

**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Michael Grieco

Case No.: FEC 18-341

TO: Benedict P. Kuehne, Esquire
Kuehne Davis Law PA
100 SE 2nd Street, Suite 3105
Miami, FL 33131-2154

Emmett Mitchel IV, Esquire
Mitchell Law PL
2806 Rebecca Drive
Tallahassee, FL 32312

NOTICE OF HEARING (OTHER MOTIONS: REVIEW PETITION FOR ATTORNEY'S FEES AND COSTS)

A hearing will be held in this case before the Florida Elections Commission on, **December 1, 2020 at 8:30 AM am, or as soon thereafter as the parties can be heard**, at the following location: **Senate Office Building, 404 South Monroe Street, Room 110-S, Tallahassee, Florida 32399**. Due to heightened security access requirements, please bring only essential items into the building and plan to arrive early to allow for delays coming through security.

Failure to appear in accordance with this notice will constitute a waiver of your right to participate in the hearing. Continuances will be granted only upon a showing of good cause.

This hearing will be conducted pursuant to Section 106.25, Florida Statutes, which governs your participation as follows:

If you are the Respondent, you may attend the hearing, and you or your attorney will have *5 minutes* to present your case to the Commission. However, some cases (including those in which consent orders or recommendations for no probable cause are being considered) may be decided by an *en masse* vote and, unless you request to be heard or the Commission requests that your case be considered separately on the day of the hearing, your case will *not* be individually heard.

If you are the Complainant, you may attend the hearing, but you will *not* be permitted to address the Commission. In addition, some cases (including those in which consent orders or recommendations for no probable cause are being considered) may be decided by an *en masse* vote and, unless the Respondent requests to be heard or the Commission requests that the case be considered separately on the day of the hearing, the case will *not* be individually heard.

If you are an Appellant, and you have requested a hearing, you may attend the hearing, and you or your attorney will have *5 minutes* to present your case to the Commission.

Please be advised that both confidential and public cases are scheduled to be heard by the Florida Elections Commission on this date. As an Appellant, Respondent or Complainant in one case, you will *not* be permitted to attend the hearings on other confidential cases.

The Commission will electronically record the meeting. Although the Commission's recording is considered the official record of the hearing, the Respondent may provide, at his own expense, a certified court reporter to also record the hearing.

If you require an accommodation due to a disability, contact Donna Ann Malphurs at (850) 922-4539 or by mail at 107 West Gaines Street, The Collins Building, Suite 224, Tallahassee, Florida 32399, at least 5 days before the hearing.

See further instructions on the reverse side.

Tim Vaccaro

Executive Director
Florida Elections Commission
November 9, 2019

Please refer to the information below for further instructions related to your particular hearing:

This **Motion or Petition for Attorney's Fees** will be conducted pursuant to Section 106.265(6), Florida Statutes, and Chapter 28 and Commission Rule 2B-1.0045, Florida Administrative Code. The Commission will determine whether the petition contains sufficient facts to support a claim for costs and attorney's fees and, if so, the Commission will order a hearing involving disputed issues of material fact (formal hearing) before the Commission, a Commissioner or Commissioners designated by the Commission, or the Division of Administrative Hearings.

If the Commission determines that there are not sufficient facts to support a claim, the motion or petition will be denied or dismissed.

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

In Re: Michael Grieco

Case No.: FEC 18-341

TO: Benedict P. Kuehne, Esquire
Kuehne Davis Law P.A.
100 SE 2nd Street, Suite 3550
Miami, FL 33131-2154

Emmett "Bucky" Mitchell IV, Esquire
Coates Law Firm PL
115 East Park Avenue, Suite 1
Tallahassee, FL 32301

NOTICE OF CANCELLATION OF HEARING
(OTHER MOTIONS: REVIEW PETITION FOR ATTORNEY'S FEES AND COSTS)

You are hereby notified that the previously scheduled hearing for March 24-25, 2020 is cancelled. It is anticipated that your case will be heard at the next regularly scheduled meeting, which is currently set for May 2020. A Notice of Hearing will be mailed approximately 14 days prior to the hearing date indicating the exact date, time, and location.

Tim Vaccaro

Executive Director
Florida Elections Commission
March 12, 2020

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

In Re: Michael Grieco

Case No.: FEC 18-341

TO: Benedict P. Kuehne, Esquire
Kuehne Davis Law P.A.
100 SE 2nd Street, Suite 3550
Miami, FL 33131-2154

Emmett "Bucky" Mitchell IV, Esquire
Coates Law Firm PL
115 East Park Avenue, Suite 1
Tallahassee, FL 32301

NOTICE OF HEARING (OTHER MOTIONS: REVIEW PETITION FOR ATTORNEY'S FEES AND COSTS)

A hearing will be held in this case before the Florida Elections Commission on, **March 24, 2020 at 1:00 p.m., or as soon thereafter as the parties can be heard**, at the following location: **House Office Building, 404 South Monroe Street, Room 28-H, Tallahassee, Florida 32399.** Due to heightened security access requirements, please bring only essential items into the building and plan to arrive early to allow for delays coming through security.

Failure to appear in accordance with this notice will constitute a waiver of your right to participate in the hearing. Continuances will be granted only upon a showing of good cause.

This hearing will be conducted pursuant to Section 106.25, Florida Statutes, which governs your participation as follows:

Please be advised that both confidential and public cases are scheduled to be heard by the Florida Elections Commission on this date. As an Appellant, Respondent or Complainant in one case, you will *not* be permitted to attend the hearings on other confidential cases.

The Commission will electronically record the meeting. Although the Commission's recording is considered the official record of the hearing, the Respondent may provide, at his own expense, a certified court reporter to also record the hearing.

If you require an accommodation due to a disability, contact Donna Ann Malphurs at (850) 922-4539 or by mail at 107 West Gaines Street, The Collins Building, Suite 224, Tallahassee, Florida 32399, at least 5 days before the hearing.

Tim Vaccaro
Executive Director
Florida Elections Commission
March 9, 2019

STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION

In Re: Michael Grieco

Case No. FEC 18-341

REC'D: FL ELECTIONS COM
24 FEB '20 PM 3:44

RESPONSE TO RESPONDENT'S REQUEST FOR FEES AND COSTS

Elias Ergas ("Complainant" or "Ergas"), by and through undersigned counsel, hereby responds to the Respondent's Request for Fees and Costs, and says:

1. Respondent's Request fails to allege a *prima facie* case for fees and costs under section 106.265, Florida Statutes.
2. Ergas filed a Complaint with this Commission ("FEC") on October 8, 2018, alleging that Michael Grieco ("Respondent" or "Grieco") may have misspent campaign funds after withdrawing his candidacy for Miami Beach City Commission on September 25, 2017. The Respondent raised in excess of \$300,000 for that city election.
3. At the time of his withdrawal, Grieco was embroiled in a campaign finance scandal involving his connection to a political committee, People for Better Leaders. It is well-documented that Grieco was facing a criminal investigation from the Miami-Dade Commission on Ethics and the State Attorney's Office ("SAO"). These allegations were contained in Ergas's Complaint filed with this Commission.
4. Ten days after withdrawing from the Miami Beach election, Grieco's Campaign made an expenditure of \$50,000 to the Kuehne Davis Law firm (October 5, 2017). There were no expenditures from Grieco's Campaign to Mr. Kuehne or his law firm for legal services prior to his withdrawal. Roughly one month later, Grieco officially resigned from his position as city commissioner as part of a plea deal in the criminal investigation.
5. Grieco received one year of probation during which time he would not run for public office as part of that plea deal. He would later have to petition to have that

one-year period reduced so that he could run for the Florida House of Representatives in 2018.

6. On May 4, 2018, Grieco became a candidate for the Florida House of Representatives, District 113. Grieco's campaign for the Florida House spent in excess of \$250,000 in just six months. The Campaign however, never made an expenditure to Mr. Kuehne or to his law firm for legal services during that time. Grieco was a successful candidate in the 2018 election for Florida House and has filed to run for re-election in 2020.

7. We are left with a single payment of \$50,000 to the Kuehne Davis Law Firm, made immediately after the Respondent withdrew from the Miami Beach City Commission race in 2017, and in the midst of a very public criminal investigation. The attorney representing Grieco in that criminal investigation was Mr. Kuehne. One could reasonably question, as Ergas did, whether this \$50,000 payment was a proper campaign expenditure.

8. Ergas filed his complaint on October 8, 2018. One year later, the Commission found Ergas's complaint to be legally insufficient (October 11, 2019). In his letter of legal insufficiency, the Executive Director explained, "Complainant's allegation that the expenditure at issue was to cover legal fees not associated with Respondent's campaign is based on speculation and not on personal information or information other than hearsay."¹ Given that it took a year for the Executive Director to issue the letter of legal insufficiency, one could reasonably conclude that his determination was not an easy one.

¹ Certainly, the vast majority of FEC Complainants are unaware that an election complaint must be based upon personal information. In this case, the Complainant personally reviewed Grieco's 2017 campaign reports and collected information showing that Grieco had filed a termination report containing a large expenditure to Grieco's lawyer, Mr. Kuehne. Ergas was also aware that Grieco was part of a criminal investigation that led Grieco to resign from public office in October 2017, and that Grieco was represented by Mr. Kuehne. The only two individuals who would have had "personal knowledge" about the true purpose of the 2017 campaign expenditure were Grieco and Kuehne, and that information is privileged.

9. Notwithstanding a determination of legal insufficiency, Ergas's Complaint was not without merit. Ergas alleged that it appeared Grieco had improperly spent campaign funds after his withdrawal as a candidate. He also cited to the statute he believed had been violated, section 106.141, Florida Statutes. Grieco raised in excess of \$300,000 for his 2017 Miami Beach election and did not make a single expenditure to the Kuehne Davis Law firm during this campaign. But ten days after withdrawing from that election, Grieco made a \$50,000 campaign expenditure to the Kuehne Davis Law Firm, and has never made another campaign expenditure to the firm since then.

10. It stands to reason that the Complainant had a good faith belief that this \$50,000 payment to the Kuehne Davis law firm was NOT made for "the purpose of influencing the results of an election," but instead was made as alleged, to defend Grieco for a matter *unrelated to any of his Campaigns* (related to the criminal investigation of Grieco).

11. Through his lawyer, Mr. Kuehne, Grieco states that he has spent "significant time and resources defending against this unsubstantiated assault." (referring to the Complaint in this matter). I am sure this Commission and staff are well aware that very little time and resources are required to defend an election complaint from the time of its filing to a finding of legal insufficiency. In fact, Mr. Kuehne only filed an initial response to the Complaint, a single letter of 3 1/2 pages, the lone product of the alleged "significant time and resources" defending the Complaint.

12. Kuehne is requesting in excess of \$10,000 in attorney fees, apparently for filing that initial response and his request for fees and costs.

13. The law on requesting fees and costs with the Commission is clear. Section 106.265(6), Florida Statutes, provides:

(6) In any case in which the commission determines that a person has filed a complaint against another person with a malicious intent to injure the reputation of the person complained against by filing the complaint:

1. with knowledge that the complaint contains one or more false allegations, or

2. with reckless disregard for whether the complaint contains false allegations of fact material to a violation of this chapter or chapter 104,

the complainant shall be liable for costs and reasonable attorney's fees incurred in the defense of the person complained against, including the costs and reasonable attorney's fees incurred in proving entitlement to and the amount of costs and fees.

14. This Request was filed solely because the Complaint was found legally insufficient. But a petition for fees and costs must allege that a complainant filed a complaint with a 1) malicious intent to injure the reputation of the Respondent, and 2) that the Complainant had knowledge or reckless disregard for the fact that the complaint contained false allegations. Grieco's Request does not contain any evidence that the Complainant filed his Complaint to maliciously injure the reputation of Grieco. And there is no allegation or evidence that the Complainant knew there were any false allegations contained in the Complaint. *In fact, there were no false allegations in the Complaint* - Complainant simply alleged that Grieco made a sizeable campaign expenditure (\$50,000) *after* he withdrew from the city election and that the expenditure appeared to be improper.

15. The Complainant asserts that as a former decades-long resident of Miami Beach he has every right to file a election complaint such as this one. He finds the potential award of fees to be chilling and that no citizen should be apprehensive about making a legitimate request for an investigation of a public official. Ergas had plenty of reasonable belief that his allegations were true and he had nothing to gain from filing the Complaint.

16. For these reasons, Respondent has clearly failed to allege a *prima facie* case under section 106.265, Florida Statutes, that would entitle him to fees and costs in this matter.

WHEREFORE, the Complainant, Elias Ergas, requests that the Commission deny the Respondent's Request for Fees and Costs, and immediately dismiss this matter.

Respectfully submitted this 24th day of February, 2020.



BUCKY MITCHELL

Florida Bar No.: 0976687

Coates Law Firm, PL

115 East Park Avenue, Suite 1

Tallahassee, Florida 32301

bmitchell@rcoateslaw.com

Telephone: (850) 681-1029

Facsimile: (850) 681-7080

Attorney for Complainant, Elias Ergas



MIAMI BEACH

Miami Beach Commissioner Michael Grieco will resign as he faces criminal charge

BY JOEY FLECHAS, DAVID OVALLE, AND NICHOLAS NEHAMAS

OCTOBER 23, 2017 09:42 PM



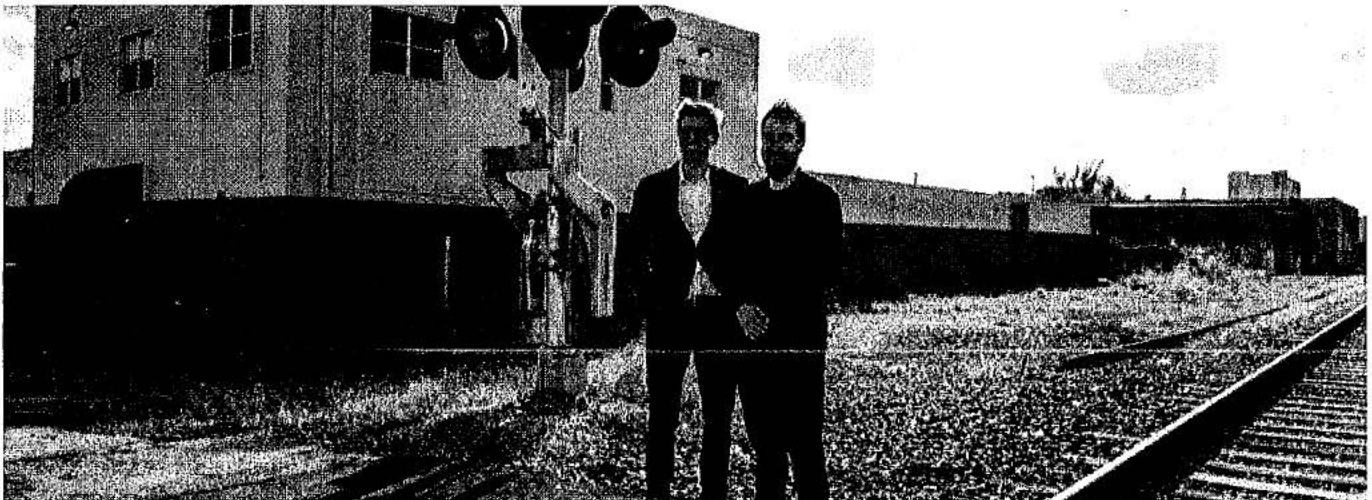
Michael Grieco MATIAS J. OCNER MOCNER@MIAMIHERALD.COM

UPDATE: Miami Beach commissioner resigns, cuts deal backing him from public office for one year

Miami Beach Commissioner Michael Grieco plans to plead to a criminal charge stemming from a campaign finance scandal and resign from office Tuesday, the Miami Herald has learned from multiple sources.

One source with knowledge of the investigation said Grieco, a criminal defense attorney, will plead to one misdemeanor count of accepting a political donation disguised through a straw donor, a violation of state campaign finance law. As part of the plea deal, he will submit his resignation at City Hall on Tuesday morning before going to Miami-Dade criminal court. He will receive one year of probation during which time he will not be able to run for public office. Grieco will also pay the costs associated with the state attorney's public corruption investigation.

TOP ARTICLES



A Miami arts group hires rising stars from Spain to design its new Little Haiti home

Grieco, a former assistant state attorney, was investigated by the same office that once employed him. He resigned from the Miami-Dade state attorney's office in 2006 after an ethical misstep —

he was accused of using his position as the prosecutor on a high-profile case to promote his side job as a weekend nightclub disc jockey.

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Ed Griffith, spokesman for the state attorney's office, said he could not comment on any ongoing investigation.

Grieco's resignation, coming a matter of weeks before his term would have ended, will mark a stunning end to the sole term of the populist Beach commissioner whose political star was rising before scandal extinguished it.

In January, he was considered a strong contender for mayor. Now he will step down in disgrace, capping a criminal inquiry that began with his fervent denials that he had any connection to a secretive political committee that raised \$200,000 from a host of Beach bigwigs including developers, lobbyists and city vendors.

Grieco, 42, did not respond to a request for comment Monday evening.

Earlier this year, the Herald reported that the commissioner had ties to that committee, People for Better Leaders; Grieco denied it. Two forensic experts later concluded Grieco's handwriting was on a form filled out when the PAC was created, prompting the committee's chairman — Brian Abraham, a close friend of Grieco and former strip club manager — to close the PAC and denounce the Herald's reporting. Abraham said he had sought Grieco's legal counsel while forming the PAC.

Meanwhile, the state attorney's office launched an investigation into the matter in late June. Prosecutors unexpectedly found evidence that Grieco might have orchestrated at least one donation to the committee from a foreign national, according to sources. Sources said prosecutors were investigating a possible felony charge.

Prosecutors questioned Petter Hagland, a Norwegian millionaire who may have funneled a donation to the committee through an unlikely straw donor — Tony Rodriguez-Tellaheche, a local luxury real estate broker.

It is unclear if Rodriguez-Telache was involved in the donation that led to the criminal charge. His attorney told the Herald in late September that his client was called in as a witness and was fully cooperating with investigators.

Amid mounting controversy surrounding the investigation, Grieco's campaign withered. He withdrew his bid for mayor in late July and shifted his efforts to a re-election campaign to hold onto his commission seat. Flanked by about 30 supporters in a public park in South Beach, he told reporters he decided to drop out because of "distractions and political attacks" that put a strain on his campaign and his family.

In late September, as he negotiated a plea deal, he ended his re-election bid as well, this time in a more sober setting. He read a prepared statement at the beginning of a commission meeting, citing sacrifices for his family, his law practice and his health as he dropped out six weeks before Election Day. After reading the statement, he rebuffed a reporter's efforts to interview him by having a police officer stationed in front of him at City Hall.



Commissioner Michael Grieco announces his complete withdrawal from the commission race on Monday, Sept. 25, 2017. BY JOEY FLECHAS

ONE TERM

Grieco was elected during a wave of change in City Hall in 2013, ushered into office along with Mayor Philip Levine and Commissioner Joy Malakoff on a candidate slate billed as fresh start for the Beach. Grieco, a first-time politician, distinguished himself with a populist ethic during his term.

