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June 16, 2003

Chief Lindsey L. Plummer
Labor Relations Division
Miami-Dade Fire Rescue Department
9300 N.W. 41 St
Miami, FL 33178

RE: REQUEST FOR ADVISORY OPINION 03-82

Dear Chief Plummer:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on June 12, 2003 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding a gift from the Kendall Federation of Homeowners' Association to two local firefighters.

In your letter, you advised the Commission that every year, the Miami-Dade Department of Fire Rescue nominates two firefighters for the West Dade Firefighter of the Year Award. This year, the Kendall Homeowner's Association honored Lt. George Izquierdo and Firefighter Arturo Aulet with a check for five hundred dollars. You would like to know if the firefighters may accept the cash award.

The Commission found that the Conflict of Interest and Code of Ethics ordinance permits the firefighters to accept the five hundred dollar award as long as the employees file a gift disclosure. The cash award is a gift under the Conflict of Interest and Code of Ethics ordinance. Section 2-11.1(e) (1)

defines a gift as the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise in any other form without lawful and adequate consideration." The award is a gift because it is received without lawful and adequate consideration.

An employee is permitted to accept a gift unless the gift is given in exchange for the performance of his or her official duties. Section 2-11.1(e)(3) sets out the restrictions on acceptance of gifts. Section 2-11.1(e)(3) provides that a person described in subsection (b)(1) through (b)(6) shall neither solicit or demand any gift. It is also unlawful for any person or entity to offer, give or agree to give to any person included in subsection (b)(1) through (b)(6) or for any person included in the terms defined in subsection (b)(1) through (b)(6) to accept or agree to accept from another person or entity any gift for or because of (a) any official public action taken or to be taken or which could be taken; (b) a legal duty performed or to be performed or which could be performed ; or (c) a legally duty violated or which could be violated by any person included in the term defined in (b)(1). County Administrative Order 7-1 similarly states that no county employee shall accept any tip or gratuity in the discharge of his/her public duties.

In this case, the firefighters may accept the cash award because the gift is not given in exchange for the performance of a legal duty but as recognition of their professional excellence. The firefighters are required to report the cash award as a gift. Section 2-11.1(e)(4) requires employees to report any gift or series of gifts having a value in excess of twenty-five dollars by filing the required disclosure form with the Clerk of the Board of County Commissioners.

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 cursive script, appearing to read "Robert Meyers", with a long horizontal flourish extending to the right.

ROBERT MEYERS
Executive Director