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MEMORANDUM

To: Board of Ethics

From: Maggie Kim
Maggie Kim
Research Analyst

Re: Hypothetical
Case No. 90052.A

Date: September 24, 1990

City of Chicago
Richard M. Daley, Mayor

Board of Ethics

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Executive Director
Albert F. Hofeld
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In their meeting of 9/18/90, the Board approved the following version of this memo by a vote of 4-0.

On September 12, 1990 INDIVIDUAL A of the COMMITTEE J called to ask whether an elected City official running for a County office is subject to the Campaign Financing Ordinance. In particular, she asked what the limit is for individuals doing business with the City who wish to contribute to the campaign of an elected City official running for a non-City office. INDIVIDUAL A did not wish to request an advisory opinion from the Board, but given the relevance of her question for the upcoming elections, the staff requests that the Board take it upon itself to render an opinion on this matter.

ANALYSIS:

INDIVIDUAL A's questions center around Section 26.3-3(a) of the Ordinance. The first part of that section states:

No person who has done business with the City within the preceeding four reporting years or is seeking to do business with the City shall make contributions in an aggregate amount exceeding \$1,500 (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 to any official or employee of the City who is seeking election to any other office.



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The general question is the interpretation of the phrase "any official or employee of the City who is seeking election to any other office." In Case No. 88062.A, a case initiated by the staff in anticipation of several issues related to the workings of the Campaign Financing Ordinance, the Board interpreted that phrase to mean "elected or appointed City officials and City employees seeking non-City public offices." Therefore, an elected City official running for County office or any other non-City public office would be affected by the limit on contributions by individuals doing business with the City.

The more specific question, as to the amount of the contribution limit, arises from the second part of Section 26.3-4(a).

For purposes of this section, (i) candidacy in primary and general elections shall be considered separate and distinct candidacies; and (ii) all contributions to a candidate's authorized political committees shall be considered contributions to the candidate. The combined effect of these provisions is intended to permit total contributions up to but not exceeding \$3,000 in a reporting year in which a candidacy occurs. A reporting year is from July 1 to June 30. The first filing date will be July 30, 1988 and annually thereafter.

According to Section 26.3-1(b):

"Candidate" means a candidate as defined in Article 9 of the Illinois Election Code, as amended, for any elected office of the government of the City.

Given this definition of candidate, the provision "candidacy in primary and general elections shall be considered separate and distinct candidacies," in 26.3-4(a), could be understood to apply only to candidates. If so, the primary and general elections of City officials running for non-City offices would not be considered separate and distinct candidacies. Contributions to these City officials would then be limited to \$1,500 in a reporting year, rather \$1,500 for each of the primary and general elections, for a total of \$3,000 in a reporting year.

Though, technically, the Ordinance could be interpreted this way, it is the opinion of the staff that this is not what was intended. First, "candidacy" is not defined, and the term "candidate" is not used. Second, such an interpretation would not be equitable nor would it serve any apparent purpose. The staff recommends that the Board interpret the second part of

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Section 26.3-4(a) to include the candidacies of City officials running for non-City offices. Therefore, candidacy in the primary and general elections for non-City office shall be considered separate and distinct candidacies.

CONCLUSION:

An elected City official running for a non-City office is subject to the Campaign Financing Ordinance. Individuals doing business with the City may contribute up to \$1,500 to each of such a candidate's primary and general elections, for a maximum total of \$3,000 in a reporting year.

Approval of this memorandum will constitute the Board's advisory opinion.

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