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## Miami-Dade County Commission on Ethics and Public Trust

# Memo

**To:** Mike Murawski, independent ethics advocate  
Joseph Centorino, assistant state attorney

**cc:** Det. Brian Pfeiffer, Public Corruption Investigations Bureau

**From:** Karl Ross, ethics investigator

**Date:** Sept. 3, 2008

**Re:** K08-016 Mayor Joseph Kelley

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**Close-out:** The purpose of this memo is to summarize findings in the above-captioned case and to recommend closing the investigation as it relates to Mayor Kelley. The case initially centered on possible improper campaign contributions and loans, and further examined the mayor's finances as they related to the purchase of a vehicle. The investigation was conducted jointly by the Miami-Dade ethics commission, Miami-Dade police PCIB and the Miami-Dade state attorney's office as an offshoot of the ongoing corruption probe in the city of Opa-locka, Florida.

**Background:** On March 16, 2007, investigators took a sworn statement from an account executive at Johnson Controls Inc., a Tampa-based company with a roughly \$3 million contract to update the city's water meters. The executive, Ms. Melissa Hargrove, advised that she and a second individual involved with the same contract made \$500 cash contributions to Mayor Kelley and to City Commissioner Timothy Holmes. Hargrove indicated that some time in October 2006 she offered the contribution to Kelley in his City Hall office, but he suggested they go to the parking lot where he accepted an envelope from her containing the \$500. Hargrove stated that on that same occasion she delivered a \$500 contribution to Commissioner Holmes, who allegedly accepted the funds inside his office at City Hall. Hargrove's story was further corroborated by Mr. Pat Flowers, president of Arkansas-based AMR Concepts, a subcontractor to Johnson Controls in Opa-locka. Flowers provided

a sworn statement on Sept. 10, 2007, that was consistent with Hargrove's as it related to the contributions to Mayor Kelley and Commissioner Holmes. Both Hargrove and Flowers stated they were unaware it was illegal to make a cash contribution to a political campaign in excess of \$100. They further stated they were unaware it was illegal to accept a campaign contribution in a government office.

A review of Campaign Treasurer's Reports (CTRs) for both Kelley and Holmes for the 2006 municipal elections in Opa-locka did not reveal contributions from either Hargrove or Flowers in the amount of \$500 or any other amount. A review of Mayor Kelley's personal checking account at Wachovia Bank did reveal numerous cash deposits including a \$500 cash deposit on October 13, 2006, made by the mayor's wife, Mrs. Tangela Kelley. A review of Mayor Kelley's CTRs raised additional questions about possible violations of Chapter 106 of Florida state election laws, including possible laundering of campaign funds through the mayor's church, the Holy Temple Missionary Baptist Church. Mayor Kelley is also a pastor at the church, which serves as his primary source of income. The investigation was later expanded to include the mayor's purchase of a 2007 Ford Expedition at World Ford of Pembroke Pines in the amount of \$38,000, as sources had suggested that business interests in the city of Opa-locka had assisted Kelley with the purchase of said vehicle. In particular, it was theorized that Town Center Properties led by Mr. Dennis Stackhouse or Waste Management Services Inc. through its lobbyist Alex Gonzalez may have provided Kelley with improper assistance during his campaign or in the financing of the Ford Expedition. Both individuals and their respective companies were under investigation at the time for improper and conflicted dealings.

