



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Sylvia Batista

Case No.: C13-042/ K13-153	Case Name:	Date Open:	Date Completed:
Complainant(s): Eston E. Melton III,	Subject(s): Lillian A. Ser.	11/26/13	3/5/14

Allegation(s):

Eston E. Melton III filed an ethics complaint against respondent Lillian A. Ser (Ser) for allegedly lobbying Miami-Dade staff and officials on behalf of vendors 305 Pizza at MIA, Inc. (305 Pizza) and Chefs of the Caribbean, LLC (Chefs) without being properly registered to lobby. The alleged unlawful lobbying activity involved an ongoing Aviation Department procurement, RFP No. MDAD-03-11 (the RFP). The RFP consists of 6 food and beverage packages which included the two packages under which 305 Pizza and Chefs submitted their proposals.

Complainant attached three letters generated by Ser to MDAD officials and one letter to Mayor Gimenez. The letters are written on behalf of 305 Pizza in connection with MDAD 03-11 – Pizza Package. Also attached is Ser’s Miami-Dade County Lobbyist Activity Authorization dated 10/02/13.

Relevant Law:

The Conflict of Interest and Code of Ethics Ordinance, Sec. 2-11.1 (s) *Lobbying definition, requirements regarding registration and disclosure of expenses.*

Investigation:

Interviews/Contacts

01/14/14 – Pedro Betancourt, Aviation Sr. Procurement Contract Officer –

Pedro Betancourt (Betancourt) was asked about the RFP No. MDAD-03-11 procurement for the MIA food court. Betancourt said that the RFP in question was first advertised on **03/28/12**. The RFP included six (6) packages, each one for a different type of food. As of now, there is only one that remains undecided, 305 Pizza, but TAC (Transportation and Aviation Committee) should decide this week. BCC's decision should take a couple of weeks more.

02/27/14 – Lillian A. Ser, Respondent -

Respondent Lillian Ser (Ser) was interviewed at the COE. Ser stated that she and her client properly registered to lobby because they complied with the lobbyist registration procedures provided in the RFP. Pursuant to Section 3.2 of the RFP, and in accordance with Section 2-11.1(s) of the Code, vendors must attach a duly executed Lobbyist Registration for Oral Presentation Affidavit (the "Affidavit") with the proposal submission. The Affidavit must list all individuals who may make a presentation. Ser explained that she and her client, 305 Pizza, and its principals are listed on the Affidavit attached to the RFP which she believes means that they do not have to register until the Mayor makes his recommendation and they have to lobby the BCC. Ser discussed the language contained in the Affidavit which she said clearly states that, "Other than for the oral presentation, Proposers who wish to address the county commission, a county board or county committee concerning any action, decision or recommendation of county personnel regarding this solicitation MUST register with the Clerk of the Board and pay all applicable fees."

Ser concludes that she and her clients followed the lobbyist registration process as set forth in the RFP and all required forms were submitted in a timely manner. Ser explains that her lobbying efforts on behalf of 305 Pizza did not begin until after the Mayor's recommendation (10/10/13), and pursuant to a properly submitted lobbyist registration form. Ser asks that the complaint be dismissed.

Ser explained that as far as Chefs is concerned, she was hired to process the lease and that is all that was needed on this component. There was no opposition to this award and lobbying of the Mayor, TAC or the BCC was not required.

Ser produced the following e-mails –

DATE	FROM	TO	SUBJECT
03/21/13	Ser	Betancourt	Chefs of the Caribbean, LLC (Chefs) review/negotiate its lease with MDAD.
03/21/13	Betancourt	Ser	Attaching for review Chef's revised lease and concession agreement.
03/26/13	Ser	Betancourt	Comments re. versions of agreements with Chef and 305 Pizza.

