

## **Office of Government Ethics**

**93 x 31 -- 10/26/93**

### **Letter to a Private Attorney dated October 26, 1993**

This letter is to confirm the substance of the conversation that took place between you, [another member] of your firm and [a member] of my staff concerning your letter of request dated October 7, 1993. It is this Office's position that a compensation arrangement for your partners who have recently left the Federal Government which is calculated based upon the estimated receipts from billings of the firm for services provided after Government service rather than based upon the actual receivables of the firm (which may include fees for representations made while the partners were still Government employees) would be an acceptable manner of avoiding the restrictions of 18 U.S.C. § 203.

You had indicated to [my staff member] that your firm would like to estimate the amount the firm was likely to receive from the billings sent out by the firm for services provided in calendar year 1993 and base the compensation of the two former Government officials on that estimate. That amount would be paid regardless of how accurate the estimate ultimately was. None of the billings would be for services rendered for representations to the Federal Government during the period that either of the two individuals served as full-time Government employees. We believe that would eliminate the central concern with section 203 that the individuals not share specifically in any fees earned by the firm for representations to the Federal Government made during any period in which the individuals were employed by the Federal Government.

With regard to the individuals' compensation arrangements for subsequent years, you will only have to make adjustments for fees paid by a particularly dilatory client for the type of representational services covered by this statute that were provided while the individuals were still Government employees, or for the firm's fee for a long-lived contingency fee case involving representations to the Government during their employment on a matter in which the Government was a party or had an interest.

If [my staff member's] understanding of the compensation proposal is not correct or if you have any additional questions, please do not hesitate to contact her or me.

Sincerely,

Stephen D. Potts  
Director