

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



Office of Government Ethics



In Re: [REDACTED]  
Case No.: 20-0001-P

**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 (“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 negotiated agreement with the Respondent, Hansel Aguilar. Respondent agrees that the resulting disposition is a settlement of the above-titled action, detailed as follows:

**I. FINDINGS OF FACT**

Respondent worked as an Investigator for the Office of Police Complaints (OPC) from October 2016 through May 2019. Respondent’s duties included reviewing complaints of excessive force, discriminatory treatment, and insulting or demeaning language by District officers against the public. In order to fulfill this assignment, the Respondent was given access to a nonpublic, web-based system which stores and maintains the footage of body cameras worn by the Metropolitan Police Department. Each authorized user accesses the system using an individual login and password. Users are prohibited from sharing login information.

Upon hire, on or about October 31, 2016, the Respondent executed a user agreement with OPC which stated the policy regarding permissible access and viewing of the body-worn camera system. Specifically:

- *Staff members shall only access Evidence.com or search for and review videos while at OPC offices using OPC computers, and only as necessary in the course of handling an OPC complaint. Access under any other circumstance must be approved in writing by a supervisor.*
- *Only OPC staff members, the program analyst, and interns who have signed confidentiality agreements shall be permitted to view videos.*

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<sup>1</sup> 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.”

Sometime during February 2019, the Respondent was served with a Notice of Suspension based on his performance. The respondent retained counsel to represent him before his agency in the suspension matter, and before the Department of Employment Services (DOES).

On February 27, 2019, OPC management received email correspondence from the Respondent's counsel in response to the Notice of Suspension. Attached to the email were approximately 65 pages of exhibits, some of which included information such as officer names, badge numbers, identifying civilian information, etc. The Respondent used his account login and password to access body-worn camera footage stored in OPC's systems to prepare his defense to the Notice of Suspension, and then disseminated the information to his defense attorney without authorization. Respondent did not understand that he was not allowed to show his counsel evidence he believed he needed to use to fight his proposed suspension.

## **II. NATURE OF MISCONDUCT**

OGE believes that substantial evidence would demonstrate that the Respondent violated §1808.1 of the District Personnel Manual ("DPM"), as set forth below:

- ❖ "an 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."

While Respondent denies that his actions described hereinabove violated the Code of Conduct as alleged by OGE, to facilitate a resolution of these alleged violations, the Respondent nevertheless waives his right to proceed to an adversarial hearing in this administrative matter and he voluntarily, knowingly, and understandingly consents to the Board's imposition of a fine against him in this administrative matter.

## **III. TERMS OF THE NEGOTIATED SETTLEMENT**

By agreeing to settle this matter via a negotiated disposition, Respondent and OGE will avoid expending significant time and resources to litigate this matter through a contested hearing.

Respondent acknowledges that OGE believes his actions violated the District Code of Conduct and would present substantial evidence if this matter proceeded to an adversarial hearing. Accordingly, Respondent agrees to pay a total fine in the amount of **\$500.00** to resolve this case. All outstanding amounts not paid against the fine will due in full on or before November 7, 2020 (the "Maturity Date").


All payments will be submitted by certified check, money order or credit card, made out to the D.C. Treasurer, and delivered to and received by OGE at 441 4th Street N.W., Suite 830 South, Washington, DC 20001.

Respondent admits that he understands the rights he is waiving by entering a Negotiated Disposition with OGE in connection with these alleged violations of the provisions of the Code of Conduct, for which OGE believes substantial evidence exists showing that Respondent's actions violated said provisions of the Code of Conduct, including all the substantive and procedural rights established at 3 DCMR §5500, et seq. such as the right to proceed to an adversarial hearing before the Board in this matter; to introduce evidence on his own behalf during that adversarial hearing; to rebut the evidence submitted by OGE during that adversarial hearing; the right to confront and cross-examine any witnesses called by OGE to testify during that adversarial hearing in

support of its case against him; and the right to refuse to answer a question during such an adversarial hearing that might tend to incriminate the witness by claiming his or her Fifth Amendment privilege against self-incrimination.

Respondent admits that he has counsel competent in these matters, that he has consulted with and has been advised by his counsel with respect to his substantive and procedural rights in this administrative matter and his waiver thereof in entering a Negotiated Disposition with OGE in connection with these violations of the provisions of the Code of Conduct for which OGE believes substantial evidence exists showing that Respondent's actions violated said provisions of the Code of Conduct, and that he is totally satisfied with the representation and advice he has received from said counsel in this administrative matter.

**Respondent acknowledges and understands that this Negotiated Disposition is only binding upon himself and OGE in resolution of his alleged violations of the Code of Conduct that applies to District government employees and public officials. Respondent acknowledges and understands that OGE does not have the authority to bind any other District or federal government agency to this agreement, including but not limited to the Metropolitan Police Department, the District of Columbia Office of the Attorney General ("OAG"), the Internal Revenue Service ("IRS"), the United States Attorney for the District of Columbia ("USAO") or the United States Department of Justice ("DOJ"). Respondent further acknowledges and understands that notwithstanding the terms of this Negotiated Disposition, his conduct described hereinabove may also subject him to the imposition of civil and/or criminal penalties by other government agencies who are not bound by the terms of this agreement whatsoever.**

  
Respondent

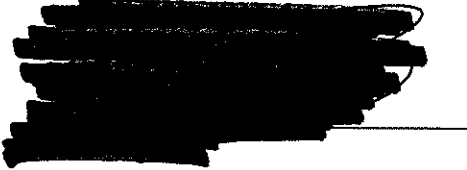
11/14/19  
Date

Respondent understands that if he fails to pay the full \$500.00 fine in accordance with the terms set forth hereinabove, 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 also understands that, pursuant to Section 217 of the Ethics Act (D.C. Official Code § 1-1162.17), he has the right to appeal any order or fine made by the Ethics Board. Nonetheless, the Respondent knowingly and willingly waives his right to appeal the accompanying Board Order assessing the \$500.00 fine in this matter in exchange for the concessions made by this OGE in this Negotiated Disposition.

Respondent further understands that if he fails to adhere to this agreement, OGE 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.<sup>2</sup> 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.

<sup>2</sup> Section 221(a)(1) (D.C. Official Code § 1-1162.21(a)(1)).

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 therein.



Respondent

11/14/19

Date



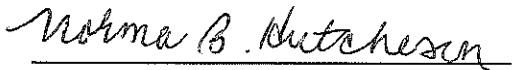
Brent Wolfingbarger  
Director of Government Ethics

12-5-2019

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 Chairperson below.

APPROVED:

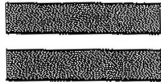


Norma B. Hutcheson  
Chairperson, Board of Ethics and Government Accountability

Dec 6, 2019

Date

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



IN RE: [REDACTED]

Respondent

CASE No.: 20-0001-P

ORDER

Based upon the mutual representations and promises contained in the Negotiated Disposition, and upon the entire record in this case; it is, therefore

ORDERED that Respondent pay a civil penalty in the amount of FIVE HUNDRED DOLLARS (\$500.00).

This Order is effective upon approval by the Board of Ethics and Government Accountability, as demonstrated by the signature of the Chairperson below.

The Board commends the work of its staff members who investigated this case, including Attorney Advisor Sonya King and Investigator Ralph Bradley.

*Norma B. Hutcheson*

Norma B. Hutcheson

Chair, Board of Ethics and Government Accountability

*Dec 5, 2019*

Date