03/26/13	Betancourt	Ser	Attaching revised page 4 of both the Chefs and 305 Pizza agreements.
04/08/13	Ser	Betancourt	Attaching comments and modification requests for the MDAD Lease with Chefs.
04/12/13	Betancourt	Ser	Attaching breakdown for 305 Pizza and Chefs for their respective Bond and security deposit amounts, and Agreements for both firms and a request for Labor Peace Agreements.
04/18/13	Betancourt	Ser	Attaching Agreements for Chefs and 305 Pizza and requesting six (6) original signature pages sent to his attention and the respective Labor Peace Agreements.
04/30/13	Ser	Betancourt	Attaching scanned copy of the execution page for MDAD Lease, the Written Consent for Authority to Represent, and an e-mail from the Union that a Labor Peace Agreement is in place for Chefs. Advises that she will drop off the 6 original signature pages for Chefs and 305 Pizza.
06/06/13	Angela Fernandez, Contracts Adm. Div. of MDAD	Ser	Attaching the notice of award recommendation for Chefs.
06/06/13	Ser	Betancourt	Advising that she is in receipt of the Notice of Award for Chefs and asks for the projected dates for TAC and BCC.
06/07/13	Ser	Betancourt	Requesting target dates for the TAC and BCC meetings.
06/10/13	Ser	Betancourt Cc: Angela Fernandez, Contracts Adm. Div. of MDAD	Asking whether Chefs is going to be on TAC's agenda for Wednesday, June 12, 2013.
06/10/13	Betancourt	Ser	Confirming that Chefs will be on the TAC agenda for 06/12/13, and that the item should be reflected in the agenda by 06/11/13.

It was determined that Ser's e-mails in connection with Chefs were related to its lease with MDAD, and therefore, Ser did not need to register on behalf of this client.

Document/Audio/Video Review:

- The RFP in question was first advertised on 03/28/12.

The following letters generated by Ser were filed by complainant in support of the complaint:

- Letter dated 04/08/13 from Ser to Pedro Betancourt, Aviation Senior Procurement Contract Officer. The letter contains comments and requests for modification of the Lease Agreement between Miami-Dade County and 305 Pizza for the food concession at the MIA Marketplace.
- Letter dated 06/24/13 from Ser to Emilio Gonzalez, Aviation Director. The letter is in response to Gonzalez's recommendation to the Mayor that all proposals involving 305 Pizza's package be rejected. The letter details the history and development of the subject RFP, and addresses each assertion made against 305 Pizza by Power Pizza, a competing bidder.
- Letter dated 08/30/13 from Ser to Emilio Gonzalez expressing disappointment at his decision to reject all proposals for the concession and resubmit a redesigned solicitation. The letter explains all the benefits of contracting with her client, and implores Gonzalez to reconsider his decision.
- Letter dated 10/01/13 from Ser to Mayor Carlos Gimenez. The letter urges Gimenez to discard Gonzalez's recommendation and asks that he recommend awarding the pizza concession at MIA Marketplace to 305 Pizza.
- Ser's Miami-Dade County Lobbyist Activity Authorization by 305 Pizza and Ser's Joint Contingency Fee Affidavit signed by 305 Pizza and Ser. Both affidavits were recorded with the Clerk of the Board on 10/02/13.

Review of Miami-Dade County lobbyist registrations database reflects that Ser registered to lobby on behalf of 305 Pizza in connection with the subject RFP on 10/02/13. Furthermore, Ser registered to represent Pasha's Market Place in the bid protest involving the RFP on 05/09/13. There is no record of Ser's registration to lobby on behalf of Chefs.

Review of Ser's letter dated **01/07/14** in reply to the complaint. In the letter, Ser summarizes the extent of her representations in connection with four (4) packages of the RFP. However, because complainant's allegations of unregistered lobbying focused on Ser's representation of 305 Pizza and Chefs, the following summary will describe Ser's representation of those clients only:

- **Chefs:** Ser explains that her representation of this client did not commence until after the RFP selection process was completed and the Mayor issued a favorable recommendation to the BCC. Ser argues that she was retained to process Chef's lease so the item could be scheduled before the Transportation & Aviation Committee (TAC) and the BCC for final approval. There was no opposition to the award and

lobbying of the Mayor, TAC members or any commissioner was not necessary. Ser concludes that this representation was fully covered by the lobbyist registration process provided for in the RFP.

- **305 Pizza:** Ser explains that she represented 305 Pizza in preparing its response to the RFP, in giving an oral presentation before the Selection Committee and working with the RFP procurement officer to finalize the lease so that it could be scheduled before TAC and the BCC for final approval. This was to take place on June and July 2013, but the item was placed on hold and not scheduled as planned. The Mayor's recommendation to reject all bids occurred on 10/10/13. Ser said that at this point the need to lobby arose. It was not until she submitted her lobbyist registration on 10/01/13 that she lobbied TAC members. Ser asserts that she also appeared before TAC on 12/11/13 and has been participating in on-going conversations with MDAD staff to find a resolution for 305 Pizza.

Conclusion(s):

This matter is turned over to Advocate for Probable Cause recommendation.