



Miami-Dade Commission on Ethics & Public Trust
Report of Inquiry

Investigator: Sylvia Batista

Case: PI17-021	Case Name:	<u>Date Opened:</u>	
Complainant(s): e-mail: Dora Al (doral1@gmx.com)	Subject(s): Doral Councilwoman Christine Fraga.	04/10/17	CASE CLOSED

Date: 5/25/17

Allegation(s):

An anonymous source using the e-mail Doral Al [doral1@gmx.com] sent an e-mail to the COE about a recent Facebook post on the City's Facebook page announcing a fundraising event scheduled for April 11, 2017 between 1:00 p.m. and 10:30 p.m. at Brain Freeze Nitrogen Ice Cream and Yogurt Lab (Brain Freeze). Brain Freeze is owned by Doral Councilwoman Christine Fraga (Fraga).

The Facebook post informs that a portion of the sales at the event will benefit the American Cancer Society Relay for Life Foundation (Relay for Life). The post does not say what portion of the proceeds will go to Relay for Life, or where the remaining proceeds will go.

The complainant alleged that the City of Doral is being manipulated to help increase business to Brain Freeze.

The COE has initiated an inquiry to find out whether a violation of the Conflict of Interest and Code of Ethics Ordinance took place.

Relevant Laws:

The Conflict of Interest and Code of Ethics Ordinance, Sec. 2-11.1(n) *Actions prohibited when financial interests involved.*

No person included in the terms defined in Subsections (b) (1) through (6) and (b) (13) shall participate in any official action directly or indirectly affecting a business in which he or any member of his immediate family has a financial interest. A financial interest is defined as a special financial interest, direct or indirect, as that term is used in Section 4.03 of the County's Charter; or as a financial interest as defined in Section 769 of the Restatement of the Law of Torts as an investment or something in the nature of an investment. This section shall not prohibit any official, officer, employee or person from taking official action (1) to promote tourism or downtown development or redevelopment within the County or any portion thereof, or (2) to authorize the expenditure of public funds for promoting tourism or downtown development or redevelopment, so long as no such authorized public funds are to be paid to such person or a member of his or her immediate family or any business in which he or she or any member of his or her immediate family has a financial interest.

Sec. 2-11.1(d) *Prohibition on transacting business with the County/municipality through a corporation, partnership, or other legal entity.*

No person included in the terms defined in Subsection (b)(1) through (6) and in Subsection (b)(9) shall enter into any contract or transact any business through a firm, corporation, partnership or business entity in which he or any member of his immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, and any such contract, agreement or business engagement entered in violation of this Subsection shall render the transaction voidable.

Interviews:

04/10/17 - Evan Owen, City of Doral Communications Manager –

As the communications manager, Evan Owen (Owen) has to approve all Facebook posts. Although he approved the City's Facebook post related to the fundraiser event at Brain Freeze on 04/11/17, he knows little else about the fundraiser.

Owen advised that there had been another Facebook post related to another fundraiser held on 04/03/17 and 04/04/17 at Freddo's. Freddo is also an ice cream parlor located in the City. Part of the funds from this fundraiser will be donated to the American Cancer Society Relay for Life.

Owen advised that Relay for Life is a City signature event. The captain of the fundraising team is Marco Grion.

04/11/17 - Marco Giron, Team Captain of Fundraising Team at City of Doral –

Marco Giron (Giron) is the team captain of the Relay for Life fundraiser. Giron explained that the City has several fundraisers a year. The way in which Brain Freeze was chosen as the place to hold a fundraiser was at the suggestion of one of the members of their fundraising team. The member who suggested Brain Freeze was Karina LaRosa of the City Clerk's office. Giron advised that team members go to different businesses and offer to hold the fundraising event at their location. Karina LaRosa, who works in the Clerk's office, suggested Brain Freeze. Giron does not know how much of the proceeds from the sales will go to Relay for Life. In the case of Freddo, they agreed to donate 20% of their sales on the dates and times agreed upon for the fundraiser. There is no such agreement with Brain Freeze that he knows of.

04/17/17 - Karina La Rosa, Executive Assistant/Advisory Board Coordinator Office of the City Clerk –

The City put together a fundraising team with a representative from each department (the Relay Team). Karina LaRosa (LaRosa) said that she is part of the Relay Team. The Relay Team had a meeting before the actual fundraising event took place. They do fundraising all over the City. As a City team, they raise money for Relay for Life. They volunteer each year for the cause.

LaRosa said that every year they reach out to Doral businesses to hold fundraisers. They mostly reach out to restaurants. It can be hard to raise money. LaRosa said that she did not approach Fraga at any time about using her business, nor has she spoken to Fraga about it.

