j) when she sought employment through Contact A, including emailing her resume to Contact A and attending a lunch with him and Contact B, while denying an invoice from Contact A's company, which she previously denied and was pending before her agency for several months.

III. TERMS OF THE NEGOTIATED DISPOSITION

Respondent avers that she did not intend to engage in any act that violated the District Code of Conduct and that if she did so, she did so unknowingly at the time. Nonetheless, Respondent now acknowledges that her conduct violated the District Code of Conduct by (a) communicating with her former agency concerning an initially disputed invoice to provide clarification, for which work had been performed, within one year after the termination of her employment; and (b) by seeking/forming an arrangement for prospective employment with a person having business before her agency. Respondent acknowledges that she could have been more sensitive to the appearance of her actions, agrees to pay a fine in the amount of **\$2,500.00**, and promises not to engage in such conduct in the future. In return for Respondent's acknowledgement, the Office will not seek any further remedy or take any further action relating to the above misconduct. Respondent understands that the **\$2,500.00** fine is due upon the full execution of this Public Negotiated Disposition. Payment will be accepted by money order, made out to the D.C. Treasurer, and provided to the Office of Government Ethics.

The terms of this Negotiated Disposition are also warranted by the fact that Respondent fully cooperated in the Board's investigation and did not receive any ethics training or instruction at the time of her departure from the District of Columbia government.

Respondent also understands that if she fails to pay the \$2,500.00 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 Negotiated Disposition 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 her that may be used in any subsequent enforcement or judicial proceeding that may result from her failure to comply with this agreement.

Respondent further understands that if she 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 for each violation. Because the Office is, at this time, foregoing requesting that the Ethics Board hold an open and adversarial hearing on this matter, Respondent waives 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.

The mutual promises outlined herein constitute the entire agreement in the above-titled action. By our signatures, we agree to the terms outlined herein.

[Signatures on Following Page]

[REDACTED]
H [REDACTED] Clemm

10/26/16
Date

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

10/26/16
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. Spagnoletti
Robert J. Spagnoletti
Chairman, Board of Ethics and Government Accountability

11/3/16
Date

#1522-001

DS/BF/RC