



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Larry Lebowitz

Case No.: K13-104 C13-019	Case Name: Melton v. Sobel	Date Open:	Date Closed:
Complainant(s): Eston Melton III	Subject(s): Stuart Sobel	08/01/2013	08/16/2013

Allegation(s):

Melton filed a complaint accusing Subject Sobel of violating county code prohibiting unregistered lobbying on behalf of a vendor bidding on a lucrative contract with Miami-Dade Aviation Department (MDAD) to replace, operate and maintain the Automated People Mover (APM) system at Terminal E at Miami International Airport.

Complainant Melton is a lobbyist for the lowest responsive bidder, a team headed by Beauchamp Construction Co. of Coral Gables (Beauchamp). Subject Sobel, a litigator with the law firm Siegfried Rivera of Coral Gables, represents the second-ranked bidder, a team headed by Mitsubishi Heavy Industries of America Inc. (Mitsubishi).

Melton filed a similar complaint accusing Mitchell Bierman, an attorney with Weiss Serota, of unregistered lobbying, also on Mitsubishi's behalf, on this same contract. That complaint is being handled, under a separate file (K13-103/C13-018) by Investigator Robert Steinback.

Applicable Law:

Section 2-11.1(s)(2) of the Miami-Dade County Code requires persons and entities to file certain official forms with the Office of the Clerk of the Miami-Dade Board of County Commissioners within five days of being retained or before engaging in any lobbying activities on any county matters, whichever comes first.

Investigation:

Interviews

Eston “Dusty” Melton III. Phone interview and subsequent supplemental e-mails starting on Aug. 2. Conducted brief followup interview in person on Aug. 14.

Claude Francis and Keith Knowles, Clerk of the Board of County Commissioners Division, Clerk of Courts, in person, on Aug. 6, at their office on the 17th Floor of Stephen P. Clark Center. Francis confirmed that Subject never registered to represent Mitsubishi (and had never registered to lobby at County Hall). Investigator Steinback confirmed chronology for Bierman’s representation and registration during this same meeting.

Assistant County Attorney David Murray, who oversees contracting, procurement and other issues for MDAD from the county attorney’s special office at the airport, by phone, on Aug. 8 and subsequent e-mails. According to Murray’s calendar and file notes, Sobel, representing Mitsubishi, met with Murray May 14 in Murray’s office at the airport to discuss many of the issues that were subsequently memorialized in Sobel’s letters to the MDAD staff and selection committee on June 7 and June 25. In subsequent e-mails, Murray said Sobel appeared to be staking out his arguments, or “planting seeds,” for a prospective bid protest during the May 14 meetings. But, Murray added, Sobel did not ask Murray to find the competing bidders non-responsive. Even if Sobel had asked, Murray said he would only render an opinion, in writing, if one was requested by the MDAD staff or selection committee.

Subject Stuart Sobel, by phone and e-mail, from Orlando, where he was attending a multi-day mediation, Aug. 8-9. In the initial call, Sobel admitted he never registered to lobby. He said: “I’m a lawyer. I don’t consider myself a lobbyist.” Sobel said he was hired to represent Mitsubishi in May, around the time of his initial meeting with Assistant County Attorney Murray. Sobel said most of his work was aimed at helping Mitsubishi prepare to file a bid protest if/when the contract was awarded to Beauchamp. Sobel said his representation ended when Bierman took over the file in mid-July. *Office: 305.460.2967, cell: 786-385-2118 or e-mail ssobel@srhl-law.com*

Sobel, who has been practicing for 35 years, has registered to lobby on at least one prior occasion: with the city of Miami Beach, in 2007, while representing engineer Alberto Ribas of A² Group. Sobel said he was required to register in that instance because he needed to speak on A²’s behalf in front of the city commission to protest a contract award.

After seeing a copy of the complaint, Sobel said on Aug. 9 that he would register after the fact when he returned to Miami. As of Aug. 16, he has not registered with the Clerk to the Board of County Commissioners.

Document/Audio/Video Review:

Original complaint filed with Commission on Ethics at 2:07 PM on 30 July 2013.

Complaint contains two letters, authored by Sobel, dated 7 June and 25 June, to MDAD Senior Procurement Contract Officer Lenora Allen-Johnson, and cc'd to five additional county employees and consultants working for MDAD. Both letters are attacking perceived deficiencies in the bid submitted by Beauchamp in response to ITB MDAD-04-12. The second letter, 33 pages in length, contained 114 pages of footnoted backup materials. Rather than printing all of the backup materials, a copy of the entire 147-page letter and backup dated 25 June was burned to a disc for the file.

Checked the online and paper files at the Office of the Clerk to the Board of County Commissioners. Sobel has never been registered to lobby at Miami-Dade County on behalf of any client, including Mitsubishi.

Copy of Sobel's 2007 lobbyist registration with city of Miami Beach to represent engineer Alberto Ribas of A² Group.

Copy of e-mails with Assistant County Attorney David Murray clarifying Sobel's activities in May, prior to sending the two letters.

Conclusion(s):

Turned over to Advocate for Probable cause determination. It is recommended that Probable cause exists to charge Sobel with at least two violations of the county's lobbying ordinance, Section 2-11.1(s)(2) of the Miami-Dade County Code. Sobel was not registered to lobby for Mitsubishi – or any other entity – when he met with Assistant County Attorney David Murray on May 14 to discuss perceived problems with the bid package. He wasn't registered on June 7 when he sent an initial 6-page letter attacking the bid submitted by a competing team. Nor was he registered on June 25 when he sent a 147-page supplemental follow-up letter further attacking the competitor's bid.