



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Robert Steinback

**CASE
CLOSED**

Case No.: K14-055	Case Name: Daniel Fernandez	Date Open:	
Complainant(s): Vania Roman	Subject(s): Daniel Fernandez	June 18, 2014	Date: <u>9/18/14</u>

Allegation(s):

Complainant Vania Roman (Roman) alleged that subject Daniel Fernandez (Fernandez), a firefighter with Miami-Dade Fire Rescue (MDFR), abused his status as a firefighter by failing to promptly correct a defective electrical panel at a home that he owns and leases to the complainant, which defect created a fire hazard and city code compliance violation.

Fernandez is further alleged to be an active principal in at least seven (7) corporations engaged in the business of owning, operating and renting multi-unit dwellings around South Florida comprising eighty-two (82) individual rental residences, without having filed the required outside employment or financial disclosure forms.

Relevant Ordinances:

Miami-Dade Conflict of Interest and Code of Ethics Ordinance:

Sec. 2-11.1 (g), "*Prohibition on exploitation of official position*, No person [covered by this section] 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."

Sec. 2-11.1(k)(2), "*Prohibition on outside employment by County personnel and disclosure requirements*: All full-time County and municipal employees engaged in any outside employment for any person, firm, corporation or entity other than Miami-Dade County, or the respective municipality, [...] shall file, under oath, an annual report indicating the source of the

outside employment, the nature of the work being done pursuant to same and any amount of types of money or other consideration receiving by the employee from said outside employment.”

Investigation:

Interviews

Vania Roman (Roman), by telephone June 16, 2014.

Summary of interview

Roman called the office of the Miami-Dade County Commission on Ethics and Public Trust (COE) unsolicited, and her call was directed to this investigator. She was inquiring about whether her landlord, who is a Miami-Dade County firefighter, might be guilty of an ethics violation because she said he had failed to correct a fire code violation at the house she has rented from him at 7450 Twin Sabal Drive in Miami Lakes, for two years. She said she had contacted the city’s Code Enforcement office, which had cited the house’s electrical panel as defective.

The investigator told her that there was nothing in the code that specifically requires fire fighters, distinct from any other county employee, to maintain rental properties up to fire code, and that she had taken the proper action by contacting city code enforcement. During the course of the conversation, Roman also pointed out that through her own research, she had discovered that Fernandez and his wife, Deborah Curbelo (Curbelo), were claiming a homestead exemption at the property, even though neither had lived there during the two years of her renting the property. The investigator told her that the COE would not have jurisdiction over that matter, and directed her to the county Property Appraiser’s Office. Subsequently, the investigator confirmed that according to county records, Fernandez and Curbelo were claiming the homestead exemption on the property Roman says she has inhabited for two years.

Also during the conversation, Roman revealed that the subject and his father, Raul Fernandez (R. Fernandez), are owners of several companies which own and operate multiple-unit apartments throughout South Florida. She said that each property was under a different corporate name, and claimed that those companies regularly conducted remodeling without a permit. Roman told the investigator, “He said that he only got caught once,” and that he paid a fine on that occasion.

Investigator spoke with Roman again on July 1, 2014. Roman reiterated that through conversations with her landlord Fernandez, her understanding from Fernandez was that “when [Fernandez] doesn’t work at the fire department, he’s at the various properties ... when we’ve called him for repairs at my house, he says, ‘I’m busy, I’m at the properties.’” She said his excuse [for not attending to her problems] was that he was working at the properties. She said he was ‘very forthcoming.’ “He’s very handy ... he does all of the repairs himself.”

Roman said that one of the repairs he was working on, “he got cited for not having a permit.”

Roman said the problem at her property was a faulty electrical panel which had been “going on for a week.”

Daniel Fernandez, by telephone, June 30, 2014.

Summary of interview:

Investigator sent an e-mail to Fernandez this same date requesting an interview. Fernandez responded with a telephone call.

