

Diaz-Greco, Gilma M. (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Tuesday, January 07, 2014 1:17 PM
To: 'Pepe, Thomas F.'
Cc: Centorino, Joseph (COE)
Subject: Ethics Commission informal opinion INQ-14-03

Dear Mr. Pepe,

You have inquired about a possible voting conflict with respect to an elected official who has received a campaign contribution from a municipal officer. Under the facts you have presented, there would not be a prohibited voting conflict under the Ethics Code for an elected official to vote on a resolution concerning a municipal officer who has contributed to the elected official's campaign.

Campaign contributions are not generally under the jurisdiction of the Ethics Code. An example of this exclusion can be found in Section 2-11.1 (e) of the Ethics Code, addressing gifts, which specifically excludes political contributions authorized by state law.

Section 2-11.1(d) of the Ethics Code governs questions of voting conflicts for elected officials. There are several relationships enumerated in that section that would prohibit an elected official from voting on a matter. These include: officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary. In the case you present, the elected official does not appear to have any of the enumerated relationships with the municipal officer. Section (d) also enumerates relationships with entities that would be affected by a vote. These are: stockholder, bondholder, debtor or creditor. Any of these relationships would also bar an elected official from voting on a matter if the transaction or matter would affect the elected official in a manner distinct from the manner in which it would affect the public generally. Furthermore, any elected officials having any of the relationships listed above, would be required to absent themselves from a vote if they might directly, or indirectly profit from, or be enhanced by, the action of the Board of Commissioners. Again, in the scenario you present there do not appear to be any of these prohibited relationships. Therefore, voting would not be prohibited by the Ethics Code under these circumstances.

Please keep in mind, however, that the Miami-Dade Code represents only a minimum standard of ethical conduct. If, for any reason, an elected official believes that his/her relationship with the individual involved, would interfere with the elected official's ability to apply independent judgment to a vote before him/her, then the elected official should reconsider whether it is appropriate to vote on that matter.

If you have further questions, please do not hesitate to contact me.

Best regards,

Gilma (Mimi) Diaz-Greco
Staff Attorney



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
gdiazgr@miamidade.gov
www.facebook.com/MiamiDadeEthics

Miami-Dade County is a public entity subject to Chapter 119 of the Florida Statutes concerning public records. E-mail messages are covered under such laws and thus subject to disclosure.

From: Pepe, Thomas F. [<mailto:TPepe@southmiamifl.gov>]
Sent: Monday, December 30, 2013 12:59 PM
To: Diaz-Greco, Gilma M. (COE)
Subject: Election - Conflict due to Campaign Contribution

If municipal officer, or a member of his or her family, gave a political contribution to a candidate who is running for a municipal elective office, would the candidate, if elected, have a conflict of interest as to any resolution concerning that officer?

Thank you.

Very truly yours,

Thomas F. Pepe

City Attorney
City of South Miami
1450 Madruga Avenue, Ste 202,
Coral Gables, Florida 33146
Tel: (305) 667-2564
Fax: (305) 341-0584
E-mail: tpepe@southmiamifl.gov

ATTENTION: This e-mail may contains PRIVILEGED AND CONFIDENTIAL INFORMATION intended only for the use of the addressee named above. If you are not the intended receiver, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this e-mail in error, please immediately notify us by telephone, call collect if outside of your

area code and delete this e-mail. We will reimburse you for the cost of your long distance call. Thank you. Please also note: All e-mails to and from this e-mail site are kept as a public record. Your e-mail communications, including your e-mail address may be disclosed to the public and media at any time pursuant to Florida Statutes, ch. 119.