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STAFF GENERAL COUNSEL

December 11, 2003

Stephen S. Nuell, Esq.  
Nuell & Polsky  
782 NW 42 Avenue, Suite 345  
Miami, FL 33126

**RE: REQUEST FOR ADVISORY OPINION 03-156**

Dear Mr. Nuell:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on December 10, 2003 and rendered its opinion based on the facts stated in your request.

You requested an advisory opinion asking whether you may contract with an agency that provides services to the Public Health Trust. Your spouse is a member of the Trust.

You advised the Ethics Commission that you own a controlling financial interest in Job2Career ["J2C"]. The company recruits nurses from abroad and places them in medical facilities across the country. J2C has entered into a contract with Lloyd Staffing ["Lloyd"], which provides healthcare staffing to various medical institutions throughout the East Coast and Florida. Neither the principals of J2C nor your spouse have a financial interest [stock ownership] in Lloyd.

The Ethics Commission opined that J2C may contract with Lloyd to provide nurse staffing to the Public Health Trust; however, your spouse may not participate in or vote on nurse staffing matters.

Firstly, the members of the Public Health Trust are covered by the Conflict of Interest and Code of Ethics Ordinance. Section 25A-3 (c) of the Code of Miami-Dade County provides 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.

Secondly, while Section 2-11.1 (d) of the Conflict of Interest Ordinance prohibits trust members or their "immediate family" [spouse defined as immediate family] from contracting with the County through a company in which they or their immediate family have a controlling financial interest, it does not prohibit immediate family of a trust member from contracting with a company [in which they have no controlling financial interest] that provides services to the trust.

However, the Conflict of Interest Ordinance does prohibit your spouse from voting on nurse staffing matters since Lloyd has a contractual relationship with the Trust to provide nurses. Section 2-11.1 (d) provides,

Additionally, no person included in the term defined in subsection (b) (1) 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 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.

Since J2C provides nurses to Lloyd, which has a contract with the Trust to provide nurse staffing, your spouse has an indirect financial benefit and may therefore benefit in a manner distinct from the general public. Accordingly, she may not participate in or vote on nurse staffing matters.

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,

A handwritten signature in black ink, appearing to read "Robert Meyers", with a long horizontal flourish extending to the right.

ROBERT MEYERS  
Executive Director