

Miami-Dade Commission on Ethics & Public Trust
Investigative Report

Investigator: Larry Lebowitz

Case: K14-118	Case Name: Suarez/The Future Is Now	<u>Date Open:</u>	CASE CLOSED Date: <u>1/7/15</u>
<u>Complainant(s):</u> Self-generated	<u>Subject(s):</u> Francis X. Suarez	11/12/2014	

Allegation(s):

- 1) Potential violations of Florida Election Code where an Electioneering Communication Organization (ECO), run by the subject, specifically advocated for the election or defeat of a certain candidate for Miami-Dade County Property Appraiser. Unlike Political Action Committees (PACs) and Committees of Continuous Existence (CCEs), ECOs are prohibited from expressly advocating the election or defeat of a certain candidate.

Applicable Law:

F.S. 106.011(9), clearly defines that ECOs are limited to certain activities that would not otherwise require the group to register as a political party or committee.

F.S. 106.011(16)(a)(3), a political committee is permitted to make expenditures that “expressly advocate the election or defeat of a certain candidate.”

Investigation:

Interviews

None. Received an anonymous tip, and a copy of the mailer distributed by The Future Is Now, which was supposedly sent to at least two registered voters living in the city of Miami. A second copy of the mailer was also sent anonymously to Investigator Manuel W. Diaz.

Document/Audio/Video Review:

- 1) Copy of mailer sent by The Future Is Now ECO, which was supposedly received on or about Election Day, Nov. 5, 2014.
- 2) Copy of various state of Florida, Division of Elections, records indicating that Francis X. Suarez is the chairman of The Future Is Now ECO and that Jose Riesco is the registered agent and treasurer.
- 3) Annotated versions of the relevant sections of FS 106.011 mentioned above in “Applicable Law”
- 4) Signed confidential complaint form submitted to the Florida Elections Commission

Conclusion(s):

After consulting with the Advocate and the Deputy General Counsel, we are referring this case to the state Elections Commission via confidential complaint (See Document #4 above).

Suarez, who is an elected Miami commissioner, is also chairman of The Future Is Now. The ECO distributed a mailer attempting to affect the outcome of the recently completed 2014 campaign for Miami-Dade Property Appraiser between Pedro J. Garcia and Eddy Gonzalez.

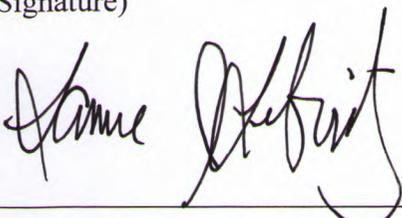
Under F.S. 106.011 (9), ECOs are limited to certain activities that would not otherwise require the group to register as a political party or committee. Under F.S. 106.011 (16)(a)(3), a political [action] committee is permitted to make expenditures that “expressly advocate the election or defeat of a certain candidate.”

One side of the mailer distributed by Suarez’s ECO expressly advocates for Gonzalez’s election. It quotes Suarez, in Spanish and English, advocating for Gonzalez. Suarez’s photograph appears adjacent to the quotes. The same side of the mailer discloses it as “Paid electioneering communication paid for by The Future Is Now.” The opposite side of the mailer attacks Gonzalez’s opponent, Garcia.

The address listed on the mailer – 95 Merrick Way, Suite 250, Coral Gables, FL 33134 – is the address of the ECO’s registered agent and treasurer, Jose A. Riesco of Riesco & Company LLC.

While this type of advocacy campaign material is legal for PACs and political parties, it is illegal under state law for ECOs such as The Future Is Now.

(Signature)

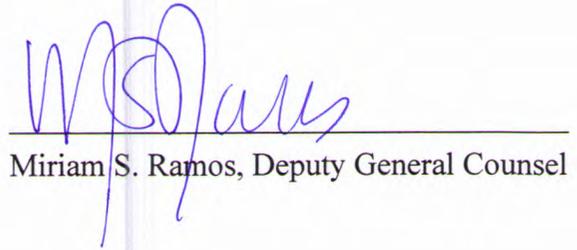


Lawrence J. Lebowitz, COE Investigator

Approved by:

A handwritten signature in blue ink, appearing to read "Michael Murawski", written over a horizontal line.

