



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Manuel Diaz

Case No.: K13-017	Case Name: Hiram Siaba- Miami Lakes	Date Open:	Date Closed:
Complainant(s): Michael Pizzi Mayor Miami Lakes	Subject(s): Hiram Siaba	February 19, 2013	October 24, 2013

Allegation(s):

In an e-mail to Joseph Centorino, COE Executive Director, Michael Pizzi (Pizzi), the former Mayor of the Town of Miami Lakes (ML) advised that the former ML Public Works Director Hiram Siaba (Siaba) rented a residence to the owner of a company that is a ML vendor - Ballarena Construction Inc. (Ballarena). Pizzi advised that Siaba was terminated from his employment with ML because of a possible conflict of interest. Pizzi noted that Siaba had approved and recommended work given to Ballarena.

(See enclosed e-mail sent by Pizzi)

Relevant Ordinances:

Miami Dade County Conflict of Interest and Code of Ethics Ordinance

Sec 2-11.1 (g), Exploitation of official position prohibited.

“No person included 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 her or others...”

Sec. 2-11.1 (u), Prohibition on certain business transactions.

“No person who is serving as an elected County official or a member of the staff of an elected County official, or as County Manager, senior assistant to the County Manager or department director shall enter into a business transaction with any person or entity that has a contract with Miami-Dade County or any shareholder, partner, officer, director or employee of said contractor, **unless said business transaction is an arms-length transaction made in the ordinary course of business.** The provisions of this Subsection (u) shall not apply to a business transaction between an elected County official, the County Manager, a senior assistant to the County Manager or a department director and a not-for-profit entity. As used herein, a ‘shareholder’ shall mean any person holding ten (10) percent or more of the outstanding capital stock of any corporation. As used herein, ‘elected County official’ shall mean the Mayor, County Commissioners and community council members. As used herein, ‘business transaction’ shall mean any contract wherein persons either sell, buy, deal, exchange, rent, lend or barter real, personal or intangible property, money or any other thing of value or render services for value.”

Sec. 2-11.1 (x), Prohibition on County employees and departmental personnel performing contract-related duties.

“No person included in subsections (b)(5) [departmental personnel] and (b)(6) [employees], who was previously employed by or held a controlling financial interest in a for-profit firm, partnership or other business entity (hereinafter “business entity”) shall, **for a period of two years** following termination of his or her prior relationship with the business entity, perform any County contract related duties regarding the business entity, or successor in interest, where the business entity is a County bidder, proposer, service provider, contractor or vendor. As used in this subsection (x), ‘contract-related duties’ include, but are not limited to, service as a member of a County certification, evaluation, selection, technical review or similar committee; approval or recommendation of award of contract; contract enforcement, oversight or administration; amendment, extension or termination of contract; or forbearance regarding any contract. Notwithstanding the foregoing, the provisions of this subsection (x) shall not apply to the County Manager or the Director of Procurement Management.”

Investigation:

Interviews

Alejandro Rey, City Manager, Town of Miami Lakes

Rey was interviewed at ML City Offices also present was Gary Fabrikant, Procurement Manager. Rey advised that he terminated Siaba's employment because he failed to advise him that he, Siaba, had an undisclosed business relationship with a ML vendor, Ballarena. Rey was concerned that Siaba, as Public Works Director, was involved in the selection process for ML Public Works projects.

Rey explained that the Town has issued an Invitation To Bid for the construction of a center at the Town's East Park; Youth Club Center. As Public Works Director, Siaba had direct supervision in the construction of the facility. Ballarena was awarded the project as the low bidder.

Rey advised that Siaba has the discretion to select vendors for certain public works projects. He advised that the Town has established a vendors list. Projects within certain thresholds (cost) can be awarded to vendors without going to bid. The discretion on which vendor to choose was left to the director of Public Works (Siaba). Rey was concerned with Siaba's selection of Ballarena for a number smaller public works projects throughout ML. Rey explained that Ballarena was on a ML vendors list which enabled Siaba to select Ballarena Construction for Town projects without using the bid process.

Rey advised that his staff had recently reviewed Siaba's e-mails for the six months and found no indication that Siaba had favored Ballarena for the award of Town projects. Rey provide the COE with a copy of the e-mails.

