BOARD OF ETHICS
CITY OF CHICAGO

ADVISORY OPINION

Date: September 25, 2013

Re: Case No. 13044.A, Campaign Financing Limitations

I. Introduction and Case Summary

The Board received a referral from the Legislative Inspector General (LIG) of a signed and sworn complaint. The complaint alleged that three companies, A, G, and C, were under common ownership and violated the City's Campaign Financing Ordinance (CFO) by contributing $4,000 in aggregate campaign contributions between July 2011 and June 2012 to the official political committee of 51st Ward Alderman Jane Doe.[1]

The Board treated the referral as a complaint against the contributors and conducted an investigation by examining records of campaign contributions available from the Illinois State Board of Elections' (ISBE), corporate records from the Illinois Secretary of State, and contract records maintained by the City and its sister agencies. The probe showed that: (i) the three entities contributed a total of $4,700[2] to the Alderman's political committee during the political reporting year July 1, 2011 through June 30, 2012; (ii) two of these companies were subject to the CFO's contribution limitations during that reporting year because they had done business with the City and two "sister agencies" within the four years preceding the contributions; (iii) under the criteria established by the Board in prior case law, the three entities were "affiliated companies" and should be treated as a single "person" or contributor for CFO purposes; and thus (iv) for these reasons, the three companies apparently violated the CFO.[3]

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[1] The CFO was formerly Chapter 2-164 of the Municipal Code. On October 31, 2012 it was superseded by Article VI of the current Government Ethics Ordinance (Article VI). As explained below, the CFO prohibited certain persons—including companies that had done business with the City or certain "sister agencies"—from contributing more than $1,500 in a "reporting year" (July 1-June 30) to the political committee of an elected City official or candidate for elected City office. The complaint cited the following contributions to this Alderman's political committee: $2,500 from A in October 2011; $500 from C in November 2011; $1,000 from G in February 2012. It also alleged that the three entities were under the control of the same individual, and that A and G did business with the City and the Chicago Transit Authority, and that the Alderman "accepted donations in violation of Campaign Financing Ordinance." However, as discussed in detail below, under the CFO, *only* the excessive contributor was in violation of the Ordinance, *not* the elected official or his/her committee that accepted an excessive contribution (unless there was a finding that there was a mutual understanding that the contributions would affect the official's judgment, that is, a finding of bribery or conspiracy to commit bribery).

[2] C contributed an additional $700 to the Alderman's committee after the complaint was filed but during the same reporting year.

[3] The complaint also states that A's and G's owner himself contributed a total $3,500 to a different alderman in this reporting year. But under both the CFO and Article VI, "an entity and its subsidiaries, parent company or otherwise affiliated companies, and any of their employees,

The Board then notified the companies' representative of its conclusions (and, as it has always done, sent this notice to the Alderman), providing him the opportunity to present evidence that: (i) these contributions were not actually made, or were incorrectly recorded by the Alderman's political committee; or (ii) the three companies were not affiliated and thus their contributions should not be aggregated; or (iii) none of the three was actually doing business with the City or its sister agencies during the relevant time. The Board also advised him that, if the companies were not going to contest the conclusion that they had violated the CFO, they should immediately bring themselves into compliance with the CFO by obtaining reimbursement of the $3,200 in excessive contributions from the Alderman's political committee and providing proof thereof to the Board. Finally, the Board explained that, under the law effect when the contributions were made, the Board had no authority to assess fines for violations based on excessive contributions, but that the law has changed so that were an identical violation to occur *after* November 1, 2012, the violations would be both the contributor's and the elected official's committees, and the penalties severe: fines between $1,000 and up to $5,000 or three times the amount of the excessive contribution (whichever is higher) would be imposed on *both* the contributor *and* the political committee, and there would be public disclosure of the violations and fines.

The companies' representative did not dispute these conclusions. Instead, he submitted proof that the $3,200 refund from the Alderman's committee was received and deposited into an appropriate bank account, thereby bringing the three companies into compliance with the CFO.

Under the CFO, this provided the Board with a sufficient basis to determine that the companies: (i) were affiliated; (ii) violated the CFO by contributing more than $1,500 to the Alderman's political committee during the 2011-2012 political reporting year; but (iii) brought themselves into compliance with the CFO; and then (iv) for the Board to close the matter and send the contributors and Alderman a letter explaining the violations and recommending that the contributors implement stricter internal controls to avoid repeat violations, because the penalties for similar violations under new Article VI are more severe. Under the CFO, the only sanctions that could be imposed upon an excess contributor were judicial penalties of $500.[4] This penalty structure has changed under Article VI.

