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MICHAEL P. MURAWSKI
Advocate

ARDYTH WALKER
Staff General Counsel

August 17, 2007

Ken Kistner
Policy Coordinator
South Florida Workforce
7300 Corporate Center Drive
Suite 500
Miami, FL 33126

RE: REQUEST FOR ADVISORY OPINION RQO 07-38

Dear Mr. Kistner:

Please find attached the official Ethics Commission opinion regarding this matter. The official Ethics Commission opinion varies significantly from the staff recommendation. Please contact me if you have any questions or I can provide any further assistance.

SINCERELY YOURS,

ARDYTH WALKER
Staff General Counsel



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Ken Kistner
Policy Coordinator
South Florida Workforce
7300 Corporate Center Drive
Suite 500
Miami, FL 33126

RE: REQUEST FOR ADVISORY OPINION RQO 07-38

Dear Mr. Kistner:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on August 17, 2007 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether Alberni, Caballero and Castellanos may be awarded a contract to provide external audit services for South Florida Workforce. Pursuant to the memorandum of understanding between the County and South Florida Workforce, the agency is required to comply with the Conflict of Interest ordinance.

In your letter, you advised the Commission that South Florida Workforce recently issued a Request for Qualifications for a firm to provide external audit services. Pursuant to Federal statute, all external agencies that receive \$500,000 or more in federal funding are required to have an independent financial and compliance audit.

The scope of services for the contract provides that auditor will audit all funds received under the Workforce Investment Act of 1998, the Temporary Assistance to Needy Families Block Grant, Refugee Employment and Training Program Funds received from the Department of Health and Human Services and Title V funds received from the U.S. Department of Labor.

The auditor will be responsible for ensuring that all funds are spent in accordance with state and federal laws and regulations and in accordance with the mission of the South Florida Workforce Investment Board.

Alberni, Caballero and Castellanos (ACC) responded to the RFQ. Caballero has a twenty percent interest in the South Florida Institute of Technology. South Florida Institute of Technology is an approved training provider for South Florida Workforce. Accordingly, registered job seekers from South Florida Workforce may attend training programs in such areas as Computer Graphics and Medical Assistant Training. South Florida Workforce pays partial tuition and other related expenses for each job seeker who enrolls in a program at the school.

Caballero serves as Financial Aid Officer/ Compliance Officer for the South Florida Institute of Technology. In that capacity, Caballero is responsible for reviewing student files to ensure that files contain the required documentation for federal financial aid.

The Ethics Commission found the Conflict of Interest ordinance prohibits ACC from providing external auditing services to South Florida Workforce. Section 2-11.1(n) prohibits a person from taking official action when his or her financial interests are involved. As an officer with a

controlling financial interest in one of the agencies that is a subgrantee of federal training funds received by South Florida Workforce, Caballero has a financial interest in any audit findings related to South Florida Workforce's use of training funds and whether South Florida Institute of Technology is appropriately handling any vouchers provided by job seekers from South Florida Workforce.

Further, in the instant case, the conflict extends to the entire firm because Caballero is a partner. As a partner, Caballero will benefit financially from any auditing contract between South Florida Workforce and ACC.

The Ethics Commission also found, pursuant to Section 2-11.1(j), that the firm's independence of judgment in the performance of its public duties would be compromised by Caballero's role as an officer in an agency that receives funding from South Florida Workforce and whose funding will be reviewed as a part of the audit.

Therefore, the Conflict of Interest ordinance prohibits ACC from providing external auditing services to South Florida Workforce because a partner will have to take official action where his financial interests are involved and because the firm's independence of judgment will be compromised by reviewing the financial records and programs of a agency in which a partner has a financial interest.

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,

A handwritten signature in black ink, appearing to read 'Robert Meyers', with a long horizontal flourish extending to the right.

ROBERT MEYERS
Executive Director

cc: Nestor Caballero, Alberni, Caballero and Castellanos