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STAFF GENERAL COUNSEL

June 2, 2008

Domingo Cruz
R.A.I. Construction
14080 S.W. 8th Terrace
Miami, Fl 33184

RE: REQUEST FOR ADVISORY OPINION RQO 08-23

Dear Mr. Cruz:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on May 29, 2008 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether your corporation, R.A.I. Construction, may become a registered county vendor. Your son-in-law, Raul Cruz, is a county employee.

In your request, you advised the Commission that R.A.I. Construction has worked on projects for the Florida Department of Transportation and Broward County. The firm is seeking to become a registered county vendor. Raul Cruz is currently employed as a Road Construction Engineer for the Department of Public Works. ¹ Cruz is not currently employed by R.A.I. Construction and does not have any involvement in the operation of the business.

Your daughters, Idalys Cruz and Iraida Carabeo-Nieva, are responsible for the day-to-day operation of R.A.I. Construction. You

In Complaint 07-10, the Ethics Commission settled a case where Raul Cruz was alleged to have asked Public Works contractors to serve as references for R.A.I. Construction.

and your wife are still involved in the business and are solely responsible for issuing checks on behalf of the corporation. Idalys' spouse, Raul Cruz, is not currently receiving compensation from the corporation.

The Commission found R.A.I. Construction may become a registered county vendor. Section 2-11.1 (d) permits a vendor to contract to provide services unless a member of the vendor's immediate family works for Miami-Dade County. Section 2-11.1(d) provides that "no person shall enter into any contract or transact any business through a firm, corporation, partnership or business entity in which he or a member of his immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County and any such contract, engagement or business engagement entered into in violation of this subsection shall render the transaction voidable." Immediate family is defined under the ordinance as spouse, parents and children. A controlling financial interest is defined as ten percent or more of the stock in the corporation. A son-in-law is not considered immediate family. Therefore, R.A.I. Construction may become a registered county vendor.

However, in light of Raul Cruz' prior involvement with the corporation, pursuant to 2-11.1(g), Raul Cruz is prohibited from any involvement in a R.A.I. Construction contract with Miami-Dade County including participation in the selection process, enforcement, oversight, administration, extension, termination or forbearance.

Accordingly, R.A.I. Construction may become a registered county vendor even though your son-in-law is a county employee. However, Raul Cruz is prohibited from any involvement in any contract between Miami-Dade County and R.A. I. Construction.

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,



ROBERT MEYERS
Executive Director

cc: Celia Hudson, Department of Procurement
Management
Esther Calas, Director, Department of Public
Works