



CASE CLOSED

Miami-Dade Commission on Ethics & Public Trust

6-12-19

Investigative Report

Investigator: Karl Ross

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|------------------------|--|--------------------------|----------------------------|
| Case: K19-27 | Case Name: Kristen Rosen Gonzalez | <u>Date Open:</u> | <u>Date Closed:</u> |
| Complainant(s): | Subject(s): Former Miami Beach City Commissioner Kristen Rosen Gonzalez | April 17, 2019 | |

Allegation(s):

The COE received an anonymous mailing alleging that former Miami Beach Comm. Kristen Rosen Gonzalez (KRG), now a candidate for that same office, engaged in "illegal lobbying activities" on behalf of firms doing business or seeking to do business with the city.

The mailing further alleged Rosen Gonzalez invited Assistant City Manager Eric Carpenter to an April 3 breakfast meeting "under the pretense" of discussing flooding infrastructure issues and then sought to promote the interests of several contracting firms involved in flooding-related projects – Mancini & Sons, Ric-Man International, and Pac Comm.

During the encounter, KRG allegedly sought to expedite payments on behalf of firms having completed drainage and infrastructure projects on Sunset Islands (Mancini and Sons, and Ric-Man), and also allegedly sought to promote the interests of Pac Comm, which uses a product called "Sea Crete" to build seawalls and is also a city vendor.

A copy of the anonymous mailing, received on or about April 15, was added to the file.

Relevant Ordinances:

Miami-Dade County Code, Sec. 2-11.1(s), titled *Lobbying*, which states in applicable part that: "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."

Sec. 2-11.1, subsection (q), titled *Continuing application for two years* ... states in applicable part that: "No person who has served as an elected [City] official ... shall, for a period of two (2)

years after his or her [City] service or employment has ceased, lobby any [City] officer, departmental personnel or employee in connection with any judicial or other proceeding, RFP, RFQ, bid, request for ruling or other determination, bid, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which [the City] or one of its agencies or instrumentalities is a party or has an interest whatsoever, direct or indirect.

City of Miami Beach code, Sec. 2-487, titled *Prohibited campaign contributions by vendors*, states in applicable part that: "No vendor shall give a campaign contribution directly or indirectly to a candidate, or to the campaign committee of a candidate, for the offices of mayor or commissioner." Miami Beach municipal vendors found in violation of this provision can be fined \$500 and disqualified from serving as a City vendor for a year.

Investigation:

Interviews

On April 18, a request for public records was made on April 18 for copies of any e-mail correspondences between former Comm. Rosen Gonzalez and City of Miami Beach staff since she resigned from office earlier this year.

On April 19, a request for public records was made to the Miami-Dade County Supervisor of Elections for copies of recent financial disclosure statements for KRG.

Eric Carpenter, assistant city manager

City of Miami Beach, FL

April 23, 2019

During an interview at Miami Beach City Hall with COE investigator Karl Ross and ethics advocate Michael Murawski, Mr. Carpenter advised he has worked for CMB since 2013, serving as public works director from that time until 2015, when he worked in a dual capacity as public works director and assistant city manager. He said he shed the latter position finally in 2018 and now just occupies the post of assistant city manager. He said he has known KRG since the time she took office in about 2015.

With respect to the April 3 breakfast meeting, Carpenter said that his assistant replied to the March 29 e-mail invitation from KRG because he was out of town, and that she added the meeting to his calendar for April 3. He said that he has an "open door" policy and takes meetings with all requesters. He invited Public Works Director Roy Coley as well. He said that Coley would best be able to field any questions relating to sea-level rise and infrastructure.

Mr. Carpenter said his only communication with KRG prior to the meeting was the April 1 text message exchange in which she indicated she wanted to discuss "sea level rise" and "stuff." He said he and Coley arrived separately to the deli where the meeting took place, and that they sat at a "four-topper" against a wall. He said Rosen Gonzalez arrived a few minutes late and joined them at the table. He said that the first topic she wanted to discuss was the "resiliency project" (flood control) at Indian Creek – a \$35 million project with \$9 million earmarked for the

construction of seawalls. He said the project has been a "lightening rod" among residents because of delays in the procurement process. He said the project has also caused congestion on the roads because of lane closures.

