

Miami-Dade Commissioner Sally Heyman  
Complaint by Shirley Mason

Case Number: K06-129

Re: The Miami-Dade Independent Review Panel (IRP) referred a complaint filed by Ms. Shirley Mason against Commissioner Sally Heyman to the Miami-Dade Ethics Commission for review and possible investigation. In the complaint Ms. Mason alleged that Commissioner Heyman ordered the Haulover Beach Park Manager not to allow beach access to a concession trailer owned by a Non for Profit of which she is the president. According to Ms. Mason Commissioner Heyman took this action in retaliation for her husband's donation to the election campaign of Commissioner Heyman's opponent in the 2006 County Commission election.

Documents forwarded as part of the IRP complaint.

1. Copy of a handwritten agreement between three parties B.E.A.C.H.E.S Foundation and Toby's Frozen Lemonade and Miami-Dade Parks and Recreation. The agreement executed on December 14, 2004, conveys permission to sell certain items at Haulover Beach to B.A.C.H.H.E.S Foundation, Inc. in return for a percentage of the sale to Miami-Dade Parks. In addition TOBY's agrees to pay B.E.A.C.H.E.S. Foundation, Inc a percentage of five yearly events held at Haulover. B.E.A.C.H.E.S. Foundation and Miami-Dade Parks and Recreation agree to expedite execution of a Program Partnership Agreement.

*Programmed Partners - In June 2002, The Park and Recreation Department's Program Partnership Program was created to restore the Department's Authority to enter into long term agreements with community based organizations (CBO's) that provide recreation, culture and sports programs at park facilities. CBOs that were providing programs under permits at the time the ordinance was adopted were grandfathered into the process and have executed Program Partnership Permits. All New facilities where CBO participation is desirable will utilize a competitive bidding process to secure new non-profit service providers. The Department has established a CGO grant program that provided programmatic or capital development funds to support these and other organizations that are approved on an application and committee review process.*

2. Correspondence from Shirley Mason to Assistant County Attorney Del Castillo.
3. Correspondence to Andrew Clark, Haulover Beach Manager
4. Certificate of Liability Insurance B.E.A.C.H.E.S Foundation Inc.
5. B.E.A.C.H.E.S. Foundation, Inc. Programmed Partnership Permit (not executed)
6. Fax Memorandum and copy of a draft of letter to Ms. Mason from Miami-Dade County with notes.
7. Copy of campaign contribution check from Richard and Shirley Mason to the Campaign of Jay Beskin.

**Ms. Shirley Mason**, Executive Director B.E.A.C.H.E.S. Foundation Inc.

On November 21, 2006, COE Investigators interviewed Ms. Mason at Haulover Park. She explained that her husband is President of South Florida Free Beaches (SFFB) a 501(C) 3 Not for Profit. He made a donation to the Jay Beskin election campaign. Mr. Beskin ran against

Name & Signature:	Manuel W. Diaz, Investigator	Date: Item #:
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Commissioner Sally Heyman for a seat on the County Commission in November of 2006. Commissioner Heyman won reelection. Her husband ran into Bonni Michaels, Commissioner Heyman's Chief of Staff before the election. According to her husband, Ms. Michaels questioned Mr. Mason as to why he had given a donation to Mr. Beskin's election campaign. Her husband had always contributed to the Heyman's past reelection campaigns.

Ms. Mason explained that she is the president of B.E.A.C.H.E.S Foundations. Inc (BFI) a 501(C) 3 Not for Profit. She advised that SFFB and BFI are separate entities. BFI was incorporated to operate beach concessions on Haulover, and SFFB is not involved in concession sales.

BFI has an agreement with the Miami-Dade Parks Department and Toby's, the concession company holding the beach concession contract at Haulover Beach. BFI operates a concession trailer at Haulover Beach four days a week. She noted that the Parks Department and the Miami-Dade Police Department have recently taken action to restrict delivery access to the BFI's concession trailer. She explained that without access to the trailer, BFI finds it difficult to re supply the concession trailer. According to Ms. Mason access to the trailer was not a problem prior to the 2006 Commission election.

