

UNITED STATES HISPANIC CHAMBER OF COMMERCE
MINUTES OF THE MEETINGS OF THE BOARD OF DIRECTORS
HELD ON DECEMBER 6, 2017

A special meeting of the Board of Directors (“BOD”) of the United States Hispanic Chamber of Commerce, a New Mexico non-profit corporation (the “USHCC”) was called and held at the offices of Hunton & Williams, 1445 Ross Avenue, Dallas, Texas 75202, with Directors teleconferencing from multiple locations across the United States on Wednesday, December 6, 2017 at 4:00 p.m. CST.

Don Salazar welcomed the Directors and made brief introductory remarks. The meeting started in Executive Session and was for purposes of receiving legal advice.

Call to Order: Don Salazar as Chair, called the meeting to order at approximately 4:05 p.m. CST.

Roll call: Mr. Salazar made roll call. The following Directors were confirmed present at the time (or joined shortly thereafter) excluding those indicated “Absent.”

Regina Heyward was required to leave the Meeting but rejoined the call as noted below.

Voting Members Present:

Carmen Castillo
Joseph DeLeon
Fernand Fernandez (Absent)
Regina Heyward
Juan Carlos Liscano
Jose Mas
Joe Mella
Aleida Rios
Alice Rodriguez
Don Salazar
Rosa Santana
Peter Villegas

Non-voting participants at the meeting

Roland Juarez, USHCC Legal Counsel

Clay A. Hartmann, attorney retained by USHCC
Javier Palomarez, CEO - USHCC
Marcos Ronquillo, attorney for Javier Palomarez

Total BOD voting members 12. Total BOD Voting Members Present 11.

Legal quorum of BOD serving members according to USHCC Bylaws is 8. Thus, quorum was confirmed having sufficient voting members present.

Roland Juarez explained the confidential and privileged nature of the meeting while in Executive Session. He also explained any material placed on the FTP site was privileged and that he wanted to confirm all Board members have signed their confidentiality agreements.

The agenda and rules for this special meeting were described by Don Salazar.

Mr. Salazar explained that there would be a telephonic call with the Venable firm to answer any questions regarding the recent removal of Board members. He then spoke about Troy Rawlings efforts to conduct exit interviews and explained that Mr. Rawlings would not be conducting them and that he was not treated well.

In response to a question by Alice Rodriguez, Roland Juarez identified the lawyers involved in the process including:

Troy Rawlings – attorney from Utah who agreed to do exit interviews;
Clay Hartmann – attorney retained by the USHCC to investigate issues associated with Palomarez compensation
The Venable Firm – Washington, D.C. Firm that represents the USHCC in various matters related to non-profit law and governance, including litigation in NY
Dan Farrington – attorney hired by Javier/USHCC to handle Gissel Nicholas' claims
Marcos Ronquillo – personal attorney hired by Javier Palomarez

Alice Rodriguez asked fellow Board members to confirm that they have no conflict of interest in participating in matters involving Javier Palomarez. Jose Mas acknowledged that Javier is on his company's Board but said Javier is not on his compensation committee and that he abstains from any voting on Jose Mas' salary just as Jose abstains from voting on Javier's and thus he stated there is no conflict under the SEC.

Roland Juarez asked whether all Board members on the phone had signed their Confidentiality Agreement.

Motion 1: A motion was made by Carmen Castillo to approve the Minutes from the last Board meeting. The Motion was seconded and approved unanimously.

Motion 2: A motion was made by Peter Villegas that Nina Vaca be terminated from the Board of Directors and that her honorary title of "Chairman Emeritus "or "Director Emeritus," under Article III Section 11, also be terminated, removed and revoked, and that Nina Vaca be removed from all USHCC engagement, communication, participation and meetings with the USHCC Board of Directors and Executive Committee and that Ms. Vaca be removed from all letterheads and listings and the USHCC website.

Rosa Santana questioned the purpose of the motion and Peter Villegas explained three reasons:

1. The Buzzfeed article where she responded to media which is against bylaws. Peter explained that Carmen Castillo handled a similar issue correctly
2. There is no reason to have Nina remain; she served her time and it's time to go.
3. The Foundation issues have been problematic.

