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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Thursday, July 10, 2014 3:48 PM  
**To:** Sanchez, Rodzandra (COE)  
**Subject:** Victoria Mendez, Miami City Attorney (Gifts)- INQ 14-167

INQ 14-167

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

From: Centorino, Joseph (COE)  
Sent: Wednesday, July 09, 2014 4:23 PM  
To: 'Mendez, Victoria'  
Cc: Diaz-Greco, Gilma M. (COE)  
Subject: INQ - Victoria Mendez, Miami City Attorney (Gifts)

Ms. Mendez:

You have inquired regarding whether an elected official in the City of Miami may raise funds for a Political Action Committee (PAC) that supports an issue that the elected official also supports. It is posited that neither the official himself, nor any family member, is involved as an officer or director of the PAC, or receives any financial benefit from the PAC. For the purposes of this opinion, I will also assume also that this PAC has no contractual or other financial relationship with the City.

Section 2-11.1(e)(3) of the Miami-Dade Commission on Ethics and Public Trust prohibits a public official from soliciting or demanding any gift. The initial question that is raised is whether the elected official's fundraising on behalf of the PAC involves solicitation of a gift. Section 2-11.1(e)(2)(a) exempts from the definition of a gift, "Political contributions specifically authorized by state law." To the extent that the elected official in question is soliciting a political contribution to the PAC that is authorized by state law, the exception would apply and the fundraising would not be prohibited under Section 2-11.1(e) as a prohibited gift solicitation.

The other restrictions involving gifts in that subsection would prohibit the elected official from any arrangement whereby there would be an express or implied promise connecting the solicitation to an official action, legal duty or violation of a legal duty by the elected public official. This type of "quid pro quo" arrangement could also be considered Bribery in violation of Section 838.015, Florida Statutes. Regardless of the intent involved, the elected individual in question should avoid any discussion that might connect such a solicitation to any official action taken by that official.

The same analysis and admonition would be applied to the elected official's offer of his time and service to the PAC in the fundraising effort. This may not be considered a "gift" under the ordinance because of Section 2-11.1(e)(2)(a), but should not be proffered in connection with any other benefit that the PAC itself might bestow on the elected official.

It should also be pointed out that under Section 112.3148, Florida Statutes, there are severe restrictions placed upon a public official's ability or the ability of a family member of such official, to solicit or receive a gift FROM a political committee. While your question appears to eliminate this as a possibility, the elected official should be apprised of this limitation.

As a further caution, the elected official should avoid soliciting anything directly from a City contractor, vendor or lobbyist to avoid any possible suggestion of a quid pro quo as well as to avoid any appearance of impropriety.

I agree with you that the PAC's hiring of an attorney, who is also the attorney for a co-defendant in a city lawsuit, should not pose an ethical problem provided that the elected official has no involvement with or interaction with the attorney regarding City business. Under such circumstances, there would appear to be no relationship, financial or other possible benefit or enhancement that would create a conflict of interest.

Sincerely,

Joseph M. Centorino  
Executive Director and General Counsel  
Miami-Dade Commission on Ethics and Public Trust

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

From: Mendez, Victoria [mailto:VMendez@miamigov.com]

Sent: Tuesday, July 08, 2014 9:47 PM

To: Centorino, Joseph (COE)

Cc: Gomez, Marta; Ramos, Miriam S. (COE); Murawski, Michael P. (COE); Greco, John A.; Min, Barnaby; Wysong, George

Subject: Opinion. PAC and elected official

Joe,

Hi. Please assist me on this.

An Elected official may fundraise for a PAC that is supportive of an issue that the elected official is also supportive of. The elected official is not on the board of the PAC nor chairs it. The official receives no monetary nor pecuniary gain from the PAC.

Can the elected official fundraise for the PAC (not via printed material) but maybe through phone calls or attendance at events?

Can the PAC hire an election attorney that is the attorney for a co-defendant in a lawsuit the city is a party to? The city is collaborating with this attorney to achieve common goals in the litigation.

I believe there is no tangible conflict that would prohibit either interaction as the elected official is not a board member or chair of the PAC nor does the elected official receive any pecuniary gain. The answer to this question may be different if the PAC were for the elected official's candidacy for office or against an opponent for the same office.

As to the PAC hiring an election attorney that represents a codefendant in a city litigation, since the elected official is not gaining anything from the attorney/client relationship if the PAC hires the attorney, I do not see any appreciable conflict. Moreover the elected official really has no interaction with the attorney as it relates to the case.

Please advise. Thank you.