



Miami-Dade Commission on Ethics & Public Trust
Report of Inquiry

Investigator: Karl Ross

Case: PI 15-019	Case Name: Alleged improper conversion of sick leave to annual	<u>Date Opened:</u>	<u>Date Closed:</u>
Complainant(s): Anonymous source, via COE hotline	Subject(s): Miami Beach CFO Patricia Walker, Assistant Finance Director Georgina Echert	June 12, 2015	

Date: _____

**CASE
CLOSED**

Allegation(s):

On June 11, 2015 the COE received information from an anonymous source alleging that two employees from the City of Miami Beach Finance Department made improper adjustments and transfers of leave time. The employees were identified as Patricia Walker, CFO and director of the Finance Department, and Georgina Echert, her top assistant.

It was alleged that in improperly adjusting their hours, they provide the required approvals for each other. In doing so, Walker and Echert increased their vacation hours, so that when they entered into the DROP program they had more vacation hours to “cash out.” According to the source, Walker and Echert cashed out the improperly acquired vacation hours, but remain active employees in the Finance Department of the City of Miami Beach.

The COE initiated an inquiry to determine whether the leave transfers were legal, or somehow permissible under City of Miami Beach Code. The findings were later referred to the Miami-Dade County State Attorney’s Office for follow-up investigation and review.

Relevant Law:

City of Miami Beach Unclassified Employees’ Leave Ordinance, Section 1613-4 *Transfer of annual leave and sick leave*, stating in applicable part:

a) For employees hired prior to October 1, 1978, sick leave accrued in excess of 360 hours may be used for annual leave within the limits of this chapter.

- b) For employees hired on or after October 1, 1978, sick leave accrued in excess of 360 hours may be transferred to annual leave at the rate of two days of sick leave to one day of annual leave; at the time of resignation, retirement, termination or death, such employee can transfer sick leave in this manner to reach a maximum of 620 hours of annual leave.

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:

Review of evidence provided to COE:

City of Miami Beach Code, Sec. 1613-4. Transfer of annual leave and sick leave.

(b) for employees hired on or after October 1, 1978, sick leave accrued in excess of 360 hours may be transferred to annual leave at the rate of two days of sick leave to one day of annual leave; at the time of resignation, retirement, termination or death, such employee can transfer sick leave in this manner to reach a maximum of 620 hours of annual leave.

PATRICIA WALKER – For period ending June 3, 2012

Date Paid	Earned Sick leave this period	Prv Bal. Sick leave	No. of hours transferred from sick leave to vacation	Resulting balance of sick leave	Earned Vacation this period	Prv Bal. vacation	Less Vacation hours taken this pay period	No. of hours transferred from sick leave to vacation	Resulting balance of vacation	No. of hours transferred in violation of Code
6/8/12	3.69	1000.84	(80.00)	924.53	5.23	389.49	(8.00)	80.00	466.72	40.00

Ms. Walker had 1000.84 hours of sick leave as of 6/3/12. Pursuant to the code, she was permitted to transfer at the rate of two days of sick leave (16 hours) to one day (8 hours) of vacation. She transferred 80 hours from her sick time and credited the entire 80 hours to vacation. According to the code, she should have increased her vacation by half that amount, or 40 hours.

GEORGINA ECHERT – For period ending August 12, 2012

Date Paid	Earned Sick leave this period	Prv Bal. Sick leave	No. of hours transferred from sick leave to vacation	Less Sick hours taken this period	Resulting balance of Sick leave	Earned Vacation this period	Previous Balance Vacation	No. of hours transferred from sick leave to vacation	Resulting balance of Vacation	No. of hours transferred in violation of Code
8/17/12	3.69	326.88	(224.00)	(16.00)	90.57	5.23	324.80	224.00	554.03	224.00

As shown above, Ms. Echert only had 326.88 of accrued sick leave, not enough to qualify for the transfer of any sick leave to annual leave. Nonetheless, she transferred 224.00 of her sick leave and credited the full amount (224 hours) to vacation leave.

Below Ms. Echert transferred 72 hours of vacation time back to sick leave. There were 152.00 which

remained in Vacation in violation of the Code.

GEORGINA ECHERT – For period ending November 4, 2012

Date Paid	Earned Sick leave this period	Prv Bal. Sick leave	No. of hours transferred back to sick leave from vacation	Resulting balance of Sick leave	Earned Vacation this period	Previous Balance Vacation	No. of hours transferred from Vacation back to Sick leave	Resulting balance of Vacation	No. of hours which remained in Vacation in violation of Code
11/9/12	3.69	109.02	72.0	184.71	5.23	580.18	(72.0)	513.41	152.00

Patricia Walker ID# 15886 – Leave Adjustments –

Date From/To	Used Vacation Hours	Reversed and transferred to Sick Leave
12/23/11	(8)	8
12/28/11	(8)	8
12/29/11	(8)	8
12/30/11	(8)	8
1/6/12	(8)	8
1/20/12	(8)	8
2/6/12	(8)	8
2/7/12	(8)	8
2/17/12	(8)	8
5/14/12	(8)	8

According to the information received, the adjustments are of already used vacation hours into sick time. (Note: The effect of this retroactive adjustment is to restore the vacation time.)

