

IN THE COMMISSION ON ETHICS AND
PUBLIC TRUST, AN INDEPENDENT
AGENCY AND INSTRUMENTALITY OF
MIAMI-DADE COUNTY, FLORIDA
33130

ETHICAL CAMPAIGN PRACTICES
EXPEDITED HEARING PROCEDURE

CASE NO. C 15-28

IN RE: MIAMI BEACH ELECTION COMPLAINT

J.C. PLANAS,

Complainant

v.

MARK WEITHORN

Respondent/Candidate

FINAL ORDER ON PROBABLE CAUSE HEARING

This matter came to be heard on November 2, 2015, for a probable cause determination on a violation of Section 2-11.1.1 of the Miami-Dade County Code, entitled, Ethical Campaign Practices Ordinance

The sole issue for probable cause determination is whether Respondent violated Section 2-11.1.1 (C)-(1) (a) and (b) of the Mandatory Fair Campaign Practices Ordinance (MFCPO), by airing a televised political advertisement that contained a statement indicating that Ricky Arriola (Arriola) had a "police record for selling alcohol to a minor and beating on a security guard." Additionally, it was alleged that Weithorn mailed fliers detailing Arriola's arrest

without indicating the charges were dismissed, referring to Arriola's arrest as a "criminal record" and placing Arriola at risk of identity theft by failing to redact Arriola's social security number.

Complainant, J.C. Planas, presented his case. Respondent, Mark Weithorn, by and through his counsel, Brennan Donnelly, argued that the facts, as stated in the complaint, were not false, were not published with "actual malice," and failed to show a violation of the MFCPO.

FINDINGS OF FACT

1. Respondent paid for and approved the television political advertisement in question.
2. The Ethical Campaign Practices Ordinance does not convey jurisdiction of the Ethics Commission over members of an Electioneering Communication Organization (ECO), thus, any allegations against the Miami Beach Advisory Council (EBO) are dismissed for lack of legal sufficiency.
3. Complainant failed to produce any evidence that Respondent deliberately published Arriola's Social Security number with the intent of exposing him to identity theft. Moreover, the Social Security number is not an untrue statement.
4. The advertisement in question never explicitly stated that Arriola had been convicted of a crime. The fact that Arriola had been arrested was true, as evidenced by the police report.

WHEREFORE, I find NO PROBABLE CAUSE that Respondent violated Section 2-11.1.1 (C) (1) (a) and (b) of the Mandatory Fair Campaign Practices Ordinance (MFCPO) by making or publishing untrue statements about Arriola with actual malice.

Gerald Kogan

GERALD KOGAN
HEARING EXAMINER
COMMISSION ON ETHICS & PUBLIC TRUST
19 West Flagler, #820
Miami, FL 33130