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January 31, 2007

ETHICS COMMISSIONERS

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Mark Deutsch
Labor Management Specialist
Management and Employee Appeals Division
Employee Relations Department
111 N.W. First Street
Miami, FL 33128

RE: REQUEST FOR ADVISORY OPINION 07-01

Dear Mr. Deutsch:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on January 30, 2007 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether a condo association may lawfully give cash gifts to county fire rescue employees in the condo's fire district.

In your letter, you advised the Commission that you are a member of a condo association. The association is seeking donations from residents to the holiday fund. The association is planning to use the funds for cash gifts to county fire rescue personnel.

The Commission found the Conflict of Interest and Code of Ethics ordinance permits the condominium association to give cash gifts to fire rescue employees. 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 in any other form without lawful and adequate consideration."

An employee is permitted to accept a gift unless the gift is given in exchange for the performance of his or her official duties. Section 2-11.1(e)(3) sets out the restrictions on acceptance of gifts. Section 2-11.1(e)(3) provides that a person described in subsection (b)(1) through (b)(6) shall neither solicit or demand any gift. It is also 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) any official public action taken or to be taken or which could be taken; (b) a legal duty performed or to be performed or which could be performed; or (c) a legally duty violated or which could be violated by any person included in the term defined in (b)(1). County Administrative Order 7-1 similarly states that no county employee shall accept any tip or gratuity in the discharge of his/her public duties.

In RQO 03-82, the Ethics Commission opined that Miami-Dade firefighters could receive a cash award of five hundred dollars from the Kendall Federation of Homeowners because the award was not a *quid pro quo* and was not received in exchange for official action.

Similarly, in the instant case, the Conflict of Interest ordinance would permit the condominium association to give the fire rescue employees the cash gift as long as the gift is not in exchange for any official action taken on behalf of the condominium association or for any official action that may or could be taken on behalf of the condominium association. Otherwise, the condominium association may give a cash gift to the firefighters.

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,

A handwritten signature in cursive script, appearing to read 'Robert Meyers', followed by a horizontal line extending to the right.

ROBERT MEYERS
Executive Director