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May 22, 2020

Via Facsimile & U.S. Mail

Mr. Alex Ferro, Chief of Staff  
Office of the Mayor  
Stephen P. Clark Center  
111 Northwest 1<sup>st</sup> Street, 29<sup>th</sup> Floor  
Miami, Florida 33128

Re: COE Case No. PI 18-21 A & B

Dear Mr. Ferro:

Enclosed you will please find the final Investigator Reports and accompanying Advocate Memoranda in the above referenced ethics investigation. The matter was bifurcated into *public records* and *exploitation of official position* halves.

No ethics enforcement action will issue against any persons arising out of the investigation.

As you review the enclosures and share the contents with the Mayor and other senior County staff, administrative review of the performance or conduct of County personnel may be appropriate. Changes to County procedures as regards public records retention or communications with public records requesters might also be recommended.

The Commission on Ethics staff will be available to assist or support these reviews. However, to be clear, those are matters over which the Commission on Ethics has no jurisdiction.

Thank you for making yourself repeatedly available to speak to me throughout this process.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Arrojo", is written over a horizontal line.

Jose J. Arrojo  
Executive Director

Mr. Alex Ferro, Chief of Staff

May 22, 2020

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cc: Myriam Marquez, Communications Director and Senior Advisor, Mayor's Office

Manuel J. Gonzalez, Director, OEDIT

Angel Petisco, CIO and Director, ITD

Jack Osterholt, Deputy Mayor and Director, RER

Doug Hanks, Miami Herald

Erika Carrillo, Univision 23 Miami

Michael P. Murawski, Esq., Advocate, COE



CASE CLOSED

Date: 5-19-20

**Miami-Dade Commission on Ethics & Public Trust**  
**Investigative Report**

Investigator: Karl Ross, Robert Steinback

Case No.: PI 18-21A

Case Name: China Trip/ Citizens Bill of Rights

Date Opened: April 2018

Date Submitted: May 7, 2020

**Allegation(s)**

This inquiry was initiated to examine some seeming inconsistencies between information provided to media public records requesters. The requests concerned a March 2018 County business development mission to Asia. The mission was organized by the Office of Economic Development & International Trade ("OEDIT"), headed by Manuel J. "Manny" Gonzalez, in coordination with the office of Mayor Carlos A. Gimenez and included several County Commissioners, County department heads and other County staff.

The Mayor's Office received multiple requests for information/ public records from members of the local media about the trip, its participants, budget, funding and official travel itineraries. The first of these requests was submitted on Feb. 26, 2018, and included a request for copies of the "official schedule for the upcoming China trip, the confirmed participants so far and the mayor's schedule as it stands right now" but did not include a request for copies of all draft agendas. Subsequent itineraries provided to public records requesters did not mention specifically information about two meetings in Hong Kong with Genting officials, including company Chairman Lim Kok Thay ("Chairman Lim") on March 16 and 17.

About one year after the Hong Kong meetings, Genting and other private-sector partners, submitted an "unsolicited proposal" pursuant to Florida Statute, to the County for the development of a joint venture – namely the construction of a light rail project between Miami Beach and Miami (hereinafter "Baylink").

As of the date of this report, Baylink project between Miami Beach and Miami is still pending review by County staff.

**Relevant Law**

The Miami-Dade County Citizens' Bill of Rights states in applicable part, Section (A)(2), titled *Truth in Government*, that: "No County or municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public."

Miami-Dade County Code, Sec. 2-11.1(g), titled *Exploitation of official position prohibited*, stating in applicable part that no person ... “shall use or attempt to use his official position to secure special privileges or exemptions for himself or others ...”

### **Investigation**

This inquiry was the companion to an earlier inquiry into the possible mishandling of public records stored on temporary “burner” cell phones issued to County officials participating in the mission, formally known as the Business Development Mission to China and Japan (hereinafter “trade mission” or “mission”). The mission, as advertised to the business community in early 2018, was to be comprised of trips to three cities in Mainland China – Beijing, Qingdao, Shanghai – and Tokyo, Japan, from March 16 to 28, with the delegation of County officials and local business leaders arriving in Beijing on March 17, then departing from Tokyo on March 27.

It was learned that on or about January 2018, County officials decided to add a separate, Hong Kong leg (hereinafter “HKL”) to the trip for the Mayor, County Commissioners and select County staffers from March 13 to March 16. The leg was later extended until March 17. The HKL was not promoted to the business community at large. While roughly two dozen local business executives attended the main mission to China and Japan, it was later learned that only two of these private-sector individuals – construction executive Ralph Garcia-Toledo and lobbyist Jesse Manzano-Plaza – traveled to Hong Kong with the Mayor and County leaders.

Investigation revealed that one of the purposes of the HKL was to facilitate meetings between County leaders and Genting executives to discuss “Baylink,” a proposed rail line that would connect Miami Beach and Miami at the site of the former Miami Herald building, a property owned by Genting. About a year after the Hong Kong meetings, a Genting-led consortium submitted an “unsolicited proposal” pursuant to Florida Statute, to County leaders to jointly develop a monorail project uniting Miami and Miami Beach. Garcia-Toledo and Manzano-Plaza were part of the consortium, acting as partners through Aqualand Development Ltd Co., a company founded by Garcia-Toledo in 2006.

Investigation showed that OEDIT’s Gonzalez served as the corporation’s registered agent from 2006 through 2014 when he removed himself as registered agent. Manzano-Plaza became an officer in 2019. Mr. Gonzalez has previously advised that he and Garcia-Toledo, and their families, are close friends. Gonzalez is not now nor was he ever an officer in the company.

In recent explanations regarding this inquiry, the Mayor’s Chief of Staff Alex Ferro has suggested that the HKL was not part of the greater trade mission because it was related to what would be a sealed bid to construct the Miami Beach light rail project, Baylink. As such, it would have been inappropriate to open the meeting to other parties on the trade mission, unrelated to the proposal.

#### **Documents and Exhibits:**

As part of this investigation, COE examined hundreds of emails and other documents provided by the County’s Information Technology Department last September (2019). The above-referenced findings became apparent and were evidenced by the following exhibits, detailed below. The documents are arranged in chronological order using the date of origination.

- Exhibit #1: A January 24, 2018, email from Manuel Gonzalez, Chief of Economic Development and International Trade (hereinafter “Gonzalez), to Olga Ramudo of Express Travel, the County’s outside travel agent who was asked to book travel for the Asia Trip. The “Tentative Program & Itinerary” provided by Gonzalez at this time departed Miami on March 16<sup>th</sup> and only included stops in Mainland China and Japan. It did not include the subsequent Hong Kong leg trip.
- Exhibit #2: A January 27, 2018, email from Gonzalez to Ramudo of Express Travel advises that the “Mayor has a meeting in HK” and requests an additional travel leg to Hong Kong be scheduled on or about March 15. This is the first documented reference to the Hong Kong trip.
- Exhibit #3: A January 30, 2018, email from Gonzalez to Ralph Garcia-Toledo. The email included a copy of a flight itinerary from Miami to Hong Kong departing on March 13, 2018 – the same day as the Mayor’s group. Gonzalez added a note: “Fyi 2 day sale airline”. The email is sent to a private email account for Garcia-Toledo, “ralphgt1@aol.com.”
- Exhibit #4: A February 1, 2018, email from Gonzalez on his County email account to his private email account (mjg1@gate.net) with an attached travel itinerary titled: “Bus Devt Mission to China – Program & Itinerary.docx”. The attachment contains an agenda reflecting two meetings with Genting in Hong Kong after arriving on March 14, as follows: “Arrive Thursday/ Meeting with Genting” (March 15) and “Friday, March 16/ Meeting with Genting.” No other meetings are scheduled in Hong Kong as of the date of this itinerary, while the draft itinerary reflects a second option for meetings with Genting, with the Mayor’s delegation departing Tokyo on March 28 to travel to Hong Kong for meetings with Genting on March 28 and March 29 before departing on a return flight to Miami on March 30. All Genting meetings are highlighted in green.
- Exhibit #5: A February 5, 2018, email from Gonzalez to Special Assistant Jeannette Vazquez and Chief of Staff Alex Ferro of Mayor Gimenez’s office containing a revised itinerary, labeled in an attachment as “Bus Dev Mission to China and Japan – Program Itinerary v6.docx”. The attachment, once opened, shows that “As of Feb. 5, 2018,” the itinerary includes meetings with Genting in Hong Kong, again highlighted in green, on March 15 and March 16, with an additional trip to Zhohoun, Mainland China, on March 15 to visit the CCRC factory.
- Exhibit #6: A February 7, 2018, email from Gonzalez to Aviation Director Lester Sola containing an excerpt of the Hong Kong portion of the Mayor’s itinerary, titled “Mayor’s Tentative Program & Itinerary.” This itinerary includes the two Genting meetings on March 15 and March 16, with the CRCC factory visit also slated for March 15. In the email, Gonzalez invites Sola and states: “Lester enclosed you will find a draft agenda *along with the Mayor’s agenda* (below) leaving prior to the general group, which you are welcome to join.”

