



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Breno Penichet

Case	Case Name:	Date Open:	Date Closed:
K 12-064	5 South Flagler LLC	April 09, 2012	June 4, 2013
Complainant(s):	Subject(s):		
Nancy Lee	Lynda Bell Miami Dade County Commissioner District 8		

Allegation(s):

Information was received from Nancy Lee (Lee) a writer for a blog called Eye on Miami. Lee alleged that Mark Bell (Mark Bell), husband of Miami-Dade County Commission Vice—Chair Lynda Bell (the Commissioner) received a loan from a company that is owned by the business partner of John DuBois (DuBois).
Lee alleged that DuBois is a close friend and strong political ally of the Commissioner and that the loan was arranged in exchange for her assistance with a case that DuBois has pending with the Miami-Dade County Department of Environmental Resources Management (DERM).
Lee advised that Mark Bell purchased a hotel/ restaurant in Homestead, and obtained a mortgage for \$225,000 from a mortgage company owned by a business partner of DuBois. A review of Florida Department of State records shows that the company, REDINN MTG LLC has listed Mr. Suhall Nanji

(Nanji) as the only corporate officer.

According to Lee, DuBois is a big supporter of Mark Bell's wife, the Commissioner. Lee advised that DuBois held a victory party at his home for the Commissioner and that, soon after being elected, she started a campaign against the practices employed by DE RM. DuBois has an ongoing battle with DERM concerning some mangroves on his property that allegedly were improperly cut down. Lee believes that Mark Bell received a mortgage for the hotel with a low down payment and low interest rate as payback for the Commissioner intervening with DERM on behalf of DuBois. Lee points out that the loan was made to Mark Bell only eight (8) days after the formation of the mortgage company.

Relevant Ordinances:

Exploitation of Official position

Investigation:
Interviews

The following interviews were conducted:

Eduardo "Eddie" Borrego

On July 9, 2012 Eduardo "Eddie" Borrego (Borrego) Chief of Staff for Commissioner Lynda Bell was contacted and advised of the nature of the investigation. Borrego voluntarily agreed to meet with COE investigators and provide information regarding the subject matter.

Borrego stated he has been working for the Commissioner for approximately two (2) years. Borrego advised that he was contacted by DuBois who is known to him as a friend and supporter of the Commissioner.

DuBois requested an update on his case involving DERM. Borrego contacted Lee Hefty (Hefty) Director of DERM. Hefty advised that DuBois would receive a letter in the near future advising DuBois what he needed to do in order to mitigate his case. Borrego advised that he also contacted Assistant County Mayor Jack Osterholt (Osterholt) concerning this matter, and it was decided that all parties would meet and discuss the possibility of coming to an agreement to possibly settle the case.

According to Borrego the people present at the meeting were Osterholt, Hefty, Assistant County Attorney Robertson (ACA Robertson), and other persons but he did not remember the specific names¹.

During the meeting, according to Borrego, the staff presented a PowerPoint and some background information regarding the DuBois Case. Borrego further advised

¹ According to information obtained by investigators the persons present in the meeting were as follows: J. Osterholt, L. Gomez, T. Robertson, L. Hefty, E. Borrego, M. Lopez, F. Rodgers, H. Russell, L. Spadafina.

that he was told by ACA Robertson that if the case went to court the County would prevail.

Borrego advised that he stated to all the parties present to treat the DuBois case the same as any other case. Borrego further advised that he communicates often with county staff and directors, but only for the purpose of trying to solve problems for constituents.

Borrego advised that he briefs the Commissioner when the matter is important or may impact legislation before her, but he did not brief the Commissioner on this matter.

Borrego advised he does not know what the final outcome regarding DuBois's case was.

Borrego was asked if he knew Mark Bell; Borrego advised that he did. Borrego stated he knew Mark Bell was a plumber, and had purchased a hotel in Homestead. Borrego further advised that he was contacted by a "blogger" named Rene Pedrosa (Pedrosa) concerning the mortgage loan that was given to Mark Bell, by a business partner of DuBois.

Borrego advised that he provided a chronology of events concerning the hotel purchase and financing, in order to turn it over to Pedrosa, as an explanation. Borrego provided a copy to the COE.

Interview of Assistant County Mayor Jack Osterholt

On July 10, 2012 Osterholt voluntarily agreed to meet with investigators and provide information regarding the meeting.

Osterholt stated that he has been working for the County for approximately one (1) year. The DERM/ DuBois case was brought to his attention because of the time it was taking to resolve and the publicity it was generating.

Osterholt advised that he was contacted by Borrego, who wanted to know the status

of the case involving DuBois. Borrego told him that DuBois was a friend and contributor to the Commissioner, and requested an update on his case involving DERM.

Borrego contacted Hefly the Director of DERM. Hefly told him that DuBois would be receiving a letter in the near future advising what he needed to do in order to mitigate his case. Osterholt decided it would be a good idea for all the parties to meet and try to come to an agreement, for a final outcome. According to Osterholt the people present at the meeting were Borrego, Hefly, and ACA Robertson.

