



Ethics Policy

March 31, 2009

Development Authority of the North Country

ETHICS POLICY

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On-line Resources Available

NYS Ethics Commission: www.nysethics.org

NYS Office of General Services: www.ogs.state.ny.us (Executive Order 127)

Reference Documents Available from Development Authority of the North Country Ethics Officer

Sections 73, 73-a and 74 of Public Officers Law of New York State

Ethics in State Government: A Guide for New York State Employees

NYS Ethics Commission Financial Disclosure Requirements for designated “Policy-makers” and employees whose annual salary exceeds the rate of a Civil Service salary grade 24.

NYS Ethics Commission Advisory Opinion 94-16, Interpretation of State Law with regard to gifts, and related documents.

Title 19 NYRCC, Part 930 Limitations on the Receipt of Honoraria.

NYS Ethics Commission Statement – NYS Employees and Political Activity.

NYS Ethics Commissions Advisory Opinion 98-12, Application of Public Officers Law Section 74 to State employees who work on political campaigns, including fundraising.

Leaving State Service – Post Employment Restrictions.

Introduction to the Development Authority of the North Country
Board Member/Employee Ethics Guide

The Development Authority of the North Country includes the following operations at the time of this publication:

Solid Waste Management Facility
Water and Wastewater Operations
Open Access Telecom Network
Administration

The Development Authority of the North Country is considered a “state agency” under New York State Ethics and Public Officer’s Laws. Therefore, as Board Members and employees of this organization, we are bound by the provisions of these and other applicable laws, rules and regulations. The purpose of this Guide is to set standards for ethical behavior for all Board Members and employees by providing plain language explanations of applicable laws and references to the original laws.

We must not only comply with all Ethics laws, we must maintain the public perception of compliance. Maintaining and enforcing the highest standards of integrity and fairness in all of our internal and external business dealings will serve the Development Authority of the North Country and each of us well over the long term. It will ensure that this organization continues its high degree of credibility with itself, customers, vendors, the media, federal, state and local funding agencies, elected officials at all levels of government, and the citizens of the Northern New York community we serve.

This Guide will provide you with general principles of appropriate business conduct. Situations may occur which may require interpretation of these principles. In this case you are strongly encouraged to seek further guidance from your direct supervisor or an executive officer. The Compliance Officer has been designated as the Development Authority of the North Country Ethics Officer with the New York State Ethics Commission, and is a good resource for new or unfamiliar circumstances which may present ethical dilemmas.

You may report an ethical concern without fear of reprisal. Employees at every level in the organization are prohibited from retaliating against anyone reporting or providing information about an ethical concern.

The document reprinted below is entitled A Plain Language Version of New York State Ethics Law, published by the New York State Ethics Commission in January, 2002. It is included here because it directly supports this Guide and provides an overall summary of its contents.

A Plain Language Version of New York State Ethics Law

If you work for a State Department, a public authority, public benefit corporation or commission at least one of whose members is appointed by the Governor, you should know about these key parts of the Public Officers Law (“POL”). The actual law is more complex, and there are some exceptions, so if you have questions, contact the New York State Ethics Commission at 1-800-87-ETHICS, that is, 1-800-873-8442 or 518-432-8207. Or, visit the Commission’s website at www.dos.state.ny.us/ethc/ethics.html. Your agency may have stricter rules; you should ask your Ethics Officer or supervisor about them.

1. **Gifts Over \$75.** You may not receive any gift (including money, food, travel, tickets) worth \$75 or more in circumstances where the public could reasonably think it is meant to influence or reward you for your official action. If the donor does business with your agency, you probably cannot take a gift of \$75 or more.

POL Section 73(5)

2. **Gifts Under \$75.** You may not receive a gift of any amount if it is in substantial conflict with your public duties, for example, a gift of more than nominal value from someone whose public business comes before you.

POL Section 74(2)

3. **Matters before State Agencies.** Except in your official duties, in a ministerial matter, or for a union, you may not be paid for any appearance or services in a matter before a State agency in connection with: (a) the purchase, sale, rental, or lease of real property, goods or services or a contract; (b) rate-making; (c) the adoption or repeal of a regulation; (d) loans or grants; (e) licensing; or (f) public utility franchises.