- Exhibit #7: The County officially announced the trade mission in February as evidenced by a February 12, 2018, letter co-signed by Mayor Gimenez and Comm. Jose “Pepe” Diaz inviting business and community leaders to “The People’s Republic of China and Tokyo Japan, from March 16-28” to participate in “a mission organized by Miami-Dade’s Office of Economic Development & International Trade.” The letter further states: “Mission participants will have ample opportunities to meet with high level government officials and business, trade associations, and engage in business networking meetings. We look forward to your participation as we expand trade and commercial ties with two of Asia’s economic powers.” There is no reference to the Hong Kong, pre-mission trip. In addition to this letter, the County’s announcement and online posting includes a form to be filled out by private-sector participants; a Credit Card Intake Form for participants to pay registration fees; Travel & Lodging information; and a Tentative Mission Program & Itinerary, with no mention of the Hong Kong pre-mission.
- Exhibit #8: Email dated February 14, 2018, from Gonzalez, on his official County email account, to his private email account, with the subject line: “Bus Dev Mission to China and Japan – Program Itinerary HGK” and containing an attachment with a near identical name but with the suffix “.docx”. This is the first version of the draft itinerary that does not include the Genting events in Hong Kong. Instead, it makes only generic reference to “Meetings” on March 16.
- Exhibit #9: In an email dated February 26, 2018, Miami Herald reporter Doug Hanks made his initial public records request about the trade mission, as follows: “Stephanie – Could I get a copy of the official schedule for the upcoming China trip, the confirmed participants so far and the mayor’s schedule as it stands right now? Hoping I could get that this week.” At the time, Stephanie Severino was employed by the Office of the Mayor as a media contact.
- Exhibit #10: An email string commencing on February 27, 2018, from Kieran Bowers, President of Swire Properties and head of the company’s U.S. operations, to a private email account used by Transportation and Public Works Director Alice Bravo stating: “Hi Alice, For easier follow through, I have changed to email rather than Whatsapp.” Bowers wrote that John Slosar, chairman of Swire Pacific, would be willing to host the County delegation but could only do so on the day of their arrival in Hong Kong, March 14. He explained that “schedules are quite tight given it is the week of annual results being announced.” He asked if this was acceptable to the Mayor and the rest of the County’s delegation. Bravo responded later that day, saying: “Thank you for getting back to me so quickly! That evening (14<sup>th</sup>) definitely works. I will confirm the names of the people attending as soon as possible.” She went on to state in this same email: “I have cc’d Mr. Ralph Garcia-Toledo who is making most of the arrangements for the trip and works closely with Genting.” She copied Garcia-Toledo at “ralphgt1@aol.com.

Note: The above-referenced email string (Exhibit #10) includes an email from Garcia-Toledo on March 10, 2018, in which Garcia-Toledo suggests having Swire co-host its reception for the Miami-Dade delegation with Genting, the following day aboard one of

Genting's cruise ships. "Mr. Bowers, thank you kindly for your assistance in arranging this reception. Please be advised that the Mayor's delegation is arriving the day of the Swire reception. As such, the time and location of the reception is important because of jet lag and other considerations. If I may suggest, as I did before, (only a suggestion) our friends at Genting, Chairman KT Lim, kindly extended the possibility of a joint reception with Swire, on one of their cruise ships. That reception is being held on the evening of March 16, Friday. Let me make it perfectly clear, the Mayor WILL make himself available to visit with Swire/ Cathay Pacific while in Hong Kong. Let me again thank you for all the assistance. Ralph G-T." Bowers declined Garcia-Toledo's proposal, and stated Chairman Slosar would host the delegation, as planned, on March 14.

- Exhibit #11: In an email dated March 9, 2018, at 1:45 p.m., Gonzalez sent a copy of a further updated itinerary, "As of March 8, 2018," to the Mayor's Special Assistant Jeanette Vazquez. The itinerary reflects meetings with Swire and its aviation affiliate, Cathay Pacific, but makes no references to the previously planned meetings with Genting. A meeting with Cathay Pacific regarding "Air Route Development" is scheduled for March 16 and includes a "facilities tour."
- Exhibit #12: In an email dated March 9, 2018, at 5:03 p.m., Felipe Angulo of the Mayor's Office sent a copy of the public records response items to Chief of Staff Alex Ferro, stating: "Alex, attached are the edits made today with the Mayor for both documents. Also below is the language in Jeanette's previous email that you requested to be attached. Thank you." The email includes a statement attributed to Vazquez stating: "County funds are not being used for their travel expenses (Air and Hotel) they are being funded by the Trade Mission Center of the Americas [sic]." It identifies the officials in question as Mayor Carlos Gimenez, Deputy Mayor Ed Marquez, and County Commissioners Audrey Edmondson and Jose "Pepe" Diaz, with Comm. Barbara Jordan listed as being a tentative participant on the trip.
- Exhibit #13: In an email dated March 9, 2018, at 5:07 p.m., Chief of Staff Alex Ferro sent the response items to Doug Hanks of the Herald, including a delegation list and updated itinerary. It appears Ferro forwarded the email and attachments he received from Angulo minutes earlier, including the statement that no County funds were being used for the travel expenses of the Mayor and other officials. The attached itinerary, dated "As of March 8, 2018," includes information about the pre-mission travel, including the Swire reception at 8 p.m. on March 14 (the day of arrival in Hong Kong) and "Air Route Development meetings with Cathay Pacific and facilities tours (TBD) on March 16; no activities are listed for March 17. Also attached is a list of public and private-sector delegates participating in the trade mission, though most of these delegates only attended the main mission, not the pre-mission.
- Exhibit #14: In an email dated March 16, 2018, Univision Channel 23 reporter Erika Carrillo made a public records request to the Mayor's Office asking for information relating to the trade mission, including much of the same information previously requested

by Doug Hanks – including names of participants, a detailed budget, and a copy of the travel itinerary.

- Exhibit #15: Copies of response items provided to Carrillo including the same itinerary provided to Hanks and dated “As of March 8, 2018.” Written in uppercase type at the top of these items, the Mayor’s Office advises Carrillo that “NO COUNTY FUNDS ARE BEING USED FOR THEIR TRAVEL EXPENSES” and lists those officials as being Mayor Gimenez, Deputy Mayor Edward Marquez, Comm. Audrey Edmundson, Comm. Jose “Pepe” Diaz, OEDIT Director Gonzalez and two OEDIT staffers, Elizabeth Moss and Desmond Alufohai. Note: The response item contains a budget showing that \$30,000 of the \$48,000 in “unrestricted” funds earmarked for these officials’ travel expenses were allocations from County agencies.
- Exhibit #16: In an email dated March 27, 2018, (after the China trip was over) Hanks sent a list of questions to the Mayor’s Office regarding the omission of any references to the Genting meetings from the response items to his initial public records request back on February 26, 2018. The email’s subject line reads: “Circling back on past requests,” and asks a number of questions related to Genting. Among the questions asked were: “Who arranged these Genting events? When were they scheduled? Why were they not part of the official trade mission that began in Beijing? *Why were the Genting events not on the schedule your office provided me on March 9?*” [Italics for emphasis.] The email goes on to inquire who attended the Genting events, and whether lobbyists other than Ralph Garcia-Toledo and Jesse Manzano-Plaza were allowed to participate.
- Exhibit #17: In an email dated March 28, 2018, Gonzalez sent Felipe Angulo of the Mayor’s Office a copy of a “revised” itinerary dated “March 28, 2018,” the day after the mission ended. With respect to the Hong Kong pre-mission, the itinerary included the Swire reception at 8 p.m. on March 14, the March 15 visit to the CRCC train factory in Shuzhou, Mainland China, and provides two entries on March 16, as follows: “Mayor working on County items” and “Diner [sic] on Board Cruise Ship.” For March 17, the itinerary states: “Meeting with Hong Kong Tourist Development Council Lunch on Board Cruise Ship.” There were no references in this revised, post-mission itinerary to Genting, which, as it was later discovered, had hosted meetings for the Mayor and County officials aboard its cruise ships on March 16 and March 17, or to the supposed meeting with Cathay Pacific that was cited in earlier versions of the agenda.
- Exhibit #18: Pursuant to a request by this agency, Gonzalez provided a copy of a “Final Program & Itinerary” that included additional detail about the CRRC train factory visit in Zhuzhou, China, on March 15 but fails to mention the Genting meetings on March 16 and 17. Those meetings are described as “Dinner on Board Cruise Ship,” and “Lunch on Board Cruise Ship” while, for the latter, referencing “Meeting with Hong Kong Tourist Development Council.”

