

MEMORANDUM

TO: COMMISSION ON ETHICS AND PUBLIC TRUST
FROM: ARDYTH WALKER, STAFF GENERAL COUNSEL
DATE: APRIL 20, 2000
RE: RQO 00-74

Commissioner Miguel Diaz de la Portilla has requested an opinion regarding any possible voting conflict on a payphone contract where the principals involved are AT& T and BellSouth. The Board of County Commissioners will consider the matter at their meeting on April 25, 2000.

The commissioner's brother, State Senator Alex Diaz de la Portilla, is partial owner of Winning Strategies. The firm does public relations and promotions work and has a contract with a company that does consulting work for AT&T. Commissioner Diaz de la Portilla does not have any financial interest in his brother's firm.

Commissioner Diaz de la Portilla may vote on the payphone contract. Section 2-11.1(d) provides that "no person included in the term defined in subsection (b)(1) shall vote on or participate in any way in any matter presented to the Board of County Commissioners 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. Any person included in the term defined in subsection (b)(1) who has any of the above relationships and who would or might, directly or indirectly, profit or be enhanced by the action of the Board of County Commissioners shall absent himself or herself from the Commission meeting during discussion of the subject item and shall not vote on or participate in any way in said matter."

Commissioner Diaz de la Portilla does not have any of the prohibited relationships enumerated in the ordinance with either of the entities involved in the vote. Therefore, the analysis of any conflict centers on whether Commissioner Diaz de la Portilla's brother's relationship with one of the principals involved will directly or indirectly profit or enhance the commissioner. The vote would not appear to benefit the Commissioner, directly or indirectly, because Commissioner Diaz de la Portilla does not have any financial interest in his brother's firm. Moreover, the Commissioner Diaz de la Portilla's brother does not have any direct contractual relationship with any of the principals involved in the vote. Accordingly, Commissioner Diaz de la Portilla does not have a voting conflict under the ordinance and may participate in discussion and vote on the contract.