

**OFFICE OF THE INDEPENDENT ADVOCATE
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
REPORT OF INVESTIGATION**

#K11-022

Date Opened: 02/09/11

Date Closed: 03/14/11

Investigator: Sylvia Batista

On February 8, 2011, the COE received information regarding a possible violation surrounding a City sponsored trip to Switzerland taken by Miami Beach City Manager Jorge Gonzalez and his family.

The COE's issue relates to violations of the Conflict of Interest and Code of Ethics Ordinance Section 2-11.1(e)(4) *Gifts Disclosure*.

Investigation:

2/24/11 – City Manager Jorge Gonzalez –

This investigator interviewed Mr. Gonzalez who provided the following information:

Mr. Gonzalez advised that he was under the impression that the COE had previously looked into this matter. Mr. Gonzalez commented that he was surprised at the inquiry since the trips to Switzerland by City officials have been taking place for several years since the start of Art Basel.

Mr. Gonzalez explained that Art Basel is implemented by the Swiss parent company, Messeschweiz, which owns the convention center in Basel, Switzerland, and partners with Comcast. Gonzalez further explained that Comcast runs Global Spectrum which manages the Miami Beach Convention Center with Messeschweiz.

Mr. Gonzalez advised that Art Basel was first negotiated 10 years ago and has since been a major attraction for the City of Miami Beach. Mr. Gonzalez explained that Art Basel has been held in Miami Beach every December since 2002 although it was planned for 2001, but postponed due to 9/11.

Mr. Gonzalez advised that Swiss Art Basel is exhibited in June of each year in Basel, Switzerland, which is a sister city of the City of Miami Beach. Mr. Gonzalez explained that since the start of Art Basel in Miami Beach, a delegation of at least two City of Miami Beach officials, their spouses, and sometimes staff members travel to Switzerland to attend Swiss Art Basel and related events. Mr. Gonzalez advised that the City covers airfare and accommodations expenses for officials and their spouses only. Airfare for staff member's spouses is not paid for by the City. Mr. Gonzalez added that meals are usually funded through an event, but otherwise paid for by the individuals.

Mr. Gonzalez advised that the trip to Switzerland for Swiss Art Basel is for one week and is very demanding. The City has a booth at the convention center where Swiss Art Basel is held which must be attended by City of Miami Beach officials for the duration of the show. There are also a number of events that must be attended by the delegation. Mr. Gonzalez said that he has taken the trip almost every year since the start of Art Basel in Miami Beach, and has brought his spouse and children along. Mr. Gonzalez pays for his children's airfare which can cost up to \$1,200 per child. Mr. Gonzalez explained that while in Switzerland different local government entities host a lunch and invite all members of the delegation and local business owners from Basel. Mr. Gonzalez further explained that when the

delegation from Switzerland comes to Miami Beach in December, the City does the same for them.

Mr. Gonzalez advised that the City requested an ethics opinion from the State Ethics Commission on the issue of whether the companion's airfare must be reported as a gift. Pursuant to Mr. Gonzalez, the State Ethics Commission opined that spouse airfare must be reported as a gift by the City official or employee in question. Mr. Gonzalez contacted City Attorney Jose Smith and requested that he provide the COE with a copy of the subject ethics opinion.

Mr. Gonzalez stated that he has reported his spouse's airfare in his quarterly gift disclosures. However, it was subsequently discovered that as of the date of this interview Mr. Gonzalez had not filed the quarterly gift disclosures reporting his spouse's airfare paid for by the City in June 2007, June 2009, and June 2010. Mr. Gonzalez has since corrected this error by filing the three gift disclosures for his spouse's airfares on March 11, 2011.

Public Record Request -

The COE received a copy of the State's ethics opinion stating that the City's payment of companion travel for City officials traveling on City business is an "indirect and reportable gift to City officials on their quarterly gift disclosure form."

The COE inquired by e-mail to Mr. Gonzalez as to the legislative action taken by the City Commission to approve the City's payment of companion's travel expenses for officials traveling on City business. This investigator was advised by City Attorney, Jose Smith, that there was no formal City Commission resolution

approving the practice. Mr. Smith added that payment of companion's travel expenses has been a well established City custom and practice since the conception of the relationship with the Art Basel Show in 1999. Mr. Smith explained that this custom and practice was recognized and accepted by the State Ethics Commission, which set forth the great public purpose served by the event. Mr. Smith advised that every elected official since 1999 has publicly endorsed the practice and has attended the annual event in Switzerland.

Conclusion:

This investigation found evidence that Mr. Gonzalez failed to comply with the gift disclosure requirement as set forth in the Conflict of Interest and Code of Ethics Ordinance Sec. 2-11.1(e)(4) *Gifts Disclosures* . Mr. Gonzalez also failed to comply with the State ethics opinion rendered on 12/6/06 which concluded that the City's payment of companion travel for City officials is an indirect gift which must be reported on the official's quarterly gift disclosure form.
