



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Karl Ross

Case No.: PI 13-034	Case Name: Southeast Towing/Jenna Mendez	<u>Date Open:</u>	CASE CLOSED Date: <u>9/18/14</u>
Case opened in response to allegations raised by blogger Nancy Lee	Subject(s): County Comm. Lynda Bell, Police Officer Jenna R. Mendez, former Sweetwater Mayor Manuel Marono	Nov. 14, 2013	

Allegation(s):

Blogger Nancy Lee (Lee) contacted the COE regarding Southeast Towing and an alleged a quid-pro-quo between County Comm. Lynda Bell and former Sweetwater Mayor Manuel Marono. She alleged Comm. Bell, while occupying her previous elected office as Mayor of Homestead, helped Marono by exerting her influence to help Mayor Marono's private firm (Southeast Towing) get a city contract in Homestead in exchange for Marono exerting his influence to hire Comm. Bell's daughter, Jenna Mendez, as a police officer. "Lynda got them the contract in Homestead," Lee said. "Soon after her daughter was hired in Sweetwater."

The investigation will also examine whether Officer Mendez was properly authorized for outside employment with Fence Assured LLC, a company she appears to own with her husband, Damian Mendez, and whether Fence Assured is contracting with the Sweetwater Police Department in possible violation of the Miami-Dade County ethics ordinance.

Relevant Ordinances:

Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, sections relating to Exploitation of Official Position; Outside Employment; and Prohibition on Contracting Business with the [City] through a Corporation, Partnership or Other Legal Entity.

Investigation:

Interviews

On 11/18/13, a public records request was made to the city of Sweetwater for records relating to the employment of Officer Mendez, including outside employment authorization requests and related disclosures, and also for copies of any contracts with Fence Assured LLC.

On 11/22/13, I spoke to Marie "Val" Schmidt, the city clerk, regarding a pending records request. She advised that her staff was working on the request, and had compiled copies of the contracts with Fence Assured and supporting items, such as selection committee reports and resolutions. She said the city's IT department had been asked to obtain copies of e-mails between city officials and the company, including those on former Mayor Marono's computer, which she said was password protected and that IT would have to remove the password so that its contents can be searched

She said she would check with Maj. Ochoa, the deputy chief, to see if Mendez filed any paperwork requesting outside employment. She said Ochoa was the custodian of all such requests. She said city employees typically don't request outside employment. She also mentioned former maintenance department head, Antero Espinosa, recently left and it would take time to obtain copies of any correspondences relevant to the investigation. (This would be because Espinosa would be the city employee to oversee the fence installation.)

On 12/17/13, Homestead General Services Director Jerry Estrada was interviewed at COE, and provided requested documents relating to the award of a city contract to Southeast Towing in mid-2009. He said the city had been considering issuing an RFP for several years, dating back to 2006, but that in mid-2009 an RFP was issued on a rush basis. He said that the procurement employee or "buyer" responsible for the RFP was Malia De Candia, now Malia Rivera, who said that she was being pressured by then Assistant City Manager Brian O'Conner to issue the RFP without legal review and before the document was complete.

Estrada said the RFP was issued after a change had been made in the city's towing ordinance that removed the chief of police as the person making the recommendation to the manager and instead called for the procurement department to oversee any selection process. Another change in the selection criteria broadened the radius for selecting a firm from all companies within the Homestead city limits (only incumbent A1 Towing) to all firms within a 10-mile radius, making it possible for Southeast Towing and other towing companies to qualify. Although a large number of firms were notified about the RFP over the internet and through newspaper ads, only a handful of firms were eligible because of the selection radius. Only two firms submitted RFPs.

Estrada said that former City Manager Mike Shehadeh oversaw the process and his successor, police Captain. Randy Chong, was the lead person on the selection committee. He also advised that a former city employee, Johanna Faddis, referred to the item as a "booby trap" in an e-mail he discovered. He said she left the city and may have worked for Lynda Bell. He said Shehadeh now works for private engineering consultant C2M Hill.

On 12/17/13, Johanna Faddis, now a Miami-Dade County employee, was contacted by COE and an interview was scheduled for 12/19/13 at 11:15 a.m.

