



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Manuel W. Diaz

Case No.: PI 14-044	Case Name: Eyrn Krause, exploitation	Date Open: 8/21/2014	CASE CLOSED Date: <u>10/1/14</u>
Complainant(s): Neal Muhammad	Subject(s): Eyrn Krause		

Allegation(s):

City of Miami Fire Rescue (MFR) Captain Neal Muhammad (Muhammad) alleged that the Director of the City of Miami (the City) Testing Projects Administration, Dr. Eyrn Krause (Krause), may have improperly graded the results of his MFR Captains examination in 2008. Muhammad challenged the results of the examination by filing a law suit and grieved the results of the examination before the City of Miami Civil Service Board (CSB).

Muhammad took the examination again in 2012. Muhammad alleged that Krause again improperly graded the results of the examination; this time, Muhammad alleged, Krause's actions were motivated by revenge against Muhammad because of his lawsuit and appeal of his 2008 examination results to the CSB.

Muhammad took the captain's exam for a third time in 2014. Muhammad alleged that Krause again improperly graded the examination because of the lawsuit and the appeal of the results of the examination to the CSB.

Relevant Ordinances:

Miami-Dade Conflict of Interest and Code of Ethics Ordinance,
“(g) *Exploitation of official position prohibited.* No person included in the terms defined in Subsections (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.”

Investigation:

Interviews

Neal Muhammad

Muhammad was advised that the COE does not involve itself in personnel matters. The COE would only involve itself if it could be demonstrated that Krause intentionally misused his position with the City to impede or interfere with Muhammad's chances for promotion. If the allegation against Krause could be demonstrated, then the COE may file a complaint against Krause.

Muhammad was interviewed. He explained that in 2008, he took the fire captains examination. After the test, he learned from discussing the examination process with other examinees that his examination differed from theirs. He was told that a portion of his examination package did not contain the necessary documents to make the correct decisions in problem-solving questions.

Muhammad questioned the examination process and his place on the examination register, discussing both with Krause. According to Muhammad, Krause did not answer his questions to his satisfaction.

After his discussion with Krause, Muhammad filed a law suit and appealed his results on the examination to the CSB. Muhammad was ranked in the low 20's on the examination register, according to Muhammad, not high enough to be promoted.

Muhammad advised that the law suit he filed was heard and dismissed in 2013. The delay was caused because he changed attorneys several times. Muhammad had the option to appeal the judge's decision, but didn't because of the cost.

In 2012, he again took the fire captains examination. According to Muhammad, during the preparations for the "practical" portion of the examination, Krause approached him in a waiting area, stood over him and yelled at him. Muhammad was unclear as to what instruction Krause gave him while he was yelling. As a result of Krause yelling, Muhammad became "flustered and nervous" and lost all concentration for the rest of the examination. Muhammad stated he was not able to successfully complete the "practical" portion of the examination. He said that he answered two out of the eight portions of the exam, leaving six questions unanswered.

Muhammad ranked 19 in the overall examination for the examination out of 60 taking the examination. He did not score high enough to be promoted.

In Muhammad's opinion he should have received a much lower score (below 19th overall) in the examination because he failed the "practical" portion of the examination because "practical" portion of the examination was heavily weighted. He believes that his score was adjusted by Krause to prevent a potential challenge to the results.

Muhammad again took the captains examination in June 2014. He was ranked 19th. According to Muhammad, not high enough to be promoted because there were only 18 openings when he took the examination. He was only promoted because of an opening that was created when a MFR captain unexpectedly retired.

Muhammad acknowledged that he contacted the Department of Justice (DOJ) with his complaints. The DOJ took no action.

Muhammad advised that he was not interested in pursuing any additional action against the City or Krause personally. He just wanted to express his opinion as to the inequities in the City's promotional process.

Amy Kloss (Kloss) - Director of Human Resources – City of Miami.

Kloss advised that she is aware of the Muhammed's allegations. His allegations have been investigated and she feels that they have been adequately addressed.

According to Kloss, Muhammad's allegations were reviewed by the CSB, and a law suit that his attorney filed was dismissed by the courts. She also noted that the City's promotion examination procedures are under constant review by the DOJ. The City has been sued in the past by the federal government for inequitable hiring and promotional practices.

Dr. Eyran Krause -Testing Projects Administrator

Krause was interviewed. Krause is Testing and Validations Supervisor for the City and has held the position 13 years. He advised that the City has been under a Federal Consent Decree for a number of years for hiring practices and promotional testing. As a result, the City's testing procedures are monitored by the DOJ. According to Krause, the MFD complied with the decree in 1995; the promotional testing procedures used for the police department are still being monitored. Krause advised that both hiring and promotional testing comply with the Consent Decree the City has with the DO J.

Muhammad's complaint was explained to Krause. Krause acknowledged that he was aware of Muhammad's allegations. Krause advised that he met with Muhammad after the 2008 and 2102 tests to explain the results and his ranking on the promotional register. On both occasions, he suggested ways that Muhammad could improve his test taking skills. Muhammad was reluctant to accept any recommendations.

Krause advised that Muhammad appealed the results of the 2008 examination to the CSB and lost. In addition, Muhammad has hired a succession of lawyers to represent him over the years. According to Krause, Muhammad filed a lawsuit, but the suit was dismissed. He does not know if there is a current law suit.

Muhammad also complained to Miami's fire union, which decided not to pursue the matter. He also appealed the results of the examinations to the DOJ which did not pursue the complaint.

Krause advised that he has only spoken to Muhammad to discuss testing issues. He does not know Muhammad personally and he has never had any personal issues with Muhammad.

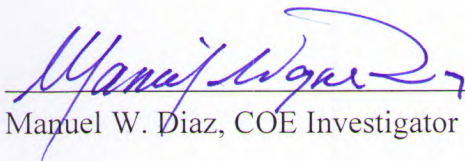
Krause feels that Muhammad could have rated higher on his promotional examination, if he would have followed the recommendations for test taking that he was given.

Documents Reviewed:

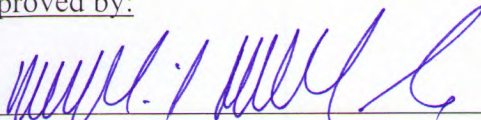
Copies of letters sent to the City of Miami Director of Human Resources from Muhammad. (Copies in file.)

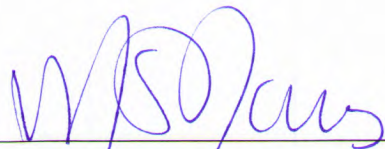
Conclusion:

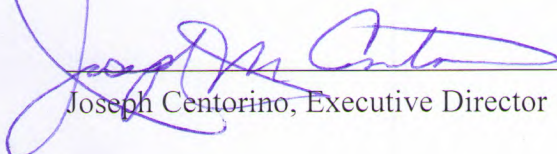
There is insufficient evidence to support the filing of an ethics complaint against Krause for exploitation of official position; accordingly, this matter is closed with no further action.

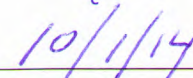

Manuel W. Diaz, COE Investigator

Approved by:


Michael Murawski, Advocate


Miriam S. Ramos, Deputy General Counsel


Joseph Centorino, Executive Director


Date