



*Honesty - Integrity - Character*

**Palm Beach County**  
**Commission on Ethics**  
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West Palm Beach, FL 33401  
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**Commissioners**  
Michael S. Kridel, Chair  
Clevis Headley, Vice Chair  
Bryan Kummerlen  
Judy M. Pierman  
Sarah L. Shullman

**Executive Director**  
Mark E. Bannon

**Intake and Compliance Manager**  
Gina A. Levesque

**General Counsel**  
Christie E. Kelley

**Chief Investigator**  
Anthony C. Bennett

**Investigator**  
Abigail Irizarry

# Agenda

February 1, 2018 – 1:30 p.m.  
Governmental Center,  
301 North Olive Avenue, 6<sup>th</sup> Floor  
Commissioners Chambers

Meeting will begin at 1:30pm  
Executive Session will begin at 1:40pm  
Regular Agenda will resume at 2:15pm

- I. Call to Order
- II. Roll Call
- III. Introductory Remarks
- IV. Approval of Minutes from January 11, 2018
- V. Executive Sessions
  - a. C17-045
  - b. C17-046
- VI. Processed Advisory Opinions (Consent Agenda)
  - a. RQO 17-027
- VII. Items Pulled from Consent Agenda
  - a.
- VIII. Presentation of Annual Report
- IX. Executive Director Comments
- X. Commission Comments
- XI. Public Comments
- XII. Adjournment

If a person decides to appeal any decision made by this Commission with respect to any matter considered at this meeting or hearing, (s)he will need a record of the proceedings, and that, for such purpose, (s)he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.



**OFFICIAL MEETING MINUTES  
OF THE  
PALM BEACH COUNTY COMMISSION ON ETHICS  
PALM BEACH COUNTY, FLORIDA**

**JANUARY 11, 2018**

**THURSDAY  
1:30 P.M.**

**COMMISSION CHAMBERS  
GOVERNMENTAL CENTER**

**I. CALL TO ORDER**

**II. ROLL CALL**

**MEMBERS:**

Michael S. Kridel, Chair – Absent  
Clevis Headley, Vice Chair  
Bryan Kummerlen  
Judy M. Pierman  
Sarah L. Shullman

**STAFF:**

Mark E. Bannon, Commission on Ethics (COE) Executive Director  
Anthony Bennett, COE Chief Investigator  
Abigail Irizarry, COE Investigator I  
Christie E. Kelley, Esq., COE General Counsel  
Gina A. Levesque, COE Intake and Compliance Manager

**ADMINISTRATIVE STAFF:**

Victoria Torres, Deputy Clerk, Clerk & Comptroller's Office

**III. INTRODUCTORY REMARKS – None**

**IV. APPROVAL OF MINUTES FROM DECEMBER 14, 2017**

**MOTION to approve the December 14, 2017 minutes. Motion by Bryan Kummerlen, seconded by Sarah L. Shullman, and carried 4-0.**

**RECESS**

**At 1:32 p.m., the chair declared the meeting recessed for an executive session.**

**V. EXECUTIVE SESSION**

**RECONVENE**

**At 3:00 p.m., the meeting reconvened, and at Vice Chair Headley's request for a roll call, Commissioners Kummerlen and Sarah Shullman were present.**

**V. EXECUTIVE SESSION - CONTINUED**

(CLERK'S NOTE: Items were addressed out of order.)

**V.d. C17-002**

Commissioner Shullman read the following Public Report Finding Probable Cause:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on February 23, 2017, alleging that Respondent, Ronald Jones, a Palm Beach County employee and former Director of PalmTran Connection (PTC), violated §2-443(b) of the Palm Beach County Code of Ethics by manipulating PTC data to artificially inflate the on-time performance rates.

Pursuant to §2-258(a) of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On January 11, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Investigative Report, and the Probable Cause Recommendation submitted by the COE Advocate. After oral statements by the Advocate and Respondent's attorney, the Commission determined that probable cause exists to believe that the Respondent may have violated §2-443(b) of the Palm Beach County Code of Ethics.

**V. EXECUTIVE SESSION - CONTINUED**

Therefore it is:

ORDERED AND ADJUDGED that probable cause exists and the complaint against Respondent Ronald Jones will be set for a final hearing within 120 days to be coordinated between the parties.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on January 11, 2018.

By: Clevis Headley, Vice Chair.

(CLERK'S NOTE: The clerk added the language as printed in the Public Report Finding Probable Cause.)

**V.c. C17-027**

Commissioner Shullman read the following Public Report and Final Order of Dismissal:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on July 24, 2017, alleging that Respondent, Glenn Jergensen, a Palm Beach County employee, violated §2-444(a)(1) of the Palm Beach County Code of Ethics by knowingly accepting a gift from a person that he knew, or should have known, was a principal of a lobbyist who lobbied Palm Beach County.

Pursuant to §2-258(a) of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On January 11, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After oral statements by the Advocate and Respondent, the Commission determined that the violation was unintentional, inadvertent, or insubstantial and issued a Letter of Instruction pursuant to §2-260.3 of the Commission of Ethics Ordinance.