Once in office, he built a reputation for being approachable to Beach residents and bullish on a number of constituent concerns — protecting the Beach’s environment, containing crime and reducing traffic. Many residents considered Grieco the easiest commissioner to reach.

“He is the one guy I know on that commission that if you texted him, emailed him or sent him a message on Facebook, he’d get back to you in a couple of hours,” said Tom Richerson, a North Beach resident.

Grieco was immediately considered a serious mayoral candidate after Levine announced in January he would not seek a third term so he could explore a gubernatorial run.

Now, several of his supporters are lamenting the unceremonious end to his four years in office.

“I just hope that this stuff isn’t true,” South Beach resident Ronald Starkman said in an interview with the Herald in September.

On Tuesday, Grieco will join a stable of South Florida politicians who were charged with crimes during their terms in recent years. Former Homestead Mayor Steve Bateman, former Sweetwater Mayor Manny Maroño and former Miami Lakes Mayor Michael Pizzi were all arrested on public corruption charges in 2013. Bateman and Maroño were subsequently convicted and imprisoned. A jury acquitted Pizzi, who won a legal battle to be reinstated before losing a re-election campaign last year.

According to terms of his plea deal, Grieco will be barred from holding public office for only one year. After November’s election, the next city election is in 2019.

Joey Flechas: 305-376-3602, [@joeflech](#)

David Ovalle: 305-376-3379, [@davidovalle305](#)

Nicholas Nehamas: 305-376-3745, [@NickNehamas](#)

COMMENTS ▾



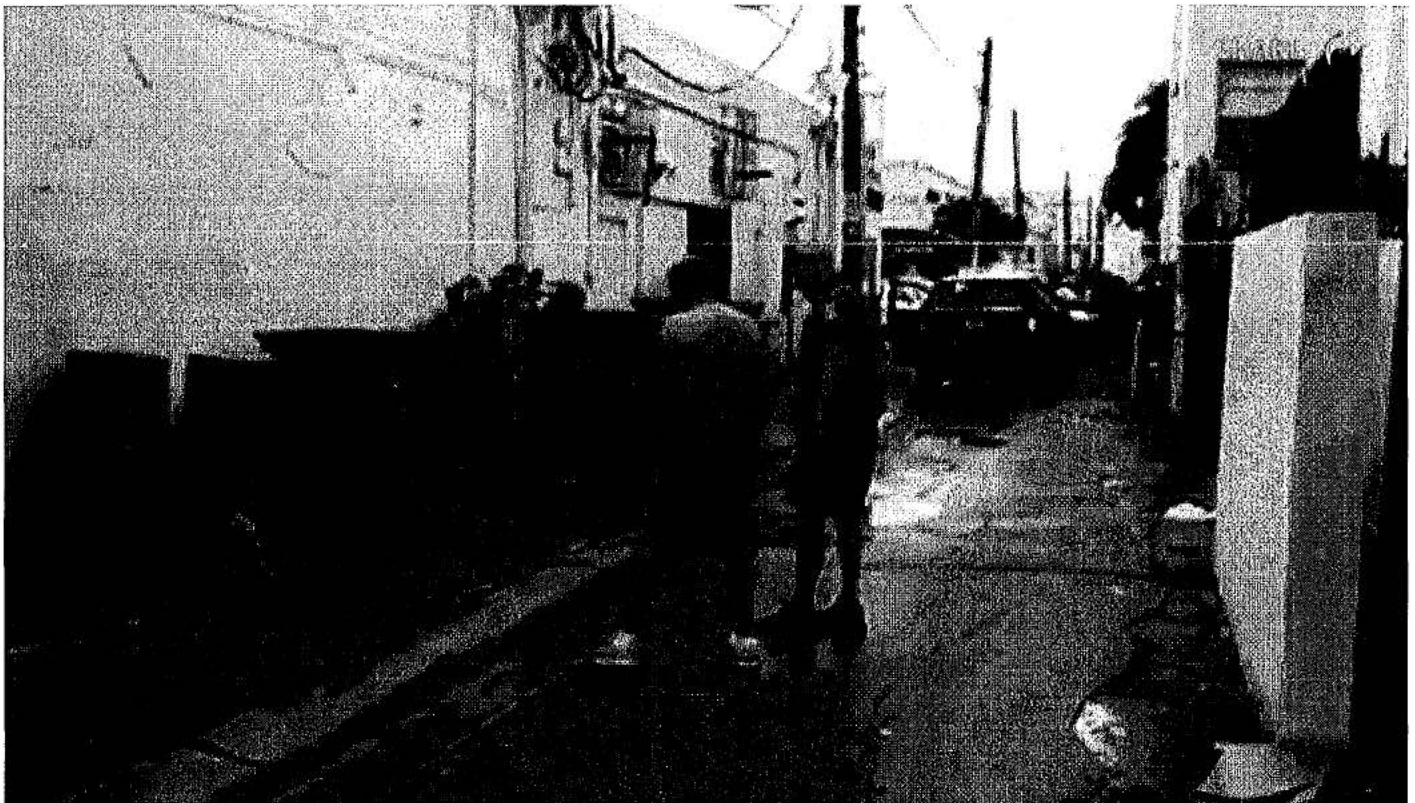


MIAMI BEACH

Beach commissioner resigns, cuts deal barring him from public office for one year

BY JOEY FLECHAS AND NICHOLAS NEHAMAS

OCTOBER 24, 2017 08:54 AM



Miami Beach commissioner Michael Grieco was out on his morning run when he came across a suspected drug deal. BY MIAMI BEACH POLICE

Michael Grieco ended his term as Miami Beach commissioner Tuesday morning when he submitted his resignation at City Hall before pleading no contest to a misdemeanor charge stemming from a campaign finance scandal.

Grieco, a popular commissioner once a competitive candidate for mayor, emailed his resignation at 8:06 a.m. to the city clerk. Two hours later, he appeared in Miami-Dade County criminal court to plead no contest to a first-degree misdemeanor charge of accepting a campaign donation made in the name of another. Grieco will serve one year of probation, during which he will not be able to run for office. He must also pay \$6,000 to cover costs of the investigations by the Miami-Dade State Attorney's office and the Miami-Dade Commission on Ethics and Public Trust.

Grieco will be able to terminate his probation in six months if he takes a government class on campaign finance regulations and meets the other conditions of his probation. Judge Samuel Slom withheld adjudication as part of the deal, meaning that Grieco will not be convicted of a crime. A no contest plea means the defendant accepts the sentence but does not admit guilt.

TOP ARTICLES



A Miami arts group hires rising stars from Spain to design its new Little Haiti home

The first-time commissioner, criminal defense attorney, is no stranger to the court. But this time, he was in the role of the accused. He refused to take questions from the media after Slom approved the deal he had cut with prosecutors. His attorney, Ben Kuehne, spoke on his behalf and deflected blame for his client's actions, saying the donation had been made by two friends.

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“Michael Grieco has always tried to do the right thing,” Kuehne said, “He never intended to have any unauthorized contributions made to a political committee ... when it became apparent that two friends of Mr. Grieco failed to follow the law, Mr. Grieco acted promptly to — even though he had accepted those contributions — set out to right that wrong.”

Sources with knowledge of the investigation said a \$25,000 contribution to a political committee tied to Grieco led to the charge. The donation was made in the name of Realtor Tony Rodriguez-Tellaheche. But investigators believe the funds came from Petter Hagland, a Norwegian millionaire who invested in Miami Beach real estate.

The resignation and plea deal mark the end of Grieco's sole term in elected office following a turbulent year. At one point a strong contender for mayor, his campaign was rocked by a campaign finance scandal following Herald articles outlining his connections to People for Better Leaders, a secretive political committee that raised \$200,000 from well-heeled Beach interests including lobbyists, city vendors and developers.

Amid the scandal, the state attorney's public corruption unit began a criminal inquiry examining Grieco's ties to the PAC.

On Tuesday morning, he sent the following email to city officials announcing his resignation:

“Effective immediately, I tender my resignation as Group 2 Commissioner for the remaining two weeks of my term. Serving our Great City of Miami Beach has been my greatest honor. Thank you for giving me that opportunity. When I began my service as Miami Beach Commissioner in 2013, my paramount goal was to leave Miami Beach in a better condition than when I started. I am confident I have done that, and more. I have always done my best. I hope you will agree, and will

find the time to work with me on my private life, as I continue to find creative ways to make Miami Beach the BEST City in the Sunshine State and beyond.”

The Herald first reported details of Grieco’s plans to resign Monday night.

In his resignation and in an email to residents, Grieco made no mention of his plea deal.

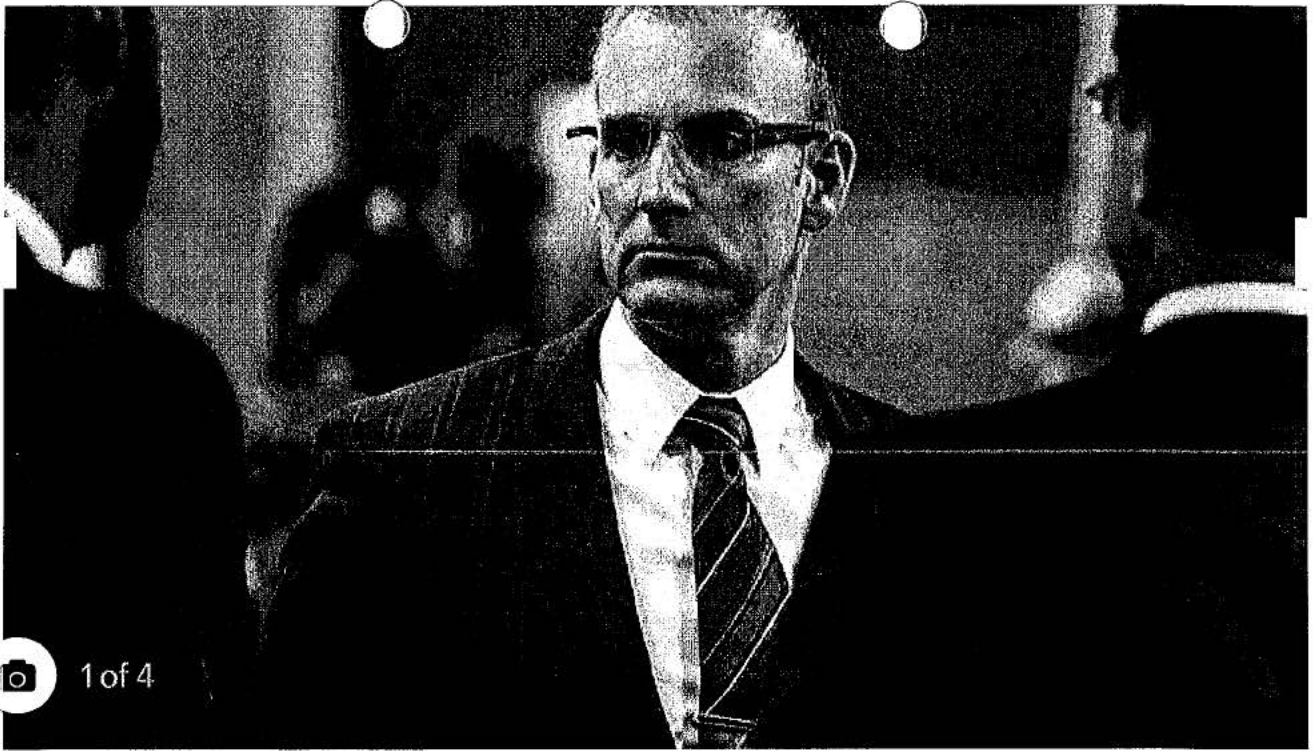
“Moving forward I worry that there will be too few voices in city hall that are honest and strong, and the few good ones who remain are being silenced by special interests, power players and transactional politics,” he wrote. “I worry that most of those making decisions are so far removed from the street and real life that they do not understand the true heart of our city and the real needs of the collective.”

Grieco may also face sanction from the Florida Bar. A complaint regarding his conduct with People for Better Leaders has been filed to the Bar, a spokeswoman said. According to its rules, the Bar may initiate “disciplinary action” when one of its members is charged with a crime.



Commissioner Michael Grieco announces his complete withdrawal from the commission race on Monday, Sept. 25, 2017. BY JOEY FLECHAS



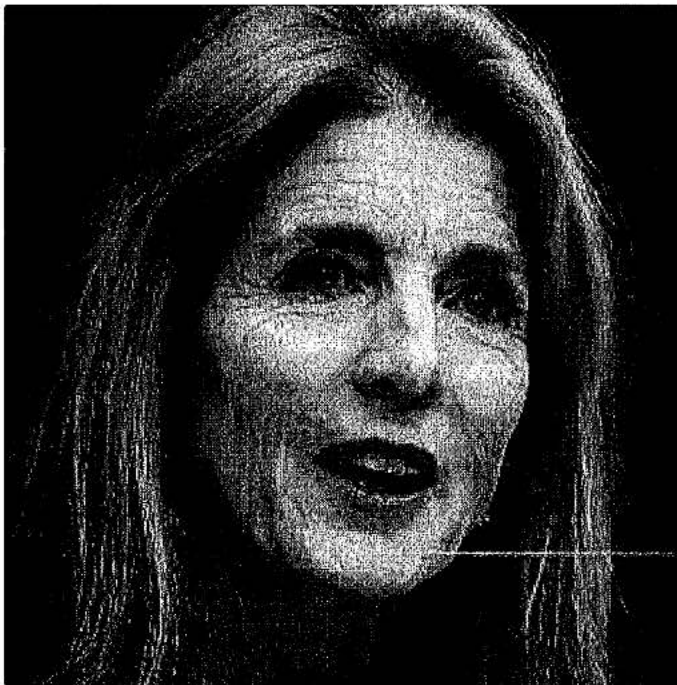


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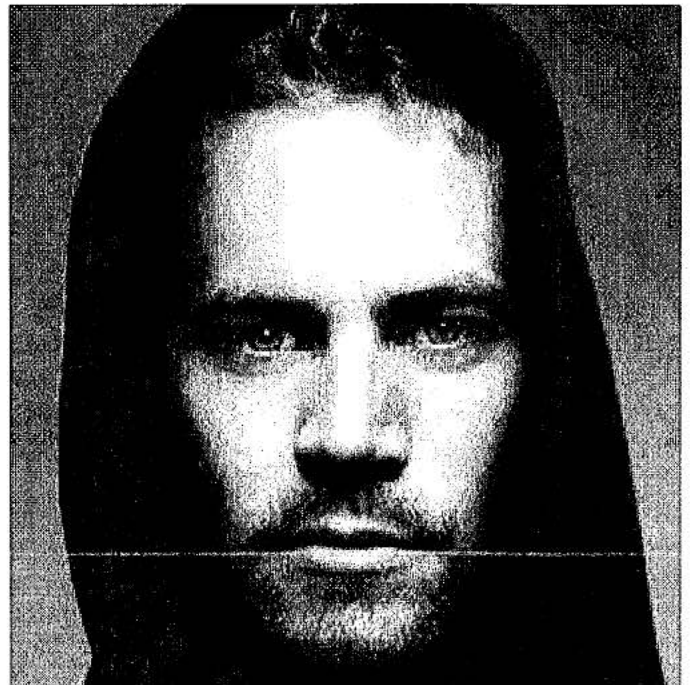
Miami Beach Commissioner Michael Grieco listens to his attorneys after pleading no contest to a misdemeanor charge stemming from a campaign finance scandal, at Miami-Dade County Court on Tuesday, Oct. 24, 2017

C.M. GUERRERO. CMGUERRERO@MIAMIHERALD.COM

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Donna Malphurs

From: bmittchell@rcoateslaw.com
Sent: Friday, February 14, 2020 10:05 AM
To: Donna Malphurs
Subject: [FWD: FEC 18-341]
Attachments: DOC369.pdf

With attached NOA.

Thanks,

Bucky Mitchell

Coates Law Firm, PL
115 East Park Ave., Suite 1
Tallahassee, FL 32301

850.681.1029

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----- Original Message -----

Subject: FEC 18-341
From: <bmittchell@rcoateslaw.com>
Date: Fri, February 14, 2020 10:04 am
To: "Donna Malphurs" <Donna.Malphurs@myfloridalegal.com>

Good Morning Donna -

Attached is a notice of appearance in FEC 18-341, for the purpose of appearing at the FEC's March 24 meeting to consider Michael Grieco's (Ben Kuehne's) Petition for Attorneys' Fees and Costs.

Is there an FEC attorney assigned to this matter?

Please let me know if you need anything further.

Bucky Mitchell

Coates Law Firm, PL
115 East Park Ave., Suite 1
Tallahassee, FL 32301

850.681.1029

CONFIDENTIALITY NOTE: The information contained in this transmission is privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, do not read it. Please immediately reply to the sender that you have received this communication in error and then delete it. Thank you.

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**STATE OF FLORIDA
FLORIDA ELECTIONS COMMISSION**

In Re: Michael Grieco
_____ /

Case No. FEC 18-341

NOTICE OF APPEARANCE

Emmett "Bucky" Mitchell, IV, attorney for Elias Ergas, the Complainant in the above matter, hereby files this Notice of Appearance in this proceeding and all other matters concerning the Respondent's Petition for Fees and Costs. All pleadings, notices, and other documents shall be served on the undersigned as follows:

Coates Law Firm, PL, 115 East Park Avenue, Suite 1, Tallahassee, Florida, 32301.

Dated: February 14, 2020



EMMETT "BUCKY" MITCHELL, IV
Florida Bar Number 0976687
Coates Law Firm, PL
115 East Park Avenue, Suite 1
Tallahassee, Florida 32301
Phone: (850) 681-1029 Fax: (850) 681-7080
bmittchell@rcoateslaw.com
Attorney for Elias Ergas



Florida Elections Commission

107 West Gaines Street, Suite 224 Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539 · Facsimile: (850) 921-0783
FEC@myfloridalegal.com · www.fec.state.fl.us



January 10, 2020

Elias Ergas
1940 NE 207th Street
Miami, FL 33179

RE: Case No.: FEC 18-341; Respondent: Michael Grieco

Dear Mr. Ergas:

On November 21, 2019, the Florida Elections Commission attempted to notify you of a Petition for Attorney's Fees and Costs that was filed against you. However, the notice was returned to us "unclaimed."

For your convenience, enclosed is a copy of our previous correspondence and the Petition for Fees for your review and action. All future correspondence will be mailed to the address on file so please keep us informed if your address changes.

If you have any questions, please contact us at fec@myfloridalegal.com or at the number listed above.

