

Honesty - Integrity - Character

Agenda

October 5, 2023 – 1:30 p.m.
Governmental Center,
301 North Olive Avenue, 6th Floor
Commissioners Chambers

Palm Beach County

Commission on Ethics

300 North Dixie Highway
West Palm Beach, FL 33401
561.355.1915
FAX: 561.355.1904
Hotline: 877.766.5920
E-mail: ethics@pbcgov.org

Commissioners

Michael H. Kugler
Kristin A. Vara-Garcia

Peter L. Cruise

Michael S. Kridel

Rodney G. Romano

Executive Director

Christie Kelley

General Counsel

Rhonda Giger

Intake and Compliance Manager

Gina A. Levesque

Education and Communications Manager

S. Lizabeth Martin

Investigator

Mark A. Higgs

Investigator

Abigail Irizarry

- I. Call to Order
- II. Pledge of Allegiance
- III. Roll Call
- IV. Introductory Remarks
- V. Approval of Minutes from September 7, 2023
- VI. Processed Advisory Opinions (Consent Agenda)
 - a. RQO 23-023
 - b. RQO 23-024
 - c. RQO 23-026
 - d. RQO 23-027
- VII. Items Pulled from Consent Agenda
 - a.
- VIII. Executive Director Comments
- IX. Commission Comments
- X. Public Comments
- XI. 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 (COE)
PALM BEACH COUNTY, FLORIDA**

SEPTEMBER 7, 2023

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

**COMMISSION CHAMBERS
WEISMAN GOVERNMENTAL CENTER**

MEMBERS:

Michael H. Kugler, Chair
Kristin A. Vara-Garcia, Vice Chair
Peter L. Cruise
Michael S. Kridel
Rodney G. Romano

COUNTY STAFF PRESENT:

Rhonda Giger, General Counsel
Mark. A. Higgs, COE Investigator II
Abigail Irizarry, COE Investigator II
Christie E. Kelley, COE Director III
Gina A. Levesque, COE Intake and Compliance Manager
S. Lizabeth Martin, COE Communication and Education Manager

CLERK OF THE CIRCUIT COURT & COMPTROLLER'S OFFICE STAFF PRESENT:

Danielle Freeman, Deputy Clerk

(CLERK'S NOTE: Vice Chair Vara-Garcia acted as chair in the absence of the chair.)

I. Call to Order

The chair called the meeting to order at 1:30 p.m.

II. Pledge of Allegiance

Commissioner Romano led the Pledge of Allegiance.

III. Roll Call

Present: Vice Chair Vara-Garcia, Commissioner Peter L. Cruise, Commissioner Michael S. Kridel, and Commissioner Rodney G. Romano

Absent: Chair Michael H. Kugler

IV. INTRODUCTORY REMARKS

No remarks were made.

V. APPROVAL OF MINUTES FROM AUGUST 8, 2023

MOTION to approve the August 8, 2023, meeting minutes. Motion by Michael Kridel, seconded by Peter Cruise, and carried 4-0.

VI. EXECUTIVE SESSION RE: C23-025

RECESS

At 1:31 p.m., the vice chair declared the meeting recessed for an executive session.

RECONVENE

At 1:55 p.m., the meeting reconvened with all members present.

Commissioner Cruise read the Public Report and Final Order:

In Re: Robert Schultz

Complainant Alex Freeman, filed the above referenced complaint, alleging Respondent Robert Schultz, who at the time of the complaint was the interim Police Chief for the Town of Jupiter Inlet Colony, violated Section 2-443(b), Corrupt misuse of official position, of the Palm Beach County Code of Ethics, by using his using his position as a public employee to corruptly secure a special benefit.

Pursuant to §2-258(a)^[1] of the Palm Beach County Commission on Ethics Ordinance, the Palm Beach County Commission on Ethics is empowered to enforce the Palm Beach County Code of Ethics. On September 7, 2023, the Commission conducted a hearing and reviewed the Report of Investigation and the Probable Cause Recommendation submitted by the Commission on Ethics.

After an oral statement by the Advocate and Respondent, the Commission concluded that probable cause does not exist because there was no evidence that Respondent's actions violated the Palm Beach County Code of Ethics.

Therefore it is:

ORDERED AND ADJUDGED that the complaint against Respondent, Robert Schultz, is hereby **DISMISSED**.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on September 7, 2023.

VII. PROCESSED AFVISORY OPINIONS (CONSENT AGENDA)

- a. **RQO 23-018**
- b. **RQO 23-019**
- c. **RQO 23-020**
- d. **RQO 23-021**
- e. **RQO 23-022**

MOTION to approve the consent agenda. Motion by Rodney Romano.

Commissioner Cruise inquired about the additional processed advisory opinion copy, and Ms. Kelley responded stating there was a scrivener's error that was corrected.

