

MIAMI-DADE COUNTY COMMISSION ON
ETHICS AND PUBLIC TRUST

 **DRAFT**

In Re:

C18-08-01

Phillip Stoddard
Respondent.

**MOTION FOR PROTECTIVE ORDER AND/OR
TO QUASH SUBPOENA IN WHOLE OR PART**

Comes now the Advocate for the Miami-Dade County Commission on Ethics and Public Trust (COE) by and through the undersigned attorney, and moves this Honorable Commission for a Protective Order and/or to quash, in whole or in part, a subpoena duces Tecum issued by Respondent and states as follows:

1. On or about May 8, 2019, Respondent requested two (2) subpoenas be issued, one addressed to Stephen Cody (Cody) the complainant in the above captioned ethics complaint the second addressed to Custodian of Records, A Better Miami Dade c/o Stephen Cody.
2. One of the subpoenas, attached as **Exhibit A**, seeks the production of various documents related to an entity known as "A Better Miami Dade." None of the eleven (11) mentioned "bullet-point items" in **Exhibit A** are the subject matter of this Motion.
3. The second subpoena, attached as **Exhibit B**, contains twenty-one (21) un-numbered "bullet-points" seeking various documents and records. For ease of reference, the Advocate has taken the liberty of marking the bullet-points numerically.
4. Bullet-points number 1, 2, 3, 5, 6 and 7 in **Exhibit B** are identical to and seek redundant information as requested in **Exhibit A**. Wherefore, the Advocate requests that

sections 1,2,3,5, 6 and 7 of **Exhibit B** be quashed as they are unduly burdensome and/ or expensive to duplicate the material already sought in **Exhibit A**.

5. The Advocate request that the information sought in bullet point number 8 be quashed as the material sought is vague and overbroad.

Bullet-point #8 purports to seek "All printed and electronic materials relating to Mayor Stoddard." It fails to specify whether it is seeking such materials in the possession of "A Better Miami Dade" or in Cody's personal possession.

6. Bullet-points number 4, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 should be quashed. These requests are overbroad, highly irrelevant to the subject matter of the pending complaint and designed to annoy, embarrass and oppress Mr. Cody with unduly burdensome demands. Although the Florida Rules of Civil Procedure generally allow for liberal discovery, "litigants are not entitled to *carte blanche* discovery of irrelevant material." *Life Care Centers of Am. V. Reese*, 948 So. 2d 830, 832 (Fla. 5th DCA 2007); *see also Allstate Ins. Co. v. Langston*, 655 So. 2d 91, 95 (Fla. 1995).

WHEREFORE, the Advocate pray this Commission grant the Motion for Protective Order and/or Quash Subpoena in whole or in part as outlined above.

MIAMI-DADE COUNTY COMMISSION
ON ETHICS AND PUBLIC TRUST

By: _____
Michael P. Murawski, Advocate
FBN: 921440
19 W. Flagler Street, Suite 820
Miami, Florida 33130
(305) 350-0609
murawsk@miamidade.gov

 **DRAFT**

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion was sent to Counsel for Respondent, Benedict P. Kuehne, Esq. by e-mail at ben.kuehne@kuehnelaw.com and to Complainant Stephen Cody at scody@stephencody.com this _____ day of May, 2019.

 **DRAFT**

COMMISSION ON ETHICS & PUBLIC TRUST
MIAMI-DADE COUNTY

In re.

Cody v. Stoddard

C18-08-01

MANDATORY SUBPOENA DUCES TECUM

To:

Custodian of Records
A Better Miami Dade
C/O Stephen Cody
16610 SW 82 Court
Palmetto Bay, FL 33157
stcody@stephencody.com

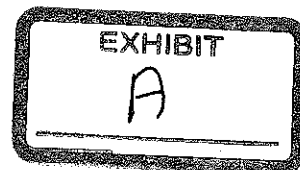
You are commanded to appear in this matter at the time, date, and place specified below, and to bring with you the described items. Your appearance with the described items is mandatory unless excused by this attorney. In lieu of your appearance, you may produce the described items to the issuing lawyer at least two (2) days in advance of the specified date. IF YOU FAIL TO COMPLY WITH THIS SUBPOENA, YOU MAY BE HELD IN CONTEMPT.

