

# MIAMI-DADE COMMISSION ON ETHICS & PUBLIC TRUST

## Minutes for Public Hearing of COE Complaint C14-036, July 8, 2015

The Miami-Dade Commission on Ethics (COE) convened in Suite 820 of the Biscayne Building, at 19 West Flagler Street, Miami, FL, on July 8, 2015. Present were Chairman Nelson Bellido, along with Commissioners Judith Bernier, Marcia Narine and Judge Lawrence Schwartz. Also present were Joseph Centorino, Executive Director; Michael Murawski, Advocate; Lawrence Lebowitz, Investigator; Martha Perez, Staff Attorney; The meeting minutes were kept by Investigator/Forensic Accountant Karl Ross in the absence of Communications Director Rhonda Victor Sibilina. Members of the public and the news media were present along with witnesses.

The hearing was called to order at 1:01 p.m. by Chairman Bellido. A quorum was present.

### **I. COE Complaint C14-036 against Hialeah Mayor Carlos Hernandez**

Chairman Bellido inquired as to whether Mayor Hernandez intended to be present at the hearing. He was advised by the Advocate that Hernandez' attorney contacted COE to advise that the mayor would not be present and therefore would not provide a defense. Chairman Bellido, as a courtesy, allowed additional time before starting the hearing in case Mayor Hernandez changed his mind about attending.

At about 1:10 p.m., the hearing proceeded and Commission Advocate Murawski informed the Commission that a standard of "clear and convincing evidence" would be used to determine whether Mayor Hernandez had violated the County ethics code, in particular the Citizens' Bill of Rights Truth in Government provision. He further advised that any monetary penalties could be doubled for knowing violations.

The Advocate stated Mayor Hernandez violated the Truth In Government provision on two occasions – once in English, then again in Spanish – during an October 13, 2011, press conference to refute media reports he failed to disclose interest income on loans from Luis Felipe Perez, a Hialeah businessman later convicted on fraud-related charges. He said Hernandez was Acting Mayor at the time of the press conference.

Murawski introduced into evidence documents reflecting loans from Perez to now Mayor Hernandez worth \$180,000 at an annual compound interest rate of 36 percent. He then called as a witness Assistant U.S. Attorney Richard Gregorie, who said Hernandez was called as a witness in the April 2014 case against former Hialeah Mayor Julio Robaina and his wife on federal tax evasion charges. Gregorie said he questioned Hernandez at trial and that Hernandez testified he actually received 36 percent annual interest, or 3 percent monthly, and that payments from Perez totaling \$5,400 a month were interest payments on his loans – not the return of his principal, as Hernandez claimed during his 2011 press conference. The Advocate asked Mr. Gregorie to read trial transcripts in which Mayor Hernandez described the payments as interest, which were admitted into evidence.

The Advocate called COE Investigator Lebowitz as a witness and directed Lebowitz to display video of the 2011 press conference including both English and Spanish segments, which Lebowitz said was obtained from WJAN Channel 41 (America TeVe). Lebowitz described how he obtained and later authenticated the video of the press conference. Both English and Spanish portions of the press conference were admitted into evidence. The Advocate also asked Lebowitz to verify that Hernandez's finances are a matter of public record and that the Mayor failed to report the interest income he received in 2007, 2008 and 2009 on his annual finance disclosures. The documents were admitted into evidence.

The Advocate next called Luis Felipe Perez as a witness, and Perez described the transactions with Hernandez, whom he said was his friend during 2007 when two promissory notes were issued. Perez explained the face value of the notes reflected only 18 percent interest rather than the actual 36 percent rate because it would be

illegal and unenforceable under state loan-sharking laws to have an agreement for 36 percent. He said that under the terms of the agreement, Hernandez could withdraw his principal at any time with 60 days' notice. He said the payments to Hernandez of \$5,400 each month were interest payments on the notes. Perez testified that the Mayor's statements during the 2011 press conference that the payments were return of principal were "false statements."

Following closing arguments by the Advocate, the Commission voted unanimously (4-0) to find Mayor Hernandez in violation of the Truth in Government provision of the Citizens' Bill of Rights on two counts as charged in the complaint. Commissioner Schwartz made a motion to fine Hernandez the maximum amount of \$3,000 for knowingly violating the code, and to assess \$1,000 in investigative costs - \$500 on each count. Commissioner Narine seconded the motion, which was then approved.

Chairman Bellido adjourned the hearing at about 4 p.m.

A handwritten signature in black ink, appearing to read 'Karl Ross', is written above a horizontal line.

Prepared by Karl Ross, Forensic Accountant/ Investigator