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January 10, 2012

Benjamin Lawsky
Superintendent
New York State Department of Financial Services
One State Street
New York, NY 10004-1511

RE: NYS IG 0039-038-2011

Dear Superintendent Lawsky:

This letter advises you of the results of an investigation by the New York State Inspector General into the conduct of a number of employees of the former Banking Department prior to the creation of the Department of Financial Services (Department). In January 2011, the Inspector General received an anonymous complaint which alleged multiple improprieties, including the violation of outside employment rules, by Investigators [REDACTED] and [REDACTED].

Most of the allegations proved unsubstantiated. However, the Inspector General's investigation revealed that Investigator [REDACTED] in fact owns three Dunkin' Donuts franchises, which he did not report to the Department, and that Investigator [REDACTED] engaged in outside work without reporting that work to the Department. The Inspector General also learned that the former Banking Department provided each employee with a policy and procedures manual that specifically required disclosure of such activities. For example, the Banking Department's General Administration Manual provided that employees obtain Department approval prior to engaging in "extra employment" (defined therein to include self-employment). Similarly, 1991 Banking Department Policy Bulletin No. 91-04 (revised in 2006) required that employees complete a "Request for Approval of Extra Employment" and "submit it sufficiently in advance to allow for proper review."

█████ ownership of the franchises is reflected in at least two reliable sources. First, the Inspector General reviewed a Dunkin' Donuts business record listing █████ as the owner of three franchises. Additionally, █████ currently lists himself as a Dunkin' Donuts franchisee for over seven years on the networking Web site [LinkedIn.com](https://www.linkedin.com). While one Department employee claimed to have witnessed █████ on occasion, spending some time while at work discussing franchise business on the phone, other employees stated that █████, to their knowledge, had not done so, and had performed his Department work appropriately.

Investigator █████ in a sworn interview with the Inspector General, admitted that he had engaged in outside work without reporting that work to the Department. Specifically, █████ acknowledged that, in the years since commencing employment at the Department, he had worked on a limited number of occasions as a private investigator, and had worked in security. In some of those years, he earned over \$5,000.00 from his outside employment. █████ claimed that the work never interfered with his Department duties. In fact, █████ supervisors reported never having witnessed him engaging in any activities unrelated to his Department job during the work day. █████ also asserted, implausibly, that he had never been informed of any requirement that he report his outside employment.

Based upon this investigation, the Inspector General recommends that the Department review █████ and █████ conduct and take appropriate action. In addition, given the recent merger of agencies that now comprise the Department, the Inspector General recommends that a review regarding the requirement to report outside employment be conducted to assure that employees are properly trained. Employees should be reminded annually that a request to perform outside employment must be submitted and, if approved initially, reviewed and reapproved where applicable every year.

If you have any questions about our investigation, please contact me at (212) 635-3150.

Sincerely,



✓ Leonard A. Cohen
Chief Counsel