

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

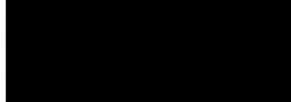


**IN RE: Mary Oates Walker and Kiyo
Oden Tyson,**

Respondents

CASE No.: 1060-001

Mary Oates Walker



Kiyo Oden Tyson



AMENDED 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 (2012 Supp.)), 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 each Respondent named above violated the District Code of Conduct. Accordingly, pursuant to Section 212(b), the Ethics Board authorized a formal investigation. The result of that investigation supports the initial determination that there is indeed reason to believe that the Respondents violated the District Code of Conduct.

The preliminary and formal investigations revealed the following facts and evidence:

1. Respondent Mary Oates Walker (“Respondent Walker”) has been employed as the Chief Administrative Law Judge at the Office of Administrative Hearings

("OAH") since January 2010.

2. Respondent Walker and a subordinate, OAH General Counsel, Respondent Kiyo Oden Tyson ("Respondent Oden"), have had a private business relationship, which includes a financial relationship, from 2006, at least through August 23, 2012. Respondent Oden has been the OAH General Counsel since September 2010.
3. Since 2006, Respondent Walker, Respondent Oden, and a third person who is not an OAH employee ("the third person"), have been owners and business partners in a business enterprise known alternately as MKM Ventures, LLC or MKM, ("MKM"). At one time, Respondent Walker, Respondent Oden, and the third person were all Members of MKM, which was registered in both Maryland and the District of Columbia. The MKM Articles of Incorporation filed in Maryland, dated March 16, 2006, list Respondent Oden as the Resident Agent and organizer in Maryland, using her then home address, [REDACTED] [REDACTED], Maryland [REDACTED], as the entity's principle place of business.
4. Respondent Walker, Respondent Oden, and the third person are each listed as an "Owner/Signer" on the MKM bank account with Industrial Bank and are each signatories on the account, from March 17, 2006, to present.
5. In 2006, Respondent Walker, Respondent Oden, and the third person, purchased an investment property in the District of Columbia in the amount of \$462,500. It was sold in 2009 for \$261,750 -- a significant loss at almost half of the original purchase price.
6. Respondent Oden has made capital contributions to MKM, which were deposited into MKM's Industrial Bank account, at least from May 25, 2010, through August 23, 2012. Respondent Walker has made capital contributions to MKM, which

were deposited into MKM's Industrial Bank account, at least from May 24, 2010, through December 12, 2013.

7. MKM manages real property located at 111 N. Glover Street, Baltimore, Md. 21224. Respondent Oden is listed as the MKM Registered Agent on the Baltimore Housing Property Registration Renewal Statement 2012 using her then current home address, [REDACTED] Md. [REDACTED]. Respondent Oden's subsequent home address, [REDACTED] Md. [REDACTED] also is listed on the Baltimore Housing Property Registration Renewal Statement 2012 as the c/o address for the listed owners, Mary Oates Walker and the third MKM Member, as well as the address for the listed "Name of Property Manager or Managing Operator" MKM Ventures, LLC.
8. Respondent Walker, Respondent Oden, and the third MKM Member, each contributed to the payment of repairs and other expenses related to the real property MKM managed, 111 N. Glover Street, Baltimore, Md. 21224, in that the capital contributions made by the three MKM Members were deposited into the same MKM Industrial Bank account on which checks were issued to pay those expenses. In addition, Respondent Oden directly paid expenses related to the real property MKM managed, 111 N. Glover Street, Baltimore, Md. 21224, on various dates, including in February 2012 and July 2012.
9. In sworn testimony taken at a deposition on November 26, 2013, Respondent Walker made material misrepresentations in response to several questions, thereby corruptly obstructing or impeding the due administration of justice in the above-referenced investigation. Respondent Walker stated that the signatories on the MKM bank account were the third person and herself (Tr. 51), and that the MKM bank account was opened in the names of the third person and herself (Tr.

54). Respondent Walker also stated that Respondent Oden did not contribute to the expenses after 2008 (Tr. 55). In fact, as detailed above, Respondent Oden, along with Respondent Walker and the third person, was a signatory on the bank account, was named on the bank account opening documents, and Respondent Oden contributed to expenses well into 2012.

