**CONFIDENTIAL**

[Month & day], 2015

Attorney

Address

Re: 15043.Q / Financial Interest in City Business

Dear [Name]:

I am writing in response to your correspondence dated [month & day], 2015, in which you indicate that your client, Mr. [Doe], has a “potential opportunity” to serve on [a City Council Committee, Committee A.]. You have asked for a written opinion addressing whether, under the City’s Governmental Ethics Ordinance [the “Ethics Ordinance”] Mr. [Doe] could serve on the Committee A while owning his business and having that business bid on and be paid through City contracts.

Mr. [Doe] was confirmed as a member of the Committee A on [month & day], 2015. Committee A was established by Ordinance (§------ of the Municipal Code) in [month & year] and has a budget funded with City monies. The members of the Committee A are nominated by the Chairman of the City Council’s Committee on V and confirmed by City Council. Committee A has the following powers and duties, pursuant to §----- of the Municipal Code:

(a) to make recommendations to the city council for \_\_\_\_\_\_\_ ; and

(b) to promulgate rules and regulations relating to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Mr. Doe is the founder, CEO, and, at this time, the 100% owner of Company XYZ, a [type] company. The company does not currently have contracts with the City, nor has it had City contracts in the past, but it does have two (2) contracts to provide \_\_\_\_\_\_\_\_ with Agency B, one of the City’s sister agencies.

Consistent with Board precedent, we first conclude that Committee A is a City agency. We base this conclusion on the facts that it is funded by the City and is established by Municipal Ordinance. Case Nos. 13018.A and 10008.A.[[1]](#footnote-1) Thus, we conclude, Mr. Doe is an “appointed official” for purposes of the Ethics Ordinance.

Section 2-156-110(d) of the Ethics Ordinance, entitled “Interest in City Business,” prohibits City appointed officials from having a “financial interest” in any City contract, work or business of the City, if the expense or price is paid with funds belonging to or administered by the City or authorized by City Ordinance, unless that contract, work or business is *wholly unrelated* to the work of his or her City board or commission.

A financial interest means, in relevant part, any ownership interest held by a City official or employee that’s worth more than $1,000. §2-156-010(l). When considering the ownership of a City official or employee in an entity that has one or more City contracts, the formula is to take the gross amount of all City contracts held by that entity and multiply that sum by the percentage of ownership that the City official or employee has in the entity. If the product of that multiplication exceeds $1,000, then the employee or official has a prohibited financial interest in (one or more) City contract(s), work or business, in violation of the Ordinance. See Case Nos. 04049.A and 12065.A.

Mr. Doe’s outside business provides services. As a member of the Committee A, his City work would involve oversight by the City Council and its personnel of [subject matter S]. Were his company to do this precise type of business with the City, neither that work nor any City contract under which his company would be paid would need to be approved by the City Council’s V Committee. Thus, we conclude, such contracts would be wholly unrelated to his City work as a member of Committee A and thus, he would *not* have a prohibited financial interest in City business. Accordingly, his company, Company XYZ, would not be prohibited from bidding on or receiving, performing and being paid for contracts to supply [certain services,] were he at the same time to serve on Committee A. However, we caution you that this opinion addresses only the services described in this letter that Mr. Doe’s company might bid upon or provide. Should his company bid on any other type of City contract, we urge you to seek specific advice at that time, as the award of such a contract, work or business might **not** be “wholly unrelated” to the work of the Committee A, and thus prohibited under the Ordinance while Mr. Doe serves on Committee A.

There are a host of other restrictions to which Mr. Doe will be subject as a member of Committee A. We do not address them in this letter, but we remind you and your client that they are summarized in the attached brochure.

These conclusions are based solely on the application of the City’s Governmental Ethics Ordinance to the facts stated in this letter. If these facts are inaccurate, please notify us, as a change in facts may change these conclusions.

We appreciate your conscientiousness and desire for your client to abide by the provisions in the Ethics Ordinance.

Please contact me, or have Mr. Doe contact me, with any questions or follow-up requests for guidance.

Yours very truly,

Lisa Eilers

Deputy Director

Approved:

Steve Berlin

Executive Director

Attachment: “Ethics Restrictions: A Fact Sheet for Appointed City Officials” found at http://www.cityofchicago.org/city/en/depts/ethics/auto\_generated/edu\_publandreports.html

1. At this time, we also consider whether Committee A’s members must file Statements of Financial Interests [“FIS”]. Appointed officials are required to file FIS, except when they are members of an agency that is it solely advisory, with no authority to enter into contracts, make binding decisions, or make expenditures, other than expenditures necessarily incurred for research in connection with its advisory functions. §2-156-150(a)(iii) of the Ethics Ordinance. Committee A’s enabling Ordinance, §------ of the Municipal Code, does not grant the Committee the authority to enter into contracts, make binding decisions or make expenditures. Accordingly, we conclude that Committee A is solely advisory and its members will not need to file FIS forms. [↑](#footnote-ref-1)