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Emily Nicklin  
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Room 303  
320 North Clark Street  
Chicago, Illinois 60610  
312-744-9660  
312-744-2793 (FAX)  
312-744-5996 (TT / TDD)

Advisory Opinion  
Case No. 93046.A  
Statement of Financial Interests

To: [REDACTED]

Date: [REDACTED]

At the [REDACTED] meeting of the Board of Ethics, you presented an investigative case summary and the transcript of an interview from an investigation [REDACTED]. You asked the Board to determine, based on the facts presented, whether Mr. A [REDACTED] of Dept. C [REDACTED] was required by the Ordinance to have disclosed outstanding loans that he made to Mr. B [REDACTED] over the years [REDACTED], and whether Mr. A [REDACTED] violated the Ethics Ordinance by failing to disclose these loans on his [REDACTED] and [REDACTED] Statement of Financial Interests ("FIS") forms.

**FACTS:** According to the facts you presented, Mr. A [REDACTED], at that time and currently [REDACTED] in Dept. C [REDACTED], loaned Mr. B [REDACTED], his supervisor and [REDACTED] of Dept. C [REDACTED], a total of \$ [REDACTED] between [REDACTED] and [REDACTED]. The loans were obtained from joint accounts and a jointly owned certificate of deposit, which Mr. A [REDACTED] held with other members of his family. Mr. A [REDACTED] personally provided the loans to Mr. B [REDACTED]. Mr. A [REDACTED] did not disclose any loan to Mr. B [REDACTED] on his FIS statements for [REDACTED] and [REDACTED]; however, Mr. A [REDACTED] did disclose loans to Mr. B [REDACTED] on his FIS statements for [REDACTED], [REDACTED], and [REDACTED].

The facts set forth below are taken from statements made under oath by Mr. A [REDACTED] on [REDACTED], [REDACTED] in an interview with [REDACTED] Mr. X [REDACTED] of Dept. D [REDACTED]. Mr. A [REDACTED] had legal counsel present. Mr. X [REDACTED] told Mr. A [REDACTED] at the time of the interview that his statements could be used as the basis for his suspension or removal from employment but could not be used against him in a criminal proceeding. (The page numbers cited refer to the transcript of that interview.)



With regard to the loans, Mr. A stated the following:

1. In the summer of [REDACTED], Mr. A loaned Mr. B \$[REDACTED]. The loan was in the form of a cashier's check, drawn on an account at [REDACTED] Bank held jointly by Mr. A; his mother, [REDACTED]; and his father, [REDACTED]. Mr. A stated that "it was primarily my money in the account" (Transcript ("tr.") at 6, 7).

2. In [REDACTED] of [REDACTED], Mr. A loaned Mr. B another \$[REDACTED] from an account at [REDACTED] Bank held jointly by him, his mother, and his father. Mr. A stated again that the money in the account was primarily his. He stated further that any of the three holders could draw on the account independently of the other two. (Tr. at 8.) Neither of these first two loans was secured by a promissory note. (Tr. at 8-9.)

3. In [REDACTED] of [REDACTED], Mr. A loaned Mr. B \$[REDACTED], again in the form of a cashier's check drawn on an account at [REDACTED] Bank. He said that \$[REDACTED] of this loan came from a matured certificate of deposit and the remaining \$[REDACTED] came from a joint savings account. (Tr. at 9.) Mr. A stated that he did not remember who contributed to the certificate of deposit, although the certificate of deposit, like the savings account, was held jointly by him, his mother, and his father. (Tr. at 10, 15.) Mr. A said that he "physically gave [Mr. B] the money" (tr. at 15).

This loan for \$[REDACTED] was secured with a promissory note to [REDACTED]. In the note, Mr. B agreed to pay 6.76 % interest per year on the loan. (Tr. at 10, 11.) Mr. A stated that the promissory note is made payable to [REDACTED] because Mr. B drew it up that way (tr. at 12, 26.)

4. In [REDACTED], Mr. A loaned Mr. B another \$[REDACTED] from a joint savings account at [REDACTED] Bank. The account was at that time held in the names of Mr. A, his mother, and his sister, who replaced his recently deceased father. This loan too was secured with a promissory note to [REDACTED]. (Tr. at 16-17.) Mr. B has repaid only \$[REDACTED] of the \$[REDACTED] that Mr. A loaned to him. (Tr. at 27.)

