



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Nilda Olmo

<b>Case:</b> PI 16-03	<b>Case Name:</b> Bien-Aime Car Rentals	<b><u>Date Opened:</u></b> 02/10/16	<b>CASE CLOSED</b> Date: <u>3/7/18</u>
<b>Complainant(s):</b> Wancito Francius	<b>Subject(s):</b> Philippe Bien-Aime Councilman, North Miami		

Allegation(s):

COE received an email on 02/04/16 from Wacinto Francius (Francius), a candidate for District 3 Council in North Miami, running against Commissioner Philippe Bien-Aime (Bien-Aime). Francius made a Public Records Request (PRR) for Bien-Aime's City-issued credit card statements for 2013 to 2015. The Clerk's Office responded that 2013 & 2014 statements were not available, only providing records for 2015. Upon review of the records, Francius stated that he noticed significant use of car rentals, along with several checks from Bien-Aime to the City of North Miami. As a result of the information provided, Francius contacted the COE requesting an inquiry into Bien-Aime's use of the City-issued credit card.

Relevant Law:

Miami-Dade County Conflict of Interest and Code of Ethics Ordinance Sec.2-11.1 (g), *Exploitation of official position prohibited*. No person included in the terms defined in Subsection (b) (1) through (6) and (b) (13) shall use or attempt to use his or her official position to secure privileges or exemptions for himself or herself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners.

**Investigation:**

***Interviews***

**Wancito Francius  
Lion Intelligences & Security Services, Inc.  
12501 NE 5<sup>th</sup> Avenue  
North Miami, FL 33161**

Francius was interviewed and provided the following information to COE Investigators Nilda Olmo and Breno Penichet.

Francius stated he registered to run for office in North Miami as a Councilman for District 3 because he felt the City needed a positive change and therefore decided to run against Councilman Phillip Bien-Aime for North Miami Council.

Francius mentioned he contacted the North Miami City Clerk and made a PRR for Bien-Aime's City-issued credit card for the years 2013-2015. Francius was told statements for 2013 and 2014 did not exist, however, statements for 2015 were provided.

Upon review of the records, Francius mentioned he noticed excessive use of car rentals by Bien-Aime and the City was not able to provide backup documentation detailing the expenses justifying the rentals. When he inquired as to receipt details, he was told by the Clerk's Office they did not have copies/receipts documenting said rentals and expenditures.

Furthermore, Francius stated he noticed several checks paid by Bien-Aime to the City of North Miami as reimbursement. At that point, unable to obtain backup documentation and a reason as to Bien-Aime's excessive use of rental vehicles, he decided to contact the COE via an email to Joseph Centorino, Executive Director, requesting an inquiry into Bien-Aime's recurring use of rental vehicles and corresponding backup documentation. Furthermore, Francius inquired about numerous checks from Commissioner Bien-Aime to the City of North Miami. Francius provided copies of 7 checks reflecting a total amount of \$30,139.00, for a three-year period (2013-2016).<sup>1</sup>

Upon review of the documents provided by Francius, Investigators Olmo and Penichet proceeded to make a PRR pertaining to Bien Aime's City-issued credit card statements and corresponding backup documentation, detailing expenditures as it related to car rentals, as well as information regarding reimbursement checks from Commissioner Bien-Aime to the City of North Miami.

<sup>1</sup>Check #1176719076, dated 12/11/13, in the amount of \$3,247.00.

Check #1176719075, dated 12/11/13, in the amount of \$1,847.00.

Check #1019, dated 09/25/14, in the amount of \$7,000.00.

Check #1033, dated 09/26/14, in the amount of \$6950.00.

Check #1050, dated 04/28/15, in the amount of \$4300.00.

Check #1100805521, dated 01/08/16, in the amount of \$2,100.00.

Check #75756445, dated 01/29/16, in the amount of \$4695.00.

Upon review of the documents provided by the Clerk's Office, we noticed the documents were the same as the ones Francius had provided in the initial interview. Several requests were made thereafter, yielding the same results i.e., missing documentation.

When investigators inquired as to the unavailability of the documents, the City Clerk's Office responded that they act as "a hub" for the public records process, therefore, they had to forward the request to the department that has physical custody of the requested records. Once the documents are gathered they are sent to them (Clerk's Office) and the requestor is notified.