Motion seconded by Peter Cruise and carried 4-0.

VIII. Items Pulled from Consent Agenda

- a. No items were pulled from the consent agenda.

IX. Executive Director Comments

1.

Ms. Kelley welcomed and introduced S. Lizabeth Martin as the new Communications and Education Manager, who would oversee the day-to-day education and marketing initiatives to expand awareness of the COE's mission, vision, programs, and services. She added that they looked forward to working alongside her.

2.

On August 22, 2023, Ms. Kelley, Ms. Giger, and Ms. Levesque had a productive meeting with the staff of Boynton Beach's Office of Internal Investigations and Accountability.

3.

Ms. Kelley reported that Ms. Giger had conducted several successful in-person ethics trainings, and staff was in the process of completing ethics trainings in municipalities.

X. COMMISSION COMMENTS

No comments were made.

XI. Public Comments

League of Cities Deputy Executive Director, Je'Rise Hansen, introduced herself and expressed that Mr. Richard Radcliffe sent his regrets that he was unable to attend.

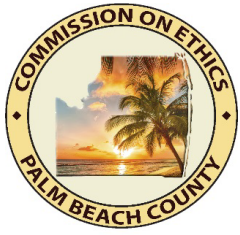
X. Adjournment

MOTION to adjourn. Motion by Peter Cruise, seconded by Rodney Romano, and carried 4-0.

At 2:01 p.m., the chair declared the meeting adjourned.

APPROVED:

Chair/Vice Chair



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Palm Beach County Commission on Ethics

Commissioners
Michael H. Kugler, Chair
Kristin A. Vara-Garcia, Vice Chair
Peter L. Cruise
Michael S. Kridel
Rodney G. Romano

Executive Director
Christie Kelley

September 12, 2023

Tammy Lampi, Program Manager
Palm Beach County Community Services
Division of Senior and Veteran Services
810 Datura Street, Suite 300
West Palm Beach, FL 33401

Re: RQO 23-023
Gift law

Dear Ms. Lampi,

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:

Does the Palm Beach County Code of Ethics (Code) prohibit you as a Palm Beach County (County) employee from accepting a cash gift as a part of being recognized as the "Humana Healthy Horizons Best Direct Service Employee of the Year" when the award is funded by an organization who is a vendor of the County?

BRIEF ANSWER:

Based on the facts submitted, because the Code specifically excludes awards for professional or civic achievement from the definition of "gift," you are not prohibited from accepting an award with a monetary component for professional achievement even when the award is given by a vendor of your public employer.

FACTS:

You are a program manager for Palm Beach County Community Services (PBCCS) working in the Division of Senior and Veteran Services (SVS). PBCCS is comprised of three divisions and several independent programs. It provides staff and administrative support for various health and human service boards and community initiatives. SVS engages with a variety of entities and has a membership with the Florida Association of Aging Service Providers (FASP). FASP is a professional, statewide organization that represents the full array of direct service providers in aging, including case management, nutrition, senior centers, day care and volunteers. Membership with FASP enables SVS to stay current with updated information through regular communications and provides staff the opportunity to collaborate with The Aging Network and to attend informational conferences.

At this year's FASP conference, FASP announced that you were being recognized as the 2023 Direct Service Employee of the Year. The conference program read "Congratulations to Tammy Lampi of Palm Beach County Division of Senior and Veteran Services on her recent selection as the Humana Healthy Horizons Best Direct Service Employee of the Year. The award included \$500 for Ms. Lampi and \$500 for her Agency." According to FASP, this award is bestowed on those who have:

- Added value to the service benefiting and being delivered to elders
- Gone above and beyond to provide customer service and ensure customer satisfaction
- Developed community resources and support for provided services
- Demonstrated a high level of commitment to excellence

The financial component of the award was provided to FASP by Humana Healthy Horizons. While FASP is not a vendor of the County, Humana Insurance Company is a registered vendor and Humana Healthy Horizons is a product of the Humana medical plan.

ANSWER:

The Code defines a "gift" as the transfer of anything of economic value without adequate and lawful consideration.¹ The Code prohibits a public employee from accepting any gifts with a value over \$100 in the aggregate per calendar year from any vendor or lobbyist or principal or employer of a lobbyist who lobbies the public entity he or she serves.² If a public employee receive any gifts that are not from a vendor or lobbyist or principal or employer of a lobbyist who lobbies the public entity he or she serves, then the public employee must report the gift on a gift form if the value exceeds \$100.³ However, Sec. 2-444(g) provides exceptions to the definition of a gift. One such exception is an award for professional or civic achievement.⁴

Here, you are being recognized by FASP and Humana for your dedication and service to the elder community based upon your work as a County employee. Because the award from FASP and Humana, including the monetary component, is an award for your professional achievement with SVS, it is not considered a gift under the Code. Although the Code prohibits accepting a gift of more than \$100 in the aggregate per calendar year from a vendor, because the monetary component is part of the award for professional achievement, it is an exception to the definition of a gift. Thus, it may be accepted, even from a vendor, without violating the Code. Further, as it is not considered a gift under the Code, this award does not need to be reported to the COE on a gift report form.

