



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Karl Ross

Case: K15-042	Case Name: Homestead Bowling Alley sale	<u>Date Open:</u>	<u>Date Closed:</u> CASE
Complainant(s):	Subject(s): Councilman Jimmie Williams, Jay Rivchin	May 14, 2015	CLOSED

Date: 11/23/2015

Allegation(s):

Information was received concerning a possible improper relationship between Homestead City Councilman Jimmie Williams and the owner of Dadeland Dodge as it related to a transaction involving the old Bowling Alley Property (hereinafter “the property”).

Sources indicated Councilman Williams may have improperly intervened on behalf of the car dealer – James “Jay” Rivchin – in order to facilitate the sale and purchase of the property at a price of \$2.3 million. In particular, Williams was observed to have pushed for the sale at City Council meetings in March and April amid concerns by the City’s administration about the possible repayment to U.S. HUD of loans used to purchase the property.

Because Rivchin proposed to convert the property into a Hyundai dealership and such a use had not been specifically approved by HUD at the time the City acquired the property with HUD funding, there was concern the City would have to repay HUD in excess of \$2 million.

Subsequent information suggested Councilman Williams may have entered into an improper relationship with Rivchin, and that Williams might seek to obtain personal benefits either in the form of employment opportunities at the Hyundai dealership and/or in the form of a discounted purchase price in the acquisition of a vehicle from Rivchin’s dealership. The car – a 2013 Chrysler 200 – was purchased in May by Williams’ goddaughter, Michelle Mitchell.

Further information received during the course of this inquiry suggested Councilman Williams did not maintain a legal residence in the City during the 12 months prior to his qualification to seek re-election in August 2013. He is required to maintain such residency during his term.

Relevant Ordinances:

Miami-Dade County Code, Sec. 2-11.1(g), *Exploitation of official position prohibited*, stating in applicable part that no person ... “shall use or attempt to use his official position to secure special privileges or exemptions for himself or others ...”

Investigation:

Interviews

Preliminary research and information from sources indicates Councilman Williams was a vocal and forceful advocate of approving the sale of the property to Mr. Rivchin.

City Council records show Williams sponsored a discussion item at the March 18, 2015, commission meeting. Following the discussion, Williams moved to authorize the manager to negotiate the sale of the property for less than the appraisal value of about \$2.4 million. The proposed sales price presented to the City on behalf of Rivchin was initially \$2.1 million. (Note it was later raised to slightly more than \$2.2 million when it came back before the council in April, and finally sold for the staff recommended sales price of just over \$2.3 million.) The motion carried 5-2 despite concerns about conflicting opinions from HUD about whether the City would have to repay the federal agency for past loans on the property.

The matter came back before the City Council on April 22, 2015, to approve the sale at a price of \$2.2 million, later revised to \$2.3 million. During the discussion, Williams sought to have language included to remove “indemnification language” in the proposed contract that would serve to protect the city if HUD were to call in the original loans – worth as much as \$2.5 million. He also sought to have other proposed restrictions and penalties removed, including a covenant requiring the property be used for an auto dealership for at least seven years, as well as a clause setting a timeline for the development of the property with penalties. Williams made a motion to lift said restrictions and the motion was approved by a 5-2 vote.

The inquiry indicated that following the April 22 vote to authorize the city manager to execute the sales contract, HUD contacted the City’s finance department and inquired as to how the City intended to repay the HUD loans. Because the sales contract had not been executed, the city manager contacted elected officials and requested a special call meeting to discuss.

The inquiry indicated that the city manager discussed this matter with the purchaser (Rivchin), and that shortly thereafter he received a call from Councilman Williams in which Williams allegedly directed the manager to sign the contract and threatened him with insubordination should he fail to do so and continue with the effort to hold a special call meeting.

A Special Call meeting was held April 30 and, following assurances from Rivchin that he would work with HUD to settle the matter in the interests of the City, the council voted to

move forward with the deal. By most accounts, it appears that without Councilman Williams' support for the deal, it would not have been approved in its present form.

Beatriz Lee, Chief Human Resources Division
Miami-Dade County Parks, Recreation and Open Spaces Department
Sept. 9, 2015

Ms. Lee contacted COE at the request of Parks Director Jack Kardys, and advised that Michelle Mitchell, Williams' goddaughter, is a part-time hourly employee of the county. She said Mitchell earns \$11.28 an hour, and typically works less than 29 hours per week. She said Mitchell averages about 50 hours every two-week pay cycle. Ms. Lee further advised that the most Mitchell has made over a two-week period was for the period ending this past Aug. 16 when she received \$1,170.30 (for 79 hours). She said that Mitchell normally earns between \$620 and \$880 per two week cycle.

