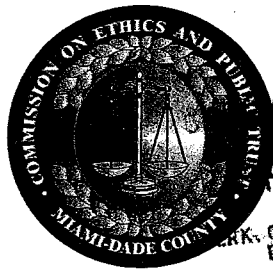


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**MIAMI-DADE COUNTY  
COMMISSION ON  
ETHICS & PUBLIC TRUST**

**IN RE: JOHNNY WINTON**  
\_\_\_\_\_ /

**C 07-12**

**PUBLIC REPORT & FINAL ORDER ACCEPTING SETTLEMENT AGREEMENT**

The ADVOCATE filed the above-referenced COMPLAINT against RESPONDENT Johnny Winton, Council Member in the City of Miami. The COMPLAINT alleged violations of the Miami-Dade County Conflict of Interest & Code of Ethics Ordinance at Sections 2-11.1(d) and (l). Section (d) prohibits a municipal official from voting on, or participating in any way, in any matter if the official has a partnership relation with persons or entities that would be, or might be, directly or indirectly affected by the vote. Section (l) prohibits a municipal official from holding personal investments in any enterprise, either directly or through a member of his immediate family, which would create a substantial conflict between his private interest and the public interest.

According to allegations outlined in the COMPLAINT, RESPONDENT violated Section 2-11.1 (l) when he entered into a partnership with the Mayor and City Manager of the City of Miami. This private business arrangement resulted in the partners' joint guarantees of a loan and mortgage to purchase real property within the city. RESPONDENT allegedly violated Section 2-11.1 (d) of the Ethics Code when he voted on a resolution to raise the salary of the Mayor, who was also his business partner at the time.

Pursuant to the Code of Miami-Dade County, Article LXXVI, Section 2-1068, the Commission on Ethics & Public Trust has jurisdiction to enforce the above-referenced ordinance.

On June 26, 2007, the Commission on Ethics found the allegation was legally sufficient. On October 24, 2007, the Ethics Commission entered into a SETTLEMENT AGREEMENT with the RESPONDENT in which the RESPONDENT agreed not to contest the charges against him, to pay a fine of seven hundred fifty dollars (\$750.00), and to accept a LETTER OF INSTRUCTION in full satisfaction of the COMPLAINT.

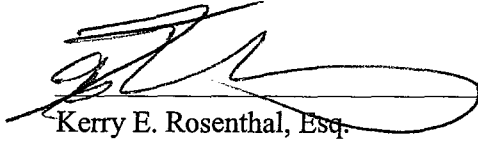
Therefore it is:

**ORDERED AND ADJUDGED THAT** the Ethics Commission finds the RESPONDENT's plea of no contest, fine of seven hundred fifty dollars (\$750.00), and acceptance of a LETTER OF INSTRUCTION full satisfaction of the COMPLAINT.

**DONE AND ORDERED** by the Miami-Dade County Commission on Ethics & Public Trust in public session on October 24, 2007.

MIAMI-DADE COUNTY COMMISSION ON  
ETHICS & PUBLIC TRUST

By:



Kerry E. Rosenthal, Esq.

Chairman



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**MIAMI-DADE COUNTY  
COMMISSION ON  
ETHICS & PUBLIC TRUST**

IN RE: JOHNNY WINTON /

C 07-12

**AMENDED LETTER OF INSTRUCTION**

To: Johnny Winton

Re: Ethics Complaint C07- 12

Date: December 4, 2007

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This Amended Letter of Instruction shall replace and supersede the Letter of Instruction issued previously on October 24, 2007. The October 24, 2007 Letter of Instruction was issued in error; it is hereby retracted and declared null and void.

After due consideration, the Miami-Dade County Commission on Ethics and Public Trust accepts the no contest plea of former City of Miami Commissioner Johnny Winton regarding the violations of Sec. 2-11.1(d) (voting conflict), and (l) (Prohibited investments), of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance.

