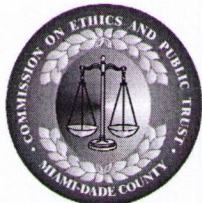


## MIAMI-DADE COMMISSION ON ETHICS & PUBLIC TRUST



### REPORT OF INVESTIGATION

**K #: 11-046** Mayor Tomas Regalado et al.

Date Opened: March 24, 2011

Date Closed: October 13, 2011

Investigator: Karl Ross

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**ALLEGATION:** The Commission on Ethics (COE) opened an investigation into alleged unreported gifts to City of Miami officials, including Mayor Tomas Regalado and Comm. Frank Carollo. These alleged gifts include tickets to local sporting and cultural events, as well as a trip to Spain in June 2010 by Mayor Regalado, Comm. Carollo and their respective family members. The purpose of the investigation is to identify any potential gifts to these individuals and other officials and to determine whether they were disclosed in a manner consistent with the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (the Ordinance), state ethics law or any other applicable rule.

**INVESTIGATION:** COE obtained copies of city e-mails, the Mayor's meeting calendar, contracts, proclamations and other records in an attempt to identify alleged gifts by companies doing business in Miami and, in at least one instance, doing business directly with the City. COE contacted the City of Miami Clerk's Office and the Florida Commission on Ethics to request any gift disclosure forms filed by City officials. In addition, COE contacted the University of Miami to inquire about any tickets to sporting events given to City officials.

During the investigation, COE interviewed a number of individuals. On April 12, 2011, COE spoke to then City Manager Tony Crapp Jr., who advised as follows:

Mr. Crapp called COE to discuss the pending investigation. He advised that he would ask one of his assistants, Ofelia Perez, to compile information and contact COE. Mr. Crapp said he would start by researching any tickets distributed in connection with the Miami Heat, Florida Marlins, Sony Ericsson Tennis Tournament and a Don King boxing event.

On April 12, 2011, COE contacted Ofelia Perez, Executive Assistant to City Manager Crapp, who advised as follows:

Ms. Perez said that for the 2011 Sony Ericsson tournament, commissioners each received two tickets per session, for a total of 22 sessions – plus a parking space. As for Marlins tickets, Perez said former City Manager Carlos Migoya issued a memorandum letting employees know that tickets were available and that they could receive as many as four tickets each. She said she believes Eric Duran, an employee in the mayor's office, would have handled the Miami Heat tickets that were given to the Mayor. She said she would check with the City Manager regarding COE's request for copies of any public records requests to date.

On April 25, 2011, COE contacted Eric Duran, an assistant to Mayor Regalado, who advised as follows:

Mr. Duran said he does not handle tickets for the Mayor's office, he only keeps his calendar and schedules events. He said he does not recall any sporting events the Mayor attended in recent months and only schedules "work-day meetings." He said that if the Mayor attends such an event in the evenings or on weekends, he would not be privy to that event. He said he would help to coordinate an interview with the Mayor.

On April 25, 2011, COE contacted Ada Rojas, Director of Resident Affairs and Special Events for the office of Mayor Regalado, who advised as follows:

Ms. Rojas said that for years, the City of Miami and the Miami Heat have been "collaborating" on special events for disadvantaged children. She said any games she has attended have been in connection with her job as special events coordinator. "I don't see them as gifts. I see this as something that we've done for years ... I don't see it as receiving a gift, but as a wonderful opportunity to collaborate. I've never seen anywhere, where it says 'this is gift,' where it has a dollar value attached to it." She said everything the Mayor and his staff have done has been documented, including photographs of the Mayor with children attending the games. She said that because of the City's tight

finances, the City regularly partners with the private sector in order “to provide things for children.” She said that she coordinated the Heat event with three individuals from the Heat whose names she could not remember. She said the contact person at Office Depot is Owen Torres. She said she would obtain copies of any relevant e-mails she has saved with these individuals. She said she does not handle ticket requests for the Mayor and other elected officials, saying Eric Duran handles that (contrary to what Duran had stated).