Carpenter explained that the delays in construction had to do with bidding issues. In this instance, the low bidder for the roadway portion of the contract underbid the job and backed out after being awarded the contract. The next bidders in line were deemed to have overbid the job, so the entire project would have to be re-bid, he said, angering residents. He said he could understand why this would be of concern to KRG as a candidate for public office. He said she lamented that the city's procurement process always seemed to involve the same contracting firms and didn't promote competition or efficiency.

Carpenter said: "At some point, she turned to an individual at the next table and said, 'Oh, this gentleman here actually has a company that does lots of innovative work in public contracting.'" He said she then invited the individual to join them at their table. He said he recalled the name of the company, after the fact, as Pac Comm, and that he proceeded to ask Mr. Pacin whether his firm had sought to do business with the city in the past. "He said, 'As a matter of fact, I actually have a contract with Miami Beach to do seawall work.'"

Carpenter said Pacin "was interested in explaining to us why he felt he wasn't getting a fair shake for contracts in Miami Beach" and expressed frustration about the procurement process and the fact that he had been selected but was not getting any work. He said that KRG "stepped back and Roy and I had a conversation with the guy from Pac Comm." He said that he couldn't recall any comments KRG made about Pac Comm's product (Sea Crete) or its technical attributes, only that she said, "They're doing innovative work," and that she encouraged them "to visit their facility in Miami."

Carpenter said that Pacin explained that he felt his construction method was superior because it didn't involve the use of iron bars (re-bar), noting that iron bars rust and cause chipping in seawalls over time. He said the conversation revolved around how to "remove barriers" for firms seeking to do business in Miami Beach in order to get more qualified vendors.

Carpenter said he didn't think Pacin was eating breakfast at the table next to theirs, but that he did order something to eat while they were seated together. He said that Pacin stayed with them for the remainder of the meeting with KRG.

Asked what other matters KRG raised, Carpenter said, "I believe one other thing she brought up might have been (unpaid) invoices for Ric-Man and Mancini & Sons, trying to create pressure on us." He said there was an ongoing payment dispute surrounding work done on the Sunset Islands 3 & 4 drainage projects in which the firms claimed they were owed \$2 million but, "We really believe only between \$500,000 and \$600,000 can be justified." He said KRG made it sound like she had only had a conversation with executives for the firms and that they had complained to her, "but not like she was advocating for them."

Carpenter said the meeting took just under an hour or so, and that he would divide it into three segments. The first part was KRG asking about Indian Creek. The second involved the lengthy conversation with Pacin about procurement practices, and his experience as a city vendor. The third part was mainly "niceties" and "catching up on city business." He said Pacin joined them about five to 10 minutes after the meeting had begun.

Carpenter said that he and Coley suggested Pacin follow up with the city engineer, Nelson Perez-Jacome, as far as seeking to obtain more business from the city. He said they told him

they would provide copies of his brochures about his product to Perez-Jacome.

Carpenter added that Pacin, during their encounter, clearly showed “a level of frustration about how he could have a contract (with Miami Beach) and not get any work.”

Roy Coley, public works director

City of Miami Beach, FL

April 23, 2019

Mr. Coley was interviewed at Miami Beach City Hall on the above date by COE investigator Karl Ross and advocate Michael Murawski and recounted his experience during the breakfast meeting with Emmanuel Pacin and KRG on April 3. He said that Carpenter invited him to the meeting, telling him it was to discuss sea-level rise and related infrastructure projects. He said that when he arrived, Carpenter was seated by himself.

