



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Karl Ross

CASE

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| Case K16-009 | Case Name: Miami-Dade County Contract Lobbyist Review | <u>Date Open:</u> CLOSED | <u>Date Closed:</u> |
| Complainant(s): | Subject(s): Miami-Dade Contract Lobbyists | Feb. 18, 2016 | Date: 11/20/16 |

Predication:

By a 2010 Board of County Commissioners (BCC) resolution, the Commission on Ethics and Public Trust (COE) is tasked with undertaking an annual "conflict check" of all contract lobbyists representing Miami-Dade County before state, local and federal lawmakers.

The purpose of this review is to ensure that "all County contract lobbyists obtain a waiver from the Board for any actual or perceived conflicts of interest" and comply with their "continuing, affirmative duty during the term of the lobbying contract ... to promptly seek in writing and obtain a waiver from the Board for any conflict of interest prior to representing any entity in any forum."

During the course of this review, it was learned that several lobbyists were simultaneously representing Miami-Dade County (the County) and the Miami-Dade Expressway Authority (MDX), including lobbyists from Gomez Barker Assoc.

The County Attorney's Office (CAO) had designated Gomez Barker to represent the County on transportation issues during the most recent legislative session. It was further learned the CAO had removed Gomez Barker and assigned another firm to represent the County on transportation issues once this potential conflict became known to the County's legal team.

The County's transportation bills (House Bill 1377 and Senate Bill 1372) failed as a result of subsequent concerns over the content of the legislation after it was submitted.

Investigation:

Interviews:

On April 4, COE met with Assistant County Attorney Jess McCarty to discuss any potential conflicts that he may have become aware of during the previous legislative session – ending on or about March 11. He advised that Pittman Law's request for a waiver on Feb. 2, 2016, was denied by the BCC after Pittman agreed to represent Uber Technologies on a state legislative issue contrary to the County's position on this same issue.

McCarty said the issue with Uber was handled appropriately. Pittman voluntarily disclosed to McCarty its potential conflict. Once the issue was examined by COE, it was determined that a conflict did in fact exist. To wit, the County opposed legislation (HB-509 and SB 1118) that Uber was supporting and that would limit the County's ability to regulate or ban Transportation Network Entities (TNEs) such as Uber from competing with taxis. He noted that Pittman ceased to represent Miami-Dade County after the determination that there was a conflict.

With respect to any other potential conflicts, COE inquired about several of the lobbyists representing MDX, Gomez and Reyes among them, which seemed to be competing with the County for upwards of \$30 million a year in transportation funding. It was noted that one of the legislative reports filed by lobbyist Ronald Book highlighted an alleged "drafting error" that would transfer funding – if successfully obtained from the Florida Department of Transportation (FDOT) – to MDX instead of to the County, the intended recipient.

Book's report indicated his firm would seek to "fix" this drafting error. McCarty indicated the County had proposed language to obtain funding for transportation projects to the sponsors of SB 1372 and HB 1377, Sen. Anitere Flores, R-Miami, and Rep. Jeannette Nunez, R-Miami. Book further noted that bills sponsored by these lawmakers "were erroneously drafted to direct funding and oversight on each of these County priorities, to MDX. The County Position is that the County is the proper entity, as MDX is not a taxing authority ..."

The projects included funding for the creation of Transportation Investment Areas (TIAs), or special taxing districts for development adjacent to Metrorail stops; development of a light rail line along the existing corridor created by State Road 836, also known as the CSX east-west corridor; and the collection of express lane revenue for express bus service along I-95's north-south corridors. These two proposals were championed by, among others, Commissioner Esteban Bovo, who at the time chaired the BCC's transportation committee.

The total amount of state funding at stake approached \$1 billion since the requested funding of \$30 million annually from FDOT would stretch over 30 years, and be supplemented by an additional \$70 million in start-up funds during that period. Funding from the creation of TIAs could create an estimated \$1.5 billion over this same period through TIF funding.

