

Legal Opinion: GMP-0015

Index: 6.631  
Subject: Outside Legal Employment  
FOIA Exemption 6: Name Withheld

November 7, 1991

MEMORANDUM FOR:

FROM: Carole W. Wilson, Associate General Counsel for Equal  
Opportunity and Administrative Law, GM

SUBJECT: Outside Legal Employment

This responds to your October 17, 1991 memorandum to Aaron Santa Anna seeking advice regarding your continued outside legal practice. Under 5 C.F.R. 2635-203 (d) of the Department's Standards of Conduct regulation, attorneys with the Department must obtain the approval of a Deputy Counselor prior to engaging in outside legal activities. Consequently, I will treat your request for information as a request for permission.

You indicate that prior to your employment with HUD on [redacted], you were engaged in private practice. During this time, you were involved in three cases that are currently pending; two are before state courts; the third is before the Federal District Court. None of these cases involve the Department. The United States is not a party in any of these cases; neither does it have a direct and substantial interest in any case.

Based on the information you have provided, I am approving your request to complete your activity with these three cases. Nevertheless, several restrictions continue to apply. This work must be conducted entirely on your off-duty hours or while on approved annual leave. You are also prohibited from using HUD resources, including supplies, equipment or the services of HUD personnel to facilitate this work. Moreover, the amount of time devoted to this outside activity cannot impair your ability to perform your official duties. You should notify your immediate supervisor of this activity.

You should also be aware that 18 U.S.C. 203 and 205 prohibit Federal employees from representing anyone, with certain limited exceptions not here relevant, before any court or agency of the United States in connection with a matter in which the United States has a direct and substantial interest. These restrictions do not apply to your Federal court case because, from the facts presented, the only interested party is the cemetery company. However, should the United States acquire an interest in the case you must inform me and immediately remove yourself from the case.

Please contact Sam E. Hutchinson, Assistant General Counsel for Personnel and Ethics Law at 708-3087 if you have further questions regarding this matter.