If you are a person with a disability who needs an accommodation, to participate in this proceeding, you are entitled to certain assistance. Please contact or call Benedict P. Kuehne or Catherine Melo at 305.789.5989 within two (2) working days of your receipt of this subpoena for assistance by leaving your name and contact information if neither is available when you make contact.

APPEARANCE DATE: June 6, 2019, 10:00 a.m., Miami-Dade Commission on Ethics & Public Trust, Biscayne Building, Conference Room 820, 19 W Flagler Street, Miami, FL 33130.

ITEMS REQUIRED:

For the entire period commencing January 1, 2016, and continuing through the present date:



- All documents pertaining to A Better Miami Dade, including but not limited to financial, business, reporting, tax filings, press releases, emails, and all other items in any form to which you have access in your individual capacity and in your capacity as the Chairman.
- All funds and in-kind contributions received by A Better Miami Dade.
- All expenditures of A Better Miami Dade.
- Scripts for all robocalls and robotexts sent, sponsored, or assisted by A Better Miami Dade.
- Recordings of all robocalls sent, sponsored, or assisted by A Better Miami Dade.
- Names and contact information for all persons, entities, and companies assisting or involved with robocalls and/or robotexts sent, sponsored, or assisted by A Better Miami Dade.
- All financial records for any and all bank accounts of A Better Miami Dade, Inc., the 501(c)(4), and A Better Miami Dade, a political committee.
- Florida Department of State documents for A Better Miami Dade.
- Florida Division of Elections documents for A Better Miami Dade.
- Internal Revenue Service documents, including but not limited to tax returns, filing, and payments, for A Better Miami Dade.
- Miami-Dade Supervisor of Elections or Division of Elections documents for A Better Miami Dade.

May 8, 2019

Benedict P. Kuehne

BENEDICT P. KUEHNE

Approved:

**Miami-Dade Commission on
Ethics & Public Trust**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing motion was sent via email transmission on May 8, 2019, to:

Michael P. Murawski
Florida Bar No. 921440
Advocate, Commission on Ethics &
Public Trust
19 West Flagler Street, #820
Miami, Florida 33130
(305) 579-2594

Benedict P. Kuehne
BENEDICT P. KUEHNE

COMMISSION ON ETHICS & PUBLIC TRUST
MIAMI-DADE COUNTY

In re.

Cody v. Stoddard

C18-08-01

MANDATORY SUBPOENA DUCES TECUM

To:

Stephen Cody
16610 SW 82 Court
Palmetto Bay, FL 33157
stcody@stephencody.com

You are commanded to appear in this matter at the time, date, and place specified below, and to bring with you the described items. Your appearance with the described items is mandatory unless excused by this attorney. In lieu of your appearance, you may produce the described items to the issuing lawyer at least two (2) days in advance of the specified date. IF YOU FAIL TO COMPLY WITH THIS SUBPOENA, YOU MAY BE HELD IN CONTEMPT.

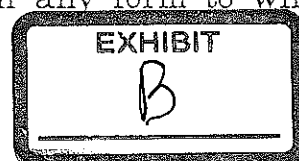
If you are a person with a disability who needs an accommodation, to participate in this proceeding, you are entitled to certain assistance. Please contact or call Benedict P. Kuehne or Catherine Melo at 305.789.5989 within two (2) working days of your receipt of this subpoena for assistance by leaving your name and contact information if neither is available when you make contact.

APPEARANCE DATE: June 6, 2019, 10:00 a.m., Miami-Dade Commission on Ethics & Public Trust, Biscayne Building, Conference Room 820, 19 W Flagler Street, Miami, FL 33130.

ITEMS REQUIRED:

For the entire period commencing January 1, 2016, and continuing through the present date:

- #1 • All documents pertaining to A Better Miami Dade, including but not limited to financial, business, reporting, tax filings, press releases, emails, and all other items in any form to which you



have access in your individual capacity and in your capacity as the Chairman.