LaRosa explained that the team was throwing out ideas and they were thinking about ice cream social events. The new trend now is nitrogen ice cream. It is known that everybody is into the nitrogen ice cream thing right now. LaRosa said that she has known that Fraga owns a nitrogen ice cream shop. The team discussed the idea and she saw Fraga's assistant and asked her for the name of the person in charge of fundraising at Brain Freeze. LaRosa said that she asked Fraga's assistant if this would be possible, and if so, who is the person she should contact. LaRosa was told that the person is Adriana Nodal. The decision to go with Brain Freeze was made by the team. There are no other nitrogen ice cream shops in Doral.

LaRosa said that she has all the information on the event in writing. LaRosa said that she contacted Adriana Nodal who works for Brain Freeze. LaRosa said that she contacted Ms. Nodal directly and has e-mails back and forth and a form that she had to fill out pursuant to Ms. Nodal's instructions.

LaRosa said that she filled out the form given to her by Nodal. Nodal told her that she was "good to go." Giron also gave her the green light. The team made a flyer for the event. That is the common practice.

After the event Nodal called her and there are e-mails from her saying this is how much you've raised, etc. LaRosa said that she will provide copies of the e-mails to this investigator.

Brain Freeze donated 15% of the net sales made on the day of the event. The net sales totaled \$1,353.85, therefore, the sum donated to Relay for Life was \$203.07.

05/08/17 – Adriana Nodal of Brain Freeze Nitrogen Ice Cream & Yogurt Lab –

Adriana Nodal (Nodal) is employed by Brain Freeze. One of Nodal's job responsibilities is to coordinate fundraising events at Brain Freeze in Doral. Nodal first heard of the subject fundraiser held on April 11, 2017 when LaRosa contacted her at Brain Freeze asking her for information on how to schedule a fundraising event there. LaRosa asked whether they could have the fundraiser at Brain Freeze. Nodal said that LaRosa did not mention Fraga. Nodal said that LaRosa said that she would like to do a fundraiser at Brain Freeze. LaRosa told Nodal that she had gotten her phone number from Zeira Sardinias. Zeira Sardinias is Fraga's administrative assistant at the City. Nodal said that Fraga does not get involved in the fundraising events held at Brain Freeze. Nodal said that when LaRosa mentioned Zeira Sardinias she knew that she is Fraga's administrative assistant at the City. Nodal explained to LaRosa how they work fundraisers. Nodal said that she e-mailed the forms to LaRosa, and asked her to complete the forms and send them back.

Nodal explained that Brain Freeze has done many fundraisers. They did a fundraiser for Doral Lady Broncos Cheerleaders on March 1, 2017. Nodal said that she has also arranged to have fundraisers at Brain Freeze for schools such as FIU, Science Club. There also was a fundraiser for the Doral Soccer Club on February 28, 2017. She has been coordinating fundraisers at Brain Freeze for the entire time that she has been there.

Nodal advised that every fundraiser coordinator gets the same forms, same treatment and the same percentage of the proceeds. The percentage assigned to the beneficiary of the fundraiser is determined by the total sum of the proceeds—the more sales, the higher the percentage. Nodal said that Fraga did not know about the fundraiser until a few days before the event when she saw it on Nodal's schedule of events for the following week. Nodal said that she gives Fraga a copy of her calendar of events each week. Nodal said that when she was first approached by LaRosa and realized that the fundraiser was being promoted by the City of Doral, she did not check with Fraga to see whether it was okay to do it at Brain Freeze.

05/08/17 - Councilwoman Christi Fraga –

Councilwoman Christine Fraga met this investigator at Brain Freeze. Fraga said that Nodal was the first person who mentioned the fundraiser being sponsored by the City at Brain Freeze. Fraga said that Nodal provides her with a list of all events planned at the store for the upcoming week. The information on Nodal's list of events just said "Relay for Life Fundraiser." Fraga said that she did not ask Nodal any questions about the event.

Fraga said that her sales did not increase or decrease on the day of the event (April 11, 2017). Fraga said that most charities who hold fundraisers at Brain Freeze are given 10, 15 or 20% of total sales on the day of the event. Fraga reiterated that she donates the percentage of the total sales for that day.

Fraga said that she did not speak to LaRosa about holding the fundraiser at Brain Freeze. The week of the event will show higher sales proceeds because of spring break. The week before and the week after reflect more or less the same amount of sales. Fraga said that she has three (3) stores which she owns with her husband.

05/11/17 – Zeida Sardina, Councilwoman Fraga’s Legislative Aide –

Councilwoman Fraga’s Legislative Aide, Zeida Sardina (Sardina), was contacted and provided the following statement about the fundraiser at Brain Freeze.

Sardina inquired whether the investigation was related to Relay for Life. Sardina said that the City of Doral does Relay for Life fundraisers like most places do the United Way. City of Doral departments compete in fundraising efforts.

