



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

**Investigator:** Karl Ross

<b>Case:</b> K17-016	<b>Case Name:</b> Civiq Smartscales LLC	<b>Date Open:</b>	<b>Date Closed:</b>
<b>Complainant(s):</b> anonymous	<b>Subject(s):</b> Luis Mata, Elinette Ruiz, Miguel Diaz de la Portilla, George Burciaga, Carlos Gimenez, Alice Bravo	March 8, 2017	<b>CASE CLOSED</b>

Allegation(s):

Date: 3/8/17

On March 7, 2017, COE received an anonymous email from a Guerilla Mail address – Guerilla Mail is a temporary and disposable email service – alleging that the above-named individuals, members of their staff and unnamed members of the Board of County Commissioners may have violated the County’s ethics code with respect to a marketing agreement with Civiq Smartscales LLC (“Civiq”) to place free Wi-Fi kiosks at Metrorail stations.

It was alleged that Civiq executives and their representatives engaged in contract negotiations and lobbying prior to registering as required under subsection (s) of the ethics code.

To wit, as stated in the email: “Upon information and belief, lobbyists and principals of Civiq ... met, conferred, and negotiated with the Mayor, Staff, and County personnel to secure award of a NO-BID marketing partnership agreement and waiver of Implementing Order 8-9.”

The email further claims that Mayor Gimenez engaged in conflictive behavior because his son, Carlos Gimenez Jr., served as general counsel at Balsera Communications. One of the lobbyists for Civiq, Luis Mata, is allegedly an employee of Balsera Communications.

Relevant Ordinances:

The Miami-Dade County Conflict of Interest and Code of Ethics ordinance states in applicable part, Subsection (s), titled *Lobbying*, that “[a]ll lobbyists shall register with the Clerk of the Board of the County Commissioners within three (3) business days or being retained as a

lobbyist or before engaging in any lobbying activities, whichever shall come first.”

Subsection (s)(2)(c), moreover, states that: “Prior to conducting any lobbying, all principals must file a form with the Clerk of the Board of County Commissioners, signed by the principal or the principal’s representative, stating that the lobbyist is authorized to represent the principal. The principal and the lobbyist must also submit a joint affidavit ...”

Subsection (c), titled *Prohibitions on transacting business within the County*, states that “No person ... shall enter into an contract or transact any business ... in which he or she or a member of his or her immediate family has a financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County ...”

## **Investigation:**

### ***Interviews***

On April 26, 2017, an email was sent to Keith Knowles in the Miami-Dade Clerk of the Board’s Office requesting lobbyist registration filings by Civiq lobbyists. On May 2, 2017, Mr. Knowles provided a copy of the Lobbyist Activity Authorization form filed by George Burciaga on behalf of Civiq. The form was date-stamped Oct. 21, 2016.

On April 26, 2017, an email was sent to Shanda Mazzorana in Miami-Dade ITD regarding a possible email search for correspondences with Civiq lobbyists and/or company reps.

On May 1, 2017, an email requesting any email correspondences with Civiq lobbyists and/ or company reps was sent to Assistant County Attorney Bruce Libhaber. ACA Libhaber responded the same day by forwarding approximately 85 relevant emails.

On May 2, 2017, COE spoke to Christopher Ferreira, legislative affairs director for Chairman Bovo’s Office, and requested information about any meetings between the Chairman, his staff and lobbyists or other representatives of Civiq Smartscape LLC regarding the marketing agreement. A follow-up email was sent requesting the information, also on May 2, 2017.

On May 2, 2017, an email was sent to Miami-Dade Transit Director Alice Bravo requesting information about any meetings between her and her staff and representatives/ lobbyists of Civiq Smartscape LLC prior to the approval of the marketing agreement.

On May 15, 2017, Chief of Staff Ferreira replied to COE that he had checked Chairman Bovo's calendar and could find no meetings with the aforementioned lobbyists. He said that, similarly, he had no records of any emails exchanged with the lobbyists in question.

Mr. Ferreira said he did speak to Chairman Bovo and that the chairman advised him that he recalled one meeting held in late November or early December of last year regarding the Civiq item. He said this occurred during a County Commission meeting or Committee meeting, and that "the administration" asked to speak with the chairman briefly in a conference room.

