

**MIAMI-DADE COUNTY COMMISSION ON  
ETHICS AND PUBLIC TRUST**

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IN RE:

Complaint  
CASE NO: C14-24

ERNESTO PEREZ

\_\_\_\_\_ /

**SETTLEMENT AGREEMENT**

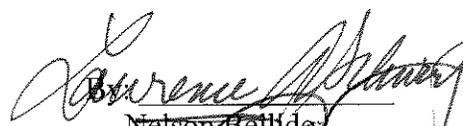
1. Pursuant to section 5.13 of the Miami-Dade County Commission on Ethics and Public Trust Rules of Procedure, Respondent Ernesto Perez does hereby enter into this settlement in full satisfaction of the above captioned matter based upon the following terms and conditions:
2. Respondent believes it to be in his best interest and in the best interest of all parties involved to avoid the expense and time of litigating this matter and to resolve the differences between Respondent and Petitioner. Respondent agrees to enter a plea of **No-Contest** to the allegations contained in Count One and Count Seven of Ethics complaint number C14-24.
3. With respect to Count One, Respondent agrees to pay a fine of **\$500.00** and costs of **\$500.00** to the Miami-Dade County Commission on Ethics and Public Trust in full satisfaction of Count One. With respect to Count Seven Respondent agrees to pay a fine of **\$1000.00** and accept a Letter of Instruction. Respondent shall have 30 days from the date this agreement is ratified by the Ethics Commission to pay said fine and costs. Counts 2 through 6 and Count Eight will be dismissed as part of the negotiated settlement of the case.
4. Respondent understands and agrees that failure by him to pay all monies due, as outlined in paragraph 3 above, may result in garnishment or other appropriate processes or proceedings to enforce the recovery of a judgment as governed by the Florida Rules of Civil Procedure.
5. Failure by respondent to fulfill and abide by his obligation under this Settlement Agreement may also result in contempt proceedings against Respondent.

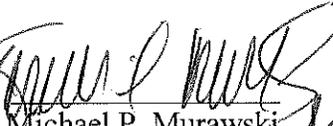
6. This agreement, consisting of two (2) pages, embodies the entire agreement of the parties respecting the subject matter herein. There are no promises, terms, conditions or obligations ~~other than those contained herein. This instrument supercedes any and all previous~~ communications, representations or agreements, either verbal or written between the parties.

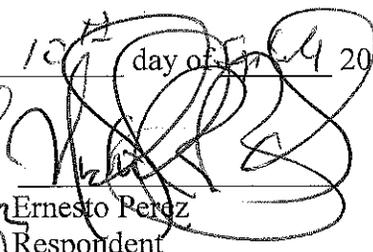
7. By signing this agreement, Respondent acknowledges that he is doing so freely, voluntarily and without duress; that he is competent to enter this agreement; that he has fully and completely read and understood the terms and conditions of the agreement and has either had the opportunity to discuss these terms with legal counsel or has freely and voluntarily chosen to proceed without legal representation and that if anyone is signing this agreement on Respondent's behalf or in a representative capacity, that they are duly authorized and have full authority to execute this agreement. Further, Respondent understands that he is entering a plea of No Contest violations of section 2-11.1 (s)(2) of the Miami-Dade County Conflict of Interest and Code of Ethics ordinance and understands that the Ethics Commission is finding him to be in violation of section 2-11.1(s)(2) of the Miami-Dade County Conflict of Interest and Code of Ethics ordinance.

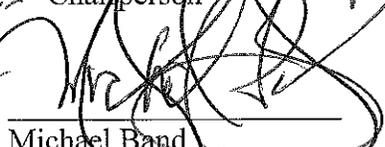
8. Respondent agrees that settlement of this action in the manner described above is just and in the best interests of Respondent, the City of Homestead and the citizens of Miami-Dade County.

Done and Ordered at Miami-Dade County, Florida this 10<sup>th</sup> day of July 2014.

  
Nelson Bellido  
Chairperson

  
Michael P. Murawski  
Advocate

  
Ernesto Perez  
Respondent

  
Michael Band  
Attorney for Respondent

**COMMISSION ON ETHICS & PUBLIC TRUST  
MIAMI-DADE COUNTY**

**IN RE:**

**ETHICS COMPLAINT**

**ERNESTO PEREZ**

**C 14- 24**

**RESPONDENT**  
\_\_\_\_\_ /

Petitioner, the Advocate for the Miami-Dade County Commission on Ethics and Public Trust, files this Complaint against Ernesto Perez for violating Section 2-11.1 (s)(2) of the Miami-Dade County Conflict of Interest and Code of Ethics ordinance entitled "Lobbying."<sup>1</sup>

**STATEMENT OF JURISDICTION**

1. The Miami-Dade County Commission on Ethics and Public Trust (COE) has jurisdiction pursuant to Sections 2-1068 and 2-1072(a)(3) of Code of Miami-Dade County.
2. Respondent, Ernesto Perez (Perez), is the former CEO/President of Dade Medical College (DMC).

