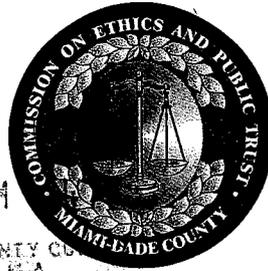


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CLERK, MIAMI-DADE COUNTY GOV
MIAMI, FLORIDA, U.S.A.

**MIAMI-DADE COUNTY
COMMISSION ON ETHICS & PUBLIC TRUST**

In re: SAUL GROSS, JOSE SMITH, AND SIMON CRUZ

C 08-16

PUBLIC REPORT AND FINAL DISMISSAL ORDER

Private citizens Leroy Griffith and Leo A. Mena filed the above-referenced COMPLAINT against several RESPONDENTS who currently serve or have served as officers or employees of the City of Miami Beach. This FINAL ORDER addresses RESPONDENTS City Commissioner Saul Gross, former City Commissioner Jose Smith (who now serves as City Attorney), and former City Commissioner Simon Cruz.

The COMPLAINT alleged that RESPONDENTS violated the County Code at § 2-11.1 (g) and the City of Miami Beach Ordinance at § 2-451 by conspiring to secure a special privilege for a private citizen during three executive sessions held by the City Commission in 2005. Specifically, commissioners were alleged to have strategized with their attorney not only about a lawsuit that had been filed against the City, but also about a related lawsuit that had been filed against the wife of one of the City Commissioners.

Pursuant to the Code of Miami-Dade County, Section 2-1068 and Section 2-11.1 (y), the Commission on Ethics & Public Trust has jurisdiction to enforce County and municipal ethics codes. Specifically, the County Ethics Ordinance at § 2-11.1 (g) prohibits municipal officers and employees from using or attempting to use their official position to secure special privileges or exemptions for themselves or others. A virtually identical prohibition is found in the Miami Beach Standards of Conduct at § 2-451.

On September 25, 2008, the ADVOCATE, ASSISTANT ADVOCATE, and RESPONDENTS Gross, Smith, Cruz, and Dubbin jointly moved to dismiss the COMPLAINT with a LETTER OF INSTRUCTION because proceeding further with the case would not serve the public interest.¹ This motion failed.²

On December 3, 2008, a motion to find PROBABLE CAUSE against RESPONDENTS Gross, Smith, and Cruz also failed. At its discretion, the Ethics Commission dismissed the COMPLAINT against RESPONDENTS Gross, Smith, and Cruz, with a LETTER OF INSTRUCTION, which was approved at a subsequent meeting.³

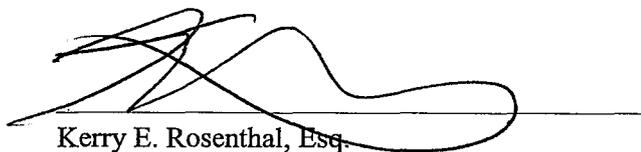
Therefore it is:

ORDERED AND ADJUDGED THAT the COMPLAINT is hereby DISMISSED.

DONE AND ORDERED by the Miami-Dade County Commission on Ethics & Public Trust in public session on December 3, 2008.

MIAMI-DADE COUNTY COMMISSION ON
ETHICS & PUBLIC TRUST

By:



Kerry E. Rosenthal, Esq.
Chairman

¹ Section 2-1074 (s) of the County Code allows the Ethics Commission to dismiss any COMPLAINT at any stage of disposition should it determine that "the public interest would not be served by proceeding further."

² However, the Ethics Commission dismissed the above-referenced COMPLAINT against Murray Dubbin on December 3, 2008, at its discretion because the public interest would not be served by proceeding further. Specifically, the Ethics Commission agreed that Mr. Dubbin's legal advice was based on a good-faith interpretation of the law.

³ On January 29, 2009, the Ethics Commission approved the LETTER OF INSTRUCTION, prepared by the ADVOCATE and attached to this FINAL ORDER.