



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Karl Ross

Case No.: K13-010	Case Name: Miami City Comm. Frank Carollo	Date Open:	Date Closed:
Complainant(s): Anonymous letter to FBI dated Aug. 20, 2012, since referred to COE by Miami field office of the FBI	Subject(s): Comm. Frank Carollo Terry A. Martinez	Jan. 21, 2013	Sept. 24, 2013

Allegation(s):

After reviewing the anonymous letter, COE elected to review two of the allegations against Commissioner Frank Carollo (Carollo), as follows: (1) that Carollo exploited his official position by using his city vehicle and a city sergeant-at-arms while attending a July 25, 2012, event at the American Airlines Arena to celebrate the Miami Heat NBA finals victory, and (2) that Carollo violated state elections law by making expenditures through TAM Marketing LLC (TAM). (Note: It was subsequently learned that the event in question occurred on June 25, not July 25.)

Relevant Ordinances:

The Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, Section 2-11.1, which states in subsection (g) titled "Prohibition on Exploitation of Official Position" that "No person ... shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or others ..."

Florida Chapter 106 (Campaign Financing), F.S. 106.11, titled "Expenses of and expenditures by candidates and political committees" — Each candidate and each political committee which designates a primary campaign depository pursuant to s. 106.021(1) shall make expenditures from funds on deposit in such primary campaign depository only in the following manner, with the exception of expenditures made from petty cash funds provided by s. 106.12.

Investigation:

Interviews

Theodore Guba, Independent Auditor General
City of Miami Office of the Independent Auditor General
Jan. 28, 2013

A phone message was left for Theodore Guba (Guba) regarding any written policy covering the use of sergeants at arms for city officials. Guba subsequently provided a copy of the requested policy. The policy (Standard Operating Procedure No. 12) was reviewed.

The UPS Store
1825 Ponce de Leon Avenue
Coral Gables, FL 33134
April 16, 2013

A site inspection was made to the address for TAM, which turned out to be a mail box at the above location. The UPS store is owned by Salomon Toledano. COE was advised that a subpoena would be required to learn the name of the individuals renting the P.O. boxes, including #478. A photograph of the box was taken at that time.

Debbie Franklin, security officer BB&T
April 18, 2013

Debbie Franklin (Franklin) provided subpoena instructions for the “Carollo for Miami City Commissioner” campaign account, opened with Bank Atlantic (now BB&T). A subpoena was requested through ASA Isis Perez at SAO. She said she would consider the request. The request was subsequently denied because SAO had no corresponding open case.

Jorge Luis Lopez, attorney
Miami Heat Group
April 18, 2013

A call was made to a Miami Heat representative for information about the alleged event on July 25, 2012. On or about May 1, Jorge Luis Lopez (Lopez) responded that the event in question – the victory parade and “community celebration” – took place on June 25, 2012, and not July 25 – the date given in the anonymous complaint. He said that the event took place inside the American Airlines Arena at the conclusion of the parade, and that elected officials were present representing both Miami-Dade County and the City of Miami.

Lopez advised the event was held shortly after COE released a report with recommended guidelines for the disclosure of gifts to elected officials. He said that the Heat conducted an internal review and consulted the law firm of Weiss Serota. He said Richard Weiss, the firm’s principal, and former Ethics Commission Executive Director Robert Meyers opined that the event did not run afoul of the recommendations contained in the ethics report. Specifically, it was noted that (1) there was no face value to the elected official’s participation in the event, (2) that the event was open to the public, and (3) that the elected officials were participating in

an official capacity. He said that one representative of each elected body was allowed to address the crowd and Heat players and coach. He said that a key to the city was given to Miami Heat President Pat Riley and formal proclamations were read congratulating the team on its championship. He said elected officials were allowed to bring guests, but stated that it was the team's opinion, after researching the matter, that the event was held in accordance with ethics guidelines as promulgated by Executive Director Joseph Centorino.

Document/Audio/Video Review:

On Feb. 7, 2013, COE received a copy of the City of Miami policy regarding Sergeant at Arms Detail (S.O.P. No. 12), outlining the duties and responsibilities for the position, including but not limited to the following: "... the Sergeant at Arms provides protective coverage to the City Commissioners at other meetings and public appearances where security is necessary; and, when required coordinates necessary transportation for City Commissioners to meetings and special events ..." The SOP was signed by Police Chief Manuel Orosa on Oct. 28, 2011.

On Jan. 28, 2013, copies of all Campaign Treasurer's Reports (CTRs) for the 2009 Carollo political campaign were requested from the Miami City Clerk's office.

