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ARDYTH WALKER  
STAFF GENERAL COUNSEL

March 26, 2008

Via First Class Mail  
and  
email at [velpal2000@bellsouth.net](mailto:velpal2000@bellsouth.net)

Velma Palmer, City Commissioner  
City of South Miami City Hall  
6130 Sunset Drive  
South Miami, FL 33143

Re: RQO 08-15

Dear Commissioner Palmer:

The Commission on Ethics & Public Trust considered your request and rendered its opinion at a public meeting held on March 26, 2008.

In your email of March 21, 2008, you asked the Ethics Commission to advise if you could establish a Legal Defense Fund and, if so, under what conditions.

The Ethics Commission stated that you may establish a Legal Defense Fund, but only if the Fund is organized as an express trust that conforms to the applicable laws of trusts under state law and all safeguards established in previous Ethics Commission opinions are followed. (For your convenience, I am attaching the Ethics Commission's previous opinions on this subject at RQO 01-131 and RQO 08-03.)

First, all donations to a Legal Defense Fund are gifts, as defined by the County's Conflict of Interest & Code of Ethics Ordinance at § 2-11.1 (e), and must be dealt with accordingly. Consequently, full disclosure is required if you receive a gift or a series of gifts in excess of \$100 from an individual in any quarter. As required by State Form 9, gift disclosure must include 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. Additionally, within this context, you may not solicit or demand gifts.

Next, if a Legal Defense Fund is established, it must conform to state laws governing express trusts as well as to requirements previously defined by the Ethics Commission. Requirements established by the Ethics Commission include the following:

- The Legal Defense Fund must be established by a third party unrelated to you. This third party must appoint independent trustees with a fiduciary duty to manage the trust's assets.

- The trust document should include a termination clause that describes the manner of disposition of any surplus funds upon termination of the trust.
- You may not solicit contributions to the Legal Defense Fund nor may you participate in the Fund's administration.
- Contributions from lobbyists and political committees are limited to a value no greater than \$100 per individual or entity.
- Current or potential City of South Miami contractors are strictly prohibited from contributing to the Legal Defense Fund, in order to avoid any possible violations related to accepting gifts for an improper purpose.
- The Legal Defense Fund may not operate as a blind trust, *i.e.*, not disclose the names of contributors or the amounts of contributions. To satisfy the transparency required by the County gift ordinance, you must be apprised of contributors who donate in excess of \$100 per quarter to your Legal Defense Fund.

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.

Please 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 in this matter.

Sincerely yours,



ROBERT MEYERS  
Executive Director

**Copy:**

Luis R. Figueredo, City of South Miami Attorney  
Nagin Gallop & Figueredo, P.A.  
18001 Old Cutler Rd., Suite 556  
Palmetto Bay, FL 33157  
Fax at 305.854.5351

**Attachments:**

RQO 01-131 and RQO 08-03