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Advisory Opinion
Case No. 97063.A
Financial Disclosure

To: [redacted]

Date: April 8, 1998

On December 22, 1997, you called the Board of Ethics office for advice on how the recent amendments to the Governmental Ethics Ordinance may affect your role as a public relations officer and registered lobbyist for a not-for-profit organization, "F" [redacted]. F receives funds from the City, and your wife, [redacted], is employed by the City. The two issues that arose are addressed in this opinion.

First, you asked whether, under the recent amendments, your wife would be in violation of the Ordinance if you continued to be paid by F [redacted] and serve it as a registered lobbyist. It is the Board's opinion that, under the facts you presented, neither the recent Ordinance amendments nor the pre-amended Ordinance would put your wife in violation of the Ordinance if you continued to do this work for F. Because the law is clear, staff has previously provided you this advice orally.

Second, you asked us to describe the new Statement of Financial Interests reporting requirements (under amended § 2-156-160(b), effective December 10, 1997), with respect to questions your wife will be asked about your and your employer's activities. You also asked whether the Ordinance imposes an obligation on your wife to seek information from F [redacted] in order to meet certain of the reporting requirements. The requirements at issue are incorporated in question 5 of the 1998 Statement. A copy of the 1998 Statement is attached and made a part of this opinion. The Board has concluded that a person required to file a Statement of Financial Interests with the City is not obliged under the Ordinance to seek information from a spouse's employer in order to provide information requested by question 5, unless particular factual circumstances give rise to a duty to inquire (see discussion following).

ISSUE 1--YOUR LOBBYING FOR F [redacted] WHILE YOUR WIFE IS A CITY EMPLOYEE: You explained that in 1997 you worked part-time as a public relations officer and lobbyist for F, [redacted] a not-for-profit organization that provides a variety of educational, counseling, job training, and job search services [redacted]. F also operates the [redacted] Center, a [redacted] facility. You said that F receives funding for its programs and facilities from many sources, both private and public, including over $[redacted] million from the City of Chicago's Department of [redacted]. You have performed public relations services for F [redacted], publicizing its goals and programs through news media and other public forums. You also have performed lobbying activities on behalf of F before the City, State, and County. You said your only lobbying activities before the City have involved appearances before City Council in relation to [redacted] F 's funding and to community concerns about the placement of F 's facilities. You told us you have not lobbied, and will not lobby, before the City's Department of [redacted], which is the department in which your wife is employed, and that F receives no funding from that department. You said your annual income from F has been approximately $[redacted],000. You are not currently working for F , and have terminated your registration as a lobbyist, as you are awaiting the Board opinion.

Your wife, [redacted], is Manager of [redacted] Programs and Exhibits in the Department of [redacted]. She is responsible for coordinating and managing the exhibits and activities at [redacted]. You said, and Ms. [redacted] confirmed, that she has no connections herself with F [redacted], either through employment or in an advisory or consulting capacity. She makes one decision in her City position that affects F [redacted] F sets up a publicity display at [redacted] every one or two years, which Ms. [redacted] approves. (F employee [redacted] sets up these arrangements, you said.) These display opportunities are offered by the City as a free public service to all charitable organizations in Chicago.

Conclusion, Issue 1. It is the Board's opinion that, under the facts you presented, neither the Ordinance nor the recent Ordinance amendments would put your wife in a position of violating the Ordinance if you continued to be paid by F [redacted] and serve it as a registered lobbyist. Section 2-156-080, Conflicts of Interest, which prohibits an employee or official from making or participating in City decisions in which the employee or official has an economic interest, was amended, but it does not prohibit an employee from maintaining her City employment while her spouse's employer does business or has contracts with the City. Further, we note that under both the recent amendments and the pre-amended Ordinance, your wife has no economic interest in F [redacted]

by virtue of your employment with it: an interest of an employee's spouse based on the spouse's independent occupation is specifically excluded from the definition of a City employee's economic or financial interest. Section 2-156-010 (i) and (l).

ISSUE 2--DESCRIPTION OF REPORTING REQUIREMENTS AND OBLIGATION TO OBTAIN INFORMATION FROM EMPLOYER: Your wife must file a Statement of Financial Interests with this office in 1998 because she is a "reporting individual" under Section 2-156-150(a) of the Ordinance. You asked us to describe the new reporting requirements under amended Section 2-156-160(b) with respect to questions your wife will be asked on her Statement about your and your employer's activities. Under the recent amendments to Section 2-156-160(b) she must disclose (1) professional, business, or other services she rendered and (2) the identity of the persons (including entities--that is, any businesses or other organizations) to whom the services were rendered if, in the previous year, two conditions were met:

> (i) she received over $5,000 for the services, and
> (ii) the person was doing business with the City or one of the five listed "sister" agencies -- the Chicago Transit Authority, the Board of Education (including the School Reform Board of Trustees), the Chicago Park District, Chicago City Colleges, or the Metropolitan Pier and Exposition Authority.

