

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
OFFICE OF THE INDEPENDENT ADVOCATE



REPORT OF INVESTIGATION

#K11-088

Date Opened: 06/16/11

Date Closed: 07/15/11

Investigator: Sylvia Batista

On June 15, 2011, the COE received e-mailed information regarding possible violations involving properties owned by Jose Smith, City Attorney for Miami Beach. The information alleges that Mr. Smith's company, Bay Harbor Professional Center, Inc., does not have an occupational license and that the taxes are not being collected.

The COE's issue relates to a violation of the Conflict of Interest and Code of Ethics Ordinance Section 2-11.1(g) *Exploitation of official position prohibited*.

Investigation:

This investigator conducted records searches and found that Bay Harbor Professional Center, Inc. ("BHPC") owns the Bay Harbor Professional Center located at 1160 Kane Concourse, Bay Harbor Island, Florida. BHPC is an active Florida for-profit corporation that lists Sara Smith as its registered agent, and Anita Bigelman, Jose Smith, Sara Smith, and Eugenio S. Bigelman as officers and

directors. BHPC lists its corporate address as 9509 Harding Avenue, Surfside, Florida.

This investigator requested copies of all occupational licenses issued at 1160 Kane Concourse, Bay Harbor Island, Florida. A review of the list of licenses reflects that BHPC does not have an occupational license at this address.

This investigator communicated with the Clerk of Bay Harbor Island by e-mail, who informed that BHPC is not required to have an occupational license in the building unless they occupy space in it.

This investigator requested copies of all occupational licenses issued at BHPC's corporate address, 9509 Harding Avenue, Surfside, Florida and was provided with a copy of an occupational license application and license for Harding Realty, Inc. The occupational license lists Anita Bigelman and Marta Waserstein as the company's President and Secretary, respectively. Anita Bigelman is also the President of BHPC.

Lastly, a review of the Miami-Dade County Tax Collectors database reflects that property taxes on the Bay Harbor Professional Center are paid in full.

07/14/11 – Sara Smith, Realtor, Harding Realty, Inc. –

This investigator spoke with Sara Smith who is the wife of Jose Smith. Ms. Smith is listed as a director and officer of BHPC and works as a realtor for Harding Realty, Inc. Anita Bigelman, who is the President of BHPC, is the real estate broker at Harding Realty, Inc. Ms. Smith explained that BHPC does not occupy space at 9509 Harding Avenue or at the Bay Harbor Professional Center, and for this reason is not required to hold an occupational license. Ms. Smith advised that she receives the mail for

BHPC at 9509 Harding Avenue, Surfside, Florida which is listed as BHPC's principal address in the Florida Department of State Division of Corporations database. Ms. Smith said that almost all of the mail received by BHPC consists of rental payments made by tenants of the Bay Harbor Professional Center.

Ms. Smith stated that there is a former tenant by the name of Michael Wind who has been calling different government entities to complain about perceived violations committed by Mr. and Ms. Smith. The tenant was evicted from the Bay Harbor Professional Center building and was later found to be practicing dentistry without a license.

Conclusion:

The investigation did not reveal any evidence that supports the allegations made in the e-mailed information. No violation of the Conflict of Interest and Code of Ethics Ordinance was identified. For that reason, no further action will be taken by the OIA on this matter and the case is closed.