He said that Miami-Dade Transit Director Bravo was present at the meeting along with "a couple of other" individuals that the chairman did not know. He said the chairman told him that none of the unknown individuals were local lobbyists Diaz de la Portilla, Mata or Ruiz. He said the chairman did not know Burciaga (Civiq's managing director) and could not say for sure. [Note: This may have been during the Dec. 14 Transportation and Mobility Services Committee meeting. The item was approved and referred to the BCC on Dec. 20.]

Mr. Ferreira stated that at no time during the entirety of the process of reviewing and ultimately approving the Civiq Smartscares marketing partnership agreement did the chairman feel as if he were being lobbied – either in person or through email or other means.

Miguel Diaz de la Portilla, attorney/ lobbyist for Civiq  
May 25, 2017

COE investigator Ross and Ethics Advocate Murawski met with Mr. Diaz de la Portilla at his law office, located at 200 South Biscayne Boulevard, Arnstein & Lehr LLP. He advised that he would not be able to address issues that could adversely affect his client, Civiq. He said that he personally registered to lobby on behalf of Civiq on January 9, the day before he was formally retained by Civiq. He said fellow lobbyist Elinette Ruiz is an associate.

Mr. Diaz de la Portilla said he did lobby County elected officials prior to the vote of the County Commission on January 24, but said he could not recall who in particular. COE requested that he check his records, but noted that any lobbying would have been permissible on his part so long as it was after he registered. Diaz de la Portilla stated that he reports to John Anselmi and George Burciaga, both executives at Civiq.

Diaz de la Portilla declined to discuss the particulars of the case, citing the possibility he could be called upon to represent his clients in any ethics inquiry. He did say the genesis of the marketing partnership agreement, as far as he knew, was an encounter between County officials and Civiq representatives at the eMerge Conference on Miami Beach.

He said Civiq is investing approximately \$20 million in communications infrastructure consisting of kiosks at Metrorail stations that provide information about routes and travel, and that passengers could access free Wi-Fi and a charging station. He said the kiosks will also contain advertising and that advertising revenue would be split with the County.

George Burciaga, Managing Director  
Civiq Smartscape LLC, along with  
Miguel Diaz de la Portilla, attorney/ lobbyist for Civiq  
July 18, 2017

On the above date, Mr. Burciaga and Diaz de la Portilla met with Ethics Advocate Murawski and Investigator Ross at COE's offices. Mr. Burciaga advised that his first meeting with Mayor Gimenez and other County officials took place at the eMerge trade show at the Miami Beach Convention Center sometime on or about May 2015. Burciaga said that he made a presentation of his interactive technology to Mayor Gimenez and others. He said that, at that time, the company was known as Elevate and was later acquired by Civiq.

Mr. Burciaga said that after he learned of the County's interest in putting together a deal to use the technology, he was advised to register to lobby and did so in January 2015. He said that he may have registered prior to eMerge upon the advice of industry colleagues who were more familiar with Miami-Dade County's rules of engagement. He said that the company had already installed its machines in Chicago and other markets, but that he was largely unfamiliar with such practices in Miami at the time.

Mr. Burciaga said that after Elevate was acquired by Civiq, he was asked to stay on to implement ongoing projects such as the one with Miami-Dade County. "I originated the concept, so I stayed for the negotiations," he said. He further advised that he was the only negotiator involved on behalf of Civiq. He said that Chicago-based attorney Halpern's role throughout the procurement process was limited to reviewing, preparing and interpreting contractual documents. "It was all technical," Burciaga said.

Mr. Diaz de la Portilla said he would provide COE with a copy of the registration form filled out by Mr. Burciaga at or about the time of the initial talks with County officials.

***Document/Audio/Video Review:***

COE reviewed lobbyist registration filings with the Miami-Dade County Clerk's Office and found the four subject lobbyists in this case registered on behalf of Civiq as follows: George Burciaga, on Dec. 20, 2016; Miguel Diaz de la Portilla, on Jan. 9, 2017; and Luis Mata and Elinette Ruiz on Jan. 20, 2017. A copy of the actual registration forms was requested from the Clerk's Office on April 26, 2017, through a public records request.

A Lobbyist Activity Authorization on file with the County dated Oct. 21, 2016, also lists Burciaga as a lobbyist and contact person for the principal – Civiq. The specific issue identified is "Media Boards/ Citizen Engagement." No other lobbyists are identified.

On July 18, 2017, COE requested a copy of any lobbyist registration form on file with the Clerk of the Board for Burciaga on behalf of his former company Elevate.