Other proposed funding sources were to include 25 percent of revenues from the issuance of drivers' licenses to County residents, as well as 15 percent of proceeds from the use of HOV

McCarty noted that, with respect to the failed legislation, the House and Senate bills “never made it out of committee,” adding that it took too long for the bills to get filed in the first place. “This is an issue where we would have had to have been running on all cylinders to get something passed” ... He added that typically he would have liked for at least one of the bills to have gone through committee prior to the start of the legislative session in January, but that that didn’t happen. “My frustration was that it didn’t seem to be moving,”

Bernardo Escobar
Legislative Affairs
Miami-Dade Expressway Authority
April 14, 2016

In response to questions raised about the role of Gomez Barker, Mr. Escobar said he did not feel that there was any conflict between the legislation sought by MDX and that sought by the County. He said that: “We are a County agency. We don’t work against the County. We work for the County.” He further noted that the Metropolitan Planning Organization (MPO), whose board members are mostly appointed by the BCC, had asked MDX to “expand its mission” and take a more active role in developing transit alternatives like rail and mass transit.

Escobar said that MDX submitted proposed legislation in response to the County’s stated transit goals and was not attempting to work at cross-purposes with the County. He said MDX did identify a number of potential funding sources including the \$60 million annual source that FDOT sets aside for high-speed rail projects. He noted that since FDOT is not actively promoting high-speed rail, this money is just lying around and could be “tapped” for other projects, such as those described in recent legislation. He said the monies – about \$30 million a year for capital projects (50% of total outlays) and another \$10 million for start-up costs – could be re-allocated for traditional transit projects such as light rail and roadways.

Escobar said the Miami-Dade Delegation – led by Rep. Jose Felix Diaz, District 116 – had been asking for input for a countywide transportation bill and that, in his view, the County had been slow to respond for this request for proposed projects. He said MDX presented its legislation to lawmakers and that the final versions of the bills were the work of the House and Senate Drafting Offices. He said that MDX didn’t care whether MDX was the recipient of the funding, adding that, at present, MDX lacks the statutory authority to carry out rail and mass-transit projects, especially those requiring use of eminent domain. He said that MDX does have certain assets, namely 50 acres of land it owns along the State Road 836 corridor.

Escobar said the initial 11-page version of HB 1377 was very well received and enjoyed broad support among local lawmakers. He said that the County’s 48-page “strike all” amendment late in the process effectively killed the proposed legislation. He said the County amendment was too long and raised too many questions for lawmakers. He further observed that by proposing TIF funding similar to that employed by CRAs, this raised thorny questions since CRAs themselves had recently come under scrutiny for their spending practices.

Escobar described MDX as an “executory agency,” saying it could build and deliver any sort of project, if authorized. He underscored that it is not a planning agency and said this is left to

Alex Alamo, legislative aide
Office of Rep. Jeannette Nunez (District 119)
2450 SW 137th Ave., Miami
April 26, 2016

Mr. Alamo was interviewed at Rep. Nunez's district office at the address shown above. He advised he received a copy of the draft legislation that later became HB 1377 from Will McCrae, an aide to Sen. Anitere Flores. He said he received an email from McCrae on Nov. 17, 2015, and that he did not re-examine the legislation until after the holidays. He said the document provided by Sen. Flores was the basis of the House companion bill.

Alamo said he did not recall actively working on the bill until a day or so before it was filed with the House bill drafting office on Jan. 11, 2016. He said he later worked on the bill with Jess McCarty of the County Attorney's office and lobbyist Rana Brown. He said he did not have any interaction with Fausto Gomez on the legislation, though he later discovered an email dated Jan. 7, 2016, with one of Gomez's partners, Reyes. "I didn't look at it closely until about the time of the (filing) deadline," he said about the bill, titled An Act Relating to Expressway Authorities. "I guess you could say it got lost in the holiday shuffle."

Alamo said it was not unusual for bills to originate in the Senate because Senators can file an unlimited number of bills, while House members are limited to just six bills per session. He said that by the time he received the draft bill, it was pretty much what he would consider an MDX bill, but that it wasn't until the County filed its lengthy amendment that the bill changed course. He said that because of the lengthy County amendment and issues about TIF funding, the bill died for lack of "germanity." He said the amendment "needed more explanation."

With respect to Mr. Gomez, he said Gomez did meet with him to discuss a separate bill (HB 299) that served to restructure MDX's governing board. He said he did not meet with Gomez to discuss any issues relating to the County's transportation projects or priorities.