10. In sworn testimony taken at a deposition on December 17, 2013, Respondent Oden made material misrepresentations in response to several questions, thereby corruptly obstructing or impeding the due administration of justice in the above-referenced investigation. Respondent Oden stated that she was not a signatory on the bank account for MKM Ventures, LLC, the D.C. one (Tr. 18), when, in fact, both the D.C. and Maryland MKMs share one bank account and Respondent Oden was and is a signatory on that bank account.
11. In a written letter dated August 30, 2013, and submitted to the Board of Ethics and Government Accountability in response to written questions, Respondent Oden made material misrepresentations including that: (1) MKM Ventures, LLC last did business when the property it managed was sold in 2009; and (2) Neither Respondent Oden nor Respondent Walker have expended any funds on behalf of MKM during the time of Respondent Oden's employment at OAH.
12. In sworn testimony taken at a deposition on December 17, 2013, Respondent Oden stated that she ceased working at Oden & Dillard PLLC when she began working at OAH in September 2010 (Tr. 50). Bank of America bank records, however, show that Respondent Oden received payments, sometimes labeled "draw," from Oden & Dillard PLLC, at least through November 4, 2011. Moreover, as late as August 16, 2013, a principal at the law firm who identified herself as Respondent Oden's law partner, did not dispute that Respondent Oden

still was associated with the firm, explaining that Respondent Oden was on medical leave from the firm but that she could take a message to have Respondent Oden return the call.

13. On at least two dozen instances during the sworn testimony taken at the deposition on December 17, 2013, when asked questions about her own conduct, Respondent Oden gave non-responsive answers, vague answers, or said that she did not recall.
14. Respondent Walker hired Respondent Oden as the OAH General Counsel in September 2010, without posting/advertising the position or interviewing anyone else for the position.
15. In 2011, OAH moved into space on the 4th floor of 441 4th Street, NW, Washington, D.C. 20001 (“the 4th floor”). A company named TPM Group, LLC, owned by Lincoln Tyson (“Tyson”), provided furniture relocation services for that move.
16. The Department of General Services (“DGS”), formerly the Department of Real Estate Services (“DRES”), (hereinafter referred to as “DGS”) was responsible for the build-out, construction, and relocation of OAH to the 4th floor.
17. Nonetheless, Respondent Walker actively sought to use TPM for the furniture relocation services and, in fact, told DGS representatives, both directly and indirectly, that she wanted to use TPM.
18. Respondent Walker was told, by DGS representatives, that agencies are required to follow pertinent District procurement regulations and processes to procure a vendor and that merely selecting a vendor is not such a process.
19. To accommodate Respondent Walker, DGS personnel had the general contractor, Consys, Inc., subcontract the furniture relocation work to TPM. Invoices

submitted by Consys, Inc. shows that the District was billed \$36,122 for the furniture relocation work performed by TPM, plus 10 % (\$3,612.00) in overhead, and 10 % (\$3,612.00) in profit. DGS approved these invoices on July 21, 2011.

20. Tyson currently is Respondent Oden's husband. At the time Respondent Walker told DGS that she wanted to use TPM for the OAH furniture relocation to the 4th floor, Respondent Walker knew TPM Group, LLC was Tyson's company and that Respondent Oden and Tyson were involved in a personal and romantic relationship such that Tyson became Respondent Oden's fiancé and later the two were married.
21. Respondent Oden sent Tyson, an unauthorized person, emails in December 2011 and on February 23, 2012, containing official government information and for other than officially approved purposes. The emails contained information relating to the impending move and move schedule for the Office of the Attorney General to move into One Judiciary Square, 10th floor, and mentions that there will be a move contract awarded.
22. In sworn testimony taken at a deposition on November 26, 2013, Respondent Walker made material misrepresentations in response to questions concerning TPM, thereby corruptly obstructing or impeding the due administration of justice in the above-referenced investigation. Specifically, Respondent Walker denied having suggested to anyone at DGS that TPM be the company to provide relocation management services and conduct the actual physical move on move day (Tr. 70-71). In fact, Respondent Walker provided the name of the contractor, TPM, that she wanted to use for the move.
23. Since June 2012, Respondent Walker has engaged in a pattern of conduct to retaliate against 15 OAH Administrative Law Judges ("ALJs") under her

supervision, who signed (the “signatories”) a letter dated June 13, 2012 (“the letter”), expressing concerns regarding Respondent Walker having hired a friend, Respondent Oden, to be the OAH General Counsel, and having supervised the relocation of OAH such that the relocation contract went to a company owned by Respondent Oden’s husband, without competitive bidding. The letter was addressed to D.C. Council Chairman Phil Mendelson, and Mayor Vincent Gray, Respondent Walker, and the Commission on Selection and Tenure of Administrative Law Judges (“COST”) were copied.

24. The letter also addresses management concerns, including that Respondent Walker makes policy decisions in secret with assistance only from a favored inner circle, is unprofessional, erratic, and at times demeaning in her treatment of support staff, has not heard a case or authored a decision, and has been unwilling or unable to retain seasoned, experienced professionals for key management positions.
25. After receiving the letter, Respondent Walker engaged a private law firm, Leftwich & Ludaway LLC, to investigate the allegations in the letter, the source of communications to the media, and to determine whether disciplinary action should be taken because of the communications to the media.
26. Respondent Walker provided information to Leftwich & Ludaway LLC, some of which was not part of the Leftwich & Ludaway LLC final report, dated May 23, 2013.
27. Leftwich & Ludaway LLC stated in its report that it did not investigate the concerns that the relocation contract went to a company owned by Respondent Oden’s husband, without bidding, because that matter was being investigated by the D.C. Office of the Inspector General.

