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JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: September 6, 2011

To: Members, Ethics Commission

From: John St. Croix, Executive Director
By: Mabel Ng, Deputy Executive Director

Re: Section III.B.3 of the GSA SIA

At its meeting on April 11, 2011, the Ethics Commission considered a draft formal written advice letter to Dr. Judy Melinek, an employee of the Chief Medical Examiner's Office. The draft letter addressed three issues raised by Dr. Melinek: (1) her appeal of an advance written determination (AWD) that she may not provide expert testimony in a civil case; (2) her claim that the Statement of Incompatible Activities (SIA) of the General Services Agency (GSA) is invalid; and (3) a request that the Commission amend section III.B.3 of the GSA SIA, which governs officers and employees of the Chief Medical Examiner's Office. At the meeting, Dr. Melinek withdrew her request for advice; thus, no advice letter was issued. At the conclusion of the Commission's consideration of this agenda item, the Commission directed staff to meet informally with GSA staff to discuss possible changes to the section III.B.3 of the GSA SIA.

Section III.B.3 of the GSA SIA states the following:

3. Officers or Employees of the Office of the Chief Medical Examiner

No officer or employee of the Office of the Chief Medical Examiner Division may provide expert testimony in a civil or criminal judicial proceeding unrelated to job duties, except as authorized by an advance written determination pursuant to subsection C of this section by the Chief Medical Examiner or his or her designee.

Since the Commission's meeting, staff has met with Acting City Administrator Amy Brown, the director of Human Resources for GSA, and deputy City Attorneys regarding this matter. The Acting City Administrator has concluded that it is important to retain section III.B.3 in the GSA SIA. Her decision is based in part on factors that she articulated in her February 1, 2011 letter to Dr. Melinek, a copy of which is attached. Ms. Brown will attend the Commission's September 12, 2011 meeting to answer questions that the Commission may have.

S:\Conflicts of Interest\Incompatibility Statements\General Services Administration\mem to EC 9.2011 re section III.B.3 MedExaminer.doc



OFFICE OF THE CITY ADMINISTRATOR



Edwin M. Lee, Mayor
Amy L. Brown, Acting City Administrator

February 1, 2011

Judy Melinek, M.D.
Assistant Medical Examiner
Office of the Chief Medical Examiner
850 Bryant Street
San Francisco, CA 94103

Re: Appeal of Advance Written Determination, San Mateo Superior Case No. CIV 4811542
Wolkoff v. AMR/County of San Mateo

Dear Dr. Melinek:

I am in receipt of your appeal to Ed Lee, dated December 30, 2010, regarding Dr. Amy Hart's denial of your request to work as a paid expert in San Mateo Superior Case No. CIV 4811542, Wolkoff v. AMR/County of San Mateo. You requested approval to provide voluntary, paid expert services to the plaintiff, Wolkoff. As I'm sure you know, since your appeal Ed Lee has been appointed to be Mayor. I am serving as Acting City Administrator in his absence. I have reviewed your appeal carefully and have decided to deny your appeal of the denial of request for Advance Written Determination. Based on the facts you presented in your request, your proposed outside activity is incompatible with your position and would violate the Statement of Incompatible Activities. My decision is based in part on the following factors:

The San Francisco Medical Examiner's Office by necessity has a close and open working relationship with San Mateo County, and I have significant concerns that your proposed expert services could jeopardize and disrupt that relationship. Due to the lack of a tertiary medical care facility in San Mateo County, there are frequently death investigation cases in which the incident occurs in San Mateo and the person eventually dies in San Francisco. These types of deaths, and the mutual aid agreement between San Mateo and San Francisco, require that the public agencies from these two counties have a close, cooperative relationship in order to conduct adequate death investigations. Your request to provide expert services risks interfering with that close working relationship. Expert witness testimony by Assistant Medical Examiners in which the named party is a vendor of San Mateo County and/or a public agency of the County of San Mateo can and has interfered with the operations of the Medical Examiner's Office in the past, and the practical effect of your proposed activity would disrupt the operations of the office.

Additionally, the vendor, AMR, whom you note is a party in this case, also provides contract services to the City and County of San Francisco. In San Francisco, AMR provides contract services as an ambulance provider. The Medical Examiner investigations require patient care reports (out of hospital medical records) and Assistant Medical Examiners as well as other staff may need to contact AMR staff to clarify or obtain additional investigative information. Expert witness testimony by an Assistant Medical Examiner risks disrupting office operations by interfering with those important working relationships.

Very truly yours,

Amy L. Brown
Acting City Administrator