

**OPINION OVERTUNED IN PART BY AMENDMENT TO SECTION 8-13-740(4) AND (5).
EFFECTIVE APRIL 12, 2007. SEE R12, H3226 FROM THE 2007 TERM AT
<http://www.scstatehouse.net/index.html>.**

**State Ethics Commission
5000 Thurmond Mall, Suite 250
Columbia, South Carolina 29201**

SEC AO2007-002

September 13, 2006

**SUBJECT: COUNTY COUNCIL MEMBER'S FIRM REPRESENTING CLIENTS BEFORE
COUNTY COUNCIL**

**SUMMARY: A county council member's firm may represent clients before county council
as long as the council member follows the recusal requirements of Section
8-13-700(B).**

QUESTION:

A county council member asks whether the provisions of Section 8-13-740(A)(4) apply to members of the governing body of a county, i.e. county council, or is the governing body of a county governed by the recusal provisions of Section 8-13-700(B)? More specifically, may the law firm by whom the council member is employed represent a client on a matter before county council sitting as a whole, or in committees of the elected officials only, provided that the council member complies with the recusal provisions of Section 8-13-700(B)?

DISCUSSION:

This opinion is rendered in response to a letter dated August 28, 2006 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the State Ethics Act, S.C. Code §2-17-10; 8-13-100 (Supp. 1996). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

Section 8-13-740(A)(4) provides:

- (4) A public official, public member, or public employee of a county, an individual with whom the public official, public member, or public employee is associated, or a business with which the public official, public member, or public employee is associated may not knowingly represent a person before an agency, unit, or subunit of that county for which the public official, public member, or public employee has official responsibility except:
- (a) as required by law; or
 - (b) before a court under the unified judicial system.

The question is whether county council is an agency, unit or subunit of the county or whether it is the governing body. The terms "agency", "unit" and "subunit" are not defined in the Ethics Reform Act. The Commission has not defined the terms except to opine in SEC AO93-070 that a county assessor's office was an agency, unit or subunit of county government. Therefore, the Commission now opines that county council is not an agency, unit or subunit of county government but is the governing body. The Commission believes the recusal requirements of Section 8-13-700(B) prevent the undue influence by one council member for matters which are before council. This opinion extends, as well, to the representation prohibition found in Section 8-13-740(A)(5) which applies to municipalities. City council is not an agency, unit or subunit of city government. The Commission's opinion in SEC AO2006-002 is not affected by this opinion.

CONCLUSION: The Commission concludes that a county council member's firm may represent clients before county council, as long as the council member follows the recusal requirements of Section 8-13-700(B).

KEY WORDS: agency, unit and subunit of county or city government

ANNOTATIONS: Sections 8-13-700(B) and 740(A)(4) and (5)
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