
From: Diaz-Greco, Gilma M. (COE)
Sent: Friday, August 29, 2014 11:19 AM
To: Sanchez, Rodzandra (COE)
Subject: Mayor Shelley Stanczyk, Village of Palmetto Bay (Exploitation, Use of City Seal and Wearing Apparel) INQ 14-205

INQ 14-205

From: Centorino, Joseph (COE)
Sent: Thursday, August 28, 2014 4:57 PM
To: 'shelleystanczyk@shelleystanczyk.com'
Cc: Diaz-Greco, Gilma M. (COE)
Subject: INQ - Mayor Shelley Stanczyk, Village of Palmetto Bay (Exploitation, Use of City Seal and Wearing Apparel)

Mayor Stanczyk:

Please be advised that this office does not provide opinions concerning past conduct or concerning the actions of a person other than the person requesting the opinion. However, insofar as you have asked for guidance yourself in connection with the use of the Village Seal and the wearing of your Village shirt in connection with political campaigning, I will address your inquiry as it applies to your own future conduct.

In general, the use of one's official public position to exercise influence in an election or in a private context for one's own benefit or that of another could constitute an Exploitation of Official Position under Section 2-11.1(g) of the Count Code of Ethics.

However, this agency has opined in RQO 05-06 that the use of one's official title in political stationery does not constitute Exploitation of Official Position because it is used for identification purposes and not an attempt to gain any special privilege. I would extend this to the use of a Village polo shirt or other identifying apparel that you might wear while campaigning. Provided it is not being used to exert any official authority or pressure regarding voting and is used merely as a means of identification, it would not be considered a violation of the Code of Ethics.

The use of the Village Seal is a bit more complicated because it includes both ethical considerations and the Village Ordinance provision creating a criminal misdemeanor for unauthorized use of the seal. Although the use of a city seal in connection with political campaigning might or might not be a violation of the Ethics Code, depending on the particular circumstances, I can state that we would not regard the appearance of the seal in a photograph that might appear on a piece of campaign literature as an Exploitation of Official Position due to the incidental and indirect nature of its use. However, the existence of the City Ordinance should lead you to be cautious in any use that is not authorized by the Village. Please be cognizant of the fact that this agency does not interpret and has no jurisdiction over your Village Code provision regarding use of the Village Seal. In terms of general guidance, you might seek the opinion of your Village Attorney concerning the ordinance. In regard to any possible criminal prosecution of such an offense, the State Attorney would ultimately have to determine whether any particular conduct comes within the ambit of that ordinance.

I hope that this response assists you in dealing with the issues you have raised.

Sincerely,

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

From: shelleystanczyk@shelleystanczyk.com [<mailto:shelleystanczyk@shelleystanczyk.com>]

Sent: Thursday, August 28, 2014 9:23 AM

To: Centorino, Joseph (COE)

Subject: request for opinion

Good morning Mr. Centorino;

I am requesting an opinion on two issues that have arisen in the ongoing campaign for Mayor of Palmetto Bay and recently concluded campaign for County Commissioner. I am seeking clarity because of past issues raised on these same issues and clarity would be helpful going forward.

On election day the Palmetto Bay Vice Mayor campaigned for the incumbent District 8 Commissioner wearing his Village shirt that designated his position, name and the Village Seal. He was not witnessed handing out any information but stood in the middle of a group of orange shirted Bell supporters (one of whom was his employee or the employee was at a different location at some point). This was on Village property but was a polling place for that day. Is this a violation of any sort? What ethical limitations should be in place on the use of official Village designations?

Recently an ad was distributed by mail by a candidate for office who previously held office in Palmetto Bay. I am attaching a copy of the ad. Our Charter prohibits the use of the Village Seal for other than official designations. In this ad the picture appears to want you to believe that the candidate is the Mayor currently, and the seal is a prominent fixture in the photo.

Please advise if this is an issue for ethics or elections. This issue has been raised in past campaigns regarding this candidate.

I am asking because I am currently campaigning and had been advised in the past to avoid the use of the Seal in certain ways or the wearing of village garb in political situations and would not want to create any violations.

Sec. 2-1. Village seal.

- (a) Designation . As used in this chapter, the official seal of the village shall mean the following identifying symbol.
- (b) Execution and acknowledgement of written instruments . Whenever it shall be necessary for the village, under the authority of its village council, its charter or its code and the general laws of the state to execute and, or, authenticate deeds, contracts, ordinances, resolutions and other documents on behalf of the village, the official seal of the village shall be affixed to the document.
- (c) Display on public property . The village seal shall be displayed on public property, including, but not limited to, the village hall, parks, public improvement projects, uniforms, patrol cars, equipment and other property, as directed by the village council.
- (d) Prohibition . It shall be unlawful and a violation of chapter 1 of this Code for any person to print for the purpose of sale or distribution, or to circulate, manufacture, publish, use, display or offer for sale any letters, papers, documents, clothing, equipment or items of merchandise which simulate the official seal of the village or the stationery of an official, department or instrumentality of the village without the expressed written authority of the village council or its designee. Pursuant to F.S. § 165.043, the unauthorized use or reproduction of the seal constitutes a second degree misdemeanor, punishable as provided in F.S. §§ 775.082 and 775.083.**

Thank you for your help.

With warmest regards;

Shelley Stanczyk

305-389-3425