

**Office of Government Ethics**  
**81 x 16(2) -- 07/31/81**

**Letter to a Private Attorney dated July 31, 1981**

By letter dated July 13, 1981, you have asked the Office of Government Ethics whether a proposed severance payment to a partner of [a company] would be violative of 18 U.S.C. § 209. President Reagan has announced his intention to nominate [this individual] to a position requiring the advice and consent of the Senate ("the nominee").<sup>1</sup>

You have informed us that the proposed severance payment by [the Company] to [the nominee] would be made pursuant to the [Company's] written Severance Pay Plan which you previously sent to us on April 30, 1981. On May 8, 1981, we sent you a letter conditionally approving that Severance Pay Plan for purposes of 18 U.S.C. § 209 subject to certain provisos. The essence of those provisos were that "[we] must be satisfied as to each payment under the [Company's] Plan that partners going into 'public service' are in fact being compensated for past service to [the Company] (not as consideration for future activity or benefit to that company) and that entry into 'public service' is not always synonymous with entry into the Federal service." (The quote is from OGE's May 8, 1981 letter to you.)

We find that the representations in your July 13, 1981 letter to us satisfy the provisos mentioned above in regard to [the nominee]. Rather than repeat those representations, we incorporate them herein by reference. In brief, you have stated that [the nominee], with over twenty years of service as a key partner with [the Company], would be entitled under the Plan to a severance payment equal to one year's income as a partner (currently estimated at \$200,000 to \$250,000). The severance payment by [the Company] would be awarded to recognize his past distinguished service to the firm and is similar to prior awards to [one partner] (equivalent to 10 months of income as a partner) and to [another partner] (equivalent to one year's income as a partner). Significantly, the severance payments to [these two former partners] were awarded when one was leaving [the Company] to go to an academic position and the other to a private organization (neither a part of the Federal service). While these payments to [these two former partners] were made prior to the adoption of this 1981 written Severance Plan, we understand them to be made in the same manner as in the proposed payment under the Plan to [the nominee]. Finally, you have informed us that

according to your research [the nominee] is the only partner [of the Company] who has previously (in 1967) resigned to enter employment with the Federal Government since World War II.

We therefore determine that based on the representations in your letter of July 13, 1981, the conditions stated in our May 8, 1981 letter to you are satisfied and that [the Company's] intent in making this severance payment is a good faith effort to compensate [the nominee's] past service to [the Company] and not as consideration for any prospective Federal Government service.

Sincerely,

J. Jackson Walter  
Director

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**1** The Department of Justice and the Office of Government Ethics have previously ruled in October 1979 that the [person holding the position to which he was nominated] and other officers and employees of [the Office headed by this person] are subject to 18 U.S.C. §§ 207, 208, and 209, even though [the Office] is an "independent establishment" in the legislative branch.