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April 1, 2015

ADVISORY OPINION NO. 2015-02

Hon. Joyce Robinson Fuller
Revenue Commissioner
Cleburne County
120 Vickery Street, Room 102
Heflin, Alabama 36264

Revolving Door/Former Employee Of The
Cleburne County Revenue Commissioner's
Office Being Rehired On A Part-Time Basis

The Cleburne County Revenue
Commissioner's Office may rehire a former
employee, when that former employee had
no supervisory authority, did not have the
authority to hire or fire, nor the authority to
enter into contracts or award contracts.

Dear Commissioner Fuller:

The Alabama Ethics Commission is in receipt of your request for a formal Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

QUESTION PRESENTED

May a former employee of the Cleburne County Revenue Commissioner's Office be rehired after her retirement without violating the "Revolving Door" provisions of the Alabama Ethics Law?

FACTS AND ANALYSIS

The facts as have been presented to this Commission are as follows:

Joyce Robinson Fuller is the Revenue Commissioner of Cleburne County. Amanda Turner is currently employed with the Cleburne County Revenue Commissioner's Office as a County Real Property Appraiser. In her current position, she is under the supervision of the elected official (Revenue Commissioner); she has no supervisory position, does not have the authority to hire or fire for the department, does not have the authority to make contracts or award contracts and she is not authorized to sign a purchase agreement for the department.

Ms. Turner currently has 32 years of service with the Cleburne County Revenue Commissioner's Office and is interested in retiring in the near future. Upon her retirement, she would like to come back as a part-time file clerk in the Cleburne County Revenue Commissioner's Office and to aid in the training of new employees. Ms. Fuller is in full agreement with this idea and believes that it will be in the best interest of the County to have her knowledge and know-how of the job. In her new part-time position of file clerk, she will not have any supervisory authority; she will not be able to make hiring or firing decisions; she will not be able to award contracts on behalf of the department; and she will not be authorized to sign a purchase order for the department.

The job description Mrs. Turner currently holds as Real Property Appraiser, in summary, is as follows:

- Real Property Appraiser performs field inspections.
- Drives to properties to conduct appraisal work.
- Notes all new construction using Property record cards (PRC's) and property maps.
- Measures new additions to houses and other buildings.
- Notes new additions to existing dwellings and structures.
- Deletes from PRC's any dwellings or buildings which have been torn down or burned.
- Notes excessive building depreciation.
- Measures new buildings and makes sketches.
- Makes note of land that has changed from an unimproved parcel to an improved parcel.
- Checks property splits and line changes, noting improvements to each parcel.

Ms. Fuller's request is based on the above scenario.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-13(d) states:

"No public official, director, assistant director, department or division chief, purchasing or procurement agent having the authority to make purchases, or any person who participates in the negotiation or approval of contracts, grants, or awards or any person who negotiates or approves contracts, grants, or awards shall enter into, solicit, or negotiate a contract, grant, or award with the governmental agency of which the person was a member or employee for a period of two years after he or she leaves the membership or employment of such governmental agency."

The "Revolving Door" provisions set out certain limitations as to what a former public official or public employee may do upon leaving public service.

Specifically, Section 36-25-13(d) prohibits those individuals who have the authority to hire or fire, make purchases or are involved in the awarding of contracts, etc., from either contracting back or otherwise returning to the agency from which they left.

In other words, individuals who held positions with a certain degree of discretionary authority may not use the influence they attained in their former employment to create an opportunity for them after they leave the public sector.

Excluded from this are individuals who are not in a position to create the opportunity or influence their rehiring.

In the facts before the Commission, it appears that the benefit to the Revenue Commissioner's Office greatly outweighs any benefit to Ms. Turner based on her 32 years of knowledge and experience.

Based on the facts as provided and the above law, the Cleburne County Revenue Commissioner may rehire a former employee who did not have discretionary authority after her retirement.

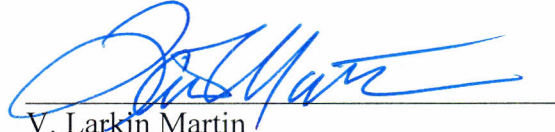
CONCLUSION

The Cleburne County Revenue Commissioner's Office may rehire a former employee, when that former employee had no supervisory authority, did not have the authority to hire or fire, nor the authority to enter into contracts or award contracts.

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AUTHORITY

By 4-0 vote of the Alabama Ethics Commission on April 1, 2015.



V. Larkin Martin
Acting Chair in the absence of the Chair
Alabama Ethics Commission