

K11-056

Murawski, Michael P. (COE)

From: Ethics (COE)
Sent: Monday, March 28, 2011 4:36 PM
To: Murawski, Michael P. (COE)
Subject: FW: Ethics Opinion

Mike:

Let's discuss.

Thanks,

Robert

M: Please give this a
 "k" number, assign to
 me + close out.
 RE: Advised that
 opinion can not be
 issued to
 3rd party.

From: Thomas Pepe [mailto:pepenemirepa@gmail.com]
Sent: Monday, March 28, 2011 4:02 PM
To: Ethics (COE)
Subject: Ethics Opinion

thanks

Whether a city commissioner could ethically vote on March 15, 2011 for the appointment of a person ("the Attorney") to become the city's attorney when the Attorney previously represented the commissioner several years before (in 2008) in an election dispute concerning a 2008 election and where the commissioner had a potential claim against Miami Dade County for negligent performance of its contractual duty to conduct the city's elections which resulted in the need to hire the Attorney and where the balance of the substantial fees owed to the Attorney were paid by assigning to the Attorney the commissioner's claim against the county.

The commissioner turned down a potential recovery of her attorney's fees from the League of Cities believing that she no longer had a claim and that this matter concerning her obligation to pay attorney fees was "all water under the bridge".

The assignment was in writing and signed by both the commissioner and the Attorney in 2008.

The attorney did substantial research thereafter both legal and factual and served the county with his notice of claim on August 7, 2008.

The Attorney has not filed suit on the claim because he now has discovered that the only liability of the county for the commissioner's attorney fees would be based on her status as a third party beneficiary of the county's contractual duty and, to date, no written contract has been discovered.