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[REDACTED]

CONFIDENTIAL

[REDACTED]
[REDACTED]
[REDACTED]

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**Re: Case No. 96028.Q
Outside Employment**

Dear [REDACTED]:

On [REDACTED], you telephoned the Board of Ethics to ask if you are prohibited by the Governmental Ethics Ordinance from working during your non-City hours as a sales consultant for B [REDACTED] Company ("B [REDACTED]"), a distributor of [REDACTED].

You are a [REDACTED] with the [REDACTED] Department and are responsible for [REDACTED] communications, writing [REDACTED] reports upon request, and answering telephone queries. You said you are not in a position in your City job to make or influence decisions affecting B [REDACTED] and are unaware of any contracts between B [REDACTED] and the City.

You have been offered the opportunity to work as a sales consultant for B [REDACTED], selling [REDACTED] at [REDACTED] shows and [REDACTED] fairs, for which you will receive a commission.

Based on the facts you presented, it is staff's opinion that nothing in the Ethics Ordinance prohibits you from working in the position you described. However, there are provisions in the Ordinance that restrict your activities in both your City and outside positions. For your convenience, we have included a summary of those provisions that apply generally and of which you should be aware.

(1) The "Fiduciary Duty" provision, section 2-156-020, obliges you to use your City position responsibly, and prohibits you from using City time, resources, or your City position to obtain a personal benefit or promote a private interest, such as your sales consultancy with B [REDACTED].



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[REDACTED]

(2) Sections 2-156-030 ("Improper Influence") and 2-156-080(a) ("Conflicts of Interest") prohibit you, as a City employee, from participating in or trying to use your City position to influence any governmental decision or action in which you have an "economic interest." Economic interest is defined in the Ordinance as any interest valued or capable of valuation in monetary terms. By the terms of your Consultant Agreement you have an economic interest in B [REDACTED] (See case no. 94009.A.) Although you said you do not have any decision-making authority in your City position that would affect B [REDACTED], we advise you of these restrictions in the event that B [REDACTED] decides to pursue a contract with the City or your City responsibilities change.

(3) Section 2-156-090(a) ("Representation of Other Persons") prohibits you from representing or acting as a spokesperson for any person other than the City, such as B [REDACTED], in any proceeding or transaction before any City agency.

(4) Section 2-156-060, "City-Owned Property," prohibits you from using any City property or resources in your position with B [REDACTED] or for any private gain.

(5) Section 2-156-070, "Use or Disclosure of Confidential Information," prohibits you from using or revealing confidential information acquired through your City position.

Our conclusion is based solely on our application of the Governmental Ethics Ordinance to the facts you provided. If the facts are incorrect or incomplete, please notify us, because a change in the facts could alter our conclusion. As staff has discussed with you, other rules or laws may apply to your situation, and a City department, such as the [REDACTED] Department, may impose rules stricter than those contained in the Ethics Ordinance.

In addition, we call your attention to Personnel Rule XX, Section 3, which sets forth the requirements for secondary employment, and requires you to file a written request with your department head for permission to engage in outside employment, and Rule XVIII, Section 1, no. 43, which provides that you, as a City employee, can be disciplined for failure to comply with Rule XX.

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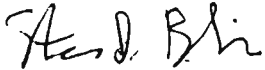
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[REDACTED]

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We appreciate your calling us, and your willingness to seek guidance on this matter. If, after reviewing this letter you have any further questions, please do not hesitate to call. Enclosed is a copy of the Governmental Ethics Ordinance for your reference.

Yours very truly,



Steven I. Berlin
Deputy Director

Approved by:



Dorothy J. Eng
Executive Director

Enclosure:
Governmental Ethics Ordinance

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