



City of Chicago  
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Room 303  
320 North Clark Street  
Chicago, Illinois 60610  
(312) 744-9660

January 8, 1992

C O N F I D E N T I A L

[REDACTED]

Re: Outside Employment  
Case No. 91101.Q

Dear [REDACTED]:

You requested an opinion from the Board of Ethics staff regarding your interest in organizing a corporation for the purpose of offering general educational and information services relating to [REDACTED]. After discussing this in more depth with you over the telephone, it is the staff's opinion that the Governmental Ethics Ordinance does not prohibit you from this outside employment as you have described it to us. To give you further guidance, this letter presents our analysis of the situation you presented under the relevant provisions of the Ethics Ordinance.

Your responsibilities as [REDACTED] an employee of the Department of A [REDACTED] are (1) supervising office staff and [REDACTED], (2) making decisions regarding enforcement of City regulations, including confronting [REDACTED] in cases of violations [REDACTED] around the City, and (3) hiring and promoting employees in your [REDACTED] Division. You also participate in giving [REDACTED] seminars within your own department, to other City agencies, and on rare occasions, to private industries in Chicago. You said that very few seminars are given to those outside Chicago City government. Once a year, your department gives a seminar to people [REDACTED] participating in an event [REDACTED], some of whom operate outside the City. However, other than offering these annual seminars, your department does not regulate these people in any way.

You told us you are interested in forming a corporation with a fellow [REDACTED] colleague who



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works in Evanston. (No other City of Chicago employees would be involved in this venture.) The purpose of this corporation would be to respond to private businesses--including [REDACTED] [REDACTED]--as well as governmental entities outside Chicago that request general information or training about [REDACTED] or [REDACTED]. Through this corporation, you also would respond to requests from these entities for on-site reviews of their [REDACTED] [REDACTED].

You said in your letter that the corporation would not take clients operating within the City of Chicago in order to avoid any potential conflict with your City duties. You told us you believe it is highly unlikely that potential clients of the corporation would come under inspection for any reason by your department, and that you would avoid any such situation. For example, if circumstances were to arise in which you were called upon by your department to inspect or make a decision relating to one of your clients, you said you would recuse yourself from that decision-making process.

You also told us you will not be teaching or disseminating any information through the corporation that relates to City of Chicago [REDACTED] codes or that is not otherwise available to the public. Your clients would be private or public entities outside the City of Chicago and, therefore, you would not have any decision-making authority over them in your capacity with the City [REDACTED] in the City's [REDACTED] Department. In addition, your involvement with this corporation would not put you in a situation in which you would be appearing before any City agency or making contact with any City agency on behalf of a client. You also said this corporation would not seek any business with the City of Chicago.

The main provisions of the Ethics Ordinance that apply to this situation are sections 2-156-050, entitled "Solicitation or Receipt of Money for Advice or Assistance," 2-156-030, entitled "Improper Influence," and 2-156-080, entitled "Conflict of Interests."

Section 2-156-050, "Solicitation or Receipt of Money for Advice or Assistance," states:

No official or employee ... shall solicit or accept any money or other thing of value including, but not limited to, gifts, favors, services or promises of future employment, in return for advice or assistance on matters concerning the

operation or business of the City; provided, however, that nothing in this section shall prevent an official or employee ... from accepting compensation for services wholly unrelated to the official's or employee's City duties and responsibilities and rendered as part of his or her non-City employment, occupation or profession.

This section prohibits a City official or employee from accepting payment in exchange for giving advice or assistance on matters pertaining to the operation or business of the City. You told us you will not be teaching or disseminating any information through the corporation that is not otherwise available to the public. You also said that this corporation's clients would be private or public entities outside the City of Chicago and that you would not have any decision-making authority over them in your capacity as [REDACTED] of the [REDACTED] City's [REDACTED] Department. Your activities with the corporation, as you described them, do not constitute "advice or assistance on matters concerning the operation or business of the City" as defined by the Board. Therefore, this section of the Ordinance does not prohibit your involvement in the corporation as you presented it to us.