On or about May 2016, Investigators contacted the Clerk's Office and spoke to Stephanie Thomas (Thomas), Deputy City Clerk, for clarification as to the lack of accountability and inability to produce the records. Thomas was receptive and possessed the institutional knowledge to assist in guiding investigators thru the process of obtaining the requested information. Thomas stated that cardholders, in our case, Commissioners, provide the backup documentation to the Mayor and Council staff. Once the Purchasing Department receives the Bank of America monthly statements, they are sent to the Mayor and Council staff and the backup documentation is attached to the corresponding expenditures. In turn, the paperwork is sent to the Finance Department for processing.

From the original PRR, and upon continuous efforts by Investigators to obtain information regarding back-up documentation, it became evident there was a lack of internal accountability and understanding of the rules and regulations, which were not being followed.

The Clerk's Office continued to provide the same documents stating they were waiting for the corresponding departments to provide the requested information, however, no documents existed. It wasn't until Investigators contacted and/or met with Department Directors Augustin and Destrade and City Manager Spring that we observed inefficiencies (particularly in the Finance Department), inconsistencies and problems the City had been facing for years.

For a period of approximately 4 years, between 2013 and 2017, the City went through a significant turnover in management positions including the City Attorney, City Manager, Personnel Administration Director, Purchasing Director and finally, in the Finance Department.

This resulted in the City facing control deficiencies, lack of accountability and expenditures and non-compliance with City policy and procedures. Due to the turnover in these respective departments, the policies and procedures which were in place, were not being enforced.

In October 2017, the Florida Auditor General, conducted a Preliminary and Tentative Audit and provided the findings to City of North Miami Mayor, Dr. Smith Joseph.<sup>2</sup> A final report was released in November 2017 that included City Management's response to the Audit.<sup>3</sup>

**Miguel A. Augustin (Augustin), CPA-Finance Department  
City of North Miami**

After several PRR to the Clerk's Office, Investigators Olmo and Penichet contacted Augustin directly in an effort to expedite the process in obtaining documents kept by the Finance Department since they were not being provided by the Clerk's office.

Augustin stated that Council members get a car allowance of \$750.00 per month and provided copies of the Check History for Bien-Aime from 07/04/13 to 12/07/17. He also clarified the corresponding codes reflected under the earnings portion.

Augustin mentioned that once Purchasing receives the bank statements, they are provided to the Mayor and Council staff for review and for compiling corresponding documentation that is attached to the statement and in turn submitted to the Finance Department for processing and payment.

**Alberto Destrade (Destrade), Purchasing Director  
City of North Miami**

Destrade voluntarily agreed to be interviewed by Investigators Olmo and Penichet. Destrade stated that he became Purchasing Director for the City of North Miami in September of 2015.

Destrade indicated that the Purchasing Department is responsible for running the P-Card program. However, elected officials are not monitored by the Purchasing Department.

Once Purchasing receives the Bank of America P-card transactions, monthly statements are provided to the Mayor and Council staff, who are responsible for obtaining, reviewing and gathering the backup documentation corresponding to all expenditures. Once the documents are gathered, they are submitted to Finance Department for processing.

Destrade mentioned that when Larry Spring started with the City of North Miami as City Manager, significant changes were implemented and controls were put in place with emphasis on the use of the P-Card, assuring card holders had spending limits and making sure the P-Card was used for City business only, not for personal business in accordance with guidelines under the City of North Miami Purchasing Card Policy and Procedures.

<sup>2</sup> State of Florida Auditor General Preliminary and Tentative Audit Findings, October 10, 2017.

<sup>3</sup> State of Florida Auditor General Final Report, released November 21, 2017.

**Larry Spring (Spring), City Manager  
City of North Miami**

Spring voluntarily agreed to be interviewed by Investigators Olmo and Penichet regarding charges assigned to Councilman Bien-Aime's City-issued P-Card which reflected an excessive use of car rentals as well as reimbursement to the City in excess of \$30,000.00.

Spring stated he started as City Manager in the Finance Department in August of 2015. Spring mentioned that prior to that time, turnover in key management position was a factor in the lack of accountability and control the City was experiencing. Rules and regulations were not always observed.

Investigators questioned Spring regarding accountability and policies pertaining to P-card use for the Commission, specifically regarding Bien-Aime. He stated that the previous City Manager was not strong with the "Elected Officials", therefore, some of his priorities included establishing order, accountability an internal control.

