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SIB

April 7, 1999

CONFIDENTIAL

[John], [Senior Manager]
[Department 1]
[]
Chicago, IL []

**Re: Case No. 99017.Q
Outside Employment**

Dear [John],

You are [Senior Manager] in the City's [Department 1] and an attorney licensed to practice in Illinois. You are interested in doing *pro bono* legal work outside your City position. You have discussed this matter with the [head] of your department, [], and he suggested you contact the Board of Ethics. In a letter of March 22, 1999, you asked the Board for written advice on whether the Governmental Ethics Ordinance would limit or prohibit you from providing *pro bono* legal assistance while you continue to work for the City. Based on the facts you presented, staff concludes that the Ethics Ordinance does not prohibit you from providing this *pro bono* legal assistance while remaining employed in your City position, but it does impose certain restrictions of which you should be aware. This letter summarizes the relevant facts and the restrictions the Ordinance imposes.

In your City position, you explained, you supervise [City employees] in your department's [Bureau X], one of [several bureaus] in the department. This [bureau deals with issues pertinent to] four City departments: [Department 2], [Department 3],[Department 4], and [Department 5]. [Projects the bureau undertakes] concern, for example, [] recycling, garbage collection, food safety, and obstructions of the public way.

You indicated that you are interested in doing *pro bono* legal work through [a free legal assistance program for the elderly], a legal assistance project administered by [a lawyers' association

]. This program provides free legal advice and representation—for example, drafting wills, powers of attorney, and real estate documents—to hospice patients in Chicago area hospices and to homebound elderly. Attorneys working through this program volunteer their time and services, thus you would not be compensated for your work in the program. You anticipate that you would primarily handle wills and real estate documents through the



SIB

Case No. 99017.Q
April 7, 1999
Page 2

program, and you said you would do so outside your City hours, either on weekends, evenings, or days off. You do not anticipate appearing before City agencies, including your own, or appearing before any other courts or administrative bodies, on behalf of clients. You have not yet made arrangements to work with this or any other legal assistance program; however, you said you are not currently interested in doing *pro bono* legal work other than through this program.

Based on these facts you presented, staff concludes that the Ordinance does not prohibit your proposed *pro bono* legal work. However, it does impose certain restrictions on you.

First, § 2-156-090, "Representation of Other Persons," contains several restrictions. Section -090(a) prohibits you, as a City employee, from representing or having an economic interest¹ in the representation of any person other than the City in any formal or informal transaction before your own or any other City agency where the agency's action or non-action is non-ministerial (i.e., involves discretion) except in the performance of your City employment duties. Section -090(b) prohibits you from having an economic interest in the representation of any person in any judicial or quasi-judicial proceeding before any administrative agency or court in which the City is a party and the person's interest is adverse to the City's. The Board has construed the terms "represent" and "representation" to apply to a broad range of activities in which one person acts as a spokesperson for another, including making personal appearances before, telephone contact with, or submitting written documents to any City personnel or agencies.

Second, as a City employee, you owe your primary loyalty to the City, under § 2-156-020, "Fiduciary Duty." This section obligates you to use your City position responsibly and in the best interests of the public, and to exercise your professional judgments and City responsibilities free from conflicting duties to outside entities or clients. It also prohibits you from using your City position to obtain private benefits, such as to promote the interests of your clients. (See Case No. 97061.A.)

In addition, § 2-156-070, "Use or Disclosure of Confidential Information," prohibits you from using or revealing, other than in the performance of your City duties, confidential information you have 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. Further, § 2-156-060, "City-Owned Property," prohibits you from using any City property or resources in your non-City position, or for any private benefit, without authorization.

Finally, you indicated that you would not be paid for your legal work through the [free legal assistance program]. If this changes, and you are offered compensation for your work for this program, please advise us, as additional Ordinance provisions would apply.

¹An economic interest, as defined in § 2-156-010(i), is any interest valued or capable of valuation in monetary terms. "An economic interest in the representation" thus includes, for example, compensation in any manner by the client. Case No. 90035.A.

SIB

Case No. 99017.Q

April 7, 1999

Page 3

Staff's opinion 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, or if the nature of your outside legal work changes so that the statements made about it in this letter are no longer applicable, please notify us immediately, as any change may alter our opinion. Also, you should be aware that other laws or rules, such as Personnel Rules XVIII, Section 1, no. 43, and XX, Section 3, may impose additional restrictions on your outside legal work, and we advise you to seek guidance to be sure you are in compliance with them. Finally, 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.

Very truly yours,

Signature

Steven I. Berlin
Deputy Director

Approved by:

Signature

Dorothy J. Eng
Executive Director

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