



Miami-Dade Commission on Ethics & Public Trust

Report of Investigation

Investigator: Larry Lebowitz and Susannah Nesmith

Case: K17-25	Case Name: Homer	Date Open: CASE	Date Closed:
Complainant(s): anonymous letter	Subject(s): Therese Homer	5/26/2017 CLOSED	10/11/17
		Date:	

Allegation(s):

The Commission on Ethics received an anonymous letter claiming, among a number of allegations, that Therese Homer (Homer), Victim Advocate Supervisor with the City of Miami Police Department (MPD), is operating a non-profit consulting business (DVI Consultants, Inc.) and using her city job to steer business to that consulting business.

Independent of the anonymous letter, COE inquired whether Homer had sought permission for outside employment from her police department supervisors, or if she had filed the required annual disclosure of outside employment forms with the City Clerk.

Relevant Law:

Miami Dade County Code of Ordinances

Section 2-11 – Outside employment by County employees

- (a) *Generally prohibited.* No full-time County employee shall accept outside employment, either incidental, occasional or otherwise, where County time, equipment or material is to be used or where such employment or any part thereof is to be performed on County time.
- (b) *When permitted.* A full-time County employee may accept incidental or occasional outside employment so long as such employment is not contrary, detrimental or adverse to the interest of the County or any of its departments and the approval required in subsection (c) is obtained.
- (c) *Approval of department head required.* Any outside employment by any full-time County employee must first be approved in writing by the employee's department head who shall maintain a complete record of such employment.

(d) *Penalty.* Any employee convicted of violating any provision of this section shall be punished as provided in Section 1-5, and in addition thereto, shall be subject to dismissal by his department head.

(Section 2-11 is not enforced by the COE)

Section 2-11.1 (k) *Prohibition on outside employment.*

- (1) No municipal employees shall receive any compensation for their services other than from the municipality except as may be permitted by Section 2-11 of this Code of Ordinances
- (2) All full-time municipal employees engaged in any outside employment for any person, firm, corporation or entity other than the municipality, shall file, under oath, an annual report indicating the source of the outside employment, the nature of the work being done pursuant to same and any amount or type of money or other consideration received by the employee from said outside employment.

City of Miami Administrative Order APM-1-90

The policy, adopted in 1990 and updated twice, most recently in 2007, states that, all City employees are subject to the provisions of the County ordinance detailed above. The policy further states that any City employee wishing to participate in outside employment must seek permission from his or her department before engaging in outside employment. Permission for outside employment must be requested and granted on an annual basis, even in cases where the type of outside employment has not changed.

Investigation:

Interviews:

Ted Guba, Auditor General

City of Miami

May 3, 2017

At COE's request, Guba checked the City's various vendor databases and confirmed that the City has no record of any payments made to DVI Consultants Inc.

Miriam Palacios,

Assistant City Clerk, City of Miami

Aug. 4, 2017

Palacios confirmed that there are no records on file indicating that Therese Homer has filed any Outside Employment Request or disclosure forms with the Clerk's Office. [After her initial interviews with investigators, Homer retroactively filed disclosure forms for 2015 and 2016 with the City Clerk on Aug. 17th at the direction of the COE Advocate]

Therese Homer

Victims Services Administrator, Miami Police Department

Aug. 11, 2017

Homer voluntarily met with COE staff [Investigators Nesmith, Lebowitz and Advocate Murawski], accompanied by her attorney, Steven A. Mason, at the Ethics Commission office. Homer said she set

up the non-profit corporation, "Domestic Violence Interventions of Florida", in 1997, using a Violence Against Women Act grant to conduct training for local churches and community groups. She said that after three years, when the term of the grant ended, she no longer performed any training, though she kept the corporate registration in order to be able to provide community service when she retired.

