

## Advisory Opinion 1999-3

September 8, 1999

Re: . . . . .

Dear . . . . .

At its meeting last night, the Ethics Commission reviewed your August 11, 1999, memorandum to Ms. McNally in which you requested that the Commission approve . . . . . for a temporary assignment with the . . . . ., as a result of the early retirement of from the position of . . . . . within [your] Division." According to your memorandum:

. . . . . retired from the County, as the . . . . ., in the . . . . ., with the effective date of July 1, 1998. As a for over 20 years, is very familiar with the preparation and monitoring of the Division's Operating and CIP budgets, and with all the administrative procedures of the Division and the County. He acted as a Division Chief on many occasions and is, therefore, very well versed on what we do.

. . . . . is not currently employed, nor has he been employed with any organization doing business with the Division or any other County agency. In fact, he has not been employed with anyone since his retirement.

. . . . . has agreed to provide his services for this temporary assignment as a contractor/consultant, for a period not to extend beyond December 3, 1999, at or about the rate of pay he was making when he left the County Government service. The total cost of this assignment will be under \$25,000.

The only Public Ethics Law restrictions on the employment of a former public employee are the so-called 1-year and 10-year prohibitions of §19A-13 of the Montgomery County Code:

(a) A former public employee must not accept employment or assist any party, other than a County agency, in a case, contract, or other specific - matter for 10 years after the last date the employee significantly participated in the matter as a public employee.

(b) For one year after the effective date of termination from County employment a former public employee must not enter into any employment understanding or arrangement (express, implied, or tacit) with any person or business that contracts with a County agency if the public employee:

- (1) significantly participated in regulating the person or business; or,
- (2) had official responsibility concerning a contract with the person or business (except a nondiscretionary contract with a regulated public entity).

According to your memorandum, . . . . effective date of termination from County employment was July 1, 1998—more than one year ago. The 1-year prohibition, therefore, is not applicable to . . . . .

Secondly, nothing in your memorandum indicates that . . . . is accepting any employment or assisting any party , other than a County agency , in a case, contract, or other specific matter in which he significantly participated as a public employee. If that is the case, then the 10-year prohibition also does not apply to the use of . . . . services as described in your memorandum. If that is not the case, then the Commission requires a supplemental memorandum that sufficiently identifies the case, contract or other specific matter.

Very truly yours,

[signed]

Kenneth C. Jackson, Sr.

Chairman