

MEH



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December 9, 1991

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

[REDACTED]

*Gifts to C.I.  
Outside Emp.  
Cong/Imp/Int*

RE: Case No. 91092.Q

Dear [REDACTED]

On September 23, 1991, you requested guidance from this office regarding a gift offer currently being made to the City by E [REDACTED]. After reviewing the facts presented, the Board staff has concluded the following. (1) Because the security systems are a gift to the City, the [REDACTED] Department and the [REDACTED] Department may accept this gift. (2) Because of your employment relationship with E [REDACTED], the Governmental Ethics Ordinance prohibits you, as a City employee, from (a) attempting to influence any City decision in regard to the acceptance of this or any other gift offer from E [REDACTED] to the City, (b) attempting to influence any City decision in regard to the purchase of any additional E [REDACTED] systems or security monitoring, (c) making or influencing any decision as a City employee relating to any site that contains E [REDACTED] security equipment, and (d) representing E [REDACTED] or any other person before any City agency.

Following is the staff's analysis of this situation under the provisions of the Governmental Ethics Ordinance.

In your discussions with Board of Ethics staff, you explained that you are employed as [REDACTED] [REDACTED] Department. You also are employed on a consulting basis by the Chicago office of E [REDACTED], a corporation based in [REDACTED] that markets home security systems. These security systems include fire alarms and smoke detectors as well as burglar alarms. Your position with the company is that of Assistant



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Director of Safety, which involves evaluating the security needs of homeowners referred to you by the company.

You told us you heard that E [REDACTED] had made gift offers of security systems to city departments in Dallas, Houston, and Atlanta. Based on this report, you suggested that E [REDACTED] officials make a similar offer of free security systems to the City of Chicago.

According to Ms. H [REDACTED] Site Sales Manager for E [REDACTED], this offer involves giving three security systems each to the following: the [REDACTED] Department, the [REDACTED] A Union, the [REDACTED] Department, and the B Union [REDACTED]. Ms. H [REDACTED] provided us with the written gift proposal to the [REDACTED] Department, which makes the following offer: E [REDACTED] will provide a security system in three City [REDACTED] buildings, will install the systems, and will provide monitoring of the systems for one year, all free of charge. Ms. H [REDACTED] said the written gift proposal to the [REDACTED] Department had not yet been prepared, but that it would offer the same gift as that offered to the [REDACTED] Department. The purpose of the gifts is to prevent break-ins at public buildings in cases where the cities cannot afford to install adequate security systems. You told us that each system is valued at \$2,500.

In addition to suggesting the offer of this gift to E [REDACTED] officials, you also advised Ms. H [REDACTED] in the preparation of the gift offer. You told us your involvement with E [REDACTED] does not occur during your City work hours.

Our review of City records reveals that E [REDACTED] does not do business with the City of Chicago.

The situation you have described raises two issues: (1) whether, under the Governmental Ethics Ordinance, the City of Chicago [REDACTED] and [REDACTED] departments may accept E [REDACTED] offer of free security systems; and (2) what restrictions under the Governmental Ethics Ordinance are imposed on you because of your dual employment with E [REDACTED]?

The applicable provision of the Governmental Ethics Ordinance to the first issue is section 2-156-040(f). Section 2-156-040 in general restricts gifts to City employees and officials, as well as their spouses and minor children, under

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particular circumstances. Subsection (f) states that nothing in section 2-156-040 "shall prohibit any official or employee . . . from accepting a gift on the City's behalf, provided, however, the person accepting the gift shall promptly report receipt of the gift to the Board of Ethics and to the Comptroller, who shall add it to the inventory of City property."

The written gift proposal from E [REDACTED] to the [REDACTED] Department shows that these security systems are being offered to the City through [REDACTED]. They are to be installed in City buildings. Since these are clearly gifts to the City, it is the opinion of the staff that nothing in the Ethics Ordinance prohibits the City of Chicago [REDACTED] Department from accepting these gifts. Using the same analysis, the Chicago [REDACTED] Department also may accept these gifts.

With regard to the gift offers to the [REDACTED] Unions [REDACTED], please be advised that these unions are not City agencies. Therefore, they are not subject to the Ordinance and are not under the jurisdiction of the Board of Ethics. However, the individual City employees who make up the unions are subject to the Ordinance.

