



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Sylvia Batista

Case: K18-024	Case Name: Joseph Geller,	<u>Date Open:</u>	<u>Date Closed:</u>
Complainant(s): Office of the Inspector General,	Subject(s): Unregistered Lobbying.	03/27/18 CASE CLOSED	

Date 0/4/2018

Allegation(s):

The Office of the Inspector General (OIG) referred this matter to the COE involving possible lobbyist violations by Joseph Geller (Geller). The violations involve Geller's activities in connection with the Concession Program at Miami International Airport (RTQ-00822). RTQ is a procurement acronym for "Request to Qualify."

The OIG informed that a search of the Clerk of the Board's on-line Lobbyist database conducted on 03/02/18 reflects that Geller is "Not an Active Lobbyist" and the Ethics Course Certification is "Due."

The OIG further informed that on 03/15/18, Leland Salomon (Salomon) of the Office of the Mayor, advised that he had met with Geller on a number of occasions to discuss concessions at MIA, and furthermore believes that Geller has met with other staff and with elected officials on the 29th Floor on the same subject.

The COE initiated an investigation to determine whether Geller engaged in unregistered lobbying and committed other lobbyist violations due to his communications with County personnel and/or County Commissioners regarding the Concession Program at the airport.

Relevant Law:

The Conflict of Interest and Code of Ethics Ordinance:

Sec. 2-11.1(s)(1)(b):

As used in this section, "Lobbyist" means all persons, firms, or corporation employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision of the County Commission; (2) any action, decision, recommendation of the County Manager or any County board or committee; or (3) any action, decision or recommendation of County 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 County Commission, or a County board or committee. "Lobbyist" specifically includes the principal, as well as any employee whose normal scope of employment includes lobbying activities.

Sec. 2-11.1 (s)(2):

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

Investigation:

Document Review:

07/19/17 – Miami-Dade County 2017 Annual Lobbyist Registration filed by Geller. Geller's registration was effective through 12/31/17. Geller has not registered to lobby this year. Geller does not circle a reply as to whether he has met the ethics training requirement, which it appears he had not.

07/19/17 – Miami-Dade County Lobbyist Activity Authorization form filed by principal, Faber, Coe & Gregg, Inc. authorizing Geller's representation for the MIA Concessions.

03/28/18 - An inquiry of the Clerk of the Board's on-line Lobbyist database reflects an entry for Joseph Geller. The result of the inquiry indicates that Geller is currently "60 or more days non-compliant with the Ethics Certification."

The List of Registrations by Geller reflects that Geller was employed by Faber Coe & Gregg on 07/19/17 on the issue of "Airport Concessions." The list shows that the status of Geller's

representation for the issue is presently "Inactive." Pursuant to Keith Knowles from the Clerk of the Board, the reason that Geller shows as inactive is because Geller did not renew his lobbyist registration for 2018. Geller's last annual registration was effective through 12/31/17.

E-mails between Geller and Salomon:

02/28/18 – E-mail from Geller to Salomon requesting the draft RTQ they discussed during their meeting.

02/28/18 – Reply e-mail from Salomon to Geller attaching a final draft of the RTQ.

03/01/18 – E-mail from Geller to Salomon and Jack Osterholt, (Office of the Mayor) requesting that the language of the proposed RTQ be changed to reflect that participating vendors meet a total annual gross sales of \$50-\$60 Million company-wide threshold rather than a \$20-\$25 Million single location threshold. Geller asks to either lower the single location threshold to \$10 Million or delete the words "derived from one Retail/Food and Beverage Concession program" from the language of the RTQ. Geller said that in its present form, the RTQ excludes his client from participating.

03/01/18 – E-mail from Salomon to Geller replied that the RTQ has been issued and he cannot reply because it is covered by the Cone of Silence rules. Salomon advised that he would forward Geller's request to the Procurement Division of ISD who may respond to his question.

03/05/18 – E-mail from the ISD contact person, Kristina Guillen, advising Geller that the solicitation was issued in an automated system (BidSync.com) and therefore all questions must be submitted via the system in order to be addressed.

Solicitation RTQ-00822 – Concession Program at MIA –

Solicitation Start Date: 03/01/18

Solicitation End Date: 04/30/18

The RTQ is to establish an open List of Prequalified Vendors which, once approved, will be able to participate in future solicitations seeking proposals that may include planning, developing, designing, implementing, managing, leasing or operating the Concession Program. Placement on the list is an acknowledgement that Vendor meets the qualifications as outlined in the RTQ. Vendor submittals will be accepted throughout the term of the RTQ for placement on such a list.

The language that Geller wanted revised is on page 7 under 2.4 Qualification Criteria.

Interviews/Contacts

04/05/18 – Kristina Guillen, Sr. Aviation Procurement Contract Officer Miami-Dade County Internal Services Department –

Geller's request to change the qualification criteria of the solicitation, which was submitted to Salomon in a 03/01/18 e-mail, was forwarded to the Procurement Division of ISD and replied to by the solicitation's Procurement Contracting Officer, Kristina Guillen (Guillen).

