

MIAMI-DADE COUNTY  
COMMISSION ON ETHICS & PUBLIC TRUST

September 16, 2013

The Honorable Luigi Boria, Mayor, City of Doral  
c/o Dexter W. Lehtinen  
Tew Cardenas LLP  
1441 Brickell Ave., 15<sup>th</sup> Floor  
Miami, FL 33131-3407

RE: RQO 13-08      Official actions prohibited when financial interests are involved  
See Miami-Dade County Ethics Code at Secs. 2-11.1 (d), (n), (o)

Dear Mayor Boria:

IN A PUBLIC MEETING on September 12, 2013, the Miami-Dade Ethics Commission opined that you cannot vote on or participate in any official actions related to The Grand Floridian, which is currently owned by Juan Carlos Tovar, an individual with whom you have a debtor-creditor relationship.<sup>1</sup>

Additionally, going forward, you cannot take any official actions, directly or indirectly, affecting a business in which you or your immediate family has a financial interest.<sup>2</sup> Nor can you acquire a financial interest in a project when you have reason to believe that the financial interest will be directly affected by your official actions or by the official actions of the Doral City Council.<sup>3</sup>

Finally, the Ethics Commission will issue a Letter of Instruction to the Doral City Manager advising him that City staff must apply consistent and objective standards to any requests brought before the City by The Grand Floridian, including, but not limited to, site plan approvals, tentative plat approvals, building permit approvals, and the issuance of certificates of occupancies and corresponding inspections.

THE LEGAL BASIS for this opinion can be found in the Miami-Dade County Ethics Code at Secs. 2-11.1 (d), (n), and (o).

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<sup>1</sup> Miami-Dade County Ethics Code at Sec. 2-11.1 (d).

<sup>2</sup> Miami-Dade County Ethics Code at Sec. 2-11.1 (n).

<sup>3</sup> Miami-Dade County Ethics Code at Sec. 2-11.1 (o).

The Miami-Dade County Ethics Code at Sec. 2-11.1 (d) prohibits you from voting on or participating in any matter brought by a person or entity with which you have a debtor-creditor relationship.<sup>4</sup>

Juan Carlos Tovar is currently the sole owner of The Grand Floridian at Doral, LLC, a company seeking to develop approximately 17 acres of property located in Doral.

In your private capacity, you own TWC—The Wise Computer, Inc. Through his privately owned company, Ventech, Mr. Tovar is a customer of TWC and is extended a revolving line of credit by TWC for purchases made by Ventech.

Consequently, you are prohibited from voting on or participating in any matters brought before the Doral City Council by Mr. Tovar, who is an intermittent debtor based on your computer business relationships.

The Miami-Dade County Ethics Code at Sec. 2-11.1 (n) prohibits you from taking any official actions, directly or indirectly, affecting a business in which you or your immediate family<sup>5</sup> has a financial interest.<sup>6</sup>

Until recently, your adult son and daughter, using monetary gifts from you, each held a 25% ownership interest in The Grand Floridian; Mr. Tovar held the remaining 50% interest. In May 2013, your children worked out an agreement to extend a loan valued at \$8,000,000 to Mr. Tovar, which enabled him to purchase their ownership interests in The Grand Floridian. Mr. Tovar, in turn, pledged several properties as collateral on the loan. Two of the properties collateralizing the loan are located within the city limits of Doral, but the remainder are outside of the city limits.

During the time in which your children held financial interests in The Grand Floridian, we understand that you did not take any official actions related to this property. Going forward, if members of your immediate family were to acquire financial interests in entities with matters before the Doral City Council, you are reminded to avoid taking official actions affecting any family member's financial interests.

The Miami-Dade County Ethics Code at Sec. 2-11.1 (o) prohibits you from acquiring a financial interest in a project when you believe or have reason to believe that the financial interest will be directly affected by your official actions or the official actions of the Doral City Council.

Based on the recent ownership of The Grand Floridian by your children and your gifts that enabled their involvement in the project, you are cautioned to avoid further entanglements between your family's financial interests and any

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<sup>4</sup> The prohibited relationships include "officer, director, partner, of counsel, consultant, employee, fiduciary, beneficiary, stockholder, bondholder, debtor, or creditor." See Miami-Dade County Ethics Code at Sec. 2-11.1 (d).

<sup>5</sup> Adult children are considered "immediate family" under the Miami-Dade County Ethics Code at Sec. 2-11.1 (b)(9).

