

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST



REPORT OF INVESTIGATION

K #: K12-189

Date Opened: December 24, 2012

Date Closed: January 29, 2013

Name of Investigator: Manuel W. Diaz

Allegation:

On December 23, 2012, the Miami Herald reported that Mayor Andre Pierre (Pierre), of the City of North Miami (the City) may have violated Section XI, Section 2-310 (g) of the City Code of Ordinances. The news article reported that Pierre served as an advisor for a project that was developing a Caribbean resort on an island off the coast of Haiti, Petite Cayemite.

The article alleged that developer Michael Swerdlow (Swerdlow) was involved in the development project as well.

Historical:

In 2012, the City entered into a development agreement with Oleta Partners LLC (Oleta). Swerdlow and his partner, Brett Dill (Dill), are Oleta's principals. Pierre, as Mayor, voted to approve the development agreement. The project is located in the City and is named "Biscayne Landings." Emmanuel and Jean Cherubin (the Cherubins) also are involved in the "Biscayne Landings" project in that they serve as the monitors of the local preference requirements in the agreement with the City. The Cherubins have acknowledged that they have a financial interest in the resort planned on Petite Cayemite.

On December 10, 2012, the City hosted a meeting of the Haitian Diaspora to discuss issues related to Haiti's future. Members of the diaspora from the Caribbean, Canada, United State, South America and Europe were invited. The President of Haiti and other members of the Haitian government were scheduled to attend.

Applicable Legislation:

City of North Miami, FL. Code of Ordinances, Section XI, Section 2-310(g)

Compulsory disclosure by employees of firms doing business with the city.

“Should any person included in the terms defined in subsections 2-310(b)(1) through (6) be employed by a corporation, firm, partnership or business entity in which that person or the immediate family does not have a controlling financial interest, and should the corporation, firm, partnership or business entity have substantial business commitments to or from the city or any city agency, or be subject to direct regulation by the city or a city agency, then the person shall file a sworn statement disclosing such employment and interest with the city clerk of the City of North Miami.”

Investigation:

An Investigation was initiated to determine if Pierre served as an advisor to the owners of the Caribbean resort on the Island of Petite Cayemite development and, if so, whether his participation as an advisor amounts to a violation of Section 2-310(g).

The Herald article was reviewed. The reporter wrote that at one of the meetings held at the North Miami Beach library, a presentation was made describing the development. Among those present were Pierre, Swerdlow, Town of Palm Bay Mayor William Capote, and City Councilwoman Smith. Prior to the presentation, Pierre was introduced as an advisor to the development. Pierre then introduced Swerdlow as one of the investors in the development. The article identifies the Cherubins as principals, in both the development and with Swerdlow in “Biscayne Landings.”

Interviews:

Scott Galvin (Galvin), North Miami Commissioner

Galvin was interviewed via telephone. He confirmed that he was interviewed by the Herald. Galvin advised the reporter that Swerdlow and Pierre had attended the Cayemite Island development presentation.

Galvin provided two documents, which were sent to him by John Dellagloria (Dellagloria), Esq, attorney for Swerdlow. In the email, which accompanied the documents, Dellagloria advised Galvin that documents were provided to a Miami Herald reporter by the Cherubins.

Document 1. The Return of the Haitian Diaspora to Haiti

The document provides the future concept for Petite Cayemite Island along with the master plan for the development. Under a section introducing the partners the following is inserted: "Because of the unique features of this venture where luxury meets nature, many investors throughout the word including Michael Swerdlow of the Swerdlow Group have demonstrated strong interest to be part of the Cayemite project. Mr. Swerdlow being one of the most successful developers in the nation will bring his experience and savior-fare to bear on the Cayemite project." Pierre is not mentioned in the document.

Document 2. Letter dated December 27, 2012

In the letter, Emmanuel Cherubin clarifies that Pierre has never been an advisor to the development, and that neither Swerdlow nor Pierre have any financial interest in the development. He advised that neither Pierre nor Swerdlow were apprised of the project prior to the December 10, 2012 presentation and that after hearing it both were strong supporters of the development.

Phyllis Smith (Smith), North Miami Beach Commissioner

Smith advised that she attended the development presentation. She was present during the introductions of Pierre and Swerdlow, but did not pay particular attention to what was said or how they were introduced. Neither did she recall the details concerning the development. She advised that she left the presentation early to attend to other functions.

Roslyn B. Weisblum (Weisblum), North Miami Beach City Manager

Weisblum was interviewed via telephone. She advised the President of Haiti made an official visit to the US and visited NMB to attend the meetings held at the library. The City held the meeting of the diaspora within the library due to security reasons. All arrangements for the use of the library were coordinated through the Haitian Government, the US State Department, the US Secret Service, the NMB Police Department and other local law enforcement agencies. Assistant City Manager Marc Serda (Serda) represented the City in coordinating the activities.

