

ORIGINAL

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. C16-37

IN RE; NORTH BAY VILLAGE ELECTION COMPLAINT

MARY KRAMER AND JOSE ALVAREZ,

Complainants

And

JORGE GONZALEZ,

Respondent.

FINAL ORDER ON PROBABLE CAUSE HEARING

This hearing was held to make a probable cause determination regarding an ethical campaign practices complaint. Probable cause is a preliminary determination regarding whether there is sufficient evidence to proceed to a full hearing. The probable cause hearing is conducted by a hearing examiner instead of the Ethics Commission. Each side has the opportunity to make a statement. Rebuttal is permitted if time allows. Following the hearing, the hearing examiner makes a determination of probable cause or no probable cause. If probable cause is found, the matter will be referred to the Ethics Commission for a public hearing. If no probable cause is found, the case will be dismissed by the Ethics Commission. The Respondent may appeal.

Complainants, Mary Kramer and Jose Alvarez presented their case.

The issue for probable cause determination was whether Respondent violated 2-11.1.1 (c) (1) (a) of the Mandatory Fair Campaign Practices Ordinance (MFCPO), during the North Bay Village Council meeting on October 24, 2016, by making, with "actual malice", untrue oral statements about the Complainants that exposed them to hatred, contempt, or ridicule, or caused the Complainants to be shunned or avoided, or injured in his or her business or occupation.

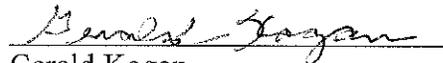
Respondent, Jorge Gonzalez, was not present but submitted a written reply responding to the allegations in the Complaint. ¹

FINDINGS OF FACT

- 1) Complainant, Jose Alvarez is a candidate for local office in North Bay Village, Florida.
- 2) On October 24, 2016, his wife, Mary Kramer made a statement during a North Bay Village Commission meeting.
- 3) In Ms. Kramer's statement to the Village Commission she indirectly referred to a \$2000 donation that Respondent, Jorge Gonzalez, received from a property management company that soon thereafter became the property management company at the condominium at which Mr. Gonzalez resides. She suggested that the Village revise its ethics rules after the election.
- 4) Respondent, Gonzalez, who is Vice Mayor of North Bay Village, requested and was granted permission by the Village Commission to respond to Ms. Kramer's comments.
- 5) Mr. Gonzalez in his response, among other statements, indicated that Ms. Kramer was biased, that she was escorted out of the condominium in question by police; she threatened the condominium security guard with her credentials as a lawyer, and it was Gonzalez's understanding that the security guard filed a bar complaint against her.

Finding

I FIND NO PROBABLE CAUSE to show Respondent violated Section 2-11.1.1 (c) (1) (a) of the Mandatory Fair Campaign Practices Ordinance (MFCPO). Specifically, Complainant offered no evidence to prove that Respondent made the statements with "actual malice" under the standard set out in *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964). Accordingly, this complaint should be dismissed.


Gerald Kogan
Florida Bar # 43950
Hearing Examiner
Commission on Ethics
19 W. Flagler Street, #820
Miami, FL 33130

¹ Respondent, Jorge Gonzalez, also requested a continuance as he had a personal conflict and could not be present at the hearing. His request to continue the proceeding was denied.