



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Robert Steinback

Case No.: K14-017/ C14-016	Case Name: Crespo v. Regalado	Date Open:	Date Completed:
Complainant(s): Al Crespo	Subject(s): Tomas Regalado	February 18, 2014	April 29, 2014

Allegation(s):

Complainant Al Crespo (Crespo) alleges that Miami Mayor Tomas Regalado (Regalado) and his daughter, Miami-Dade School Board Member Raquel Regalado, traveled to Argentina during the week of July 8, 2013; that the trip was not paid for by Miami taxpayers; and the mayor failed to file the Form 9 gift disclosure form.

Relevant Ordinances:

Complainant alleges a violation of Sec. 2-11.1 (g) (4) of the Miami-Dade Conflict of Interest and Code of Ethics ordinance: *Disclosure. Any person included in the term defined in subsection (b)(1) through (6) shall disclose as provided herein any gift, or series of gifts from any one person or entity, having a value in excess of one hundred dollars (\$100.00). Said disclosure shall be made by filing a copy of the disclosure form required by Chapter 112, Florida Statutes, for "local officers" with the Clerk of the Board of County Commissioners simultaneously with the filing of the form with the Secretary of State.*

Investigation:

Interviews

Tomas Regalado, Mayor of Miami, by telephone, Thursday, March 13, 2014, and subsequent e-mail exchanges.

Summary of interview

This conversation followed a brief one a week or so earlier in which Regalado asserted that according to a communication with COE Executive Director Joe Centorino (Centorino), a political figure such as he was not required to file a gift disclosure form for travel between Sister Cities. Since his trip was to a Miami sister city, Buenos Aires, he had presumed he did not have to file the form. In a subsequent conversation between this investigator and Centorino, Centorino suggested that Regalado was misconstruing or misapplying an opinion or conversation the two of them might have shared.

In the interview of this date, this investigator noted Centorino's response, and requested more detail about the trip. Regalado said city funds were not used, nor was the money for the trip provided to the Mayor's International Council, a city agency empowered to accept donations that can be used for travel by city officials. He noted that in the future, what he called the Miami Foundation would "be the custodian of any funds that we get in the future, and they would charge an administrative fee." Looking back, I am not sure if he meant 'Miami Foundation,' which is an independent charitable foundation, or perhaps misspoke when intended to say 'Mayor's International Council.' A bit later, he said, "We will try in the future to get donations [through the] Mayor's International Council. But that's for the future."

Regalado said the July 2013 trip "was paid for by the Argentinian Business International Group of major entrepreneurs and businesses in Argentina." Regalado was not sure of the exact name of the group but said he would get it. He said his daughter, who is a Miami-Dade School Board member, was invited to speak about education, ED-5. She was asked to speak before a university [group]. He said the business group did not pay for his daughter's trip, saying that part of the trip was paid for by an educational interest group he did not identify. Raquel Regalado was asked to talk about education, he said.

Regalado stated directly that the funding for the trip "did not go through the Mayor's International Council, it came straight to them." By that, he explained that the trip was pre-paid directly by the business group, including the tickets, the hotel room and so on.

Regalado said he did not file the gift form because he had believed that due to the sister city relationship he was not obliged to do so. He was given this impression by the city's legal office. He promised to get the relevant information and to file the gift disclosure.

Afterward, I spoke with Pat Santangelo at the mayor's office; he asked to be copied on the public records request and would put the memo (see this date) directly into Regalado's hands.

Subsequent communication

In an e-mail received March 28, 2014, Regalado indicated that the hotel accommodations were

provided by the Buenos Aires Convention and Visitors Bureau. Regalado indicated that he also visited organizations called La Rural and Circulo Argentino, and that all of the organizations had designated Juan Pablo Maglier of the Convention and Visitors Bureau to coordinate the trip.

In an e-mail received March 31, 2014, Regalado elaborated further that the airline ticket cost \$1,800, and that the hotel room would have cost about \$100 per night in U.S. currency for the five-night stay.

