



## Miami-Dade Commission on Ethics & Public Trust

### Report of Investigation

Investigators: Sylvia Batista

<b>Case:</b> K17-03	<b>Case Name:</b>	<b><u>Date Open:</u></b>	
<b>Complainant(s):</b> Jason Salvatore, Office of the City Clerk, City of Miami Beach,	<b>Subject(s):</b> Unregistered Lobbying by Alex Perez.	01/19/17	<b>CASE CLOSED</b>

Date: 4/24/17

#### Allegation(s):

The COE received information from Jason Salvatore (Salvatore) from the Office of the City Clerk of the City of Miami Beach, regarding an appearance made by attorney Alex Perez (Perez) on behalf of Adam Shapiro (Shapiro), CEO and President of Ballyhoo Media, LLC (Ballyhoo), at the City Commission meeting of 01/11/17.

Shapiro was notified by Salvatore that Perez lobbied the City Commission on Item R5 I without first registering to lobby. Salvatore provided Shapiro with a copy of a blank lobbyist registration form and other information to assist Perez, or Shapiro, in registering to lobby the City. Shapiro and Perez both deny that they had lobbied or attempted to lobby the City Commission and do not intend to register as lobbyists.

The purpose of the subject ordinance on which Perez allegedly lobbied was to amend Chapter 66 of the City Code entitled "Marine structures, facilities and vehicles," by amending Article IV, entitled "vessels," and creating Section 66-155 to be entitled, "Prohibition of Advertising Signs on Vessels." Section 66-155 prohibits the operation of an advertising vessel, such as the one operated by Ballyhoo, on the territorial jurisdictional waters of the City.

An investigation was initiated by the COE to determine whether Perez was required to register as a lobbyist prior to speaking on the item or meeting with City staff.

**Relevant Law:**

Conflict of Interest and Code of Ethics Ordinance, Sec.2-11.1(s) Lobbying (1)(b) –

As used in this section, “Lobbyist” means all persons, firms, or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modification of (1) ordinance, resolution, action or decision of the municipality; (2) any action decision, recommendation of the municipal Manager) or any board or committee; or (3) any action, decision or recommendation of municipal personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the municipal commission, board or committee.

(2) All lobbyists shall register with the municipal clerk within three (3) business days of being retained as a lobbyist or before engaging in any lobbying activities, whichever shall come first.

City of Miami Beach City Code Sec. 2-481, defines a lobbyist as –

All persons employed or retained, whether paid or not, by a principal who seeks to encourage the passage, defeat or modification of any ordinance, resolution, action or decision of any commissioner; any action, decision, recommendation of the city manager or any city board or committee; or any action, decision or recommendation of any city personnel defined in any manner in this section, during the time period of the entire decision-making process on such action, decision or recommendation that foreseeably will be heard or reviewed by the city commission, or a city board or committee. The term specifically includes the principal as well as any employee engaged in lobbying activities.

***City Commission meeting review:***

**01/11/17 City of Miami Beach Commission Meeting:**

Under public comments for agenda item R5 I, Perez introduced himself, and said that he was there on behalf of Ballyhoo Media and Shapiro. Perez said that Ballyhoo Media operates a vessel for the purpose of advertising for local businesses. Perez raised jurisdictional challenges to the ordinance. Perez said that he has concerns over legislative police power based on aesthetics. Perez informed that the federal government has supreme and preemptive authority to regulate navigable waters. Perez cited F.S. 327.60 as prohibiting municipalities from regulating vessels on the intercoastal waterway.

Perez said that he implores the council to pull the matter for a public hearing to ascertain

whether local businesses are in favor of the ordinance, and requests that the City Attorney provide a legal analysis based on the ordinance. The City Commission approved the amendment on first reading. The amendment is to Chapter 66 of the Code of the City of Miami Beach entitled "Vessels" by creating a section entitled "Prohibition of advertising signs on vessels" which prohibits the operation of an advertising vessel upon the territorial jurisdictional waters of the City.

Second reading of the ordinance will be heard at the 02/08/17 City Commission meeting.

