

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



Office of Government Ethics

**IN RE: H [REDACTED] Clemm,**

**Respondent**

**CASE No.: 1522-001**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**NOTICE OF VIOLATION**

Pursuant to 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), the Director of Government Ethics completed a preliminary investigation and presented evidence to the Board of Ethics and Government Accountability (the "Ethics Board") that there is reason to believe the Respondent named above violated the District Code of Conduct.

The Ethics Board has reason to believe you violated six sections of the District Code of Conduct based on the following facts and evidence uncovered during the preliminary investigation and presented to the Ethics Board:

1. The Solid Waste Management Administration ("SWMA") is an office in the District of Columbia's Department of Public Works ("DPW").

2. 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.
3. Respondent was the Deputy Administrator for SWMA.
4. As a result, 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.
5. Specifically, and among other things, Respondent assessed whether to grant payment requests.
6. On August 12, 2015, Respondent emailed her resume to [REDACTED] of [REDACTED].
7. As of that date, an [REDACTED] invoice for work performed on behalf of DPW remained unpaid.
8. On August 13, 2015, [REDACTED] forwarded Respondent's resume to [REDACTED], Chief Executive Officer of [REDACTED].
9. [REDACTED] inquired by email from [REDACTED] whether Respondent would be interested in being chief of staff at [REDACTED].
10. [REDACTED] forwarded [REDACTED] email to Respondent, to which she replied "This is right up my alley....excellent and I look forward to it."
11. Respondent, [REDACTED], and [REDACTED] met for lunch on August 21, 2015.
12. At the lunch, the three discussed potential career opportunities for Respondent.
13. After the lunch, [REDACTED] emailed a vacancy announcement to [REDACTED] about a position as the Assistant Director for [REDACTED].
14. [REDACTED] forwarded [REDACTED] email to Respondent that same day.

15. The [REDACTED] invoice was still pending at that time.
16. On September 8, 2015, Respondent and [REDACTED] spoke regarding the outstanding [REDACTED] invoice.
17. According to Respondent, [REDACTED] wanted DPW to pay the outstanding invoice.
18. Respondent stated that she denied [REDACTED] payment request because she believed it was invalid. She had also previously denied the payment request in April 2015.
19. DPW terminated Respondent's employment on September 29, 2015.
20. [REDACTED] hired Respondent in January 2016 as its Chief Operating Officer.
21. On January 4, 2016, Respondent emailed a DPW employee and introduced herself as the "point of contact for [REDACTED]"
22. On February 4, 2016, Respondent sent Invoice No. [REDACTED] in the amount of \$38,896.00 for purposes of seeking payment.
23. [REDACTED], a DPW employee, advised Respondent that the invoice she submitted contained discrepancies.
24. As a result of the discrepancies, [REDACTED] requested Respondent submit a revised invoice to reflect a lower amount.
25. Respondent emailed [REDACTED] with information to support the invoiced amount and renewed her request that DPW pay the invoiced amount.
26. On February 8, 2016, four days after the email exchange regarding the invoice dispute, Respondent emailed [REDACTED], an employee of DPW, to determine whether he authorized payment for the disputed invoice.

27. [REDACTED] informed Respondent that he authorized payment for the disputed invoice.

28. With respect to her conduct in negotiating for prospective employment with [REDACTED] of [REDACTED] while employed by DPW and taking official action with respect to [REDACTED] continued request for payment for a denied invoice, Respondent violated the following provisions of Chapter 18 of Title 6B of the District of Columbia Municipal Regulations, hereinafter referred to as the District Personnel Manual ("DPM"), and Section 223 of the Ethics Act:

- a. Count 1: Seeking or Negotiating for Employment in a Manner Conflicting with Official Government Duties and Responsibilities.

DPM § 1800.3(j)<sup>1</sup> in that Respondent engaged in an outside activity, which includes seeking or negotiating for employment, that conflicted with her official government duties and responsibilities when she sought and negotiated for employment with [REDACTED] while engaging in her DPW duties that included approving or denying invoices submitted by [REDACTED]

- b. Count 2: Appearance of Using Public Office for Private Gain.

DPM § 1800.3(g)<sup>2</sup> in that Respondent engaged in action, negotiating for employment with [REDACTED] while engaging in her DPW duties that included approving or denying invoices submitted by [REDACTED] which created the appearance that she was using her public office for private gain.

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<sup>1</sup> DPM § 1800.3(j): "Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with their official government duties and responsibilities."

<sup>2</sup> DPM § 1800.3(g): "Employees shall not use public office or position for private gain."



c. Count 3: Conduct Not Compatible with Full and Proper Discharge of District Government Duties.

DPM § 1807.1<sup>3</sup> in that Respondent engaged in an activity, pursuing prospective employment with [REDACTED] that was not compatible with the full and proper discharge of her duties as a DPW employee because she was responsible for approving or denying invoices submitted by [REDACTED].

d. Count 4: Conduct Interfered with Ability to Perform District Job in Completely Independent and Impartial Manner.