On 12/19/13 Ms. Faddis was interviewed regarding her knowledge of the towing contract that was issued in mid-2009. She advised that she had very little recollection of the matter because, as an assistant city manager, she was involved in numerous procurement items. Asked to review the e-mail string in which she referred to the item as a “booby trap,” Ms. Faddis explained that this was an inside joke between her and another city employee and a reference to the movie “Goonies” in which one of the characters remarks, “That’s what I said, ‘It’s a booby trap.’”

She stated that she had no knowledge of any undue interference on the item. She stated that it would be unusual if an elected official were to get involved with a procurement item. She stated that she did know former Homestead Mayor Lynda Bell from her time in the city manager’s office, but said that she did not work directly for her until almost a year after she left the city in December 2009. She said she worked for her for three years, before requesting a transfer to the county’s Department of Public Works where she is now employed.

On 3/4/14, COE interviewed Mike Shehadeh, who was city manager of Homestead at the time the towing ordinance was revised and the contract to Southeast was issued. He advised that he decided to make the changes at the request of the police department after meeting with Chief Rolle, Maj. Kennedy and former Capt. Chong. He said the police thought it would be helpful to issue a new RFP because the existing contract was a de facto sole source bid since the incumbent firm was the only one located within the city limits. He said he also agreed to make changes because the city was missing an opportunity to enhance its revenues. He said that, to his knowledge, there was no intervention by any elected official, including the mayor at the time, Lynda Bell. He said that it was a fair and clean process, in his view.

On 3/4/14, COE interviewed Eric Gomez, city engineer for the City of Sweetwater. He advised that he was not involved with the selection process for the contract awarded to Fence Assured. He provided contact information for Gil Chez, the city’s director of maintenance.

On 3/4/14, COE interviewed Gil Chez, 786.507.4850 ... Spoke to him, declined to be interviewed unless granted permission through city clerk’s office. After consulting with the city clerk, Mr. Chez agreed to an interview on 3/18/14 at the office of COE.

On 3/4/14, COE interviewed Robert Herrada, assistant to the mayor Jose M. Diaz and Director of Operations and Senior Center Director, regarding the awarding of the contract to Fence Assured in 2012. Mr. Herrada advised that he did serve on the selection committee. He said other members of the committee included Gil Chez, director of the maintenance department; Jesus Borrero, from the mayor’s office; and either Antero Espinosa, the former maintenance director, or one of his assistants. He said he has worked for the mayor’s office for the past five years, and reported to former Mayor Manuel Marono at the time of the RFP.

Mr. Herrada advised that he was in agreement to disqualify the two low bidders because of their failure to strictly adhere to the requirements of the RFP. He said that failure to follow the RFP for something as minor as not providing the required number of photocopies – as was the

cause for rejecting the proposal of the lowest bidder, BCM Construction – suggests that a firm may not pay attention to detail and that it may not therefore be in the city’s best interest to do business with such a firm. He did allow that the city has the discretion to overlook such a departure from the RFP and to award a contract to such a proposer if it is deemed to be in the city’s best interest. He said he did not recall any dissent to awarding the contract to the highest bidder in this case, Fence Assured (\$54,000 compared to the low bid of \$39,000).

Herrada said that he did not recall having any prior discussion with then Mayor Marono about which company should be awarded the contract. He said the mayor was typically briefed after the contract was awarded, but that he did not recall Marono having any opinion as to which firm should get the fencing contract. He said he was not aware at the time of the selection process that then Officer Mendez was an officer in the corporation. He said that this would have raised a red flag in his mind, had he known this. He said he did not find out until afterward. He said he thought the company belonged only to her husband. He said he was not familiar with the city’s policy regarding outside employment, referring any questions to the city clerk’s office. He said he would look for records relating to the selection committee.

On 3/4/14, COE interviewed Miguel Hernandez, managing member BCM Construction & Renovation Contractors LLC, the low proposer for the fencing RFP at \$39,500. Hernandez said he “kind of had a feeling” his company would not be awarded the contract even though it submitted the lowest price at the September 7, 2012, RFP opening. He said he was never contacted by the city to inform him that another firm had been selected. He said he was aware that one of the three firms was disqualified at the RFP opening. He said he did not know why BCM was not awarded the contract until after he contacted the city and inquired. “Nobody ever called me. I was never sent a letter ... I kind of had a feeling we wouldn’t get the job, maybe because somebody knew somebody.” He said Gil Chez hosted the site meeting.