28. Leftwich & Ludaway LLC concluded that Respondent Walker's hiring of Respondent Oden as General Counsel was not improper because Respondent Oden was qualified for the position, but noted that their prior business relationship, which concerned ownership of what it believed to be an inactive business entity, created the appearance of a conflict of interest.
29. Respondent Walker, in fact, hired Leftwich & Ludaway LLC to investigate the signatories of the letter, in retaliation for their reporting that she had engaged in misconduct by hiring Respondent Oden as General Counsel and for having the company owned by Respondent Oden's husband hired, without bidding, to perform relocation services.
30. Respondent Walker's actions in engaging Leftwich & Ludaway LLC to conduct an investigation of the signatories of the letter was retaliatory in that Leftwich & Ludaway LLC did not investigate the substantive issue regarding the hiring of the company owned by Respondent Oden's husband, without bidding, to perform relocation services, downplayed the conflict of interest in hiring Respondent Oden by erroneously concluding that the business entity Respondent Oden and Respondent Walker owned was inactive, and instead focused on non-substantive management issues and what Respondent Walker perceived as a leak to the media.
31. The Leftwich & Ludaway LLC report recommends that Respondent Walker refer performance issues and concerns to COST for review and disciplinary action regarding the ALJs. Accordingly, Respondent Walker's engaging in retaliatory conduct by hiring Leftwich & Ludaway LLC directly and predictably led to further retaliatory action against the 15 signatories by COST.

32. The Leftwich & Ludaway LLC report was provided to COST, in redacted form, by the Executive Office of the Mayor (“EOM”), but when COST asked an EOM representative for further information, the EOM representative suggested that COST obtain such information from Respondent Walker.
33. Respondent Walker is an *ex-officio*, non-voting member of COST. Respondent Walker failed to recuse herself and, in fact, attended and participated in the COST meetings held between July 2013 and October 2013, at which the Leftwich & Ludaway LLC report was reviewed and discussed at least four times. The discussions took place in closed session and no approved meeting minutes were issued, in violation of the Open Meetings Act.
34. At the October 16, 2013, closed COST meeting, at which Respondent Walker was in attendance, COST decided to commence an investigation against all 15 signatories of the letter. COST issued Resolution 2013-1, which states that “COST concludes that the allegations in the June 13, 2012 [*sic*] are without any legal or factual support. Because the allegations have demeaned the OAH and the OAH Chief Judge, COST is launching this investigation ‘to determine whether a formal proceeding to discipline or remove an Administrative Law Judge should be instituted.’”
35. On October 16, 2013, COST issued letters to each of the 15 signatories stating that it had authorized an investigation into the circumstances surrounding the letter and that they are required to cooperate in the interview process.
36. COST’s resolution clearly states that it has made conclusions regarding the allegations in the letter, even though it had not yet conducted an investigation. Therefore, the COST investigation also was initiated to retaliate against the signatories for raising the allegations in the letter.

37. With respect to her conduct in hiring Respondent Oden to be the OAH General Counsel while both Respondent Walker and Respondent Oden were owners/Members of MKM, a private business in which each had a financial interest, Respondent Walker violated the Conflicts of Interest provision of the Ethics Act, D.C. Official Code § 1-1162.23(a)¹ and Chapter 18 of Title 6B of the District of Columbia Municipal Regulations, hereinafter referred to as the District Personnel Manual (“DPM”), §§ 1803.1(a)(1)² (Using public office for private gain), 1803.1(a)(2)³ (Giving preferential treatment to any person), and 1803.1(a)(5)⁴ (Making a government decision outside official channels):

a. Count 1 (Walker): Conflict of Interest

Respondent Walker violated D.C. Official Code § 1-1162.23(a) by using her position as Chief Administrative Law Judge to make a decision to hire Respondent Oden to be the OAH General Counsel, without following standard hiring procedures such as posting or advertising the position and/or interviewing other candidates, knowing that this decision was likely to have a direct and predictable effect on Respondent Oden’s financial interests because Respondent Oden would then be a District employee, earning a salary and benefits. Respondent Oden has been a person closely affiliated with Respondent Walker because they both were owners/Member of MKM, at least through August 2012.

¹ D.C. Official Code § 1-1162.23(a) states that “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.” D.C. Official Code § 1-1161.01(43) defines “Person closely affiliated with the employee” as “a spouse, dependent, child, general partner, a member of the employee’s household, or an affiliated organization.”

² DPM § 1803.1(a)(1) states that an employee shall avoid action, whether or not specifically prohibited by this chapter, which might result in or create the appearance of using public office for private gain.

³ DPM § 1803.1(a)(2) states that an employee shall avoid action, whether or not specifically prohibited by this chapter, which might result in or create the appearance of giving preferential treatment to any person.

