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November 16, 2005

Rhadames Peguero
Dominican American National Foundation
2885 N.W. 36th Street
Miami, FL 33142

RE: REQUEST FOR ADVISORY OPINION RQO 05-122

Dear Mr. Peguero:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on November 15, 2005 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether your organization may contract with the Youth Crime Task Force to provide services.

In your request, you advised the Commission that you serve as a member of the Youth Crime Task Force. The Youth Crime Task Force was established in 1997 to address issues related to youth crime prevention and violent crimes committed by juvenile offenders. Most task force members serve in an ex-officio capacity including two County commissioners, the Director of the Miami-Dade Police Department, Chief of the Miami Police Department and the head of the Juvenile Division of the Public Defender's Office. The task force enabling ordinance also requires the appointment of several service providers to the board.

The Youth Crime Task Force recently issued a Request for Proposals/ Request for Qualifications to community-based organizations to provide services for

juvenile offenders and children who are at-risk due to exposure to violence, drug and alcohol abuse and poor academic performance. The RFQ requests proposals from organizations who can provide services in a number of areas including: 1) Family and Child Empowerment; Community Control; Juvenile Weapons Offender Programs; Family Intervention Services; Post Detention Girls' Programs; Sibling Model Programs; Programs for Children 12 and under and Program Evaluation.

You are also the Executive Director of the Dominican American National Foundation, C.D.C. The Dominican American National Foundation has submitted two proposals for Improving Community Control and Post Detention Girls' Programs. The Dominican American National Foundation primarily seeks to assist young people in the Allapattah and Melrose communities with a special emphasis on immigrants and minorities.

The girls' program provides services to clients over a six-month period with a minimum of nine hours per week. The services include participation in a peer development group, mentoring and academic tutoring. The Improving Community Control proposal also provides tutoring and mentoring as well as monitoring compliance with court orders and school progress over a nine-week period.

The Ethics Commission found the Dominican American National Foundation may receive funding from the Youth Crime Task Force. Section 2-11.1(c)(3) permits advisory board members to contract with the county under certain circumstances. Section 2-11.1(c)(3) provides that "Notwithstanding any provision to the contrary herein, Subsection (c) and (d) shall not be construed to prohibit any person defined in Subsection (b)(2) (autonomous personnel); (b)(3) (quasi-judicial personnel) and (b)(4) (advisory personnel) from entering into any contract, individually or through a firm, corporation, partnership

or business entity in which the board member or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County. However, any person defined in Subsection (b) (2), (b) (3) and (b) (4) is prohibited from contracting with any agency or department of Miami-Dade County subject to the regulation, oversight, management, policy-setting or quasi-judicial authority of the board of which the person is a member."

Since the Dominican American National Foundation is a non-profit organization, you do not have a controlling financial interest in the organization. Therefore, the Dominican American National Foundation may receive funding from the Youth Crime Task Force even though the contracting agency is subject to the oversight and regulation of the board.

However, you are prohibited on voting for funding for the Dominican American National Foundation. Section 2-11.1(v) prohibits members of advisory boards from voting on matters where the board member will be directly affected by the action and the board member serves as an officer of the entity seeking action from the board. Therefore, you are prohibited from voting on funding recommendations for the Dominican American National Foundation.

Accordingly, the Conflict of Interest and Code of Ethics ordinance permits the Dominican American National Foundation to contract with the County to provide services. However, Section 2-11.1(v) prohibits you from voting on funding recommendations for the Dominican American National Foundation because you will be directly affected by the board's action and you serve as an employee of the entity seeking action from the board.

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 Ardyth Walker, Staff General Counsel at (305) 350-0616 or the undersigned at (305) 579-2594.

Sincerely Yours,

A handwritten signature in cursive script, appearing to read "Robert Meyers", with a horizontal line extending to the right.

ROBERT MEYERS
Executive Director