**Findings:** With respect to the mayor's campaign finances, a review of CTRs showed that Kelley made personal loans to his campaign in excess of \$11,000 and that he was not re-paid at the end of his campaign. Many of these loans coincided with cash deposits made into the mayor's personal joint account with his wife and/ or payments from the Holy Temple Missionary Baptist Church. The largest of these campaign loans occurred more than one month after the election when, on or about Dec. 11, 2006, Kelley paid \$6,600 into his campaign account. Kelley is also the treasurer for his campaign account. An additional loan of \$200 was made on Feb. 4, 2007, at or about the time the mayor filed his final CTR or "termination report." Both of these payments were made after the election and in apparent violation of Florida law. In an effort to identify the source of these campaign loans from the candidate, a review of the church's finances was conducted and revealed that on or about Dec. 10, 2007, the church transferred \$25,000 into its general fund from a special building fund, and that a day later a payment of \$8,000 was made to Mayor Kelley. The memo section of the \$8,000 payment was filled in with the words "pastor anniversary." It was further noted that Kelley loaned his campaign \$2,000 on Sept. 11, 2006, on the same day he received a separate payment from the church for that same amount. It was determined that neither payment corresponded to Kelley's regular salary. Several other loans to Kelley's campaign coincided with cash deposits into his personal account, for a total of \$11,600 during the course of the campaign cycle.

Consequently, investigators obtained copies of the church's bank records for its building fund account in order to determine whether any improper sources of funds – i.e. city vendors, contractors or other special interests – had entered Kelley's campaign through this secondary account. A review of bank records for the building account did not reveal any improper sources of revenues, as contributions appeared to be limited to legitimate members of the church. Investigators took statements from the church's leadership, including past and present officers Henry Pollock, Claude McCullough, Henry Bussey Jr. Investigators also interviewed church member Mary Alice Brown and the pastor's secretary, Cynthia Smalls. The church officials stated that funds were transferred from the building fund in order to avoid a shortfall that would have been caused by the \$8,000 payment to Kelley for his annual bonus, which has been variously referred to as pastor anniversary or "pastor appreciation." It was established that Kelley receives additional annual compensation of as much as \$12,000 from congregation members in this fashion. It was further determined that the \$2,000 paid to Kelley in September 2006 was an advance on his bonus.

Internal church records provided by Ms. Smalls established these contributions were derived entirely from church members and not from special interests attempting to improperly influence an elected official. These records accounted for all payments to Kelley, except a \$3,000 cash deposit into his account on March 23, 2007 – about one month prior to his purchase of a new Ford Expedition at World Ford on April 27, 2007. A review of records obtained from World Ford showed Kelley paid \$3,000 cash at closing and financed the remaining balance of \$38,821, leaving Kelley with a monthly payment of \$661.87. Initial attempts to establish whether Kelley was making these payments showed that payments to Ford Motor Credit were being made through JP Morgan Chase, and officials there indicated payments were being made by third-party telephone payments. Officials at Chase Auto Finance could not identify the source of the payments. While this investigative roadblock raised concerns that someone other than the mayor may have been making the monthly payments on his Ford Expedition, subsequent investigation revealed that Kelley was making the payments through electronic transfers from his personal checking account.

On June 3, 2008, investigators took a statement from Mayor Kelley regarding the matters detailed above. With respect to the \$500 contribution from Hargrove, Kelley stated that he was unaware that the contents of the envelope he received from Hargrove were cash. He said that Hargrove and another individual (Flowers) visited him at his office and that Hargrove expressed she wished to make a campaign contribution at that time. Kelley said he refused her offer, telling her: "I can't take any campaign donations in the office here. You got to catch me later." Kelley said she indicated she would contact him at a later date, and that he excused himself and left City Hall. Kelley stated that while he was in the parking lot, Hargrove again approached him and handed him an envelope while he was getting into his vehicle. He said he did not examine the contents of the envelope, saying he thought maybe it was an invitation. He said he did not open the envelope until after he left the parking lot and was surprised to find five \$100 bills. He said he understood it would be improper for him to take a cash contribution in excess of \$100, and that he

immediately called Ms. Shamecca Lawson, the secretary for his office at City Hall, and asked her whether Hargrove was still on the premises. He said Lawson told him she had already left, and he said he asked her to call Hargrove and ask her to come back and pick up the envelope. He said that when he later returned to City Hall he placed the envelope containing the cash in a manila inter-office envelope and gave it to Lawson. He said Lawson told him she had been unable to reach Hargrove and kept getting her voicemail. He said he told Lawson to keep trying, and that he believed furthermore that Lawson was aware of the contents of the envelope. He said he informed Lawson of the contents so that she would handle it with appropriate care, "because I wanted her to know it wasn't an envelope that you could just leave around ...." He said he followed up with Lawson on more than one occasion, and was told that she had not heard back from Hargrove. He said he left it at that, until he learned that investigators had asked about the envelope. He said he spoke to Lawson and her supervisor, City Clerk Deborah Irby, and that neither could account for the whereabouts of the envelope from Hargrove at that time.

