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

In re: Deborah Irby /

C 06-13

PUBLIC REPORT AND FINAL DISMISSAL ORDER

The ADVOCATE filed the above-mentioned Complaint against Respondent Deborah Irby, City Clerk for 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 (g), *Exploitation of official position prohibited*. Pursuant to the Code of Miami-Dade County, Section 2-1068, the Commission on Ethics & Public Trust has jurisdiction to enforce the Conflict of Interest and Code of Ethics Ordinance, Section 2-11.1 (g).

Over a five-day period in October 2005 following Hurricane Wilma, Respondent Irby took City gasoline on four occasions for private use in her home generator. The Complaint alleged that Respondent Irby was not authorized to use City gasoline for her home generator, although, as City Clerk, she did have permission to use City gasoline for her vehicle.

On April 27, 2006, the Commission on Ethics & Public Trust found the Complaint legally sufficient. On the same day, following the legal sufficiency determination, the Ethics Commission held a probable cause hearing. In two separate Motions, the Respondent moved to dismiss the Complaint for lack of probable cause.

After hearing the Advocate's and Respondent's arguments on these issues, the Ethics Commission granted Respondent's Motion to Dismiss on failure to state a claim, but not based on the assertion that Section (g) of the Code is unconstitutional.

Therefore it is:

ORDERED AND ADJUDGED THAT the Motion to Dismiss is granted for failure to state a claim, and the Complaint is hereby **DISMISSED**.

DONE AND ORDERED by the Miami-Dade County Commission on Ethics & Public Trust in public session on April 27, 2006.

MIAMI-DADE COUNTY COMMISSION ON
ETHICS & PUBLIC TRUST

By:



Kerry E. Rosenthal, Esq.
Chairman

Copy: James H. Greason, Attorney for Respondent