In a subsequent interview, on October 8, 2013, Rey advised that Ballarena Construction had completed one project for the Town prior to Siaba's employment.

During the same interview, Rey advised that he did not know that that Siaba was employed by Ballarena Construction prior to his coming to work with the Town.

Hiram Siaba, former ML Public Works Director

Siaba contacted the COE. Siaba was concerned that a COE complaint had been filed against him.

Siaba advised that Rey was wrong in his allegation that he failed to inform Rey that he rented a residential property to the owner of Ballarena. He stated that he informed Rey of the rental agreement. Siaba provided the COE with a copy of the residential house lease agreement between himself and Ballarena. Siaba also provided copies of rental checks reflecting the last six months rental payment.

Siaba was re-interviewed. He advised that he worked for Ballarena from the time he left his Miami Beach employment until September 2010. He was employed for about six months until he was offered a position with ML as a part time consultant. He applied and later was appointed as the ML Director of Public Works. According to Siaba, he was employed part-time with Ballarena on a job basis. He volunteered to contact Jorge Ballarena and authorize the release of his employment records to the COE.

*add to
PC
memo*

Michael Pizzi (Pizzi), Mayor, ML

Pizzi also serves as the City Attorney of the Town of Medley, Florida. Pizzi was interviewed at Medley City Hall.

Pizzi advised that he learned of the possible conflict from Rey. He concurred with Rey's decision to dismiss Siaba from his employment with ML.

Gary Fabrikant (Fabrikant), Procurement Manager for ML

Fabrikant was interviewed on July 9, 2013, in his office. Fabrikant advised that ML had several categories of projects from minor road work to major constructions. Categories are assigned according to the cost to the Town. The Town also had pre-approved vendor's lists. Vendors are assigned work within the categories in which they are qualified to work. Ballerena is one of two companies within their respective category.

Fabrikant advised the Town has implemented a new financial system that permits the tracking of projects. Prior to the implementation, ML did not have a financial program that tracked all work orders, purchase orders and change orders. The current procurement system tracks such orders. Prior to the implementation of the system, change orders were approved at the department level, with the City Manger's approval. The current system requires approval for all orders from the finance department prior to the approval of the City Manager.

Fabrikant advised that a review of the approximately 150 projects that Ballerena completed for the Town indicate that the company may have received a larger percentage of work than other approved Town vendors since Siaba was employed. Fabrikant was unable to provide an exact number. He advised that records system in place at the time failed to capture the data.

Siaba, according to Fabrikant, as the Director of Public Works had the authority to assign the projects and forward the projects on the City Manager approval.

Fabrikant advised that an internal audit of all records would be necessary to verify an exact count of what projects were approved and if the projects were approved properly by Siaba. He advised that due to the time that an audit would take and a lack of resources available, the town would not be conducting an audit.

He advised that all the Ballerena projects were successfully completed.

Concerning the ML projects that were put out to bid and were eventually awarded to Ballarena (Sevilla Estates, Playground Equipment and East Park Youth Club Center), he advised that the process of evaluating the bids were within the guidelines as set forth in FSS, and the work was awarded to Ballarena because it provided the lowest most responsible bid.

Fabrikant was asked to provide a list of general roadway projects awarded to Ballarena. The following information was provided, and has been made part of the investigative file.

Project Name	Award Date
NW 170 th Greewnway	December 16,2011
NW 59 th Ave PHI	August 29, 2011
NW 59 th Ave PHI	October 5, 2011
Park West Instillation of Exercise Equipment	October 11, 2011
Park West Half Basketball Court	January 12, 2012
Park west Playground Resurface	November 30, 2011
Royal Oaks Park Half Basketball Court	February 21, 2012

Royal Oaks Park Playground Resurface	November 26, 2012
Big Cypress Drive Repaving	October 24, 2012
Egan Lane Repaving	January 12, 2012

The notation following the list read "Note: All Work Orders assigning the work to contractors were issued by the Public Works Director."

Jorge Ballarena (JBallarena), owner of JB Construction /DBA Ballarena Construction Group

JBallarena was interviewed via telephone. He advised that Siaba was employed by Ballarena between the time that he left the City of Miami Beach (4/28/2010) and the time he was employed by ML. Siaba worked part time for Ballarena. He was the management coordinator for an amphitheater project built for the City of Miami Gardens. Siaba also worked on the Veterans Park project for the City of Doral.

