



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigators: Karl Ross, Larry Lebowitz

Case No.: K13-053	Case Name: Marc Levasseur alleged absentee ballot fraud in North Miami Beach municipal elections	<u>Date Open:</u> March 11, 2013	<u>Date Closed:</u> Aug. 19, 2013
Complainant(s): COE hotline tip	Subject(s): Marc Levasseur, Jean Napoleon, North Miami Beach City Councilman Frantz Pierre		

Allegation(s):

On March 11, 2013, COE received a hotline call from a concerned citizen who had attended a COE seminar earlier that evening in North Miami Beach. The caller said the presentation raised issues that led him to question something he had witnessed during the previous municipal election in 2011 when he allegedly observed Marc Levasseur (Levasseur) with two bags stuffed with absentee ballots that he removed from beneath the seat of his car.

On or about that same day, COE received a call from a candidate for North Miami Beach City Council, alleging the subject approached him and offered his services as a ballot broker in the upcoming election. He said the subject assured him he could collect large numbers of absentee ballots and also offered to sabotage his opponents' campaigns by removing their signs.

The candidate offered to work with law enforcement, so COE contacted the State Attorney's Office and the Miami-Dade Police Public Corruption Investigations Bureau (PCIB). The case was assigned to PCIB Det. Alex Baldor, who was assisted in his investigation by COE.

Relevant Ordinances:

Chapter 12, Section 12-14 of Miami-Dade County Code, regulates the handling of absentee ballots and limits the possession of absentee ballots as described in its subsections to designees, only if voters are unable to pick up or return the ballots themselves. In such cases, the number of absentee ballots that can be possessed by any designee is no more than two absentee ballots belonging to other voters, only one of which can be for a voter who is not an immediate family member. For purposes of this section, immediate family is defined as the spouse, parent, child, grandparent or sibling of the voter. The section imposes additional requirements for the handling of absentee ballots including the provision of a signed statement by the family member detailing the circumstances that require the designee to pick up or return the absentee ballot. If the voter is not an immediate family member, the law requires that the voter provide a signed statement and also a statement signed by the voter's doctor attesting to the existence of a medical emergency that has precluded the voter from acting on his or her own behalf. Failure to comply with this section is punishable by up to 60 days in prison and a fine of up to \$1,000.

Investigation:

Interviews

Shaya Yona Lunger, civic activist (past president of local chamber of commerce)
North Miami Beach
March 11, 2013

Lunger called the Ethics Hotline after attending a campaign skills seminar presented by this office. He said he was surprised to learn that it is a crime to possess more than two absentee ballots and recalled an incident during the 2011 North Miami Beach municipal elections in which he observed a subject with two bags full of absentee ballots, some of which were opened. (Note: The law would not have been in effect at that time.)

Lunger said he was talking to North Miami Beach Councilwoman Phyllis Smith (Smith) when a man passed by in a car, possibly an Isuzu, and asked for money to buy gas. Lunger said his companion recognized the driver, so he approached the vehicle and gave the man \$40 or \$50. He said the man had been drinking and smelled of alcohol. He said the man proceeded to tell him that he works for North Miami Beach Councilman Frantz Pierre (Pierre). He then pulled two white bags from underneath the seat, and showed them to Lunger, who described the contents as absentee ballots. He said some of the ballots were signed; others were open.

Lunger said he was surprised, and asked the man his name. He said the man identified himself as Levasseur, and said he knows where the man lives and will go back and get an address. (Note: This is the same individual Anthony De Fillipo (De Fillipo) identified as "uncle.")

Lunger said he knows Pierre, and so following the encounter with Levasseur, he decided to go to his home and ask him about the absentee ballots. He said Pierre was friendly and assured him there was no problem. He said the incident has bothered him since then and he was not aware that a crime had possibly been committed until he attended the COE seminar. He said

he is willing to provide a sworn statement.

Anthony De Fillipo, city council candidate (Group 2)

North Miami Beach, FL

March 11, 2013

De Fillipo said he was approached by a Haitian-American man who wanted to work on his campaign, Jean Napoleon (Napoleon), and that he decided to hire him to help him canvass. He said that three days after he started, Napoleon told him someone he knew also wanted to help with his campaign and invited him "to his uncle's house." He implied that De Fillipo knew the individual whom he referred to as "my uncle." De Fillipo said he told Napoleon that he was not interested in hiring anybody else for his campaign, saying he had volunteers and didn't need more paid staff. Napoleon pressed him to accept the meeting so he went to take the meeting at 1070 NE 167th Street. There, he met with an individual named Levasseur.