Ms. Mason added that Political Consultant Robert M. Levy ran Commissioner Heyman's reelection campaign. Mr. Levy is also a lobbyist representing a number of nudist recreation organizations in Tallahassee. Ms. Mason explained that the American Association for Nude Recreation (AANR) has recently contacted her expressing their interest in absorbing or merging with B.E.A.C.H.E.S Foundations Institute. She explained that she has not interest in accepting their proposal. According to Ms. Mason, Mr. Levy represents the organization.

Ms. Mason speculates that AANR wants to take over and expand the concession rights current held by BFI.

Ms. Mason advised that she has spoken to members of the Police Department and members of the Parks Department that have told her that the Police Department's enforcement has been ordered by Commissioner Heyman's office; either in retaliation for her husband's donation to the Beskin election campaign or to force her to negotiate with AANR.

Ms. Mason offered to provide Investigators with the names of the Police Officers and Parks Department employees who provided her with information.

On December 13, 2006, Ms. Mason sent Investigators a summary of her interaction with Miami-Dade County. Contained in the summary she restates her allegations and includes a witness list. This summary had been made part of the case file.

After speaking to Ms. Mason, Investigators initiated an Investigation to determine if Commissioner Heyman or any member of her staff violated the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, to wit:

Miami-Dade County Code of Ethics and Conflict of Interest Ordinance Sec. 2-11.1

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(g) *Exploitation of official position prohibited.* No person included in the terms defined in Subsections (b)(1) through(6) shall use or attempt to use his official position to secure special privileges or exemptions for himself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners.

In addition the Investigation will attempt to determine if Commissioner Heyman or any member of her staff violated the Miami-Dade County Charter, to wit:

#### SECTION 3.05. RESTRICTION ON THE MAYOR AND COMMISSION MEMBERS.

**B. Except for the purpose of transmitting constituent inquiries to the administrative services and other inquiry, as provided in Section 1.01A(20), the Mayor and Commissioners shall deal with the administrative service solely through the County Manager's Office and neither the Mayor nor any Commissioner shall give orders to any subordinates of the Manager, either publicly or privately.**

No County employee, other than the County Manager, shall respond to or undertake any action to comply with any request by the Mayor or any Commissioner which violates the provisions of the preceding paragraph. The County Manager shall not knowingly allow the Mayor or any Commissioner to deal with the administrative services in violation of the provisions of the preceding paragraph.

#### **Investigation:**

**Interview Robert M. Levy** Lobbyist Robert M. Levy and Associates

On December 26, 2006, Mr. Levy was interviewed by COE Investigators. Mr. Levy confirmed that he represented the American Association for Nude Recreation (AANR) in Tallahassee. He advised that the AANR represented the nudist resort industry in Florida. He explained that the AANR had no interest in merging with or gaining control of SFFB or the B.E.A.C.H.E.S. Foundation Institute. He explained that AANR represents established privately owned resorts primarily on the West Coast of Florida. SFFB does not own property in Miami-Dade; its members use the clothing optional public beach. Mr. Levy explained that the goals of the two organizations as different and not compatible.

Mr. Levy confirmed that knows Mr. and Mrs. Mason and has had numerous discussions with the AANR over the years. He also confirmed that he ran Commissioner Heyman's re election campaign. He was aware that Mr. Mason contributed to the election campaign of Mr. Beskin. He questioned the contribution because Commissioner Heyman has always been sympathetic to the goals of the SFFB organization.

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## **Interview Roger Lewis, Manager Parks and Recreation Contract Administration**

COE Investigators interviewed Mr. Lewis in his office. Mr. Lewis was aware that Ms. Mason filed a complaint with the IRP. He assisted in preparing the Park and Recreations response to the IRP.

Mr. Lewis advised investigators that he is in negotiations with the B.E.A.C.H.E.S. Foundation, Inc. concerning a proposed Parks Department Program Partnership Agreement. Negotiations started in 2004 and have continued off and on since. He advised that Ms. Mason has requested a number of changes in the scope of the agreement. Her requests to the terms of the agreement have caused much of the delay. He advised that he had recently met with Ms. Mason concerning the program. He referred to the agreement as being written in boiler plate language. The same agreement is used for all the CBO's that the request participation in the program. Mr. Lewis was asked if Commissioner Heyman or anyone from her office had contacted him concerning the B.E.A.C.H.E.S. Foundation, Inc., and their participation in the Program. He replied that he had not been contacted. He noted that the Parks Department has held negotiations with other CBO's that have lasted longer.

