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STAFF GENERAL COUNSEL

March 15, 2004

The Honorable Jose "Pepe" Diaz
Board of County Commissioners
District 12
111 N.W. First Street
Miami, FL 33128

RE: REQUEST FOR ADVISORY OPINION 04-25

Dear Commissioner Diaz:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on March 10, 2004 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding your ability to appoint Miguel Tomas to the Jay Malina International Trade Consortium.

In your request, you advised the Ethics Commission that you would like to appoint Miguel Tomas to the Jay Malina International Trade Consortium. You advised us that you are Chairperson of the International Trade Consortium (ITC). The Astri Group employs you and Miguel "Mike" Tomas is the President of the Astri Group. Section 2-1503 provides that " (t) he voting members of the ITC governing board shall be appointed as follows: The County Manager shall appoint the Chairperson

of the ITC subject to ratification by the Commission. The Mayor of Miami-Dade County shall appoint five (5) voting members to the ITC. Each member of the BCC shall appoint one (1) voting member to the ITC. The Chairperson of the ITC shall appoint seven voting members to the ITC with the approval of the ITC board." In your capacity as Chairperson of the ITC, you would like to appoint Tomas to serve on the Board of Directors of the International Trade Consortium.

The Commission found that you may not appoint your employer to the International Trade Consortium. Section 2-11.1(v) (advisory board members-voting conflicts) governs this matter. Section 2-11.1(v) provides that "no person included in the terms defined in subsections (b) (3) (quasi-judicial personnel) and (b) (4) (advisory personnel) shall vote on any matter presented to an advisory board or quasi-judicial board on which the person sits if the board member will be directly affected by the action of the board on which the member serves and the board member has any of the following relationships with any of the persons or entities appearing before the board: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary or (ii) stockholder, bondholder, debtor or creditor. The Ethics Commission found that you are an employee of one of the persons seeking action from the ITC and that you may be directly affected by the appointment of your employer to the ITC. Therefore, you are prohibited from appointing your employer to the ITC.

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 line extending to the right.

ROBERT MEYERS
Executive Director