Marc Serda (Serda), North Miami Beach Assistant City Manager

Serda was interviewed via telephone. He advised the library was rented through Bernice Fidelia, Director of the Bureau de Liaison de la Presidence avec la Despora, representing the Haitian Government. He advised that there were several meetings held in preparation for the day-long meeting. Serda provided a copy of sign-in log for one of the meetings.

William Capote (Capote) Mayor, City of Palm Bay Florida

Capote was interviewed via telephone. He was present during the Cayemite presentation for the development. He advised that the introduction of both Swerdlow and Pierre by the presenters gave the impression that both had a financial interest in the development. He advised that neither Swerdlow nor Pierre made any statements confirming that they had any financial interest in the development.

Emmanuel and Jean Cherubin. Cayemite Enterprises, LLC, 1510 NE 162 Street, Miami, Florida 33162

Emmanuel and Jean Cherubin were interviewed at the COE. The Cherubins explained the following: The concept of developing Cayemite Island was conceived by them in 2008. It took several years to negotiate the lease of the island from the Haitian Government and obtain

permission to construct a resort there. To date the brothers are the only investors. They are in the process of trying to secure other investors. They have been able to clear some land and erected several buildings as infrastructure, but to date no resort facilities have been built.

The Cheruibins contacted Swerdlow and Pierre and invited them to attend the development presentation and to meet the Haitian President. They advised that neither Swerdlow nor Pierre had any knowledge of the development prior to the presentation. The Cherubins emphasized that neither Swerdlow nor Pierre have any financial interest in the development. The Cherubins were emphatic that Pierre was not an advisor to the development, as alluded to in the news article.

Jean Cherubin advised that the meeting at the library on December 10th started with a general assembly. After the noon recess, the participants were free to attend a number of individual presentations concerning economic development in Haiti. Their proposed development was one of the presentations. The presentation began about 4:00 PM. About 20 participants attended their presentation. They expected the Haitian President to attend the presentation, but the President did not attend. They also expected number potential investors to attend their presentation. Jean Cherubin advised that he introduced Pierre as an advocate to Haitian development and not an advisor to the development. He also introduced Swerdlow as the developer of the “Biscayne Landings” project, and not an investor in the development. Both criticized the Herald article and advised that it was inaccurate.

The Cherubins confirmed a business relationship with Oleta. They are sub-contractors, as the Millennium Investments Group of North Miami LLC, with the responsibility to monitor local preference participation in the “Biscayne Landings” project. In addition, the Cherubins acknowledged that they had a development agreement with Oleta to develop a hotel on several acres within the “Biscayne Landings” property. .

Michael Swerdlow

Swerdlow was interviewed in his office. Also present during the interview was Dill, President of Swerdlow Group and Dellagloria representing the Swerdlow Group. Swerdlow explained the following: he was invited to attend the development presentation by Jean Cherubin about two weeks before the December 10th event. He attended with Dill. Jean Cherubin advised him that the President of Haiti would be attending the presentation. The President never attended the presentation. Jean Cherubin introduced Pierre and Pierre, in turn, introduced Swerdlow as an investor in the “Biscayne Landings” project in the City.

Swerdlow advised that he was first told about the development project when Jean Cherubin contacted him to invite him to the presentation. His intention in attending the presentation was to meet the President of Haiti and other Haitian officials.

According to Swerdlow, he has no financial interest in the resort development on Cayemite Island. After evaluating the presentation, he came to the opinion that the proposed development was ill conceived and financially improbable.

Swerdlow confirmed that the Cherubin brothers are business partners in the project. The brothers are principals in a corporation that was hired to increase and monitor local minority participation. Their corporation receives compensation to cover salaries and business expenses. If the brothers are successful they will receive an additional compensation. In addition to the partnership, they have a separate development agreement with Oleta. In the agreement, the Cherubins received two acres within the “Biscayne Landings” development site for the development of a hotel. It is the Cherubin’s responsibility to obtain backers and funding for the hotel. Swerdlow has no interest in the development of the hotel.

Swerdlow advised that the Cherubins were referred to him by business associates, the names of whom he preferred not to provide. Swerdlow advised that, to his knowledge, Pierre is not an advisor to the development on Cayemite Island.

Swerdlow acknowledged being present and being introduced at the development presentation as the developer of the “Biscayne Landings” project. He also described the presentation, in part,

as “puffing” i.e. exaggerating the concept of the resort island, as a way to pique the interest of the Haitian Tourism officials present at the meeting.

Conclusion:

No violation of the Conflict of Interest and Code of Ethics was identified, accordingly, this matter is closed with no further action.