Notwithstanding the gift law exception applicable here, you are reminded that the Code also prohibits public employees from accepting a gift from any person or entity in return for any public action or legal duty as a *quid pro quo* for the gift.⁵ This section of the Code would specifically prohibit a public employee from accepting any benefit, directly or indirectly, including awards for

¹ Sec. 2-442

² Sec. 2-444(a)(1)

³ Sec. 2-444(f)

⁴ Sec. 2-444(g)(3)

⁵ Sec. 2-444(e)(1, 2, & 3)

professional or civic achievement, if this gift was corruptly linked in any way to a quid pro quo arrangement. In other words, the other Code provisions would still apply if any award were accepted based upon a quid pro quo or other wrongful act or omission inconsistent with the proper performance of one's public duties.

LEGAL BASIS:

The legal basis for this opinion is found in Sec. 2-442 and Sec. 2-444 of the Code:

Sec. 2-442. Definitions.

Gift shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise of these, or in any other form, without adequate and lawful consideration.

Sec. 2-444. Gift law.

(e) No person or entity shall offer, give, or agree to give an official or employee a gift, and no official or employee shall accept or agree to accept a gift from a person or entity, because of:

- 1) An official public action taken or to be taken, or which could be taken;
- 2) A legal duty performed or to be performed or which could be performed; or
- 3) A legal duty violated or to be violated, or which could be violated by any official or employee.

(g) Exceptions. For the purposes of this section, the following shall not be considered a gift:

- (3) Awards for professional or civic achievement;

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 assumes they are true for purposes of this advisory opinion. It 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.

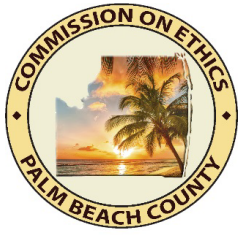
Please feel free to contact me at 561-355-1915 if I can be of any further assistance in this matter.

Sincerely,



Christie Kelley,
Executive Director

RG/gal



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Palm Beach County Commission on Ethics

Commissioners
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Peter L. Cruise
Michael S. Kridel
Rodney G. Romano

Executive Director
Christie Kelley

September 29, 2023

Roberto F. Travieso, MPA, Public Works Director
Town of Lake Park
640 Old Dixie Highway
Lake Park, FL 33403

Re: RQO 23-024
Misuse of Office; Conflict of Interest

Dear Mr. Travieso,

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:

Does the Palm Beach County Code of Ethics (Code) prohibit your spouse from providing goods or services to a local business when both owners of that business are members of advisory boards for the Town of Lake Park before which you appear in your capacity as the Public Works Director?

BRIEF ANSWER:

Based on the facts submitted, the Code does not prohibit your spouse from a transactional relationship with the business. However, the requirements of the Code as described below must be followed.

FACTS:

You are the Public Works Director for the Town of Lake Park (Town). Your spouse would like to enter into a contract to provide baked goods to Brooklyn Cupcakes (BC), a small business in the Town. BC is owned by Carmen and Gustavo Rodriguez. Carmen Rodriguez is a member of the Town's Community Redevelopment Agency (CRA). Gustavo Rodriguez is a member of the Town's Planning and Zoning Board (PZB). As Public Works Director, you appear before both the CRA and the PZB in a variety of roles, including making presentations and recommendations to those boards on issues on which the boards may take action.

Your spouse has not yet engaged in any sales with BC, thus the full transactional amount is unknown; however you believe that it will be less than \$10,000 in a 24 month period.

ANSWER:

Section 2-443(a) of the Code prohibits you from using or attempting to use your official position as the Public Works Director in any way, including to influence others to take some action, to give a special financial benefit to specified persons or entities. Among those prohibited persons or entities are yourself,

your spouse, an outside business of yours or your spouse, or a customer or client of your outside business.¹ Financial benefit, in the context of the Code, constitutes economic gain or loss.²

Based on the facts presented, the Code considers your spouse's business as your outside business. The Code defines an outside business as any entity located within Palm Beach County and in which you have an ownership interest.³ You are considered to have an "ownership interest" when at least 5% of the total assets are owned by you or your spouse. Accordingly, under the Code, your spouse's business would qualify as your outside business. Therefore, you are prohibited from using your position in any way to give a special financial benefit to the outside business of you and your spouse. Here, while the Code does not prohibit your spouse from entering into a contractual agreement to provide baked goods to BC, the Code would prohibit you from using or attempting to use your position as the Public Works Director in any way that results in a special financial benefit being given to the outside business of you and your spouse.

