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July 31, 2002

Kathleen Woods-Richardson
Assistant Director of Collections Operations
Department of Solid Waste
8675 N.W. 53rd Street
Suite 201
Miami, FL 33156

RE: REQUEST FOR ADVISORY OPINION 02-81

Dear Mrs. Richardson:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on July 26, 2002 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding your ability to serve on selection committees where persons or firms doing business or seeking to do business with your outside firm are bidders or proposers.

In your letter, you advised the Commission that you are an Assistant Director in the Department of Solid Waste and operate a mortuary business with your husband. Recently, you were appointed to a selection committee for a miscellaneous construction contract at Miami International Airport. Dozier and Dozier, a firm from whom you recently requested a renovation proposal, was a member of one of the teams bidding for the contract. You recused yourself from that selection process but are concerned about recurring conflicts between your service on selection committees and your mortuary business.

The Commission found that you must recuse yourself from selection committees where firms who are doing business with you or contemplating doing business with you are bidding on the work. Although not prohibited by the Conflict of Interest and Code of Ethics ordinance, your participation may create raise issues related to violation of Sections 2-11.1(g) (exploitation of official position) and 2-11.1(h) (Prohibition on use of confidential information) of the Conflict of Interest and Code of Ethics ordinance.

Section 2-11.1(g) (misuse of official position) prohibits employees from using their official position to benefit themselves or another person. Section 2-11.1(g) provides that "no person... shall use or attempt to use his official position to secure special privileges or exemptions for himself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners." If you sit on a committee where people or firms with whom you are doing business or contemplating doing business are bidders or proposers, there may be the appearance that you are using your official position to benefit those people or firms or that you derive special benefit from any action that benefits those individuals or firms. Therefore, you should recuse yourself from any selection committee where persons with whom you are doing business or contemplating doing business are bidders or proposers.

Further, your service on selection committees where a firm with whom you are doing work or contemplating doing work might raise implications of a violation of Section 2-11.1(h) (Disclosure of confidential information). Section 2-11.1(h) provides that no person... shall accept employment or engage in any business or professional activity which he

might reasonably expect would require or induce him to disclose confidential information acquired by him by reason of his professional position, nor shall he in fact ever disclose confidential information garnered or gained through his official position with the county nor shall he use ever use such information, directly or indirectly for his personal gain or benefit. Your service on a selection committee with people or firms with whom you are doing business may raise implications that you shared confidential information with bidders or proposers who are involved in your outside business.

Therefore, you should recuse yourself from any selection committee where a bidder or proposer is also working for you or seeking to work for you in your outside business. Your service on such a selection committee may raise appearances of violations of Sections 2-11.1(g) (Misuse of official position) and 2-11.1 (h) (Disclosure of 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) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,



ROBERT MEYERS
Executive Director