On July 21, 2008, investigators took a statement from Shamecca Lawson, who indicated she made repeated attempts to contact Ms. Hargrove but was unable to reach her. Lawson claimed she was unaware of the contents of the envelope, which she said was enclosed in a perforated inter-office mail envelope at the time she got it from the mayor. She said that after leaving Hargrove repeated messages, she left the envelope with the receptionist for Hargrove to pick it up. She identified the receptionist as Diane Darden, who also reports to Clerk Irby. She said she was not aware whether Hargrove ever retrieved the envelope in question.

Regarding his campaign finances, Kelley explained that the source of the campaign loans was primarily personal funds and that those funds were derived mainly from his pastor anniversary payments from the church. He said he did not seek re-payment of those funds and was not aware that it was improper for him to make loans after the election had ended. He said he was further unaware it was improper to make campaign expenditures in excess of his contributions, as evidenced by his CTRs and by the subsequent loans he made to his campaign after the cut-off date. He said he made these loans in order to pay outstanding invoices for vendors and consultants – in particular bills from Urban Initiatives totaling \$12,500. Kelley said he consulted City Clerk Irby about his outstanding debts, and Irby advised him he would have to pay of the debts himself because it was too late to take contributions. He said he decided to use the proceeds from his annual church "anniversary" payment in order to satisfy his campaign debts. As for the \$3,000 that was used as a down payment on his Ford, he was not able to identify the source of those funds at the time of his statement. He did suggest they could have come from an income tax return. During a subsequent statement from his wife, Tangela Kelley, Mrs. Kelley provided a copy of the couple's tax return showing a refund request for an amount in excess of \$3,000. She told investigators that she cashed the refund check at the time it was received and made the \$3,000 deposit shortly thereafter. She also explained that she frequently cashed her paycheck from Miami-Dade County schools and that this may have accounted for some of the cash deposits observed during the campaign cycle.

**Conclusion:** After a full and thorough investigation, it does not appear that Mayor Kelley engaged in any criminal misconduct with respect to his political campaign or the purchase of his 2007 Ford Expedition. All the funds in question could be traced to legitimate sources of income – either the Holy Temple Missionary Baptist Church, the mayor’s wife – or could be explained by the couple’s IRS tax refund.

With respect to apparent campaign finance violations, both Mayor Kelley and his campaign manager, Mary Alice Brown, acknowledged what appear to be violations of Florida law, including but not limited to the following: 1.) making campaign expenditures in excess of available funds from contributions, 2.) making loans to the campaign after the cut-off for loans or contributions, 3.) failing to account for contributions to Kelley’s campaign solicited by Ms. Brown during church services, and 4.) paying \$1,000 to Ms. Brown from the campaign account for the hiring of Election Day poll workers. The state attorney’s office has declined prosecuting said violations or referring them to the Florida Elections Commission for further investigation, leaving that matter to the discretion of the Ethics Advocate.

While the investigation into Mayor Kelley should be closed at this time, other pending matters include whether to criminally charge Commissioner Timothy Holmes in connection with the \$500 cash contribution he allegedly received from Melissa Hargrove or whether the matter should be referred to state elections officials. SAO has advised that a contradiction in Hargrove’s sworn statement regarding the source of the campaign contributions has undercut the viability of criminal prosecution. In a follow-up conversation with ASA Centorino, Hargrove acknowledged that she did not provide the funds as originally indicated. She said the funds came from Mr. Flowers, and that she did not reimburse Flowers wholly or in part. Lastly, the investigation should attempt to resolve the question as to the final disposition of the envelope containing the \$500 that Mayor Kelley sought to return to Hargrove.