

OFFICE OF THE INDEPENDENT ADVOCATE
REPORT OF INVESTIGATION

K 11- 059
C 11-013

Date Opened: April 6th, 2011

Date Closed: May 16, 2011

Name of investigators: Breno Penichet and Kennedy Rosario

Allegation:

On March 24, 2011 attorney David Tarlow (Tarlow) filed an official complaint with the Commission on Ethics & Public Trust (COE) against Mr. Gregory Pierce (Pierce) for among other things, having a conflict of interest while serving on the Board of Rules and Appeals (BORA).

Investigation:

In the complaint Tarlow states that Pierce is a member of BORA, and he (Pierce) accepted employment as a paid expert witness for a group of plaintiffs who are seeking relief through both the Circuit Court and the BORA.

In support of the complaint Tarlow provided copies of invoices showing payments to a corporation, dba Executive Directors, Inc. in which Pierce and his wife appear as the owners.

Tarlow also provided a partial copy of an "Excerpt of Proceeding for The Board of Rules and Appeals Meeting" which took place on Thursday, September 17, 2009, between the hours of 3:21 pm to 3:45 pm.

On page two (2) of the transcript under "Appearances" (line 16) the name "Gregory Pierce" appears as being "present" on the BORA panel that day.

COE Investigator Breno Penichet reviewed the transcript and found on page five (5) lines 16, 17, 18, a brief reference to Douglas Roofing, Inc. (Douglas). Douglas is the company that is being sued by the plaintiffs who retained Pierce as their expert. These same plaintiffs filed the complaint that is pending before the BORA.

The transcript show that Douglas Roofing, Inc. was called as Item six on the docket but there is no response noted. Subsequently, item six was moved.

COE Investigators Rosario and Penichet Interviewed Mr. Jose Lezcano (Lezcano), Miami Dade County, Building Code Compliance Officer.

Lezcano advised that he was one of the code officers that presented cases to the BORA. He was questioned regarding the Douglas Roofing complaint.

Lezcano reviewed the transcript and advised that he recalled that no probable cause hearing took place because Douglas Roofing was in bankruptcy proceedings and typically, the probable cause hearing would not take place until the bankruptcy issue was resolved. Lezcano also advised that the board members are very good about conflicts and most of the time they will not vote on an item they have an interest in, or they would ask the County Attorney assigned to the board for guidance.

COE Investigators contacted Assistant County Attorney Eddie Gonzalez (Gonzalez) who verified the above information provided by Lezcano and in fact confirmed that no probable cause hearing took place; Gonzalez referred these Investigators to Ms. Kathy Charles, Board Administrator.

COE Investigators contacted Ms. Kathy Charles (Charles) Board Administrator in order to verify whether or not a hearing for Douglas Roofing, Inc. took place and if so did Pierce vote.

Charles advised that the item was scheduled for a probable cause hearing on September 17th 2009, but was not heard or voted on because of the pending litigation. The matter was then set for a formal hearing on December 17th, 2009 but again the matter was not heard or considered because of the pending litigation, as of now no action has been taken by BORA against Douglas Roofing, Inc.

Conclusion:

All the above Information was turned over to the Advocate M. Murawski.