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officers, directors and partners who make a political contribution for which they are reimbursed by the entity or its affiliates shall be considered a single person. *However, nothing in this provision shall be construed to prohibit such an employee, officer, director or partner from making a political contribution for which he is not reimbursed by a person with whom he or she is affiliated, even if that person has made the maximum contribution allowed ...*" [emphasis added] By itself, then, this $3,500 contribution does *not* violate the old CFO or new law. For the contribution to violate this law, there would need to be proof that the owner had been reimbursed by A or G, or was a lobbyist, or was doing business with the City or its sister agencies (or seeking to) during the relevant time. If so, then he would *also* violate old §2-164-030 (now §2-156-445(d)), which prohibits soliciting, making or accepting "pseudonymous" contributions (those "made or to be made other than in the name of true donor") and the Illinois Election Code. That is: owners, partners, employees or officers of an entity that is subject to the contribution limitations are *not by that fact* subject to the limitations. This is an important but commonly misunderstood point of law. *See* Case No. 90060.A (partners of a partnership, like a law firm, that does business with the City, may contribute more than $1,500 to candidates and elected City officials per year, as long as they are not reimbursed by the partnership; but reimbursed contributions will count towards the firm's own $1,500 per year/per candidate-official limitation).

[4] Old §2-164-110, entitled "Judicial Penalties," provided that "any person found by a court to be guilty of knowingly violating any of the provision of this chapter ... upon conviction thereof shall be punished by a fine of no more than $500 for any one offense." At the Board's urging, the City enacted reforms, embodied in Article VI, so that the penalties for violations of these limitations are now both stricter *and* easier to enforce, and shall be made public. The Board notes that the "old" CFO scheme obtains for all violations of these limitations that occurred prior to November 1, 2012. The penalties provided for in Article VI can be imposed only for violations of these limitations that occurred on or after November 1, 2012.

The Board is taking advantage of this unique "teachable moment" and issuing this advisory opinion, pursuant to the authority granted to it under §2-156-380(l) of the Governmental Ethics Ordinance. The opinion explains why the companies were affiliated and why their contributions were aggregated, why their contributions violated the CFO, how new Article VI differs from the CFO, and how future investigations and violations will be handled. This topic receives little attention, but has been an active area of enforcement for the Board of Ethics, and, we trust, will become an active area of enforcement for the two Inspectors General (whom this opinion is intended to assist).

II. The Old Campaign Financing Ordinance and New Article VI

The CFO was a stand-alone Ordinance from 1987 through October 31, 2012. On November 1, 2012, it became Article VI of the Ethics Ordinance and was amended in several important ways.[5]

A. Continuities from the Old CFO. First, though, it is important to explain how the two are the same.

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[5] The relevant provisions of new Article VI provide:

2-156-435. Anonymous and pseudonymous contributions.
No person shall offer or make, and no candidate for city office, such candidate's political committee or person acting on behalf of either of them shall solicit or accept, any contribution that is (a) anonymously given; or (b) made or to be made other than in the name of the true donor.

2-156-445. Limitation of contributing to candidates and elected officials.
(a) No person who has done business with the city, or with the Chicago Transit Authority, Board of Education, including the Chicago School Reform Board of Trustees, Chicago Park District, Chicago City Colleges, or Metropolitan Pier and Exposition Authority within the preceding four reporting years or is seeking to do business with the city, or with any of the other aforementioned entities, and no lobbyist registered with the board of ethics shall make contributions in an aggregate amount exceeding $1,500.00: (i) to any candidate for city office during a single candidacy; or (ii) to an elected official of the government of the city during any reporting year of his term; or (iii) to any official or employee of the city who is seeking election to any other office. For purposes of this section all contributions to a candidate's authorized political committees shall be considered contributions to the candidate. A reporting year shall be from January 1st to December 31st. For purposes of this subsection only "seeking to do business" means: (i) the definition set forth in Section 2-156-010(x) and (ii) any matter that was pending before the city council or any city council committee in the six months prior to the date of the contribution if that matter involved the award of loan funds, grant funds or bond proceeds, bond inducement ordinances, leases, land sales, zoning matters, the creation of tax increment financing districts, concession agreements or the establishment of a Class 6(b) Cook County property tax classification.

