



## REPORT OF INVESTIGATION

K #: 12-134 Hialeah Mayor Carlos Hernandez campaign

Date Opened: Aug. 29, 2012

Date Closed: Feb. 4, 2013

Name of investigator: Karl Ross

**ALLEGATION:** During the course of an unrelated inquiry, it was observed that the 2011 mayoral campaign of Carlos Hernandez was relying on G & R Strategies LLC – a political consulting firm – to procure a very high percentage of campaign-related services in possible violation of Chapter 106 of state electoral law. The same pattern was similarly observed for many of the candidates running on the same “slate” as Mayor Hernandez, including sitting members of the Hialeah City Council.

**APPLICABLE LAW:** As it relates to the reporting of campaign expenditures, F.S. 106.021(3) states as follows: *“No contribution or expenditure, including contributions or expenditures of a candidate or of the candidate’s family, shall be directly or indirectly made or received in furtherance of the candidacy of any person for nomination or election to political office in the state or on behalf of any political committee except through the duly appointed campaign treasurer of the candidate ....”*

**BACKGROUND:** Mayor Carlos Hernandez was successfully re-elected to the Office of Hialeah Mayor on Nov. 1, 2011, in a tight three-way contest after obtaining 39.5 percent of the vote. Former Hialeah Mayor Raul Martinez finished second with 34.5 percent and former State Sen. Rodolfo “Rudy” Garcia was third with 25.7 percent of the vote. Also earning or retaining their seats on the City Council was Lourdes Lozano, Vivian Casals-Munoz, Isis Garcia-Martinez and Paul “Pablito” Hernandez. Mayor Hernandez and his political allies were assisted in their campaigns by consultant Sasha Tirador through her company, G & R Strategies LLC, a for-profit Florida corporation created in 2007.

**INVESTIGATION:** In the course of its investigation, COE consulted Eric Lipman, assistant general counsel to the Florida Elections Commission, who advised that candidates for political office could not, in effect, “give a blank check to a consultant.” He cited the case of the Walton Association of Voters, or “WAV” (Agency Case No. FEC 04-275), which he said set a possible precedent for the instant matter. In that case, funds were advanced to WAV by a third-party consultant for the purchase of media advertising. WAV did not have sufficient funds in its campaign account at the time the funds were advanced on its behalf, leading to a formal complaint.

A possible precedent could also be found in the COE audit of the 2004 Maurice Ferre bid for Miami-Dade County mayor in which it was found that Ferre made similar third-party expenditures in possible violation of F.S. 106.021(3) and 106.11(1).

With respect to the campaign of Mayor Hernandez, copies of the mayor’s Campaign Treasurer’s Reports were obtained from the Hialeah City Clerk’s Office. An analysis of his campaign expenditures showed that 83 percent of all expenditures were issued through G & R Strategies – a total of \$348,254.04 out of \$421,449.91. The stated purpose of these expenditures varied, but included the following: data, photos, grass

roots canvassing, printing,” robo calls,” media ads, radio ads, mailers and headquarters expenses. A “thank you robo call” was reported on Jan. 3, 2012, in the amount of \$2,068.52, raising questions about a possible violation of 106.11(4)(a), which states that any expenditures made on behalf of a campaign shall be made “for the purpose of influencing the results of an election.” The above expenditure was made approximately two months after the November 2011 mayoral election had been decided.

A review of bank records for G & R Strategies, obtained pursuant to subpoena, revealed that G & R had issued company checks on behalf of the campaign of Mayor Hernandez and other members of his “slate” of political allies. At times, these payments coincided with the reported purposes and exact amounts reported in the Hernandez campaign’s CTRs. However, in other instances the subsequent expenditures by G & R on behalf of the Hernandez campaign did not match up with the campaign finance reports.

**CONCLUSION:** Subsequent research conducted by the Office of the Independent Advocate determined that while technical violations of state electoral law may have occurred, no formal complaint will be filed by this office. It was also determined, moreover, that an exemption exists to F.S. 106.021(3) in subsection (c), which references “*expenditures made indirectly through a treasurer for goods or services, such as communications media placement or procurement services, campaign signs, insurance or other expenditures that include multiple integral components ...*” This subsection further references F.S. 106.07(4)(a)(13), which provides further explanation as to the purpose and criteria for reporting such third-party expenditures. In light of the foregoing, it was determined that the above-captioned case involving the political campaign of Mayor Hernandez should be closed at this time.

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