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VIA FACSIMILE (305) 876- 0948
AND REGULAR MAIL

November 22, 1999

Gary Dellapa
Director
Miami-Dade Aviation Department
P.O. Box 592075
Miami, Florida 33159

RE: REQUEST FOR ADVISORY OPINION 99-50

Dear Mr. Dellapa:

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 memorandum .

You requested an opinion regarding regarding a request for outside employment by Max Fajardo who serves as the department's Maintenance Division Manager.

In your memorandum, you advised the Commission that Max Fajardo, the Department's Maintenance Division Manager was formerly employed by the Aviation Department as Deputy Chief of the Engineering Section of the Maintenance Division. On July 8, 1999, Fajardo resigned his position with the Aviation Department and accepted a job with Parson Aviation working on an engineering team handling the MIA North Runway Project.

Subsequently, the Aviation Department rehired Fajardo. The Greiner Team is requesting that Fajardo be permitted to complete the engineering work that he had begun on the north runway project. The project is under the supervision of the Facilities Development Division of the MDAD but people in Fajardo's chain of command will review and evaluate work done on the project in consultation with the assigned contract manager.

The Commission found that the Conflict of Interest and Code of Ethics ordinance bars Fajardo's outside employment with the Greiner Team to complete the runway project. Section 2-11.1(j) provides that " no person included in the terms defined in subsections (b)(1) through (6) shall accept other employment which would impair his independence of judgment in the performance of his public duties. Further, Section 2-11.1 (h) provides that no person included in the terms defined in subsection (b)(1) through (6) shall accept outside employment or engage in any business or professional activity which he might reasonable expect would require or induce him to disclose confidential information acquired by him by reason of his official position, nor shall he in fact ever disclose confidential information garnered or gained through his official position with the County nor shall he ever use such information, directly or indirectly for his personal gain or benefit.

Fajardo's outside employment might impair his independent judgment in the exercise of his official duties because his subordinates will approve the outside work which may affect his working relationship with his subordinates. Moreover, Fajardo's engineering work on an MIA project might reasonably be expected to require or induce him to use confidential information gained through his work at MIA. Therefore, Fajardo may not continue to work

on the north runway project as a consultant for the Greiner Team.

Accordingly, The Conflict of Interest and Code of Ethics ordinance prohibits Fajardo from doing outside consultant work for an MIA contractor because it would impair his independence of judgment and might reasonably be expected to induce him to disclose confidential information.

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 this 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 cursive script, reading "Robert Meyers", followed by a horizontal line.

ROBERT MEYERS
Executive Director