**V. EXECUTIVE SESSION - CONTINUED**

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent Glenn Jergensen is hereby DISMISSED and a Letter of Instruction is issued.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on January 11, 2018.

By: Clevis Headley, Vice Chair.

(CLERK'S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

**V.a. C17-030**

Commissioner Shullman read the following Public Report and Final Order of Dismissal:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on July 25, 2017, alleging that Respondent, Glenn Jergensen, a Palm Beach County employee, violated §2-444(a)(1) of the Palm Beach County Code of Ethics by knowingly accepting a gift from a person that he knew, or should have known, was a principal of a lobbyist who lobbied Palm Beach County.

Pursuant to §2-258(a) of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On January 11, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After oral statements by the Advocate and Respondent, the Commission concluded that no probable cause exists to believe a violation occurred.

**V. EXECUTIVE SESSION - CONTINUED**

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent Glenn Jergensen is hereby DISMISSED.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on January 11, 2018.

By: Clevis Headley, Vice Chair.

(CLERK'S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

**V.b. C17-031**

Commissioner Shullman read the following Public Report and Final Order of Dismissal:

Complainant, Mark E. Bannon, Executive Director, Palm Beach County Commission on Ethics (COE), filed the above referenced complaint on July 25, 2017, alleging that Respondent, Michael Stone, a principal of lobbyists who lobbied Palm Beach County, violated §2-444(a)(2) of the Palm Beach County Code of Ethics by giving, directly or indirectly, a gift with a value greater than \$100 in the aggregate for the calendar year to a person he knew, or should have known, was an employee of the County.

Pursuant to §2-258(a) of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On January 11, 2018, the Commission conducted a hearing and reviewed the Memorandum of Inquiry, the Report of Investigation, and the Probable Cause Recommendation submitted by the COE Advocate. After oral statements by the Advocate and Respondent, the Commission concluded that no probable cause exists to believe a violation occurred.

**V. EXECUTIVE SESSION - CONTINUED**

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent Michael Stone is hereby DISMISSED.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on January 11, 2018.

By: Clevis Headley, Vice Chair.

(CLERK'S NOTE: The clerk added the language as printed in the Public Report and Final Order of Dismissal.)

**VI. PROCESSED ADVISORY OPINIONS (CONSENT AGENDA)**

**VI.a. RQO 17-024**

**VI.b. RQO 17-026**

**MOTION to approve the consent agenda. Motion by Bryan Kummerlen, seconded by Sarah L. Shullman, and carried 3-0.**

**VII. ITEMS PULLED FROM CONSENT AGENDA – None**

**VIII. EXECUTIVE DIRECTOR COMMENTS**

**DISCUSSED:** Commissioner Terms, Next Meeting

Mark Bannon, COE Executive Director, said that:

- Commissioner terms would expire for Chair Michael S. Kridel, Vice Chair Clevis Headley, and Judy M. Pierman on February 28, 2018. New commissioners may be recommended or the commissioners may be reappointed to the positions.
- The next meeting of the Commission on Ethics would be on February 1, 2018 and the annual report will be presented.



**IX. COMMISSION COMMENTS – None**

**X. PUBLIC COMMENTS – None**

**XI. ADJOURNMENT**

**At 3:09 p.m., the chair declared the meeting adjourned.**

APPROVED:

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Chair/Vice Chair



# Palm Beach County Commission on Ethics

*Honesty - Integrity - Character*

## Commissioners

Michael S. Kridel, *Chair*  
Clevis Headley, *Vice Chair*  
Bryan Kummerlen  
Judy M. Pierman  
Sarah L. Shullman

## Executive Director

Mark E. Bannon

January 26, 2018

Mr. Daniel Clark, Town Administrator  
Town of Lake Clarke Shores  
1701 Barbados Road  
Lake Clarke Shores, FL 33406

Re: RQO 17-027  
Contractual Relationship Prohibition

Dear Mr. Clark,

Your request for an advisory opinion to the Palm Beach County Commission on Ethics (COE) has been received and reviewed. The opinion rendered is as follows:

### **QUESTION:**

Would it violate the contractual relationship section of the Palm Beach County Code of Ethics (Code) if the Town of Lake Clarke Shores (Town) enters into a new or modified contract with Achieve Agency, the outside business or employer of Town Council Member John Studdard, to update and host the Town's website?

### **ANSWER:**

Based on the facts provided, the Town currently has a contract with Achieve Agency, which was entered into prior to Mr. Studdard becoming a Town official. In regard to this already existing contract, the Code does not apply retroactively and the existing contract with Achieve Agency may continue.<sup>1</sup> However, any changes, revisions, alterations, or renewals of the existing contract would subject the entire transaction to the Code, and the contract would be prohibited, unless an exception applies.