These exhibits demonstrate that Hanks and Carrillo requested copies of the Mayor’s travel itinerary for the “China trip” weeks after the Genting meetings in Hong Kong had been scheduled, at least



provisionally. Yet were both supplied by Gonzalez and the Mayor's Office with a version of the "Tentative Program & Itinerary (As of March 8, 2018)" that did not disclose the Hong Kong meetings with Genting held on March 16 and 17. Earlier drafts of the itinerary prepared by OEDIT Director Gonzalez contained references to meetings with Genting highlighted in green (March 15 and March 16). The Genting meetings were also referenced in an email from Gonzalez to the County's Aviation Director, Lester Sola. So clearly, the Genting meetings had been contemplated at the time public records requests were made.

The investigation showed that once Gonzalez finalized travel arrangements for the Mayor and others to Hong Kong, in coordination with Garcia-Toledo, Gonzalez sent a copy of the itinerary with the Genting meetings to his private email account. The findings showed that Gonzalez removed the references to Genting in subsequent drafts of the Hong Kong itineraries, and later plugged in meetings with other parties – even though those meetings had not been confirmed prior to the County finalizing its travel plans and booking flights to Hong Kong.

Investigation showed that County officials including Gonzalez and Transportation and Public Works Director Alice Bravo sought to schedule meetings with Swire Properties, its aviation subsidiary (Hong Kong-based Cathay Pacific Airways), and the Hong Kong Tourism Board, and that this occurred at or about the time of the first public records request. Hanks requested a copy of "the official schedule for the upcoming China trip" on Feb. 26, while Carrillo requested a copy of the same in a March 16, 2018, email to the Mayor's Office. In both instances, they received "updated" versions of the itinerary with no references to Genting.

The investigation also showed that prior to releasing a copy of the then official itinerary to Hanks on March 9, 2018, Gonzalez supplied a revised version of the itinerary that included the Swire reception along with a separate meeting with Cathay Pacific on a later date. He sent this version of the agenda to the Mayor's Special Assistant (Jeannette Vazquez) on March 9 at 1:45 p.m. That agenda was reviewed and edited by Mayor Gimenez with the help of Vazquez, according to an email sent to Chief of Staff Ferro at 5:03 p.m. that same day from Felipe Angulo, an aide to the Mayor. Records show that Ferro sent this updated itinerary to Hanks at 5:07 p.m.

The email to Ferro stated: "Alex, attached are the edits made today with the Mayor for both documents. Also below is the language in Jeannette's previous email that you requested to be attached. Thank you ..." This language included a claim that County funds were not being used to pay for the travel expenses of the Mayor, Deputy Mayor Marquez, and County Commissioners Audrey Edmondson and Jose "Pepe" Diaz. The language referenced funding provided by a County run non-profit, the Trade Mission Center for the Americas. This assertion appears inconsistent with reports showing most of the non-profit's funding was derived from three County agencies, each of which allocated \$10,000 to subsidize the trip.

In an October 10, 2018, email exchange between Gonzalez and then COE Investigator Frank McGee, Gonzalez explained he updated earlier versions of the agenda to include "an unexpected lunch invite by the Hong Kong Tourist Development Council on Saturday March 17<sup>th</sup>." His explanation failed to mention the lunch was held aboard a Genting cruise ship with Genting executives in attendance. As with the Herald and Univision reporters, the version of the itinerary

that Gonzalez provided to COE did not include any references to the Genting meetings on March 16 or 17. Nor did a "Final" itinerary (Exhibit #18) prepared by Gonzalez following the trip and provided to COE.

Summary of Witness Interviews:

- On 2/5/2020, Investigator Ross listened to interviews conducted by former COE Investigator Jim McGee with **Chief of Staff Alex Ferro** and **OEDIT Director Manny Gonzalez**. Summaries of those interviews were added to the investigative case file.
- On 2/6/2020, Investigator Ross listened again to an interview with **OEDIT Director Gonzalez** and contacted Gonzalez via email with follow-up questions regarding the initial meeting(s) in Hong Kong he referenced in his Jan. 27, 2018, email to travel agent Olga Ramudo. Gonzalez replied by email that: At that time, only the Genting meeting(s) had been set but that other non-Genting meetings were ultimately placed on the agenda. He called COE and his remarks during this conversation will be incorporated into a Summary of Interview and added to the case file.
- On 2/7/2020, Investigator Ross contacted **Miami-Dade Aviation Director Lester Sola** regarding the 2018 Asia trip and asked him about any meetings with Cathay Pacific in Hong Kong. He said that he could not recall whether he met with anybody from Cathay during that leg but said that the purpose of him participating in the mission was to try to promote direct commercial flights between Miami and either Hong Kong or Mainland China. He said that in addition to Cathay Pacific, he attempted to promote such trips with China Eastern and Jao (phonetic). He noted that the International Trade Consortium (ITC) and Gonzalez arranged the meetings. He agreed to review his internal files to attempt to provide more clarity on the matter.
- On 2/19/20, COE Investigator Ross approached **Swire PR Director Regina Lacayo** at the County Commission chambers and requested her assistance in facilitating communication with **Swire Properties President Bowers**. She requested an email to this effect. Later that same day, Mr. Bowers replied to COE's initial request for information, as follows: "Thank you for your email. I am, of course, open to cooperate with your inquiry. My general recollection is that I was advised a County delegation was heading to Hong Kong, and I was asked to set up a meeting with executives to discuss passenger flights from Asia to Miami. Cathay Pacific (which the Swire Group controls) already operates cargo flights, five times per week, to Miami. Ultimately, we hosted a cocktail party with food at the home of one of our senior executives. Several senior executives attended from the Swire side."
- On 2/20/20, COE took a tape-recorded, formal statement from **Jeannette Vazquez**, special assistant to the Mayor, regarding her knowledge of the Hong Kong portion of the trade mission and the Office of the Mayor's response to public records requests from the media. Of possible relevance, Ms. Vazquez was shown Exhibit #12 and stated that, contrary to

what was stated in this exhibit, she had no recollection of what the “edits made today with the Mayor” were as related to the Mayor’s response to the Herald’s public records request.

Ms. Vazquez further disavowed adding any “language” with respect to the expenditure or non-expenditure of County funding used during the 2018 trade mission. The exhibit in question referred to “Jeannette’s language” as it related to the funding; however, Vazquez stated during her interview: “You can ask [OEDIT Director Gonzalez] because I couldn’t tell you from left to right what the budget of ITC is ... It’s not Jeannette’s language. Jeannette has no language ...”

Ms. Vazquez further opined that the absence of any references to Genting on the copies of the Final Itinerary were “an oversight.” She mentioned that there were frequent revisions to the itinerary stating that it changed hour to hour. COE investigators retrieved about five different versions of the itinerary. Her summary was added to the file.

- On 2/21/20, COE conducted a telephone interview with **Desmond Alufohai, formerly of OEDIT** and presently serving as director of Protocol and International Affairs with MDAD. Notes from the interview were incorporated into a separate Summary of Interview report.

Additional investigation:

Beyond this review of available public records, COE conducted the following research pertaining to potential ethics issues arising from the 2018 trade mission to Asia:

On 2/4/20, this investigator received a copy of a close-out report to PI 19-31 from Investigator Susannah Nesmith, who advised that material from that case could be relevant. The report, which was added to the file, showed that Garcia-Toledo and Manzano-Plaza had approached several Miami-Dade County Commissioners to promote the Baylink project and related transportation issues. These included Comm. Eileen Higgins on April 22, 2019, at her County Hall office; as well as Comm. Jose “Pepe” Diaz. Diaz recalled lobbyists being present during the China trip, unlike previous trade missions he had organized; and Comm. Chairwoman Audrey Edmunson, recalled meetings attended by Garcia-Toledo during the China trip, including one on a yacht. “She said she met with the president of Genting on the 2018 China trip after Garcia-Toledo approached her during an outing on a yacht and asked her to join him for a meeting because the Baylink project will be partially in her district. She said the Mayor was also at the meeting.” Comm. Edmunson further observed that lobbyists attended many of the China meetings and that “they were already familiar with the company representatives.”

A copy of a report titled “Mission Highlights” did show the Mayor and other County leaders meeting with executives at China Eastern Airlines on or about March 22, 2018. The review did not find any reference to meeting with Cathay Pacific Airways, though the name of Cathay’s CEO (John Rupert) did appear on a guest list for the March 14 Swire reception.

On 2/25/20, OEDIT Director Gonzalez forwarded numerous emails to the COE containing photographs of the CRRC factory tour that had been provided to the Miami Herald on or about May 18, 2018, and numbered from #72 through #94, but with several items missing. Gonzalez also forwarded subsequent photos and videos provided to the Herald on or about May 21, 2018, along with an explanation as to the missing items, i.e., that the photos were taken sequentially but were the essentially the same subject or that the items in question were videos.

