

## **DECLARATION OF BETHANY BLAKEMAN**

1. My name is Bethany Blakeman. I am working as a legal intern for the City of Miami Beach's City Attorney's office from May to August 2019.

2. I interviewed Miami Beach residents, Ocean Drive business owners, and visitors to Miami Beach on the topic of commercial solicitation on Ocean Drive, as well as the related issue of price gouging and false specials that are advertised and verbally offered by solicitors on Ocean Drive. I also pulled reviews from multiple online review platforms, including Yelp, TripAdvisor, OpenTable, Foursquare, and Google Reviews that documented the problems associated with commercial solicitation on Ocean Drive. The reviews consistently mention that almost every restaurant stops pedestrians who are trying to enjoy a stroll on Ocean Drive and tries to get the pedestrian in the door by promising some sort of special. A number of the reviews mention feelings of harassment and an overall unpleasant atmosphere on Ocean Drive. Reviews also mention a noticeable change in atmosphere from the last time the visitors came to Miami Beach, and note specifically that you now are unable to walk down the sidewalk without avoiding commercial solicitation from a soliciting host or waiter. Reviewers consistently complained that the specials offered by the solicitors to induce pedestrians to enter the sidewalk café turned out to be illusory and fraudulent in some way when the customer got the check. True and correct copies of selected online reviews are included in the legislative record.

4. I also was tasked with administering a short survey of the managers and owners of the sidewalk cafes on Ocean Drive to gauge the sidewalk cafes' interest in soliciting pedestrians in order for the City to assess the efficacy and practicability of issuing limited permits or conducting a lottery for limited permits to solicit pedestrians as an alternative to restricting soliciting by sidewalk cafes to the areas outside the Ocean Drive Fifth to Fifteenth Street zone. I went to each establishment and attempted to administer the survey. I either spoke to a manager or the owner. I conducted this survey on Wednesday, July 10, 2019.

5. I asked the following survey questions: The City of Miami Beach is gauging interest in issuing a permit to businesses allowing them to have employees greet or solicit pedestrians on the sidewalk in South Beach to ask them to enter the stores or restaurants.

(1) If the City created such a permit, would your business wish to obtain it?

(2) If so, what is the maximum number of solicitors your business would wish to use at any one time, and how often would you wish to solicit?

(3) If you would wish to obtain a soliciting permit, would you only wish to solicit because other businesses solicit and this would be the only way to compete with them?

(4) Are there any additional comments you would like us to know on the subject of solicitors on the street?

6. Out of 31 total sidewalk cafes, 9 responded to the survey. Of that number, 7 stated that they would apply for a permit to solicit passersby if one was offered. One stated that they did not solicit and, thus, would not apply for a permit; I, however, observed an employee of that sidewalk café soliciting passersby while I was there. Four sidewalk cafes that indicated that they would apply for a permit also responded as to how many solicitors they would wish to use at any one time, with each responding that they would employ a range of 2-5 solicitors at any one time.

7. TGI Fridays, located at 500 Ocean Drive, responded to the survey that they are a chain that does not solicit passersby pursuant to corporate practice, so they would not apply for a permit to do so.

8. At the Margarita Beach Club, located at 1052 Ocean Drive, there were about 4 hostesses standing on the sidewalk, clearly standing inside the covered portion of the sidewalk café, when I arrived. The manager I spoke with was named Sebastian. He said that they would apply for a solicitation permit for two employees to solicit passersby at the same time.

9. At La Cervezeria de Barrio, located at 1412 Ocean Drive, there was one host outside. I was instructed to wait for the manager, then was told he was unable to speak with me.

10. At Finnegan's Way, located at 1344 Ocean Drive, one hostess was standing outside. She was soliciting pedestrians. When I initially approached her to ask to speak with the manager, she began to say, "sorry, I can't speak with you right now because I am working," but then pointed out the manager, Leo, who was standing by the outside bar. Leo told me that they would not apply for a solicitation permit because they do not rely on solicitation for their business. He said that he has a difficult time walking to work because of the aggressive hawking on Ocean Drive and that he cannot stand it. He said that the hosts at Finnegan's Way do not "hustle" the way some of the hosts at other sidewalk cafes do, and that they only engage with pedestrians if they are first approached by the pedestrian. As I walked out, I observed the hostess soliciting pedestrians attempting to pass by the on the sidewalk.

11. At Il Giardino, located at 1236 Ocean Drive, one hostess and two waiters were standing outside on the sidewalk. I spoke with Barbara Pellegrini, the general manager. She has been the general manager there for the last 20 years. She said that they would apply for a permit and that they would want to apply for five employees to solicit at any one time at a maximum.

12. At Sugar Factory, located at 1144 Ocean Drive, there were two employees standing outside on the sidewalk with a menu board sign. Sugar Factory, Nick Cannon's Wild 'N Out Sports Bar and Arcade, and iLove305 are all operated by Charissa Davidovici. I did not speak to Charissa, but I spoke to the manager at Sugar Factory, Sahily. She said that they would apply for a permit and they would do so in order to compete with the other restaurants on Ocean Drive.