Spring indicated that when he noticed several checks paid by Bien-Aime to the City, he met with the Councilman to discuss the situation. Spring stated that Bien-Aime told him the checks were reimbursements to the City for charges stemming from car rentals as a result of him not having a car.

As per Spring, Bien-Aime further stated that back in 2013, he was authorized by the previous administration to rent the vehicles as long as he reimbursed the City. Spring advised Bien-Aime's previous practice of renting cars in conjunction with receiving a monthly car allowance would no longer be tolerated and Bien-Aime was advised to pay the outstanding debt with the City.

Furthermore, moving forward, if he needed to use the City's rental car contract, as allowed, he would have to give back the car allowance to the City. The use of car rental was subsequently discontinued on Bien-Aime. No charges were reflected on the Bank of America monthly statement for 2016 and 2017.

In a follow-up interview with Spring, he confirmed Bien-Aime discontinued his rental car use and satisfied his debt with the City by making two final payments for car rental reimbursements:

1. A check in the amount of \$2,100.00, dated 01/08/16
2. A check in the amount of \$4,695.00, dated 01/29/16

Spring indicated that all P-Card holders have to follow the City of North Miami Purchasing Card Policy and Procedures. Otherwise, they will be subject to disciplinary action, revocation and possibly employee termination.

Furthermore, Spring added that, as a result of rules and regulations being implemented and corrective measures put in place, purchases/expenditures by cardholders are reviewed to ensure corresponding documentation is attached and P-card expenditures are only for City business, with no personal expenditures permitted. In addition, Spring indicated that the City contracted with Brown & Associates. The independent accounting firm will perform the functions of an internal auditor assisting Management and City Officials maintain internal control.

Policies and Procedures are being currently enforced and Department Directors and their staff are monitoring the process in order to insure accountability and transparency.

**Phillipe Bien-Aime (Bien-Aime), Councilman  
City of North Miami**

Bien-Aime, accompanied by his Attorney Michael T. Davis, met with Investigator Olmo and Staff Attorney Radia Turay providing the following information pertaining to the above-mentioned allegations.

Bien-Aime stated that he became a Council member in June, 2013. When questioned about the use of the P-Card, he recalled getting the card but did not recall receiving a policy and procedure manual nor signing the City of North Miami Mayor & Council Credit Card Agreement.

A copy of the agreement dated and signed on 07/19/13 was provided to Bien-Aime to refresh his recollection. He recalled receiving a package but did not remember that form (Credit Card agreement) in particular, nor anyone explaining the Agreement prior to signing the form. Bien-Aime indicated he received two different P-cards at one point, but did not recall why.

Bien-Aime stated that the first time someone spoke to him inquiring about the P-Card use was when Larry Spring first became Finance Director sometime in 2015. Prior to that, he stated no policies were in place for the Mayor and Council.

Bien-Aime said that during the meeting with Spring, he was told the P-Card would be replaced and Spring gave him the outstanding balance owed to the City, making his last two reimbursement payments in 2016. Following that meeting, Bien-Aime discontinued the rentals.

On the issue of the excessive use of the car rental during 2015, Bien Aime indicated that although there he had a car, "he, did not have a car for himself", it was a "family car". He stated that it was after Spring became City Manager, he bought a personal car.

Bien-Aime stated the car rentals began in 2013, when he approached Steven Johnson, City Manager for City of North Miami at the time, and asked if instead of receiving the monthly car allowance, since he did not have a car, he would be able to rent a car and put the expenditure on the City issued P-Card. Johnson agreed.

Bien-Aime started using different car rental agencies but never provided backup documentation, since he was “never required to do so”. He stated that “they”, (the City) never asked for backup documentation. Bien-Aime further stated that he did not recall what the specific amount was that he rented the car for, but considered it was being covered or included as part of his monthly allowance and therefore did not provide corresponding documentation. For 2015, Bien-Aime’s check history reflected monthly earnings of \$4,142.50.<sup>4</sup>

Bien-Aime stated that, as time passed, he continued receiving a monthly car allowance, even though he was renting vehicles on a regular basis. He indicated that for months, he would look in his City box to find “a bill” or notice of suspension of the car allowance, but one was never provided. He continued by stating that, after inquiring every month and not receiving “a bill”, he contacted Johnson about the discrepancy.