**City of Homestead lobbying:**

3. Investigation determined that throughout various periods of time between 2011-2013, Respondent lobbied various City of Homestead officials on several issues, including, but not limited to: approval of a DMC proposal to purchase Homestead Community Redevelopment Agency (CRA) property, approval of a DMC site plan application to build a university in downtown Homestead, and approval for construction of a parking garage on the roof of a building owned by DMC.

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<sup>1</sup> This activity also constitutes a violation of the lobbying provisions of the Code of the City of Homestead, Section 2-590 and the City of Coral Gables Code, Section 2-243.

## COUNTS I-V

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### 4. Unregistered Lobbying during 2011:

On or about June 2011, Respondent lobbied Assistant City Manager David Hebert (Hebert) for his support of DMC's proposal to purchase CRA property and build a downtown campus and for the City to build a parking garage atop the "McCrary Building" which was owned by DMC.<sup>2</sup>

On or about July 13, 2011, Respondent lobbied City Manager George Gretsas (Gretsas) for support of DMC's proposal to purchase CRA property and to build a downtown campus.

On or about July 14, 2011, Respondent lobbied Gretsas, Hebert and Assistant City Manager Allyson Love (Love), along with other City officials, for support of DMC's proposal to purchase CRA property and to build a downtown campus.

On or about August 25, 2011, Respondent engaged in a conference call and lobbied Gretsas, Hebert and CRA Director Rick Ammirato (Ammirato) for support of DMC's proposal to purchase CRA property and to build a downtown campus project.

On or about November 8, 2011, Respondent lobbied Gretsas for support of DMC's proposal to purchase CRA property and build a downtown campus.

A review of City of Homestead records shows that Respondent was not registered as a lobbyist with the City during 2011.

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<sup>2</sup> DMC had made an offer to purchase up to 21 parcels of CRA property in February 2011 but had not received final approval from the City. The proposed parking garage atop the McCrary Building was intended to provide parking for students.

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**COUNTS VI and VII**

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5. Unregistered Lobbying during 2013:

On or about May 21, 2013, Respondent met with the Homestead Development Review Committee (DRC) and lobbied Homestead staff for support of DMC's request for a variance from the City code regarding front yard setback and a site plan approval for parcels of land owned by DMC.

On or about October 16, 2013, Respondent lobbied the Homestead City Council for support of DMC's proposal to build a university in downtown Homestead and for support of a six (6) month extension of an option agreement between DMC and the Homestead CRA for the purchase of CRA properties by DMC.

A review of City of Homestead records shows that Respondent was not registered as a lobbyist with the City during 2013.

**City of Coral Gables lobbying:**

6. On or about early 2013, DMC was in the process of seeking approval from the City of Coral Gables (the City) to open classrooms on two floors of the Giralda Building, located at 2222 Ponce de Leon Boulevard. The change in use of that building from business to educational necessitated a complete review by the Planning and Zoning staff, including an analysis of whether sufficient parking was available for the intended use.

7. The then-City Manager, Pat Salerno (Salerno) and the City's Director of Development Services, Jane Tompkins (Tompkins), advised that they were lobbied on several occasions during

the early part of 2013 by Respondent concerning the parking space issue, building permit issues and the conversion of the Giralda Building from business to educational use.

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**COUNT VIII**

8. On or about April 2013, Respondent lobbied Salerno and Tompkins concerning the City's review of DMC's request for approvals for a use change/parking issue related to 2222 Ponce De Leon Boulevard.

A review of City of Coral Gables records shows that Respondent was not registered as a lobbyist with the City during 2013.

9. In so far as the factual allegations contained in the attached Probable Cause Memorandum are relevant to the allegations in Counts One through Eight (I through VIII) of this Complaint, the Probable Cause Memorandum is incorporated by reference, reiterated herein and made a part of this Complaint.

