

Office of Government Ethics

79 x 3 -- 08/03/79

Letter to a Former Government Attorney dated August 3, 1979

This is in response to your letter of June 29, 1979, wherein you asked if the provisions of 18 U.S.C. § 207(g) require the resignation of a law firm which "hires a former Government attorney . . . from litigation which the (former) Government attorney was handling so long as the (former) Government attorney takes care to comply with the provisions of subsections (a) and (b)."

Section 207(g), which comes into play where a lawyer who is employed by the Federal Government is at the same time a member of a private law firm, prohibits any of his partners from representing a client in a matter in which he is or once was a participant in his governmental role or which is under his official responsibility. Section 207(g) does not apply to the situation where a law firm with a former Government employee among its partners has a retainer in a matter in which he had participated for the Government or which had been under his official responsibility. There is no statute which imputes his disqualification in either of those circumstances to his partners. Congress has left the resolution of questions of imputation to the bar associations through the enforcement of their ethical rules. See Disciplinary Rule 9-101(B) of the ABA Code of Professional Responsibility, requiring an attorney in private practice who had been in public service to disqualify himself from representing a client in a matter for which he had had substantial responsibility during such service; ABA Formal Opinion 342, 62 A.B.A.J. 517, which deals with the imputation to a law firm of a disqualification of one of its members under D.R. 9-101(B), and the Code of Professional Responsibility of the D.C. Bar to which, it should be noted, there are proposed amendments pertinent to your inquiry that are pending for approval by the D.C. Court of Appeals and that have been reported in the April/May 1979 issue of the D.C. Bar's District Lawyer, p. 47.

Sincerely yours,

Bernhardt K. Wruble
Director