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November 22, 1999

Michael Lanham, Esq.  
Biscayne Building  
19 West Flagler Street  
Suite 1102  
Miami, Florida 33130

**RE: REQUEST FOR ADVISORY OPINION 99-48**

Dear Mr. Lanham:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on November 18, 1999 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding possible conflicts between your service on the Public Health Trust and your professional responsibilities.

In your letter, you advised the Commission that you use the JMH Health Plan as the medical insurance for your law firm. You choose the plan through the state's CHPA program. You are concerned about whether you has a voting conflict regarding issues that may arise before the Trust regarding the JMH Health Plan.

You further advised the Commission that you represent plaintiffs in a lawsuit against Miami-Dade County regarding the rights of the disabled and the County's public transportation system and the county's lack of compliance with federal and state disability laws.

The Commission found The Conflict of Interest and Code of Ethics ordinance does not prohibit you from voting on matters regarding the JMH Health Plan. Section 2-11.1(d) prohibits county commissioners from voting or participating in any way in any matter presented to the Board of County Commissioner if said person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board of County Commissioners: (i) officer, director, partner, of counsel, consultant, employee fiduciary or beneficiary or (ii) stockholder, bondholder, debtor or creditor, if in any instance the transaction or matter would affect the person defined in subsection (b)(1) in a manner distinct from the manner in which it would affect the public generally. Section 24A-3(c) provides that "...whenever in the Conflict of Interest ordinance reference is made to the Board of County Commissioners, that reference shall be deemed and construed to be a reference to the Board of Trustees of the Public Health Trust."

As a patient of the health plan, you do not have any of the relationships with the trust which prohibit voting under the ordinance. Further, you will not personally benefit from a vote of the trust regarding a vote of the trust in a manner distinct from any other patient of the health plan. Therefore, the Conflict of Interest and Code of Ethics ordinance does not prohibit you from voting on matters involving the trust.

You may also represent third parties in a lawsuit against Miami-Dade County as long as the Trust is not a party to the lawsuit. Section 2-11.1 (m)(2) governs representation and payment by autonomous personnel, quasi-judicial personnel and advisory personnel. Section 2-11.1(m)(2) provides that no person included in the terms defined in subsection

(b) (2) (3) and (4) appear in any court or before any administrative tribunal as counsel or legal advisor to a third party who seeks legal relief from the County board or agency on which such person serves through the suit in question. Therefore, Lanham may represent plaintiffs in a lawsuit against the County as long as the Trust is not a party to the suit and the relief sought does not involve the Trust or Jackson Memorial Hospital.

Accordingly, The Conflict of Interest and Code of Ethics ordinance does not prohibit you from voting on matters involving the JMH Health plan even though you receive medical benefits under the plan. Further, you may represent plaintiffs in a disability rights lawsuit against the County as long as the Trust is not a party to the lawsuit and person is not seeking legal relief from the Trust.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding the opinion, please call the undersigned at (305) 579-2954 or Ardyth Walker, Staff General Counsel at (305) 579-2653.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Robert Meyers", with a long horizontal line extending to the right.

ROBERT MEYERS  
Executive Director