

Frigo, Victoria (COE)

From: Centorino, Joseph (COE)
Sent: Tuesday, February 05, 2013 2:47 PM
To: 'Llorente, Mike'
Cc: Suarez, Francis (Commissioner)
Subject: RE: INQ - City of Miami Commissioner Francis Suarez - Voting Conflict Question

Commissioner Suarez:

As a follow-up your recent inquiry in which you were advised that you need not recuse yourself from voting on retention of outside counsel for the defense of Mayor Tomas Regalado in a pending lawsuit initiated by a fellow city commissioner, you have inquired whether you have a voting conflict on an upcoming vote to advance the Mayor's legal fees incurred in connection with the lawsuit. Your inquiry has been made in light of the fact that you will be opposing Mayor Regalado in the upcoming City of Miami Mayoral election

Again, since you do not have a prohibited relationship with anyone who is the subject of the upcoming vote, nor do you seem likely to profit or be enhanced by the vote under the circumstances that you have related, you would not be required to recuse yourself from the vote pursuant to the provisions of Section 2-11.1(d) of the Miami-Dade County Code. However, given the possible financial impact of this vote on a political opponent, some consideration should also be given to whether your voting on this matter could result in an Exploitation of Official Position under Section 2-11.1(g) of the Ethics Code. In the event that it were known that your political opponent was self-financing his political campaign, and you were to be in a position in voting on a matter to impose a financial burden on your opponent that would directly affect the campaign, your voting on such a matter could, under some circumstances be considered an exploitation of office. However, in the known circumstances of this matter, the Mayor himself is unlikely to be self-financing any significant portion of a mayoral campaign, and is likely, as the incumbent, to be able to raise sufficient funds from political contributions to run a competitive campaign. It appears unlikely that a personal financial obligation imposed on Mayor Regalado, if such were to occur as a result of a vote taken by you, would have a measurable impact on the campaign and create the type of personal benefit that would indicate a conflict of interest on your part.

Accordingly, I am of the opinion that you do not have a prohibited conflict of interest that would prevent your voting on the issue of advancing funds for payment of the Mayor's legal expenses. As indicated in my prior opinion, this opinion only covers the minimum requirements of the Miami-Dade Conflict of Interest and Code of Ethics. Any issue creates an appearance of impropriety, or results in a subjective inability on the part of a public official to discharge his or her duties fairly and independently, would require further consideration on the part of the official that is outside the scope of this opinion.

Please do not hesitate to call me should you have any questions about this or require further clarification.

Sincerely,

Joseph M. Centorino
Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust

From: Llorente, Mike [mailto:mllorente@miamigov.com]
Sent: Friday, January 25, 2013 3:41 PM

To: Centorino, Joseph (COE)
Cc: Suarez, Francis (Commissioner)
Subject: RE: INQ - City of Miami Commissioner Francis Suarez - Voting Conflict Question

Mr. Centorino,

As you know, the Miami City Commission recently selected an attorney to advise the Commission on legal issues arising in connection with the lawsuit filed by Commissioner Spence-Jones against Mayor Regalado. Based on your detailed opinion below, Commissioner Suarez was cleared to participate in that vote.

On February 14, 2013, the City Commission will likely vote on whether to advance the Mayor's legal fees and costs incurred in connection with the lawsuit. Can you please confirm whether, based on the logic of your opinion below, Commissioner Suarez has any conflict that would prohibit him from participating in that vote?

Thank you, once again, for your time and consideration.

Michael Llorente
Chief-of-Staff
Commissioner Francis Suarez
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mllorente@miamigov.com



From: Suarez, Francis (Commissioner)
Sent: Thursday, January 24, 2013 10:12 AM
To: Centorino, Joseph (COE)
Cc: Llorente, Mike
Subject: Re: INQ - City of Miami Commissioner Francis Suarez - Voting Conflict Question

Thank you for taking my call and for issuing the opinion on such short notice. It is very much appreciated.

Francis

Sent from my iPhone

On Jan 24, 2013, at 9:51 AM, "Centorino, Joseph (COE)" <CENTORI@miamidade.gov> wrote:

Commissioner Suarez:

You have inquired regarding whether you would have a voting conflict in an upcoming vote of the Miami City Commission on the hiring of outside counsel to represent Mayor Tomas Regalado, who is a defendant in a pending law suit. The law suit has been filed by your fellow Commissioner, Michelle Spence-Jones. You have made this inquiry in light of the fact that you have declared your candidacy for Mayor of Miami and will be opposing Mayor Regalado in the upcoming City of Miami mayoral election.

It is my understanding that you have no personal or business interest in this issue. You are not involved in the law suit. You will not be voting on whether to retain any law firm with which you have a personal, family or business interest. The basis for any possible conflict at this stage concerns your status as a political opponent of the Mayor. Under these circumstances, you do not have any of the relationships with any of the parties to this vote that would create a prohibited relationship under Section 2-11.1 (d) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance that would require your recusal from the vote. There is no indication that you might personally, directly or indirectly, profit or be enhanced by the decision that is to be made by the Commission. Political adversariness, by itself, does not create such a conflict.

Therefore, I am advising you that you do not have a legal conflict pursuant to the Miami-Dade Conflict of Interest Ordinance that would require your recusal from this matter. However, the Code provides only a minimum standard of ethics. Any consideration of whether you would be able to be fair and objective in making this decision, or the consideration of any appearance of impropriety arising out of your involvement in this issue, rests solely in your judgement and discretion.

If you should have any further questions about this matter, please feel free to call me.

Joseph M. Centorino

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