Sincerely,

Donna Ann Malphurs

Donna Ann Malphurs
Agency Clerk

/dam

Enclosure: Letter dated 11/21/19 w/Petition for Attorney's Fees and Costs
cc: Benedict P. Kuehne, Attorney for Respondent, w/out enclosure



FLORIDA ELECTIONS COMMISSION

107 W. Gaines Street
Collins Building, Suite 224
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539
www.fec.state.fl.us; fec@myfloridalegal.com

November 21, 2019

CERTIFIED MAIL # 92148969009997901631149165

Elias Ergas
1940 NE 207th Street
Miami, FL 33179

RE: Case No.: FEC 18-341; Respondent: Michael Grieco

Dear Mr. Ergas:

The Florida Elections Commission received a Petition for Attorney's fees and costs in this case. Pursuant to Rule 2B-1.0045, Florida Administrative Code, a copy of the Petition is enclosed for your review.

At its next regularly scheduled meeting, **currently set for March 24-25, 2020, in Tallahassee, Florida**, the Commission will review the Petition and determine whether it states "a prima facie case for costs and attorney's fees." A notice of hearing indicating the exact date and time will be mailed to the address on file approximately 14 days before the meeting date.

If you have any questions concerning the Petition, please contact the Florida Elections Commission at fec@myfloridalegal.com.

Sincerely,

Donna Ann Malphurs

Agency Clerk

/dam

Enclosure: Petition for Fees and Costs

cc: Benedict P. Kuehne, Attorney for Respondent

KUEHNE DAVIS LAW
PROFESSIONAL ASSOCIATION

BENEDICT P. KUEHNE*
SUSAN DMITROVSKY
MICHAEL T. DAVIS

*Board Certified
Appellate Practice and
Criminal Trial Practice

MIAMI TOWER, SUITE 3550
100 S.E. 2nd Street
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Telephone: 305.789.5989
Facsimile: 305.789.5987
ben.kuehne@kuehnelaw.com
susand@kuehnelaw.com
mdavis@kuehnelaw.com

FORT LAUDERDALE OFFICE

1 W. Las Olas Blvd., Suite 500
Ft. Lauderdale, FL 33301

REPLY TO: Miami

October 17, 2019

Donna Malphurs, Agency Clerk
Florida Elections Commission
107 West Gaines Street, Suite 224
Tallahassee, FL 32399-1050
donna.malphurs@myfloridalegal.com
fec@myfloridalegal.com

Re: *Michael C. Grieco*
FEC Case No. 18-341
Request for Recovery of Fees and Costs

Dear Clerk Malphurs:

Following the determination of legal insufficiency by Executive Director Vaccaro, Michael C. Grieco renews his request for an assessment of fees and costs against the complainant. Because the Complaint was not based on personal knowledge, was legally insufficient, and was not supported by evidence, an award of legal fees and costs in the amount of \$10,000.00 should be assessed against the complainant for filing this maliciously motivated complaint intended to demean, harass, and injure Mr. Grieco personally and professionally.

As more fully explained in Mr. Grieco's letter to the Commission dated November 30, 2018, all of which is incorporated into this submission, the Complaint filed by Elias Ergas was entirely unfounded and frivolous. In addition to its legal insufficiency, the Complaint was not supported by any personal knowledge or non-hearsay evidence. It was filed for the primary purpose of harassing and attempting to embarrass Michael Grieco, exposing him to significant legal fees to defend himself against the unsupported accusations. For these reasons, the FEC should assess legal fees and costs in Mr. Grieco's favor.

The Complaint was plainly motivated by a malicious intent to injure Michael Grieco's reputation, thus justifying an award of attorney's fees and costs in Mr.

Donna Malphurs, Agency Clerk

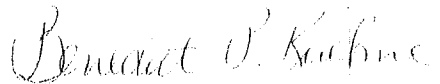
October 17, 2019

Page 2

Grieco's favor pursuant to Rule 2B-1.0045, Florida Administrative Code. The complainant has actively sought, by this Complaint and the publication thereof to the community, to harm Mr. Grieco both in his personal and professional capacities, including his standing as a lawyer and member of The Florida Bar. Mr. Grieco was required to expend significant time and resources defending against this unsubstantiated assault.

The Complaint was found to be legally insufficient. It was not based on personal information or non-hearsay sources. It was a spurious and malicious attack against Mr. Grieco, whose conduct was entirely consistent with Florida's campaign laws. Mr. Grieco and his campaign acted in good faith throughout the election cycle, all in compliance with the law. He incurred significant legal fees and costs in an amount exceeding \$10,000, and should be awarded fees and costs at least in the amount of \$10,000.00.

Respectfully submitted,



BENEDICT P. KUEHNE

Copy:

Michael C. Greico

KUEHNE DAVIS LAW
PROFESSIONAL ASSOCIATION

BENEDICT P. KUEHNE*
SUSAN DMITROVSKY
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Ft. Lauderdale, FL 33301

REPLY TO: Miami

November 30, 2018

Donna Malphurs, Agency Clerk
Florida Elections Commission
107 West Gaines Street, Suite 224
Tallahassee, FL 32399-1050
donna.malphurs@myfloridalegal.com
fec@myfloridalegal.com

Re: *Michael C. Grieco*
FEC Case No. 18-341
Response to Complaint; Request for Dismissal; and
Request for Recovery of Fees and Costs

Dear Clerk Malphurs:

Michael C. Grieco and I have had an opportunity to review the referenced Complaint filed by Elias Ergas. The Complaint is entirely unfounded and frivolous. The Complaint is legally insufficient. It is not supported by any personal knowledge or non-hearsay evidence. It was filed for the primary purpose of harassing and attempting to embarrass Michael Grieco, exposing him to significant legal fees to defend himself against the unsupported accusations. For these reasons, the FEC should dismiss the Complaint as lacking legal sufficiency and probable cause.

Additionally, because the Complaint is motivated by a malicious intent to injure the reputation of Michael Grieco, the Commission should award attorney's fees and costs in Mr. Grieco's favor pursuant to Rule 2B-1.0045, Florida Administrative Code. The complainant has actively sought, by this Complaint and the publication thereof to the community, to harm Mr. Grieco both in his personal and professional capacities, including his standing as a lawyer and member of The Florida Bar. Mr. Grieco is now required to expend time and resources defending against this unsubstantiated assault. Legal fees should be assessed against the complainant.

A. Preliminary Response to Complaint.

1. Michael Grieco Denies the Allegations in the Complaint.

At the outset, Michael Grieco denies each and every allegation in the Complaint. At no time did he use campaign funds improperly or for his personal benefit. He properly reported all campaign expenditures. He violated no laws or rules pertaining to campaign finance.

2. Complaint Is Not Based on Personal Information.

The Complaint asserts that Michael Grieco improperly paid campaign money to his campaign counsel as an impermissible "living expense" in violation of campaign finance law. The Complaint also asserts that Mr. Grieco's expenditure was not an allowable "disposition of campaign funds" after Mr. Grieco's withdrawal from the election.

The complainant's speculation of improper and unauthorized campaign finance activity constitutes neither personal knowledge nor fact evidence of any sort. Nor does the Complaint identify any personally known fact supporting his allegations. In short, the Complaint merely states the complainant's unsubstantiated belief that Mr. Grieco's campaign expenditures were unauthorized.

Because the Complaint is not based on the complainant's personal knowledge, as is required by §106.25(2), Florida Statutes (2018), it is legally insufficient and must be dismissed.

3. All Expenditures Were Proper and Correctly Reported.

The Complaint asserts that legal payments made and reported after the Michael Grieco's withdrawal as a candidate were improper and unauthorized. This allegation is legally inaccurate.

Florida's Campaign Finance Law allows a "candidate who withdraws his or her candidacy ... [to] expend funds from the campaign account to: ... **(b) Pay for items which were obligated before he or she withdrew, became unopposed, or was eliminated or elected.**" §106.11(5), Fla. Stat. (2017) (emphasis added). Legal fees are properly classified as campaign "expenditures" pursuant to §106.011(10)(a).

Florida Statutes (2017), although professional services provided without charge do not constitute contributions. §106.011(5), Fla. Stat. (2017).

The campaign's payment of incurred legal fees after Mr. Grieco's withdrawal of his candidacy was entirely proper. As reflected in Exhibit H to the Complaint (page 24 of 31), the campaign paid "professional fees" to an accountant and two law firms after the withdrawal. Curiously, the Complainant complained about payment to only one law firm, underscoring the Complainant's improper motivation in selecting out only one lawyer, but having no concern with the allowable post-withdrawal payments to the other law firm and the accounting firm. All post-withdrawal professional services payments were allowed.

Political campaigns routinely pay incurred professional fees in the post-election or withdrawal period, precisely as is authorized by §106.11(5), Fla. Stat. (2017). Such payments do not constitute the "disposition of surplus funds" as defined in §106.141(4)(a), Fla. Stat. (2017).

In this instance, the professional fees were correctly classified as campaign expenditures "made for the purpose of influencing the results of an election[,]" consistent with §106.011(10)(a), Florida Statutes (2017). The payment after Mr. Grieco's withdrawal was for obligations incurred before Mr. Grieco's withdrawal. The Complaint points to no facts whatsoever—and there are none—that the legal and other professional fees were not actually incurred by the campaign during the campaign period.

Mr. Grieco's handling of these lawfully incurred and authorized expenditures was fully consistent with Florida's Campaign Finance Law. Accordingly, the Complaint must be dismissed.

B. An Award of Attorney's Fees and Costs Is Warranted.

Because the Complaint is not based on personal knowledge and is not supported by evidence, an award of legal fees and costs in the amount of \$10,000.00 should be assessed against the complainant for filing this maliciously motivated complaint intended to demean, harass, and injure Mr. Grieco personally and professionally.

C. Conclusion.

Donna Malphurs, Agency Clerk

November 30, 2018

Page 4

The Complaint is legally insufficient and not based on personal information or non-hearsay sources. It is, to the contrary, a spurious and malicious attack against Mr. Grieco. Mr. Grieco did not run afoul of Florida's campaign laws. He and his campaign acted in good faith throughout the election cycle, all in compliance with the law. This Complaint should be dismissed, with costs and fees assessed against the complainant.

Respectfully submitted,

RENEE D. P. [unclear]

Copy

Michael C. Grieco



Florida Elections Commission

107 West Gaines Street, Suite 224 Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539 · Facsimile: (850) 921-0783
FEC@myfloridalegal.com · www.fec.state.fl.us



November 21, 2019

Benedict P. Kuehne
Kuehne Davis Law, P.A.
100 SE 2nd Street, Ste. 3550
Miami, FL 33131-2154

RE: Case No.: 18-341; Respondent: Michael Grieco

Dear Mr. Kuehne:

On October 11, 2019, the Florida Elections Commission notified Elias Ergas that the complaint he filed on October 8, 2018 was legally insufficient. Since the Commission did not receive any additional information that corrected the stated grounds of legal insufficiency, this case is now closed.

As a reminder, your petition for fees and costs will be heard at the Commission's March 24-25, 2020 meeting in Tallahassee.

If you have any questions, please contact us at fec@myfloridalegal.com or at the number listed above.

Sincerely,

Donna Ann Malphurs

Donna Ann Malphurs
Agency Clerk

DM/med



RE: FEC Case No. 18-341, Request for Recovery of Fees and Costs 

Florida Elections Commission to: Benedict P. Kuehne

10/18/2019 10:40 AM

Sent by: Donna Malphurs

From: Florida Elections Commission/OAG
To: "Benedict P. Kuehne" <ben.kuehne@kuehnelaw.com>

Mr. Kuehne,

Upon review of the case, it was determined that FEC 18-341 is still an active case until the time for complainant to amend the complaint passes, which is on or about October 26, 2019. Assuming we do not receive an amended complaint for this case, disposition will likely occur sometime after November 7th. A closing letter will be mailed to you confirming the case is closed.

After speaking with Mr. Vaccaro, it is necessary for us to reschedule your petition to be heard at the Commission's March 2020 meeting. A notice of hearing will be mailed to you and Complainant with the exact date and time approximately 14 days before the meeting date. (We are tentatively looking at holding our next meeting on or about March 24-25, 2020 in Tallahassee.)

Please let me know if you have any questions.

Sincerely,

Donna Ann Malphurs
Agency Clerk

"Benedict P. Kuehne" Thank you. Benedict P Kuehne

10/17/2019 07:01:17 PM

From: "Benedict P. Kuehne" <ben.kuehne@kuehnelaw.com>
To: "Florida Elections Commission" <fec@myfloridalegal.com>
Date: 10/17/2019 07:01 PM
Subject: RE: FEC Case No. 18-341, Request for Recovery of Fees and Costs

Thank you.

Benedict P Kuehne
Kuehne Davis Law, PA
100 SE 2 Street, Suite 3550
Miami, FL 33131
Tel: 305.789.5989
Fax: 305.789.5987
Cell: 786.543.8352
Ben.kuehne@kuehnelaw.com
www.kuehnelaw.com

From: Donna Malphurs <Donna.Malphurs@myfloridalegal.com> **On Behalf Of** Florida Elections Commission

Sent: Thursday, October 17, 2019 9:33 AM

To: Benedict P. Kuehne <ben.kuehne@kuehnelaw.com>

Subject: Re: FEC Case No. 18-341, Request for Recovery of Fees and Costs

Dear Mr. Kuehne,

Thank you for submitting your renewed petition for fees. We anticipate hearing your petition for fees and costs at the Commission's November 19-20, 2019 meeting. A notice of hearing confirming the exact date and time will be mailed to you approximately 14 days prior to the hearing date. If you have any questions, please let me know.

Sincerely,

Donna Ann Malphurs
Agency Clerk

▼ "Benedict P. Kuehne" ---10/17/2019 04:36:35 AM---October 17, 2019 Donna Malphurs, Agency Clerk

From: "Benedict P. Kuehne" <ben.kuehne@kuehnelaw.com>
To: "fec@myfloridalegal.com" <fec@myfloridalegal.com>
Date: 10/17/2019 04:36 AM
Subject: FEC Case No. 18-341, Request for Recovery of Fees and Costs

October 17, 2019

Donna Malphurs, Agency Clerk
Florida Elections Commission
107 West Gaines Street, Suite 224
Tallahassee, FL 32399-1050
donna.malphurs@myfloridalegal.com
fec@myfloridalegal.com

Re: *Michael C. Grieco*
FEC Case No. 18-341
Request for Recovery of Fees and Costs

Dear Clerk Malphurs:

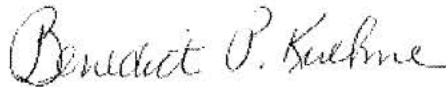
Following the determination of legal insufficiency by Executive Director Vaccaro, Michael C. Grieco renews his request for an assessment of fees and costs against the complainant. Because the Complaint was not based on personal knowledge, was legally insufficient, and was not supported by evidence, an award of legal fees and costs in the amount of \$10,000.00 should be assessed against the complainant for filing this maliciously motivated complaint intended to demean, harass, and injure Mr. Grieco personally and professionally.

As more fully explained in Mr. Grieco's letter to the Commission dated November 30, 2018, all of which is incorporated into this submission, the Complaint filed by Elias Ergas was entirely unfounded and frivolous. In addition to its legal insufficiency, the Complaint was not supported by any personal knowledge or non-hearsay evidence. It was filed for the primary purpose of harassing and attempting to embarrass Michael Grieco, exposing him to significant legal fees to defend himself against the unsupported accusations. For these reasons, the FEC should assess legal fees and costs in Mr. Grieco's favor.

The Complaint was plainly motivated by a malicious intent to injure Michael Grieco's reputation, thus justifying an award of attorney's fees and costs in Mr. Grieco's favor pursuant to Rule 2B-1.0045, Florida Administrative Code. The complainant has actively sought, by this Complaint and the publication thereof to the community, to harm Mr. Grieco both in his personal and professional capacities, including his standing as a lawyer and member of The Florida Bar. Mr. Grieco was required to expend significant time and resources defending against this unsubstantiated assault.

The Complaint was found to be legally insufficient. It was not based on personal information or non-hearsay sources. It was a spurious and malicious attack against Mr. Grieco, whose conduct was entirely consistent with Florida's campaign laws. Mr. Grieco and his campaign acted in good faith throughout the election cycle, all in compliance with the law. He incurred significant legal fees and costs in an amount exceeding \$10,000, and should be awarded fees and costs at least in the amount of \$10,000.00.

Respectfully submitted,



BENEDICT P. KUEHNE

Copy:
Michael C. Greico

Benedict P Kuehne
Kuehne Davis Law, PA
100 SE 2 Street, Suite 3550
Miami, FL 33131

Tel: 305.789.5989

Fax: 305.789.5987

Cell: 786.543.8352

Ben.kuehne@kuehnelaw.com

www.kuehnelaw.com

[attachment "image001.wmz" deleted by Donna Malphurs/OAG] [attachment "BPK Letter to FEC Requesting Fees and Costs.10-15-2019.pdf" deleted by Donna Malphurs/OAG]



Re: FEC Case No. 18-341, Request for Recovery of Fees and Costs 

Florida Elections Commission to: Benedict P. Kuehne

10/17/2019 09:32 AM

Sent by: Donna Malphurs

From: Florida Elections Commission/OAG
To: "Benedict P. Kuehne" <ben.kuehne@kuehnelaw.com>

Dear Mr. Kuehne,

Thank you for submitting your renewed petition for fees. We anticipate hearing your petition for fees and costs at the Commission's November 19-20, 2019 meeting. A notice of hearing confirming the exact date and time will be mailed to you approximately 14 days prior to the hearing date. If you have any questions, please let me know.

Sincerely,

Donna Ann Malphurs
Agency Clerk

"Benedict P. Kuehne" October 17, 2019 Donna Malphurs, Agency...

10/17/2019 04:36:35 AM

From: "Benedict P. Kuehne" <ben.kuehne@kuehnelaw.com>
To: "fec@myfloridalegal.com" <fec@myfloridalegal.com>
Date: 10/17/2019 04:36 AM
Subject: FEC Case No. 18-341, Request for Recovery of Fees and Costs

October 17, 2019

Donna Malphurs, Agency Clerk
Florida Elections Commission
107 West Gaines Street, Suite 224
Tallahassee, FL 32399-1050
donna.malphurs@myfloridalegal.com
fec@myfloridalegal.com

Re: *Michael C. Grieco*
FEC Case No. 18-341
Request for Recovery of Fees and Costs

Dear Clerk Malphurs:

Following the determination of legal insufficiency by Executive Director Vaccaro, Michael C. Grieco renews his request for an assessment of fees and costs against the complainant. Because the Complaint was not based on personal knowledge, was legally insufficient, and was not supported by evidence, an award

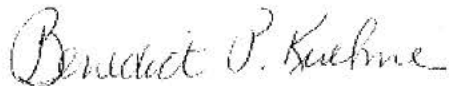
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Respectfully submitted,



BENEDICT P. KUEHNE

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Michael C. Greico

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[attachment "image001.wmz" deleted by Donna Malphurs/OAG] [attachment "BPK Letter to FEC
Requesting Fees and Costs.10-15-2019.pdf" deleted by Donna Malphurs/OAG]

KUEHNE DAVIS LAW
PROFESSIONAL ASSOCIATION

BENEDICT P. KUEHNE*
SUSAN DMITROVSKY
MICHAEL T. DAVIS

*Board Certified
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October 17, 2019

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Request for Recovery of Fees and Costs

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Donna Malphurs, Agency Clerk

October 17, 2019

Page 2

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The Complaint was found to be legally insufficient. It was not based on personal information or non-hearsay sources. It was a spurious and malicious attack against Mr. Grieco, whose conduct was entirely consistent with Florida's campaign laws. Mr. Grieco and his campaign acted in good faith throughout the election cycle, all in compliance with the law. He incurred significant legal fees and costs in an amount exceeding \$10,000, and should be awarded fees and costs at least in the amount of \$10,000.00.

