

IN THE COMMISSION ON ETHICS AND
PUBLIC TRUST, AN INDEPENDENT
AGENCY AND INSTRUMENTALITY OF
MIAMI-DADE COUNTY, FLORIDA
33130

ETHICAL CAMPAIGN PRACTICES
EXPEDITED HEARING PROCEDURE

CASE NO. C14-051

IN RE: JORGE GONZALEZ,

Complainant

vs.

MARIO GARCIA

Respondent/Candidate

HEARING EXAMINER STATEMENT

This hearing is held to make a probable cause determination regarding ethical campaign practices complaints. Probable cause is a preliminary determination regarding whether there is sufficient evidence to proceed to a full hearing. It is the right of the Respondent to request a probable cause hearing, a determination on the pleadings or to waive the expedited process. In the instant case, the Respondent opted for a determination on the pleadings. If probable cause is found, the Respondent may appeal the finding to the Ethics Commission. If no appeal is filed, the matter is referred to the Ethics Commission for a public hearing. If no probable cause is found, the case is presented to the Ethics Commission for dismissal.

Complainant submitted an Ethics Complaint and supporting documentation.

Respondent submitted a written response and supporting documentation.

Finding of Fact

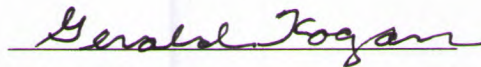
1. Complainant, Jorge Gonzalez and Respondent, Mario Garcia were running against each other for the Commissioner at Large seat in the City of North Bay Village.
2. Respondent Garcia did not sign the declaration agreeing to be bound by the Voluntary Fair Campaign Practices Ordinance, Sec. 2-11.1.1(D), Miami-Dade County Code.
3. There was insufficient evidence to establish probable cause that Respondent violated the Mandatory Fair Campaign Practices ordinance. That ordinance states in pertinent part,

“[a] candidate shall not...with actual malice publish or cause to be published in writing, printing, picture, effigy sign or otherwise than by mere speech any untrue statement about another candidate or a member of his or her family or staff which exposes said person to hatred, contempt, or ridicule or causes said person to be shunned or avoided, or injured in his or her business or occupation.” Sec. 2-11.1.1(C)(1)(b), Miami-Dade County Code.

4. “Actual malice” is defined as a statement that is made “with knowledge that it was false or with reckless disregard of whether it was false or not.” New York Times Co. v Sullivan [376 U.S. at 279-80](#), [84 S.Ct. at 726](#).
5. I find that the statements Respondent made about the Complainant in the campaign were generally valid as they appeared to be in his answer's supporting documents.

Finding

I FIND NO PROBABLE CAUSE to show Respondent violated any sections of the Mandatory Campaign Practices Ordinance. Accordingly, this complaint should be dismissed.



Gerald Kogan
Florida Bar # 43950
Hearing Examiner
Commission on Ethics
19 W. Flagler Street, #820
Miami, FL 33130