Asked about her income during the month of May (at the time of the application), Lee advised that Mitchell earned about \$1,300 for the entire month. She further advised that Mitchell works at Live Like Bella Park, formerly known as Leisure Lakes.

Emilio Cruz, co-owner of 504 NW 3rd Ave.
Sept. 30, 2015

Mr. Cruz stated he is co-owner of the property in question, as part of an investment group. He said he was involved in leasing the property to Councilman Williams, and stated "I have seen him personally there." He said he has not been to the property recently, but stated that B&Z Asset Management Corp. has been overseeing the property. He suggested speaking to David Brody, one of the principals in B&Z for more complete information about the rental.

David Brody, property manager at B&Z Asset Management
Sept. 30, 2015

Mr. Brody stated he has been receiving monthly rent payments in the amount of \$1,100 from Councilman Williams since the time the lease was executed in May 2012. He said he has not physically been to the property and does not know Councilman Williams, but he did say he was been receiving payments from Councilman Williams since 2012 and that, to the best of his knowledge, no other party has leased the property or made rental payments during that time. He said, "I'll tell you I believe he's the person who lives there."

James "Jay" Rivchin, owner
Dadeland Dodge Chrysler Jeep
16501 South Dixie Highway
Miami, FL 33157
Oct. 1, 2015

Greg Travaline, COO/ General Manager

Dadeland Dodge Chrysler Jeep

16501 South Dixie Highway

Miami, FL 33157

Oct. 1, 2015

Mr. Rivchin and Mr. Travaline were interviewed at their office at Dadeland Dodge at the request of SAO investigator D'Ambrosia and COE investigator Ross. Rivchin asked if he needed an attorney, and he was advised that he was under no obligation to answer any of the questions and, furthermore, that he was free to call off the interview and consult an attorney at any time.

The interview proceeded, and Rivchin discussed his experience with a *Miami Herald* reporter after it was disclosed that investigators wanted to discuss his relationship with Homestead Councilman Jimmie Williams – the subject of a recent news story. Rivchin said he had been questioned by the reporter about a training facility. He noted that he was a board member of the South Florida Automobile Dealers Association (SFADA), and that his name was linked to a training facility owned by the SFADA. He stressed, however, that he had no plans to open a training facility of any type at the proposed Hyundai dealership in Homestead. He said the facility would be controlled by Hyundai and that the scope of its business would be limited to sales, service, and parts. He said any employee training would be run through Hyundai.

In response to questioning, Rivchin and Travaline denied that Councilman Williams had requested or received any favorable treatment – for himself or any other family member or friend – or the provision of employment or other economic opportunities. “Absolutely not,” stated Rivchin, in response to the question. He stated that, as far as he knows, Councilman Williams is supportive of the proposed sale of the old Bowling Alley property because of the potential to create jobs in his district. He said the dealership would seek to hire local residents, but he denied that any other considerations or inducements were offered or solicited.

With respect to the sale of the Chrysler 200 to Councilman Williams’ goddaughter, Michelle Mitchell, Mr. Travaline stated that the terms of the deal were “arm’s length” and that he did not feel Mitchell was given preferential treatment. He did say he was taken aback that the newspaper account of the sale suggested that Ms. Mitchell paid too much for the vehicle.

Mr. Rivchin said he did not get involved in the transaction, and that he asked his sales manager (“Ricardo,” no last name given) to “just treat her like any other customer ... give her the best service.” Rivchin did not respond to an earlier question about whether he had a conference call with Williams and Mitchell or directly participated in the sale.

With respect to any discounts given to Mitchell, Travaline and Rivchin asked for copies of any documents referenced by investigators. They agreed to review the documents, once provided, and clarify any issued about the terms of the sale of the Chrysler 200 to Mitchell.

Councilman Jimmie L. Williams

City of Homestead, FL

Sept. 29, 2015

Councilman Williams, the subject of the inquiry, responded to a visit to 504 NW 3rd Avenue by investigators D'Ambrosia and Ross. He allowed investigators to enter the property, the living area of which was unfurnished – except for a green plastic chair. He showed the three bedrooms to investigators, all of which appeared to be occupied and furnished. He stated one room was used by his son; another by his goddaughter, Michelle Mitchell. He showed investigators to a third bedroom, which he said was his bedroom. The bedroom was furnished, with a bed and dress and flat-screen TV. Clothing, files and other personal items were also visible.

