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STAFF GENERAL COUNSEL

August 25, 2003

Dr. Marta Perez  
1208 Aguila Street  
Coral Gables, FL 33134

**RE: REQUEST FOR ADVISORY OPINION 03-98**

Dear Dr. Perez:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meetings on July 9, 2003 and August 21, 2003 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether you may loan your campaign an amount in excess of twenty-five thousand dollars and later seek public financing of your campaign.

In your request, you advised the Commission that you are an announced candidate for Mayor of Miami-Dade County. You seek to loan your campaign an amount in excess of twenty-five thousand dollars without jeopardizing your right to later seek public financing. You would use the loan monies to establish an infrastructure and the efficacy and viability of your candidacy. You would repay any amount over twenty-five thousand dollars if you later seek public financing.

The Ethics Commission found that you may not loan your campaign an amount in excess of twenty-five thousand dollars and still seek public financing. Section 12-22 of the Code

of Miami-Dade County sets out the eligibility requirements for public financing. Section 12-22 (c) (1) provides that each candidate for the Office of Mayor of Miami-Dade County or the Board of County Commissioners of Miami-Dade County who desires to receive contributions from the Election Campaign Financing Trust Fund ("the Fund") shall file a request by the filing deadline for such contributions with the filing officer on forms provided by the Supervisor of Elections. As used in this subsection "filing deadline" shall mean the last day upon which a candidate for office may qualify for the elective office sought. If a candidate requesting contributions seeks to have such funds distributed by electronic funds transfer, the request shall include information necessary to implement such procedure. To be eligible to receive contributions from the Fund, a candidate shall not be an unopposed candidate and shall:

- 1) sign a statement of understanding wherein the candidate states that he or she has read, understands and agrees to abide by Section 12-22 of the Code and applicable Administrative Order regarding the Election Campaign Financing Trust Fund;
- 2) Qualify as a candidate pursuant to Chapter 99, Florida Statutes and section 2.04 of the Home Rule Charter;
- 3) Limit loans or contributions from the candidate's personal funds to twenty-five thousand (\$25,000) dollars which loans or contributions shall not qualify for meeting the threshold amounts in subsection (c) (5);
- 4) Submit to audits of the campaign account by the Commission on Ethics and Public Trust as provided in subsection (f) (3) and
- 5) Each candidate for Mayor of Miami-Dade County shall have received at least one thousand contributions between fifteen dollars and two hundred and

fifty dollars from one thousand registered voters residing in Miami-Dade County. These contributions must be in the form of

1. A personal check
2. Money order that includes the contributor's name and address;
3. Traveler's check that includes the contributor's name and address or
4. Electronic transfer of funds where the name of the contributor is clearly stated.

The Ethics Commission found that a candidate is bound by the public financing eligibility requirements at the time that a candidate announces for office as opposed to the time that a candidate qualifies for office pursuant to Chapter 99 and section 2.04 of the Home Rule Charter.

Further, in order to effectuate the purposes of the ordinance as stated in the preamble to Section 12-22, the Ethics Commission determined that a candidate is not permitted to make a loan in excess of twenty-five thousand dollars. The Ethics Commission noted that one of the purposes of the ordinance was to discourage the pressure on candidates to raise large campaign war chests. Further, the Ethics Commission found that one of the purposes of the ordinance was to increase the ability of less affluent candidates to enter the political process. The Ethics Commission found that these purposes would be undermined if candidates could exceed the personal loan amount stated in the eligibility requirements for public financing.

However, due to the fact that you sought an opinion prior to making a loan in excess of twenty-five thousand dollars, the Ethics Commission determined that you are still eligible for public financing. Any loan monies in excess of twenty-five thousand dollars must be repaid by the end of the

current quarter in September, 2003. The amended amount should be reflected in your next quarterly statement in October, 2003 if you want to remain eligible for public financing.

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 the opinion, please call the undersigned at (305) 579-2954 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Robert Meyers", followed by a horizontal line.

ROBERT MEYERS  
Executive Director