Respectfully submitted,



BENEDICT P. KUEHNE

Copy:

Michael C. Greico

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November 30, 2018

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107 West Gaines Street, Suite 224
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Re: *Michael C. Grieco*
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Response to Complaint; Request for Dismissal; and
Request for Recovery of Fees and Costs

Dear Clerk Malphurs:

Michael C. Grieco and I have had an opportunity to review the referenced Complaint filed by Elias Ergas. The Complaint is entirely unfounded and frivolous. The Complaint is legally insufficient. It is not supported by any personal knowledge or non-hearsay evidence. It was filed for the primary purpose of harassing and attempting to embarrass Michael Grieco, exposing him to significant legal fees to defend himself against the unsupported accusations. For these reasons, the FEC should dismiss the Complaint as lacking legal sufficiency and probable cause.

Additionally, because the Complaint is motivated by a malicious intent to injure the reputation of Michael Grieco, the Commission should award attorney's fees and costs in Mr. Grieco's favor pursuant to Rule 2B-1.0045, Florida Administrative Code. The complainant has actively sought, by this Complaint and the publication thereof to the community, to harm Mr. Grieco both in his personal and professional capacities, including his standing as a lawyer and member of The Florida Bar. Mr. Grieco is now required to expend time and resources defending against this unsubstantiated assault. Legal fees should be assessed against the complainant.

A. Preliminary Response to Complaint.

1. Michael Grieco Denies the Allegations in the Complaint.

At the outset, Michael Grieco denies each and every allegation in the Complaint. At no time did he use campaign funds improperly or for his personal benefit. He properly reported all campaign expenditures. He violated no laws or rules pertaining to campaign finance.

2. Complaint Is Not Based on Personal Information.

The Complaint asserts that Michael Grieco improperly paid campaign money to his campaign counsel as an impermissible "living expense" in violation of campaign finance law. The Complaint also asserts that Mr. Grieco's expenditure was not an allowable "disposition of campaign funds" after Mr. Grieco's withdrawal from the election.

The complainant's speculation of improper and unauthorized campaign finance activity constitutes neither personal knowledge nor fact evidence of any sort. Nor does the Complaint identify any personally known fact supporting his allegations. In short, the Complaint merely states the complainant's unsubstantiated belief that Mr. Grieco's campaign expenditures were unauthorized.

Because the Complaint is not based on the complainant's personal knowledge, as is required by §106.25(2), Florida Statutes (2018), it is legally insufficient and must be dismissed.

3. All Expenditures Were Proper and Correctly Reported.

The Complaint asserts that legal payments made and reported after the Michael Grieco's withdrawal as a candidate were improper and unauthorized. This allegation is legally inaccurate.

Florida's Campaign Finance Law allows a "candidate who withdraws his or her candidacy ... [to] expend funds from the campaign account to: ... **(b) Pay for items which were obligated before he or she withdrew, became unopposed, or was eliminated or elected.**" §106.11(5), Fla. Stat. (2017) (emphasis added). Legal fees are properly classified as campaign "expenditures" pursuant to §106.011(10)(a),

Florida Statutes (2017), although professional services provided without charge do not constitute contributions. §106.011(5), Fla. Stat. (2017).

The campaign's payment of incurred legal fees after Mr. Grieco's withdrawal of his candidacy was entirely proper. As reflected in Exhibit H to the Complaint (page 24 of 31), the campaign paid "professional fees" to an accountant and two law firms after the withdrawal. Curiously, the Complainant complained about payment to only one law firm, underscoring the Complainant's improper motivation in selecting out only one lawyer, but having no concern with the allowable post-withdrawal payments to the other law firm and the accounting firm. All post-withdrawal professional services payments were allowed.

Political campaigns routinely pay accrued professional fees in the post-election or withdrawal period, precisely as is authorized by §106.11(5), Fla. Stat. (2017). Such payments do not constitute the "disposition of surplus funds" as defined in §106.141(4)(a), Fla. Stat. (2017).

In this instance, the professional fees were correctly classified as campaign expenditures "made for the purpose of influencing the results of an election[.]" consistent with §106.011(10)(a), Florida Statutes (2017). The payment after Mr. Grieco's withdrawal was for obligations incurred before Mr. Grieco's withdrawal. The Complaint points to no facts whatsoever—and there are none—that the legal and other professional fees were not actually incurred by the campaign during the campaign period.

Mr. Grieco's handling of these lawfully incurred and authorized expenditures was fully consistent with Florida's Campaign Finance Law. Accordingly, the Complaint must be dismissed.

B. An Award of Attorney's Fees and Costs Is Warranted.

Because the Complaint is not based on personal knowledge and is not supported by evidence, an award of legal fees and costs in the amount of \$10,000.00 should be assessed against the complainant for filing this maliciously motivated complaint intended to demean, harass, and injure Mr. Grieco personally and professionally.

C. Conclusion.

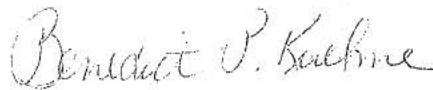
Donna Malphurs, Agency Clerk

November 30, 2018

Page 4

The Complaint is legally insufficient and not based on personal information or non-hearsay sources. It is, to the contrary, a spurious and malicious attack against Mr. Grieco. Mr. Grieco did not run afoul of Florida's campaign laws. He and his campaign acted in good faith throughout the election cycle, all in compliance with the law. This Complaint should be dismissed, with costs and fees assessed against the complainant.

Respectfully submitted,



BENEDICT P. KUEHNE

Copy:

Michael C. Greico



FEC Case No. 18-341, Request for Recovery of Fees and Costs Benedict P. Kuehne to:
fec@myfloridalegal.com 10/17/2019 04:36 AM
From: "Benedict P. Kuehne" <ben.kuehne@kuehnelaw.com>
To: "fec@myfloridalegal.com" <fec@myfloridalegal.com>

1 Attachment



image001.wmz BPK Letter to FEC Requesting Fees and Costs.10-15-2019.pdf

October 17, 2019

Donna Malphurs, Agency Clerk
Florida Elections Commission
107 West Gaines Street, Suite 224
Tallahassee, FL 32399-1050
donna.malphurs@myfloridalegal.com
fec@myfloridalegal.com

Re: *Michael C. Grieco*
FEC Case No. 18-341
Request for Recovery of Fees and Costs

Dear Clerk Malphurs:

Following the determination of legal insufficiency by Executive Director Vaccaro, Michael C. Grieco renews his request for an assessment of fees and costs against the complainant. Because the Complaint was not based on personal knowledge, was legally insufficient, and was not supported by evidence, an award of legal fees and costs in the amount of \$10,000.00 should be assessed against the complainant for filing this maliciously motivated complaint intended to demean, harass, and injure Mr. Grieco personally and professionally.

As more fully explained in Mr. Grieco's letter to the Commission dated November 30, 2018, all of which is incorporated into this submission, the Complaint filed by Elias Ergas was entirely unfounded and frivolous. In addition to its legal insufficiency, the Complaint was not supported by any personal knowledge or non-hearsay evidence. It was filed for the primary purpose of harassing and attempting to embarrass Michael Grieco, exposing him to significant legal fees to defend himself against the unsupported accusations. For these reasons, the FEC should assess legal fees and costs in Mr. Grieco's favor.

The Complaint was plainly motivated by a malicious intent to injure Michael Grieco's reputation, thus justifying an award of attorney's fees and costs in Mr. Grieco's favor pursuant to Rule 2B-1.0045, Florida Administrative Code. The complainant has actively sought, by this Complaint and the publication thereof to the community, to harm

Mr. Grieco both in his personal and professional capacities, including his standing as a lawyer and member of The Florida Bar. Mr. Grieco was required to expend significant time and resources defending against this unsubstantiated assault.

The Complaint was found to be legally insufficient. It was not based on personal information or non-hearsay sources. It was a spurious and malicious attack against Mr. Grieco, whose conduct was entirely consistent with Florida's campaign laws. Mr. Grieco and his campaign acted in good faith throughout the election cycle, all in compliance with the law. He incurred significant legal fees and costs in an amount exceeding \$10,000, and should be awarded fees and costs at least in the amount of \$10,000.00.

Respectfully submitted,

BENEDICT P. KUEHNE

Copy:
Michael C. Greico

Benedict P Kuehne
Kuehne Davis Law, PA
100 SE 2 Street, Suite 3550
Miami, FL 33131
Tel: 305.789.5989
Fax: 305.789.5987
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www.kuehnelaw.com



Florida Elections Commission

107 West Gaines Street, Suite 224 Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539 · Facsimile: (850) 921-0783
FEC@myfloridalegal.com · www.fec.state.fl.us



October 11, 2019

Elias Ergas
1940 NE 207th Street
Miami, FL 33179

RE: Case No.: FEC 18-341; Respondent: Michael Grieco

Dear Mr. Ergas:

The Florida Elections Commission has received your complaint alleging violation of Florida's election laws.

Complainant essentially alleged that Respondent made an improper expenditure after withdrawing from his candidacy. The complaint is based upon actions related to Respondent's 2017 candidacy for Miami Beach Commissioner, Group 2. Respondent withdrew his candidacy on September 25, 2017, and then filed a termination report (TR).

Complainant takes issue with a single expenditure of \$50,000 disclosed on the TR. The expenditure was made to Kuehne Davis Law on October 5, 2017, for "Professional Fees." Complainant indicates that the expenditure took place after Respondent's withdrawal, arguing that the expenditure was an improper means of disposing of remaining campaign funds under Section 106.141(4)(a), F.S.

Complainant also alleged that the payment was used to cover legal fees unrelated to Respondent's campaign, in violation of Section 106.1405, F.S. Complainant claims that the funds were used to defend Respondent in a matter related to "acceptance of laundered foreign funds through a straw donor for his PAC."

In his response, Respondent stated that the payment was a valid campaign expenditure "made for the purpose of influencing the results of an election" consistent with Section 106.011(10)(a), F.S., incurred prior to Respondent's withdrawal of his candidacy. As Respondent indicates, Section 106.11(5), F.S., provides that expenditures may be made to pay for items which were obligated before withdrawal.

Respondent also asserts that Complainant's allegations are unsubstantiated and are not based upon personal information. Based upon a review of the complaint and attached materials, Complainant's allegation that the expenditure at issue was to cover legal fees not associated with Respondent's campaign is based on speculation and not on personal information or information other than hearsay. Complainant provided a newspaper article, some documentation surrounding

Elias Ergas
October 11, 2019
Page 2
FEC 18-341

the alleged charges, and an email from the principal officer of a political committee involved in the matter. However, taken together, that evidence does not support the conclusion that the specific \$50,000 expenditure reported on Respondent's TR after withdrawal was made to cover legal fees associated with something other than his campaign.

For these reasons, I find the complaint to be Legally Insufficient.

If you have additional information to correct the stated ground(s) of insufficiency, please submit it within 14 days of the date of this letter. If no additional information is received correcting the stated grounds of insufficiency, this case will be closed. Enclosed is the form for submitting additional information. Should you submit an additional statement containing facts, your statement must contain your notarized signature. Any additional facts submitted to the Commission must be based on either personal information or information other than hearsay.

If you have any questions concerning the complaint, please contact us at fec@myfloridalegal.com.

Sincerely,



Tim Vaccaro
Executive Director

TV/med

Enclosure: Additional Complaint Information Form 2
cc: Benedict P. Kuehne, Attorney for Respondent w/out Enclosure

FLORIDA ELECTIONS COMMISSION
107 West Gaines Street, Suite 224,
Tallahassee, FL 32399-1050

ADDITIONAL COMPLAINT INFORMATION

Case Number: FEC 18-341

Pursuant to Rule 2B-1.0025, Florida Administrative Code, if you have additional information to correct the ground(s) of legal insufficiency stated in the attached letter, please explain in a concise narrative statement. Attach the statement and any relevant documentation to this form:

STATE OF FLORIDA

COUNTY OF _____

I swear or affirm that the information in the attached statement is true and correct to the best of my knowledge.

Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this _____ day of _____, 20_____.

Signature of Officer Authorized to Administer
Oaths or Notary Public

(Print, Type, or Stamp Commissioned Name of
Notary Public)

Personally Known _____ Or Produced Identification _____

Type of Identification Produced _____

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.

Donna Malphurs

From: Donna Malphurs
Sent: Monday, December 03, 2018 11:30 AM
To: 'Benedict P. Kuehne'
Subject: FW: FEC 18-341 ***Case Number Correction***

This email correct the case number from FEC 18-354 to FEC 18-341.

From: Donna Malphurs
Sent: Monday, December 03, 2018 11:24 AM
To: 'Benedict P. Kuehne' <ben.kuehne@kuehnelaw.com>
Subject: FEC 18-354

Dear Mr. Kuehne,

Thank you for your email response and "Request for Recovery of Fees and Costs." Please refer to FEC Rule 2B-1.0045 Award of Attorney's Fees. Under this rule you may petition the Commission for fees and costs, but you "shall file a petition with the Commission clerk no later than 30 days following disposition of the complaint." (emphasis added)

You will be notified by letter of the executive directors determination of legal sufficiency. If you have any questions, please let me know.

Sincerely,

Donna Ann Malphurs
Agency Clerk

From: Benedict P. Kuehne <ben.kuehne@kuehnelaw.com>
Sent: Friday, November 30, 2018 8:37 AM
To: Florida Elections Commission <fec@myfloridalegal.com>
Cc: Donna Malphurs <Donna.Malphurs@myfloridalegal.com>; Michael Grieco (michael@griecolaw.com) <michael@griecolaw.com>
Subject: FEC Case No. 18-354, Response Letter

November 30, 2018

Donna Malphurs, Agency Clerk
Florida Elections Commission
107 West Gaines Street, Suite 224
Tallahassee, FL 32399-1050
donna.malphurs@myfloridalegal.com
fec@myfloridalegal.com

Re: Michael C. Grieco
FEC Case No. 18-341
Response to Complaint; Request for Dismissal; and
Request for Recovery of Fees and Costs

Dear Clerk Malphurs:

Michael C. Grieco and I have had an opportunity to review the referenced Complaint filed by Elias Ergas. The Complaint is entirely unfounded and frivolous. The Complaint is legally insufficient. It is not supported by any personal knowledge or non-hearsay evidence. It was filed for the primary purpose of harassing and attempting to embarrass Michael Grieco, exposing him to significant legal fees to defend himself against the unsupported accusations. For these reasons, the FEC should dismiss the Complaint as lacking legal sufficiency and probable cause.

Additionally, because the Complaint is motivated by a malicious intent to injure the reputation of Michael Grieco, the Commission should award attorney's fees and costs in Mr. Grieco's favor pursuant to Rule 2B-1.0045, Florida Administrative Code. The complainant has actively sought, by this Complaint and the publication thereof to the community, to harm Mr. Grieco both in his personal and professional capacities, including his standing as a lawyer and member of The Florida Bar. Mr. Grieco is now required to expend time and resources defending against this unsubstantiated assault. Legal fees should be assessed against the complainant.

A. Preliminary Response to Complaint.

1. Michael Grieco Denies the Allegations in the Complaint.

At the outset, Michael Grieco denies each and every allegation in the Complaint. At no time did he use campaign funds improperly or for his personal benefit. He properly reported all campaign expenditures. He violated no laws or rules pertaining to campaign finance.

2. Complaint Is Not Based on Personal Information.

The Complaint asserts that Michael Grieco improperly paid campaign money to his campaign counsel as an impermissible "living expense" in violation of campaign finance law. The Complaint also asserts that Mr. Grieco's expenditure was not an allowable "disposition of campaign funds" after Mr. Grieco's withdrawal from the election.

The complainant's speculation of improper and unauthorized campaign finance activity constitutes neither personal knowledge nor fact evidence of any sort. Nor does the Complaint identify any personally known fact supporting his allegations. In short, the Complaint merely states the complainant's unsubstantiated belief that Mr. Grieco's campaign expenditures were unauthorized.

Because the Complaint is not based on the complainant's personal knowledge, as is required by §106.25(2), Florida Statutes (2018), it is legally insufficient and must be dismissed.

3. All Expenditures Were Proper and Correctly Reported.

The Complaint asserts that legal payments made and reported after the Michael Grieco's withdrawal as a candidate were improper and unauthorized. This allegation is legally inaccurate.

Florida's Campaign Finance Law allows a "candidate who withdraws his or her candidacy ... [to] expend funds from the campaign account to: ... (b) Pay for items which were obligated before he or she withdrew, became unopposed, or was eliminated or elected." §106.11(5), Fla. Stat. (2017) (emphasis added). Legal fees are properly classified as campaign "expenditures" pursuant to §106.011(10)(a), Florida Statutes (2017), although professional services provided without charge do not constitute contributions. §106.011(5), Fla. Stat. (2017).

The campaign's payment of incurred legal fees after Mr. Grieco's withdrawal of his candidacy was entirely proper. As reflected in Exhibit H to the Complaint (page 24 of 31), the campaign paid "professional fees" to an accountant and two law firms after the withdrawal. Curiously, the Complainant complained about payment to only one law firm, underscoring the Complainant's improper motivation in selecting out only one lawyer, but having no concern with the allowable post-withdrawal payments to the other law firm and the accounting firm. All post-withdrawal professional services payments were allowed.

Political campaigns routinely pay accrued professional fees in the post-election or withdrawal period, precisely as is authorized by §106.11(5), Fla. Stat. (2017). Such payments do not constitute the "disposition of surplus funds" as defined in §106.141(4)(a), Fla. Stat. (2017).

In this instance, the professional fees were correctly classified as campaign expenditures "made for the purpose of influencing the results of an election[,]" consistent with §106.011(10)(a), Florida Statutes (2017). The payment after Mr. Grieco's withdrawal was for obligations incurred before Mr. Grieco's withdrawal. The Complaint points to no facts whatsoever—and there are none—that the legal and other professional fees were not actually incurred by the campaign during the campaign period.

Mr. Grieco's handling of these lawfully incurred and authorized expenditures was fully consistent with Florida's Campaign Finance Law. Accordingly, the Complaint must be dismissed.

B. An Award of Attorney's Fees and Costs Is Warranted.

Because the Complaint is not based on personal knowledge and is not supported by evidence, an award of legal fees and costs in the amount of \$10,000.00 should be assessed against the complainant for filing this maliciously motivated complaint intended to demean, harass, and injure Mr. Grieco personally and professionally.

