



ETHICS COMMISSIONERS

Kerry E. Rosenthal, CHAIRPERSON
Dawn E. Addy, VICE CHAIRPERSON
Magda Abdo-Gomez
Judge Seymour Gelber
Erica Wright

ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

December 8, 2008

Jerry Libbin, City Commissioner
City of Miami Beach
1700 Convention Center Dr.
Miami Beach, FL 33139

Via First Class Mail

Re: **RQO 08-49**

Exhibition costs associated with anti-littering public service announcements (PSAs) are reportable gifts. *See* § 2-11.1 (e) of the County Ethics Code.

Dear Commissioner Libbin:

The Commission on Ethics & Public Trust considered your request and rendered its opinion at a public meeting held on December 3, 2008.

In your correspondence of October 31, 2008, you stated that you have made a public service announcement (PSA) to discourage littering. The cost of exhibiting the PSA at a local movie theater on Miami Beach is \$190 per week. You asked if exhibition costs paid by local hotels are gifts to you that you must report.

The Ethics Commission opined that payments made by hotels in Miami Beach to a theater to exhibit the anti-littering PSA, in which you are featured, are gifts to you that must be disclosed if the value from any one entity or person exceeds \$100 per quarter.

The legal analysis of this matter is controlled by § 2-11.1 (e) of the County Ethics Code, which defines "gift" as "the transfer of anything of economic value...without adequate and lawful consideration." *See* § 2-11.1 (e)(1) of the County Ethics Code. Gifts given to government to be used solely for conducting official business are excluded from the definition. *See* § 2-11.1 (e)(2)(f) of the County Ethics Code.

The Ethics Commission found that exhibiting your anti-littering PSA is a benefit to you because it promotes you as a leader of the anti-littering movement. The Commission further opined that you will not be providing adequate consideration for this promotional benefit. Although you have contributed stature as a City Commissioner to the project, lending one's stature as an elected official on behalf of one's local government is not considered to be any part of consideration. Finally, because no official government action mandated that the PSA be produced and distributed, the anti-littering PSA does not fall within the exception to the gift ordinance, referenced above. The Commission commends your involvement with a cause that is compatible with government purposes. Nevertheless, this PSA was

produced and distributed entirely at your discretion, not in response to a directive from your government.

Consequently, based on the requirements in the County Ethics Code at § 2-11.1 (e)(4), any person or entity that contributes in excess of \$100, per quarter, toward the cost of exhibiting the PSA has provided you with a gift that you must report.

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,



ROBERT MEYERS
Executive Director

copies: Jean Olin, City Attorney
City of Miami Beach
Fax: 305.673-7002

RQO 08-49
Jerry Libbin, City Commissioner
City of Miami Beach

December 8, 2008

page 2 of 2