

IN THE MATTER OF STEDROY FERGUS,
Former Facilities Manager
at the Metropolitan Transportation Authority.

SUBSTANTIAL BASIS INVESTIGATION REPORT
AND SETTLEMENT AGREEMENT

Case No. 15-148

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, Stedroy Fergus ("Respondent") was employed as a Facilities Manager in the Real Estate Division of the Metropolitan Transportation Authority ("MTA"), from 2008 to his termination on or about September 4, 2015 after the conclusion of an investigation by the MTA Office of the Inspector General ("MTA IG");

WHEREAS, the MTA IG referred this matter to the Commission for its consideration;

WHEREAS, on October 21, 2015, a letter was sent to Respondent alleging violations of Public Officers Law §§ 73(5)(a), (14)(a) and 74(3)(d), (f), and (h), which afforded Respondent fifteen (15) days to respond;

WHEREAS, on November 23, 2015, a Notice of Substantial Basis Investigation was issued;

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 from in or about August 2013 to in or about September 2014 he accepted gifts, in the form of rounds of golf and meals, from MTA vendors and prospective vendors with whom he was dealing as part of his official duties.

2. Respondent admits that, by his conduct described in paragraph 1, he violated Public Officers Law § 73(5)(a), which provides that no state employee may solicit, accept, or receive any gift having more than a nominal value under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part.
3. Respondent admits that in or about April 2015 he contacted several MTA Metro-North Railroad ("MNR") employees in an attempt to influence potential employment decisions concerning his son, who was a trainee in an MNR conductor class.
4. Respondent admits that, by his conduct described in paragraph 3, he violated Public Officers Law § 73(14)(a), which provides that no state employee may participate in any decision to hire, promote, discipline, or discharge a relative for any compensated position at, for, or within any state agency.
5. Respondent agrees to pay to the Commission the amount of two thousand five hundred dollars (\$2,500.00) in settlement of said violations as follows: \$1,000 within thirty (30) days of the execution of this Agreement and the remaining \$1,500 within thirty (30) days thereafter.
6. 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.
7. If the Respondent fails to timely perform any conditions set forth in the Agreement, Respondent shall be in breach of this Agreement.
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 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.
9. Upon a breach of this Agreement, the Commission shall have sole discretion to deem the Agreement null and void in its entirety, issue a new Substantial Basis Investigation Report, which may include additional charges against Respondent, and proceed with an enforcement action. 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.

10. Respondent shall upon request by the Commission provide all documentation and information reasonably necessary for the Commission to verify compliance with this Agreement.
11. Respondent understands and acknowledges that the Commission may investigate any other conduct not covered by this Agreement by Respondent and take any appropriate action.
12. 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.
13. 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.
14. Respondent consents to the jurisdiction of the Commission in any proceeding to enforce this Agreement.
15. It is understood that this Agreement is not confidential and will be made public within 45 days of its execution in accordance with Executive Law § 94(14) & (19).
16. 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.
17. Any amendment or modification to this Agreement shall be in writing and signed by both parties.
18. This Agreement shall become effective upon execution by the Commission or its designee.

19. 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.
20. 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: 2/23/16


Monica Stamm
General Counsel
New York State Joint Commission on Public Ethics

ACCEPTED AND AGREED TO
THIS 16 DAY OF February, 2016

Respondent
By:  2/16/16
Name: Stedroy Fergus

Approved:

Daniel J. Horwitz
Chair

Marvin E. Jacob
Seymour Knox, IV
Hon. Eileen Koretz
Gary J. Lavine
David A. Renzi
Hon. Renee R. Roth
Michael K. Rozen
Dawn L. Smalls
George H. Weissman

Absent:

David Arroyo
Hon. Joseph Covello
Hon. Mary Lou Rath
Michael A. Romeo, Sr.

Members