



MUNICIPALITY OF ANCHORAGE
Board of Ethics

October 13, 2023

Advisory Opinion 2023-02

Relevant Ethics Topic: Conflicts of Interest – AMC 1.15.060

This advisory opinion responds to a request from Mr. Alden Thern, in which he asked for an advisory opinion on whether his potential volunteer service as treasurer for the Alaska Black Caucus created a conflict of interest with his municipal duties as the Chief Fiscal Officer for the municipality. Mr. Thern waived confidentiality regarding his request for an advisory opinion.¹

I. FACTS OF THE REQUEST

The following facts are based on the information Mr. Thern provided to the board on August 10, 2023:²

- Mr. Thern is the Chief Fiscal Officer for the municipality. He was recently asked if he would consider serving as a volunteer treasurer for the Alaska Black Caucus (ABC). The ABC is a non-profit organization that has received grants from the municipality through the American Rescue Plan Act (ARPA). Mr. Thern's proposed service as treasurer would be unpaid, on his own time.
- Mr. Thern disclosed that his wife is a member of the ABC.³
- As the Chief Fiscal Officer (CFO), Mr. Thern normally supervises audits and reviews of funds that organizations receive from the municipality through ARPA. These audits determine if the organization properly spent the money it received. Mr. Thern said that he would recuse himself from any audits involving the ABC. He also informed the Caucus that if he served as a volunteer treasurer, he would not be involved in any duties related to MOA provided funds. He would instead limit his service to other

¹ See AMC 1.15.150.D (“A request for advice is confidential unless confidentiality is waived by the person requesting an advisory opinion.”)

² AMC 1.15.150.B reads as follows: “In any later proceeding involving the inquirer, the inquirer is entitled to rely on the advice of the board, and may not be sanctioned for acting in compliance with the board’s advice so long as the facts remain substantially unchanged from those represented to the board in the inquiry.”

³ AMC 1.15.060.D prohibits a public servant from participating in an official action in which the public servant or a member of the public servant’s immediate family has a substantial financial or private interest. A “private interest means an interest affecting, belonging, or accruing to an individual or private entity as distinct from the public interest at large.”³

grants and non-profit financial responsibilities that are unrelated to any MOA provided funds.

- Mr. Thern then said that the ABC planned to have an event in a couple weeks with an announcement of Mr. Thern accepting the position as their Treasurer. He was asked to delay such an announcement until this Advisory Opinion could be completed.

II. DISCUSSION

As a public servant, Mr. Thern is authorized to request an advisory opinion regarding the applicability and interpretation of the ethics code related to actions, rights, or conflict personal to him as the inquirer.⁴ Therefore, the board has jurisdiction to issue this advisory opinion.

AMC 1.15.060.D prohibits a public servant from participating in an official action in which the public servant or a member of the public servant's immediate family has a substantial financial or private interest at large." A "private interest means an interest affecting, belonging, or accruing to an individual or private entity as distinct from the public interest at large."⁵ It is believed that through Mr. Thern's recusal of audits of ABC and having another qualified person in the MOA perform the audits that he would be in compliance.

As the CFO for the MOA, Mr. Thern has access to nonpublic information that could be used by a non-profit organizations as an advantage in competing for ARPA funds.⁶ As AMC 1.15.120 prohibits public servants from disclosing confidential or nonpublic information, this creates a condition that Mr. Thern must use caution daily in ensuring that confidential and nonpublic information that was gained through his position at the MOA is not shared by him, or used inappropriately for to the benefit of ABC.

In his capacity as the CFO for the MOA, Mr. Thern has access to significant MOA resources. AMC 1.15.040 prohibits the use of municipal resources for personal, outside business interests. He should take extreme care to ensure that even de minimus personal use of MOA assets are not used for political activities or lobbying. Additionally, Mr. Thern should be vigilant that he does not perform any functions in connection with the Alaska Black Caucus while being paid by the MOA.⁷

⁴ AMC 1.15.150.A Current, former, or potential public servant may request an advisory opinion regarding the applicability and interpretation of this chapter related to actions, rights, or conflict personal to the inquirer.

⁵ AMC 1.15.180

⁶ AMC 1.15.120 No public servant shall use, disclose, or release confidential or nonpublic information gained through the person's municipal position unless authorized by law or order of the court.

⁷ AMC 1.15.040.B De minimus personal use of municipal resources is permitted and is defined as use that is infrequent or occasional and that results in little or no actual cost to the municipality. No personal use, however, may be for political activities, lobbying, or outside business interests. In another previous opinion, the board analyzed ways to avoid using municipal resources for political or partisan activity. Reading that opinion may be helpful. See Advisory Opinion 2020-03, available at

<https://www.muni.org/Departments/Assembly/Ethics/Documents/2020-03%20Board%20Response.pdf>

The Alaska Black Caucus has the intention of highlighting Mr. Thern's acceptance of the Treasurer position at an event. It was discussed that this may have an appearance of a potential ethics code conflict. However, in the analysis, it is recognized that the practice of non-profit organizations having public servants of good reputation involved in their operations to garner public trust in the organization is commonplace. Additionally, organizations regularly publish the names and biographies and even publicize individuals who accept positions in the non-profit organization. That being said, Mr. Thern is required to separate his work with the MOA from the ABC, and when he speaks and works on behalf of the ABC, he is representing himself and not acting as the CFO for the MOA.⁸

III. CONCLUSION

The board concludes that there are no apparent violations of the MOA Code of Ethics in Mr. Thern's acceptance of the position of Treasurer for the Alaska Black Caucus providing that he:

- Does not participate in work on behalf of the Caucus for which there are MOA provided funds
- Recuses himself from participating in MOA activities regarding the ABC
- Does not use or provide MOA held nonpublic or confidential information for the benefit of the ABC
- Does not use MOA resources including his time for the benefit of ABC.

The board wishes to thank Mr. Thern for his dedication to ethical principles in raising this issue and requesting an advisory opinion.

APPROVED by the Municipality of Anchorage Board of Ethics this 13th day of October 2023.



Rebecca Windt Pearson, Chair
Kelly Moghadam, Vice Chair
Terrence Kelly
Patrick Teagarden

Copy to:

- (1) Mr. Thern
- (2) Municipal Clerk for electronic publication

⁸ AMC 1.15.110.D.2 Employees may use their titles when engaging in political or partisan activity when authorized to do so by their responsible official or if they state that they are not speaking on behalf of their work group or the municipality.