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STAFF GENERAL COUNSEL

August 31, 2009

Cherie A. Bryant
c/o Cabre Safe Haven, Inc.
P.O. Box 824083
South Florida, FL 33082-4083

Via First Class Mail and email at dentunenterprises_93@yahoo.com

RE: INQ 09-147 Ethics opinion regarding employment with the City of Miami Police Department and service as President of the Board of Directors of Cabre Safe Haven, Inc.

Dear Officer Bryant:

In an email dated August 25, 2009, as well as in previous telephone conversations, you asked about possible ethics conflicts that might arise based on your current employment as a Police Officer with the City of Miami Police Department and your service as President of the Board of Directors of Cabre Safe Haven, Inc., a nonprofit organization.

In sum, this is our opinion:

- Your employment with the City of Miami does not prevent Cabre Safe Haven, Inc., from entering into a contract with the City of Miami because you have no ownership interests in Cabre Safe Haven, Inc., a nonprofit organization.
- You may not appear before the City Commission seeking a benefit on behalf of Cabre Safe Haven, Inc., unless you receive a waiver from the City Commissioners.

FACTS

You are currently employed by the City of Miami Police Department as a Police Officer.

You are also the Founder and President of the Board of Directors of Cabre Safe Haven, Inc., a nonprofit organization that provides transitional housing, counseling, and psychological services to women who are victims of domestic violence.

We understand that you would like to appear before the City Commission to seek a benefit on behalf of Cabre Safe Haven, Inc. The transaction would involve the transfer of real property owned by the City to Cabre Safe Haven, Inc., to be used in furtherance of the charitable mission of Cabre Safe Haven, Inc.

LEGAL ANALYSIS
REGARDING DOING BUSINESS WITH THE CITY

The **County Code at § 2-11.1 (c)(2)** prohibits a City employee from entering into a contract with the City, individually or through a business entity in which she has a controlling financial interest, if the contract would be enforced, overseen, or administered by the department that employs the employee. Because the laws regulating nonprofit corporations do not allow financial ownership interests in nonprofits such as Cabre Safe Haven, Inc., you do not have a financial interest in Cabre Safe Haven, Inc., and, therefore, you do not have a conflict under this part of the County Code.

The **City of Miami Conflicts of Interest Code at § 2-612 (a)** states that no employee “shall enter into any contract or transact any business with the city or any person or agency acting for the city...” Two Miami City Attorney Legal Opinions clarify this prohibition to include any entity in which the employee or her immediate family has an ownership interest.¹ Again, because no ownership interest is possible in a nonprofit organization, you have no ownership interest in Cabre Safe Haven, Inc., and, therefore, you have no conflict under this part of the City Code.

LEGAL ANALYSIS
REGARDING APPEARANCES BEFORE THE CITY COMMISSION

The **City of Miami Code at § 2-612 (a)** prohibits City employees from appearing in any capacity on behalf of third parties before the City Commission, any City board, or City agency. The code further states that “Any such contract or agreement entered into or appearance made in violation of this section shall render the transaction voidable.” The **City of Miami Code at § 2-612 (c)** states that the prohibition remains in effect for a period of two years after the employee has left City service or terminated City employment.

The **City of Miami Code at § Sec. 2-614 (a)** states that an employee may overcome this prohibition by seeking a waiver from the City Commissioners. The City Commissioners must approve the waiver by a four-fifths vote after a public hearing. According to the **City of Miami Code at Sec. 2-614 (a)(4)**, waivers may be granted for various reasons, including that the proposed transaction is in the best interest of the City.

This opinion construes the Miami-Dade Conflict of Interest & Code of Ethics Ordinance and the City of Miami Conflicts of Interest Code, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Sincerely,


VICTORIA FRIGO
Staff Attorney

¹ See Miami City Attorney Legal Opinions № 05-05 and № 08-002.