Coley recalled that once KRG arrived, “The first thing she told us was that she’d met with the principals of DMSI (David Mancini & Sons Inc.) and Ric-Man International, and they told her they were thinking about suing [the city of Miami Beach] because we hadn’t paid them enough.” He said Ric-Man had pending invoices for the Sunset Islands projects and DMSI had disputed invoices for work on 11th Street and possibly for work at Indian Creek. He said he explained to KRG that the city had a difference of opinion and didn’t feel that it owed the firms anything. Mr. Coley expressed he didn’t care, furthermore, “if David Mancini wants to sue us” because Coley felt the claim was invalid. He said that KRG “agreed that we shouldn’t pay if we didn’t owe” anything.

“Then a guy walked up behind her, and set some stuff on the table next to us ... She introduced him and wanted to know why we weren’t doing business with them.” He said that the individual (Pacin) gave them some information about his product (Sea Crete), and began to pitch them about the product and why it was better than the competition. “She said something to the effect of: ‘Why aren’t you using this product?’” He said she then stated that, they were the professionals and what did they think about Pacin’s product. “She wanted us to at least give it some consideration. I think that’s a fair way of saying it.”

Mr. Coley said Pacin “did share that he had a city contract and was one of the selectees” to build seawalls, but that “he had not been given any work.” Coley noted that, as public works director, he is the decision-maker as it relates to the construction of seawalls in Miami Beach.

Mr. Coley said Pacin called him to follow up on their breakfast meeting, and that he referred Pacin to City Engineer Nelson Perez-Jacome. He said he told him that he had passed along the materials he had provided about his product to Perez-Jacome’s staff for review.

Nelson Perez-Jacome, city engineer

City of Miami Beach, FL

April 23, 2019

Mr. Perez-Jacome said he has worked for the city for four months, having worked previously in the private sector for engineering firms AECOM and Hazen and Sawyer. He advised that he did meet with Pac Comm’s Emmanuel Pacin on April 12 at Pacin’s request. He said he recalled

that the meeting had been rescheduled at least once at Pacin's request, citing illness. He said that when the meeting took place, Pacin was accompanied by an individual from the University of Miami (Morteza Khatib), whom Pacin described as "the inventor" of the product (Sea Crete). He said Pacin "wanted to talk about future business with the City," and launched into a description of his product. He said he described Sea Crete as having what amounted to a "polymer re-bar" and that it had "superior structural integrity" to other products used to build seawalls. "That was kind of their pitch," he said.

Mr. Perez-Jacome said he didn't feel or suspect he was being lobbied by Pacin because, in his mind, because Pacin was the owner of the company he didn't think of him as a lobbyist. He said he thinks of lobbyists as being paid "representatives" of a firm, but then added that he was new to government and unsure as to whether Pacin was a lobbyist. He said Pacin told him that he was a secondary vendor to Shoreline with respect to the construction of any seawalls, but added: "He was trying to get business from the city of Miami Beach."

Emmanuel "Manny" Pacin, president
Pac Comm Inc.
2900 NW 39th Street
Miami, FL 33142
May 1, 2019

Mr. Pacin met with Investigator Ross and Advocate Murawski on the above-date at COE's office on Flagler Street.

With respect to his status as a vendor or contractor, Mr. Pacin, a marine contractor, was adamant in stating his position that he did not consider himself to be a city vendor: "I'm not on the vendor's list for Miami Beach, so there's no conflict ... I was short-listed, but that was four years ago. I haven't been approved as a vendor. I'm not on a vendor's list."

Pacin acknowledged that he submitted a bid for work on Miami Beach several years ago but stated that he was the runner-up for that job and has received no work since. He said he was "not really familiar" with Miami Beach campaign finance rules pertaining to city vendors, in particular the prohibition against campaign contributions by vendors.

With respect to the April 3 meeting, Pacin stated that KRG invited him for coffee at Roasters N' Toasters and said he was aware she had a meeting there that morning but did not know who she was meeting with and what the meeting was about. He said he sat at a table next to her and two men he had never met before wearing a shirt and tie

Pacin said she motioned him over and introduced him to the Miami Beach officials. "She's like, 'Oh, he's a contractor.'" He said that KRG made no representations about the superiority of his product or materials though she may have been complimentary.

