




## LEGAL SUFFICIENCY MEMORANDUM

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To: Radia Turay, Advocate

From: Jose J. Arrojo   
Executive Director  
(Reviewing Legal Sufficiency Counsel by Designation)

Date: February 13, 2023

Re: C- 23-10-02 (*In re: McKenzie Fleurimond*)

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*Legal sufficiency exists where there is an allegation of a violation of an ordinance within the jurisdiction of the Ethics Commission (COE), purportedly committed by an individual within the authority of the COE, based substantially on the personal knowledge of the Complainant, and filed with the Ethics Commission within three years of the alleged violation.*

### Background:

This sworn complaint was received on or about February 6, 2023, from Stephanie Kienzle via email.

### Analysis:

This complaint meets the following requirements for legal sufficiency:

1. Complaint is against a natural person within COE jurisdiction: City Commissioner McKenzie Fleurimond, (City of North Miami Beach).
2. Complaint alleges a violation of an ordinance which confers enforcement authority upon the COE, to wit: Section 2-11.1(g), County Ethics Code, Exploitation of official position prohibited. That section provides as follows:

Exploitation of official position prohibited. No person included in the terms defined in subsection (b)(1) through (6) and (b)(13) [Commissioners] shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners.

3. The Ethics Commission has opined that the use of public funds to attend partisan political events constitutes a violation of Section 2-11.1(g) of the County Ethics Code. <sup>1</sup>
4. The general facts alleged in the Complaint, if accepted a true, are sufficient to sustain an alleged violation of the named section, to wit:

Complainant alleges that on or about December 3, 2021, while the respondent was serving as an elected Commissioner in the City of North Miami Beach, Florida, the respondent contributed \$300 in public funds to the Florida Democratic Party – Federal Account. The funds were paid to the Florida Democratic Party- Federal Account via a charge made to the respondent’s municipal issued purchase card. The funds were paid to ActBlue. ActBlue is nonprofit entity that collects donations for Democratic candidates and committees, progressive organizations, for a 3.95% processing fee. <sup>2</sup> The donation to the Florida Democratic Party-Federal Account, also allowed the respondent to attend a Florida Democratic Party event

5. Complaint is based substantially on the personal knowledge of Complainant and the Complainant has attached public records in support of her allegations.
6. Complaint is signed under oath or affirmation by the complaining party.

Conclusion:

The facts alleged by complainant, are legally sufficient and support the initiation of an investigation into the apparent violation of Section 2-11.1(g) of the County Ethics Code.

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<sup>1</sup> INQ 11-39 (A municipal official may not use city funds to purchase a ticket to a partisan political event in Miami-Dade County, where local elections are nonpartisan, as the official would be securing a special benefit for himself/herself, and this would violate the County Ethics Code at Section 2-11.1(g), Exploitation of official position.); INQ 15-90 (A county official may not use public funds to pay for deserving senior citizens’ attendance at a Republican Party sponsored dinner, as such would constitute an exploitation of official position because of the partisan nature of the event.)

<sup>2</sup> Contributions or gifts to ActBlue are not deductible as charitable contributions for federal income tax purposes.

The complainant IS NOT personally aggrieved.<sup>3</sup>

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<sup>3</sup> See R. 4.12, COE ROP