

taken; b) a legal duty performed or to be performed or which could be performed; nor c) a legal duty violated or which could be violated by any person included in the term defined in (b) (1). Since any contributions from persons seeking or receiving official action could raise allegations of a violation under this section, the Commissioner should avoid receiving donations from contractors or vendors who are seeking action from the Commission.

Therefore, Commissioner Alonso may establish a legal defense fund as long as all of the safeguards contained in the trust document and all of the guidelines established by the Ethics Commission are followed.

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 Ardyth Walker, Staff General Counsel at (305) 350-0616 or the undersigned at (305) 579-2594.

Sincerely Yours,



ROBERT MEYERS

Executive Director

The Commission found that the Conflict of Interest and Code of Ethics ordinance permits Commissioner Alonso to establish a legal defense fund. All donations to the fund are gift under the Conflict of Interest and Code of Ethics ordinance. Section 2-11.1 (e) (1) defines a gift as " the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise or in any other form without lawful and adequate consideration." Section 2-11.1(e) (4) requires the Commissioner to report any gift or series of gifts having a value in excess of twenty-five dollars by filing the required disclosure form with the Clerk of the Board of County Commissioners simultaneously with filing the form with the Secretary of State. Further, Section 2-11.1(e) (3) prohibits the Commissioner from soliciting or demanding any gift. The Commission found that the fund may be established as long as all of the safeguards contained in the proposal are enacted.

The Commission also found that the fund should report all donations to the fund and the trust document should be amended to include a termination clause and the manner of disposition of any surplus funds remaining in the fund upon termination of the trust.

Additionally, the Commission found that in order to avoid any possible violations related to 2-11.1(e) (3)'s prohibition against acceptance of gifts for an improper purpose, donations should not be accepted from current or potential county contractors. Section 2-11.1(e) (3) provides that it is unlawful for any person or entity to offer, give or agree to give to any person included in subsection (b) (1) through (b) (6) or for any person included in the terms defined in subsection (b) (1) through (b) (6) to accept or agree to accept from another person or entity any gift for or because of (a) an official public action taken or to be taken or which could be



ETHICS COMMISSIONERS

Kerry E. Rosenthal, Chairperson
Charles A. Hall, Vice Chairperson
Elizabeth M. Iglesias
Knovack G. Jones
Robert H. Newman

ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

November 28, 2001

Jose M. Quinon
2400 South Dixie Highway
Suite 200
Miami, FL 33133

RE: REQUEST FOR ADVISORY OPINION 01-131

Dear Mr. Quinon:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on November 27, 2001 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether Commissioner Alonso may lawfully establish a legal defense fund under the Conflict of Interest and Code of Ethics ordinance.

In your letter, you advised the Commission that Commissioner Alonso is under investigation by the State Attorney's Office for campaign finance irregularities. The Commissioner would like to establish a legal defense fund to defray legal fees and costs associated with her defense. The grantor, a third party unrelated to the Commissioner, would establish the fund and appoint trustees to manage the trust's assets. The Commissioner will not solicit funds for the defense fund or participate in the fund administration. The legal defense fund will accept donations from the general public with a one hundred dollar ceiling on contributions from lobbyists or political committees.