

Office of Government Ethics

81 x 29 -- 08/21/81

Letter to a Private Attorney dated August 21, 1981

In your letter of July 24, 1981, you have posed a post employment question concerning a client of yours who is a former Government employee.

Our answer is strictly limited to the statement of facts as presented by you. You represent that your client worked for a Federal agency for a number of years, that during that period he developed a technical manual for use by [facilities operated by the agency], that he later began a major revision of the manual, that after his retirement [the agency] called on him on two occasions to finish the revision, and that, inasmuch as the revision is still not complete, [the agency] would like him to return to the agency for this purpose. The difficulty arises in that your client is now employed by a private firm and [the agency] would have to contract with that firm for his services [to the agency]. The query arises whether under these circumstances your client would be in violation of 18 U.S.C. § 207.

The purpose of the post employment provisions contained in 18 U.S.C. § 207 is to avoid the "revolving door" syndrome inherent in which are the potentialities for the use of inside information and for continuing personal influence. B. Manning, Federal Conflict of Interest Law 179-180 (1964); S. Rep No. 170, 95th Cong., 1st. Sess. 31-33 (1977). This is not the situation here. [The agency] is seeking the unique talents of your client for the completion of a manual which he started while he was employed by that agency. Your client will be serving [the agency] and not seeking favors or using personal influence for his employer. His communications to [the agency] will not be made "with the intent to influence" the agency on behalf of his employer. 5 C.F.R. § 737.5(a)(5). As such they will not be prohibited by 18 U.S.C. § 207.

Additionally, the basic restriction of 18 U.S.C. § 207 is directed against a former Government employee's representation of another person in connection with a particular Government matter involving a specific party. 5 C.F.R. §§ 737.5(a), 737.7(a) and 737.9(a). Under these regulations, the manual may be a particular

matter, but it does not involve a specific party. Your client will not be utilizing information gained on a specific case during his Government service for his own benefit and that of his employer. S. Rep, supra, at 31. The manual is solely for the benefit of [the agency] with no identifiable parties. 5 C.F.R. § 735.5(c)(1).

In light of the foregoing, we conclude that your client would not be in violation of 18 U.S.C. § 207.

Sincerely,

J. Jackson Walter
Director