



September 10, 2004

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STAFF GENERAL COUNSEL

Penny Townsley
Department of Elections
2700 N.W. 87th Avenue
Doral, Fl 33172

RE: INQUIRY 04-109

Dear Ms. Townsley:

Per our telephone conversation, the Chairperson of the Ethics Commission and I have reviewed the issue of whether a candidate who received public financing in the primary election may choose not to receive financing in the run-off election or abide by the expenditure limits for the run-off set forth in the ordinance. The Chairperson and I agree that a candidate is required to abide by all applicable expenditure limits for the runoff election if the candidate received funding in the initial election.

Section 12-22 provides that a candidate who receives public financing must sign a statement prior to the receipt of funds where the candidate agrees to abide by all applicable expenditure limits. The agreement is irrevocable and the candidate may not opt out of the public financing scheme for the runoff election after signing the agreement and receiving public funds.

Section 12-22(e) (5) even provides that any candidate who receives contributions from the Election Campaign Financing Trust Fund and subsequently exceeds the expenditure limits set forth in subsection (e) shall have to repay the Election Campaign Financing Trust Fund an amount equal to the excess expenditures.

Therefore, a candidate may not choose to opt out of public financing and the applicable rules during the runoff if the candidate receives funds during the initial election.

If you have any questions regarding the opinion, please call the undersigned at (305) 579-2954 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Robert Meyers".

ROBERT MEYERS
Executive Director