

RESOLUTION NO. 1786.06

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AUTHORIZING SETTLEMENT OF THAT CERTAIN LAWSUIT ENTITLED JUDITH CUENCA AND SARA CHIKOVSKY, PLAINTIFFS, V. THE TOWN OF GOLDEN BEACH, DEFENDANT, MIAMI-DADE COUNTY CIRCUIT COURT, CASE NO. 03-02202 CA 30; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Judith Cuenca and Sara Chikovsky (collectively the "Plaintiffs") filed a lawsuit against the Town of Golden Beach (the "Town") in the Circuit Court of Miami-Dade County, Florida (Case No. 03-02202 CA 30); and

WHEREAS, the lawsuit involves a dispute as to the amount of attorneys' fees the Plaintiffs are entitled to be reimbursed for their defense of an investigation by the State Attorney's Office for potential criminal violations concerning receipt of gifts and contributions; and

WHEREAS, the Town Council finds that it is appropriate and in the best interest of the Town to settle the lawsuit on the terms and conditions set forth in the memorandum attached and incorporated herein.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above-stated recitals is hereby adopted and confirmed.

Section 2. Settlement Approved. That settlement of the above referenced lawsuit is hereby approved subject to the terms and conditions set forth in the memorandum attached and incorporated herein.

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Section 3. Implementation. That the Mayor, Town Manager and Town Attorney are hereby authorized to execute all documents and take all action necessary to implement the purposes of this Resolution including the terms and conditions set forth in the attached memorandum.

Section 4. Effective Date. That this Resolution shall be effective immediately upon adoption.

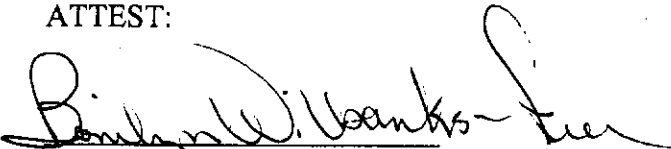
The Motion to adopt the foregoing Resolution was offered by Councilmember Iglesias, seconded by Mayor Singer and on roll call the following vote ensued:

Mayor Singer	<u>Aye</u>
Vice Mayor Einstein	<u>Aye</u>
Councilmember Colella-Battista	<u>Nay</u>
Councilmember Iglesias	<u>Aye</u>
Councilmember Lusskin	<u>out of room</u>

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach, Florida, this 18th day of April, 2006.

ATTEST:


MAYOR GLENN SINGER


BONILYN WILBANKS-FREE
TOWN MANAGER

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:


TOWN ATTORNEY

Weiss Serota Helfman
Pastoriza Cole & Boniske,
P.A.

Memo

To: Stephen J. Helfman, Esq., Town Attorney, Town of Golden Beach

From: Michael S. Popok, Esq., Assistant Town Attorney

Date: April 13, 2006

Re: Proposed Settlement in *Judith Cuenca and Sara Chikovsky, Plaintiffs*
v. The Town of Golden Beach, Defendant, Miami-Dade County
Circuit Court 03-02202 CA 30

You have asked me to prepare a brief overview of the above-referenced litigation matter, and provide recommendations concerning the proposed settlement of this matter.

This case arises out of a 1999-2000 an investigation by the State Attorney's Office concerning potential criminal violations by the Town's then mayor and vice-mayor (Judith Cuenca and Sara Chikovsky). The investigation resulted from allegations made by another former councilmember (Stanley Feinman) against Cuenca and Chikovsky that they had violated the Sunshine Law and committed grand theft concerning certain contributions made to the Golden Beach Improvement Foundation Trust ("GIFT") (hereinafter, the "GIFT Investigation"). The State Attorney's Office ultimately concluded the GIFT Investigation in July 2001 without finding any violation. During the investigation, Ms. Chikovsky and Ms. Cuenca were represented by the law firm of Fred Chikovsky, Esq., Ms. Chikovsky's husband.

The prior Town council, on the recommendation of the former Town attorney, had agreed to reimburse the former councilmembers for the attorneys' fees and costs incurred as a result of the investigation. But because the Plaintiffs sought more than \$54,000 for their fees and costs, the initial settlement discussions broke-down.

After a series of settlement discussions with the Keith Shafer, Esq., Mr. Chikofsky's law partner, I have been able to substantially reduce the reimbursement amount they will accept from \$54,000 down to \$14,000. We believe that this proposed settlement amount, which is also in line with our expert's recommendations, is fair and reasonable. Therefore, we recommend that the Town Council consider settling this matter on the following terms:

1. In exchange for Plaintiffs providing the Town with a release of all claims concerning their entitlement to attorneys' fees and costs reimbursement for the GIFT Investigation, and voluntarily dismissing the suit with prejudice, the Town will pay Plaintiffs the total settlement sum of \$14,000 made payable to "The Law Firm of Chikovsky, Ben & Schafer Trust Account." The parties will also agree to bear their own fees and costs related to this matter.
2. The Plaintiffs' counsel will provide the Town Attorney's office with a suitable release in favor of the Town, along with a Stipulation of Voluntary Dismissal With Prejudice, which will be held in our escrow. Once the settlement payment is tendered to the Plaintiffs' counsel, we will file the Stipulation and provide the release to the Town.