



**Miami-Dade Commission on Ethics & Public Trust**

**Investigative Report**

**Investigator:** Manuel Diaz

<b>Case No.:</b> C13-15/K13-101	<b>Case Name:</b> Comm. Heyman Right To Be Heard	<b>Date Open:</b>  7/25/13	<b>Date Closed:</b>  8/15/13
<b>Complainant(s):</b> Allan Rigerman	<b>Subject(s):</b> Comm. Sally Heyman		

**Allegation(s):**

Alan W. Rigerman (Rigerman) filed a complaint with the Commission on Ethics alleging that Miami-Dade Board of County Commission member Sally Heyman (Heyman) violated the Miami-Dade Citizen's Bill of Rights (A) 5, *Right to Be Heard*, by not letting him speak at the Public Safety and Animal Services Committee (Committee) meeting of June 12, 2013.

Rigerman also noted in the complaint that Heyman operated at food service truck at the annual Greynolds Love-In-Party held at Greynolds Park, 17530 West Dixie Highway, North Miami, Florida. The function is in-part sponsored by Miami-Dade County and is held at Greynolds Park, a Miami-Dade County facility. He questioned if it was proper for Heyman, an elected official, to profit from a festival which she voted to sponsor.

## **Relevant Ordinances:**

### **Miami Dade Citizens' Bill of Rights**

#### **(A) 5. Right to Be Heard**

So far as the orderly conduct of public business permits any interested person has the right to appear before the Commission or any municipal council or any County or municipal agency, board of department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the governmental agency involved. Matters shall be scheduled for the convenience of the public, and the agenda shall be divided into appropriate time periods so that the public may know approximately when a matter will be heard. Nothing herein shall prohibit any government entity or agency from imposing reasonable time limits for the presentation of a matter.

### **Section 2-11.1 of the Code of Miami-Dade County, the County's Conflict of Interest and Code of Ethics Ordinance.**

#### **(g) Exploitation of official position prohibited.**

No person included in the terms defined in Subsections (b) (1) through (6) and (b)(13) shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners.

## **Investigation:**

### ***Interviews***

**Dennis Kerbel** (Kerbel), Assistant County Attorney

Kerbel was present during the June 12, 2013, Committee meeting where the Animal Services Department Report on Recommendations for Attaining A “No Kill” Shelter Report (Report) was discussed.

According to Kerbel, the meeting was public meeting and the Report was placed on the agenda as a “Discussion Item”. Since the Report was handled as a discussion item, public input was not required; the committee could invite staff and professionals in the field to give testimony.

Kerbel acknowledged that he spoke to either Heyman or “Vivian,” Heyman’s assistant, prior to the June 12<sup>th</sup> meeting. He approved of the format for the meeting and that the Report was properly placed on the agenda as a discussion item. Kerbel advised that Assistant County Attorney Gerald Sanchez (Sanchez) would have sat in on the pre-agenda meeting to discuss the Committee meeting.

**Sally Heyman** (Heyman), Member of the Board of County Commissioners, Chair of the Public Safety and Animal Services Committee

Heyman was interviewed via telephone. She was advised of Rigerman’s allegation in the complaint. Heyman advised that the Report was placed on the agenda as a “Discussion Item,” at the direction of Chair of the Board of the County Commission, Rebecca Sosa. (Sosa) As a discussion item, the Committee is not required to take public testimony. As the Chair, she invited a number of professionals in the field to give testimony. She referred to them as stakeholders, because the individuals and the groups that they represent had cooperated with the County’s Animal Services Department in the preparation of the Report.

Heyman was not aware that Rigerman had handed Commissioner Esteban Bovo (Bovo) a note, requesting to speak. She stated that she knows Rigerman and did not see him in the audience.

Heyman was not provided with any “request to speak” cards that were normally filed with the Clerk of the Board’s Office for individuals wishing to speak.

Heyman advised that the format for the meeting was discussed at a pre-meeting agenda meeting. Present at the meeting was Sanchez.

**Miami-Dade County Clerk of the Board's Office**

The Clerk's Office advised that there were no "request to speak" cards submitted to the Clerk present at the meeting.

**Esteban Bovo (Bovo) – Member of the Board of County Commissioners**

Bovo was present during the Committee Meeting. Bovo recalled that Rigerman may have presented him with a paper on which he (Rigerman) requested to speak before the Committee. Bovo does not believe that he passed Rigerman's note to Heyman, or to the Clerk of the Board. Bovo advised that the meeting was not considered a "Public Meeting," and he knew that public testimony would not be taken.

**Alan Rigerman (Rigerman), Complainant**

Rigerman was interviewed via telephone

Rigerman learned from a Miami Herald news article that the Committee would be receiving public input concerning the Report. He attended the meeting on June 12, 2013. Rigerman attempted to sign up to speak at the clerk's desk, but was told that there were no speaker cards available. Rigerman handed Bovo a note saying the he wished to speak. Rigerman said that he stood up during the meeting hoping to be recognized by the Chair but was not recognized. Rigerman did not personally advise the Chair that he wished to speak.

During the interview, Rigerman advised he does not have any specific information concerning Heyman's coffee truck and whether it is properly licensed or permitted. He conceded that he just added information to the Complaint concerning the coffee truck for information purposes.

**Alex Muñoz** (Muñoz), Director of Animal Services

Muñoz' office prepared the Report. He advised that the Report included input he received from a number of local and national animal interest groups. Muñoz was asked by Heyman as to the groups that had input in the preparation of the Report. A number of those groups made presentations during the Committee.

***Document/Audio/Video Review:***

BCC Meeting of June 4, 2013

**Summary of Committee Meeting.**

Public Safety and Animal Services Committee June 12, 2013

Heyman announces that Commissioner Diaz will chair the meeting during the Discussion Item 1E1 Animal Services Department Report of Recommendation for Attaining a No Kill Shelter.

Heyman clarifies that the Report will be a discussion item, that stakeholders will be recognized. The stakeholders were identified by the Animal Services Department and by administration. Heyman identified the stakeholders.

Heyman requests that the Assistant County Attorney present, Dennis Kerbel, read the changes to the report.

Committee heard testimony from the stakeholders. The testimony was followed by a presentation by Muñoz, the Director of the Miami-Dade Animal Services Department.

Heyman and Diaz conclude with their closing remarks.

Florida Secretary of State – Corporations (web site)

Coffee Break of South Florida, Inc.- Electronic Articles of Incorporation (In File)  
Heyman is listed as the Registered Agent. Heyman is also listed as the PTD for the corporation.

The food service truck is currently licensed with the Florida Department of Business and Professional Regulation. Lic. # 2336626 date of issue 9/30/12.

Miami Dade County COE RQO/INQ (Copies in file)

**Conclusions:**

Given the way the item was noticed in the agenda, public comments are not required. Furthermore, there is no evidence that Heyman knew that Rigerman wanted to address the committee.

The investigation yielded no evidence that Heyman abused her official position by taking her coffee truck to the Greynolds Love-In-Party.

The instant case is closed and turned over to the Advocate for probable cause recommendation.