**THE LAW**

10. Miami-Dade County Conflict of Interest and Code of Ethics ordinance section 2-11.1 (s) entitled "Lobbying" states, in pertinent part:

"Lobbyist" means all persons, firms or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision of the [City] Commission; (2) any action, decision, recommendation of the [City] Manager or any [City] board or committee; or (3) any action, decision or recommendation of [City] personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the [City] Commission or a [City] board or committee. "Lobbyist" specifically includes the principal as well as any employee whose normal scope of employment includes lobbying activities."

11. Code of the City of Homestead Sec.2-590 states in pertinent part:

"The provisions of section 2-11.1(s) "Lobbying," of the Miami-Dade County Code (the "County Lobbying Ordinance") as it currently exists... is hereby adopted and shall apply within the city, except that in lieu of the fee for annual

lobbyist registration which is specified by section 2-11.1(s)(2)(b) of the County Lobbying Ordinance, the fee payable to the city for registration of each lobbyist for the representation of each principal of the lobbyist shall be one hundred dollars (\$100.00) (per principal represented), and the fee payable to the city for annual lobbyist registration for each lobbyist shall be two hundred dollars (\$200.00).

References in the County Lobbying Ordinance to county personnel shall be deemed to be references to city personnel who serve in comparable capacities to the county personnel referred to. References in the County Lobbying Ordinance to the county commission or to a "county board or committee" shall be deemed to be references to the city council or to the city's boards as applicable.

*Lobbyist* means all paid persons, firms, or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of any ordinance, resolution, action or decision of the city commission; or any resolution, action decision or recommendation of any city board or committee; or any action, decision, or process of such action, decision or recommendation which foreseeably will be reviewed by the city commission, or a city board or committee.

12. City of Coral Gables Section 2-243 "Lobbying" states in pertinent part:

*Lobbyist*: An individual, corporation, partnership, or other legal entity employed or retained, whether paid or not, by a principal who seeks to encourage the approval, disapproval, adoption, repeal, passage, defeat, or modifications of (a) any ordinance, resolution, action or decision of any city commissioner; (b) any action, decision, recommendation of the city manager, any city board or committee, including but not limited to quasijudicial, advisory board, trust, authority, or council; or (c) any action, decision or recommendation of city personnel during the time period of the entire decision-making process on the action, decision or recommendation which foreseeably will be heard or reviewed by the city commission, or a city board or committee, including but not limited to quasijudicial, advisory board, trust, authority, or council.

*Person*: Any individual, corporation, partnership or other legal entity or an agent or employee thereof.

*Principal*: The person which has employed or retained the services of a lobbyist.

Wherefore, MICHAEL P. MURAWSKI, Advocate for the Miami-Dade County Commission on Ethics and Public Trust, requests the Miami-Dade County Commission on Ethics and Public Trust to enter an order against Respondent, Ernesto Perez, finding him in violation of Section 2-

11.1 (s) (2) of the Miami-Dade County Conflict of Interest and Code of Ethics ordinance entitled "Lobbying."

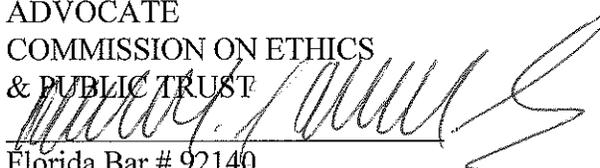
**NOTARY AND VERIFIED STATEMENT**

(Pursuant to § 2-1074(a) (1), Code of Miami-Dade County)

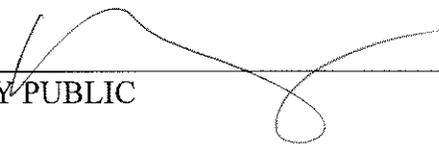
STATE OF FLORIDA

COUNTY OF MIAMI-DADE

Personally known to me, and appeared before me, Michael P. Murawski, being first duly sworn, says that the allegations set forth in this Complaint are based upon facts that have been sworn to as true by a material witness or witnesses and, if true, would constitute the offenses alleged, and that this Complaint is instituted in good faith.

MICHAEL P. MURAWSKI  
ADVOCATE  
COMMISSION ON ETHICS  
& PUBLIC TRUST  
  
Florida Bar # 92140  
Commission on Ethics & Public Trust  
19 W. Flagler Street, Suite 820  
Miami, Florida 33130  
(305) 579-2594

SWORN TO and SUBSCRIBED to before me this 25<sup>th</sup> day of April 2014; at Miami, Miami-Dade County, Florida.

