

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

K #: 07-071 Rose Tydus

Date Opened: Dec. 8, 2006

Date Closed: April 8, 2008

Name of investigators: Karl Ross and PCIB Det. Jessica Alvarez  
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**Allegation:**

The investigation responded to allegations Opa-locka City Commissioner Rose Tydus may have exploited her official position on behalf of Waste Management Inc., and improperly assisted the Houston-based company in retaining contracts for commercial and residential garbage disposal. Commissioner Tydus' remarks at a Sept. 27, 2006, city commission meeting at which she praised Waste Management for being "corporate friendly" had raised questions about her actions on behalf of the firm. At the meeting, Tydus was a vocal supporter of Waste Management, and her advocacy helped the company secure a contract worth millions of dollars in revenues. This occurred despite the recommendation by a city-appointed selection panel that the city contract instead with an Opa-locka based company, Choice Environmental Services. City Manager Jannie Beverly supported the panel's recommendation. Choice offered substantially lower rates for residential garbage pickup -- \$24.99 per residence, per month, compared to \$31.46 -- than did Waste Management.

The year-long investigation found that at the time of the contract deliberations, Tydus had regular and unreported business dealings with Waste Management she solicited through the firm's lobbyist, Alex Gonzalez. The investigation also revealed Gonzalez failed to register as a lobbyist with the Opa-locka City Clerk's office in apparent violation of the county's ethics ordinance and the city's administrative code. This matter will be discussed in a separate report. The inquiry was conducted jointly by

the Miami-Dade County Commission on Ethics and Public Trust (COE) and the Miami-Dade police Public Corruption Investigations Bureau (PCIB) in consultation with the Miami-Dade County State Attorney's Office (SAO).

The investigation seeks to determine whether Tydus violated Florida criminal statutes relating to Exploitation of Official Position and/or Unlawful Compensation, in addition to whether she committed violations of the county's Conflict of Interest and Code of Ethics Ordinance, including but not limited to the following:

- Section 2-11.1, subsection (g), *Prohibition on exploitation of official position*, which states 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 ..."
- Section 2-11.1, subsection (j), *Conflicting employment prohibited*, which states in applicable part that: "No person ... shall accept other employment which would impair his or her independence of judgment in the performance of his or her public duties."
- Section 2-11.1, subsection (l), *Prohibited investments*, which states that: "No person ... shall have personal investments in any enterprise, either himself or through a member of his family, which will create a substantial conflict between his private interests and the public interest."
- Section 2-11.1, subsection (i)(c), *Financial disclosure requirements for certain individuals*, requiring an itemized source of income statement that complies with Chapter 112 (Part III) of Florida Statutes.
- Section 2-11.1, subsection (e )(2)(g) regarding *Gifts*, which states in applicable part that elected officials may only solicit gifts on behalf of nonprofits when the following applies: "Gifts solicited by Commissioners on behalf of any nonprofit organization for use solely by that organization

where neither the Commissioner nor his or her staff receives any compensation as a result of the solicitation.”

**Investigation:**

Rose Tydus was first elected to the Opa-locka City Commission in November 2000, and has served continuously since that time. For much of her tenure, Tydus operated a not-for-profit corporation called the Opa-locka Rescue Mission. The agency was one of Tydus’ primary means of support until it was administratively dissolved in September 2005, her financial records indicate. The records show that on Dec. 4, 2003, Waste Management issued a check in the amount of \$1,000 to the Opa-locka Rescue Mission. A representative of Waste Management said Tydus solicited the donation on behalf of her nonprofit. The payment was made shortly after Waste Management was selected to privatize the city’s solid waste operations, effective Oct. 1, 2003.

A review of Tydus’ bank deposits along with internal Waste Management records evidences further dealings between Tydus and the city vendor in the form of alleged sales of holiday gift baskets. Records show that on Dec. 22, 2004, Waste Management made a payment to Tydus in the amount of \$1,177. An invoice prepared by Tydus indicates the company purchased \$1,100 worth of baskets – the additional \$77 going towards sales tax. The commissioner was doing business as “Rose Tydus All Occasion Gift Baskets,” according to the invoice. Tydus similarly received \$1,500 on Dec. 8, 2005, from Waste Management, again for alleged gift baskets. The following year, on Dec. 8, 2006, the company cut Tydus another check – this time for \$1,740. On the latter two occasions the invoices did not reflect a charge for sales tax. In total, Tydus received \$4,340 from Waste Management for the alleged gift baskets.

A review of the commissioner’s other bank deposits from late 2004 to the end of 2006 suggests Waste Management was her only customer for such items. A Waste Management representative also mentioned Tydus may have supplied Valentines Day

baskets to Waste Management, but did not provide details. When briefly interviewed about her dealings with Waste Management this past October, Tydus said she did not see anything wrong with this relationship, and stated she had intended to expand her business with the vendor even further this year. She declined to elaborate and said she felt the need to consult an attorney before saying anything else.

It is also believed some or all of the \$1,000 Tydus solicited on behalf of the Opa-locka Rescue Mission benefited the commissioner financially, as a review of available bank records shows Tydus received regular income from the nonprofit. While the records do not cover the end of 2003 or early to mid 2004, available records show Tydus received \$16,800 from the Opa-locka Rescue Mission in 2005, prior to its dissolution. In fact, the nonprofit was Tydus' largest source of income that year – yet it was not listed among her primary or secondary sources of income on her annual Form 1 Statement of Financial Interests. Bank records further show Tydus deposited \$2,677 from Waste Management in 2005 (checks for \$1,177 in January 2005 and for \$1,500 from December 2005). Tydus did not report this on her Form 1 despite the fact these deposits represented more than 5 percent of her total 2005 income of \$38,738.

