

Advisory Opinion
[Mary Smith]
Case No. 02034.A, Post-employment
January 15, 2003

You are the Deputy Director in the Cost Recovery and Collections Division of the City's Department of [C] , and an attorney licensed to practice law in Illinois. On [] 2002, you requested that we issue an advisory opinion addressing how the City's Governmental Ethics Ordinance would apply were you to accept a full-time position as an attorney in the Chicago office of the [] firm of [RKO]

As discussed in this opinion, the Board has determined that: 1) for one year after you leave City service, you would be prohibited from assisting or representing any person, including [RKO] , in any business transaction involving collection of debts owed to the City arising either from: (a) the recovery of costs and damages the City has incurred due to the negligence of others; or (b) judgments issued through the City's parking and administrative adjudications program; and 2) neither of the Ordinance's permanent prohibitions, i.e. with respect to assisting or representing persons in judicial or administrative proceedings involving the City (in § 2-156-100(a)) or City contracts (in § 2-156-100(b)), would themselves limit your work with [RKO] . Our detailed analysis of how these restrictions apply in your situation follows.

FACTS: Your Previous Positions in City Service. You began City service in April 1994 as a Senior Hearing Officer in the City's [C] Department, a post you held until April 1996, when you became the department's [Director of Administration]. In January 1997, you joined the then-new Department of [H] as one of six Chief [] Officers. In these positions, you said, you were responsible for supervising, scheduling and training the hearing officers who adjudicated parking violations, including "immobilization" ("Denver booting"). In May 1997, you rejoined the [C] Department as Deputy Director in the Customer Satisfaction Division, where, you said, you managed the unit that responded to citizen complaints and assisted City hearing officers by locating records (such as vehicle ownership transfers and past violation notices) relating to defenses raised by motorists in hearings on parking and other violations. You then served as Deputy [C] Director in the Policy and Contract Division, where you managed the effort to transfer departmental records to electronic images. In January 2001, you assumed your current position as Deputy [C] Director in the Cost Recovery and Collections Division.

Your Present City Position. Currently, you manage the City's effort to collect on fines assessed through adjudications made by hearings officers on parking citations, non-parking Police "quality of life" citations (such as public drunkenness), and other costs the City is attempting recover that arise from the negligence of third parties,

such as charges the City assesses for cleaning up toxic material spills, false burglar alarms calls, and damage to City property. Collecting these charges, you said, involves sending demand letters, drafted by a claims administrator in your division, and, sometimes, litigation. Adjudications made by City-appointed hearing officers are enforceable judgments, which the City treats as debts owed to it. Your department is authorized by City Ordinance to make and enforce reasonable rules and regulations as necessary to collect these debts, to request prosecutions by the [N Department's]office for enforcing ordinances relating to City [collections], to administer Chapter 9-100 of the Municipal Code ("Administrative Adjudication of Parking or Compliance Violations"), and to collect debts owed to the City by City employees and officials. You said that, from time to time, members of your department meet with representatives from the City's [N] Department to advise them of amounts owed to the City from these debts (including those stemming from uncollected judgments), and to develop and implement strategies for collecting them. Both you and [John E] , the First Deputy [C] Director, confirmed that you typically attend these meetings. Also, you said, the [N] Department retains specialized collection attorneys to assist the City (particularly the Departments of [N] and [C]) in debt collection; currently seven [] firms are so retained (including [RKO]). You explained that your involvement in the process whereby the [N] Department retains these attorneys—other than with respect to the [RKO] (as described below)—has been limited to participating in discussions with other [C] Department personnel about which matters would be referred; you said that you have not made recommendations to personnel in either the [N] or [C] Departments that specific law firms be retained for this purpose. Mr. [E] confirmed this as well.

However, you said that [C] Department personnel, including your division, regularly interact with these retained collections attorneys—including [RKO] —in two important respects, namely, documentary assistance and invoice/collection reconciliation and verification.

