

December 28, 2006

Elizabeth M. Hernandez, City Attorney  
City of Coral Gables  
City Hall, 405 Biltmore Way  
Coral Gables, FL 33134

Re: **RQO 06-64**

Dear Ms. Hernandez:

The Commission on Ethics & Public Trust considered your request and rendered its opinion at a public meeting held on December 21, 2006.

In your letter of December 6, 2006, you requested an opinion regarding possible voting conflicts for a City Commissioner whose spouse is contracting with a private company seeking to do business with the City.

Specifically, you stated that the City of Coral Gables has received an automated online lobbyist registration service, free of charge for a limited time, from [onlinelobbyist.com](http://onlinelobbyist.com). This agreement was awarded administratively through the City Clerk's office in accordance with the City's Procurement Code. The City Commissioners did not vote on the arrangement, but their approval will be required if the City wishes to contract with [onlinelobbyist.com](http://onlinelobbyist.com) in the future.

[Onlinelobbyist.com](http://onlinelobbyist.com) has delegated certain tasks, such as programming the database and hosting the website, to Trapezoid Technologies (TT), a company partially owned by the spouse of a City of Coral Gables Commissioner. The spouse at TT will likely continue his relationship with [onlinelobbyist.com](http://onlinelobbyist.com), once testing in Coral Gables is completed and [onlinelobbyist.com](http://onlinelobbyist.com)'s client base increases.

Sections of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance that apply in this case are at §§ **2-11.1(d), (l), (n), and (o)**.

**Section 2-11.1(d)** prohibits officials from voting on a subject item if they might profit or otherwise be enhanced, directly or indirectly, by the action. Section (d) further prohibits city officials from voting on matters brought forth by entities with any of the following relationships to the official or her immediate family—officer, director, partner, of counsel, consultant, employee, fiduciary, beneficiary, stockholder, bondholder, debtor, or creditor.

The Coral Gables Commissioner and her spouse do not have any of the enumerated relationships with onlinelobbyist.com. However, the Commissioner would very likely benefit personally or be uniquely affected by voting to award onlinelobbyist.com a City contract for online lobbyist registration services, since her husband's business arrangement with onlinelobbyist.com is expected to continue.

Consequently, Section **2-11.1(d)** requires that, as long as the City Commissioner's husband has a business relationship with onlinelobbyist.com, the Commissioner must—

- (1) absent herself from all discussions related to remunerating onlinelobbyist.com with City funds
- (2) not vote or participate in any way when issues related to onlinelobbyist.com are presented
- (3) refrain from commercial endorsements of onlinelobbyist.com's services to other governmental entities nationwide.

Additionally, several sections of the Ethics Code prohibit officials or immediate family members from—

- having personal investments in any enterprise that would create a substantial conflict between their private interests and the public interest (at § 2-11.1 **(l)**),
- participating in any official action, directly or indirectly, that would affect a business in which the official or an immediate family member has a financial interest (as in an investment) (at § 2-11.1 **(n)**),
- acquiring financial interests in a business entity when the official has reason to believe that the said financial interest will be directly affected by her official actions (at § 2-11.1 **(o)**)

In the current case, neither the Commissioner nor her spouse has a financial interest in onlinelobbyist.com. They are cautioned, however, to avoid investing in onlinelobbyist.com or otherwise acquiring a financial interest in onlinelobbyist.com as long as onlinelobbyist.com seeks to

contract with the City and, at the same time, the Commissioner's husband continues his business relationship with [onlinelobbyist.com](http://onlinelobbyist.com).

This opinion is based on the Miami-Dade County Conflict of Interest and Code of Ethics ordinance only. Questions regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact Victoria Frigo, Staff Attorney, at (305) 350-0601, or Robert Meyers at (305) 579-2594, if we can be of further assistance in this matter.

Sincerely yours,

ROBERT MEYERS  
Executive Director