

OFFICE OF THE INDEPENDENT ADVOCATE  
REPORT OF INVESTIGATION

K08-134

Date Opened: December 18, 2008      Date Closed: March 5, 2009

Name of investigator: Kennedy Rosario  
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**Allegation:**

During the December 18, 2008 regular Miami-Dade County Board of County Commissioners (BCC) meeting, District 5 Commissioner Bruno Barreiro “pulled” for reconsideration the Rental Vehicle Agreement (RVA) contract previously voted on by the BCC on December 16, 2008. This action was observed by the Miami-Dade County Commission on Ethics & Public Trust (COE) Executive Director and, in conversation with the Director of the Department of Procurement Management (DPM), an inquiry was initiated. No specific violation (s) of the Miami-Dade Conflict of Interest and Code of Ethics ordinance is alleged at the on set of this inquiry. However, this inquiry is based on an implication: that the reason for the re-consideration of the Vehicle Rental Car Services contract by the BCC is, allegedly, due to influence exerted by the then incumbent vendor, Royal Rent-A-Car (Royal), on members of the BCC.

**Background:**

In 1998 a competitive contract for rental vehicles was awarded to Interamerican Car Rental (ICR).

The Miami-Dade Police Department (MDPD) and General Services Administration (GSA) are the primary users of rental vehicles.

During the final option year (2002) of the ICR contract, ICR advised the County that it could no longer fulfill its contractual commitment.

On January 23, 2003 an “emergency” contract was awarded to Royal.

On May 6, 2003, after BCC approval, a replacement contract was advertised. No bids were received, prompting the County to continue the rental services agreement with the incumbent vendor, Royal.

Said contract had a proviso that placed third party liability coverage (insurance) on Royal.

On September 16, 2003 the Public Safety Committee instructed County staff to eliminate the liability provision. Negotiations between the County and Royal resulted in the County assuming all liability for third party claims, in exchange for an \$80 reduction in the monthly rate per vehicle. These contract modifications were incorporated into the agreement/contract and approved by the BCC on February 17, 2004.

Every subsequent year, Royal and the County have exercised its option to renew (OTR), ostensibly until a replacement contract is enacted.

On July 17, 2008 a replacement contract (Contract # 8655-4/13) was considered by the BCC. The replacement contract re-established the third party liability provision upon the vendor. The BCC however, once again directed County staff to re-solicit the contract without the third party provision / requirement.

The discrepancy that ensued between County staff and BCC members began at this July 2008 meeting, County staff understood that the BCC directive to re-solicit bids was to “reject all bids with the deletion of the hold harmless (third party liability) clause”. BCC members believed the directive was to also re-structure the bid/contract to reflect that vendors were to bid in the “aggregate” for all types of vehicles rather than by category.

County staff proceeded to implement the Rental Vehicle Services BCC directive, new bids were accepted, and a County Manager recommendation was made and presented to the BCC as part of a DPM Competitive Contracts package (Item 1.5).

On December 16, 2008 the BCC approved the DPM package.

On December 18, 2008 The BCC, spearheaded by Commissioner Bruno Barreiro (Barreiro), "pulled" the County RVA for re-consideration citing that County staff had not fully followed the July 2008 directive, namely bids were to be accepted in the aggregate and not by specified vehicle category. Removal of the third party liability clause was instituted.

On January 12, 2009 County Manager George Burgess released a memorandum to the BCC detailing County staff's position as it relates to the County RVA.

On January 22, 2009 the RVA was again brought to the BCC for consideration as a stand alone item, the measure was approved via Resolution No. 52-09 by an 8-2 vote, Commissioners Barreiro and Dorrin Rolle casting the Nay votes. Commissioner Audrey Edmonson although absent from the meeting, through the Chair, asked for deferral of the item, the deferral motion did not carry.

Commissioner Barbara Jordan was also absent.

Commissioner Jose Diaz was absent from the dais at the time of the vote.

The contract, as approved, awarded Enterprise Leasing Co. and E-Z Rent-A-Car, Inc. as the Primary Vendors in specific categories, both vendors are local.

The Hertz Corporation, a non-local vendor, was designated as a Secondary Vendor for vehicle category Group D.

As of this writing the Vehicle Rental Services contract is in effect.

**Inquiry:**

The DPM, as per Investigator Rosario's request, turned over pertinent documents on the RVA / ITB for COE review.

On January 13, 2009 COE Investigators Breno Penichet and Kennedy Rosario met with Miami-Dade District 12 Commissioner Jose "Pepe" Diaz.

Commissioner Diaz (Diaz) is also the BCC Vice Chairman.

Diaz advised that he had not met with Royal owner Ismael Perera (Perera) on matters related to the RVA.

As to the "pulling" of the item by Barreiro, Diaz does not know the reason for Barreiro's action but recognizes that a "courtesy" exists between Commissioners to agree to re-visit an item for further review.

On January 14, 2009 a COE Public Records Request memorandum was issued to the BCC Chairman for the Visitor Sign-In-Log(s) for the period July 1, 2008 through the date of compliance.