Carmen Castillo inquired whether it was legal to remove Nina Vaca and Alice Rodriguez raised concerns about the optics of removing Nina – particularly after four women were removed from the Board. JC Liscano also raised the optics and questioned whether this was something that had to be done now. JC Liscano and Joseph DeLeon both indicated that this matter was not raised at the November 15, 2017 meeting.

Peter Villegas responded that Nina Vaca started this process and that he wants the USHCC to “look forward” and asked that a vote be made. The vote was 8-3 in favor of the Motion. The motion passed.

Roland Juarez cautioned that there may be due process issues associated with the removal of Ms. Vaca and that the decision needed to be subject to legal review. Don Salazar agreed.

Regina Heyward dropped off the call.

There were technical difficulties with the audio and a brief recess was taken to correct same.

Upon returning, there was a roll call. All announced present from the original roll call with the exception of Regina Heyward and Jose Mas. Roland asked about the status of the various financial matters. Don Salazar directed Carmen Castillo and Joe Mella to update the Board. Carmen Castillo explained she met with auditor and that the 2015 audit was near complete and

would be done in January and the 2016 audit has not started yet.

Carmen then explained the Buzzfeed article had resulted in employees reaching out to her - including men and women complaining about the office environment and verbal abuse there. Don Salazar responded that without giving names it was a waste of time. Carmen responded that these were young ladies who were afraid to talk to lawyers. Roland interjected that this was an open issue as to who would conduct interviews and would require a motion.

Don Salazar stated that he wanted to table this issue and allow Javier and his attorney to speak.

Rosa Santana disagreed to tabling the matter and made a motion.

Motion 3 - Rosa Santana moved that the USHCC hire an outside firm to conduct an investigation and exit interviews. The motion was seconded and approved unanimously.

Juan Carlos Liscano moved to add to Rosa Santana's motion.

Motion 4 - Juan Carlos Liscano moved that Rosa Santana provide names of firms to conduct investigation and conduct exit interviews. The motion was seconded and approved unanimously.

Discussion next took place about the parameters of Javier speaking to the Board including limiting his presentation to 20 minutes. There was also discussion that there was no formal policy on grossing-up bonuses but there was evidence of a practice of doing so, that the evidence is sporadic and there is still information outstanding. Roland Juarez cautioned Board members from making emotional comments during Javier's presentation as their comments could possibly bind the Board as comments made in the General Session are not privileged.

Motion 5 - A motion was made to move out of Executive Session and into General Session. The motion was seconded and passed unanimously.

The meeting continued in General Session. Javier and his attorney Marcos Ronquillo entered the conference room to provide a presentation. Discussion took place about the content of the presentation which purported to include pages with proposed recommendations of Chair and Chair Elect. Peter Villegas responded that the pages were not the final recommendations and Roland Juarez removing those pages from Javier's presentation. There was discussion about how Javier's presentation would be presented since it was provided in a PDF rather than a powerpoint. After some discussion, it was agreed that Javier's presentation would be emailed to all Board members without the last two pages of recommendations. Javier then asked for in

excess of 20 minutes to present his case and asked Don Salazar to make a motion. Marcos Ronquillo complained that if the Board could not give Javier sufficient time that the Board should re-adourn to when it could give him time. There was additional discussion.

Motion 6 - A motion was made to move back into Executive Session. The motion was seconded passed unanimously. Javier and Marcos Ronquillo exited the conference room.

Once back in Executive Session, Alice Rodriguez stated it was inappropriate for Javier to come in and try to “bully” the Board and that she felt disrespected.

Aleida Rios offered that the Board should allow for 45 minutes and allow 15 for questions and that presentation would be verbal.

Motion 7 - A motion was made to move back to General Session. The motion was seconded and approved unanimously.

