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### **Soccer proponents cleared of ethics charges**

The Miami-Dade Commission on Ethics & Public Trust (COE) today dismissed a complaint (**C 18-48-10**) lodged against significant players planning to bring a professional soccer team to a park near Miami International Airport. David Winker accused 16 individuals of various violations of the City of Miami's lobbying rules and portions of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance.

The investigation found, and the Ethics Commission determined, there was No Probable Cause that David Beckham, Jorge Mas, Jose Mas and Marcelo Claure engaged in unregistered lobbying because an early lunch and meeting with Miami officials were exploratory, no matter was pending before the city at the time, and the individuals were not attempting to influence official action. An allegation filed against Jared Lindsey for unregistered lobbying was found Not Legally Sufficient because the Miami Beckham United (MBU) treasurer did not engage in any lobbying. No Probable Cause was found that Beckham, the Mas brothers, Steven Marin, Barbara Hardemon, Carlos J. Gimenez and attorneys Pablo Alvarez, Richard Perez, and Iris Escarra failed to properly register on behalf of Miami Freedom Park, LLC (MFP) because they were registered to represent MBU. The investigation determined that MFP was formed to preserve the Miami Freedom Park name and to negotiate a lease agreement with the City, and that the two entities are "inextricably connected." No Probable Cause was found that Beckham and Jose Mas violated the lobbyist ordinance because they failed to complete required ethics training within 60 days because neither engaged in lobbying activities between the time their registrations were "de-activated" and they completed the training. Finally, there is No Probable Cause that the respondents failed to disclose details of each principal they represented because all stated they were employed by or retained by MBU. The COE dismissed the portion of the complaint on additional respondents who failed to name each person with five percent or more ownership of the principal firm on their registration forms -- Iris Escarra, Richard Perez, Pablo Alvarez, Miguel de Grandy, Isabel Diaz, Paul McDonough, Jurgen Mainka and Dennis Sprenkle -- because the City of Miami had never enforced the requirement of that information nor informed any lobbyist that his or her registration may be rejected as a result of not providing corporate ownership details.

Attorney Miguel de Grandy, who represents many those named and was included as a respondent in C 18-48-10, requested that the Ethics Commission sanction David Winker for filing a "frivolous complaint" to promote a political agenda, and charge him for legal costs and attorney fees on behalf of Jared Lindsey. The Ethics Commission took that request under advisement and will afford Mr. Winker the opportunity to respond.

Meanwhile, a report presented to Ethics Commissioners associated with the soccer investigation found that the City of Miami, Miami-Dade County and most municipalities in the County have not enforced the provision requiring that those

with a five percent or greater stake in a corporate entity be identified on the lobbyist registration form as required by the ordinance. In fact, Miami-Dade County's online lobbyist registration system neglected to include that question, and a review of paper registration forms filed with the County Clerk found almost all were non-compliant with that disclosure requirement. Only Miami Beach and Surfside insist that ownership information be completed for lobbyists representing corporations, trusts and partnerships. Other non-compliance issues discovered in the more than year-long review of lobbyist registrations are being addressed with the County Clerk. Additionally, representatives of Miami told Ethics Commissioners the City is adding a two-part principal ownership question to its form and will ensure compliance. Because of the actions taken by the local governments to rectify the oversights, Mr. Winker withdrew a different complaint against the City of Miami for its alleged failure to enforce its own lobbying rules.

The Ethics Commission accepted a separate report summarizing a lengthy investigation that found Miami-Dade County has failed to enforce rules requiring its hired lobbyists to disclose potential conflicts among their clients. Beginning nearly two decades ago, the Board of County Commissioners adopted a series of resolutions and one ordinance that prohibit lobbyists hired to represent the County during the annual state legislative session from representing other clients with conflicting interests. The rules also require hired lobbyists to report, in writing, all other entities they represent and the nature of that representation. The report cites two topics debated during the 2018 legislative session that conflicted with Miami-Dade's opposition of any attempt to preempt local authority. One was a proposal to limit local government's ability to regulate puppy sales; the other would have preempted local efforts to regulate vacation rentals. Lobbyists under contract to the County were retained by entities supporting those bills. In correspondence addressed to the Mayor and County Commissioners, the Ethics Commission recommends: clarify what constitutes "nature of representation" to consider whether being retained to "track" legislation that is contrary to County positions is a conflict; determine if lobbyist registrations with the state that identifies each issue would satisfy the local reporting requirements; and, establish a third party – such as the Clerk of the Board – collect and maintain lobbyist conflict reports and provide public on-line access to the annual filings.