On January 14, 2009 COE Investigators Karl Ross and Kennedy Rosario interviewed Perera.

Royal is a For Profit Florida corporation. Perera is listed in Florida Secretary of State Records as the sole corporate officer, holding the titles of President, Secretary and Director as well as that of Registered Agent.

Perera is not a Miami-Dade County registered lobbyist.

Perera stated that he did not bid on the most recent Rental Vehicle contract for corporate financial reasons. Perera asserts that under the incumbent contract Royal was profitable due to the resale value of the types of vehicles the contract required via auction, but due to the then upward price of gasoline these vehicles lost their resale value negating Royal's potential profit.

Perera further claims that Royal was experiencing a negative cash flow in great part due to the County's contract extensions.

Perera believes that the current contract structure will result in a greater County expenditure, further alleging that "Miriam lied to the BCC" ( DPM Director Miriam Singer) in her assessment of the cost benefit the County will realize with the new contract.

Perera freely admitted that he personally met with BCC Commissioners Bruno Barreiro and Audrey Edmonson at their District offices on December 17, 2009 to discuss the Vehicle Rental contract. (Note: the Cone of Silence had already been lifted).

Perera acknowledged that he hired James McQueen as his lobbyist.

On January 16, 2009 the above noted BCC request for public records documents were received. These visitor logs supposedly capture the names of persons visiting the 2<sup>nd</sup> and 3<sup>rd</sup> floor Commissioner's offices at County Hall, it is, however, noted that the sign-in procedure is not always complied with. An analysis of these Visitor Logs did not show any visitor entries for Perera or McQueen.

On January 19, 2009 Investigators Penichet and Rosario met with Commissioner Bruno Barreiro at his SW 1 St. District Office.

Barreiro pulled the VRA because he felt that the VRA, as written by County staff, did not address the issues / directive the BCC mandated in their July 2008 meeting, specifically that the ITB should have been in the aggregate and not by vehicle categories.

Barreiro did acknowledge a meeting with Perera on December 17, 2008 where the VRA issue was the topic of discussion. Perera pled his belief that the County was better off with Royal. Barreiro contends that the BCC directive to County staff was an all encompassing bid and not one of bidding on vehicles by category. The Burgess memorandum was discussed with Barreiro stating that he would review the County's figures to see if they're correct prior to the January 2009 vote.

On January 22, 2009 COE Investigator Rosario met with District 11 Commissioner Joe Martinez (Martinez).

Martinez had not met with Perera or McQueen and also stated that his yea vote to pull the VRA item was out of courtesy to his fellow Commissioner who expressed a desire to re-consider the item.

On this same date the item was brought before the BCC as a stand alone item and passed, Martinez voted for the item.

On January 27, 2009 COE Investigators met with District 3 Commissioner Audrey Edmondson (Edmondson).

Edmondson denied having met with Perera and confirmed that with her calendar secretary "Marie". Edmondson then told Marie to pull her calendar for the period July 2008 through the present date, make a copy of same and supply the calendar to the COE.

The Burgess memo was discussed; Edmondson expressed reservations as to its veracity stating that the County staff is not always correct and other views need to be heard.

COE Investigator Rosario did in fact pick up the Edmondson calendar at Edmondson's County Hall office. A review of the calendar showed no indication that an Edmondson / Perera meeting occurred.

On March 5, 2009 COE Investigator Rosario met with James D. McQueen:

McQueen states that Perera asked him to be the Royal lobbyist in 2003.

McQueen was District 2 Commissioner Dorrin Rolle's Chief of Staff for 4 1/2 years in the 1990's.

On the matter of his lobbying efforts for Royal on the VRA, he did not meet with any commissioner between July 2008 and December 16, 2009 (Cone of Silence was in effect), nor does he recall speaking with any commissioner's staff.

McQueen does recall speaking with District 1 Commissioner Barbara Jordan's Chief of Staff after December 16, 2008.

McQueen states that it was his suggestion to Perera that they contact the Commissioners in regards to the RVA, post December 16, 2008, McQueen further instructed Perera to speak with the Hispanic Commissioners while he (McQueen) would speak to the Black Commissioners.

McQueen however claims that he did not follow up with Perera to determine if in fact Perera met with any Commissioners, he can only "assume" that he did.

McQueen did speak with Edmondson in regards to the RVA/Burgess memorandum but can not recall whether it was in her office or in the neighborhood explaining that his wife was a school classmate of Edmondson's.

A review of the Edmondson calendar for December 2008 – January 2009 did not list any meeting with McQueen. Note: Edmondson was absent for the January 22, 2009 BCC meeting.

McQueen did not speak with Moss or with Rolle.

**CONCLUSION:**

This inquiry did not discover any Miami-Dade County Conflict of Interest and Code of Ethics Ordinance / Code of Silence violations as to any County Commissioners or Lobbyist McQueen.

However, Perera is a principle of Royal, is not registered as a County lobbyist and therefore may have violated sections of the Code of Ethics pertaining to Lobbying (Section S).

It is recommended that this inquiry be closed and a separate investigation launched as to Perera's lobbying actions.