

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



Office of Government Ethics

In Re: D [REDACTED] Anderson Smith
Case No.: 1184-001

NEGOTIATED DISPOSITION

Pursuant to section 221(a)(4)(E)¹ of 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 et seq., the Office of Government Ethics (the “Office”) hereby enters into this public Negotiated Disposition with the Respondent, D [REDACTED] Anderson Smith. Respondent agrees that the resulting Negotiated Disposition is a settlement of the above-titled action, detailed as follows:

I. FINDINGS OF FACT

Respondent has worked for the District of Columbia Office of Tax and Revenue (“OTR”) for approximately nine years. She currently is an OTR Tax Examiner. Beginning in May of 2012, Respondent began using a District-government issued disability placard belonging to her husband, to park her vehicle on a District street in the vicinity of her work location and avoid paying the District government parking meter fees.

D.C. Office of the Inspector General (“OIG”) investigators observed Respondent’s vehicle parked in the vicinity of 1101 4th Street, S.W., Washington, D.C., at an expired meter with D.C. disability placard # [REDACTED] hanging from the rearview mirror, without having made payment for her use of the parking space on three separate occasions. Those occasions were: July 19, 2013, July 30, 2013, and August 1, 2013.

In addition, in an interview with OIG investigators on August 29, 2013, Respondent admitted that she used the disability placard in the vicinity of her D.C. work location on a regular basis, for approximately six months, from February/March 2013 through August 2013. Respondent stated that she parked at red top meters reserved for those with handicap placards and license plates. Respondent explained that by parking at the red top meter and displaying the disability placard, she was able to park free for four hours and then would be able to park at the same meter for four more hours if she paid the meter. Respondent admitted to OIG investigators that she knew it was improper to misuse her husband’s disability placard to park at a red top meter and avoid paying for parking.

¹ Section 221(a)(4)(E) of the Ethics Act provides, in pertinent part, that “[i]n addition to any civil penalty imposed under this title, a violation of the Code of Conduct may result in the following: . . . Any negotiated disposition of a matter offered by the Director of Government Ethics, and accepted by the respondent, subject to approval by the Ethics Board.”

In a second interview with OIG investigators on November 26, 2013, Respondent also admitted that she used the disability placard, from May 2012 through August 2013, to park at meters without making any payment for parking. Respondent stated that she stopped using the disability placard in August of 2013, after receiving three parking citations for not paying for the additional time she parked at the meter, after the four free hours had expired.

During an interview with investigators from the Office of Government Ethics ("OGE") on August 7, 2014, Respondent admitted that she used the disability placard to park her vehicle for free in the vicinity of her D.C. work location. She also acknowledged the admissions she made to OIG investigators, as described above.

Respondent told OGE investigators that her husband had triple bypass surgery, has difficulty walking long distances, and needs help walking to his appointments. Respondent, however, admitted that when she used the disability placard to park in the vicinity of her work location, her husband was not in the vehicle with her. Respondent stated that her discussion with the OIG investigators made her realize that even though she was the caretaker for her husband and her mother, she could not use the disability placard unless they were in the vehicle with her. Respondent does not have any documented disabilities.

Respondent was disciplined by her agency and suspended for two weeks without pay. Respondent estimates that the two-week suspension amounted to a loss of approximately \$1,500 in salary.

II. NATURE OF MISCONDUCT

Respondent's conduct is in violation of District Personnel Manual ("DPM") Chapter 18, § 1806.1, which states: "A District employee shall not use or permit the use of government property, equipment, or material of any kind, including that acquired through lease, for other than officially approved purposes."²

Respondent used a disability placard, issued by the District of Columbia government to someone other than herself, for her own personal use, and to her financial benefit. Her use of the District-government issued disability placard to park on a District street, without paying the District parking meter fee required and to overstay the amount of time a person with a valid disability placard would be permitted to park at the District parking meter constitutes misuse of government property.

III. TERMS OF THE NEGOTIATED DISPOSITION

Respondent acknowledges that her conduct was in violation of the District Code of Conduct. Respondent agrees to pay a fine in the amount of **\$700.00** and promises not to engage in such conduct in the future. In return for Respondent's acknowledgement and promise, the Office will not seek any further remedy or take any further action relating to the above misconduct. Respondent agrees to pay the \$700.00 fine in seven equal installments of \$100.00, on the

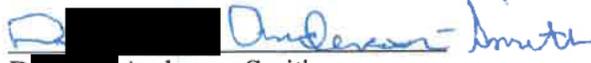
² DPM § 1806.1, as indicated in this Negotiated Disposition, refers to 6B DCMR Chapter 18 § 1806.1 (October 31, 1986), which was in effect at the time of Respondent's conduct.

following dates: August 19, 2014; September 16, 2014; October 14, 2014; November 12, 2014; December 9, 2014; January 6, 2015; and February 3, 2015. Payments shall be made by money order, made out to the D.C. Treasurer, and provided to the Office of Government Ethics.

Respondent also understands that if she fails to pay the \$700.00 fine in the manner and within the time limit provided above, pursuant to section 221(a)(5)(A) of the Ethics Act (D.C. Official Code § 1-1162.21(a)(5)(A)), the Ethics Board may file a petition in the Superior Court of the District of Columbia for enforcement of this Negotiated Disposition and the accompanying Board Order assessing the fine. Respondent agrees that this Negotiated Disposition is not just an admission of wrongdoing, but constitutes various factual admissions by her that may be used in any subsequent enforcement or judicial proceeding that may result from her failure to comply with this agreement.

Respondent further understands that if she fails to adhere to this agreement, the Office may instead, at its sole option, recommend that the Ethics Board nullify this settlement and hold an open and adversarial hearing on this matter, after which the Ethics Board may impose sanctions up to the full statutory amount (\$5,000 per violation) as provided in the Ethics Act.³ Because the Office is, at this time, foregoing requesting that the Ethics Board hold an open and adversarial hearing on this matter, Respondent agrees to waive any statute of limitation defenses should the Ethics Board decide to proceed in that manner as a result of Respondent's breach of this agreement.

The mutual promises outlined herein constitute the entire agreement in the above-titled action. By our signatures, we agree to the terms outlined herein.


D. Anderson Smith

8/20/2014
Date


Darrin P. Sobin
Director of Government Ethics

8/22/14
Date

³ Section 221(a)(1) (D.C. Official Code § 1-1162.21(a)(1)).

This agreement shall not be deemed effective unless and until it is approved by the Board of Ethics and Government Accountability, as demonstrated by the signature of the Chairman below.

APPROVED:


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

8/28/14
Date

cp/rc/sp