



**CASE
CLOSED**

Date: 5/28/19

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

Investigator: Sylvia Batista

Case: K18-62 B	Case Name: Porfirio Garcia,	<u>Date Opened:</u>	<u>Closed</u>
Complainant(s): Office of the Inspector General,	Subject(s): Outside Employment Statements	11/29/18	

Allegation(s):

The COE received information from the Office of the Inspector General regarding Miami-Dade County Department of Transportation and Public Works (DTPW) employee Porfirio Garcia (Garcia). Garcia is a Bus Body Technician in DTPW. The OIG referred the matter to the COE after completing investigations on other allegations brought against Garcia. The OIG's findings as they relate to the main allegations against Garcia were provided to Alice Bravo, Director of DTPW, for whatever administrative action she may deem appropriate.

The OIG's findings as related to the subjects' failure to file the required forms related to his outside employment activities were provided to the COE for its independent evaluation of matters under its jurisdiction.

Relevant Laws:

Conflict of Interest and Code of Ethics Ordinance (k)(2):

All full-time County employees engaged in any outside employment for any person, firm, corporation or entity other than Miami-Dade County, or the respective municipality, or any of their agencies or instrumentalities, 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 of types of money or other consideration received by the employee from said outside employment. Said County employee's reports shall be filed with the Supervisor of Elections no later than 12:00 noon on July 1st of each year, including the July 1st following the last year that person held such employment. Municipal employee reports shall be filed with the clerk of their respective municipalities. Said reports shall be available at a reasonable time and place for inspection by the public. The County Manager or any city manager may require monthly reports from individual employees or groups of employees for good cause.

The OIG's report sets forth the following findings regarding Garcia which are relevant to the COE's review and evaluation.

- Garcia has been employed by the County since 2005.
- In August of 2010 Garcia, along with a partner who is not a County employee, bought AJV Collision.
- Garcia is the former Vice President and former 50% owner of AJV Collision.
- In 2011 Garcia requested and was authorized to conduct outside employment at AJV Collision for 2011, 2012 and 2016.
- In July 2012, before seeking contracting opportunities with the County, Garcia requested an advisory opinion from the COE. In its opinion, the COE advised that the County Ethics Code allows his company to contract with the County as long as the contract is not with his department, DTPW, and does not interfere with the discharge of his duties.
- Garcia and his partner applied for AJV Collision to become a County vendor. In 2012, AJV Collision became a registered County vendor and was included in a County pool of contractors that repair County vehicles.
- From 2013 through 2018, AJV Collision received work from several County departments with the exception of DTPW, Garcia's employing department.
- In February of 2017, there was a change of ownership of AJV Collision.
- In August of 2017 Garcia removed himself from AJV Collision's corporate records.
- Garcia has not engaged in any outside employment since he sold AJV Collision in 2017.
- Garcia continues to work in the DTPW as a Bus Body Technician.

Garcia's status of compliance with the County's Outside Employment Requirements:

YEAR	REQUEST FOR OUTSIDE EMPLOYMENT	OUTSIDE EMPLOYMENT STATEMENT	AMOUNT RECEIVED FROM COUNTY CONTRACT
Aug. 2010	No	No	N/A
2011	Yes -11/4/11	Yes - 11/4/11	N/A
2012	Yes	No	N/A
2013	No	No	\$64,730.80
2014	No	No	\$88,539.37
2015	No	No	\$79,751.03
2016	Yes	No	\$83,597.25
2017	No	No	\$38,705.35
2018	No	No	\$18,529.97

As reflected in the chart, Garcia received written approval to engage in outside employment in 2011, 2012 and 2016. As of the date that Garcia was removed from AJV Collision's records, he had filed an Outside Employment Statement for 2011 reporting that his company AJV Collision had earned \$100 per week.

Interviews:

01/22/19 – Porfirio Garcia , Bus Body Technician, DTPW –

Garcia was advised as to the reason for the interview. Garcia said that he has not engaged in outside employment since he sold AJV Collision in 2017.

Garcia was told that he had not filed Outside Employment Statements since 2011. Garcia explained that he thinks he turned in statements for most, if not all, of those years to his department. Garcia said that he does not know whether the forms were ever sent to the Elections Department.

Garcia was told that records reflect that AJV Collision had received substantial sums from the County from 2013 through 2018 which sums should have been reported on annual Outside Employment Statements. Garcia explained that the sums listed as amounts received from the County contract are not the actual sums that he received. The sums reported in the County contract were the total sums paid to AJV Collision, which sums include the cost of vehicle parts which are very expensive. Garcia said that he paid himself a weekly salary of \$100 while working at AJV Collision.

Garcia agreed to provide Outside Employment Statements reflecting the amount of compensation that he received from AJV Collision for the years 2015, 2016 and 2017.

01/30/19 – Porfirio Garcia –

Garcia contacted this investigator and delivered original Outside Employment Statements (Statements) for 2015, 2016 and 2017 reporting that he received \$100 a week while engaged in outside employment during those years.

02/01/19 – Garcia was asked to add the annual amounts of compensation received on the Statements. Garcia added the annual sums (\$5,200) of compensation on each of the Statements and initialed the change.

02/01/19 – The executed Statements were delivered to the Department of Elections by e-mail.


Document Review:

- 11/09/18 OIG Final Report of Investigation;

- Garcia's Request for Outside Employment for the years 2011, 2012 and 2016;
- Garcia's Outside Employment Statements for 2011;
- Garcia's Outside Employment Statements for 2015, 2016 and 2017; and
- COE's advisory opinion (INQ 12-128) dated 07/30/12 to Garcia advising him that his private business can contract with any County Department, with the exception of his employing department, DTPW.

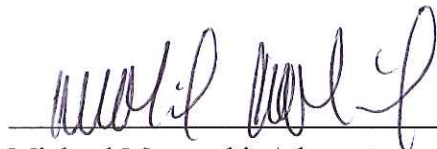
Conclusion:

Porfirio Garcia provided executed Outside Employment Statements for the years 2015, 2016 and 2017 putting him in full compliance with the requirement. The Statements have been forwarded to the County Elections Department. Garcia no longer engages in outside employment. After discussion with the Ethics Advocate it was decided that this matter would be closed with no further action.


Sylvia Batista, COE Investigator

Date: 5/28/19

Approved by:


Michael Murawski, Advocate

Date: 5/28/19


Jose Arrojo, Executive Director

Date: 5/28/19