

April 30, 2003

The Honorable Jose Diaz
Board of County Commissioners
Suite 320
Miami, Florida 33128

RE: REQUEST FOR ADVISORY OPINION RQO 03-71
Jose Diaz Voting conflict

Dear Commissioner Diaz:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on April 29, 2003 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding a possible voting conflict.

In your request, you advised the Commission that Nationwide Public Employee's Trust is your health insurance provider. Nationwide also provides insurance to police department employees and retirees. The company is currently in financial difficulty and may go into bankruptcy. In May, the Board of County Commissioners may consider action to protect covered personnel including providing health insurance to Nationwide insureds and paying the company's unpaid claims.

The Commission found that the Conflict of Interest and Code of Ethics ordinance permits you to vote on a resolution directing the County Manager to investigate ways to protect county employees affected by Nationwide's financial difficulties. However, you may be

prohibited from voting on subsequent resolutions regarding Nationwide including any action to pay unpaid claims because the action may personally benefit you in a way different from the public. Section 2-11.1(d) of the Code of Miami-Dade County prohibits county commissioners from "voting or participating in any way in any matter presented to the Board of County Commissioner 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 (ii) stockholder, bondholder, debtor or creditor, 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."

Accordingly, under the voting conflict section, you may vote on a general resolution to investigate ways to protect employees affected by Nationwide's financial difficulties but you may not vote on a resolution to pay unpaid claims or provide financial assistance to Nationwide because you may have claims that are paid as a result of the action. Therefore, you will be affected in a unique way and you may not vote on the matter.

If you have any questions regarding this opinion, please call Ardyth Walker, Staff General Counsel at (305) 350-0616 or the undersigned at (305) 579-2594.

Sincerely Yours,

ROBERT MEYERS
Executive Director