

# MIAMI-DADE COMMISSION ON ETHICS & PUBLIC TRUST

## Summary of Minutes and Agenda Actions

### Meeting of May 10, 2017

The Miami-Dade Commission on Ethics (COE) convened in the Biscayne Building, 19 West Flagler Street, Suite 820, Miami, FL, on May 10, 2017. Present were Commission Chair Judge Lawrence Schwartz, Vice Chair H. Jeffrey Cutler and Commissioners Nelson Bellido, Judith Bernier and Marcia Narine Weldon. Also present were Joseph Centorino, Executive Director; Michael Murawski, Advocate; Gilma Diaz-Greco, Martha Perez and Radia Turay, Staff Attorneys; Rhonda Victor Sibilia, Communications Director; Rachelle Ross, Executive Secretary; and Nilda Olmo, Sylvia Batista and Breno Penichet, Investigators; Nicholas Scher, Legal Intern; Assistant Miami City Attorney Xavier Alban; Miami Lakes Town Manager Alex Ray and other members of the public. The meeting was called to order at 10:00 a.m. by Chairman Schwartz. A quorum was present.

#### **I. Approval of Minutes**

Commissioner Narine Weldon made a motion to approve the minutes of the April 12, 2017, meeting. The motion was seconded by Commissioner Bernier and unanimously approved (3-0 Bellido & Cutler not yet arrived).

#### **II. Public Comment**

None.

#### **III. RQO 17-03**

Staff Attorney Gilma Diaz-Greco presented a Request for Opinion (**RQO 17-03**) from the Miami-Dade Finance Department, seeking clarification on whether a full-time County or City employee who creates and runs a nonprofit organization must annually report and complete paperwork associated with outside employment. Previous opinions had determined that employees who volunteer uncompensated for a traditional non-profit do not have to report that time as outside employment. But the staff recommendation concluded that an employee who founds and serves as the top administrator of his or her own non-profit could be expected to expend time and effort that could impact his or her government responsibilities and, therefore, should be reported as outside employment each year. After receiving answers to her questions regarding time spent volunteering, Commissioner Narine Weldon made a motion to approve the recommendation. It was seconded by Commissioner Bernier and unanimously approved (5-0).

#### **IV. Section Eight Requests**

Staff Attorney Diaz-Greco had one request for a County employee to contract under the federally-funded Section 8 program, and, since he was not associated with the Miami-Dade Public Housing and Community Development Department, recommended approval. Commissioner Bellido made a motion to support the recommendation. It was seconded by Commissioner Narine Weldon and unanimously approved (5-0).

#### **V. Housing requests**

Staff Attorney Diaz-Greco presented the requests of two County employees to seek assistance through programs overseen by the Miami-Dade Public Housing and Community Development Department, and since neither they nor any of their family members oversee or administer the programs, recommended they be approved. Ms. Diaz-Greco also noted a request from an individual over which the COE has no jurisdiction. Commissioner Bellido made a motion to approve the recommendation. It was seconded by Commissioner Narine Weldon and unanimously approved (5-0).



## **VI. Monthly Summary of Inquiries**

Staff Attorney Radia Turay presented a Summary of Inquiries issued by the COE staff from March 25 through April 28th, of which two were briefly discussed.

## **VII. Miami Beach Lobbyist Appeals**

Staff Attorney Martha Perez presented appeals from nine individuals (one withdrew his appeal before the hearing) who registered as lobbyists in the City of Miami Beach, but failed to file required expenditure and compensation statements by the deadline. The following actions occurred:

- Vice Chair Cutler made a motion to waive the \$1,350 fine levied on Howard Bogis. It was seconded by Commissioner Narine Weldon and unanimously approved (5-0).
  - Vice Chair Cutler made a motion to waive the \$1,350 fine levied on Bruce Victor, who was present. It was seconded by Commissioner Narine Weldon and unanimously approved (5-0).
  - Vice Chair Cutler made a motion to reduce the \$650 fine by 25% to \$167.50 for Juan Fernandez-Barquin, who was present. It was seconded by Commissioner Narine Weldon and unanimously approved (5-0).
  - Commissioner Bellido made a motion to reduce the \$1,850 fine to 5% to \$92.50 for Robert Gallagher, Jr. It was seconded by Commissioner Narine Weldon and unanimously approved (5-0).
  - Commissioner Bellido made a motion to waive the \$1,400 fine for Wesley Hevia, who was present. It was seconded by Vice Chair Cutler and unanimously approved (5-0).
  - Commissioner Bellido made a motion to waive the \$1,350 fine for Harris Levy, who was present. It was seconded by Commissioner Narine Weldon and unanimously approved (5-0).
  - Vice Chair Cutler made a motion to reduce the \$2,900 fine to 5% to \$145 for Cesar Molina. It was seconded by Commissioner Bernier and approved (4-1, Bellido opposed).
  - Commissioner Bellido made a motion to waive the \$1,350 fine for Lester Perez, who was present. It was seconded by Vice Chair Cutler and unanimously approved (5-0).
  - Commissioner Narine Weldon made a motion to waive the \$1,050 fine for Ivannia Van Arman, who was present. It was seconded by Vice Chair Cutler and unanimously approved (5-0).
- Vice Chair Cutler requested that the Executive Director once again seek alternatives to this process to eliminate or reduce the need for the Ethics Commission to hear appeals of fines levied on lobbyists for failure to file expenditure reports even though they incurred no expenses during the reporting period. Mr. Centorino said he would speak with the Miami Beach City Attorney to try to find other avenues of appeal.

## **VIII. Executive Director's Report**

- Executive Director Joseph Centorino presented a proposed resolution supporting the independence of the State of Florida Commission on Ethics (FCOE) and opposing any attempt by legislative leaders to limit its administrative autonomy. The action was prompted by a "Delegation of Authority" memo issued by Florida Senate President Joe Negron and House Speaker Richard Corcoran on March 21, 2017, that gives the legislature administrative authority over some functions of the FCOE. Commissioner Narine Weldon made a motion to approve the resolution. It was seconded by Commissioner Bellido and unanimously approved (5-0).
- Mr. Centorino announced the participants in the upcoming municipal attorney's luncheon on Friday, June 2, 2017, at the Miami Beach Golf Club, will be Rep. Joe Geller, Rep. Kionne McGhee, Rep. Jose Felix Diaz and one other legislator, and that former Pinecrest Mayor and one-term state representative Cindy Lerner would serve as moderator. The topic reflects on proposals presented during the just-completed legislative session – "Home Rule: What is its future in Florida?" and invited Ethics Commissioners to attend.
- He announced the retirement at the end of the month by Ethics Investigator Breno Penichet after 42 years of



local public service. Penichet was an officer for the Miami-Dade Public Safety Department and Florida International University Police Department before serving 20 years as an investigator for the Miami-Dade State Attorney's office, followed by his 10-year service at the Ethics Commission. Mr. Penichet thanked the Ethics Commissioners and staff for their support and was lauded by Mr. Centorino and Commissioner Bellido.

-- Mr. Centorino reported that, upon the conclusion of the 2017 Florida Legislative session, efforts to nullify segments of the Sunshine Law and require lobbyists to register with the state (thereby preempting local registration provisions) failed passage, and that a compromise Public Records law amendment eliminating mandatory award of attorney fees for litigants seeking only to take advantage of that legal requirement was sent to the governor for approval.

-- Mr. Centorino recognized the last meeting of Ethics Commissioner Narine Weldon, who gave up her appointment by St. Thomas University School of Law by accepting a new academic position at the University of Miami School of Law. A plaque was presented as she was applauded for her three years of service.

## **IX. Complaints**

Advocate Murawski requested approval of a motion to compel production of witnesses or to strike them from them from the defense for **C 16-34**. Attorney Benjamin Kuehne, citing travel challenges to and from Haiti, asked for a 14-day reset to provide the witnesses for deposition. Vice Chair Cutler made a motion to approve Kuehne's request. It was seconded by Commissioner Bellido and unanimously approved (**5-0**).

