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

**In re:**

**-C 14-36**

**Carlos Hernandez**  
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**PUBLIC REPORT AND FINAL ORDER**

On October 1, 2014, Deputy General Counsel and Deputy Advocate Miriam Ramos filed a two (2) count complaint against Respondent, the Mayor of the City of Hialeah, Carlos Hernandez (Hernandez). The complaint charged Hernandez with violating Section (A) (2) of the Citizens' Bill of Rights entitled "Truth in Government."

The charges stem from an October 13, 2011 press conference, called by Hernandez, to refute allegations in a Miami Herald article that he had received in excess of \$100,000 of interest payments on a loan he made to Luis Felipe Perez (Perez).

At the press conference Hernandez stated that the payments from Perez were only a return of his principal and were not interest payments. Subsequently, in April 2014, Hernandez testified, under oath, in the Federal trial of United States v. Julio and Raiza Robania, that the payments he received from Perez were interest payments; directly contradicting the statements he made at the 2011 press conference.

In January 2015 probable cause was found with regard to both counts of the complaint. On July 8, 2015, a Public Hearing was held before the Ethics Commission and

Final Order

In re: Carlos Hernandez

C14-36

evidence was presented by the Commission Advocate. Respondent Hernandez was duly notified of the hearing and chose not to attend, participate or present any evidence.

At the conclusion of the Advocate's case the Ethics Commission found Hernandez in violation of both counts of Section (A) (2) of the Citizens' Bill of Rights entitled "Truth in Government" as charged in the complaint.

The Ethics Commission further found that the violations were knowingly committed and ordered Hernandez to pay fines of \$1000.00 with regard to Count One and \$2000.00 with regard to Count Two. In addition, the Commission ordered Hernandez to pay \$1000.00 of investigative costs (\$500.00 for each count) and ordered a Letter of Reprimand be issued to Hernandez; all fines and costs to be paid on or before August 7, 2015.

Wherefore it is:

**ORDERED AND ADJUDGED** that COMPLAINT C 14-36 is hereby concluded.

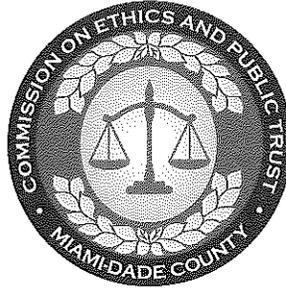
**DONE AND ORDERED** by the Miami-Dade County Commission on Ethics & Public Trust in public session on July 8, 2015.

MIAMI-DADE COUNTY COMMISSION ON ETHICS  
& PUBLIC TRUST

By:

  
\_\_\_\_\_  
Nelson C. Bellido  
Chair

Signed on this date: 7/17/2015



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

**LETTER OF REPRIMAND**

TO: Carlos Hernandez, City of Hialeah Mayor  
FROM: Miami-Dade County Commission on Ethics and Public Trust  
Re: Ethics Complaint C14-36 (In re: Carlos Hernandez)  
DATE: September, 2015

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After a Public Hearing on July 8, 2015, the Miami-Dade County Commission on Ethics and Public Trust determined that Respondent, Carlos Hernandez (Hernandez), knowingly violated Section (A) (2) of the Citizens' Bill of Rights of the Miami-Dade County Home Rule Charter, entitled *Truth in Government*, on two occasions during an October 13, 2011 press conference.

WHEREFORE, The Miami-Dade County Commission on Ethics and Public Trust hereby issues this LETTER OF REPRIMAND to Mayor Carlos Hernandez.

On March 1, 2007, Hernandez loaned \$100,000 to Luis Felipe Perez (Perez).

According to Perez and consistent with evidence presented by the United States Attorney's Office (USAO) in U.S. v. Julio Robaina et al (the Robaina trial), under the terms of

the loan agreement, Perez paid Hernandez three (3) percent interest per month or \$3,000 on that loan, 36-percent interest annually which amount constitutes an illegal usurious rate.<sup>1</sup>

In July 2007, Hernandez loaned Perez an additional \$80,000. The terms of this loan were similar to the first: Perez was to pay Hernandez three (3) percent interest per month, or \$2,400, amounting again to the illegal interest amount of 36 percent annually.

From approximately August 23, 2007, Perez began giving Hernandez two (2) checks monthly: one for \$3,000 and another for \$2,400. This practice continued until May 2009.<sup>2</sup> The evidence at the Public Hearing established that Hernandez received a total of \$126,000 in interest payments between April 2007 and May 2009.

Hernandez was appointed interim Mayor of Hialeah in May 2011 after then-Mayor Robaina resigned to run for Mayor of Miami-Dade County. During the fall of 2011, Hernandez was campaigning to retain his Mayoral position.

As an elected official, Hernandez is required by Florida Statute Section 112.3145 to file a Statement of Financial Interest (Form 1) disclosing the sources of his primary and secondary income. Hernandez filed Form 1s for 2007, 2008, 2009 and 2011.

