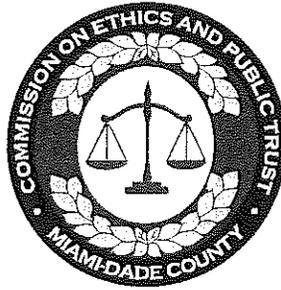


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APPROVED 7/18/2018

CHAIRMAN'S INITIALS: 1/8/2

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

LETTER OF INSTRUCTION

To: Robert Binish

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

Re: C18-06-01

Date: July 11, 2018

An Ethics Complaint was filed against Robert Binish (Binish) for violating Section 2-11.1(t) of the Miami-Dade County Conflict of Interest and Code of Ethics ordinance entitled, "Cone of Silence."

On January 27, 2015, Binish sent Miami- Dade Aviation Department (MDAD) employee Deborah Shore (Shore) an e-mail with an attached Excel spreadsheet. The subject line stated: "MIA Document Analysis & Recommendation." The e-mail stated: "01.27.2015 Attached is a recommended approach for the scoring based upon conversations that you have had with me and my review of the documents as requested."

This e-mail was sent during the time period that the Cone of Silence was in effect for a MDAD procurement regarding the baggage handling system at Miami International Airport.

Binish pled No Contest to the allegation, paid \$500.00 in investigative costs and agreed to accept a Letter of Instruction.

On May 15, 2018, the Ethics Commission accepted Binish's No Contest plea and ordered a Letter of Instruction to be issued.

WHEREFORE, the Commission on Ethics and Public Trust issues this Letter of Instruction.

Section 2-11.1(t) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance states, in part:

A Cone of Silence shall be imposed upon each RFP, RFQ, and bid after the advertisement of said RFP, RFQ or bid.

The Cone of Silence shall terminate at the time the [Mayor] makes his or her written recommendation to the County Commission...

County Commission...

“Cone of Silence” is hereby defined to mean a prohibition on any communication regarding a particular RFP, RFQ or bid between ... (vi) any member of the County’s professional staff and any member of the selection committee therefor.

The Code of Ethics does not provide a definition of “County’s professional staff.” However, the principle that Binish should have been considered part of the “County’s professional staff” was pronounced in a January 2011 opinion. (See INQ11-10.)

Binish was similarly situated as a contract “consultant” to MDAD for the baggage handling procurement. Accordingly, he is considered part of the “County’s professional staff.”

INQ16-129 further clarified that a “consultant” is considered “professional staff.” (determining that a consultant hired by the City of North Miami to advise the city regarding a water utility system would be barred under the Cone of Silence from communicating with a member of the RFQ selection committee). That opinion concluded that a consultant hired by the City to advise the City during the procurement process is in the same position as a member of the City’s “professional staff” and is so bound by the prohibitions in the Cone of Silence.

It should be noted, however, that INO16-129 was not issued until May of 2016, several months after Binish sent the subject e-mail that violated the Cone of Silence. It is plausible, as Binish contends, that he was likely unaware of his status as “professional staff” and was not informed of this by MDAD administration. Although ignorance of the law is not an excuse, under this circumstance, this Letter of Instruction is appropriate and will, hopefully, prevent Mr. Binish from ever making this mistake again.

It is our understanding that Mr. Binish is the preeminent expert on airport baggage handling systems and that his expertise is sought after across the country. It is our hope that the issuance of this Letter of Instruction and going through the complaint process will impress upon Mr. Binish the importance of compliance with the Ethics Code.

We are hopeful that Mr. Binish has learned from this experience and will use this Letter of Instruction to guide his future conduct should he have any further dealings with Miami-Dade County, Miami International Airport and MDAD.