



# Palm Beach County Commission on Ethics

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In Re: Jess Santamaria

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C10-005

## Public Report and Final Order of Dismissal

COMPLAINANT, Andrew Schaller, a private citizen, filed the above-referenced COMPLAINT on September 13, 2010, alleging possible ethics violations involving RESPONDENT Jess Santamaria, a Palm Beach County Commissioner.

The COMPLAINT included ten counts referred to as "exhibits" contending that Commissioner Santamaria misused his public position in matters related to his staff and political campaign. Specific counts are as follows:

Count I of the COMPLAINT alleges that RESPONDENT misused his public position by directing his administrative assistant and secretary, both county employees, to perform campaign activities (e-mail communication) while on county time in violation of s. 106.15(3) Florida Statutes.

Count II of the COMPLAINT alleges that RESPONDENT misused his public position by asking sheriff's deputies to remove COMPLAINANT from a public forum hosted by RESPONDENT in violation of s. 112.313(6) Florida Statutes.

Count III of the COMPLAINT alleges that RESPONDENT violated s. 119.07(1) Florida Statutes by not maintaining RESPONDENT's hand-held pocket calendars for the past 3 years.

Count IV of the COMPLAINT alleges that RESPONDENT displayed a campaign sign without the disclaimer required by state law in violation of s. 106.143 Florida Statutes.

Count V of the COMPLAINT alleges that RESPONDENT misused his official position and violated county rules and procedures during a quasi-judicial hearing in 2007 involving a zoning application.

Count VI of the COMPLAINT alleges that RESPONDENT misused his official position by improperly ordering business cards in March, 2010, and improperly had locks repaired at the Belle Glade Courthouse in July 2010 without following Palm Beach County procurement procedures.

Count VII of the COMPLAINT alleges that RESPONDENT has been convicted of a felony.

Count VIII of the COMPLAINT alleges that RESPONDENT misused his public position by having campaign workers handing out his candidate signature petitions at an open community forum at approximately 7:00 pm on April 21, 2010.

Count IX of the COMPLAINT alleges that RESPONDENT misused his public position by directing his administrative assistant and secretary, both county employees, to perform campaign activities (e-mail communication) while on county time in violation of s. 106.15(3). Count IX is a restatement of Count I.

Count X of the COMPLAINT alleges that RESPONDENT's administrative assistant misused his public position by conducting municipal business while on county time.

Pursuant to Chapter 2, Article V, Division 8, Section 2-260.6<sup>1</sup> of the Palm Beach County Code, jurisdiction of the Ethics Commission extends to violations “committed on or after the effective date of the ordinances.” The allegations contained in Counts V, VI (Part 1) and VIII of the COMPLAINT involve activities alleged to have occurred prior to May 1, 2010.

Because the alleged behavior predates the May 1, 2010 effective date of the Palm Beach County Code of Ethics, the Ethics Commission DISMISSED Counts V, VI (Part 1) and VIII of the COMPLAINT on October 7, 2010, due to LACK OF LEGAL SUFFICIENCY.

Pursuant to Article V, Division 8, section 2-258(a) of the Palm Beach County Code, jurisdiction of the Commission on Ethics extends to the county code of ethics, county post-employment and lobbyist registration ordinances.<sup>2</sup>

Pursuant to Article V, Division 8, section 2-260(a) of the Palm Beach County Code, to be legally sufficient, a COMPLAINT must allege the elements of a violation within the commission on ethics’ jurisdiction and be based substantially upon the personal knowledge of the COMPLAINANT.

Because Counts I, II, III, IV, VI (Part 2), VII, IX and X allege misconduct outside of the jurisdiction of the Commission on Ethics and, furthermore, the allegations do not support a violation of the Palm Beach County Code of Ethics, regardless of whether or not the accusations are true or

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<sup>1</sup> Chapter 2, Article V, Division 8, Section 2-260.6. Prospective Jurisdiction: “The Commission on Ethics shall be empowered to consider alleged violations within its jurisdiction committed on or after the effective date of the ordinances set forth in Section 2-258(a), as each may be amended from time to time. Any alleged violation committed before the effective date of any such ordinance or amendment shall be governed by the applicable law in effect at the time of the alleged violation.”

<sup>2</sup> Article V, Division 8, section 2-258. Powers and duties. (a) The commission on ethics shall be authorized to exercise such powers and shall be required to perform such duties as are hereinafter provided. The commission on ethics shall be empowered to review, interpret, render advisory opinions and enforce the;

- (1) County Code of Ethics;
- (2) County Post-Employment Ordinance, and
- (3) County Lobbyist Registration Ordinance.

false, the Ethics Commission DISMISSED Counts I, II, III, IV, VI (Part 2), VII, IX and X on October 7, 2010, due to LACK OF LEGAL SUFFICIENCY;

Therefore it is:

**ORDERED AND ADJUDGED THAT** the COMPLAINT against RESPONDENT Jess Santamaria is hereby DISMISSED.

**DONE AND ORDERED** by the Palm Beach County Commission on Ethics in public session on October 7, 2010.

Palm Beach County Commission on Ethics

By:



Edward Rodgers, Chair