

1974 S.C. Op. Atty. Gen. 198 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3811, 1974 WL 21317

Office of the Attorney General

State of South Carolina

Opinion No. 3811

June 25, 1974

**\*1 Municipal officers are prohibited by law from contracting with municipalities on behalf of private concerns in which they have an interest.**

Attorney at Law

Rock Hill, S. C.

You have requested that this Office advise you as to whether members of the City Council may contract or have other business transactions with the City on behalf of corporations in which they have an interest either by way as a stockholder or an officer and employee.

Section 47-804, Code of Laws of South Carolina, 1962, appears to be applicable to the City of Rock Hill. This section states,

‘No municipal officer shall take a contract to perform work or furnish material for the municipal corporation of which he is an officer and no such officer shall receive any compensation on any such contract . . .’

This statutory section appears to be clear, and succinctly prohibits municipal officers contracting with their municipality. A more basic and older prohibiting proviso appears in the case of *McMahan vs. Jones*, 94 S. C. 362, 77 S. E. 1022, which states that no man in the public service should be permitted to occupy the dual position of master and servant. This common law prohibition states that public policy prohibits an individual dealing with a public body in which he maintains an office. The areas of public service, must always be above scrutiny, and the interest of the public involved must necessarily preclude individual council members from dealing with the municipality in contractual matters, and business transactions.

Based upon the foregoing, it is necessarily the opinion of this Office that municipal officers are prohibited by law from contracting with municipalities on behalf of private concerns in which they have an interest.

Timothy G. Quinn

Senior Assistant Attorney General

1974 S.C. Op. Atty. Gen. 198 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3811, 1974 WL 21317