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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Wednesday, July 23, 2014 4:29 PM  
**To:** Sanchez, Rodzandra (COE)  
**Subject:** Vice Mayor Stephen R.Shelley, City of Homestead (Voting Conflict)- INQ 14-180

INQ 14-180

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**From:** Centorino, Joseph (COE)  
**Sent:** Wednesday, July 23, 2014 1:13 PM  
**To:** Diaz-Greco, Gilma M. (COE)  
**Subject:** FW: INQ - Vice Mayor Stephen R.Shelley, City of Homestead (Voting Conflict)

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**From:** Centorino, Joseph (COE)  
**Sent:** Wednesday, July 23, 2014 12:53 PM  
**To:** 'David M. Wolpin'  
**Cc:** Richard Jay Weiss; Robert Meyers  
**Subject:** INQ - Vice Mayor Stephen R.Shelley, City of Homestead (Voting Conflict)

Mr. Wolpin:

You have inquired on behalf Homestead Vice Mayor and Councilman Stephen R. Shelley, regarding whether he has a voting conflict of interest in an upcoming vote by the Homestead City Council to authorize sale of a former bowling alley, owned by the City, to an entity that includes Roy Steve Shiver, Jr. as lobbyist and an interested party. The basis of the question is that Mr. Shelley's wife, Jennifer Helms-Shelley, is named ("Jenn Helms") as a potential beneficiary in Mr. Shiver's will, executed on June 21, 2006, a copy of which has been provided to me. The beneficial interest, as stated in the will, would provide her with 10% of the value of Mr. Shiver's net estate in excess of \$750,000.00 if she should survive Mr. Shiver. Ms. Helms-Shelley is also named as a secondary Personal Representative under Mr. Shiver's will. Mr. Shelley, an attorney who formerly represented Mr. Shiver, drafted the will, but has asserted that he has no independent recollection of the provision involving his wife whom he married in 2009. He no longer serves as Mr. Shiver's attorney. The potential conflict was brought to Mr. Shelley's attention recently by Mr. Shiver. Mr. Shelley has in prior statements and actions indicated his opposition to the proposed sale of the bowling alley property.

On July 17, 2014, Jennifer Helms-Shelley executed and filed a notarized "Disclaimer of Interest," which states: "I, Jennifer Helms-Shelley, in accordance with Florida Statutes Section (sic) 739 hereby acknowledge this document to be a disclaimer of any beneficial, remainder or interest of any kind I may have been granted under any Last Will and Testament executed by Roy Steve Shiver, Jr. By executing this document I do hereby irrevocably disclaim any such interest that may have been granted to me under the above described Last Will and Testament." Chapter 739, Florida Statutes, is the Florida Uniform Disclaimer of Property Interests Act, which includes provisions for the irrevocable disclaimer of any interest in or power over property.

Voting conflicts for municipal elected officials in Miami-Dade County are governed by Section 2-11.1(d) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance. Under the latter ordinance the voting official may not vote or participate in a matter in which he or she a)has a relationship as officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary of a person or entity that might be directly or indirectly affected by the vote; b) is stockholder, bondholder, debtor or creditor of such a person or entity, if the transaction or matter would affect the official in a matter distinct from the manner in which it would affect the public generally; c) would or might, directly or indirectly profit or be enhanced by the action of the board.

It appears that Mr. Shelley does not have any of the prohibited relationships enumerated under section 2-11.1(d). The question comes down to whether, under the circumstances, Mr. Shelley might, directly or indirectly, profit or be enhanced by the action. You have posited that you do not believe there would be a prohibited conflict under this section, where Mr. Shelley's wife's interest was highly contingent, and she would have inherited only if 1) she outlived Mr. Shiver; 2) the will remained unchanged; 3) Mr. Shiver's estate exceeded \$750,000.00. It would also be relevant to such an analysis that the interest was disclosed by Mr. Shiver only after Mr. Shelley's position on the vote was publicly known to be opposed to Mr. Shiver's interest in the matter. However, these circumstances raise issues that are beyond the scope of this opinion, because I have concluded that the execution of an "irrevocable" Disclaimer of Interest by Jennifer Helms-Shelley has effectively negated any possibility that Mr. Shelley might profit or be enhanced by the vote on the proposed sale of the bowling alley by the City of Homestead. Such a clear and enforceable disclaimer renders non-existent any potential profit or enhancement on his part.

