



October 22, 2003

**ETHICS COMMISSIONERS**

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ADVOCATE

**ARDYTH WALKER**  
STAFF GENERAL COUNSEL

Gaspar Miranda, P.E., Chief  
Highway Division, Public Works Department  
111 NW 1<sup>st</sup> Street  
Miami, FL 33128

Dear Mr. Miranda:

**RE: REQUEST FOR ADVISORY OPINION 03-134**

In August 2003, you requested an advisory opinion regarding any conflicts as they relate to the outside employment of Alvaro Tellez.

Subsequent to your request, the Inspector General filed a complaint against Mr. Tellez. The complaint alleged that Mr. Tellez engaged in outside employment with his own company without properly disclosing this work to the County. Accordingly, the Ethics Commission deferred review of the opinion until the complaint matter was concluded.

Enclosed please find the letter of instruction ordered by the Ethics Commission on October 22, 2003. The letter of instruction concludes this matter.

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

Sincerely Yours,

**ROBERT MEYERS**  
Executive Director



**MIAMI-DADE COUNTY  
COMMISSION ON  
ETHICS & PUBLIC TRUST**

In Re: Alvaro Tellez /

Case No: 03-30

**LETTER OF INSTRUCTION**

On August 20, 2003, the Inspector General filed the above-captioned complaint against Alvaro Tellez ("Respondent") for violation of Section 2-11.1(k) (2) (outside employment statement) and Section 2-11.1(j) (outside work that would impair independence of judgment) of the Code of Miami-Dade County. The complaint alleged that the Respondent engaged in work for his own company without properly disclosing that work to the County.

Accordingly, in addition to any other penalty administered by the Ethics Commission pursuant to the negotiated settlement, the Commission is issuing this letter of instruction to the Respondent.

**FACTS**

The Respondent is an employee of the Highway Division of the Public Works Department. The Respondent serves as a Project Manager and coordinates and reviews road improvement plans prepared by outside consultants. Since 2000, the Respondent has also worked for his own company, Alteca, which prepares architectural and engineering plans for private clients. These plans encompass only private property and not any public rights of way that are subject to the Respondent's County responsibilities. The Respondent failed both (1) to obtain the written approval of the Department's head to engage in work for Alteca and (2) to disclose this employment.

Also in 2001, the Respondent filed an application with Miami-Dade County on behalf of Alteca for that entity to

become a County vendor. However, that application was never completed, and at no time has Alteca solicited or received any work from Miami-Dade County.

#### HOLDING

##### **Outside Employment**

Under § 2-11, no full-time County employee shall accept outside employment, either incidental, occasional or otherwise, where County time, equipment or material is to be used or where such employment or any part thereof is to be performed on County time. However, such an employee may accept incidental or occasional outside employment so long as such employment is not contrary, detrimental or adverse to the interest of the County or any of its departments and the outside employment is first approved in writing by the employee's department head.

Furthermore, under Section 2-11.1, a full time county employee cannot accept any employment "which would impair his independence of judgment in the performance of his public duties, and an employee engaged in any outside employment " shall file, under oath, an annual report indicating the source of the outside employment, the nature of the work being done pursuant to same and any amount or types of money or other consideration received by the employee from said outside employment." Accordingly, the Respondent is hereby instructed as follows:

(1) As provided under § 2-11 and § 2-11.1 of the Code, prior to engaging in any outside employment, Respondent is instructed to first obtain the written approval of the Head of the Department of Public Work. That Department Head has the discretion to approve Respondent's outside employment so long as proposed work is not contrary, detrimental or adverse to the interest of the County and does not impair his independence of judgment in the performance as a County Employee. One possible approval would allow Respondent to provide private clients architectural and engineering plans dealing with private properties and that do not deal with public rights of way.

(2) Also as required under 2-11.1(k)(2), of the Code, should the Respondent engage in any outside employment, he

must timely file an annual report indicating the details of that employment.

**DONE AND ORDERED** by the Miami-Dade Commission on Ethics and Public Trust in public session on October 22, 2003.