POL Section 73(7)

4. **Communications with State Agencies.** If your private association, firm or Company is appearing or rendering services before a State Agency in connection with: (a) the purchase, sale, rental or lease of real property, goods or services or a contract; (b) rate-making; (c) the adoption or repeal of a regulation; (d) loans or grants; (e) licensing; or (f) public utility franchises, then you may not orally communicate about the merits of the matter with anyone at the agency concerned with the matter.

POL Section 73(12)

5. **Sales to State Agencies.** Neither you, your firm, nor a corporation of which you control at least 10% of the stock, may sell goods or services worth more than \$25 to a State Agency unless it is pursuant to a contract or award let after public notice and competitive bidding.

POL Section 73(4)

6. **Sales to Regulated Entities.** Neither you, your firm nor a corporation controlled by you may sell goods or services to any person, firm or company which is licensed by or whose rates are fixed by your agency.

POL Section 74(3)(i)

7. **Conflicts of Interest.** You may not have any interest or engage in any business or transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of your public duties.

POL Section 74(2)

8. **Confidential Information.** You may not disclose confidential State information or use it for your personal interests.

POL Section 74(3)(b)(c)

9. **Misuse of Office.** You may not use your official position to secure unwarranted privileges or exemptions for yourself or others.

POL Section 74(3)(d)

10. **Appearance of Impropriety.** You may not do anything that would give the public a reasonable basis to think that anyone can improperly influence you in your official duties by reason of kinship, rank, position or influence.

POL Section 74(3)(f)

11. **Violation of Trust.** You must not raise public suspicion that you are acting in violation of your public trust.

POL Section 74(3)(h)

12. **Dealing With Yourself or Your Company.** You may not engage in any transaction as an agent for the State with any business entity in which you have a financial interest that might tend to conflict with the proper discharge of your official duties. Instead you should recuse yourself and ask someone else to do the State task.

POL Section 74(3)(e)

13. **Investments.** You may not make personal investments in enterprises which might be directly involved in decisions to be made by you.

POL Section 74(3)(g)

14. **Moonlighting.** You should not take a job which would impair your official independence, for example, with a vendor seeking a contract which you must review, or a company seeking a permit on which you must make a recommendation.

POL Section 74(3)(a)

15. **Honoraria and Travel Reimbursement.** You may not accept honoraria or official travel reimbursement without prior approval by your agency or the Ethics Commission. If the donor does business with your agency, you probably cannot accept such payments.

19 NYCRR Section 930

16. **Outside Activities.** If you are a paid policymaker, you may not engage in any outside activity for more than \$1,000 per year without prior agency approval, or for more than \$4,000 per year without prior Ethics Commission approval.

19 NYCRR Section 932.3

17. **Political Activities.** If you are a policymaker, you may not serve as an officer of any political party or organization, or as a member of any political party committee.

19 NYCRR Section 932.2

18. **Contingent Fees.** You may not be paid for services where your fee is dependent or contingent on State agency action.

POL Section 73(2)

19. **Court of Claims.** You may not be paid for services in or out of court against the State's interest in the Court of Claims.

POL Section 73(3)

20. **Post Employment Two-Year Ban.** For two years after you leave public employment, you may not appear before your former State agency or receive pay for services in a matter pending before it. Your former agency may have stricter rules.

POL Section 73(8)(a)(i)

21. **Post Employment Lifetime Ban.** After you leave public employment, you may not appear before any State agency or receive pay for services in a matter on which you personally worked for the State. Your former agency may have stricter rules.

POL Section 73(8)(a)(i)

22. **Financial Disclosure.** If your agency has designated you as a policymaker, or if you earn over \$82,391 per year and have not received an exemption, then you must file an annual financial disclosure statement with the Ethics Commission by May 15. If you begin public employment after May 15 of any year and must file, you must do so within thirty days of joining State Service.

POL Section 73-a(2)

Relationships with Vendors

Development Authority of the North Country employees are responsible for managing relationships with vendors in a fair and consistent manner and must avoid situations which present or appear to present a conflict of interest. Objective criteria must be used in selecting vendors in accordance with established purchasing procedures and policies, which are available by contacting the Finance Director.