He said that he introduced himself and told them about his company and presented them with a "Statement of Capabilities," a small blue binder with information about the firm and its past projects, which he said included extensive work for the U.S. Army Corps of Engineers and

projects for local governments in Tampa, Surfside, Sunny Isles, Miami and Port of Miami-Dade. "What I did tell them was how I did try to work for the city ... That I've bid jobs, but never been successful ... I'm not an approved vendor in the city of Miami Beach ... The conversation was more about sea-level rise" and not about specific projects.

As to his history with KRG, Pacin said he met her earlier this year during an event at the University of Miami research building on NW 7th Avenue and 20th Street. He said it was about sea-level rise and that he spoke at the event. He said she approached him afterwards and that they "hit it off." He said he had not previously met with her when she was serving on the Miami Beach commission. He said he invited her to tour his facility.

Following the breakfast meeting, Pacin said he followed up by requesting a meeting with City Engineer Nelson Perez-Jacome. He said he did so at the suggestion of Roy Coley, the city's public works director. He described the subsequent meeting on April 12 as "a meet and greet," noting that he gave Perez-Jacome "the same spiel I give to all my federal buyers" along with a copy of his Statement of Capabilities. "This is my company. If there's anything I can do, let us know." He said they discussed some of the technical aspects of his product and construction methods, including the use of re-cycled concrete aggregate. He said that he did do this in the hopes that the meeting could lead to future business with the city.

Public Records request relating to CMB Prohibited Vendors list

On May 1, 2019, COE requested a copy of any prohibited donor lists pertaining to city vendors as of April 3 and any subsequent lists to determine whether Pac Comm was flagged as a prohibited donor. Additional information was requested about Pac Comm's vendor status. Later that day, COE received an e-mail from Theresa Buigas, administrative services manager for the Miami Beach Procurement Department. Ms. Buigas indicated that she provided the "Prohibited Campaign Contributions Report" dated April 1, 2019, and the revised version dated April 23, 2019." She further noted that: "Pac Comm (Vendor #53094) has an active contract with the City of Miami Beach which can be found on the Procurement Website." She provided a link to the contract in question (ITB 2014-195-LR).

COE responded by e-mail and asked for clarification since the second list dated "4/23/2019" appeared to differ in its format from the list dated "4/1/2019." The latter list was titled "City of Miami Beach Contracts" for the period from "4/18/2018 through 4/18/2019" and appeared to be a master list of all CMB contracts whereas the earlier list dated 4/1/2019 was titled "Vendor List for Campaign Contributions" (as of 4/1/2019) and had a different set of data.

On May 2, 2019, Alex Denis, Miami Beach procurement director, replied by e-mail as follows with respect to Mr. Pacin's status as a City vendor as of March 2019:

"The April 1 report contained errors in that it was only capturing vendors with expenditures in excess of \$10,000. That is the reason the referenced vendor did not appear on the report. While this vendor had a contract with the City, no work had been issued against the contract and, as so, was not appearing on the report."

"In an effort to address the reporting error, the report titled "Vendor List for Campaign Contributions" has been replaced with what you know see at the link (<https://www.miamibeachfl.gov/wp-content/uploads/2019/04/VendorCampaign4-23-19.pdf>), which includes:

- 1) the successful vendors on pending awards;*
- 2) vendors with current contracts; and*
- 2) the vendors to whom purchase orders have been issued."*

Based on Mr. Denis' reply it would appear that Pacin, technically speaking, was considered a city vendor at the time of his campaign contributions to KRG but his name would not be appearing on the list of prohibited vendors in March 2019.

A copy of the e-mail exchange was added to the file.

Kristen Rosen Gonzalez, candidate for Miami Beach commissioner
Voluntary statement at COE office on May 15, 2019

KRG appeared at COE's offices on the above date to provide a voluntary statement. She was accompanied by attorney Michael Band. The statement was taken by COE Investigator Ross and Ethics Advocate Murawski.