Sardina said that the person who organized the fundraiser works in the City Clerk’s office. Her name is Karina LaRosa. They do many fund raising activities and then they give a percentage of the sales to the charities. Sardina said that they’ve done fundraisers at Freddo’s ice cream and Carolina Ale House in the past. They did a fundraiser at Freddo’s recently.

Sardina explained that LaRosa came to speak to her and said that they wanted to do a fundraiser at Brain Freeze. LaRosa asked whether she knew who she should contact at Brain Freeze to coordinate the fundraiser. Sardina said that she told LaRosa that the person to contact is Adriana Nodal and gave her the telephone number. Sardina said that she does not get involved in the Councilwoman’s private business. Sardina said that LaRosa works in the City Clerk’s office. LaRosa is the person in charge of Relay for Life this year.

Sardina said that Adriana Nodal does events for Brain Freeze. Sardina said she told LaRosa to call Adriana Nodal. Sardina said that she did not hear anything else about the fundraiser. She didn’t pay attention because it did not concern her job duties at the City. Sardina said that she is aware that Brain Freeze is owned by the Councilwoman. It is common knowledge in the City that the council woman owns Brain Freeze.

Sardina did not tell the Councilwoman about LaRosa’s plan to coordinate the fundraiser at Brain Freeze. Sardina said that she assumed that if it was going to be told to her it should be told to her by someone at Brain Freeze. This was a business thing so she didn’t get involved. She did not need to do anything else for LaRosa and has nothing to do with her. Sardina said that she has lots of things going on in the office, so she does not get involved unless it is part of her duties. She didn’t discuss any of it with the Councilwoman at all. Sardina said that she knew what was going on obviously, but she did not discuss it with the Councilwoman because it had nothing to do with her and the City.

Sardina said that she saw the post on the City’s Facebook page and maybe saw a flyer in the elevator. Sardina said that she keeps City business separate from Fraga’s private business. If anybody writes or calls regarding anything to do with Brain Freeze she tells them that they need to reach them.

Documents Reviewed:

04/14/17 – E-mail from Adriana Nodal of Brain Freeze to LaRosa advising that the Net Sales for the 04/11/17 fundraising event at Brain Freeze were \$1,353.85 of which 15% of those sales will go to Relay for Life. This means that \$203.07 profit went to Relay for Life.

04/14/17 – E-mail from LaRosa to Giron advising that they raised \$203.07 at the fundraiser hosted at Brain Freeze, and that she will be picking up the check on Monday, 04/17/17.

03/21/17 – E-mail from Adriana Nodal of Brain Freeze to LaRosa advising that the forms which she prepared have been approved, and that she has reserved the 04/11/17 date for the City of Doral Relay for Life Fundraiser.

03/17/17 – E-mail from Adriana Nodal to LaRosa attaching the fundraising information and asking that La Rosa review the information and contact her with any questions.

04/11/17 – 04/15/17 – Sales reports by day for the week the fundraiser took place at Doral store.

04/11/17 – 04/15/17 – Sales report by day for the Kendall store for the week the fundraiser took place at the Doral store.

Conclusion:

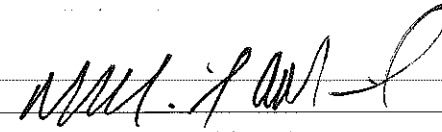
The evidence uncovered in this investigation is insufficient to charge Councilwoman Fraga with a violation of the Conflict of Interest and Code of Ethics ordinance. There was no evidence that Fraga used her position to advertise her business on the City's Facebook page.

It should be noted however that there is a troubling appearance of impropriety in having the City's Facebook page essentially steer business toward a sitting Council woman's private business concern. While there is insufficient evidence in this case to warrant filing an ethics complaint, Ms. Fraga and all officials of the City should refrain from engaging in any similar behavior in the future. The fact that only a "percentage" of the profits were donated to Relay for Life suggests that Fraga's business did, in fact, profit from the business that was directed to her ice cream store by the City's Facebook page advertisement. While it is noble and altruistic to raise money for charity, City staff have a plethora of businesses in the City of Doral to choose from without having to involve a business owned by a City elected official.



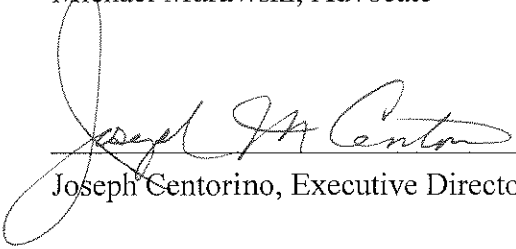
Sylvia Batista, COE Investigador

Date: 5/31/17



Michael Murawski, Advocate

Date: 5/26/17



Joseph Centorino, Executive Director

Date: 5/25/17