

**ADVISORY OPINION**  
**CASE NO. 02021.A**  
**Post-Employment**

To: [Jane ], [Manager], [Pi Inc. ]

Date: September 18, 2002

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In a letter dated July 1, 2002, you requested an advisory opinion on what restrictions the Governmental Ethics Ordinance would impose on your post-City employment as a [Manager] with [Pi Inc.], a stock and bond rating service. Specifically, you asked if you would be prohibited under the Ordinance from “...evaluating bond transactions of sister agencies of the City.”

After careful consideration of the facts and the relevant law, the Board determines that the post-employment provisions do not prohibit you from assisting or representing [Pi Inc. ] in evaluating bond transactions of sister agencies of the City. However, we note that this determination only applies to those bonds which are issued without any involvement by the City. The Ordinance does prohibit you for one year from the date you left City employment from assisting or representing any person other than the City in any transaction involving the City relating to the structuring, issuance, and administration of the debt of the City through the issuance of bonds.

Please note that the Board has not made any determinations as to whether you exercised contract management authority over any City contract, during your City employment; however, it appears to the Board that you might be permanently prohibited from assisting or representing any person other than the City, including [Pi Inc. ], in evaluating the structuring, issuance or administration of those bonds with which you were involved during your City employment. Thus, you are advised to contact the Board for specific advice if you intend, or are asked, to assist or represent any person other than the City, including [Pi Inc. ], with respect to any particular contract with which you were involved while a City employee.

We set forth below the relevant facts, our analysis of those facts under the City’s Governmental Ethics Ordinance, and our determinations.

**FACTS:**

Prior to [Date X ], you were employed with the City’s [Department 1 ] as an [Assistant ]. Your duties included coordinating the issuance of various City of Chicago municipal bonds including general obligation, airport revenue, and housing revenue bond transactions. You said

that your specific responsibilities included "...proposing, reviewing, and commenting on all bond financing documents and bond structures from the start of the financing until the sale and closing of the bonds." In addition to coordinating the issuance of bonds, you said that you also "...conducted cash flow reporting and monitoring for all of the City's funds."

Since [Date Z ], you have been employed with [Pi Inc. ] as a [Manager ] in the [District ] (Midwest Region) of the [ ] Finance Group. You stated that you understood that you were subject to the Post-Employment Restriction (Section 2-156-100) of the Governmental Ethics Ordinance and have no intention to analyze or participate in any credit decision involving the City of Chicago as an issuer for a period of one year.<sup>1</sup> Your primary responsibilities at [Pi ] include evaluating the likelihood and timeliness of public entities to repay tax-exempt bond obligations. Among the public entities that you could evaluate are City sister agencies, such as the Chicago Park District, the Chicago Transit Authority, the Regional Transportation Authority, the Chicago Housing Authority, the Metropolitan Pier and Exposition Authority, the Chicago City Colleges, and the Chicago Board of Education.

Staff asked [John ], [Administrator ] and your former supervisor in the [Department 1 ], to describe the process by which bonds are issued by the City.<sup>2</sup> He provided the following example: First, a capital need is identified, such as financing the rehabilitation of Chicago Skyway. Second, possible revenue sources are evaluated. Third, an ordinance authorizing a bond issuance is drafted by the [Department 1 ], reviewed by the City Council's Committee on Finance, and, if approved, is then presented to City Council for a vote. If approved by City Council, the [Department 1 ], together with investment bankers, drafts detailed bond documents that set forth how the rates will be set, how the money will be invested, who will direct the investment, and the schedule for spending. Finally, the official statement of the issuance is published and the bonds go on sale to the public.

Staff also asked [John ] whether, and to what extent, the City becomes involved in bond issuances of the City's sister agencies. [John ] mentioned one instance, the [Sister Agency Project A ], a General Obligation bond, in which the City cooperated with a sister agency on a project that benefitted the sister agency. According to [John ], however, in this instance, the City was the sole issuer of the bonds. When the City's sister agencies issue bonds of

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<sup>1</sup>In your letter to the Board requesting an advisory opinion, you state that you " have no intention to analyze or participate in any credit decision involving the City of Chicago as an issuer for a period of one year (until [Date XX])." It is not clear to the Board why you include this particular date. If the one-year prohibition of the Post-Employment prohibition applies to you, it would appear that the one year period would only extend until [Date Y ].