The photo below is representative of the photos of the CRRC factory tour:



In a phone conversation on 2/26/20, COE advised Gonzalez that none of the items provided to COE appeared to include photographs of the March 16 and 17 meetings with Genting executives in Hong Kong, as had been requested by email and over the phone. Gonzalez advised that such photographs were provided to the Herald and that they would be provided to COE.

On 2/27/20, Gonzalez provided COE with additional photographs numbered #161 through #206 that did include photographs of the two Genting meetings that took place in March 2018. The photos shown below are representative of these items. The first shows Mayor Gimenez and County Commissioners Monestime, Diaz and then Chairwoman Edmundson with Genting Chairman Lim. The photo was during the dinner cruise aboard a Genting vessel. The second photo, taken the following day aboard a Genting cruise ship, shows the same County officials with the executive director of the Hong Kong Tourism Council flanked with Genting's Chairman Lim and another Genting Executive, identified by Gonzalez as Colin Au. Gonzalez further stated that these photographs were provide to the Miami Herald on or about May 18, 2018.



In a follow-up email, COE requested from Gonzalez a copy of the email used to deliver the photos shown below, and others, to the Miami Herald, as indicated.



March 16 “dinner cruise” with Genting Chairman Lim, center, flanked, from left to right, by Comm. Monestime, Mayor Gimenez, Comm. Diaz and Chairwoman Edmundson.



March 17 "lunch cruise" aboard Genting vessel with Miami-Dade elected officials, led by Mayor Gimenez (presenting award to member of the Hong Kong Tourism Council) and accompanied, far right, by Genting's Chairman Lim and Colin Au, president of Genting Hong Kong.

Mr. Gonzalez responded to questions sent by email. He indicated that COE should refer to the Mayor's Communications Office and Public Records staff at RER for copies of any photos of the Genting meetings provided to the Miami Herald. He said the \$30,000 in County funds were not from the General Fund but instead were considered "enterprise funds" and therefore properly classified. He referred any remaining questions to the budget documents for the trip.

With respect to the omission of any Genting references to the itineraries released to the public, he advised: "The draft agendas changed often. The Final agenda did include the actual meetings and/or encounters with Genting. Those are: Dinner Cruise and meeting with Hong Kong Tourist Board where Genting participated, but was not the topic of discussion."

He further stated, in response to the subsequent question, that, "I do not feel like there was any failure to disclose the meetings with Genting." He referred to his draft and "final" agendas as being supportive of this contention. He referenced photos released to COE, and interviews given to the Herald following the mission. He further mentioned that Sunshine Notices were prepared for meetings taking place during the trade mission. (Note: The investigation found that notices were prepared for the meetings in Mainland China and Japan, but not Hong Kong.)

Lastly, Mr. Gonzalez said he was not directed by the Mayor, Garcia-Toledo or anybody else to withhold information about the meetings with Genting in Hong Kong.

Finally, investigation determined that the statement that "no County funds were used to pay travel expenses for the Mayor and Commissioners is technically true. Their expenses were paid through the County run non-profit Trade Center of the Americas. Approximately \$30,000.00 came through the non-profit from three Miami-Dade County agencies, Aviation, the Port and Water and Sewer. However, these agencies are considered "enterprise agencies" and rely on user fees not General Fund dollars. Certainly, user fees paid to County enterprise entities are County funds, and the difference between user fee source funds and tax source funds may be a semantic difference without a distinction, however it would likely not violate the Truth in Government ordinance.

These findings were forward to Independent Ethics Advocate Michael P. Murwaski to be reviewed for possible violations of the Miami-Dade County ethics ordinance and the Miami-Dade County Citizens' Bill of Rights on May 7, 2020.



COE Investigator Karl Ross



Approved by:

Michael Murawski, Advocate



**MIAMI-DADE COMMISSION ON ETHICS & PUBLIC TRUST**

**CONCLUSION MEMORANDUM**

TO: FILE  
FROM: Michael P. Murawski, Advocate  
DATE: May 11, 2020  
CASE NO: PI 18-21(A) (China Trip)

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This inquiry was initiated to examine some seeming inconsistencies between information provided to the Miami Herald and others as a result of public record requests. The requests concerned a March 2018 business development mission to Asia that included stops in Hong Kong, Mainland China and Japan. The mission was organized by the Office of Economic Development & International Trade ("OEDIT"), headed by Manuel J. "Manny" Gonzalez, in coordination with the office of Mayor Carlos A. Gimenez and included several County Commissioners, County department heads and other County staff. A Hong Kong leg of the trip involved meetings related to a County transportation project, and planning involved a lobbyist with close personal ties to Mr. Gonzalez.

The investigation concerned a possible violations of Section 2-11.1(g) Exploitation of official position prohibited: No person included in the terms defined in subsection (b)(1) through (6) and (b)(13) shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners.

The Miami-Dade County Citizens' Bill of Rights states in applicable part, Section (A)(2), titled *Truth in Government*, that: "No County or municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public."

The investigation revealed the following:

(For details see Final Investigative Report)

## **Analysis and Conclusion:**

The public records requests made by reporters, Doug Hanks and Erika Carrillo, are broadly worded and request information regarding the Asia trip and the Mayor's schedule. Investigation reveals that at the time that the requests were received, County staffers were engaged in planning the Hong Kong leg (HKL) of the trip so that the Mayor could meet with Genting officials and at least one lobbyist to discuss what is commonly referred to as the Baylink project. OEDIT Director Gonzalez was actively working on the HKL and was interacting with other County staff in the Mayor's Office and with at least one of the involved lobbyists. Draft agendas had been created including the HKL. To state plainly, public records generated by this process existed at the time that public records requests were made.

It has been suggested that the "trade mission" to China and Japan and the HKL were distinct and had different purposes. Therefore, requests for information regarding the China trip or the trade mission did not create an obligation by the County to provide information regarding the HKL meetings attended by Genting officials, the County Mayor, County Commissioners, senior County Staff, and two lobbyists. This is accurate, the trade mission and the Genting meetings did have different purposes.

It is also true that the public records requests made by the two reporters were not drafted with specificity. The usual "any and all" and "to include drafts, written or electronic" language was not present in the requests. Perhaps if the request was for "any and all public records, in draft or final form, including electronic records, reflecting any and all meetings, tentative or firm, that will include the Mayor and any other persons, for the month of March 2018, to specifically include those occurring while the Mayor is traveling in Asia" then there would have been less cause for the County to leave out records relating to the HKL of the trip.

Mr. Gonzalez did, in fact, forward a draft itinerary to the Mayor's office which included a reference to a meeting with Genting. According to the Mayor's aide, Jeanette Vasquez, the itinerary changed on an hour to hour basis. The reporters made a public record request that did not include a request for any draft itineraries. However, the itinerary provided to the Herald did include the Mayor's "pre-mission" schedule in Hong Kong. Moreover, the evidence showed that the planning of meetings with Swire/ Cathay Pacific and the Hong Kong Tourism Council were on-going and fluid.

While the public record request documents given to the Herald and others did not specifically mention a meeting with Genting officials, there is insufficient evidence to satisfy the required "clear and convincing" standard of proof to show that the omission of that information was done knowingly.

Finally, investigation determined that the statement that "no County funds were used to pay travel expenses for the Mayor and Commissioners" is technically true. Their expenses were paid through the County run non-profit Trade Center of the Americas. Approximately \$30,000.00 came through the non-profit from three Miami-Dade County agencies, Aviation, the Port and Water and Sewer. However, these agencies are considered "enterprise agencies" and rely on user fees not General Fund dollars.

Funds received by the County through user fees, tax payments, or grants, or any other source are still County funds, Although there may be a semantic difference without a distinction, because



the County's response predicated on its characterization that user fees are not "County funds" it would likely not violate the Truth in Government ordinance.

The evidence gathered as a result of this inquiry is insufficient to level a charge of exploitation of official position or of knowingly denying access public records against any one of the individuals involved with this matter.

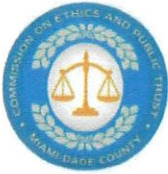
Approved by:

Date: May 19, 2020

*Jose J. Arrojo*

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Jose Arrojo, Executive Director



CASE CLOSED

Date: 5-19-20

**Miami-Dade Commission on Ethics & Public Trust**  
**Investigative Report**

Investigator: Karl Ross, Robert Steinback  
Case Name: China Phones  
Date Submitted: May 19, 2020

Case No.: PI 18-21B  
Date Opened: April 2018<sup>1</sup>

**Allegation(s)**

1. Whether the County took appropriate measures to preserve public records contained on temporary “burner” phones issued to members of a County trade delegation to Asia led by Miami-Dade Mayor Carlos Gimenez.
2. Whether a technician assigned to the Mayor’s Office, Jose Marticorena, may have misrepresented a material fact when he asserted that a particular phone used by OEDIT Director Manuel Gonzalez had been “wiped.” Marticorena made this representation to the Mayor’s staff and a Miami Herald reporter and based on his assertion, Gonzalez’s phone was not examined.