Mr. Lewis noted that there was a temporary agreement signed in 2004 by the B.E.A.C.H.E.S. Foundation Inc. and TOBY's concerning the sale of items at Haulover. According to Mr. Lewis the agreement dealt only with the sales of items on the beach. The agreement was witnessed by P&R Director Donnell Rodriguez.

Mr. Lewis was aware or the November 17, 2005, letter sent to Mr. and Mrs. Mason by the County Attorney's Office concerning the revocation of parking privileges at Haulover Beach. He explained that the Parks & Recreation revisited its Policy after a Miami Beach employee ran over a sunbather. He advised that until Program Partnership Agreement is formalized Park and Recreation Department personnel move the BFI trailer onto and off the beach. The B.E.A.C.H.E.S. Foundation, Inc. personnel are permitted to park in a designated lot adjacent to the beach. Mr. Lewis advised he was never contacted by Commissioner Heyman or any member(s) of her staff concerning B.E.A.C.H.E.S. Foundation, Inc. operating vehicles on the beach.

## **Interview Ms. Vivian Donnell Rodriguez, Director, Park and Recreation**

Ms. Rodriguez advised COE Investigators that she was aware of the letter concerning vehicle traffic at Haulover sent by the County Attorney's Office. She was not aware, at the time that it was sent, that Commissioner Heyman had directed the County Attorney's Office to prepare the correspondence. She had not objection to the letter and thought at the time that it was a good idea to insure the safety of beach goers and to address county liability issues.

Ms. Rodriguez confirmed Mr. Lewis' observations that any delays in the negotiations between BFI and the Park and Recreation Department were as a result to the Mason's insistence in changes to the scope of services portion of the agreement. She advised that the negotiations were now in progress.

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### **Interview Mr. Jim Hoover**, former Haulover Park Manager

COE investigators interviewed Mr. Hoover on January 9, 2007, in the COE Offices. Mr. Hoover advised that he had spoken to Mr. and Mrs. Mason before leaving the Parks Department and was aware of the problems that their organizations were having. According to Mr. Hoover, Mr. Mason told him that the problems started shortly after the last County Commission election where Mr. Mason had given a contribution to Commissioner Heyman's opponent Jay Beskin.

Mr. Hoover provided a short history of SFFB and the B.E.A.C.H.E.S Foundation and their interaction with the County Parks Department. Mr. Hoover stated that he, as the park manager, had dealt with the two organizations over the last ten years. He advised that he had always been directed by his supervisors to work with the two organizations and to accommodate their requests when he was able to. He advised that he noted an increase in the enforcement action from the Miami-Dade Police Department toward the two organizations shortly after the 2006 election. The Masons were told by police that they could no longer park at the end of beach access road when they had been parking there for years. He advised his supervisors Mr. Byrnes and Mr. Curtis. Mr. Byrnes advised him not to become involved, that it was a matter between the Police Department and Commissioner Heyman's Office. His bosses also told him to be careful with Sally Heyman because she could cause him his job. Mr. Hoover did not pursue the matter. He did advise that the same enforcement actions were not taken against the contracted vendor for the beach, TOBY's.

Mr. Hoover advised that TOBY's had a county contract with the Parks Department. SFFB and BFI only had an agreement with Toby's which was signed off and approved by the Parks Department. He was aware that SFFB and the BFI were in the process of negotiation for a Partners Program with the Parks Department. Mr. Hoover noted that the negotiations ceased shortly after the election. Miami-Dade Parks was honoring many of the things in the Program Partners contract even before a formal contract was signed. The Program Partners contract was never signed. Something happened around election time that turned-off the County toward the Masons and South Florida Free Beaches.

Mr. Hoover conceded that SFFB and the BFI at times strained their relationship with the Parks Department by selling items that were not permitted by their temporary agreement with the County.

Mr. Hoover has resigned from the Park and Recreation Department. Marla Rouse of Parks and Mr. Hoover's former assistant would have access to any of his files regarding SFFB or BFI.

### **Interview Major Mark D. Jeeter**, Miami Dade Police Department, IntraCoastal District

Major Jeeter provided a copy of a letter sent on November 17, 2005, by the County Attorney's Office to Mr. Michael Kush (SFFB) and Ms. Shirley Mason (BFI). The letter advises that the organizations will be required to comply with Miami Dade Park and Recreation Department

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Rules and Regulations and the Code of Miami-Dade County, Chapter 26, Rule 6(a) when parking and operating vehicles at Haulover Beach. Major Jeeter advised that he received the letter and delegated to his command. He advised that the officers first attempted to encourage voluntary compliance.