Homer said the non-profit, renamed "DVI Consultants" in 2015, has not generated any income since the initial grant and that it has no checking account. Homer admitted that she has sponsored events with the Miramar Rotary Club, and for a Thanksgiving party at an Opa-locka senior citizens center, as DVI, but, in reality, she has paid for those sponsorships out of her own personal funds. She said none of her family members who are on the board of DVI Consultants have ever received any money from the organization.

Homer said that she has not used her job with MPD to generate any revenue for DVI Consultants. Homer said she did not realize that she needed to file a notice of outside employment with the City Clerk. She agreed to provide COE with her tax returns, and possibly receipts of her sponsorship payments for some of the events that DVI sponsored.

Therese Homer

Victims Services Administrator, Miami Police Department

Aug. 16, 2017

Homer voluntarily returned to COE and met with Investigators Nesmith and Lebowitz, primarily to drop off the documents promised in the earlier interview. She also brought information related to her volunteer work. In addition to the paperwork she brought related to the Susan B. Anthony Recovery Center, New Hope Ministries International, Miramar Pines Rotary Club and the Rotary Club of Opa-Locka Senior Thanksgiving Dinner, Homer said she works with an organization called Women With Heart and the sorority Delta Sigma Theta Miami Alumni Chapter.

She said she dissolved the DVI Consultants on Monday [Aug. 14, 2017] as a result of this investigation. State records show the corporation has been voluntarily dissolved.

Homer's personal and corporate tax records from the past three years show that she has been running DVI Consultants at a loss, leaving her with a substantial annual tax deduction from the business. While it appears to be accurate that DVI has not made any money, the provided tax records show Homer is using the corporation to cover travel, utilities and other expenses. These activities appear to directly conflict with prior statements in the last interview where she said that DVI and its predecessor, have been inactive since the late 1990s (when she last received state grant money).

Homer asked for a copy of any formal complaint and made inquiries about how long it might take for the investigation to wrap up. She mentioned that she had been "separated" from her current position at MPD by her supervisors pending the outcome. She said she has not been suspended but was instructed to stay home, gather her records and address our requests as quickly as possible. The MPD's reasoning: She shouldn't be around confidential information of domestic violence victims if she is also running a business that could theoretically benefit from contact with domestic violence victims.

[Several attempts were made to conduct a follow-up interview with Homer in early September 2017. She referred investigators to another lawyer, Christine M. King. Ms. King failed to return phone calls and emails attempting to set up a follow-up interview with Homer]

Document(s) Reviewed:

The corporate filings for DVI Consultants Inc., which Homer first incorporated as Domestic Violence Interventions in 1997; The name was changed to its current one on Jan. 2, 2015. The company was

dissolved on Aug. 14, 2017.

Document(s):

Copies of IRS Form 1040s for 2014, 2015 and 2016 for Therese Homer, voluntarily provided by the Subject. The forms include Schedule C filings for Profit or Loss from Business (sole proprietorship).

In 2016, the first full year of her employment with the MPD, Homer reported \$11,653 in paper losses in connection with DVI Consultants. Homer declared business expenses for DVI Consultants: \$700 on advertising, \$150 on legal and professional services, \$150 on taxes and licenses, \$4,888 on travel, \$3,800 on utilities, \$100 on website development, and \$1,200 on "internet fax modem," \$40 on web and HTML maintenance and \$625 on "Nobel Training Conference." Homer booked the expenses as an \$11,653 loss on her personal income taxes.

In 2015, a partial year of employment with MPD, Homer reported \$24,779 in paper losses in connection with DVI Consultants. Homer declared the following business expenses for DVI Consultants: \$2,305 for advertising, \$1,438 for car and truck expenses, \$1,020 for insurance, \$150 for legal and professional services, \$3,200 for supplies, \$62 for taxes and licenses, \$8,500 for travel, \$3,647 for utilities, \$1,507 for website development, \$300 for "Colleen Aikens Design," \$1,200 for "internet fax modem," \$1,000 for web and HTML maintenance, \$300 for checks order and \$150 for bank fees. She booked the expenses as a \$24,799 loss on her personal income tax return.