During the statement, KRG indicated she had two primary objectives for arranging the April 3 breakfast meeting with Assistant City Manager Eric Carpenter, who in turn invited Public Works Director Roy Coley. She said that, firstly, as a candidate for elected office she wanted to gather information about the extent of the city's efforts to combat sea-level rise so that she could discuss this intelligently with voters, and secondly, because she wanted to provide a forum for Emanuel "Manny" Pacin of Pac Comm to share his concerns about the city's contracting process. She said she was under the impression Pacin was not a city vendor at the time of the meeting, despite her efforts to research the matter.

"I got information from this guy, Manny Pacin, that I found really disturbing, and I wanted to share it with Eric. ... [P]art of it was surrounding the procurement process and part of it was just a philosophy surrounding sea-level rise ... That's why I scheduled the meeting."

KRG said that, with respect to Pacin's status as a city vendor: "He said that he hadn't worked in the city of Miami Beach and that he thought something shady was happening with the procurement process. He said that he thought people were underbidding purposely and I felt that these guys (Carpenter and Coley) should know that, because we talk about this all the time at the commission ... Why is nobody bidding on our projects? ...

KRG said she first met Pacin while running for U.S. Congress and appeared at a discussion on sea-level rise. She said Pacin approached her after the event to introduce himself and indicate he wanted to meet with her again, but that she never followed up. She said she later got a call from an acquaintance – Ralph Andrade – who told her Pacin wanted to support her city commission campaign and she met him for dinner at Smith & Wollensky. She said that during

the dinner, an executive for Ric-Man – Paul Jankowski – stopped by their table to complain about unpaid invoices. She said the incident seemed to underscore Pacin’s contention that the procurement process was flawed in favor of incumbent firms such as Ric-Man and Mancini & Sons, both of which were entangled in billing disputes.

At the dinner meeting, KRG said Pacin “expressed his frustrations,” adding: He said, “we were mitigating sea-level rise the wrong way,” and it was “a really fascinating conversation.” She said Pacin offered her two campaign contributions after the dinner meeting – one from himself and the other from a son. She said that because of the city’s prohibition against vendors making political contributions to Miami Beach candidates she asked Pacin to consider making the donation in some other fashion.

“I know how our city of Miami Beach rules work,” Rosen Gonzalez said. “He told me he didn’t work for the city right now. And I said to him, If you’re planning on working for the city in the future, I can’t accept this money from you because it would hurt you in the future. And that, Maybe another family member would want to donate or contribute.” She said Pacin gave her two checks at Smith & Wollensky and that she returned the one in his name.

“I don’t want his support of my campaign to hurt him in the future. I make it very clear to everybody that if you want to work for the city in the future, you should probably not contribute to my campaign ... We have very interesting laws ... family members can contribute and people owning less than 10 percent of an entity can contribute.”

KRG advised that she served as treasurer for her campaign. She was shown a copy of the March 2019 campaign treasurer’s report, and was asked about the spelling of Pacin’s son’s name “Pacing” with a “g,” and she described the improper spelling as a “typo.” She said she was not aware that the son – “Manny Pacin Jr.” – was only 4-years-old.

She said she went to Pacin’s place of business the day after the dinner meeting to pick up the second check. She stated that she refused to accept the check at that time because it was made out in the form of a money order and she knew she could not accept a donation in that form. She said Pacin offered her yet another check – this one in what she viewed as an acceptable form – following the breakfast at Roasters ‘N Toasters. She offered to provide COE with photographic copies of the checks from Pacin if requested.

KRG reiterated that she consulted the city’s prohibited donor list for city vendors to make sure Pacin was not on the list. She said she learned otherwise only after the Miami Herald contacted her and informed her Pacin was, in fact, a city vendor. She said she contacted the clerk’s office and was told Pacin had been omitted in error.

She said that the April 3 breakfast meeting with Carpenter and Coley was in no way related to the campaign contributions but was done out of legitimate concern. She said she had no detailed knowledge of Pac Comm’s product or that it was even called “Sea Crete.” She said she did not feel she was attempting to promote the company’s product or business interests. She did say she invited Pacin to the meeting to share his views.

