
INQ 16-81 Knowles

From: Perez, Martha D. (COE)

Sent: Monday, March 14, 2016 11:56 AM

To: Knowles, Keith (COC) <KAK1@miamidade.gov>

Cc: Centorino, Joseph (COE) <CENTORI@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>;

Turay, Radia (COE) <Radia.Turay@miamidade.gov>

Subject: Rolando Iglesias, Small Business Advisory Board, Financial Disclosure, INQ 16-81

Dear Keith,

You inquired whether a board member who was appointed to a County advisory board but did not take the oath of office and did not attend any board meetings is required to file a Financial Disclosure Statement.

By way of background, Mr. Iglesias was appointed to the Small Business Advisory Board (SBAB) in 2014. However, he did not file the oath of office with the Clerk of the Board and did not attend any meetings of the board in 2014. Subsequently, he was removed from the board on September 17, 2015, due to non-attendance. Mr. Iglesias did not file a Financial Disclosure Statement for 2014. The County requires the filing of an acceptance and oath of office from all appointees to County advisory and quasi-judicial boards. Per our conversation, the process for becoming a member of a County board, thereby assuming the responsibilities of board membership, consists of the following steps:

- 1) A County Commissioner nominates an individual for appointment to a board;
- 2) Upon appointment, the Commissioner sends a form to the Clerk of the Board;
- 3) The Clerk sends a request to the Office of the Inspector General, to conduct a criminal background check of the Appointee;
- 4) Once the criminal background is completed, the information is forwarded to the Commissioner;
- 5) Upon notice from the appointing Commissioner to proceed with the appointment, the Clerk of the Board sends a congratulatory letter with the oath of office (via email) to the Appointee;
- 6) The Appointee **must** complete the oath and return it to the Clerk of the Board; and,
- 7) Receipt of the oath indicates official acceptance of the board appointment

A member of a County board is required to file a financial disclosure statement, no later than 12:00 noon by July 1st of each year that he/she is in office. See §2-11.1(i), County Ethics Code. Board members approved and authorized to serve in an advisory capacity for a term certain, must file financial disclosure statements by July 1st of the following year in which they were eligible to serve on the board. See RQO 13-01. Additionally, a board member's failure to attend board meetings does not excuse the financial disclosure requirements under the County Ethics Code at §2-11.1(i). See INQ 15-169, INQ 15-84 and INQ 14-259.

The question turns on whether an appointment to a board must be *accepted* by the appointee in order for him/her to be deemed a member of the board, bound by §2-11.1(i) of the County Ethics Code, regarding financial disclosures.

The constitutional oath prescribed in s.5(b), Art.II of the Florida Constitution, is required by all state and county officers before entering upon the duties of their office. Section 876.05, Fla. Stat., requires all persons employed by, *inter alia*, counties and cities, and all elected officers, to take an oath. See also §876.09, Fla. Stat. While §876.05 does not require

a board member to take the oath before assuming his/her responsibilities to the board, the County may impose such requirement upon all its appointed board members. See AGO 99-57.

The Florida Statutes do not provide a clear definition of "member", ie., whether membership is bestowed upon appointment or acceptance established through the oath of office. However, common sense dictates that an appointee cannot be a member of a board, subject to its duties and responsibilities, unless he/she accepts that appointment. Therefore, **an appointee accepts membership of a board by submitting the oath of office to the Clerk of the Board.** Since Mr. Iglesias did not submit the oath of office, he never accepted appointment to the SBAB and thus, is not required to file a Financial Disclosure Statement for 2014.

This opinion is based on the facts as presented herein. If any of these facts change, please contact us.

Sincerely,

Martha D. Perez
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From: Sanchez, Rodzandra (COE)
Sent: Monday, February 29, 2016 4:02 PM
To: Knowles, Keith (COC); Perez, Martha D. (COE)
Cc: McBride, Daysha (COC); Financial Disclosures (Elections); Olmedillo, Jessica (ISD); Olmo, Nilda (COE)
Subject: RE: Rolando Iglesias RE: Financial Disclosure past DUE (2014)

Keith,

I will ask Ms. Perez with our office to make the final decision as to whether he should, or should not file his 2014. Interesting enough, we were just talking about his particular situation.

Thank YOU!

*Rodzandra Sanchez, MPA
Administrative Officer
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(305) 350-0655*

Rodzandra

From: Knowles, Keith (COC)
Sent: Monday, February 29, 2016 3:51 PM
To: Sanchez, Rodzandra (COE)
Cc: McBride, Daysha (COC); Financial Disclosures (Elections); Olmedillo, Jessica (ISD)
Subject: RE: Rolando Iglesias RE: Financial Disclosure past DUE (2014)

Hi Rodzandra,

I've had a discussion with Daysha regarding Mr. Iglesias' status on the Small Business Advisory Board. After further inquiry, we found that he did not file an Oath of Office with our office. Since Mr. Iglesias never attended a meeting or file the oath of office, should he still be required to file the 2014 financial disclosure.

I look forward to hearing from you.

Best,

Keith A. Knowles
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Miami-Dade County Clerk of Courts
Clerk of the Board Division
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