Employees should reveal any relationships with current or potential vendors and exclude themselves from any review or recommendations regarding such procurement. New employees are required to complete the Development Authority of the North Country's disclosure of Outside Interests form upon hire. Existing employees are required to complete the Disclosure of Outside Interests form once per year, refer to page 15. Any changes affecting the Disclosure must be made immediately upon knowledge by the employee of such change, no matter when it occurs.

Development Authority of the North Country employees involved in procurement of goods and services may be subject to higher standards.

Employees must not use their positions to obtain personal favors or special consideration for themselves, a relative, or anyone else.

All procurement resolutions brought before the Development Authority of the North Country Board of Directors must contain specific language which certifies that there are no known conflicts of interest. If an interest is known, it must be disclosed to the Board before award of the contract. The resolution language is as follows:

WHEREAS, the staff of the Development Authority of the North Country is aware of no interest held by any Division Director of the Development Authority of the North Country or any staff member thereof or any family member of such individual in the firm to which this contract is made; and

WHEREAS, to the best of our knowledge and belief, no member of the governing body of the Development Authority of the North Country, and no other officer, employee or agent of the DANC, whether or not exercising any functions or responsibilities in connection with the carrying out of the project to which this contract pertains, during his/her tenure or two years thereafter, has any personal interest, direct or indirect in this contract; and

WHEREAS, to the best of our knowledge and belief, no member of the governing body of the Development Authority of the North Country, and no other officer, agent, servant or employees employed by or appointed by the Development Authority of the North Country, is in any way or manner interested, directly or indirectly, as principal, surety, or otherwise, in this contract; and

WHEREAS, to the best of our knowledge and belief, this award is consistent with the Ethics Policy for the Development Authority of the North Country Board, adopted by it on

Executive Order 127 – Disclosure of Persons or Organizations Attempting to Influence State Entities in Procurement Transactions

On August 14, 2003, Executive Order 127, “Providing for Additional State Procurement Disclosure” went into effect. The purpose of this order is to increase disclosure requirements regarding persons and organizations contacting State government about procurement (and real estate) transactions, and making that information available to the public, hereby enhancing public confidence in the State’s procurement process. As a public authority, the Order is applicable to the Development Authority of the North Country.

This order applies to all procurements made by the Development Authority of the North Country which are in excess of \$15,000 and which are not awarded solely on the basis of low price. In other words, these requirements will apply where the estimated contract is over \$15,000 and price (even with a “responsive and responsible” bidder) is not the sole determining criteria for selection. For example, we use the Request for Proposal (RFP) method of procurement to obtain professional services such as auditing, actuarial, legal, architectural and engineering and certain other selected services, where expertise and other factors are at least as important as price.

The law requires the Authority to keep records of persons or organizations attempting to influence covered procurements, and requires that certain disclosures be made and requirements be met by a potential vendor during the contracting process. Names of persons/organizations retained, employed or designated by them, to attempt to influence a procurement, are to be disclosed by the potential vendor. However, **contacts made by an employee of the potential contractor acting in the normal course of their employment (such as a salesperson) are not generally required to be reported.**

What this means to you, the Development Authority of the North Country employee, is that if you are involved in the procurement process (i.e. responsibilities include purchasing, contracting, bidding, solicitation, evaluation, award), you must be aware of and comply with the reporting requirement. Executive and senior management and financial staff are also required to comply.

Therefore, if you are contacted by someone other than the potential vendor in an attempt to influence you toward a particular vendor (by any means, including phone conversations, correspondence, e-mail and person-to-person conversations), you should report the contact in writing to the Ethics Officer. Even a contact by a trade association, economic development group or civic organization attempting to influence vendor selection must be recorded. These records are to be made available to the public on request.

Attached is a report form based on guidelines (which may be revised or updated as necessary) issued by the New York State Office of General Services (NYS-OGS), the state agency charged with administering the Order for all state entities.

If you have any questions about Executive Order 127 and its requirements, please contact the Compliance Officer, who is the designated contact with the NYS-OGS for compliance with this order. NYS-OGS formal guidelines regarding EO 127 are available at www.ogs.state.ny.us.

Covered Entity Record of Contact (Executive Order 127)

Instructions:

New York State Executive Order 127 (EO 127), section II, paragraph 4 obligates every covered agency and authority to record any contacts that reasonably appear to be an attempt to influence the procurement. The Development Authority of the North Country must make a written record of any such contact. In the event the person or organization does not disclose whether such person or organization has a financial interest in the procurement, in the interest of complying with the requirements of EO 127, good practice indicates that a financial interest should be presumed and the record of contact form marked “yes”.