“I told Manny. I told him I’m having a meeting with Eric Carpenter. Why don’t you come by

and say, 'Hello.' I don't think there was anything wrong with it." She said Pacin should have joined their table initially instead of sitting nearby and waiting for her introduction. She said she felt that what he had to say was "really relevant and for the benefit of the city."

She reiterated that there was no quid-pro-quo arrangement with Pacin. "One thing had nothing to do with another ... If I had thought that what he told me was hogwash, I never would have (arranged) a meeting. But what he told me was so interesting ... I thought these guys needed to hear it. ... It was really just an informational meeting."

She further noted that she was not in elected office at the time, and that, as far as she was aware, there was nothing pending with respect to any contracts or projects. "I never even heard of that product. I had never even said 'Sea Crete' in my life ..." She said that the conversation between Pacin and Carpenter and Coley became very technical. "I don't know if it was about 'opening doors,' but more about getting relevant information."

She said that Carpenter and Coley suggested that Pacin follow up with the city engineer, and that she had no further involvement beyond that meeting.

With respect to the disputed payments to Mancini and Sons and Ric-Man International, Rosen Gonzalez stated she was not seeking to advocate on behalf of those firms. Instead, she said she made the inquiry because Pacin had told her these incumbent vendors were intentionally underbidding jobs in order to make up for the low bids later through change orders. "I kind of wanted to find out what Roy and Eric had to say about that ... I said I heard these guys are always underbidding by several million dollars and Roy and Eric said they had figured out what these guys were doing and underbidding ... It was kind of a whistleblower moment."

KRG said she was aware that Ric-Man and Mancini were complaining, but that she had put those projects "on hold" when she acted previously as a commissioner.

On May 17, COE requested copies of any checks or other instruments used by Pacin to make contributions to Rosen Gonzalez's commission campaign.

E-mail exchange between COE and Miami Beach Procurement Director Alex Denis

On or about May 2, COE Investigator Ross and Miami Beach Procurement Director Alex Denis exchanged e-mails relating to Mr. Pacin's status as a Miami Beach vendor. Mr. Denis advised that Pacin was initially omitted from the April 1 list because that report "contained errors in that it was only capturing vendors with expenditures in excess of \$10,000." He said this is why Pacin's firm did not show up on the April 1 report. He said this was rectified by creating a new list of prohibited vendors and that Pacin's firm does appear on that report.

Mr. Denis further indicated that Pacin was aware or should have been aware based on a renewal letter Pacin appears to have signed on Jan. 7, 2019. He provided a copy of said letter with the subject: "Renewal of Agreement Pursuant to Invitation to Bid (ITB) 2015-267-KB for the Construction of Seawalls Citywide." The letter is signed by Pacin as CEO/ President of Pac Comm. The renewal letter was e-mailed to the city on January 16 by a Pac Comm employee – Sasha Brail. A copy of the letter and e-mails were added to the file.

Document/Audio/Video Review:

A copy of the April 15 anonymous mailing summarized above was added to the file.

A copy of KRG's Statement of Candidate and her Appointment of Campaign Treasurer forms were obtained from the Miami Beach municipal website.

The forms state that KRG is a candidate for Miami Beach Commissioner (Group IV), and that she has opened a campaign account with City National Bank and will serve as her own treasurer. The documents were added to the investigative file.

A copy of a Miami Herald story headlined "Ethics complaint accuses Kristen Rosen Gonzalez of violating lobbying rules" and published on April 18, 2019, was retrieved from the following link: <https://www.miamiherald.com/news/local/community/miami-dade/miami-beach/article229297949.html> According to the report, Miami Beach officials Carpenter and Coley acknowledged meeting with Rosen Gonzalez at Roasters 'N Toasters, a Miami Beach restaurant. They said they discussed flooding and infrastructure matters, with Rosen Gonzalez touting the qualifications of marine contractor Pac Comm and asking why Pac Comm had not received any work from the City and further introducing the Pac Comm's president/ CEO Emmanuel "Manny" Pacin, who claimed he just happened to be at the same restaurant.

