

## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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December 8, 2023

Via Facsimile Only: [KMC@miamidade.gov](mailto:KMC@miamidade.gov)

Honorable Kevin Marino Cabrera  
District 6 Commissioner  
111 Northwest 1<sup>st</sup> Street, 2nd FL Suite #220  
Miami, Florida 33128

Re: INQ 2023-162, Vote on Republican Committee Precincts  
Section 2-11.1 (d), Miami-Dade Code

Dear Commissioner Cabrera:

Thank you for contacting the Miami-Dade County Commission on Ethics and Public Trust and for seeking guidance regarding the application of the County Ethics Code (Section 2-11.1, Miami-Dade Code) to the transaction described below.

### Facts:

You represent District 6 on the Board of County Commissioners. Additionally, you are also member of the Republican Party's State Executive Committee.

State political party executive committees may provide for the selection of county executive committees in the manner that they deem proper. Unless otherwise provided by party rule, the county executive committees shall be comprised of a man and a woman elected from each voting precinct. They are referred to as the party precinct committeeman and committeewoman.<sup>1</sup>

In smaller counties, one committeeman and one committeewoman are elected from each county voting precinct. However, in larger counties with over 40 voting precincts, like Miami-Dade which may have in excess of 900 precincts, the state political party executive committees may

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<sup>1</sup> See Section 103.091, Florida Statutes, Political parties.

adopt a district unit of representation for such county executive committees that differs from the from the measure used by the County to establish its voting precincts.

Upon adoption of a district unit of representation, the state executive committee shall request the supervisor of elections of that county, with approval of the board of county commissioners, to provide for county political party committee election districts as nearly equal in number of registered voters as possible.

In recent history, the Board of County Commissioners has approved and left undisturbed the political parties' proposed units of representation and precinct structure inasmuch as the parties collaborate with the County Elections Department so that county executive party committee elections do not unduly burden the overall voting process.

In your role as a member of the State Republican Party Executive Committee, you will be engaged in the development of the proposed local committeeman and committeewoman district unit of representation that will be presented to the Board of County Commissioners for a vote.

Issue:

Whether a county commissioner may vote on a proposed precinct map for the election of county executive party committeemen and committeewomen, when as a member of the state executive party committee, he was involved in developing the unit of representation formula used to produce the county precinct map.

Discussion:

Section 2-11.1 (d) of the County Ethics Code contains the voting conflict provision for elected local government officials in Miami-Dade County. It is more restrictive than the voting conflict provision contained in state code of ethics.<sup>2</sup>

The voting conflict provision creates three separate categories of potential voting conflicts.<sup>3</sup> These three categories are defined as a follow:

*An automatic prohibited conflict* if the voting member has one of the following relationships with an entity "affected" by the vote before the board: officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or

*A contingent prohibited conflict* if the voting member has one of the following relationships with an entity "affected" by the vote and the matter would affect the person in a manner distinct from the manner in which it would affect the public generally: stockholder, bondholder, debtor, or creditor; or

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<sup>2</sup> INQ 14-86 (The County voting conflict provision is more restrictive than that contained in State Ethics Code, Section 112.3143, Florida Statutes).

<sup>3</sup> See RQO 15-04.

*A broad prohibited conflict* if the voting member "would or might, directly or indirectly, profit or be enhanced by the action" of the board in-question.

Because this latter category uses the word "enhanced" then it connotes a benefit broader in concept than a measurable financial profit. As such, a conflict of interest may arise if an official's consideration and vote on a matter might result in an improved professional or social position. However, the potential benefit to the official must be more than a remote or speculative possibility.<sup>4</sup>

Opinion:

Based upon the facts presented and the reasoning underlying the ethics opinions cited above, the County Ethics Code permits your participation and vote on a matter relating to district unit of representation for the election of Republican county executive committee members.

More specifically, it does not appear that you have a first-tier relationship with a person or entity that might be affected by the vote by the Board of County Commissioners on the proposed district unit of representation for county party executive committees. Indeed, the person or entity that might be affected by the Board's vote would be a candidate or a class of candidates that are seeking election as a Republican county executive committeeman or committeewoman. Consequently, there is no automatic conflict that would prohibit your vote on the matter.

Likewise, it does not appear that you have a second-tier relationship with a person or entity that might be affected by the Board's vote, nor would you be uniquely affected as compared to the general public. Therefore, there is no contingent conflict that would prohibit your vote on the matter.

Finally, there is no likelihood that you would or might be enhanced financially by your vote on the matter. Moreover, any potential benefit consisting of a possible professional enhancement that might result from your vote on the matter, inasmuch as you will be part of the state party executive committee that is recommending the district unit of representation for the election of Republican county executive committee members, is simply far too remote or speculative to give rise to a conflict of interest.

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state

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<sup>4</sup> See RQO 15-04 (The word "might" indicates that, at the very least, a reasonable possibility of profit or enhancement, would trigger the prohibition. While the standard applied should require more than a remote or speculative possibility, it should cover a potential benefit that may be realistically expected to occur under known circumstances. The word "indirectly" would include within its ambit an impact on a person or entity that should logically be extended to cover an elected official as a result of that official's relationship or association with the person or entity primarily affected. The word "enhanced" connotes a benefit broader in concept than a measurable financial profit, including an improved professional or social position.)

laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

Thank you again for consulting with the Ethics Commission and do not hesitate to contact me directly if you should require further assistance.

Sincerely,



Jose J. Arrojo  
Executive Director

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.

cc: All COE Legal Staff

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