In other action today, the Ethics Commission approved a settlement with a representative of an international aircraft company for which Probable Cause was found that he violated the County's lobbying and Cone of Silence ordinances when it competed to sell helicopters to the Fire-Rescue Department. The complaint (**C 16-31**) had been under criminal review by the State Attorney's Office but referred back to the Ethics Commission in December 2018. The COE investigation found numerous violations beginning in late 2014, when a selection committee was formed to use a competitive bid waiver process to negotiate the purchase of the helicopters, but these were outside the COE's three-year statute of limitations. Since January 2016, the complaint alleges that Christopher Sirkis, Southeast Regional Sales Manager for Agusta Westland, a subsidiary of Leonardo Helicopters, lobbied County personnel eight times without being registered and violated the Cone of Silence 13 times. Under terms of the settlement, Sirkis pled no contest to five of the counts, will pay a fine of \$4,500 and investigative costs of \$1,500, accept of Letter of Reprimand and cooperate with investigators on other aspects of the investigation.

Ethics Commissioners approved a settlement agreement with attorney Jose Smith, who was accused of violating the Sunshine Law and conducting unregistered lobbying while members of the North Bay Village Commission considered replacing their Village Attorney after municipal elections in November. The complaint (**C 18-51-12**), filed by then-North Bay Village Attorney Norman Powell, accused Smith of lobbying for his law firm to replace Powell. In the settlement, the Ethics Commission dismissed the Sunshine Law accusation, because that is out of the COE's jurisdiction, and found No Probable Cause to two instances cited for unregistered lobbying. The COE did find Probable Cause to the allegation of unregistered lobbying when Smith sent an email to Commissioner Andreana Jackson encouraging her to vote in favor of hiring his law firm at the Dec. 11, 2018, commission meeting. As part of the settlement, Smith will not contest the

finding and will accept a Letter of Instruction.

The COE approved a Letter of Instruction to the executive of a company that was seeking to continue providing shuttle service at Miami International Airport and who, last month, stipulated to Probable Cause in **C 18-53-12** that he inadvertently violated the County's "Cone of Silence" before a recommendation on the bid was made. The Letter to Rick Dunning, a Senior Vice President of "First Transit," reinforces that the Cone of Silence was adopted to "protect the integrity of the County's competitive bid process from under influence and overreaching by interested parties prior to the recommendation of a contract award," and hoped he would use it to guide his future conduct.

No Probable Cause was found to a complaint (**C 19-01-01**) accusing a Construction Manager in Miami-Dade's Transportation and Public Works Department of exploiting his official position by using his County phone to collect rent and intimidate a tenant at a strip mall he owns in North Miami Beach. However, the investigation determined that Hossin Habibnejad, who owns the shopping center and rents out more than two units, which constitutes "outside employment" under the Ethics Code, failed for six years to obtain permission for that or file the required Source of Income Statements annually. Since learning of the requirement, Habibnejad has come into compliance and will be Issued a Letter of Instruction.

No Probable Cause was found to a complaint (**C 18-47-10**) that the City Clerk of Hialeah violated any provision of the Conflict of Interest and Code of Ethics Ordinance when she was paid her salary during maternity leave. Marbelys Fatjo provided extensive records documenting the scope of her work while at home, and the investigation found no evidence to support the complaint, so it was dismissed.

Ethics Commissioners found No Probable Cause to a complaint (**C 18-50-12**) filed against former Palmetto Bay Mayor Eugene Flinn, who was accused of violating the Citizens' Bill of Rights by not fulfilling a public records request from citizen activist Gary Pastorella. The investigation found that Flinn made a good faith effort to compile a lengthy list of email addresses he compiled from a survey on his personal blogsite and those used for Flinn's correspondence and social media accounts, as was requested, so the complaint was dismissed.

A complaint (**C 19-02-01**) filed by Sweetwater Mayor Orlando Lopez against City Commissioner Idania Llanio, who is running against him for mayor in May, was found Not Legally Sufficient and dismissed. It charged that an agenda item sponsored by the Commissioner to re-instate garbage pickup at a local condominium building was intended to curry favor with the residents who could be inspired to vote for her. The Ethics Commission found a commissioner sponsoring a resolution that would have to be approved by the entire body is part of her role as an elected official and not an abuse of power. A second complaint (**C 19-04-01**) from Mayor Lopez against Commissioners Llanio and Prisca Barreto was found to be Not Legally Sufficient. He had filed a complaint of extortion to the Florida Department of Law Enforcement, which determined the allegations were unfounded in a closeout memo dated January 17, 2017. No additional evidence was provided to substantiate the ethics complaint.

*The Ethics Commission was created in 1996 as an independent agency with advisory and quasi-judicial powers. It is composed of five members, serving staggered terms of four years each. Through a program of education, outreach and enforcement, the Commission seeks to empower the community and bolster public trust.*

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