

June 20, 2003

**CONFIDENTIAL**

[John            ]  
[Address        ]  
Chicago, Illinois [    ]

**RE: Board of Ethics Case No. 03028.Q**

Dear [John    ]:

You have been a City employee since [       ], and intend to retire from City service at the end of this month. On May 27, 2003, you contacted the Board for advice as to how the post-employment provisions of the Governmental Ethics Ordinance would apply, were you to accept employment with [Kappa Industries (KI)           ], a sub-contractor to [Beta Services (Beta)           ] a City contractor.

After careful consideration of the facts presented and the relevant law, it is staff's conclusion that, under Section 2-156-100(b) of the Ethics Ordinance, you are prohibited, for one year from the date you leave City employment, from assisting or representing any person other than the City, including [KI ] or [Beta], in the installation of [devices    ] under the [Bureau A's           ] program of cleaning and securing [City areas           ]. However, the post-employment provisions of the Ordinance do not restrict you from assisting or representing [KI] or [Beta], or any other person, in the installation of [devices ] under other City programs or projects with which you had no involvement as a City employee.

**FACTS:** Currently, you are a [Manager                   ] in the [Bureau A ], [Department 1                   ]. You report to [Assistant Manager James ] who, in turn, reports to [Chief Manager Robert                   ]. For approximately [    ] years, you have been responsible for overseeing the installation of [devices] by an outside contractor around [City areas           ]. [Devices] you explained, are [           ]. The [devices] are installed in order to secure [areas], thereby reducing the likelihood that they might be used for illegal activity.

You explained that, typically, the Bureau receives a complaint from an alderman or City department head regarding [an area ]. After the Bureau has confirmed that the [area] indeed belongs to the City, you issue two types of requests in the name of [Assistant Manager James                   ]. The first type of request is an intra-bureau request to [Eric of Office B                   ], that the [area] be cleaned and [           ]. [Eric    ] then assigns the request to one of four [area]-cleaning supervisors, depending upon the [area's] location; the

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supervisor, in turn, dispatches Bureau personnel to perform the task. The second type of request is an inter-departmental request to [William, Coordinator of Office B ] in the City's [Department C ] that he contact the outside contractor to arrange for the installation of [devices] at the location in question. You stated that, currently, [Beta ], a general contractor, has a contract with the [Department C ], under which [Beta ], through its subcontractor, [Kappa Industries ], installs the [devices ]. You stated that you had no involvement in any aspect of the process by which [Beta ] came to be a City contractor. You further stated that you have no knowledge of the particulars of [Beta's ] City contract, e.g., scope, amount, duration, etc., or of [KI's] subcontract with [Beta ].

In response to your requests to [Department C], [William ] typically telephones you and asks you to meet with [KI] personnel at a particular site, on a particular date and time. The [KI] representative with whom you currently work is [Sam ]. When you and [Sam ] meet, you photograph the [area] and direct [Sam ] as to the number, type and location of [devices] to be installed. You explained that, as a rule of thumb, [devices] are installed every five feet; [x devices] are used in industrial areas and [y devices ] are used in residential areas. Usually, it takes seven to ten days for [KI] to perform the work. Once the work is completed, you return to the [area ], alone, to confirm that the work has been completed as requested. You again photograph the [area] as a record of the work performed. If you find fault with the installation, you bring the issue to the attention of [Assistant Manager James ]. If, in [James' ] judgment, the issue warrants some action, he then contacts [William] in [Dept. C ], who, in turn, contacts [Beta ].

Eventually, [Beta ] forwards an invoice to [Dept. C ], with a copy to the Bureau, for the work performed at each location. You meet with [James ] and cross-check each invoice against your written and photographic records, site by site. If there is a discrepancy between the invoice and your records, e.g. as to the number or type of [devices ] installed, you or [James ] contact either [Dept. C ] or [Beta ] and request that a corrected invoice be issued. If, on the other hand, the invoice reconciles with your records, [James ] signs off on the invoice and forwards it to [Robert ] who, after reviewing it and signing off, forwards it to the [Department C ] for processing of payment. [Richard ] then designates the Bureau A's ] fund or line number to be charged for the work performed.

