

IN THE MATTER OF ARDLAN FEIZBAKHSH,

former Chief Officer, Sandy Recovery & Resiliency,
Capital Programs Management, New York City Transit.

"JCOPE" Rec'd

DEC - 5 2016

SUBSTANTIAL BASIS INVESTIGATION REPORT
AND SETTLEMENT AGREEMENT

Case No. 16-106

WHEREAS, the Joint Commission on Public Ethics ("Commission") is authorized by Executive Law § 94 to conduct an investigation to determine whether a substantial basis exists to conclude that any violations of the Public Officers Law have occurred, to issue a report of its findings of fact and conclusions of law, and to impose penalties for any violation;

WHEREAS, Ardlan "Eddie" Feizbakhsh ("Respondent") was employed as the Chief Officer of Sandy Recovery & Resiliency in Capital Programs Management at Metropolitan Transportation Authority ("MTA") New York City Transit ("NYCT") until his early retirement on or about June 6, 2016, after the commencement of an investigation by the MTA Office of the Inspector General ("MTA OIG");

WHEREAS, the MTA OIG referred this matter concerning Feizbakhsh and William Lindner, then Director of Consultant Services and Feizbakhsh's subordinate, to the Commission for its consideration;

WHEREAS, Lindner was terminated as a result of the MTA OIG's investigation:

WHEREAS, on August 22, 2016, a letter was sent to Respondent alleging violations of Public Officers Law §§ 74(3)(d), (f), and (h), which afforded Respondent fifteen (15) days to respond;

WHEREAS, on September 27, 2016, the Commission voted to commence an investigation into this matter;

WHEREAS, Respondent and the Commission, the parties to this Settlement Agreement ("Agreement"), have agreed to resolve this matter in a manner that avoids additional administrative and/or adjudicatory proceedings;

NOW THEREFORE, in consideration of the mutual covenants made herein, as the final settlement of this matter, the parties stipulate and agree that:

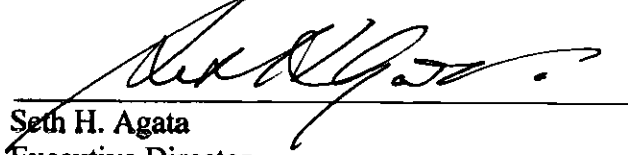
1. Respondent admits that in the summer of 2013 he directed his subordinate William Lindner to interview the daughter of his former NYCT colleague for the purpose of hiring her for a temporary position at NYCT. The daughter was eventually hired by NYCT, despite her lack of qualifications relative to other candidates.
2. Respondent admits that, by his conduct described in Paragraph 1, he violated Public Officers Law § 74(3)(d), which provides that no state employee should use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.
3. Respondent agrees to pay to the Commission the amount of one thousand five hundred dollars (\$1,500.00) in settlement of said violation within five (5) days of the execution of this Agreement. Respondent shall send the payment to the Commission at 540 Broadway, Albany, New York 12207.
4. Respondent agrees to cooperate fully with any related investigation by the Commission, including but not limited to, providing any and all relevant documents and providing truthful testimony in any future investigations or proceedings related to this matter.
5. The Commission has agreed to the terms of this Agreement based on, among other things, the representations made to the Commission by Respondent. To the extent that representations made by Respondent are later found by the Commission to be materially incomplete or inaccurate, Respondent shall be in breach of this Agreement.
6. If the Respondent fails to timely perform any conditions set forth in the Agreement, Respondent shall be in breach of this Agreement.
7. 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 in this Agreement or creating the impression that this Agreement is without factual basis. Nothing in this Paragraph affects Respondent's: (a) testimonial obligations; or (b) right to take legal or factual positions in defense of litigation or other legal proceedings to which the Commission is not a party. A violation of this Paragraph constitutes a breach of this Agreement by Respondent.
8. Only upon a breach of this Agreement, the Commission shall have sole discretion to deem the Agreement null and void in its entirety, issue a Notice of Substantial Investigation and Hearing, which may include additional charges against Respondent, proceed with an enforcement action, and issue a new Substantial Basis Investigation Report. As to any new Substantial Basis Investigation Report or enforcement action by the Commission pursuant to this Paragraph: (1) Respondent waives any claim that such action is time-barred by a statute of limitations or any other time-related defenses; and (2) Respondent expressly acknowledges and agrees that the Commission may use any statements herein, or

any other statements, documents or materials produced or provided by Respondent prior to or after the date of this Agreement, including, but not limited to, any statements, documents, or materials, if any, provided for the purposes of settlement negotiations or in submissions by Respondent or by counsel on behalf of Respondent, in any proceeding against Respondent relating to the allegations herein.

9. Respondent shall upon request by the Commission provide all documentation and information reasonably necessary for the Commission to verify compliance with this Agreement.
10. Respondent understands and acknowledges that the Commission may investigate any other conduct not covered by this Agreement by Respondent and take any appropriate action.
11. Respondent waives the right to assert any defenses or any challenges to this Agreement, as well as any right to appeal or challenge the determination or conduct of the Commission relating to this matter in any forum.
12. This Agreement and any dispute related thereto shall be governed by the laws of the State of New York without regard to any conflict of laws principles.
13. Respondent consents to the jurisdiction of the Commission in any proceeding to enforce this Agreement.
14. It is understood that this Agreement is not confidential and will be made public within forty-five (45) days of its execution in accordance with Executive Law § 94(14) and (19).
15. This Agreement constitutes the entire agreement between the parties and supersedes any prior communication, understanding, or agreement, whether oral or written, concerning the subject matter of this Agreement. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Agreement has been relied upon by any party to this Agreement.
16. Any amendment or modification to this Agreement shall be in writing and signed by both parties.
17. This Agreement shall become effective upon execution by the Commission or its designee.
18. In the event that one or more provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement.


19. By signing below, Respondent acknowledges reading this Agreement in its entirety, understanding all terms and conditions of this Agreement, and having done so, knowingly, voluntarily, and freely enters into this Agreement.

Dated: 12/6/16



Seth H. Agata
Executive Director
New York State Joint Commission on Public Ethics

ACCEPTED AND AGREED TO
THIS 1 DAY OF December, 2016

Respondent
By: 

Name: Ardlan Feizbakhsh

Approved:

Michael K. Rozen
Acting Chair

Marvin E. Jacob
Seymour Knox, IV
Hon. Eileen Koretz
Gary J. Lavine
J. Gerard McAuliffe, Jr.
David A. Renzi
Hon. Renee R. Roth
Dawn L. Smalls

Members