

January 23, 2003

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

RE: REQUEST FOR ADVISORY OPINION 02-168

Dear Commissioner Moss:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on January 23, 2003 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding your ability to vote on airport contracts managed by your wife.

In your letter, you advised the Commission that your wife currently serves as an Aviation Senior Procurement Contract Officer. As a Senior Procurement Officer, your wife's duties include organizing specifications into a solicitation document; obtaining review of solicitation documents by the County Attorney; conducting project briefings, pre-screening and selection committee proceedings; preparing the Selection Committee minutes and recommendation; scheduling negotiation committee meetings; preparing the proposed contract and preparing the final award recommendation for the County Manager. Mrs. Moss is not responsible for determining project specifications and she does not make recommendations or vote during the selection and negotiation process.

The Commission found the Conflict of Interest and Code of Ethics ordinance does not prohibit you from voting on contracts managed by his wife. You will not be personally affected in a unique way by your votes on these contracts and you will not benefit, directly or indirectly, by your votes on these contracts.

Section 2-11.1(d) provides that no commissioner shall vote on 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 Commissioners: (i) officer, director, partner, of counsel, consultant, employee fiduciary or beneficiary or (ii) stockholder, bondholder, debtor or creditor, if in any instance the transaction or matter would affect the person defined in subsection (b)(1) in a manner distinct from the manner in which it would affect the public generally." Any commissioner 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 or participate in any way in said matter.

You will not be uniquely affected by any vote on these contracts because of your wife's employment and you will not profit or be enhanced, directly or indirectly, by your vote on these contracts. Therefore, you do not have to recuse yourself from voting on these matters.

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 the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

ROBERT MEYERS
Executive Director