Finally, you stated that, as a City employee, you have had no involvement with [KI] or [Beta ], or with the installation of [devices ], except as described above.

Recently, in conversation with [Sam ], you mentioned that you are intending to retire from City service. [Sam ] later asked if, once retired, you would be interested in working for [KI]. You, therefore, wish to know how the Ethics Ordinance would apply, were you to accept employment with [KI].

Specifically, you have asked whether you would be prohibited from assisting [KI] or [Beta] in

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the installation of [devices ] under the [Bureau of A's ] program of cleaning and securing [City areas ]. You have also asked whether you would be prohibited from assisting [KI] or [Beta ] in the installation of [devices ] under other City programs or projects with which you had no involvement as a City employee, e.g., repairing or installing [devices] around [areas] where Bureau [equipment is] stored, or around the perimeter of a City [Department D ] equipment station.

**LAW AND ANALYSIS:** Post Employment. Section 2-156-100 of the Ethics Ordinance, entitled "Post-Employment Restrictions," provides, in relevant part:

**(b) No former official or employee shall, for a period of one year after the termination of the official's or employee's term of office or employment, assist or represent any person in any business transaction involving the City or any of its agencies, if the official or employee participated personally and substantially in the subject matter of the transaction during his term of office or employment; provided, that if the official or employee exercised contract management authority with respect to a contract this prohibition shall be permanent as to that contract.**

One-Year Prohibition. Section 2-156-100(b) contains both one-year and permanent prohibitions. The first prohibits you, as a former City employee, for one year from the date you leave City employment, from assisting or representing any person, including [KI] or [Beta ], in a business transaction involving the City if, while with the City, you participated personally and substantially in the subject matter of that transaction.

Based on the facts you presented, it is staff's conclusion that, by overseeing the installation of [devices] by outside contractors— that is, serving as the Bureau's contact with the installer; directing the installer as to the number, type and location of [ devices] to be installed; compiling and maintaining written and photographic records relating to the installation; and reconciling those records against the installer's invoices —you have "participated personally and substantially" in the installation of [devices] under the [Bureau A's ] program of cleaning and securing [City areas ].

Therefore, you are prohibited for one year from the date you leave City employment, from assisting or representing any person other than the City, including [KI] or [Beta ], in the installation of [devices] under that program. However, the post-employment provisions of the Ordinance do not restrict you from assisting or representing [KI] or [Beta ], or any other person, in the installation of [devices ] under other City programs or projects with which you

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had no involvement as a City employee.

Permanent Prohibition. The second provision of Section 2-156-100(b) permanently prohibits a former City employee from assisting or representing any person other than the City in any contract if the employee exercised contract management authority over the contract while in City service. The facts as presented in this letter do not appear to warrant application of this provision.

Confidential Information. You also are subject to Section 2-156-070 of the Ordinance, entitled "Use or Disclosure of Confidential Information." It states:

**No current or former official or employee shall use or disclose, other than in the performance of his official duties and responsibilities, or as may be required by law, confidential information gained in the course of or by reason of his position or employment. For purposes of this section, "confidential information" means any information that may not be obtained pursuant to the Illinois Freedom of Information Act, as amended.**

This section prohibits current and former employees and officials from using or revealing confidential information they may have acquired during the course of their City service.

Our conclusions are based on the application of the City's Governmental Ethics Ordinance to the facts stated in this letter. If the facts presented are incorrect or incomplete, please notify us immediately, as any change in the facts may alter our conclusions. Other laws or rules also may apply to this situation.

We appreciate your bringing this matter to our attention and your concern to abide by the standards embodied in the Ethics Ordinance. If you have any further questions about this or any other matter, please do not hesitate to contact us.

Sincerely,

[Signature ]  
Michael Haggerty

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Deputy Director

Approved:

[Signature ]  
Dorothy J. Eng  
Executive Director

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