

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Tuesday, February 06, 2007 3:34 PM
To: 'attyhearn@aol.com'
Subject: RE: INQ 07-11 City Mayor/Attorney Conflicts

Hello John,

- (1) Under (m) of the Code, if the mayor becomes a partner in a firm, he will create a conflict for other partners and associates in the firm because, as a partner, he shares in the profits of the firm. Consequently, other partners and associates cannot appear before the city where the mayor serves.
 - o Please note, if the mayor is a partner, recusal by the mayor does not cure the conflict.
 - o It is questionable whether the conflict can be avoided if the mayor is not a partner and his compensation is not related to the firm's profits. The opinion would rest on the specific facts of his employment and an interpretation of the phrase "indirect benefit." An indirect benefit is frequently seen as speculative or de minimis. We'd need to bring this question to the Ethics Commission.
- (2) Section (c) of the Code specifically prohibits the mayor and his firm from transacting business with the city, regardless of the mayor's employment relationship with the firm. Consequently, the firm would not be able to enter into a contract to represent the city. (You'll notice there are limited exclusions to this rule for city employees, but not for the mayor or commissioners.)

I hope this helps.

Victoria

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

www.miamidade.gov/ethics

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

From: attyhearn@aol.com [mailto:attyhearn@aol.com]
Sent: Tuesday, February 06, 2007 10:01 AM
To: Frigo, Victoria (COE)
Subject: Re: INQ 07-11 City Mayor/Attorney Conflicts

Thanks for the quick response. I have a couple of follow up questions:

- (1) Based on 2-11 below, does that mean that a partner or associate from the firm where the Mayor is a partner appear before Council as long as Mayor absents himself from the item?
- (2) Also, are there circumstances where the firm could represent the City depending on the Mayor's relationship with the firm (ie of counsel) on certain issues? My understanding is that is not allowed however I did not see that in your earlier response.

2/6/2007

Thanks so much for your assistance Victoria. I have a meeting scheduled with the Mayor tomorrow afternoon on these issues. Thanks again.

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

From: FRIGOV@miamidade.gov
 To: attyhearn@aol.com
 Cc: RMEYERS@miamidade.gov
 Sent: Wed, 31 Jan 2007 4:05 PM
 Subject: INQ 07-11 City Mayor/Attorney Conflicts

MEMO

TO: John Hearn
 COPY: Robert Meyers
 FROM: Victoria Frigo
 DATE: January 31, 2007
 RE: INQ 07-11 City Mayor/Attorney Conflicts

John,

You asked about possible conflicts for a city mayor who may associated with a law firm that represents clients before the mayor's city government.

After discussing this question with Robert Meyers, we concluded that the mayor has several limitations under Sections 2-11.1 (m) and (d) of the Ethics Code.

Under Section (m), the mayor may *not*—

-  appear before any city entity on behalf of third parties,
-  receive compensation, directly or indirectly, or in any form, for services rendered to a third person who has applied for or is seeking some benefit from the city,
-  appear in any court or before any administrative tribunal as counsel or legal advisor to a party who seeks legal relief from the city through the suit in question.

Under Section 2-11.1 (d), the mayor may *not*—

-  vote on any matters affecting the clients of the law firm he associates with, regardless of whether his association with the law firm is "of counsel," partner, employee, or consultant.
-  In this situation, the mayor is required to absent himself from city council meetings during discussions regarding these clients and not vote or participate in any way on matters involving these clients.

Please feel free to contact me, John, if you'd like to discuss these comments in greater detail.

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Frigo, Victoria (COE)

From: attyhearn@aol.com
Sent: Monday, January 29, 2007 6:23 PM
To: Frigo, Victoria (COE)
Subject: Question re attorneys who are also commissioners

Happy New Year! Hope all well. Have a question re Commissioners who are attorneys and certain prohibitions on representation. Call when you can. Thanks!

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M E M O

COMMISSION ON ETHICS & PUBLIC TRUST

TO: John Hearn, City Attorney, City of Doral

COPY: Robert Meyers, Executive Director

FROM: Victoria Frigo, Staff Attorney

DATE: August 2, 2005

RE: INQ 05-115 Various Conflict of Interest Questions regarding City Officials

QUESTION 1: May the law partner of a city mayor represent clients in matters not related to city business?

ANSWER: YES, as long as the mayor does not benefit these clients by exploiting his official position (prohibited under Section 2-11.1 (g) of the Conflict of Interest and Code of Ethics Ordinance) or by disclosing confidential information obtained through his official position (prohibited under Section 2-11.1 (h)).

QUESTION 2: May the law partner of a city mayor represent clients in matters *before city government*?

ANSWER: NO. Section 2-11.1 (m) prohibits the mayor (and his law partner) from appearing before any city entity adjudicating city-related matters on behalf of a third parties. Additionally, Section 2-11.1 (d) prohibits the mayor from voting on any matters affecting the clients of his law partner. In this situation, the mayor is required to absent himself from the council meeting during discussions regarding these clients and not vote or participate in any way on matters involving these clients.

QUESTION 3: May a city commissioner, while employed by a large insurance company, vote on matters relating to the *clients of other agents* within the insurance company?

ANSWER: YES. As long as the city commissioner does not benefit financially from the decisions made regarding these clients, the commissioner may vote on matters before the city council that affect other agents' clients.