If you are contacted by someone attempting to influence a Development Authority of the North Country procurement, please complete the following form and send it to the Compliance Officer for review/compilation.

To: Compliance Officer

From: _____
Name and title of the Development Authority of the North Country Board Member or employee

Date: _____

Subject: Record of Contact under Executive Order 127

I was contacted by the individual names below regarding the procurement identified below. It reasonably appears that this contact was an attempt to influence the procurement process as defined in Executive Order 127. The contact took the form of:

correspondence in person by telephone by e-mail other _____

The procurement involved was: _____

Information about person/organization initiating covered contact to the Development Authority of the North Country:

Name: _____

Address: _____

Phone: _____

Place of Principal Employment: _____

Occupation: _____

Does the above named person or organization have a financial interest in the procurement?
(Please circle one) yes no

Development Authority of the North Country Disclosure of Outside Interests

In addition to other obligations set forth in this Guide and in law, and to ensure compliance with New York State Public Officers Law, you are required to inform the Development Authority of the North Country about any businesses in which you have an “interest” (ownership, employment, provide goods or services to), or in which a direct family member (father, mother, sister, brother, spouse, child) has an interest, where such an enterprise is conducting business with the Development Authority of the North Country.

In order to bring any such relationships to the attention of the Development Authority of the North Country, all board members and employees are required to complete the attached disclosure once per year. All new employees are required to complete the disclosure as part of the documents required for new hires. All new Board Members are required to complete the disclosure as part of the Board Orientation process. Any activity during the year which would change the status of your disclosure must be brought to the attention of the Authority in writing immediately upon such change.

Public Officers Law of New York State prohibits activities which are actual conflicts of interest, and further prohibits activities which may create the appearance of conflicts of interest.

There are several documents issued by the New York State Ethics Commission which give more specifics about prohibited activities. Section 1344 of New York State Public Authorities Law also prohibits any interest in contracts which are paid out of the funds of the Authority.

If you have any questions about any of the Development Authority of the North Country’s disclosure requirements or prohibited activities, please contact any Executive Officer. The Compliance Officer is the designated Ethics Officer for the Development Authority of the North Country.

Disclosure of Outside Interests

Development Authority of the North Country Board Members/Employees

I have received materials which discuss the nature of activities which are prohibited by the Public Officers and Public Authorities Laws of New York State. I wish to inform the Development Authority of the North Country of the following information (check off all which are applicable):

I have no interest in (ownership, provide goods or services to, or are employed by) any firm doing business with the DANC.

I have no knowledge that any direct family member (father, mother, brother, sister, son, daughter, spouse) has any interest in a firm doing business with the DANC.

I cannot check off **both** of the above two declarations for the following reason(s) (please be specific):

Board Member/Employee Signature

Date

Printed Name

You must report any changes to any of the above statement(s) when they occur.

Please return this form to the Compliance Officer

NYS Financial Disclosure Statement for Certain Development Authority of the North Country Employees

Certain Development Authority of the North Country employees are required to make additional disclosures if they have a salary level above a specific trigger rate set by the New York State Ethics Commission, or if the position is designated as policymaking. The Development Authority of the North Country Ethics Officer will inform you if you are required to comply with this section of the law.

Any Development Authority of the North Country employee who is officially designated by the Authority as a Policy Maker is required to file an Annual Statement of Financial Disclosure with the New York State Ethics Commission by May 15 of each year for the previous calendar year, regardless of compensation level. At this time, only the Executive Director has been designated a Policy Maker.

Relationships with Customers of the Authority

It is emphasized that this Ethics Guide is meant to govern relationships between the Development Authority of the North Country and any person or business with whom they contract. This includes not only vendors selling goods or services to the Authority (see the previous section of this guide), but also includes customers from whom the Authority derives revenues by the provision of goods or services, whether in the private or public sector.

Any conduct which is inappropriate with a vendor of the Authority is also inappropriate with a customer of the Authority.