On 3/18/14, COE interviewed Guillermo Chez, assistant maintenance director for the city. Mr. Chez also oversees the city’s fleet, fuel supplies and transit operations. He said he was hired by the city in early 2012, after working previously for five years at Southland Towing. He said he worked for former Mayor Marono at Absolute Towing as a driver 17 years ago. He said Marono was the owner of Absolute, but he did not report to him at Southland.

With respect to the invoices to Fence Assured paid by the city, Mr. Chez was asked to review all the invoices and identify the corresponding work sites. He said most of the sites were kept by the city’s Maintenance Department and that the Maintenance Department was the requestor department, even for the two work sites involving the city’s Police Department.

With respect to the bid process, Chez advised that he learned Officer Jenna Mendez was a co-owner of Fence Assured during the selection process when he saw her name on company records. He said he brought this to the attention of Robert Herrada, the mayor’s chief of staff, and that Herrada told him that since it was a competitive bid, “it didn’t matter” that she was a city employee. (The assumption is that the low bidder would get the job, regardless.)

Mr. Chez stated that Herrada prepared the bid and asked him to send it out on behalf of the Maintenance Department. He said four firms responded and that one was dismissed right away because its bid documents consisted of a one-page, hand-written document. He said the other

two bids were discarded because they did not submit the required number of copies. He said that even though the bids were the two lowest bids, Herrada told him, “they don’t comply” and the companies were therefore disqualified. He did allow that the city could have overlooked any technicalities but that, in his experience, the guidelines are strictly enforced.

Mr. Chez said he could not explain why Fence Assured was doing work for the city prior to the awarding of the formal bid in October 2012. He said he started with the city in about February or March of 2012 and that Fence Assured was already doing work for the city.

Mr. Chez said that former Maintenance Director Antero Espinosa used to complain about Fence Assured, and did not like their work. He said he did not know why, but mentioned that Espinosa would hire other firms to do work for the city even after Fence Assured was awarded the contract. He further stated Espinosa would select 80 to 90 percent of the contractors for the maintenance department, unless the mayor wanted somebody else to get the work.

Antero Espinosa, former Maintenance Director

City of Sweetwater, FL

March 26, 2014

Mr. Espinosa, who left the city six months ago, was interviewed at this home concerning the contract awarded to Fence Assured. He advised that he was part of the evaluation committee, and said that, in his view, the contract was fairly awarded and that bid procedures were followed. He said that he did suggest to Robert Herrada that the City ask the low bidder to provide an extra set of bid documents, but that Herrada told him, “No. We can’t do that.” He said that he had worked with Gomez and Sons, the second lowest bidder, in the past, but that he didn’t advocate awarding the contract to them because he didn’t want to seem like he was “pushing” them over the other firms. He said that he did not have a high opinion of the work being done by Fence Assured, but felt the contract was awarded fairly. He said that he later had to ask Fence Assured to re-do some of the work on the contract because it didn’t meet his standards. He said they ultimately did, but advised that he was not happy with the quality. He said that at no time did he have reason to believe that former Mayor Maroño was involved in the awarding of the contract and that Fence Assured never made reference to the mayor.

Det. Jenna R. Mendez

Sweetwater Police Department

August 7, 2014

Pursuant to a subpoena, Det. Mendez appeared for a statement at COE along with her attorney, J.C. Planas. Mendez responded to questions about the extent of her involvement with Fence Assured LLC, her husband’s fencing business. She said her husband had been installing fences for six or seven years before incorporating the business in 2011 or 2012.

She said she was initially an officer in the corporation, but had herself removed on or about October 2013 after a co-worker suggested to her it could become a problem for her, that “somebody could try to set me up.” She said she does not work for the company and does not draw a salary, though she does handle some of the bookkeeping duties. She said she collects the checks that arrive in the mail and deposits them in the company’s bank account. She said

she has also signed a handful of payroll checks if her husband tells her that an employee needs to be paid “and will swing by the house.” She said he normally handles those duties.

Det. Mendez said that she has never received a salary from the company, but that she did deposit some of the proceeds in a savings account – i.e., checks to her for \$1,800 and \$12,000 in 2012 with the memo line “savings.” She said she may have been reimbursed on occasion for money she fronted the company to buy materials, such as the check for \$675 in 2012. She further stated that she may have dropped off permits at Sweetwater city offices for Fence Assured for work being carried out in Sweetwater “because it is more convenient” for her. She advised that she has no supervisory responsibility for any city permitting departments.