"Doing business" includes having contracts for more than $10,000 in any 12 consecutive months (§ 2-156-010(h)). (The provisions are set forth in their entirety in the Governmental Ethics Ordinance, enclosed.)

Amended subsection 160(b) also asks for the same information with respect to services rendered by the reporting individual's spouse, and by any entity in which either the reporting individual or the spouse has a financial interest.[1]

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[1] "Financial interest" is defined, in relevant part, as (1) any interest as a result of which the owner currently receives or is entitled to receive in the future more than $2,500 per year, (2) any interest with a cost or present value of $5,000 or more, or (3) any interest representing more than 10% of an entity (§ 2-156-010(l)).

The information required by amended Section 2-156-160(b) is broken out into three questions on the form:

question 3 focuses on the reporting individual,
question 4 focuses on the individual's spouse, and
question 5 focuses on the entities in which either the individual or spouse has a financial interest.

Under question 4, focusing on you as the spouse of the reporting individual, your wife must disclose services you rendered and the identity of the persons (including entities) to whom you rendered the services if, in the previous year, (i) you received over $5,000 for the services, and (ii) the persons were doing business with the City or one of the five listed "sister" agencies.

F is a "person" or "entity." You performed services for F for which you were compensated over $5,000 in 1997. You indicated that F had contracts with the City in 1997 under which it received over $10,000, and was therefore "doing business" with the City in 1997. It follows that your wife, as a reporting individual, in answer to question 4, must identify F [redacted], describe your services to it, and name the City of Chicago as a governmental agency with which F did business in 1997.

Question 5 focuses on entities in which either the reporting individual or spouse has a financial interest and asks about services that entity has performed for <u>others</u>. Because your income from F exceeded $5,000 in 1997, under Board precedent, you had a "financial interest" in F in 1997 for the purposes of the Ordinance. Case No. 89103.A. Under case precedent and the amendment to Section 2-156-160(b), your wife is asked to disclose services F rendered and the identity of persons to whom F rendered the services if, in the previous year, (i) F received over $5,000 for the services, and (ii) the person was doing business with the City or one of the five listed "sister" agencies. She is also asked to name the governmental units with which the person was doing business.

Your question is: If your wife has no knowledge of the information requested in question 5, does she have an obligation to try to obtain it from F [redacted]?

It is the opinion of the Board that she is not obliged to seek this information from F [redacted]. This conclusion is consistent with Board precedent (Case No. 92030, December 16, 1992, p.5) and the Ordinance, Section 2-156-410, which provides that there are no sanctions for false or misleading information on a Statement of

Financial Interests provided that there is no intent to mislead. If one lacks the information to respond to a question or part of a question on the Statement of Financial Interests, an intent to mislead could only be inferred if one knew or had reason to know the information one did not provide. The fact that F employs you does not itself create a reason for your wife to know the names of companies or other entities for whom F performed services and received over $5,000 in 1997, the nature of the services F performed for each of them, or whether any of them did business with the City or any of the listed agencies. Moreover, there may not be any particular reason to expect that F [redacted] itself would know which of the persons to whom it provides services did business with the City or a listed agency. The fact that F employs you does not create a reason for your wife to know information that F itself may not know.

Conclusion, Issue 2. For the reasons set forth above, the Board concludes that if a City employee's spouse has a "financial interest" in an entity by virtue of an employment relationship, the City employee is not obliged under the Ordinance to seek information from the spouse's employer in order to answer question 5--specifically, to learn the identity of persons or entities that in 1997 paid the employer $5,000 or more in the previous year for services and were doing business with the City or a listed agency, and to obtain a description of the services the employer performed for them. In answer to your specific question, the fact that F employs you does not by itself oblige your wife to try to obtain from F the information asked by question 5. On the facts you have presented, she is not obliged, under the Ordinance, to ask F [redacted] to provide her the information she would need to fully answer question 5.

However, if a reporting individual has reason to believe that in the previous year a person or entity did business with the City or listed governmental agency and paid the spouse's employer over $5,000 for services the employer performed for it, then the duty to inquire arises. See Case No. 92030.A, p.5. Whether there is a duty to inquire depends upon specific facts. Ibid.

This opinion as it relates to Section 2-156-160(b) is limited to the City employee who is a reporting individual and the individual's spouse in an employment situation.

Our determinations in this case are based on 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. Please be aware of Executive Order 97-1, which may bear on your questions. We advise Ms. [redacted] to seek the guidance of the Law Department concerning this Executive Order. We also 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.

Darryl L. DePriest
Chair

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