

# MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



## REPORT OF INVESTIGATION

K #: K 11-125

Date Opened: 10/18/11

Date Closed: 11/21/11

Name of Investigator: Manuel W. Diaz

### **Allegation:**

George Volskey, editor of [www.cggazette.com](http://www.cggazette.com), a Coral Gables (CG) on-line newspaper carried an article concerning CG Historic Preservation Board (HEP) Chairperson Richard J. Heisenbottle (Heisenblottle). The article questioned whether Heisenbottle lobbied elected officials on a project where he benefited financially.

### **Applicable Legislation:**

Section 2-11.1 of the Code of Miami-Dade County, the County's Conflict of Interest and Code of Ethics Ordinance states in pertinent part:

(s) Lobbying.

(1) (b) As used in this section, "Lobbyist" means all persons, firms, or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision of the County Commission;

(2) any action, decision, recommendation of the County Manager or any County board or committee; or (3) any action, decision or recommendation of County personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission, or a County board or committee. "Lobbyist" specifically includes the principal, as well as any employee whose normal scope of employment includes lobbying activities.



(2) All lobbyists shall register with the Clerk of the Board of County Commissioners within three (3) business days of being retained as a lobbyist or before engaging in any lobbying activities, whichever shall come first.

Code of the City of Coral Gables Florida. Sec. 2-234-Lobbying

(a) Lobbyist. an Individual, corporation, partnership, or other legal entity employed or retained, whether paid or not by a principal who seeks to encourage the approval, disapproval, adoption, repeal, passage, defeat, or modifications of (a) any ordinance, resolution, action or decision of any city commissioner....

(b) Registration, All lobbyists shall, before engaging in lobbying activities register annually with the city clerk, Every person required to register shall:

- (1) Register on a form prepared by the city clerk;
- (2) Pay the annual registration fee of \$150.00; and
- (3) State under oath the name and business of the registrant; the name and business address of each principal which has employed or retained the registrant to lobby; the specific issue for which he/she had been employed or retained to lobby and the existence of any direct or indirect business association, partnership, or financial relationship with any employee of the city.

**Interviews:**

Jon Seaman, Miami-Dade County Parks and Recreation (MDP&R), Contract Administrator

Seaman is the contract manager for RFP No. 635 for the Matheson Hammocks Park Boat Storage Facility. The RFP was awarded to AMP Buoniconti GPI, LLC (AMP). Seaman advised that Matheson Hammocks Park is a County Park located in CG. Therefore, the facility will be constructed on MD County property.

As contract manager, Seaman received and reviewed the conceptual plans submitted by AMP. After reviewing the plans, Seaman requested that Heisenbottle, the architect of record for the project, go to MDP&R to discuss the conceptual plans. According to Seaman, the meeting was informal. During the meeting, Heisenbottle explained that the plans were to be reviewed by the CG Development Review Committee, the Board of Architects, the HEP, the Planning



and Zoning Department and the City Commission. Heisenbottle added that he was a member of the HEP and stated that he would rescue himself from the proceedings when the project came before the Board for approval.

J. C. Romano, Miami-Dade County Procurement Contracting Officer

Romano advised that he attended negotiation meetings for RFP No. 635. Eston Melton (Melton) and Arnie Zwibels (Zwibels), an architect, were at the meeting representing AMP. Romano does not recall Heisenbottle being present at any of the meetings.

Peter Salerno, CG City Manger

Salerno was interviewed at CG City Hall. He advised that he first heard of Heisenbottle's possible conflict from Volsky. Salerno then received several emails concerning the matter from several civic activists.

Salerno advised that Heisenbottle's reappointment to the HPB was in September 2011. He discussed the allegations with the City Attorney, and requested an opinion. The attorney, as of the time of the interview, had not opined.

Richard Heisenbottle, R. J. Heisenbottle Architects, PA, 2199 Ponce de Leon Boulevard Suite 400, Coral Gables, Florida 33134

Heisenbottle responded to a COE contact letter. He confirmed that he did contact two GC City Commissioners (Anderson and Kerdyk) to discuss the Matheson Hammocks project. He believed that these contacts were permitted under State of Florida Ethics Opinion CEO04-1-January 27, 2004. (Copy in file)

Heisebottle advised that he had registered with CG as a lobbyist. He was advised that his name did not appear on the lobbyist log that was provided to the



COE by the City Clerk. Heisenbottle was also advised that the CEO04-1-January 27, 2004 dealt with conflicts of interests and not with registration.

Heisenbottle advised that he had met with the CG City Attorney on October 19, 2011 to discuss the possibility of a conflict of interest. At the time, he requested a legal opinion. He did not receive the opinion.

Heisenbottle provided a copy of a *City of Coral Gables Lobbyist Annual Registration Certificate Application* that was date stamped by the CG City Clerk on September 28, 2011. The application was submitted to the Clerk on September 28, 2011, after the article in [www.cggazzett.com](http://www.cggazzett.com) appeared. (Copy in file)

### **Public Records**

#### **Miami-Dade Procurement RFP 635**

The RFP was issued in July 2008. Responses were due on August 6, 2008. The AMP proposal lists among its team members Michael Saltz, as the lead architect, and Heisenbottle as the consulting architect.

#### **Miami-Dade County Clerk of the Board Lobbyist Registration**

Melton (Global Projects, Inc.) registered as a lobbyist for the year 2011 on January 3, 2011. (Form in file) Melton filed a Lobbyist Activity Authorization form to represent "Richard Heisenbottle Architects" on August 14, 2009. No specific issue was named. (Form in file)

#### **Coral Gables Lobbyist Registration**

Melton filed as a lobbyist representing AMP. The issue was the construction and operation of a dry stack boat storage facility within Matheson Hammocks Park.

Ivan Rodriguez, an employee of R.J. Heisenbottle Architects, PA, registered representing AMP.



John N. Ross, Rossolo Construction Services, Inc., registered as representing AMP.

Heisenbottle provided a copy of a City of Coral Gables Lobbyist Annual Registration Certificate Application that was date stamped by the City Clerk on September 28, 2011. (Form in file) Heisenbottle's name was not listed on the lobbyist registration log that was initially provided to the COE by the Clerk's office.

**Summary of Findings:**

1. MD P&R will construct a boat storage facility at Matheson Hammocks Park. The Park is located within CG. The project needs the approval of the CG City Commission.
2. On September 23, 2011, [www.cgazette.com](http://www.cgazette.com) reported that Heisenbottle had met with and lobbied CG elected officials without registering as a lobbyist.
3. Heisenbottle is a member of the CG HEP.
4. Heisenbottle confirmed during a COE interview that he had contacted two CG Commissions to promote the project.
5. At the time of the contacts, Heisenbottle was not registered as a lobbyist.
6. Heisenbottle when interviewed advised that he felt that his contacts were within the guidelines set forth in a State of Florida Ethics Commission Opinion.
7. Heisenbottle was advised that the current COE inquiry involved lobbyist registration, not a possible conflict of interest.

8. Heisenbottle advised that he had registered as a lobbyist with CG. He provided a copy of the registration form to the COE. The form was dated September 28, 2011, after the [www.cggazette.com](http://www.cggazette.com) article appeared.

**Conclusion:**

Heisenbottle is registered as a lobbyist in CG therefore this case is closed without further action.