C. Conclusion.

The Complaint is legally insufficient and not based on personal information or non-hearsay sources. It is, to the contrary, a spurious and malicious attack against Mr. Grieco. Mr. Grieco did not run afoul of Florida's campaign laws. He and his campaign acted in good faith throughout the election cycle, all in compliance with the law. This Complaint should be dismissed, with costs and fees assessed against the complainant.

Respectfully submitted,

BENEDICT P. KUEHNE

Copy:

Michael C. Greico

Benedict P. Kuehne
Kuehne Davis Law, P.A.
100 S.E. 2d Street, Suite 3550
Miami, FL 33131-2154
305.789.5989 Tel
305.789.5987 Fax
786.543.8352 Cell
ben.kuehne@kuehnelaw.com
bkuehne@bellsouth.net
www.kuehnelaw.com

Donna Malphurs

From: Donna Malphurs
Sent: Monday, December 03, 2018 11:24 AM
To: 'Benedict P. Kuehne'
Subject: FEC 18-354

Dear Mr. Kuehne,

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You will be notified by letter of the executive directors determination of legal sufficiency. If you have any questions, please let me know.

Sincerely,

Donna Ann Malphurs
Agency Clerk

From: Benedict P. Kuehne <ben.kuehne@kuehnelaw.com>
Sent: Friday, November 30, 2018 8:37 AM
To: Florida Elections Commission <fec@myfloridalegal.com>
Cc: Donna Malphurs <Donna.Malphurs@myfloridalegal.com>; Michael Grieco (michael@griecolaw.com) <michael@griecolaw.com>
Subject: FEC Case No. 18-354, Response Letter

November 30, 2018

Donna Malphurs, Agency Clerk
Florida Elections Commission
107 West Gaines Street, Suite 224
Tallahassee, FL 32399-1050
donna.malphurs@myfloridalegal.com
fec@myfloridalegal.com

Re: Michael C. Grieco
FEC Case No. 18-341
Response to Complaint; Request for Dismissal; and
Request for Recovery of Fees and Costs

Dear Clerk Malphurs:

Michael C. Grieco and I have had an opportunity to review the referenced Complaint filed by Elias Ergas. The Complaint is entirely unfounded and frivolous. The Complaint is legally insufficient. It is not supported by any personal knowledge or non-hearsay evidence. It was filed for the primary purpose of harassing and attempting to embarrass Michael Grieco, exposing him to significant legal fees to defend himself against the unsupported accusations. For these reasons, the FEC should dismiss the Complaint as lacking legal sufficiency and probable cause.

Additionally, because the Complaint is motivated by a malicious intent to injure the reputation of Michael Grieco, the Commission should award attorney's fees and costs in Mr. Grieco's favor pursuant to Rule 2B-1.0045, Florida Administrative Code. The complainant has actively sought, by this Complaint and the publication thereof to the community, to harm Mr. Grieco both in his personal and professional capacities, including his standing as a lawyer and member of The Florida Bar. Mr. Grieco is now required to expend time and resources defending against this unsubstantiated assault. Legal fees should be assessed against the complainant.

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The complainant's speculation of improper and unauthorized campaign finance activity constitutes neither personal knowledge nor fact evidence of any sort. Nor does the Complaint identify any personally known fact supporting his allegations. In short, the Complaint merely states the complainant's unsubstantiated belief that Mr. Grieco's campaign expenditures were unauthorized.

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The Complaint asserts that legal payments made and reported after the Michael Grieco's withdrawal as a candidate were improper and unauthorized. This allegation is legally inaccurate.

Florida's Campaign Finance Law allows a "candidate who withdraws his or her candidacy ... [to] expend funds from the campaign account to: ... (b) Pay for items which were obligated before he or she withdrew, became unopposed, or was eliminated or elected." §106.11(5), Fla. Stat. (2017) (emphasis added). Legal fees are properly classified as campaign "expenditures" pursuant to §106.011(10)(a), Florida Statutes (2017), although professional services provided without charge do not constitute contributions. §106.011(5), Fla. Stat. (2017).

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Mr. Grieco's handling of these lawfully incurred and authorized expenditures was fully consistent with Florida's Campaign Finance Law. Accordingly, the Complaint must be dismissed.

B. An Award of Attorney's Fees and Costs Is Warranted.

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BENEDICT P. KUEHNE

Copy:
Michael C. Greico

Benedict P. Kuehne
Kuehne Davis Law, P.A.
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www.kuehnelaw.com

Donna Malphurs

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Sent: Friday, November 30, 2018 8:37 AM
To: Florida Elections Commission
Cc: Donna Malphurs; Michael Grieco (michael@griecolaw.com)
Subject: FEC Case No. 18-354, Response Letter
Attachments: BPK Letter Response to FEC Complaint.11-29-2018.pdf

November 30, 2018

Donna Malphurs, Agency Clerk
Florida Elections Commission
107 West Gaines Street, Suite 224
Tallahassee, FL 32399-1050
donna.malphurs@myfloridalegal.com
fec@myfloridalegal.com

Re: Michael C. Grieco
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Request for Recovery of Fees and Costs

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BENEDICT P. KUEHNE

Copy:

Michael C. Greico

Benedict P. Kuehne
Kuehne Davis Law, P.A.
100 S.E. 2d Street, Suite 3550
Miami, FL 33131-2154
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KUEHNE DAVIS LAW
PROFESSIONAL ASSOCIATION

BENEDICT P. KUEHNE*
SUSAN DMITROVSKY
MICHAEL T. DAVIS

*Board Certified
Appellate Practice and
Criminal Trial Practice

MIAMI TOWER, SUITE 3550
100 S.E. 2nd Street
MIAMI, FLORIDA 33131-2154
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Facsimile: 305.789.5987
ben.kuehne@kuehnelaw.com
susand@kuehnelaw.com
mdavis@kuehnelaw.com

FORT LAUDERDALE OFFICE

1 W. Las Olas Blvd., Suite 500
Ft. Lauderdale, FL 33301

REPLY TO: Miami

November 30, 2018

Donna Malphurs, Agency Clerk
Florida Elections Commission
107 West Gaines Street, Suite 224
Tallahassee, FL 32399-1050
donna.malphurs@myfloridalegal.com
fec@myfloridalegal.com

Re: *Michael C. Grieco*
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Response to Complaint; Request for Dismissal; and
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A. Preliminary Response to Complaint.

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At the outset, Michael Grieco denies each and every allegation in the Complaint. At no time did he use campaign funds improperly or for his personal benefit. He properly reported all campaign expenditures. He violated no laws or rules pertaining to campaign finance.

2. Complaint Is Not Based on Personal Information.

The Complaint asserts that Michael Grieco improperly paid campaign money to his campaign counsel as an impermissible "living expense" in violation of campaign finance law. The Complaint also asserts that Mr. Grieco's expenditure was not an allowable "disposition of campaign funds" after Mr. Grieco's withdrawal from the election.

The complainant's speculation of improper and unauthorized campaign finance activity constitutes neither personal knowledge nor fact evidence of any sort. Nor does the Complaint identify any personally known fact supporting his allegations. In short, the Complaint merely states the complainant's unsubstantiated belief that Mr. Grieco's campaign expenditures were unauthorized.

Because the Complaint is not based on the complainant's personal knowledge, as is required by §106.25(2), Florida Statutes (2018), it is legally insufficient and must be dismissed.

3. All Expenditures Were Proper and Correctly Reported.

The Complaint asserts that legal payments made and reported after the Michael Grieco's withdrawal as a candidate were improper and unauthorized. This allegation is legally inaccurate.

Florida's Campaign Finance Law allows a "candidate who withdraws his or her candidacy ... [to] expend funds from the campaign account to: ... **(b) Pay for items which were obligated before he or she withdrew, became unopposed, or was eliminated or elected.**" §106.11(5), Fla. Stat. (2017) (emphasis added). Legal fees are properly classified as campaign "expenditures" pursuant to §106.011(10)(a),

Florida Statutes (2017), although professional services provided without charge do not constitute contributions. §106.011(5), Fla. Stat. (2017).

The campaign's payment of incurred legal fees after Mr. Grieco's withdrawal of his candidacy was entirely proper. As reflected in Exhibit H to the Complaint (page 24 of 31), the campaign paid "professional fees" to an accountant and two law firms after the withdrawal. Curiously, the Complainant complained about payment to only one law firm, underscoring the Complainant's improper motivation in selecting out only one lawyer, but having no concern with the allowable post-withdrawal payments to the other law firm and the accounting firm. All post-withdrawal professional services payments were allowed.

Political campaigns routinely pay accrued professional fees in the post-election or withdrawal period, precisely as is authorized by §106.11(5), Fla. Stat. (2017). Such payments do not constitute the "disposition of surplus funds" as defined in §106.141(4)(a), Fla. Stat. (2017).

In this instance, the professional fees were correctly classified as campaign expenditures "made for the purpose of influencing the results of an election[.]" consistent with §106.011(10)(a), Florida Statutes (2017). The payment after Mr. Grieco's withdrawal was for obligations incurred before Mr. Grieco's withdrawal. The Complaint points to no facts whatsoever—and there are none—that the legal and other professional fees were not actually incurred by the campaign during the campaign period.

Mr. Grieco's handling of these lawfully incurred and authorized expenditures was fully consistent with Florida's Campaign Finance Law. Accordingly, the Complaint must be dismissed.

B. An Award of Attorney's Fees and Costs Is Warranted.

Because the Complaint is not based on personal knowledge and is not supported by evidence, an award of legal fees and costs in the amount of \$10,000.00 should be assessed against the complainant for filing this maliciously motivated complaint intended to demean, harass, and injure Mr. Grieco personally and professionally.

C. Conclusion.

Donna Malphurs, Agency Clerk
November 30, 2018
Page 4

The Complaint is legally insufficient and not based on personal information or non-hearsay sources. It is, to the contrary, a spurious and malicious attack against Mr. Grieco. Mr. Grieco did not run afoul of Florida's campaign laws. He and his campaign acted in good faith throughout the election cycle, all in compliance with the law. This Complaint should be dismissed, with costs and fees assessed against the complainant.

Respectfully submitted,



BENEDICT P. KUEHNE

Copy:
Michael C. Greico



341

FEC Case No. 18-354, Response Letter

Benedict P. Kuehne

to:

Florida Elections Commission

11/30/2018 11:09 AM

Cc:

"donna.malphurs@myfloridalegal.com", "Michael Grieco (michael@griecolaw.com)"

Hide Details

From: "Benedict P. Kuehne" <ben.kuehne@kuehnelaw.com>

To: "Florida Elections Commission" <fec@myfloridalegal.com>

Cc: "donna.malphurs@myfloridalegal.com" <donna.malphurs@myfloridalegal.com>,

"Michael Grieco (michael@griecolaw.com)" <michael@griecolaw.com>

1 Attachment



BPK Letter Response to FEC Complaint.11-29-2018.pdf

November 30, 2018

Donna Malphurs, Agency Clerk
 Florida Elections Commission
 107 West Gaines Street, Suite 224
 Tallahassee, FL 32399-1050
 donna.malphurs@myfloridalegal.com
 fec@myfloridalegal.com

Re: Michael C. Grieco
 FEC Case No. 18-341
 Response to Complaint; Request for Dismissal; and
 Request for Recovery of Fees and Costs

Dear Clerk Malphurs:

Michael C. Grieco and I have had an opportunity to review the referenced Complaint filed by Elias Ergas. The Complaint is entirely unfounded and frivolous. The Complaint is legally insufficient. It is not supported by any personal knowledge or non-hearsay evidence. It was filed for the primary purpose of harassing and attempting to embarrass Michael Grieco, exposing him to significant legal fees to defend himself against the unsupported accusations. For these reasons, the FEC should dismiss the Complaint as lacking legal sufficiency and probable cause.

Additionally, because the Complaint is motivated by a malicious intent to injure the reputation of Michael Grieco, the Commission should award attorney's fees and costs in Mr. Grieco's favor pursuant to Rule 2B-1.0045, Florida Administrative Code. The complainant has actively sought, by this Complaint and the publication thereof to the community, to harm Mr. Grieco both in his personal and professional capacities, including his standing as a lawyer and member of The Florida Bar. Mr. Grieco is now required to expend time and resources defending against this unsubstantiated assault. Legal fees should be assessed against the complainant.

A. Preliminary Response to Complaint.

1. Michael Grieco Denies the Allegations in the Complaint.

At the outset, Michael Grieco denies each and every allegation in the Complaint. At no time did he use campaign funds improperly or for his personal benefit. He properly reported all campaign expenditures. He violated no laws or rules pertaining to campaign finance.

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The Complaint asserts that Michael Grieco improperly paid campaign money to his campaign counsel as an impermissible "living expense" in violation of campaign finance law. The Complaint also asserts that Mr. Grieco's expenditure was not an allowable "disposition of campaign funds" after Mr. Grieco's withdrawal from the election.

The complainant's speculation of improper and unauthorized campaign finance activity constitutes neither personal knowledge nor fact evidence of any sort. Nor does the Complaint identify any personally known fact supporting his allegations. In short, the Complaint merely states the complainant's unsubstantiated belief that Mr. Grieco's campaign expenditures were unauthorized.

Because the Complaint is not based on the complainant's personal knowledge, as is required by §106.25(2), Florida Statutes (2018), it is legally insufficient and must be dismissed.

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The campaign's payment of incurred legal fees after Mr. Grieco's withdrawal of his candidacy was entirely proper. As reflected in Exhibit H to the Complaint (page 24 of 31), the campaign paid "professional fees" to an accountant and two law firms after the withdrawal. Curiously, the Complainant complained about payment to only one law firm, underscoring the Complainant's improper motivation in selecting out only one lawyer, but having no concern with the allowable post-withdrawal payments to the other law firm and the accounting firm. All post-withdrawal professional services payments were allowed.

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Respectfully submitted,

BENEDICT P. KUEHNE

Copy:

Michael C. Greico

Benedict P. Kuehne
Kuehne Davis Law, P.A.
100 S.E. 2d Street, Suite 3550
Miami, FL 33131-2154
305.789.5989 Tel
305.789.5987 Fax
786.543.8352 Cell
ben.kuehne@kuehnelaw.com
bkuehne@bellsouth.net
www.kuehnelaw.com

KUEHNE DAVIS LAW
PROFESSIONAL ASSOCIATION

BENEDICT P. KUEHNE*
SUSAN DMITROVSKY
MICHAEL T. DAVIS

*Board Certified
Appellate Practice and
Criminal Trial Practice

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ben.kuehne@kuehnelaw.com
susand@kuehnelaw.com
mdavis@kuehnelaw.com

FORT LAUDERDALE OFFICE

1 W. Las Olas Blvd., Suite 500
Ft. Lauderdale, FL 33301

REPLY TO: Miami

November 30, 2018

Donna Malphurs, Agency Clerk
Florida Elections Commission
107 West Gaines Street, Suite 224
Tallahassee, FL 32399-1050
donna.malphurs@myfloridalegal.com
fec@myfloridalegal.com

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Donna Malphurs, Agency Clerk
November 30, 2018
Page 4

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Respectfully submitted,



BENEDICT P. KUEHNE

Copy:
Michael C. Greico



Re: FEC 18-341 Request for additional extension to respond
Florida Elections Commission to: Benedict P. Kuehne
Sent by: Donna Malphurs

11/20/2018 04:02 PM

Dear Mr. Kuehne,

This complaint is under review for legal sufficiency determination. You may submit your response and it will be included in the materials. It is unlikely that the determination of this complaint will be made prior to the 26th of November.

Sincerely,

Donna Ann Malphurs
Agency Clerk

"Benedict P. Kuehne" Mr. Lipman, I am requesting an additional ext... 11/16/2018 10:12:56 AM

From: "Benedict P. Kuehne" <ben.kuehne@kuehnelaw.com>
To: "fec@myfloridalegal.com" <fec@myfloridalegal.com>
Date: 11/16/2018 10:12 AM
Subject: FEC 18-341 Request for additional extension to respond

Mr. Lipman, I am requesting an additional extension to respond until November 26, 2018. I am occupied as General Counsel to Commissioner-Elect Nikki Fried in the election recount and related litigation. I need additional time to complete this time-sensitive responsibility before completing the response in the referenced action.

Thank you for your consideration.

Benedict P. Kuehne
Kuehne Davis Law, P.A.
100 S.E. 2d Street, Suite 3550
Miami, FL 33131-2154
305.789.5989 x7 Tel
305.789.5987 Fax
ben.kuehne@kuehnelaw.com
bkuehne@bellsouth.net
www.kuehnelaw.com

From: Benedict P. Kuehne
Sent: Sunday, November 04, 2018 8:05 PM
To: fec@myfloridalegal.com
Subject: FEC 18-341 Letter of Representation

KUEHNE DAVIS LAW
PROFESSIONAL ASSOCIATION

MIAMI TOWER, SUITE 3550
100 S.E. 2nd Street
MIAMI, FLORIDA 33131-2154

Telephone: 305.789.5989
Facsimile: 305.789.5987
ben.kuehne@kuehnelaw.com
susand@kuehnelaw.com
mdavis@kuehnelaw.com

November 4, 2018

Eric Lipman, General Counsel
Florida Elections Commission
107 West Gaines Street, Suite 224
Tallahassee, FL 32399-1050
fec@myfloridalegal.com

Re: *Michael C. Grieco*
FEC Case No. 18-341
Letter of Representation
Request for Case File

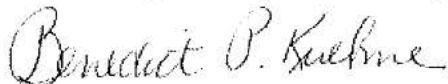
Dear Mr. Lipman:

My law firm is providing representation to the subject of the referenced complaint, Michael C. Grieco. Please direct all communications concerning any matter involving my client to my attention.

Please provide the entirety of the referenced case file. An electronic copy is requested if available.

I will be filing a response to the complaint, and seek a 14-day extension of time for filing the response until November 13, 2018.

