

**Frigo, Victoria (COE)**

**From:** Frigo, Victoria (COE)  
**Sent:** Wednesday, March 14, 2007 11:30 AM  
**To:** Hearn, John  
**Subject:** INQ 07-39 Purchase of upgrade for mail sorting machine

INQ 07-39

Hello John,

I've discussed your question with Robert Meyers, and we agree on the following:

- The council member has a voting conflict under § 2-11.1 (d) of the County Ethics Code because his employer will be seeking a benefit from the city council (i.e., the sale of an upgrade to the mail sorter). Consequently, the council member must absent himself from all discussions regarding the city's purchase of this upgrade and not vote or participate in any way on the matter.
- The council member's employment relationship does not void the contract.

As you have explained, the council member does not have a controlling financial interest in his employer's company, which satisfies the first paragraph of § 2-11.1 (d).

Furthermore, under § 2-11.1 (c), the facts presented by you indicate that the council member does not have a direct or indirect financial interest in his employer's company. Specifically, the council member will not receive a commission on the sale; thus, he will not profit or be enhanced by the sale directly. Additionally, any profit to his company as a result of this sale is relatively minor and would not trigger an indirect benefit to the council member.

Please do not hesitate to call if we can be of further assistance.

Sincerely,

Victoria Frigo  
 Staff Attorney  
 Miami-Dade Co. Commission on Ethics  
 Direct phone: (305) 350-0601  
 Fax: (305) 579-0273

[www.miamidade.gov/ethics](http://www.miamidade.gov/ethics)

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-----Original Message-----

**From:** attyhearn@aol.com [mailto:attyhearn@aol.com]  
**Sent:** Tuesday, March 13, 2007 4:44 PM  
**To:** Frigo, Victoria (COE)  
**Subject:** Purchase of upgrade for mail sorting machine

Victoria, This e-mail shall serve as a follow up to our conversation. I have a council member who is employed as a sales rep. for a large company (national if not international). Years ago, the City purchased a mail sorter machine from this company. They are now looking to upgrade that machine by purchasing complimentary equipment. They will be using a state contract in

3/14/2007

order to purchase that equipment. The council member will have no involvement with the sale, will make no commission or receive any benefit or credit as a result of the purchase. As we discussed, he would absent himself from item, declare a conflict and not vote.

I have been informed by staff that there is no other company that could provide this upgraded equipment for this machine. My question is whether this item can be considered by the rest of Council or whether this would be considered an impermissible conflict making any contract to purchase equipment void. Let me know if you need further information. Thanks as always for your and your departments assistance on these matters!

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**Frigo, Victoria (COE)**

**From:** Frigo, Victoria (COE)  
**Sent:** Wednesday, March 14, 2007 12:25 PM  
**To:** 'attyhearn@aol.com'  
**Subject:** INQ 07-39 Please contact State for interpretation of State Ethics Law

John,

You must contact the State Ethics Commission to determine if the matter violates State law. We do not have jurisdiction to interpret State law. The number for the Florida Commission on Ethics is 850 488-7864.

Victoria Frigo  
 Staff Attorney  
 Miami-Dade Co. Commission on Ethics  
 Direct phone: (305) 350-0601  
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**From:** attyhearn@aol.com [mailto:attyhearn@aol.com]  
**Sent:** Wednesday, March 14, 2007 12:00 PM  
**To:** Frigo, Victoria (COE)  
**Subject:** Re: INQ 07-39 Purchase of upgrade for mail sorting machine

Victoria, Am I right in assuming that if no conflict under County Ethics Code than no conflict with State Ethics as well (ie Chapter 112)? Thanks again.

-----Original Message-----

**From:** FRIGOV@miamidade.gov  
**To:** attyhearn@aol.com  
**Sent:** Wed, 14 Mar 2007 11:29 AM  
**Subject:** INQ 07-39 Purchase of upgrade for mail sorting machine

Hello John,

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Furthermore, under § 2-11.1 (c), the facts presented by you indicate that the council member does not have a direct or indirect financial interest in his employer's company. Specifically, the council member will not receive a commission on the sale; thus, he will not profit or be enhanced by the sale directly. Additionally, any profit to his company as a result of this sale is relatively minor and would not trigger an indirect benefit to the council member.

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