



**MIAMI-DADE COUNTY
COMMISSION ON
ETHICS & PUBLIC TRUST**

In re: Deborah Irby
_____ /

C 05-26

**PUBLIC REPORT
AND
FINAL ORDER ACCEPTING SETTLEMENT AGREEMENT**

The ADVOCATE filed the above-mentioned Complaint against RESPONDENT Deborah Irby, the City Clerk of the City of Opa-Locka, alleging violations of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance. Specifically, the Complaint alleged violations of Sections 2-11.1(c)(1), *Prohibition on transacting business within the [city]*, and 2-11.1(n), *Actions prohibited when financial interests are involved*.

According to the facts outlined in the Complaint, RESPONDENT contracted on behalf of the City of Opa-Locka in the fall of 2004 for musical entertainment for a City event. The contract in question was executed on the letterhead of "Jay-D Productions and Entertainment, Inc. in association with Chu-Chu Records & Music is My Life Foundation." Additionally, the logo of Jay-D Productions, Inc., was prominently displayed on the written contract. Jay-D Productions, Inc., is a Florida for-profit corporation in which RESPONDENT serves as president and Jimmy Jenkins is vice-president. Music is My Life is a Florida for-profit corporation in which Mr. Jenkins is president and RESPONDENT is vice-president. The contract in question was signed by RESPONDENT in her official capacity as City Clerk of the City of Opa-Locka. Mr. Jenkins signed on behalf of the musical group.

The Complaint alleged, thereby, that RESPONDENT violated Sections 2-11.1(c)(1) and 2-11.1(n) of the Conflict of Interest and Code of Ethics Ordinance. Section 2-11.1(c)(1) provides in pertinent part—

No person included in the terms defined in Subsection (b)(1) through (6) ... shall enter into any contract or transact any business ... in which he or she or a member of his or her immediate family has a financial interest, direct or indirect, with [the city] or any person or agency acting for [the city]....

Section 2-11.1(n) states in pertinent part—

No person included in the terms defined in Subsections (b)(1) through (6) shall participate in any official action directly or indirectly affecting a business in which he or any member of his immediate family has a financial interest.

On September 22, 2005, the Ethics Commission determined the Complaint to be legally sufficient. Subsequently, the Ethics Commission entered into a negotiated settlement with RESPONDENT, which included the issuance of the attached LETTER OF INSTRUCTION in full satisfaction of the Complaint

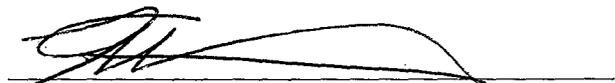
Therefore it is:

ORDERED AND ADJUDGED THAT the RESPONDENT, pursuant to the settlement agreement, shall accept and comply with the attached LETTER OF INSTRUCTION in full satisfaction of the Complaint.

DONE AND ORDERED by the Miami-Dade County Commission on Ethics & Public Trust in public session on December 15, 2005.

MIAMI-DADE COUNTY COMMISSION ON
ETHICS & PUBLIC TRUST

By:


Kerry E. Rosenthal, Esq.
Chairman



**MIAMI-DADE COUNTY
COMMISSION ON
ETHICS & PUBLIC TRUST**

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LETTER OF INSTRUCTION

The ADVOCATE filed the above-captioned complaint alleging violations of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance at Sections 2-11.1(c)(1), *Prohibition on transacting business within the [city]*, and 2-11.1(n), *Actions prohibited when financial interests are involved*. On November 15, 2005, the Ethics Commission entered into a negotiated settlement, which included the issuance of this LETTER OF INSTRUCTION in full satisfaction of the Complaint. This LETTER OF INSTRUCTION is intended to provide RESPONDENT with guidance and edification in order to avoid future transgressions of the ethics ordinances.

Section 2-11.1(c)(1) of the Ethics Code is titled *Prohibition on transacting business within the County*. References in the Code to the "County" are equally applicable to municipalities located within Miami-Dade County. Section 2-11.1(c)(1) states, in pertinent part—

No person included in the terms defined in Subsection (b)(1) through (6)¹ ... shall enter into any contract or transact any business ... in which he or she or a member of his or her immediate family has a financial interest, direct or indirect, with [the City of Opa-Locka] or any person or agency acting for [the City of Opa-Locka]....

¹Section 2-11.1(a)(5) covers departmental personnel, which would include appointed officials in the City of Opa-Locka such as the City Clerk.

