

Crime JULY 8, 2015

Ethics panel: Hialeah mayor lied about loans to convicted Ponzi schemer



Convicted Ponzi schemer Luis Felipe Perez, left, and former Hialeah Mayor Julio Martinez during an ethics hearing into statements that current Hialeah Mayor Carlos Hernandez made about his high-interest loans to Perez. The ethics panel fined Hernandez \$3,000. | **Roberto Koltun** - El Nuevo Herald

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After he failed to show up for his own hearing on Wednesday, the Miami-Dade ethics commission found that Hialeah Mayor Carlos

Hernandez lied twice about his high-interest loans to a convicted Ponzi schemer and fined the veteran politician \$3,000 for his offenses.

The four members doubled the fine after finding that Hernandez “knowingly” lied about receiving 36 percent interest payments on his \$180,000 loans to one-time Hialeah jeweler Luis Felipe Perez. They also added \$1,000 in investigative costs to the civil penalty and agreed to write a letter of reprimand.

Commission members took notice of the mayor’s absence numerous times during the trial-like proceeding, but without taking shots at him.

“We would have provided him with a fair hearing,” commission chairman Nelson Bellido, a lawyer, said after the decision. “We’re not a rubber stamp. ... But unfortunately, he chose not to be here.”

After he was charged in January, Hernandez called the probe by the Miami-Dade Commission on Ethics and Public Trust a “circus” and refused to answer its questions about the loans he made to Perez before running for mayor in 2011. Hernandez told ethics officials in a deposition that their case against him was a “political witch hunt.”

Hernandez pleaded the Fifth Amendment against self-incrimination more than 30 times as he was peppered with questions by a commission lawyer during a deposition in March. “I don’t want to be part of this circus,” the mayor responded repeatedly.

Perhaps the mayor — who did not return a call to his office and whose defense attorney declined to comment — was a no-show at his ethics hearing because he did not want to run the risk of testifying in his defense and getting caught in a lie again, legal observers said.

On Wednesday, the commission found by “clear and convincing evidence” that the mayor committed two civil ethics violations when he declared — first in Spanish, then in English — at a 2011 news conference that he did not receive any interest payments from Perez. The commission found that he falsely claimed that he only received principal payments from the diamond dealer.

Ethics commission lawyer Michael Murawski called Hernandez the “invisible man” on Wednesday, while arguing that the evidence showed “beyond any doubt whatsoever” that “he lied to the public.”

The commissioners unanimously found that Hernandez violated the Citizens’ Bill of Rights when he “knowingly furnished false information on a public matter” at the Oct. 13, 2011, press conference during his mayoral campaign.

It marked the first time that the commission used the county’s Truth in Government provision of the Citizens’ Bill of Rights in an enforcement action, said its executive director, Joseph Centorino.

Hernandez also was not present when the ethics commission charged him in January. At the time, he issued a statement in Spanish condemning the panel and its staff. The

commission was established by voters in 1996 after a rash of corruption in the county.

"The ethics commission is a political organization," Hernandez said in that statement. "They are not prosecutors and the commission is not a law enforcement agency."

"The actions of the ethics commission resemble a Roman circus," the mayor added.

"They need to create controversy where none exists to justify their own existence and the misuse of \$1.9 million of taxpayers' money used for their paychecks."

In 2012, county voters gave the ethics commission additional power to enforce the Citizens' Bill of Rights ordinance and impose penalties, raising the significance of the Hernandez case.

Hernandez got caught in the lie about his exorbitant loans to Perez last year, when he testified about his 36 percent interest terms at the tax-evasion trial of former Hialeah Mayor Julio Robaina and his wife, Raiza. The couple, who were acquitted at trial, had also made secret high-interest loans to Perez, in what was described as Hialeah's "shadow-banking" business.

At the trial, Hernandez testified as a witness for prosecutors that he received more than \$100,000 in interest payments on his loans to Perez, contradicting his defiant statements at the 2011 news conference that he only received principal payments from the con man.

Hernandez, serving as interim mayor then, told

a reporter during the English-language portion of that press conference that “my agreement was principal.” He also denounced the Miami Herald for publishing a prior story showing he had received only interest payments from Perez.

“When placed under oath, [Hernandez] told a different story than the one he told reporters at the Oct. 13, 2011, press conference and at various campaign events that season,” according to a probable cause memo filed in the mayor’s ethics case.

His statements were broadcast on local TV news stations and on YouTube in Spanish and English. The memo noted that Hernandez received a total of \$126,000 in interest payments from Perez, but no payments on the original loan principal.

At Wednesday’s hearing, Perez testified against his “former friend,” Hernandez, saying: “It was always only interest.” Perez said that Hernandez always had the opportunity to get back his principal, “but that never came about.”

Ethics commissioner investigator Larry Lebowitz, who presented videos of the 2011 press conference, and federal prosecutor Richard Gregorie, who tried the Robaina case, also testified during Wednesday’s hearing.

Hernandez never listed his loans to Perez on his financial disclosure forms for the years in question, 2007 through 2009, as required by law. But he was not charged with those possible ethics violations — nor with breaking state usury laws — because the statute of

limitations had expired. During those years, he served as a city councilman in Hialeah. He had previously worked as a police officer for the city.

Hernandez's lawyer, Thomas Cobitz, who declined to comment for this story, submitted an affidavit to the ethics commission from the mayor in which he "reiterated" that he declared his loans to Perez as an "investment" during the press conference in 2011.

"I have never denied the fact that I made an investment with Mr. Perez and that my return on the diamond wholesale investment was 3% per month," Hernandez said in his affidavit. "In the 2011 press conference I reiterated that 'this was an investment,' and that I never made a profit and that any monies I did recover were my original investment and not interest."

Then, the mayor portrayed himself and others in the Hialeah community as victims of Perez's \$40 million financial scam, which collapsed in 2009.

Perez, who was sentenced to 10 years in prison, saw his term cut in half after cooperating with authorities in their tax-evasion case against the Robainas, as well as against some co-conspirators involved in his investment scam. Perez was released from prison in December.



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