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January 31, 2008

Richard A. Alayon, Esq.  
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4551 Ponce de Leon Blvd.  
Coral Gables, FL 33175

Via First Class Mail and Fax at 305.221.5321

Re: **RQO 08-03** "Michelle Spence-Jones Legal Expense Trust"  
Miami-Dade County Code of Ethics at § 2-11.1 (e)(4)

Dear Mr. Alayon:

The Commission on Ethics & Public Trust considered your request and rendered its opinion at a public meeting held on January 31, 2008.

The Commission found that the "Michelle Spence-Jones Legal Expense Trust" cannot operate as a blind trust because the lack of transparency created under a blind trust violates the County gift disclosure ordinance at Section 2-11.1(e)(4).

In your letter dated January 29, 2008, you stated that a legal expense blind trust was established on October 4, 2007, to benefit Michelle Spence-Jones. Except for a provision to create the trust as a blind trust, the Spence-Jones trust followed all other guidelines established by the Ethics Commission in a prior opinion.<sup>1</sup> You asked if the trust could operate with this additional element as a blind trust.

The Ethics Commission found that the blind trust obfuscates the transparency demanded of the County gift-disclosure ordinance at Section 2-11.1(e)(4). Under that ordinance, City of Miami Council Member

<sup>1</sup> RQO 01-131, to former County Commissioner Miriam Alonso.

Spence-Jones must file a Quarterly Gift Disclosure Form (State Form 9) with the City of Miami City Clerk simultaneously when she files with the State. On the Quarterly Gift Disclosure Form, she is required to acknowledge, under oath, gifts received during the previous quarter in excess of \$100, the date the gift was received, a description of the gift, the monetary value of the gift, and the name and address of the person making the gift.<sup>2</sup>

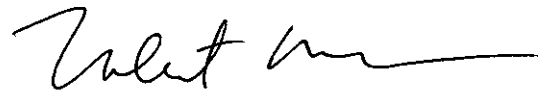
The rules of the blind trust established on behalf of Council Member Spence-Jones lack several elements required under Section 2-11.1 (e)(4). These include the duty of the *reporting official* to file *quarterly* on the proper *Quarterly Gift Disclosure Form 9*, which further compels listing the *name and address of each contributor*, the *value of each contribution* in excess of \$100, and the *date* received.

In sum, the "Michelle Spence-Jones Legal Expense Trust" cannot operate as a blind trust. Rather, Ms. Spence-Jones must be apprised of the contributors who donate in excess of \$100 per quarter to her legal expense fund in order to complete the Quarterly Gift Disclosure Form 9 in its entirety and to sign an oath that the disclosures are true.

This opinion construes the Miami-Dade Conflict of Interest & Code of Ethics Ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.<sup>3</sup>

Feel free to contact Victoria Frigo, Staff Attorney, at (305) 350-0601, or Robert Meyers at (305) 579-2594, if we can be of further assistance.

Sincerely yours,



ROBERT MEYERS  
Executive Director

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<sup>2</sup> See State Form 9.

<sup>3</sup> Two State Ethics Opinions relevant to your question can be found at CEO 91-24, which discusses the lack of a State provision to create blind trusts in order to avoid ethics conflicts, and CEO 98-8, which confirms that contributions to a legal defense fund are gifts and must be disclosed by the reporting individual on State Form 9.