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City leaders charged with ethics violations

The Miami-Dade County Commission on Ethics and Public Trust (COE) today found Probable Cause that North Miami Mayor Andre Pierre exploited his position from October of 2009 through January of 2012 by avoiding payment of rental fees at a municipal athletic field used by his soccer club. Mayor Pierre engaged in this activity even though a resolution was unanimously passed by the North Miami City Council in April 2010, which established policies for park rentals and limited fee waivers to certain qualified organizations for only one no-cost use per year. The complaint (**C12-35**) charged that Pierre's group, the "North Miami Taxpayers Soccer Club," used the fields more than 100 times without paying. Mayor Pierre objected to the accusation through his attorney, who argued the mayor was following proper protocol by utilizing the facility for "pick-up soccer games" and claimed the usage was consistent with "community service" activities of the city. The case will proceed to a public hearing.

Also today, the Ethics Commission found Probable Cause that Miami City Commissioner Frank Carollo exploited his official position by calling the Miami police chief after being pulled over for a traffic violation in Coconut Grove this past August. The investigation shows that, after being pulled over, Carollo called the chief, who subsequently called the area commander, who then told dispatchers to have the officer call him. The officer let Carollo go with a warning. The determination found that Carollo may have used or intended to exploit his position to influence police officials, which is a violation of the Conflict of Interest and Code of Ethics Ordinance. Through his attorney, the Commissioner contended his phone call was intended to determine why several police vehicles and a city recycling truck were blocking the road. Carollo also claimed that he never asked for special treatment or expressed concern with the officer's stop. Another part of the complaint (**C 12-32**) accused Commissioner Carollo of using his position to have trees planted in the swale near his home. Since the trees were part of a larger distribution through the district and did not solely benefit Carollo, No Probable Cause was found on that portion of the complaint by the Ethics Commission.

The COE also found Probable Cause on a complaint (**C 12-41**) against Miami City Commissioner Marc Sarnoff, accusing him of failing to properly disclose a gift. Sarnoff traveled to Brazil for activities associated with the Volvo Ocean Race at the stop prior to the race's arrival in Miami last May. The Greater Miami Convention and Visitor's Bureau reimbursed Sarnoff for all of his expenses. The COE disagreed with the Miami City Attorney who had opined to the commissioner that, because he was partaking in an official activity, he did not need to report the trip as a gift. During the investigation, it was learned that Volvo Ocean Race reimbursed Sarnoff for his wife's roundtrip airfare. Prior opinions had determined that payment for a spouse's expenses should be reported as a gift by an elected official. The Ethics Commission voted to issue one Letter of Instruction to the City Attorney clarifying when a business trip must be reported as a gift and another Letter of Instruction to Commissioner Sarnoff advising him to report reimbursement of his wife's travel expenses as a gift to him.

Following last month's finding of a conflict of interest against the mayor and town manager of Golden Beach, who had jointly invested in a restaurant, the COE today issued a Letter of Instruction to the pair. Golden Beach Mayor Glenn Singer and Town Manager Alex Diaz are formally advised of "prohibited investments" that conflict with the public

interest. The Letter reminds them – and all elected and appointed officials – of the dangers of entering personal business relationships with fellow public officials and offers a reminder that the Ethics Commission suggests they make requests for opinions regarding potential partnerships. After being informed of the complaints against them (**C 12-36 & C 12-37**), Manager Diaz sold his investment to a third party, thereby eliminating the conflict, but each was charged investigative costs associated with the case.

A complaint (**C 12-42**) against a registered lobbyist in 2011 who failed to file the required expenditure statement by the July 1, 2012, deadline was settled today. Numerous reminders were sent to Alfredo Balsera informing him of his obligation, but he had failed to comply prior to last week. Today, the founder of Balsera Communications (who has been fined three times previously for failing to file the required form on time) stipulated to probable cause, waived the right to a hearing and agreed to settle the charge by paying a \$500 fine.

A complaint (**C 12-43**) filed against newly installed Miami-Dade County Commissioner Juan Zapata by his political challenger was found Not Legally Sufficient and dismissed. Manuel Machado accused his District 11 opponent of misusing the County seal on campaign literature. While the County Code prohibits the use of the official seal without express authority, the Ethics Commission has no jurisdiction to enforce that section of the Code.

In another election-related case, a candidate for Sunny Isles Beach City Commission, Harvey Busch, filed a complaint (**C 12-44**) against Commissioner George Scholl, accusing the incumbent of making Busch's age an issue in the race. Since age is not a protected class in the Ethical Campaign Practices Ordinance, the Ethics Commission found the complaint Not Legally Sufficient and it was dismissed.

A local firm that completed a planning study to consolidate and relocate cargo gates at Port Miami may be allowed to bid on the award of the related engineering design contract under certain conditions. That is the Ethics Commission's response to **Request for Opinion 12-12**. A member of the selection committee questioned whether the company, CH2MHILL, would have a conflict bidding on a job that includes reviewing the work it completed under the planning contract and suggested that it would have an advantage over other firms. Based on previous opinions, the COE opined that CH2MHILL may bid on the engineering design contract as long as it shares its draft study report with all other proposers and, if it is awarded the job, that it should be removed from the part of the contract that requires the company to validate its earlier work.

In other action today, the Ethics Commission gave its approval to a proposal that would exempt the Public Health Trust from portions of Miami-Dade County's "Cone of Silence" rule regarding ex parte communications by staff members in procurement matters and replace it with a modified version of the restrictions. That proposal will now go before the Board of County Commissioners for consideration.

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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