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VIA FACSIMILE (305) 585-7258

January 27, 2006

Theodore Lucas
Vice-President of Logistics and Distribution
Jackson Memorial Hospital
1611 N.W. 12th Avenue
Miami, FL 33136

RE: REQUEST FOR ADVISORY OPINION RQO 06-05

Dear Mr. Lucas:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on January 26, 2006 and rendered its opinion based on the facts stated in your request.

You requested an opinion regarding whether the draft policy guidelines for staff regarding outreach to JMH vendors for the Jackson Memorial Hospital Foundation complies with the requirements of the Conflict of Interest ordinance.

In your request, you advised the Commission that the Jackson Memorial Foundation is a 501(c) (3) corporation whose purpose is conducting fund-raising activities for Jackson Memorial Hospital. The JMH Foundation's principal projects are the Ryder Trauma Center, the Holtz Center for Maternal and Child Health and the Taylor Breast Health Center. The JMH foundation has a 35 person Board of Directors and several auxillary

groups who support particular areas of the hospital's operation.

The JMH foundation recently promulgated a draft policy regarding vendor solicitation by JMH staff. The policy covers several areas but specifically provides the following:

- The Foundation will seek current vendor information from Trust employees so vendors may be included in general solicitations for contributions and attendance at foundation events;
- Vendors may be approached by Foundation staff for sponsorship and named gift opportunities;
- JMH staff may respond to and inform vendors about the Foundation and may introduce vendors to Foundation staff at the request of the vendor or the foundation;
- JMH may provide foundation information on routine material that is supplied to vendors, patients and other normal and routine JMC contacts;
- JMH staff may attend foundation events as guests of the foundation or JMH and foundation staff will properly place or seat staff at the event and
- Foundation staff will make direct solicitations for contributions and sponsorships.

The Conflict of Interest and Code of Ethics ordinance permits most aspects of the Foundation's draft guidelines but the foundation must ensure that there is a complete separation between hospital procurement and solicitation of contributions.

Section 2-11.1(e)(2)(e) exempts "gifts solicited by county employees or departmental personnel on behalf of the County in performance of their official duties for use solely by the County in conducting its official business" from the definition of gifts. Pursuant to this section, JMH

employees may solicit gifts for the foundation since the foundation is the charitable arm of a county entity and the gifts will be used to conduct official county business.

However, the Ethics Commission has consistently opined that the procurement function must be separated from solicitation of donations for charitable purposes. Therefore, PHT procurement employees and senior staff may not directly solicit vendors. Further, potential vendors and existing vendors should not receive information regarding the foundation as part of routine documents distributed during the procurement process.

Finally, as currently stated in the policy, the Ethics Commission has consistently opined that vendors may not be targeted in a solicitation but may be part of a larger solicitation that includes members of the general community.

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

cc: Rolando Rodriguez, Jackson Memorial
Foundation