**Re: Case No. 16034.Q, Campaign Financing**

Dear:

On October 17, 2016, [you] emailed the following two questions to us. Here they are, with our answers:

**1.**  Is the sole manager of an LLC/limited liability company that is seeking to do business with the City [and thereby subject to the $1500 per year/per candidate contribution limit in the Governmental Ethics Ordinance], in violation of §2-156-445(a) “on its face” by making a donation “above the $1,500 restriction?”

**No**. The answer to this question really turns on §2-156-445(b), not -445(a). These subsections provide:

**2-156-445. Limitation of contributing to candidates and elected officials.**

(a) No person who has done business with the city, or with the Chicago Transit Authority, Board of Education, Chicago Park District, Chicago City Colleges, or Metropolitan Pier and Exposition Authority within the preceding four reporting years or is seeking to do business with the city, or with any of the other aforementioned entities, and no lobbyist registered with the board of ethics shall make contributions in an aggregate amount exceeding $1,500.00: (i) to any candidate for city office during a single candidacy; or (ii) to an elected official of the government of the city during any reporting year of his term; or (iii) to any official or employee of the city who is seeking election to any other office. For purposes of this section all contributions to a candidate’s authorized political committees shall be considered contributions to the candidate. A reporting year shall be from January 1st to December 31st. For purposes of this subsection only “seeking to do business” means: (i) the definition set forth in Section 2-156-010(x); and (ii) any matter that was pending before the city council or any city council committee in the six months prior to the date of the contribution if that matter involved the award of loan funds, grant funds or bond proceeds, bond inducement ordinances, leases, land sales, zoning matters, the creation of tax increment financing districts, concession agreements or the establishment of a Class 6(b) Cook County property tax classification.

(b) For purposes of subsection (a) above, an entity and its subsidiaries, parent company or otherwise affiliated companies, and any of their employees, officers, directors and partners who make a political contribution for which they are reimbursed by the entity or its affiliates shall be considered a single person. However, nothing in this provision shall be construed to prohibit such an employee, officer, director or partner from making a political contribution for which he is not reimbursed by a person with whom he or she is affiliated, even if that person has made the maximum contribution allowed under subsection (a).

There is no logical distinction between a sole manager or member of an LLC from a partner in a law firm, for example. Both are individuals, and either owners and/or employees of the entities. The fact that a sole manager, officer, director or employee of a person or firm that is subject to the contribution limitations makes a campaign financing contribution that is in excess of $1500 and would otherwise be excessive pursuant to the Ordinance does not cause a violation of §2-156-445(a). However, if, pursuant to §2-156-445(b) of the Ordinance, an investigation shows that this sole manager **is reimbursed by the LLC for this contribution**, then the manager and the LLC become a “single person” for purposes of the Ordinance, and their contributions are aggregated, treated as though they are from one single person, i.e., the LLC. The manager would then be in violation of the Ordinance along with the LLC.  Moreover, in such a covert reimbursement scenario, there might well be an additional violation by both the sole manager and the LLC: of §2-156-435(b): this would appear to be a pseudonymous contribution, made other than in the name of the true donor.

**2.** If a person makes a $1,000 campaign contribution to an alderman, in January 2016, then, later in the same calendar year, say, in June 2016, becomes a registered lobbyist, and then, while occupying the status of a registered lobbyist, makes another contribution in the year, causing the total campaign financing contributions to exceed $1,500 for that calendar year, has that person violated Article VI of the Ordinance?

**Yes**. The Ordinance is clear that the $1,500 contribution limitation applies per restricted source/per reporting/calendar year/per elected official/committee.  When the person becomes a registered lobbyist, he or she assumes the status of a restricted/limited contribution source for that reporting/calendar, under §2-156-445(a), and must take care in bookkeeping to avoid making an excessive contribution during the same reporting/calendar year. The other reading – to hold that the person is not subject to the limits until he or she registers as a lobbyist -- would defeat the purpose of the limitation provision in the Ordinance: it would enable a person to, say, make a $4,000 contribution to this alderman/committee on May 31, and then register as a lobbyist on June 1, and then make another $1,500 contribution to the same elected official/committee in that same reporting year (up to the maximum amount allowed by the Illinois Election Code in an election cycle).

[You] then asked a **follow-up question** regarding 2, above: “…is it the case then that the lobbyist who registers on June 1 would need to request a refund (and an elected official would need to provide it) for any donation made earlier in the year that exceeded $1,500, such as $2,500 of that $4,000 donation?”

**Answer**: To avoid a determination that there was a violation, there would need to be a refund so that the total contributions from this lobbyist to this elected official/committee do not exceed $1500 for that calendar year.  However, the Ordinance does not require the lobbyist to request it until both parties receive the 10-day notice provided for in §2-156-445(d), unless, for whatever reason, an investigation shows that the violation was knowing on both the part of the contributor/lobbyist and the recipient elected official/committee at the time the contribution that put the total amount for the year at more than $1500.

Please let me or my staff know whether you have any further questions on this matter.

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