Acceptance of Gifts

Under New York State Public Officers Law, Development Authority of the North Country employees may not accept any gift valued at \$75 or more (in whatever form) under circumstances where it could be inferred that the gift was intended to influence or reward the recipient for performing official duties. Accepting such a gift from a vendor of the Development Authority is always prohibited, as it will be inferred that it was intended to influence the employee. In addition, the State Code of Ethics prohibits a Development Authority of the North Country officer or employee from incurring any obligation which is in substantial conflict with the proper discharge of his or her Development Authority of the North Country duties in the public interest. This includes acceptance of a gift of any amount (even under \$75) in inappropriate circumstances. The source of a gift is a key factor in whether it can be accepted – if it is from a disqualified source (such as a Development Authority of the North Country vendor) it cannot be accepted. Here are the answers to some frequently asked questions about gifts:

What is a gift? A gift is anything of value given to a Development Authority of the North Country employee, in any form, including money, services, loans, travel, meals, refreshments, entertainment, hospitality, promises, or discount. It does not include anything for which an employee has paid market value, not certain prize winnings for contests which were open to the public.

What is the value of a gift; is value cumulative? The value of a gift is determined by its retail cost of purchase. If a ticket is involved, the value is the face value of the ticket even if a portion is donated to charity. Where there are multiple gifts, including meals, the aggregate value of the individual gifts over a 12 month period will determine whether they total more than \$75.

What is a disqualified source? The relationship of the donor to the recipient is key in determining the appropriateness of accepting a gift. Disqualified sources are individuals or companies that:

Negotiate with or do business with the Development Authority of the North Country
Lobby or attempt to influence actions or positions of the Development Authority of the North Country

What about a gift to a family member? When a gift cannot be accepted by a Development Authority of the North Country employee, it may not be accepted by a family member of the employee.

Are any gifts permissible? Under certain circumstances, a gift may not be considered a violation of the law, such as a modest, reasonable and customary present given on special occasions such as a wedding, illness or retirement.

What can happen if a gift is improperly accepted? The donor is subject to prosecution for a Class A misdemeanor. The Development Authority of the North Country employee improperly accepting a gift valued at \$75 or above may be fine up to \$10,000. For improperly accepting a gift under \$75, the employee may be fined, suspended or removed from employment.

The following discussion on acceptance of gifts was directly excerpted from the NYS Ethics Commission website www.nyethics.org. It gives further insight into this subject:

The State Ethics Commission has issued Advisory Opinion No. 94-16, describing (1) those gifts that may not be offered to or accepted by state officers and employees, and (2) those gifts that are acceptable. The following are important points.

What You Cannot Do

- You are prohibited from soliciting or accepting any gift worth \$75 or more, when it could be reasonably inferred that the gift was intended to influence you or could reasonably be expected to influence you in the performance of your official duties or was intended as a reward for any official action. If you knowingly and intentionally do so, you are subject to a civil penalty of up to \$10,000 or being criminally charged with a Class A misdemeanor.
- Gifts of \$75 or more cannot be received from a disqualified source, which is a person or entity that is regulated by, does business with, appears before or negotiates with your agency; lobbies or has litigation adverse to your agency; applies for or receives funds from your agency; or contracts with your agency or another agency when your agency receives the benefit of the contract.

- You are prohibited from soliciting or accepting a gift of **any** value if it would constitute a substantial conflict with the proper discharge of your State duties. If you knowingly and intentionally do so, you are subject to fines, suspension or removal from your job by your appointing authority.

Applicable Rules

- A gift may be in many forms, including money, loan, travel, meals, refreshment or entertainment.
- The value of a gift is the retail cost to purchase it; the value of a ticket entitling you to food, refreshments, entertainment, etc. is the face value of the ticket; if no value is indicated, the value is the actual cost to the giver. Multiple gifts from a single source given over a twelve month period that add up to \$75 or more will be deemed to be one gift of the total value of all the gifts.
- The offer of reciprocity, or even actual reciprocity, does not reduce the value of a gift given to you.
- You may not designate a friend, family member or entity (for example, a charity) to receive a gift that you cannot receive.

What You Can Do

The following can be accepted without violating the law:

- Reasonable and customary presents given on special occasions.
- Gifts given by someone based on a family or personal relationship with you.
- An invitation to attend personal or private events with no connection to the Authority.
- Meals provided when you serve as a participant or speaker in a job-related professional or educational program and meals are available to all participants.
- Modest items of food and refreshment offered other than as part of a meal.
- Unsolicited advertising or promotional material of little intrinsic value.
- Most awards and plaques presented in recognition of your service.
- Rewards or prizes given to competitors in contests or events, including random drawings open to the public.