13. At The Boulevard, located at 740 Ocean Drive, the supervisor on the floor when I arrived began to answer the questions, then went to get "the person in charge." When she came down to the main lobby area, she asked me for credentials. I asked her what kind of credentials she needed to see, and she then said that it didn't matter whether or not I had credentials, she told me she would not answer any question from a stranger about her business. I thanked her for her time and she

walked me off the property and watched me until I crossed the street heading north. There were several employees standing outside on the sidewalk.

14. At The Place, located at 720 Ocean Drive, Andrea, the General Manager was suspicious. He almost immediately said “you are a lawyer, so you know we are talking about laws here, not hypothetical situations.” He wrote down the names of 13 establishments on Ocean Drive owned by the Stefano Frittella. These were Colosseum, Ocean 7, The Place, Starlite, Pelican, Kantina, Café Milano, Icon on Ocean, Social, Trattoria, Café Carlyle, Bice Cocina, and Bolognese. He directed me to go to the main offices at 850 Ocean Drive, Suite 203, and to ask the secretaries for the person to speak to on this. I asked for a contact at the office, and he told me the secretaries would tell me once I got there. He was suspicious and said it was too delicate a topic to comment on. I noted 2 menu boards offering deals. There was one host outside.

15. On Thursday, July 18, 2019, I returned to the main office at 850 Ocean Drive and met with Stefano Frittella and a co-executive, Tomaso. They did not respond to the survey questions, but They took the time to discuss the issue of commercial solicitation with me. They said that they think hawking is wrong and is an issue. They said that they saw the initiatives introduced at the City Commission meeting on the 17<sup>th</sup> relating to Ocean Drive sidewalk cafes and would follow whatever law or directive the City introduced for Ocean Drive. He also mentioned that the type of solicitation that is creating a negative atmosphere on Ocean Drive is crime-related solicitation. He indicated that customers at the restaurants are often offered drugs from people who walk up and down the sidewalk trying to sell drugs. This is a concern I heard echoed from other managers on Ocean Drive. He also mentioned that there are so many restaurants on Ocean Drive now and the competition will result in bad actors who are trying to stay competitive by aggressively hawking pedestrians. Some of the online reviews of Frittella’s restaurants complained about the company’s aggressive sidewalk café solicitors.

16. At On Ocean 7, located at 660 Ocean Drive, the host went to get a manager, then came back and told me they would not participate in the survey. I crossed the street and observed him aggressively hawking pedestrians. I saw him even follow a couple around the corner and to the curb of the street. There were two large menu boards and two display large "fish bowl" drinks on display.

17. At Colosseum, located at 510 Ocean Drive, there were two hosts outside actively soliciting pedestrians. I observed two large menu boards offering promotions and two fishbowl drinks on display.

18. At the Fritz and Jalapeno's, located at 530 Ocean Drive, I noticed four menu boards offering 2x1 happy hours. There were four solicitors outside offering pedestrians happy hour deals. It was before noon.

19. At CJ's Crabshack, located at 600 Ocean Drive, I did not see any special menu boards. I observed three people at the host stand. The manager on duty did not answer the survey questions.

20. At Havana 1957, located at 940 Ocean Drive, the manager told me that they were a corporation and therefore she did not have the authority to answer the survey question.

21. At VooDoo Lounge, located at 928 Ocean Drive, the manager on duty said they would apply for a permit, and they would do so to stay competitive on Ocean Drive.

22. At Mango's, located at 900 Ocean Drive, the daytime manager said that they would apply for a soliciting permit if the city introduced one in order to stay competitive. He said that Mango's does not currently solicit pedestrians and they are proud to be the breath of fresh air on Ocean Drive in what is otherwise an atmosphere of aggressive hawking.

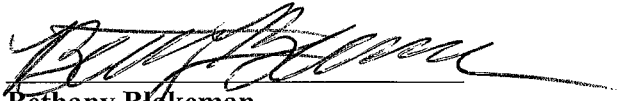
23. At Lario's on the Beach, located at 820 Ocean Drive, the two managers on duty said that they would apply for the permit to keep the process fair.

24. At News Café, located at 800 Ocean Drive, the manager told me that this is a complicated topic. She wavered on answering yes or no regarding obtaining a permit in order to solicit. She referred me to Fernando at Ocean's Ten restaurant, who is the general manager of both establishments. There was one host outside.

25. At Ocean's Ten, located at 960 Ocean drive, there was one employee standing outside on or near the sidewalk. He pointed me to Fernando, who did not respond to the survey questions and told me to come back another time.

I verify under penalty of perjury that the foregoing is true and correct.

Executed on July 22, 2019.

  
Bethany Blakeman