Disclosure of Loans. Mr. A filed an FIS form with the Board for [REDACTED] that does not disclose the fact that he had loaned money to Mr. B, even though Mr. A had loaned \$[REDACTED] to Mr. B in that year. (The [REDACTED] FIS form only asks for loans made or received in that year. At the time he filed his [REDACTED] FIS, Mr. A had outstanding loans to

Mr. [ B ] of \$ [ ], \$ [ ] of which was loaned in [ ].) Mr. [ A ] filed an FIS form for [ ] that likewise failed to disclose that he had made any loans to Mr. [ B ], who by the end of [ ] owed him \$ [ ]. (The [ ] FIS form, like the current form, asks for amounts owed or owing in that year.) However, Mr. [ A ] filed FIS forms for [ ], [ ], and [ ], each of which discloses that Mr. [ B ] owed him more than \$ [ ] at the time of the filing. When questioned by Mr. [ X ], Mr. [ A ] identified copies of all of the FIS forms for the years [ ] as accurate copies of those he signed and filed. Copies of his signed FIS forms for the years [ ] are attached as Exhibits 6-10 to the interview transcript provided to the Board.

Mr. [ A ] stated that he did not disclose his loans to Mr. [ B ] on his FIS forms for [ ] and [ ] because Mr. [ B ], his supervisor, told him that it was not necessary to disclose the loans. He said that Mr. [ B ] told him the loans did not need to be disclosed because the money came from an account he held jointly with other members of his family, and because the promissory notes were made out to his mother. (Tr. at 28.) Mr. [ A ] said that, on the advice of his lawyer, he disclosed the outstanding loans on his [ ], [ ], and [ ] FIS forms. He stated that he sought legal counsel because the [ ] investigation of Mr. [ B ] caused him no longer to trust Mr. [ B ] "implicitly." (Tr. at 28-29.) Mr. [ A ] stated, "... to the best of my knowledge, I believed that I was not required to write [ Mr. B ]'s name on that ethics statement, and continued to believe that until I was advised by my counsel that my interpretation may or may not be the correct one." (Tr. at 34.)

**LAW AND ANALYSIS:** Section 2-156-160 (j) of the Governmental Ethics Ordinance states that the filer must specify the name and instrument of all debts and credits in excess of \$5,000 if the debtor, creditor, or guarantor has done work for or business with the City of Chicago in the preceding calendar year (excepting loans issued by financial institutions at the prevailing rate of interest and loans issued by publicly held corporations purchased on the open market at the price available to the public) (emphasis added). Item #10 of the Statement of Financial Interests form asks for this information, which is required under section 2-156-160 (j).

This provision is set forth in full in Exhibit A, attached to this opinion.

In order to determine whether the Ordinance requires the disclosure of Mr. A's loans to Mr. B, the Board considered whether the Ordinance requires the disclosure of loans to City employees. Because a City employee is someone "who has done work" for the City of Chicago, the Board determines that the Ordinance requires the disclosure of a loan in excess of \$5,000 to City employees. In coming to its decision, the Board considered the facts that the loans came from accounts which Mr. A held jointly with other members of his family and that the promissory notes were not addressed to Mr. A. After review, the Board determines that these facts do not relieve Mr. A of the responsibility of disclosing the loans. Mr. A had access to the account, was able to make judgments about the use of the money, and is the person who made the loans to Mr. B.

**CONCLUSION:** The Board determines, based on the facts presented, that Mr. A violated the Ordinance by failing to disclose on his and Statements of Financial Interests loans of over \$5,000 to a debtor who does work for the City.

Our determination in this case is based upon the application of the City's Governmental Ethics Ordinance to the facts stated in this opinion. If the facts presented are incorrect or incomplete, please notify the Board immediately, as any change in the facts may alter our opinion. Other laws or rules also may apply to this situation. We note that a City department may adopt restrictions that are more stringent than those imposed by the Ethics Ordinance.

**RELIANCE:** This opinion may be relied upon by (1) any person involved in the specific transaction or activity with respect to which this opinion is rendered and (2) any person involved in any specific transaction or activity that is indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.

  
Catherine M. Ryan  
Chair