Section 2-11.1(c) prohibits government employees and officials from contracting with their respective governments. The focus is on the individual's actual contracting with or conducting business with his/her governmental entity, not on whether the contract itself is profitable for the employee or the official. In November 2004, RESPONDENT, acting in her official capacity as a representative of the City of Opa-Locka, signed a contract with JIMMIE JENKINS to procure the services of a musical group to perform at the City's annual Arabian Nights Festival. The letterhead on which the contract is written states—

JAY-D PRODUCTIONS and Entertainment, Inc.
in association with
CHU-CHU RECORDS & MUSIC IS MY LIFE FOUNDATION.

JAY-D PRODUCTIONS, INC., is a for-profit Florida corporation. RESPONDENT is the President of JAY-D PRODUCTIONS, INC., and JIMMIE JENKINS is the Vice President. MUSIC IS MY LIFE, INC., is also a for-profit Florida corporation. RESPONDENT is the Vice President of MUSIC IS MY LIFE, INC., and JIMMIE JENKINS is the President. CHU-CHU RECORDS is an affiliate company of JAY-D PRODUCTIONS, INC. JIMMIE JENKINS is the principal of CHU-CHU RECORDS. The musical group hired and promoted by the City of Opa-Locka had an exclusive recording contract with CHU-CHU RECORDS.

RESPONDENT violated Section 2-11.1(c)(1) of the Ethics Code when, acting in her official capacity as a representative of the City of Opa-Locka, she entered into a contract with corporations in which she had financial interests (*i.e.*, JAY-D PRODUCTIONS, INC., and its affiliate CHU-CHU RECORDS, on whose letterhead the contract was written and with whom the musical group had an exclusive relationship). Moreover, under Section 2-11.1(c)(2), RESPONDENT is advised that she could not cure this violation by having someone else sign the contract. As a department head, she is precluded from entering into any contract or transacting any business through a company in which she has a financial interest on behalf of the City department with which she works, regardless of which City official actually signs the contract.

The second violation occurred under Section 2-11.1(n) of the Code, which states in pertinent part—

No person included in the terms defined in Subsections (b)(1) through (6) shall participate in any official action directly or indirectly affecting a business in which he or any member of his immediate family has a financial interest.

Section 2-11.1(n) makes clear that a government official cannot participate in any official action that will *affect* (emphasis added), either directly or indirectly, a business in which she has a financial interest. In the instant case, RESPONDENT's private companies (JAY-D PRODUCTIONS, INC., and its affiliate CHU-CHU RECORDS) held an exclusive recording agreement with the musical group that the City hired. RESPONDENT herself paid for promotional CDs that were slated to be given away at the Arabian Nights Festival. Obtaining bookings for musicians and promoting the records of musicians are the primary business functions of RESPONDENT's music companies. Using City funds to hire and promote a musical group that had an exclusive recording contract with CHU-CHU RECORDS, an affiliate of JAY-D PRODUCTIONS, INC., *affected* RESPONDENT's for-profit corporations by assisting and supporting the primary business functions of RESPONDENT's corporations, and, accordingly, was prohibited.



IN RE :CASE NO:

#C05-26

DEBORAH IRBY
_____ /

**MIAMI-DADE COUNTY
COMMISSION ON
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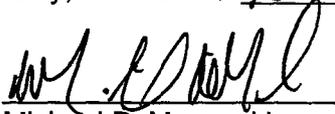
SETTLEMENT ORDER

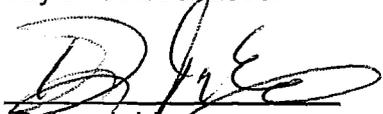
Pursuant to section 5.13 of the Miami-Dade County Commission on Ethics and Public Trust Rules of Procedure, Petitioner and Respondent do hereby enter into this settlement in full satisfaction of the above captioned matter based upon the following terms and conditions:

1. Respondent, DEBORAH IRBY does hereby agree not to contest the allegations in Counts I and II of Amended Ethics Complaint C05-26 and agrees to accept a Letter of Instruction in full satisfaction of Ethics Complaint number C05-26.
2. Respondent agrees to the terms of this settlement agreement knowingly, freely and without duress.
3. Petitioner and Respondent agree that settlement of this action in the manner described above is just and in the best interests of Respondent and the citizens of Miami-Dade County.

Done and Ordered at Miami-Dade County, Florida this 15th day of November ~~October~~ 2005.

By: 
Kerry E. Rosenthal
Chairperson


Michael P. Murawski
Advocate


Deborah Irby
Respondent