Councilman Williams advised that, prior to occupying the property in question he lived at the parsonage of the Greater New Mt. Zion Church, located at 550 SW 10th Avenue. He said he moved out of that residence in about 2011 to allow the church's new pastor to move in, and that he has been continuously renting the present property since May 2012. He said he has been making monthly rental payments of \$1,100 to B&Z Asset Management since that time, and stated that he lived there initially with his now ex-wife, Sheranda, and son.

“This is my home,” Councilman Williams said. He added that he also spends time at the parsonage of the St. James AME Church in Liberty City. He said the parsonage is located in Miami Gardens, at 17325 NW 18th Ave. He said he would typically spend a couple nights a week there, if he had late night bible study or services early the next morning. He estimated he spends about eight nights a month there, but that he and his 5-year-old son mainly stay at the Homestead rental property. He said his son attends the Santa Fe Advantage Academy in Kendall, and that he recently won custody. He said his ex-wife lives in Maryland. He said that during the early part of their separation – approximately Jan. 1, 2013 – that both remained at the same property in Homestead before she moved out in about May 2013. He said that they slept in separate bedrooms, and that up until that time the process was cordial. He said that when she left at that time she took all the furniture, per their agreement, and that he has not replaced the living room set since that time and only maintains furnished bedrooms. He said that any references in court documents to his residence being the parsonage in Miami Gardens would be based on filings by his wife's attorney and not by his attorney, Greer Wallace.

Councilman Williams said Michelle Mitchell, his goddaughter, has lived with him throughout this period. He noted that she recently graduated from Florida Memorial University with a degree in teaching. With respect to the purchase of the vehicle she now owns from Dadeland Dodge, Williams said that he provided her with contact information for Jay Rivchin, but was not directly involved in the transaction. He said he did not request any special treatment.

With respect to the proposal to purchase the Bowling Alley property, Councilman Williams stated that he was supportive because the property is in his district. He said Rivchin talked to him about the number of jobs it would create. He said he was first contacted by a real estate agent (Todd Akers) and later Lynda Bell, who he said was retained as a lobbyist. He said he later spoke to Rivchin, and noted that the 18 hours they reportedly spent on the phone was over a 5-month period of time. He said Rivchin's main concern was whether the City would be

required to pay back HUD if the property were to be converted into a dealership.

Councilman Williams said he was unaware of any proposed training facility to be developed in tandem with the Hyundai dealership. He said he was not offered anything in exchange for his support, and that he had no arrangement with Rivchin to provide employment. He said he did give Mitchell, who had been looking for a car after her graduation, Rivchin's business card. He said he could not recall the details of the conference call referenced in the *Herald* story. He said that while he did help make the introduction, "I never got involved in the numbers" of the sales price, and he further stated that he did not accompany Mitchell to the car sales lot. He said he did forward a photo of the car from to Mitchell he got in an email from Rivchin. "Once it came to me, I just forwarded it to her," he said. "I didn't get involved in the transaction." He said Mitchell "did not deal with Jay (Rivchin) ... It was a member of his staff."

Document/Audio/Video Review:

On May 18, COE reviewed agenda items and minutes for the proposed sale of the Bowling Alley property to RT Automotive LLC at a price of \$2.1 million. Included among the items was an appraisal report estimating the market value of the property at \$2,490,000.

On May 19, COE received a copy of a lobbyist registration form filed by James Rivchin of RT Automotive LLC. The form was received by the City Clerk's Office on March 5, and was related to the proposed sale of the bowling alley property.

A review of documents obtained pursuant to subpoena from Ally Financial Inc. show that the vehicle in question was sold to Ms. Mitchell for \$14,500 plus tags, tax, title, etc., while the retail value was listed as \$17,100, according to dealership records.

Of particular interest were price quotes provided by NADA Services Corporation, a leading industry research firm, indicating that the wholesale value of the subject vehicle was \$13,850, while the retail value of the same vehicle was stated as \$17,100.

The application Ms. Mitchell submitted to Dadeland Dodge indicated she earns \$2,815 from her position with the Miami-Dade County parks department. (Note: This appears to be an overstatement of her income based on information provided by parks.)

Records obtained from Miami-Dade parks shows that, in fact, Mitchell earned no more than \$2,100 during any month of employment through August 2015 (her highest-paid month), and that during the month of May 2015, she earned roughly \$1,300 in compensation.

Lobbyist registration forms obtained from the Homestead City Clerk's Office show that James "Jay" Rivchin did register to lobby on behalf of RT Automotive LLC – the entity seeking to acquire the Bowling Alley property – on March 5, 2015. Fees of \$300 were paid.

