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of the
SUPREME COURT OF ILLINOIS

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Todd W. Milliron
61 Cotswold Drive
P.O. Box 50
Yorkville, IL 60560

Chicago
October 29, 2007

Re: Jeffery L. McElroy
in relation to
Todd W. Milliron
No. 07-CI-4354

Dear Mr. Milliron:

Enclosed is a copy of the response of Jeffery L. McElroy to the matters about which you have complained.

If you believe the response is inaccurate or if you wish to provide additional information or documents, please write to me within fourteen days.

We will evaluate the matter and advise you of our decision. Again, thank you for your cooperation.

Very truly yours,

John R. Cesario
Senior Counsel

JRC:ms
Enclosure

LAW OFFICE OF JEFFERY L. MCELROY

ATTORNEY AT LAW

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October 24, 2007

John R. Cesario
ARDC
One Prudential Plaza
130 East Randolph Dr., Suite 1500
Chicago, IL 60601

Re: *Response Letter - 07-CI-4354*

Dear Mr. Cesario:

The following is my response to your October 2, 2007 letter regarding the abovementioned matter.

I was surprised to have received this inquiry, as I pride myself on being a person of honor and integrity. After a careful review of the Rules of Professional Conduct, I maintain that I have not violated any rule, but have assumed for the purposes of this response that the Complainant is alleging that I violated Rule 8.4(a)(3) and/or Rule 8.4 (a)(4). As is clear from the Complainant's letter, I was not acting as his attorney or in my capacity as a private attorney. As is explained below, my conduct was in no way criminal, dishonest, fraudulent or deceitful, but rather I raised a potential residency issue based solely on a genuine belief that Alderman-elect Plocher may not have met the residency requirement to serve as Alderman by not living in the ward.

This past April I was candidate for the position of Ward 2 Alderman in the United City of Yorkville. Ultimately, I lost the election to Mr. Arden Plocher. On or about May 1, 2007 it came to my attention that Mr. Plocher may not have resided in the ward for the required year preceding the election. Motivated by a genuine concern that Mr. Plocher may not have resided in the ward he was about to represent, I felt that I had an obligation to present this new information to the city for further investigation.

The purpose of my letter of objection to the City was to raise the issue of the possibility that Mr. Plocher was not living in the ward, thus not meeting the fundamental requirement of residency. The intent of my letter to the City Clerk was simple - investigate whether Mr. Plocher met the residency requirement to serve as Alderman. I had already determined that I could not be declared the winner of the election. However, if Mr. Plocher truly did not live in the ward for the year preceding the election, I felt Mr. Plocher should not be allowed to serve as the Alderman. Contrary to the Complainant's assertion, I had no forethought, intent or desire to delay the pending vote on the landfill siting process.

The information to support my letter of objection came in the form of a police report that a local attorney, John Wyeth, provided to me. He indicated to me that the report was given to him by another attorney. I did not seek out the report or initiate any request for it. I never inquired as to whether the report was received through a FOIA request. Additionally, I did not inquire further with respect to Mr. Wyeth's source, as I had no reason to believe that the report was not a true and accurate copy of the police report. Furthermore, after reviewing the police report, it was consistent with police reports I have seen in the past, and I continue to have no reason to believe that it was obtained unlawfully.

The only person to whom I sent the letter of objection and referenced police report was City Clerk Milschewski with the instruction that it be distributed to the appropriate city officials. I never sent a copy to any press or media outlet. I believe that I handled the information provided to me in an ethical, honest, and appropriate manner. If the City had concerns about the information in the reports being shared with the press it certainly could have redacted the information prior to sharing it with additional parties.

The Complainant seems to be concerned with the type of information that was in the police report that I tendered to the City Clerk. I believe that the report is clearly a public record as defined by the Freedom of Information Act. See 5 ILCS 140/2(c). In fact, the only difference between the report I tendered to the city and the FOIA copy the Complainant provides, is redacted social security numbers. The Complainant suggests that the social security numbers should have been exempt from disclosure. The relevant case law does not specifically address an individual's privacy rights to his or her social security number that might be included in a public document. See *Southern Illinoisan v. Ill. Dep't of Pub. Health*, 218 Ill. 2d 390 (2006); *Lieber v. Bd. of Trs. of S. Ill. Univ.*, 176 Ill. 2d 401 (1997).

Furthermore, if there is a duty under FOIA to withhold such information, this duty would be imposed on the public body, in this case, the City of Yorkville. FOIA does not require an individual to withhold private information from a public record that the person believes to be true and accurate.

Apparently, the policy of the Yorkville Police Department at one time was to provide police reports unedited with social security information unredacted. (See Exhibit A, attached). The Exhibit is a copy of a news article from the local paper in which Police Chief Harold Martin acknowledges that the department policy was to send out police reports "as-is" with social security information unredacted. The FOIA copy presented by the Complainant has this information redacted; thus I can only assume that the Yorkville Police Department has since amended its policy and practice.

The Complainant references a legal challenge to Mr. Plocher's installation as Alderman. I did research the possibility of such a legal challenge to the election results. In fact, I was approached numerous times by the group that did challenge Mr. Plocher's installation as Alderman. They asked if I would consider being the Plaintiff in the case and in each instance I declined. I decided that I did not want to be a part of any litigation as I did not believe that it was in the public interest. I did not have any part, as a party or attorney, in the case cited by the Complainant and remain unclear as to its relevance in this matter.

~~At all times in my professional and private life, I conduct myself in an honest and ethical manner.~~ I feel that my conduct in this matter was no exception. For the above stated reasons, I respectfully request that this inquiry be dismissed without further action by the ARDC.

Respectfully submitted,

By: 

Jeffery L. McElroy

Enc.