

MEH



March 17, 1989

PERSONAL AND CONFIDENTIAL

[REDACTED]

City of Chicago
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Board of Ethics
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Sol Brandzel
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Mary Milano
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Margaret Carter
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Rev. A. Patterson Jackson
Marlene O. Rankin

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

Re: [REDACTED] Case No.
88153.A

Dear [REDACTED]

On March 14 the Board of Ethics considered your question whether under the Governmental Ethics Ordinance you could accept certain travel expenses from "the local affiliate," a not-for-profit organization. The Board issued the advisory opinion contained in this letter. This letter will also set out the facts and law upon which the Board based its opinion.

ISSUE:

Whether an executive in a City department who is a director of a not-for-profit corporation that receives funds from the executive's department may accept travel expenses from that corporation to attend a public awards ceremony.

OPINION:

An executive in a City department who is a director of a not-for-profit corporation that receives funds from the executive's department may accept travel expenses from that corporation to attend a public awards ceremony since (1) the expenses are reasonable; (2) the donor of the expenses is not anonymous; (3) the expenses are neither offered nor accepted on the basis of an understanding that the gift of such expenses will influence the executive's governmental actions; (4) the expenses are furnished in connection with a public event or ceremony related to official City business; and, (5) the expenses are furnished by the sponsor of the public event or ceremony.



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FACTS

Individual A is an Executive in a City of Chicago Department. In 1988, she called the Board to ask whether her acceptance of certain travel expenses would violate the Governmental Ethics Ordinance. Individual A planned to travel to [redacted], on [redacted] for the annual meeting of a national organization. At the awards luncheon of the meeting, Individual A was to accept a third-place award for a [redacted] project executed by the the City department where individual A works. The beautification project had been entered in the national competition by the local affiliate of the national organization. The local affiliate planned to pay Individual A's expenses.

This local affiliate is a not-for-profit organization that promotes [redacted] programs. Individual A and individual B, another Executive in the same City of Chicago Department, are on the board of directors of this local affiliate. Individual A told the staff that in 1986, 1987 and 1988, this local affiliate had received money from the City, most of it coming from the department where A + B work.

At the time of Individual A's inquiry, the financial relationship between this local affiliate and the City was unclear. Individual A's and her superior, individual B's membership on this local affiliate's board also clouded consideration of individual A's question regarding travel. Therefore, the staff told individual A that it would be necessary to get more information and then submit her question to the Board of Ethics.

¹ Individual A said that this local affiliate received "donations" of \$25,000 in 1986 and in 1987, mostly from the department where A+B work. The staff looked into the financial connection between the City and this local affiliate. In 1987, the City Council passed an ordinance authorizing the City to apply on behalf of this local affiliate for grant funds from the state under the Illinois [redacted] Program and to commit \$25,000 in City funds to the organization. This local affiliate was registered as a not-for-profit corporation in Illinois in 1987. In 1989 this local affiliate received \$50,000 from the department where A+B work for professional services. Individual A sent to the Board a copy of a document that may be an invoice for \$50,000. The document had been prepared by Individual A and approved by individual B.

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Pending the Board's consideration, the staff recommended that *individual A* or *her department* pay her expenses, then seek reimbursement from *this local affiliate* if it were found permissible. *Individual A* explained that *this local affiliate* had already made all arrangements, and, in the short time left until her scheduled departure, it would be very difficult to make changes. *Individual A* decided to accept the expenses provisionally. If the Board found them to be improper, she said she would reimburse *this local affiliate* for the trip.

In response to staff inquiries, *individual A* submitted to the Board:

- (1) the articles of incorporation of *this local affiliate*;
- (2) an advance ruling from the IRS that *this local affiliate* is exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code;
- (3) an accountant's report on his examination of *this local affiliate's* financial statements for the fiscal year ended *in 1988*;
- (4) a description of the *[redacted]* project nominated for the *national organization* competition,
- (5) programs for the annual meeting of *the national organization* and the National Awards Luncheon *[redacted]*
- (6) a statement on *this local affiliate's* letterhead that the cost of airfare and hotel for *individual A's* trip was \$553;
- (7) a document from the Comptroller's office showing that in 1989 a payment of \$50,000 was made by *the department where A works* to *this local affiliate* from an account for professional and technical services;
- (8) a *local affiliate's* "presentation packet;" and
- (9) miscellaneous informational material on *this local affiliate*.

DISCUSSION

Section 26.2-4(d)(iv) permits City employees to accept reasonable hosting expenses, including travel and lodging, when

- (1) the donor of the expenses is not anonymous;

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(2) the expenses are neither offered nor accepted on the basis of an understanding that such gifts will influence an employee's or official's actions in government;

(3) the expenses are "furnished in connection with public events, appearances or ceremonies related to official City business," and

(4) the expenses are "furnished by the sponsor of such public event."

Individual A reported receiving \$553 in airfare and one night's lodging from *this local affiliate*. The expense is reasonable for a trip to [redacted]. The donor of the expenses is not anonymous. The Board has received no evidence that the expenses were offered or accepted with the understanding that they would affect *individual A's* governmental decisions or actions.² The expenses were provided so that *individual A* could attend the awards luncheon at the annual meeting of *this national incorporated organization*. *Individual A* attended the luncheon on official City business, to accept an award for *her department*.³ The programs submitted by *individual A* show that this was a public event, attended by ^{nat. origin} affiliates and members of the public. The expenses were furnished by *the local affiliate of the national organization* that sponsored the entry of *A's City department*.

² The ties between *this local affiliate* and the department where *A works* -- *Individual A* and *individual B's* membership on the board of directors and *this local affiliate's* regular receipt of City funds -- may create the appearance of impropriety. However, the facts of this case upon which the Board bases its opinion regarding *individual A's* acceptance of travel expenses do not prove actual impropriety. See Footnote 4.

³ The Board observed that *individual A's* representation of the City at the awards luncheon is a crucial fact underlying its recommendation. If *individual A* had accepted the gift of travel expenses from *this local affiliate* as a member of the board of directors, she probably would have violated Section 26.2-4(c) which provides, "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...and [no City official or employee] 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)...."


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in the competition. Given these facts, the Board determined that *individual A*'s acceptance of expenses falls squarely within the permissible limits of Section 26.2-4(d)(iv).⁴

The preceding opinion is based solely on the facts available to the Board. Please inform us promptly if there is any material factual inaccuracy or omission. We hope this opinion has been helpful to you. If you have any questions regarding this matter, do not hesitate to call the Board at 744-9660.

Sincerely,


S. Brandzel
Chairman

⁴ On the available evidence, the Board's original concern regarding the financial connections between the *department where individual A works* and *this local affiliate* does not affect their opinion regarding *individual A*'s acceptance of travel expenses. However, in a separate letter to *individual A* and *individual B*, the Board will address concerns raised by *individual A* and *individual B*'s roles with *this local affiliate* in light of Section 26.2-9(a), the "representation provision" of the Governmental Ethics Ordinance.