On October 12, 2011, the *Miami Herald* published an article accusing Hernandez of lending funds to Perez at usurious rates and of not disclosing the interest earned on the loans as income in his financial disclosure forms.

The next day, October 13, 2011, Hernandez called a press conference to address the allegations made in the article. Footage from the press conference aired on multiple television

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<sup>1</sup> It is a second degree misdemeanor for lenders to charge more than 25 percent annual interest. The statute of limitations for violation of usury laws is 1 year. *See* F.S. 687.01(2).

<sup>2</sup> In January 2008, Perez missed a \$2,400 payment on the \$80,000 loan

stations in Spanish and English. The press conference was also disseminated on YouTube in both Spanish and English.

During the Spanish-language press conference, Hernandez stated, “I invested money with Mr. Luis Felipe Perez and never recovered my original investments; therefore, there were never earnings to declare in my income tax.” Later, Hernandez stated that a \$2,500 check he deposited was “part of recovering my original investment.”

During the English-language press conference, Hernandez reiterated that, “I invested money with Luis Felipe Perez and never recovered my original investments. So I never had profits to report on my tax statements.” Later, in response to a question Hernandez stated, “...my agreement was principal. Always...a few times...that I made investments in movies or anything like this, I’d get my principal back...”

On April 14, 2014, Hernandez was called to testify in the Robaina trial<sup>3</sup> as a prosecution witness. Hernandez, who testified without an immunity agreement, was called by federal prosecutors to help bolster testimony already received from Perez, who painted a picture of the underground “shadow-banking” industry that thrived in Hialeah.

When placed under oath, Hernandez told a different story than the one he told reporters at the October 13, 2011 press conference. Responding to questions from veteran federal prosecutor Richard Gregorie (Gregorie), Hernandez admitted loaning Perez \$180,000 with the expectation of 3 percent monthly interest payments, or 36 percent annual returns. Hernandez also testified that he received more than \$100,000 in interest payments from Perez, but none of the principal. Hernandez’s testimony from the Robaina trial states as follows:

Q: So he [Perez] paid you over \$100,000 in interest up till that point?

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<sup>3</sup> The Robainas, who loaned more than \$750,000 to Perez and were repaid at similarly illegal annual rates of 36 percent, were charged with hiding more than \$2 million in income to avoid paying taxes. They were eventually acquitted after a 6-week jury trial.

A: Somewhere – in that investment, somewhere in that area, sir, yes, sir.

Q: But you hadn't taken anything off the principal. You hadn't taken anything off the principal? He still owed you \$180,000?

A: I believe so. Yes, sir. I'm sorry.<sup>4</sup>

Hernandez's sworn testimony directly contradicted the statements that he had made to the public at the October 13, 2011 press conference.

### **Relevant Ordinance**

Section (A) (2) of the Charter, entitled Truth in Government, states, in pertinent part:

“No County or municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.”

There is no question Mayor Hernandez gave false information to the public at his October 13, 2011 press conference; the evidence presented at the public hearing established this fact by clear and convincing evidence. Moreover, it was proven that the Mayor's reprehensible behavior was a knowing and calculated act.

Mayor Hernandez's duplicitous explanation as to why the monthly payments he received from Mr. Perez did not constitute “profit” showed a lack of respect for and was contemptuous of the very public he serves. The Mayor's failure to tell the truth violated the public trust.

His conduct upon this behavior being exposed was arrogant not only toward the public, but to the public tribunal before which this matter rested. The Mayor demonstrated a profound ignorance for how an elected official should behave when called to account for public actions. The Mayor's lack of remorse for his actions and disregard for the role of this Commission and its place in the enforcement of lawful, ethical precepts, justifies a stern rebuke.

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<sup>4</sup> Transcript of Respondent's federal court testimony in USA v. Robaina et al., P. 12, Lines 18-25.

Mayor Hernandez behaved in a manner that was incompatible with how an honorable, ethical and honest leader should conduct himself. The video tape of the October 2011 press conference clearly demonstrated that the Mayor avoided and distorted the truth in an effort to cover up his wrongdoing in extracting an unlawful, usurious rate of interest in personal financial transactions. Since Mayor Hernandez has failed to acknowledge and take responsibility for the inappropriate nature of his behavior, it falls to this Commission to explain his actions to the public and reprimand him for his offenses.

Mayor Hernandez is reminded that he is a public servant. The preamble to the Citizens' Bill of Rights states that "This government has been created to protect the governed, not the governing." It is his ethical and legal obligation to be honest and accurate regarding his finances, which are a public matter. His intentional failure to do so showed an unacceptable disregard for his public responsibilities.

This Commission is of the strong belief that all public officials are responsible for maintaining a standard of ethics that is above reproach and maintaining the trust of those they serve.

This Commission expects that Mayor Hernandez will realize the serious nature of his ethical lapse and use this public letter of reprimand to guide his future behavior.