- #2 • All funds and in-kind contributions received by A Better Miami Dade.
- #3 • All expenditures of A Better Miami Dade.
- #4 • All income from every source, both individually and any company, business entity, or association in which Stephen Cody serves or served as an officer, director, or agent.
- #5 • Scripts for all robocalls and robotexts sent, sponsored, or assisted by A Better Miami Dade.
- #6 • Recordings of all robocalls sent, sponsored, or assisted by A Better Miami Dade.
- #7 • Names and contact information for all persons, entities, and companies assisting or involved with robocalls and/or robotexts sent, sponsored, or assisted by A Better Miami Dade.
- #8 • All printed and electronic materials relating to Mayor Stoddard.
- #9 • All financial records for any and all bank accounts listing Stephen Cody as an officer or owner, including but not limited to: Stephen Cody personal bank account(s); A Better Miami Dade, Inc., the 501(c)(4); A Better Miami Dade, a political committee.
- #10 • Credit card statements for Stephen Cody individually, any business owned or operated by Stephen Cody, and any company, business entity, or association in which Stephen Cody serves or served as an officer, director, or agent.
- #11 • Debit card statements for Stephen Cody individually, any business owned or operated by Stephen Cody, and any company, business entity, or association in which Stephen Cody serves or served as an officer, director, or agent.
- #12 • Bank statements for Stephen Cody individually, any business owned or operated by Stephen Cody, and any company, business entity, or association in which Stephen Cody serves or served as an officer, director, or agent.
- #13 • Canceled checks for Stephen Cody individually, any business owned or operated by Stephen Cody, and any company, business entity, or association in which Stephen Cody serves or served as an officer, director, or agent.
- #14 • Financial records for Stephen Cody individually, any business owned or operated by Stephen Cody, and any company, business

entity, or association in which Stephen Cody serves or served as an officer, director, or agent.

15 • Lobbying registration records for Stephen Cody individually, any business owned or operated by Stephen Cody, and any company, business entity, or association in which Stephen Cody serves or served as an officer, director, or agent.

16 • Registration records with every governmental agency and entity for Stephen Cody individually, any business owned or operated by Stephen Cody, and any company, business entity, or association in which Stephen Cody serves or served as an officer, director, or agent.

17 • Florida Department of State documents for Stephen Cody individually, any business owned or operated by Stephen Cody, and any company, business entity, or association in which Stephen Cody serves or served as an officer, director, or agent.

18 • Florida Division of Elections documents for Stephen Cody individually, any business owned or operated by Stephen Cody, and any company, business entity, or association in which Stephen Cody serves or served as an officer, director, or agent.

19 • Internal Revenue Service documents, including but not limited to tax returns, filing, and payments, for Stephen Cody individually, any business owned or operated by Stephen Cody, and any company, business entity, or association in which Stephen Cody serves or served as an officer, director, or agent.

20 • Miami-Dade Supervisor of Elections or Division of Elections documents for Stephen Cody individually, any business owned or operated by Stephen Cody, and any company, business entity, or association in which Stephen Cody serves or served as an officer, director, or agent.

21 • All communications, including but not limited to cell phone records, email, texts, Signal, What's App, social media posts, Facebook, Twitter, Instagram, with, between, involving, or containing references to: Mayor Phil Stoddard in any form or capacity; the City of South Miami and any of its officials, employees, departments, and agents; Florida Power & Light and any of its officials, employees, departments, and agents; Next Era Energy and any of its officials, employees, departments, and agents; Family Business Coalition; Family Businesses for Affordable Energy; Alex Ayers; Palmer Schoening; Jonathan

Burke; Team OMC; Orlando Martinez de Castro; OMC Consulting; Jose Lopez; Valerie Newman; Camilo Padreda; Team Horace; Horace Feliu; Bradley Cassel; Brad Cassel; Javier Baños; Pedro Diaz; Diaz Campaigns; DCG; Jorge de Cardenas; DECAR Consultants; Sharon McCain; Lorie Yanoshik; Joe Carrillo; Leverage Investigative Consulting; Leverage Investigations; Jose Carrillo; Ana Carolina Lanuza; Ana Lanuza; Rick Yabor; PAC Financial Management; Noreen Fenner; Diane Doll; Kimberly Bailes.

May 8, 2019



BENEDICT P. KUEHNE

Approved:

Miami-Dade Commission on
Ethics & Public Trust

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing motion was sent via email transmission on May 8, 2019, to:

Michael P. Murawski
Florida Bar No. 921440
Advocate, Commission on Ethics &
Public Trust
19 West Flagler Street, #820
Miami, Florida 33130
(305) 579-2594



BENEDICT P. KUEHNE