

REPORT OF INVESTIGATION

K #: 10-157 Councilwoman Patricia Cohen

Date Opened: Oct. 28, 2010 Date Closed: March 31, 2011

Name of investigator: Karl Ross
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ALLEGATION: A formal referral was made to the Commission on Ethics by outside agencies to investigate the relationship between Bal Harbour Village Councilwoman Patricia Cohen and the owners of Kent Security, a long-standing contractor for the village's so-called Security District. The investigation was predicated on a private e-mail between Cohen and the manager of Kent Security that seemed to suggest that Cohen was attempting to use her influence to improperly award a contract to Kent at the Harbour House Condominium, where Cohen resides and serves on the condominium board. Because Kent is also a contractor for the Village of Bal Harbour, it was decided that COE should review the matter to ensure that no conflict of interest existed. Kent's contract with Bal Harbour is presently worth about \$195,000 annually.

INVESTIGATION: The following individuals and documents were consulted in connection with the investigation, as detailed below.

| Dina Cellini, local activist attorney
Bal Harbour Village
Jan. 24, 2011

Ms. Cellini was consulted regarding local government in general and the village's contract with Kent Security in particular. She said the contract was awarded a number of years back (2004) and, to her knowledge, has not come up for renewal or re-bidding since that time. She said the contract provides security for what is known as the Security District, mainly single family homes and some low rises. She said the area was gated off in about 1985 and that the Civic Association comprising those residences ran the district until the responsibility was awarded to the village in 2004. She said members of the civic association did not want to be subject to open meeting laws, ethics laws and other such requirements. She said the owners of Kent Security live in the district

and appear to “have an in” with local leaders. She said the company is owned by Shlomi and Orly Alexander and that the company’s day-to-day business is overseen by Orly’s brother, Gil Neuman. She said the Alexanders were close to former village mayor Howard Berlin, who left office in 2008 after declining to seek re-election. She said she recalled that a meeting was held back on or about 2004 to discuss alternatives and that several other companies were considered for the contract, but that the police chief (Chief Hunker) and manager recommended Kent. She said that there has been little discussion about replacing or re-bidding the contract since then, though the village does approve the budget for the Security District each September at the annual budget hearing. She said that the contract with Kent is the single largest budgetary item for the district.

Regarding Councilwoman Cohen, she said that Cohen used to live in the security district prior to her divorce to Felix Cohen and that she now lives in the Harbour House Condominium. She said that the Harbour House is mostly rentals and that her district [District 1] includes one other property, the One Bal Harbour property, which is a condo-hotel. Cellini noted that Cohen’s ex-husband, Felix, was business partners with Shlomi Alexander and they developed a residence on Indian Creek, a spec home, which is now considered one of the most expensive homes in Miami-Dade County. She further advised Patricia Cohen and Orly Alexander are “good friends.” She said Cohen is a landscape designer, is self employed and works from her home. She said she was not aware of any business relationship between Cohen and Kent Security. She further advised she was not aware of any allegations to that effect.

Review of Official Council Minutes
Feb. 8, 2011

COE reviewed the minutes from the Bal Harbour Village Council budget hearings on Sept. 14, 2010, and Sept. 21, 2010. There was some discussion of whether it was appropriate for the Village to provide public funding for the Security District since non residents are not allowed to enter the district. At the first meeting, Lynne Mullen, of 10150 Collins Avenue, said she considered “that the Village was using public dollars on what she believed to be private property.” Another resident, Anamarie Kelly Stoppa, of 77 Camden Drive, spoke against the Security District receiving public funding for landscaping. Councilwoman Cohen did not figure prominently in the discussions concerning the Security District. However, she was consulted during the Sept. 21, 2010, hearing about landscaping expenses in which she questioned the budgeted amount set aside for a Mr. O’Leary, who provides landscaping services. The city manager responded to her concerns by saying the budgeted amount was solely an estimate. During the Sept. 21, 2010, hearing Ms. Mullen again spoke about the Security District, noting that “a lot of the people outside of the gates were very unhappy.” She said that some residents were considering a class-action lawsuit. The subsequent budget, which did not entail a tax increase, was adopted unanimously with a 5-0 vote.