**Document Review:**

01/13/17 – E-mail from Salvatore to Shapiro advising that the individual representing him and Ballyhoo by the name of Alex Perez lobbied the City Commission on the subject ordinance at the commission meeting that took place on 11/11/17. Salvatore provided the definition of Lobbyist from the City of Miami Beach City Code, and provided a registration form to be filled out by himself or Perez and submitted with the required registration fee and annual registration sum, totaling \$850. Salvatore further advised that failure to register will result in a ban on Shapiro and Ballyhoo Media from future appearances before City personnel, including appearances at any Board, Committee or Commission meetings. Lastly, Salvatore informed Shapiro that the COE will be notified of the violation and should the COE find that he or Perez have violated this provision, it shall subject you to penalties as set forth in subsections 2-11.1(s) and (z) of the Miami-Dade County Code. Penalties include admonition, public reprimand, fines, as well as prohibitions from registering as a lobbyist or engaging in lobbying activities before the City.

01/16/17 – E-mail from Shapiro to Salvatore stating that he did not hire anyone to lobby the City. Shapiro further said that he hired an attorney to represent his company, Ballyhoo, and they have not lobbied or attempted to lobby any Commissioner or the Mayor to encourage, defeat, or modify any laws. He simply hired an attorney to represent and defend Ballyhoo from false accusations.

01/17/17 – E-mail to Shapiro from Salvatore advising that the City Attorney opined that the activities by Perez during the item meet the definition of lobbying under the City Code.

02/03/17 – E-mailed Lobbyist Registration form executed by Perez and receipt for Perez's payment of his annual fee and the Ballyhoo issue.

**Investigation:**

**Interviews/Contacts**

**01/25/17 – Alex Perez, Esq.**

Perez was contacted and told that he should register as a lobbyist with the City. Perez was also told of the likelihood that a formal Complaint would be filed against him by the COE which could result in a fine against him. Perez replied that he would speak to Shapiro to determine whether he would like for him to appear during the Item's second reading on 02/08/17. Perez said that he would decide then what he would do.

**02/02/17 – Alex Perez, Esq.**

Perez was contacted about the status of his lobbying registration. Perez said that he has never lobbied before and didn't know that he was required to register, or that he was even lobbying. Perez advised that Shapiro had filled out the lobbyist registration form and paid the lobbying fees to register him as a lobbyist in the City. Perez said that the paperwork and check from Shapiro was delivered to the City Clerk yesterday, and that he will appear on behalf of Ballyhoo at the second reading of the subject ordinance.

**02/06/17 – Jason Salvatore**

Salvatore was asked about the status of Perez's lobbyist registration. Salvatore delivered a copy of Perez's executed lobbyist registration form and the receipt for \$850.00 for his annual registration plus the Ballyhoo issue. Salvatore said that Perez is now a registered lobbyist in the City and can lobby City staff and appear at any upcoming City meeting on behalf of Ballyhoo.

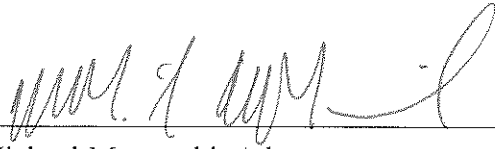
**Conclusion(s):**

Perez, who appears not to have been familiar with lobbyist registration requirements prior to this incident, has now registered as a lobbyist for Ballyhoo Media, LLC and is now in compliance with relevant lobbying laws. For this reason, this matter can be closed with no further action.

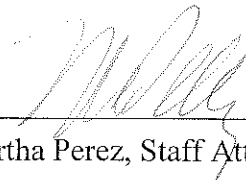
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Sylvia Batista, COE Investigator

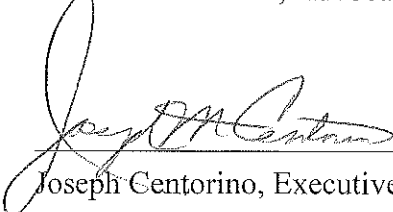
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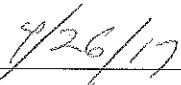
Michael Murawski, Advocate



Martha Perez, Staff Attorney



Joseph Centorino, Executive Director



Date Closed