

September 28, 2006

Mike Abrams
Akerman Senterfitt
1 S.E. Third Avenue
28th Floor
Miami, FL 33131

RE: REQUEST FOR ADVISORY OPINION RQO 06-54

Dear Mr. Abrams:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on September 27, 2006 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether Section 2-11.1(q) (two-year rule) bars Jules Kariher, a former Public Health Trust employee, from serving as a member of your team for a lobbying agreement with the Public Health Trust.

In your letter, you advised the Commission that the Public Health Trust recently issued an RFP to perform lobbying services. The scope of services includes working with in-house governmental affairs staff, lobbying the state executive and legislative branches and testifying before legislative committees and bodies considering legislation that affects the Public Health Trust.

Kariher provided in-house governmental affairs services to the PHT prior to her current position as a governmental affairs consultant for the PHT. In her current position, Kariher primarily works for the Public Health Trust in Tallahassee. Kariher is still bound by the two-year rule.

Akerman Senterfitt is planning to submit a proposal in response to the RFP. Akerman Senterfitt seeks to employ Kariher as a subconsultant under any agreement. If Akerman Senterfitt is awarded the contract, Kariher would terminate her current agreement because her responsibility under the two agreements would overlap. Her current consultant agreement will expire after the selected firm commences work in early 2007.

The Commission found the Conflict of Interest and Code of Ethics ordinance permits Kariher to serve as a member of a lobbying team for the Public Health Trust. Section 2-11.1(q) only prohibits former employees from lobbying the county for the two years following their employment. Section 2-11.1(q) provides that no employee "shall for a period of two years after his or her County services or employment has ceased, lobby any County officer, departmental personnel or employee in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one (1) of its agencies or instrumentalities is a party or has any interest whatsoever, direct or indirect."

Further, Section 2-11.1(q)(2) provides that the provisions of Subsection (q) shall not apply to officials, departmental personnel or employees who become employed by governmental entities, 501(c)(3) non-profit entities or educational institutions or entities and who lobby on behalf of such entities in their official capacities.

Accordingly, the Ethics Commission has opined that Section 2-11.1(q) permits former employees to be retained by Miami-Dade County to provide services. Therefore, in the same way that Kariher can provide services as a consultant for the Trust, she may provide

services as a subconsultant to the Akerman Senterfitt team.

Although some conflicts may be created by overlapping responsibilities if Kariher were to perform services under her current consultant agreement and as a subconsultant to Akerman, those conflicts would be alleviated if Kariher terminates her current agreement prior to providing any services under the new agreement.

Finally, Kariher may not make any presentations before a selection committee or lobby any Trust employee regarding the subject RFP because such activities would fall under the prohibitions contained in Section 2-11.1(q).

Accordingly, Section 2-11.1(q) of the Conflict of Interest and Code of Ethics ordinance permits Kariher to provide lobbying services to the Public Health Trust. However, Kariher must terminate her current agreement prior to providing any subconsultant services to Akerman and Kariher is prohibited from lobbying Trust officials regarding the current RFP.

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

