

MEMORANDUM

107.07-17A METRO-DADE/GSA-MAT.MGT.

Agenda Item No. 11(A)(3)

TO: Honorable Chairperson Barbara Carey-Shuler, Ed.D. DATE: November 30, 2004
and Members, Board of County Commissioners

FROM: 
George M. Burgess
County Manager

SUBJECT: Resolution Establishing
and Administrative Order
for Restitution for Ethics
Violations

RECOMMENDATION

It is recommended that the Board adopt the attached Administrative Order implementing the provisions of Section 2-11.1, Section 2-11.1.1 and Section 12-22 providing for restitution for ethics violations.

BACKGROUND

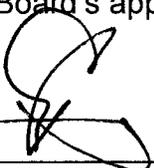
The attached Administrative Order establishes the procedure for assessment and collection of restitution for violations of ordinances under the jurisdiction of the Commission on Ethics and Public Trust.

The Administrative Order provides that restitution may be ordered against any person or entity covered by the Conflict of Interest and Code of Ethics ordinance, the Ethical Campaign Practices ordinance and the Election Campaign Financing Trust Fund ordinance for any financial benefit, direct or indirect, received as a result of a violation of the aforementioned ordinances.

The Administrative Order additionally provides that funds for direct or indirect violations of ethics ordinances will be deposited in the countywide General Fund. Any funds collected for violations of the Election Campaign Trust Fund ordinance will be deposited in the Election Campaign Trust Fund.

Further, the Administrative Order provides that the amount of restitution ordered may not exceed the total financial benefit gained as determined by an audit or investigation.

This Administrative Order was reviewed by the Office of Strategic Business Management, Performance Improvement Division and has been approved for placement on the Board of County Commissioners agenda. Adoption of this Administrative Order is contingent upon the Board's approval of its accompanying ordinance.



Susanne M. Torriente
Assistant County Manager



MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE: November 30, 2004

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 11(A)(3)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(3)
11-30-04

RESOLUTION NO. _____

RESOLUTION ESTABLISHING AN ADMINISTRATIVE
ORDER FOR RESTITUTION FOR ETHICS VIOLATIONS AND
VIOLATIONS OF THE ELECTION CAMPAIGN FINANCING
TRUST FUND ORDINANCE

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the establishment of an Administrative Order regarding restitution for ethics violations and violations of the Election Campaign Financing Trust Fund ordinance, in substantially the form attached hereto and made a part hereof; and authorizes the County Manager to exercise same for and on behalf of Miami-Dade County.

The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Dr. Barbara Carey-Shuler, Chairperson	
Katy Sorenson, Vice-Chairperson	
Bruno A. Barreiro	Jose "Pepe" Diaz
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dennis C. Moss	Dorrin D. Rolle
Natacha Seijas	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 30th day of November, 2004. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as
to form and legal sufficiency. GHS

Gerald K. Sanchez

By: _____
Deputy Clerk

Number: 2-9

Ordered:

Effective:

**MIAMI-DADE COUNTY
ADMINISTRATIVE ORDER**

RESTITUTION FOR ETHICS VIOLATIONS

AUTHORITY: Section 4.02 of the Home Rule Charter and Sections 2-11.1, 2-11.1.1 and 12-22 of the Code of Miami-Dade County

POLICY: It is the policy of Miami-Dade County that violators of county ethics law may not financially benefit as a result of their violations and must repay any pecuniary benefit received by the violator or a third party as a result of an ethics violation.

PURPOSE: This Administrative Order establishes the framework for assessment and collection of restitution for ethics violations.

DEFINITIONS

Covered Person-Any person or entity included in sections 2-11.1(b)(1) through (b)(6) (elected officials, autonomous personnel, quasi-judicial personnel, advisory personnel, departmental personnel and employees) and 2-11.1(w) (immediate family, contractors, vendors and lobbyists) of the Conflict of Interest and Code of Ethics ordinance and any candidate, campaign staff or third party covered by the Ethical Campaign Practices ordinance and the Election Campaign Financing Trust Fund ordinance.

Pecuniary Benefit- The Respondent or a third party receives a financial benefit as a result of the violation.

CASES WHERE RESTITUTION MAY BE ORDERED

Restitution may be ordered for any violation of the Conflict of Interest and Code of Ethics ordinance, the Ethical Campaign Practices ordinance and the Election Campaign Financing Trust Fund ordinance from which a person or an entity receives or may receive a pecuniary benefit.

PARTIES AGAINST WHOM RESTITUTION MAY BE ORDERED

The Ethics Commission may order the payment of restitution from any person or entity who has received a pecuniary benefit from a violation and who is:



- subject to the Ethics Commission's jurisdiction as provided in Section 2-11.1(b)(1) through (6) and section 2-11.1(w) of the Code of Miami-Dade County;
- a candidate and his or her campaign staff as provided in the Ethical Campaign Practices ordinance; or
- a candidate as provided in the Election Campaign Financing Trust Fund ordinance.

DEPOSITORY FOR FUNDS

All funds collected for restitution for violations of the Conflict of Interest and Code of Ethics ordinance or the Ethical Campaign Practices Ordinance shall be deposited in the general fund. All funds collected for restitution for violations of the Election Campaign Financing Trust Fund ordinance shall be deposited in the Election Campaign Financing Trust Fund.

DETERMINATION OF AMOUNT OF RESTITUTION

The Ethics Commission may order any covered person or entity to pay restitution for any amount gained as a result of the violation. The amount of restitution ordered may not exceed the total financial benefit to the person or entity as determined by an audit or investigation.

The Ethics Commission may establish criteria, by rule, for determination of the appropriate amount of restitution in a particular matter.

This Administrative Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

George M. Burgess
County Manager