

LAW OFFICES

ISAAC & MARKS

A PROFESSIONAL CORPORATION

315 SOUTH BEVERLY DRIVE

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BEVERLY HILLS, CALIFORNIA 90212

(213) 278-1366 AND 879-0105

OF COUNSEL
ADA P. SANDS

GODFREY ISAAC
ROSALIND MARKS
CHRISTOPHER CHAPIN

August 27, 1984

Dr. William E. Thornton
701 Coward's Creek Road
Friendswood, Texas 77546

Dear Dr. Thornton:

I am sorry that there has been confusion as to your participation with AVIONICS RESEARCH PRODUCTS, which I am assuming is the same company as DEL MAR AVIONICS. (Please inform me if they are different companies, since your NASA Approval of January 15, 1968 "to be consultant" refers to AVIONICS RESEARCH PRODUCTS). You have raised several questions, including the basic significance of 18USC208.

I have reviewed the notes you sent me and considered our several telephone conversations. In addition, I have reread 18USC208 and looked at a few pertinent cases. A full, comprehensive analysis and brief would cost several thousand dollars and does not seem to be necessary. Obviously, we would undertake that as a project if you requested it and were in a position to spend the extra money.

However, pursuant to our telephonic agreement, I have reached several conclusions. 18USC208 is relatively self-explanatory and, as you know, prohibits participating through rendering advice in a contract in which the employee has an interest as an employee or financially. It does not apply where "the interest is not so substantial as to be deemed likely to affect the integrity" of your services and where you have a written determination of that fact. Your January 13, 1983 "Waiver" appears to comply with the Statute provided there was nothing that occurred before January 13, 1983 that could be deemed a violation.

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If you have a law library available to you, I recommend reading a 1960 case, United States v. Mississippi Valley Generating Co., 364 U.S. 520. It is fairly comprehensive in describing the United States Supreme Court's general overview of the Statute. It will give you the flavor of the law. Among other things, it points out that the reasonableness or unreasonableness of the contract negotiated is immaterial. It further emphasizes that actual corruption or actual loss are not required and that the Act is more concerned with "what might have happened then with what actually happened."

Conflict of interest concepts are somewhat scary because good people with great motivation that actually help the government could be convicted. For a violation of 18USC208, a person convicted can receive a sentence of not more than 2 years in prison or a fine of not more than \$10,000.00, or both.

These aspects are not being presented to make you worry, but so that you will have knowledge of the scope. In your case, there are two positive facts: (1) Your approval to be a consultant to AVIONICS RESEARCH PRODUCTS; and (2) your waiver as to 18USC208. In addition, your "intent" is beyond question.

As I noted above, I am assuming that DEL MAR AVIONICS and AVIONICS RESEARCH PRODUCTS are one and the same. If not, there may have been a violation. Has there been a change in ownership, corporate entity or anything of that nature? That could make a difference.

Meanwhile, I am enclosing a proposed letter which I recommend sending to Henry Flagg, Chief Counsel, in light of his having made a comment that you have to be careful because "it could be a felony".

I will be out of the country from August 31, 1984 until September 16, 1984, but my office will have my itinerary in case of emergency. You will also find enclosed my Statement for \$750.00 for services rendered to date as we discussed.

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Warm personal regards.

Sincerely,

ISAAC & MARKS

A Professional Corporation

By: 

GODFREY ISAAC

GI:ac

Enclosure

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STATEMENT

Legal Services Rendered

\$750.00

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