

Office of Government Ethics

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Letter to a Former Federal Employee dated February 24, 1993

By letter of February 8, 1993, you asked that I send written confirmation of the conclusions that you drew from our telephone conversation of that same date relating to the applicability of 18 U.S.C. § 207(b) to certain of your proposed post-employment activities. While serving [in a Federal agency], you participated in internal discussions concerning certain trade negotiations that are still ongoing. A company wishes to hire you to prepare bimonthly written reports on future policy developments with respect to [certain trade negotiations]. As confirmed in your letter, you "do not anticipate that any of the privileged information [you] had access to while at the [agency] would be relevant, as the company is interested in policy developments under the Clinton Administration."

As I indicated during our telephone conversation, section 207(b) prohibits you from representing, aiding, or advising another concerning the [trade negotiations] "on the basis of" certain information relating to those negotiations that continues to be exempt from disclosure under the Freedom of Information Act. We have indicated that aid or advice will be considered given on the basis of this information if your aid or advice would either involve disclosure of the information to any person, or if it could not have been rendered but for your knowledge of that information. I believe it is possible to prepare summaries of new developments in these negotiations without running afoul of section 207(b). You must merely be careful not to disclose unreleased information to which you had access or use it as a basis to provide assistance that could not be rendered but for your past access to and knowledge of that information.

Sincerely,

Jane S. Ley
Deputy General Counsel