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June 23, 2005

Manuel Gonzalez
111 NW 1st Street
Miami, FL 33128

RE: REQUEST FOR ADVISORY OPINION 05-69

Dear Mr. Gonzalez:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on June 23, 2005 and rendered its opinion based on the facts stated in your request.

You requested an advisory opinion asking whether it is a conflict for a member organization of the Jay Malina International Trade Consortium ["ITC"] to receive funding from the ITC through its "Third Party Missions" program ["Program"].

The ITC is a Miami-Dade County advisory board created to promote trade with Latin America and the Caribbean through the County. It offers coordination and certification of outgoing and incoming trade missions designed to promote Florida-traded products. The members of the ITC are appointed by various organizations as outlined in its enabling ordinance, and those individuals must be members of the board of directors of the appointing organization and not paid staff, with the exception of the Miami International Airport, Port of Miami, Greater Miami Convention and Visitors Bureau, Enterprise Florida and the US Department of Commerce.

The Latin Chamber of Commerce (CAMACOL), a non-profit organization, is a member of the ITC and its board representative is Captain Alexander. He serves in a voluntary capacity as President of CAMACOL. Captain Alexander also sits on the committee that reviews third party mission certifications. CAMACOL has applied for certification and funding through the ITC Program of an

upcoming mission. Under this program, organizations receive logistical support and up to \$2,500.00 in financial support for conducting the mission. The funding can only be used to promote Miami-Dade County during the mission; it cannot be used as a fundraising tool or to support salaries of the recipient organization. Each organization that receives certification and funding under the Program is required to provide an accounting of how the dollars were spent in order to ensure compliance with the funding guidelines.

Under the Conflict of Interest and Code of Ethics Ordinance, there is no prohibition for CAMACOL to apply for certification and to receive funding to support a trade mission through ITC's Program. CAMACOL is a non-profit organization and is further required to serve on the ITC pursuant to its enabling legislation. In RQO 02-43, the Ethics Commission opined that the Code of Ethics did not prohibit members of the Miami-Dade HIV Partnership Board from continuing to serve on the board while their employers received funding from the board as service providers.

In addition, Captain Alexander is not prohibited from voting on the funding application. Section 2-11.1 (v) "*Voting Conflicts. Members of Advisory and Quasi-Judicial Boards,*" provides:

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.

Under the voting conflicts provision for advisory and quasi-judicial boards, a member may not vote on an item if he or she has one of the enumerated relationships AND will be directly affected by the board action. Accordingly, in previous opinions the Ethics Commission concluded that where a board member may have had one of the

enumerated relationships but could not demonstrate a direct affect, he or she was not prohibited from voting on a matter. [See RQO 02-58; RQO 03-126.]

Although Captain Alexander serves as President of CAMACOL, he does not receive monetary compensation for this role. He has no personal financial interest in the organization and the facts do not demonstrate that the Captain will receive a direct benefit or affect by virtue of CAMACOL's participation in the ITC funding. However, while in each of those above-referenced ethics opinions the board member was legally permitted to vote, the Ethics Commission encouraged those members to abstain because of the appearance of impropriety. Therefore, while Captain Alexander may legally vote on the funding application for CAMACOL's trade mission, he is encouraged to abstain in order to minimize the appearance of impropriety.

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