

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Thursday, March 22, 2012 5:31 PM
To: 'writeamount@yahoo.com'
Cc: Centorino, Joseph (COE)
Subject: South Miami Commissioner's activities (INQ 12-51)

Ms. Shelley,

I am writing in response to your questions about the activities of South Miami Commissioner Bob Welsh. Your questions relate to state and federal laws. The County Ethics Commission is authorized to interpret and enforce the County Ethics Code, but not state or federal laws. However, I'm happy to provide you with some general direction for further research.

You asked the following:

- 1) *Are there legal limits to what an elected official can print either electronically (blog) or in hard copy; is there a place in the code where I might read what the limits are?*

The Commissioner cannot communicate with other South Miami Commissioners on matters that are before the City Commission or are likely to come before the City Commission except at duly noticed public meetings. This prohibition falls under the Florida Sunshine Law. *See also* the Fla. First Amendment Foundation at www.floridafaf.org.

- 2) *In the attached example, the Commissioner is supporting a candidate running for office by publishing Mr. Hancock's ad in his newsletter--is this allowable?*

Yes, as long as the Commissioner is not using his own campaign funds to support another candidate's campaign. This prohibition is part of the Florida Election Laws. See also Fla. Division of Elections at <http://election.dos.state.fl.us/index.shtml>.

- 3) *In the attached example, the Commissioner is supporting a newspaper and stating that there is something "unfair" about another business, our city's paper of record, The South Miami Community News. I am not certain if this is an ad for the South Dade Monitor. Even if the Commissioner pays for the printing of this newsletter himself, is it permissible for him to promote one business over another and to question the fairness of the business he doesn't support? Is he using his position as an elected official to target a business he doesn't like?*

There is a first amendment right for everyone, including elected officials, to take positions.

You may also want to view the State's Sunshine Law and election laws at <http://www.leg.state.fl.us/Welcome/index.cfm?CFID=224135661&CFTOKEN=65540153>.

Sincerely,

VICTORIA FRIGO, STAFF ATTORNEY

Phone: 305 350-0601

Fax: 305 579-0273

miamidade.gov 

19 West Flagler St., Suite 820
Miami, FL 33130

From: Donna Shelley [<mailto:writeamount@yahoo.com>]
Sent: Tuesday, March 20, 2012 10:53 AM
To: Ethics (COE)
Subject: Question Regarding Publications Written by Elected Officials

Good Morning,

Attached is a sample of a newsletter I received at my front door by Commissioner Bob Welsh (newly elected to the City of South Miami's Commission). Mr. Welsh has been delivering his opinion pieces to the citizens of our town since about 1999. I understand that he plans to continue to do this during his term in office. Since it appears that the attached example will have company in the future, I would like to ask the following:

- 1) Are there legal limits to what an elected official can print either electronically (blog) or in hard copy; is there a place in the code where I might read what the limits are?
- 2) In the attached example, the Commissioner is supporting a candidate running for office by publishing Mr. Hancock's ad in his newsletter--is this allowable?
- 3) In the attached example, the Commissioner is supporting a newspaper and stating that there is something "unfair" about another business, our city's paper of record, The South Miami Community News. I am not certain if this is an ad for the South Dade Monitor. Even if the Commissioner pays for the printing of this newsletter himself, is it permissible for him to promote one business over another and to question the fairness of the business he doesn't support? Is he using his position as an elected official to target a business he doesn't like?

In fairness to you I would like to disclose that Mr. Welsh believes that I am an employee of or that I write for the Community News, I am not and do not.

Thank you.

Donna M. Shelley
Freelance Writer
DMS Studio, Inc.
6544 SW 78th Terrace
South Miami, FL 33143
786-210-9750

What is DMS Studio? <http://www.dmsstudio.biz>
For fine art & architectural renderings, visit: <http://www.shelleystudio.com>