Review of Miami Beach campaign finance reports for KRG Gonzalez campaign

On April 18, COE obtained copies of campaign finance records for Rosen Gonzalez's campaign for Miami Beach commissioner and verified that \$1,000 contributions had been made on March 20 in the name of Emmanuel N. Pacing Jr. [sic] and on March 29 in the name of Victor Pacin. The addresses for both were listed as 320 SW 68th Street, Miami, FL. The "occupation" for Pacin Jr. was listed as "business" and for Victor Pacin, "entrepreneur."

Review of e-mails obtained through Public Records Request #17552

On April 22, 2019, COE examined e-mails between KRG and CMB officials obtained pursuant to Public Records Request #17552 by the Miami Herald. The records were provided to COE from the City of Miami Beach on or about April 18, 2019.

Among the possible relevant e-mails were the following:

- On Friday March 29, 2019, at 12:10 PM, Rosen Gonzalez sends an email to ACM Eric Carpenter with the subject box stating "Breakfast one morning?" In the email, Rosen Gonzalez states: "Eric, Could we have breakfast one morning to catch up on some city issues? I had some questions I wanted to ask you. Let me know, Kristen."
- On Friday March 29, 2019, at 12:15 PM, Carpenter's assistant, Fiorella Sarmiento, advises that Carpenter is on vacation but would be available on April 3, the following Wednesday to meet with her from 8:30 to 9:30 AM.
- On April 15, 2019, Carpenter provides a screenshot of text messages with Rosen Gonzalez regarding their breakfast meeting. They read as follows:
 - "Any specific topics for our meeting on Wednesday?" (Sent by Carpenter on April 1)
 - "Sea level rise. Stuff. Just an update." (reply from Rosen Gonzalez on April 1)
 - "I am trying to park, but it is mayhem out here at north beach elementary" (from Rosen Gonzalez at 8:32 AM on April 3)
- E-mails between a Miami Herald reporter and CMB communications officer Melissa Berthier indicated Emmanuel Pacin of PAC Comm met with Nelson Perez-Jacome, the City Engineer, on Friday April 12 at 1 p.m. The e-mails further indicated that Pacin was not a registered lobbyist at the time of the meeting, and that PAC Comm is regarded as a city vendor and should be on the list of prohibited campaign contributors even though it is regarded as a "secondary vendor." The e-mails further indicated that PAC Comm was one of five firms selected to build seawalls, but that as of the present time PAC Comm has not been given any work under the contract, which was originally issued in February 2016 and was later extended through February 2020.
- E-mail exchanges between Rosen Gonzalez and ranking CMB administrators including Susy Torriente and City Manager Jimmy Morales contained "tales of woe" from Miami Beach resident complaints about the Building Department and the cost of permits. At the conclusion of the exchanges on April 18, 2019, KRG states: "Under current law, this could be lobbying. Not sure who I can talk to and meet with anymore."

Review of e-mails between Pac Comm representatives and the City Engineer

E-mails provided by City Engineer Nelson Perez-Jacome indicate that the April 12 meeting at CMB Public Works came about as the result of an April 4 e-mail from Pacin to Public Works Director Roy Coley, in which Pacin states: "Good afternoon, I wanted to follow up on our meeting to see when it would be feasible for you to set up a meeting with your folks. I appreciate your time and help." Coley responded by stating he copied Perez-Jacome and that "he would be

the appropriate person for you to speak with. Please let him know when you would like to meet.” Later that day, Pacin sent an email to Perez-Jacome referencing the email exchange with Coley and requesting a meeting the following week.

