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ADVOCATE

**ARDYTH WALKER**  
STAFF GENERAL COUNSEL

September 1, 2010

Margaret Hawkins Moss  
Senior Aviation Procurement Contract Officer  
Real Estate Division  
Miami-Dade County Aviation Department  
Miami International Airport  
P.O. Box 025504  
Miami, FL 33102

**RE: REQUEST FOR ADVISORY OPINION 10-22**

Dear Ms. Moss:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on August 31, 2010. You requested an opinion regarding any conflicts created by your serving as contracting officer on an advertising contract that was presented to the Board of County Commissioners. Your spouse, Dennis Moss is Chairperson of the Board of County Commissioners.

In your request, you advised the Ethics Commission that in 2007, the Aviation Department (MDAD) advertised a contract for a firm to finance, design, develop, furnish, install, manage and operate an advertising display program at Miami International Airport. Three firms, J.C. Deaux, Clear Channel Airports and Eye Fly Miami responded to the advertisement. In 2008, J.C. Deaux was ranked the highest bidder. After the initial round of negotiations, the Aviation Department was unable to reach an agreement with J.C. Deaux. MDAD entered into negotiations with the second ranked firm, Clear Channel Airports, and was also unable

to reach an agreement. The third-ranked firm, Eye Fly Miami, declined to enter into negotiations. Subsequently, in 2009, Clear Channel Airports asked to re-enter negotiations. MDAD entered into a second round of negotiations with J.C. Deaux and Clear Channel. Clear Channel was ultimately recommended for award. In July, 2010, after an unsuccessful bid protest by J.C. Deaux, the Board of County Commissioners awarded the contract to Clear Channel. Thereafter, J.C. Deaux received an emergency injunction in circuit court. Miami-Dade County has filed an appeal with the Third District Court of Appeal.

You served as Contracting Officer for the advertising program. In your capacity as Contracting Officer, you were responsible for preparing and advertising the RFP documents, scheduling and organizing selection and negotiation committee meetings, preparing minutes of the proceedings and drafting award recommendation memoranda to the County Manager and the Board of County Commissioners.

The Ethics Commission has previously opined that you may serve as a contracting officer while your husband serves as a member of the Board of County Commissioners. In your position as a contracting officer, you do not vote on or make recommendations regarding contract awards. Therefore, the Ethics Commission has held that you may serve in this capacity.

The advertising contract is the subject of on-going litigation and the propriety of the process is the ultimate legal issue before the court. In light of this fact, the Ethics Commission declined to issue an opinion because the issue is under review in the courts.

Please contact the undersigned or Ardyth Walker, Staff General Counsel, at (305) 579-2594 if you have any additional questions or we can provide any other assistance.

SINCERELY YOURS,

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

ROBERT MEYERS  
Executive Director

cc: David Murray, Assistant County Attorney