

OFFICE OF THE INDEPENDENT ADVOCATE
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
REPORT OF INVESTIGATION

K #: 07-064 Joann Hicks MMAP

Date Opened: May 14, 2007

Date Closed: Open

Name of investigator: Arthur D. Skinner, Breno Penichet, Kennedy Rosario

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Allegation:

This investigation was predicated upon the receipt of information from the Miami Dade County, Office of the Inspector General (OIG) and Miami Dade County Employee Relations Department (ERD) that Metro-Miami Action Plan (MMAP) Director of Housing and Economic Development Joann Hicks may have allowed her husband who is a realtor and a mortgage broker to do closings for clients of MMAP. Administrative Officer 2 Eric Johnson may have done some closings for clients that had received assistance from MMAP. There is another allegation that a lottery was conducted in order to provide housing assistance that may have included down payments and other payments in order to purchase properties, and the lottery may have been rigged.

Section 2-11.1 of the Code of Miami-Dade County, the County's Conflict of Interest and Code of Ethics Ordinance. (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.

Investigation:

Joann and Harold Hicks

On May 22, 2007 COE Investigators interviewed Mrs. Joanne Hicks, In the COE offices, concerning the allegations.

Mrs. Hicks stated that she has been employed by MMAP for over 20 years her title is Director of Housing and Economic Development, as such she is in charge of several employees that review loan applications to insure they meet all the criteria needed for the MMAP funds to be dispersed. Mrs. Hicks said she was interviewed by ERD staff concerning these allegations. Mrs. Hicks told the ERD investigators her husband Mr. Harold Hicks is a realtor and a broker. He occasionally does work for Miami Dade County Housing Neighborhood Services conducting presentations for first time home buyers. Hicks' also helps some of their clients find affordable housing for sale.

Mrs. Hicks advised that MMAP staff does not recommend anyone or any type of service to the clients. MMAP maintains a list of lenders on the MMAP WEB site in case a client needs to contact a lender. Mrs. Hicks said she does not get involved with any paperwork until the end of the process when she checks the application package to make sure it is complete and ready to be sent to the lending institutions.

Mrs. Hicks stated that Mr. Eric Johnson is an Administrative Officer 2, he was hired to run the lottery, and assist clients with their applications and mortgages. Mr. Johnson is a mortgage broker but is not working as such at this time.

According to Mrs. Hicks, Johnson is not related to any one at MMAP.

Mrs. Hicks stated that her husband has been involved with MMAP a very long time, and at one time he was part of the Board of Directors. Accordingly the County Attorney's office reviewed Mr. Hick's relation with MMAP, and they found no conflict of interest. Mrs. Hicks claims her husband has never worked for MMAP or Miami-Dade. She said Mr. Hicks done volunteer work for both these agencies.

On May 25, 2007 COE Investigators interviewed Mr. Harold Hicks, in the office of Service First Realty and Investment Corp 1065 NE 125th St. Suite 207, North Miami, FL. 33161 concerning the allegations.

Mr. Hicks advised that he has been a realtor for many years, during that time he has worked with MMAP and other entities within Miami-Dade County. Mr. Hicks was questioned regarding his referrals from any of the County agencies; he advised that he received referrals from several sources, mainly from financial Institutions.

Mr. Hicks stated that he does presentations for first time home buyers for the Miami-Dade Housing Neighborhood Services, and he is sought out as a realtor to find affordable housing for clients that qualify under certain programs.

Mr. Hicks stated that MMAP staff does not recommend clients to him. There is a list of lenders on the MMAP WEB site in case the clients need the services of a professional realtor. Mr. Hicks claims he does not get involved with any paperwork other than at closing and he gets paid by the seller usually through the lending institutions. He said it has been a few years since he had any clients that were referred to MMAP by the lending institutions. Mr. Hicks stated that he did not have any clients that had been referred to him by his wife Joann Hicks.

Mr. Hicks advised that he has been involved with MMAP a very long time, and at one time he was part of the Board of Directors. He claimed the County Attorney's office reviewed his relation with MMAP, and they found no conflict of interest. Mr. Hicks advised he has never worked for MMAP or Miami-Dade as a salaried employee, only as a volunteer. Mr. Hicks stated that this year he has not closed any loans that came from MMAP.

The Lottery

According to information obtained from MMAP documents in 2005 the MMAP Trust authorized \$1,000,000.00 in documentary surtax dollars to develop and implement a home ownership lottery initiative. The lottery initiative was a program developed by

MMAP to increase the gap financing towards the purchase price and closing costs of affordable homes to be purchased by first time home buyers. Through this program MMAP was offering first time low income homebuyers up to seventy-five percent (75%) financing of the price of a home. The MMAP mortgage is forgiven after the borrower has owned and occupied the property for 20 years.

