

MEH



City of Chicago
Eugene Sawyer, Mayor

Board of Ethics
Harriet McCullough
Executive Director

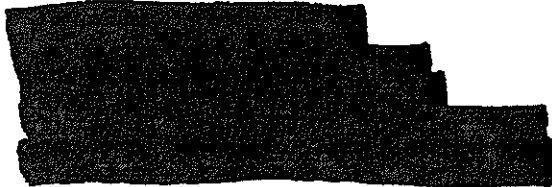
Sol Brandzel
Chair

Mary Milano
Vice Chair

Margaret Carter
Angeles Eames
Rev. A. Patterson Jackson
Marlene O. Rankin

Suite 530
205 West Randolph Street
Chicago, Illinois 60606
(312) 744-9660

September 26, 1988



Case Number 88099.A

CONFIDENTIAL

Dear

This letter is in response to your request for an advisory opinion concerning the provisions of the Ethics Ordinance and their potential application to a secondary employment opportunity you wish to pursue.

It is our understanding that you are currently employed by the City Department of Health and in this capacity are responsible for inspectional services related to the safe distribution of food in Chicago. One of your primary responsibilities is to help assure the safe distribution of food at City special events and food festivals.

You informed our staff that you have recently been offered a part-time consulting position with the ^a small firm which specializes in producing food festivals. the owner of this firm, would like to hire you to advise him on the safety standards for food distribution and to assist him in assuring that these standards are met in the festivals he produces. You would work on one or two festivals per year and none of these would take place within Chicago or under this City's authority or supervision. It is our understanding that ^{this} firm has no contracts with the City of Chicago, has had none in the past, and has no current plans to obtain any such contracts in the future.



September 26, 1988

If this information is accurate, the Ethics Ordinance would not prohibit you from accepting part-time employment with *this firm* provided that (1) none of your secondary employment activities are carried out during hours designated for your City job; and (2) your secondary employment activities involve no effort to advise or in any way assist your outside employer on any matter related to City business including matters related to planning, obtaining or maintaining City contracts. We advise that you not accept the outside employment described above if your employer has intentions of doing business with the City in the near future.

This opinion is based on an analysis of Sections 26.2-2 and 26.2-5 of the Ethics Ordinance. Section 26.2-2 states that "officials and employees shall at all times in the performance of their public duties owe a fiduciary duty to the City." Any use of City time or City resources to obtain a personal or private benefit would violate this provision. Therefore, if you decide to accept outside employment, the Ethics Ordinance requires that your activities be confined to hours outside of those designated for your City job.

Section 26.2-5 states that:

No official or employee, ... shall solicit or accept any money or other thing of value... in return for advice or assistance on matters concerning the operation or business of the City; provided, however, that nothing in this section shall prevent an official or employee... from accepting compensation for services wholly unrelated to the official's or employee's City duties and responsibilities and rendered as part of his or her non-City employment, occupation or profession.

This section does not prohibit a City employee from accepting outside or secondary employment under every set of circumstances. However, it does prohibit accepting compensation for a second job if (1) the services rendered involve giving advice or assistance concerning the operations or business of the City and; (2) these services are in any way related to the employee's City duties and responsibilities. Under these conditions it would not be permissible for you to assist *this firm* in the production of a food festival in Chicago or to assist him in any effort to obtain City

Page Three

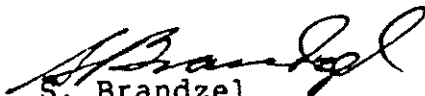
September 26, 1988

contracts or to at any time disclose information which might be used in developing and negotiating such contracts. Any of these activities might constitute a violation of 26.2-5 of the Ordinance since they are not wholly unrelated to your duties and responsibilities as *an employee of D+H* and involve some form of advice or assistance on a matter related to City business.

It is also important to note that any effort by *the firm* to obtain a City contract in connection with the production of a special event or City festival shortly after the period of your employment with him could create the impression that you have assisted him in his efforts to obtain City business. In order to prevent this appearance of impropriety from arising, we would encourage you to decline employment with *this firm* if he has intentions of seeking City contracts. If these circumstances can be ruled out, the Board believes that it would be allowable for you to accept the employment with *this firm* provided you do not use City time for these services and none of the activities involve any form of advice or assistance on a matter related to decisions or actions taken by the City of Chicago.

We appreciate your inquiry. Should you have further questions concerning this matter please do not hesitate to contact the Board.

Sincerely,


S. Brandzel
Chairman

JH/jh/