On April 27, 2011, Ms. Rojas advised in response to a public records request, that she does not recall anybody on the Mayor’s staff attending a Heat game on Dec. 13, 2010, as suggested in the mayor’s e-mail to Ancel Pratt of the Miami Heat. She said the only game Mayor Regalado attended was on Dec. 28, 2010. She said that – despite references to “tickets” in the e-mails – nobody on staff received an actual ticket, but rather they were given a “pass” and that Mr. Pratt would meet City officials at a gate and grant them access to the arena. She said she never recalled seeing a ticket or anything with a face value. She asked about whether she was also subject to investigation, and she was informed that as a government employee she was also subject to the provisions of the County’s Ethics Ordinance. She requested information and was sent a copy of the link to the COE website. She also noted Mayor Regalado’s office attended a similar event sponsored by the Miami Heat in late 2009. “We did the same thing last year,” Rojas said. “This is the second time that we’ve done it.” She said the mayor frequently attends events in an official or ceremonial capacity but does not usually stick around to participate on a personal level.

It was suggested to her by COE that while that may oftentimes be the case, that when the Mayor requests additional tickets for family members who are not City officials, as he did for the Heat game, then it would appear that he is acting in a personal capacity and may, in fact, be participating in the same manner as other paying spectators. She said the mayor’s daughter – Raquel Regalado – did not attend the Heat game but does often attend other events in an official capacity since she is a member of the Miami-Dade County School Board. She did not attempt to justify the attendance of the Mayor’s two sons – Tommy and Jose – at the Heat game or at other events attended by the Mayor.

On May 26, 2011, COE contacted Eric Duran of the Mayor’s Office and Wallis Tinnie, from the Office of Protocol, regarding a public records request for a copy of the Mayor’s meeting calendar for 2010 and for records of any communication between the Mayor, his staff and Juan Jose Hidalgo, president of Globalia Corp. and Air Europa. Said records were subsequently delivered to COE, including a copy of a proclamation dated March 22, 2010, declaring said day “Miami to Madrid Air Europa Day.” The proclamation was given to Jose Hidalgo in the Office of Mayor Regalado.

On July 6, 2011, COE contacted City Comm. Frank Carollo, who advised:

Comm. Carollo replied to an e-mail requesting an interview at COE to discuss the following matters – any tickets to sporting events he may have received, his trip to Spain and other matters of potential interest. He advised that he would be available following the July 14 City Commission meeting, and tentatively scheduled a meeting at 10 a.m. on July 15, subject to confirmation. He did advise that his wife accompanied him on the trip to Spain, and that he did attend the Don King boxing event at the AAA. He later rescheduled the interview for July 22 through his attorney, Ben Kuehne.

On April 25, 2011, COE contacted Terry Byrnes, Senior Procurement Specialist for the City of Miami, who advised as follows:

Mr. Byrnes advised that the State of Florida had brought a class-action lawsuit against Office Depot for overcharging state agencies, and that the matter was settled after the company “was paying out millions” of dollars. He said that because of questions about Office Depot’s business practices raised by the lawsuit, the city added Staples as an alternate vendor and end-users are encouraged to compare prices between the two companies before ordering office supplies. He suggested checking the state of Florida’s Procurement Management website. Byrnes said that he was not aware of any attempts by Office Depot to prevent the city from adding Staples as an alternate vendor.

On July 18, 2011, COE interviewed Mayor Tomas Regalado, who advised:

Miami Heat: With respect to the Miami Heat game against the New York Knicks on Dec. 28, 2010, the mayor said this is something the Heat had done in the past for “inner-city kids” and that he considered his attendance a matter of official city business. He said that he did not attend a game on Dec. 13, as suggested in city e-mails and a Miami New Times story. He said that tickets for 35 underprivileged children were provided by Office Depot and the Miami Heat, which matched Office Depot’s contribution. He said seven chaperones also attended with the children. He said that prior to the Heat game he sat with the children as they met Heat players and posed for photographs. He said that, once the game started, he and his group were escorted to seating elsewhere in the lower bowl but that he did not recall receiving any tickets. He said that his son, Jose, attended the game with him, saying that Jose was working “pro bono” for his office at that time. (Jose has since returned to FIU, he said.) He said that at half time, a Miami Heat employee (Pratt) invited them to a box suite where actor Sean Penn was seated. He said that he met with the actor, posed for pictures and, after a while, returned to his original seat. The Mayor said his son, Jose, and daughter, Raquel, were invited to the game because he wanted to share the occasion with them. He said that Raquel had just been elected to the Miami-Dade County School Board and that “they wanted to meet her,” referring presumably to Miami Heat executives. He said he did request an additional ticket for his Sergeant at Arms, Ray Carvil, because Carvil said he preferred not to have to “badge his

way” into the arena. He said he did not file a gift disclosure form in connection with the game “because I thought it was something we were doing in an official capacity.”