Fernandez stated that he didn't make any money off the property investments; he described himself as solely an investor. He said his father ran the companies, and that any profit generated by the properties was reinvested either in the same or other properties. “My dad runs all of the properties and takes care of all the business. He takes all of the money and puts it back.” He said his only anticipated gain will come should the properties ever be sold.

Fernandez said he wasn't aware that he had to ask for permission to engage in outside employment or that he had to file an outside employment statement since he took no income from his investments.

Rene L. Diaz (Diaz), Chief of Unsafe Structures, and **Maurice Pons** (Pons), his supervisor, for the City of Miami Building Department Unsafe Section, at their City of Miami offices in the Riverside building, Wednesday, July 2, 2014.

Summary of interview:

Investigator contacted Diaz to request any information on any building or construction permits, or permit violations, issued during the previous 12 months on two of subject's corporately owned properties in Miami: 1879 NW 23rd St., and 153 NW 29th St. Diaz recommended investigator visit his office, which was done the same evening. Diaz brought the investigator to the office of Pons, where all three discussed the matter at hand.

Pons located a notice of violation issued on the 153 NW 29th St. property (the Fernandezes own that property under the name of DJ Opportunities Inc., with Fernandez as registered agent and president.) Diaz reported that Fernandez had come into his office earlier in the same day to secure a permit after the fact for the previously unpermitted work that had been done at the property.

Tenant interviews:

Andre Lewis (Lewis) – Investigator spoke to Lewis on Thursday, July 3, 2014. He lives in Apartment 8 at 153 NW 29th St., the Star Studio Apartments.

Lewis said that he has lived at the apartment for several years, and generally considers maintenance there adequate. He said that when there are problems, he usually calls R. Fernandez, but that on occasion, Fernandez, whom he referred to as the firefighter, sometimes comes out and does whatever work needs to be done.

Ramon Almonte (Almonte) – investigator spoke to Almonte on Thursday, July 3, 2014. He lives in Apartment 1 at 1879 NW 23rd St., and was described by two other residents as the “manager.”

Almonte said Fernandez does come out sometimes to take care of maintenance or similar issues. He said another man named Tony, who he believes was Fernandez’ brother-in-law, comes out to do work. Almonte said that usually his first call for assistance is to R. Fernandez, but that he can also call Fernandez.

Almonte said he has lived in the apartment for more than 20 years – the investigator recalls he said 26 years – and has lived there through at least three ownership changes. He also said that R. Fernandez once owned the property, sold it, and then bought it a second time.

Marcus Temple (Temple) – investigator spoke to Temple on Monday, July 7, 2014. He lives in Apartment #10 at 216 N. 61st Ave. in Hollywood.

Temple said that he has lived in that apartment for 7-8 years, since before the Fernandezes took over about 5 to 6 years ago. He said that before they bought the place, “it was a dump,” but they came in and remodeled it and made it much nicer. “They always take care of the place. I have no issue. They always take care of it.”

Temple said “Daniel takes my rent a lot,” meaning he often is the one who comes to collect it.

Temple again reiterated that the landlords take good care of the building. “Everything is brand new, it’s like new stuff.” He also said the landlords are reasonable if you’re late with the rent. “If you’re late, they take care of you.”

The tenant in **apartment 4** didn’t give his name, but said that R. Fernandez is the person he calls when he needs something, but that he has seen more than one of R. Fernandez’ sons come out to the property in response to a call.

Sebastian Jaramillo (Jaramillo) – attorney with the firm Jaramillo & Blaya, representing R. Fernandez, called the week of July 7, 2014; met with investigator in COE office July 17, 2014.

Summary of interview:

Jaramillo called the investigator on behalf of his client, Fernandez’ father, after tenants concerned about the investigator’s questions called R. Fernandez. Jaramillo was hoping to intercede before more tenants were interviewed. A meeting was arranged between himself and the investigator.