De Fillipo said that when he arrived, he told Levasseur he had no idea who he was, and Levasseur allegedly told him: "I am the guy who worked for Frantz Pierre. I am the one who put him in office, that helped him with his election. ... I am the one who controls things around here." He allegedly went on to explain what services he might provide for \$3,000, saying: "This is what I do. I go out at night – 12, 1 a.m. – and tear up signs. People wake up the next day and no more signs. I drive the opponents crazy." He said that Levasseur laughed throughout his presentation. He went on to say, "I do one more thing – absentee ballots. I control the neighborhood. I am the one who makes the high numbers happen."

Levasseur then went on to explain, according to De Fillipo, that he brings in large numbers of people (presumably Haitian-Americans) from North Miami or Miami Gardens, and "I put them on the household to vote. I register them. ... I put 10 people in a house." He went on to say that he had friends who would do the same thing, importing voters from other cities.

De Fillipo said he asked him why he was offering to help him since Pierre ran against and defeated his father in a prior election, to which he allegedly replied: "I control this area. The people here do what I want them to do." He went on to say that he would follow postal carriers when absentee ballots are being mailed out. He allegedly said he would pilfer the absentee ballots, put them in a white bag and take them to the Elections Department.

De Fillipo said he told Levasseur he was not interested in having him destroy opponents' signs, but did not tell him outright that he would not consider his services. He said he felt that Levasseur was a "dangerous" person and didn't want to offend him. He referred to him as "the ringleader, the devil in the fire." He said that before he left, Levasseur asked for one of his campaign signs, telling him, "I'll put it up right now." He was instructed by investigators not to contact Levasseur, but to tell him, should he call, he was trying to put together the money to hire him to work on behalf of his campaign, as part of a proactive investigation.

Ketley Joachim, former city council candidate
210 NE 170th Street, North Miami Beach, FL
March 26, 2013

Joachim advised that she ran against Pierre in the 2011 North Miami Beach municipal elections (Group 5), and that she suspected he won by unfair means. She said she is a native of Haiti, but that she has lived in the U.S. since the age of 15. She further stated that her daughter is in the military and her son-in-law, an FBI agent.

Joachim stated she relied mainly on high school students and their parents as campaign volunteers to go door-to-door and talk to voters. She said that they began to hear rumors about possible absentee ballot fraud, especially at an apartment complex with a large number of Haitians in the Government Center area. She said that she went on the radio to warn voters about possible misuse of absentee ballots (also referred to as "AB"s).

Joachim stated that, at one point, her student volunteers told her they spoke to a woman who said she went to school with her and that she alleged that she was mean to her and asked them why they would work for such a person. She said that after this encounter the volunteers left her campaign. She said she went to the woman's home and tried to talk to her, saying that she was going to apologize to her if, in fact, what she said was true, though she had no recollection of any such incidents.

Joachim said that she went to the address with a female campaign worker and that a car came barreling down the street, and that it appeared that Pierre was the driver. She said she later heard that the woman they were looking for was Pierre's wife, Katrina Allison, and that Pierre was trying to get a restraining order against Joachim to prevent her from contacting his wife and campaigning in that area. Joachim said that Pierre called to complain that she went to his home and threatened his wife.

Joachim said she believes that many of the people who were registered to vote at Pierre's home lived outside of the North Miami Beach city limits, including some, like Pierre's brother (Reus) who live in the so-called "donut hole." This term refers to a pocket of unincorporated Miami-Dade County surrounded by areas of North Miami Beach.

Joachim said she encountered further evidence of alleged voter fraud while talking to a group of teen-agers at the basketball court who told her that "homeboy" (Pierre) would pay them to follow the mailman and retrieve absentee ballots and give them to him. She said none of the youths were willing to provide their names in connection with this allegation but that a campaign worker was present. She said one of the youths said that in exchange for the ABs, Pierre would "give them some paper" (money).

Joachim also said she spoke to a neighbor of Pierre's who approached her during the campaign and handed her an absentee ballot, requesting her vote. She said the woman told her that Pierre walked past her home all the time and never said hello, so she had no desire to vote for him. Joachim said she could provide information on the woman regarding Pierre's alleged

possession of her absentee ballot.

Joachim said that Pierre had a “little group” or a “ring” of supporters who she believes are involved in electoral fraud. She mentioned Levasseur and Ferdinand Luckard, and said they would meet at Levasseur’s home, which was frequently overrun with parked cars. She mentioned Levasseur’s improper circulation of an endorsement by HAPAC, which was recently the subject of an FEC action. She also mentioned that another candidate, Mario Apollon, was upset with Pierre because Pierre was supposed to help him with absentee ballots but never did. She said Apollon was not active in community affairs. She further stated Volney Nerette would brag on Haitian radio about delivering large numbers of absentee ballots.

