

## Fiduciary Responsibility

As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer. Furthermore, the view has been expressed that all public officers, within whatever branch and whatever level of government and whatever be their private vocations, are trustees of the people, and accordingly labor under every disability and prohibition imposed by the law on trustees relative to the making of personal financial gain from a discharge of their trusts. That is, a public officer occupies a fiduciary relationship to the political entity on whose behalf he or she serves, and owes a fiduciary duty to the public. It has been said that the fiduciary responsibilities of a public officer cannot be less than those of a private individual. Furthermore, it has been stated that any enterprise undertaken by the public official which tends to weaken the public confidence and undermine the sense of security for individual rights is against public policy. (63C Am. Jur. 2d, Public Officers and Employees, 247).

Fraud in its common law sense of deceit – and this is one of the meanings that fraud bears in the statute, see *United States vs. Dial*, 757 F.2d, 163, 168 (7<sup>th</sup> Cir. 1985) – includes the concealment of material information in a setting of fiduciary obligation. A public official is a fiduciary toward the public, including, in the case of a judge, the litigants who appear before him, and if he deliberately conceals material information from them, he is guilty of fraud. *McNally vs. United States*, 483 U.S., 350 (1987)