At the July 17 meeting Jaramillo brought certain documents that delineated the ownership structure for certain of R. Fernandez’ properties. In discussion, the investigator explained that the issue was not Fernandez’ ownership of the properties but rather whether or not he played an active role in the business. At that point, Jaramillo made clear Fernandez was not his client, but said he would see if Fernandez would agree to come in to be interviewed. Investigator

agreed to suspend tenant interviews until a response was received from either Fernandez or Jaramillo.

Daniel Fernandez and R. Fernandez, on Sept. 4, 2014, at COE offices, 11 a.m.

Summary of interview:

Subject Fernandez and his father met with the investigator and COE Deputy General Counsel Miriam Ramos (Ramos) this date. R. Fernandez stated that he operates 96 rental units in at least eight buildings. Each multiple-unit building is owned under a unique corporate name. This ownership arrangement was recommended by R. Fernandez' attorney because the total value of the properties was in excess of \$2 million and thus more appropriate than direct ownership. R. Fernandez said Fernandez and his other two sons are listed as officers in each of the corporations. R. Fernandez said Fernandez "is not an owner" of the three buildings where the investigator spoke to tenants. R. Fernandez said all of the corporations are trusts holding the properties for the long-term benefit of his sons. R. Fernandez stated that he operates 96 rental units; the COE investigation uncovered only 82, indicating the presence of at least one other building not identified by the investigator, or which may not include Fernandez as an officer.

Fernandez said that he owned only two residences in his own name, one of them the single-family home rented to the complainant Roman. Fernandez said the he attempted to fix the faulty electrical breaker box, but that Roman was upset that he had not replaced it, and began calling the city's code enforcement office and other authorities, including COE.

Fernandez stated that he does on occasion do repair work as needed at the properties and sometimes personally calls on tenants to collect rent checks. He said he has taken on more maintenance responsibilities recently because of physical problems his father has experienced that limit his mobility. Fernandez said he has assisted his father in such work "since I was 10 years old."

Ramos outlined to both Fernandezes the proper understanding of the departmental permission and outside employment provisions of the code, including the explanation that "work that is normally compensated" is considered outside employment even if no compensation is actually received. Fernandez said that, in response to the COE investigation, he had already filed the outside employment statement for 2013, but didn't realize until that moment that he needed to file for the two prior years. He agreed to do so.

Before days' end, Fernandez forwarded to this office copies of the outside employment statement for 2011, 2012 and 2013, which were forwarded by the investigator to the Miami-Dade County Elections Department.

Document/Audio/Video Review:

E-mail correspondence with **Maria Gutierrez**, human resources manager for MDFR, June 24, 2014.

Summary of findings:

In response to investigator's request, Gutierrez informed that subject Fernandez has not filed any outside employment forms.

E-mail correspondence with **Carolina Lopez**, deputy supervisor of elections, Miami-Dade County Elections department, June 24, 2014.

In response to investigator's request, Lopez informed that subject Fernandez had not filed any financial disclosure forms.

Sebastian Jaramillo provided copies of documents indicating the ownership structure of several of R. Fernandez' properties: 1879 NW 23rd St. LLC; 13240 Port Said Rd. LLC; Oakland Manors Apartments LLC; C & R Hollywood Investments Company Inc.; and DJ Opportunities Inc..

Property records drawn from Miami-Dade Property Appraiser's website.

