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### **COE deadlocked on Rosner case**

After four partial days of hearings over the past several weeks, the Miami-Dade Commission on Ethics and Public Trust (COE) completed its action on complaints (**C 09-02 & C 09-04**) against former North Miami Beach Mayor Myron Rosner, but deadlocked on a two-two vote. It was alleged that Rosner, who was a licensed building contractor and a member of the Miami-Dade County Board of Rules and Appeals, proposed and completed several additions to his private home that required zoning variances. As a member of the City Council, Rosner discussed his displeasure about the variance process with the city manager at the time, who told his staff to resolve the issue. Building permits were issued for the improvements that violate the city code.

Two Ethics Commissioners voted that the evidence did not meet the “clear and convincing” standard required for finding Rosner misused his authority. One member recused himself from the proceeding. Two others believed Rosner should be found guilty of exploitation of official position. Commissioner Seymour Gelber, a former Miami Beach mayor and retired judge, issued a formal statement, noting, “When the mayor told the city manager ‘make it happen,’ he sent a message to his underlings. They knew what was expected of them and they made ‘IT’ happen. You don’t get smoking guns as evidence in these kinds of cases.” Referring also to the following complaint, Gelber said “these acts will not be tolerated. Maybe both these cases will convince some public officials that their duty is not to themselves or friends but to the community as a whole.”

In the other case Judge Gelber referred to, the Ethics Commission approved a Letter of Instruction to the former Homestead city manager who settled a complaint (**C 11-21**) that charged him with “exploitation of official position” when he ordered reductions in bills generated by the city’s electric utility for two customers who sought relief from Homestead’s top politician. Noting indications that Mayor Steven Bateman pressured the manager to take the action, the Letter states that all public officials are “duty bound to act in an ethical manner.” It asserts, “administrators and staff cannot allow themselves to be bullied or cajoled into committing questionable acts under the guise of keeping their elected officials happy.” The current city manager has since reinstated the accounts in question.

Another Letter of Instruction was approved for North Bay Village Mayor Corina Esquijarosa who last month settled charges (**C 11-22**) that she violated the County Ethics Code by filing inaccurate financial disclosure forms two times regarding a downtown Miami property she owned. The Letter states that “the citizens of North Bay Village have the right to be fully informed of the financial interests of a candidate for elected office or of an elected official in their city and as such, great care must be taken to provide true, accurate and complete information....”

Following last month’s finding of Probable Cause that a police officer in North Miami violated the ethics code by profiting from security measures taken at City Hall, three counts were filed against Officer James Mesidor. According to the complaint (**C 11-30**), Mesidor, who also owns a security company, subcontracted work to install cameras in Mayor Andre Pierre’s office with one firm and conduct security sweeps of the building with another company. After Mesidor

submitted an invoice, he was told that, as an employee, he could not do business with the city. The investigation found that Mesidor had his nephew submit the invoice under a different company's name. From that account, he paid the subcontractors and then earned a profit of \$1,688. Under the ethics code, Mesidor could be fined as much as \$2,500. The case will proceed to a public hearing.

The Ethics Commission found *no probable cause* to a complaint (**C 11-28**) of whistleblower retaliation against three employees of the Public Health Trust (PHT). Thomas McCullough was Director of Physician Services for the PHT, overseeing contracts with groups that provide medical services at community centers, when he filed a written complaint with the Office of Inspector General (OIG) in May over what he perceived as mismanagement of public funds. One month later, McCullough was told that his position was being eliminated and he was terminated from his job. The investigation found no evidence that his superiors were notified of his contact with the OIG or that the elimination of his position was anything other than the result of a departmental reorganization.

The Ethics Commission considered a complaint (**C 11-29**) against Sereda White, who was a member of the City of Miami's Equal Opportunity Advisory Board in 2009 but neglected to file the required financial disclosure statement, which was due July 1, 2010. After numerous unsuccessful attempts to contact her by the City Clerk and the COE, an Ethics Commission investigator finally reached the respondent last month. After being informed of the complaint, White immediately filed the necessary paperwork. As a result of her compliance, the COE dismissed the action.

### **Requests for Opinion**

A 35-year veteran of the Miami-Dade County Attorney's Office sought a formal opinion (**RQO 11-26**) on whether he may represent a private client in eminent domain issues. Thomas Goldstein had served Miami-Dade in eminent domain matters before retiring in April 2010 and now wants to help a friend who owns property the County wants to acquire. The County Code prohibits former employees from lobbying the government for two years following their departure from service, but those engaged in quasi-judicial proceedings are exempt from that ban. The Ethics Commission advised Goldstein to avoid participating in compensation negotiations with County personnel, but ruled he may interact with County attorneys regarding eminent domain since that is a quasi judicial process that does not constitute lobbying.

Funding for the restoration of the historic Curtiss Mansion was the subject of a Request for Opinion (**RQO 11-27**) on behalf of the City of Miami Springs, which wants to retain control but also take advantage of tax credits to rehabilitate and renovate the structure. To this end, the municipality plans to have each elected officer of the City Council sit as a member of the Board of Directors on one or more of the entities overseeing the project. The question is whether that would be a conflict of interest. Even though the council members would not personally benefit from their action, the Conflict of Interest and Code of Ethics Ordinance prohibits elected officials from voting on matters if they have certain relationships, including officer or director, of the entity requesting action. The Ethics Commission said there is a conflict, but also suggested – because of the unique circumstances – the County Commission could offer an exception to the rule. The COE also stated there is no conflict if municipal administrators serve on the board that would seek the tax credits to help fund the Curtiss Mansion renovation.

May a member of Miami-Dade's Planning Advisory Board who is also the chair of the Palmer Lake Charrette and a property owner in the study area participate in a discussion of that group's final report and vote on it? The Ethics Commission responded to that Request for Opinion (**RQO 11-28**) stating that the member may take part in the discussion of the charrette study recommending infrastructure and zoning improvements. However, he could be prohibited from later voting on zoning or master plan changes if he will benefit financially from those changes.

*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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