Don King Event: Mayor Regalado advised that a local promoter he knew told him Mr. King wanted him to attend – both the event itself and the press conference. He said this took place around Thanksgiving, and that during the press conference Mr. King expressed an interest in doing something for the city. He said that since the Miccosukee Tribe was not sponsoring the annual turkey give-away that year, he suggested to Mr. King that he might donate turkeys for needy residents and that Mr. King agreed. He said Mr. King procured 700 turkeys – 100 for each of the five city commissioners and 200 for the mayor’s office to distribute. He said Mr. King also told him he wanted him (Regalado) to be at ringside for the event, and that he participated in the opening ceremony prior to the fight in which the U.S. and Cuban flags were unfurled. He said he was recognized by announcers during the opening ceremony. He said he and his group were seated at ringside and that small hamburgers (“sliders”) and soft drinks were served. He said he left early. He said he did not report his attendance as a gift for himself or for his son, Tommy (see photo), because he believed he was acting in an official capacity.

Sony Ericsson Tennis Tournament: Mayor Regalado said that he has received tickets to the event for the past 17 years as part of an agreement between the city’s Department of Asset Management and Miami-Dade County for use of the Marine Stadium parking lot for “overflow parking” for the event. He said that the tickets are provided to city commissioners, the mayor and city manager for each session “in lieu of payment” from the county and/or event organizer. He said that he did not attend any of the sessions, but did give tickets for one session each to sons Tommy and Jose. He said that he gave the remaining tickets away to friends, acquaintance and other “important people.” He said that, in the past, city commissioners had asked the city attorney whether the tickets should be reported as gift and that they were advised that they did not have to because they were obtained as part of a formal agreement between the City and County.

Other Events: The Mayor said that his office does not usually receive tickets to events at the American Airlines Arena or the Adrienne Arsht Center because they are county-owned venues. He said his office does receive two free tickets for events at the city-owned James L. Knight Center and at Bayfront Park, through the Bayfront Park Trust. He said that, on occasion, he will allow members of his staff to use the tickets for events at the Knight Center, but that the tickets are numbered “000” and do not have a dollar value assigned to them. He said he only accepts the tickets at Bayfront Park for events geared towards Haitian or African-American residents at the request of the District 5 city commissioner’s office. He said the only event he recalled attending at the Knight Center was a Willie Chirino concert and that he did so because Chirino, who was also part of the “Pedro Pan” exodus from Cuba, invited him personally.

Trip to Spain: The Mayor advised that he, his son Jose, Comm. Frank Carollo and Carollo’s wife (Monica), traveled to Madrid last June as part of an official delegation to Alcobendas, a suburb of Madrid where many Spanish businesses are headquartered. He said he traveled under the auspices of the Mayor’s International Council, a 501(c)(3)

nonprofit created as a fund-raising arm for the entity. Mayor Regalado said that, by virtue of his office as Mayor, he serves as chairman of said council and the City Commission appoints one of its members as council vice chairman. In the past the council received \$500,000 as part of the City's annual budget, but that former Mayor Manny Diaz, in one of his final acts as mayor, "zeroed out" the funding allocation, he said. He said the council organizes trade missions, oversees visits by foreign dignitaries and any Sister Cities relationships the city may have entered into. He said former Channel 7 reporter Ingrid de Casado served as executive director of the council, but she was later transferred to the city manager's staff after the funding was eliminated by former Mayor Diaz.