Advocate Murawski also presented a motion to compel production of evidence regarding the respondent's claim to have a video recording associated with the complaint. Attorney Benjamin Kuehne, citing health issues for respondent North Miami Beach City Commissioner Frantz Pierre, asked for the same time frame (14 days) to either produce the evidence or confirm that it does not exist. Commissioner Bellido made a motion to give the respondent 14 days to respond to the subpoena. It was seconded by Vice Chair Cutler and unanimously approved (**5-0**).

The Ethics Commission convened in closed session at 11:11 a.m. Commissioners returned to open session at 11:44 a.m. and took the following action:

-- Commissioner Narine Weldon made a motion to find No Probable Cause to complaint (**C 17-02**) filed by Attorney J.C. Planas who was representing a group seeking to recall Sweetwater Mayor Orlando Lopez, when he claimed that Mayor Lopez misused his position to intimidate the City Clerk by ordering copies of recall petitions. The investigation found no evidence to support the allegation. Commissioner Bernier seconded the motion and it was unanimously approved (**4-0** Chairman Schwartz departed).

-- Commissioner Narine Weldon made a motion to find No Probable Cause to allegations 1, 2 and 5 in a complaint (**C 17-03**) filed against South Miami Mayor Philip Stoddard and City Manager Steven Alexander for allegedly interfering with the independence of the South Miami Community Redevelopment Agency by one of its members, and No Legal Sufficiency to allegations 3 and 4. Commissioner Bernier seconded the motion and it was unanimously approved (**4-0**).

-- Commissioner Narine Weldon made a motion to dismiss for lack of Legal Sufficiency a complaint (**C 17-04**) alleging that two members of a City of Miami Selection Committee -- Antonio Arce and Jason Swift -- had conflicts of interest. Commissioner Bellido seconded the motion and it was unanimously approved (**4-0**).

-- Commissioner Narine Weldon made a motion to support the Advocate's request for an Extension of Time to Make a Probable Cause Determination for **C 17-05 (A) & (B)**. Commissioner Bellido seconded the motion and it was unanimously approved (**4-0**).

-- Commissioner Narine Weldon made a motion to find No Probable Cause to a complaint (C 17-06) filed against Miami Lakes Town Manager Alex Rey for allegedly violating the Truth in Government provision of the Miami-Dade County Charter because the investigation found there was no intention to deceive. Commissioner Bellido seconded the motion and it was unanimously approved (4-0).

-- Commissioner Narine Weldon made a motion to support the Advocate's request for an Extension of Time to Make a Probable Cause Determination for C 17-07. Commissioner Bellido seconded the motion and it was unanimously approved (4-0).

-- Commissioner Bellido made a motion to find No Probable Cause to a complaint (C17-08 A) charging Gus De Ribeaux of violating the City of Miami's lobbyist registration requirement when he met with staff members and sent emails in October of 2015, regarding a development known as Battersea Woods LLC, without registering as a lobbyist, after he presented evidence that the city's registration form and information was ambiguous as to whether the principal of a firm must register under the City of Miami lobbyist ordinance. The motion also includes issuing a Letter of Instruction to the City of Miami recommending clarification and better explanation of lobbyist registration requirements. Commissioner Narine Weldon seconded the motion and it was unanimously approved (4-0).

-- Commissioner Narine Weldon made a motion to find No Legal Sufficiency to a complaint (C 17-10) filed against Miami-Dade County Commissioner Daniella Levine-Cava, accusing her of harassing and intimidating the complainant at a public event, because there was no proof to support the allegation. It was seconded by Commissioner Bernier and unanimously approved (4-0).

#### **X. Old Business**

None

#### **Adjournment**

There being no further business, the meeting adjourned at 11:48 a.m.



Prepared by Rhonda Victor Sibilia, Communications Director