On Feb. 19, 2013, a spreadsheet was prepared to tabulate the amount of Carollo campaign expenditures made to TAM in connection with the campaign, as reported in the CTRs. A total of \$73,563.95 worth of expenditures was identified, comprising 38 percent of all expenditures made in connection with said campaign (\$73,563.95/\$195,155.24).

A copy of the campaign's Appointment of Campaign Treasurer filing was also obtained, showing that the campaign used Bank Atlantic as its official campaign depository.

A copy of the corporate records for TAM was obtained from the Florida Department of State Division of Corporations Website (Sunbiz.com), showing that TAM was created in March 2009 and was dissolved in September 2010. The sole officer for said corporation, located at 1825 Ponce de Leon Blvd., was identified as Terry A. Martinez.

Conclusion(s):

As it relates to the first allegation that Carollo exploited his official position by using his city vehicle and sergeant at arms to escort him and his family to the Miami Heat victory party at the American Airlines Arena, it was determined that the commissioner's appearance at the event was of an official nature and that the transportation provided to his family was incidental and not incompatible with the county's code of ethics. The event was open to the public, moreover, and no admission was charged to enter the arena.

As it relates to the second allegation concerning TAM, it was determined that using a third-party consultant to procure certain services on a behalf of a political campaign does not in and of itself pose a violation of Chapter 106 regarding campaign financing.

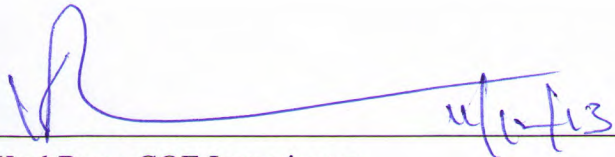
An analysis of expenditures made by TAM on behalf of the Carollo political campaign did show expenditures by TAM exceeded reported expenditures in the campaign's CTRs by a total of \$3,837.75, which could represent improper political contributions.

Of further concern was the fact that payments totaling \$9,800 to Jenny's Bakery did not coincide with the dates for such expenditures in the CTRs. In particular, the review of TAM's expenditures showed that a final payment of \$3,000 to Jenny's Bakery was made on Dec. 28, 2012, when it was reportedly incurred on Nov. 15, 2012, according to the CTRs. The available documentation did not clarify whether this was for a victory party or other event.

The election was concluded November 3, 2009, with Carollo receiving 52.6 percent of the vote in a field of seven candidates to claim his seat without a run-off election.

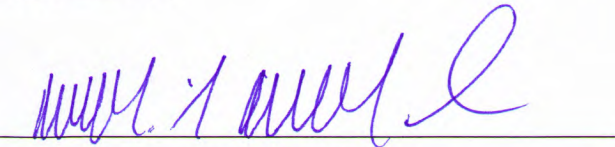
While the discrepancies highlighted above raise questions about potential violations of Chapter 106, the potential violations, if confirmed, would not be prosecutable since the statute of limitations for such offenses under Chapter 106 is only two years.

Carollo was notified of the investigation through his attorney on Sept. 25, 2013, and was given an opportunity to respond to the allegations that led to the inquiry. His attorney did not respond to the request and, accordingly, the investigation should be closed.

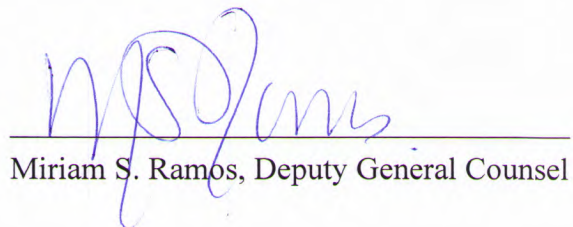


Karl Ross, COE Investigator

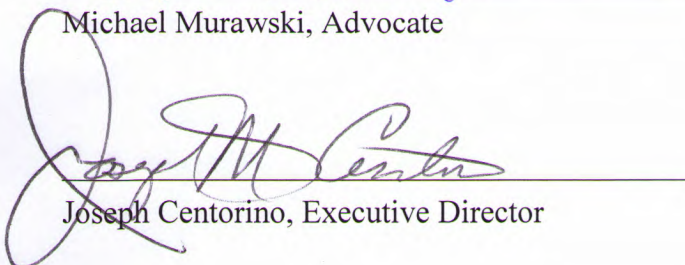
Approved by:



Michael Murawski, Advocate



Miriam S. Ramos, Deputy General Counsel



Joseph Centorino, Executive Director

11/12/13
Date