

## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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Via U.S. and Electronic Mail: [gscholl@sibfl.net](mailto:gscholl@sibfl.net)

April 11, 2019

Mayor George "Bud" Scholl  
City of Sunny Isles Beach  
18070 Collins Avenue  
Sunny Isles Beach, Florida 33160

Re: RQO 19-01, Exploitation of official position prohibited, Section 2-11.1 (g) of the Miami-Dade Code; Actions Prohibited when financial interests involved, Section 2-11.1(n) of the Miami-Dade Code; and Recommending Professional Services, Section 2-11.1(p), of the Miami-Dade Code, Municipal Counsel Opinions Affecting Terms and Conditions of Their Employment

Dear Mayor Scholl:

IN A PUBLIC MEETING on April 10, 2019, the Miami-Dade Commission on Ethics and Public Trust ("Ethics Commission") opined that the Sections 2-11.1(g) and (n) of the Ethics Code, prohibits a city attorney, in-house or as a member of a private firm, from providing a legal opinion in his or her official capacity when the subject of the of the opinion could directly affect the terms and conditions of the attorney's employment, or of a small class of employees that includes the attorney, or the firm's retainer terms.

If during the city attorney's employment, a question arises regarding an interpretation of his or her employment agreement, or the interpretation and application of a municipal ordinance or rule to his or her employment terms, or the terms of a firm's retainer as municipal counsel, the city attorney should refrain from advising the elected body or other municipal employees in his or her official capacity and those duties should be performed by another attorney.

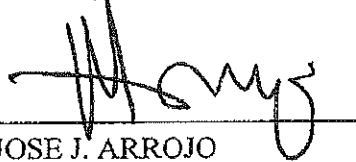
Section 2-11.1(p) of the Ethics Code, allows a city attorney to retain lawyers and experts, without consulting with the municipal elected body in the discharge of his or her official duty to provide competent counsel to the city, but the allowance is not without restriction. When the matter under

consideration by the municipality involves terms and conditions of the city attorney's employment or the firm's retainer as described herein, then the city attorney may recommend or retain the outside attorney in advance of public meeting, consistent with the requirements of the city's charter and ordinances, but the recommendation or retainer should be presented to the city commission or council in a Sunshine meeting as soon as practicable.

Enclosed you will please find the supporting legal memorandum presented and approved by Commission on Ethics in open session.

Thank you again for contacting the Miami-Dade Commission on Ethics and Public Trust and for requesting guidance on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Jose J. Arrojo", written over a horizontal line.

JOSE J. ARROJO  
Executive Director

Enclosure

cc: MDCLC, City Attorneys Advisory Committee