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*EMUJ*

Advisory Opinion  
Case No. 94009.A  
Outside Employment

To:

Date: June 15, 1994

You are a staff assistant in the Department of \_\_\_\_\_ you called the Board with a question about outside employment. You have been offered a position as an "outside sales representative" for Agency \_\_\_\_\_. You occasionally make travel arrangements as part of your City job, and you use Agency \_\_\_\_\_ to make these arrangements. The Board determines that the Ordinance will be violated if you accept this offer of employment with Agency \_\_\_\_\_ and continue to make travel arrangements with Agency \_\_\_\_\_ on behalf of the City. Our analysis follows.

FACTS: You have served as \_\_\_\_\_

\_\_\_\_\_ since you began working in that department in \_\_\_\_\_. Your responsibilities include setting up meetings, handling correspondence, typing, ordering supplies, and answering the phone. You also make travel arrangements when necessary for \_\_\_\_\_ and for \_\_\_\_\_

\_\_\_\_\_ in your department. Since coming to work for the Department of \_\_\_\_\_ you have made travel arrangements three or four times for \_\_\_\_\_. \_\_\_\_\_ has not had occasion to travel for the City during the months that you have been with the Department of \_\_\_\_\_

The travel arrangements for \_\_\_\_\_ were made through Agency \_\_\_\_\_. You said that you always make travel arrangements through Agency \_\_\_\_\_ because this is the travel agency used by the Department \_\_\_\_\_. You said that when you came to the Department \_\_\_\_\_ you were told \_\_\_\_\_ that the Department uses Agency \_\_\_\_\_. Neither \_\_\_\_\_ nor \_\_\_\_\_ has expressed a preference for any particular travel agency.



You estimate that you may have to make travel arrangements for eight to twelve times a year. You do not know how often will need travel arrangements made. You doubt that either would be willing to have the responsibility for making their travel arrangements assigned to another member of the department.

Before coming to work for the Department you worked as an

In this capacity you also made travel arrangements two or three times for people in your office, again using Agency. You said that you have had no further interaction with Agency in your work for the City other than these five to seven times.

Agency has offered you part-time employment as an outside sales representative. You would work probably no more than fifteen hours a week, on weekends and in the evening. You said you would make travel arrangements for your family, neighbors, and acquaintances. You are unclear on exactly how you will be compensated by Agency but you said that probably you would receive a share of the commission that Agency receives for handling the tickets. You stated that you would not make travel arrangements for any City employees in your outside employment.

You believe that Agency offered you this position as an outside sales representative because, in your interaction with people at Agency they recognized that you are knowledgeable about making travel arrangements. You said that you have professional training as a travel agent, which you received years ago through classes you became experienced in this area also through a previous job as

You are especially interested in accepting this outside employment with Agency because you are considering returning to this type of work when you retire from working for the City. You indicated that for this work you need a "travel agent identification number" and that to attain this number a person must be sponsored by a travel agency in some arrangement such as the one that Agency has offered you.

An assistant purchasing agent with knowledge of Department of contracts stated that the Department has no contract or agreement exclusively to use Agency. He confirmed that personnel do, however, have a long-standing practice of using Agency to make their

travel arrangements. Department members have been happy with the quality of service Agency has provided, and, because Agency is willing to bill the department, it is particularly convenient to use this agency. Individuals do not have to purchase their tickets themselves and then submit receipts and a request for reimbursement to the Office of Budget and Management.

**LAW AND ANALYSIS:** The main provisions of the Ethics Ordinance that are relevant to this situation are Sections 2-156-030, "Improper Influence," and 2-156-080(a), "Conflict of Interests."

Section 2-156-030 states:

No official or employee shall make, participate in making or in any way attempt to use his position to influence any City governmental decision or action in which he knows or has reason to know that he has any economic interest distinguishable from its effect on the public generally.

Section 2-156-080(a) states:

No official or employee shall make or participate in the making of any governmental decision with respect to any matter in which he has any economic interest distinguishable from that of the general public.

Section 2-156-010(i) defines "economic interest" as "any interest valued or capable of valuation in monetary terms...."

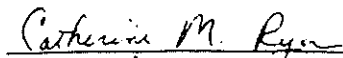
These sections prohibit City employees from participating in, or trying to use their positions to influence, a governmental decision or action in which they have an "economic interest," as that term is defined. For the purposes of the Ethics Ordinance, a City employee who is also employed by another entity has an economic interest in that entity by virtue of that employment.

In past Board opinions, Case Nos. 92023.I and 92044.A, the Board has determined that if an employee makes governmental decisions that affect the entity that employs him or her, then a conflict of interests arises. If you accept this offer of part-time employment with Agency, you will have an economic interest in that company. Therefore, the Board concludes that it would be a conflict of interests and a violation of the Ordinance if you were to accept employment with Agency and continue to make travel arrangements with Agency on behalf of the City.

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**CONCLUSION:** The Board determines that if you were to accept this outside employment with Agency and continue to make travel arrangements with Agency on behalf of the City, you would then be in violation of the Ethics Ordinance. Our determination in this case is based upon the application of the City's Governmental Ethics Ordinance to the facts stated in this opinion. If the facts presented are incorrect or incomplete, please notify the Board immediately, as any change in the facts may alter our opinion. Other laws or rules also may apply to this situation. We note that a City department may adopt restrictions that are more stringent than those imposed by the Ethics Ordinance.

**RELIANCE:** This opinion may be relied upon by (1) any person involved in the specific transaction or activity with respect to which this opinion is rendered and (2) any person involved in any specific transaction or activity that is indistinguishable in all its material aspects from the transaction or activity with respect to which the opinion is rendered.

  
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Catherine M. Ryan  
Chair