

REQUEST FOR OPINION CHECKLIST

Request for Opinion

Dated: 8-16-05

Investigative File

Draft Opinion

Notification to requestor of hearing before commission:

Scheduled for _____ at _____ .m; or No _____

Commission Action: _____

Final Disposition: _____

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MIAMI-DADE COUNTY
COMMISSION ON ETHICS & PUBLIC TRUST
Wednesday, July 27, 2005

ITEM NO. 7
Florida Bar Activity

Presenter:

Ardyth Walker
Staff General Counsel

* * * * *

1
2 (Thereupon, Item Number 7 was
3 called:)

4 CHAIRMAN ROSENTHAL: Item Number 7,
5 Florida Bar Activity.
6 Ardyth.

7 MS. WALKER: This is really a request
8 for opinion from me to you guys.

9 I'm currently the chair of a section
10 at the Bar, and one of the activities that
11 we're considering doing is a scholarship
12 for law students to pay for Bar Review
13 courses, and there may be fundraising
14 connected, raising monies for the
15 scholarship. And I wanted some guidance
16 from you on the limits of fundraising
17 activity in regards to me in terms of
18 sending out solicitation letters to law
19 firms, and companies, and those kinds of
20 things who may have County business, who
21 may be under our regulation, and whether
22 you think I should handle any kind of
23 fundraising at all, that I should stay
24 clear of it, even though I'm not directly
25 soliciting, my name is not on it, and

1 where you think the line should be drawn
2 in terms of me in any kind of fundraising
3 activity.

4 CHAIRMAN ROSENTHAL: What committee
5 are you chairing?

6 MS. WALKER: It's the Equal
7 Opportunity Law section.

8 CHAIRMAN ROSENTHAL: Very nice.

9 I think what we've done in the past,
10 and part of our discussion, you can help
11 us with it, we've said that it's okay as
12 long as you're not sending it out like on
13 Ethics Commission letterhead. You could
14 certainly do it in your other capacity,
15 but not in terms of your public office.
16 You know, whatever -- not superseding the
17 Bar rules, like if the Bar says you can do
18 it on Florida Bar stationery, that's fine
19 with me, or if they say you can't, you
20 can't.

21 But I think what we've said in the
22 past, is that as a private person, the
23 public official in a private capacity can
24 solicit in a private capacity; am I right?

25 MS. WALKER: That's correct.

1 CHAIRMAN ROSENTHAL: So I would think
2 that should -- we can remain consistent
3 with that, and certainly you can solicit
4 as a member of the Bar, and as a person,
5 an individual, just don't put it on the
6 Commission letterhead.

7 MS. WALKER: Okay. I just don't want
8 there to be problems if, you know, I'm
9 soliciting from a lawyer, and his firm
10 comes before us on a complaint matter, or
11 a lobbyist appeal or whatever, and there
12 to be issue, and I want you all to be
13 aware. I don't want any questions.

14 DIRECTOR MEYERS: What we've said
15 before, taking Ardyth out of the equation,
16 as long as it's a broad base appeal, as
17 you say, Mr. Chair, doing it in a private
18 capacity, if certain lawyers choose to
19 contribute to the scholarship fund, Ardyth
20 is not targeting them, is not targeting
21 vendors, is not targeting lobbyists, I
22 don't see a problem with it.

23 MS. WALKER: Okay.

24 CHAIRMAN ROSENTHAL: And just for
25 your protection, if we can have Ms. Frigo

1 just do a little opinion where it came
2 before us, we had the discussion, and that
3 we've approved that you can solicit in
4 your private capacity, just don't use our
5 letterhead kind of thing.

6 COMMISSIONER DOTSON: I have a
7 question about that.

8 CHAIRMAN ROSENTHAL: And that way if
9 it comes up, she's protected.

10 COMMISSIONER DOTSON: I have a
11 question about that. Fundraising, I
12 understand. What about -- you know what,
13 maybe I'm making this too complicated.

