

1976 WL 30858 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 9, 1976

*1 Honorable Purvis W. Collins
Director
South Carolina Retirement System
Post Office Box 11960
Columbia, SC 29211

Dear Mr. Collins:

You have requested an opinion of this Office as to the legal status of the Columbia Museum of Art Commission and of the Columbia Art Association. The Commission has contracted with the Association to take control and direction of the Museum.

The Columbia Museum of Art Commission was created by statute in 1949; the Columbia Art Association has always been an eleemosynary corporation. Questions have arisen as to whether the employees of the Museum are employees of the Commission or the Association, and if the latter is the case, whether the Association is eligible to become an employer for social security purposes or an employer in the Retirement System pursuant to Section 61-1(5), 1962 Code of Laws.

It is the opinion of this Office that the relationship of the Commission and the Association is one of principal and contractor similar to any other such situation, for example construction contracts, in which a public body delegates work to a private body. It would appear that the traditional test of employment as between the Commission and the employees of the Museum, such as the right to hire and fire and right to or exercise of control, are missing.

Based upon the foregoing, it is the opinion of this Office that the employees of the Columbia Museum of Art the employees of the Columbia Art Association and that the Columbia Art Association is not an employer within the meaning of Sections 61-1(5) or 61-221(9), 1962 Code of Laws.

Sincerely yours,

Kenneth P. Woodington
Assistant Attorney General

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