

Meyers, Robert (COE)

To: Arlene Jordan

Subject: RE: Section 2-11.1 Miami-Dade County Code

IN 03-125

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David,

I read the reply you received from the State and I want to weigh in on this matter from the local perspective. As you know the County Conflict of Interest and Code of Ethics Ordinance is applicable to all of the Miami-Dade County municipalities. The relevant facts are that your firm is seeking to serve as Independent Counsel to the City of Miami Civilian Investigative Panel (CIP) and one of your shareholders is the son of a CIP member. Section 2-11.1(d) of the County Code creates limitations on business entities wishing to transact business with government departments or boards. An individual board member is barred from doing business with his/her board when the board member or his/her immediate family holds a controlling financial interest in a firm that seeks to do business with the government board on which the individual sits. Generally speaking, a controlling financial interest is defined as ten percent ownership of the firm, but there are circumstances under which a person has less than a ten percent interest but still meets the definition of a controlling financial interest. Moreover, immediate family is defined as parents, spouse of children.

In the instant case, your firm's shareholder, who is the son of one of the members of the CIP, does not hold a direct or indirect controlling financial interest in the firm. Therefore, the County Code of Ethics Ordinance would not prohibit the firm from entering into a contract with the CIP.

If you have any additional questions, please contact me at your convenience.

Sincerely,

Robert Meyers
Executive Director

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

From: Arlene Jordan [mailto:AJordan@wsh-law.com]
Sent: Tuesday, December 16, 2003 3:37 PM
To: Meyers, Robert (COE)
Cc: David M. Wolpin
Subject: Section 2-11.1 Miami-Dade County Code

Dear Robert:

As we discussed yesterday, our firm has been invited to submit a proposal to the City of Miami Civilian Investigative Panel (the "CIP") to serve as its "Independent Counsel." We are concerned with whether the hiring of our firm by that agency would be prohibited by Section 2-11.1 of the Miami-Dade County Ethics Code.^[1] The purpose of this memo is to request your staff's opinion on this issue.

The City of Miami recently established the CIP, which serves as an independent, citizens' oversight of the Miami Police Department. The CIP is comprised of thirteen (13) members appointed by the Mayor, City Commission, and Chief of Police. The City ordinance creating the CIP provides for engagement of Independent Counsel. The Independent Counsel is the primary legal adviser to the CIP and is hired by the CIP, subject to approval of the City Attorney.

Our firm is a "professional association" under Florida Statutes Chapter 621. Our firm is not a partnership. We have 40 lawyers, of which 13 are "shareholders." One of the shareholders in our firm is the son of a CIP member. He is the holder of 450 shares of non-voting Class B Stock, which represents less than a 1% interest in the equity of the firm and his shares are subject to a repurchase option by the firm. He is a salaried employee. He does not hold any office nor is he a director of the firm. Management and control of our firm is vested solely in the voting Class A stockholders and the foregoing shareholder owns no Class A voting stock. He will not be assigned to advise the CIP as part of our proposed service as Independent Counsel. Christopher Kurtz is proposed to be our firm employee who is the primary attorney for this work. I will likely be assigned as his back-up.

While we do not believe that the hiring of our firm by the CIP is prohibited by Section 2-11.1, the purpose of this letter is to request an informal decision from your office.[2]

Thank you very much for your assistance. Please call if you have any questions or require further information.

David M. Wolpin

[1]/ The subsections of Section 2-11.1 which are pertinent to our inquiry include subsections (c) and (d).

[2]/ We have made a similar request for advice from the State Commission on Ethics concerning Section 12.313, Florida Statutes.

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