

# MIAMI-DADE COMMISSION ON ETHICS & PUBLIC TRUST

## Summary of Minutes and Agenda Actions

### Meeting of February 13, 2014

The Miami-Dade Commission on Ethics convened in the Biscayne Building, 19 West Flagler Street, Suite 820, Miami, FL, on February 13, 2014. Present were Commission Chair Nelson Bellido, Commissioner Dawn Addy, Commissioner Kerry Rosenthal and Commissioner Lawrence Schwartz. Commissioner Copeland was absent. Also present were Joseph Centorino, Executive Director; Michael Murawski, Advocate; Miriam Ramos, Deputy General Counsel; Gilma Diaz-Greco, Staff Attorney; Rhonda Victor Sibilia, Communications Director; and Rachelle Cedeno Ross, Executive Secretary. Also present: Miami Beach First Assistant City Attorney Gary Held, Miami Senior Assistant City Attorney Henry Hunnefeld, Assistant Miami City Attorney George Wysong, Attorney Michael Davis and Al Crespo. The meeting was called to order at 10:08 a.m. A quorum was present without Commissioner Addy, who arrived later.

#### **I. Approval of Minutes from January 09, 2014**

Commissioner Rosenthal moved to approve the minutes. The motion was seconded by Commissioner Schwartz and passed unanimously (3-0).

#### **II. Public Comments**

Al Crespo questioned the placement of the "public comments" section so early in the agenda.

#### **III. Request for Opinion**

In response to a question (RQO 14-01) from Tadd Schwartz, the president of Schwartz Media Strategies, staff recommended that a public relations firm would be engaged in lobbying activities when it is hired by a client that has a foreseeable or pending interest in County business and sends positive news clippings about the client to elected officials and public employees intending to influence them. Commissioner Rosenthal made a motion to accept the recommendation that if a firm is compensated to create a positive image for its clients and targets public officials in an attempt to influence their decision-making, that activity falls under the legal definition of lobbying in the County Code. It was seconded by Commissioner Schwartz and unanimously approved (3-0).

#### **IV. Section 8 Requests**

Commissioner Schwartz moved to approve two contracts involving County employees seeking to become Section 8 landlords since neither are employees of the Miami-Dade Public Housing and Community Development Department. Commissioner Rosenthal seconded the motion and it passed unanimously (3-0).

#### **V. Monthly Summary of Inquiries**

A Summary of Inquiries issued since the last meeting was presented to the Commissioners for review.

#### **VI. Executive Director's Report**

Executive Director Joseph Centorino presented a draft of Florida Senate Bill 606 (companion HB 655) that amends state ethics laws. Among many issues, he pointed out one provision that would prohibit one political

subdivision from imposing standards of behavior on other political subdivisions, which would impact the Ethics Commission's authority over municipalities.

Mr. Centorino presented the final report of staff's in-depth ethics training for regulatory employees in the City of Miami Beach that took place over eight months in 2013. It includes a summary of the results of one-on-one interviews with those employees that was also given to Miami Beach officials.

Mr. Centorino presented a draft "Honor Code" that would implement a policy encouraging county officials and employees to report wrong-doing. Commissioner Addy made a motion to include a reference to the Citizen's Bill of Rights. The motion was seconded by Commissioner Schwartz and unanimously approved (4-0). Commissioner Addy then made a motion to approve the Honor Code. It was seconded by Commissioner Schwartz and unanimously approved (4-0).

## VII. Complaints

Following a settlement agreed to last month with Homestead Mayor Jeff Porter over a campaign flyer used in November's election, staff presented a Letter of Instruction that reminds him and all candidates that their right to free speech does not permit them to disseminate political ads that intentionally distort facts. The Letter states that such distortions create "an appearance of impropriety that shakes the public's trust in their elected officials." Commissioner Addy made a motion to approve the Letter. It was seconded by Commissioner Schwartz and unanimously approved (4-0).

While No Probable Cause was found last month to a complaint (C 13-35) that employees in Miami Beach violated the Citizens' Bill of Rights by failing to respond to a public records request in a timely manner, staff presented a Letter of Instruction addressed to the City, reminding public officials of their obligations and responsibilities under the Citizens' Bill of Rights to be helpful and responsive. It also advises citizens to be as specific as possible when requesting public records and provide accurate contact information to avoid unnecessary delays. First Assistant City Attorney Gary Held objected to the Letter, noting that Miami Beach has already made a tremendous commitment to comply with public records requests. Commissioner Schwartz made a motion to approve the Letter. It was seconded by Commissioner Addy and approved 3-1 (Commissioner Kerry dissenting).