First, with respect to documentary assistance: after these firms commence actions against debtors (by for example, filing lawsuits against them in Cook County Circuit Court, or garnishing their wages or attaching their assets), and these debtors raise defenses, your staff answers inquiries from City attorneys and provides any appropriate documentation, such as vehicle transfer records, past citations, etc. You said that you have not appeared as counsel of record in any proceedings, whether pending in the Department of [H] or Circuit Court, and, other than answering an occasional question from one of your division's staff members or a City collections attorney about a particular document, have not reviewed case files or discussed the prosecution of any specific matters involving debts owed to the City. In addition, your division is involved in referring matters to the various [] firms retained by the [N] Department. However, Mr. [E] explained that this involvement is "ministerial"—it divides referable matters electronically by category or date, and as a matter of course does not review the facts of particular files or cases in this process.

Second, with respect to collection reconciliation: these firms periodically report to the [N] Department on collections they have effected. Their reports include invoices for services rendered (a percentage of the amount collected), and summaries of the amounts collected and deposited into the City's accounts.

The [N] Department then forwards these to your division, which is responsible for verifying that the payments have been received in the City's accounts, and reconciling these payments with the City's own files. You said that your supervising clerk ensures that this process occurs correctly and verifies each payment credit against money actually received by the City, then prepares and presents you with cover memos for each report submitted by the outside [] firms. These memos contain any reductions the City might make on particular accounts (such as for payments previously or not actually received by the City). You said, and Mr. [E]] confirmed, that this process "is in the nature of a certification" or a reconciliation: you (or your division) initials these memos, signifying that they are accurate. They are then forwarded to your department's Finance and Administration Division for review; if approved, they are sent to the Department of [O] , which prepares actual payment vouchers and remits the vouchers back to your department, where the First Deputy [C] Director approves them. You said, and Mr. [E] confirmed, that you do not have the authority to approve payment vouchers, and cannot change the commission rate at which these firms are compensated. Your authority, Mr. [E] said, is limited in this respect to verifying that payment has been received; you do not participate in discussions about whether performance is "satisfactory," that is, whether a firm's success rate in effecting collections justifies its continued retention. You explained that the presence of your (or your division's) initials on these cover sheets is not itself sufficient for the City to release payment on any invoices, but that your or your division's approval (i.e., the approval of someone able to assess their accuracy) is necessary before they can be paid, and your division is responsible for that process. You said that the majority of cover memos receive your initials; occasionally, some do not.

Your Involvement with [RKO] . In May 2001, you participated in a conference call with Mr. [E] , [Mr. S] (an attorney from the City's [N] Department), and two attorneys from [RKO] , which specializes in collecting debts owed to government entities. In March 2001, the firm had sent a letter to the [Y] Office (which forwarded it to the [N] and [C] Departments), introducing its services to the City, a prospective client. You said that Mr. [E] was "tasked with the responsibility" of working with the [N] Department to assess whether the City should retain the firm. You do not recall reviewing this letter or meeting with Mr. [E] about it prior to the conference call. Discussed during this call were the number, type and amounts of uncollected debts involved, and the appropriateness of referring them to outside counsel for collection. You recall (as does Mr. [E]) that Mr. [E] told the firm's representatives that the City would contact them if further discussions were desired, and that no City decisions about retaining [RKO] were made as a result of that call.

About four months later, Mr. [E] arranged a meeting between himself, you, Mr. [S] , [Mr. T] (another attorney from the [N] Department), and an attorney and public relations professional from [RKO] . That meeting occurred in Chicago on , 2001. You said that, in preparation for that meeting, you had gathered the numbers of and amounts involved in various types of matters that the City might refer to outside attorneys, and that at the meeting, you and the other City attorneys collected information about [RKO's] experience and capabilities. As a result of that meeting, Mr. [E] and the two [N] Department attorneys decided to recommend to [Kim and Kar] their two respective department heads, that the City retain the firm. Mr. [E]

recalls that he spoke with you on one or two occasions about his conclusion that it would be appropriate to refer to the firm large numbers of debts arising from Police “quality of life” and parking adjudications, and that you supported his conclusion. Another meeting was then held on [REDACTED], 2001, in Chicago, between representatives from [RKO [REDACTED]] firm, Mr. [E [REDACTED]], you, [Mr. F [REDACTED]] (a project administrator from your department), two information technology specialists from your department and Mssrs. [S] and [T [REDACTED]]. At this meeting, the focus was on the firm’s ability to assist the City in timely entering and maintaining collection data on outstanding matters, especially debts resulting from uncollected “quality of life” adjudications. As a result of that meeting, the Deputy Directors from the five debt collection divisions in your department met on February 13, 2002 with [Kim [REDACTED]] to discuss which matters were most time-critical and appropriate to refer to [RKO [REDACTED]].