DPM § 1807.1(a)<sup>4</sup> in that Respondent engaged in an interest, pursuing prospective employment with [REDACTED] that interfered with her ability to perform her job at DPW in a completely independent and impartial manner.

e. Count 5: Participated Personally and Substantially in a Particular Matter Involving an Affiliated Organization.

D.C. Official Code § 1-1162.23(a)<sup>5</sup> in that Respondent participated personally and substantially as a District employee, through decision, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a contract, claim or other particular matter in which

<sup>3</sup> DPM § 1807.1: "A District government employee shall not engage in any outside employment or other activity incompatible with the full and proper discharge of his or her duties."

<sup>4</sup> DPM § 1807.1(g): Employees are prohibited from "[e]ngaging in any outside employment, private business activity, or other interest that is reasonably likely to interfere with the employee's ability to perform his or her job, or which may impair the efficient operation of the District government"

<sup>5</sup> D.C. Official Code § 1-1162.23(a) states "No employee shall use his or her official position or title, or personally and substantially participate, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter, or attempt to influence the outcome of a particular matter, in a manner that the employee knows is likely to have a direct and predictable effect on the employee's financial interests or the financial interests of a person closely affiliated with the employee." Pursuant to D.C. Official Code §§ 1-1161.01(3), 1-1161.01(43), the financial interests of a person closely affiliated with the employee" includes an affiliated organization, which is further defined as "[a] person with whom the employee is negotiating for or has an arrangement concerning prospective employment."

any person or organization with whom she is negotiating for prospective employment has a financial interest. Respondent negotiated for employment with [REDACTED], whose company had an invoice pending before DPW, while Respondent participated personally and substantially as a DPW employee in that particular matter by denying the payment request.

29. With respect to Respondent's conduct after DPW terminated her employment by communicating with DPW as a representative of [REDACTED] with the intent to influence DPW within one year after the termination of her employment with DPW, Respondent violated the following provision of the DPM:

- a. Count 6: Communicating with Former Agency with Intent to Influence the Agency.

DPM § 1811.10<sup>6</sup> in that Respondent communicated with her former agency with the intent to influence the agency regarding a disputed invoice submitted by Respondent for services rendered by [REDACTED] within one year after the termination of her employment with DPW.

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<sup>6</sup> DPM § 1811.10 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 shall file with the Ethics Board, and serve a copy upon the Director of Government Ethics, a written response that states in short and plain terms her defenses to each violation alleged and shall admit or deny the averments, set forth in each numbered paragraph above, upon which the notice of violation relies. Respondent shall serve her response within (15) days after the service of the Notice of Violation upon her. Accordingly, Respondent shall submit her response, either electronically or in hard copy, no later than the close of business on Friday October 21, 2016. If submitted in hard copy via U.S. mail, Respondent must allow sufficient time for mailing delays in that the written response must be received by the Ethics Board and the Director of Government Ethics no later than close of business on Friday October 21, 2016. Responses submitted via U.S. mail or in person shall be addressed to Robert J. Spagnoletti, Chairman, Ethics Board, and Darrin P. Sobin, Director of Government Ethics, at the address indicated below. If submitted electronically, Respondent may email her response to [Robert.Spagnoletti@dc.gov](mailto:Robert.Spagnoletti@dc.gov) and [Darrin.Sobin@dc.gov](mailto:Darrin.Sobin@dc.gov).

Once Respondent has submitted her response or failed to submit a response by the due date provided, the Board shall send a Notice of Hearing to Respondent. The Notice of Hearing will provide the time, date, and location of the hearing; reference applicable statutes, rules, or regulations; state the purpose of the hearing; advise Respondent that she may be represented by counsel or other representative of her choosing; and advise Respondent that she may bring witnesses. Evidence at the hearing shall be taken in conformity with D.C. Official Code § 2-509(b).

A copy of the Ethics Board rules, 3 DCMR Section 5500 *et. seq.*, which provide a description of Respondent's right to a hearing, all procedural rights available to Respondent at the hearing, and a description of the applicable law and regulations that govern the disposition of the Notice of Violation should Respondent choose not to file a



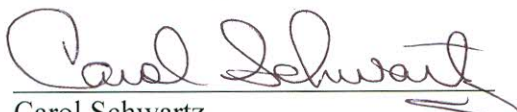
response or fail to appear at a scheduled hearing, is attached to this Notice of Violation and herein incorporated by reference.

This Notice of Violation is effective upon approval of the Board of Ethics and Government Accountability, as demonstrated by the signatures of the Board below, as of the date indicated below.

APPROVED:

  
Robert J. Spagnoletti  
Chair  
Board of Ethics and Government Accountability

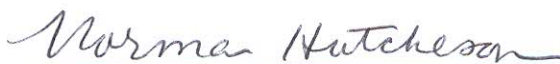
10/6/16  
Date

  
Carol Schwartz  
Board Member  
Board of Ethics and Government Accountability

10/6/16  
Date

  
Shomari Wade  
Board Member  
Board of Ethics and Government Accountability

10/6/16  
Date

  
Norma Hutcheson  
Board Member  
Board of Ethics and Government Accountability

10/6/16  
Date

Enclosure: 3 DCMR 5500 *et. seq.*

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