Will McCrae, legislative aide
Office of Sen. Anitere Flores (District 37)
10691 N. Kendall Drive
May 6, 2016

Mr. McCrae provided copies of the requested correspondences relating to SB 1372 on May 6, including an email from Gomez Barker lobbyist Manny Reyes dated Nov. 16, 2015.

The email references an attachment characterized as "our draft proposal of the comprehensive transportation plan for Miami Dade County that Fausto discussed in concept with you a few weeks back ... The bill provides Miami-Dade County with the option to use MDX and its transportation infrastructure expertise as the implementing agency for its transportation plan and identifies the funding sources for expressway, rail and other transportation projects."

It should be noted these funding sources would include an annual \$30 million appropriation from FDOT and that the proposed legislation provided by Gomez Barker "directs" FDOT to

Rodriguez and Escobar advised the MDX legislation was promoted in response to requests from the Miami-Dade Delegation and lawmakers such as state Rep. Kionne McGhee, District 117, who wanted MDX to oversee the development of new rail projects. They noted that, at present, MDX is limited to expressway projects and tolling as a source of revenue, but that the proposed legislation would have expanded MDX's mission to include "multi-modal" projects, such as light rail lines, as well as provided significant non-toll revenue sources for the construction and operation of mass transit projects.

Rodriguez and Escobar stated they were frustrated by the County's "strike-all" amendment to the MDX (County) legislation, tacked on to the bill at the last minute and which effectively killed the measure. They criticized the County's handling of its legislative agenda, saying County lobbyists and legal advisors should have been more proactive in finding legislative support for its proposals to get them to committee sooner. They said they could not explain why Gomez did not submit a bill more responsive to the County's interests.

They said Mr. Gomez never discussed with them any potential conflict between MDX's bill and the County's legislative package. Rodriguez said he met with several Miami-Dade County Commissioners in Tallahassee during session and they were supportive of MDX's proposals. He said a few of the Commissioners later commented that Commissioner Bovo might not be happy with the legislation, adding that competing "egos" were to blame for the subsequent failure of the MDX legislation to make it through committee and to the floor for a vote. The MDX officials said that they were unaware the County was promoting its own transportation legislation with similar proposals.

Alex Annunziato, legislative director
Office of Commissioner Esteban Bovo, Jr. District 13

May 13, 2016

Mr. Annunziato stated he is an attorney and that he drafted the County's transportation bill on behalf of Commissioner Bovo, who chairs the BCC's Transit and Mobility Services Committee.

Annunziato stated he worked on the County's draft legislation to create Transportation Investment Areas (TIAs) modeled after existing legislation for CRAs (Chapter 163, state statutes), and using tax-increment funding (TIF). He said he worked closely with McCarty, Brenda Neuman, and Michael Mastrucci of the Miami-Dade County Attorney's Office. The legislation, if approved in its final form, would have created a new chapter, Chapter 350, devoted to TIAs and established rules governing such TIAs. He said the idea was to make this funding mechanism available not just to the County, but to all counties and municipalities. He said that a study done by the CITT showed that TIAs could generate \$50 million a year or more for projects in Miami-Dade County, or roughly \$1.5 billion over 30 years.

Annunziato said the County's proposed legislation clearly established that the BCC would be the "governing board" and, as such, would control how TIA proceeds would be spent. He said he was surprised and dismayed to learn, however, that the proposed legislation under review in

Rana Brown, lobbyist

Ronald Book P.A.

May 17, 2016

Ms. Brown advised that she was tasked with representing the County on transportation issues after Gomez Barker was re-assigned. She stated that Gomez Barker usually represented the County on such issues because it was thought the firm had expertise in that area.

Brown said that when she became involved in the transportation issue, it was clear the County was not happy with the draft of the legislation pending at that time. She said the bills did not reflect the County's legislative agenda and were more closely aligned with MDX's agenda, with respect to the oversight and development of transportation infrastructure.

Brown said it did not appear to her that the County's interests were being faithfully discharged by the predecessor firm, Gomez Barker, noting that: "The whole reason it was reassigned to us was because [the County's interests] weren't being carried out."

Ms. Brown further reasoned that any break-down likely happened prior to bill drafting, stating that in her experience with bill drafting, the staff did not seek to radically alter proposed legislation, but rather served to package the legislation provided by lawmakers.

She further stated that lobbyists "are tools of the County's policy," and are not expected to modify the policy without explicit instruction from County officials.

