

**ETHICS OPINION NUMBER 110
OF THE MISSISSIPPI BAR
RENDERED DECEMBER 6, 1985
AMENDED APRIL 6, 2013**

CONFLICT OF INTEREST – GOVERNMENT ATTORNEYS - Attorney who shared City Attorney position from 1980 until 1984 may not subsequently represent one of the City Commissioners in a lawsuit brought by the Attorney General against the Mayor and the two Commissioners individually on matters which arose while he held the City Attorney position.

The Ethics Committee of The Mississippi Bar has been requested to render an opinion on the following facts: An attorney shared the City Attorney position with another attorney for the period 1980 to the Fall of 1984. The auditor of the State of Mississippi audited the City during that period and filed a preliminary report in September of 1984. The attorney assisted in the investigation and documentation presentation, which resulted in a reduced demand by the State Auditor's office. The State Auditor's final report and demand was made in the Spring of 1985.

The Attorney General of the State of Mississippi filed suit seeking recovery of the funds as set out in the Auditor's final report and named the Mayor and the two Commissioners of the City as defendants, individually. One of the Commissioners has requested that the former City Attorney represent him individually in the lawsuit.

The attorney has presented this question for Committee opinion: Is there an ethical conflict preventing the former City Attorney from representing one of the Commissioners individually in the lawsuits brought by the State of Mississippi for recovery of funds spent during the years 1980 to 1984, as set out in the State Auditor's final report?

The question can be answered by reference to Rule 1.11(a) of the Mississippi Rules of Professional Conduct (MRPC):

Except as law may otherwise expressly permit, a lawyer shall not represent a private client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee unless the appropriate government agency consents after consultation.

The Attorney General has sued the individual city officials for recovery of monies to the City, placing the officials in a position adverse to that of the City. If the former city attorney participated personally and substantially in the matter he or she cannot undertake the representation unless the City consents after consultation.