JBallarena agreed to research his records and provide the COE with records reflecting the dates that Siaba worked for Ballarena.

JBallarena failed to respond and COE Subpoenas were issued. In response to the subpoenas, JBallarena met with COE investigators on September 7, 2013.

During the interview, JBallarena advised that Siaba worked for his company in 2010 after leaving his employment with the City of Miami Beach. Siaba worked on several projects for Ballarena. Siaba was paid cash for most of the work and there were no employment records kept by the company. Several corporate checks were issued by Ballarena to Siaba's wife. JBallarena advised that these payments were made for work performed by Siaba not the wife. JBallarena provided a copy of a Federal Form 1099 issued to Siaba's wife reflecting payments totaling \$5,400.00 for 2010.

Concerning the rental of the Siaba house, JBallarena confirmed that he leased the property from Siaba. JBallarena currently pays Siaba \$1,600.00+ a month. JBallarena recalled discussing the house rental with Siaba prior to signing the lease agreement. Siaba told him that he had discussed the rental with Rey and that Rey had agreed to the rental as long as the rental fee was at a fair market price for the neighborhood.

JBallarena met with Rey after Siaba's termination to discuss the termination and the company's future work for the ML. JBallarena advised that he removed his construction equipment from a ML project that he was working on after the meeting and has no dealing with the ML since.

JBallarena advised that he met with Pizzi after his meeting with Rey to discuss his work for the ML.

JBallarena ended the interview by advising that his pricing for work in ML was about 8%

add to PC memo

under the going rate offers by similar companies. Any change orders that he requested were because of a change in the scope of the work request by ML or because of natural occurrences like rain storms.

City of Miami Beach Human Resources

Miami Beach Human Resources Department was contacted. According to their records, Siaba was employed by the City of Miami Beach from February 24, 2003 through April 28, 2010.

(See e-mail in file)

Internet search of Siaba produced the following:

City of Miami Office of the City Clerk, bid item: ITB No. 09-10-018 - Restoration of Fire Station No. 2. where Siaba is mentioned, (See above interview of Robertson)

In a reference letter included in the proposal package submitted by J.B. Builders & Contractors, Inc., d/b/a/ Ballarena Construction, William H Carey, Assistant Director of the City of Miami Beach Planning Department states Siaba is currently, and has for five years, been employed by Ballarena Construction. The reference is dated 8/5/10.

The Town of Miami Lakes website contains the following concerning the Department of Public works and Capital Improvement.

“The Town Of Miami Lakes Public Works and Capital Improvements Department (PW & CIP) provides for the design and construction, management for all public projects; and reviews and inspects all capital improvement projects. It maintains streets, sidewalks, storm drainage facilities, street name signs, canals and street lights. In addition, Public Works coordinates with utility companies for work within the Right of Way.

The Community and Leisure Services Department works closely with PW&CIP in several Capital Improvement projects for parks and recreation facilities, and with the maintenance of swales and trees.”

Siaba/Ballarena Rental Property

Internet search of Zillow for rental properties in the area of 1825 SW 66th Ct. (Siaba) in West Miami, Florida on 10/8/13 indicate across the street from the residence 1822 is listed for rent for \$1775/mo. (Copy in file)

Kenneth Robertson (Robertson), City of Miami, Assistant Director for Procurement and Administration was contacted. (See below internet search of Siaba)

Robertson provided copies of the following,

Reference letter submitted include in the ITB No. 09-10-018 response package submitted by Ballarena. The reference letter was completed by William Carey (Carey), Assistant Director of the City of Miami Beach Planning Department. In the letter, Carey confirms that Siaba was employed by Ballarena on 8/5/10.

Series of e-mails exchanged between the City of Miami and the City of Miami Beach. The e-mails confirm that Siaba was employed by Ballarena on 8/5/10.

A questionnaire submitted by Ballarena as part of the bid response. In the questionnaire, JBallarena provided business information concerning J B Construction, Inc. D/B/A Ballarena Construction. Under B. 1. JBallarena identifies Siaba as the Project Manager for the Project

and states that Siaba has been with Ballarena for 5 years. JBallarena continues that Siaba, while employed by Ballarena, worked on the Restoration of Flagler Memorial Monument. (This was later contradicted in the e-mails referenced earlier.)