⁴ DPM § 1803.1(a)(5) states that an employee shall avoid action, whether or not specifically prohibited by this chapter, which might result in or create the appearance of making a government decision outside official channels.

b. Count 2 (Walker): Conflict of Interest

Respondent Walker violated D.C. Official Code § 1-1162.23(a) by using her official position and title as Chief Administrative Law Judge to allow Respondent Oden to remain employed as the OAH General Counsel, while they maintained a private business and financial relationship, which Respondent Walker knows is likely to have a direct and predictable effect on Respondent Oden's and MKM's financial interests.

c. Count 3 (Walker): Using Public Office for Private Gain

Respondent Walker violated DPM § 1803.1(a)(1) by using her public office and position as Chief Administrative Law Judge to hire Respondent Oden, to the financial benefit of Respondent Walker, MKM, and Respondent Oden. By hiring Respondent Oden, Respondent Walker ensured that Respondent Oden would have a reliable salary as a District government employee, which benefitted Respondent Oden financially, but also ensured that Respondent Oden would be better able to make capital contributions to MKM and contribute to the expenses necessary for the upkeep of the real property it managed at 111 N. Glover Street, Baltimore, MD. This arrangement contributed to the private gain of Respondent Walker, MKM, and Respondent Oden.

d. Count 4 (Walker): Using Public Office for Private Gain

Respondent Walker violated DPM § 1803.1(a)(1) by using her public office and position as Chief Administrative Law Judge to allow Respondent Oden to remain employed as the OAH General Counsel, while they maintained a private business and financial relationship. By engaging in such conduct, Respondent Walker failed to avoid creating the

appearance of using her public office for the private gain of Respondent Walker, MKM, and Respondent Oden, and, in fact, created such an appearance.

e. Count 5 (Walker): Gave Preferential Treatment

Respondent Walker violated DPM § 1803.1(a)(2) by hiring Respondent Oden, with whom Respondent Walker had a private business and financial relationship because they both were Members of MKM, without requiring Respondent Oden to go through standard hiring processes, such as responding to a posting or advertisement for the position and/or competing for the position against other candidates who normally would apply and be interviewed for the position.

f. Count 6 (Walker): Gave Preferential Treatment

Respondent Walker violated DPM § 1803.1(a)(2) by failing to avoid creating the appearance of giving preferential treatment to Respondent Oden and, in fact, creating the appearance of giving preferential treatment to Respondent Oden, by allowing Respondent Oden to remain employed as the OAH General Counsel, while they maintained a private business and financial relationship.

g. Count 7 (Walker): Made a Government Decision Outside Official Channels

Respondent Walker violated DPM § 1803.1(a)(5) in that Respondent Walker made a decision to hire Respondent Oden to be the OAH General Counsel, outside official channels in that Respondent Walker failed to follow standard hiring procedures such as posting or advertising the position and/or interviewing other candidates, and instead, hired

Respondent Oden, who was a Member, along with Respondent Walker, of MKM, a private business in which they both had financial interests.

h. Count 8 (Walker): Made a Government Decision Outside Official Channels

Respondent Walker violated DPM § 1803.1(a)(5) by failing to avoid creating the appearance of making government decisions regarding Respondent Oden's continued employment outside official channels and, in fact, creating the appearance of doing so, by allowing Respondent Oden to remain employed as the OAH General Counsel, while they maintained a private business and financial relationship.

38. With respect to her conduct in maintaining a private business and financial relationship with Respondent Oden who, along with Respondent Walker, has been a Member of MKM and has had a financial interest in MKM, at least through August 2012, while Respondent Oden was a subordinate to Respondent Walker at OAH, for the period September 2010, to present, Respondent Walker violated DPM § 1800.3⁵:

a. Count 9 (Walker): Engaged in a Private Business that Conflicts or Appears to Conflict with the Fair, Impartial, and Objective Performance of Officially Assigned Duties and Responsibilities

By maintaining a private business and financial interest in MKM, along with Respondent Oden, an OAH subordinate, Respondent Walker's conduct conflicts or appears to conflict with her ability to perform her officially assigned duties and responsibilities as the Chief Administrative Law Judge in a fair, impartial, and objective manner.

⁵ DPM § 1800.3 states that "No employee of the District shall engage in outside employment or private business activity or have any direct or indirect financial interest that conflicts or would appear to conflict with the fair, impartial, and objective performance of officially assigned duties and responsibilities."

39. With respect to her making material misrepresentations, under oath, at a deposition taken by the Office of Government Ethics on November 26, 2013, Respondent Walker violated DPM §§ 1803.10⁶ and 1804.1(i).⁷

a. Count 10 (Walker): Interfered With or Obstructed an Investigation by a District Agency of Misconduct by Another District Employee.

Respondent Walker violated DPM § 1803.10 when, at a deposition conducted on November 26, 2013, in connection with the formal investigation being conducted by BEGA, #1060-001, into misconduct by Respondent Walker and Respondent Oden, Respondent Walker made a material misrepresentation which interfered with and obstructed the investigation when she stated that the signatories on the MKM bank account were the third person and herself, omitting that Respondent Oden also was a signatory on the account.

b. Count 11 (Walker): Interfered With or Obstructed an Investigation by a District Agency of Misconduct by Another District Employee.