**Relevant Law**

The Miami-Dade County Citizens’ Bill of Rights states in applicable part, Section (A)(3), titled *Public Records*, that: “All audits, reports, minutes, documents and other public records of the County and the municipalities and their boards, agencies, departments and authorities shall be open for inspection at reasonable times and places convenient to the public.

**Investigation**

On or about April 25, 2018 it was publicly reported that County records consisting of text messages and photos stored on temporary phones may have been destroyed following an April 2, 2018, public records request for such information on the phone used by OEDIT Director Gonzalez.

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<sup>1</sup> The above-referenced case was originally opened in April 2018 but was later bifurcated into parts (A) and (B) and re-assigned to Investigator Ross on Feb. 26, 2020, with help from COE Investigator Steinback. Part (B) focuses on the handling of temporary “burner” cell phones issued to County officials participating in a March 2018 trade mission to Hong Kong, Mainland China, and Japan.

Documents/Exhibits:

The following is a summary of select email records culled from the public records as contained in the case file. For ease of review, they are listed in chronological order derived from date and time of email.

- April 2, 2018, (10:01 p.m.), Miami Herald Reporter Doug Hanks and made a public records request to Tere Florins, Communications Manager for Miami-Dade RER, relating to "any communication" -- including emails, text messages, or "WeChat" messages -- between OEDIT Director Manny Gonzalez and lobbyists Ralph Garcia-Toledo and Jesse Manzano-Plaza for the time period from March 1, 2018, through April 1, 2018. In addition to requesting any such communication using Gonzalez's temporary burner phone -- (305) 498-0642 -- Hanks also requested any emails to or from his private email account, [Mjmia19@yahoo.com](mailto:Mjmia19@yahoo.com) ... (Note: Hanks later clarified in an April 10 email to Florin that the request should extend to both Gonzalez's regular County email and his private Yahoo account.
- April 4, 2018, (11:22 a.m.), ITD's Jose Marticorena emailed Susan Hajjar, also of ITD, and instructed her to "Please kill the following numbers with AT&T and in Pinnacle:" ... These included the phones of 19 County staffers, elected officials, department heads and Mayor Gimenez (both his primary and backup burner phones) -- but not the phone assigned to OEDIT Director Manny Gonzalez, (305) 498-0642. Marticorena ended the email to Hajjar by saying: "I have not received all the devices yet. As soon as I do I will advise."
- April 11, 2018, (9:11 a.m.) email from Manuel Blanco, RER Financial Services Manager, to Andrew Mederos, Information Technology Specialist for ITD. The subject of this message was "Burner smartphones - RER International Trade." Tere Florin and Manny Gonzalez were copied on the email. In the email, Blanco stated: "I need to turn in the below loaner devices to you and then have these burner phones disconnected -- if possible. As you know they were taken on a trade mission to the Far East last month ..." He mentioned the pending "records request" for Gonzalez's phone, (305) 498-0642, and asked: "[C]an we have the devices de-activated without losing the capabilities of being able to provide the needed information to the media"? He reiterated that RER would like to disconnect the phones "since our department does not want to incur additional charges on these devices but if critical data is lost by doing so" to let RER know "before this happens."
- April 11, 2018, (11:19 a.m.) email from Andrew Mederos of ITD to Manuel Blanco of RER regarding Doug Hanks' April 2 public records request. He advised that he had been in touch with AT&T regarding the request for text messages from Manny Gonzalez's temporary phone, (305) 498-0642. He said AT&T indicated that Gonzalez's text messages could be retrieved but that AT&T would not have access to the "WeChat" messages, "as this is a third-party application developed by a Chinese company as a Chinese multi-purpose messaging application." Mederos also suggested changing all other temporary phones to a "flat-rate plan" so as to save money without destroying public records. (Note: RER had wanted to cancel the plans so as to

discontinue having to pay the monthly fees.)

- April 11, 2018, (3:03 p.m.), email from Tere Florin to Doug Hanks, advising that, based on a quote from ITD, it would cost \$25.29 to conduct a search of Gonzalez's County email account, while stating that no quote was available for the Yahoo account emails and phone records. She further advised that the County would have to request text messages on the phone from AT&T, and that no quote was available at the time.
- April 11, 2018, (4:23 p.m.), email from Manuel Blanco of RER to Andrew Mederos of ITD thanking him for his previous response, then asking: "My question basically is if we can have the three below devices disconnected. Also, I have the device for Demond Alufohai that was used in China."
- April 11, 2018, (5:19 p.m.), email from Mederos to Blanco advising him that, based on a recent correspondence from AT&T to the effect that "SMS content" – aka, text messages -- could not be retained "in the normal course of business," unless the customer has "AT&T Messages on their account" and can store that content "in the cloud." AT&T advised that a court order would be required by law enforcement to access this content. AT&T also stated voicemail records are not retained. In light of this, Mederos informed Blanco that: "Since there is nothing more we can do on the matter, I will go ahead and disconnect the three services." He then added, "If you have the physical devices from the China trip, you can send them to me at your earliest convenience, and I will see how they need to be handled."
- April 11, 2018, (6:46 p.m.), email from RER's Florin to Mederos stating: "I have a question - before the phone is handed over, it is possible for the requestor (Doug Hanks) to come to our office and look over the records contained in the phone itself?"
- April 12, 2018, (10:11 a.m.), email from Florin to Hanks, stating that AT&T responded to the request for text messages and advised that "they're unable to provide any data because they don't retain records in their system." She then suggested that: "So we think the solution is for you to come in and look at the phone itself. We will search the text messages for the terms you requested, and you can read through any results. We can do the same for "WeChat" as our ITD staff has no way of retrieving information from third-party apps." She advised, moreover, Gonzalez would be checking his own Yahoo email account "for the terms you requested," and that she would provide the results the next day. She then stated, "We have to give the phone to ITD soon, so are you able to come to my office tomorrow?"
- April 12, 2018, (12:42 p.m.), Hanks replied: "Sounds very reasonable. Tell me when tomorrow."
- April 12, 2018, (3:06 p.m.), ITD's Andrew Mederos advised Jose Marticorena, also of ITD and assigned to the Mayor's Office, about the Herald's public records request and stated that "RER has decided to open one of the phones tomorrow and look at text messages sent and received during the trip." He then asked if Marticorena thought it would be okay to turn the phone on to accommodate the request to examine its contents.

- April 12, 2018, (7:12 p.m.), email from ITD Director Petisco to Myriam Marquez of the Mayor's Office regarding the travel phones. "In accordance with the recommendations made by the [FBI] regarding cellular devices to be used in specific international locations, the equivalent of burner cellular phones were issued. On return, each device was cleansed to ensure that no Zero Day Vulnerability was contained."
- Marquez forwarded Petisco's April 12 email to Hanks at 8:13 p.m. She advised Hanks that, in her view, "His people should have told Tere this from the first day of the request. Since I started working for the County after this trip, I know no other details." Hanks responded at 9:40 p.m., asking: "Did the FBI recommendation (sic) wiping the records from the phones? And could I find out how many phones were wiped, when, and who ordered that."
- April 13, 2018, (6:06 a.m.), RER's Florin emails Manuel Blanco, also at RER, and advised him as follows: "I learned yesterday that the burner phone has no data or other information in it, so It can't be reviewed. Therefore, I have no need for it, so you don't have to bring it to SPCC. On my end you can proceed however you planned to."
- April 13, 2018, (6:15 a.m.), Blanco replied to Florin under the subject: "Re: Don't bring me the phone", and asks whether he can "have the device disconnected if there is no data?" He said he was headed downtown to the SPCC if she wished to discuss in person.
- April 13, 2018, (7:40 a.m.), Manny Blanco of RER sent an email to Manny Gonzalez, OEDIT director, stating: "Tere will not be needing your burner phone so that I will send it directly to ISD." He copied Tere Florin and Andrew Mederos on the email.
- April 13, 2018, (7:43 a.m.), Florin told Blanco in an email that she had no objection to the phone being disconnected.
- April 13, 2018, (8:33 a.m.), Mederos sent an email to Marticorena saying "Manny Blanco notified me he will be sending the phones to ISD. I will go ahead and disconnect the service for that last phone that had the records request."
- April 13, 2018, (10:21 a.m.), Hanks emails RER's Tere Florin and advises, among other things, that: "Florida law requires a written response to my April 2, 2018 request if certain records cannot be provided. The deletion of data from one of Mr. Gonzalez's phones would seem to trigger that. Could I get a formal response on that matter from the Department?" Hanks further advised that he felt the remainder of his request -- not involving Gonzalez's phone -- remained "active."
- April 13, 2018, (1:45 p.m.), Hanks expanded his records request for information pertaining to the handling and disposal of County temporary or "burner" phones used during the Far East trade mission, as well as "the most recent county policy or practice for deleting information on a disposable phone, as well as "any communication to or from Information Technology regarding the deleting of data from Manny Gonzalez's disposable phone; any log showing when data was deleted from temporary phones; emails between Tere Florin and IT staff relating to the April 2 public records request; "the name of the county employee who physically deleted the data from a phone issued

to Manny Gonzalez in March or April 2018; and, any written authorization to delete such data from the temporary phones.