The employees have entered into the DROP program and would have “cashed out” their vacation hours at the rate of their most recent salaries, had this potential abuse not been detected and brought to the attention of city administrators. The employees in question submitted letters of resignation on Sept. 10, 2015.

They were not allowed to liquidate the additional hours detected by this inquiry.

Interviews:

On Sept. 21, a phone message was left for Miami Beach auditor James Sutter at the City’s internal audit department, (305) 673-7000 x. 6174, requesting he contact COE.

On Sept. 30, 2015, COE investigator Ross and ASA Luis Perez-Medina met with Miami Beach Internal Audit Director Jim Sutter, and discussed the findings presented in his Sept. 18, 2015, memo to City Manager Jimmy Morales. He advised that, according to his report, the employees in question sought to retroactively convert used vacation time into sick time – the net effect of this being to increase the amount of unused vacation time at their disposal.

Sutter noted that former CFO Patricia Walker converted 80 hours of vacation time into sick

leave in this fashion, netting her an additional 80 hours of vacation time. He noted that, while vacation or annual leave can be cashed out at the time of retirement at 100 percent of face value up to a maximum number of hours (620), that unused sick leave can only be cashed out at 50 percent of face value. So as a result of these adjustments, Walker would have received an extra 40 hours of pay at the rate of her salary at the time of her retirement.

Sutter said that his review found that Georgina Echert similarly converted 224 hours in this fashion – retroactively replacing vacation days with sick leave. He further noted that she had converted an additional 72 hours from sick leave to vacation in February 2012, but that she later reversed this adjustment and reinstated those 72 hours during a later adjustment in August. The effect of the latter adjustment was to nullify the earlier gain in vacation time. This left her with a net increase in recaptured vacation time of 224 hours.)

Sutter said he conducted this analysis without knowing the identity of any of the employees he was reviewing, and that these adjustments were the only ones that looked irregular. He stated that while it would not be considered a best practice for Walker to have an underling approve her request to adjust her leave balances, he was not aware of any formal policy to prevent this. Mr. Sutter further advised the city did have a program in effect between about 2006 and 2009 to allow employees to cash out unused sick leave for a lump sum cash payment. He noted that the program had been discontinued and was not in effect at the time the questionable transactions occurred in 2012. He said he viewed the adjustments as suspicious.

Upon further consultation, ASA Perez-Medina opined that unless the State were able to prove that the subjects did not in fact take vacations on the days that were later re-classified as sick leave, he did not think the State would have a prosecutable case. Sutter did say that employees could, in fact, retroactively replace vacation time with sick leave if they were, in fact, ill. He added he did not believe there were any time limits -- i.e., one year or less -- for changing the status of employee leave days, so long as the request was approved by a supervisor.

Sutter further noted that, by resigning early, the subjects lost considerable monetary benefits they would have been entitled to under the DROP program in which pension payments would be held in an interest-bearing account for a lump-sum payment at the time of severance.

Prior to the conclusion of the meeting, ASA Perez-Medina indicated that SAO would likely decline to take further action against the subjects and the matter would be closed out.

Conclusion:

This inquiry revealed evidence that the leave adjustments in question were improperly handled, and, at a minimum, resulted in violations of the Miami Beach City Code. Due to the fact that the 3-year statute of limitations on Miami-Dade ethics violations has already expired, no formal complaints can be filed by COE for potential ethics violations.

Accordingly, the matter was brought to the attention, first, of the Miami Beach City Manager, and second, of the Miami-Dade County State Attorney's Office. The City of Miami Beach

instructed its internal audit division to conduct a blind review of all leave adjustments. This review led internal auditor to flag as suspicious the transactions noted above.

Following a meeting at COE with Miami Beach City Manager Morales, the employees in question submitted their resignations on Sept. 10, 2015. COE was advised they were not allowed to cash out the leave time accumulated pursuant to the improper or suspicious adjustments. This resulted in a savings of approximately \$4,500 in the case of former CFO Patricia Walker, and \$8,700 in the case of her assistant, Georgina Echert.

COE was subsequently notified that ASA Perez-Medina discussed the findings with ASA Tim VanderGiesen, chief of the SAO Public Corruption Task Force, and that after reviewing COE's findings a determination was made not to file criminal charges. COE was further advised that SAO will not be preparing a formal close-out memo.

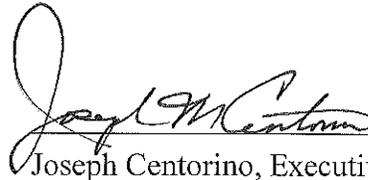


Karl Ross, COE Investigator

Approved by:



Michael Murawski, Advocate



Joseph Centorino, Executive Director

Date: 1/5/16

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