(b) For purposes of subsection (a) above, an entity and its subsidiaries, parent company or otherwise affiliated companies, and any of their employees, officers, directors and partners who make a political contribution for which they are reimbursed by the entity or its affiliates shall be considered a single person. However, nothing in this provision shall be construed to prohibit such an employee, officer, director or partner from making a political contribution for which he is not reimbursed by a person with whom he or she is affiliated, even if that person has made the maximum contribution allowed under subsection (a).

(c) For purposes of subsection (a) above, a contribution to (i) any political fund-raising committee of a candidate for city office or elected official, or (ii) any political fundraising committee which, during the reporting year in which the contribution is to be made, has itself made contributions or given financial support in excess of 50 percent of that committee's total receipts for the reporting year to a particular candidate for city office, elected official, or the authorized fundraising committee of that candidate or elected official, shall be considered a contribution to that candidate or elected official.

(d) Any person who solicits or accepts a financial contribution with knowledge that such contribution violates the limits set forth in this section shall be subject to the penalty provided in Article VII of this Chapter; provided, however, such person shall not be deemed in violation of this section if such person returns such financial contribution within 10 calendar days of the recipient's knowledge of the violation.

***Section 2-156-010(x)** defines seeking to do business as (1) taking any action within the past six months to obtain a contract or business from the city when, if such action were successful, it would result in the person's doing business with the city; and (2) the contract or business sought has not been awarded to any person.*

1. Contribution Limitations. Article VI preserves substantially the same campaign contribution limitations and prohibitions as in the CFO: both limit at $1,500 per "reporting year" campaign contributions from certain persons to any single candidate for elected City office or any single City elected official. Both prohibit the solicitation, offer, or the giving or acceptance contributions on the basis of a mutual understanding that the recipient's official actions would be affected by the contributions (*i.e.* they both prohibit bribes), and both prohibit anonymous and pseudonymous contributions.

Put simply: persons subject to these limitations may contribute *up to* $1,500 in a reporting year to any (or all) candidates for elected City office or elected City officials, *but no more than* $1,500 *to any one of them* in that year. We note here that the Mayor has, by Executive Order, barred lobbyists, City contractors and subcontractors and their respective owners and owners' spouses from contributing to his political committee at all during certain time periods.[6]

Who are these persons that are subject to the Ordinance's $1,500 per reporting year limitation? They were and still are: (i) registered lobbyists; or (ii) persons who are *doing* or who have *done business* with the City or the City's named *sister agencies*[7] within four years preceding the date of contribution; or (iii) persons who are *seeking to do business*[8] with the City at the time of their political contributions.

2. Affiliated Companies. Article VI also preserves the "affiliated companies" prohibition, and the "50%" rule with respect to indirect political contributions.[9] Both provide that, for purposes of the $1,500 limitation, "an entity and its subsidiaries, parent company or ***otherwise affiliated companies*** ... shall be considered a single person." §2-164-010(b) (emphasis added; *see also* new §2-156-445(b)). In Case No. 03010.55.CF, the Board adopted the test for "affiliated companies" developed by the Federal Election

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[6] See Executive Orders 2011-2 (prohibiting lobbyists from contributing to the Mayor's political committee); 2011-3 (prohibiting appointed officials and City employee from contributing to the Mayor's political committee); and 2011-4 (prohibiting City contractors and subcontractors and their respective owners and their spouses or domestic partners from contributing to the Mayor's political committee). These are posted in their entirety on the Board's website:
http://www.cityofchicago.org/content/dam/city/depts/ethics/general/Ordinances/ExecutiveOrders1_6.pdf

[7] The City's *sister* agencies were and still are the Chicago Transit Authority (CTA), Chicago Public Schools/Board of Education (CPS), Chicago Park District, City Colleges (CCC), or Metropolitan Pier and Exposition Authority (MPEA). *See* §§2-156-445(a); 2-164-040(a). The term *doing business* was and still is defined as "any one or any combination of sales, purchases, leases or contracts...in an amount in excess of $10,000 in any twelve consecutive months." *See* §2-164-010(f); §2-156-010(h).

[8] The term *seeking to do business* is defined in two places in the Ordinance, but is not at issue in this case. None of the entities involved was alleged or found to have been seeking to do business with either the City or its sister agencies. *See* §§2-156-010(x); -445(a).

