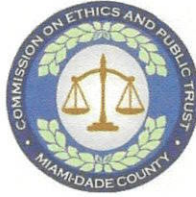


MIAMI-DADE COUNTY COMMISSION ON ETHICS AND PUBLIC TRUST



IN RE:

C 20-18-04

Michael Joseph
_____ /

PUBLIC REPORT AND FINAL ORDER

Stephanie Kienzle (Kienzle) filed the above-referenced complaint against Respondent, North Miami Beach Commissioner Michael Joseph, alleging he violated the Section (A)(3) and (A)(2) of the Citizen's Bill of Rights, Public Record provision (CBR-PR), by deliberately withholding and/or destroying a public record.

During a meeting of City officials on May 22, 2019, Joseph stated that he had received a threatening voicemail message (message) on his personal cellphone. The message was left sometime after the contentious termination of the then City Clerk. On September 9, 2019, Kienzle requested a copy of that message. The message had been deleted by Joseph's cellphone carrier.

Investigation into this allegation revealed insufficient evidence to sustain a violation of the CBR-PR. Not only is the status of the message as a public record unclear but there is no evidence indicating Joseph refused to produce it and/or destroyed it. Notably, the message was left on Joseph's personal cellphone; although the message was received after a contentious city matter took place, it made no reference to city-related issues; the message did not make reference to Joseph's status as a public official; the presumed threat was not reported to the police; and, the message was deleted pursuant to the cellphone carrier's protocol and procedures.

Therefore, it was determined that the message fell outside the scope of the CBR-PR because it cannot be conclusively deemed to be a city-related record. Even if the message would be considered a public record, it is nevertheless transitory because it contained information of short-term value which did not relate to city policy-setting, guidelines, procedures or transactions.

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The second allegation related to a public record request that Kienzle made for the responses to a “survey” that Joseph disseminated on January 1, 2020 seeking input from residents about issues in the City. Respondent had advised the City Clerk that he had not received or seen copies of any responses to the survey, and therefore had no records responsive to Kienzle’s request. The investigation concluded that there was insufficient evidence to establish that Joseph lied about not having access to the survey responses. Accordingly, there was insufficient evidence to establish a violation of Section (A)(2) of the Citizens’ Bill of Rights took place.

On June 10, 2020, in open session, the Ethics Commission voted unanimously to find No Probable Cause regarding the allegation of a violation of Section (A)(3) of the Citizens’ Bill of Rights and dismissed it. They deferred ruling on the second allegation and asked for more investigation.

On July 8, 2020, in open session, the Ethics Commission voted unanimously to find No Probable Cause regarding the allegation of a violation of Section (A)(2) of the Citizens’ Bill of Rights.

Wherefore it is:

ORDERED AND ADJUDGED that COMPLAINT C20-17-04 against Respondent, Michael Joseph, is hereby dismissed.

DONE AND ORDERED by the Miami-Dade County Commission on Ethics & Public Trust in public session at the virtual meetings held on June 10, 2020 and July 8, 2020.

MIAMI-DADE COUNTY COMMISSION ON
ETHICS & PUBLIC TRUST

By:

DocuSigned by:

Dr. Judith Bernier

Judith D. Bernier

Vice Chair

Signed

7/14/2020

on this date: _____