Summary of findings

Records search turned up the following properties connected to Fernandez (listed below by corporate name, property address and number of rental units, and Fernandez' connection to corporation):

- 1879 NW 23rd Street, LLC
1879 NW 23rd Street, Miami / 14 units
Fernandez: Registered Agent and Mgrm
- DJ Opportunities, Inc.
153 NW 29th St., Miami / 10 units
Fernandez: Registered Agent and President
- 3125 Apartments LLC
3125 NW 132nd Terr., Opa-locka / 8 units
Fernandez: Registered Agent and Mgrm
- 13240 Port Said Rd LLC
13240 Port Said Road, Opa-locka / 24 units
Fernandez: Registered Agent and Mgrm
- C&R Hollywood Investments Company

216 N 61st Ave., Hollywood / 10 units
Fernandez: Registered Agent, President

- Oakland Manors Apartments LLC
3616 NE 11th Ave., Oakland Park / 8 units
Fernandez: Registered Agent, Mgr

- 401 Apartments LLC
401 NW 43rd St., Oakland Park / 8 units
Fernandez: Mgr

Fernandez is also listed in connection with several other corporate entities, apparently set up and/or run by his father, that are not multiple-dwelling unit rental properties. He also shows up as owner, with his wife Curbelo, of the home at 7450 Twin Sabal Dr. in Miami Lakes (the complainant's residence at the time of the complaint), and as owner with Caridad Fernandez (presumably his mother) of 16333 Willow Creek Dr., Miami Lakes.

Analysis

In her initial call to COE, complainant Roman's wanted to know if any special ethics violation was created in that her landlord, Fernandez, who is a firefighter, had failed to keep the property she was renting up to fire code requirements. She claimed that the electrical panel at her residence had been inspected by code enforcement in Miami Lakes and failed, and that Fernandez had failed to correct the deficiency. Fernandez would later say that he attempted to fix the electrical panel, but that Roman insisted that the panel be replaced with a new one.

Investigator told Roman that her particular problem did not constitute an ethics matter. But in the course of the conversation, Roman revealed that Fernandez assisted his father in maintaining a number of rental properties throughout South Florida, routinely did repairs, often without obtaining permits, and also was taking a homestead exemption on the property she was renting from him.

Subsequent investigation revealed that Fernandez had not filed an outside employment form with the elections office. In the first conversation between Fernandez and the investigator, Fernandez indicated that his only role with his father's rental properties was as an investor. But in a follow-up conversation, Roman insisted that Fernandez had indicated on many occasions that he actively worked with his father at the properties.

The investigator undertook an effort to knock on the doors of residents of Fernandez' father's properties to determine if Fernandez played a more active role at the properties that initially indicated. The first three interviews, of the individuals listed above, each at a different property (two in Miami, one in Hollywood), revealed that the residents were all familiar with Fernandez. Although all three said that R. Fernandez, subject's father, was the individual they saw most often, all also indicated that Fernandez sometimes would respond to calls for needed repairs, or might come in person to pick up rent payments.

Fernandez initially told the investigator that he played no active role in his father's businesses other than as a passive investor who received no payments or money. Fernandez said all money generated by the properties was immediately reinvested. He said he believed that since he was not receiving any payments from the businesses, he was not obligated to fill out the outside employment or financial disclosure forms.

In a subsequent meeting at COE offices, attended by Fernandez, R. Fernandez, Ramos and the investigator, Fernandez stated that he did do maintenance and similar work at the properties, and also would sometimes pick up rent checks from tenants. Ramos said those activities were enough to create a responsibility to file the two forms. Fernandez readily agreed to do so, and pointed out that he had already filed outside employment form for the current year (subsequent to the launching of this investigation), but hadn't realized that he would also need to do so for the two prior years. Fernandez also stated that he had submitted his request for outside employment to his supervisor and it has been approved.

On September 5, 2014, Fernandez e-mailed copies of his outside employment forms for 2011, 2012 and 2013 to this office (attached hereto as Exhibits A, B and C). These were forwarded to Carmen Bofill at the Miami-Dade County Elections Department.

R. Fernandez said that another of his sons was about to be hired by the City of Miami, and said he would pass along his understanding of filing requirements to him as well.

R. Fernandez also stated that he manages 96 apartment units, not 82, so the list included above either is only a partial list, or the remaining rental units are in properties are not associated with Fernandez.