On February 9, 2006, MMAP held a public meeting or a “Pre-Application Conference”. The conference¹ was attended by area lenders, realtors, community based organizations, and the general public. After the meeting the lenders requested and received an extended deadline of March 9, 2006 to allow the lenders to recruit and promote this lottery to encourage more eligible applicants to submit applications.

The CPA firm of Watson Rice LLP, was selected through an RFQ² to process the list of eligible lottery participants.

On June 30th, 2006, Mr. Ronald Thompkins of Watson Rice brought envelopes containing the names of the lottery participants to an Affordable Housing Director’s newly constructed house at 1535 NW 58th Street, Miami, Florida. The envelopes were placed in a rotating drum. The lottery winners names were draws by various local dignitaries or their representatives.

MMAP Trust allotted an additional \$1,350,000.00 to assist the remaining applicants on a lotterized waiting list supplied to MMAP by Watson Rice LLP.

Watson Rice LLP

The COE auditor reviewed the document file provided by the accounting firm of Watson Rice, LLP (Watson) to the Miami-Dade County Commission on Ethics and Public Trust (COE). On December 11, 2007, this file was furnished by Mr. Ronald Thompkins, CPA and Partner with Watson, in compliance with a subpoena issued by the COE on November 20, 2007.

¹ A list of attendees was not given to COE investigators

² The RFQ was sent of four CPA firms via FAX Watson Rice was the only firm that responded.

Specifically, the subpoena requested all work papers completed by Watson Rice, LLP relating to its agreed upon procedures for the MMAP homeownership assistance program (HAP). Mr. Thompkins stated that the file he furnished to the COE contained all relevant documents to support Watson's contract work as specified in the professional service agreement between MMAP and Watson, dated April 17, 2006 (also referred to as its engagement letter).

For informational purposes, the accounting firm of Watson Rice LLP was engaged to provide MMAP with a certified list of all eligible applicants ranked by priority in a lotterized format. This list of applicants would then be used by the MMAP for the purpose of drawing names of eligible applicants who would then receive \$200,000 in HAP funding for the first-time purchase of a home. The HAP funds could be used by the home buyer to pay for closing costs or used as a down payment on the purchase of their first home. Further, Watson Rice LLP received compensation of \$4,000 from MMAP as payment for its lotterized list of eligible applicant names (i.e., its agreed upon procedures), as stipulated in its professional services agreement dated April 17, 2006.

The purpose of the COE auditor's review was to determine if this audit file contained adequate documentation to support Watson's methodology in compiling the ranked, lotterized list of applicant names as set forth in its contractual agreement with MMAP. Specifically, the COE auditor's objective was to trace the process used by Watson to rank the eligible applicant names, which formed the basis of the lotterized list of names provided to MMAP, and independently determine the impartiality of the list of applicant names.

Based on review of the entire document file provided by Mr. Ronald Thompkins, CPA and Partner with Watson, I noted that this file did not contain any audit work papers which would demonstrate and support Watson's methodology used to rank and prioritize the list of applicant names for MMAP's Housing Assistance Program. Watson's document file only contained duplicate copies of its "Independent Accountants Report on Applying Agreed Upon Procedures" for the Metro Miami Action Plan's (MMAP) lotterized waiting list; duplicate copies of its engagement letter also used as the contract between MMAP and Watson Rice LLP; a \$4,000 invoice from Watson to MMAP for the production of its lotterized list of names; and numerous emails between MMAP personnel and Watson Rice LLP.

In conclusion, the COE auditor could not independently identify how Watson derived its lotterized waiting list for MMAP and its Housing Assistance Program. Although Watson's contract called for applying agreed upon procedures "in accordance with the standards established by the American Institute of Certified Public Accountants (Statement of Auditing Standards 'SAS' Number 75)," the COE auditor did not find sufficient evidentiary documentation to support Watson's lotterized waiting list file for which it was paid \$4,000 by MMAP.

Mike: Included Tina's full memo in this when I get back I will edit it.

CONCLUSION:

Summary of investigation should NOT include investigators opinion about whether probable cause exists or whether respondent/target is guilty or not.

Interview with Joane Hicks on November 2, 2007. Present during the interview was Kennedy Rosario, Breno Penichet, and Arthur Skinner. Hicks gave the following information;

Financial Institutions were notified of the Lottery Program through direct mailing, advertising, and orientation meetings. The notifications were not just for the banks, but

for the general public and real estate broker such like Ann Latimer. Of the ten lottery winners Ann Latimer Mortgage Solutions, had four; Bob Smith, four; Valerie Gardner . Mortgage Experts, and Mena Wilkes Suntrust Bank, one each. Out of the ten winners of the lottery seven actually received funds from MMAP. Of the seven winners four were process by Ann Latimer, two by Bob Smith, and one by Mena Smith.

Eric Johnson was hired by Hicks first as a contract worker whose duties were as an underwriter for the lottery winners. Eric Johnson was eventually selected as a full time employee as a loan processor. Hicks did not believe that the hiring of Johnson presented any sork of conflict, despite the fact that he was loans officer with Bank United.

