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

In re: Ilene Hyams

Case No: 10-11

PUBLIC REPORT AND ORDER DISMISSING COMPLAINT

Denny Wood filed the above captioned complaint against Ilene Hyams ("Respondent") for alleged violation of Section (A) (5) (right to be heard) of the Citizens' Bill of Rights. The complaint alleged the Respondent refused to permit a committee member to distribute documents at a meeting of the Committee on Disability Issues (CODI). Pursuant to Section 2-1074 of the Code of Miami-Dade County, the Ethics Commission is dismissing this complaint regarding the Citizens' Bill of Rights with a letter of instruction.

Last fall, the Committee on Disability Issues (CODI) scheduled a vote to elect a chair and vice-chair for CODI. Pursuant to the CODI's by-laws, a nominating committee is charged with the responsibility of presenting a nominating slate. The slate was scheduled to be presented at the December meeting. One of the committee members attempted to nominate himself for chair and present material related to

his qualifications. The Respondent did not allow him to present information until CODI considered the slate of nominees and permitted nominations from the floor. On April 14, 2010, after reviewing the complaint and being otherwise advised in the premises, the Ethics Commission voted to dismiss the complaint with a letter of instruction.

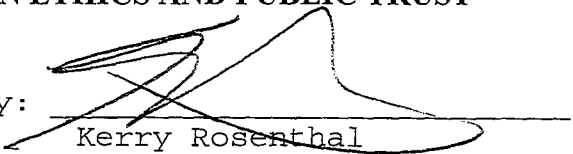
Therefore it is:

ORDERED AND ADJUDGED THAT the Complaint is
DISMISSED.

DONE AND ORDERED by the Miami-Dade Commission on Ethics and Public Trust in public session on April 14, 2010.

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

By: _____


Kerry Rosenthal
Chairperson

cc: Ilene Hyams
Denny Wood



MIAMI-DADE COUNTY
COMMISSION ON ETHICS & PUBLIC TRUST

In Re: Ilene Hyams

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LETTER OF INSTRUCTION

Denny Wood filed the above captioned complaint against Ilene Hyams ("Respondent") for alleged violation of Section (A)(5)(right to be heard) of the Citizens' Bill of Rights. The complaint alleged the Respondent refused to permit a committee member to distribute documents at a meeting of the Committee on Disability Issues (CODI). Pursuant to Section 2-1074 of the Code of Miami-Dade County, the Ethics Commission is dismissing this complaint regarding the Citizens' Bill of Rights with a letter of instruction.

FACTS

Last fall, the Committee on Disability Issues (CODI) scheduled a vote to elect a chair and vice-chair for CODI. Pursuant to CODI's by-laws, a nominating committee is charged with the responsibility of presenting a nominating slate. The slate was scheduled to be presented at the December meeting.

Alan Rigerman is a member of CODI and desired to be considered for the Chair's position. Rigerman was not on the slate of nominees.. During the November 2009 meeting, Rigerman attempted to distribute literature regarding his qualifications for the Chair's position. During the meeting, CODI decided to defer consideration of the election and presentation of the slate to the January meeting. The Respondent serves as board secretary. The Respondent advised Rigerman that he could not distribute the literature at the meeting. The Respondent advised Rigerman that the distribution was a violation of the Sunshine Law. Rigerman was advised that he must wait until the slate was presented and nominations were sought from the floor.

In January, CODI again decided to defer presentation and consideration of the nominating slate. CODI did discuss the election but decided to defer a vote. The Respondent did not permit Rigerman to present his qualifications at the January meeting either because CODI did not proceed to the stage of soliciting nominations from the floor.

ANALYSIS

The Citizens' Bill of Rights applies to members of county boards. Section (a)(5)(right to be heard) provides that "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 or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the governmental entity involved." The Ethics Commission has consistently held that the right to be heard is not absolute and that reasonable time and place limits may be placed on discussion of an item. See RQOs 09-39 and RQO 02-125.

The Committee on Disability Issues may in accordance with the Citizens' Bill of Rights enact by-laws regarding distribution of material and discussion among board members. A by-law which provides a procedure for dissemination of information during public meetings would not violate the Citizens' Bill of Rights as long as it is limited to time and manner restrictions. However, in order to comply with Section (a)(5), the board member, as any other person, must have the right to discuss and disseminate information related to matters under the board's jurisdiction.

In the absence of by-laws, a board may similarly restrict dissemination of information related to an item that is deferred or removed from the agenda in accordance with the Citizens' Bill of Rights. The distribution of material may be handled in accordance with the board's usual practices (i.e. a board may follow an informal procedure that requires all written material related to agenda items to be forwarded to staff to be assembled in a meeting packet). However, as with discussion, the board member must be permitted to disseminate information related to matters under the board's jurisdiction at some point during the process.

HOLDING

The Citizens' Bill of Rights applies to county board members. Section (a)(5) of the Citizens' Bill of Rights permits boards to enact by-laws and policies for board members regarding time and manner of discussion and dissemination of material related to matters under the board's jurisdiction. The board may restrict dissemination of information until the matter is under discussion by the board as long as the member is provided the opportunity to disseminate information related to matters under the board's jurisdiction at that time.

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