Respondent Walker violated DPM § 1803.10 when, at a deposition conducted on November 26, 2013, in connection with the formal investigation being conducted by BEGA, #1060-001, into misconduct by Respondent Walker and Respondent Oden, Respondent Walker made a material misrepresentation which interfered with and obstructed the investigation when she stated that the MKM bank account was opened in the names of the third person and herself, omitting that the MKM bank account also was opened in the name of Respondent Oden.

⁶ DPM § 1803.10 states that “An employee shall not interfere with or obstruct an investigation by a District or federal agency of misconduct by another District employee or by a person dealing with the District.”

⁷ DPM § 1804.1(i) states that “An employee may not engage in any outside employment or other activity which is not compatible with the full and proper discharge of his or her duties as responsibilities as a government employee. Activities or actions which are not compatible with government employment include . . . [e]ngaging in any outside employment, private business activity, or other interest which is in violation of federal or District law.”

c. Count 12 (Walker): Interfered With or Obstructed an Investigation by a District Agency of Misconduct by Another District Employee.

Respondent Walker violated DPM § 1803.10 when, at a deposition conducted on November 26, 2013, in connection with the formal investigation being conducted by BEGA, #1060-001, into misconduct by Respondent Walker and Respondent Oden, Respondent Walker made a material misrepresentation which interfered with and obstructed the investigation when she stated that Respondent Oden did not contribute to the expenses after 2008, when, in fact, Respondent Oden made capital contributions to MKM and paid for expenses related to the real property MKM managed, 111 N. Glover Street, Baltimore, Md. 21224, at least until August 2012.

d. Count 13 (Walker): Interfered With or Obstructed an Investigation by a District Agency of Misconduct by Another District Employee.

Respondent Walker violated DPM § 1803.10 when, at a deposition conducted on November 26, 2013, in connection with the formal investigation being conducted by BEGA, #1060-001, into misconduct by Respondent Walker and Respondent Oden, Respondent Walker made a material misrepresentation which interfered with and obstructed the investigation when she denied having suggested to anyone at DGS that TPM be the company to provide relocation management services and conduct the actual physical move on move day when, in fact, she had.

e. Count 14 (Walker): Engaged in an interest which is in violation of District Law

Respondent Walker violated DPM § 1804.1(i) when, at a deposition conducted on November 26, 2013, in connection with the formal investigation being conducted by BEGA, #1060-001, into misconduct by Respondent Walker and Respondent Oden, Respondent Walker made material misrepresentations under oath, in violation of D.C. Official Code § 22-722(a)(6)⁸ (Obstruction of Justice). Respondent Walker took an oath that she will depose truly, before a Notary Public, in a case in which the law authorized such oath to be administered in that the Ethics Act authorizes the Director of Government Ethics to take depositions,⁹ and willfully and contrary to that oath, stated material matters which she did not believe to be true and which in fact are not true. The misrepresentations made by Respondent Walker at the deposition, as set forth above, are material in that they relate directly to the financial interests of Respondent Oden in MKM during the time period Respondent Oden has been an OAH employee in a position subordinate to Respondent Walker. Respondent Walker's statements, in fact, were not true, as evidenced by the financial records of MKM's bank account. Accordingly, Respondent Walker corruptly obstructed or impeded the above-referenced investigation by making the material misrepresentations set forth above.

- f. Count 15 (Walker): Engaged in an interest which is in violation of District law.

⁸ D.C. Official Code § 22-722(a)(6) provides that "A person commits the offense of obstruction of justice if that person . . . [c]orruptly, or by threats of force, [in] any way obstructs or impedes or endeavors to obstruct or impede the due administration of justice in any official proceeding." D.C. Official Code § 22-721(4) defines Official Proceeding as "any trial, hearing, investigation, or other proceeding in a court of the District of Columbia or conducted by the Council of the District of Columbia or an agency or department of the District of Columbia government, or a grand jury proceeding."

⁹ See D.C. Official Code § 1-1162.11(4).

Respondent Walker violated DPM § 1804.1(i) when, at a deposition conducted on November 26, 2013, in connection with the formal investigation being conducted by BEGA, #1060-001, into misconduct by Respondent Walker and Respondent Oden, Respondent Walker made a material misrepresentation under oath, in violation of D.C. Official Code § 22-722(a)(6) (Obstruction of Justice). Respondent Walker took an oath that she will depose truly, before a Notary Public, in a case in which the law authorized such oath to be administered in that the Ethics Act authorizes the Director of Government Ethics to take depositions, and willfully and contrary to that oath, stated material matters which she did not believe to be true and which in fact are not true. The misrepresentations made by Respondent Walker at the deposition, as set forth above, are material in that they relate directly to her telling DGS to use TPM Group, LLC to perform furniture relocation services for OAH's move to the 4th floor, knowing that the owner of TPM Group, LLC was in a personal, romantic relationship with Respondent Oden, an OAH subordinate with whom respondent Walker has a private business and financial relationship.