Once he was given the amount due, he reimbursed the City. Bien-Aime attributed the discrepancy to the Administration’s lack of control by not monitoring his pay check. He stated he felt the need to reimburse the City, even though they never approached him requesting the reimbursement, because he was also receiving the car allowance.

Bien-Aime indicated that use of the rental cars was strictly for business purposes and not personal. Statements reflected different car rentals contracts throughout the week, including weekends. When questioned on weekend car rentals, he stated that as a Councilman, his responsibilities are not limited to week days and at times has to attend City events or functions during the weekends, adding they might not necessarily be reflected on his City calendar.

Documents were provided in order to refresh Bien-Aime’s recollection as to how he performed his duties without a car the rest of the days he did not have the rental car. He stated that he rented the cars on a monthly basis, but the reason for the different entries was because the car rental agencies often contacted him to renew the contract or because they needed a particular car, therefore, he responded to the agency and exchanged the vehicle.

<sup>4</sup>City of North Miami check history for Bien-Aime, 2015

Base salary	\$2,992.50
Car allowance	\$750.00
Allowance	\$300.00
Cell	\$100.00
	\$4,142.50

When questioned as to why the P-card charges on the City of North Miami Council Receivables Ledger reflected "Personal" charges instead of "Business", he responded those items corresponded to the car rentals for which he provided no corresponding backup documentation, but ultimately reimbursed the City.

Specifically, a \$30.00 ticket was reflected on the November 2015 Bank of America statement<sup>5</sup> to which he did not recall receiving, but stated the ticket would have gone to his home address, not the City. Noted, upon review of the Analysis of the P-Card analysis transactions, the \$30.00 charge reflected on the November Bank of America statement was reimbursed by Bien Aime in one of the last two reimbursement checks to the City in 2016.

Bien-Aime paid the City three checks from account "The Bien-Aime's Family LLC", and indicated it was a multi-services company co-owned with his uncle, dealing with "things like taxes and insurance".

Bien-Aime concluded the interview by stating that since 2015, he meets with Spring and other department heads on a regular basis for compliance purposes.

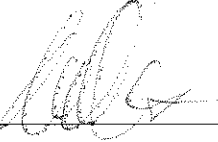
#### **Documents Review:**

- Document (PRR) provided by Wancito Francius.
- E-mail correspondence pertaining to the case.
- City of North Miami Purchasing Card Policy and Procedures.
- City of North Miami Mayor and Council Credit Card Agreement signed by Bien-Aime on 07/19/13.
- Checks issued by Bien-Aime to the City of North Miami.
- Ledger-City of North Miami Council Receivable, Bien-Aime.
- Bank of America Purchasing Card statements (2015-2017).
- Payroll history-Bien-Aime (2013-2017).
- Bien-Aime City Calendar for 2015.
- City of North Miami Public Works Administration Pool Vehicle Log (08/15-01/18)
- Documentation pertaining to the Florida League of Cities 2015 Annual Conference in Orlando, Florida, 08/13/15 - 08/15/15.
- E-ticket receipt confirmation, Miami-Dade Days in Tallahassee, 04/07/15.
- State of Florida Auditor General Preliminary and Tentative Audit, 10/17.
- State of Florida Auditor General Operational Audit, 11/17.

<sup>5</sup>Bank of America, November 05-December 04, 2016 statement reflecting Budgetrentalfine.com, \$30.00

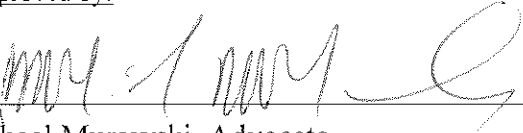


After discussion with the Ethics Advocate, it was determined that no further action would be taken in this matter. This investigation again confirmed what was already known about the lax enforcement of North Miami policy and procedures regarding their internal finances. This is not the first case that can trace its roots back to the slipshod practices of former City Manager Johnson. It appears that under the leadership of City Manager Larry Spring the City is, at least, making an effort to be more accountable. Given the fact that Mr. Bien-Aime has reimbursed the City and has ended his practice of renting numerous vehicles this matter should be closed.



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Nilda Olmo, COE Investigator

Approved by:



\_\_\_\_\_  
Michael Murawski, Advocate



\_\_\_\_\_  
Joseph Centorino, Executive Director

Date: \_\_\_\_\_

3/7/18