#### **Interview Diamela del Castillo, Assistant County Attorney**

Ms. Del Castillo advised COE Investigators that she prepared the November 17, 2005, at the direction of Murray Greenberg, Miami-Dade County Attorney. Mr. Greenberg advised her that he received a draft of the letter from the Commissioner at a Commissioner meeting. According to Ms. del Castillo, neither SFFB nor BFI had any contractual agreement with Miami-Dade County authorizing parking at Haulover or for the use of the Haulover Beach access road. Prior to the letter Miami-Dade had not actively enforced the rules outlined in the correspondence. She advised that as far as she knew the letter was prepared in response to safety concerns. She did not speak to Commissioner Heyman concerning the preparation of the correspondence.

#### **Interview Commissioner Sally Heyman, District 4**

On Jan29, 2007, COE Investigators interviewed Commissioner Heyman in the Commission Offices. Also present was Commissioner Heyman's Chief of Staff, Bonni Michaels.

Investigators explained the scope of the investigation to the Commissioner and Ms. Michaels. They were advised that the interview would be limited to: 1) whether Mr. Mason's campaign contribution affected the negotiations on the Partnership Program Agreement between the BFI and Miami-Dade Park and Recreation Department? 2) whether Mr. Mason's campaign contribution caused Commissioner Heyman to order the Police Department or the Park and Recreation Department to enforce parking and access road restrictions at Haulover?

Commissioner Heyman advised that she has had difficulties with Mr. and Mrs. Mason since 2004 when she refused to intercede on their behalf during the vendor selection process for RFP 374, License for Operation of Concessions Facilities at Haulover Park. Commissioner Heyman advised Investigators that she advised the Masons that she could not intercede on their behalf. TOBY's was awarded the concession rights. The Mason's appealed the Manager's decision and contacted Commissioner Heyman and requested her assistance. As previously she advised that as a County Commissioner she could not intercede.

In reaction to complaints of the lack of security at Haulover from the Mason's, Commissioner Heyman met with representatives of the Metro-Police Department, Park and Recreation and Mr. and Mrs. Mason. The meeting took place in 2005. Several items were discussed including vehicle safety on the Haulover access road. After the meeting Commissioner Heyman had her staff research the current status for vehicles using the access road, which included TOBY's, SFFB, BFI and Park and Recreation employees. After receiving input, Commissioner Heyman prepared the draft of letter sent to SFFB and BFI from the County Attorney's Office.

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Commissioner Heyman noted that the letter SFFB and BFI was written in November of 2005, more that a year before she was re elected as Commissioner.

Commissioner Heyman advised that she was aware of the December 2004 agreement between BFI and TOBY's. She advised that she played a major role in the facilitating the agreement. She noted that that the agreement was intended to be temporary until BFI had a permanent agreement with Miami-Dade Park and Recreation. She advised that she was not involved in the negotiations between BFI and Parks and Recreation concerning the Program Partnership Permit. She advised that she was not aware of the Mason's assertion that the negotiations for the Program Partnership Permit had ceased.

Commissioner Heyman advised Investigators that Mr. Mason's contribution to the election campaign of Jay Beskin had nothing to do with her relationship with either organization SFFB or BFI. She noted that Mr. Mason also contributed to her re election campaign before he contributed to Mr. Beskin's election campaign.

#### **Interview Ms. Bonni Michaels, Chief of Staff District 4**

Ms. Michaels advised COE Investigators that Mr. Richard Mason met her as she was leaving County Hall. Ms. Michaels advise Investigators that she worked on the Commissioner's re election campaign on her own time. She advised that she knew that Mr. Mason had contributed to Jay Beskin from reviewing the Mr. Beskins Campaign Treasurer Reports. She acknowledged questioning why he had contributed to Mr. Beskins campaign when in the past he has always supported Commissioner Heyman.

#### **Interview – Richard Mason, Executive Director, South Florida Free Beaches**

Several messages were left for Mr. Mason at the number given by Ms. Mason. Mr. Mason was contacted in mid December. He advised that he was currently undergoing medical treatment and would contact Investigators to arrange for an interview. Mr. Mason never contacted Investigators.