Diana Infante, property manager
Harbour House Condominium

Ms. Infante advised that she was aware of the allegations surrounding Patricia Cohen and Kent Security. She said she assumed her post as property manager at Harbour House in November, well after the matter of Kent's proposal for security services came before the board. Infante said Kent's proposal was not accepted and the building currently contracts with Platinum Security. She said she believes that rivals for condominium elected office may have circulated the e-mail, a copy of which she says she has seen. She said Cohen does serve on the condo board. She said the e-mail in question was reviewed by management at the time and it was determined that Cohen did nothing improper. COE requested a copy of the board's minutes for the meeting in question – at which the Kent proposal was considered – and Infante contacted her boss, Luis Pincus, VP at the Continental Group, and advised she could not release a copy of the minutes absent a subpoena. She said she feels Cohen is very open and would be willing to discuss the matter. She said she heard that whoever circulated the e-mail (a "Mr. Glass"), also provided a copy to the village manager's office.

Barbara Grossman, former candidate for Bal Harbour commission and resident of Harbour House

Ms. Grossman advised that she heard about the e-mail, but never got a copy because she did not attend the board meeting. People said e-mail mistakenly went to Carolina Folkard, the former property manager. Grossman said she ran against Cohen and lost in Feb. 2010. She said Sidney Glass was frequently in Folkard's office.

Sidney Glass, resident Harbour House

Mr. Glass advised that the e-mail in question was inadvertently sent to Carolina Folkard, and that he saw it and discussed it with a current board member, Cristina Cuervo. He said he recently asked Cuervo why the board never took disciplinary action against Cohen and removed her from the board and that Cuervo indicated that she meant to do so, but never did – mainly because Kent's proposal was not accepted, making the matter academic. He said he would attempt to locate minutes from the meeting in question and also contact information for Carolina Folkard, now a regional manager with Continental.

Carolina Folkard, regional manager The Continental Group

Messages were left on her work voice mail on March 3, again on March 29, March 30.

Christina Cuervo, VP Development Group of S. Florida
President of Harbour House condominium board

Ms. Cuervo said Patricia Cohen made an unsolicited pitch for enhanced security services last year and that this occurred after she had been elected to the Bal Harbour Village Council. She advised that Cohen was friendly with individuals at Kent Security and presented the board with a proposal from Kent, addressing alleged deficiencies in the building. Cuervo said that Cohen, at

or about the same time, had requested that the village police department do a security assessment of Harbour House and that the report issued by the department cited numerous deficiencies “finding how dangerous our building was.” When Cohen tried to move forward with the proposal from Kent, Cuervo said that she and Sid Boorstein, the other board members, told her that competitive bids would be required and that it would not be appropriate to discuss a sole-source agreement with Kent. At or about this time, Cuervo said the e-mail in question was issued and once word of it got out – it was believed to have been mistakenly sent to the property manager – Cohen desisted from attempting to move forward on Kent’s proposal and the matter of enhanced security for Harbour House was tabled at that time. Cuervo said that when she learned about the e-mail, “It was definitely very alarming.” Cuervo noted that she worked for many years in the public sector – in the City of Miami and later, Miami Beach – and she said that the e-mail suggested improper conduct. “We were very upset,” Cuervo added, noting that Sid Boorstein also shared her concerns. She said that one resident wanted the board to take up the matter of the e-mail at the most recent board meeting, but that Cohen was not present and that, out of fairness, the matter was deferred until the next meeting March 23rd. She said new board members will be installed at that meeting so that it is the new board that will have to consider the matter. She acknowledged she and Cohen have had an antagonist relationship and stressed that she did not want any personal issues to color the COE investigation. She said that there are three board members, and that Boorstein is vice president and Cohen is treasurer.

Sid Boorstein, former condo board member (VP)
Harbour House Condominium

Mr. Boorstein advised that a new board was elected on March 23, and that Cohen is now president. He said no discussion was held concerning the Kent Security proposal. He said the matter was supposed to be heard at previous meetings, but that either the item was tabled or the meeting was canceled. Boorstein said he considered the activity described in the e-mail as “bid-rigging” and said he once asked Cohen for an explanation, and that she said: “I did nothing wrong. . . . I was only trying to help a friend with cancer.” He said he assumes that she was referring to Neuman, but doesn’t know for sure. He said that Cohen also told him that the condominium “didn’t lose any money” since the matter was dropped and since no contract was awarded to Kent. He said that the building was not looking to change security firms at the time Cohen brought the proposal forward and that Platinum, the incumbent firm, remains in place. “There was no push to change security firms,” he said. “She claimed Platinum was not doing a very good job.”