State Sen. Anitere Flores, R-Miami (District 37)

10691 N. Kendall Drive, Miami, FL

May 18, 2016

Sen. Flores was interviewed at her district office. Also present for the interview was Will McRae, the legislative aide who assisted her in the preparation of SB 1372, which she said was always intended to be the Miami-Dade County Transportation bill.

With respect to the draft legislation provided to her office by Manny Reyes of the lobbyist firm Gomez Barker this past November 16 via email, Sen. Flores advised that she was under the impression that the proposal represented Miami-Dade County's plan, not any plan or proposal intended to serve the interests of the Miami-Dade Expressway Authority.

"I want to be clear: **We never thought that was an MDX bill,**" Sen. Flores stated. She said the only MDX legislation she worked on (SB 299) dealt with governance issues and called for increased ethical standards. She said MDX was not especially supportive of that bill.

With respect to the draft legislation submitted by Reyes calling for amendments to Chapter 348 and related to expressway authorities, Sen. Flores said, "We were under the impression this was the County's transportation bill ..." She said her office did add language reflecting a proposal by County Comm. Suarez to tap the proceeds of automobile registrations to fund

Joe Rasco, director
Office of Intergovernmental Affairs
May 19, 2016

Mr. Rasco stated he participated in conference calls with Commissioner Bovo's office and the County's lobbyists on the proposed transportation plan. He said "we were on target" with respect to filing legislation in a timely manner, and that "everybody knew what their assignment was." He said that when the bill came out of bill drafting, everybody was surprised with the legislation because "we were expecting something more County-centric." He noted what was filed did not resemble the language with respect to the TIF funding plan supported by Commissioner Bovo, the intended centerpiece of the County's legislative package.

Fausto Gomez, principal/ lobbyist
Gomez Barker Associates
May 19, 2016

On the above date, Mr. Gomez was contacted by this office via email and any work-product relating to his efforts to promote the County's transportation agenda was requested, along with an interview to respond to concerns raised over the course of the investigation. Gomez did not respond until receiving a second email from COE on May 31, at which time he advised that he had retained attorney Ben Kuehne to represent him on this matter. Follow up emails were exchanged with Mr. Kuehne to produce documents and schedule an interview.

Esteban Bovo, Commissioner
Miami-Dade County, FL
June 23, 2016

Commissioner Bovo met with COE to discuss the investigative findings as they relate to the County's proposed transportation legislation. The commissioner advised that he has a long-standing concern about the County's "lobbyist teams" and noted that "we've had issues in the past" with respect to potential conflicts of interest, given the nature of their business with each lobbyist serving multiple clients and special interests at the same time. "We just want to be sure that lobbyists representing the County are doing the County's work," he said.

Bovo said that as chairman of the BCC's transportation committee, recent legislative initiatives – such as that proposed by his committee relating to TIF funding – have become "very, very important" to the County because they seek to create desperately needed funding mechanisms for the development of mass transit infrastructure. "All this talk of transportation is just that unless you have the financing" for infrastructure projects.

Bovo said he was disappointed to learn the County's transportation proposal went off track during the past legislative session, saying: "It went into a totally different direction. It gave all the control to MDX – and that's not what we wanted." He said he thought MDX could provide assistance to the County in obtaining land along the right of ways for transportation corridors, but that he did not envision that MDX would control the funding or oversee the development

result of one Commissioner preferring to promote a personal preference over the greater good of the County's needs. The impact of Commissioner Bovo's misconduct cannot be overstated: Miami-Dade County last [sic] what might have been its very best opportunity to obtain legislative solutions for its many and varied transportation issues.

"Seemingly in order to deflect attention away from his own actions that resulted in none of the County's transportation needs being addressed, Commissioner Bovo sought to blame the failure on Fausto Gomez, an entirely unprofessional and factually unsupported assertion. The ruse did not work.

"Mr. Gomez had worked diligently, in service to Miami-Dade County and its many transportation needs and priorities, to assist the Florida Legislature in crafting a Comprehensive Transportation Bill that had a real chance of success. He advanced the interests of Miami-Dade County in the process. But his efforts were derailed by the concentrated work of a single Commissioner who sought to up-end a comprehensive transportation solution in favor of a single item legislation that was not even identified as a priority matter for the County.