Respectfully submitted,



BENEDICT P. KUEHNE

Benedict P. Kuehne

Kuehne Davis Law, P.A.
100 S.E. 2d Street, Suite 3550
Miami, FL 33131-2154
305.789.5989 x7 Tel
305.789.5987 Fax

ben.kuehne@kuehnelaw.com

bkuehne@bellsouth.net

www.kuehnelaw.com

[attachment "image003.wmz" deleted by Donna Malphurs/OAG]



FEC 18-341 Request for additional extension to respond

Benedict P. Kuehne

to:

fec@myfloridalegal.com

11/16/2018 10:12 AM

Hide Details

From: "Benedict P. Kuehne" <ben.kuehne@kuehnelaw.com>

To: "fec@myfloridalegal.com" <fec@myfloridalegal.com>

0 Attachment



image003.wmz

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305.789.5987 Fax
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bkuehne@bellsouth.net
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From: Benedict P. Kuehne
Sent: Sunday, November 04, 2018 8:05 PM
To: fec@myfloridalegal.com
Subject: FEC 18-341 Letter of Representation

KUEHNE DAVIS LAW

PROFESSIONAL ASSOCIATION

MIAMI TOWER, SUITE 3550
100 S.E. 2nd Street
MIAMI, FLORIDA 33131-2154
Telephone: 305.789.5989
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susand@kuehnelaw.com
mdavis@kuehnelaw.com

November 4, 2018

Eric Lipman, General Counsel

Florida Elections Commission
107 West Gaines Street, Suite 224
Tallahassee, FL 32399-1050
fec@myfloridalegal.com

Re: *Michael C. Grieco*
FEC Case No. 18-341
Letter of Representation
Request for Case File

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bkuehne@bellsouth.net
www.kuehnelaw.com





FEC 18-341 Letter of Representation

Benedict P. Kuehne

to:

fec@myfloridalegal.com

11/04/2018 08:04 PM

Hide Details

From: "Benedict P. Kuehne" <ben.kuehne@kuehnelaw.com>

To: "fec@myfloridalegal.com" <fec@myfloridalegal.com>

1 Attachment



image001.wmz BPK Letter of Representation FEC.11-4-2018.pdf

KUEHNE DAVIS LAW

PROFESSIONAL ASSOCIATION

MIAMI TOWER, SUITE 3550
 100 S.E. 2nd Street
 MIAMI, FLORIDA 33131-2154
 Telephone: 305.789.5989
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November 4, 2018

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SUSAN DMITROVSKY
MICHAEL T. DAVIS

*Board Certified
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susand@kuehnelaw.com
mdavis@kuehnelaw.com

FORT LAUDERDALE OFFICE

1 W. Las Olas Blvd., Suite 500
Ft. Lauderdale, FL 33301

REPLY TO: Miami

November 4, 2018

Eric Lipman, General Counsel
Florida Elections Commission
107 West Gaines Street, Suite 224
Tallahassee, FL 32399-1050
fec@myfloridalegal.com

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Letter of Representation
Request for Case File

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Respectfully submitted,



BENEDICT P. KUEHNE

Copy:
Michael C. Greico



Date Produced: 11/05/2018

Florida Elections Commission:

The following is the delivery information for Certified Mail™/RRE item number 9214 8969 0099 9790 1624 2408 48. Our records indicate that this item was delivered on 10/30/2018 at 02:46 p.m. in MIAMI, FL 33130. The scanned image of the recipient information is provided below.

Signature of Recipient :

Address of Recipient :

171 1/2 S
2410

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Customer Reference Number: 18-341 14 Day Ltr-Michael C.

Response due 11/18/18



FLORIDA ELECTIONS COMMISSION

**107 W. Gaines Street,
Suite 224 Collins Building
Tallahassee, Florida 32399-1050
Telephone: (850) 922-4539
Fax: (850) 921-0783
www.fec.state.fl.us; fec@myfloridalegal.com**

October 16, 2018

CERTIFIED MAIL 9214 8969 0099 9790 1624 2408 48

Michael C. Grieco
175 SW 7th Street, #2410
Miami, FL 33130

RE: Case No.: FEC 18-341; Respondent: Michael C. Grieco

Dear Mr. Grieco:

On October 8, 2018, the Florida Elections Commission received the enclosed complaint alleging that you violated Florida's election laws. Section 106.25(2), Florida Statutes, states:

The respondent shall have 14 days *after receipt* of the complaint to file an initial response, and the executive director may not determine the legal sufficiency of the complaint during that time period.

If you choose to file a response to the complaint, please send it to my attention at the address listed above. To ensure that we receive your response in a timely manner, you may also want to send it via e-mail to my attention at fec@myfloridalegal.com. You will be notified by letter whether the complaint is determined to be legally sufficient.

Please note that all documents related to this matter will be mailed to the above address unless you notify us of a new address.

Pursuant to section 106.25, Florida Statutes, complaints, Commission investigations, investigative reports, and other documents relating to an alleged violation of Chapter 104 or 106, Florida Statutes, are confidential until the Commission finds probable cause or no probable cause. The confidentiality provision does not apply to the person filing the complaint. However, it does apply to you, the Respondent, unless you waive confidentiality in writing.

Michael C. Grieco
October 16, 2018
Page 2
FEC 18-341

The confidentiality provision does not preclude you from seeking legal counsel. However, if you retain counsel, your attorney must file a notice of appearance with the Commission before any member of the Commission staff can discuss this case with him or her.

In an abundance of caution, we have redacted your address. Pursuant to Chapter 119, Florida Statutes, persons eligible for exemptions are required to identify the reason for their eligibility (i.e. firefighters, law enforcement, etc.). Failure to notify us of reasons for eligibility, will result in possible future disclosure.

For additional information, please refer to the "Frequently Asked Questions" section of the Commission's website (www.fec.state.fl.us) or contact us via email at fec@myfloridalegal.com.

Sincerely,
Erin Riley
Deputy Agency Clerk

/enr
Enclosure: Complaint w/attachments

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®

10/16/2010 2:00:55PM

Certified Mail Fee 4 8767 0099 9790 0624 2408 48

Extra Services & Fees (check box, add fees as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$ _____
<input type="checkbox"/> Return Receipt (electronic)	\$ 3.45
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ _____
<input type="checkbox"/> Adult Signature Required	\$ 1.50
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ _____

Postage \$ 0.00

Total Postage and Fees \$ 5.420

Electronic Return Receipt Requested

Postmark
Here

Code: 18-341; 14 Day Ltr

Sent To Michael C. Grieco
 175 SW 7th Street, #2410
 Street, Apt. No., Miami, FL 33130
 or PO Box No.
 City, State, Zip+4

COMPLAINT

The Commission's records and proceedings in a case are confidential until the Commission rules on probable cause. A copy of the complaint will be provided to the person against whom it is brought.

1. PERSON BRINGING COMPLAINT:

Name: Elias Ergas Work Phone: () _____
Address: 1949 NE 207th Street Home Phone: (305) 903-7550
City: Miami County: Miami-Dade State: FL Zip Code: 33179

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

If you intend to name more than one individual or entity, please file multiple complaints. A person can be an individual, political committee, political party, electioneering communication organization, club, corporation, partnership, company, association, or other type of organization.

Name of individual or entity: Michael C. Grieco
Address: 175 SW 7th St #2410 Phone: (305) 968-9403
City: Miami County: Miami-Dade State: FL Zip Code: 33130

If individual is a candidate, list the office or position sought: State Representative District 113

Have you filed this complaint with the State Attorney's Office? (check one) Yes No

Are you alleging a violation of Section 104.271(2), F.S.? (check one) Yes No

Are you alleging a violation of Section 104.2715, F.S.? (check one) Yes No

3. ALLEGED VIOLATION(S):

Please attach a **concise** narrative statement in which you list the provisions of the Florida Election Code that you believe the person named above may have violated. The Commission has jurisdiction only to investigate provisions of Chapter 104 and Chapter 106, Florida Statutes. Please include the following items as part of your attached statement:

- The facts and actions that you believe support the violations you allege;
- The names/telephone numbers of persons whom you believe may be witnesses to the facts;
- A copy or picture of any political advertisement(s) you mention in your statement;
- A copy of each document you mention in your statement;
- An explanation of why you believe information you reference from websites is relevant; and
- Any other evidence supporting your allegations.

SEE REVERSE SIDE OF DOCUMENT FOR ADDITIONAL INFORMATION

Any person who files a complaint while knowing that the allegations are false or without merit commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 and 775.083, Florida Statutes.

REC'D: ELECTIONS COM

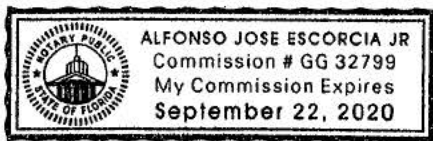
4. OATH:

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I swear or affirm that the above information is true and correct to the best of my knowledge.

Original Signature of Person Bringing Complaint

Sworn to and subscribed before me this 5 day of
October _____, 2018



Signature of Officer Authorized to Administer Oaths or Notary Public

Alfonso Escorcía

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____ Or Produced Identification

Type of Identification Produced

5. IMPROPERLY COMPLETED COMPLAINT FORMS MAY BE RETURNED:

- You **MUST** submit this completed complaint form in order to file a complaint.
- You **MUST** complete **ALL FOUR** of the above sections of this form. **DO NOT** leave any blanks.
- You **MUST** submit the **ORIGINAL** complaint form. Copied/faxed/emailed forms are returned.
- Each complaint can only be filed against **ONE PERSON** or **ENTITY**. If you wish to file against multiple parties, you **MUST** submit a complaint form for each party you wish to file against.
- **DO NOT** submit multiple complaint forms with one set of attachments applying to multiple complaints. You **MUST** attach copies of attachments to each complaint to which they apply.
- **MAKE SURE** the alleged violation(s) of **Chapters 104 or 106** occurred within the last **2 years**.
- **MAKE SURE** your complaint is sworn and there is no defect to the notarization in Section 4.

FEC Complaint — Chapter 106 Violation

I am writing to the Florida Elections Commission to file a formal complaint against Michael C. Grieco for violating Chapter 106 of the Florida statutes relating to “Campaign Financing.” Mr. Grieco improperly disposed of his campaign account under the rules set forth in Section 106.141, Florida Statutes.

Background

Mr. Grieco was a sitting City of Miami Beach Commissioner seeking re-election in 2017 when he announced he was running for Mayor of Miami Beach on January 12, 2017 (Exhibit A). On August 1, 2017 he withdrew his candidacy for Mayor and once again filed to run for Commissioner (Exhibit B). Finally, Mr. Grieco withdrew his name from the ballot on September 25, 2017 and almost a month later, he officially resigned from public office (Exhibit C & D).

The reason for this unorthodox candidacy stemmed from a discovery by the Miami Herald newspaper, which revealed a link between Mr. Grieco and a Political Action Committee (PAC) known as “People for Better Leaders” (Exhibit E). The link means that Mr. Grieco violated a local Miami Beach campaign finance law that prohibits candidates from soliciting and accepting contributions, either directly or indirectly, for their campaign committee (Exhibit F). That ethics violation is still under investigation by the Miami-Dade Commission on Ethics.

The State Attorney’s Office (SAO) was brought into the investigation when allegations of quid pro quo surfaced thanks to the Miami Herald’s reporting. The SAO soon uncovered that Mr. Grieco had asked Petter Smedvig Hagland, a Norwegian national, to contribute to his campaign via Tony Rodriguez-Tellaheche, an American citizen during their investigations. Hagland wired \$25,000 from abroad to Rodriguez-Tellaheche who then contributed \$25,000 to People for Better Leaders for Grieco’s election efforts. Since Florida law prohibits the acceptance of a donation in someone else’s name, the SAO filed charges against Mr. Grieco (Exhibit G).

Mr. Grieco then hired Benedict P. Kuehne, a preeminent criminal defense attorney, to mount a legal defense against the State’s charges relating to his acceptance of laundered foreign funds through a straw donor for his PAC. Mr. Grieco paid Mr. Kuehne in the sum of \$50,000 from his campaign account according to a City of Miami Beach public record that detailed his official disposition of campaign funds (Exhibit H).

Chapter 106 Violation

Mr. Grieco amassed \$334,009.14 in monetary contributions for his official campaign account during his run for public office (Exhibit I). People for Better Leaders raised \$200,259.85 before closing down after the link to Mr. Grieco was exposed by the Miami Herald (Exhibit J).

Florida law sets the rules and procedures candidates must follow subsequent to them withdrawing their candidacy for public office. As dictated by **Section 106.141(1), Florida Statutes**, Mr. Grieco

filed a report with the City of Miami Beach that reflected the disposition of all the remaining funds in his campaign account.

Mr. Grieco listed his \$50,000 legal payment to Mr. Keuhne as a monetary expenditure in his report. However, the payment was made on October 5, 2017 or 10 days after he signed his oath of withdrawal. The law clearly defines a monetary expenditure as influencing the results of an election. Therefore, since the payment to Mr. Kuehne was made after Mr. Grieco submitted his oath of withdrawal for the election, the payment doesn't qualify as a legal expenditure but rather a disposition of campaign funds.

Unfortunately for Mr. Grieco, this payment is an illegal disposition of campaign funds. **Section 106.141(4)a, Florida Statutes** lists allowable uses for which to dispose of campaign funds. They are enumerated below.

1. *Return pro rata to each contributor the funds that have not been spent or obligated.*
2. *Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.*
3. *Give the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member.*
4. *Give the funds that have not been spent or obligated:*
 - a. *In the case of a candidate for state office, to the state, to be deposited in either the ¹Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or*
 - b. *In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.*

Mr. Grieco violated Florida campaign finance law by virtue of using \$50,000 from his primary campaign depository to hire Mr. Keuhne, after he withdrew as a candidate for office, to defend his improprieties stemming from illegal solicitations for his PAC that he originally denied association with. This act is punishable under **106.141(10), Florida Statutes** that says:

Any candidate who is required by the provisions of this section to dispose of funds in his or her campaign account and who fails to dispose of the funds in the manner provided in this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Finally, the mere existence of Mr. Grieco's payment to Mr. Keuhne, whether or not it happened before or after his withdrawal from office, is a violation of **106.1405, Florida Statutes** which states that:

A candidate or the spouse of a candidate may not use funds on deposit in a campaign account of such candidate to defray normal living expenses for the candidate or the candidate's family, other than expenses actually incurred for transportation, meals, and lodging by the candidate or a family member during travel in the course of the campaign.

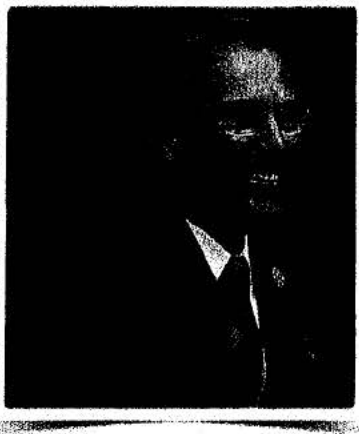
Mr. Grieco maintains that People for Better Leaders was not established to benefit his election. Instead, he insisted that he was acting as the PAC's legal counsel, an assertion supported by the former PAC's chairman, Brian Abraham (Exhibit K). Therefore, since Mr. Grieco was contracted by the PAC in a professional capacity, then the payment made by Mr. Grieco from his campaign account to Mr. Keuhne for his own personal legal representation qualifies as a "living expense" and is also illegal under Florida law.

Recommended Action

I respectfully ask that the Florida Election Commission investigate this matter further and bring criminal charges against Mr. Grieco for violating Chapter 106 of the Florida Statutes but more importantly for eroding the public trust. From the time when Mr. Grieco pleaded to a criminal charge, his probation from running for public office has been lifted and he is now the Democratic Party's nominee for State House District 113. I fear that if Mr. Grieco wins this November's election he will once again threaten the peace and dignity of the State of Florida and betray the trust of its people.

Please notify me when the Commission is in receipt of this complaint and what the next steps will be. Thank you for your honorable service to our great State of Florida!

cc. The Honorable Katherine Fernandez Rundle, Miami-Dade State Attorney
Jose Arrojo, Executive Director of the Miami-Dade Commission on Ethics and Public Trust
Nick Nehamas, Investigative Reporter at the The Miami Herald



RECEIVED
2017 JAN 13 AM 8:38
JIT

From the Desk of Michael "Mike" Grieco

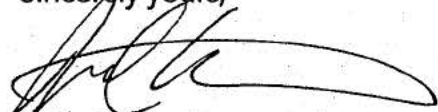
January 12, 2017

Rafael Granado
City Clerk
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

Dear Mr. Granado,

Please be advised that by attaching and filing new DS-DE 9 forms appointing a Treasurer and Deputy Treasurer for a new office designation, I am formally filing/declaring as a candidate for 2017 Miami Beach Mayor and withdrawing/ changing from my designation as a candidate for Miami Beach Commission (Group 2).

Sincerely yours,



Mike Grieco

August 1, 2017
Rafael Granado
City Clerk
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

RECEIVED
2017 AUG -1 AM 9:51
CITY OF MIAMI BEACH
OFFICE OF THE CITY CLERK

Dear Mr. Granado,

Please be advised that by attaching and filing new DS- DE 9 form appointing a Treasurer for a new office designation, I am formally filing/ declaring as a candidate for Miami Beach Commission (Group 2) and withdrawing/ changing from my designation as a candidate for Miami Beach Mayor.

Michael Grifone


City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

OATH OF WITHDRAWAL

RECEIVED

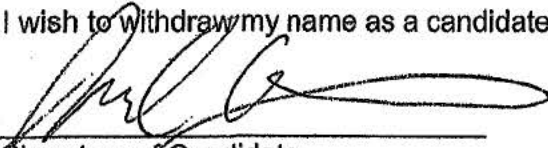
SEP 25 2017

CITY CLERK'S OFFICE

Date: 9/25/17

I, Michael Grieco have filed as a candidate for the office of _____
Commissioner, Group 2

I wish to withdraw my name as a candidate for this office.



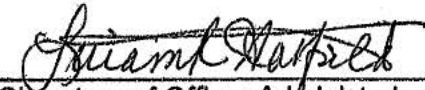
Signature of Candidate

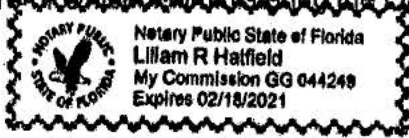
protected by statute

Address

Miami Beach FL 33139
City State Zip

Sworn to and subscribed before me this 25 day of September, 2017.


Signature of Officer Administering the Oath or Notary Public



Print, Type or Stamp Commissioned Name of Notary Public

Personally Known or Produced Identification

Type of Identification Produced _____

Candidate Withdrawal Policy
The deadline for any candidate to withdraw is the end of qualifying. No qualifying fee shall be returned to the candidate unless the candidate withdraws his or her candidacy before the end of their qualifying period.
(Reference: Florida Statutes 99.092)

Granado, Rafael

From: Grieco, Michael
Sent: Tuesday, October 24, 2017 8:06 AM
To: Granado, Rafael
Subject: -

Effective immediately, I tender my resignation as Group 2 Commissioner for the remaining two weeks of my term. Serving our Great City of Miami Beach has been my greatest honor. Thank you for giving me that opportunity. When I began my service as Miami Beach Commissioner in 2013, my paramount goal was to leave Miami Beach in a better condition than when I started. I am confident I have done that, and more. I have always done my best. I hope you will agree, and will find the time to work with me in my private life, as I continue to find creative ways to make Miami Beach the BEST City in the Sunshine State and beyond.

Michael Grieco

MIAMIBEACH

Michael C. Grieco
Commissioner

OFFICE OF MAYOR AND COMMISSION

1700 Convention Center Drive, Miami Beach, FL 33139

Tel: 305-673-7204 / Fax: 305-673-7096 / www.miamibeachfl.gov

We are committed to providing excellent public service and safety to all who live, work and play in our vibrant, tropical, historic community.

