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STAFF GENERAL COUNSEL

May 1, 2006

Norman C. Powell
17100 N.E. 19th Avenue
North Miami Beach, FL 33162

RE: REQUEST FOR ADVISORY OPINION 06-33
(Amended)

Dear Mr. Powell:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on April 27, 2006 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding the application of 2-11.1(q) (two-year rule) to former county commissioners.

In your letter, you advised the Commission that two of your clients are former County Commissioners. Your clients are currently considering entering into a contractual relationship with entities that have a financial interest in issues that were considered by the Board of County Commissioners during the Commissioners' term. The Commissioners will not seek to lobby the county commission regarding the company.

The Commission found the former Commissioners may enter into a contractual relationship after their term has ended with an entity that benefited financially from a decision made while the Commissioners were in office as long as the contractual relationship was neither contemplated nor discussed during the

time that the Commissioner was making decisions regarding the entity.

Further, Section 2-11.1(q) prohibits the Commissioners from lobbying any county entity or personnel for two years after they leave office. Section 2-11.1(q) provides that "no person who has served as an elected official, i.e. mayor, county commissioner, or a member of the staff of an elected county official, or as county manager, senior assistant to the county manager, department director, departmental personnel or employee shall for a period of two years after his or her county employment has ceased, lobby any county officer, departmental personnel or employee in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one of its agencies or instrumentalities is a party or has any interest whatever, whether, direct or indirect." The Conflict of Interest and Code of Ethics ordinance defines lobbying as seeking to encourage the passage, defeat or modifications of 1) ordinance, resolution, action or decision of the County Commission; 2) any action, decision, recommendation of any County board or committee; or 3) any action, decision or recommendation of County personnel which foreseeably will be heard or reviewed by the County Commission or a county board or committee.

The Ethics Commission has interpreted lobbying broadly to include written communications as well as appearances and meetings with staff and county boards and entities. Moreover, the lobbying prohibition applies to all entities regardless of whether the Commissioners participated in any decisions regarding the entity. The

Commissioners are permitted to lobby municipalities within Miami-Dade County or state agencies.

Therefore, Section 2-11.1(q) permits the former Commissioners to enter into a contractual relationship with an entity that benefited from a decision of the Board of County Commissioners as long as the contract was neither discussed nor contemplated during the time the Commissioners took official action regarding the entity. Further, Section 2-11.1(q) prohibits the Commissioners from lobbying any county board, agency or personnel on behalf of any person or entity for two years after they leave office.

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 black ink that reads "Ardyth Walker for". The signature is written in a cursive, flowing style.

ROBERT MEYERS
Executive Director