14 MS. WALKER: Go ahead, raise it,
15 whatever it is.

16 COMMISSIONER DOTSON: Like seeking
17 volunteers, okay, that's not really
18 fundraising, but you're seeking -- I mean,
19 it is in a way fundraising, but it's not
20 dollars. Seeking volunteers, I would
21 think -- and this is just off the top of
22 my head, I would think that, not only
23 would that -- and I'm talking about using
24 the stationery, the Ethics Commission
25 stationery, I would think that would not

1 only enhance this office and -- you know,
2 I just think there might be some benefit
3 to doing -- I don't see how that could --
4 you know, how that could be seen or viewed
5 or it should be viewed as something that's
6 unethical.

7 And what I'm thinking about, I just
8 know that -- and I could be wrong, but I
9 just remember they have -- there's this
10 thing called We The People High Schools.
11 High schools participate in mock trial or
12 moot court competition, or whatever it is,
13 and for a couple of years, I know someone
14 who headed it up and he worked for a
15 governmental agency and he used that -- he
16 sued the stationery of the governmental
17 agency, the County, which I don't
18 think that -- and it was the County
19 Attorney's Office, but I don't think it
20 was ever viewed as something that he
21 should not have done.

22 CHAIRMAN ROSENTHAL: Right. So --

23 COMMISSIONER DOTSON: Because of the
24 -- it wasn't fundraising, but there was
25 solicitation in asking people to come, and

1 I just think that to ask Ardyth or anybody
2 else, for that matter, to use their -- you
3 know, their private resources for
4 something that would benefit the entity is
5 a little -- you know, might be a little
6 much, but --

7 DIRECTOR MEYERS: Well, I think
8 there's -- I agree with you up to a point,
9 and let me tell you where I disagree. The
10 perception about soliciting for dollars, I
11 think is different than soliciting for
12 volunteers I think when you're asking
13 people for money.

14 COMMISSIONER DOTSON: I think that's
15 what I said.

16 DIRECTOR MEYERS: No, but I agree,
17 But I'm saying I agree with that. I think
18 that the idea of soliciting, even though
19 Ardyth is doing this, and it's going to
20 enhance the general welfare in the
21 community. You know, she's employed by
22 the Ethics Commission, the people who may
23 give money could be affected by Ethics
24 Commission opinions.

25 So, I mean, from my standpoint, I

1 mean, it's perfectly fine with me if she
2 wants to spend part of her day trying to
3 get volunteers to help her to raise money,
4 but I think direct appeals by her are
5 problematic, given other opinions that
6 we've issued. And I don't see how we can
7 treat Ardyth any differently than any
8 other County employee who would be
9 soliciting for other worthy causes.

10 CHAIRMAN ROSENTHAL: Right. I agree
11 with that also. I think --

12 COMMISSIONER DOTSON: I think that's
13 what I was saying, but I just wanted to
14 make sure that --

15 CHAIRMAN ROSENTHAL: Volunteers is
16 different than money.

17 COMMISSIONER DOTSON: Exactly. I just
18 wanted to figure out where is the cut-off,
19 and then in terms of her time and her
20 commitment.

21 Like I said, I don't know what goes
22 on here, or what the situation is either,
23 but it's almost the same as -- I mean,
24 when she attends these meetings or
25 whatever, I don't know who pays for them

1 or if she gets administrative leave, but
2 it just seems to me that that's something
3 like she should be given, administrative
4 leave, to that extent, to participate in
5 Bar activities, 'cause I think those are
6 so important and I think we all benefit
7 from that type of thing.

8 CHAIRMAN ROSENTHAL: I think it's
9 like in any job, so to speak, that's our
10 policy, but like with everything, you
11 know, you always need your supervisor's
12 permission if you're leaving for a
13 conference or whatever. Like that, you've
14 got to get your department approval.

15 DIRECTOR MEYERS: I see it as
16 professional development and we certainly
17 approve leave for professional
18 development.

19 CHAIRMAN ROSENTHAL: Right, so we're
20 all for that.

21 COMMISSIONER DOTSON: 'Cause when she
22 attends the meetings, I'm sure when they
23 ask you what your position is, you state
24 what your position is.