[9] This is contained in new §2-156-445(c), which was formerly §2-164-040(c). It provides: "For purposes of [the $1,500 contribution limitations] above, a contribution to (i) any political fund-raising committee of a candidate for city office or elected official, or (ii) any political fundraising committee which, during the reporting year in which the contribution is to be made, has itself made contributions or given financial support in excess of 50 percent of that committee's total receipts for the reporting year to a particular candidate for city office, elected official, or the authorized fundraising committee of that candidate or elected official, shall be considered a contribution to that candidate or elected official." This section raises interesting issues of its own that are not germane to this opinion. Note also that the Supreme Court's 2010 much-debated decision in *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010) does not affect the old CFO or recently adopted Article VI. This is because the City's Ethics Ordinance (and before it, the CFO) regulates and limits only political contributions, not independent expenditures, which are, by definition, *not* political contributions. *Citizens United* (at least the controversial part of the decision), on the other hand, addresses independent expenditures and the proper and constitutional regulation of them. The Illinois Election Code, to which all contributors to candidates for elected City office and City elected officials (as well as the officials and candidates themselves) are subject, does require independent expenditors to register with the ISBE and file reports of their spending once they meet a $3,000 per year threshold. *See* 10 ILCS 5/9-1.15; -5/9-3; -5/9-8.5(h-5); -5/9-8.6.

Commission. The term *affiliated company* means "[a]n entity that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, the entity specified." The Board also found that "indicia of control include, without limitation, interlocking management or ownership; identity of interests among family members; shared facilities and equipment; and common use of employees." *Id.*

B. Changes from the old CFO. There are five seminal changes in Article VI:

1. Under the old CFO, a *reporting year* was July 1 to June 30; under Article VI, a reporting year is now a *calendar* year.

2. Article VI has a more robust enforcement structure. Under the CFO, only the excess contributor violated the law. Under Article VI, both the contributor and person or committee accepting an excess contribution violate the law. Fines are imposed on *both* the contributor *and* the political committee or other person accepting an excess contribution, and the new law provides for public disclosure of violations and violators. Note, however, that neither the CFO nor new Article VI provides that a transaction, grant, contract or other project that an excess contributor has with the City shall be void or voidable by the City *because of that contributor's excessive contribution violation.*[10]

3. The Board of Ethics no longer initiates or conducts investigations, but instead adjudicates investigations conducted by the two IGs.

4. Article VI makes clear that the contribution limit (for those subject to it) is $1,500 per candidacy or per elected official during a calendar year—the old CFO had provided that candidacies in primary and general elections were separate candidacies, thereby raising the limitations to $3,000 in a reporting year in which primaries and general elections occurred.[11] However, in the 1990's, the City moved to consolidated municipal elections and eliminated primary elections. This change is reflected in the recent amendments. Hence, Article VI clarifies that the limit is $1,500 per calendar year. Note that, in Case No. 90066.A, the Board held that *run-offs* are *not* considered separate candidacies, and thus the limit remains at $1,500 for a calendar year in which both a consolidated municipal election occurs (say, February 2015), and then a run-off is held (say, April 2015).

[10] Violations of these contributions limitations are now penalized by robust fines, which the Board will impose on *both* the contributor *and* the recipient political committee—$5,000 or treble the excess contribution amount, whichever is higher. §2-156-465(b)(5). In order for the Board to apply the Ordinance section that *does* give the City the *right to void* certain contracts, etc., and which makes certain City regulatory decisions void—it is §2-156-510 under the currently effective Ethics Ordinance (it was §2-156-390 in the Ethics Ordinance that expired on October 31, 2012, but there was *no* analogous section in the old CFO)-- there would need to be a showing that the contract, etc., "was negotiated, entered into, or performed in violation of" these contribution limitations. An over-contribution does not, by itself, warrant this conclusion—it would need to be accompanied by other evidence tying the contribution to the City action or decision, for example. This is in contrast to Mayoral Executive Order 2011-4, which does empower the City to terminate contracts and reject bids

[11] In Case No. 90067.A, the Board determined that a person subject to the CFO's limitations may **not** contribute $1,500 during a reporting year to "an elected City official" "during any reporting year of his term" and, in the same reporting year, contribute **another** $1,500 (or any amount, for that matter) to the same official's re-election committee as a **candidate** for the **same** elected City office. In other words, during the same reporting year, an elected City official may not be an "elected official" (for purposes of (i) of § 2-164-040(a)), and also a "candidate" for (the same) City office during a single candidacy (for purposes of (ii) of § 2-164-040(a)). That, the Board said, would be unfair to non-incumbent challengers, whose contributors are also subject to these limitations.