. At that meeting, the department’s consensus was that the [C [REDACTED]] Director would recommend to the [N Department] that the firm be retained. Subsequently, you said, Mssrs. [S [REDACTED]] and [T [REDACTED]] began drafting a retainer agreement with the assistance of Mr. [E [REDACTED]]. Mr. [E [REDACTED]] told staff that, throughout this process, he was the “key point person” from the Department of [C [REDACTED]] with respect to whether the City should retain [RKO [REDACTED]]; while he solicited and listened to your opinions, it was he who concluded, after these meetings, that the City should retain the firm, and he who transmitted this recommendation to the [C [REDACTED]] Director and worked with the [N] Department in acting on it (and you concurred with these recommendations).

On [REDACTED], 2002, [RKO [REDACTED]] and the City signed a letter agreement (the “Letter Agreement”), confirming the firm’s appointment as Special Assistant [REDACTED] to represent the City in collecting the following debts: 1) unpaid fines resulting from Police Department non-parking “quality of life” citations; and 2) unpaid fines resulting from parking citations. [Kara, the Chief of Department N [REDACTED]] signed the agreement on the City’s behalf. You said you were not involved in negotiating or drafting the Letter Agreement, and did not see it until after it had been executed. In the Letter Agreement, the City authorizes [RKO [REDACTED]] to pursue referred accounts until collection is achieved, or until either party decides that a matter is uncollectible.¹ The firm is obligated to receive written authorization from the [N] Department before commencing any collection litigation, to report to the [N [REDACTED]] Department monthly as to the status of its accounts, and to direct debtors to pay the [C [REDACTED]] Department directly (or, if the firm is paid, to forward payments to the [N] Department, which forwards them to your department). The City agrees to pay the firm a 25% commission on all collections it effects. You explained that your division is responsible (as it is with other collections agents) for reconciling the reports and invoices submitted by [RKO [REDACTED]] with the City’s own records, then forwarding them to the [C [REDACTED]] Department’s Finance and Administration Division. Your division also responds to the firm’s inquiries as to records relating to defenses raised by debtors. As with other collections agents retained by the [N] Department, your (or your division’s) initials on cover memos are necessary for [RKO [REDACTED]] to be paid, though this approval is in the nature of

¹You estimate that the City has referred to [RKO [REDACTED]] approximately 250,000 single parking ticket judgments, including those issued to the top 2,000 parking scofflaws, and all of the approximately 80,000 accounts pertaining to debts from judgments issued from Police “quality of life” violations.

a certification of reconciliation, and does not by itself suffice to authorize such payment. You also said that Mr. [E] has agreed to assume these responsibilities.

Your Prospective Employment. You said that you have met with [RKO]

about prospective employment as an attorney. You also said that, to the best of your knowledge, the firm does not perform other services for or have other agreements with the City, and that to date the City is its only local client. You have requested an advisory opinion addressing what restrictions the Ordinance would place on your activities if you accept such employment—specifically, what restrictions would apply if the firm asks you to assist it in performing the Letter Agreement, or in seeking (or performing) additional legal services for the City.

LAW AND ANALYSIS:

I. Post-employment. The Ordinance provision most relevant here is § 2-156-100, “Post-employment restrictions.” It contains two sub-sections. We will analyze your case under each, beginning with § 2-156-100(b).

A. Business Transactions Involving the City; City Contracts. Section 2-156-100(b) imposes both one year and permanent prohibitions. It states (in relevant part):

No former ... employee shall, for a period of one year after the termination of the ... employee’s ... 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.