Mayor Regalado said he appointed new members to the council after taking office, among them Miami Dade College President Eduardo Padron; William Alexander of CAMACOL (the Latin American Chamber of Commerce in the U.S.); Armando Rodriguez, Vice Principal at Belen Jesuit Prep High School; attorney and lobbyist Al Maloof. He said the new members would be responsible for identifying funding sources. He said that when the new council was formed, Padron suggested re-activating the Sister City program in Madrid. He said the Miami City Commission had approved entering into a Sister City relationship with Madrid, but that no formal agreement or protocol had been signed. He said that members of the council were also assigned geographic areas, and that Julian Linares, a Miami-based Spaniard, was in charge of relations with Spain. He said that Linares brought to his attention that the mayor of Alcobendas was in Miami and that the mayor had tried to gain an audience with then County Mayor Carlos Alvarez, but was unsuccessful. He said Linares asked him to meet with the mayor of Alcobendas and that he did, learning that Alcobendas was going to be the site of the world premier of a movie about Cuban human rights activist Dr. Oscar Elias Bicer. He said that at about this same time Air Europa announced the opening of its new flights to and from Miami, including a Madrid-Miami route, noting that each flight was said to create 16 local jobs. He said that a proclamation was prepared for the president of Air Europa, Juan Jose Hidalgo (March 22, 2010), at the request of his protocol staff, and that while Mr. Hidalgo was attending the ceremony at Miami City Hall he offered to have Mayor Regalado and other Miami city officials fly on the inaugural flight from Miami to Madrid.

Mayor Regalado said Mr. Linares discussed the matter further with Mr. Hidalgo and that Mr. Hidalgo extended what amounted to an open invitation. Mayor Regalado said that the invitation, as described to him, was essentially: "Who's going?" He said that he did not have to request an additional seat for his son, Jose, who accompanied him on the five-day trip. He said that Mr. Hidalgo also paid for their hotel at the same hotel Comm. Carollo and his wife stayed at in Madrid. He said city officials opted not to go on the inaugural flight as Mr. Hidalgo had proposed, but rather asked that their trip coincide with the official signing of the Sister Cities agreement in Madrid. He said the signing ceremony was later canceled at the request of Madrid's mayor due to a labor strike.

Because of the cancellation, Mayor Regalado said that the focus of the trip became the premier of the movie about Dr. Bicer. He said that Mr. Linares also went on the trip as a member of the mayor's council. (He did not say whether Linares paid his way.) He said that while in Spain, he and members of the delegation met with the county Mayor of

Madrid (a woman whose name he couldn't recall), the Vice Mayor of Madrid and "some Senators." He said that he also met with executives at Truco, a Spanish-based wholesaler that he said recently opened a store in Miami's Design District. Regalado added that, after receiving the invitation from Mr. Hidalgo and Air Europa, he and Comm. Carollo met with City Attorney Julio O. Bru, to ask whether the trip to Spain should be reported as a gift. He said Bru advised it was not necessary to report the trip because, in her opinion, any gift was being made – not to the city officials personally – but instead to the council, a nonprofit entity. He said the opinion was issued verbally. Asked why Comm. Carollo reported the trip anyway, Regalado said: "Because he's an accountant."

The Mayor further advised that he recently traveled to Taiwan, another Sister City, in order to restore that relationship and did not report the trip. He said that his daughter, Raquel Regalado, accompanied him but that arrangements for her travel were made through the School District, which also has a similar program. He said he also has plans to travel to Peru in October, and requested further direction from COE as to how and if that trip should be reported.

On July 22, COE interviewed Comm. Frank Carollo, who advised:

Trip to Spain: Comm. Carollo said he serves as vice chairman of the Mayor's International Council and is responsible for promoting trade and economic development. He said the only time he met Air Europa president Juan Jose Hidalgo was on the day the Mayor gave him the proclamation in his office. He said he posed for some pictures with the Mayor and Mr. Hidalgo and left. He said there was no mention of any free trip to Madrid at that time, aside from a general statement from Hidalgo to the effect that, "You should come to Madrid." He said he didn't pursue the matter further, but that some time later Mayor Regalado approached him and suggested that they travel to Spain to attend a Sister Cities event there. He said the mayor suggested he bring along his wife "because the mayor knows how family oriented I am and that I probably wouldn't go without her." He said the Mayor told him the visit would also include meeting with the local chamber of commerce, the Dr. Bicet movie premier and other official business in Alcobendas. He said the Mayor told him Air Europa would be paying for the trip. "I definitely viewed it (the purpose of the trip) as business development." He noted that he and his wife had traveled to Spain six month earlier and that Madrid was one of their stops. He provided COE a copy of his trip itinerary from June 14 to June 20, showing numerous official functions and events. He said they did attend the premier of the movie about Dr. Bicet and that "we brought the movie to Miami" where it played at the Tower Theater in Little Havana. He said that he did contact City Attorney Bru to discuss how and whether the trip to Spain should be reported as a gift and that, consequently, he filed a Form 9 for his wife's trip (only) to Spain since she was not acting in an official capacity. He said he understood that he did not have to file a similar form for himself since he felt he was acting in an official capacity, not taking a pleasure trip. "I sought counsel from the city attorney and acted in good-faith that I was following all the rules," he said. Asked if he filed the form reporting his wife's trip with the clerk's office, as required by the ethics

