

Meyers, Robert (COE)

FNO 10-129

From: Meyers, Robert (COE)
Sent: Tuesday, July 13, 2010 2:20 PM
To: Meyers, Robert (COE)
Subject: Inquiry

I spoke to Jose Smith, City Attorney (Miami Beach), on July 9, 2010 about whether City Commission Michael Gongora has a conflict which would prevent him from voting on the retention of the Special Master on Miami Beach. There are several individuals who serve as special masters, but only the chief special master is appointed by the City Commission. According to Mr. Smith, the Special Master has a term of 6 months, which is renewable at the discretion of the City Commission. The Special Master is independent in the sense that decisions of the Special Master are appealed directly into circuit court – the City Commission does not review the decisions. Commissioner Gongora is an attorney with Becker Poliakoff, a firm which regularly appears before the Special Master. Commissioner Gongora has let it be known that he believes the current special master is too tough on violators and should not be retained. The question Mr. Smith posed is whether Commissioner Gongora's bias against the current special master would create a voting conflict by virtue of the fact that his law firm represents clients who appear before the special master and members of the firms and their clients may have expressed their unhappiness with the special master.

I advised Mr. Smith that Commissioner Gongora does not have a voting conflict of interest. There does not appear to be any financial benefit to Mr. Gongora or his law firm whether the current special master is retained or replaced and there is no guarantee that the new special master, assuming the current one is replaced, will make decisions more favorable to the firm and its clients. Even if it could be proven that the replacement special master will render more favorable decisions, there is nothing to suggest that the only beneficiaries of the more lenient decisions will be clients of Becker Poliakoff. A perception of a conflict could be created only if Commissioner Gongora indicated that his dissatisfaction with the special master was solely related to the decisions the special master made concerning clients of Becker Poliakoff. However, appearances of improprieties do not create legal conflicts under the County ethics code.

Robert Meyers
July 13, 2010

7/13/2010