40. With respect to telling DGS to use TPM Group, LLC to perform furniture relocation services for OAH's move to the 4th floor, knowing that the owner of TPM Group, LLC, was in a personal, romantic relationship with Respondent Oden, an OAH subordinate with whom Respondent Walker has a private business and financial relationship, violated DPM § 1803.1(a)(2) (Giving preferential treatment to any person).

a. Count 16 (Walker): Gave Preferential Treatment to Any Person

Respondent Walker violated DPM § 1803.1(a)(2) by telling DGS to use TPM Group LLC to perform the furniture relocation services for OAH's move to the 4th floor, rather than allowing DGS to follow any of the several applicable procurement procedures to obtain a furniture relocation vendor. Respondent Walker's conduct, which included refraining from notifying DGS that Lincoln Tyson, the owner of TPM Group LLC, was involved in a personal, romantic relationship with Respondent Oden, the OAH General Counsel, gave preferential treatment to Tyson and TPM Group LLC.

41. With respect to engaging in conduct to retaliate against the 15 ALJs who signed the June 13, 2012, letter, Respondent violated DPM § 1803.11¹⁰.

a. Count 17 (Walker): Harassed or Retaliated Against Employees Acting in Good Faith by Reporting Directly to Their Agency Head Information Concerning Conduct Which They Knew or Reasonably Should Have Known, Involved Corrupt or Other Criminal Activity or Conflict of Interest, on the Part of Another District Employee Concerning That Person's Employment or Office.

Respondent Walker violated DPM § 1803.11 by hiring Leftwich & Ludaway LLC to investigate the 15 ALJs who signed the June 13, 2012, letter. The 15 signatories had a good faith basis to report the information they knew concerning Respondent Walker to Respondent Walker as the agency head, which they did by copying her on the letter. Respondent

¹⁰ DPM § 1803.11 states that "Coercion, harassment, or retaliatory action shall not be taken against an employee acting in good faith under section 1803.8 of this section. DPM § 1803.8 states that "An employee shall report directly and without undue delay to his or her agency head and to the Office of the Inspector General of the District of Columbia any information concerning conduct which he or she knows, or should reasonably know, involves corrupt or other criminal activity, or conflict of interest . . . [o]n the part of another District employee, which concerns that person's employment or office"

Walker, therefore, was prohibited from harassing or retaliating against those 15 signatories.

42. With respect to engaging in additional conduct to retaliate against the 15 ALJs who signed the June 13, 2012, letter, Respondent Walker violated DPM § 1803.11 a second time in connection with the actions taken by COST. In addition Respondent Walker violated DPM § 1803.1(a)(4)¹¹ (Losing complete independence or impartiality).

a. Count 18 (Walker): Harassed or Retaliated Against Employees Acting in Good Faith by Reporting Directly to Their Agency Head Information Concerning Conduct Which They Knew or Reasonably Should Have Known, Involved Corrupt or Other Criminal Activity or Conflict of Interest, on the Part of Another District Employee Concerning That Person's Employment or Office.

Respondent Walker again violated DPM §1803.11 by participating in and failing to recuse herself from COST meetings at which the Leftwich & Ludaway LLC report was discussed and at which COST decided to initiate an investigation into the signatories after concluding that there was no legal or factual support for the allegations in the June 13, 2012, letter.

b. (Count 19) (Walker): Losing complete independence or impartiality.
Respondent Walker violated DPM § 1803.1(a)(4) by participating in and failing to recuse herself from COST meetings at which the Leftwich & Ludaway LLC report was discussed and at which COST decided to initiate an investigation into the signatories. By doing so, Respondent Walker at least created the appearance of losing complete independence or

¹¹ DPM § 1803.1(a)(4) states that an employee shall avoid action, whether or not specifically prohibited by this chapter, which might result in or create the appearance of losing complete independence or impartiality.

impartiality in that the allegations in the June 13, 2012, letter were about Respondent Walker and Respondent Walker failed to recuse herself from and participated in discussions about whether COST should initiate an investigation into the ALJs who made those allegations.

43. With respect to Respondent Oden making material misrepresentations, under oath, at a deposition taken by the Office of Government Ethics on December 17, 2013, Respondent Oden violated DPM §§ 1803.10¹² and 1804.1(i).¹³

a. Count 1 (Oden): Interfered With or Obstructed an Investigation by a District Agency of Misconduct by Another District Employee.

