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**MIAMI-DADE COUNTY
COMMISSION ON ETHICS & PUBLIC TRUST**

In re: STEVEN C. BATEMAN

C 09-30

PUBLIC REPORT AND FINAL ORDER

On October 20, 2009, COMPLAINANT Lynda Bell, the incumbent candidate for Mayor in the City of Homestead, filed the above-referenced COMPLAINT against her opponent, RESPONDENT Steven C. Bateman. The COMPLAINT alleged violations of the County's Voluntary Fair Campaign Practices Ordinance at Sec. 2-11.1.1 (D) (1) 11, which states, "I will not use or permit the use of campaign material that falsifies, distorts, or misrepresents facts." RESPONDENT was accused of distributing false and misleading campaign literature, including a flyer misrepresenting that County Mayor Carlos Alvarez had endorsed Bateman's candidacy in the current election.

Pursuant to the Code of Miami-Dade County, Sec. 2-1068 and Sec. 2-11.1 (y), the Commission on Ethics has jurisdiction to enforce the Voluntary Fair Campaign Practices Ordinance for candidates who choose to abide by it. On July 13, 2009, RESPONDENT Bateman signed the Voluntary Fair Campaign Practices form, which clearly indicates that signatories to the voluntary pledge waive certain First Amendment rights to free speech and agree to be bound by the jurisdiction of the Ethics Commission.

On November 22, 2009, the Ethics Commission staff found the COMPLAINT to be legally sufficient. On December 9, 2009, the Ethics Commission found PROBABLE CAUSE existed to charge RESPONDENT with falsely representing the County Mayor's endorsement.

On April 14, 2010, the Ethics Commission ratified a SETTLEMENT AGREEMENT entered into with Mr. Bateman. Mr. Bateman agreed not to contest the

allegations contained in this COMPLAINT, to pay \$500 in investigative costs, and to accept a LETTER OF INSTRUCTION, which was approved in public session by the Ethics Commission on May 19, 2010. In exchange, the Ethics Commission waived the \$500 fine prescribed by the Ethics Code.

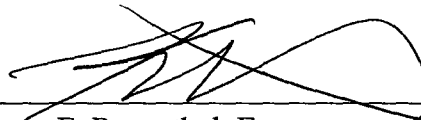
Therefore it is:

ORDERED AND ADJUDGED THAT the COMPLAINT is hereby
DISMISSED.

DONE AND ORDERED by the Miami-Dade County Commission on Ethics & Public Trust in public session on May 19, 2010.

MIAMI-DADE COUNTY COMMISSION ON ETHICS
& PUBLIC TRUST

By:



Kerry E. Rosenthal, Esq.
Chairman

Signed on this date: May 26, 2010



MIAMI-DADE COUNTY
COMMISSION ON ETHICS & PUBLIC TRUST

Lynda Bell v. Steve Bateman

Case No. C09-030

LETTER OF INSTRUCTION

Lynda Bell¹ (Bell) filed the above-captioned complaint against Steve Bateman² (Respondent) for violating Section 11 of the Voluntary Fair Campaign Practices Statement (VFCPS). The complaint alleged, among other things, that Respondent's campaign literature during the 2009 City of Homestead mayoral race falsely represented that he was endorsed by Miami-Dade County Mayor Carlos Alvarez (Mayor Alvarez).

Facts

Respondent ran for Mayor of the City of Homestead (the City) in the 2007 election and lost to Bell. During that election, Respondent was endorsed by Mayor Alvarez and therefore included a picture of himself with Mayor Alvarez with the words "endorsed by Carlos Alvarez, Dade County Mayor" in his campaign flyer.

Respondent again ran against Bell in the November 2009 mayoral election. On July 13, 2009, Respondent signed the "Declaration and First Amendment Waiver for Candidates Who Agree to Comply with the Voluntary Fair Campaign Practices." During the course of his campaign for the 2009 election, Respondent included, as an insert, the 2007 flyer in a newsletter entitled "Audubon Village Voice,"³ which is part of a homeowners' association. The flyer does not state that it was created during the 2007 election, and there is no indicia that would alert a City voter to the fact that it was not a flyer for the 2009 mayoral election.

According to Mayor Alvarez's then Chief of Staff, Denis Morales, Alvarez did endorse Respondent during the 2007 election but *did not* do so in the 2009 election. Subsequently, Mayor Alvarez was shown the flyer in question and personally confirmed that he had not endorsed Respondent in the current campaign and added "he never asked."

Respondent was also interviewed and was shown the flyer. He admitted the flyer was his and that it was created and used during his 2007 campaign. He also admitted using it during the 2009 election and including it in the homeowners' newsletter. Respondent explained that he had asked Frank Vecin, Division Chief, Miami-Dade Police Department, for permission to use the

¹ Lynda Bell was the Mayor of the City of Homestead and running for re-election when she filed the instant complaint.

² Steve Bateman was a candidate for Mayor of the City of Homestead at the time the instant complaint was filed.

³ According to the editor of the "Audubon Village Voice", Respondent paid for the flyers to be inserted in their newsletter for the months of August, September and October 2009.

2007 flyer during the 2009 campaign and was given permission to do so. There is no evidence, however, that Mayor Alvarez or anyone on his staff authorized Respondent to use the 2007 flyer in the 2009 campaign and it is clear that Mayor Alvarez did not endorse Respondent in the 2009 campaign.

Conclusion

This matter is disposed of by way of a settlement agreement and with the issuance of this Letter of Instruction.

Pursuant to Section 11, “[A candidate] will not use or permit the use of campaign material that falsifies, distorts, or misrepresents facts.”

Respondent used Mayor Alvarez’s endorsement during the 2007 mayoral race in the 2009 race, although he did not have permission to do so. Thus, Respondent used campaign material that “falsifie[d], distort[ed] or misrepresent[ed] facts,” and therefore violated Section 11 of the VFCPS.

Respondent is now instructed that Ethics Complaint C09-030, along with this Letter of Instruction, is to serve as ample warning of the consequences of not abiding by the VFCPS. In the future Respondent should ensure that any permission given for political endorsements should be obtained directly from the endorsing politician or, at a minimum, from someone on his/her staff. Obtaining permission from a politician’s personal friend will not suffice. Respondent is also forewarned that the leniency extended to him in this occasion will not be repeated. He is, therefore, strongly advised to conform his activities to this Letter of Instruction and to the requirements of Section 11 of the VFCPS in any future campaigns where he agrees to be bound by the same.