It is my opinion that Mr. Shelley may participate in and vote on the proposed sale.

Sincerely,

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

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**From:** David M. Wolpin [<mailto:DWolpin@wsh-law.com>]  
**Sent:** Friday, July 18, 2014 10:59 AM  
**To:** Centorino, Joseph (COE)  
**Cc:** Richard Jay Weiss; Robert Meyers; David M. Wolpin  
**Subject:** Conflict of Interest Question

Joe—Good morning.

I hope that you are doing well.

In the form of an informal staff opinion of the County Ethics Commission, we request that you advise us as to whether you agree that there is no conflict of interest under County Ethics Code Section 2-11.1 (d) or otherwise, concerning the circumstances which are set forth below.

The City of Homestead( the " City" ) is the owner of a former Bowling Alley, and is trying, via an RFP process, to sell the Bowling Alley to any qualified entity that is willing to redevelop and restore the facility, and thereby provide family bowling opportunities. An entity that has made a written offer to acquire the facility has Roy Steve Shiver, Jr. ("Mr. Shiver") as its registered lobbyist and a potentially interested party.

City Councilman Stephen Shelley has announced has opposition to this offer to buy the Bowling Alley in that it is not financially beneficial to the City. Councilman Shelley has requested that we seek this opinion from your Office, since he recently learned that his wife, Jenn Helms Shelley, is a contingent beneficiary ( and a back- up Personal Representative) under Mr. Shiver's Last Will and Testament ( the " Will " ) of June 2006. A copy of the Will ( as redacted for privacy concerns ) is attached. Before her 2009 marriage to Councilman Shelley, Jenn Helms had worked for Mr. Shiver in his business and was highly regarded by Mr. Shiver.

In his capacity as a private attorney, Mr. Shelley had worked on drafting the Will in 2006. However, he was not married to Jenn at that time and had subsequently forgotten about the fact that she was one of the people named in the Will.

Prior to being made aware very recently by Mr. Shiver that Jenn Helms is listed in the 2006 Will, Councilman Shelley had participated on some preliminary City matters concerning the Bowling Alley. However, the Bowling Alley proposal of Mr. Shiver's client is still pending and will come before the City Council early next week. Councilman Shelley would like to be able to vote on that matter, so long as it is confirmed by your Office that there is no conflict of interest.

In an abundance of caution, and so that there is no potential appearance of impropriety, Councilman Shelley's spouse has executed and will be filing of record the enclosed disclaimer of interest( the "Disclaimer" ) and the notice of election not to serve as personal representative( the "Notice " ) , so that she will not , under any circumstances , inherit from Mr. Shiver or serve his potential Estate.

In our view, any interest of the Shelley's under the Will is remote and speculative, since, in order to inherit: (1) she would have to outlive Mr. Shiver; and (2) the Will would need to remain unchanged; and (3) the Estate of Mr. Shiver would need to exceed the \$750,000 value that triggers her potential inheritance. Accordingly, in our view, there is no voting or other conflict under Section 2-11.1 (d) of the County Code or otherwise, even in the absence of the filing of the Disclaimer and Notice .

Since any interest is remote and speculative and was not known to the Councilman until very recently, we believe that the Councilman's voting on any preliminary matters has not, in any way, violated the County Ethics Code. Further, in our view, since the Disclaimer and Notice is executed and is being filed, that will serve to fully negate any potential for an even an appearance of impropriety as to any future votes or participation on the matter .

We respectfully request your review and opinion on this.

Thank you for your consideration.

David Wolpin

Member

**WEISS SEROTA HELFMAN  
PASTORIZA COLE & BONISKE**

200 East Broward Blvd., Suite 1900 | Fort Lauderdale, FL 33301  
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## MIAMI-DADE COMMISSION ON ETHICS MEMORANDUM

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TO: Joseph Centorino, Executive Director  
FROM: Jennifer Felipe, COE Intern  
RE: **Voting Conflicts when Elected Official is Beneficiary of a Will**  
DATE: July 22, 2014

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The issue of whether a prohibited conflict of interest would be created where an elected official were to vote on a matter brought forth by an individual who has included the elected official in his or her will has not been specifically dealt with by the Miami-Dade Commission on Ethics and Public Trust, the Florida Commission on Ethics, or any Florida Statute.