Michael Murawski, Advocate

A handwritten signature in blue ink, appearing to read "Miriam S. Ramos", written over a horizontal line.

Miriam S. Ramos, Deputy General Counsel

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050

Telephone Number: (850) 922-4539

www.fec.state.fl.us

CONFIDENTIAL COMPLAINT FORM

The Commission's records and proceedings in a case are confidential until the Commission rules on probable cause. A copy of the complaint will be provided to the person against whom the complaint is brought.

1. PERSON BRINGING COMPLAINT:

Name: Larry Lebowitz, Investigator, Miami-Dade Commission on Ethics Work Phone: (305) 579-2594
Address: 19 W. Flagler Street, Suite 820 Home Phone: ()
City: Miami County: Miami-Dade State: FL Zip Code: 33132

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

A person can be an individual, political committee, committee of continuous existence, political party, electioneering communication organization, club, corporation, partnership, company, association, or any other type of organization. (If you intend to name more than one individual or entity, please file multiple complaints.)

Name of individual or entity: Francis X. Suarez, chairman, The Future Is Now
Address: 2701 S. Bayshore Drive Phone: (305) 445-0777
City: Miami County: Miami-Dade State: FL Zip Code: 33133

If individual is a candidate, list the office or position sought: _____

Have you filed this complaint with the State Attorney's Office? (check one) Yes No

3. ALLEGED VIOLATION(S):

Please list the provisions of The Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigate the following provisions: **Chapter 104, Chapter 106, and Section 105.071, Florida Statutes.** Also, please include:

- The facts and actions that you believe support the violations you allege,
- The names and telephone numbers of persons you believe may be witnesses to the facts,
- A copy or picture of the political advertisements you mention in your statement,
- A copy of the documents you mention in your statement, and
- Other evidence that supports your allegations.

Suarez, who is an elected Miami commissioner, is also chairman of The Future Is Now, an Electioneering Communication Organization (ECO) under F.S. 106.011 (9). The ECO distributed a mailer attempting to affect the outcome of the recently completed 2014 campaign for Miami-Dade County Property Appraiser between Pedro J. Garcia and Eddy Gonzalez. Under F.S. 106.011 (9), ECOs are limited to certain activities that would not otherwise require the group to register as a political party or committee. Under F.S. 106.011 (16)(a)(3), a political [action] committee is permitted to make expenditures that "expressly advocate the election or defeat of a certain candidate." One side of the mailer distributed by Suarez's ECO expressly advocates for Gonzalez's election. It quotes Suarez, in English and Spanish, advocating for Gonzalez. Suarez's photograph is adjacent to the quote. The same side of the mailer discloses it as "Paid

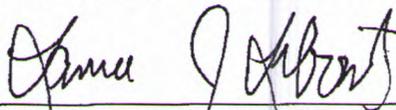
electioneering communication paid for by The Future Is Now." The address listed on the mailer --- 95 Merrick Way, Suite 250, Coral Gables, FL 33134 --- is the address of the ECO's registered agent and treasurer, Jose A. Riesco of Riesco & Company, LLC. While this type of advocacy campaign material is legal for PACs and political parties, it is illegal under state law for ECOs such as The Future Is Now. An original mailer, provided anonymously to the Miami-Dade Commission on Ethics, is attached along with relevant FEC documents linking Suarez and Riesco to The Future Is Now. The phone number listed for the ECO on FEC forms -- (305) 445-0777 --- is the main number for Riesco's firm. Suarez can also be reached at Miami City Hall: (305) 250-5420.

Additional materials attached (check one)? Yes No

4. OATH

STATE OF FLORIDA
COUNTY OF _____

I swear or affirm, that the above information is true and correct to the best of my knowledge.



Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 12 day of
November, 2014

Signature of Officer Authorized to Administer Oaths or Notary public.



RODZANDRA SANCHEZ
MY COMMISSION # EE 100836
EXPIRES: June 15, 2015
Bonded Third Budget Notary Services

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally known Or Produced Identification _____

Type of Identification Produced _____

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.