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February 26, 2010

Dr. Larry Capp
Executive Director
Office of Community Advocacy
111 N.W. First Street
9th Floor
Miami, FL 33128

RE: REQUEST FOR ADVISORY OPINION-RQO 10-4

Dear Dr. Capp:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on February 25, 2010 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether you may perform outside employment as an expert for the Eleventh Judicial Circuit. You are slated to become a staff psychologist for the Miami-Dade Police Department.

In your letter, you advised the Commission that you serve as Executive Director of the Office of Community Advocacy (OCA). OCA is responsible for providing staff support to several advisory boards including the Community Relations Board, the Commission for Women, the Hispanic Affairs Advisory Board, the Black Affairs Advisory Board and the Asian-American Advisory Board.

During his tenure as Executive Director of OCA, you have also engaged in outside employment through Behavioral Health and Wellness. You are the corporate officer and sole employee of Behavioral Health and

Wellness. Behavioral Health and Wellness has agreements with Law Enforcement Psychological and Counseling Associates and the Eleventh Judicial Circuit.

You are slated to leave his position with the Office of Community Advocacy at the end of the month and become a staff psychologist for the police department. In that capacity, you will be responsible for providing psychological services including personal and departmental referrals under the Employee Assistance Program, post-shooting and other traumatic incident counseling and crisis intervention duties to police officers and their immediate families. You have previously provided pre-employment screening for police and correctional officers as a consultant to Law Enforcement Associates but you have severed your relationship with the firm in anticipation of your duties as a police psychologist.

You are also providing expert services to the Eleventh Judicial Circuit in cases where mental competency is an issue. You are responsible for determining whether the defendant meets the legal requirements for mental competency. You are also responsible for making treatment recommendations. The evaluation testing and interviews are generally conducted at the correctional facility and may be scheduled outside of normal business hours.

The Ethics Commission found the Conflict of Interest and Code of Ethics ordinance permits you to continue to provide expert witness services to the Eleventh Judicial Circuit. Section 2-11.1(j) permits employees to engage in outside employment that does not compromise their independence of judgment in their county employment. Your duties as an expert for the court system should not interfere with his duties as a police psychologist.

Further, Section 2-11.1 (d) does not prohibit you from contracting with the Eleventh Judicial Circuit to provide mental health services. Section 2-11.1(d) prohibits departmental personnel (County Manager, Assistant County Managers and department directors) from contracting with Miami-Dade County to provide services. The Administrative Office of the Courts (AOC) is not a county agency and Section 2-11.1 (d) does not prohibit you from contracting with the AOC to provide services. Accordingly, you may contract with the AOC to provide expert services.

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