Respondent Oden violated DPM § 1803.10 when, at a deposition conducted on December 17, 2013, in connection with the formal investigation being conducted by BEGA, #1060-001, into misconduct by Respondent Walker and Respondent Oden, Respondent Oden made a material misrepresentation which interfered with and obstructed the investigation when she stated that she was not a signatory on the bank account for MKM Ventures, LLC, the D.C. one, when, in fact, both the D.C. and Maryland MKMs share one bank account and Respondent was and is a signatory on that bank account.

b. Count 2 (Oden): Interfered With or Obstructed an Investigation by a District Agency of Misconduct by Another District Employee.

Respondent Oden violated DPM § 1803.10 when, at a deposition conducted on December 17, 2013, in connection with the formal investigation being conducted by BEGA, #1060-001, into misconduct by

¹² DPM § 1803.10 states that “An employee shall not interfere with or obstruct an investigation by a District or federal agency of misconduct by another District employee or by a person dealing with the District.”

¹³ DPM § 1804.1(i) states that “An employee may not engage in any outside employment or other activity which is not compatible with the full and proper discharge of his or her duties as responsibilities as a government employee. Activities or actions which are not compatible with government employment include . . . [e]ngaging in any outside employment, private business activity, or other interest which is in violation of federal or District law.”

Respondent Walker and Respondent Oden, Respondent Oden made a material misrepresentation which interfered with and obstructed the investigation. Specifically, Respondent Oden made a material misrepresentation when she stated that she ceased working at Oden & Dillard PLLC when she began working at OAH in September 2010. In fact, bank records show that Respondent Oden received payments, sometimes labeled “draw” from Oden & Dillard PLLC, at least through November 4, 2011. In addition, as late as August 16, 2013, Respondent Oden’s law partner did not dispute that Respondent Oden still was associated with the firm and offered to take a message to have Respondent Oden return a call.

c. Count 3 (Oden): DPM § 1804.1(i) Engaged in an interest which is in violation of District Law

Respondent Oden violated DPM § 1804.1(i) when, at a deposition conducted on December 17, 2013, in connection with the formal investigation being conducted by BEGA, #1060-001, into misconduct by Respondent Walker and Respondent Oden, Respondent Oden made a material misrepresentation under oath, in violation of D.C. Official Code § 22-722(a)(6) (Obstruction of Justice). By making a material misrepresentation under oath in a deposition, Respondent Oden violated D.C. Official Code § 22-722(a)(6) (Obstruction of Justice). Respondent Oden took an oath that she will depose truly, before a Notary Public, in a case in which the law authorized such oath to be administered in that the Ethics Act authorizes the Director of Government Ethics to take

depositions,¹⁴ and willfully and contrary to that oath, stated material matters which she did not believe to be true and which in fact are not true. The misrepresentation made by Respondent Oden when she stated that she was not a signatory on the bank account for MKM Ventures, LLC, the D.C. one, at the deposition, as set forth above, is material in that it relates directly to the financial interests of Respondent Oden and the private business and financial relationship between Respondent Oden and Respondent Walker during the time period Respondent Oden has been an OAH employee. Respondent Oden's statements, in fact, were not true, as evidenced by the financial records described above. Accordingly, Respondent Oden corruptly obstructed or impeded the above-referenced investigation by making the material misrepresentation set forth above, which is a violation of D.C. Official Code § 22-722(a)(6), and DPM §1804.1(i).

d. Count 4 (Oden): DPM § 1804.1(i) Engaged in an interest which is in violation of District Law

Respondent Oden violated DPM § 1804.1(i) when, at a deposition conducted on December 17, 2013, in connection with the formal investigation being conducted by BEGA, #1060-001, into misconduct by Respondent Walker and Respondent Oden, Respondent Oden made a material misrepresentation under oath, in violation of D.C. Official Code § 22-722(a)(6) (Obstruction of Justice). By making a material misrepresentation under oath in a deposition, Respondent Oden violated D.C. Official Code § 22-722(a)(6) (Obstruction of Justice). Respondent

¹⁴ See D.C. Official Code § 1-1162.11(4).

Oden took an oath that she will depose truly, before a Notary Public, in a case in which the law authorized such oath to be administered in that the Ethics Act authorizes the Director of Government Ethics to take depositions,¹⁵ and willfully and contrary to that oath, stated material matters which she did not believe to be true and which in fact are not true. The misrepresentation made by Respondent Oden at the deposition regarding having ceased working at Oden & Dillard PLLC when she began working at OAH in September 2010, as set forth above, is material in that it relates directly to the private business and financial interests of Respondent Oden during the time period she worked at OAH.

e. Count 5 (Oden): Interfered With or Obstructed an Investigation by a District Agency of Misconduct by Another District Employee.

Respondent Oden violated DPM § 1803.10 when, at a deposition conducted on December 17, 2013, in connection with the formal investigation being conducted by BEGA, #1060-001, into misconduct by Respondent Walker and Respondent Oden, on at least two dozen instances when asked questions about her own conduct, Respondent Oden gave non-responsive answers, vague answers, or said that she did not recall. In its entirety, Respondent Oden's deposition obstructed the BEGA investigation in violation of DPM § 1803.10.

f. Count 6 (Oden): Interfered With or Obstructed an Investigation by a District Agency of Misconduct by Another District Employee.