She also advised the company made two or more small payments to the city to reimburse the city for use of a city vehicle for part-time work she was doing with Condote, a construction firm. She said the work was “city-organized, off-duty” employment and that she was paid through the city. The city requires a \$5 per hour payment for use of city vehicles. The work involved maintenance of traffic, and using the police car for traffic control purposes.

With respect to the selection of Fence Assured over two lower-priced vendors, Det. Mendez stated that the disparity in price could be explained by the failure of the two competitors to include a quote for a motorized gate, and that this could account for the difference in price.

Document/Audio/Video Review:

Video of a June 9, 2009, Homestead Council meeting re: RFP 200904 Towing Services (<http://www.youtube.com/watch?v=Lo2NmMyTCZs&list=PLLovMYxgSWmw8BYB1ebr2sEyfgyr-raX7&index=6>) shows that then Mayor Bell was vocal in her support of the decision to add a second towing firm, though she did not mention Southeast Towing by name. She stated it had not gone out to bid since 2001 and needed to go out to competitive bid.

City Manager Mike Shehadeh said he wanted “to give credit to the chief and his staff” and said the \$30 administrative fee would create a \$60,000 revenue stream since the police department will no longer pay for towing. He said he “concurred with the chief’s recommendation for more than one vendor” to provide towing services... “That is why you see two vendors there, and with your approval we are going to move forward with contract negotiations.”

Then Mayor Bell added that she also commended the police chief, adding: “I just wanted to commend the chief. I think that having two vendors is a really good idea.” She said it was “excellent,” then praised Captain Chong and Captain Washington, saying that if they were on the selection committee, “then we’re in good, safe hands there.”

Reviewed supporting documents for agenda item, including a memo from former City Manager Mike Shehadeh advising that Southeast and AI Redland Economy Towing of Homestead Inc, were selected as the city’s two towing vendors following an RFP.

The RFP consisted of contacting 382 potential, local and national vendors through a service known as DemandStar, as well as through advertisements in the Miami Review and South Dade News Leader. An evaluation committee consisting of Captain Chong, Captain Washington and Luis Bora, fleet manager, recommended the firms, according to a memo.

On 12/16, I reviewed public records obtained from the Sweetwater City Clerk's office relating to contracts with Fence Assured. The records showed that at least two of the jobs were initiated at the request of the police department. For others, it was unclear. The records also showed that Fence Assured was awarded a city contract in September 2012, despite being the highest of three respondents to an RFP. The two lowest-priced firms were disqualified on seemingly technical grounds – i.e. not delivering three copies of documents.

On 3/9, COE obtained a copy of the personnel file for Officer Mendez, now an acting Sergeant. The documents showed the following:

- Mendez left the Homestead PD on or about March 2010.
- Mendez was hired by the Sweetwater PD and started on 1/25/11.
- She was awarded permanent status on 1/19/12 at a salary of \$42,446.
- Mendez passed the Sergeant's exam with a grade of 88.8% on or about April 2013.
- On 9/13 she was given raise to sergeant's pay grade from \$50,251 to \$56,799

It should be noted that there was no evidence of any request for Outside Employment contained in her personnel file, nor any related financial disclosure forms.

On March 31, 2014, COE contacted Mendez by e-mail and advised her as to existence of the investigation relating to Fence Assured and the allegations contained in a blog posting. COE requested that she appear for an interview so as to provide her perspective.

On April 9, 2014, Mendez responded as follows: "I am not aware [sic] this is the first I hear of any investigation. Can you please provide me with all of the allegations Nancy Lee has claimed. As for me being an officer of the company, I am not. That is a false accusation. ..."

Mendez did not respond to a subsequent question about whether she has ever been an officer in Fence Assured, and COE was contacted subsequently on her behalf by attorney J.C. Planas. Planas was queried on May 5, 2014, as to whether his client would be willing to appear for an interview. No response was forthcoming so a subsequent request was made on June 10.

On June 10, 2014, COE reviewed records for Fence Assured LLC's business account with Capital Bank of Greenville, TN. Records show the account was opened on Sept. 6, 2012, and that Damian Mendez and Jenna R. Mendez were identified as the owners/signers.

A review of checks drawn on the account showed that Mr. Mendez signed a majority of the

checks, but that Sgt. Mendez did sign checks on occasion, including several to workers in April 2013 with the memo line stating "payroll." She signed other payments to a church.