"That Commissioner Bovo has publicly complained about Mr. Gomez and has accused him of being "under investigation" by the Commission on Ethics is apparent evidence of a personal or professional dislike of Mr. Gomez that is totally unwarranted, unjustified, and uncalled for. Fausto Gomez, as a highly skilled, trusted, and effective governmental affairs consultant, worked diligently to serve the needs of the County. He has never been instructed to favor one County Commissioner's requirements over the comprehensive County legislative priorities. In this situation involving the Comprehensive Transportation Bill, the transportation needs of Miami-Dade County would have been well met had he been allowed to continue efforts to advance the Comprehensive Bill. At no time did Mr. Gomez advance other interests above those of Miami-Dade County, and did not favor one client over another. He withheld no information from Miami-Dade County, and was consistent in his proactive approach to advancing comprehensive transportation legislation. "

It should be noted that Commissioner Bovo responded to the allegations contained in this email on Aug. 30, 2016, and expressed his "sincere disappointment and disgust at Mr. Gomez's attack on my character and for his blatant misrepresentation of the salient facts at issue in this case." He goes on to assert that the language in the bills introduced by Mr. Gomez on the County's behalf "diverged wildly" from the language in the drafts submitted to the County's lobbying team. He went on to state that, in his view, "the proposal adopted by our commission had been corrupted and I expressed a desire to have the bills amended if at all possible." (A full copy of Commissioner Bovo's response will be included as an exhibit to this report.)

Benedict Kuehne, attorney for Mr. Gomez
Aug. 5, 2016

Mr. Kuehne appeared on behalf of Fausto Gomez; he denied his client had any conflict of interest with respect to his role as a Miami-Dade County contract lobbyist during the past

legislative support, saying Bovo's "remarks" to lawmakers during the past legislative session caused the County to lose support for its legislative package. He said it was a huge blunder for the County to file a "strike-out" amendment, and that every legislative aide knows to avoid submitting revisions that would lead to a bill dying for lack of "germanity."

Kuehne added, "Fausto Gomez had nothing to do with the strike-out ... He had nothing to do with the lack of germanity. What he did was 100 percent consistent with BCC policy ..."

Kuehne further criticized Miami-Dade Mayor Carlos Gimenez, saying Gimenez "misspoke" when he told state lawmakers the County's transportation priority was BayLink, a proposed light-rail project connecting Miami and Miami Beach instead of prioritizing other projects and funding mechanisms contained in the County's proposed legislation.

Kuehne reiterated that because of these and other "miscues," the County lost out on the opportunity to leverage billions of dollars' worth of state transportation funding. "We lost an opportunity to have \$19 billion worth of bonding" for transportation projects.

Kuehne provided other documents and records to COE on behalf of his client. These included a Nov. 16, 2015, email from Manny Reyes of Gomez Barker to Sen. Flores and staff with respect to the "Miami-Dade County Transportation Bill." This email purports to contain a "draft proposal of the comprehensive transport plan for Miami Dade County." It is noted that the bill gives the County the "option to use MDX and its transportation infrastructure expertise as the implementing agency for its transportation plan and identifies funding sources for expressway, rail, and other transit projects" as well as other "modifications to MDX ..."

Kuehne did not provide a copy of the "draft proposal" that later became the basis for both SB 1372 and HB 1377, but said he would try to obtain a copy from his client. (He was advised that COE obtained this document independently and that MDX Executive Director Rodriguez identified the "draft proposal" as being the legislation MDX worked on with Gomez.)

Kuehne said he would request a copy of the proposal from his client, as well as a copy of the state statute he said would prevent the County from receiving state transportation funding. COE agreed to provide him with a copy of the opinion about whether it considers MDX to be a state agency as opposed to a County agency. The latter was furnished after the meeting.

Xavier Suarez, county commissioner
Miami-Dade County Board of County Commissioners
Sept. 14, 2016

Commissioner Suarez responded personally to a Sept. 9 email from COE inquiring whether any of the 13 county commissioners met with Mr. Gomez to discuss the county's transportation agenda for the previous legislative session. He stated in a telephone message that he did not remember discussing this matter with Mr. Gomez, but added: "I am concerned about the main issue, which is why lobbyists are able to represent entities competing for the same 80 billion in state money."

