



Miami-Dade Commission on Ethics & Public Trust

Report of Investigation

Investigator: Sylvia Batista

Case No: K14-021	Case Name: Kilby	Date Opened:	
Complainant(s):	Subject(s): Stephen L. Kilby.	03/03/14	

Allegation(s):

Information referred by the OIG to the COE contained allegations of exploitation of official position by Stephen L. Kilby (Kilby), Airport Division Chief, Miami-Dade County Fire Rescue Department (MDFR).

Kilby is alleged to have ordered, through the PA system, the entire shift of fire fighters present on the morning of 12/10/13 to report to the station's briefing room for a presentation. The staff had been previously advised by Kilby that the presentation was going to be about reduced tuition costs for a BA degree from St. Thomas University. The presenter was former MDFR Chief Arthur L. Holmes, presently with St. Thomas University.

It is alleged that at the start of the meeting, after having summoned the entire MDFR shift to the briefing room, Kilby, pointed to himself and credited FF John Watler's exercise program for his improved physical condition. Kilby is said to have endorsed John Watler's company, Top Rank Fitness, Inc. (TRF), and encouraged those present to use Watler's company if they want to get in great shape like he has.

Furthermore, Kilby is alleged to have forced everyone to stay through the St. Thomas University presentation and fill out forms although many of those present were clearly not interested.

Relevant Law:

Conflict of Interest and Code of Ethics Ordinance, Section 2-11.1(g) *Prohibition on exploitation of official position.*

“No person include in the terms defined in Subsections (b)(1) through (6) and (b)(13) shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or himself or others...”

Investigation:

Document Review and Research -

A public records request was submitted to MDRR on 04/23/14. The following documents were produced by MDRR and reviewed on 05/01/14:

- A battalion view report listing fire fighters and officers from MDRR Aviation who were present at work during the morning of 12/10/13.¹

E-mail communications between FF John Watler (Watler) and Chief Kilby:

There are three e-mail communications between Watler and Kilby. The three e-mail communications are on the subject of workout programs being provided to Kilby by Watler. The e-mails were delivered from Watler’s personal e-mail account with AOL to Kilby’s County e-mail account.

- The first e-mail is dated 11/09/12 and it is from Watler to Kilby attaching a 4-Day MET program for Kilby.
- The next e-mail is dated 11/13/12 and it is from Watler’s AOL e-mail account to Kilby’s County e-mail. This e-mail is on the subject of Day 1 of the program and lists two links to videos which demonstrate how the exercises are done.
- The third and last e-mail from Watler and Kilby is dated 11/13/12. This e-mail is on the subject of Day 2 of the program, and attaches videos demonstrating the recommended exercises.

A disc containing the three aforementioned e-mails and video attachments was provided and is placed in the case file.

Also provided was the 12/09/13 e-mail delivered by Kilby notifying all of MDRR Airport Staff about the St. Thomas University presentation which was to take place on the following day. This e-mail attaches an e-mail from Art Holmes (Holmes) of St. Thomas University to Kilby thanking him and attaching information and the application to participate in the program.

¹ All of the listed fire fighters were contacted by e-mail on 05/02/14 for questioning on the allegations.

Interviews and e-mails:

04/09/14 – John Watler, Fire Fighter, Miami-Dade Fire Rescue Department –

Watler said that he was present at the meeting called by Chief Kilby for those fire fighters interested in receiving a BS degree from St. Thomas University. Watler said that while he was at the meeting, he did not hear Chief Kilby mention his company, TRF, at any time, or make any reference to the great results he has achieved through Watler's physical training.

Watler explained that he provided Kilby with information on diet and fitness before launching his TRF website. The TRF website was not created until December 2012 or January 2013. As it can be seen in the website, Kilby was already fit when the website was created.

04/10/14 – Arthur L. Holmes, St. Thomas University –

Holmes recalled making the presentation before a shift of FF at MDRF Aviation located at MIA. Holmes said he contacted Kilby and asked him to coordinate the presentation regarding a reduced tuition rate toward obtaining a BS degree from St. Thomas University. Holmes said that the other presenters from St. Thomas were Alison Hudson and Gillian Fisher.

Holmes said that he did not hear Kilby mention TRF or Watler in relation to his physical condition, or mention anything related to how he got in top physical shape. Holmes said that he and the other presenters walked in at the same time. After the presentation, he and the others stayed and had lunch with Kilby and the others, but did not hear anything like a recommendation or endorsement of Watler's exercise program or his business, TRF.

05/03/14 – Fire Fighter James Moore –

FF Moore replied by e-mail and advised that he was not in attendance for the presentation.

05/06/14 – Fire Fighter Jim Jensen –

FF Jensen said he recalls going to the St. Thomas University presentation, although he was in and out most of the time. He has no recollection of Kilby commenting on his improved physical condition, and/or recommending Watler's physical training program, TRF, or any other business dedicated to physical fitness.

05/06/14 – Fire Fighter German Muino –

FF Muino said he recalls the presentation, which was about on-line courses offered by St. Thomas University. Muino said that he is aware that Kilby trains with Watler and recommends him, but he does not remember Kilby saying anything at the presentation about how he got in shape, or recommending Watler's physical training business.

05/06/14 – Lt. George Mullen –

Lt. Mullen said he was on duty on that day, but did not sit in on the presentation. He has a BS degree in physical education and is not interested in having another one.

05/06/14 – Captain Steven Garcia –

Captain Garcia said he was at the St. Thomas University presentation for the entire time. He did not hear Kilby discuss physical fitness, or how he got to be in such great shape at any time during the presentation. He did not hear Kilby recommend TRF, or any other physical training business.

05/07/14 – Fire Fighter Dorian Torres –

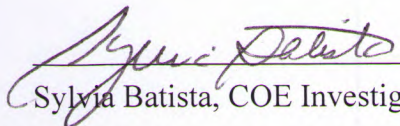
FF Torres said that he did not attend the presentation; he was cooking on that day.

05/09/14 – Fire Fighter Kelly Beach –

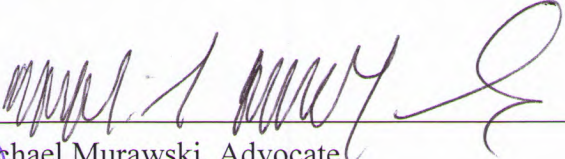
FF Beach replied by e-mail and advised that she was not in attendance for the presentation.\

Conclusion(s):

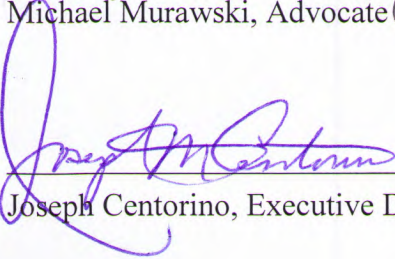
After discussion with the COE Advocate, it was determined that there is insufficient evidence to show that Kilby exploited his official position to try and benefit Top Rank Fitness. It is recommended that Kilby be reminded to limit his use of County e-mail to official business only and have his personnel e-mails sent to his personal e-mail account.


Sylvia Batista, COE Investigator

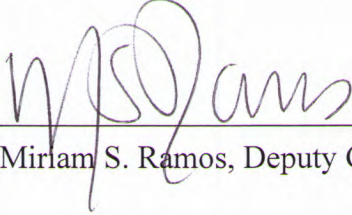
Approved by:



Michael Murawski, Advocate



Joseph Centorino, Executive Director



Miriam S. Ramos, Deputy General Counsel

5/21/14

Date

**CASE
CLOSED**

Date: 5/21/14