Hicks explained the Lottery: The first step was the bring in the financial Institutions as part of the program to pre-qualify the applicants for the lottery initiative. At the end of the application process MMAP and the banks had come up with 65 pre-qualified applicants for the lottery initiative. Prior to the drawing one of the applicants was disqualified.. A contract to process the lottery was given to Watson-Rice LLP. The 64 names ware given to Watson-Rice LLP. The names were brought to a live public drawing on June 30, 2006 by a representative of Watson Rice LLP who supervised the drawing. The list of remaining 54 names were sent to Watson Rice LLP to be published on a randomized (Lotterized) list using Microsoft Access. The returned list consisted of 49 names randomaly picked by Microsoft Access. Five names were omitted from the list because they either dropped out of the program, moved out of of Miami Dade County, or purchased their homes through another program. MMAP management returned to the MMAP Trust to request an additional 1.35 million dollars to give the remaining applicants maximum of \$25,000.00 each as consolation prizes.

MMAP did not do any screening, they relied upon the financial institutions. MMAP reviewed the applications submitted by the financial institutions to insure they

met loan criteria prior to the disbursement of MMAP funding. Maximum closing and loan origination fees are set using MMAP loan guidelines.

Hicks stated that there was no due diligence to see that the lottery winners were living in the residences.

On November 6, 2007, COE investigators interviewed MMAP Contract Officer William Simmons. Simmons gave the following information:

Simmons stated that he has been working for MMAP for 6 years. Simmons has a law degree from UM, he presently is not a member of the Florida Bar. Simmons does not give legal advise to anyone in MMAP.

MMAP advertizes the various programs available through their agency. Individual clients are not involved directly with MMAP they referred to MMAP through the various agencies and lending institutions. Simmons became aware that Eric Johnson was involved with lending institutions that bring client's to MMAP, only after the ERD report had been published.

The lottery contract announcement was sent to several accounting firms via facsimile, only one firm responded (Watson Rice LLP). Simmons did not recall what the requirements were for the lottery contract. Simmons stated that he had no knowledge of the \$4,000.00 bill that was submitted to MMAP. Simmons had heard that the additional money request that had been submitted to the MMAP Trust was because the expensive market did not allow the original lottery money to extend to all of the winners.

MMAP normally uses county authorized contractors, they occasionally use non-county sources for small purchases. Simmons said that Mrs. Hicks was the Project Manager for the Lottery RFP. The payment should have been made for the work done(?). Mrs. Hicks provided the names of the CPA firms that were solicited for the Lottery RFP (We did ever ask Hicks about this?) Jose Gonzalez is the MMAP Finance Officer, the person who reviews and approves the bills to be paid.

On November 9, 2007, COE investigators interviewed MMAP Finance Officer Jose Gonzalez (305) 579-9618. Gonzalez gave the following information:

The Executive Director of MMAP has certain authority to approve contracts w/o the approval of the BCC, only the MMAP Trust Board. Open bank accounts and purchasing practices must follow the county regulations. Gonzalez stated that the MMAP Trust Board wanted the Lottery Initiative. He said according to Mrs. Hicks the only firm that responded to the Lottery RFP was Watson Rice LLP. They were picked to set up the list for the Lottery Initiative. The Watson Rice LLP contract was not a county approved contract, but a contract letter of engagement written by Watson Rice LLP. The Executive director and Mrs. Hicks were the only MMAP personnel involved with the Watson Rice letter of engagement. Gonzalez stated he did not question Mr. Vickers or Mrs. Hicks instructions to pay the Watson Rice LLP invoice for \$4,000.00. (I don't recall what Gonzalez said to us about the invoice when we showed it to him?) . The MMAP Trust is funded by the county property surtax. (The MMAP foundation is in part funded by donations) Gonzalez stated that Watson Rice has not been previously hired by MMAP. (This statement may not be true. The MMAP Foundation has used Watson Rice in the past, and it may have been during the time period when Mrs. Hicks had the conflicting employment with the foundation and MMAP). The approval to pay Watson Rice LLP from Hicks was verbal not written.

On November 28, 2007, COE Investigators interviewed Administrative Officer Mara Atwood. Atwood gave the following information:

Atwood has been with MMAP for 6 years.

Administrative Officer Eric Johnson was hired after the lottery was finished. He is supposed to assist Hicks in the processing of the lottery winners applications for the MMAP home loans. Veveni Singh was hired as a temporary worker. Supposedly the Owner of the Temp Agency is a member of the MMAP Trust Board. Atwood works with Singh and Johnson reviewing the applications for assistance submitted through financial

institutions. Atwood does not work on any files that were part of the lottery initiative. Johnson was hired to work on the lottery files and he is the only person working on those files.

On November 28, 2007, COE Investigators interviewed Vevene Singh