**CASE NO. 16020.Q**

9, 2016

Dear Alderman Maldonado,

This will confirm the advice given to you earlier this week.  As of [date] June 1, 2016, you are an employee of “C” Corporation (“C”).  C’s sole shareholder is the Nancy Y. Franco-Maldonado Trust, and C’s director, president and secretary is Felicita Montanez.  C is the firm founded by [your relative] your late wife, Nancy Franco-Maldonado.  C is an agent of Y Services Corporation (“Y”), which is a an energy services broker, and which has no ownership interest in C.  As C’s employee, you will be responsible for continuing to service various clients who have purchased energy services through providers represented by Y, and attempting to sell services to new clients. You estimate that C currently has about XX clients, some of which are located within [your] the 26th Ward.  Clients do not enter into contracts with Y or C, but with energy services providers represented by Y, from which Y and C earn commissions.

The relevant sections of the Governmental Ethics Ordinance are §2-156-080(b)(2), entitled “Conflicts of interest; appearance of impropriety,” which provides:

To avoid even an appearance of impropriety, any member of the city council who has any business relationship with a person or entity with a matter pending before the city council or any committee: (1) that creates a financial interest on the part of such member, or the domestic partner or spouse of such member, or (2) from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months, shall publicly disclose the nature of such business relationship or income or compensation on the records of proceedings of the city council, and shall also notify the board of ethics of such relationship within 96 hours of delivery by the clerk to the member, of the introduction of any ordinance, resolution, order or other matter in the city council, or as soon thereafter as the member is or should be aware of such potential conflict of interest.  The board of ethics shall make such disclosures available for public inspection and copying immediately upon receipt.  He shall abstain from voting on the matter but shall be counted present for purposes of a quorum.  The obligation to report a potential conflict of interest under this subsection arises as soon as the member of the city council is or should be aware of such potential conflict.  For purposes of this subsection (2) only: "matter pending before the city council or any council committee" shall refer to council action involving the award of loan funds, grant funds or bond proceeds, bond inducement ordinances, leases, land sales, zoning matters, the creation of tax increment financing districts, concession agreements or the establishment of a Class 6(b) Cook County property tax classification.

and §2-156-030(b), entitled “Improper influence,” which provides:

No elected official, or any person acting at the direction of such official, shall contact either orally or in writing any other city official or employee with respect to any matter involving any person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months.  In addition, no elected official may participate in any discussion in any city council committee hearing or in any city council meeting or vote on any matter involving the person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months.

The effect of these provisions is that I advise you:

1. To disclose that you are recusing yourself and then abstain from discussing or voting on, any and all discussions of, or votes upon, any matters introduced to or pending before the City Council or any of its committees (including any committee but not limited to the Committee on Licenses and Consumer Protection, of which you are member) in which any of the following entities is named: C, Y, the Nancy Y. Franco-Maldonado Trust, any current client of C’s, or any potential client with whom or which C is in negotiations to sell energy services (its “potential clients”), or any of the energy providers whose services C and Y represents.  This is a City-wide restriction, and applies even if C’s client is located in a ward other than [yours].  To avoid even an appearance of impropriety, I advise you to recuse yourself from matters involving entities affiliated with C’s current clients or potential clients – for example, if Cs client is a [restaurant chain] Dunkin’ Donuts franchise/franchisee, then I would advise that you disclose and abstain from any matters involving other [chain] franchisees, or the franchisor, even if those other franchisees or the franchisor is not a current or potential client of C’s, and even if it is located outside of the City.

2.  As to C’s clients or potential clients that *are* located ***within*** [your] Ward, you not only disclose that you are recusing yourself and then abstain from discussing or voting on any and all discussions of, or votes upon, any matters introduced to or pending before the City Council or any of its committees (including but not limited to any committee on which you serve) in which any of the following entities is named: C, Y, the Nancy Y. Franco-Maldonado Trust, any current client of C’s, or any potential client with whom or which C is in negotiations to sell energy services, or any of the energy providers whose services C and Y represent, but *also* that you recuse yourself entirely from personally *providing aldermanic services* to these persons or these entities, even though they would be or are constituents of [your] Ward.  Thus, in the event that one of C’s clients requests aldermanic assistance with respect to, say, zoning matters, water services, transportation services like speed bumps, constituent representation at a hearing before the Department of Administrative Hearings, TIF matters, etc., you should have your aldermanic staff handle the matter without your assistance or intervention, or, if necessary, request that one of your neighboring aldermanic colleagues handle the matter, including writing aldermanic recommendations (if needed), etc. Case No. 151688.Q.

3.  As to how to make these disclosures, the Ordinance section above provides that they need to be made to my office within 96 hours of discovering that an C client or potential client (or Y), or any of the other named entities above) has a matter pending in Council or a Council committee.  Thus, please ensure that you remain aware of C’s client list, and that the list of matters introduced to Council or referred to Council committees is checked at least monthly, and that you identify those matters in which you need to disclose and recuse, or take a “Rule 14.”  We have no standard form for such disclosures, but you can check the text of other disclosures filed by aldermen (including you) on this page on our website:  <http://www.cityofchicago.org/city/en/depts/ethics/provdrs/reg/svcs/alderrecusals.html>

Also, I would advise filing any such document with the Office of the City Clerk.

4.  As to any matters that C, Y, the Nancy Y. Franco-Maldonado Trust, any current client of C’s, or any potential client with whom or which ME is in negotiations to sell energy services, or any of the energy providers whose services C and Y represents, may have that are pending in City departments other than the City Council (for example, a zoning matter, a hearing before the Department of Administrative Hearings, etc.), you may not direct any other City employee or official, including your staff, to act in a particular way on such matters, or even contact other City employees or officials on such matters.

5.  You also asked about whether, for example, you may need to recuse yourself from matters coming before the Aviation Committee if they pertain to concessions at O’Hare, given that O’Brien’s Restaurant on Well St is a client of C, and [it] maintains a store at O’Hare.  We cannot advise you on this until we see the actual legislation or matter(s) to be voted on by the Committee and the full Council, and can ascertain whether a recusal from the entire package would be warranted, or whether it would be possible to recuse yourself only from a portion of that legislation.

6.  Last, as far as disclosure on your annual Statement of Financial Interests filed with my office, you would need to disclose your employment with C beginning on your 2017 form if you receive or derive more than $1,000 in income or compensation from it, and then categorize it by letter (A = $25,000 or more; B = between $5,000 and $24,999.99; and C = $5,000 or less).  Also, to avoid even the appearance of impropriety, I am revising the advice I gave you orally on June 7, and advising you that you should answer your future Statements of Financial Interests as though you do have a financial interest in ME.  Thus, you would answer as stated above for #2, and in #7, you would list C. You should also ensure that neither the Trust nor C enter into any contracts with the City, though, as you and I discussed, that seems extremely unlikely.

Please let me know whether you have any questions, and, as I mentioned, should a matter be presented to City Council and you are unsure whether you must recuse yourself from it, please contact us for specific guidance. This letter addresses only the provisions of the City’s Governmental Ethics Ordinance.  There may be other laws or policies that apply, and you are advised to seek qualified legal counsel as to their applicability.

I very much appreciate your conscientiousness, and wish you all the best.

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