<sup>2</sup>Pursuant to the Board's Rules and Regulations concerning confidentiality, and your stated request, staff's inquiry of [John ] was made in general terms and your name or situation was never mentioned.

their own, to the best of [John ]'s knowledge, neither the City Council, nor any other City agency, participates in the issuance in any way.

**APPLICABLE LAW AND ANALYSIS:** Section 2-156-100 of the Governmental Ethics Ordinance (Post-Employment Restrictions) states:

**(b) No former official or employee shall, for a period of one year after the termination of the official's or employee's term of office or employment, assist or represent any person in any business transaction involving the City or any of its agencies, if the official or employee participated personally and substantially in the subject matter of the transaction during his term of office or employment; provided, that if the official or employee exercised contract management authority with respect to a contract this prohibition shall be permanent as to that contract.**

Under this provision, you, as a former City employee are subject to both a one-year and a permanent prohibition after leaving City service. First, for one year after leaving City employment, you are prohibited from assisting or representing a person, other than the City, in any business transaction involving the City or any of its agencies, if you participated personally and substantially in the subject matter of that transaction during her City employment. Second, you, as a former City employee are permanently prohibited from assisting or representing any person on a contract if, as a City employee, you exercised "contract management authority" over that contract. Section 2-156-010(g) of the Ordinance defines the term "contract management authority" as:

**personal involvement in or direct supervisory responsibility for the formulation or execution of a City contract, including without limitation the preparation of specifications, evaluation of bids or proposals, negotiation of contract terms or supervision of performance.**

#### The One-Year Prohibition

Under the one-year prohibition, you are prohibited from assisting or representing people other than the City, including [Pi Inc. ], in any business transaction involving the City if you "participated personally and substantially in the subject matter of the transaction" while a City employee. While you were a City employee, your specific responsibilities included proposing, reviewing, and commenting on bond financing documents and bond structures from the beginning of financing until the sale and closing of the bonds. You worked on general obligation, airport revenue, and housing revenue bonds, all of which were issued by the City. The Board concludes that the "subject matter" in which you participated personally and substantially, while a City employee, therefore, was the structuring, issuance, and administration of the debt of the City of Chicago through the issuance of bonds.

In your post-City employment, your primary task is to evaluate the likelihood and timeliness of public entities to repay tax-exempt bond obligations. According to the [Pi ] corporate web site, the ability of a public entity to repay its debt, and the subsequent rating it receives from your company, is contingent on a number of factors, including the historical and prospective financial condition quality of management and operating performance of the issuer; the issue's relationship to other obligations of the issuer, and any special features of a specific issue (emphasis added). In other words, your evaluation of the likelihood and timeliness of public entities to repay their debt would entail an analysis of the way in which that debt was structured, issued, and administered. Therefore, because you participated personally and substantially in the structuring, issuance, and administration of bonds issued by the City while an employee of the City's [Department 1 ], you are prohibited by the Ethics Ordinance for a period of one-year from when you left City employment, i.e., until [Date Y ], from assisting or representing any person other than the City in any transaction involving the City relating to the structuring, issuance, and administration of the debt of the City through the issuance of bonds.

Since you have represented to the Board that you do not intend to analyze or participate in any credit decision involving the City as an issuer of municipal bonds for at least a period of one year from the time you left City employment, this determination is not immediately relevant to your request. If, however, the situation changes, and you wish or are asked to perform work for [Pi ] before [Date Y ] on bonds issued by the City, you are advised to contact the Board for specific advice.

The question remains whether you are prohibited for one year from assisting or representing [Pi ] in evaluating bond transactions of sister agencies of the City, because you were personally and substantially involved in the structuring, issuance, and administration of the debt of the City of Chicago through the issuance of bonds. In past advisory opinions, the Board has concluded that the City's sister agencies, such as the Chicago Parks District, are not agencies of the City, within the meaning of the Ordinance. (Case No. 90013.A)<sup>3</sup> On the face of the matter, therefore, since you do not intend to analyze credit decisions involving the City as an issuer of municipal bonds, and since the City's sister agencies are not "agencies of the City," according to §2-156-100(b), it appears that the Ordinance does not prohibit you from evaluating bond transactions of sister agencies of the City.