Javier and Mr. Ronquillo returned and were informed of the new time limitations. Javier again complained about the time but began his presentation. Javier apologized for “what has happened” and said his name has been “dragged through the mud.” He then addressed each of the allegations against him and walked through the powerpoint presentation that was sent to the Board on his behalf. Javier stated that he did not “touch” the employment agreement when it was drafted and that he did not have the “password” for it. He explained that his 5% salary increase was annual and is supported by Board meeting notes from January 8, 2013, by a Nina Vaca presentation, by a November 7, 2017 email from former Chair Marc Rodriguez and by an email from Don Salazar.

Javier claimed his contract supports gross-ups by referring to “policies.” He claimed there was a policy was in place to gross-up when he walked in the door. He said there were no bonuses the first few years and that he received his first one in 2012. He referenced Manny Cosme's (former CFO) email where Manny requests that Javier's bonus be grossed up in 2012. Javier then showed his w-2's to reflect that the amounts showed the gross-ups but that he was under his 75% bonus amount each year. He also claimed to have a document showing Nina signed an approval to gross-up a bonus. He did not provide that document. Javier also said the entire gross-up amounts were in the annual budget given to the Board. Javier also said the amounts presented to the Board by USHCC counsel regarding his overcompensation were misleading and inflated because he did not earn his complete 75% bonus each year, it was more like 72-73% and he provided numbers to the Board showing the overcompensation numbers without the gross-ups and more in line with what he contends are the overcompensation numbers.

Regarding relocation/travel payment, Javier claimed he was entitled to it each year but that it should not have been grossed up because the IRS did not permit it because cannot gross-up expenses and admitted that was a mistake and that he is willing to pay the amounts grossed up back to USHCC. Javier said he never meant to defraud USHCC.

Javier then turned his presentation over to Marcos Ronquillo who began his presentation by saying he had nothing against Nina – as he has been her mentor and Nina even honored him with an award. That said, he is investigating potential claims regarding Nina and her involvement with the EC in making the determination to terminate Javier from the Foundation and forcing his resignation from the USHCC. He referred back to Javier's presentation and said there is only a \$38K amount at issue. He then questioned where the audit committee chair was during all of this and said there was an improper and unilateral salary adjustment to Javier's salary during the investigation and questioned how Javier's compensation could be adjusted without Board approval.

As to the event bonuses, Ronquillo said the compensation committee – including Nina – participated in the ritualistic handing out of checks – including to Javier.

Mr. Ronquillo said the EC's investigation into Javier has a pre-determined outcome. He said the EC forced Javier to resign or face termination. He said the EC violated the bylaws. He said the EC was making decisions that were not going to the Board. He said the decision was premature and had no basis whatsoever. He also said Javier did not have a chance to respond to the allegations. He claimed no one followed-up with Marc Rodriguez and Marc offered his email, but no one asked for it. He said his clients fate was sealed on October 31 – when it became known Gissel was a candidate to replace Javier. He claimed Nina leaked information to Foundation from the EC meeting. He said they could not get the numbers on the overcompensation and that the numbers have been a moving target. He questioned where the auditors were, who was head of the audit committee.

He described his efforts to get information from the Foundation and how they have provided no basis for Javier's removal. Having heard nothing from Foundation, Ronquillo claimed he had no choice but to file 202 petition. Javier joined back in at this point. The two explained that when Nina chose to take over the Foundation, every employee resigned and “luckily they had room at the USHCC” – including for chief of staff.

Javier then downplayed the Buzzfeed article saying it had not been reviewed or retweeted very often. He claimed you have to go through 21 pages before you even get to the article. He said he has stayed professional and not gossiped.

Javier and Mr. Ronquillo continued discussing the improper conduct of Nina and the Foundation to remove him and the close timing of those actions (28 hours) with the EC's vote to seek his termination. Javier stated that he wanted to make clear that he denies all allegations against him and takes them seriously.

Mr. Ronquillo and Javier also spoke on Gissel's allegations stating that she had received an offer from Coca Cola for a higher salary and had not followed up on it – suggesting that she was not unhappy at the USHCC.

Mr. Ronquillo also stated that he and Javier have a lot of issues with the way the employment agreement was drafted, that it was vague, lacked clarity and he referred to the Board to a legal letter he drafted regarding the same (the letter was placed into the FTP site for Board review). He pointed out that the Travel/Relocation section, for example, did not say if it was for one year or for each year of the contract. Javier stated that where the agreement was vague, it would be interpreted against the USHCC.

