

REPORT OF INVESTIGATION

K #: 09-099

Date Opened: Aug. 24, 2009 Date Closed: March 3, 2010

Name of investigator: Karl Ross
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Allegation(s):

The Commission on Ethics (COE) opened an inquiry in August 2009 based on an anonymous e-mail titled "Possible abuse of power" circulated among elected officials in the City of Doral, the Miami Herald and COE. The e-mail alleged improprieties relating to the hiring of Ted Guba as a budget and financial analyst, and noting that Mr. Guba and his wife, Carmen, "are very good friends of Mayor Juan Carlos Bermudez." The e-mail goes on to note that Mrs. Guba also works for the city. The anonymous source accused the mayor of exploiting his office to assist the Gubas. The e-mailer requested numerous public records from City Clerk Barbara Herrera, including a copy of the RFP for budget consulting, copies of contracts along with invoices and payments. (Note: Ms. Herrera responded that fulfilling such a request would require an advance payment of \$500, and she advised COE that the e-mailer dropped the matter.)

Investigation:

COE requested the same public records as the above e-mailer. Ms. Herrera, the city clerk, similarly advised it would cost \$500 to respond to the records request. After discussions, Herrera agreed to a reduced price and processed the records request. On Oct. 2, 2009, COE received most of the requested items. These included a copy of Mr. Guba's resume, a copy of his contract and copies of invoices and payments. On Jan. 14, 2010, the city clerk supplied additional requested items including a copy of an ad for the city's RFQ #2008-03 for professional services (Budget Consultant) published in

February 2008 in the Miami Daily Business Review, along with the submittals from Mr. Guba and two other respondents – Ferris W. Brown and Associates of Branson, Mo., and Guernica & Gonzalez of Miami. The records showed that Mr. Guba possesses considerable professional experience, mainly as an auditor, investigator and inspector general with budget and management experience as well. Mr. Guba also provided the city with three letters of recommendation, all very enthusiastic. COE reviewed the records from all RFQ respondents, along with copies of Mr. Guba's invoices. The invoices show Mr. Guba began billing the city for his services in June 2008.

The investigation found Mr. Guba entered into a contract for Budget Consultant Services with the city on May 8, 2008, after being unanimously selected by the Doral City Council on April 7, 2008, to serve in that capacity. The contract established an hourly rate of \$200 per hour, not to exceed \$50,000 through the end of the fiscal year (Sept. 30). At the Sept. 10, 2008, city council meeting, Mr. Guba was granted a contract extension in the amount of \$39,000. The motion passed unanimously, 5-0. The latter payment was approved retroactively, and it does not appear that Mr. Guba's contract was formally renewed until the following fiscal year, 2009/10.

The following year, on Sept. 9, 2009, Mr. Guba's contract for Budget Consultant Service was renewed at an amount not to exceed \$50,000 annually. That same day, Guba entered into a second contract with the city for "Finance Consulting Services," in an amount not to exceed \$84,000 annually. It does not appear that this contract was advertised or awarded on a competitive basis. (Note: City Attorney Jimmy Morales is researching this matter and has agreed to report his findings to COE.) Resolution No. 09-122, adopted on Sept. 9, 2010, shows that the city council allocated \$134,000 for Budget Consultant Services, but makes no mention of financial consulting. There is a reference to Mr. Guba's "assistance with the selection and implantation [sic] of a financial software program." Hence, the council did authorize a total contract award in the amount of \$134,000, but did not explicitly authorize a second contract.

In a Jan. 22, e-mail, City Attorney Morales clarified that the two contracts on Sept. 9, 2009, were again awarded retroactively, noting his predecessor failed to prepare the contract(s). He said “much of the work had already been performed and paid for.” He said that for this latest budget year (2009/2010), Mr. Guba has only a single contract worth up to \$50,000 for budget consulting services. He could not say at that time whether the second contract had been awarded competitively or if it was subject to the Consultants Competitive Negotiations Act or other state law or municipal ordinance concerning the awarding of professional services contracts.

On Jan. 26, 2010, COE interviewed Sergio Purrinos, who served as Doral’s city manager from January 2006 to August 2008. He said he left Doral following repeated disagreements with Mayor Bermudez, whom Purrinos said “wanted to be a strong mayor” and frequently attempted to influence administrative decisions. Purrinos said “the mayor brought in Ted Guba” about a month before he resigned. He said he felt there was no need for the city to hire a budget consultant because the finance director at that time, Randy White, was preparing the budget in coordination with its outside auditing firm and doing a good job. He said the city had \$38 million in reserves and was having no problem with its estimates or with sticking to its budget. “We had no issues. Everything was excellent. The position was created because the mayor wanted to have somebody in there that was loyal to him. He wanted another ‘yes man’ ... If I had the choice of hiring Ted Guba, he would not be part of my staff.” Purrinos further advised that Guba’s wife, Carmen, worked in the planning and zoning department at an entry-level position taking occupational license application, but that her real purpose was to keep an eye on other co-workers and report back to the mayor.

