

EMU-2



1994

C O N F I D E N T I A L

City of Chicago
Richard M. Daley, Mayor

Ms.

Board of Ethics

Chicago, IL

Dorothy J. Eng
Executive Director

RE: Case No. 94027.Q

Post Emp

Catherine M. Ryan
Chair

Angeles L. Eames
Vice Chair

Dear Ms.

Darryl L. DePriest
Steve Lawrence
Emily Nicklin
Fr. Martin E. O'Donovan
Janice E. Rodgers

On 1994, you contacted our office and asked whether the post-City employment provision of the Governmental Ethics Ordinance restricts your work as a private attorney seeking to lift a client's default judgment entered for fines imposed for *a matter related to taxation*. You worked as an attorney in the Corporation Counsel's office until 199 .

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After reviewing Board opinions and the facts as you presented them, staff concludes that the Ethics Ordinance does not prohibit you from working to lift the default judgment for the client, under the circumstances you described. Our analysis of the facts under the Ordinance is set forth in this letter.

You worked as a litigator in the of the Corporation Counsel's office until 199 . In your City employment, you conducted litigation to collect revenue. For example, you said you pursued the collection of unpaid Community Development Block Grant loans, outstanding warrants, and late City fees.

You said you were not engaged in tax matters for the City.

you stated that you know the tax attorneys in the Corporation Counsel's office, though you did not assist them in their work. Furthermore, you did not participate in the entry of default judgments for tax delinquency.

You are currently employed in a private law firm. Your new position primarily entails transaction work. You request advice on whether the Ordinance restricts your involvement in removing a default judgment entered by the City against a firm client



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for fines imposed for *a matter relating to taxation*. You stated that you performed no work related to this client while you worked for the City.

Section 2-156-100 of the Governmental Ethics Ordinance, entitled "Post-employment Restrictions," states:

(a) No former official or employee shall assist or represent any person other than the City in any judicial or administrative proceeding involving the City or any of its agencies, if the official or employee was counsel of record or participated personally and substantially in the proceeding during his term of office or employment.

(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.

You stated that you were not involved in the City's legal proceeding against your firm's client while you were employed by the City. Therefore, the permanent prohibition of subsection (a) does not prevent you from seeking to lift the default judgment.

The other provision relevant to your situation is the one year prohibition. A former City employee is prohibited for one year from assisting or representing any person in a business transaction involving the City if while a City employee he or she participated personally and substantially in the subject matter of the transaction.

According to the facts you presented, the subject matter of the transaction in question is a default judgment entered by the City against your firm's client for fines imposed for *a matter relating to taxation*. In your City position, you told us, you did not personally participate in entering default judgments. In addition, you said that you did not engage in tax matters at the Corporation Counsel's office. Further, you said, in your City job you did no work related to this client. From the facts you presented, the staff concludes that in your

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City position you did not participate in the subject matter of the proposed transaction. Therefore, it is the staff's opinion that the Ordinance does not prohibit you from seeking to lift the default judgment against your firm's client.

An additional section of the Ordinance relevant to former City employees is § 2-156-070, 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 officials and employees from revealing confidential information they may have acquired during the course of their City job.

Finally, we note that this conclusion is based solely on the application of the Ordinance to the facts stated in this letter. If the facts are incorrect or incomplete, please notify this office, as a change in the facts may alter our conclusion. Please be advised that other laws or departmental rules may apply to a post-employment situation.

We appreciate your willingness to abide by the ethical standards embodied in the Ethics Ordinance. If you have any additional questions about this or any other matter, please feel free to contact us.

Sincerely,

Ellen M.W. Sewell
Ellen M.W. Sewell
Legal Counsel

Approved by:

Dorothy J. Eng (by EMW)
Dorothy J. Eng
Executive Director