

NEW YORK STATE COMMISSION ON ETHICS
AND LOBBYING IN GOVERNMENT

In the Matter of

Clarence McCray,

Respondent.

SETTLEMENT AGREEMENT

COELIG Case No. 24-023

1. This settlement agreement is entered into by and between the New York State Commission on Ethics and Lobbying in Government (the “Commission”) and Mr. Clarence McCray (the “Respondent”).

2. The Commission is the New York State agency responsible for administering and enforcing Section 74 of the New York State Public Officers Law (“POL”).

3. This memorandum of agreement constitutes the entire agreement between the Commission and the Respondent. There are no promises, agreements, or conditions, express or implied, other than those set forth in this document. No modification, deletion, or addition to this agreement will be valid or binding on either party unless put into writing and signed by all parties.

4. This agreement shall become effective upon execution by the Commission, or its designee, and it is understood that this agreement is not confidential and will be made public in accordance with the provisions set forth in Executive Law §§ 94(10)(p)(ii), (11)(b), (12)(a)(iii), and (13)(b), and 19 NYCRR Part 941.16.

5. The Respondent has agreed to resolve this matter in a manner that avoids additional administrative and/or adjudicatory proceedings. As such, the Respondent stipulates to the following facts and conduct:

- a. The Respondent is currently employed by the New York State Department of Health (“DOH”) and was previously employed by the New York State Office of General Services (“OGS”).
- b. While employed by OGS and later DOH, the Respondent misused State resources to run his private business, which provides for the rental of an event space in Albany, New York.
- c. Public Officers Law §§ 74(3)(d) and (h) set forth specific standards to avoid conflicts of interest and provide, in pertinent part, that:

(d) No officer or employee of a state agency . . . should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others, including but not limited to,

the misappropriation to himself, herself or to others of the property, services or other resources of the state for private business or other compensated non-governmental purposes.

(h) An officer or employee of a state agency . . . should endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.

- d. The Commission's investigation, which included a review of the Respondent's OGS-issued email address, found that from October 2023 through January 2024, the Respondent used his OGS-issued email address to conduct private business by sending or receiving at least 25 emails from the Respondent's business email address. Of those emails, 20 were transmitted during Respondent's state workday.
- e. By March 2024, the Respondent was employed by DOH but continued to conduct private business during state hours as confirmed through: (i) a review of the Respondent's DOH-issued email address; (ii) an analysis of the Respondent's hours maintained on the Leave and Accrual Tracking System; and (iii) recorded conversations between the Respondent and an investigator employed by the Commission who posed as a potential client in May 2024¹.

6. Respondent admits that his above-described conduct constitutes a Public Officers Law violation pursuant to §§ 74(3)(d) and (h).

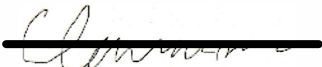
7. Respondent agrees, pursuant to Public Officers Law § 74(4) and Executive Law § 94(10)(n)(i) and (ii), to pay a fine in the amount of \$1000 in settlement of the above-described violations.

8. Respondent agrees not to take any action or to make, permit to be made, authorize, or agree to any public statement denying, directly or indirectly, any finding or acknowledgment in this agreement or creating the impression that this agreement is without factual basis.

¹ The Respondent was later informed of this investigatory step in a letter he received from the Commission dated August 14, 2024.

9. By signing below, Respondent acknowledges reading this agreement in its entirety, and understanding all terms and conditions of this agreement, and having done so, knowingly, voluntarily, and freely enters into this agreement. Respondent is not represented by counsel.

ACCEPTED AND AGREED TO BY:



Clarence McCray
Respondent

10/27/2024
Date

NEW YORK STATE COMMISSION ON ETHICS
AND LOBBYING IN GOVERNMENT



Sanford N. Berland
Executive Director

10/28/2024
Date