

Meyers, Robert (COE)

INQ 09-98

From: Meyers, Robert (COE)
Sent: Friday, June 19, 2009 8:55 AM
To: Fajardo, Max (Aviation)
Subject: RE: Opinion Request

Yes, that changes everything. Since the band is not entering into a contract with Miami-Dade County, no conflict of interest exists.

Robert Meyers

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

From: Fajardo, Max (Aviation) [mailto:MFAJARDO@miami-airport.com]
Sent: Thursday, June 18, 2009 7:07 PM
To: Meyers, Robert (COE)
Subject: Re: Opinion Request

Hello again, further information has come to light which I was not aware of till literally right now. The band will be paid by Florida Airports Council and will use no Aviation Department funds therefore based on this information this in no way would be a conflict as the band is not being hired by nor paid by the County. Actually we are being hired by a separate entity that is using their own funding. Please advise with your thoughts. Thank you so much for providing guidance.

Max Fajardo
Deputy Aviation Director

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

From: Fajardo, Max (Aviation)
To: 'Meyers, Robert (COE)' <RMEYERS@miamidade.gov>
Sent: Thu Jun 18 18:32:26 2009
Subject: RE: Opinion Request

Thanks for the clarification. The truth is we are all independent contractors, there is no head and this is not an incorporated business. A check is normally written to the drummer who then pays the rest of us, we each pay our own income taxes. This is our usual process and no different would be employed here. This being the case then based on your explanation this would seem not be a violation. Is this correct? Even if correct, this sounds tainted already. Please advise and then I will make a decision how to proceed which will probably be not to play at all as it is not worth the scrutiny.

Max Fajardo, E.I.
Deputy Aviation Director
(305) 876-7129 Office
(305) 876-0948 Fax

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

From: Meyers, Robert (COE) [mailto:RMEYERS@miamidade.gov]
Sent: Thursday, June 18, 2009 4:07 PM
To: Fajardo, Max (Aviation)
Subject: RE: Opinion Request

Mr. Fajardo:

If payment is made to the band and you are one of its principals, you would still have a problem under the ethics laws. It wouldn't really matter who accepts the check. If the band treats you as an independent contractor and pays you after it gets paid, you would not be transacting business with your department and it would be allowed. However, it might not be appropriate to create a different payment method for this gig in order to circumvent the ethics laws.

There are two other options for you to consider: 1) Have a party other than the County

Aviation Department pay the band or 2) Decline compensation for this event. The other band members could still be paid, but you would agree not to accept payment for this performance due the restrictions contained in the county's ethics ordinance.

Please let me know what you choose to do.

Thanks,

Robert Meyers

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

From: Fajardo, Max (Aviation) [mailto:MFAJARDO@miami-airport.com]
Sent: Thursday, June 18, 2009 10:25 AM
To: Meyers, Robert (COE)
Subject: RE: Opinion Request

Thanks for your response, I know you are busy. Are you saying that if the contract was through one of my band mates, which it normally is as I do not handle band business, then it would not be a violation or conflict? Please advise or should I call?

Max Fajardo, E.I.
Deputy Aviation Director
(305) 876-7129 Office
(305) 876-0948 Fax

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

From: Meyers, Robert (COE) [mailto:RMEYERS@miamidade.gov]
Sent: Thursday, June 18, 2009 10:00 AM
To: Fajardo, Max (Aviation)
Subject: RE: Opinion Request

Mr. Fajardo:

I apologize for not responding sooner. I assume that you are expecting to be compensated for your performance. If I am correct, then you run into the problem of transacting business with your agency. The Aviation Department could not pay you directly, as this would violate the county ethics ordinance. If you can identify a different source of payment, then it would be permissible under the county ethics code.

Please feel free to contact me if you wish to discuss.

Thank you,

Robert Meyers, Executive Director
Miami-Dade Commission on Ethics and Public Trust

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

From: Fajardo, Max (Aviation) [mailto:MFAJARDO@miami-airport.com]
Sent: Wednesday, June 17, 2009 7:56 PM
To: Meyers, Robert (COE)
Subject: RE: Opinion Request

Hello sir, I have not gotten a response from you as yet. Know you are busy and get a lot of these but could you please provide an opinion as time is getting close. Thank you in advance.

Max Fajardo, E.I.
Deputy Aviation Director
(305) 876-7129 Office
(305) 876-0948 Fax

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

From: Fajardo, Max (Aviation)
Sent: Saturday, April 25, 2009 12:23 AM

To: Meyers, Robert (COE)
Subject: Opinion Request

Good evening Robert: I need an opinion to the following situation as I do not want to have any issues or conflicts:

I am Deputy Aviation Director at the Miami Dade Aviation Dept reporting to Jose Abreu. In August of this year the Aviation Dept will be host to the Florida Airports Council's Annual meeting where most airports in Florida participate in group meetings, seminars and vendor exhibits, all related to Aviation.

I have been asked by the event planning staff to consider performing with my musical group at an evening reception which will be hosted and funded by the Miami Dade Aviation Dept. and as expected the entertainment will be at a cost. We would like to play however I feel it awkward and will perform only if there is no conflict for me in doing so. Is this considered a conflict or improper as I work for the Department who is funding the event and paying the band?

It has been my policy not to perform at any County Sponsored event for there to be no appearance of conflict even though these events are after hours and I have an approved outside employment form. The organizers have expressed this would be a "novelty" but I advised I would ask for an opinion and get back to them.

Please advise with an opinion and I thank you in advance for your time.
Max Fajardo
Deputy Aviation Director