Notwithstanding, section 2-11.1(d) of the County Code of Ethics prohibits "Commissioners" from voting on or participating in any way in any matter presented to the Board of County Commissioners if said person has a **beneficiary relationship** with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board of County Commissioners.

In addition, pursuant to Florida law, "A state public officer may not vote on any matter that the officer knows would inure to his or her special private gain or loss." Fla. Stat. 112.3143(2)(a). Section 112.3143(3)(a) extends the same prohibition to county, municipal, or other local public officers. "While the intent of this provision is to require the public officer to disclose any interest which hampers his objectivity, the provision is necessarily limited in scope to matters beneficial to the officer personally or to an interest in which he is personally involved or has a material interest." CEO 74-13.

Moreover, the Florida Commission on Ethics has opined that no officer shall be prohibited from voting in any matter, but where he exercises his right to vote on a measure in which he has a personal, private, or professional interest which inures to his special gain or to the special gain of any principal by whom he is retained, he must disclose such conflict by filing of a Memorandum of Voting Conflict. CEO 77-62. However, should the voting officer feel that his impartiality is threatened by virtue of the interests involved, he may abstain from voting on the matter. *Id.*

## **Centorino, Joseph (COE)**

---

**From:** David M. Wolpin <DWolpin@wsh-law.com>  
**Sent:** Friday, July 18, 2014 10:59 AM  
**To:** Centorino, Joseph (COE)  
**Cc:** Richard Jay Weiss; Robert Meyers; David M. Wolpin  
**Subject:** Conflict of Interest Question  
**Attachments:** Redacted Will of Mr. Shiver; FW: Executed Documents

Joe—Good morning.

I hope that you are doing well.

In the form of an informal staff opinion of the County Ethics Commission, we request that you advise us as to whether you agree that there is no conflict of interest under County Ethics Code Section 2-11.1 (d) or otherwise, concerning the circumstances which are set forth below.

The City of Homestead( the " City" ) is the owner of a former Bowling Alley, and is trying, via an RFP process, to sell the Bowling Alley to any qualified entity that is willing to redevelop and restore the facility, and thereby provide family bowling opportunities. An entity that has made a written offer to acquire the facility has Roy Steve Shiver, Jr. ("Mr. Shiver") as its registered lobbyist and a potentially interested party.

City Councilman Stephen Shelley has announced has opposition to this offer to buy the Bowling Alley in that it is not financially beneficial to the City. Councilman Shelley has requested that we seek this opinion from your Office, since he recently learned that his wife, Jenn Helms Shelley, is a contingent beneficiary ( and a back- up Personal Representative) under Mr. Shiver's Last Will and Testament ( the " Will " ) of June 2006. A copy of the Will ( as redacted for privacy concerns ) is attached. Before her 2009 marriage to Councilman Shelley, Jenn Helms had worked for Mr. Shiver in his business and was highly regarded by Mr. Shiver.

In his capacity as a private attorney, Mr. Shelley had worked on drafting the Will in 2006. However, he was not married to Jenn at that time and had subsequently forgotten about the fact that she was one of the people named in the Will.

Prior to being made aware very recently by Mr. Shiver that Jenn Helms is listed in the 2006 Will, Councilman Shelley had participated on some preliminary City matters concerning the Bowling Alley. However, the Bowling Alley proposal of Mr. Shiver's client is still pending and will come before the City Council early next week . Councilman Shelley would like to be able to vote on that matter, so long as it is confirmed by your Office that there is no conflict of interest.