Mr. Ronquillo sought a roll call because he wanted to know exactly who was voting at the Board meeting, and made claims regarding EC's actions in connection with Robert Rules of Order and requiring resignation/termination of Javier without full Board vote. Mr. Ronquillo also asked the Chair if “members” could vote on this and would these issues be submitted to the “members.”

Javier then claimed that Roland Juarez demanded to the EC that he be fired and that was inappropriate. Roland Juarez responded that Javier has been misinformed. That he has never demanded the Board or the EC fire Javier and that when the EC voted, Roland was not in the room. He had to leave the meeting early.

Motion 8 - A motion was made to go back to Executive Session. The motion was seconded and unanimously approved.

Alice Rodriguez stated that it was time to part ways with Javier but not sure how to do it – by a motion or otherwise based on his aggressiveness in presentation, the allegations of sexual assault and pointed out that Javier did not address the event/Christmas bonuses. Carmen Castillo stated her agreement with Ms. Rodriguez's comments. Regina Heyward asked what a termination decision would look like.

Roland Juarez responded to Regina Heyward's questions stating if the Board votes to terminate for cause, it needs to give him notice. He then explained that under Javier's agreement, there

are several ways to sever including giving him six months severance and terminate without cause, or terminating for cause.

Alice Rodriguez again expressed her belief that he should be severed from the USHCC and she believed there was a motion to sever him on the table. Juan Carlos Liscano interjected that he was not sure he was ready to make that decision. He was concerned about Javier's posturing during the presentation but said had already voted to get the firm to investigate allegations.

Aleida Rios stated that the issue is not about compensation to her – and has never been – rather its about the concerns raised by staff. She suggested he be put on leave so that investigation can take place. Joseph DeLeon agreed with Aleida's comments.

Rosa Santana said the Board has a few things to consider. She stated that Javier misused funds and took unapproved bonuses and she believes he needs to be removed or at least put on leave out of concern that he bullies everyone.

Roland Juarez then spoke in response to the presentation by Javier and Mr. Ronquillo – addressing some of the inaccurate statements made by Mr. Ronquillo and Javier. Regarding Mr. Ronquillo's statement that the EC made the decision to terminate and acted outside the bylaws, Roland said that was not the case. The EC made a recommendation but could not (and did not) decide to terminate Javier and Roland explained that he and Clay explained that to Mr. Ronquillo at the time. The EC could only make recommendations, which it did, and Roland believes the EC's recommendations were fully supported by the facts presented to it, which have not substantively changed. Roland also confirmed that efforts were made to talk to Marc Rodriguez and that Mr. Rodriguez would not return his or Clay Hartmann's calls and has refused to provide any documents to Roland or Clay. Roland also stated that all words in a contract are given meaning and Javier's contract says he "shall" pay taxes on his compensation and the gross-up language that is being relied upon by Javier would not be accepted by a court to permit a CEO to overcompensate himself where the contract also says he has to pay taxes, and Roland pointed out that there is no written policy, so it is not clear who created this "gross-up" practice. Any oral promises made to Javier, prior to the agreement, were superseded by the employment agreement, by its express terms, and any oral promises made to Javier after the agreement was signed are not effective, because the agreement can only be amended if in writing and between the parties. Roland also pointed out that Nina had no right to unilaterally amend the employment agreement and she denied ever seeing Javier give himself a christmas or event bonus. Roland also pointed out that the email in the FTP site show that Mark, Javier, and Nina all saw and reviewed the employment agreement, which only gave Javier a 5% increase in pay between the 2010 to 2013 agreement, not a 5% increase every year, and Roland specifically explained this to Javier when he challenged the amount, and then Javier signed the

agreement. Roland stated there is no doubt Javier breached his Employment Agreement as a legal matter as well that Javier breached his fiduciary duties to the USHCC regarding the compensation issues. Roland stated that nothing from Javier or his lawyer's presentation changed the legal analysis of Javier's conduct. Roland stated this is not a court of law and the Board does not have to act on the law and can do what it wants, but he did not want the Board to leave with the impression that the USHCC's legal counsel believes Javier did not breach his agreement or his fiduciary duties, because legal counsel firmly believes he breached both..