The second issue you raised concerns the restrictions the Governmental Ethics Ordinance imposes on you because of your dual employment with E [REDACTED]. Several sections of the Ordinance apply to your participation in the company's offer to these two City departments because you are a City employee.

A. Conflicts of Interest / Improper Influence

Section 2-156-030, entitled "Improper Influence," states:

No official or employee shall make, participate in making or in any way attempt to use his position to influence any City governmental decision or action in which he knows or has reason to know that he has any economic interest distinguishable from its effect on the public generally.

Section 2-156-080, entitled "Conflicts of Interest," states:

No official or employee shall make or participate in the making of any governmental decision with respect to any

matter in which he has any economic interest distinguishable from that of the general public.

These provisions prohibit you from influencing or participating in any governmental decisions in which you have an economic interest. Your employment with E [REDACTED] gives you an economic interest in that company. Therefore, you are prohibited from influencing any City department's decision regarding the acceptance of this gift offer or the City's purchase of any additional E [REDACTED] products or services, such as the security systems or security monitoring. In addition, because the security systems sold by E [REDACTED] include [REDACTED], this section of the Ordinance prohibits you from making or influencing any decision as a City employee [REDACTED] relating to any site that contains E [REDACTED] security equipment. (See e.g., case no. 91059.A.)

B. Representation of Other Persons

Section 2-156-090 of the Ordinance, entitled "Representation of Other Persons," states:

No elected official or employee may represent, or have an economic interest in the representation of, any person other than the City in any formal or informal proceeding or transaction before any City agency in which the agency's action or non-action is of a non-ministerial nature; provided that nothing in this subsection shall preclude any employee from performing the duties of his employment

. . . .

This provision prohibits you from representing E [REDACTED] or any other person before any City agency. The terms "represent" and "representation" here apply to a broad range of activities that includes, but is not limited to, making contact with City employees and officials on behalf of others (case nos. 89087.A and 89018.A). This would include contacts made on behalf of E [REDACTED] with regard to this gift proposal. Therefore, we recommend that you not be involved in any further communications between the [REDACTED] Department and E [REDACTED] with regard to this gift. In addition, this provision prohibits you from representing E [REDACTED] in any matter before any City agency.

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C. Fiduciary Duty / City-Owned Property / Confidential Information

There are three additional sections of which you should be aware in regard to your outside employment. Section 2-156-020 of the Ordinance, entitled "Fiduciary Duty," obligates you to use your City position responsibly and in the best interest of the City. It requires you to exercise professional judgments free from outside influences or conflicting duties to another entity. It also precludes you from using City time for your non-City job or for any private benefit (case nos. 90018.Q and 90020.A). Section 2-156-060, entitled "City-Owned Property," prohibits you from using any City property or resources in your non-City employment or for any private benefit. Section 2-156-070, entitled "Use or Disclosure of Confidential Information," prohibits you from using or revealing confidential information you may have acquired during the course of your City job.

Taking all the above provisions as a whole, it is the staff's opinion that the Governmental Ethics Ordinance precludes your involvement in this or any future gift offer or marketing of E [REDACTED] equipment to the City. We conclude this because the gift offer from E [REDACTED] concerns more than simply the giving of a gift to the City; it involves free monitoring of the security systems for a limited time period, which indicates that monitoring beyond that time may have to be purchased by the City. By complying with our opinion, you will avoid violating the Governmental Ethics Ordinance.

The staff's opinion is based on the application of the Ethics Ordinance to the facts you presented, which are restated in this letter.<sup>1</sup> Be advised that other rules or laws also may be applicable. In addition, a department may impose restrictions that are more stringent than those of the Governmental Ethics Ordinance.

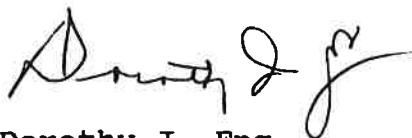
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<sup>1</sup> If the facts presented here are incorrect or incomplete, please notify the Board immediately, as any change in the facts may alter our opinion.

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Thank you for bringing this matter to our attention. If you have any further questions concerning this issue or any matters in the future, please do not hesitate to contact us.

Sincerely,



Dorothy J. Eng  
Executive Director

cc:   


jgj/91092.L3