



October 24, 2002

**ETHICS COMMISSIONERS**

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ADVOCATE

**ARDYTH WALKER**  
STAFF GENERAL COUNSEL

The Honorable Dennis Moss  
Board of County Commissioners  
District Nine  
111 N.W. First Street  
Miami, FL 33128

**RE: REQUEST FOR ADVISORY OPINION 02-105**

Dear Commissioner Moss:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on October 23, 2002 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding any voting conflicts created by your service on the Board of Directors for Port of Miami Crane Management (POMCM).

In your letter, you advised the Commission that, in 1999, the Board of County Commissioners created POMCM, a not-for-profit corporation, to manage the maintenance and repair of ten gantry cranes located at the Port of Miami. The cranes are owned by Miami-Dade County. Pursuant to the Articles of Incorporation, the Board of County Commissioners appointed you to represent them on the Board of Directors.

The Board of County Commissioners foresees entering into a contract with Miami-Dade County for the maintenance and repair of the gantry cranes. The contract will require the approval of the Board of County Commissioners and the Board of Directors of POMCM.

The Commission found the Conflict of Interest and Code of Ethics ordinance permits you to vote on POMCM matters that come before the Board of County Commissioners. Section 2-11.1(d) provides that no person included in the term defined in subsection (b)(1) shall vote or participate in any way in any matter presented to the Board of County Commissioners if said person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board of County Commissioner (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder, bondholder, debtor or creditor, if any instance the transaction or matter would affect the person defined in subsection (b)(1) (commissioners) in a manner distinct from the manner in which it would affect the public generally. Any person included in the term defined in (b)(1) who has any of the above relationships or who would or might, directly or indirectly, profit or be enhanced by the action of the Board of County Commissioners shall absent himself or herself from the commission meeting during the discussion of the subject item and shall not vote on or participate in any way in said matter.

The rule is intended to prohibit Commissioners from voting on matters where there is a conflict between their responsibility to make fair and impartial public decisions and their fiduciary duty to other persons or entities that appear before them. Since your fiduciary duty as a board member to POMCM does not conflict with your responsibility as a Commissioner, you may vote on matters involving POMCM.

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 cursive script, appearing to read "Robert Meyers", with a long horizontal flourish extending to the right.

ROBERT MEYERS  
Executive Director