Respondent Oden violated DPM § 1803.10 when, in a written letter dated August 30, 2013, and submitted to the Board of Ethics and Government

¹⁵ See D.C. Official Code § 1-1162.11(4).

Accountability in response to written question, Respondent Oden made material misrepresentations including that: (1) MKM Ventures, LLC last did business when the property which it managed was sold in 2009; and (2) Neither Respondent Oden nor Respondent Walker have expended any funds on behalf of MKM during the time of Respondent Oden's employment at OAH. Accordingly, Respondent Oden interfered with or obstructed the above-referenced investigation by making the material misrepresentations set forth above, which is a violation of DPM §1803.10.

44. With respect to her conduct in maintaining a private business and financial relationship with Respondent Walker who, along with Respondent Oden, is a Member of MKM and has a financial interest in MKM, while Respondent Walker was superior to Respondent Oden at OAH, for the period September 2010, to present, Respondent Oden violated DPM § § 1800.3 and 1803.1(a)(4)¹⁶:

- a. Count 7 (Oden): DPM § 1800.3 (Engaged in a Private Business that Conflicts or Appears to Conflict with the Fair, Impartial, and Objective Performance of Officially Assigned Duties and Responsibilities)
Respondent Oden violated DPM § 1800.3 by maintaining a private business and financial interest in MKM, along with Respondent Walker, an OAH superior. Respondent Oden's conduct conflicts or appears to conflict with her ability to perform her officially assigned duties and responsibilities as the OAH General Counsel in a fair, impartial, and objective manner.
- b. Count 8 (Oden) DPM § 1803.1(a)(4) (Losing Complete Independence or Impartiality)

¹⁶ DPM § 1803.1(a)(4) states that "An employee shall avoid action, whether or not specifically prohibited by this chapter, which might result in or create the appearance of . . . [l]osing complete independence or impartiality."

Respondent Oden violated DPM § 1803.1(a)(4) by maintaining a private business and financial interest in MKM, along with Respondent Walker, an OAH Superior. Respondent Oden's conduct creates at least the appearance that she has lost complete independence or impartiality.

45. With respect to her conduct in sending Tyson emails containing information about an upcoming Office of Attorney General move, Respondent Oden violated DPM § 1804.1(f)¹⁷ (Divulging official government information) and DPM § 1806.1 (Not using material for other than officially approved purposes).

a. Count 9 (Oden): DPM § 1804.1(f) (Divulging official government information)

By sending Tyson, an unauthorized person, emails in December 2011 and on February 23, 2012, containing official government information and for other than officially approved purposes, Respondent Oden violated DPM § 1804.1(f) (Divulging official government information).

b. Count 10 (Oden): DPM § 1806.1 (Not using material for other than officially approved purposes)

By sending Tyson, an unauthorized person, emails in December 2011 and on February 23, 2012, containing official government information regarding an upcoming District government agency move, knowing that Tyson's company TPM Group LLC provides relocation services and has provided furniture move and relocation management services to the District government in the past, Respondent Oden provided those emails,

¹⁷ DPM § 1804.1(f) states that "An employee may not engage in any outside employment or other activity which is not compatible with the full and proper discharge of his or her duties as responsibilities as a government employee. Activities or actions which are not compatible with government employment include . . . [d]ivulging any official government information to any unauthorized person or in advance of the time prescribed for its issuance, or otherwise making use of or permitting others to make use of information not available to the general public."

which constitute government material, for other than officially approved purposes, in violation of DPM § 1806.1.

Each 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. Each Respondent shall serve her response within (15) days after the service of the Notice of Violation upon him. Accordingly, each Respondent shall submit her response, either electronically or in hard copy, no later than the close of business on Friday, February 21, 2014. If submitted in hard copy via U.S. mail, each 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, February 21, 2014. 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, each Respondent may email her response to Robert.Spagnoletti@dc.gov and Darrin.Sobin@dc.gov.

Once each 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 each 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 each Respondent that she may be represented by counsel or other representative of their choosing; and advise each Respondent that she may bring witnesses. Evidence at the hearing shall be taken in conformity with D.C. Official Code § 2-509(b) (2011 Repl.).

A copy of the Ethics Board rules, 3 DCMR Section 5500 *et. seq.*, which provide a description of each Respondent's right to a hearing, all procedural rights available to each

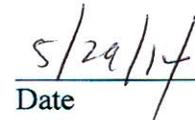
Respondent at the hearing, and a description of the applicable law and regulations that govern the disposition of the Notice of Violation should each Respondent choose not to file a response or fail to appear at a scheduled hearing, is attached to this Notice of Violation and herein incorporated by reference.

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

APPROVED:



Robert J. Spagnoletti
Chair, Board of Ethics and Government Accountability



Date

Enclosure: 3 DCMR 5500 *et. seq.*

#1060-001