In calendar year 2014, the year before she was hired by MPD, Homer reported \$17,198 in paper losses in connection with DVI Consultants.

On Schedule C, Line G, business proprietors are asked "Did you 'materially participate' in the operation of this business during the filing year? In all three mentioned years, Homer answered "Yes."

While Homer appears to have accurately stated that she hasn't drawn a salary or generated any substantial income from DVI Consultants or its predecessor for at least 16 years, tax returns show participation in the company during the time she was employed by the MPD.

Document(s):

Copy of Outside Employment Disclosure forms retroactively filed by Therese Homer for 2015 and 2016 with the Miami City Clerk's Office on Aug. 17, 2017.

Document(s):

Copy of posting from Homer's personal Facebook page dated Feb. 7, 2017. Homer posted the logo for DVI Consultants on her personal page with the note "call for training needs."

Document(s):

Copy of report from Hurricane Electric Internet Services showing that Therese Homer paid to update the Internet web domain registry for DVICONSULTANTS.ORG on March 3, 2017. The web domain was originally registered on March 25, 2015 – at a time when she had already applied for, but had not been offered, her current position with the MPD.

Document(s):

City of Miami Administrative Policy APM 1-90 regarding outside employment requests. The policy defines outside employment consistent with the County ordinance and reiterates the COE's rules and regulations on the subject.

Like the County, City employees are supposed to receive permission for outside employment from their supervisors on an annual basis and file annual disclosure forms every July 1st with the City Clerk.

Among the types of outside employment that require prior permission: "Employees who own and operate a business or entity, regardless of where the business or entity is incorporated."

Document(s):

Miami Dade Commission on Ethics RQO 17-03. See letter dated May 27, 2017 from COE Executive Director Joseph Centorino to Hilda Castillo, Senior Human Resources Manager, Miami-Dade Finance Department.

The COE opined that employees who establish a non-profit and serve as the Executive Director, President or Manager of that non-profit on a compensated or uncompensated basis and are actively involved in the administration of that entity, are engaged in outside employment requiring completion of the outside employment paperwork on a yearly basis.

Document(s):

IRS PROFIT OR LOSS FROM BUSINESS Instructions for Schedule C.

IRS FORM 990 Instructions on who must file,

FLORIDA DEPARTMENT OF STATE, Division of Corporations, Fee Schedule

Since its inception, Homer has been registering DVI Consultants Inc., and its predecessor as a non-profit with the State of Florida. But as the IRS returns indicate, she has been declaring business expenses as losses on IRS Schedule C attached to her 1040 personal income tax returns as if she were the sole proprietor of a for-profit business.

The operation of DVI Consultants and its predecessor as a non-profit requires the filing of Form 990 or Form 990M, and any losses therein cannot be claimed on a personal tax return. According to the IRS Rules for Schedule C: "Use Schedule C (Form 1040) to report income or (loss) from a business you operated or a profession you practiced as a sole proprietor. An activity qualifies as a business **if your primary purpose for engaging in the activity is for income or profit** and you are involved in the activity with continuity and regularity." (emphasis added)

Homer also derives an added benefit from reporting to the State of Florida Division of Corporations. Florida requires non-profits to pay \$61.25 annually to renew the corporate registration while for-profit businesses are required to pay \$150 annually to renew their registrations.

Conclusion:

Many of the allegations mentioned in the anonymous letter were beyond the COE's jurisdiction or statute of limitations. This investigation focused primarily on Homer's outside employment via DVI Consultants (fka Domestic Violence Interventions of Florida Inc.), an entity that she has owned and controlled since 1997.

There was no evidence found that Homer "steered" business to DVI Consultants from her current position with the MPD, as was alleged in the anonymous letter. Nor was there any evidence that she was exploiting her civilian position at the police department by travelling on city time and expense to benefit her non-profit company, as was alleged in the anonymous letter.