- April 13, 2018, (3:14 p.m.), Marquez confirmed receipt of Hanks' latest request for records and noted that Tere Florin is "going over each (prior request) to see where there's overlap."
- April 24, 2018, (10:20 a.m.), Hanks emailed Myriam Marquez and Stephanie Severino of the Mayor's Office and asked additional questions about "significant gaps" in the public records such as the lack of "instructions to wipe from IT." He stated "I don't see who made the decision, or how all of these county employees even knew how to erase their phones ... Are there records that I'm missing? He further questioned why Manny Gonzalez delayed turning in his burner phone for 11 days after Hanks' initial records request on April 2. "I'm assuming he knew about my records request shortly after it was submitted. Why did he do that?" Lastly, he stated he requested "cellphone pics from Manny Gonzalez from the trip" and asked why he hadn't received any such photos in .jpg format, if at all.
- April 24, 2018, (11:26 a.m.), Hanks emailed Marquez in the Mayor's Office advising that commissioners Jose Diaz and Audrey Edmundson denied wiping the phones and said they turned the phones into ITD with the data intact. He then asked: "Is 'wiped by user' meant to mean something other than the user of the phone in China?" Marquez forwarded Hanks' email to Jose Marticorena at 12:55 p.m., and asked: "FYI can you clarify?"
- April 24, 2018, (1:12 p.m.), Marquez responded to Hanks by copying him on ITD Director Petisco's April 12 email about wiping the phones per FBI recommendation. She further advised, "Doug, we never said phones were wiped by users. The travel phones were handled by IT. See the response below (Petisco email) that I sent you on 4/12 from the head of IT. That department (IT) collected the phones to wipe per FBI recommendation." She further noted that IT should have informed Tere Florin that the phones had been wiped.
- April 25, 2018, (12:23 p.m.), Marquez emailed Aviation Director Lester Sola, (formerly ISD director) noting that she clarified the issue of the burner phones with Hanks the day before, and added that "IT is correcting the list today so that it is more specific as to the wipe and doesn't appear as if travelers wiped their phones when it was IT that did that after they returned for security reasons."
- April 25, 2018, (1:42 p.m.), Hanks sent Marquez an additional records request for "two sets of digital photos taken on temporary county phones during the Asia trade mission" -- photos taken by Deputy Mayor Ed Marquez and those taken by OEDIT Director Gonzalez. Hanks noted that Marquez turned in his temporary phone on April 4, 2018, with the notation "PHOTOS AIR DROPPED." Hanks advised that Gonzalez told him the day before in an interview that he uploaded the photos before turning in his phone, "when it was deleted."
- April 25, 2018, (8:21 p.m.), Hanks replied to Marquez: "Thank you ... I really

appreciate you closing the loop on this."

- April 27, 2018, (3:24 p.m.), Hanks sent a further public records request to Severino and Marquez of the Mayor's Office for, among other things, 1.) communications from the FBI regarding how to handle the temporary phones "after a trip" and any instruction to wipe those phones; 2.) emails between ITD Director Petisco and Jose Marticorena about wiping the China trip phones and in particular that of OEDIT Director Gonzalez; 3.) emails between Petisco and OEDIT Director Gonzalez; 4.) emails between Marticorena and Director Gonzalez; and, 5.) "any document created, sent or received by Mr. Petisco or Mr. Marticorena that addresses deletion of data on portable phones issued for the 2018 trade mission to Asia." He requested the response be expedited and all items delivered by May 11.
- May 1, 2018, (12:36 p.m.), Marquez responded to Hanks' April 13 request for records/information and advises: 1.) No written instructions for employees regarding the handling of their temporary phones, 2.) No written policy regarding same, 3.) still looking for "anything in writing" regarding the deletion of data from Gonzalez's temporary phone; 4.) Updating "log we gave you as to who deleted info -- various phones handled by different departments, 5.) providing a CD with Florin/IT emails responsive to item #3 above. She reiterated that while there was no written policy or instruction as to the handlings of temporary phones used for overseas travel, "Mayor Gimenez has asked staff to prepare a policy to ensure public information is saved on travel phones."
- Jan. 31, 2019, (10:19 a.m.), email from Jose Marticorena to OEDIT Director Gonzalez and staffer Elizabeth Moss regarding a link to "photos and video -- China trip 2018." He noted, "Please copy the photos from here and save them on your computer" He further advised that the link would become inactive the following day at 5 p.m.

#### Summary of Witness Interviews:

The following are abbreviated summaries of select witness interview. More detailed summaries are contained in the investigative file in this case.

ITD Director Angel Petisco  
January 25, 2019 & February 1, 2019

- Interview, in pertinent part, indicates ITD staff "wiped" all phones used during the 2018 trade mission to China with the possible exception of the phone used by OEDIT Director Gonzalez. Petisco said, "With everybody else (other than Gonzalez) it was very clear who did what." He further noted that Gonzalez's position that he didn't wipe his phone was "inconsistent" with what he was told by ITD's Jose Marticorena, who indicated the phone had been wiped at the time he retrieved it from RER.
- He said the existence of any text messages would be discernable from activity logs on the phone, but that there would be no record of the messages themselves. "If it was wiped, they're gone ... He wiped it, didn't wipe it ..."



- Petisco stated in pertinent part during this interview that he based any representations he made to the Mayor's Office/ Miami Herald on information he received from his staff (see April 12, 2018, email). He said he now believes he may have received conflicting or questionable information from his staff, in particular from Jose Marticorena, regarding the status of Gonzalez's phone.
- Petisco said he now believes Marticorena's statements about the handling of the phones "doesn't hold water" insomuch as he didn't have possession of the phones at the time he intervened with the Mayor's communications staff about the phones allegedly being wiped as of April 12, the day before the planned examination of the phone by reporter, Doug Hanks.
- He acknowledged the inherent contradiction between the positions held by OEDIT Director Gonzalez and ITD technician Marticorena with respect to the wiping of the phones. "There's only two people here, Marticorena and Manny ... You'd have to put them under a lie detector test, I guess."

Chief of Information Security Lars Schmekel  
January 29, 2019

- During the interview, Schmekel advised, in pertinent part, that he participated in the pre-mission meeting with FBI agents at the Mayor's Office along with Jose Marticorena. He said that, based on this briefing, it was decided that the County would issue temporary phones to officials participating in the upcoming trade mission and the phones would be "sanitized" after the trip.
- Mr. Schmekel advised that while he helped set policy at the front-end of the trip, the phones were handled by Marticorena after the trip and that Marticorena was tasked with restoring the phones to factory settings or "wiping" them following the trip. He acknowledged the log prepared by Marticorena created confusion as to who actually wiped the phones. He said that he did not think that any inadvertent destruction of public records was done "through malicious intent or intent to obfuscate or hide what was being done." He noted that this was the first time the County had been put in the position of having to protect against such intrusions from foreign actors.
- Schmekel also noted that "you don't have to wipe the phone to delete text messages." He said that it might be possible, with the help of "third-party forensic software" to retrieve any deleted messages, but added: "I don't believe there were any nefarious attempts to hide anything or purposely delete public records ..."
- He noted that new guidelines for handling such phones have since been issued by ITD Director Petisco, and that: "Moving forward, we're going to make sure any public records, in the future, are handled appropriately."



RER Communications Manager Tere Florin

January 28, 2019

- She was working temporarily in the Mayor's communications office because the office was short-handed prior to the arrival of Myriam Marquez, the new director.
- She advised that she fielded Hanks' initial records request on April 2, and that after learning from ITD that text messages could not be retrieved through AT&T, she suggested to Hanks on April 12 that he come to her office the following day to review Gonzalez's phone in person so that he could be privy to any responsive items.
- She said that later that afternoon, she was contacted by Jose Marticorena, the ITD staff member assigned to the Mayor's office, and that he advised her that Gonzalez's phone had already been "wiped" and that there was no reason for Hanks to come in the following day. She said she acted on this representation to cancel the inspection.
- Florin indicated that she discussed this with Communications Director Myriam Marquez and that they called Hanks to advise him of the situation, and that during that call Marticorena reiterated his prior statement that Gonzalez's phone had been wiped. She said that she effectively turned over Hanks' request to Marquez at that point, since she had only been assisting the Mayor's Office on a temporary basis.

