

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Thursday, November 07, 2013 2:59 PM
To: 'lmiller@townofsurfsidefl.gov'
Cc: Centorino, Joseph (COE); Diaz-Greco, Gilma M. (COE)
Subject: Question re: conflict letter (INQ 13-283)

Hello Linda,

Joe Centorino asked me to respond to your request to review the letter sent to the Town of Surfside by UBS Financial Services regarding a prospective appointee to the Town Pension Board who is employed by UBS.

The letter is problematic because it does not recognize the authority of the County Ethics Code over municipal board members, which imposes limitations on them relative to their private employers and/or personal financial interests.

In general, a UBS employee is likely to have a conflict of interest to serve on the Town Pension Board and make official recommendations related to his/her employer. At the very minimum, s/he will never be able to participate in or vote on any matter related to his/her employer if s/he would be directly affected by the vote.

Below is a list of some of the provisions likely to be triggered by this arrangement:

Sec. 2-11.1 (c)(3) of the County Ethics Code prohibits a company from entering into a contract with a municipality if a board member or his/her immediate family has a controlling financial interest (10% or more) in the company and the contract is overseen by the board on which the person serves.

Sec. 2-11.1 (n) prohibits board members from taking any official actions related to a business in which they or their immediate family members have a financial interest.

Sec. 2-11.1 (o) prohibits board members from acquiring a financial interest in a company that they have reason to believe will be directly affected by their official actions.

Sec. 2-11.1 (v) prohibits board members from voting on matters involving entities in which they have any of the following relationships (officer, director, partner, of counsel, consultant, employee, fiduciary, beneficiary, stockholder, bondholder, debtor, or creditor) if they would be directly affected by the vote.

Sec. 2-11.1 (g) prohibits board members from using their official position to secure special privileges or exemptions for themselves or others.

The State Code of Ethics for Public Officers and Employees at Fla. Stat. 112 also applies. For additional information on state law, please contact the Florida Ethics Commission at <http://www.ethics.state.fl.us>. Other laws and regulations may also be triggered, particularly in light of the fiduciary responsibilities inherent in serving as a Pension Board member.

Finally, the following language in the proposed letter from UBS is in error:

~~... there is no law or regulation that would prohibit either the ENTITY or the STATE/COUNTY/MUNICIPALITY from doing business, currently or in the future, with UBS Financial Services Inc. or any of its affiliated companies as a result of your service.~~

Sincerely,

VICTORIA FRIGO, SENIOR STAFF ATTORNEY
Direct Phone: 305 350-0601

Main Number: 305 579-2594
Fax: 305 579-0273



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Miami, FL 33130

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From: Linda Miller [<mailto:lmiller@townofsurfsidefl.gov>]
Sent: Tuesday, November 05, 2013 5:13 PM
To: Centorino, Joseph (COE)
Cc: Linda Miller
Subject: Surfside - Question re: conflict letter

Dear Joe:

Thank you for our telephone conversation, please find attached the “proposed” conflict letter requested by UBS Financial Services, Inc. for the Town to prepare before their employee can serve on the Town’s Pension Board. I greatly appreciate your review and opinion on this matter.

Sincerely yours,



Linda Miller
Town Attorney
Town of Surfside
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Surfside, Florida 33154
(305) 993-1066
lmiller@townofsurfsidefl.gov

NOTE: Florida Public Records Law provides that most written communications to or from Municipal employees regarding town business are public records, available to the public and media upon request. Therefore, this e-mail message may be subject to public disclosure.

Dear [EMPLOYEE]:

Please consider this correspondence as our response to your request that we acknowledge we have been advised of your current employment and foresee no conflict in your anticipated service as a member of the NAME OF ENTITY (“ENTITY”). We understand that currently you are employed by UBS Financial Services Inc., a registered broker-dealer. We are aware of no law, rule, ordinance, statute, or regulation that would prohibit

your service on the ENTITIY by virtue of such employment. Finally, should your appointment to the ENTITY be confirmed, there is no law or regulation that would prohibit either the ENTITY or the STATE/COUNTY/MUNICIPALITY from doing business, currently or in the future, with UBS Financial Services Inc. or any of its affiliated companies as a result of your service.