Osterholt recalled a PowerPoint presentation being shown with some background information about the case. Osterholt further advised that ACA Robertson told him that if the case went to court the County would prevail.

Osterholt advised that Borrego told all the parties present, to treat the DuBois case the same as any other case.

Osterholt advised that Borrego communicates often with county staff and directors, but only for the purpose of trying to solve problems for constituents. Osterholt advised that as of this date he does not know what the final outcome regarding the DuBois case was.

Interview of Lee Hefly DERM Director

Hefly voluntarily agreed to meet with COE investigators and provide information regarding the investigation. Hefly stated that he is the Director of DERM, the department that cited and is pursuing the DuBois case. Hefly advised this case has been ongoing since 2001.

Hefly provided an overview of the DuBois case. The case started when a citation was issued to DuBois for cutting or trimming mangrove trees without the proper permits.

According to Hefly between May 2002 and July 2012 numerous letters and citations have been sent back and forth. Hefly advised that when the Commissioner was first elected she requested that he (Hefly) meet with DuBois and DuBois' neighbor Mr. Birch (Birch) who was also in litigation with DERM.

Hefty advised that he met with DuBois, and DuBois became very upset stating he "would do all he could to get rid of DERM."

Hefty advised that after several meetings and extensions granted, DuBois still had not complied and the case was referred to the County Attorney's Office for litigation.

Interview of Thomas Robertson Assistant County Attorney.

ACA Robertson voluntarily agreed to meet with COE investigators and provide information concerning the investigation.

Robertson recalled the meeting with Borrego and Osterholt and advised that during the meeting all the parties were able to present their side of the case. It was decided that DERM would give DuBois an additional 30 days to comply, and if he failed to comply, then civil action would be taken by the County.

Several months after this interview Robertson advised that DuBois was sued by the County, the case is pending.

Interview of John DuBois

DuBois voluntarily agreed to meet with COE investigators and provide information regarding the allegations concerning the mortgage given to Mark Bell by **REDINN MGT LLC** (RMLLC).

DuBois advised that he was friends with Mark Bell before he ever met the Commissioner. DuBois advised that he is an investor, he lends money for mortgages in the secondary market, and the property that Mark Bell purchased was a very good value and was good collateral. As far as his problems with DERMM, they have been going on for a long time; he was advised to contact Borrego if he needed any information on the case. The reason he met with Hefly was to try and work out the problem and avoid litigation in court. DuBois advised that at no time did he ask the Commissioner to become involved in the DERMM matter and the loan to Mark Bell did not involve the Commissioner in any way; the loan was strictly a routine business transaction.

Interview of Mark Bell

Mark Bell voluntarily agreed to be interviewed telephonically and provide information concerning the mortgage given to him by **REDINN MGT LLC** (RMLLC). Mark Bell advised that he was friends with DuBois before DuBois ever met his wife, the Commissioner. DuBois is an investor who lends money for mortgages. The property that Mark Bell purchased was a very good value and is collateral on the mortgage. As far as DuBois' problems with DERMM are concerned, Mark Bell only knows that they have been going on for a long time. Mark Bell advised that his wife, the Commissioner was not involved in any way with the mortgage. The loan was strictly a routine business transaction; Bell advised that he created an LLC to purchase the hotel which is a common business practice. Bell advised he paid \$250,000 for the hotel and he put down \$25,000 and financed \$225,000, at 6% with a 5 year balloon.

(Description of item reviewed including date)
Summary of findings S/A

(Description of item reviewed including date)
Summary of findings: **See Investigative file**

Document/Audio/Video Review:

Commissioner Bell's office provided a summary concerning the subject of the investigation. In short, Mark Bell found the hotel in foreclosure and began negotiating with a realtor. Mr. Bell's first offer to the bank that owned the hotel was rejected and they advised him that no bank would lend to him on a commercial foreclosure.

Mark Bell has known DuBois for several years. Mr. Bell informed DuBois of his interest in purchasing the hotel. DuBois advised Mr. Bell that he knew someone who could provide a loan at 6% if he put 10% down.

Mr. Bell created an LLC to purchase the hotel, which is a common business practice. Mr. Bell financed \$225,000 at 6% with a five year balloon payment.

All items obtained during this investigation are part of the investigative file.

(Description of item reviewed including date) Summary of findings S/A	Conclusion(s):
	Advocate Michael Murawski advised that no further action would be taken on this case. There is no evidence to conclude that Commissioner Bell engaged in any "quid pro quo" arrangement with DuBois or intervened on his behalf concerning his problems with DERM. There is also no evidence that Commissioner Bell exploited her official position to obtain favorable terms on her husband's loan. Case Closed.

(Signature)

Breno Peniche, COE Investigator

6/10/2013

Approved by:

Michael Murawski, Advocate

6/10/13

Miriam S. Ramos, Deputy General Counsel

6/14/13

Joseph Centorino, Executive Director

6/13/13