**In an abundance of caution, and so that there is no potential appearance of impropriety, Councilman Shelley's spouse has executing and will be filing of record the enclosed disclaimer of interest( the " Disclaimer" ) and the notice of election not to serve as personal representative( the " Notice " ) , so that she will not , under any circumstances , inherit from Mr. Shiver or serve his potential Estate.**

In our view, any interest of the Shelley's under the Will is remote and speculative, since, in order to inherit: (1) she would have to outlive Mr. Shiver; and (2) the Will would need to remain unchanged; and (3) the Estate of Mr. Shiver would need to exceed the \$750,000 value that triggers her potential inheritance . Accordingly, in our view, there is no voting or other conflict under Section 2-11.1 (d) of the County Code or otherwise, even in the absence of the filing of the Disclaimer and Notice .

Since any interest is remote and speculative and was not known to the Councilman until very recently, we believe that the Councilman's voting on any preliminary matters has not, in any way, violated the County Ethics Code. Further, in our view, since the Disclaimer and Notice is executed and is being filed, that will serve to fully negate any potential for an even an appearance of impropriety as to any future votes or participation on the matter .

We respectfully request your review and opinion on this.

Thank you for your consideration.

David Wolpin

Member

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**DISCLAIMER OF INTEREST**

I, JENNIFER HELMS-SHELLEY, in accordance with Florida Statutes Section 739 hereby acknowledge this document to be a disclaimer of any beneficial, remainder or interest of any kind I may have been granted under any Last Will and Testament executed by Roy Steve Shiver, Jr. By executing this document I do hereby irrevocably disclaim any such interest that may have been granted to me under the above described Last Will and Testament.

Dated: 7/17/2014



Jennifer Helms-Shelley



Witness 1: SHARON J. HELMS

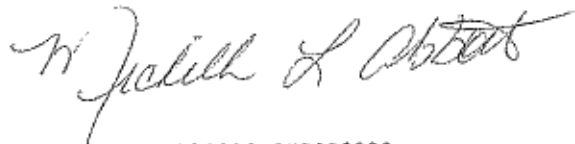


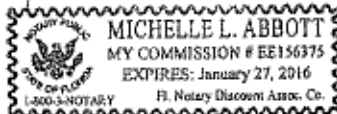
Witness 2: Michelle L. Wojnovich

STATE OF FLORIDA )

COUNTY OF MIAMI DADE )

This instrument is acknowledged before me this 17 day of July by Jennifer Helms-Shelley who is personally known to me or produced as identification.







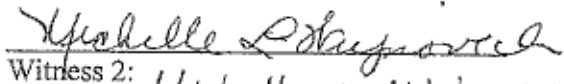
**NOTICE OF ELECTION NOT TO SERVE AS PERSONAL REPRESENTATIVE OR  
TRUSTEE UNDER LAST WILL AND TESTAMENT**

I, JENNIFER HELMS-SHELLEY, hereby give notice that I am electing not to serve as personal representative or trustee under any Last Will and Testament executed by Roy Steve Shiver, Jr.

Dated: 7/17/2014

  
Jennifer Helms-Shelley

  
Witness 1: SHARON J. HELMS

  
Witness 2: Michelle L. Wujnovich

STATE OF FLORIDA                    )  
  )  
COUNTY OF MIAMI DADE        )

This instrument is acknowledged before me this 17 day of July by Jennifer Helms-Shelley who is personally known to me or produced \_\_\_\_\_ as identification.







*LAST WILL AND TESTAMENT*  
*OF*  
*ROY STEVE SHIVER, JR.*

*Prepared by*  
Stephen R. Shelley, Esq.  
Law Offices of Steven L. Ellison, P.A.  
211 N. Krome Avenue  
Homestead, Florida 33030  
(305) 246-3544

### Synopsis of Last Will and Testament of Roy Steve Shiver, Jr.

*This abbreviated summary is for convenience only and should not be relied upon in interpreting the Will. The Will contains other significant provisions not described in this summary.*

[illegible]



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LAST WILL AND TESTAMENT

OF

ROY STEVE SHIVER, JR.

I, ROY STEVE SHIVER, JR., sometimes also known as Steve Shiver, a resident of Miami-Dade County, Florida, revoke all prior Wills and publish the following as my Last Will and Testament. [REDACTED]

ARTICLE 1  
FAMILY

[REDACTED]

ARTICLE 2  
DISTRIBUTION OF MY ESTATE

[REDACTED]

2.1 Specific Gifts. I make the following specific gifts:

[REDACTED]

INITIALS

LAST WILL AND TESTAMENT OF ROY STEVE SHIVER, JR.