- Under some circumstances, meals, entertainment or hospitality, but not travel or lodging, from a disqualified source when your participation at an event is for a Development Authority of the North Country purpose and related to your official duties, that is, when your participation will further agency programs and the event is widely attended.

If you receive the offer of a gift, you should consult with your agency Ethics Officer or other designated agency official's to determine whether it is permissible to accept it.

If you have any questions at all about accepting a gift and how it may be viewed under NYS law, please contact the Authority Compliance Officer. The Compliance Officer is designated the Development Authority of the North Country's Ethics Officer with the New York State Ethics Commission.

Honoraria and Travel Reimbursements

Generally, an honorarium is a speaking fee or compensation received from writing an article, or a reimbursement for travel expenses not related to Development Authority of the North Country duties. The Development Authority of the North Country must report to the New York State Ethics Commission, by June 1 of any year, all honoraria received by its employees. While Development Authority of the North Country employees generally are not in the position of being offered such payments, you should be aware of the restrictions. Development Authority of the North Country employees must request prior approval from the Development Authority of the North Country or NYS Ethics Commission to accept honoraria or travel reimbursements from outside sources. If the outside source does business with the Development Authority of the North Country, it is likely that you cannot accept such payments. In addition, you may not accept an honorarium for an activity which is job related. For example, if a person's job is to speak publicly or write about the Development Authority of the North Country operations, that person may not accept an honorarium for making a speech or writing about the Development Authority of the North Country operations. The theory is that you are already being paid with public funds for that work.

If you have any questions at all about honoraria, or if you are seeking approval to accept such payments, please contact the Authority Compliance Officer. The Compliance Officer is designated as the Ethics Officer with the New York State Ethics Commission.

Limitations on Political Activities – Federal and State

If you have been designated as a Policymaker for the purpose of filing an Annual New York State Financial Disclosure Statement, you may not campaign for and hold office in political clubs and organizations.

New York State Post Employment Restrictions

The purpose of post-employment restrictions is to prevent State employees from, upon leaving State employment, using their former connections to benefit themselves, their clients, or businesses for whom they might accept work after leaving State government. These restrictions also apply to Development Authority of the North Country employees. Note, however, that because the Development Authority of the North Country does not “regulate” (issue licenses, permits, grants, etc. to businesses or the public), this situation should not be an issue with most Development Authority of the North Country employees. It would be of concern if, for example, a Development Authority of the North Country employee goes to work for a vendor to the Development Authority of the North Country, and that employee then calls on Development Authority of the North Country in an attempt to sell goods or services. The questions arising under this law are numerous and can be complex, depending on the specifics of the situation.

There are two types of restrictions in the State law. The first prohibits employees from “appearing” before their former agency for two years on any matter for which they are receiving compensation. For example, someone leaving here could not go to work for a vendor and solicit Development Authority of the North Country’s business for two years (but could solicit business from other authorities). The second is a lifetime restriction from appearing before or working on matters in which they were directly involved while working in State government.

A summary of these “revolving door” restrictions is available on the Ethics Commission website, www.nyethics.org, or from the Development Authority of the North Country Ethics Officer.

If you have any concerns about these post employment restrictions, please contact the Authority Compliance Officer. The Compliance Officer is the designated Ethics Officer with the NYS Ethics Commission. You may also contact the New York State Ethics Commission in Albany directly at 518-432-8207.

Office of the State Inspector General

The Office of the State Inspector General is an independent agency established to receive and investigate allegations of misconduct by employees in State agencies and public benefit corporations. Each agency has a Deputy Inspector General assigned to assist the State Inspector assigned in this mission.

All employees are required to promptly report to the State Inspector General:

Any information concerning corruption, fraud, criminal activity, conflicts of interest or abuse, committed by:

- Another employee related to his or her office or employment, or
- A person having business dealings with an agency, related to those dealings

The Office of the Inspector General can be reached at 1-800-367-4448. This will put you in direct contact with trained staff who can discuss the specifics of your complaint. You can also write to PO Box 9, One Commerce Plaza, Albany, NY 12260.

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