ITD Senior Telecom Technician Jose Marticorena (Assigned to the Mayor's Office) <sup>2</sup>

January 24, 2019

- He said he met or spoke with Gonzalez on multiple occasions after the China trip to help Gonzalez with saving "notes" or photographs he took during the trip. He said he did not ask Gonzalez to turn in his phone at those times because Gonzalez was expected to turn in his phone to Manuel Blanco at RER since it was Blanco who issued the phone to Gonzalez and other RER employees who participated in the trade mission.
- He advised that, Gonzalez told him, he took a personal phone on the trade missions, as well, and that Gonzalez told him he felt that it was "safe" to do so because he changed the "sim chip," and added that: "I explained to him that this wasn't necessarily correct." He said he learned that Gonzalez had done so after the trip and agreed it was contrary to what the FBI agents had recommended to County staff prior to the trip.
- Marticorena stated he went to pick up Gonzalez's phone from Blanco after receiving an email from Andrew Mederos that the phone was available. He said he took a train from Government Center to the Overtown Transit Village Station to retrieve the phone himself. He said he never attempted to turn the phone on and did not wipe it.

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<sup>2</sup> On or about March 15, 2019, Marticorena delivered all the phones to the COE office and powered up each device. The phone Gonzalez used in China had been re-set to factory settings, meaning it had been wiped.

- He maintained that: “When I received the phone, it was already wiped.” He said that he assumed this to be the case because the phone had been turned off.
- Marticorena stated that he did not know who provided the log about the China phones to the Miami Herald prior to the publication of the April 25, 2018, article.
- Marticorena affirmed that he only wiped two phones issued to participants in the March 2018 trade mission to Asia – the phones assigned to Deputy Mayor Ed Marquez and to then Aviation Director Lester Sola.
- He said he had no first-hand information about the alleged wiping of Gonzalez’s phone and that the “spreadsheet” he prepared suggesting this to be the case was only a draft document. He described the notation “wiped by user” as being only “the status before verification.” He said he did not intend for that document to be released.
- Marticorena further advised he could not recall whether FBI agents advised the County to wipe or sanitize phones used during the China trip or any direction to that effect.

Mayoral Communications Director Myriam Marquez  
 January 28, 2019 ]

- Marquez was just starting with the County at the time the public records request for phone records was made and she said she didn’t really focus on Hanks records request until April 12 when the Hanks’ meeting was called off as a result of Marticorena’s assertion that Gonzalez’s temporary phone was wiped.
- She said she called Hanks to advise him the phone had been wiped and noted that Hanks was “upset.” She said she learned of this from Tere Florin.
- She said she called Hanks from Marticorena’s office on the 29<sup>th</sup> floor. “At that point, he’s saying that the phone’s been wiped. That it’s been wiped clean.” She said she put Marticorena on the phone with Hanks to explain how and why this happened.
- She made it clear she canceled the April 13 meeting with Hanks based on Marticorena’s representation: “Because they told us the phone had been wiped.”
- She characterized this situation as a “mistake” and added; “The County screwed up.” She said she has since sought guidance from the County Attorney’s Office about how to handle temporary “burner” phones used for overseas travel so that public records are not destroyed. She said she was provided with technical instructions to this end.
- She said she later asked Hanks to reconcile his various public records requests regarding the China trip because she felt there was some overlap, but Hanks advised her that by that time, he had “moved on” to other topics and was no longer interested.”

RER Financial Service Manager Manuel Blanco  
On or about January 25, 2019

- After the trip, other RER employees returned their temporary phones to him promptly but that Gonzalez “took some time in getting the phone back to me because, I think he said he took some pictures ...”
- Blanco stated that, once the phone was in his possession, he intended to turn it into the Communications Office so it could be reviewed by a reporter. He said he was advised that the Herald got what it needed so he instead turned the device over to ITD.
- Blanco stated that, upon learning about the Miami Herald records request, he was “trying to take charge” so that he could collect all phones held by RER staff and provide them to RER’s communications person (Florin), but added that Gonzalez didn’t turn in his phone until about a week after other RER staffers had turned theirs in.
- Blanco said that once he got the phone from Gonzalez, he sent his and the others to Andrew Mederos at ITD by courier. (Note: This conflicts somewhat with Marticorena’s account that he personally picked them up at RER’s offices at Transit Village.)
- Blanco said he recalled OEDIT Director Manny Gonzalez telling him on several occasions that he could provide Blanco with the password for his temporary phone if he needed it. He said he told Gonzalez he had no interest in any such password.

OEDIT Director Manuel Gonzalez  
January 25, 2019

- Gonzalez acknowledged that after the China trip, “it [the phone] sits there (in my office) for a week or more.” He said that after “dropping” some photographs of the trip, he turned the device into Manny Blanco of RER.
- Gonzalez denied having “wiped” the phone prior to turning it into Blanco, stating he would have needed a special password to do so. “I did not delete the phone. I didn’t wipe the phone.”
- Gonzalez stated that he did wipe or restore to “back to factory defaults” or settings a personal phone he took on the trip so that he could Facetime with his wife.

Witness Follow-up Questions & Responses:

ITD Director Petisco  
April 2020

Investigator Ross sent an email to ITD Director Petisco asking for, among other things, an answer to the following: “Is a special code or password needed by a user to “wipe” a phone or restore it to factory settings? Manny Gonzalez stated several times in his interview that he could not have

"wiped" his loaner phone because to do so would have required a special password that only ITD would possess. Is this true? ... p.s., Is "wiping" a phone the same thing as restoring it to factory settings? I want to make sure I don't get lost in semantics."

Investigator Ross sent a follow-up email to Petisco, requesting a response to the April 1 email, and further stating: "I have an additional request for a copy of any "policy" or revised protocol created as a result of the 2018 trade mission in order to preserve data on temporary phones and avoid the inadvertent destruction of public records? I believe the Mayor's Office indicated such a policy was created post mission."

Director Petisco replied to COE and advised via email as follows: "The devices given to the travelers did not have any special code required to wipe the device. Wiping a phone is similar to not exactly like resetting to factory settings."

Communications Director Marquez  
April 2020

Investigator Ross sent an email request to Communications Director Myriam Marquez regarding the origin of the screen shot of a spreadsheet or table published in the Miami Herald on April 25, 2018, regarding the "wiping" of the temporary phones used during the trade mission. She replied as follows: "... I do recall that screenshot containing names and cell phones that had been returned. I sent it to Doug Hanks. I think this was while I was on the phone with Doug and had walked over from my office to our IT person (Jose Marticorena) who had either called up the list on his computer screen (or had a paper doc) when I asked him about what phones had been returned."

Marquez added: "I had Doug on speaker so he could speak with Jose directly. In fact, Jose was quoted in that story. Details, as you can imagine, are fuzzy at this point. But you should all have that information from the interviews COE conducted in 2018. I also shared that list with various other reporters who requested it. Don't recall names, but there were many."

Note: This suggests that the document shown below was a screen shot and that Marquez likely photographed the image while trying to respond to a media request. (This is consistent with Marticorena's contention that the document was not completed at the time it was provided to the media and that some of the information was inaccurate as a result.)

User	Date Returned	Status
Almeida-Pardillo, Indira	04/05/2018	WIPED BY USER
Alufohai, Desmond	04/13/2018	PHONE NOT TURNED ON - TRAVELED
Bravo, Alice	04/05/2018	WIPED BY USER
Diaz, Jose "Pepe"	04/05/2018	WIPED BY USER
Dominique, Nancy	04/04/2018	WIPED BY USER
Edmonson, Audrey M.	04/10/2018	WIPED BY USER
Gonzalez, Manuel	04/13/2018	WIPED BY USER
Henderson, Demetria	04/04/2018	WIPED BY USER
Hernandez, Paul	04/16/2018	WIPED BY USER
Jordan, Barbara	04/04/2018	WIPED BY USER
Kuryla, Juan	03/29/2018	WAS NOT USED
Lighterman, Sandy	04/13/2018	NOT WIPED - ITUNES
Lynskey, Kevin	03/29/2018	WAS NOT USED
Marquez, Edward	04/04/2018	PHOTOS AIR DROPPED AND WIPED
Monestime, Jean	04/11/2018	WIPED BY USER
Moss, Elizabeth	04/13/2018	NOT WIPED - ITUNES
Olafson, Eric	04/04/2018	WAS NOT USED
Simeon, Nimrod	04/10/2018	WIPED BY USER
Sola, Lester	04/02/2018	WIPED BY USER
Verdaguer, Laura	04/05/2018	WIPED BY USER

ITD Telecom Technician Marticorena  
April & May 2020

Investigator Ross contacted Jose Marticorena via his County email and asked him to review the summary of his prior interview and to respond to additional questions. He affirmed that he never had any direct knowledge that Gonzalez's temporary phone had been "wiped" after the trip. He further affirmed he only assumed this to be the case because, once in his possession, he observed that it had been turned off.

He was asked if he relied on the spreadsheet published by the Herald regarding the status of the temporary phones showing 13 of the phones had been "wiped by user," and, if so, Why? He responded: "This spreadsheet was created by me as a way to track for myself when phones started being returned. When I created it, I simply started copying and pasting in an effort to fill it out and correct it as phones came in, but in no way was it meant to be distributed as it was ONLY a note taking mechanism for myself at that point."