1. One Year Prohibition. Under the first clause of § 2-156-100(b) you would be, as a former City employee, prohibited for one year after leaving City service from assisting or representing² any person (including [RKO]), in any business transactions involving the City if you participated personally and substantially in the subject matters of those transactions while a City employee. To apply this prohibition here, we first assess whatever “business transaction involving the City” is present, and second, what constitutes its “subject matter.” Finally, we address whether you were “personally and substantially involved” in that subject matter.

[RKO] may well request that you assist it in performing legal services for the City, its client, or to assist the firm in seeking to perform additional legal services for the City. The firm specializes in

² “Assisting” or “representing” a person in business transactions involving the City encompasses helping a person to seek or to perform a contract or project. See Case Nos. 96001.A, 92035.A. “Representation” applies to activities in which someone acts as a spokesperson for another or seeks to communicate and promote the interests of one party to another. It includes signing any proposals, contracts, or other documents. Case 93005.A, p. 7.

collecting receivables for governmental entities. The only legal services the firm now provides to the City are covered in the Letter Agreement, which authorizes it to collect the following debts owed to the City³: 1) unpaid fines resulting from Police Department non-parking citations; and 2) unpaid fines resulting from parking citations. While the Letter Agreement is a contract, it also evidences an underlying “business transaction involving the City”—between the City and [RKO]. See, e.g., Case Numbers 96001.A; 96024.A, p. 6 (projects defined by contracts with the City are business transactions with the City, as well as contracts). The Letter Agreement also states what we construe to be the transaction’s subject matter: the collection of certain debts owed to the City, namely those arising from unpaid fines in both Police Department non-parking “quality of life” citations and administrative adjudications of parking citations.

From our review of your responsibilities over nearly nine years as an employee in the [C] and [H] Departments, which have included work on developing and implementing debt collection strategies and managing the divisions that respond to customer complaints arising from the administrative adjudication process and verify collections affected by outside counsel (including those stemming from adjudications and court cases), we conclude that you have been personally and substantially involved in the subject matter of the collection of certain debts owed to the City—specifically those arising from the recovery of costs and damages the City has incurred due to the negligence of others, and from judgments issued through the City’s parking and administrative adjudications program. We thus conclude that, for one year following the date you leave City service, you will be prohibited from assisting or representing any person, including (but not limited to) [RKO], in seeking or performing any business transactions (including but not limited to services the firm provides under its Letter Agreement) that involve the collection of debts owed to the City arising from either the recovery of costs and damages the City has incurred due to the negligence of others, or from judgments issued through the City’s parking and administrative adjudications program.

2. Permanent Prohibition. The second clause of § 2-156-100(b) would permanently prohibit you, as a former City employee, from assisting or representing any person (such as [RKO]) in any contract involving the City (such as the [] Letter Agreement) if you exercised “contract

³We note here that, although the City has retained [RKO] as its attorney/agent to assist it in collecting debts, were you to assist or represent the firm (regardless of your capacity in doing so, i.e. partner, associate, of counsel, etc.) in its collection work for the City, you would, for purposes of the Ordinance, be assisting or representing not the City itself but rather [RKO], in judicial or administrative proceedings or business transactions involving the City. We have previously determined that, where the City itself wishes to retain its former employees to assist in business transactions on which the post-employment provisions would otherwise prohibit them from working, the City may retain these former employees only if certain conditions are met. Among these is that the former employees may not represent the interests of any other entity in connection with the work to be done on the City’s behalf, that is, they must, in effect, owe their sole fiduciary duty to the City. As we have recognized, if former City employees do work on behalf of or assist the City as employees (or owners or contractors) of other entities (such as [RKO], in this case), the former employees would be put in a situation “in which [they] would owe loyalties to both the City and to [the other firms]—a situation [we have] viewed ... as the major harm contemplated by the post-employment provisions.” See Case Nos. 99010.A, at 4; 93018.A, at 3-4.

management authority” over that contract during your City service. We now address whether you exercise, or have exercised, such management authority over this Letter Agreement. “Contract management authority,” defined in § 2-156-010(g),

means personal involvement in or direct supervisory responsibility for the formulation or execution of a City contract, including without limitation the preparation of specifications, evaluation of bids or proposals, negotiation of contract terms or supervision of performance.

