

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



REPORT OF INVESTIGATION

K #: K12-128

Date Opened: August 20, 2012

Date Closed: 2/7/13

Name of Investigator: Manuel W. Diaz

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**Allegation:**

The COE received information that the 2012 judicial campaign for Andrea Wolfson (A. Wolfson) contacted City of Miami Beach employees utilizing robotic-calling. The calls were made to employees on their City of Miami Beach issued cellular telephones. Concern was expressed over whether her husband, Jonah Wolfson (J. Wolfson), a Miami Beach Commissioner used his position with Miami Beach to obtain the cellular telephone numbers.

**Historical:** A. Wolfson ran for judge in Miami-Dade County on November 6, 2011.

**Applicable Legislation:**

Miami Dade County Conflict of Interest and Code of Ethics Ordinance,

Section 2-11.1 (g), Exploitation of official position prohibited.

“No person included in the terms defined in Subsections (b) (1) through (6) and (b) (13) shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners.”

### **Investigation:**

An investigation was initiated to determine if J. Wolfson utilized his position, as a Miami Beach Commissioner, to obtain the numbers for Miami Beach city issued cellular telephones.

### **Interviews:**

A. Wolfson was contacted. She was advised as to the scope of the investigation. A. Wolfson confirmed that her campaign utilized robo-calls. She advised that a consultant David Custin (Custin), Custin & Associates, 6401 SW 113<sup>th</sup> Place, Miami, Florida 33173, managed her campaign. She agreed to contact Custin and ask him to contact the COE with information concerning the telephone numbers.

Attorney J.C. Planas (Planas), 18851 NE 29<sup>th</sup> Ave., Suite 303, Aventura, Florida 33180, representing A. Wolfson, contacted the COE. Planas was advised of the concerns of the COE. He stated that he would contact Custin and direct him to contact the COE.

Custin was interviewed via telephone, with Planas as a party to the conversation. Custin acknowledged that he managed the campaign's robotic call activities. He advised that the numbers called were considered public record and that he did not obtain the numbers from the City of Miami Beach. Custin advised that the telephone numbers are available for purchase by individuals who specialize in election campaigns. He said that there were no City of Miami Beach personal or home telephones utilized by the campaign. Custin declined to provide the name of the person or persons who provided him with the cellular telephone numbers.

### **Public Records:**

A public records request was made to the City of Miami Beach to determine if there were any public record requests made for the cellular telephone numbers of city-issued phones. According to the Clerk, two requests for telephone numbers were made: one, for the telephone numbers and records for the Mayor and a second request, for the contact information for employees. There were no requests for City-issued cellular telephone numbers.

Subsequent investigation confirmed that the cellular phone numbers of City employees are public record and maintained at the City. The City can access and provide the numbers if they were requested at a minimal cost.

**CONCLUSION:**

Due to the determination that the phone numbers are, in fact, readily available public records, there is insufficient reason to believe that any ethics violations were committed. Accordingly, this matter is closed with no further action.