INITIALS \_\_\_\_\_  
LAST WILL AND TESTAMENT OF ROY STEVE SHIVER, JR.

[REDACTED]

[REDACTED]

(i) Specific Gifts subject to minimum net estate value threshold.  
If for any reason the value of my net estate, after making provisions for all payments required under Article 13 below, is less than or equal to \$750,000.00, then all of my property, minus my tangible personal property, shall be placed in a separate trust (the "Family Trust") and governed by Article 3 below. Specifically, my net estate must be valued in excess of \$750,000.00 before any specific gift set forth in Article 2.1(d)-(h) shall become valid and take effect under this Will.

[REDACTED]

[REDACTED]

ARTICLE 3  
ADMINISTRATION OF FAMILY TRUST

[REDACTED]

[REDACTED]

INITIALS  
LAST WILL AND TESTAMENT OF ROY STEVE SHIVER, JR.



[REDACTED]

[REDACTED]

[REDACTED]

ARTICLE 4  
STANDBY TRUST

[REDACTED]


[REDACTED]

[REDACTED]

INITIALS   
LAST WILL AND TESTAMENT OF ROY STEVE SHIVER, JR.

[illegible][illegible][illegible][illegible][illegible][illegible][illegible]

Executed at Homestead, Florida, on June 21, 2006.

  
ROY STEVE SHIVER, JR.

This instrument was signed, sealed, published, and declared by the testator as his Last Will and Testament in our joint presence, and at his request we have signed our names as attesting witnesses in his presence and in the presence of each other on the date first written above.

Name

Address

Signed: Conde Valen

211 W. Krome Avenue

Printed: Conda Valdespino

Homestead, FL 33030

Signed: Kelly Grimsley

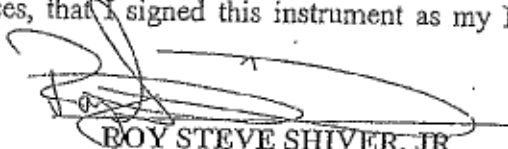
211 W. Krome Avenue

Printed: Kelly Grimsley

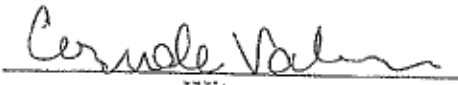
Homestead, FL 33030


STATE OF FLORIDA  
COUNTY OF MIAMI-DADE COUNTY

I, Roy Steve Shiver, Jr., declare to the officer taking my acknowledgment of this instrument, and to the subscribing witnesses, that I signed this instrument as my Last Will and Testament.

  
ROY STEVE SHIVER, JR.

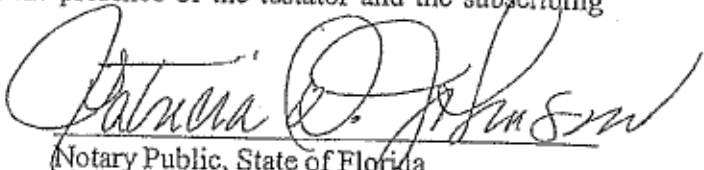
We, Coinde Valdespino and Kelly Grimsley,  
have been sworn by the officer signing below, and declare to that officer on our oaths  
that the testator declared the instrument to be his Last Will and Testament and signed it  
in our presence, and that we each signed the instrument as a witness in the presence of  
the testator and of each other.

  
Witness

  
Witness

Acknowledged and subscribed before me by the testator, Roy Steve Shiver, Jr.,  
who is personally known to me or who has produced \_\_\_\_\_ as  
identification, and sworn to and subscribed before me by the witnesses,  
Coinde Valdespino, who is personally known to me or who has  
produced \_\_\_\_\_ as identification, and by Kelly Grimsley,  
who is personally known to me or who has produced \_\_\_\_\_ as  
identification, and subscribed by me in the presence of the testator and the subscribing  
witnesses, all on May 28, 2006.

*True*

  
Notary Public, State of Florida

(Print or Stamp Name, Commission # and Expiration  
below)

