



ETHICS COMMISSIONERS

Kerry E. Rosenthal, Chairman
Robert H. Newman, Vice Chairman
Gail Dotson
Dawn Addy
Elizabeth M. Iglesias

ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

VIA FAX (786) 331-7371

Marc A. Fermanian
7220 N.W. 36 Street, Suite 528
Miami, FL 33166

RE: REQUEST FOR ADVISORY OPINION 03-184

Dear Mr. Fermanian:

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 regarding any conflicts of interest related to a County employee's present ownership interest in your company, CRJ & Associates, Inc. ["CRJ"], Consulting Engineers and Planners.

In your letter to the Ethics Commission, you indicate that CRJ is seeking re-certification with the Department of Business Development, ["DBD"]. Miguel Riera, a project engineer with the Miami-Dade Public Works Department, Highway Engineering Division, was a former partner with CRJ. In September 2003, he resigned from CRJ, relinquishing all financial interests [i.e., salary and profits] and involvement in professional engineering activities with CRJ. However, he presently maintains a controlling financial interest in the company due to certain debt obligations. The company maintains that within the first quarter of 2004, CRJ will retract Mr. Riera's financial holdings in the company, pending payment of the debt.

The Conflict of Interest and Code of Ethics Ordinance permits CRJ to obtain re-certification with DBD and thereby contract with Miami-Dade County. Mr. Riera's present financial interest does not create a conflict of interest barring CRJ from transacting business with the

County. Section 2-11.1 (c), "Prohibition on transacting business within the County," provides certain exceptions for County employees and their immediate family. This provision states, in part,

County employees' limited exclusion from prohibition on contracting with the county. Notwithstanding any provision to the contrary herein, subsection (c) and (d) shall not be construed to prevent any employee as defined by subsection (b)(6) [excluding departmental personnel as defined by subsection (b)(5)] or his or her immediate family as defined by subsection (b)(9) from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the employee or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County, as long as (1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County, (2) the employee has not participated in determining the subject contract requirements or awarding the contract, and (3) the employee's job responsibilities and job description will not require him or her to be involved with the contract in any way, including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance. However, this limited exclusion shall not be construed to authorize an employee or his or her immediate family member to enter into a contract with Miami-Dade County or any person or agency acting for Dade County, if the employee works in the county department which will enforce, oversee or administer the subject contract.

However, since Mr. Riera still maintains a "controlling financial interest" in the company [ten (10%) or more of outstanding capital stock], subject to his payment of debt obligations, CRJ may not transact business with the Public Works Department. Once Mr. Riera no longer maintains a controlling financial interest, this prohibition would be lifted.

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