25 MS. WALKER: Right. Of course.

1 CHAIRMAN ROSENTHAL: Which is good.
2 I'm impressed.

3 COMMISSIONER DOTSON: Like I said, I
4 don't know. So I'm just trying to cover
5 all the bases that I'm thinking about,
6 because, believe it or not, these issues
7 do come up.

8 MS. WALKER: Well, that's why I
9 raised it.

10 DIRECTOR MEYERS: The most important
11 thing is that we have something on record,
12 if it ever came back, say, well, look,
13 this was presented to the Ethics
14 Commission. The Ethics Commission
15 approved it. This is what they approved,
16 and that way no one could make a big deal
17 about it.

18 CHAIRMAN ROSENTHAL: And I think we
19 all applaud your service on the Bar
20 committee, Ardyth, and we're pleased to
21 see that you're doing that.

22 MS. WALKER: Thank you.

23 COMMISSIONER DOTSON: I mean, is that
24 viewed -- I assume that's viewed as some
25 professional development activity as well.

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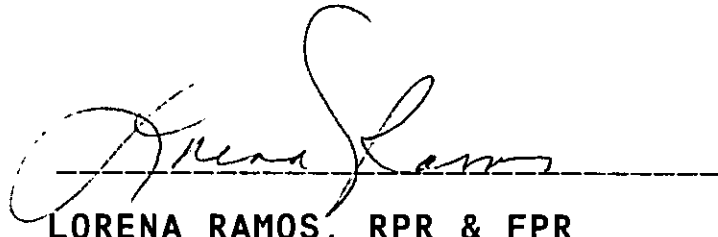
DIRECTOR MEYERS: Right.
CHAIRMAN ROSENTHAL: Okay. Great.
(Thereupon, at 5:53 p.m., the matter
was concluded.)

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CERTIFICATE OF REPORTER

I, Lorena Ramos, Registered Professional Reporter and Florida Professional Reporter, do hereby certify that I was authorized to and did transcribe the TAPE RECORDED proceedings to the best of my ability, and that the transcript, pages 1 through 12, is a true and correct record of proceedings.

DATED this 25th day of September 2006 at
Miami-Dade County, Florida.



LORENA RAMOS, RPR & FPR

COURT REPORTER

(Transcription from Tape
Recorded proceedings).

RQO 05-93
Re-indexed from
RQO 05-90
(Withdrawn)

Cedeno, Rachelle (COE)

From: Frigo, Victoria (COE)
Sent: Tuesday, September 05, 2006 9:31 AM
To: Meyers, Robert (COE)
Cc: Walker, Ardyth (COE); Cedeno, Rachelle (COE)
Subject: RQO 05-93

Robert,

I don't know if this helps explain the whereabouts of the RQO file you are looking for, but my understanding was that once RQO 05-90 was withdrawn, Ardyth was to send you a memo discussing the circumstances of her request. (I assume this memo was re-indexed as RQO 05-93.) I advised Rachelle of the reason for the withdrawal of RQO 05-90 in two messages, attached below.

In the RQO INDEX, I am erroneously listed as the author of RQO 05-93. In actuality, this matter was to be handled by you and Ardyth.

Victoria

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

From: Frigo, Victoria (COE)
Sent: Thursday, August 25, 2005 9:50 AM
To: Cedeno, Rachelle (COE)
Subject: Correction about Log re RQO 05-90

Please note the correction. Robert Meyers said that the matter would be handled as a **memo from Ardyth** to him.
Victoria

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

From: Frigo, Victoria (COE)
Sent: Thursday, August 25, 2005 9:47 AM
To: Cedeno, Rachelle (COE)
Subject: Log re RQO 05-90

Rachelle,

Please note in the RQO log that **RQO 05-90 re: Ardyth Walker** has been withdrawn. Robert Meyers advised me that he would handle the matter with a memo addressed directly to Ardyth.

Thanks,
Victoria

Miami-Dade County is a public entity subject to Chapter 119 of the Florida Statutes concerning public records. E-mail messages are covered under such laws and thus subject to disclosure.