

Memo

To: The Honorable Carlos Alvarez, Mayor
Miami-Dade County

The Honorable Chairman, Bruno Barreiro
Members of the Board of County Commissioners

From: Robert Meyers, Executive Director
Miami-Dade Commission on Ethics and Public Trust

Date: 11/7/2007

Re: Gift Disclosure Report (2006)

On two previous occasions I prepared reports identifying the number of gifts disclosed by local officials and employees, a requirement set forth in the County Conflict of Interest and Code of Ethics Ordinance. Both memoranda covered eight reporting periods (quarters); the first memorandum detailed gifts disclosures for 1999 and 2000 and the second memorandum encompassed 2004 and 2005. Since the last report was issued, no substantive amendments to the gift rules have been enacted at the County level.

For the four quarters of 2006, the results are listed below:

	2006			
	<u>1st quarter</u>	<u>2nd quarter</u>	<u>3rd quarter</u>	<u>4th quarter</u>
County officials	3	3	2	5
County employees	1	10	4	12
City officials	9	29	7	11
City employees	2	10	3	10

The results from previous years (1999, 2000, 2004 and 2005) compared to 2006 represent an increase in actual filings – 44 total filings in 1999; 1 in 2000; 54 in 2004; 40 in 2005 and 119 in 2006. Thus, it appears on its face that we are experiencing a greater rate of compliance in the current year than in prior years. However, in order for this trend to be noteworthy, it requires knowledge of the frequency of gifts offered to covered parties. In other words, if more gifts were offered in 2006 than in the earlier years, the rate of compliance on a percentage basis might not be statistically significant. Furthermore, if we look at the size of the population affected by the gift rules – approximately 35,000 employees, several thousand board members and several hundred elected officials – underreporting continues to be one of the possible explanations for the relatively low number of filings. There are at least two other

theories that deserve mention: 1) Officials and employees may have decided against accepting gifts tendered to them, which means they have nothing to declare and 2) Officials and employees may believe that a benefit they receive in their "official capacity" does not trigger a disclosable event. Regardless of the possible reasons relative to the number of filers, there is value in examining the actual forms to ascertain who is making the donations and the type of gifts local public servants are accepting.

Without commenting on specific forms, my general observation is wholesale changes to the gift rules are warranted. In part, this is based on examining the reported gifts in 2006 where most of the gifts were in the form of travel and entertainment. When gifts of this type total in the thousands of dollars, one could make the argument that the current rules are not working. The ordinance in its present form simply requires disclosure, but we should go farther and either establish a ceiling with respect to gifts or ban gifts altogether. The County ordinance bars vendors, service providers and bidders and lobbyists from paying for travel expenses of officials and employees, but this restriction does not apply to other types of gifts. Moreover, others who are not defined as vendors, lobbyists, service providers, but have business interests before their local governments in Miami-Dade County, are not affected by this provision.

It is undeniable that public service entails being visible in the community, but should this visibility extend to going to sporting events and concerts for free when attendance is not linked to any official public duties and others who are attending are paying considerable sums of money to be there? If appearances at such functions and events are important, then we should reconsider the sources from whom our local public officials and employees should be permitted to accept gifts. An alternative approach would be to increase the travel and entertainment budgets for elected officials and high-level executives which will virtually eliminate the problem of the outside donor, many of whom who have ties to these local governments.

Finally, the Ethics Task Force, which will be presenting its findings and recommendations to you early in 2008, is likely to weigh in on the subject of gifts. As you know, the current ordinance permits gifts of any value to be accepted as long as gifts over \$100 are properly reported. A County Administrative Order bans employees from accepting all tips or gratuities, which although not codified in the ordinance, is clearly stricter than the requirements enumerated in Code Section 2-11.1(e). I look forward to discussing this topic with you in the coming months and offering solutions that are principled and prudent.

cc: Kerry Rosenthal, Chairman, Miami-Dade Commission on Ethics and Public Trust