

Office of Government Ethics

88 x 7 -- 03/23/88

Letter to a Private Attorney dated March 23, 1988

This responds to your letter concerning your firm's possible representation of [a corporation] in a lawsuit pending in [a] United States District Court. You have inquired about the applicability of 18 U.S.C. § 207(g) to your partners in the event your firm were to undertake the aforementioned representation, in light of the [former] employment of certain of your partners and an associate by [an Independent Counsel] in connection with the investigation and prosecution of various senior governmental officials [in the case]. Reference is also made to your March 21, 1988 telephone conversation with [the OGE staff attorney].

We confirm your understanding, set forth in your letter, that section 207(g) does not apply so as to limit the representational activities of any partners [of your law firm] if subsequent to March 22, 1988 your firm were to undertake to represent [the corporation] in the above-cited lawsuit or related cases which may be deemed part of the same particular matter as the Independent Counsel's investigation and prosecution, since none of your partners or associates is currently serving in the office of [the Independent Counsel]. You have stated that one of your partners resigned from [the Independent Counsel's] office several months ago and that the other partner [and associate] who [were] working there resigned [just prior to this request by you for this opinion].

Section 207(g) limits the representational activities of any partner of a current officer or employee of the United States Government in connection with any particular matter in which such officer or employee participates or has participated personally and substantially. Section 207(g), however, does not limit the representational activities of partners of former Government employees, such as [the two mentioned above].

In your letter, you have expressed your further understanding that the provisions of 18 U.S.C. § 207(a) through (c) will continue to apply so as to limit the representational activities of your partners and associates who formerly were serving in [the Independent Counsel's office]. You have indicated that you have in place procedures to ensure compliance with these post-

employment restrictions. We have not reviewed your screening procedures and take no position regarding their sufficiency in terms of the conflict-of-interest statutory scheme or any applicable bar rules.

Please let us know if we may be of further assistance.

Sincerely,

Frank Q. Nebeker
Director