  
\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

- personally known to me
- produced identification and type of identification produced \_\_\_\_\_



RODZANDRA SANCHEZ  
MY COMMISSION # EE 100836  
EXPIRES: June 15, 2015  
Bonded Thru Budget Notary Services



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## **PROBABLE CAUSE MEMORANDUM**

To: Miami-Dade County Commission on Ethics and Public Trust

From: Michael P. Murawski, Advocate

Re: In re: Ernesto Perez (C14- 24)

Date: April 2014

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### **Recommendation:**

Probable Cause exists to believe that Respondent, Ernesto Perez (Perez) violated section 2-11.1(s) of the Miami-Dade County Conflict of Interest and Code of Ethics ordinance (the County Code) by engaging in unregistered lobbying. Probable Cause exists where there are reasonably trustworthy facts and circumstances for the Commission on Ethics and Public Trust (COE) to conclude that Respondent should be charged with violating Section 2-11.1(s) of the County Code.

### **Background and Investigation:**

The COE obtained information that Respondent, former Dade Medical College (DMC) President Ernesto A. Perez, engaged in unregistered lobbying in Homestead on numerous occasions by advocating on behalf of the expansion of DMC's campus at public meetings and private encounters with city officials. Similar allegations were subsequently raised concerning activities by Respondent in Coral Gables concerning DMC and its affiliate, University of Southernmost Florida, which was seeking permission to convert an office building for educational use.

### **Homestead:**

Relevant sworn statements were taken from Homestead City Manager George Gretsas (Gretsas), Assistant City Manager David Hebert (Hebert) and Community Redevelopment Agency (CRA) Director, Enrico "Rick" Ammirato (Ammirato) in October 2012, in connection with a related investigation.

### **Unregistered lobbying during 2011:**

On or about June 2011, Respondent lobbied Hebert for his support of DMC's proposal to purchase

CRA property and build a downtown campus and for the City to build a parking garage atop the “McCrary Building” which was owned by DMC.<sup>1</sup>

On or about July 13, 2011, Respondent lobbied Gretsas for support of DMC’s proposal to purchase CRA property and to build a downtown campus.

On or about July 14, 2011, Respondent lobbied Gretsas, Hebert and Assistant City Manager Allyson Love (Love) along with other City officials for support of DMC’s proposal to purchase CRA property and to build a downtown campus.

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On or about November 8, 2011, Respondent lobbied Gretsas for support of DMC’s proposal to purchase CRA property and build a downtown campus.

Unregistered Lobbying during 2013:

On or about May 21, 2013, Respondent met with the Homestead Development Review Committee (DRC) and lobbied Homestead staff for support of DMC’s request for a variance from the City code regarding front yard setback and a site plan approval for parcels of land owned by DMC.

On or about October 16, 2013, Respondent lobbied the Homestead City Council for support of DMC’s proposal to build a university in downtown Homestead and for support of a six (6) month extension of an option agreement between DMC and the Homestead CRA for the purchase of CRA properties by DMC.

Homestead records show that Respondent was not registered to lobby in the City during 2011 or 2013.

**Coral Gables:**

With respect to Coral Gables, sworn statements were taken from then-City Manager Pat Salerno (Salerno), Planning & Zoning (P&Z) Director Ramon Trias (Trias) and Development Services Director Jane Tompkins (Tompkins) regarding their interactions with DMC representatives.

Salerno served as Coral Gables manager since April 2009. He advised that DMC is in the process of seeking approval from the city to open classrooms on two floors of the Giralda Complex building, at 2222

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<sup>1</sup> DMC had made an offer to purchase up to 21 parcels of CRA property in February 2011 but had not received final approval from the City. The proposed parking garage atop the McCrary Building was intended to provide parking for students.

Ponce de Leon Boulevard. He said the change in use from business to educational necessitated a complete review by the P&Z staff, including an analysis of whether sufficient parking was available for the intended use. He said the parking issue has been a matter of controversy between DMC and the City. He said based on ~~staff review of the application, DMC does not meet the requirement for number of parking spaces and is~~ about 42 spaces short of the requirement. He noted the City did grant approval to use the fifth floor of the building for office use, the original purpose of the space.

Salerno said that in early 2013, he was contacted by two individuals on behalf of DMC with respect to the parking space issue: then Respondent and Enrique Lopez (Lopez), an academic dean with the University of Southernmost Florida. He said Perez initiated a phone conversation lasting about 10 minutes during which Perez expressed his displeasure with the city's reluctance to approve his company's request for the change in use. He further indicated that he needed the matter resolved quickly as it was "costing him a lot of money." He further advised that he wanted the city to approve the requested change "right away."