Such a straightforward analysis, however, presumes that if bonds are issued by some entity other than the City, then the City cannot be "involved in" that bond transaction. In order to insure the soundness of this assumption, staff asked [Administrator ] [John ] if he was aware of any instances where the City participated, in any way, in the issuance of bonds by one of the City's sister agencies. [John ] mentioned one instance, the [Sister Agency Project ], a General Obligation bond, in which the City cooperated with a sister agency

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<sup>3</sup>According to Case No. 90013.A, neither the Chicago Public Building Commission, the Chicago Park District, the Chicago Transit Authority, the Regional Transportation Authority, the Chicago Housing Authority, the Metropolitan Pier and Exposition Authority, nor the Chicago Board of Education are City agencies, within the meaning of the Ethics Ordinance

on a project that benefits the sister agency. According to [John ], however, in this instance, the City was the sole issuer of the bonds. When the City's sister agencies issue bonds of their own, to the best of [John ]'s knowledge, neither the City Council, nor any other City agency, participate in the issuance in any way. The Board concludes, therefore, that the issuance of bonds by sister agencies is not a "business transaction involving the City." Therefore, the Board determines that the one-year post-employment prohibition of the Ordinance does not prohibit you from assisting or representing [Pi Inc. ] in evaluating bonds issued by sister agencies of the City. However, this determination only applies to those bonds which are issued without any involvement by the City. In the event that you are asked to evaluate any bonds which are issued by the sister agencies that involve the City in any way, we advise you to contact the Board for further advice.

#### The Permanent Prohibition

As we noted above, according to the second provision of §2-156-100(b), a former City employee is permanently prohibited from assisting or representing any person on a contract if, as a City employee, she exercised "contract management authority" over that contract. Since you have not asked the Board to consider possible situations in which you perform work for [Pi Inc. ] on any kind of business transaction involving the City, we have not attempted to determine how the permanent prohibition applies to your employment with [Pi Inc. ]. However, it appears to the Board that you might be permanently prohibited from assisting or representing any person other than the City, including [Pi Inc. ], in evaluating the structuring, issuance or administration of those bonds with which you were involved during your City employment. Therefore, we advise you to contact the Board for specific advice, if, in the future you wish or are asked to perform work for anyone other than the City, including [Pi Inc. ], on a contract or transaction with which you were personally involved while a City employee, or a contract or transaction that arises from a contract or transaction with which you were personally involved.

Confidential Information. We also bring to your attention Ordinance Section 2-156-070, entitled "Use or Disclosure of Confidential Information," which prohibits you, as a former City employee, from using or revealing confidential information you acquired through your City employment. Confidential information, for purposes of this Section, means any information that may not be obtained pursuant to the Illinois Freedom of Information Act, as amended.

**DETERMINATION:** Based on the fact presented, the Board determines that the post-employment provisions do not prohibit you from assisting or representing [Pi Inc. ] in evaluating bond transactions of sister agencies of the City. However, we note that this determination only applies to those bonds which are issued without any involvement by the City. The Ordinance does prohibit you for one year from the date you left City employment from assisting or representing any person other than the City in any transaction involving the City relating to the structuring, issuance, and administration of the debt of the City through the issuance of bonds.

Please note that the Board has not made any determinations as to whether you exercised contract management authority over any City contract, during your City employment; however, it appears to

the Board that you might be permanently prohibited from assisting or representing any person other than the City, including [Pi Inc. ], in evaluating the structuring, issuance or administration of those bonds with which you were involved during your City employment. Thus, you are advised to contact the Board for specific advice if you intend, or are asked, to assist or represent any person other than the City, including [Pi Inc. ], with respect to any particular contract with which you were involved while a City employee.

Our determination is not necessarily dispositive of all issues relevant to this situation, but is based solely on the application of the City's Governmental Ethics Ordinance to the facts stated in this opinion. If the facts stated are incorrect or incomplete, please notify the Board immediately, as any change may alter our determination. Other laws or rules also may apply to this situation. Be advised that City departments have the authority to adopt and enforce rules of conduct that may be more restrictive than the limitations 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 indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.

[signature ]

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Darryl L. DePriest  
Chair