On Jan. 27, COE interviewed Councilwoman Sandra Ruiz, who advised that Guba was hired by the city council to help the council monitor staff and to provide independent analysis. She said the proposal to hire a budget analysis originated with Mayor Bermudez, but that the council reviewed all applicants and conducted interviews.

She said she supported the selection of Ted Guba, finding him to be the best qualified applicant. She said that her disappointment since then is not so much, the performance of Guba himself, but rather the failure of staff to implement his recommendations. Ruiz said she was aware that Guba, his wife and the mayor are “very close,” and believes this may have influenced the decision to hire a budget consultant. However, she said she had no knowledge of any improper action on the mayor’s part. She said the city’s human resources director, Jorleen Aguiles, oversaw the hiring of Mrs. Guba, along with a daughter who works in the parks department. Ruiz said she did question the decision to convert Mrs. Guba’s job from a part-time to a full-time position. She also questioned why Ted Guba was given a city laptop computer and cell phone when his contract calls for him to provide his own equipment (Article 2, Scope of Work).

On Jan. 28, COE interviewed Councilman Pete Cabrera, who advised that it was initially his idea to hire an independent budget consultant. He said the suggestion was made a number of years back after the council received a voluminous budget from a previous city manager that he found difficult to understand. He said he envisioned the role of such a consultant as only a part-time job to help the council during “budget season” and paying no more than \$10,000 per year. He said he supported hiring Guba and felt he was the best-qualified applicant. He said he was aware that Guba and the mayor were friends, but does not recall any overt attempt by the mayor to influence the process. He said he was surprised, however, that Guba was offered a \$50,000 annual contract at the time he was retained. He said he supported giving Guba a \$39,000 extension, his first year. Cabrera said he could not explain the addition of a second contract worth \$84,000 for financial consultant services. He said Guba’s wife – who goes by “Mary” – is an important civic leader, active with the local PTA. He said she “was brought in to be the mayor’s spy,” and has been rotated among city departments since the time she was hired. He said a daughter works in the parks department.

In a Jan. 28 e-mail, City Attorney Morales advised that Carmen Guba presently works for the city's police department, while the couple's daughter, Stephanie Guba, does work as a part-time Park Service Aide at Morgan Levy Park.

As part of its inquiry, COE reviewed invoices supplied by Mr. Guba for work performed from May 2008 through September 2009. Initially, Mr. Guba did not provide any detail to substantiate his work-product, his invoices stating: "Detail support will be provided upon request." Starting in February 2009, however, Mr. Guba did provide a more in-depth description of his activities along with an accounting of his hours. COE also reviewed specific samples of his work-product during the earlier period, including e-mail strings between Guba and city officials regarding vendor databases. Those e-mails suggested that a number of City of Doral employees may have been listed among the names of vendors in a city database. Such instances were "flagged" and "inactivated," according to a Jan. 23, 2009, entry into Mr. Guba's time log.

On March 3, COE interviewed Mr. Guba by telephone and discussed his position with the city of Doral. He advised that he first met Mayor Bermudez through his wife, who was a political activist and part of One Doral. He said he knows all of the city's elected officials and has had many of them, including the mayor, over to his house for social events such as his wife's 50th birthday party. He said Mayor Bermudez did speak to him about the budget consulting position some time before the RFQ was issued to ask if he would be interested in applying and possessed the necessary background to assist the city in overseeing its budget. He said he subsequently applied for the position, and was selected unanimously by the commission. He said he is not aware of any improper action by the mayor on his behalf to influence the selection process. He said that in addition to serving as budget consultant, he has also helped the city implement its new finance system (Munis) and to establish performance measures for departments as part of the Dashboard system. He said he also helped the city "clean up" its accounts payable system, and remains under contract to assist with the annual budget. He said

the city remains his primary client but that he is seeking full-time employment elsewhere. He confirmed his wife works for the police department.

CONCLUSION: At this time, it does not appear that further investigation into Mr. Guba's hiring is warranted. While Mayor Bermudez may have served as the impetus to hire an independent budget consultant, his erstwhile ally and now political rival, Commissioner Cabrera, acknowledges that it was initially his idea to hire such an outsider. Cabrera said he was in favor of hiring Guba, as was his commission colleague, Commissioner Ruiz, who stated she felt Guba to be the most qualified of the three applicants. Records provided by the city clearly show that the position was advertised on or about February 2008, and that three individuals or firms applied for the position. A review of Mr. Guba's resume and letters of recommendation show him to be suitably qualified for the position. And a review of his invoices for payment shows that, for the most part, he performed tasks consistent with those outlined in the RFQ, which did include a catch-all item regarding "special projects." While the retroactive approval of payments and contracts raises concerns about the city's administrative practices in the handling of Mr. Guba's consultancy, these do not appear to rise to the level of official misconduct, as the city commission ultimately approved the payments and contract extensions. Lastly, it should be noted that witnesses interviewed by COE advised they were aware of a personal relationship between Mayor Bermudez and the Gubas. However, none were able to identify any overt actions by the mayor to influence the hiring of Mr. Guba.