On Oct. 13, COE reviewed a letter and from Dadeland Dodge attorney Kenneth Paretti in response to query regarding the sale of the Chrysler 200 to Mitchell. Mr. Paretti states in the letter that the actual sales price of the vehicle was \$15,186 and not the \$14,500 cited in the documents obtained by investigators. He further contends that this price is well within the Kelly Blue Book value of \$12,138 to \$15,509, and is more than the "suggested 'fair' purchase price of \$13,824." Accordingly, Paretti maintains there was "no inappropriate benefit" to Councilman Williams, resulting from the transaction. The letter further states the sale was "consummated in good faith" and "no inappropriate conduct" occurred between Dadeland Dodge personnel with respect to the car sale or the Bowling Alley property sale.

On Nov. 20, COE reviewed bank records obtained from Bank of America for an account controlled by Councilman Williams through the Jimmie L. Williams Ministries. The records showed monthly deposits ranging from about \$6,500 to \$11,500 for the period from October 2014 through September 2015. Most of the income appeared to be derived from the St. James AME Church and a lesser amount from the City of Homestead and cash deposits. No prohibited or conflictive sources of income could be identified, based on available records.

Conclusion(s):

Based on the foregoing, there does not appear to be probable cause to find any violations of the Miami-Dade County ethics code or state or local residency requirements.

The inquiry did not yield evidence Councilman Williams sought to exploit his official position on behalf of automobile dealer Jay Rivchin in connection with Rivchin's efforts to purchase the old Bowling Alley property. According to records, Rivchin registered with the Homestead City Clerk's Office as a lobbyist at about the time he entered into discussions with Councilman Williams and other elected officials regarding the proposed sale.

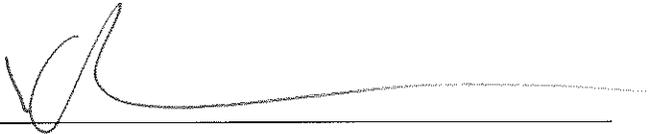
There was, furthermore, no available evidence that Councilman Williams sought to obtain special benefits for himself or for his goddaughter from Rivchin, though by referring his goddaughter to Rivchin's auto dealership to look for a vehicle, Councilman Williams showed questionable judgment since this created an opportunity for a financial conflict – one that certainly raised a red flag and invited scrutiny by investigative agencies.

Upon examination, the terms of the deal, however, do not suggest that Councilman William's goddaughter paid less than fair-market-value for the vehicle. Dealer records do show that, at a base sales price of \$14,500, Mitchell paid less than the recommended retail value of \$17,100. The price of the vehicle, nonetheless, is still within the industry guidelines. An attorney for Dadeland Dodge, moreover, advised that the actual sales price of \$15,186 was more than \$1,000 above the "suggested" fair purchase price of \$13,824 for such a vehicle.

The investigation further established that Councilman Williams has rented a three-bedroom property in Homestead on 504 NW 3rd Avenue since on or about May 2012. He provided evidence of making monthly payments of \$1,100 for the property. The owner and managers of the property corroborated that Williams has been the only tenant during this time.

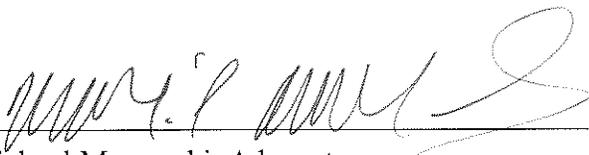
Councilman Williams told investigators, during an interview at the property, he has lived there continuously since mid-2012, and continued to occupy it during his separation and divorce – even though his now ex-wife resided there during the early part of 2013. He acknowledged he spends some nights at the Miami Gardens parsonage of his employer, the St. James AME Church, but told investigators the Homestead rental property “is my home.”

The findings were referred to the Miami-Dade State Attorney’s Office for further review as it relates to the issue of Councilman Williams’ residency. The investigation was carried out jointly between COE and the State Attorney’s Office, which has declined prosecution.

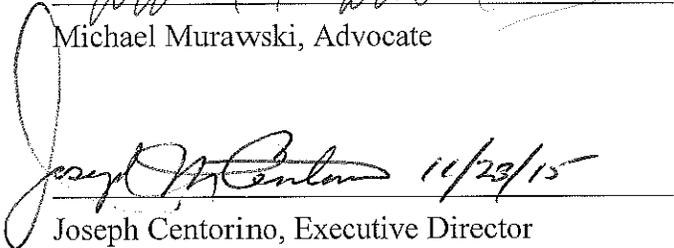


Karl Ross, COE Investigator

Approved by:



Michael Murawski, Advocate



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