

## **Office of Government Ethics**

**84 x 12 -- 06/14/84**

### **Letter to an Employee dated June 14, 1984**

This Office has completed its review of the circumstances surrounding the severance payment you received when you withdrew from [your former] law firm to accept [a presidential appointment at an agency].

Our decision in this matter revolved primarily on two major ethics-related considerations: the provisions of 18 U.S.C. § 209, which prohibit the receipt of any supplementation of salary from private sources as compensation for service to the Federal Government; and the executive branch regulations governing employee standards of conduct. Our determination was made after carefully weighing the indicia of intent as represented by the prior personnel practices of your former law firm; the nature, size and stated purpose of the payment; and the expressed nature of the services you performed while in the employ of the law firm.

We have reviewed the terms and events surrounding the creation of your withdrawal agreement with [the law firm], as well as the provisions of the [law firm's] partnership agreement. We have also considered statements made by you and members of the law firm's management committee, and the contents of newspaper coverage of this issue.

In particular, we have considered the law firm's stated position that the provisions of the firm's partnership agreement pertaining to severance payments state the minimum position of the firm, and that in practice the firm has recognized that exceptions could be made on an individually negotiated basis, particularly in the case of a withdrawing partner who has made extraordinary contributions to the firm. In addition, we have evaluated the practices employed by the law firm in ten prior cases of individual partner withdrawals, three of which involved severance payments in excess of the basic agreement, while the other seven cases resulted in no severance payments because the departing partners went to work for competing law firms.

We assessed your financial interest in the law firm at the time of severance by summing your approximate percentage

interests in the law firm's outstanding accounts receivable and its recorded but not yet billed time and compared it to the approximate amount you would have received for assets, accounts receivable and goodwill pursuant to the provisions of the law firm's partnership agreement and the severance payment you actually received.

Based upon our review, we are of the opinion that the severance payment you received was not intended to supplement your present salary and thus was not made in violation of the provisions of 18 U.S.C. § 209 or any other relevant conflict of interest laws or regulations.

Sincerely,

David H. Martin  
Director