

Meyers, Robert (COE)

From: Meyers, Robert (COE)
Sent: Wednesday, August 04, 2004 2:11 PM
To: 'David M. Wolpin'
Subject: RE: Sec. 2-11.1 (n) " Actions Prohibited When Financial Interests Involved"

TNG 04-100

David,

Sorry for the delay, but I did speak to Christina Prkic about this matter and we agree that the facts you have described below do not amount to a violation of 2-11.1(n) of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance. I agree with your interpretation that the city engineer, who is asked to serve as project manager on a project in which his former employer is selected to perform work under this project, does not stand to benefit financially from this arrangement because his pension rights were fully vested when he separated from the firm and his current financial interests are in the hands of mutual funds managers, rather than his former employer.

If you wish to discuss the above in greater detail, do not hesitate to contact me.

Thanks,

Robert

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

From: David M. Wolpin [mailto:DWolpin@wsh-law.com]
Sent: Wednesday, August 04, 2004 12:27 PM
To: rmeyers@miamidade.gov
Subject: FW: Sec. 2-11.1 (n) " Actions Prohibited When Financial Interests Involved"

Hi Robert--sorry to bother you on this, but have you had a chance to review my email?

Additional information I have found is that the delay in removal of funds is do to the Plan being in the process of being terminated and that the former employee's funds in the Plan will be affected not by any firm earnings but solely by investment earnings from the mutual funds, etc., in which the Plan is invested. Thanks.

> -----Original Message-----

> **From:** David M. Wolpin
> **Sent:** Tuesday, July 27, 2004 2:21 PM
> **To:** 'RMEYERS@miamidade.gov'
> **Subject:** Sec. 2-11.1 (n) " Actions Prohibited When Financial Interests Involved"

>

>

> Hi Robert - I hope you are doing well.

> Please advise me of your view of the following matter under the above cited provision.

> Would an in - house full time city engineer be precluded from serving as a city's project manager on a project if the firm selected to perform the project is one for which the engineer had previously worked for before joining the city ,under circumstances in which the city engineer is a fully vested member of his former employers profit sharing plan, but who can not remove his funds from the plan until a period of one year has elapsed following his leaving the employ of the firm. The firm's contributions to the Plan(administered by a third party) are determined by prior years income and are not based upon any current earnings from the city or other customers . It seems to me

that this is not the type of financial interest which the code is intended to bar, in that there is no incentive for the city engineer to enhance his former employer since his interests are already vested and determined and are invested in mutual funds rather than in the employer itself. Thanks for your staff advice on this .

> David M. Wolpin, Esquire
> Weiss Serota Helfman Pastoriza
> Guedes Cole & Boniske, P.A.
> 2665 South Bayshore Drive, Suite 420
> Miami, Florida 33133
> Telephone: (305) 854-0800
> Facsimile: (305) 854-2323
> Email: dwolpin@wsh-law.com

>
> This message, together with any attachments, is intended only for the addressee. It may contain information which is legally privileged, confidential and exempt from disclosure. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, use or any action or reliance on this communication is strictly prohibited. If you have received this email in error, please notify the sender immediately by telephone at (305) 854-0800 or by return email and delete the message along with any attachments.

>