Complainant's allegation that Fernandez was claiming a homestead exemption on the property he and his wife were renting to the complainant was referred by this investigator to the County Property Appraiser's Office, to the attention of Property Appraiser Lazaro Solis. This investigator did no further investigation of this issue.

On Sept. 8, 2014, complainant Roman was contacted by the investigator and informed that no complaint would be filed against subject Fernandez for lack of evidence of exploitation of position, and for having come into compliance with filing requirements. Investigator told Roman that the homestead exemption complaint had been forwarded to the county Property Appraiser's office, and that no other matter related to the case fell under COE jurisdiction. Roman advised that her lease at the property was not being renewed by Fernandez effective October 1, and asked that the final report be e-mailed to her if possible since she did not yet know what her address would be after the end of the month.

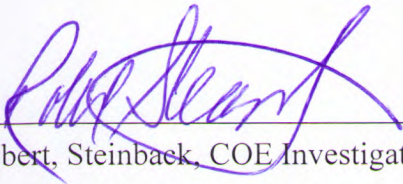
Conclusion(s):

No evidence was found that Respondent exploited his official position as a Miami-Dade Firefighter to somehow benefit his activity as a landlord.

The allegation regarding Respondent's homestead exemption has been forwarded to the Miami-Dade Property Appraiser's Office.

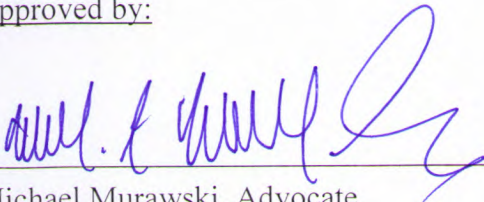
As to the issue of outside employment. Since Respondent is engaged in activities that are customarily compensated, he must file an outside employment statement, whether the activity generates income or not. This was explained to Respondent who promptly complied for the years 2011, 2012 and 2013 (see attached exhibits). Although the requesting of permission to engage in outside employment is not under the jurisdiction of the COE, Respondent was told that he was required to complete that requirement as well, on a yearly basis. Respondent assured the COE that he had requested permission for this year already.

Therefore, the case is closed without further action.

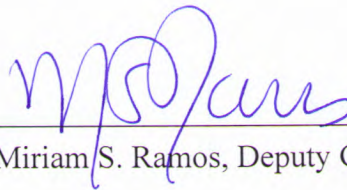


Robert, Steinback, COE Investigator

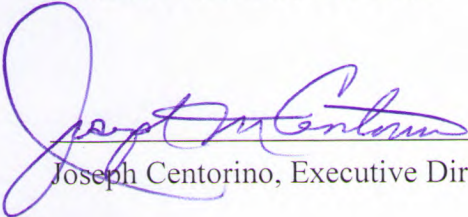
Approved by:



Michael Murawski, Advocate



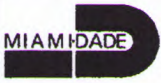
Miriam S. Ramos, Deputy General Counsel



Joseph Centorino, Executive Director

7/18/14

Date



OUTSIDE EMPLOYMENT STATEMENT

For Full-time County and Municipal Employees

Full-time County and municipal employees engaging in outside employment must file an annual disclosure report by July 1st of each year, in accordance with Section 2-11.1(k)(2) of the Miami-Dade County Code.

Disclosure for Tax Year Ending: 2011

Last Name:
FERNANDEZ

First Name:
DANIEL

Middle Name:
RAUL

Employee ID #:
219132

Filing as (check one) Miami-Dade Co. Employee
 Municipal Employee of: _____

Position Title:
FIREFIGHTER

County/Municipal Department:
MIAMI-DADE FIRE RESCUE

County/Municipal Division:
OPERATIONS

If your home address is exempt from public records pursuant to Florida Statutes § 119.07, please see the note on the following page and check here:

Work Telephone:
305-513-7932

Mailing Address (Street Name and Number)
14653 BRECKNESS PLACE

Apt. #

City
MIAMI LAKES

State
FL

Zip Code
33016

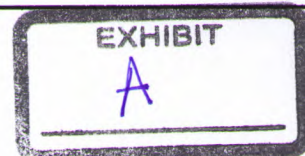
Please list the sources of outside employment, the nature of the work, and the amounts of money or other compensation you received. If continued on a separate sheet, please check here:

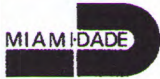
Name and Address of the Source of Outside Income	Nature of the Work Performed	Amount of Money or Compensation Received
DJ OPPORTUNITIES INC, 3125 APTS LLC, 14018 NW 82 AVE LLC	MAINTENANCE, RENT COLLECTION	\$0
ALL COMPANIES LISTED ABOVE: 14653 BRECKNESS PL MIAMI LAKES, FL 33016		

I hereby swear (or affirm) that the aforesaid information is a true and correct statement.

Signature of Person Disclosing

Date Signed
9/4/2014





OUTSIDE EMPLOYMENT STATEMENT

For Full-time County and Municipal Employees

Full-time County and municipal employees engaging in outside employment must file an annual disclosure report by July 1st of each year, in accordance with Section 2-11.1(k)(2) of the Miami-Dade County Code.

Disclosure for Tax Year Ending: 2012

Last Name:
FERNANDEZ

First Name:
DANIEL

Middle Name:
RAUL

Employee ID #:
219132

Filing as (check one) Miami-Dade Co. Employee
 Municipal Employee of: _____

Position Title:
FIREFIGHTER

County/Municipal Department:
MIAMI-DADE FIRE RESCUE

County/Municipal Division:
OPERATIONS

If your home address is exempt from public records pursuant to Florida Statutes § 119.07, please see the note on the following page and check here:

Work Telephone:
305-513-7932

Mailing Address (Street Name and Number)
14653 BRECKNESS PLACE

Apt. #

City
MIAMI LAKES

State
FL

Zip Code
33016

Please list the sources of outside employment, the nature of the work, and the amounts of money or other compensation you received. If continued on a separate sheet, please check here:

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ALL COMPANIES LISTED ABOVE: 14653 BRECKNESS PL MIAMI LAKES, FL 33016		

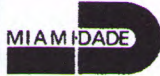
I hereby swear (or affirm) that the aforesaid information is a true and correct statement.

Signature of Person Disclosing

Date Signed
9/4/2014

EXHIBIT

B



OUTSIDE EMPLOYMENT STATEMENT

For Full-time County and Municipal Employees

Full-time County and municipal employees engaging in outside employment must file an annual disclosure report by July 1st of each year, in accordance with Section 2-11.1(k)(2) of the Miami-Dade County Code.

Disclosure for
Tax Year Ending: 2013

Last Name:
FERNANDEZ

First Name:
DANIEL

Middle Name:
RAUL

Employee ID #:
219132

Filing as (check one) Miami-Dade Co. Employee
 Municipal Employee of: _____

Position Title:
FIREFIGHTER

County/Municipal Department:
MIAMI-DADE FIRE RESCUE

County/Municipal Division:
OPERATIONS

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305-513-7932

Mailing Address (*Street Name and Number*) Apt. #
14653 BRECKNESS PLACE

City	State	Zip Code
MIAMI LAKES	FL	33016

Please list the sources of outside employment, the nature of the work, and the amounts of money or other compensation you received. If continued on a separate sheet, please check here:

Name and Address of the Source of Outside Income	Nature of the Work Performed	Amount of Money or Compensation Received
DJ OPPORTUNITIES INC, 3125 APTS LLC, 14018 NW 82 AVE LLC	MAINTENANCE, RENT COLLECTION	\$0
ALL COMPANIES LISTED ABOVE: 14653 BRECKNESS PL MIAMI LAKES, FL 33016		

I hereby swear (or affirm) that the aforesaid information is a true and correct statement.

Signature of Person Disclosing

Date Signed
9/4/2014

