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

In re.

C 14-21

Lumane P. Claude
_____ /

PUBLIC REPORT AND FINAL ORDER

COE Deputy General Counsel filed the above-referenced complaint against Respondent Lumane Pluiose Claude (Claude), Deputy City Manager for the City of North Miami (the City). The complaint alleged that Respondent violated Sec. 2-11.1(c), entitled *Prohibition on transacting business with the County*, of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance (the Ordinance), when her husband and son entered into temporary employment contracts with the City.

Pursuant to the Code of Miami-Dade County at Secs. 2-1068 and 2-11.1 (a), the Ethics Commission is empowered to enforce the County and municipal Code of Ethics ordinances and to accept and enforce settlement agreements entered into by the Deputy General Counsel/Advocate and Respondents.

On April 16, 2014, in closed session, the Ethics Commission held a probable cause hearing and found that there was probable cause to substantiate Counts 1-3 of the Complaint. The Commission also held that there was insufficient evidence to substantiate Count 4 of the Complaint.

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After making a finding regarding probable cause and pursuant to Sec. 2-1074(s) of the Code of Miami-Dade County, the Ethics Commission dismissed the Complaint and ordered that a Letter of Instruction be issued to Respondent.

Therefore it is:

ORDERED AND ADJUDGED that COMPLAINT C 14-21 against Respondent, Lumane P. Claude, is hereby dismissed with the attached Letter of Instruction.

DONE AND ORDERED by the Miami-Dade County Commission on Ethics & Public Trust in public session on April 16, 2014.

MIAMI-DADE COUNTY COMMISSION ON ETHICS
& PUBLIC TRUST

By:



Nelson Bellido
Chair

Signed on this date: 5/15/2014

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



LETTER OF INSTRUCTION

To: Interim City of North Miami Manager Aleem A. Ghany
Former City of North Miami Manager Steven Johnson
Deputy City of North Miami Manager Lumane Pluvisoise Claude

CC: City of North Miami Mayor Lucie M. Tondreau
City of North Miami Councilmember Scott Galvin
City of North Miami Councilmember Carol Keys
City of North Miami Councilmember Philippe Bien-Aime
City of North Miami Councilmember Marie Erlande Steril

From: Miami-Dade County Commission on Ethics and Public Trust

Re: Ethics Complaint C14-021

Date: May 2014

On April 7, 2014, Deputy General Counsel for the Commission on Ethics (COE) filed an Ethics Complaint against City of North Miami Deputy Manager Lumane P. Claude (Claude). The complaint alleged that Claude violated Section 2-11.1(c), Prohibition on transacting business with the County¹ of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (the Ordinance).

On April 16, 2014 in closed session, the COE held a probable cause hearing and found that there was probable cause to substantiate Counts 1 -3 of the complaint and no probable cause to substantiate Count 4 of the complaint. After the probable cause hearing, pursuant to Sec. 2-1074(s) of the Miami-Dade County Code, the COE dismissed the complaint and ordered the issuance of this Letter of Instruction to Claude as well as the City of North Miami Manager².

¹ "References in the section to County personnel shall therefore be applicable to municipal personnel who serve in comparable capacities to the County personnel referred to." Sec. 2-11.1(a), Miami-Dade County Code.

² At the time material to the Complaint, Steven Johnson was the City of North Miami Manager. Currently, Aleem A. Ghany is serving as Interim City Manager, therefore this letter is also addressed to him.

WHEREFORE, the Miami-Dade County Commission on Ethics and Public Trust hereby issues this Letter of Instruction to Claude, former City of North Miami Manager Johnson and interim City of North Miami Manager Ghany.

Investigation into the facts of this case revealed the following:

-At all times material to the complaint, Respondent Claude was the Deputy City Manager for the City of North Miami and continues to serve in this capacity.

-On February 29, 2012, August 19, 2013 and October 1, 2013, Claude's husband entered into a "Temporary Employment Contract" with the City of North Miami to provide bank reconciliation services to the City.

RELEVANT ORDINANCES

Section 2-11.1(c) (Prohibition on transacting business with the County), of the Ordinance, states in pertinent part:

"No person included in the terms defined in Subsection (b)(1) through (6)³ and in Subsection (b)(9) shall enter into a contract or transact business...in which he or she or a members of his or her immediate family has a financial interest, direct or indirect, with [the City of North Miami] or any person or agency acting for [the City]."⁴

Pursuant to Sec. 2-121.1(b)(9) (Definitions), of the Ordinance,

"The term '*immediate family*' shall refer to **spouse [emphasis added]**, domestic partner, parents, stepparents, children and stepchildren of the person involved."

The investigation did not uncover any evidence that Claude created the job for her husband or arranged for his hiring. In fact, according to Claude, when she learned of her husband's intention to enter into this employment contract with the City, she urged then-City Manager Johnson not to hire him because she did not want to work in the same organization as her spouse. During the probable cause hearing, Claude argued that a temporary employment contract is not the same as a traditional contract to do business with the City and therefore should not constitute of a violation of the Ordinance. However, by finding probable cause, the COE found that Ordinance does prohibit Claude's spouse from entering into a temporary employment contract with the City as long as Claude remains employed there. Furthermore, the COE opined that the hiring of a family member of someone in the upper-levels of the City's administration not only creates an appearance of impropriety but may also violates state nepotism laws.

³ Sec. (b)(5) of the Ordinance defines the term "*departmental personnel*" as "the Manager, his or her department heads..."

⁴ Sec. 2-316 of the Code of North Miami, *Prohibition on transacting business with the city*, mirrors Sec. 2-11.1(c) of the Ordinance.

We hereby instruct and advise the City to take the Conflict of Interest and Code of Ethics Ordinance and their own City Code into account when they set out to hire a particular individual. We remind the City that the Commission on Ethics is prepared to opine on any situation, regarding the Code, about which the City may have a doubt and encourage its administration to request ethics opinions whenever they are unclear as to how sections of the code should be interpreted.