The Ethics Commission convened in closed session at 10:45 a.m. The Commission returned to open session at 11:28 a.m. and took the following action:

Nine complaints (C 14-01, 02, 03, 04, 06, 08, 09, 10 and 14) that were filed against various City of Miami officials for alleged violations of the Citizens' Bill of Rights (CBR) provision that requires public records to "be open for inspection at reasonable times and places," were consolidated into one staff recommendation that guidelines and criteria have to be further established as to what constitutes a violation. Commissioner Rosenthal made a motion that, because of the brief period of time the complainant gave officials to respond to his requests and that compliance was achieved after the complaints were filed, no violation of the CBR took place and the complaints should be dismissed for Lack of Legal Sufficiency. Commissioner Addy seconded the motion and it was unanimously approved (4-0).

Commissioner Kerry made a motion to find No Probable Cause to a complaint (C 13-33) filed against the City of Hialeah and El Duke Sports Association LLC for failing to adequately respond to public records requests. City officials stated that that Jose Azze requested some records that do not exist and that they provided all existing records requested about use of baseball fields, but not until after being contacted by a COE investigator. Commissioners agreed that a Letter of Instruction should be prepared to send to city officials. The motion was seconded by Commissioner Schwartz and unanimously approved (4-0).

Commissioner Addy made a motion to approve a Joint Continuance to C 13-38. It was seconded by Commissioner Schwartz and unanimously approved (4-0).

Commissioner Addy made a motion to approve a Defense request for a Continuance to **C 13-50**. It was seconded by Commissioner Schwartz and unanimously approved **(4-0)**.

Commissioner Kerry made a motion to approve a Defense request for a Continuance to **C 13-42**. It was seconded by Commissioner Schwartz and unanimously approved **(4-0)**.

Commissioner Addy made a motion to find No Probable Cause to a complaint (**C 13-47**) accusing Victor de Yurre of improperly lobbying a Miami official. The investigation found that de Yurre did not speak on behalf of a third party about any pending city issue. The motion was seconded by Commissioner Rosenthal and unanimously approved **(4-0)**.

Commissioner Rosenthal made a motion to find Probable Cause to a complaint (**C13-51**) filed against the former public works director for Miami Lakes for approving public business to a company that previously employed him. Hiram Siaba had worked for Ballarena Construction Group from April to September of 2010, but failed to disclose that when he accepted the Miami Lakes position in January 2011 where authorized at least ten projects to Ballarena and oversaw the contracts, in violation of "the reverse two-year rule." The motion was seconded by Commissioner Schwartz and unanimously approved **(4-0)**.

Commissioner Kerry made a motion to find No Probable Cause to several complaints that were consolidated into one (**C 13-34**), alleging that El Duke Sports Association LLC failed to comply with the conditions of a two-year agreement and that the City of Hialeah failed to enforce compliance. The motion was seconded by Commissioner Schwartz and unanimously approved **(4-0)**.

Commissioner Addy made a motion to approve a Defense request for a Continuance to **C 13-41**. It was seconded by Commissioner Schwartz and unanimously approved **(4-0)**.

Commissioner Addy made a motion to find a Lack of Legal Sufficiency to a complaint (**C 14-11**) against the Miami-Dade Water and Sewer Authority Department alleging mismanagement and wasteful spending, and to forward the complaint to the Office of the Inspector General. The motion was seconded by Commissioner Schwartz and unanimously approved **(4-0)**.

Commissioner Addy made a motion to find No Legal Sufficiency to a complaint (**C 14-13**) filed against a Bankruptcy Court judge and Chapter 7 Panel Trustee for the Southern District of Florida for lack of jurisdiction. The motion was seconded by Commissioner Schwartz and unanimously approved **(4-0)**.

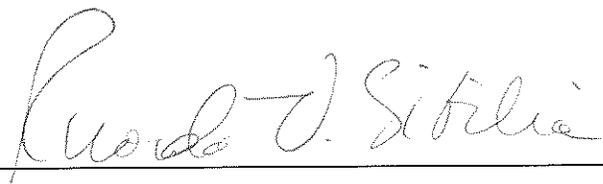
Commissioner Rosenthal made a motion to find No Probable Cause to a complaint (**C14-12**) against a hearing officer in Miami Gardens who was accused of adding a fine to the complainant fighting a traffic citation. An investigation determined he misunderstood the hearing officer's comments and no violation occurred. The motion was seconded by Commissioner Schwartz and unanimously approved **(4-0)**.

## **VIII. Old Business**

Executive Director Centorino stated that he would not be present for the March monthly meeting.

## **IX. Adjournment**

There being no further business before the Ethics Commission, Commissioner Rosenthal moved to adjourn. The motion was seconded by Commissioner Schwartz and it passed unanimously **(4-0)**. The meeting adjourned at 11:30 a.m.



Prepared by Rhonda Victor Sibia, Communications Director