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CONFIDENTIAL

April 14, 1998

[REDACTED]
[REDACTED]
[REDACTED]

out empy

Re: Case No. 98016.Q

Dear [REDACTED]

On April 8, 1998 you called our office and asked whether the City's Governmental Ethics Ordinance would prohibit you, an employee of the City's Dept. A [REDACTED], from part-time employment with a private firm [REDACTED]. On April 10, 1998 you supplemented your oral inquiry with a written request for guidance.

You work as a truck driver for [REDACTED] Bureau X [REDACTED] within the City's Dept. A [REDACTED]. You, together with a [REDACTED] and a [REDACTED], form a three-man crew which is responsible for [REDACTED].

You are considering applying for a part-time job as a truck driver with [REDACTED] which, you state, has contracts with the City's Departments B and C [REDACTED]. You tell staff that [REDACTED] has no contracts with [REDACTED] Bureau X [REDACTED] or with [REDACTED] Dept. A [REDACTED]. You state that, in your City position, you have had no occasion to make or participate in any decision regarding [REDACTED] or its City contracts. You indicate that you learned of the available position at [REDACTED] through your own initiative. You state that you have no ownership interest in [REDACTED] and that the only income you would derive from [REDACTED] would be your part-time wages.

It is staff's opinion, based on the facts presented, that the Ethics Ordinance does not prohibit you from being employed as a truck driver with [REDACTED]. This is so even if the work you perform for [REDACTED] is connected or related to [REDACTED] contracts with the Departments B and C. However, several provisions of the Ordinance restrict your conduct. We summarize these provisions as follows:

Sections 2-156-030 and 2-156-080 of the Ordinance, entitled "Improper Influence" and "Conflicts of Interest" respectively, prohibit you, as a City employee, from participating in, or trying to use your position to influence, a governmental decision or action in which you have an economic interest. For 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. You would have an economic interest in [REDACTED] by virtue of your employment with it. Thus, the Ethics Ordinance would prohibit you from making or attempting to influence any governmental decision or action affecting [REDACTED].

Section 2-156-050, "Solicitation or Receipt of Money for Advice or Assistance," prohibits you from soliciting or accepting money or anything of value in return for advice or assistance on matters concerning the operation or business of the City.

Section 2-156-090, "Representation of Other Persons," prohibits you from representing or acting as a spokesperson for any person or entity other than the City (such as [REDACTED]) in any formal or informal proceeding or transaction before any City agency in which the agency's action or non-action is discretionary in nature.

Section 2-156-110, "Interest in City Business," prohibits you from having a "financial interest" in any contract, work or business of the City when the cost of that contract, work or business is paid for with funds belonging to or administered by the City, or approved by ordinance. A "financial interest" is defined, in part, as an interest of more than \$2,500 per year, or an interest with a cost or present value of \$5,000 or more (§ 2-156-010(l)). Although you would have a financial interest in [REDACTED] if you were to earn more than \$2,500 per year from your employment with it, you would not, under Board precedent, have a prohibited financial interest in City business solely by virtue of your employment with [REDACTED], even if the work you performed for [REDACTED] is under its contract with the City, provided you are paid directly from [REDACTED], and not from funds derived from or administered by the City. We counsel you to seek the Board's guidance if you were to acquire an ownership interest in [REDACTED], as § 2-156-110 imposes severe restrictions where City employees have certain ownership interests in persons with City business.¹

Three other provisions restrict the conduct of City employees, such as you, in their outside employment. These are: Section 2-156-020, which obligates you to use your City position responsibly and make decisions in your City position free from conflicting obligations to other entities, and prohibits you from using City time, resources, or your position or title to obtain a personal benefit or to promote a private interest; Section 2-156-060, which prohibits you from engaging in any unauthorized use of City property; and Section 2-156-070, which prohibits you

¹Note also that, if you are required to file a Statement of Financial Interests with the Board of Ethics, you must provide information about certain businesses in which you have a financial interest. As stated above, you would have a financial interest in [REDACTED] if you were to earn more than \$2,500 per year from it. Sections 2-156-160 (f), (i) and especially -160(b) require a City employee to disclose information about any entity (such as [REDACTED]) in which the employee has a financial interest, if that entity received compensation in excess of \$5,000 for services rendered to a person doing business with the City or any of its sister agencies.

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from disclosing or using confidential information gained in the course of, or by reason of, your City employment.

This staff opinion is based solely on the application of the City's Governmental Ethics Ordinance to the facts stated in this letter. If the facts presented are inaccurate or incomplete, please notify us, as any change in the facts may alter our opinion.

Please be advised that other rules or laws may also apply to this situation, such as Personnel Rule XX, Section 3, which delineates the requirements for secondary employment, and requires City employees to file a written request with their department head for permission to engage in outside employment; Personnel Rule XXIX, Sections 2 and 4, which provide, respectively, that City employees shall not have any employment or business relationship with any person who is doing business with the City if they exercise contract management authority with respect to that person's City business, and that City employees may not recommend, retain or hire as a City contractor any person with whom they have a business relationship; and Personnel Rule XVIII, Section 1, nos. 43 and 53, which provide that a City employee may be disciplined for failure to comply with Rules XX and XXIX. Also, we remind you that a City department (such as yours) may adopt and impose rules stricter than those contained in the Ethics Ordinance.

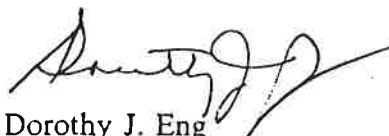
We appreciate your inquiry and willingness to comply with the standards embodied in the Governmental Ethics Ordinance, a copy of which we enclose. Please contact us if you have any further questions.

Very truly yours,



Michael Haggerty
Deputy Director

Approved by:



Dorothy J. Eng
Executive Director

Enclosure

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