

Diaz-Greco, Gilma M. (COE)

From: Centorino, Joseph (COE)
Sent: Friday, December 06, 2013 3:51 PM
To: Wysong, George (George.Wysong@miami-police.org)
Cc: Mendez, Victoria (VMendez@miamigov.com); Diaz-Greco, Gilma M. (COE)
Subject: INQ - Marc Sarnoff, Commissioner, City of Miami (Voting Conflict)

Mr. Wysong:

You have inquired on behalf of Commissioner Marc Sarnoff regarding whether he has a conflict of interest under the Miami-Dade Conflict of Interest and Code of Ethics Ordinance that would prohibit him from voting on or otherwise participating in two items scheduled to be voted on at the December 12, 2013 Miami City Commission Meeting. The two items are as follows: 1) A Resolution of the City Commission accepting a \$36,000 donation from the Sarnoff Foundation, Inc., a Florida Non-Profit Corporation, that is to be used to pay the rent for on a building in Commissioner Sarnoff's district that will be used to house a Miami Police sub-station, which, because it exceeds \$25,000, must be formally accepted by the City Commission; 2) A Resolution of the City Commission authorizing the City Manager to enter into a two-year lease for the rental of the Police sub-station building. Mr. Sarnoff is a Director of the Sarnoff Foundation, but has no financial interest in either of these transactions and does not stand to derive any pecuniary benefit from either transaction.

Section 2-11.1(d) of the County Ethics Code provides, in part, that a member of the City Commission may not vote on or otherwise participate in a matter brought before the Commission "if said person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board of [City] Commissioners: (i) officer, **director**, partner, of counsel, consultant, employee, fiduciary or beneficiary..." (emphasis added). Further, Commissioner Sarnoff would have the same conflict under the provisions of the Ordinance if he "would or might, directly or indirectly, profit or be enhanced by the action of the Board..." While Mr. Sarnoff may not stand to profit financially from these matters, it cannot be said that the Foundation of which he is a Director would not be affected, directly or indirectly, by either of these votes. The standard is a very broad one. If the Foundation "might" be "directly or indirectly affected" there would be prohibited conflict. Certainly, the Foundation, and Commissioner Sarnoff himself, would likely be the recipient(s) of substantial favorable public recognition of such a civic-minded gesture by the Foundation. That recognition could easily provide the Foundation not only with public accolades but with potential donor support for its future projects or programs. Mr. Sarnoff, as a private attorney and an elected official, would also likely be personally and politically enhanced by the recognition to be accorded to him from a generous gift made by a foundation bearing his name to which he is personally connected as a director. Since the Resolutions authorizing the acceptance of the donation and the leasing of the building are essentially twin items that are inextricably intertwined, there is no basis to distinguish between them for the purposes of determining a conflict.

Therefore, based upon the provisions of Section 2-11.1(d) of the Count Code and the above analysis, I find that there would be a conflict of interest should Commissioner Sarnoff vote on or otherwise participate on either item. Mr. Sarnoff should recuse himself from both votes, refrain from participation on the items, and make the appropriate disclosures. Please contact me if you have any questions about this matter.

Sincerely,

Joseph M. Centorino

Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130

Tel: (305) 579-2594
Fax: (305) 579-0273
ethics.miamidade.gov