Note: The attached legislation is titled "an act relating to transportation" and seeks to amend Section 348, Florida Statutes, "The Florida Expressway Authority Act."

- The Nov. 16, 2015, email from Reyes to Sen. Flores' office further notes that the draft legislation would "re-designate MDX as the Miami-Dade Transportation Authority," and "expresses the legislative intent for MDX to broaden its mission and powers to facilitate multimodal infrastructure for the county ..." It further "expands the powers of the authority (MDX) to enter into interlocal agreements with the county or a city within the county to establish a Transportation Reinvestment Zone (TRZ), which is a special district associated with and expressway or rail corridor. It also directs FDOT to "allocate to the Miami-Dade Transportation Authority (MDX) the sum of \$30 million annually from FY 2016-2017 through FY 2046-20147" to fund light rail projects.
- A Nov. 17, 2015, email from William McRae of the office of Sen. Flores transmits the proposed legislation submitted by Gomez Barker in the County's name to the office of state Rep. Jeanette Nunez, the House sponsor of the companion bill to Sen. Flores transportation bill. Two days later, an aide to Rep. Nunez, Alex Alamo, advises: "We will be filing this as a separate transportation bill." The significance of this exchange is that it reveals that the Gomez Barker proposal submitted on Nov. 16, 2015, to Sen. Flores -- an attachment titled "Miami-Dade County Transportation Bill Final.docx" -- was the template for both the House and Senate transportation bills.
- Dec. 10, 2015, email from ACA McCarty to Alex Annunziato, legislative director to Commissioner Bovo, advises that Bovo's TIF proposal "is going to be part of the transportation package that's in drafting in both the House and Senate" with Sen. Flores to file a Senate version. It goes on to state: "I spoke with Fausto and he's going to follow-up with them, because we really need these bills out of Bill Drafting and getting committee references as soon as possible at this point."
- Jan. 22, 2016, email from ACA McCarty to lobbyists Ron Book, et al., advising that the County's transportation issues have been re-assigned to Book's firm. The email states that "our language is not the language that appeared in either SB 1372 or HB 1377," noting that "the language in those bills puts MDX in charge of the transportation reinvestment zones." It further notes that the same bills provide "rail funding, but the funding is for MDX not the County." Lastly, it notes that language in SB 1372 would allocate 15 percent of revenue from express lanes for express bus service, but that "the language in SB 1372 would actually divert revenue that Miami-Dade Transit currently gets under statute to MDX for the private bus concession." In all instances, MDX would be the recipient of state funding, not the County.
- Jan. 27, 2016, email from Bovo aide Alex Annunziato to Alex Alamo, aide to State Rep. Nunez, the bill's House sponsor, states that: "... the bill as drafted would authorize *existing highway authorities* to create the TIF district and enter into an

The investigation found the County's draft legislation was never submitted by Gomez or his firm to state lawmakers, in the intended format, and that Gomez misled lawmakers such as Sen. Flores into supporting the MDX bill. Sen. Flores even used her clout to meet with the state's top transportation official to lobby for funding she thought would be used to promote the County's transportation agenda.

The MDX legislation submitted to Sen. Flores' office was later forwarded to State Rep. Nunez's office, which subsequently introduced a bill described as "an act relating to expressway authorities." Because the bill related to expressway authorities, the bill later died on the grounds of "germanity" after the County attempted to re-introduce its legislation by filing a "strike-all amendment." By this time, it was too late to file a new bill, and subsequent attempts to attach the County's proposal to other bills failed as well, officials said.

Whereas MDX officials said they felt there was no conflict between their legislative proposals and those of the County, others described the maneuver as a "power grab" that would, in effect, convert MDX into a full-fledged "transportation" agency that would compete with Miami-Dade Transit, the County's transportation arm, for funding and ridership.

Simply put: The legislation put forward in the name of the County "wound up as an MDX bill and not a County bill," according to lobbyist Book and other County officials involved in the process of developing and promoting the County's legislative priorities. The CAO, which oversaw and coordinated the effort to promote the County's legislative agenda, made it clear by its action of removing Gomez as the county's transportation lobbyist that it felt that the legislation resulting from Gomez's action did not reflect the County's best interests.