code, Carollo pointed out the form was notarized by City Clerk Priscilla Thompson. “I was under the impression that she would have made a copy,” he said.

Don King Event: Comm. Carollo advised that he received tickets in an envelope, as he commonly does for events at city venues, and said that he was not interested in going and had not planned on attending the match. He said he went to an event at the Mayor’s terrace at City Hall later that day when Mayor Regalado encouraged him to go, saying the Don King event would serve to help “bring boxing back to Miami.” He said he agreed to go, and that he sat ringside with the Mayor and others and that light food, not a formal meal, was served. He said he also attended at least one session of the Sony Ericsson tournament in Key Biscayne this year, and that he brought his infant daughter to the event. He said he could not recall if he attended other sessions of the tournament. He said that, as with other such invitations, he consulted the City Attorney and heeded her advice with respect to reporting and disclosure requirements.

On July 26, 2011, COE re-interviewed Ada Rojas, who advised:

Ms. Rojas advised that the offer from the Miami Heat for the Mayor and his guests was an open-ended offer and not for a specific number of tickets, seats or passes “within reason.” She said Pratt, the Heat’s public affairs coordinator, stated to her: “Who is going to be accompanying the mayor to the event?”

On July 29, 2011, COE interviewed Derek Cooper, Senior Counsel and Director of Government Relations, who advised:

Mr. Cooper advised that Mayor Regalado was initially offered two seats in the company’s “loge box” for the Heat game and annual charity event on Dec. 28, 2010. He said the seating area (Loge #214), reserved for Office Depot that night, is comprised of 18 to 24 individual seats. He said the area is separated from other such boxes and has a serving area, but is not enclosed in glass. He said the approximate value of each seat is slightly more than \$200, based on a comparable club-level season ticket worth \$12,000 per year, divided by 55 games – including pre-season and playoffs – or roughly \$218 per ticket. He said that the mayor was offered “the standard two tickets” for the event, adding “but it is very fluid” as far as the number of seats that could be made available. He said that the number of tickets for the mayor and his group “was extended to six.” He said he was familiar with the e-mail dated Dec. 20, 2010, in which Ada Rojas of the Mayor’s office writes Owen Torres, Office Depot’s public relations manager, and identifies the six individuals who would be attending (Mayor Regalado, Rojas, Ray Carvil, Jose Regalado, Johnny Martinez and Ana Maria Martinez (Johnny Martinez’s wife)). Cooper said that a seventh ticket was requested the day of the game. “I believe it was for his other son, Tommy ... Owen [Torres] said both the Mayor’s sons attended.” Cooper said the tickets were not presented in the form of individual tickets, but rather as a sheet of paper with a bar code printed on it. This is what was shipped UPS to the Mayor’s office, he said.



On August 24, 2011, COE interviewed Raquel Lippman, Legal Counsel for the Miami Heat Group, who advised:

Ms. Lippman contacted COE on August 24 and advised that Office Depot was the sponsor of the charitable event with the City of Miami, and that under that company's "sponsorship agreement" with the Miami Heat, it is entitled to a certain number of free game tickets and other perks, such as "meet and greets" with Heat players and that Office Depot exercised those rights for the game Mayor Regalado attended on Dec. 28. She confirmed that six extra tickets to the Office Depot suite had been reserved, and that either the day of the game or the day before, a seventh ticket was requested by Office Depot for its Loge box. She said that under the terms of the agreement, the "sponsor" (Office Depot) can request extra tickets at no additional cost to the company. She said the sponsorship agreement with Office Depot covers all sporting and entertainment events at the American Airlines Arena and are purchased on an annual basis.