Barnaby Min (Min), deputy city attorney City of Miami, by telephone. Wednesday March 26, 2014, 3:40 p.m

Summary of interview

The investigator asked Min if Regalado had specifically requested guidance about whether this trip was reportable under gift reporting rules. Min said, "I'm not denying that I spoke with him but I can't remember. We get lots of requests of this sort from city officials."

Consistent with Regalado's comments, Min also made reference to a Centorino document in justifying his opinion related to Miami Beach on the issue.

Min promised to look through his e-mails in search of relevant communications with the mayor on this issue. He did not find a record of written communication on the topic.

Min subsequently sent two e-mails including specific COE opinions on relevant issues. (See below)

Document/Audio/Video Review:

Complainant Crespo included with his complaint copies of articles from three online publications:

- From exMiami.org, headline: "Mayor Regalado in Argentina Promoting Miami Real Estate," July 13, 2013. This posting only made reference to the Cronista.com article, below.
- From exMiami.org, headline: "Argentine President Mocks Miami Real Estate Purchases," July 17, 2013.
- From Cronista.com: "El alcalde de Miami tienta a argentinos para comprar viviendas in La Florida" ("Miami Mayor tempts Argentines to buy houses in Florida")

While verifying the above articles, the investigator came across another on the same topic, from apartamentomiami.com: "Alcalde de Miami, promociona los atractivos de este ciudad ante empresarios argentinos." ["Miami Mayor promotes the attractions of this city before Argentine businessmen"]

Summary of findings

The articles confirm Regalado's trip to Buenos Aires to invite Argentine businessmen to invest in Miami.

A series of documents were received from Regalado or his office:

- By e-mail March 6, 2014, a memo from Frank Castaneda (Castaneda), Miami Commissioner Wily Gort's (Gort) chief of staff, to Victoria Mendez (Mendez), assistant Miami city attorney regarding the Mayor's International Council and a January trip Gort and Regalado took to Merida, Mexico, and whether the trip needed to be reported as a gift.
- By e-mail March 6, 2014 from Castaneda, a memo from Min to Mendez, Castaneda and George Wysong (Wysong), assistant city attorney, regarding the Merida trip, with the opinion being "...no gift disclosure is necessary if the Chairman appeared in his official capacity."
- By U.S. mail received March 18, 2002, a letter with attachments from Regalado, reproducing the Min memo above (second bullet), and the 13-page COE publication entitled "Guidelines and recommendations regarding 'public benefit' clauses in certain government contracts," along with a two-page attachment. Regalado's handwritten cover letter indicated that this is the publication Min was citing.

Summary of findings

Regalado forwarded the COE publication on guidelines regarding gift ticket policy, which Min later confirmed as a key item the city attorney's office relied upon in advising Regalado that he did not have to file the gift disclosure form for the Buenos Aires (or Merida) trip. While the entire document is devoted to the ethical handling of free event tickets received by elected officials or staff, Min appears to base his opinion entirely on the section of the guideline on page 7 which reads, "Attendance at 'official city business' events generally does not require gift disclosure as long as the elected/appointed official is, in fact, performing some bona fide official function at the event."

In two e-mails March 26, 2014 and March 27, 2014, Min attached several documents. In the later e-mail, Min described the contents thusly: "Attached are some other opinions that I believe Mayor Regalado relied upon."

The attachments include:

- The previously noted "Guidelines and recommendations regarding 'public benefit' clauses..." publication, and its two-page addendum.
- A Feb. 19, 2014, City of Miami memorandum from Wysong to Daniel Goldberg (Goldberg), special aide to Miami Commissioner Marc Sarnoff (Sarnoff), regarding a trip Sarnoff made to New York that was paid for by the Miami Downtown

Development Authority, of which Sarnoff is the chairman.

