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March 11, 2004

Steve Shiver
47 North Krome Ave.
Homestead, FL 33030

RE: REQUEST FOR ADVISORY OPINION 04-37

Dear Mr. Shiver:

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 request.

According to the facts in your letter, you are a broker-salesman with Century21 Towne and Country in Homestead. Several months ago a friend of the family, Ms. Rivera, asked you about a second mortgage/grant through the Office of Community and Economic Development ["OCED"] that was connected to her property, which is under a contract for sale. She asked you to clarify with the County whether the second mortgage on her property was in fact a mortgage or whether it qualified as a grant. You then inquired about this matter with Brian Finnie, the director of OCED. You indicate that the purpose of the inquiry was to obtain, in writing, both the County's requirements for a property to qualify for a grant under the OCED program and the requisite conditions that would be placed on the mortgage when transferred.

Subsequently, Mr. Finnie issued a letter to Ms. Rivera allowing the second mortgage to be a grant, contingent upon certain conditions. As a result, you presented the Ethics Commission with two questions for consideration:

- 1) Whether your initial inquiry with Mr. Finnie of OCED on the above-mentioned matter constituted lobbying?

2) Whether you may enter into a real estate sales contract with Ms. Rivera in order to sell her property?

Given that your request seeks an interpretation of past conduct, the Ethics Commission declined to render an opinion on the matter. The Ethics Commission does not use the advisory process as a vehicle in which to interpret the Code of Ethics Ordinance as it applies to past behavior. Therefore, an opinion was not issued on this matter.

With regard to your second question, the Ethics Commission determined that the matter is not within the scope of its jurisdiction. Since you are no longer a County employee, the question of whether you can represent Ms. Rivera in the sale of her property and earn a commission is not subject to interpretation under the Code of Ethics. Therefore, an opinion was not issued on this matter.

However, the Ethics Commission noted that it would consider a more specific request that seeks to clarify the restrictions and possible conflicts under the Code of Ethics related to your representation of Ms. Rivera in the sale of her property, which is under a County grant.

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,



ROBERT MEYERS
Executive Director