Also, on Nov. 30, 2012, Sgt. Mendez signed a check to the city of Sweetwater for \$276.05. The check stated that the purpose of the check was for a "permit."

The review of company checks also showed several payments to Mendez herself:

- On Sept. 11, 2012, a check was made out to "Jenna Mendez" in the amount of \$1,800. The memo line for said check states: "To savings."
- On Sept. 15, 2012, a check was made out to "Jenna Mendez" in the amount of \$675, with the memo line stating: "Materials for Job #15."
- On Nov. 20, 2102, a check was made out to "Jenna Mendez" in the amount of \$12,000, with the memo line reading for "Savings."

The review also found two payments on Fence Assured company checks to the Sweetwater police department that were signed by Sgt. Mendez. The checks for \$65 on April 14, 2014, and for \$135 on Jan. 3, 2013, were for "off-duty payment," according to the memo lines.

Conclusion(s):

No evidence could be found suggesting a nexus between the 2009 award of a Homestead towing contract to a firm represented by former Sweetwater Mayor Manuel Marono, and the subsequent hiring of Jenna R. Mendez as a police officer in Sweetwater in 2011.

Homestead city officials stated they did not perceive any undue influence by then Homestead mayor, now County Commissioner Lynda Bell in the awarding of the towing contract.

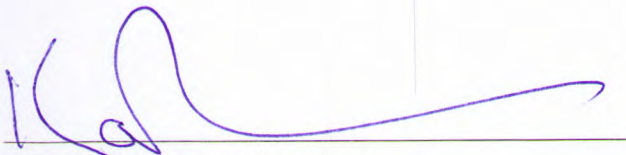
The investigation did not reveal any undue pressure to select Fence Assured LLC as the city of Sweetwater's fencing contractor, based on interviews with members of the selection committee. The contract was awarded on or about September 2012.

With respect to any outside employment concerns, the investigation did find that Det. Mendez was an officer in Fence Assured at the time work was being performed in Sweetwater, but that she did not have any regular duties as an employee of the company.

The investigation found her involvement in the company's affairs was limited to occasional bookkeeping duties and making bank deposits, but that she was not directly involved in the company's day-to-day operations. Payments received from the company's bank account did not appear to be linked to any services Det. Mendez provided to the company.

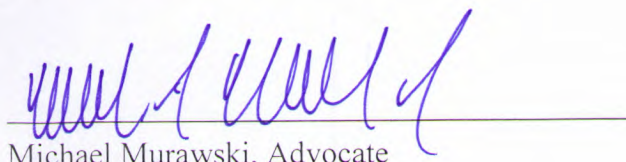
Lastly, with respect to any potential conflicts it was determined that since the Fence Assured contract was issued by the city's administration and not by the police department, that Det. Mendez does not have a conflict as a result of any interest she may have in the company. Sweetwater has no specific prohibition on employees or family members contracting with the city. Thus, they are controlled by the County's rule. The County permits employees to contract with the County as long as they or their family member are not contracting with the department in which the employee works; also, the employee can have no administrative or supervisory duties over the contract.

After review by the Ethics Commission's Advocate, it was determined that this matter should be closed.

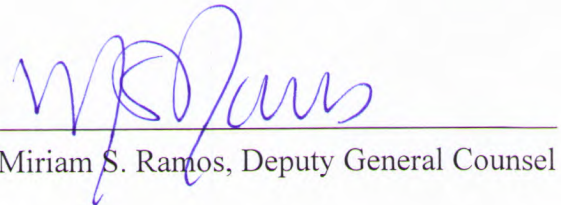


Karl Ross, COE Investigator

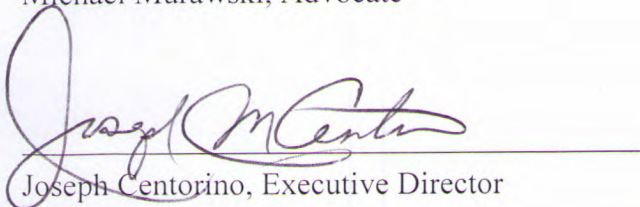
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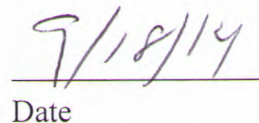
Michael Murawski, Advocate



Miriam S. Ramos, Deputy General Counsel



Joseph Centorino, Executive Director



Date