Bill Raphan, supervisor
Office of the Condominium Ombudsman, FL

Mr. Raphan advised that the state agency has only six employees serving all condominiums in the state. He said that under state law, directors of condominiums are prohibited from receiving gifts or any other remuneration in connection with their official duties. “A board member cannot be compensated for doing their job,” Raphan said, adding that this would include “gifts, kickbacks or bribes.” He said that were this to happen, then it would be a criminal matter, not an administrative one. He said state condominium law (Chapter 718) does prohibit board members from having a financial interest in companies doing business with their buildings, but does not

prohibit them from steering contracts to firms if no direct compensation is involved. "It's certainly not good," Raphan said after being advised as to the content of the email from Cohen to a private security executive. "Something like this just isn't in there (Chapter 718). You can't take money or a gift, but it's just implied there" in the email ... It's totally an ethical issue."

Alfred J. Treppeda, village manager
Bal Harbour Village

Mr. Treppeda advised that the Village has a long-standing contract with Kent Security for the Security District that has been in place for many years and is renewed annually, usually without discussion or competitive procurement, under the terms of the existing contract. He said he would provide further information about the value of said contract. He said he did not recall having any discussions with Ms. Cohen as to Kent Security or its existing contract. He said he was aware that the police department conducted a security assessment of the Harbour House Condominium, but he does not know who made the request. He said such assessments are done routinely and free of charge for other condominiums. He said he was aware that Ms. Cohen is friends with Orly, one of the co-owners of Kent. He said he was not aware of any allegations concerning Ms. Cohen and her relationship with Kent.

In a follow-up conversation on March 30, 2011, Mr. Treppeda said that he had reviewed the e-mail, and stated: "It sounds like she's trying hard to get them to take Kent Security." He added that he didn't see "any cross-over" to Cohen's actions as a village councilwoman because Kent is a long-standing contractor and that "she [Cohen] had nothing to do with getting Kent here. She did not participate in any votes having to do with Kent Security." He said that he would provide a copy of the e-mail to Village Attorney Richard Weiss and that he would seek legal advice "whenever [the Kent contract] comes up for a vote again."

Thomas Hunker, chief
Bal Harbour Police Department

Chief Hunker stated that he did speak with Councilwoman Cohen regarding the security situation at Harbour House, after one of his officers, Madeline Orr, had conducted a security assessment there and found multiple "inadequacies." He said Cohen expressed that, based on the report, she thought the building needed "a better security company." He said Cohen then asked him how to go about finding a new security firm and that he advised her to solicit proposals from reputable firms. He said he provided the names of three such firms – Wackenhut, 50 States and Kent – but that he did not endorse any of the three. He said he was under the impression that the condominium put out a request for proposals.

Chief Hunker said he was not aware of the e-mail from Cohen, nor was he aware of any relationship she might have with the principals of Kent, except for the time she mentioned to him that Orly Alexander, one of the owners, had cancer and was undergoing chemotherapy. He said that Cohen has never advocated to him on behalf of Kent, seeking to expand their role as the village's security contractor. Hunker also said that the contract with Kent has not come under review since the time she joined the council. He said that the contract has come up for review on at least two occasions after the village received proposals and that those proposals were reviewed

by staff and submitted to the council. Those proposals predated Cohen's tenure on the council. "She [Cohen] never, ever said to me, 'We want to have Kent in here.'" Hunker said.

Connie Evans, financial disclosure section
Florida Commission on Ethics

Ms. Evans advised that Ms. Cohen did file a Form 1 statement with the Miami-Dade County Supervisor of Elections for 2009. She further advised that the contact there is Carolina Lopez, (305) 499-8409. A message was subsequently left for Ms. Lopez on her voice mail, requesting the 2009 form. (Note: A copy of the Form 1 was provided by Lopez later that day. Ms. Cohen did file in a timely manner.)