On October 13, 2011, COE re-interviewed Cooper, who advised:

Two tickets were initially offered because that is what is typically done but that any reasonable number of tickets would be given to the Mayor, space permitting. Cooper was specifically asked whether if the December 20<sup>th</sup> e-mail had listed 10 guests instead of 6, that would have been a problem and he stated that it absolutely would not have been. Cooper explained that the company does not have a policy detailing how many tickets can be given to an elected official or who he/she may take to a particular event.

### **CONCLUSION:**

Trip to Spain: Based on the findings, it is reasonable to conclude that Mayor Regalado and Comm. Carollo were acting in an official capacity during their trip to Spain, and would not therefore be required to report the trip as a "gift." Less certain, however, is whether Mayor Regalado, under state ethics guidelines, would be required to report his son's trip to Spain as a gift since his son does not serve on the Mayor's International Council and would not have had any official motive for attending governmental functions there. It is the view of the Ethics Advocate that state law – based on cases involving similar fact patterns – suggests that Regalado should report his son's travel and lodging expenses as a gift on a gift disclosure form. This is not specifically required under the County or City ordinance, however.

Comm. Carollo did report his wife's trip to Spain as a gift with the State Ethics Commission on or about October 2010, though in the interest of transparency it is the Advocate's view that Comm. Carollo might have noted on the Form 9 disclosure that

said gift consisted of his wife's trip-related air fare and expenses, not his. Clearly, Mrs. Carollo was not acting in an official capacity during her visit to Spain, and it could be construed the trip afforded his wife was, in fact, a gift to the commissioner. And while Mayor Regalado said his son was working for the city on a "pro bono" basis at that time, he also said that his son was not involved in any formal internship program authorized by the City but was instead serving as what amounts to an unpaid assistant.

Miami Heat Game: It appears that the mayor was attending the Dec. 28, 2011 Miami Heat game/event in an official capacity, but the fact that at least two tickets provided to the City were earmarked for use by members of his family raises questions as to whether those tickets are subject to gift disclosure rules and as to whether the Mayor violated to Sec. 2-11.1(e)(3) regarding *Prohibitions* on gifts to public officials, which states in applicable part that no official "shall neither solicit nor demand any gift." According to an official from Office Depot, on the day of the game, the Mayor requested an extra ticket for his son, Tommy to attend the game. According to the Mayor, he requested the additional ticket for his Sergeant at Arms but this assertion is contradicted by the fact that in a Dec. 20<sup>th</sup> e-mail the Mayor's Sergeant at Arms is listed as an attendee. Although, it could technically be argued that the Mayor solicited an extra ticket, Office Depot officials made it clear that the Mayor was not offered a set number of tickets and had additional names been included in the Dec. 20<sup>th</sup> e-mail, tickets would have been given to those individuals without a problem. Hence, it seems unreasonable to conclude that a solicitation occurred solely because the extra ticket was acquired the day of the event, rather than by way of the e-mail. Furthermore, it is important to note that the Dec. 20<sup>th</sup> e-mail listed Respondent's other son, Jose; as well as Johnny Martinez' wife as guests.

Don King Event: The Mayor's conclusion that he attended the Don King Event in his official capacity is a reasonable one and, therefore, he was not required to file a gift disclosure for this event. Mr. King specially asked the Mayor to attend during conversations about Mr. King making a substantial donation of turkeys to a cause the City was sponsoring. The same is true for Comm. Carollo.

Sony Ericsson/James L. Knight/Bayfront Park:

The findings would seem to raise similar questions as to whether there is any public benefit resulting from the long-standing arrangement between the City and County regarding the issuance of free passes to the Sony Ericsson Tennis Tournament and cultural events held at the James L. Knight Center and Bayfront Park for elected officials. If the tickets are being issued "in lieu of payment" to the city, then the citizens of Miami, it would seem, should be entitled to any resulting benefits. In practice, however, it appears that the main beneficiaries are the elected officials, their family, friends and political supporters who are the recipients are these and other perks.

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