If for any reason, Gomez or his associates felt it was truly in the County's interest to adopt the approach specified in HB 1377 or SB 1372 (expanding the mission of expressway authorities to include other forms of transportation), they should have discussed this with the County's legal team and coordinated the effort in a more transparent manner. That never happened, raising serious questions about whether the County's interests were subordinated to those of MDX, which had also been paying Gomez to advance its own legislative agenda.

The paper trail makes it abundantly clear that Fausto Gomez and his associate, Manny Reyes, submitted legislation developed by MDX in place of legislation developed by the County, when it transmitted draft legislation to the office of Sen. Anitere Flores on Nov. 16, 2015, and that this draft proposal was used as the template for both SB 1372 and HB 1377.

Mr. Gomez, through his attorney, argued in a Sept. 23 letter to COE Advocate Michael Murawski that he was acting in the County's best interest at all times and "never acted without the knowledge or consent of County officials." The letter characterizes the County's legislative approach as being "poorly conceived" and relying on "piecemeal pet projects."

The letter further contends that state transportation officials were unwilling to approve funding to the County because of an alleged "cloud of financial mismanagement" over Miami-Dade Transit (FDT), resulting from a 2011 audit of federal transit funds allocated to FDT. As a result, the letter states that Gomez saw MDX as a "far more palatable funding recipient for the

decision-makers in the [Florida Department of Transportation.]”

The letter further contends that, based on state statute, the County was ineligible for the requested \$30 million to \$40 million in funding for light rail projects.

Mr. Gomez, through his attorney, insists that County legal advisers were fully apprised of these and other concerns about the County’s proposed transportation legislation. The investigation, however, was unable to turn up any documentation to this effect, and Gomez declined repeated invitations from COE to appear for an interview.

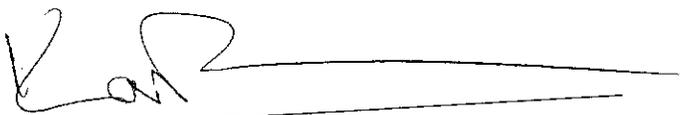
Key members of the County’s legislative team were interviewed and none substantiated this claim – i.e., that Gomez told them MDX was the appropriate vehicle for implementing the County’s transportation plan. Furthermore, all of these individuals expressed they were caught off guard when the bills that emerged from Bill Drafting utilized MDX in this capacity. This was noted quite clearly in ACA McCarty’s Jan. 22, 2016, email noting that he was reassigning the County’s transportation legislation to another lobbyist, expressing that: “Our language is not the language that appeared in either SB 1372 or HB 1377” and that “the language in those bills puts MDX in charge of the transportation reinvestment zones,” and other important elements of the County’s proposed transportation legislation.

Gomez’s assertion that he had consulted with unnamed County Commissioners about the legislative change was denied by every single County Commissioner, either directly or through an aide to the undersigned investigator.

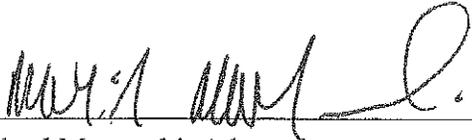
It is further troubling that Mr. Gomez, who, when pressed for an explanation by County leaders and legal advisors, suggested that it was state lawmakers and their staff who altered the County’s proposals in favor of MDX.

Lastly, it should be noted this is not the first time Mr. Gomez has been found to have engaged in a conflict of interest with respect to contract lobbying. He was found to have failed to disclose a conflict following a 2009 inquiry by the COE.

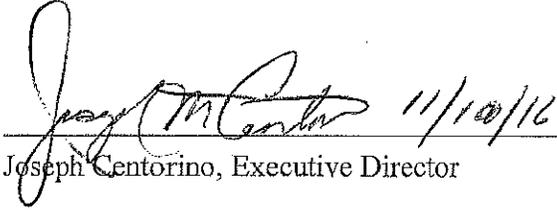
In light of these present findings and in light of Mr. Gomez’s recidivism with respect to the County’s conflict-of-interest rules, the BCC should assert its powers under Miami-Dade County Ordinance Section 2-11.1.2, which gives the Commission the authority to terminate a contract with and/or to prohibit such a lobbyist from entering into a contract with the County for a period of up to three years.



Karl Ross, COE Investigator



Michael Murawski, Advocate



Joseph Centorino, Executive Director