When asked why he intervened with the Mayor's communications staff to tell them the phones had been wiped and there was no point having Doug Hanks examine the device if he had no reliable information to that effect? He responded: "My recommendation was for them to wait because there had been several public records requests received by the county relating to the same and Myriam Marquez had just joined the county a few days prior as the communications department transitioned almost entirely during that time. Giving her the opportunity of ensuring that all public records requests were being fulfilled and documented properly."

Asked if it was accurate that he did not possess Gonzalez's travel phone at the time he intervened with Communications staff on April 12, he acknowledged that this was correct and that he did not actually take possession of the phone until the following day. "I went to OTV on April 13 and collected a box (which I opened in front of Manny Blanco to verify that I was receiving and signed for) that contained 4 phones – Desmond Alufohai, Elizabeth Moss, Sandy Lighterman, and Manny Gonzalez."

Marticorena additionally advised by email on May 4, 2020: "I do not recall telling anyone specifically that Mr. Gonzalez's phone had been wiped." "I may have made a statement in general with regards to those I knew had been wiped." "But as I have stated before, I don't know why, who, or how Mr. Gonzalez's phone was wiped." "I wish I had more information to give you."

#### Subpoenaed Phone Records Analysis:

Investigator Ross consulted with ITD Division Director Kawal Kaimchan regarding the interpretation of subpoenaed AT&T telephone logs.

Kaimchan advised that, based on his review of the subpoena return items, it did not appear possible to determine if or when Gonzalez's burner phone was wiped or restored to factory settings. He opined that the phone seemed to be in regular communication with the nearest cell tower, but that this changed on April 10. He said it appears the phone was "shut off completely" at this time.

Kaimchan said this could have either been done manually by the user or could have resulted from battery failure. "It could have been that the phone died," he said. "There's no type of reporting or data transfer." He said it further appears that the phone was re-activated briefly on April 13 before service was disconnected. He said this was his best assessment.

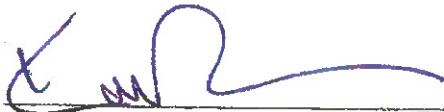
#### Policy & Practice Changes

ITD Director Petisco, in notice dated Aug. 29, 2018, advised all County department heads that new guidelines had been adopted regarding the use of County devices used during travel to countries regarding as "elevated risk" for cyber attacks, along with a copy of a revised Administrative Order signed by Mayor Gimenez – Administrative Order 5-5.

This updated AO, dated May 18, 2018, states, in applicable part, that:

- Upon return (from overseas travel), the temporary device must be immediately returned to ITD
- ITD will ensure that temporary devices are examined, all data subject to Chapter 119 of the Florida Statutes will be extracted, and the device reset to factory defaults.





Karl Ross, COE Investigator

Approved by:



Michael Murawski, Advocate



**MIAMI-DADE COMMISSION ON ETHICS & PUBLIC TRUST**  
**CONCLUSION MEMORANDUM**

TO: FILE  
FROM: Michael P. Murawski, Advocate  
DATE: May 4, 2020  
CASE NO: PI 18-21(B) Chinese Burner Phones

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This inquiry was initiated after public reporting on April 25, 2018 raised questions about whether public records, in the form of text messages and photos stored on temporary “burner phones”, were destroyed following an April 2, 2018, public records request for such information.<sup>1</sup>

The records requested pertained to a March 2018 trade mission to Hong Kong, Mainland China, and Japan that was attended by the Mayor of Miami-Dade County, as well as several County Commissioners, Department Directors and their staff. The records request specifically focused on communications between OEDIT Director Manny Gonzalez and two county lobbyists that attended the trade mission.

The investigation was originally assigned to COE investigator F. McGee, after Mr. McGee separated from County employment, the case was reassigned to investigators Ross and Steinback.

The investigation concerned a possible violation of the public records section of the Charter’s Citizens’ Bill of Rights Section (A)(3), and the County Ethics Code, Section 2-11.1 (g), relating to exploitation of official position.

Public Records. All audits, reports, minutes, documents and other public records of the County and the municipalities and their boards, agencies, departments and authorities shall be open for inspection and copying, consistent with the requirements of the State of Florida’s public records laws, at reasonable times and places convenient to the public.

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<sup>1</sup> The term “burner phones” is used to describe cellular telephones provided by the County to officials and staff for use on the trade mission. The phones were intended to be used on during international travel and then returned upon completion of the trip.



Section 2-11.1(g), Exploitation of official position prohibited. No person included in the terms defined in subsection (b)(1) through (6) and (b)(13) shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners.

The investigation revealed the following:

(For details see Final Investigative Report)

Analysis and Conclusion:

This portion of the inquiry focused particularly on what appears to have been a statement, allegedly made by ITD Senior technician Jose Marticorena to the effect that the “burner phone” assigned to OEDIT Director Manuel Gonzalez had been “wiped” of any information it may have had during the China trip by persons other than ITD staff. Also, considered in this portion of the investigation is whether the County took appropriate measures to preserve public records relating to the trip.

The public record request from the Herald was received on April 2, 2018.

On April 12, 2018, a Herald reporter was advised that he could come to the County building and review whatever was on the “burner phone” assigned to Manuel Gonzalez. Allegedly, Mr. Marticorena advised the Mayor’s office to cancel the inspection by the Herald reporter because records contained in Gonzalez’s phone had already been deleted from that phone.

However, investigation seemed to indicate that Mr. Marticorena did not receive the phone from Mr. Gonzalez until April 13, 2018, a day after he allegedly advised the Mayor’s office that Gonzalez’s phone had been wiped.

Mr. Marticorena advised the COE that he “did not recall telling anyone specifically that Mr. Gonzalez’s phone had been wiped.” He asserted that he “may have made a statement in general with regards to those I knew had been wiped...as I have stated before, I don’t know why, who or how Mr. Gonzalez’s phone was wiped.”

Mr. Marticorena’s statement denying that he told anyone that Gonzalez’s phone had been wiped is contradicted by statements provided by: 1) RER Communications Manager Tere Florin (She advised that Marticorena told her on April 12, 2018 that Gonzalez’s phone had been wiped and there was no need for the Herald reporter to come in); 2) Mayor’s Communications Director Myriam Marquez (She advised that Marticorena told her on April 12, 2018 that Gonzalez’s phone had been wiped and then put him on the phone with the Herald reporter to explain how this happened); and 3) OEDIT Director Manny Gonzalez (He advised that he turned the phone over to RER Service Manager Manuel Blanco and that he had never wiped the phone).

Mr. Marticorena’s Department Director, in his statement to the COE advised that he may have received conflicting or questionable information from his staff, in particular from Marticorena as regards Gonzalez’s phone. He further characterized Marticorena’s explanation as “not hold[ing]

water” since at the time he intervened with the Mayor’s staff he was not yet in possession of the burner phones.

The greater weight of the evidence suggests that Mr. Marticorena communicated at best inaccurate and at worst, false information to the Mayor’s office and other County personnel regarding Gonzalez’s phone and whether public records on the phone were available in early April 2018 while a request for the records was active and pending.

However, based upon investigation, including a review of AT&T records, it is not possible to determine when the phone was wiped or if it had indeed been wiped before or after the records request.

As to whether the County took appropriate measures to preserve public records relating to the trip, what seems clear is that this was apparently the first time County ITD staff had been put in the position of having to protect against possible electronic viral intrusions of cell phones by foreign actors. Inexplicably, considering that this foreign trade mission included the County Mayor, the Chair of the County Commission, other Commissioners and very senior County staff, appropriate protocols for the collection of the phones after the trip by ITD staff, and the downloading and retention of public records from cell phones used in the foreign travel were clearly not in place. This caused public records to be inadvertently deleted, in one instance, even while a public records request was active and pending. Specifically, some records on OEDIT Director Manny Gonzalez’s telephone may be been deleted while there was an outstanding public records request by the Miami Herald. <sup>2</sup>

While there was cross communication between departments, misunderstandings and less than competent performance by some individuals, coupled with Mr. Marticorena’s less than accurate statements, the available evidence is insufficient to conclude, by a clear and convincing evidence standard, that any one person committed a violation of the Conflict of Interest and Code of Ethics ordinance or the Citizens’ Bill of Rights. Accordingly, it is recommended that this matter be closed with no further action.

This memorandum and the investigative report in this matter will be forwarded to County supervisory staff so that they may consider whether administrative disciplinary review is merited.

Approved by:

*Jose J. Arrojo*

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Jose Arrojo, Executive Director

Date: May 18, 2020

<sup>2</sup> After the origination of this inquiry, the County established written procedures for the handling of “burner phones” used in travel by County staff including directions on the access and retention of public records that may be contained in the phones.