SIGN UP FOR OUR NEWSLETTER [HERE](#)

Beach commissioner pleads to criminal charge. But he swears he didn't do it. Exhibit E

By Joey Flechas And Nicholas Nehamas jflechas@miamiherald.com



Michael Grieco pleads 'No Contest' at Miami-Dade County Court

Michael Grieco submitted his resignation Tuesday morning at Miami Beach City Hall. He appeared in court afterward to plead 'no contest' to a criminal charge. **C.M. Guerrero** cmguerrero@miamiherald.com

Michael Grieco ended his tumultuous term as a Miami Beach commissioner Tuesday, submitting his resignation by email shortly before pleading no contest to a criminal violation of Florida's campaign-finance laws.

But Grieco, a popular commissioner who ran a competitive campaign for mayor before coming under state investigation, is still refusing to take responsibility for the scandal that ended his political career — and hinted he might eventually seek a return to public office.

After a court appearance in which he did not admit guilt, Grieco told the Miami Herald he had no idea that two of his friends — Coconut Grove real estate broker Tony Rodriguez-Tellaheche and Norwegian millionaire Petter Smedvig Hagland — were planning to worm foreign money into his secretive political fundraising group. Only people with U.S. citizenship or permanent residency can contribute to American elections. Hagland, scion of a wealthy oil family, is a Norwegian citizen.

The \$25,000 donation was made in the name of Rodriguez-Tellaheche but the funds came from Hagland, an investor in Miami Beach real estate, according to sources with knowledge of the investigation.

The fact that something was “awry” with the contribution, Grieco said, “did not come to my attention until [the] summer of 2017 ... I didn’t know.”

Sworn statements and emails obtained by the Herald tell a different story.

In fact, Grieco advised Hagland on how to structure the transaction and was aware a donation would be made through Rodriguez-Tellaheche, the documents show. In a March 2016 email sent to Hagland and a former business associate, Grieco asked for a contribution to the committee, which he described as a fund for a mayoral run.

“I know that you guys are/were eager to support my mayoral coffers,” he wrote, according to an email subpoenaed by the Miami-Dade state attorney’s office.

After further e-mail exchanges, Grieco suggested the \$25,000 donation come in a check drafted from a U.S. bank. Hagland agreed, saying he would wire the money to his Florida company and then Rodriguez-Tellaheche “could write the check.” One month later, Rodriguez-Tellaheche cut a \$25,000 check to People for Better Leaders.

In a sworn statement to prosecutors, Hagland said Grieco knew where the money was coming from.

“I spoke to him and said, ‘I’m doing it that way, sending it through Tony,’ ” Hagland told investigators.

In his own sworn statement, Rodriguez-Tellaheche agreed: “[Grieco] knew it wasn’t mine. He knew exactly what was going on. He spoke to [Hagland] about it.”

Still, prosecutors felt they did not have enough evidence to seek a guilty verdict.

In court, they allowed Grieco to plead no contest, meaning he accepts his sentence — one year of probation during which he cannot run for public office — without admitting guilt. He must also pay \$6,000 to cover costs of investigations by the Miami-Dade state attorney’s office and the Miami-Dade Commission on Ethics and Public Trust. Judge Samuel Slom withheld adjudication as part of the deal. That means Grieco will not be convicted of a crime, a measure sometimes taken for first-time criminal offenders.

“It is sad to see a young public servant tumble but there are no special exceptions to Florida’s elections laws,” said Miami-Dade State Attorney Katherine Fernández Rundle, Grieco’s former boss when he worked as a state prosecutor between 2000 and 2006, in a statement. “Masking the source of a campaign donation is not only illegal but denigrates the importance of

transparency. Our citizens deserve better from all those who seek public office.”

The Herald obtained the documents after meeting with Grieco, who did not respond to a request for further comment.

Grieco’s other statements to the Herald about the PAC have been contradicted by public records and interviews. For instance, his long-running assertion that he had nothing to do with the secretive PAC — which raised \$200,000 from powerful Beach interests including lobbyists, city vendors and developers — fell apart after experts concluded that his handwriting appeared on its paperwork.

After the hearing, his attorney, Ben Kuehne, spoke to the media on his behalf.

“Michael Grieco has always tried to do the right thing,” Kuehne said. “He never intended to have any unauthorized contributions made to a political committee ... When it became apparent that two friends of Mr. Grieco failed to follow the law, Mr. Grieco acted promptly to — even though he had accepted those contributions — set out to right that wrong.”

Bad day

Grieco started the day by emailing his resignation to the city clerk at 8:06 a.m. Two hours later, he appeared in Miami-Dade County criminal court.

The commissioner, a criminal defense attorney and former state prosecutor, is no stranger to the courtroom. But this time, he was in the role of the accused, facing charges of knowingly accepting a campaign contribution made in the name of another person, a first-degree misdemeanor.

After his courtroom appearance, when asked if he one day planned to seek elected office again, Grieco replied: “This is not my obituary.”

He also called the investigation a “fishing expedition” orchestrated by his political enemies. But the commissioner admitted — for the first time — to playing a role in the PAC.

“I was acting as the compliance officer,” Grieco said.

He acknowledged that he should have revealed his role from the beginning.

“It was a mistake,” he said. “There’s no other way to say it.”

Clean slate

Grieco will be able to terminate his probation in six months if he takes a government class on campaign finance regulations and meets the other conditions of his probation.

On Tuesday morning, he sent the following email to city officials announcing his resignation:

“Effective immediately, I tender my resignation as Group 2 Commissioner for the remaining two weeks of my term. Serving our Great City of Miami Beach has been my greatest honor. Thank you for giving me that opportunity. When I began my service as Miami Beach Commissioner in 2013, my paramount goal was to leave Miami Beach in a better condition than when I started. I am confident I have done that, and more. I have always done my best. I hope you will agree, and will find the time to work with me in my private life, as I continue to find creative ways to make Miami Beach the BEST City in the Sunshine State and beyond.”

The Herald first reported details of Grieco’s plans to resign Monday night.

Beach commissioners are planning to hold a special meeting Thursday to appoint a replacement for Grieco. The election for his former seat is Nov. 7.

In his resignation and a subsequent email to residents, Grieco made no mention of his plea deal.

“Moving forward I worry that there will be too few voices in city hall that are honest and strong, and the few good ones who remain are being silenced by special interests, power players and transactional politics,” he wrote. “I worry that most of those making decisions are so far removed from the street and real life that they do not understand the true heart of our city and the real needs of the collective.”

Grieco might also face sanction from the Florida Bar. A complaint regarding his conduct with People for Better Leaders has been filed to the Bar, a spokeswoman said. According to its rules, the Bar might initiate “disciplinary action” when one of its members is charged with a crime.

DIVISION 5. - CAMPAIGN FINANCE REFORM

Sec. 2-487. - Prohibited campaign contributions by vendors.

A. *General.*

- (1) (a) No vendor shall give a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner. Commencing on the effective date of this ordinance, all proposed city contracts, purchase orders, standing orders, direct payments, as well as requests for proposals (RFP), requests for qualifications (RFQ), requests for letters of interest (RFLI), or bids issued by the city, shall incorporate this section so as to notify potential vendors of the proscription embodied herein.
- (b) i. No candidate or campaign committee of a candidate for the offices of mayor or commissioner, or member of the City Commission, shall directly or indirectly solicit, accept, or deposit into such candidate's campaign account any campaign contribution from a vendor. Candidates (or those acting on their behalf), as well as members of the City Commission, shall ensure compliance with this code section by confirming with the procurement division's city records (including City of Miami Beach website) to verify the vendor status of any potential donor.
- ii. For purposes of Subsection A(1)(b)i. hereinabove, the term "indirectly solicit" shall be defined as the situation in which a candidate, campaign committee of a candidate, or member of the City Commission actively coordinates or directs another person or entity to solicit a vendor for a campaign contribution, as prohibited above. The term "indirectly" shall also be defined to include those instances in which a candidate for the offices of Mayor or Commissioners, or a member of the City Commission, solicits a vendor for campaign contributions for a political committee which supports or opposes candidates for City elected office.
- (2) A fine of up to \$500.00 shall be imposed on every person who violates this section. Each act of soliciting, giving, accepting or depositing a contribution in violation of this section shall constitute a separate violation. All contributions deposited by a candidate in violation of this section shall be forfeited to the city's general revenue fund.
- (3) (a) Disqualification from serving as vendor.
 1. A person or entity other than a vendor who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified for a period of 12 months following the swearing in of the subject elected official from serving as a vendor with the city.
 2. i. A vendor who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified from serving as a vendor with the city for a period of 12 months from a final finding of violation, or from action on a waiver request by the Miami Beach City Commission (per subsection B herein below) in the event a waiver of said violation is sought.
 - ii. In the event such waiver request for a particular transaction is granted, the affected vendor shall nonetheless be disqualified from serving as a vendor with the city as to all other vendor projects for the stated 12-month period. In the event such waiver request is denied for a particular transaction, the 12-month disqualification period shall apply to both the particular transaction which was the subject of the waiver request, as well as all other vendor projects during that 12-month period.
- (b) Definition. For purposes of this section, the term "disqualified" shall be defined to include:

1. Termination of a donor/vendor's existing contract with the city, subject to the waiver provisions of subsections B(1)(d) and B(2) herein; and
 2. Disqualification of a donor's response to solicitation requests for prospective vendor contracts with the city, subject to the waiver provisions of subsections B(1)(a), (b) and (c) herein.
- (4) As used in this section:
- (a) 1. A "vendor" is a person and/or entity who has been selected by the city as the successful contractor on a present or pending solicitation for goods, equipment or services, or has been approved by the city on a present or pending award for goods, equipment or services prior to or upon execution of a contract, purchase order, standing order, direct payment or purchasing card payment. The term "vendor" shall not include those persons and/or entities who provide goods, equipment or services not exceeding \$10,000.00 in a City of Miami Beach fiscal year wherein city commission action is not required.
 2. "Vendor" shall include natural persons and/or entities who hold a controlling financial interest in a vendor entity. The term "controlling financial interest" shall mean the ownership, directly or indirectly, of ten percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten percent or more in a firm. The term "firm" shall mean a corporation, partnership, business trust or any legal entity other than a natural person.
 3. For purposes of this section, "vendor" status shall terminate upon completion of the agreement for the provision of goods, equipment or services.
 - (b) For purposes of this section, the term "services" shall mean the rendering by a vendor through competitive bidding or otherwise, of labor, professional and/or consulting services to the city.
 - (c) The term contribution shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented (copies available in city clerk's office).
 - (d) The term "political committee" shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.
 - (e) The term "candidate" shall have the meaning ascribed to such term in Florida Statutes, section 97.021(5), as amended and supplemented.

B. *Waiver of prohibition.*

- (1) *Conditions for waiver.* The requirements of this section may be waived by a five-sevenths vote for a particular transaction by city commission vote after public hearing upon finding that:
 - (a) The goods, equipment or services to be involved in the proposed transaction are unique and the city cannot avail itself of such goods, equipment or services without entering into a transaction which would violate this section but for waiver of its requirements; or
 - (b) The business entity involved in the proposed transaction is the sole source of supply as determined by the city's procurement director in accordance with procedures established in subsection 2-367(c) of this Code; or
 - (c) An emergency contract (as authorized by the city manager pursuant to section 2-396 of this Code) must be made in order to protect the health, safety or welfare of the citizens of the city, as determined by a five-sevenths vote of the city commission; or
 - (d) A contract for the provision of goods, equipment or services exists which, if terminated by the city, would be adverse to the best economic interests of the city.
- (2) *Conditions for limited waiver.* Notwithstanding the denial by the city commission of a waiver request regarding an existing contract per subsection B(1)(d) above, upon a five-sevenths vote of the city commission at a public hearing, a limited waiver may be granted on an existing

contract upon a finding that in order to protect the health, safety and welfare of the citizens of the city, continuation of said contract for a limited period of time (not to exceed six months) is necessary in order for the city to obtain a replacement vendor.

- (3) *Full disclosure.* Any grant of waiver by the city commission must be supported with a full disclosure of the subject campaign contribution.

C. *Applicability.* This section shall be applicable only to prospective transactions, and the city commission may in no case ratify a transaction entered into in violation of this section.

(Ord. No. 2000-3244, § 1, 5-10-00; Ord. No. 2003-3389, § 1, 1-8-03; Ord. No. 2004-3446, § 1, 5-26-04; Ord. No. 2005-3486, § 1, 6-8-05; Ord. No. 2006-3544, § 1, 12-6-06; Ord. No. 2016-3991, § 1, 1-13-16)

²This portion of the City's Campaign Finance Law prohibiting direct or indirect solicitation or acceptance of certain campaign contributions, applicable to Code Section 2-487 through and including 2-490, shall be effective as of March 1, 2016, in order to obviate issues of unlawful retroactive legislation.

Sec. 2-488. - Prohibited campaign contributions by lobbyists on procurement issues.

- (1) No lobbyist on a present or pending solicitation for goods, equipment or services or on a present or pending award for goods, equipment or services prior to or upon execution of a contract, purchase order, standing order, direct payment, or purchasing card payment shall solicit for or give a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner. The term "lobbyist" shall not include those individuals who lobby on behalf of persons and/or entities in connection with their provision of goods, equipment or services not exceeding \$10,000.00 in a City of Miami Beach fiscal year wherein city commission action is not required.
- (a) Commencing on the effective date of this ordinance, all proposed city contracts, purchase orders, standing orders, direct payments, as well as requests for proposals (RFP), requests for qualifications (RFQ), requests for letters of interest (RFLI), or bids issued by the city, shall incorporate this section so as to notify lobbyists of the proscription embodied herein.
- (b) i. No candidate, or campaign committee of a candidate for the offices of mayor or commissioner, or member of the City Commission, shall directly or indirectly solicit, accept or deposit into such candidate's campaign account any campaign contribution from a lobbyist subject to the provisions of this ordinance. Candidates (or those acting on their behalf), as well as members of the City Commission, shall ensure compliance with this code section by confirming with the city clerk's records to verify the lobbyist status of any potential donor.
- ii. For purposes of Subsection (1)(b)i. hereinabove, the term "indirectly solicit" shall be defined as the situation in which a candidate, campaign committee of a candidate, or member of the City Commission actively coordinates or directs another person or entity to solicit a lobbyist on a procurement issue for a campaign contribution, as prohibited above. The term "indirectly" shall also be defined to include those instances in which a candidate for the offices of Mayor or Commissioners, or a member of the City Commission, solicits a lobbyist on a procurement issue for campaign contributions for a political committee which supports or opposes candidates for City elected office.
- (2) (a) A person other than a lobbyist on a procurement issue as set forth in subsection (1) above, who directly or indirectly solicits for or makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified for a period of 12 months following the swearing in of the subject elected official from lobbying the city commission in connection with a

present or pending bid for goods, equipment or services or on a present or pending award for goods, equipment or services.

- (b) A lobbyist on a procurement issue as set forth in subsection (1) above, who directly or indirectly makes a contribution to a candidate who is elected to the office of mayor or commissioner shall be disqualified from lobbying the city commission in connection with a present or pending bid for goods, equipment or services or on a present or pending award for goods, equipment or services for a period of 12 months from a final finding of violation.
- (3) A fine of up to \$500.00 shall be imposed on every person who violates this section. Each act of soliciting, giving, accepting or depositing a contribution in violation of this section shall constitute a separate violation. All contributions deposited by a candidate in violation of this section shall be forfeited to the city's general revenue fund.
- (4) The term "contribution" shall have the meaning ascribed to such term in F.S. ch. 106, as amended and supplemented.
- (5) The term "political committee" shall have the meaning ascribed to such term in Florida Statutes Ch. 106, as amended and supplemented.
- (6) The term "candidate" shall have the meaning ascribed to such term in Florida Statutes, § 97.021(5), as amended and supplemented.

(Ord. No. 2003-3393, § 1, 2-5-03; Ord. No. 2005-3486, § 2, 6-8-05; Ord. No. 2006-3544, § 2, 12-6-06; Ord. No. 2016-3991, § 1, 1-13-16)

Sec. 2-489. - Prohibited campaign contributions by real estate developers.

A. *General.*

- (1) (a) No real estate developer shall give a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner. Commencing on the February 15, 2003, all applications for development agreements and for changes in zoning map designation as well as future land use map changes shall incorporate this section so as to notify potential real estate developers of the proscription embodied herein.
- (b) i. No candidate, or campaign committee of a candidate for the offices of mayor or commissioner, or member of the City Commission, shall directly or indirectly solicit, accept, or deposit into such candidate's campaign account any campaign contribution from a real estate developer. Candidates (or those acting on their behalf), as well as members of the City Commission, shall ensure compliance with this code section by confirming with the city planning department's records (including city of Miami Beach website) to verify the real estate developer status of any potential donor.
- ii. For purposes of Subsection A(1)(b)i. hereinabove, the term "indirectly solicit" shall be defined as the situation in which a candidate, campaign committee of a candidate, or member of the City Commission actively coordinates or directs another person or entity to solicit a real estate developer for a campaign contribution, as prohibited above. The term "indirectly" shall also be defined to include those instances in which a candidate for the offices of Mayor or Commissioners, or a member of the City Commission, solicits a real estate developer for campaign contributions for a political committee which supports or opposes candidates for City elected office.
- (2) A fine of up to \$500.00 shall be imposed on every person who violates this section. Each act of soliciting, giving, accepting or depositing a contribution in violation of this section shall constitute a separate violation. All contributions deposited by a candidate in violation of this section shall be forfeited to the city's general revenue fund.

IN THE COUNTY COURT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

THE STATE OF FLORIDA v.

INFORMATION FOR

MICHAEL C GRIECO

1. CAMPAIGN CONTRIBUTIONS/MAKE OR
ACCEPT/IN THE NAME OF ANOTHER
106.08(7)(A) MISD 1 D

Defendant(s)

IN THE NAME AND BY AUTHORITY OF THE STATE OF FLORIDA:

TIM VANDERGEISEN, Assistant State Attorney of the Eleventh Judicial Circuit, on the authority of
KATHERINE FERNANDEZ RUNDLE, State Attorney, prosecuting for the State of Florida, in the County of
Miami-Dade, under oath, information makes that:

LR|10/23/17

DIRECT FILE - NO CAPIAS

CIN 000000; W/M, DOB: [REDACTED]

DEFENDANT TO SURRENDER IN OPEN COURT ON OCTOBER 24, 2017

WLW

2017 OCT 24 11:10:05

Count 1

MICHAEL C GRIECO on or about APRIL 28, 2016, in the County and State aforesaid, did knowingly and willfully accept a contribution that was made in the name of another, directly or indirectly, in any election for public office in the State of Florida, to wit: \$25,000 CONTRIBUTION BY PETTER HAGLAND IN THE NAME OF TONY RODRIGUEZ TO PEOPLE FOR BETTER LEADERS POLITICAL COMMITTEE in violation of s. 106.08(7)(A) Florida Statutes, contrary to the form of the Statute in such cases made and provided, and against the peace and dignity of the State of Florida.

STATE OF FLORIDA, COUNTY OF MIAMI-DADE:

Personally known to me and appeared before me, the Assistant State Attorney of the Eleventh Judicial Circuit of Florida whose signature appears below, being first duly sworn, says that this prosecution is instituted in good faith.

