

October 23, 2010

**Correspondence - Donna Forga - Pat Smathers -
Article 6, Section 9 of the North Carolina State Constitution**

The following is an exchange of correspondence from me to Donna Forga regarding a question about eligibility and Article 6, Section 9 of the North Carolina State Constitution, with a reply from Pat Smathers.

Included is the second of two letters I sent to Donna Forga, this one dated October 18, 2010, and the reply from Pat Smathers on October 19, 2010, received on October 20, 2010 [re: Toeprints Issue #22, www.haywoodtp.net].

As I mentioned in Toeprints, Issue #22, I thank Pat Smathers for his letter, but have the following comments and/or questions:

- **Donna Forga** is a lawyer, why didn't she respond directly?
- Who paid for Mr. Smathers to create the letter, **Donna Forga** or HCC?
- It's unfortunate that Mr. Smathers only provided his opinion, rather than citing any rulings or legislation from the NC General Assembly to back up his opinion.

[Editors Note: In my October 18, 2010 letter to Donna Forga, I mistakenly refer to Article 6, Section 9 initially as being part of the NC General Statutes, but refer to them correctly later in the letter as being part of the North Carolina State Constitution].

Monroe A. Miller Jr.

Monroe A. Miller Jr.
19 Big Spruce Lane
Waynesville, NC 28786
October 18, 2010

Donna Forga

Subject: Some more thoughts...

I have just started to get into this, but a question has arisen that was brought to my attention that perhaps you can answer for me. It relates to Article 6, Section 9 of the North Carolina General Statues.

ARTICLE VI
SUFFRAGE AND ELIGIBILITY TO OFFICE

Sec. 9. Dual office holding.

(1) Prohibitions. It is salutary that the responsibilities of self-government be widely shared among the citizens of the State and that the potential abuse of authority inherent in the holding of multiple offices by an individual be avoided. Therefore, no person who holds any office or place of trust or profit under the United States or any department thereof, or under any other state or government, shall be eligible to hold any office in this State that is filled by election by the people. No person shall hold concurrently any two offices in this State that are filled by election of the people. **No person shall hold concurrently any two or more appointive offices or places of trust or profit, or any combination of elective and appointive offices or places of trust or profit, except as the General Assembly shall provide by general law.**

It was brought to my attention that being a lawyer with a business is a place of trust [an officer of the court, with fiduciary responsibility to the general public]. You were appointed as a trustee to HCC, a place of trust.

Can you tell me how it is that you can hold these two offices and not be in violation of Article 6 Section 9 of the North Carolina State Constitution?

Just curious...

Thanks,

Monroe Miller

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October 19, 2010

*Rec.
10/20/2010
5:15p*

Mr. Monroe A. Miller Jr.
19 Big Spruce Lane
Waynesville, NC 28786

Dear Mr. Miller:

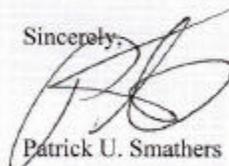
Please be advised I represent Haywood Community College and its Board of Trustees, one of which being Donna Forga. I am responding to your letter to Donna Forga questioning her ability to serve as a trustee while also being an attorney.

I have reviewed your letter and am of the opinion that her being an attorney and serving as a trustee does not violate the NC Constitution and have so advised her.

If you are aware of a statute, case, or Attorney General's advisory opinion different than my conclusion, please let me have the same and I will reevaluate my position.

With best wishes, I am,

Sincerely,



Patrick U. Smathers

PUS:th

cc: Donna Forga
Dr. Rose Johnson
Mark Bumgardner