



**CASE
CLOSED**

Miami-Dade Commission on Ethics & Public Trust ~~Case No.:~~ 11/27/19
Investigative Report

Investigator: Susannah Nesmith

CaseNo.:PI19-40

Complainant:

Subject/Case Name: Fausto Gomez

Date Opened: 10/11/19

Date Submitted: 11/26/19

Allegation(s):

Unregistered lobbying representatives of Lime scooters, including Fausto Gomez.

Relevant Law:

Miami City Code, Sec. 2-654. - Registration; ethics; fee; disclosure requirements; log of registered lobbyists; exemptions from payment of fee; failure to register.

(a) A person may not lobby a city official, a city board member, the city manager, or city staff, until such person has registered as a lobbyist with the city clerk and submitted a certificate of completion, of an ethics course provided by the Miami-Dade County Commission on Ethics Public Trust completed within 60 days after registering.

Miami-Dade Code of Ethics Sec. 2-11.1 (s) Lobbying.

(1) (a) As used in this section, "County personnel" means those County officers and employees specified in Section 2-11.1(i)(2) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance. Page 11 (b) As used in this section, "Lobbyist" means all persons, firms, or corporations 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.

Investigation:

Rebecca Wakefield, chief of staff to Commissioner Kenneth Russell, was interviewed by phone on Oct. 18, 2019, with a follow-up call on Nov. 19, 2019. She said she had told Mr. Gomez that he needed to register as a lobbyist after seeing a news report that he was not registered. (Her email to him is referenced below.) She also said she did not recall meeting with Mr. O'Boyle.

Documents/Exhibit Review:

The results of a public records request to the City of Miami asking for all e-mails to or from lobbyist Fausto Gomez and commissioners and their principal staffers for the past two years:

- A Sept. 17, 2018 e-mail string beginning with an e-mail from Mr. Gomez to Natalia Vanegas, a member of Commissioner Kenneth Russell's staff, introducing himself and requesting she help set up a meeting with Commissioner Russell and the "stakeholders" interested in Russell's scooter legislation. In his e-mail he said: "Obviously, Lime is interested and supportive of the Commissioner's efforts and the lobbyist for Lime and the other companies are interested in coordinating with your office in order to facilitate approval."
- Ms. Vanegas responds with an e-mail connecting him with Rebecca Wakefield, Russell's Chief of Staff.
- An e-mail string with an attachment that begins Oct. 2, 2018 with an e-mail from Todd O'Boyle, of Lime, to Mr. Gomez, who forwards Mr. O'Boyle's attachment to Ms. Wakefield, noting that Lime's regular lobbyist is out on a personal matter and she asked him to forward Mr. O'Boyle's requested legislation to Ms. Wakefield. Mr. Gomez said in his e-mail "I understand that the most important item is the proposed size of the fleet."
- The attachment is a marked-up copy of the ordinance regarding a pilot program for scooters in Mr. Russell's district that passed on first reading in September of 2018. O'Boyle marked several changes Lime wanted the Commissioner to make to the legislation, including increasing the maximum fleet size to 500 (the ordinance originally limited the fleet size to 100). O'Boyle's notes also removed the requirement that the City put the scooter project out to bid, modified some of the insurance language, changed how the City could restrict or eliminate scooter companies that don't comply with the ordinance and otherwise loosened the requirements.
- An e-mail string beginning Oct. 9, 2019 in which Ms. Wakefield tells Mr. Gomez that it's been reported that he is not registered to lobby. She tells him to "please correct that immediately." He replies that he has and says that his prior work on behalf of Lime was not lobbying.

The results of a public records request to the City of Miami asking for all e-mails between Commissioner Russell and his staff and Mr. O'Boyle, or referencing Lime, or discussing a stakeholder's meeting during the period when the first scooter pilot program was under consideration in 2018. The records provided do not include any e-mails to or from Mr. O'Boyle.

A video of the meeting when the ordinance was passed on second reading, accessed on 11/18/19 here:

<http://miamifl.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=1898&Format=MInotes>

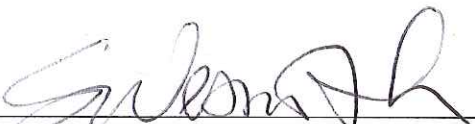
The only change that O'Boyle requested that made it into the final ordinance was a minor language adjustment to better line up with the industry standard. The substantive changes he requested were not made.

Michael Llorente and Vivian Myrtetus were registered to lobby on behalf of Lime at the City of Miami for the year 2018.

Conclusion:


After discussion with the Ethics Advocate it was determined that this matter would be closed with no further action. Lime had two registered lobbyists during the year 2018. The September 2018 e-mail from Mr. Gomez requesting to arrange a meeting does not constitute lobbying by Mr. Gomez.

In the October 2018 e-mail from Gomez, he does not seem to be acting as anything more than the delivery person of information for the lobbyist who apparently was indisposed due to a personal matter. If this interaction did in fact constitute lobbying it was of such a minimal nature as to not warrant the filing of an ethics complaint. In 2019 Gomez did register as a lobbyist for Lime.



COE Investigator Susannah Nesmith

Approved by:



Michael Murawski, Advocate

 11/27/19

José Arrojo, Executive Director

- 1/2 cup water