Homer may be in violation of County ordinances and City policies prohibiting outside employment. At the outset of this investigation, DVI Consultants was an active entity and had been so since the day Homer was hired by MPD in August 2015. [She dissolved it on Aug. 14, 2017, after her initial interview with these investigators]

She said she was unaware that she needed to seek permission for outside employment from her supervisors to own and operate a non-profit company that provides domestic violence prevention training while also serving as the Department's Victim Advocate Coordinator.

She also said she was unaware that she was required, by ordinance, to disclose her outside employment on an annual basis with the City Clerk. [She retroactively filed the disclosure forms on Aug. 17, 2017]

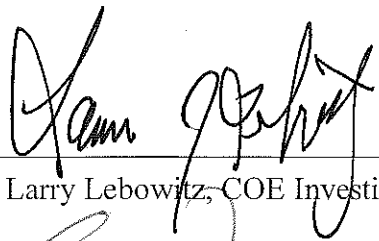
While Homer repeatedly characterized DVI as "dormant", there is substantial evidence to the contrary. Homer claims the non-profit has not generated any traditional income in many years, but she actively renewed its State of Florida incorporation documentation for 20 years. The company was active prior to her accepting the MPD job in August 2015, and it was active until August 14, 2017, when she dissolved it after learning of this investigation. Moreover, Homer made clear that she wanted to keep DVI Consultants active as a corporation for after her retirement, presumably as an income producing venture. Other evidence of recent activity by Homer on behalf of DVI Consultants during the time she was employed by the MPD include: A February 2017 Facebook posting seeking new clients for DVI's training services and the March 2017 renewal of the company's Internet web domain. This recent activity-which included soliciting clients for DVI Consultants- is indicative of Homer's intent to operate the business in such a way as to generate income either now or in the future.

Additionally, based on the tax returns Homer voluntarily provided, she has been declaring extensive paper losses for her out-of-pocket and home-office expenses to operate DVI Consultants. The financial benefit -of reducing her tax burden- is certainly a benefit that Homer derived from the existence of DVI Consultants and could be viewed as a form of compensation.

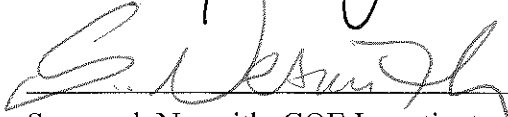
It is worth noting that Homer changed the company's name from "Domestic Violence Interventions" with the more amorphous acronym "DVI Consultants" in January 2015, four months after she applied for the civilian position with MPD, but eight months before she started at the police department.

She also stated in one of her interviews that DVI Consultants didn't have a bank account. However, her 2015 tax returns indicate that she declared \$300 in "other expenses" for check orders and \$150 in bank fees.

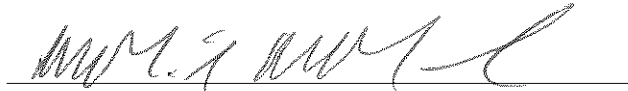
Given the fact that the COE issued RQO 17-03 (formally declaring for the first time that employees who established a non-profit, paid or unpaid, are engaged in outside employment) in May of 2017, sufficient mitigating circumstances exist that no formal complaint will be filed against Homer for failing to file an annual outside employment statement. Homer has dissolved the non-profit corporation since this inquiry began. This report will be provided to Homer's supervisors at MPD for their information. Given their concerns about Homer's access to confidential victims' information, they may wish to address the issue administratively.

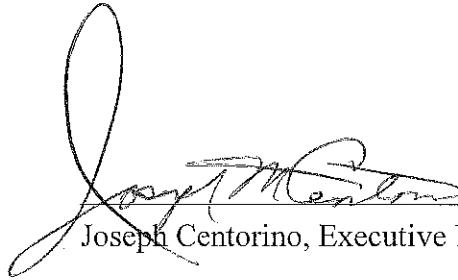
 10/12/17

Larry Lebowitz, COE Investigator


Susannah Nesmith, COE Investigator

Approved by:


Michael Murawski, Advocate

 10/11/17
Joseph Centorino, Executive Director