The salient facts on this issue are: 1) you and Mr. [E] (the First Deputy [C] Director), and several other [C] employees and attorneys from the [N] Department attended four meetings (one of which was telephonic) with representatives from [RKO] firm, at which the firm’s potential services to the City were discussed; 2) you discussed with the First Deputy and others in your department, including the [C] Director, which matters might be referred to [RKO], but did not make any recommendations to others that the firm be retained; 3) you have regularly attended meetings with other members of your own and the [N] Department regarding outstanding matters and on developing and maintaining strategies for improving debt collection; 4) you discussed with your First Deputy his opinion that [RKO] should be retained, and concurred with it; 5) you supervise the division responsible for verifying the accuracy of and reconciling any discrepancies in statements submitted to the [N] Department by outside collection [] firms, including [RKO], of collections they have effected and compensation they are owed, which statements were then forwarded to your department; 6) this task has been characterized as largely “ministerial,” but is necessary before the statements may reach the next level, which is your department’s Finance and Administration Division, and thus necessary but not sufficient itself for these [] firms to be paid (though Mr. [E] has agreed to assume your responsibilities in this respect); 7) you might review and discuss documents relating to defenses raised by debtors in collection matters or litigation with [RKO] attorneys or representatives; and 8) you do not have the authority to sign vouchers (prepared and remitted to your department by the Department of [O]) authorizing the City to pay outside [] firms, including [RKO]

Considered together, your participation in the preliminary meetings about and with the firm, and your responsibilities as to its ongoing contract, are unlike those we have encountered in previous cases. However, based on their similarities to and differences from specific responsibilities exercised by City employees in several Board opinions interpreting the term “contract management authority,” we conclude that you did not have or exercise such authority over the [] Letter Agreement.

We first consider your involvement in the formulation of the [] Letter Agreement prior to its signing. In Case No. 99046.A, we noted that, “in all cases where contract management authority arose from work preliminary to a contract, [we] concluded that the City employee’s activities had significantly shaped the contract that eventuated, by setting the basic terms or specifications of the contract,” e.g. by writing or recommending a “scope of services” (Case No. 02031.A) or “scope of work” (Case No. 98043.A), or by inspecting City-owned sites that might be sold, ordering and reviewing property surveys,

or preparing acquisition ordinances and establishing offering prices (Case No. 94044.A). In contrast, although you attended about four meetings, including those at which [RKO] personnel were present, and at which legal and collection services the firm might provide to the City were discussed, and you attended the meeting in which it was decided that the [C] Director would recommend to the [N] Dept. Head that the City retain [RKO] to collect certain debts, we believe that your presence at these meetings and your role in the process were supportive—you served as a source of information regarding how much debt remained uncollected, its amount, its age, its type, etc., rather than as a person who recommended that [RKO] (or any other outside firm) be retained to collect it. Of course, on occasion you discussed retaining the [RKO] with the First Deputy [C] Director and attorneys from the [C] Department, but your role in these discussions was primarily to quantify matters that were outstanding rather than to recommend specifically that the firm be retained to collect various debts, or to set the terms of the firm's commission or performance. That authority rested with your superiors and the [C] Department. For these reasons, we conclude that you were not “personally involved in” and did not have “supervisory responsibility for” the execution of the [] Letter Agreement, within the meaning of those terms under the post-employment provisions.

