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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Thursday, September 11, 2014 10:42 AM  
**To:** Sanchez, Rodzandra (COE)  
**Subject:** Dennis Moss, Commissioner, District 9 (Voting Conflict) INQ 14-212  
**Attachments:** Ethics Commission Opinion 09-05-14.pdf; Sep 5, 2014, 15007 PM.PDF; INQ on Commissioner Moss' participation in final budget vote

INQ 14-212

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**From:** Centorino, Joseph (COE)  
**Sent:** Wednesday, September 10, 2014 5:41 PM  
**To:** Wilson IV, Samuel (DIST9)  
**Cc:** Diaz-Greco, Gilma M. (COE); Sanchez, Gerald (CAO)  
**Subject:** INQ - Dennis Moss, Commissioner, District 9 (Voting Conflict)

Commissioner Moss:

You have inquired regarding whether you would have a prohibited voting conflict of interest in connection with your voting on legislation or budget items dealing with county funded community based organizations that include the Richmond-Perrine Optimist Club, in which you hold the position of Executive Director.

Section 2-11.1(d) would prohibit you from voting or participating on any item that would directly or indirectly affect an organization of which you are and officer, director or employee, or if you would or might, directly or indirectly, profit or be enhanced by the action of the Board. However, this does not mean that you would be prohibited from voting on the county budget as a whole.

During April 2012 you asked a similar question in connection with your voting on the entire county budget, where the county budget included an item pertaining to the Optimist Club. Although we did not issue any formal opinion at the time, I did make a record regarding the advice that I provided to you, which is attached to this email. You will note that I agreed with former County Attorney Robert Ginsburg in finding that you could vote on the entire county budget where your Club was included as one of the funded organizations. The basis for the opinion, which is supported in other jurisdictions that I researched, is that the allocation to the Optimist Club is such a tiny portion of the overall county budget that it would not amount to conflict of interest for you to vote on it. Indeed, your position as a County Commissioner does include, among its important duties, that you be involved in the budgetary process and take a position on the final budget. In view of the miniscule portion of the budget allocated to the Optimist Club as compared with the full county budget, it does not rise to the level of a voting conflict.

Your more recent correspondence appears to ask a somewhat different question. You now ask whether you may vote on items that affect county funded community based organizations that include the Richmond-Perrine Optimist Club. This is a closer and more difficult issue. The determination regarding any particular vote would turn on the relative significance of the allocation to your club as compared to the overall allocation to such organizations. However, given that the Richmond-Perrine Club is indeed an organization similarly situated to the other organizations included in the grouping, my advice to you would be to take a conservative approach to the interpretation of the conflict rules, and that you should not vote on an item that included only community based organizations, even though your organization is only one of many funded by the county.

Obviously, you would have a voting conflict in connection with any vote that directly affected only your Club.

To sum up:

You may not vote or participate in any matter that directly affects only the Richmond-Perrine Optmist Club. You may vote on and participate in the overall county budget, even though it contains an item that allocates funds to the Club.

You should not vote or participate on an item that affects only the county funded community based organizations, where your Club is one of those organizations.

If you have any further questions, I would be happy to speak with you.

Sincerely,

Joseph M. Centorino  
Executive Director and General Counsel  
Miami-Dade Commission on Ethics and Public Trust

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**From:** Wilson IV, Samuel (DIST9)  
**Sent:** Friday, September 05, 2014 4:29 PM  
**To:** Centorino, Joseph (COE)  
**Cc:** Bannerman, Wayman G. (DIST9); Sumpter, Helena V. (DIST9); Perez, Diana (DIST9); Rivers, Jamil (DIST9)  
**Subject:** Ethics Commission Opinion

Good Afternoon Mr. Centerino,

On behalf of Commissioner Dennis C. Moss please see the attached memorandum.