On April 5, Perez-Jacome’s assistant sends an e-mail to Pacin to schedule the meeting, which ultimately took place in the “large conference room” at the Public Works office at Miami Beach City Hall at 1 p.m. on April 12. Pacin and an associate, UM researcher Morteza Khatib, attended. Khatib sent a follow up email to Perez-Jacome at 4:48 p.m. on April 12, and included a number of attachments relating to the use of Glass Fiber Reinforced Polymer bars (GFRP) for marine projects. Dr. Khatib goes on to state in his email: “We are extremely excited about potential opportunities in the Miami Beach City and would be more than happy to present this technology to any interested group in the City. Hopefully with your help, we can tackle CORROSION once and forever.” He invited Perez-Jacome to tour their “facility.”

The e-mails and calendar invitation were added to the case file.

Conclusion:

After review by the ethics Advocate, it was determined that this matter would be closed with no further action by this agency.

In her interview, KRG asserted that she had no intention of promoting the business interests of Mr. Pacin or Pac Comm but was instead motivated by concerns about the procurement process in Miami Beach and noted that the lack of competition among vendors and contractors was a long-standing issue that had been the subject of an official study. She told COE she felt that it was important Miami Beach city officials hear what Mr. Pacin had to say so that they could understand the barriers to entry for doing work in the city.

Taking the entire context of the breakfast meeting into account there is insufficient evidence to charge KRG with violating the “two-year” rule as the evidence that she was engaged in any lobbying is insufficient.

A further issue is raised about possible unregistered lobbying by Mr. Pacin and his associate, University of Miami researcher Morteza Khatib, during their April 12 meeting with City Engineer Nelson Perez-Jacome. Perez-Jacome said he did not perceive them to be lobbying because he felt they were principals in the firm and therefore not required to register, but stated Pacin, in his view, “was trying to get business from the city of Miami Beach.”

Perez-Jacome indicated he was new to the public sector and not well versed in whether business owners such as Mr. Pacin would be required to register as lobbyist.

The activity engaged in by Mr. Pacin similarly is insufficient to constitute unregistered lobbying. We reiterate that not every conversation between a citizen and a City official constitutes “lobbying” which has a very specific meaning. It appears here that there is no current solicitation pending and that Mr. Pacin’s interactions fall under the “meet and greet” lobbyist exceptions as

well as the unsolicited proposal exception.

As it relates to allegation KRG lobbied Assistant City Manager Carpenter and Public Works Director Coley on behalf of Macini & Sons and Ric-Man International, it seems that while Rosen Gonzalez did inquire about unpaid invoices, testimonial evidence does not suggest she was encouraging Miami Beach officials to make any payment.

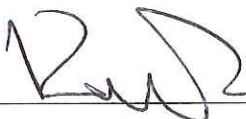
As noted by ACM Carpenter, KRG indicated that executives for these firms had complained to her but added that it was "not like she was advocating for them."

Public Works Director Coley further indicated that, after KRG listened to his and Carpenter's concerns about the unpaid invoices, KRG seemed to agree with the city's position that "we shouldn't pay anything that we didn't owe" the firms.

This seems to support her contention that she was just trying to sound out the officials on this matter as it had been raised by Pacin as indicative of possible fraud.

With respect to issues relating to political contributions to KRG's city commission campaign made by Mr. Pacin in the name of his children, based on the findings it does not appear that she knowingly accepted contributions from a vendor in possible violation of Miami Beach ordinance. Her explanation appears plausible because, as of the time of the contributions in late March-early April, Pac Comm was not listed among prohibited vendors. As it turned out, Pac Comm was omitted from that list in error by the city clerk's office.

The findings regarding Pacin's contributions will be forwarded to the Miami-Dade County State Attorney's Office for further review as to potential violations of any state law.

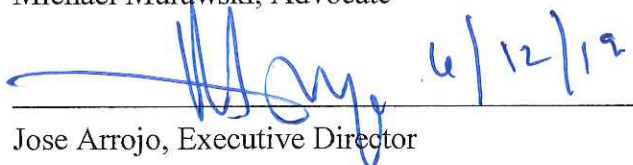


Karl Ross, COE Investigator

Approved by:



Michael Murawski, Advocate



Jose Arrojo, Executive Director

