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STAFF GENERAL COUNSEL

July 14, 2005

Andrew Burgess, E.I.
Parks Construction Contract Specialist
Parks and Recreation Department
275 N.W. 2nd Street
Suite 550
Miami, FL 33128

RE: INQUIRY 05-105

Dear Mr. Burgess:

I received your request for an advisory opinion regarding your father's ability to contract with the Parks Department to provide electrical services. Since you need a response prior to the next scheduled Ethics Commission meeting, I am rendering my opinion based on the facts contained in your letter.

In your letter, you advised me that the Parks Department has issued an Invitation to Bid on the Blackpoint Marina-Electrical Upgrades. You have participated in developing the specifications for the solicitation and will be involved in the selection process. Your father is President of Abacon Electric. Abacon Electric would like to bid on the project.

The Conflict of Interest and Code of Ethics ordinance prohibits your father from bidding on a contract where his son works for the department that has oversight responsibility for the project. Section 2-11.1 (d) provides that no employee "shall enter into any contract or transact any business through a firm, corporation, partnership or business

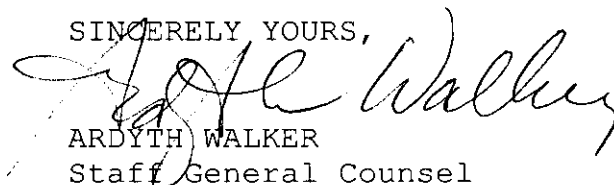
entity in which he or a member of his immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County and any such contract, agreement or business engagement entered into in violation of this subsection shall render the transaction voidable." Immediate family is defined in the Conflict of Interest ordinance as spouse, parents and children. A controlling financial interest is 10% or more of the interest in the business entity.

Although the Conflict of Interest ordinance does provide an exception in some cases, it would not apply to your father's company because it prohibits contracting if the employee's job responsibilities and job description will require him or her to be involved with the contract in any way, including but not limited to its enforcement, oversight, administration, amendment, extension, termination or forbearance. Further, the exception does not apply if the employee works in the county department which will enforce, oversee or administer the subject contract.

Since you work for the department that has oversight responsibilities and you have participated in the solicitation process, the Conflict of Interest ordinance prohibits your father's company from contracting with the department to provide services.

Please contact the undersigned at (305) 350-0616 if you have any questions.

SINCERELY YOURS,



ARDYTH WALKER
Staff General Counsel

TRANSMISSION VERIFICATION REPORT

TIME : 07/13/2005 17:06
NAME : COMMISSION ON ETHIC
FAX : 3055750273
TEL : 3055752594
SER. # : BRO2J157947

DATE, TIME	07/13 17:05
FAX NO./NAME	3057557940
DURATION	00:00:52
PAGE(S)	03
RESULT	OK
MODE	STANDARD ECM

19 West Flagler, Suite 207, Miami, FL 33130 (305) 350-0616-Phone (305) 579-1093-Fax

PLEASE CALL ME AT 350-0616 OR EMAIL ME AT AWALKER@MIAMI.PADE.GOV IF YOU HAVE ANY QUESTIONS. THANKS.

NOTES/COMMENTS:

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

Walker, Ardyth (COE)

From: Burgess, Andrew (MDPR)
Sent: Wednesday, July 13, 2005 2:01 PM
To: Walker, Ardyth (COE)
Subject: RE: Request for an Opinion - Blackpoint Marina

Park and Recreation Department
 Planning and Development Division

-----Original Message-----

From: Walker, Ardyth (COE)
Sent: Wednesday, July 13, 2005 1:56 PM
To: Burgess, Andrew (MDPR)
Subject: RE: Request for an Opinion - Blackpoint Marina

Who will be the contracting department for this project?

-----Original Message-----

From: Burgess, Andrew (MDPR)
Sent: Wednesday, July 13, 2005 1:52 PM
To: Walker, Ardyth (COE)
Subject: FW: Request for an Opinion - Blackpoint Marina
Importance: High

Hi Ardyth,

Please reference the "Request for an Opinion" below about a possible conflict of interest. As noted, the bid submittal deadline is next week Wednesday, and pursuant to The Conflict of Interest and Code of Ethics Code, if a conflict exists, I have to file a disclosure statement and a copy of the Ethics opinion with the Clerk of the Board prior to Bid Submittal. Since the deadline is approaching rather quickly, please provide an opinion.

Regards,

Andrew Burgess, E.I., Parks Construction Contract Specialist
Miami-Dade County Park and Recreation Department
 275 NW 2nd Street, Suite 550, Miami, Florida 33128
 305-755-7817 Office, 305-755-7940 Fax
 aburges@miamidade.gov
 "Delivering Excellence Every Day"

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-----Original Message-----

From: Burgess, Andrew (MDPR)
Sent: Monday, June 27, 2005 11:36 AM
To: Ethics (COE)
Subject: Request for an Opinion - Blackpoint Marina
Importance: High

Good Morning,

I would like to receive an opinion about a possible Conflict of Interest on the project Blackpoint Marina - Electrical Upgrades.
 I have worked with the assigned contract specialist on this project developing the contract

7/14/2005

requirements, and most likely will be involved in the award.

The project was advertised and my father, President of Abcon Electric, Inc has purchased a bid package for the project, attended the pre-bid meeting with full intention of bidding.

At your earliest convenience, please render an opinion on this matter because the bid submittal deadline is scheduled on July 20, 2005.

Regards,

Andrew Burgess, E.I., Parks Construction Contract Specialist

Miami-Dade County Park and Recreation Department

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