5. Article VI provides a ten day "grace period" or safe harbor provision: that there is no violation if a candidate, elected official or political committee that accepts an excessive contribution returns it within 10 calendar days of knowledge of the violation.[12]

III. Facts Adduced in the Board's Investigation

During the course of its investigation to ascertain whether the entities named in the complaint actually violated the CFO, the Board examined whether any of them were doing business with the City or its sister agencies during the relevant time, and if so, whether they were "affiliated," so that their contributions should be aggregated (if aggregated, the amount of excess contributions would be $3,200 rather than, as the LIG believed, $1,000). To make these findings, the Board researched: (i) the Illinois Secretary of State's Corporation File Detail Reports to determine ownership of the contributing companies; (ii) each company's property records; and (iii) the City of Chicago's and its sister agencies' vendor, contracts, and payment information.

The ISBE reports filed by the Alderman's committee record the following contributions received, in the months listed:

Company A	$2,500	10/2011
Company C	$500	11/2011
Company G	$1,000	02/2012
Company C	$700	04/2012

Were these entities doing business with the City and/or sister agencies during the relevant time? Yes. The CTA's website shows that both A and G had in excess of $10,000 in contracts with it in the relevant time period (G's company website also lists the CTA as one of its clients). The CPS's website shows that A had in excess of $10,000 in contracts with it during the relevant time period. The City's Department of Procurement's website shows that G had contracts with several City departments in excess of $10,000

[12] New §2-156-445(d) provides: "Any person who solicits or accepts a financial contribution with knowledge that such contribution violates the limits set forth in this section shall be subject to the penalty provided in Article VII of this Chapter; provided, however, such person shall not be deemed in violation of this section if such person returns such financial contribution within 10 calendar days of the recipient's knowledge of the violation." The provision contains several embedded ambiguities. *First,* it appears to protect only the recipient of the excess contribution, not the contributor. The Board concludes that this is not what was intended, but that what was intended was that the erasure of a violation when the contributor receives a refund (what happened here) means that the violation is erased for *both* the recipient *and* the contributor. This "safe harbor" provision provides safety to both the contributor who makes and the political committee that accepts an over-contribution. A previous draft of the revised Ordinance provided for the violation and penalties only for the recipient committee, not for the contributor. The Board successfully urged that, as with other "pay-to-play" laws, penalties be imposed on *both* the recipient *and* the contributor. However this safe harbor provision was not then corrected (we believe inadvertently) to allow the safe harbor for the contributor. *Second,* the issue of when the contributor or recipient committee has "knowledge" of the violation so as to trigger the 10-day return window is confusing. For a recipient political committee to be able to avail itself of this safe harbor provision, it must have solicited or accepted a contribution "with knowledge" that it violates the limits (and the contributor must have given it with that same knowledge). The Board believes that the correct interpretation of this provisions is that once the contributor and recipient are simultaneously notified (formerly by the Board of Ethics, now by the respective IG) that the City has concluded that there is an apparent excess contribution violation, the political committee *then* has 10 days from that notification to return the contribution--unless there is evidence that the over-contribution was knowing on the part of *both* the contributor and the recipient committee *at the time of the contribution.* If the evidence shows *that,* then the 10-day grace period would have begun running at the date of that contribution. Put another way, if an investigation adduces facts showing that both the recipient committee and the contributor knew *at the time of the contribution* that the contributor was subject to the limitations (and of course that the contribution pushed the aggregate contributions from this contributor over the $1,500 limit for the year), then this safe harbor provision would be inapplicable unless the contribution had been corrected within 10 days of *that contribution.*

during the relevant time period. The Board found no evidence that C had done business with the City or sister agencies, but the Secretary of State's database lists it as "doing business as" "A."

Were they "affiliated companies?" Yes. Records from the Secretary of State's and the Cook County Recorder of Deeds' databases show that: (i) the same individual and/or his wife owned, operated, or managed these three companies during all relevant times; (ii) all three businesses were located in two adjacent storefronts within the same building; and (iii) this building was owned by the same individual and his wife; and (iv) all three companies listed the same individual as their agent. For these reasons, the Board concluded that the companies met the test announced by the Board in Case No. 03010.55.CF, and are *affiliated.*

Thus, the Board concluded that A and G were subject to the CFO's contributions limitations, and exceeded them, but also that the evidence adduced warranted the conclusion that all three companies were affiliated and their political contributions all should be considered to have been made by the same "person." The companies did not dispute this conclusion. Instead they sought and received a refund from the Alderman's political committee of the excess $3,200, thereby bringing themselves into compliance with the CFO.

