

Municipality of Anchorage



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BOARD OF ETHICS

January 31, 2012

TO: Paul Honeman, Anchorage Assembly
FROM: Anchorage Municipal Board of Ethics
RE: Request for Advisory 2012-1

In issuing this opinion the Board of Ethics (hereafter "the Board") has relied on the information attached to your request for advisory opinion (RAO 2012-1) and the applicable Anchorage Municipal Code (hereafter "the Code"). If material facts have not been disclosed or have been misrepresented, this opinion is without force and effect.

THE SITUATION

Twice in 2011, once "approximately late August-early September" and again in "late October," you contacted William Sheffield with requests for financial contributions for your campaign for mayor. In both cases you left messages for Mr. Sheffield, who did not return your calls. At some point after November 18th, you called on Mayor Sullivan to remove Mr. Sheffield from office. In January 2012 Mr. Sheffield resigned his position as port director, and was offered a \$60,000 consulting contract by the Mayor. The contract, which you have criticized, requires approval by the Assembly. Mayor Sullivan, according to your RAO, criticized your call for Mr. Sheffield's dismissal as retaliation for Mr. Sheffield's refusal to contribute to your mayoral campaign. Mayor Sullivan also, according to your RAO, argued that your conflict of interest should preclude you from participating in the Assembly's consideration of Mr. Sheffield's consulting contract.

As the Board understands it, you have asked us to consider two issues:

- (1) Was your call for Mr. Sheffield's dismissal retaliatory?
- (2) Is there a conflict of interest that prevents you from ethically participating in the Assembly's consideration of Mr. Sheffield's consulting contract?

RELEVANT SECTIONS OF THE CODE

1.15.020 states that a municipal employee may not "[u]se the person's municipal position to take personal advantage of another."

1.15.035.15 B of the Code states:

Elected officials may not participate in any official action in which the elected official or a member of the elected official's household has a substantial financial interest.

1.15.035.15 C of the Code requires that prior to comment, deliberation or vote on the matter, an Assemblyperson must disclose to potential conflicts to the Assembly, which has ultimate authority in determining if your conflict is "substantial."

DISCUSSION

(1) The Board analyzed the charge of retaliation in light of 1.15.020 and finds that there is insufficient evidence to support or refute the claim that you were using your position as an Assemblyperson to take advantage of Mr. Sheffield. As such the Board makes no finding on this issue.

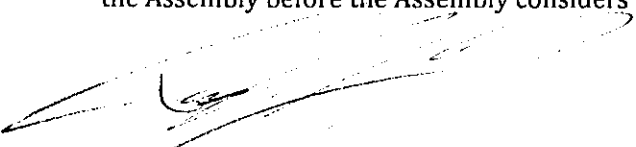
(2) On the issue of conflict of interest, the Board has recently held that such issues are best determined by the Assembly. In Request for Advisory 2011-1 the Board concluded that:

While the Code not does prohibit the Board of Ethics from providing its own opinion on the matter, the Board believes that an Assembly meeting is generally the better forum to make such determinations regarding potential conflicts of interest on the part of Assemblypersons. In Assembly meetings, Assembly Members are available to answer detailed questions in a high profile, public forum. As the code places final authority over these matters with the Assembly, the Board has refrained from commenting on these cases and has deferred to the Assembly. Before commenting, deliberating or voting on matters where they may have a conflict of interest, Assembly Members are required to disclose their potential conflict to the Assembly in order to determine if that conflict is substantial.

In this case the Board has not departed from the view it held in RAO 2011-1.

RECOMMENDATION

The Board recommends that you disclose your potential conflict regarding Mr. Sheffield to the Assembly before the Assembly considers Mr. Sheffield's contract.



Terrence Kelly, Chairperson
Board of Ethics
Municipality of Anchorage