

# MIAMI-DADE COUNTY COMMISSION ON ETHICS AND PUBLIC TRUST



In Re: Karyn Cunningham

C 20-45-11

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## PUBLIC REPORT AND FINAL ORDER

Complainant David Singer (Singer) filed this complaint against Village of Palmetto Bay Mayor Karyn Cunningham (Cunningham), alleging she violated Section 2-11.1(d) (Voting Conflict) when she voted on Resolution 2020-083, authorizing and approving the payment of legal fees incurred in the successful representation of ethics complaints filed against her, to wit, C 19-50-12 through C 19-52-12. The Resolution, attached to the complaint, was presented by Village Attorney Dellagloria and voted on by all members of the council.

Legal sufficiency exists where the complaint *adequately* alleges a violation of an ordinance within the jurisdiction of the Ethics Commission, committed by an individual within the authority of the Ethics Commission and filed with the Ethics Commission within three years of the alleged violation.<sup>1</sup>

Attorney Michael Pizzi, on behalf of Singer, argued that pursuant to INQ 19-13, issued by Executive Director Arrojo, the complaint was legally sufficient because the Resolution document suggests that the Respondent “negotiated” the legal fees being considered by the board.<sup>2</sup> General Counsel for the Commission disagreed pointing to the absence of any facts *or matters* on the complaint supporting, suggesting or alleging such conduct by Cunningham.<sup>3</sup> Further noting that, legal sufficiency cannot be based on speculation or conjecture.

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<sup>1</sup> Complaints may not be as precise as would be required by the rules of civil procedure and shall be deemed sufficient if the complaint under oath upon knowledge or belief *alleges matters, which, if true*, would constitute a violation of a provision under the Ethics Commission’s jurisdiction. Section 4.2, COE Rules of Procedure

<sup>2</sup> INQ 91-13 states that an elected official may request reimbursement of fees incurred in the successful defense of an ethics complaint and may vote on the matter if it requests action by the elected body and if there is no debate or negotiation over the total bill in question.

<sup>3</sup> The amount of the legal fees requesting approval was already identified in the Resolution prior to participation or vote.

This Commission, following the opinion of the State of Florida Ethics Commission, has concluded that an elected official is permitted to vote on the reimbursement of legal fees and costs incurred in connection with an ethics complaint filed against the official when the ethics complaint has been successfully defended. See INQ 08-30, INQ 19-13

On December 9, 2020, the Ethics Commission, by a vote of 3-2 dismissed the complaint for lack of legal sufficiency.


Wherefore it is:

**ORDERED AND ADJUDGED** that COMPLAINT C 20-45-11 against Respondent Cunningham is hereby dismissed.

**DONE AND ORDERED** by the Miami-Dade County Commission on Ethics & Public Trust in public session at the virtual meeting held on December 9, 2020.

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

By:

  
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Nelson C. Bellido, Esq.  
Chair

Signed on: \_\_\_\_\_

12-21-2020