

CONFIDENTIAL

September 9, 2004

[James Jones]
Commissioner, Department of T

Chicago, IL 606

Re: Case 04048.Q

Dear Commissioner [Jones]:

On September 2, 2004, you contacted the Board of Ethics and asked whether the City's Governmental Ethics Ordinance prohibits you from serving, in your official capacity, as a member of the Board of Trustees of the [museum]. This letter confirms the advice staff gave you orally on September 8, namely, that the Ordinance does not prohibit your service, but imposes restrictions on your conduct, both as a City employee and as a Trustee. Also, you were advised that, before accepting this post, you confirm with the Mayor's Office that your service on the Board would be in compliance with any applicable rules or policies.

[Museum] Trustees serve without compensation. Their duties include employing the [Museum]'s President, setting policies and procedures to guide the [Museum], stewarding its assets, hiring its auditor, representing it before the community and government and assisting it in fundraising. You said that you were asked to serve because the Board knows of your department's work, and that over the long term, the [Museum] is really requesting the service of the Commissioner of the Department of [T]. You would not be expected to participate in fundraising activity or make contributions yourself.

[Museum]

As you were advised, the Ordinance does not prohibit you from serving on the Board, but it imposes the following restrictions:

First, § 2-156-020, "Fiduciary Duty," imposes on you the obligation to use your City position and City time responsibly and in the best interest of the public and to give undivided loyalty to the City in the discharge of your public duties, and it precludes you from using City time and resources to obtain a personal benefit or promote a purely private interest. See Case No. 96032.A. As a Trustee of the [Museum], you would also owe a fiduciary duty to the [Museum]. The [Museum] does not receive funding from the City, and does not participate in any programs offered by the Department of [T]. It is thus unlikely that your fiduciary duties to the City and the [Museum] would conflict. However, staff advises you that, while acting either as a [Museum] Trustee or as the Commissioner of [T], to avoid even the appearance of impropriety, you recuse yourself from participating in situations or decisions involving transactions or programs

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directly between the [Museum] and the City of Chicago. Should the [Museum] wish to list your City title on its letterhead or other materials, this provision of the Ordinance requires that, before you consent to that use, you assess whether your service on as a Trustee complements and furthers your City work. If, in your judgment (and the judgment of the Mayor's Office, taking into account City policies and interests), it does, then the use of your City title would not be inconsistent with your duty of loyalty to the City. Case No. 96032.A at 4.

Second, § 2-156-090, "Representation of Other Persons," prohibits you from representing other persons, such as the [Museum], in any formal or informal transactions before the City or any of its agencies. "Representing" others includes a broad range of activities in which one person acts as a spokesperson for others, or seeks to communicate and promote the interests of one party to another, such as making personal appearances before, or telephone contact with, City personnel or agencies on behalf of others, submitting written requests or proposals to, or signing contracts on their behalf with, City agencies.

Last, we remind you of two additional provisions, §§ 2-156-060, "City-Owned Property," and -070, "Use or Disclosure of Confidential Information." The former prohibits you from the unauthorized use of City property, including City time, equipment or supplies, to carry out your duties on behalf of the Planetarium or its Board; the latter prohibits you from using or revealing confidential information you have acquired during the course of your City job.

Staff's conclusions are based solely on the application of the City's Governmental Ethics Ordinance to the facts stated in this letter. If these facts are incorrect or incomplete, please notify us immediately, as any change may alter our conclusions. Please note that other laws or rules may apply to this situation, and that a City department may adopt and impose rules or policies stricter than those contained in the Governmental Ethics Ordinance. We appreciate your bringing this matter to our attention and your concern to abide by the standards embodied in the Ordinance. If you have any further questions, please do not hesitate to contact us.

Yours very truly,

Steven I. Berlin
Deputy Director

Approved:

Dorothy J. Eng
Executive Director