



CHARLIE CRIST
GOVERNOR

STATE OF FLORIDA

Office of the Governor

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July 12, 2010

Mr. Neil J. Gillespie
8092 Southwest 115th Loop
Ocala, Florida 34481

Dear Mr. Gillespie:

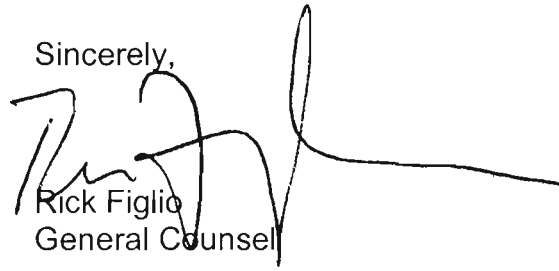
I am in receipt of your letter dated June 29, 2010, in which you inquire as to what further action this office intends to take in regards to your complaint against Chris A. Barker following the Chief Inspector General's ("CIG's") investigation and report. I understand that this office previously indicated to you that a hearing could be conducted following the release of the report. However, after reviewing the Uniform Rules of Procedure for Circuit Judicial Nominating Commissions (the "Uniform Rules"), I am unclear as to the jurisdiction of this office to conduct such a hearing.

Section IX of Uniform Rules provides that a complaint alleging "the misconduct of one or more commissioners (other than the chair) within a single judicial nominating commission shall be reported in writing *to the chair of the affected commission for action.*" R. Proc. Cir. JNC § IX (emphasis added). The section then further provides the chair of the affected commission with plenary authority, and apparently exclusive jurisdiction, to determine the complaint's legal sufficiency. *Id.* If a complaint is determined *by the chair* to be legally sufficient, the chair has three procedural options for the complaint's ultimate disposition: (1) the chair may dispose of each charge in the complaint himself or herself; (2) the chair may refer any charge for disposition by the Governor exclusively; or (3) the chair may refer any charge for disposition by the Governor and the chair concurrently. *Id.* Absent from the Uniform Rules is any mechanism authorizing the Governor to unilaterally investigate complaints against commission members except in circumstances where the chair of the affected commission is personally implicated by the complaint.

In short, although I believe that this office's decision to forward your complaint to the CIG was appropriate, as it is within the purview of the CIG's independent statutory authority, I am unclear as to what authority this office would have under the circumstances presented to provide you with a hearing when the Uniform Rules contemplate exclusive jurisdiction remaining with the affected nominating commission. In the absence of any such authority, I am reluctant to pursue this matter further, for fear of treading into the exclusive jurisdiction of the nominating commission, which is a separate constitutional body.

If you believe that the analysis above is in error, you are welcome to submit to this office a letter memorandum outlining its flaws. The memorandum does not need to comply with rules of civil procedure in terms of form. However, I do ask that you serve the memorandum on chair of the Thirteenth Circuit Judicial Nominating Commission and on the subject of your complaint, Chris Barker. I will take no further action in this matter until the chair and Mr. Barker have received service and have had a reasonable opportunity to respond.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Figlio", with a long horizontal line extending to the right.

Rick Figlio
General Counsel

RF/dml

cc:
Mr. Pedro Bajo
Mr. Chris A. Barker