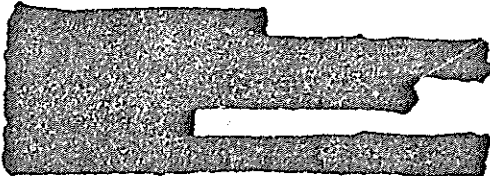


MEH

October 22, 1987



City of Chicago
Harold Washington, Mayor

Board of Ethics
Harriet McCullough
Executive Director

Sol Brandzel
Chair
Rev. Don Benedict
Margaret Carter
Angeles Eames
Rev. A. Patterson Jackson
Mary Milano
Marlene Rankin
Suite 1320
205 West Randolph Street
Chicago, Illinois 60606
(312) 744-9660

Case Number 87077.A

CONFIDENTIAL

Dear 

The Board of Ethics has received your request for an advisory opinion to determine whether your daughters' corporation may obtain contracts with the City of Chicago.

In your letter of August 18, 1987, you stated that three of your daughters have developed a business which supplies contractors and government agencies with hardware, construction, and building supplies. At present, their corporation has contractual relationships with the Chicago Housing Authority, the Chicago Transit Authority, the Metropolitan Sanitary District, and the Board of Education, but not with the City of Chicago.

Please be advised that contractual relationships between family members of City employees and governmental units other than the City of Chicago are not governed by the Governmental Ethics Ordinance (Chapter 26.2 of the Municipal Code of Chicago). We are therefore unable to render a decision regarding the propriety of such activities.

However, in regards to whether your daughters' corporation may obtain contracts with the City of Chicago, we must bring your attention to Section 26.2-11 of the Governmental Ethics Ordinance. This Section states that:

"No ... employee shall have a financial interest¹ in his own name

1/ The term "financial interest" is defined in Section 26.2-1(k) as follows:

- (i) any interest as a result of which the



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or in the name of any other person in any contract, work, or business of the City..."

[REDACTED] you are an employee for purposes of the Governmental Ethics Ordinance. (See Section 26.2-1(h); enclosed) Therefore, Section 26.2-11 will prohibit you from having a direct or indirect financial interest in a City contract.

As a general rule, financial interests maintained by the children of City employees, will not automatically be attributed to the City employee solely as a result of the familial relationship. However there may be instances where the nature of the interest and the circumstances involved warrant attribution of a family member's financial interest to the City employee.

It is the opinion of the Board of Ethics that your daughters' financial interest in City contracts will be attributable to you if (a) the corporation would not be able to supply government agencies and contractors with hardware and construction supplies, without your financial support; or (b) you contribute significantly or regularly to the management of the corporation; or (c) you exercise indirect or direct control over the corporation.

In addition, the Board may find that you maintain a direct financial interest in your daughters' corporation and all its business dealings, if your investment in the corporation is indistinguishable from an investment made to acquire an equity position in a corporation. For example, your interest in your daughters' corporation would be indistinguishable from an equity investment if:

(1) the money that you have contributed to your daughters is used for the sole purpose of maintaining their corporation;

1/(continued from previous page)

owner currently receives or is entitled to receive in the future \$2,500 per year;

- (ii) any interest with a cost or present value of \$5,000 or more;
- (iii) any interest representing more than 10% of a corporation, partnership, sole proprietorship, firm, enterprise... or any legal entity organized for profit.

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and

(2) the money loaned to your daughters is not formally secured by a promissory note which stipulates that the borrowed funds must be paid at an interest rate at or above the current market rate.

Since your letter of August 18, 1987, does not provide sufficient information to determine (1) whether your daughters' financial interests in City contracts should be attributed to you, or (2) whether you maintain a direct financial interest in your daughters' company; we request that you submit written responses to the following questions:

1. Identify your daughters' corporation by name and mailing address.
2. Prior to your employment with the City, were your daughters involved in the construction and building supply business?
3. Do your daughters have any background, expertise or interest in this field of business? Please explain.
4. Estimate the total amount of sales that your daughters' company has made since its inception.
5. If you chose not to provide financial assistance to your daughters' corporation, would this corporation dissolve as a result of inadequate capitalization? If no, please identify the alternative sources of funding available to your daughters.
6. Are any of your daughters who are shareholders in the corporation in question, financially dependent on you? If yes, please identify them by name and birthdate.
7. Have you ever advised your daughters concerning (a) the purchase of products, (b) how their money should be invested, or (c) how their company should be managed?
8. If you answered yes to 8(a), (b), or (c), please indicate the frequency and general subject matter of such advice.
9. Please identify each loan that you have issued to your daughters for business purposes or to their corporation by (a) date loan was issued, (b) amount of loan, (c) person loan was issued to, and (d) type of collateral, if any, used to secure the loan.

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10. Are these loans evidenced by a promissory note? If so, please attach copies of the signed promissory notes.
11. Have you provided any other assistance to your daughters' corporation that has not been identified in questions one through eleven above? If yes, please identify the (a) type of assistance, and (b) the estimated value of this assistance.

We hereby request that you submit the information requested above to the Board of Ethics, 205 W. Randolph, Suite 1320, Chicago, Illinois 60606, no later than 5 p.m. on November 6, 1987. Your cooperation in this matter will ensure a prompt resolution of this case.

Please note, that if you fail to respond to this request, the Board may determine that it is necessary to initiate an investigation pursuant to Section 26.2-37(b).

If you have any questions, please contact Staff Counsel at 744-9660.

Sincerely,

S. Brandzel

S. Brandzel
Chairman

js/[REDACTED]