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September 2, 2008

David C. Weston
10411 SW 123rd St.
Miami, FL 33176-4715

Re: RQO 08-36

Dear Mr. Weston:

The Commission on Ethics & Public Trust considered your request and rendered its opinion at a public meeting held on August 28, 2008.

In your email of July 17, 2008, you asked the following questions.

Must a job applicant for the position of fire inspector in the City of Miami Beach disclose as outside employment an investment position he holds in a Florida corporation if—he does not provide any services to the corporation, he does not receive a salary from the corporation, and he is not entitled to receive a salary from the corporation?

Is a municipal fire inspector required to file financial disclosure forms?

Briefly, the Ethics Commission responded that neither of the activities described above requires financial disclosure.

The facts as we understand them are as follows: You hold an active Fire Safety Inspector's license in accordance with Florida Statute 633.081. The City of Miami Beach has recently advertised open positions for fire inspectors with this credential.

In January 29, 2008, you and three other partners created a Florida limited liability corporation titled "5255 Marina, LLC." The purpose of the corporation is to acquire and renovate boat slips located at 5255 Collins Avenue in the City of Miami Beach. You are a 16.667% shareholder in the corporation. You are not now, nor will you become, an employee of the corporation nor will you offer any services to the corporation that will cause you to be eligible for a salary. Your relationship with "5255 Marina, LLC" is solely as an investor.

The County ordinance governing outside employment at § 2-11.1 (k) refers to outside employment as *compensated service*. In RQO 07-24, the Ethics Commission held that a government employee who was also an *employee* of a private corporation or was *eligible to receive a salary* from the private corporation as a result of her services to the private corporation must disclose this activity as outside employment, even if she earned no salary in a particular year. Conversely, if the government employee is not employed by the private

corporation and/or is not eligible to receive a salary from the corporation, she is not engaged in outside employment and does not need to file outside employment forms.

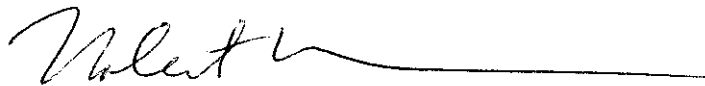
Subsection 2-11.1 (i)(2) of the County Ethics Code stipulates which government personnel must file financial disclosure statements. The code specifically includes building and zoning inspectors. Fire inspectors are not listed. In RQO 04-198, the Ethics Commission held that fire inspectors are not officials of building and zoning departments and, therefore, are not required to file financial disclosure forms.

Please be advised that at both the County and city level, individual departments may impose other requirements on their staffs that are more restrictive than those found in the County Ethics Code.

This opinion construes the Miami-Dade County 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

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Attachments: RQO 04-198
RQO 07-24