IV. Determinations

The Board thus:

1. Determines that A, C and G were affiliated companies, and were subject to the CFO's contribution limitations, and violated the CFO by contributing $3,200 in excess of legal limitations to this Alderman's political committee in a single political reporting year;

2. Has closed the case and notified the companies' representative (with a cc to the Alderman), of these violations, and explained that, as the companies brought themselves into compliance, the Board decided not to seek judicial sanctions of $500, but instead has admonished them to exercise greater diligence to avoid future violations, which will lead to fines and public naming; and

3. Issues this advisory opinion explaining how the companies were affiliated, how their campaign contributions violated the CFO, how the new Ordinance is different, and how future violations will be handled differently. This opinion is being sent to all 53 elected officials and their political committees, and both Inspectors General.

The Board also here restates the other general determinations and interpretations of the Ordinance it has made in the body of this opinion:

→ Under the CFO, *only* the excessive contributor was in violation of the Ordinance for making excessive contributions, *not* the elected official or his/her committee that accepted them (under the new Ordinance, they *both* violate the law);

→ Under both the CFO and new Article VI, owners, partners, employees or officers of an entity that is subject to the contribution limitations are *not by that fact* subject to the contribution limitations. To be subject to these limitations, these individuals must be either reimbursed by the entity for their

contributions, or subject to the limitations as individuals (*e.g.* as lobbyists or persons seeking to do business with the City). This is an important but commonly misunderstood point of law. Affiliated companies, subsidiaries, parent companies, however, need *not* be reimbursed by the entity making the contribution or subject to the contribution limitations to be considered a single "person" or contributor for purposes of the contribution limitations.

→ For all violations of the contribution limitations of the CFO, that is, all violations due to excessive contributions that occurred on or before October 31, 2012: (i) the Board cannot impose fines; (ii) the names of the violators shall remain confidential; (iii) and the City will retain the authority to seek a judicial verdict that a contributor knowingly violated the law, and upon conviction thereof, petition the court to impose a penalty of up to $500 for each offense.

→ Neither the CFO nor new Article VI authorize the City to void a contract, transaction, project, regulatory decision, etc., solely on the basis that a contributor made excessive political contributions in violation of these Ordinances (in contrast to Mayoral Executive Order 2011-4). Rather, in order for the Board to apply the Ordinance section that *does* give the City the *right to void* contracts, etc., and makes certain City regulatory decisions void—there would need to be a showing that the contract, etc., "was negotiated, entered into, or performed in violation of" these contribution limitations. An over-contribution does not, by itself, warrant this conclusion—it would need to be accompanied by other evidence tying the contribution to the City contract, action or decision, for example.

→ The test announced by the Board in Case No. 03010.55.CF for affiliated companies still obtains, and the conclusion of whether entities are "affiliated" must be determined on a case-by-case basis applying that test: *affiliated company* means an entity that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, the entity specified. Indicia of control include, without limitation, interlocking management or ownership; identity of interests among family members; shared facilities and equipment; and common use of employees.

→ For purposes of the 10-day "safe harbor" or "grace period" contained in §2-156-445(d) of Article VI of the new Ethics Ordinance, which applies to violations that occurred on or after November 1, 2012, the Board determines that:

- → the contributor who receives a refund of the excessive amount of a contribution within the 10 days following "knowledge" of the violation means that the violation is erased for both itself and the political committee; and

- → once the contributor and recipient are notified (formerly by the Board of Ethics, now by the respective IG) that the City has concluded that there is an apparent excess contribution violation, the political committee *then* has 10 days from the date of that notification to return the contribution for the safe harbor provision to apply--unless there is evidence that the over-contribution was knowing on the part of both the contributor and the recipient committee *at the time of the contribution.* If the evidence shows *that*, then the 10 day grace period in the provision begins (or began) running at the date of that contribution. Put another way, if an investigation adduces facts showing that both the recipient committee and the contributor knew at the time of the contribution that the contributor was subject to the limitations, and that the contribution pushed the aggregate contributions from this contributor over the $1,500

limit for the year, then this safe harbor provision would be inapplicable unless the contribution had been corrected then.

V. Final Comment. The Board encourages inquiries from elected City officials and candidates for elected City office, their campaign committees' staff members, lobbyists and others considering making or accepting political contributions, in order to ensure compliance with this law. The Board also welcomes questions from the Inspectors General, the media, and the public, about this law.

Sincerely,

Stephen W. Beard
Chair, City of Chicago Board of Ethics