

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, June 07, 2018 2:17 PM
To: Sanchez, Rodzandra (COE)
Subject: FW: INQ 18-139 Norman Powell , Village Attorney, North bay Village and El Portal, (Outside Employment)

INQ 18-139 Powell

From: Murawski, Michael P. (COE)
Sent: Thursday, June 07, 2018 1:46 PM
To: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>
Subject: INQ 18-139 Norman Powell

From: Murawski, Michael P. (COE) [<mailto:Michael.Murawski@miamidade.gov>]
Sent: Friday, June 01, 2018 12:00 PM
To: Norman Powell
Cc: Nesmith, Susannah (COE)
Subject: conflict issue
Importance: High

Dear Mr. Powell:

As we discussed yesterday, take a look at the link below, specifically the portion under the section marked "**What is an "office" for purposes of the dual office holding prohibition?**" the paragraph that starts out "Over the years." It references AG opinion 70-13.

<http://myfloridalegal.com/pages.nsf/0/92E25864D475966F85256CC6007B96CB#2>

We are of the opinion that because you serve as the Village Attorney for North Bay Village and for El Portal that your service as a Traffic Magistrate conflicts with your employment with those cities in so far as you adjudicate cases (tickets) issued by officers from those cities.

Section 2-11.1(j) of the Conflict of Interest and Code of Ethics ordinance is entitled "Conflicting employment prohibited" it states that "No person included in the terms defined in subsections (b)(1) through (6) and (b)(13) [which would include City Attorney] shall accept other employment which would impair his or her independence of judgment in the performance of his or her public duties."

This conflict is buttressed by the Judicial Ethics Advisory Committee opinion below:

Thus, if the hearing officer in question is working as a city attorney on non-traffic cases, his/her dual employment seems permissible. However, if, in the course of his/her employment, the traffic officer becomes friends, or develops a professional relationship with, someone also working for the city [e.g. a police officer], and this other person then appears in the hearing officer's courtroom, disclosure and/or disqualification may be required. See Fla. JEAC Op. 2017-01

This Committee has previously dealt with questions dealing with disclosure of close personal friendships between judges and attorneys appearing before the judge. In JEAC Op. 2004-35, this Committee recognized that "the question of when a judge must reveal [a] close, personal relationship with an attorney is very difficult to

address.” (quoting Fla. JEAC Op. [93-56](#)). However, the Committee nevertheless, recommended that the judge disclose the existence of the friendship if, in the judge’s estimation, the nature of the friendship is sufficient to warrant reasonable concern over the judge’s impartiality.”

Regards,

Mike Murawski