

OFFICE OF THE INDEPENDENT ADVOCATE
REPORT OF INVESTIGATION

K #: K07-025

Date Opened: February 12, 2007 Date Closed: July 24, 2007

Name of investigator: Breno Penichet

Allegation: A Possible Violation of the Conflict of Interest and Code of Ethics ordinance by a Public official, sec. 2-11.1(P) & (G) Prohibition on recommending professional services, and Exploitation of official position, by a Pension Board member, Bradley Cassel.

This Investigation is predicated upon information received in the form of an Electronic Mail from the office of the City Attorney for the City of South Miami. Alleging that pension board member appears to be advocating for a specific firm to provide pension benefits and asking a staff member to contact a particular representative of a specific Banking Institution.

- On February 12 2007, an E-mail was received by the COE from the City Attorney for South Miami advising that a complaint was filed by one of the firms bidding for a contract to provide pension services as a result of an RFP sent out by the pension Board for Investment Consulting Services.
- [Howard Weinberg](#), According to the complaint filed by Mr. Rene Cibran who represents the Principal Financial Group, Mr. Bradley Cassel a member of the City of South Miami's Pension Board, from the very start was supporting Wachovia Securities LLC because he was friendly with one of the representatives. Although Principal was chosen as one of the finalist he (Cibran) felt that Wachovia was given an unfair advantage.

- It was also alleged that Mr. Cassel also approached Ms. Jeanette Navarro, Director of Human Resources for the City of South Miami and asked her to contact a representative of Wachovia Bank in order for them to administer certain 401K pension funds.

- Mr. Luis Figueredo, City Attorney for South Miami conducted an investigation into this matter on February 15, 2007. During the investigation Mr. Figueredo spoke to Ms. Navarro, she advised that in fact Mr. Cassel had introduced her to a representative of Wachovia Bank for the purpose of having Wachovia provide the City of South Miami with a proposal for services related to the conversion of certain pension funds to a 401k. Ms. Navarro exchanged some e-mails with the representatives of the bank. They wanted to meet with her, but Ms. Navarro advised that she did not meet with them because she felt uncomfortable just meeting with one company, particularly she felt it may be improper because they were recommended by a pension board member. Ms. Navarro advised that Mr. Cassel did question her as to why she did not meet with the Wachovia representatives. Ms. Navarro did get the feeling he (Cassel) was pushing Wachovia.

- Mr. Figueredo also spoke to Mr. Cassel in the scope of his investigation, Figueredo discussed the implications of his actions and the influence, whether intended or not, that a board member can have on staff. Mr. Figueredo explained to Cassel that he needed to be cognizant that a pension

board member when he meets with staff on items related to mutual funds and pension related matters, he has been appointed by the City Commission to sit on that board to handle those matters that if he makes a recommendation it may have greater weight and impact with staff and they may feel obligated to comply with his direction. As such he has to be very careful not to create the impression that he is promoting a specific firm or company.

- COE Investigator B. Penichet interviewed Mr. Ken Harrison the Attorney representing the pension Board, concerning the allegations. Mr. Harrison advised that he spoke to Mr. Cassel about his demeanor and the fact that he was promoting only one vendor. Mr. Harrison stated that he felt Cassel was only trying to get the best deal for the City and had no relation with Wachovia other than what they had provided as part of the RFP. Mr. Harrison advised that he discussed with Cassel the fee sharing issue and it was related to what the City would receive as dividends not as a compensation for Cassel. Mr. Harrison advised that in the end the contract was not given to Wachovia but to Bogdahn Consulting Group, due to the fact that Wachovia and the City could not come to terms.
- COE Investigators K. Rosario and B. Penichet interviewed Ms. Jeanette Navarro, Director of Human Resources for the City of South Miami concerning the above matter. Also present during the interview was Assistant City Attorney Ms. Eve Boutsis. Ms. Navarro stated that she was contacted by Mr. Cassel he wanted to get information on all City investments and also prior minutes of the pension board. During their discussions Mr. Cassel found that the City was looking for a new fund Manager so he recommended a person that works Wachovia. Ms. Navarro further stated that she did exchange correspondence with the representative, but did not feel comfortable meeting with just one institution, so she decided not to meet with them at all. Ms.

Navarro advised that she was contacted by Mr. Cassel who was upset and wanted to know why Ms. Navarro did not follow up with the meeting. Ms. Navarro advised she told Mr. Cassel that she would not meet with a single representative because she felt it was improper, at this point Cassel stopped bothering Ms. Navarro. Coe Investigator Penichet asked Ms. Navarro if she felt in any way threatened by Mr. Cassel's action and she stated no, she felt that Mr. Cassel was pushy but not threatening in any way or she did not feel any reprisals would come as a result of her refusal to meet with the Wachovia representative.

- COE Investigators Reviewed the transcripts of the Commission meetings mentioned in the report and found that. Although Mr. Cassel's actions may have come into question he was not the only board member that had concerns with the way the funds were being managed. It was also noted that once the RFP was sent out and the quotes received they were reviewed by a panel set up by the board and the five finalists were chosen by the panel which included Wachovia and The Principal Group. In the review of the minutes it was also found that Mr. Cassel was not the only board member to vote for Wachovia.
- COE Investigators K. Rosario and B. Penichet interviewed Mr. Bradley Cassel City of South Miami Retirement Board member, at the COE concerning the allegations. Mr. Cassel advised that he worked as a financial investment consultant for many years, as such the current Mayor appointed him to the pension board; although he (Cassel) was quick to point out he was an outspoken critic of the current Mayor. Mr. Cassel advised that he began to notice some irregularities in the way the fund manager at the time was

collecting fees and he brought it to the attention of the board, this position did not make him popular and he took much criticism but he felt it was his duty to fight for the employees and the City to get the most out of their investment. Mr. Cassel advised that he knew Mr. Greg Schneider one of the representatives of Wachovia due to the fact that he was his father in law's broker for many years and he also managed a trust account for Cassel for a few weeks five years ago. Mr. Cassel advised that he knew Mr. Schneider to be an honest ethical person. Mr. Cassel also advised that he did not have any accounts with Wachovia; his daughter has one due to the fact that she attends UF, and that is the institution they deal with and all students are required to have an account with them. Mr. Cassel was also questioned regarding the allegation that he was very insistent that Ms. Navarro contact a representative of Wachovia for them to provide information on managing 401K plans. Mr. Cassel advised that he became aware of a situation where the City had to invest so much money into a 401K as a result of a civil suit and this issue had been ignored for a few years and all of a sudden it became a crisis and the City stood to lose a substantial amount of money. Mr. Cassel advised he was only trying to save the City money and may have been interpreted as trying to help himself, he stated he did not even remember who he referred, it may have been one of the representatives that made the presentation to the board, Cassel was not quite sure who he actually had referred. At this point COE Investigators pointed out to Mr. Cassel the fact that his actions were wrong and could have been interpreted as improper and in violation of the Conflict of Interest and Code of Ethics ordinance. Mr. Cassel was provided materials to review and he advised that he is now much more aware of his responsibilities as a public official.

* All documents have been made part of this file.

CONCLUSION:

This Investigation shows that the City Attorney for the City of South Miami conducted a thorough investigation and referred it to the COE for review. A request for training will be made to the COE outreach section for all City of South Miami appointed Boards. This investigation should be closed.