#### **Findings**

Allegation: that Commissioner Heyman ordered County Employees to prohibit B.E.A.C.H.E.S. Foundation, Inc the use of the Haulover Beach access road.

1. Ms. Shirley Mason, Executive Director of the, a Florida Not for Profit, filed a complaint with the Miami-Dade Independent Review Panel. The complaint alleged that the METRO Police Department was limiting BFI vehicle access to Haulover Beach. Ms. Mason stated that this action violated an existing agreement with Miami-Dade Parks and Recreation. Ms. Mason stated that the Park Manager informed her that Commissioner Heyman had ordered them ( Miami-Dade County employees Police and Parks and Recreation employees) not to allow the organization beach access. Ms Mason believed that this

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order was in retaliation for her husband's campaign contribution to Commissioner Heyman's opponent in a recent election.

2. Miami-Dade County held a general election on November 7, 2006. Commissioner Heyman ran for re election.
3. Richard Mason made a campaign contribution to the Campaign of Jay Beskin on September 21, 2006.
4. On December 14 2004, Shirley Mason (BFI), signed an agreement with Chris De La Hoz (TOBY's) and Vivian Rodriguez (MD, P&R). The Agreement was titled Agreement on RFP # 374
5. The Agreement (#4 above) allows BFI to vend certain items at Haulover Beach. The Agreement does not extend parking rights or the use of the beach access road to BFI vehicles.
6. A letter was sent to Ms. Mason by the County Attorney's office outlining the Parks and Recreation Rules and Regulations dealing with operating vehicles at Haulover Beach. The November 17, 2005, letter was distributed to Vivian Rodriguez Donnell, Director of Park and Recreation Department, Major Mark D. Jetter, Miami-Dade Police Department, Chief Herminio Lorenzo, Miami-Dade Fire Rescue Department, Murray Ginsberg, Miami-Dade County Attorney and Roger Lewis, Contract Manager, Park and Recreation Department.
7. During COE Interviews Major Mark Jeeter, Mr. Roger Lewis, Ms. Vivian Rodriguez Dornnell and County Attorney del Castillo advised that the policy enforcement of the violations dealing with operation of motor vehicles on the access road to Haulover Beach was changed because of a concern for citizen safety.
8. During COE Interviews Major Mark Jeeter, Mr. Roger Lewis, and Ms. Vivian Rodriguez Dornnell advised Investigators that Commission Heyman did not order them to increase the enforcement for violations dealing with the operation of motor vehicles and use of the access road at Haulover Beach.
9. On Tuesday November 15, 2005, the Miami Herald reported that a lifeguard ran over a sunbather on Miami Beach.
10. Former Parks Manager Jim Hoover, advised that he observed an increase in enforcement of Haulover parking and access enforcement after the 2006 General Election.
11. According to Commissioner Heyman she prepared the draft of the letter sent by the County Attorney to SFFB and BFI. The letter was sent to address problems of safety for the beach goers and liability for Miami-Dade County.
12. The County Attorney's letter was dated November 17, 2005, more than one year before Commissioner Heyman's re election.

Allegation: That Commission Heyman, or some member(s) of her staff influenced the Park and Recreation Department to end negotiations with BFI concerning the Program Partnership Agreement.

1. On December 14 2004, Shirley Mason (BFI) signed an agreement with Chris De La Hoz (TOBY's) and Vivian Rodriguez (MD, P&R). The Agreement was titled Agreement on RFP # 374.

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2. Mr. Roger Lewis and Ms. Vivian Rodriguez Donnell state that a temporary agreement was signed pending a negotiations toward the signing of a formal Program Partner Agreement.
3. Mr. Lewis advised investigators that he has met with Ms. Mason on a number of occasions to negotiate a formal Program Partner Agreement. Each time Ms. Mason insisted on changes to the Scope of Services of the Agreement. These requests have delayed the process.
4. Mr. Lewis advised Investigators that negotiations are currently ongoing with BFI. He advised that negotiations lasting two or more years, is not unusual.
5. According to Mr. Lewis neither Commissioner Heyman nor any member(s) of her staff contacted him regarding the BFI's participation in the Program Partner program.
6. According to Commissioner Heyman neither she nor her staff contacted Park and Recreation concerning BFI participation in the Program Partnership.

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