Orlando Aguilera,
G4S Secure Solutions

Mr. Aguilera advised that his company – formerly Wackenhut – did submit a proposal to provide security at Harbour House on or about June of last year. He said he was not aware of any formal RFP being issued, but that his business manager did speak to the former property manager, Carolina Folkard, to discuss the security needs of the building. He said a proposal was submitted but that the company never received a response from the building management and that he did not know what happened beyond that.

Patricia Cohen, president condo board and Bal Harbour Councilwoman
Harbour House Condominium/ Village of Bal Harbour

Ms. Cohen advised that she was elected to the Bal Harbour Village Council in April 2009, and that the following year in March, she was elected to the condominium board at Harbour House. She stated that as a single mother, she felt unsafe at times in Harbour House, having moved there following a divorce, and that she contacted Police Chief Hunker about conducting a security study. She advised that the building has problems with alleged prostitution and drug dealing and illegal, short-term vacation rentals. She said she and other residents were unhappy with the incumbent security firm, Platinum, because of the high turnover rate among security personnel and that the guards didn't know the residents and, therefore, could not effectively screen out the non-residents. She said that, as a resident, she very much wanted to enhance security and that she reached out to Kent because she is "dear, dear friends" with owners dating back to her college years. She said that the former property manager, Folkard, had also contacted them and that representatives from Kent met with her and obtained a copy of the building's blue prints.

Ms. Cohen said that Kent subsequently submitted a proposal for security and for security cameras and technological components to control access to the building and its elevators. She said Folkard told her "your friends' quote is very good," but explained to her that other proposals would be required. She said that she then re-contacted Chief Hunker and he told her that Folkard was right, that additional firms should be solicited and that he provided the names of additional firms. She said that the building obtained a quote from Wackenhut, but still required a quote from a third company. She said that at that time she wrote the e-mail in question to Gil Neuman and that she considered it "a personal email." Cohen said she was "joking" in the line of the

email when she asked Neuman for “some names of firms that tend to be less competitive than yours???” She said she had no financial interest whatsoever in the matter. “I was not trying to rig anything ... I was not trying to enrich myself. I was not getting a kickback.” She went on to explain that she operated three stores at Bal Harbour Shops for many years, and that she never had to get three bids. “This was my first month on the board. I didn’t understand you needed three bids. I ran a successful business. If you found a reputable contractor that you liked, that was it,” she said.

It was explained to her that procurement is handled differently in the public sector and she said that was now aware of that, but stated that she had only been on the council a short time when she security issue at her condominium arose. She advised that she had no interest in the security contract at Harbour House, except that of being a resident who felt ill-protected and who wanted better security. She said that the e-mail in question was not inadvertently sent to the property manager. She said that she intentionally sent it to Folkard and to another resident, a “Stacy” who runs the building’s convenience store, and contended that she did this because she had no improper motive and wasn’t trying to hide anything. “I have zero financial interest. I have never taken a penny from Kent. They are my best friends.”

CONCLUSION: Based on the information detailed above, it does not appear that there are any grounds for further action. If taken at face value, Ms. Cohen’s explanation does not reveal any corrupt or illegal motive in attempting to facilitate the contract award to Kent as there is no evidence to suggest she has a financial relationship with Kent, only a long-standing friendship. Under state condominium law, board members are not allowed to accept gifts or receive compensation in exchange for a contract award or to have a financial stake in firms contracting with their buildings. According to Ms. Cohen, she was simply trying to enhance security at her building and, at the same time, admittedly, to help her friends gain additional business. It was explained to her that in a different context – i.e. the awarding of a government contract – this behavior could be problematic and potentially expose her to legal action. She stated that she was now aware of this and that she would seek to orient herself as to the applicable rules and statutes. She said that she was not attempting to do anything improper, noting that had this been her intent, she would not have shared the email in question with outside parties. Given this, and the view of village officials consulted by COE that Ms. Cohen in no way attempted to act or lobby on behalf of Kent Security – no “cross-over,” as the

village manager put it – there does not appear to be any impropriety by Ms. Cohen regarding her capacity as an elected official. As a precaution, Village Manager Alfred Treppeda advised he would consult the village attorney and make sure that any future dealings between the village and Kent are handled appropriately.

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