Waste Management's lobbyist, Alex Gonzalez, stated through an attorney that Tydus solicited the gift basket business with him and that he subsequently distributed the baskets to elected officials and city administrators in other towns, as well as among members of Waste Management's staff. An internal investigation conducted by Waste Management at the request of the State Attorney's Office found that Gonzalez did distribute the baskets he received from Tydus, though one company official, Jason Neal, complained about the chocolate being stale. Investigators have not taken a formal statement from Gonzalez at this time. Still, it is difficult to imagine any legitimate reason why Gonzalez would procure gift baskets from an elected official when such items can be readily purchased at established businesses. Regardless of his true intent, the

appearance of such an arrangement is that Gonzalez agreed to broker the payments to Tydus in order to leverage her influence as a city commissioner.

The existence of this ongoing, undisclosed business arrangement between Tydus and Waste Management makes Tydus' remarks at the Sept. 27, 2006, city commission meeting all the more intriguing. Prior to the meeting, a city-appointed selection panel recommended that city commissioners approve a contract with Choice Environmental Services as the city's new vendor for residential garbage pickup and disposal. (Earlier that year, on May 24, 2006, the commission voted 5-0 to renew Waste Management's contract as the city's vendor for commercial garbage. Tydus did not recuse herself from that vote, records show.) In September, however, a three-member panel comprised of city employees favored Choice over Waste Management by a narrow margin. The deciding factor was Choice's more favorable prices, which represented annual savings of about \$372,000 to the city's homeowners. Nonetheless, Tydus was insistent that Waste Management should be awarded the contract, stating: "There is a category that was not on the scoring board and that is corporate friendly, which Waste Management has proven to be very corporate friendly to the City of Opa-locka. The city can't dismiss the level of services and quality of services that Waste Management has provided to the City of Opa-locka beyond the call of duty."

It is worth pointing out that according to minutes of earlier meetings, both the city's mayor and former vice mayor voiced strong criticisms of Waste Management's performance. At a November 2004 city commission meeting Mayor Joseph Kelley even went as far as to suggest the city call Waste Management's Houston headquarters to complain about the lack of timely garbage collections. In February 2005, former Vice Mayor Terence Pinder called residential trash collection in the city "a disaster," and asked the city's legal counsel when Waste Management's contract expired.

At the Sept. 27, 2006, meeting, Tydus went on to say she was "proud of the progress" the city had made in its cleanup efforts with the help of Waste Management.

She added that: "Choice Environmental Services was the lowest, but the lowest is not always the best." She asked the city manager to extend the selection process, and to enter into negotiations with Waste Management. The contract with Waste Management was subsequently approved during the October 25, 2006, meeting. At that time, there was no discussion as the contract was approved as part of the consent agenda.

It should be noted that Waste Management's new pricing schedule of \$31.46 per month, per household for Opa-locka residents represented an increase of more than 50 percent over its previous rate of \$20.34 per month, per household. The contract is worth approximately \$1.8 million annually and can be renewed after three years. Had the city commission approved the recommendation to go with Choice – which is based in Opa-locka and provides jobs to residents – savings would have exceeded \$1 million.

### **CONCLUSION:**

While the investigation is substantially complete, questions remain about why Tydus returned the December 2004 payment of \$1,177 she received from Waste Management to Alex Gonzalez for the alleged gift baskets. Bank records show that on Jan. 6, 2005, Tydus wrote a personal check to Alex Gonzalez for the identical amount of \$1,177. There was nothing written in the memo section to describe the purpose of the payment. Gonzalez deposited the check from Tydus on Jan. 13, 2005. Asked to account for this, Gonzalez stated through an attorney that he could not recall why Tydus wrote him the check and appeared to be returning the funds from his employer.

The second unresolved matter has to do with Tydus' residence. It appears that Tydus was forced to evacuate her home following Hurricane Wilma, which struck the city in late 2005. She subsequently received payment from insurers that enabled her to replace her roof and windows and carry out extensive renovations. In September, a local resident spotted a moving van delivering boxes to her home at 1101 Dunad Ave. Investigators learned the boxes were delivered from a Miami storage facility, where

Tydus had rented two storage units from March 2006 to September 2007. It had been rumored that Tydus was staying at an apartment paid for by Gonzalez; however, the investigation was unable to establish where, in fact, Tydus resided. Speaking through an attorney, Gonzalez denied providing Tydus with lodging.

Further efforts should be made to clarify the above two issues before making a final determination about what course of action to take in this matter. Based on the findings highlighted above, it appears there is sufficient evidence to file a multiple-count ethics complaint against Commissioner Tydus for her conflicted dealings with Waste Management, as well as for her failure to fully disclose her finances.

In 2005 Tydus was found to have violated the county's ethics ordinance in an unrelated matter in which she acknowledged having exploited her official position with the city. As a result, Tydus can not claim to be unaware of her obligations as an elected official to conduct herself in an ethical and transparent manner.

Nonetheless, Tydus could not have engaged in the conduct described above if she had not found a willing partner in Alex Gonzalez, a lobbyist and governmental affairs advisor to Waste Management. Further efforts should also be undertaken to fully examine Gonzalez's activities in Opa-locka and perhaps elsewhere. A review of Gonzalez's bank records shows an uncharacteristically large transaction on Sept. 6, 2006, in which Gonzalez and his wife make a \$500,000 "loan" to PABA Holdings LLC. The loan was made less than one month after PABA was incorporated. If questioned, Gonzalez should also be queried about the nature of his interests in PABA.