<sup>6</sup> A "financial interest" is defined as "something in the nature of an investment." See Miami-Dade County Ethics Code at Sec. 2-11.1 (n).

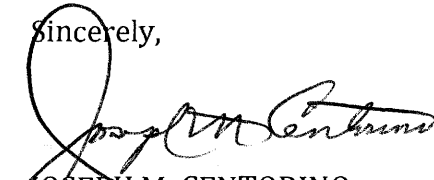
development projects or other matters that might be affected by your official actions or the official actions of the Doral City Council.

The Ethics Commission called attention to its long-held position that elected officials be free of even the potential for entangling interests that will erode the public's trust. Thus, an apparent conflict, rather than proof of an actual conflict, is sufficient to recommend that a public official disqualify himself from acting on a matter of public interest if his action would contribute to the perception that official decisions were being made based on personal interests rather than the public's interest.<sup>7</sup>

The Ethics Commission emphasized that the County Ethics Code constitutes merely "a minimum standard of ethical conduct and behavior for all municipal officials"<sup>8</sup> and does not address appearance of impropriety issues. A public servant's conscience and judgment must ultimately guide the official actions of those entrusted with the public welfare.

This opinion is based on the Miami-Dade County Ethics Code only. You may also wish to consult with the State of Florida Commission on Ethics to determine if any conflicts exist under state law.

Sincerely,



JOSEPH M. CENTORINO  
Executive Director

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<sup>7</sup> Lainhart v. Burr, 49 Fla. 315 (1905); Thompson v. City of Atlantic City, 190 N.J. 359 (2007).

<sup>8</sup> Miami-Dade County Ethics Code at Sec. 2-11.1 (a).



## **LETTER OF INSTRUCTION**

To the City Manager of the City of Doral

(RE: RQO 13-08 Luigi Boria)

This Letter of Instruction stems from an investigation into the financial holdings within the City of Doral by Mayor Luigi Boria, Mayor Boria's immediate family members, and Mayor Boria's business associates.

Meeting in public session on September 12, 2013, the Ethics Commission opined that Mayor Boria could not vote on or participate in any official actions related to The Grand Floridian at Doral, LLC, a private company seeking to develop approximately 17 acres of land for residential use within the Doral city limits. This prohibition is based on a conflict of interest that Mayor Boria has with Juan Carlos Tovar, the owner of The Grand Floridian, due to the Mayor's business relationship with Mr. Tovar as well as prior investments of the Mayor's immediate family members with the project.

The Ethics Commission further advised that the Mayor not take any official actions, directly or indirectly, affecting a business in which he or his immediate family has a financial interest. Additionally, the Mayor was told that he cannot acquire a financial interest in a project when he has reason to believe that the financial interest will be directly affected by his official actions or by the official actions of the Doral City Council. (Although Mayor Boria's children had sold their ownership interests in The Grand Floridian by the time the Ethics Commission opined, these additional directives were prompted by knowledge of the children's very recent ownership interests in The Grand Floridian.)

### **INSTRUCTIONS TO THE CITY MANAGER OF THE CITY OF DORAL**

In light of Mayor Boria's current conflict of interest with Mr. Tovar, the owner of The Grand Floridian, and because The Grand Floridian will be seeking approvals and other benefits from the City of Doral in the near future, the Ethics Commission issues this Letter of Instruction to the City Manager of the City of Doral.

In order to protect the public's trust, the City Manager should instruct city staff to perform their duties responsibly, honestly, and fairly when taking official actions related to The Grand Floridian and Mr. Tovar. For example, staff must apply consistent and objective standards to any requests by The Grand Floridian, including, but not limited to, site plan approvals, tentative plat approvals, building permit approvals, and the issuance of certificates of occupancies and corresponding inspections.

Examples of actions the City Manager should take in order to avoid conflicts of interest and appearances of impropriety by staff include the following:

- Protect staff from political pressures and ensure that the Mayor's official power and authority is not influencing the decision-making processes.
- Require that staff carry out their jobs impartially and objectively, endorsing neither acts of favoritism nor displays of bias or prejudice.
- Promote the highest standards of competence among staff.
- Deal immediately and effectively with unprofessional or unethical behavior by staff.
- Advise staff that the County Ethics Code provides a minimum standard of conduct for public employees and does not directly address "appearance of impropriety" issues. To protect the public trust and to avoid even the suggestion that they are exercising their public duties improperly, city employees must consider how their decisions will appear to an ordinary citizen who may not fully understand the city's decision-making processes.