J. Vanden Brink

Assistant State Attorney
Florida Bar # 391610
1350 NW 12th Avenue, Miami, FL (305) 547-0100

Sworn to and subscribed before me this 24th day of October, 2017.

By [Signature]
Deputy Clerk for the Clerk of the Courts
Notary Public



Campaign Treasurer's Report - Itemized Expenditures

Seq#	Vendor	Purpose	Exp. Type	Amount
Date			Amend	
1	DELUXE	CHECK ORDER	Monetary	
9/1/2017	3680 VICTORIA STREET NORTH SHOREVIEW, MN 55126			\$146.90
24	KUEHNE DAVIS LAW	PROFESSIONAL	Monetary	
10/5/2017	100 SE 2ND STREET SUITE 3550 MIAMI, FL 33131	FEES		\$50,000.00
25	KYMP	PROFESSIONAL FEES	Monetary	
10/5/2017	600 BRICKELL AVENUE SUITE 1715 MIAMI, FL 33131			\$4,275.00
26	RIESCO AND COMPANY LLC	PROFESSIONAL FEES	Monetary	
10/30/2017	2600 SOUTH DOUGLAS ROAD SUITE 900 CORAL GABLES, FL 33134			\$15,087.50

Office: Commissioner Group II

Office: Commissioner Group II				
Michael 'Mike' Grieco	<i>(Active-Withdrawn)</i>	\$344,009.14	\$6,566.00	\$344,009.14
Mohammed R. Islam	<i>(Inactive-Withdrawn)</i>	\$0.00	\$0.00	\$0.00
Robert C. Lansburgh	<i>(Inactive-Withdrawn)</i>	\$62,940.00	\$0.00	\$62,940.00
Joshua M. Levy	<i>(Inactive-Withdrawn)</i>	\$85,337.00	\$2,273.00	\$85,337.00
Mark Samuelian	<i>(Inactive-Elected)</i>	\$492,251.00	\$5,536.98	\$492,251.00
Rafael A. Velasquez	<i>(Inactive-Defeated)</i>	\$76,938.00	\$5,103.00	\$76,938.00

Campaign Contributions

People for Better Leaders

About the Campaign Finance Data Base

Rpt Yr	Rpt Type	Date	Amount	Contributor Name	Address	City State Zip
2016	M1	01/13/2016	12,500.00	BOUCHER BROTHERS MANAGEMENT, I	1451 OCEAN DRIVE, SUITE 205	MIAMI BEACH, FL 33139
2016	M1	01/20/2016	20,000.00	MANCHESTER CAPITAL LLC	6601 NW 14TH ST SUITE 3	PLANTATION, FL 33313
2016	M1	01/20/2016	5,000.00	TEJ MANAGEMENT, LLC	6276 S RAINBOW BLVD STE 120	LAS VEGAS, NV 89118
2016	M1	01/26/2016	3,000.00	BERCOW RADELL & FERNANDEZ	200 SOUTH BISCAYNE BOULEVARD, SUITE 850	MIAMI, FL 33131
2016	M1	01/26/2016	2,500.00	JOBLON ANDREW	3801 COLLINS AVENUE, #604	MIAMI BEACH, FL 33140
2016	M2	02/04/2016	5,000.00	SOBE ALTON, LLC	9425 HARDING AVENUE	SURFSIDE, FL 33154
2016	M2	02/04/2016	5,000.00	1530 WASHINGTON AVENUE, LTD.	9425 HARDING AVENUE.	SURFSIDE, FL 33154
2016	M2	02/08/2016	20,000.00	SAMANTHA SOUTH BEACH HOTEL	235 30TH STREET	MIAMI BEACH, FL 33140
2016	M3	03/04/2016	10,000.00	IRE 728 OCEAN DRIVE LLC	1407 BROADWAY 30TH FLOOR	NEW YORK, NY 10018
2016	M3	03/10/2016	12,500.00	BOUCHER BROTHERS MANAGEMENT IN	1451 OCEAN DRIVE, SUITE 205	MIAMI BEACH, FL 33139
2016	M4	04/28/2016	25,000.00	RODRIGUEZ TONY	3330 VIRGINIA STREET	MIAMI, FL 33133
2016	P1A	06/25/2016	15,000.00	JML SERVICES LLC	12000 NORTH BAYSHORE DRIVE #106	NORTH MIAMI, FL 33181
2016	P1A	06/27/2016	2,000.00	BERKOWITZ DANA	5768 PINETREE DRIVE	MIAMI BEACH, FL 33140
2016	P7	08/16/2016	15,000.00	ANGLER'S RESORT JV LLC	101 CALIFORNIA STREET, SUITE 980	SAN FRANCISCO, CA 94111
2016	G6	10/18/2016	1,000.00	SHUTTS & BOWEN, LLP	200 SOUTH BISCAYNE BOULEVARD SUITE 4100	MIAMI, FL 33131
2016	G6	10/18/2016	3,500.00	ORANGE BARREL MEDIA	250 N HARTFORD AVE	COLUMBUS, OH 43222
2016	G6	10/18/2016	10,000.00	YTECH INTERNATIONAL	33 SW 2ND AVE	MIAMI, FL 33130
2016	G6	10/18/2016	2,000.00	PROGRESS MIAMI	2121 PONCE DE LEON BOULEVARD SUITE 1100	CORAL GABLES, FL 33134
2016	G6	10/18/2016	1,000.00	TACHMES ALEXANDER	5660 COLLINS AVE APT 2	MIAMI BEACH, FL 33140
2016	G6	10/18/2016	1,500.00	RED USA	1330 15TH ST APT1	MIAMI BEACH, FL 33139
2016	D1	10/27/2016	13,509.85	YAZBECK SEAN	100 S POINTE DRIVE	MIAMI BEACH, FL 33139
2016	M11	11/08/2016	5,000.00	DAVID ARONOW REVOKABLE TRUST	1260 STILLWATER DR	MIAMI BEACH, FL 33141
2017	M1	01/06/2017	10,000.00	THOMSON ROGER	4271 ALTON RD	MIAMI BEACH, FL 33140
2017	M1	01/19/2017	250.00	ONE FORCE WORKERS COMP CO.	235 E. COMMERCIAL BLVD	LAUDERDALE BY THE SEA, FL 33308
			200,259.85			

From: Michael Grieco <Michael@griecolaw.com>
Sent: Saturday, June 10, 2017 10:38 AM
To: Granado, Rafael
Subject: Re: Brian Abraham - People for Better Leaders

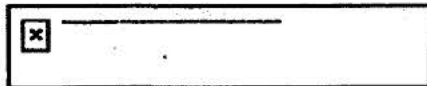
Exhibit K

I asked that it be sent to michael@griecolaw.com and NOT my city email address. Thank you.

Michael C. Grieco, Esq
175 SW 7th Street, Suite 2410
Miami, FL 33130
305.857.0034
305.856.7771 fax
Michael@GriecoLaw.com

On Jun 10, 2017, at 9:57 AM, Granado, Rafael <RafaelGranado@miamibeachfl.gov> wrote:

As requested.



Rafael E. Granado, Esq., City Clerk
OFFICE OF THE CITY CLERK
1700 Convention Center Drive,
Miami Beach, FL 33139
Tel: 305-673-7411 rafaelgranado@miamibeachfl.gov

We are committed to providing excellent public service and safety to all who live, work and play in our vibrant, tropical, historic community.

Begin forwarded message:

From: "Brian Abraham" <abraham.brian1@gmail.com>
To: "cfrank@miamiherald.com" <cfrank@miamiherald.com>, "jflechas@miamiherald.com" <jflechas@miamiherald.com>, "nnehamas@miamiherald.com" <nnehamas@miamiherald.com>
Cc: "Granado, Rafael" <RafaelGranado@miamibeachfl.gov>
Subject: Brian Abraham - People for Better Leaders

Dear Miami Herald:

My family has been a part of the South Florida community since 1952. My grandfather, Anthony Abraham, was a pillar of our community and devout philanthropist and active in our nation's politics. He

instilled in me the importance of giving back to my community and to those less fortunate. It has been my longtime goal to follow in my grandfather's footsteps and be more active in how the public selects our state, county, and local leaders. Another example I've observed is Norman Braman, who has long led, spearheaded, and contributed to candidates and political committees at all levels of government.

So in 2015, I decided to become proactively involved in our state and community's political process. I sought legal counsel, did my homework, and started People for Better Leaders, a political committee registered with the Florida Division of Elections. One motivating factor was providing a counterbalance against the abuse and excessive power by Mayor Levine and his Relentless for Progress Committee.

I have personally known Michael Grieco and utilized his legal services for over seven years. Because he is in public office with sound knowledge of election law, I utilized his legal services to help me complete the forms for my political committee. At that moment, and until this email now, Michael Grieco was captured under attorney-client privilege and not authorized to breach that.

I have solely led this political committee, informed people and organizations in the community about it, and solicited contributions for it. This is my first amendment right to do so. It is my protected free speech.

However, Miami Beach politics seems to be very dirty, as about a year ago, when Commissioner Arriola was considering to run for Mayor of Miami Beach in 2017, he began his smear campaign to attribute my political committee to Commissioner Grieco. Then early this year, when Dan Gelber decided to run against Commissioner

Grieco for Mayor of Miami Beach, the attacks and slander have increased with the use of his consultant Christian Ulvert (who he shares with Mayor Levine and a high-profile controversial developer). Me, my family, and my donors have been subjected to a barrage of calls and accusations, simply for exercising our right to free speech and participation in the political process.

Recently, in what I can only characterize as a closely coordinated effort, Mayor Levine, Commissioner Arriola, and Commissioner Malakoff have all abused their positions of power at City Hall to attack and degrade legitimate individuals and businesses in Miami Beach, solely because they've donated to my political committee. That is a clear cut example of abuse of power by politicians for political purposes.

But worse yet, is your conduct, tactics, and recent "news" articles. The Miami Herald, by your actions, has degraded itself to act like a political attack arm of the Dan Gelber for Mayor campaign. This week you published an editorial attacking Grieco and calling him a racist simply because of his efforts to try and clean up his city's Memorial Day holiday weekend problem. You have been a tool and large part of his effort to smear, falsely attack, and basically slander Michael Grieco and the service he's provided to the public since his election in 2013. Evidence of this are attached, as Nehamas has tweeted unprofessionally, repeatedly, and outrageously against Commissioner Grieco. I've done my own investigations, and your conduct has been an abuse of your role of what should be an unbiased and independent newspaper for the public. Yet ironically and hypocritically, you've served as an accomplice to the Gelber campaign in harassing, attacking, and belittling my donors and me simply

because we have chosen to participate in our first amendment right to political free speech.



For your paper to first accept the Gelber campaign's handwriting expert and have the intent to publish yesterday's article, only to have Grieco's campaign discredit your tactic as clear cut and gross bias, then spend your newspaper's money to justify your line of attack is evidence that you're in complete coordination with Gelber's campaign against Commissioner Grieco.

What is most despicable and outrageous is that you conducted yourself in this manner only to "reveal" that Michael Grieco was telling you the truth all along (that this is not his political committee), and that he was legally prohibited from answering your questions about his handwriting because he was captured under attorney-client privilege.

As a result of your newspapers attacks and smear campaign, and also due to the political attacks against my donors by the Mayor and Commisioners Arriola and Malakoff, I have decided today to close my political committee (see attached letter to the Florida Division of Elections). However, now, more than ever, I will remain active in our political process in other capacities and encourage my donors to not allow you or other political bullies to silence their right to free speech.

Since I have no faith in your ability to report the truth about our local politics, I have copied for the public record the City of Miami Beach Clerk, who is that city's chief elections officer and custodian of the public record.

I compell you to cease further harassment or slander against me or my donors.



Brian Abraham
Chairman, People for Better Leaders

ELIAS ERGHAS
(305) 863-7559
1521 ALTON RD
MIAMI BEACH FL 33139-3301

0.3 LBS. LTR 1
SHIP WT: LTR
DATE: 05 OCT 2018

SHIP FLORIDA ELECTIONS COMMISSION
TO: STE 224
107 W. GAINES ST

TALLAHASSEE FL 32399-6528

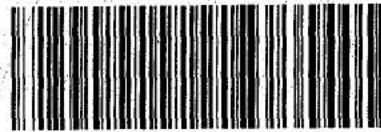


FL 323 0-01



UPS NEXT DAY AIR 1

TRACKING #: 1Z V88 101 01 6772 9381



BILLING: P/P

15N 13.00N ZCP 450 03.5U 07/2018

Express Envelope

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Fec
2018 OCT - 3 A.D. 16
FLORIDA
ELECTIONS
COMMISSION

RECEIVED

FLORIDA ELECTIONS COMMISSION

REVIEW OF COMPLAINT FOR LEGAL SUFFICIENCY			
~ PRELIMINARY INFORMATION ~			
Date Received: 10/08/18	Reviewer: Cole	Case #: 18-341	<input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> AMENDED
Complainant: Elias Ergas		Respondent: Michael C. Grieco	
Complainant:	Complainant is a resident of Miami, FL.		
Respondent:	Respondent was a 2017 candidate for Mayor of Miami Beach and was then a candidate for City Commissioner before withdrawing his candidacy entirely. Subsequently, Respondent was a 2018 candidate for State Representative, District 113. He was elected to that office.		
Background:	Complainant re-submitted the complaint on 12/10/18, but it made no new allegations. There are several copies of Respondent's response (sent via email and mail) in the file, but they are all identical. I have marked one of the best copies with a sticky note.		
~ VIOLATIONS ~			
Violations in complaint:	§106.141(1), 106.141(4)(a), 106.1405		
Violations for CMS:	§106.11(5), 106.1405, 106.19(1)(d)		
~ COMPLAINT ISSUES ~			
1. Respondent made an improper expenditure after withdrawing from candidacy.			
~ REVIEW OF COMPLAINT ISSUES ~			
1.	<p>Although the complaint form specifies the office sought by Respondent was State Representative, District 113, in the 2018 election, this complaint relates to actions relative to his prior candidacy for local office in 2017. Respondent withdrew his candidacy on 09/25/17 and then filed a termination report (TR).</p> <p>Complainant takes issue with a single expenditure of \$50,000 disclosed on the TR. The expenditure was made to Kuehne Davis Law on 10/05/17 for "Professional Fees." Complainant pointed out that this expenditure took place after Respondent's withdrawal. He noted that this kind of expenditure is not enumerated under Section 106.141(4)(a), F.S., as a permitted method of disposing of remaining campaign funds.</p> <p>However, as pointed out by Respondent in response to the complaint, Section 106.11(5), F.S., provides a more comprehensive list of permitted expenditures following withdrawal of candidacy. Section 106.11(5)(b), F.S., states that expenditures may be made to pay for items which were obligated before withdrawal.</p> <p>In response to the complaint, Respondent asserted that Complainant provided no evidence that the expenditure at issue was not incurred prior to his withdrawal, which took place approximately two weeks prior to the expenditure. Respondent also pointed out that Complainant provided evidence that Respondent disclosed two other expenditures for "professional fees," one to KYMP (\$4,275) and one to Riesco and Company, LLC (\$15,087.50), both of which were made after withdrawal, yet Complainant did not take issue with them.</p> <p>Complainant's theory that Section 106.141(4)(a), F.S., prohibits this kind of expenditure is thus incorrect.</p>		

Complainant's other theory for alleging that the expenditure was improper is that the expenditure was made to defray normal living expenses. Specifically, Complainant alleged that the expenditure was made to cover legal fees unrelated to Respondent's campaign. Rather, they were allegedly related to legal fees associated with Respondent's defense of charges made against him in an unrelated matter of alleged money laundering.

The background section of the complaint presented a local scandal involving Respondent and surrounding his withdrawal from the local race. The matter related to alleged involvement in the receipt of a contribution made in the name of another. Although such a matter could potentially implicate Section 106.19(1)(a), F.S., for accepting a contribution made in violation of Section 106.08(5)(a), F.S., the matter was clearly not meant to be part of Complainant's allegations, which focused only on Sections 106.141, and 106.1405, F.S. Regardless, documentation provided by Complainant shows that the contribution at issue was made on 04/28/16, which is more than two years before this complaint was filed. As such, the matter of the alleged money laundering would be untimely even if it was intended to be part of the complaint allegations. There was also mention of scandal related to alleged violation by Respondent of local ordinances not within the FEC's jurisdiction.

Regardless, Complainant's allegation that the expenditure at issue was to cover legal fees not associated with Respondent's campaign is based on speculation and not on personal information or information other than hearsay. Complainant provided a newspaper article about the scandal, some documentation surrounding the charges, and an email from the principal officer of a political committee involved in the matter. However, taken together, that evidence does not support the conclusion that the specific \$50,000 expenditure reported on Respondent's TR after withdrawal was made to cover legal fees associated with something other than his campaign.

Legally Insufficient

~~~~ REVIEWER'S RECOMMENDATION AND COMMENTS ~~~~

I recommend the complaint is Legally Insufficient for the reasons stated above.

*Candidate  
Tracking  
System*

**2018 General Election**

**State Representative**

District 113

**Michael Grieco**

**Democrat**

**Address**

\*\*\*\*\*

\*\*\*\*\*

**Campaign**

**Treasurer**

Jose A. Riesco  
2600 South  
Douglas Road  
Suite #900  
Coral Gables, FL  
33134-

**Status:** Elected

**Date Filed:** 05/04/2018

**Date** 06/18/2018

**Qualified:**

**Method:** Paid Qualifying  
Fee

Campaign Finance Activity

Campaign Documents

# Checklist for Identifying Technical Deficiencies in Complaints

## Rule 2B-1.0025

**\*\*If any of the following information is incorrect or missing upon receipt of a new complaint, DO NOT open a case in CMS. Instead, process in accordance with Rule 2B-1.0025.\*\***

- Complaint is filed on Form 1
- All information required by Form 1 is provided
- Only one Respondent is named
- Complainant's name is included (not "Anonymous")
- All exhibits and attachments referenced in the complaint are attached
- If multiple complaints are submitted, separate copies of exhibits and attachments are attached for EACH complaint
- Complaint includes an original signature
- Notary is proper:
  - Includes the **venue** stating the location of the notarization in the format, "State of Florida, County of ."
  - Includes an **oath or an acknowledgment**, evidenced by the words "sworn" or "acknowledged."
  - States that the signer **personally appeared** before the notary public at the time of the notarization.
  - Includes the exact **date** of the notarial act.
  - Includes the **name of the person** whose signature is being notarized.
  - Specifies the specific **type of identification** the notary public is relying upon in identifying the signer, either based on personal knowledge or satisfactory evidence (e.g., drivers license).
  - Includes the **notary's official signature**.
  - Includes the **notary's name**, typed, printed, or stamped below the signature.
  - Includes the **notary's official seal** affixed below or to either side of the notary's signature.

Alleging violation of Section 104.271(2), Florida Statutes

Box was checked, but no allegation of this statute was made

Alleging violation of Section 104.2715, Florida Statutes

Box was checked, but no allegation of this statute was made