On May 1, 2017, COE received approximately 85 emails from Assistant County Attorney Bruce Libhaber consisting of a review of all emails he received from representatives of Civiq Smartscales LLC – including its known registered lobbyists.

The review found zero (0) emails from Luis Mata; (1) email from Elinette Ruiz and dated Jan. 24, 2017 (after she registered); sixteen (16) emails to or from Miguel Diaz de la Portilla, the earliest of which was dated Jan. 11, 2017 (after he registered); and dozens of emails to and from George Burciaga, including those he was copied on, dating back to July 2016. Also involved in many of those email exchanges was Marcelo Halpern, an attorney from the Chicago-based law firm Perkins Coie LLP, acting on behalf of Civiq. Burciaga and Halpern were involved in the preparation and review of contract documents, and as a result were in continual communication with County official from transit, legal and ITD.

One of the first such emails dated June 13, 2016, is from George Burciaga, Civiq’s managing director – Global Development and Innovation – and responds to an email from Hector Garnica, computer services manager for Miami-Dade ITD, discussing contract documents.

Another email is dated July 5, 2016, from Marcelo Halpern (Perkins Coie), and is addressed to County staff from ITD, MDT, OMB and the County Attorney’s Office, and reads as follows: “All, I’ve reviewed and cleaned-up the revisions we made today. Attached is a clean and redline of the main agreement showing my minor clean-up changes. I had no changes to the Scope of Services Document.” Burciaga was copied on the email.

Another email of possible relevance was the Oct. 12, 2016, email from Burciaga to MDT Director Bravo offering to answer any questions about the pending agreement. In the email, he touts some of the “extended benefits” to the County with respect to advertising. He concludes the email by stating: “Please let me know if you have any questions, we look forward to moving through the next phases of the procurement process ...”

It should be noted that the latter email – which could represent possible lobbying activity – was dated more than a week prior to Burciaga’s filing the required authorization form. It should further be noted there is no lobbyist registration form on file for Civiq attorney Halpern.

On July 3, 2017, an assistant for Director Bravo provided a list of negotiators for Civiq and their Miami-Dade County counterparts. The list of County negotiators included Bravo; Angel Petisco, Chief Information Officer for ITD; Rosie Perez, division director for ITD; Hector Garnica, computer services manager for ITD; Daniel Wall, assistant director of OMB; Dennys Gonzalez, administrative officer for OMB; Doris MacPherson, revenue development coordinator for OMB; Bruce Libhaber and Alexander Bokor of CAO.

The negotiators for Civiq were identified as: George Burciaga of Civiq and Marcelo Halpern, the outside counsel of the law firm of Perkins Coie LLP.

The document from Transit further provides a chronology of meetings between Civiq and County officials commencing on Nov. 17, 2014, and picking up in May 2015 for a total of 14 meetings – most of which took place in person at County installations.

**Conclusion(s):**

Based on the foregoing, it does not appear that there is any information to support allegations of illegal lobbying and other misconduct contained in the March 7, 2017, anonymous email regarding Civiq's marketing agreement with Miami-Dade Transit for Wi-Fi kiosks.

The investigation found that all local lobbyists and company officials registered with the Clerk of the Board's office in a timely manner and that the apparent lapse for Civiq's managing director, George Burciaga, was the result of a corporate name change. (Records on file with the clerk's office show that Burciaga did register for Elevate Digital on Jan. 9, 2015.)

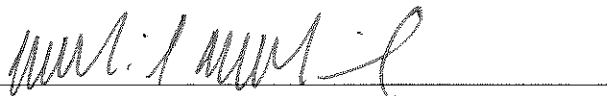
The issue raised about a possible conflict of interest between Mayor Gimenez and the firm of Balsera Communications that allegedly employs his son does not constitute a conflict under the County's ethics code since.

Accordingly, the case should be closed at this time with no further action.

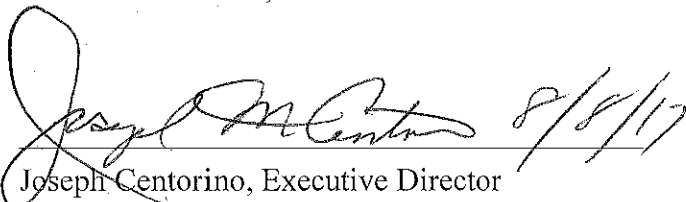


Karl Ross, COE Investigator

Approved by:



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Joseph Centorino, Executive Director