

IN THE MATTER OF BRIAN KEENEY
COIB CASE NO. 2007-565
OATH INDEX NO. 092861
JULY 9, 2009

SUMMARY: The Board fined a Deputy Chief Administrative Law Judge (“ALJ”) at the Parking Violations Bureau for the New York City Department of Finance \$1,450 for accepting free legal representation from his subordinate, a business relationship prohibited by Chapter 68 of the New York City Charter. The Deputy Chief ALJ acknowledged that he was the superior of an ALJ in the Parking Violations Bureau who provided the Deputy Chief ALJ with free legal representation, from the winter of 2006 through the summer of 2007, in connection with his divorce, which representation included the ALJ’s attendance at two meetings at the office of the attorney of the Deputy Chief ALJ’s wife and the ALJ’s designation as the individual to receive and review a draft settlement agreement to be prepared by the Deputy Chief ALJ’s wife’s attorney. The Deputy Chief ALJ acknowledged that his conduct violated the City’s conflicts of interest law, which prohibits a public servant from entering into a business or financial relationship with the public servant’s superior or subordinate. The Board has previously stated, in its Advisory Opinion No. 92-28, that a public servant’s provision of legal representation to a superior or subordinate, even if not compensated and even if the superior and subordinate are personal friends, would be a violation of this provision of the City’s conflicts of interest law. *COIB v. Keeney*, COIB Case No. 2007-565 (2009).

STIPULATION AND DISPOSITION:

WHEREAS, the New York City Conflicts of Interest Board (the “Board”) and Respondent Brian Keeney wish to resolve this matter on the following terms,

Respondent Brian Keeney states the following:

1. From January 22, 2001, to the present, I have been employed by the New York City Department of Finance (“DOF”), mostly recently as Deputy Chief Administrative Law Judge (“ALJ”).
2. During that time, I have been a public servant within the meaning of § 2601(19) of Chapter 68 of the City Charter (“Chapter 68”), as further defined by the Board in its Advisory Opinion No. 93-10, which states that ALJs for the Parking Violations Bureau are “public servants” within the meaning of Chapter 68.
3. As a Deputy Chief ALJ, I am the superior of ALJ Richard Horowitz within the meaning of Chapter 68. I represent to the Board that, prior to becoming his superior, I had become friends with Horowitz through our work at DOF.
4. From in or around the winter of 2006 through in or around the summer of 2007, I accepted free legal representation from Horowitz in connection with my divorce,

specifically requesting that he attend two meetings as my representative at the office of my wife's attorney in New City, New York, and designating him as the individual to receive and review the draft settlement agreement to be prepared by my wife's attorney. I represent to the Board that Horowitz never received nor reviewed that settlement agreement.

5. Although I was not aware of it at the time, I now acknowledge that by accepting free legal representation from my subordinate, I created at least in the appearance, if not the reality, that I had entered into a business relationship with him in violation of Chapter 68, specifically City Charter § 2604(b)(14). City Charter § 2604(b)(14) states: "No public servant shall enter into any business or financial relationship with another public servant who is a superior or subordinate of such public servant."

6. The Board has previously stated, in its Advisory Opinion No. 92-28, that a public servant's provision of legal representation to a superior or subordinate, even if not compensated, and even if the superior and subordinate have a personal relationship, would be a violation of City Charter § 2604(b)(14). I represent to the Board that I was not aware of Advisory Opinion No. 92-28 when I accepted free legal representation from my subordinate, but I acknowledge that my ignorance of this Advisory Opinion does not excuse my failure to comply with it.

7. In recognition of the foregoing, I agree to pay a fine of One Thousand Four Hundred Fifty Dollars (\$1,450.00) to the Board upon signature of this Disposition, by money order or by cashier, bank, or certified check, made payable to the "New York City Conflicts of Interest Board."

8. I agree that this Disposition is a public and final resolution of the charges against me.

9. I knowingly waive on my behalf and on behalf of my successors and assigns any rights to commence any judicial or administrative proceeding or appeal before any court of competent jurisdiction, administrative tribunal, political subdivision, or office of the City or the State of New York or the United States, and to contest the lawfulness, authority, jurisdiction, or power of the Board in imposing the penalty which is embodied in this Disposition, and I waive any right to make any legal or equitable claims or to initiate legal proceedings of any kind against the Board or any members or employees thereof relating to or arising out of this Disposition or the matters recited therein.

10. I confirm that I have entered into this Disposition freely, knowingly, and intentionally, without coercion or duress, and after having been by an attorney of my choice; that I accept all terms and conditions contained herein without reliance on any other promises or offers previously made or tendered by any past or present representative of the Board; and that I fully understand all the terms of this Disposition.

11. Any material misstatement of the facts of this matter, including of the Disposition, by me or by my attorney or agent shall, at the discretion of the Board, be deemed a waiver of confidentiality of this matter.

12. The Board accepts this Disposition and the terms contained herein as a final disposition of the above-captioned matter only, and affirmatively states that other than as recited herein, no further action will be taken by the Board against Respondent based upon the facts and circumstances set forth herein, except that the Board shall be entitled to take any and all actions necessary to enforce the terms of this Disposition.

13. This Disposition shall not be effective until all parties have affixed their signatures below.

Dated: June 30, 2009

_____/s/
Brian Keeney
Respondent

Dated: June 30, 2009

_____/s/
Wayne R. Keeney
Counsel for Respondent

Dated: July 9, 2009

_____/s/
Steven B. Rosenfeld
Chair
NYC Conflicts of Interest Board