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MIAMI-DADE COUNTY
COMMISSION ON ETHICS & PUBLIC TRUST

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In re: **ALEX FERNANDEZ**

C 09-26

PUBLIC REPORT AND FINAL DISMISSAL ORDER

COMPLAINANT Alex Sarduy, a private citizen, filed the above-referenced COMPLAINT against RESPONDENT Alex Fernandez, a candidate for the office of City Commissioner in the City of Miami Beach in 2009. The COMPLAINANT alleged a violation of Florida Statute § 106.08 involving a loan to the RESPONDENT's campaign. Another allegation implicated the Miami-Dade County Voluntary Fair Campaign Practices Ordinance at § 2-11.1.1 (D) (1) 11, which prohibits distorting and misrepresenting facts in campaign materials.

The County Ethics Commission has no jurisdiction over state law. Pursuant to the Code of Miami-Dade County, Section 2-1068 and Section 2-11.1 (y), the Ethics Commission has authority to enforce the Voluntary Fair Campaign Practices Ordinance, but only if a candidate freely chooses to waive certain First Amendment rights and be bound by the jurisdiction of the Ethics Commission.

Because RESPONDENT Fernandez did not sign the updated Voluntary Fair Campaign Practices pledge with clear notice of the First Amendment waiver, RESPONDENT Fernandez is outside the authority of the Ethics Commission in this

matter. Therefore, in a public meeting on October 26, 2009, the Ethics Commission dismissed the COMPLAINT for lack of legal sufficiency.

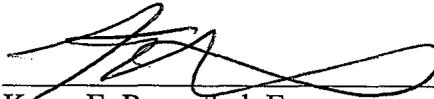
Therefore it is:

ORDERED AND ADJUDGED THAT the COMPLAINT against
RESPONDENT Alex Fernandez is hereby DISMISSED.

DONE AND ORDERED by the Miami-Dade County Commission on Ethics &
Public Trust in public session on October 26, 2009.

MIAMI-DADE COUNTY COMMISSION ON ETHICS
& PUBLIC TRUST

By:



Kerry E. Rosenthal, Esq.
Chairman

Signed on this date: November 2, 2009