

## **Office of Government Ethics**

**81 x 13 -- 03/20/81**

### **Letter to a Designated Agency Ethics**

**Official dated March 20, 1981**

Your letter of February 19, 1981, poses the question of "the extent to which United States Government employees \*\* who while employed participated personally and substantially in actual or potential claims against Iran, which involved or will involve a specific party or parties, are barred from representing such claimants before the Tribunal." You inform us that the Tribunal has been established to decide claims of United States nationals against Iran and Iranian claims against the United States, that it will consist of nine members (three to be appointed by the United States, three by Iran and the balance of those so selected) and that, in general, its business will be conducted in accordance with the arbitration rules of the United Nations Commission on International Trade Law.

We agree with your conclusion that 18 U.S.C. § 207 is not applicable to the former Government employees in their appearances before the Tribunal since the Tribunal is not a Department or agency of the United States. We also concur that a different situation exists for those claims under \$250,000 which are not directly presented to the Tribunal by the claimant but rather through the United States Government. In such claims, section 207 would apply to the former employees' representations back to the United States Government in how to present particular claims to the Tribunal.

We, of course, should point out that 18 U.S.C. § 207 is not the only consideration here. The applicable Bar rules should be consulted where, as here, we understand that one of the former employees is an attorney. As you know, Disciplinary Rule (DR) 9-901 (B) of the American Bar Association (ABA) Code of Professional Responsibility states that "A lawyer shall not accept private employment in a matter in which he had substantial responsibility while he was a public employee."

You are correct in stating that the prohibition of subsection (g) of 18 U.S.C. § 207 applies only to partners of firms of present Government employees. When the former Government employee rejoins the firm, the firm, while not itself within the prohibitions of 18 U.S.C. § 207, may be subject to the disability of the former

Government employee under that statute. DR 5-105 (D) of the ABA Code deals with the disqualification of a law firm where one of its partners is disqualified. See *Armstrong v. McAlpin*, 625 F.2d 433 (2d Cir. 1980). We suggest that you caution the former employee to consider this firm "imputed disqualification" rule as well.

Sincerely,

J. Jackson Walter  
Director