Joachim stated she took her concerns to the FBI and was told they did not have jurisdiction, and that she also attempted to contact the State Attorney’s Office.

Kimberly Keels

Interim Absentee Ballot Manager – Voter Services

Miami-Dade County Elections Department

May 8, 2013

Keels conducted a review of registered voters at the home of the subject and his wife, at 1070 NE 167 Street, and determined the following:

- Josiana R. Alexis, DOB 6/9/1979
AB request processed on 5/1, AB returned to Elections on 5/7
- Jerry Dann, DOB 9/2/1948
No request for AB on file
- Marckendy Levasseur, DOB 4/8/1994
No Request on File
- Roseline Levasseur (wife), DOB 3/20/1963
AB request processed 5/1, AB returned to Elections on 5/7
- Sergely Mercilus, DOB 1/24/1977
No request on file
- Frantz Paul, DOB 1/8/1978
No Request on File

She further advised that no AB requests were received for the 05/14/13 countywide election.

Note: The subject is not a registered voter.

In response to a subsequent request, Keels advised on May 14 that there are 20 registered voters with the last name Levasseur. She said all but one live in the North Miami/North Miami Beach area. Of those, the following had an AB request on file or voted by AB:

- Cathy Levasseur, DOB 1/22/1975
15121 NE 6 Ave, Apt. 35

AB sent; not returned to Elections as of the above date

- Immacula Levasseur, DOB 12/12/1955
15121 NE 6 Ave, Apt. 35

AB sent; not returned to Elections as of the above date

- Luckner Levasseur, DOB 5/16/1950
14300 NW 10 Ave.

AB sent; not returned to Elections as of the time of the above date

- Lunell Levasseur, DOB 7/16/1960
26830 SW 127 Avenue, Homestead

Absentee Ballot Returned to Elections 05/03/13

- Vladimir Levasseur, DOB 9/08/1990
338 NE 171 Street

AB sent, not returned to Elections as of the time of the above date

- Ivica Muselaire, DOB 1/23/1957
338 NE 171 Street

AB sent, not returned to Elections as of the time of the above date

- Hebel Levasseur, DOB 10/03/1960
338 NE 171 Street

No AB request on file (AB requested later found dated 4/8/13)

- Vanessa Levasseur, DOB 5/24/1994
338 NE 171 Street

No AB request on file (AB requested later found dated 4/8/13)

Document/Audio/Video Review:

Investigators examined the results from the May 3, 2011, municipal election in North Miami Beach, and found the following:

- A total of 3,323 total votes were cast out of 19,617 registered voters, representing voter turn-out of 17 percent.
- Pierre had more ABs than any other candidate with 615. His next closest challenger, Michael Joseph Casey, had 356, and Ketley Joachim had 130.
- The next highest AB recipient was former Mayor Myron Rosner with 504, compared to 349 for the eventual winner and now Mayor George Vallejo.
- Councilwoman Phyllis Smith (who told Yona Lunger to help Levasseur when his car ran out of gas) had 396 ABs, most in her group.

Investigators examined campaign finance records for the 2011 municipal election in North Miami Beach and found payments to Levasseur, totaling \$1,500 from the Pierre campaign, as follows:

- \$250 on 2/20/11 for “campaign worker”
- \$500 on 5/12/11 for “campaign worker”
- \$800 on 5/16/11 for “campaign field work”

COE obtained access to Absentee Ballot Request forms from the Miami-Dade County Elections Department database for the following individuals:

- Roseline Levasseur, 1070 NE 167th Street (subject’s wife)
- Ivica Muselaire, 338 NE 171 Street
- Hebel Levasseur, 338 NE 171 Street
- Vladimir Levasseur, 338 NE 171 Street
- Vanessa Levasseur, 338 NE 171 Street

Note: The date of request for Roseline was 3/27/13. The date of request for the four voters at 338 NE 171st Street was 4/8/13, and all appeared to be filled out by the same person.

Conclusion(s):

Sworn statements providing additional details were taken from witnesses Lunger, De Fillipo and Joachim at PCIB’s main office in Doral.

De Fillipo, since elected to the North Miami Beach City Council, assisted in the investigation by wearing an electronic eavesdropping device or “wire” and participating in numerous telephone calls and face-to-face meetings with the subject. The last and most significant of these meetings took place in the subject’s car on May 1, 2013 (less than a week prior to the May 7 municipal election). The car was parked in the driveway of the subject’s home at 1070 NE 167th Street, North Miami Beach, Florida.

