

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



REPORT OF INVESTIGATION

K #: 12-167

Date Opened: 11/2/12

Date Closed: 4/22/13

Name of Investigator: Manuel W. Diaz

Allegation:

The COE received the following information: Mariano Fernandez (Fernandez), the City of Miami (Miami) Director of Building was recently removed from a list of independent contractors used by J.E.M. Inspections & Engineering, Inspections and Services, Inc. (JEM). JEM does work in Miami. Fernandez, as the Director of Building approves work for JEM.

An investigation was initiated to determine the relationship between Fernandez and JEM.

Applicable Legislation:

Miami Dade County Conflict of Interest and Code of Ethics Ordinance
Sec 2-11.1

(c) Prohibition on transacting business within the County.

(1) No person included in the terms defined in Subsection (b)(1) through (6) and in Subsection (b)(9) shall enter into any contract or transact any business, except as provided in Subsections (c) (2) through (c)(6), in which he or she or a member of his or her immediate family has a financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, and any such contract, agreement or business engagement entered in violation of this Subsection shall render the transaction voidable. Willful violation of this Subsection shall constitute malfeasance in office and shall effect forfeiture of office or position.

Investigation:

Interviews:

1. **Jesus J. Baez** (Baez) – JEM. Baez confirmed that JEM had submitted Fernandez' name to Miami-Dade Permitting and Environmental Regulatory Affairs (MDP&ERA). According to Baez, Fernandez' name was submitted when the corporation was formed and not removed until 2012. According to Baez, Fernandez has not done any work for the company since 2006 and his name should have been removed sooner. Baez acknowledged that the failure to remove Fernandez from the list was a clerical error.

2. **Orneil Haage** (Haage) - Training and Certification Officer, MDP&ERA. Haage provided a copy of the JEM letter requesting that Fernandez' name be removed as a *Duly Authorized Representative* for JEM.

3. **David L. Swimmer** (Swimmer) - David L. Swimmer P.A., 7990 SW 117 Ave., Suite 100, Miami, Florida 33183. Swimmer contacted the COE representing Baez. He advised that Baez, in 2012, had been contacted by Agents with the Florida Department of Law Enforcement (FDLE) investigating Fernandez and his possible involvement with JEM. The agents received information that Fernandez, as the Director of Building, reviewed and approved work by JEM. Swimmer advised that the FDLE Agents had closed the case after interviewing Baez.

Swimmer acknowledged that the Fernandez was one of the three original partners in JEM. Swimmer advised that the "M" in JEM, stands for Mariano, which is Fernandez' first name. According to Swimmer, Fernandez has no current interest in JEM, and that he last worked for JEM in 2006. Swimmer provided a written response to the COE concerning the investigation. (Copy in file)

4. **Mariano Fernandez** (Fernandez) – City of Miami Director of Building / Building Official. Fernandez was interviewed. Also present for the latter part of the interview was Miami Assistant City Attorney, Victoria Mendez. Fernandez was advised of the scope of the investigation. According to Fernandez, he, Eddie Rodriguez and Jessie Baez formed JEM in 2001. He left the corporation shortly after it was formed because of a potential conflict. Fernandez explained that,

at the time, he was the Building Official for the City of Aventura and JEM was hired by a firm to do work in Aventura.

Fernandez advised that he did structural review work for JEM in 2006. The work was done under FJ Engineering, Inc., a corporation that Fernandez owned. The project was in Miami-Dade County. He stated that he has done no work for JEM since. Fernandez has been employed by Miami since 2008. He voluntarily closed FJ Engineering, Inc. when he came to work for the CM. Fernandez was not aware that his name remained on the JEM's list of independent contractors until 2012.

Conclusion:

The investigation did not reveal any evidence that any provision of the Miami-Dade County Conflict of Interest and Code of Ethics was violated. Accordingly, this matter is closed with no further action. A copy of this close-out memo will be forwarded to FDLE.