The Code prohibits Mr. Studdard as an official from using his official position to give or influence other to give himself or his outside business or employer a special financial benefit.<sup>2</sup> The Code also prohibits Mr. Studdard from entering into a contract or other transaction for goods or services with the public entity he represents (the Town).<sup>3</sup> This prohibition extends to any contract or transaction between the Town and Mr. Studdard, directly or indirectly, or his outside employer or business.<sup>4</sup> Thus, the Code prohibits Mr. Studdard, as a Town official, and Achieve Agency, as his outside employer or business, from entering into any contract or other transaction for goods or services with Town, unless an exception applies.

The Code provides several exceptions to the contractual relationships prohibition.<sup>5</sup> Based on the information provided, this contract will not be awarded through a sealed bid/low bid process,<sup>6</sup> Achieve Agency is not the sole source of supply of the goods or services needed,<sup>7</sup> and the website services would not constitute an emergency

<sup>1</sup> RQO 12-001 (a public employee's outside business is not prohibited from fulfilling the terms of its licensing agreement with the municipality entered into prior to the effective date of the Code)

<sup>2</sup> §2-443(a)

<sup>3</sup> §2-443(d)

<sup>4</sup> Id.

<sup>5</sup> §2-443(e)

<sup>6</sup> §2-443(e)(1)

<sup>7</sup> §2-443(e)(3)

purchase.<sup>8</sup> Therefore, none of those exceptions apply. However, Section 2-443(e)(4) provides an exception when the total amount of the contracts or transactions in the aggregate between an official's outside business or employer and the municipality does not exceed \$500 per calendar year. Therefore, if the total amount of Achieve Agency's contracts or transactions with the Town does not exceed \$500, in the aggregate, then the contract between the Town and Achieve Agency would not be prohibited. If this exception does not apply, then any new or modified contract between the Town and Achieve Agency would violate §2-443(d), *Contractual relationships*, if the contract exceeds \$500.

**FACTS:**

You are the Town Administrator for the Town of Lake Clarke Shores. The Town's website ([www.townoflakeclarkeshores.com](http://www.townoflakeclarkeshores.com)) was redesigned by John Studdard in June 2011. At that time, Mr. Studdard owned a digital solutions company, Big Couch Media Group. The Town and Big Couch Media Group entered into agreements for the redesign and the ongoing cost of hosting the website. In approximately June 2016, Mr. Studdard's company merged with another local digital solutions company, Achieve Agency, which has continued to provide web assistance and hosting services to the Town at the same monthly price charged by Big Couch Media Group. The contract between the Town and Achieve Agency is currently open-ended with no end date specified.

Mr. Studdard serves as the Chief Operating Officer of Achieve Agency. In March 2017, Mr. Studdard was elected to the Town Council.

The Town now needs to update its website, specifically for imminent mandatory ADA requirements and has begun preparing the appropriate procurement documents for the redesign and future hosting of the website. Because of the changes needed for its website, the Town will be entering into a new contract or transaction for these services.

**LEGAL BASIS:**

The legal basis for this opinion is found in §2-443(d) and §2-443(e) of the Code:

**Sec. 2-443. Prohibited conduct.**

- (d) ***Contractual relationships.*** No official or employee shall enter into any contract or other transaction for goods or services with their respective county or municipality. This prohibition extends to all contracts or transactions between the county or municipality as applicable or any person, agency or entity acting for the county or municipality as applicable, and the official or employee, directly or indirectly, or the official or employee's outside employer or business. Any such contract, agreement, or business arrangement entered into in violation of this subsection may be rescinded or declared void by the board of county commissioners pursuant to §2-448(c) or by the local municipal governing body pursuant to local ordinance as applicable.
- (e) ***Exceptions and waiver.*** In addition, no official or employee shall be held in violation of subsection (d) if:
- (1) The business is awarded under a system of sealed, competitive bidding to the lowest bidder and:
    - a. The official or employee or member of his or her household has in no way participated in the determination of the bid specifications or the determination of the lowest bidder;
    - b. The official or employee or member of his or her household has in no way used or attempted to use the official or employee's influence to persuade the agency, governmental entity or any personnel thereof to enter such a contract other than by the mere submission of the bid; and
    - c. The official or employee, prior to or at the time of the submission of the bid, has filed a statement with the supervisor of elections and the commission on ethics, disclosing the nature of the interest in the outside employer or business submitting the bid.
  - (2) An emergency purchase or contract, which would otherwise violate a provision of subsection (d) must be made in order to protect the health, safety, or welfare of the citizens of the county or municipality as applicable.
  - (3) The outside employer or business involved is the only source of supply within the county or municipality as applicable and there is full disclosure by the official or employee of his or her interest in the outside

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<sup>8</sup> §2-443(e)(2)

employer or business to the county or municipality as applicable and the ethics commission prior to the purchase, rental, sale, leasing, or other business being transacted.

- (4) The total amount of the contracts or transactions in the aggregate between the outside employer or business and the county or municipality as applicable does not exceed five hundred dollars (\$500) per calendar year.

This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts and circumstances that you have submitted. The COE does not investigate the facts and circumstances submitted but assume they are true for purposes of this advisory opinion. This opinion is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at 561-355-1915 if I can be of any further assistance in this matter.

Sincerely,

Mark E. Bannon,  
Executive Director

CEK/gal