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June 14, 1995

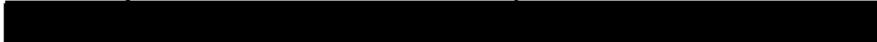


RE: 95 A 0009 Office of the Public Administrator's Receipt of Computer Equipment

Dear 

Thank you for advising us of your receipt of computer equipment. This letter will serve as an advisory opinion on the above referenced matter.

FACTS

The Office of the Public Administrator ("Public Administrator" or the "Office"), comprised of 17 employees, administers the estates of all decedents whose bodies remain unclaimed at the Office of the Cook County Medical Examiner ("Medical Examiner"). The Medical Examiner contacts the Public Administrator and investigators on the Public Administrator's staff then undertake a search for the decedent's assets. Only in cases in which a decedent has substantial assets (typically in excess of \$3,000) does the Public Administrator "open" the estate and file a petition to administer the estate in probate court. 

estimates that of the 1,000 annual investigations conducted by the Public Administrator, only 400 are opened. Currently, three (3) law firms assist the Public Administrator in handling probate matters: Arnstein & Lehr, Chuhak & Tecson and Pedersen & Houpt. Louis Apostol, Public Administrator, selected these firms based on their expertise in probate as well as on the recommendations of other governmental sources. The court-approved legal fees of the law firms are paid from the decedents' estates. The law firms do not receive any payment from the Public Administrator.

In 1992, the Public Administrator ordered personal computers (p.c.'s) for the Office, however, after two (2) years the p.c.'s still had not been delivered. At the time, the Office had no p.c.'s. An attorney from Pedersen & Houpt who regularly conducts business at the Public Administrator's Office was aware of the hardship on the Public Administrator that resulted from its lack of computer equipment. He arranged for his law firm to donate two (2) p.c.'s to the Public Administrator. Pedersen & Houpt had been planning to dispose of these p.c.'s, manufactured by Wyse, model no. #2112-40, because they had been rendered obsolete. [REDACTED] estimates that each p.c. is valued at approximately \$200. According to [REDACTED] the p.c.'s are 10 - 15 years old and can only be utilized for word processing functions.

Subsequently, the Office has received new computer equipment from the County. [REDACTED] has indicated that, accordingly, the Public Administrator's use of the equipment donated by Pedersen & Houpt is now used only in limited circumstances.

ISSUE

Can the Public Administrator accept used computer equipment donated from a law firm whose services it utilizes without violating the provisions of the Ethics Ordinance?

APPLICABLE SECTIONS OF THE ETHICS ORDINANCE

Article 1 Definitions.

Whenever used in this Ordinance, the following terms shall have the following meanings:

- ...
 - (h) "Employee" means an individual employed by the County whether part-time or full-time. Employee shall not include (i) judges of election; or (ii) individuals employed by the County for a specific project having a duration of not more than seven (7) days.
 - (i) "Financial Interest" means (i) any interest as a result of which the owner currently received or is entitled to receive in the future more than \$2,500 per year; (ii) any interest with a cost or present value of \$5,000 or more;

- (j) "Gift" means anything of value given without consideration or expectation of return.
- (l) "Official" means any elected Cook County official or any appointed non-employee member of any agency of Cook County.
- (m) "Person" means any individual, entity, corporation, partnership, firm, association, union, trust estate, as well as any parent or subsidiary of any of the foregoing, and whether or not operated for profit.

Article II Code of Conduct.

2.4 Receiving and Soliciting Gifts and Favors.

- ...
(b) No Official or Employee or any of their Relatives shall knowingly solicit, accept, receive or agree to receive, either directly or indirectly, anything of value, including but not limited to an alleged Gift, favor or promise of future employment, based upon any mutual understanding, either explicit or implicit, that the votes, official actions, decisions or judgments of such Official or Employee concerning the business of the County would be influenced.
- (d) No Gifts which have a value of greater than \$125 (or a series of gifts with an aggregate value of greater than \$125 during any twelve month period) may be received by officials, employees, or any relatives residing in their households from (1) Persons with a Financial Interest in County business; (2) Persons Seeking to do Business with the County; or (3) Persons who are compensated lobbyists on County matters. This prohibition shall not apply if the value of the gift in excess of \$125 is directly donated to a neighborhood, community or civic organization....

DISCUSSION

The underlying principle behind the Ethics Ordinance is that Employees and Officials must be fair and impartial and not use their County employment or office for personal gain. Toward this end, Section 2.4 of the Ethics Ordinance sets forth a number of restrictions on the receipt and solicitation of gifts by Employees and Officials. Section 2.4(d) prohibits Officials and Employees from accepting any Gifts with a value of greater than \$125 from Persons with a Financial Interest in County business. Pedersen & Houpt provides professional services to the Public Administrator, but Pedersen & Houpt is not paid with County funds. Nevertheless, the Public Administrator is responsible for business going to Pedersen & Houpt by providing the firm with the opportunity to generate revenue. Accordingly, Pedersen & Houpt has a Financial Interest in County business as defined in Article 1(i)(ii) of the Ethics Ordinance. However, the limitations on gifts set forth in Section 2.4(d) are intended to prohibit Officials and Employees from deriving *personal* economic gain through their County service. Section 2.4(d) is not intended to restrict the ability of County Employees and Officials to accept things of value that will be used to benefit the public. In this situation, the p.c.'s are being accepted by the Public Administrator for use by the County. Undoubtedly, the Public Administrator's use of the donated p.c.'s will enable the Office to operate in a more efficient, cost-effective manner. This in turn, will save taxpayers money and benefit the public. Therefore, since the gift of office equipment benefits the County, as a whole, rather than an individual Employee or Official, the fact that Pedersen & Houpt has a Financial Interest in County business does not preclude the Public Administrator from accepting the p.c.'s.

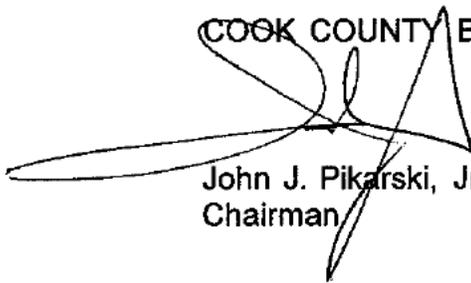
Under Section 2.4(b) of the Ordinance, Employees and Officials are prohibited from accepting anything of value where there is a mutual understanding that the business of the County will be influenced. So that Pedersen & Houpt is not under the mistaken impression that making a donation of office equipment to the Public Administrator will result in its receiving favorable treatment from the County, the Public Administrator should expressly inform Pedersen & Houpt that the decision to make any donations to the Office is purely voluntary.

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We hope that this opinion addresses your concerns. The Board thanks you for your inquiry and commends you for your conscientiousness in seeking to uphold the guiding principles of the Ethics Ordinance. Under the Rules & Regulations of the Cook County Board of Ethics, all requests for reconsideration of an advisory opinion must be filed within fifteen (15) days of receipt of this opinion. Please do not hesitate to contact our office if you have additional questions or require additional information.

Sincerely,

COOK COUNTY BOARD OF ETHICS



John J. Pikarski, Jr.
Chairman

LG/bh

