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July 10, 2003

Commissioner Katy Sorenson  
Vice-Chair  
Board of County Commissioners  
111 N.W. First Street  
Suite 220  
Miami, Florida 33128

**RE: REQUEST FOR ADVISORY OPINION 03-104**

Dear Commissioner Sorenson:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on July 9, 2003 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding your husband's ability to contract with the Public Health Trust.

In your letter, you advised the Commission that your husband is a member of Med-Eye Associates. Med-Eye Associates has entered into a Memorandum of Understanding with the Public Health Trust to provide indigent medical care at Jackson South Community Hospital. The Memorandum of Understanding provides that Med Eye Associates will, among other things, provide on-call emergency room services and consultations on ophthalmology patients.

The Commission found that your husband may contract with the Public Health Trust to provide medical services. The Conflict of Interest and Code of Ethics ordinance, as applied to the Public Health Trust, only

prohibits trust members, trust employees and their immediate families from contracting with the trust to provide services. Section 25-A of the Code provides for modified application of the Conflict of Interest ordinance as applied to the Public Health Trust. Section 25A-3(c) of the Code of Miami-Dade County states that "(w)henever in the Conflict of Interest ordinance reference is made to Dade County, that reference shall be deemed and construed to be a reference to the Public Health Trust; whenever in the Conflict of Interest ordinance reference is made to the Board of County Commissioners that reference shall be deemed and construed to be a reference to the Board of Trustees of the Public Health Trust and whenever in the Conflict of Interest ordinance reference is made to the Commissioners of the Board of County Commissioners, that reference shall be deemed to be a reference to the voting members of the Board of Trustees of the Public Health Trust."

Section 2-11.1(d) provides that "no person included in the terms defined in subsections (b)(1) through (b)(6) and in subsection (b)(9) 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, engagement or business engagement entered into in violation of this subsection shall render the transaction voidable." Section (b)(1) refers to the Board of County Commissioners and Section (b)(9) refers to immediate family members. Immediate family is defined in the ordinance as spouse, parents and children.

Under the modified application of Section 2-11.1(d), the prohibition against a spouse of a commissioner contracting with the county

would not apply because the voting members of the Public Health Trust would be substituted for commission members. Since you are not a voting member of the Public Health Trust, your husband would be able to contract with the Public Health Trust to provide medical services.

Further, the Ethics Commission found that your husband's contract with the Public Health Trust does not prohibit you from voting on general policy and budget matters regarding the Public Health Trust. However, you should refrain from voting on matters that will directly affect the Department of Ophthalmology or your husband's contract with the Public Health Trust.

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,

A handwritten signature in black ink, appearing to read 'Robert Meyers', with a horizontal line extending to the right.

ROBERT MEYERS  
Executive Director