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ETHICS COMMISSIONERS October 27, 2009

Kerry E. Rosenthal, Chairperson
Dawn E. Addy, Vice Chairperson
Magda Abdo-Gomez
Regine Monestime
Seymour Gelber

Christina White
Director
Office of Governmental Affairs
Department of Elections
2700 N.W. 87th Avenue
Miami, FL 33172

ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

RE: REQUEST FOR ADVISORY OPINION RQO 09-40

Dear Ms. White:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on October 26, 2009 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether the department must maintain hard copies of financial disclosure forms.

In your request, you advised the Commission that Section 2-11.1(i) requires the following persons to file financial disclosure: a) the Mayor and the Members of the Board of County Commissioners; b) County Attorney and Assistant County Attorneys; c) County Manager, Assistant County Manager and Special Assistants to the County Manager; d) Heads or Directors of County Departments and their assistant or deputy department heads; e) Employees of Miami-Dade County police with the rank of Captain, Major and Chief; f) building and zoning inspectors; g) any architect, professional engineer, landscape architect or registered land surveyor performing services for Miami-Dade County pursuant to a contract; h) autonomous and semi-autonomous personnel, boards and

agencies that did not file under state law; i) personnel who perform quasi-judicial functions and who did not file under state law; j) advisory personnel whose sole or primary responsibility is to recommend legislation or give advice to the Board of County Commissioners, including members of any County board that did not file under state law and k) candidates for County and municipal elected office.

§112.3145, F.S. (2008) sets out the persons required to file financial disclosure under state law. Section 112.3145 includes several persons, such as the Mayor, members of the Board of County Commissioners, police officials, building officials and candidates who are required to file under state law and the Conflict of Interest ordinance. The Supervisor of Elections is the custodian of records for financial disclosure forms under the county ordinance and state law.

State elections law requires the Supervisor of Elections to maintain originals of financial disclosure records for ten years. Pursuant to that section, the Florida Ethics Commission and all Florida counties, including Miami-Dade County, maintain hard copies of financial disclosure forms.

The Elections Department uses electronic data management systems (EDMS) to scan hard copies of various documents into an electronic storage system. The Department of Elections currently maintains hard copies as well as electronic masters for financial disclosure and other documents (i.e. outside employment) maintained by the department. The Elections Department is considering phasing out their current system and maintaining the master copy only in electronic form.

The Ethics Commission found the Elections Department should maintain hard copies of financial disclosure documents for ten years. State law mandates that "the supervisor shall

preserve statements and other information required to be filed with the supervisor...for a period of ten years from date of receipt". Since many officials are required to file under both laws and many county officials file the state form, it would be unmanageable to maintain two separate record retention systems for the same records. Therefore, the Elections Department should maintain records filed under Section 2-11.1(i) for ten years as they maintain forms filed under state law.

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 Ardyth Walker, Staff General Counsel at (305) 350-0616 or the undersigned at (305) 579-2594.

Sincerely Yours,

A handwritten signature in black ink, appearing to read 'Robert Meyers', with a long horizontal flourish extending to the right.

ROBERT MEYERS
Executive Director