



OHIO ETHICS COMMISSION

THE ATLAS BUILDING
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COLUMBUS, OHIO 43215
(614) 466-7090

Advisory Opinion No. 83-002
January 13, 1983

Syllabus by the Commission:

The Ohio Ethics Law and related statutes do not prohibit a city council member from being affiliated in a legal association with the city law director, provided that : (1) only expenses, and not profits, are shared by the association; and (2) the council member does not participate in discussions, vote, or otherwise use the authority or influence of his office to secure approval of the contract between the city and the law director.

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You asked whether the Ohio Ethics Law and related statutes prohibit a city council member from being affiliated with the same legal association as the city law director.

You stated that the law director was appointed by the Mayor and confirmed by the city council in 1980. At the time of the appointment, the city council member and the law director were associated with different law firms, although one firm rented office space from the other. You stated further that the law director was reappointed in 1982. A few months following the reappointment, the city council member and the law director joined the same legal association. However, you indicated that the association is not a partnership in which profits are shared, but rather it is a legal association in which only expenses are shared. According to your letter, the only instance in which fees were shared between the council member and law director was when they served as co-counsel on private matters not involving the city.

Division (A)(4) of Section 2921.42 of the Revised Code prohibits a public official from having an interest in a public contract with the same entity of government with which he is connected. A city council member is a "public official" as defined in Division (A) of Section 2921.01 and Division (B) of Section 102.01 of the Revised Code. A contract with an attorney to provide services to the city in the capacity of law director is a "public contract" as defined by Division (E)(1) of Section 2921.42 of the Revised Code. If the city council member and the law director were in a legal partnership, the city council member would have a prohibited interest in a public contract with the city (See: Ohio Ethics Commission Advisory Opinion No. 78-001). However, since they are only affiliated in a legal association, sharing expenses and not profits, the prohibition does not apply.

Division (D) of Section 102.03 of the Revised Code prohibits a public official from using his official position for personal gain or benefit. Division (A)(1) of Section 2921.42 of the Revised Code prohibits a public official from authorizing, voting, or otherwise using the authority or influence of his office to secure authorization of a public contract in which he, a family member, or a business associate has an interest. Since the city council member is not in

partnership with the law director, he would neither personally benefit from, nor have an interest in, the contract between the city and the law director. However, the law partner is a "business associate." Therefore, the council member is prohibited from participating in discussions, voting, or otherwise using his authority or influence to secure approval of the reappointment of the law director or of any changes in the terms or conditions of his contract.

The conclusions of this opinion are based on the facts presented, and are rendered only with regard to questions arising under Chapter 102. and Section 2921.42 of the Revised Code.

In conclusion, the Ohio Ethics Law and related statutes do not prohibit a city council member from being affiliated in a legal association with the city law director, provided that: (1) only expenses, and not profits, are shared by the association; and (2) the council member does not participate in discussions, vote, or otherwise use the authority or influence of his office to secure approval of the contract between the city and the law director.


MEROM BRACHMAN, Chairman
Ohio Ethics Commission