



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Breno Penichet

Case No.: K13-044	Case Name: Nepotism North Bay Village Police Department	Date Open: March 25, 2013	Date Closed: June 18, 2013
Complainant(s): Kevin Vericker	Subject(s): Chief Robert Daniels		

Allegation(s):

North Bay Village Chief of Police Robert Daniels hired his wife Michelle I. Malkin as a part-time police officer, possibly in violation of the State of Florida Anti- Nepotism statute.

Relevant Ordinances:

Anti-Nepotism law, FSS 112.3135

Investigation:

An e-mail was received by North Bay Village (NBV) officials complaining about the fact that Police Chief Robert Daniels (Daniels) hired his wife Michelle Malkin (Malkin) as a part-time officer. The person making the complaint, Kevin Vericker (Vericker), stated in the e-mail that he verified with the Florida Department of Law Enforcement (FDLE) that, according to their records, Malkin was an active part-time officer with NBV PD since June 4, 2012.

According to the complaint there was some question as to who authorized the hiring of Malkin. Daniels claimed that the former City Manager, Bob Pushkin (Pushkin), authorized the hiring, but according to the complaint, no paperwork was found substantiating this fact.

Vericker believes that Daniels violated both the village charter and state statute. The e-mail was forwarded to the COE by a NBV commissioner with a request for an investigation.

Interviews

Nina Boniske, City Attorney, NBoniske@wsh-law.com

Investigator Penichet contacted City Attorney, Nina Boniske (Boniske), regarding this matter. Boniske advised that James Crosland (Crosland), labor attorney for NBV, would review the matter and render an opinion. Boniske referred this writer to Crosland.

James Crosland, Esquire
1 SE 3rd Avenue
Suite 2200
Miami, Florida 33131
(305) 374-7349

Crosland voluntarily agreed to meet with COE investigators and provide information regarding the investigation. Crosland advised that he was in the process of reviewing all the information available in this matter, along with the state statute in order to make a determination. Crosland advised that he would render an opinion at the end of his investigation. Crosland advised he would provide a copy of the legal opinion.

Document/Audio/Video Review:

E-mail dated March 21, 2013
from NVB Commissioner Richard Chervony

E-mail dated March 21, 2013
from complainant Kevin Vericker

E-mail dated April 2, 2013
to NBV attorney N. Boniske
Legal Opinion by James Crosland NBV labor attorney


Conclusion(s):

On June 18, 2013, COE received the legal opinion from Crosland which concluded that there was no violation of the nepotism statute.

The legal opinion pointed out that there is an exception to the anti-nepotism statute that permits the hiring of relatives as police reserves, as long as they are not compensated. The exception also allows for reasonable expenses such as the purchase of uniform items, bulletproof vests, and training among other things. Crosland reviewed all the documents pertinent to this matter and was satisfied the statute was not violated. Crosland's legal opinion letter has been made part of the COE file.

Advocate Michael Murawski reviewed Crosland's opinion and concurs. Murawski advised that no further action would be taken since there does not appear to be any ethics related violations.

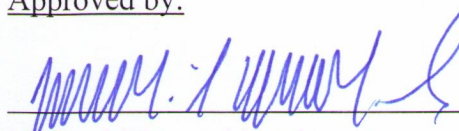
Accordingly, it is recommended that the above case be closed.



6/28/23

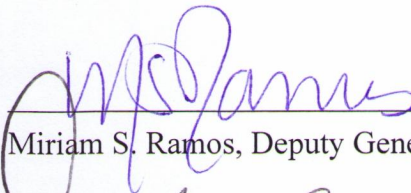
Breno Penichet, COE Investigator

Approved by:

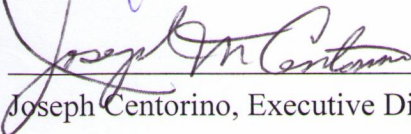


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Michael Murawski, Advocate



Miriam S. Ramos, Deputy General Counsel



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Joseph Centorino, Executive Director