Wherefore, the Miami-Dade County Commission on Ethics and Public Trust issues this Letter of Instruction.

Former Commissioner Johnny Winton, former City Manager Joe Arriola, and Mayor Manuel A. Diaz (collectively known as the "partners") formed Stewart Avenue Investors (SAI), a Limited Liability Company.

In and around the Spring of 2005, a parcel of land was identified (the Battersea property) as an investment property for SAI. Specifically, the intention of the partners was to purchase the property, develop the property, resell the property, and divide the proceeds among the partners. This was always intended to be a private transaction with no involvement by any government entity.

Approximately \$400,000 of the investment money came from then-City Manager Arriola. This \$400,000 loan was guaranteed by each of the SAI partners individually. Thus, Mr. Winton was involved in a relationship wherein in his public capacity he served as a City Commissioner while at the same time he was *personally* acting as a guarantor on a \$400,000 loan to his private business entity (SAI). This relationship made Mr. Winton and the Mayor both personally liable to the individual who, in his public capacity, served as the City Manager of the City of Miami. No financial obligations between the partners involved any government entity or government capacity.

Mr. Winton's private interests were placed in conflict with his public interests by the fact that, as a partner in SAI, he and his SAI partners, the Mayor and the City Manager, were liable as a mortgagee to Gibraltar Bank for the mortgage taken out and utilized to purchase the Battersea property.

Section 2-11.1 (1) of the Miami-Dade County Conflict of Interest and Code of Ethics ordinance states: "No person included in the terms defined in subsections (b) (1) through (6) shall have personal investments in any enterprise, either himself or through a member of his immediate family, **which will create a substantial conflict between his private interests and the public interest.**" (emphasis added).

The mere existence of the private business relationship between Mr. Winton, the Mayor, and the City Manager created a conflict; in our view it is unnecessary to point out a specific act the former Commissioner may have taken that actually demonstrates that the conflict affected the performance of his public duties. In fact, every act taken by the former Commissioner in his public capacity could potentially be called into question by the existence of this conflicting relationship. It is sufficient that the conflicting relationship existed. Even though Mr. Winton's business relationship was a private matter that did not involve any government entities or operations, that private relationship with others who shared government service with Mr. Winton raised the potential for conflicting entanglements.

Mr. Winton is reminded that it is often the mere appearance of impropriety that shakes the public's trust in its elected officials. Thus, every care should be taken to avoid such appearances. It is clear in our opinion that because of the inter-related, check and balance nature of the relationships contemplated by the City of Miami Charter, wherein the Mayor has appointment and removal authority over the City Manager (subject to Commission approval) as well as veto authority over certain decisions by the City Commission, and where the City Commission fixes the compensation for both the City Manager and the Mayor, a business relationship entered into such as SAI, an enterprise wherein Mr. Winton had significant personal investment, could amount to a per se conflict between his private interests and the public interest.

Moreover, the fact that Mr. Winton sponsored and voted on a last minute salary increase for the Mayor, who at the time was also Mr. Winton's business partner, created a

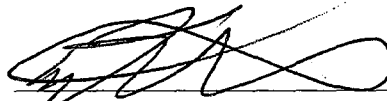
clear conflict of interest both in fact and in perception.

This Commission recognizes that Mr. Winton promptly and publicly apologized for his actions concerning the voting conflict. The Commission accepts that Mr. Winton did not intend to create a conflict by his business partnership. Therefore, the Commission expects that should Mr. Winton ever return to public service, he will take this Letter of Instruction to heart and guide his behavior accordingly. Mr. Winton is encouraged to seek ethics opinions from this Commission in any future circumstance.

**DONE AND ORDERED** by the Miami-Dade County Commission on Ethics & Public Trust in public session on October 24, 2007, and correctly expressed in the present document.

MIAMI-DADE COUNTY COMMISSION ON ETHICS  
& PUBLIC TRUST

By:



Kerry E. Rosenthal, Esq.  
Chairman