Guillen responded to Geller's request which Salomon had copied her with by stating that he must direct all questions via the automated system used to issue the solicitation. Guillen provided a link to the system.

Guillen said that a potential bidder cannot request changes to accommodate their principal. These decisions are made after input from many sources and cannot be changed at the request of a lobbyist representing a bidder. Guillen said that the changes requested by Geller were not made. Guillen said that she did not meet with Geller—all communications were by e-mail.

04/13/18 – Leland Salomon, Director, Office of Economic Development Deputy Director, Economic Development Department of Regulatory & Economic Resources –

Salomon met with this writer and advised that he met with Geller to discuss the concession program RTQ at the airport on two or three occasions. The meeting referred to by Geller in his 02/28/18 e-mail to Salomon took place on 02/23/18. The purpose of the meeting was to answer questions from concessioners' representatives or concessioners themselves. Salomon said that he also met with Geller on 11/22/17 on the same matter, and maybe met with him again, but could not locate it on his calendar.

Salomon said that he has been working on concessions at the airport for 1-1/2 years at the Mayor's request. His review came up with information that the airport's central and south terminal concessioners are on 30-day leases. He is doing this RTQ to have time to create a new pool of concessioners. Geller represents principal Faber Coe & Gregg on this RTQ.

Salomon said that his boss, Jack Osterholt, was present at the 2/23/18 meeting. To his knowledge, Geller has not met with any elected official on this RTQ.

Salomon said that he did not verify Geller's lobbyist status. He often interviews attorneys regarding real estate deals. They discuss the lease or sale of County property. He has never inquired about their lobbyist status, but they are lobbying him. Salomon said that he will place a sign at the entrance of his office requesting that those who come meet with him register to lobby.

05/09/18 – Jack Osterholt, Deputy Mayor, Office of the Mayor and Leland Salomon –

Jack Osterholt (Osterholt) agreed to meet with this investigator and Michael Murawski to discuss the meetings they have had with Geller in connection with the airport concessions RTQ. Salomon advised that he had gone back into his calendar and found that he had met with Geller on four separate occasions. The first meeting was held on 08/10/17. The meeting

was attended by Osterholt, Salomon and concessioners who wanted to know what the process was. The next meeting was held on 09/06/17. Osterholt did not attend this meeting. The meeting was attended by Geller, Salomon and members of the procurement staff. Again, they met in order to get information on the process of the RTQ.

Salomon advised that he and Geller had a meeting on 11/22/17. At this meeting Geller informed him that he represented Faber, Coe & Gregg, Inc. (Faber). Faber was already doing concessions at the airport. Concessioners who qualify for the pool can bid for a contract. The last meeting attended by Geller was on 02/23/18. This meeting was attended by Salomon, Osterholt, the Mayor, Geller and the principal (Faber).

The RTQ was concluded on 04/30/18. Salomon said that he doesn't know whether Faber finally submitted a bid to the RTQ.

05/10/18 – Joseph S. Geller

Geller explained the reason why his lobbyist registration records reflected an “inactive” status. Geller explained that his subsequent compliance with the required ethics training placed him back in “active” status.

Geller explained that his client, Faber, was bidding on a solicitation which had gone out thus the Cone of Silence was in place. Geller said that he attempted to reach out to the procurement officer who informed him to submit all questions on the solicitation via BidSync.com. He was then informed that in order to submit inquiries through the system he had to be a registered lobbyist. Unbeknownst to him, records reflected his status as “inactive” due to the fact that he had not updated his ethics refresher course.

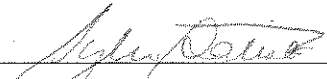
Geller said that he took the course and got the certificate from the COE. He went back to the Clerk of the Board (Claude) and provided the information. Geller said that he had to re-register and pay the yearly fee even though his July registration had not expired.

Geller said that he was given confirmation that his status had been restored to “active” as of 04/26/18.

Conclusion(s):

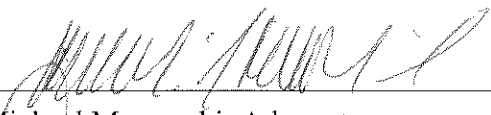
After discussion with the Ethics Advocate it was determined that the filing of an ethics complaint in this matter is not warranted. The COE has uncovered other cases where registered lobbyists were labeled as “inactive” for failure to take the refresher lobbyist class, without being notified by the Clerk's office of the lapse. The COE has been working with the Clerk's office to rectify the situation. Geller, like many other lobbyists, was given the chance to come into compliance and take the training class. Geller was registered as a lobbyist during all of the year 2017.

(Signature)

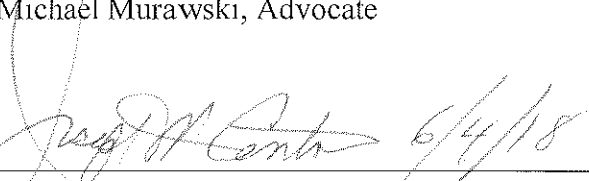


Sylvia Batista, COE Investigator

Approved by:

 6/4/18

Michael Murawski, Advocate

 6/4/18

Joseph Centorino, Executive Director