- A June 22, 2011, memorandum from Mendez to then-City Attorney Julie Bru (Bru), entitled “Gift laws regarding the mayoral city business trip to Taiwan. The trip was paid for by the City of Miami.
- An August 2, 2011, letter from then-COE Executive Director Robert Meyers to then-Mayor Andre Pierre (Pierre) of North Miami outlining COE opinions on trips he made to Senegal and China. COE’s opinion was that the Senegal trip was a reportable gift, while China was not. The key difference is that the City of North Miami did not authorize the Senegal trip, which was paid for by that country and its president, whereas the Chinese trip was authorized by the city as part of its Sister City relationship, and was paid for by a Chinese government-related organization.
- An October 24, 2012, memorandum from Bru to Sarnoff advising that his trip to Brazil in April 2012 was not reportable. The COE subsequently found that the trip was, in fact, reportable.

Summary of findings

Min has produced five documents that all touch the periphery of the situation now at issue, but which also vary in significant ways.

Analysis

Subject Regalado does not dispute the essential facts of the case: That he and his daughter Raquel traveled to Buenos Aires, Argentina, in July 2013; that the trip was funded by non-governmental sources in Argentina, and that he did not file the relevant gift disclosure form for the excursion. The trip was funded by the Buenos Aires Convention and Visitors Bureau. This is a private organization as described on its website: “*Buenos Aires Convention & Visitors Bureau is a non-profit association created by tourism associated private-held companies such as hotels, convention centers, tourism agencies, transportation and so on.*”

The issue at hand is whether this trip should have been reported as a gift under state and county gift disclosure rules. Regalado states that he relied on guidance from the Miami City Attorney’s office in reaching the conclusion that he was not obligated to file. He states that he spoke verbally to the city attorney’s office; neither the mayor nor Min provided evidence of written communication between them regarding this matter. Min affirms that there was a discussion, and that certain opinions on gift disclosure “were shared in hard copy with the mayor.” It appears to be copies of those hard-copy opinions that Regalado sent to COE by regular mail to back up his reasoning regarding his decision not to file.

The cases Regalado and Min provided all touch peripherally on the matter at issue, but none are fully analogous. While not intending to provide a legal analysis of the cited cases, they appear divergent from the case at hand in the following ways:

- The COE document “Guidelines and recommendations regarding ‘public benefit’ clauses in certain government contracts” is devoted exclusively to the receipt of local

event tickets by public officials. There is a reference in the document to the activities of city officials acting on “official city business,” but the context strongly indicates that this refers to a city official’s presence at a local event that might otherwise require tickets to attend. The relevant passage: *“Investigation also determined that, in addition to the myriad number of tickets provided pursuant to ‘public benefit’ clauses, elected and appointed officials are invited to attend numerous events as a matter of ‘official city business.’ Attendance at ‘official city business’ events generally does not require gift disclosure as long as the elected/appointed official is, in fact, performing some bona fide official function at the event.”* (page 7)

- An opinion from Miami Assistant City Attorney George K. Wysong dated Feb. 19, 2014, that Miami Commissioner Marc Sarnoff’s (Sarnoff) planned trip to New York, paid for by the Downtown Development Authority (a government agency, of which Sarnoff serves as chair) was not reportable as a gift. By contrast Regalado’s July 2013 trip was not funded by a government source.
- A June 22, 2011, opinion issued by then-City Attorney Julie Bru that a trip by the mayor to Taiwan to execute a sister-city agreement was not reportable as a gift. That trip, however, was funded by the City of Miami.
- An August 2, 2011, letter from then-COE Executive Director Robert Meyers to then-Mayor Andre Pierre of North Miami outlining COE opinions on trips he made to Senegal and China. COE’s opinion was that the Senegal trip was a reportable gift, while China was not. The key difference is that the City of North Miami did not authorize the Senegal trip, which was paid for by that country and its president, whereas the Chinese trip was authorized by the city as part of its Sister City relationship, and was paid for by a Chinese government-related organization.
- An October 24, 2012, memorandum from Bru to Sarnoff advising that his trip to Brazil in April 2012 was not reportable. The COE subsequently found that the trip was, in fact, reportable.

Conclusion(s):

Turned over to the Advocate for probable cause recommendation.