Clay Hartmann provided additional comments on Javier's presentation including stating that Javier should be accountable for the overcompensation issues. Mr. Hartmann also gave his initial findings based on his interviews of Javier and Gissel.

Peter Villegas then spoke stating he wanted to clarify comments made by Mr. Ronquillo regarding the offer Gissel received from Coca Cola. Mr. Villegas explained that he asked Gissel at a conference in Miami whether she was interested in a position at Coca Cola and gave her a range of \$130K for the position but the position was not officially offered to her. He said Gissel did not seem "hungry" for the position.

Alice Rodriguez responded that a woman being abused may still feel sense of family and loyalty.

Jose Mas stated that he has been unable to talk during meeting and is finally able to. Jose Mas stated that he believed the USHCC's counsel's presentation to the Board was slanted, in part because it did not take into account the gross-up practice at the USHCC. He said he takes all the allegations made very seriously. He commented that the Board is very divided at this point and describes organization as being dominated by Javier and Nina and now Don is being attacked.

Alice again re-urged that her motion be heard where USHCC parts ways with Javier or at least he is put on leave until interviews can be conducted.

Juan Carlos Liscano responded that the Board "cannot wing this." We have "to have a path to go forward." He does not care which path is taken but need a continuity plan.

Carmen Castillo agreed with Juan Carlos and suggested bringing back Raymond Arroyo (former Board Chair) on an interim basis. Don Salazar said would have to do research and can't automatically bring in Raymond. Additional discussion took place regarding the timing and feasibility of bringing in Raymond Arroyo.

Jose Mas followed up saying it is not good to do something without a plan. Rosa Santana responded that there has been wrongdoing – and not one incident – for the Board to be very concerned to take no action. Alice responded that he should be put on administrative leave until complete exit interviews/investigation regarding individuals raised by Carmen Castillo.

Juan Carlos Liscano again stated that a continuity plan was needed. He said he was not ready to act on motion until one put in place. Peter Villegas agreed and stated regardless what Board did, needed a plan of action. Juan Carlos stated that needed to consider three options with a plan:

- Option with Javier remaining as CEO;
- Option with Javier leaving;
- Option with Javier on suspension.

Juan Carlos said need to identify candidates and would take until the week of December 11 to get a plan worked out. Juan Carlos agreed to head task force. There was discussion about whether Alice Rodriguez should withdraw her motion on Javier so that Juan Carlos should make a motion about plan.

Alice Rodriguez responded that she wanted a vote on her motion.

Motion 10 - Alice Rodriguez moved that Javier Palomarez be put on administrative leave pending completion of exit interviews as well as women that have come forward with allegations - Rosa Santana seconded motion. The vote was 6-4 against with three of the six “no votes” qualifying their vote on having a “go forward plan.”

Motion 11 - Juan Carlos Liscano made a motion for formation of a committee to create a continuity plan for USHCC – and he would provide board members info by no later Monday (December 11, 2017) so can reconvene Tuesday (December 12, 2017) for further action.

Peter Villegas seconded the motion and it was passed unanimously.

Joseph Deleon added that it is important that interview people. Carmen added that no employee was going to talk bad about boss so Javier should not be there.

Motion 13 - Carmen Castillo made a motion that Clay Hartmann interview current employees at the USHCC. The motion was seconded and was unanimously approved.

Jose Mas added after the vote that the interviews take place within the next 24 hours.

Motion 14 - A motion was made that the meeting be approved as a telephonic conference. The motion was seconded and unanimously approved.

Motion 15 - A motion was made to approve Clay Hartmann's continued work at \$200 an hour for any additional fees. The motion was seconded and unanimously approved.

Motion 16 - A motion was made to adjourn the meeting, was seconded and approved unanimously.

The meeting was adjourned at approximately 8:05 p.m. CST on Wednesday December 6, 2017.

Don Salazar
Chair

Secretary