Likewise, in our view, your responsibilities with respect to the performance of the Letter Agreement (and, by extension, with respect to services performed by other firms retained by the City), do not constitute “personal involvement in,” or direct supervisory responsibility for, the execution of that contract. Your responsibilities are, or would be (even if Mr. [E] had not agreed to assume them; we consider your case as though you were in fact exercising all of them), in important though not all respects, analogous to that of the former employee in Case No. 99022.A, who served as a Director of a division in a City department, and who, we found, did not exercise contract management authority. Like you, he did not personally inspect the contractor's work, but rather, received weekly reports from his engineering staff. On the basis of these reports, he signed and approved work sheets each week verifying that relevant portions of the contractor's City work had been satisfactorily completed. He then forwarded these reports to his Deputy, who signed his own approval and then forwarded them to the department's finance division, which sent them to the City's Department of [O] for payment vouchers. The reports the Director signed were not payment forms, and they did not authorize payment, and he did not have the authority to authorize payment. We do note, though, that: 1) unlike the cover memos you initial, these reports did not actually show amounts to be paid to the contractor; 2) he did not participate in drafting the Request for Proposals for the contract, or in negotiating or setting the terms of the contract, or in contractor selection; 3) the work the contractor performed for his division was roughly 6-7% of a much larger contract that covered services on many sites throughout the City. On those facts, we concluded that he was “fulfilling a procedural requirement of his office, that is, that services provided by City vendors be acknowledged by someone in management at” his division, and thus he did not exercise contract management authority over the contract. However, as we explain in the next paragraph, we do not find these distinctions to be decisive. *See also* Case No. 97059.A, at 4 (a former Deputy Commissioner exercised authority with respect to only one aspect of larger City contracts, her involvement “did not affect the general terms of the Agreements, and she had authority over the agreements only as they came to bear on the matters within her official responsibility”—thus she did not exercise contract management authority); *cf.* Case No. 95059.I (a Deputy Commissioner

exercised contract management authority by signing documents for the specific purpose of authorizing the City to issue payments to the contractor for work performed, including signing a statement approving the purchase of materials and certifying that sufficient funds were available to cover the charges). In contrast to the Deputy in Case No. 95059.I, you have no authority to approve payments to the retained [] firms, do not sign vouchers, and do not exercise judgment as to whether the firms have performed satisfactorily. Rather, your initials on cover memos indicate merely that the invoices submitted by the firms are accurate, and have been reconciled with the City's own records.

While it is true that unless someone from your division initials these cover memos, no [] firm will be paid, your authority is comparable to that of the Director in Case No. 99022.A and the Deputy in Case No. 97059.A—you are verifying that relevant portions of the firms' City work has been completed in the manner claimed. We believe it is not significant that, while the weekly reports signed by Director in Case No. 99022.A contained no payment terms or monetary amounts, and covered only 6-7% of the vendor's entire City contract (and that he did not participate in preliminary meetings at which selection of the contractor was discussed), the cover memos you and your division initial do, in contrast, include money terms (i.e. amounts the firms claim as having collected), and do cover the firms' entire City contracts. This is because: 1) the nature of [RKO's] (and other collection) firm's City work is to collect specific amounts of money, and the reports your division reviews necessarily contain monetary amounts and imply or state payment terms; 2) determining (and certifying) whether money was in fact received is not equal to authorizing payment to these firms, nor does it involve the quality of judgment or evaluation that "supervision of performance" entails—and we must find that you "supervise performance" in order to conclude that you exercise contract management authority by performing this work; and 3) any recommendations or decisions regarding whether the retained [] firms are performing satisfactorily would be made by Mr. [E] or [the C or N department heads], as these firms are retained by the [N Dept. Head] I, not the [C] Department. Your involvement in these contracts has been (or would be), in this sense, like the Deputy's in Case No. 97059.A: to exercise authority over that part of the Letter Agreement that "comes to bear on the matters within [your] official responsibility," i.e. verification and reconciliation of monies collected by the firm. For these reasons, we conclude that you have not had "personal involvement in or direct supervisory responsibility for" "the execution" of the Letter Agreement between the City and [RKO], and thus that the permanent prohibition in §100(b) does not itself limit your potential work with [RKO] . However, we have already concluded that you are prohibited from one year after you leave City service from assisting or representing [RKO] in any business transaction involving the collection of certain debts owed to the City; this prohibition includes (but is not limited to) those debts covered by the Letter Agreement. Hence, you would be effectively precluded, until that year expires, from assisting or representing [RKO] with respect to the Letter Agreement.

We also note that the facts presented indicate that you may have exercised contract management authority with respect to other contracts, e.g., those between the City and information technology companies regarding transferring department records to electronic images. Because you do not believe that [RKO] would become involved with those contracts, we do not address them here. However, if issues concerning this or other contracts arise in your post-City employment, we advise you

to seek further guidance from us.

B. Judicial or Administrative Proceedings. Section 2-156-100(a) of the Ordinance states:

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.

