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August 18, 1987

City of Chicago
Harold Washington, Mayor

Board of Ethics
Harriet McCullough
Executive Director

Robert C. Howard
Chair

Janet Malone Morrow
Vice-Chair

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Suite 1320
205 West Randolph Street
Chicago, Illinois 60606
(312) 744-9660

[REDACTED]

Case Number 87061.A

CONFIDENTIAL

Dear [REDACTED]

The Board of Ethics Chairman and staff have considered your request for an advisory opinion to determine whether the Ethics Ordinance and/or the Campaign Finance Ordinance would prohibit the [REDACTED] Political Action (hereinafter referred to as the [REDACTED] or "PAC"), a political action committee whose membership includes several City employees, from hosting a fundraiser for Mayor Washington on a yacht owned by an individual who maintains a City contract. You have also requested an advisory opinion to determine whether [REDACTED] can accept and/or solicit contributions in excess of \$1,500 from City contractors.

After reviewing both of your requests, we have concluded that neither of these activities would technically violate the letter of the Ethics Ordinance or the Campaign Finance Ordinance. However, both of these proposed actions bear a significant similarity to actions prohibited under various provisions of the ethics laws and might easily be perceived as actions contrary to the intent of these laws and therefore contrary to the interests of the general public. For this reason, we recommend that members of the [REDACTED] should avoid soliciting contributions from individuals who maintain City contracts with the City Departments that they are employed with and that the PAC not accept contributions in excess of \$1,500 from any City contractors. Our reasons for these recommendations are discussed below.



DISCUSSION

- I. CAN [REDACTED] A POLITICAL ACTION COMMITTEE WHOSE BOARD OF DIRECTORS INCLUDES SEVERAL CITY EMPLOYEES, ACCEPT AN "IN-KIND" CONTRIBUTION FROM A CITY CONTRACTOR IN CONNECTION WITH A FUNDRAISER FOR THE MAYOR?

It is the understanding of the Board of Ethics that the following City employees currently serve on the Board of Directors of the [REDACTED] PAC:

- 1) [REDACTED] [REDACTED]
- 2) [REDACTED] [REDACTED]
- 3) [REDACTED] [REDACTED]
- 4) [REDACTED] [REDACTED]

These individuals, in addition to other members of the [REDACTED] PAC, are planning to host a fundraiser for Mayor Washington. You have informed the Board that an individual who maintains a contractual relationship with the Department of Aviation has offered to make an "in-kind" contribution to the [REDACTED] fundraiser for the Mayor. This contribution consists of allowing the PAC to host its fundraiser on the city contractor's yacht without incurring any costs.

Section 26.2-4(c) of the Ethics Ordinance prohibits city contractors from giving gifts to City employees who are in a position to affect the contractor's relationship with the City. This section states that :

No person who has an economic interest in a specific City business, service or regulatory transaction shall give, directly or indirectly, to any City official or employee whose decision or action may substantially affect such transaction, or to the spouse or minor child of such official or employee, and none of them shall accept, any gift of (i) cash or its equivalent regardless of value, or (ii) an item or service other than an occasional one of nominal value (less than \$50).

(emphasis added)

For a violation of this section to occur, therefore the City contractor must give a gift either "directly or indirectly" to the employee, or to the spouse or minor child of such employee. Since the Board members of the [REDACTED] do not receive any compensation for services rendered to the PAC, they will not receive any direct or indirect benefit from contributions received by the PAC. Thus the City contractor's "in kind" contribution to the PAC can not be construed as a gift to the employees. Consequently, the Board finds that the contractors "gift" in this case is an ordinary political contribution and is therefore a permissible gift under Section 26.2-4(d)(iii) which states that nothing in Section 26.2-4 "shall prohibit any person from giving or receiving political contributions, provided they are reported to the extent required by law".

II. CAN [REDACTED] INSTITUTE FOR POLITICAL ACTION, A POLITICAL ACTION COMMITTEE WHOSE BOARD OF DIRECTORS INCLUDES SEVERAL CITY EMPLOYEES, ACCEPT AND/OR SOLICIT CONTRIBUTIONS IN EXCESS OF \$1,500 FROM CITY CONTRACTORS?

Section 26.3-4 of the Campaign Finance Ordinance prohibits any person who has been awarded any City contract within the preceding four years from making contributions in an aggregate amount exceeding \$1,500 to an elected official of the government of the City during any reporting year (July 1 to June 30) of his term. For purposes of this section, all contributions to a candidate's "authorized" political committee -- i.e. a committee that acts on a candidate's behalf and does not disclaim on its literature authorization from the candidate -- are considered contributions to the candidate.

Therefore [REDACTED] would be prohibited from accepting contributions from city contractors if 1) the value of the contractor's contribution exceeds \$1,500 and 2) the [REDACTED] PAC was an "authorized" political committee of Mayor Washington.

As previously stated, an unauthorized political committee is a committee which includes a notice on the face or front page of its published literature and advertisements that it is not authorized by such candidate and that such candidate is not responsible for the activities of such a committee. However, regardless of whether the [REDACTED] PAC prints a disclaimer on its literature advertising the fundraiser for Mayor Washington, we must caution you that the PAC may be perceived as Mayor Washington's "authorized" political committee in so far as several members of the PAC are authorized to act on the Mayor's behalf by virtue of their executive positions in City government. Since several of the [REDACTED]

[REDACTED] Board members maintain top level management positions in the administration, it is likely that the public will interpret the influence you maintain in City government as transcending the boundaries of matters concerning City business and will therefore view your fundraising efforts as an event authorized by the Mayor.

With this in mind, the Board advises that the PAC should conform to the standard imposed on authorized political committees by accepting no more than \$1,500 from any person who has been awarded a City contract within the preceding four years. The Board further recommends that City employees who are active members of [REDACTED] should make a concerted effort to insure that their activities on behalf of [REDACTED] do not interfere with the performance of their official City duties.

In closing, we caution the members of the [REDACTED] PAC to take note of Sections 26.2-6 and 26.2-14 of the Ethics Ordinance. Respectively, these sections state the following:

- (1) No official or employee shall engage in or permit the unauthorized use of city-owned property.
- (2) No official or employee shall compel, coerce, or intimidate any City official or employee to make or refrain from making any political contribution.

Please note that in order to expedite this opinion, the Chairman and Executive Director rendered this decision without the approval of the entire Board. This case will therefore be presented for approval at our next Board meeting. If any substantial changes occur as a result of this meeting we will contact you immediately.

Should you have any questions regarding our advisory opinion or recommendations, please contact the Board at 744-9660.

Sincerely,

Sol Brandzel

Sol Brandzel
Chairman

cc: [REDACTED]

JS/jh-game