Rey advised COE investigators that he directed his staff had researched the ML internal e-mail system for e-mails between Siaba and JBallarena) in an effort to determine if there were any improprieties on the part of Siaba. Rey advised that there were no improprieties and that all e-mails were within Siaba's scope as the Director Public Works.

Rey provided copies of the e-mails to the COE.

The e-mails were reviewed. All e-mails concerned Public Works projects where Siaba, in had capacity as Director of Public Works Director, had final review and approval over Ballarena as ML vendor.

The e-mails were categorized and are listed below:

Tree Trimming – August 2012 - The e-mails concern the trimming of trees at unknown locations in ML.

Pump Instillation – January 2013 – The e-mails concern the instillation of a pump at location (P-12) in ML.

Playground equipment - January 2013 – The e-mail concerns the removal of equipment at location (P-82) in ML.

Mini Parks – December 2012- February 2013 – The e-mails concern the cutting of grass and

agada
PC
Memo

the instillation. Invoice for exercise equipment in mini park (no ML location provided).

Delineators on NW 89 Ave – November 2012 – The e-mail concerns Ballarena providing an estimate for delineators on 89 Ave in ML.

Instillation of park equipment – December 2012 – The e-mails concern the instillation of park equipment at P-58 in ML.

Instillation of park equipment – November 2012 – The e-mails concern the instillation of park equipment at Jack Rabbit Ln (P78) in ML.

Road resurfacing – September 2012-February 2013 – The e-mails concern the resurfacing of roads in ML.

Potholes – August 2012- October 2012 – The e-mails concern the filling of pot holes in roads in ML.

Royal Oaks Parks – August 2012-November 2012 –The e-mails concern Ballarena work at the park.

East Park Youth Center – October 2012-November 2012 – The e-mails concern the preparations for the park opening.

East Park Pavilion – October 2012 – The e-mails concern repairs to the park pavilion after a car accident.

Sevilla Estates – September 2012-October 2012 –The e-mails concerns to repairs to park (basketball courts, signs, shelter, concrete, irrigation, etc.).

170 and 82 Ave accident – September 2012 – The e-mails concern repairs to greenpath after accident.

Miami Lakes Optimist – September 2012 – The e-mails concern repairs to a fence at the Miami Lakes Optimist Park.

Royal Oaks – August 2012-November 2012 – The e-mails concern repairs to a fence at the park.

West Park – June 2012-December 2012 – The e-mails concern work at the park to include: instillation of basketball court, instillation of exercise equipment, exercise stations and general work at the park.

170th Street- September 2012-October 2012 – The e-mails concern road repair work.

East Park Youth Center – October 2012-November 2012 – The e-mails concern the follow up to the award of the construction contract for the Youth Center.

Note: there are a number of other e-mails that, after a review, could not be linked to any specific project.

Siaba's Personnel File, ML

A public records request was made to ML for Siaba's personnel file. The file was found to contain the following:

ML Personnel Action Form which indicates that Siaba was hired as the Director of Public Works on January 10, 2011.

ML Application for Employment where Siaba lists his most recent employment as being with the City of Miami Beach. The dates of employment are listed as 2003 to May 2007.

The personnel application does not contain any reference to Siaba's employment with Ballarena in 2010.

ML Personnel Action Form which indicates that Siaba was discharged on 2/19/13.

The Siaba application made no mention of work for Ballarena in 2010.

Siaba's Bank Records

The COE issued a subpoena to the Bank of America NA for the checking account of Hiram Siaba and his wife Marta. The documents included copies of checks # 2155 to Hiram Siaba for \$296.81, # 2174 to Marta Siaba for \$2,490.00, #2325 Marta Siaba for \$2,000.00 and #2361 for \$1,500.00 to Marta Siaba from JB Builders & Contractors, Inc. (Operating). All the checks were issued in 2010. (Copies of checks in the investigative file.)

Conclusions:

After conversation with Ethics Commission Advocate Michael Murawski, he determined that there is sufficient evidence to file a complaint against Siaba for violation of the reverse two-year rule.