Under § 100(a), you would be, as a former City employee, prohibited from assisting or representing any person other than the City (such as [RKO]) in any judicial or administrative proceeding involving the City if you were counsel of record or participated personally and substantially in that proceeding. The facts presented indicate that you were not counsel of record in any judicial or administrative proceedings⁴ in which [RKO] might be involved. These facts also indicate that, on a few occasions in your 8 ½ years of City service, you spoke with staff members and retained attorneys about documents relevant to defenses raised by litigants in pending collection proceedings, but that you did not otherwise work on or discuss particular proceedings. The Board believes that this level and (in)frequency of involvement does not constitute personal and substantial participation in those proceedings. Thus, we conclude that the prohibition contained in § 100(a) does not itself limit your potential work with [RKO] . However, as delineated above, we have already concluded that you are prohibited from one year after you leave City service from assisting or representing the [RKO] firm in any business transaction involving the collection of certain debts owed to the City; this prohibition includes judicial or administrative proceedings prosecuted by [RKO] (pursuant to the Letter Agreement, for example) to collect on judgments issued through the parking and administrative adjudications programs. Thus, you would be effectively precluded, until that year expires, from assisting or representing any person, including [RKO] , with respect to any judicial or administrative proceedings that involve the collection of debts owed to the City arising either from the recovery of costs and damages the City has incurred due to negligence of others, or from judgments issued through the parking and administrative adjudications programs.

⁴We note here that lawsuits, creditors' attachments, wage garnishments, etc. filed against debtors by City-retained attorneys in Cook County Circuit Court, or any of its divisions, such as the Municipal Division, are "judicial proceedings involving the City." While we need not define what elements must be present for a hearing or process to constitute an "administrative proceeding involving the City," we do believe that matters conducted before administrative hearings officers in the City's Department of [H] certainly qualify as "administrative proceedings involving the City." Chapter 2-[] of the Municipal Code authorizes that department's Director "to promulgate rules and regulations for the conduct of administrative adjudication proceedings," grants "administrative law officers" appointed by the City "all powers necessary to conduct fair and impartial hearings," including hearing testimony, preserving and authenticating records of hearings and evidence introduced therein, issuing subpoenas and final orders containing finds of fact and law, and imposing penalties and fines, etc. We stress, however, that we are not here concluding that these elements must be present in a hearing or process in order for it to qualify as an "administrative proceeding involving the City" under the Ordinance.

II. Confidential Information. Section 2-156-070, "Use or Disclosure of Confidential Information," also prohibits you, as a former City employee, from using or revealing confidential information acquired through your City employment. Confidential information, for purposes of this section, means information that may not be obtained under the Illinois Freedom of Information Act, as amended.

DETERMINATIONS: Based on our analysis under the Ordinance's post-employment provisions of the facts you have presented, the Board determines that: 1) for one year after you leave City service, you would be prohibited from assisting or representing any person, including [RKO], in any business transaction (including but not limited to the Letter Agreement between the City and the firm) involving the collection of debts owed to the City arising either from: (a) the recovery of costs and damages the City has incurred due to the negligence of others; or (b) judgments issued through the City's parking and administrative adjudications program; and 2) neither of the Ordinance's permanent prohibitions, i.e. with respect judicial or administrative proceedings involving the City (§ 2-156-100(a)) or City contracts (§ 2-156-100(b)), would limit your work with [RKO] . However, consistent with our determination as to the Ordinance's one year prohibition, you would effectively be prohibited, for one year after you leave City service, from assisting or representing [RKO] with respect to the Letter Agreement or any such proceeding prosecuted to collect debts owed to the City arising from either the negligence of others or from judgments issued through the parking and administrative adjudications program.

Our determinations do not necessarily dispose of all the issues relevant to your situation, but are based solely on the application of the City Governmental Ethics Ordinance to the facts stated in this opinion. If the facts presented are incomplete or incorrect, please notify us immediately, as any change may alter our opinion. Other laws or rules, including the Illinois Rules of Professional Conduct (Article VIII of the Rules of the Supreme Court of Illinois), may also apply to your situation. We note that any City department may adopt restrictions that are more stringent than those imposed by the Governmental 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 this opinion is rendered.

[Signature]

Darryl L. DePriest
Chair