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December 19, 2005

Beth Moore
Associate Counsel
Owens and Minor
4800 Cox Road
Glen Allen, VA 23060

RE: REQUEST FOR ADVISORY OPINION RQO 05-134

Dear Ms. Moore:

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

You requested an opinion regarding the lobbyist registration requirements for existing vendors.

In your letter, you advised the Commission that Owens and Minor is a medical and surgical supplies vendor at the Public Health Trust. Owens and Minor serves as a broker for other manufacturers as well as producing a private line of products. Owens has on-site personnel at Jackson to service the existing contract. The on-site personnel also provide information to PHT staff regarding other product information to the Public Health Trust to assist them with various procurement issues. Finally, Owens and Minor has outside personnel who oversee the on-site personnel and provide information regarding other services that the company can provide to the Public Health Trust. Generally, these

services are not the subject of a current solicitation.

The Commission found that Section 2-11.1(s) requires all Owens and Minor employees whose function is to persuade Trust staff to purchase products (excluding services specifically included in the scope of services for the current contract) to register as lobbyists. Section 2-11.1(s) defines a lobbyist as "all persons, firms, or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision of the County Commission; (2) any action, decision, recommendation of the County Manager or any County board or committee; or (3) any action, decision or recommendation of County personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission, or a County board or committee." The Ethics Commission has consistently opined that a person should register as a lobbyist when a person seeks to persuade staff to purchase a particular item.

In RQO 05-114, the Ethics Commission opined that an existing vendor did not have to register to service an existing contract if the contract required the vendor to recommend services and products. Accordingly, the on-site employees would not have to register to service the existing contract or to provide information regarding other products at the request of the Public Health Trust. However, the off-site employees who visit the Public Health Trust to recommend other company products to Trust staff would have to register as lobbyists.

As to the issue of whether "support staff" would have to register as lobbyists, the determination revolves around the scope of their activities. Section 2-11.1(s)

specifically excludes " employees of a principal whose normal scope of activities does not include lobbying activities." If the support staff's primary function is to support the sales activities of the company, then the person providing "support services" is required to register as a lobbyist if they meet with Trust staff. On the other hand, if the support staff's primary function in the corporation is to provide technical information unrelated to the sales function or other non-sales related functions, then the person is not required to register as a lobbyist.

Finally, Owens and Minor is required to register each individual employee who meet the criteria described above on an annual basis. All information regarding registered county lobbyists is maintained on the Clerk of the Board website.

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,



ROBERT MEYERS
Executive Director

cc: Ted Lucas, Public Health Trust
Kay Sullivan, Clerk of the Board