Salerno further stated that when he explained to Respondent he had to follow the zoning ordinance and could not influence the sought-after approval, Respondent responded that DMC "didn't have to do this type of thing in other cities." Salerno added: "I sensed he was unhappy with me. I think he was seeking approvals at that time. There was a sense I had that the delay was costing him money ... He indicated he would need to get his attorneys involved." Salerno stated that he did feel that he was being lobbied by Respondent, and that Respondent was seeking to influence the city's review of DMC's request for approvals for a use change. He added that the city still has not approved the requested change in usage for classrooms on the third floor, though approvals were granted for the fourth and fifth floors.

Tompkins stated that she spoke or corresponded by e-mail with numerous DMC representatives, including Respondent, Lopez, John Janeiro, Mario Garcia-Cera, and Perry Adair. Tompkins said that, as director of Development Services, she oversees three administrative functions for the city: (1) code enforcement, (2) building permits, and (3) planning and zoning. She said Manny Lopez is the Building Official, an in-house position.

Tompkins stated DMC has had issues with two properties, one involving signage and another involving the conversation from business to educational use. She noted the city did issue a permit for DMC to convert one of the two floors for educational use. She said no permit has been issued for the other floor due to a shortage of parking spaces (42). Tompkins stated that on or about April 2013, she began to receive numerous phone calls and e-mails from DMC representatives, as well as letters and in-person meetings. "They wanted us to indicate they had sufficient parking, so that building permits could be issued." She said DMC representatives were insistent that they met city requirements. She stated that Lopez was her primary

contact with DMC, at least in the early stages of the process. Tompkins said the city still has not issued the permit for the second floor of classrooms, as a result of the parking issue and that DMC has still been unable to satisfy that requirement.

In a sworn statement, Ramon Trias (Trias), director of P&Z for Coral Gables, said he has served in this capacity since July 2012. Trias said he is lobbied frequently and DMC was no exception. He said he has had such encounters with a number of DMC representatives. Trias also stated that he had met with Respondent, and Respondent sent him an e-mail regarding the parking issue.

Copies of public records were obtained from the City of Coral Gables regarding communication between DMC and city staff relating to the parking issue at the Giralda Complex, located at 2222 Ponce de Leon Blvd. The records were reviewed, and are in the case file. They include the e-mail from Respondent to P&Z Director Trias regarding the parking issue.

Coral Gables records show that Respondent was not registered to lobby in the City in 2013.

#### Relevant Ordinances:

The Miami-Dade County Code of Ethics and Conflict of Interest Ordinance holds, in applicable part [Sec. 2-11.1(s)], that:

“All lobbyists shall register with the [city clerk] within three (3) business days of being retained as a lobbyist or before engaging in any lobbying activities ...”

It further describes a lobbyist as: “All persons, firms or corporations employed or retained by a principal who seeks to encourage the passage, defeat or modification of (an) ordinance, resolution, action or decision of the [city council]; any action, decision or recommendation of [city] personnel during the time period of the entire decision-making process ...”

The City of Homestead also has a lobbyist ordinance, City Code Section 2-591. The city’s ordinance is compatible with the county’s ethics code in all material respects. The city of Coral Gables also has a lobbyist ordinance, City of Coral Gables Section 2-243 “Lobbying” states in pertinent part:

*Lobbyist:* An individual, corporation, partnership, or other legal entity employed or retained, whether paid or not, by a principal who seeks to encourage the approval, disapproval, adoption, repeal, passage, defeat, or modifications of (a) any ordinance, resolution, action or decision of any city commissioner; (b) any action, decision, recommendation of the city manager, any city board or committee, including but not limited to quasi-judicial, advisory board, trust, authority, or council; or (c) any action, decision or recommendation of city personnel during the time period of the entire decision-making process on the action, decision or recommendation which foreseeably will be heard or reviewed by the city commission, or a city board or committee, including but not limited to quasi-judicial, advisory board, trust, authority, or council.

*Person:* Any individual, corporation, partnership or other legal entity or an agent or employee thereof.

*Principal:* The person which has employed or retained the services of a lobbyist.

**Conclusion:**

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Probable Cause exists to believe that Respondent, Ernesto Perez, violated section 2-11.1(s) of the Miami-Dade County Conflict of Interest and Code of Ethics ordinance by engaging in unregistered lobbying in the City of Homestead and the City of Coral Gables.