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January 22, 2003

Richard Brown-Morilla, City Clerk
City of Sunny Isles Beach
17070 Collins Avenue, Suite 250
Sunny Isles Beach, FL 33160

RE: REQUEST FOR ADVISORY OPINION 02-177

Dear Mr. Brown-Morilla:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on January 22, 2003 and rendered its opinion based on the facts stated in your request.

You requested an opinion regarding the proper interpretation of an exemption under the Miami-Dade County lobbyist registration provisions.

In your letter you advised the Commission that the Town of Golden Beach retained the private law firm of Shubin & Bass P.A. to represent the Town's interests concerning land development regulations proposed by the City of Sunny Isles Beach. On November 20, 2002, Don Chinquina, Esq., with Shubin & Bass, P.A., addressed the Sunny Isles City Commission on behalf of the Town's interest and requested a deferral of any vote on the City's ordinance to adopt the proposed land development regulations. After his presentation, you handed Mr. Chinquina a letter requesting lobbyist registration and payment of fees. Shubin & Bass, P.A. argue that since the firm was retained to represent the Town's interests in regard to Sunny Isles' proposed land regulations, Mr. Chinquina is exempt from the lobbying registration and reporting requirements, and thereby not required to pay the registration fees pursuant to Section 2-11.1 (s) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, as adopted by the Sunny Isles City Charter and amended by Ordinance No. 98-44.

The Commission found that under the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance Mr. Chinquina is exempt from the lobbyist registration and reporting requirements under the Conflict of Interest and Code of Ethics Ordinance. Section 2-11.1 (s)(3)(a)

“Lobbying” states,

“Any public officer, employee or appointee who only appears in his or her official capacity shall not be required to register as a lobbyist.”

The Town’s preliminary retention agreement with Shubin & Bass P.A. and the Town Council’s resolution supporting the agreement, authorized Mr. Chinquina to appear in an official capacity as the Town’s appointee before the Sunny Isles Commission on this specific government law matter.

The Conflict of Interest and Code of Ethics ordinance defines lobbying, in part, as seeking to encourage the passage, defeat or modifications of 1) ordinance, resolution, action or decision of the County Commission.

While Mr. Chinquina’s appearance before the Sunny Isles Commission is considered “lobbying” for purposes of the Code, he appeared in an official capacity as the designated appointee of a municipality on a specific government law matter. As a result, he is not required to register as a lobbyist nor pay any registration fees pursuant to Section 2-11.1 (s)(3)(a).

This opinion construes the Miami-Dade County 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 should you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call Christina Prkic, Staff Attorney at (305) 350-0615 or the undersigned at (305) 579-2594.

Sincerely Yours,



ROBERT MEYERS
Executive Director