

MIAMI-DADE COMMISSION ON ETHICS & PUBLIC TRUST



REPORT OF INVESTIGATION

K11-134

Date Opened: 11/1/11

Date Closed: 4/25/12

Name of investigator: Breno Penichet and Kennedy Rosario

Allegation:

An allegation was made that Jorge Guanchez (Guanchez), Director of Construction & Maintenance for the City of Hialeah (City), exploited his official position.

Background:

On or about February 2 & 3, 2010, the City was engaged in preparing a parcel of City owned land for the construction of a Hialeah Police Department (HPD) sub-station. The preparation included the removal of soil and its subsequent, in total, delivery to a City owned processing center.

Months later, a City employee involved in the site preparation as a City owned dump truck driver/operator, alleged that some of the many loads he hauled were delivered to a private parcel of land owned by a City vendor, this at the direction of Guanchez. It was further alleged that this action was tied to the remodeling of a condominium, owned by Guanchez. The remodeling work was allegedly done by a company owned by the same vendor contracted by the City to construct the shell/skeleton of the sub-station.

The soil removal incident was subsequently investigated by the Internal Affairs section of the HPD. Sworn statements of those City personnel involved in the project were taken.

The investigation was then turned over to the Dade County State Attorney's Public Corruption Unit under its then Chief Prosecutor Joseph Centorino (Centorino). Centorino also took sworn testimony, with HPD Internal Affairs detectives, of City personnel, including the complainant. Centorino subsequently turned over the investigation to the COE.

Investigation:

A thorough review of the investigative file compiled by the SAO and HPD was made by COE Investigators. It included the above noted sworn statements, photographs taken at the site by complainant Adalberto Figuredo, recordings of the statements, numerous documents and the Close Out Memo authored by HPD Commander R. Flowers in which he determines "after reviewing this case and interviewing the parties involved I found no evidence of any **criminal activity**".

It was, however, noted that the "remodeling" issue was not properly addressed, the alleged condominium's location or ownership was not known by any of the parties involved, nor was the question of its whereabouts posed.

Whereas the remodeling of Guanchez' condominium by a City vendor may be construed to violate the Miami-Dade County Conflict of Interest Ordinance the COE investigation proceeded in that direction.

COE investigators found the condominiums location, 6901 Edgewater Dr., # 317, Coral Gables, FL. Its ownership was determined to be Briana Guanchez (Briana) and Jennine Guanchez, daughters of Guanchez. The condominium was incorporated under the name Gables Harbour Condominium Association, Inc.

The investigation then turned to determine if any remodeling of the condominium had in fact occurred and by whom. The City of Coral Gables was asked to research its files to determine if any permits had been asked for/granted for this particular condominium with negative results.

The condominium's management agency was contacted, their "Certificate of Approval of Sale" dated December 9, 2009 indicated the persons occupying the condominium were Guanchez' daughters. However, there was no management approval of any remodeling either asked for or granted in their file.

Subpoenas were then issued to Briana and Guanchez. Said subpoenas were executed and the CD-R recordings are part of the investigative file. Also subpoenaed was Carlos Alfonso (Alfonso), the vendor and owner of Bellamar Tile Distributors, Inc. His CD-R recording is also a part of the investigative file.

Briana, accompanied by Counsel, stated that she was the titled owner of the condominium in question along with her sister, but that her sister was away at school. The condominium was purchased with the financial help of her father and mother. The condominium needed remodeling work principally in the bathrooms. The remodeling project was left in the hands of her father, however, all the material used was purchased by her and her mother. Briana took receipts of the purchased material from USA Tile and Marble, said purchase occurred on March 13, 2010. Briana had no input as to who would be contracted to do the actual labor, which she also left to her father. Before the work was completed she voiced dissatisfaction with the work done and voiced that to her father. She did not know the circumstances surrounding the payments to the laborer. Briana, as proof of the shoddy remodeling work took photographs of the work. Both the receipts and photographs are part of the investigative file.

Guanchez' COE testimony fell along the same lines as that of his daughter, adding the following details:

Figuredo was a disgruntled employee who Guanchez had disciplined and it was months after the soil incident that he made the allegations. Guanchez denied having given the directive to deliver any of the site's soil to Alfonso's vacant lot. Guanchez cited the HPD investigation where-in Alfonso's allegation that Alfonso had overheard a cell phone conversation between Guanchez and the site manager authorizing the soil delivery as not true.

Guanchez further testified that as Director he only loaned Figuredo to the Street's Department as a driver and was not directly in charge of the de-mucking and soil removal. That site management task fell to Jorge Hernandez. Alfonso's companies had been contracted in the past by the City, Guanchez explained that the City acts as the General Contractor in these type of projects utilizing Guanchez' General Contractor License. The sub-station was to be built in stages and Bellamar/Alfonso went through the City bidding process, winning the construction of the shell as the lowest bidder.

As to the remodeling issue, Guanchez was not involved in the actual purchase of the condominium but did help financially. He did much of the remodeling work such as removing the carpet, etc. but did not lay tile. Guanchez admitted that he had sought the assistance of Alfonso in the project but only to recommend someone to do the laying of tile labor. He reiterated that all the materials were purchased by his daughter and spouse from a company not associated with Alfonso. He did not ask for nor receive any items from Alfonso/Bellamar, Inc. Alfonso did, in fact, recommend an individual that he contracts to do tile work for his company. That individual did the labor, with the material purchased by his daughter, but did not complete the project due to shoddy workmanship. Guanchez negotiated and paid the laborer himself, however the \$400.00 he paid the laborer was given to Alfonso's spouse for delivery to the laborer. Guanchez named the laborer as Enrique Rodriguez (Rodriguez).

Alfonso, in his testimony to the COE, corroborated Guanchez' accounting of the remodeling events, denying any quid pro quo. Alfonso supplied the investigation with Rodriguez' contact information.

COE Investigator's met with Rodriguez. Rodriguez stated that he got the Guanchez job from a Jose Blanco who is Alfonso's brother-in-law. He met with Guanchez at the condominium and received his instruction directly from Guanchez. Rodriguez further stated that the material for the project was already in the condo and he did not purchase any items for the laying. Rodriguez was unaware that Guanchez' daughter lived in the condominium, nor did he know her. He did not finish the job but received \$400.00 in payment for the work he did do, the

payment was in cash and he remembers picking up the payment at Alfonso's residence where it had been left for him in an envelope under the front door mat.

CONCLUSION:

Based on an analysis of both the SAO and HPD investigation as well as the COE's independent investigation it is suggested that the actions of Director Jorge Guanchez do not raise to the level of a violation of the Miami-Dade Conflict of Interest.