

Meyers, Robert (COE)

From: Meyers, Robert (COE)
Sent: Wednesday, February 04, 2004 2:55 PM
To: Lievano, Maria (DIST12)
Subject: Requests

INQ 04-09

Maria,

Thank you for your patience. I realize that you have been corresponding with Christina in my office, but I wanted to answer your questions directly. As I understand it, your first question is whether Commissioner Diaz can send out letters on his official stationery advising local businesses in his district about the services the blood bank provides. The letter would encourage local businesses to contact the blood bank arranging for the company's bloodmobile to visit these businesses, making it more convenient for employees to give blood.

In this case, a letter from the Commissioner, on his official letterhead, sent to area businesses mentioning the services that this blood bank can offer amounts to a solicitation and is not permitted under the County Code of Ethics. The reason is that the Code of Ethics Ordinance prohibits elected officials from soliciting on behalf of private, for-profit companies. The Code does not draw a distinction between causes that potentially improve the health and welfare of the community-at-large from those that only benefit a select few.

A related question you ask is whether the abovementioned prohibition ought to be explicitly set forth in the ordinance. In my opinion, the current language is sufficient for two reasons: 1) Section 2-11.1(e)(3) specifically bars County officials and employees from soliciting gifts and 2) this type of solicitation is not identified as an exception to the general rule. If, however, Commissioner Diaz believes there is some benefit in clarifying the County's position on soliciting gifts, then I suggest you move forward. I certainly wouldn't object to including such language -- I just wonder if it is really necessary.

With respect to the other item you brought to my attention, I conclude that publicizing the condition of this indigent child for purposes of raising funds for her transplant surgery seems to be an appropriate course of action for an elected official to take. One could argue that this is a form of service to a constituent and is an effort on his part to find resources to help this constituent. Given the fact that both the press release and the appearance on radio are general appeals for support, he can engage in both activities.

Finally, the Diaz Family Foundation has the right to fund any causes it believes are consistent with its mission and it is an internal decision that its board members should make. I don't see the need to pass judgment on the actions of the Foundation with respect to this item. However, conversations that I have had with the Commissioner in the past indicated that he was not actively involved with the decisions of the Foundation, but from this e-mail it sounds as if he has some ability to control the operations of Foundation. This issue, however, is unrelated to the question that you posed and does not influence my opinion.

Please feel free to contact me if you have any questions.

Thanks,

Robert

Prkic, Christina (COE)

From: Lievano, Maria (DIST12)
Sent: Wednesday, February 04, 2004 10:41 AM
To: Prkic, Christina (COE)
Cc: Rodriguez, Jeanette (DIST12); Moya, Domingo (DIST12)
Subject: RE: Ethics opinion

Christina:

I never heard back from Robert regarding my inquiry about the blood bank.

On a separate issue, there is an indigent child in our community who is in need of a heart transplant. The Commissioner would like to donate money from the Diaz Family foundation to help fund his surgery. Will it be appropriate for our office to (1) submit a press release informing the media of the Commissioner's support and urging the community to considering contributing to this very important cause? (2) Can the Commissioner appear on a radio talk show urging the public to contribute to this cause? Please let me know.

Thanks, Maria

Maria Lievano Cruz, Esq.
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-----Original Message-----

From: Prkic, Christina (COE)
Sent: Thursday, January 29, 2004 5:29 PM
To: Lievano, Maria (DIST12)
Subject: Ethics opinion

Hi Maria:

I spoke with Robert a moment ago regarding your ethics inquiry and the legislation proposal. He will email you his formal response tomorrow morning.

Kind regards,

Christina Prkic
Staff Attorney
Miami-Dade County Commission on Ethics and Public Trust
P: (305) 350-065