Sections 2-156-030 and -080, entitled "Improper Influence" and "Conflict of Interests," state:

No official or employee shall make, participate in making or in any way attempt to use his position to influence any City governmental decision or action in which he knows or has reason to know that he has any economic interest distinguishable from its effect on the public generally.  
(§ 2-156-030)

No official or employee shall make or participate in the making of any governmental decision with respect to any matter in which he has any economic interest distinguishable from that of the general public. (§ 2-156-080)

These sections prohibit influence or participation in any governmental decision in which the official or employee has an economic interest, including interest arising from his or her non-City employment. You told us it is highly unlikely that potential clients of the corporation would come under inspection by your department given that they would be operating outside the City of Chicago, and that you would try to avoid such a situation in any case. If circumstances were to arise in which you were called upon, as [REDACTED] in the City's [REDACTED] Department, to make any decision relating to

one of your corporation's clients, you said you would recuse yourself from that decision-making process. As long as you do not participate or attempt to influence any governmental decision pertaining to any of your corporation's clients, these provisions of the Ordinance do not prohibit your participation in this corporation.

There are a few other provisions of the Ordinance that may be relevant to your involvement in the corporation you are interested in forming.

Section 2-156-090 of the Ordinance, entitled "Representation of Other Persons," prohibits you from representing, or having an economic interest in representing, any person other than the City in any formal or informal proceeding or transaction before any City agency. You told us that your involvement with the corporation would not put you in the situation of appearing before any City agency or making contact with any City agency on behalf of the corporation itself or any of its client. As long as that remains the case, this section of the Ordinance does not limit your participation in the activities of the corporation.

Section 2-156-110, entitled "Interest in City Business," prohibits you from having a "financial interest" in your own name or in the name of any other person (including your corporation) "in any contract, work or business of the City or in the sale of any article, whenever the expense, price or consideration of the contract, work or business or sale is paid with funds belonging to or administered by the City, or is authorized by ordinance." "Financial interest" is defined in the Ethics Ordinance as any interest that entitles the owner to receive more than \$2,500 per year or that has a present value of \$5,000 or more (§ 2-156-010(1)). You said that, as the corporation is now planned, it would not seek business of any kind with the City of Chicago. If those plans should change, we advise that you contact us again at that time for further guidance.

Should you undertake the proposed endeavor, please be advised that there are three additional sections of which you should be aware. Section 2-156-020 of the Ordinance, entitled "Fiduciary Duty," obligates you to use your City position responsibly and in the best interest of the City. It requires you to exercise professional judgments free from outside influences or conflicting duties to another entity. It also precludes you from using City time for your non-City job or for any private benefit (case nos. 90018.Q and 90020.A). Section

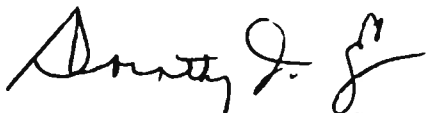
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2-156-060, entitled "City-Owned Property," prohibits you from using any City property or resources in your non-City employment or for any private benefit. Section 2-156-070, entitled "Use or Disclosure of Confidential Information," prohibits you from using or revealing confidential information you may have acquired during the course of your City job.

In conclusion, it is the staff's opinion that the Governmental Ethics Ordinance does not prohibit your involvement with this corporation as you have described it to us. If, at some time in the future, the function of the corporation changes from that which you have presented and which is described in this letter, please contact us again at that time for further guidance.

Thank you for bringing this matter to our attention. We appreciate your willingness to follow the standards embodied in the Governmental Ethics Ordinance. We enclose a copy of the Ordinance for your convenience. If you have any further questions about this or any other matter, please do not hesitate to contact us.

Sincerely,



Dorothy J. Eng  
Executive Director

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