Investigators Ross and Lebowitz reviewed the audio and video recording from said meeting and determined that the subject – who was wearing latex gloves – handled four to five absentee ballots for the May 7, 2013, municipal election in North Miami Beach. He also appeared to handle as least two absentee ballots for a countywide referendum to be held at or about the same time for taxpayer funded stadium improvements. That election was canceled after the Miami Dolphins failed to get enabling legislation approved by lawmakers.

Making a running tally of the municipal ballots during the meeting, De Fillipo advised the subject: “You’ve shown me five from our family members.” [Note: Because he is not a

registered voter, the most absentee ballots the subject could possess under any legitimate scenario would be two (2) absentee ballots – provided he had written permission.]

During the May 1 encounter in the subject's vehicle, it was clear the subject was attempting to convince De Fillipo that De Fillipo should pay him the remainder of a \$3,000 fee in exchange for his assistance in obtaining voted absentee ballots. Acting under the supervision of PCIB police detectives, De Fillipo had paid the subject \$1,000 as a down payment.

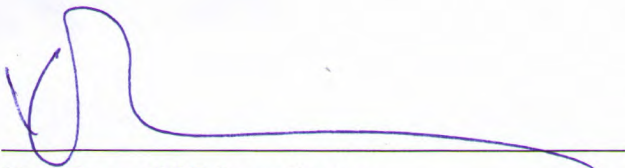
The subject made excuses to justify not delivering the hundreds of absentee ballots that he had promised, blaming this on a dispute over \$40 with Napoleon (the campaign worker who introduced De Fillipo to the subject). Nonetheless, he told De Fillipo: "I am going to make you win with my spirit." He said he would invoke Vodou on De Fillipo's behalf.

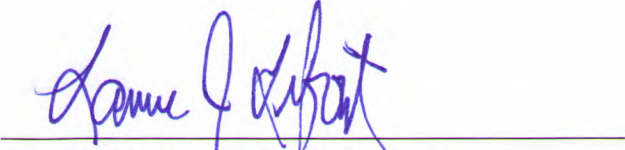
De Fillipo did obtain video of many of the seven or eight absentee ballots presented to him by the subject as evidence of his efforts to collect absentee ballots for his campaign. It appears that two of these ballots were for the scuttled stadium vote. However, at least four, possibly five, municipal absentee ballots could be identified based on the descriptions provided by De Fillipo and the video evidence obtained pursuant to the eavesdropping device. These ballots were associated with the subject's wife (Roseline Levasseur) and the four presumed relatives living at 338 NE 171st Street (Ivica Muselaire, Hebel Levasseur, Vladimir Levasseur, Vanessa Levasseur). He later informed De Fillipo, "I am going to mail them tomorrow."

It should be noted that Pierre arrived during the meeting in the subject's car and entered the subject's home without knocking – even though the subject had, earlier in the recorded conversation, described the councilman as his "enemy." De Fillipo said he terminated the meeting and departed the subject's residence after he was confronted by Pierre, who De Fillipo said took photographs of him and made what he considered threatening remarks about damaging his reputation.

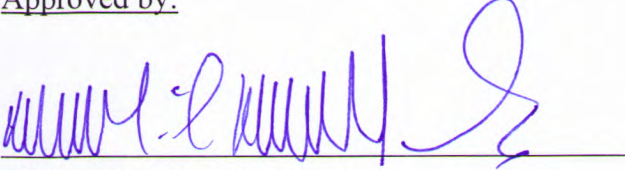
A subsequent consultation with the Miami-Dade County Elections Department found that only one of the absentee ballots presented to De Fillipo had been returned to the department for counting – that of the subject's wife, which was received on May 7, Election Day.


The findings were forwarded to the State Attorney's Office for review on or about May 15, 2013, along with a copy of the undercover video. On October 25, 2013, SAO decided not to pursue criminal charges against Levasseur.

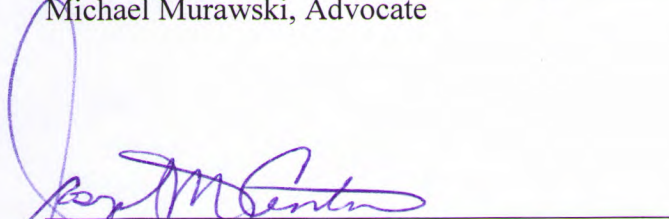

Karl Ross, COE Investigator

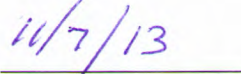

Larry Lebowitz, COE Investigator

Approved by:


Michael Murawski, Advocate


Miriam S. Ramos, Deputy General Counsel


Joseph Centorino, Executive Director


Date