Regards,

**Samuel E. Wilson IV**

Legislative Assistant  
Office of Commissioner Dennis C. Moss  
Downtown Office: 305-375-4832 | 111 NW 1st Street, Suite 320, Miami, FL 33128  
District North Office: 305-234-4938 | 10710 SW 211th Street, Suite 206, Miami, FL 33189  
District South Office: 305-245-4420 | 1634 NW 6th Ave, Florida City, FL 33034

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# Board of County Commissioners

Miami-Dade County - Florida

DISTRICT 9

**Dennis C. Moss**  
COMMISSIONER

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111 NW 1st Street, Suite 320  
Miami, Florida 33128  
(305) 375-4832 ~ Fax (305) 372-6011

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□ **District South Office**  
1634 NW 6th Avenue  
Florida City, Florida 33034  
(305) 245-4420 ~ Fax (305) 245-5008

September 5, 2014

Joseph M. Centorino, Executive Director  
Miami-Dade Ethics and Public Trust Commission  
19 West Flagler, Suite 820  
Miami, Florida 33130

Dear Mr. Centorino:

I am the current pro-bono Executive Director, serving without compensation, of the Richmond-Perrine Optimist Club (RPOC). RPOC is a 501-C3 community based organization that provides a variety of social, recreational and educational services in South Dade. My organization has been providing these services for the last 43 years and we currently receive funding through the county's CBO process.

I am also a Miami-Dade County Commissioner, and in this capacity from time to time there are issues that come before the board in the form of legislation or budget items dealing with community based organizations that require a vote of the commission.

I am therefore requesting an opinion from your office on whether I would have a conflict of interest if I voted as a County Commissioner on legislation or budget items involving county funded community based organizations that included my agency.

For your review I have attached an opinion from the former County Attorney Robert Ginsburg that cited several court cases related to the opinion that I am seeking.

Thank you for your time and attention to this request.

Sincerely,

A handwritten signature in black ink that reads "Dennis C. Moss".

Dennis C. Moss  
Miami Dade County Commissioner  
District 9

Enclosure: (1)

CDCM/sew

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**Sent:** Friday, April 20, 2012 10:45 AM  
**To:** INQ file 4/20/12  
**Subject:** INQ on Commissioner Moss' participation in final budget vote

Commissioner Moss inquired as to whether he may vote on a budget that includes an appropriation for the Richmond-Perrine Optimist Club, which he directs. Commissioner Moss has abstained from voting on the Optimist appropriation when it has been dealt with individually by the Commission, but feels he should be able to vote on the entire budget, considering that the Optimist Club appropriation represents only a tiny fraction of the overall county budget. In the past Mr. Moss has been guided by the prior opinion issued in 2002 by the County Attorney (attached), which indicates that Moss may vote on the entire budget in such circumstances. The County Attorney's opinion is buttressed by opinions issued by the Florida Commission on Ethics (CEO 88-20, CEO 89-19, and CEO 92-43), as well as a decision by the Massachusetts Supreme Judicial Court in *Graham v. McGrail*, 345 N.E. 2 888 (Mass. 1976). This writer has advised that, given Commissioner Moss's abstention from voting on the particular appropriation, I am in accord with the prior opinion of the County Attorney that he may vote on the entire budget.

*Joseph M. Centorino*

Executive Director and General Counsel  
Miami-Dade Commission on Ethics and Public Trust  
19 W. Flagler Street, Suite 820  
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MIAMI-DADE  
County Attorney

# Memorandum

**To:** Hon. Dennis C. Moss  
County Commissioner

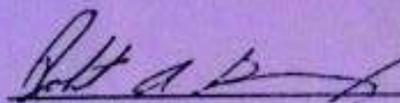
**From:** Robert A. Ginsburg  
County Attorney

**Date:** September 5, 2002

**Re:** Vote on County Budget

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You have requested a legal opinion as to whether you may vote on the County budget where the budget includes a line item allocation for the Richmond-Perrine Optimist Club. We answer your question in the affirmative. Our conclusion is based upon a series of opinions issued by the Florida Commission on Ethics. In CEO 88-20, the Florida Commission on Ethics held that a city commissioner who was employed as executive director of a nonprofit corporation which sponsored a circus parade was not prohibited from voting on a city budget containing funding for the parade, given the number of matters funded within the city budget, the amount of funds involved, and the particular services to be provided. Similarly, in CEO 89-19, the Commission on Ethics determined that a county commissioner was not prohibited from voting on the county budget where the budget contained an allocation of funds to a utility company which employed the county commissioner, given the number of items addressed in the entire budget. See also CEO 92-43 (city councilman not prohibited from voting on city budget despite likelihood that budget would include line item funding for nonprofit corporation that employed city councilman's spouse). Accordingly, given the substantial number of items to be funded by the budget and the fact that the proposed line item allocation for the Richmond-Perrine Optimist Club represents a small fraction of the entire budget, we are of the opinion that you may vote on the budget.

  
County Attorney