Further, based on the *current* facts, the Code does not consider BC to be a customer or client of your outside business because there have not yet been any transactions between the two businesses. A customer or client of an outside business is defined as a person or entity to whom you or your outside business has supplied goods or services in excess of \$10,000 over the previous 24 months.⁴ However, if the \$10,000 aggregate threshold is met within the specified 24 month period, BC will be considered a customer or client of your outside business. If this happens, then your obligation to abstain from using your position as the Public Works Director in any way to give a special financial benefit will then broaden to specifically include BC. Accordingly, once BC becomes a customer or client of your outside business, the Code will also prohibit you from using or attempting to use your official position in any way, including making any recommendations, which would result in BC being given a special financial benefit that is not shared with similarly situated members of the general public.

Additionally, while there may be no per se prohibited conflict of interest under these facts, it should be noted that there may exist an "appearance of impropriety" even where there is no identified special financial benefit to either your outside business or to BC. Further, while the Code does not restrict your actions as long as the guidance in this opinion is followed, you must be mindful that as a public employee, no quid pro quo or other benefit may ever be given for an official act or the past, present, or future performance of a public duty.⁵ You are also reminded that the Code prohibits you from using your position to corruptly secure a special benefit of any kind for anyone, including yourself, your spouse, an outside business of yours or your spouse, or BC.⁶

Finally, you must be mindful that whether a conflict of interest exists depends on the facts and circumstances of each situation. Because your spouse appears to have an ongoing relationship with BC, best practices dictate that you carefully review any action that you take as a public employee to ensure a special financial benefit is not being given to a prohibited entity. If there is ever any doubt about whether some action would give a special financial benefit to your spouse's business or to BC, we recommend you seek an additional advisory opinion.

¹ Sec. 2-443(a)

² Sec. 2-442, Definitions.

³ Id.

⁴ Id.

⁵ Sec. 2-444(e)

⁶ Sec. 2-443(b)

LEGAL BASIS:

The legal basis for this opinion is found in Sec. 2-442 and Sec. 2-443 of the Code:

Sec. 2-442. Definitions.

Customer or client means any person or entity to which an official or employee's outside employer or business has supplied goods or services during the previous twenty-four (24) months, having, in the aggregate, a value greater than ten thousand dollars (\$10,000).

Outside employer or business includes:

- (2) Any entity located in the county or which does business with or is regulated by the county or municipality as applicable, in which the official or employee has an ownership interest. For purposes of this definition, an "ownership interest" shall mean at least five (5) percent of the total assets or common stock owned by the official or employee or any combination of the official or employee's household members, spouse, child, step-child, brother, sister, parent or step-parent, or a person claimed as a dependent on the official or employee's latest individual federal tax return.


Sec. 2-443. Prohibited conduct.

- (a) **Misuse of public office or employment.** An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, or attempt to do any of these things, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:
 - (1) Himself or herself;
 - (2) His or her spouse or domestic partner, household member or persons claimed as dependents on the official or employee's latest individual federal income tax return, or the employer or business of any of these people;
 - (4) An outside employer or business of his or hers, or of his or her spouse or domestic partner, or someone who is known to such official or employee to work for such outside employer or business;
 - (5) A customer or client of the official or employee's outside employer or business;

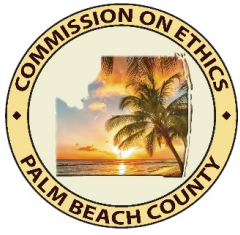
This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts and circumstances that you have submitted. The COE does not investigate the facts and circumstances submitted, but assumes they are true for purposes of this advisory opinion. It is not applicable to any 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,


Christie Kelley,
Executive Director

RG/gal



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Palm Beach County Commission on Ethics

Commissioners
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Peter L. Cruise
Michael S. Kridel
Rodney G. Romano

Executive Director
Christie Kelley

September 26, 2023

Linda Smithe, Executive Committee Chair
Sierra Club Loxahatchee Group
17976 Via Rio
Jupiter, FL 33458

Re: RQO 23-026
Lobbyist Registration

Dear Ms. Smithe:

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:

Does the Palm Beach County Lobbyist Registration Ordinance (Ordinance) require you, as a volunteer of the Sierra Club Loxahatchee Group (SCLG) to register as a lobbyist if you use funds donated to SCLG to inform and educate the public on actions taken by elected officials in Palm Beach County?

BRIEF ANSWER:

Based on the facts submitted, you are not required to register as a lobbyist.

FACTS:

You are the Executive Committee Chair of SCLG. The Sierra Club is an environmental organization with chapters throughout the United States and its territories. The Sierra Club's ultimate goal is to foster stronger environmental and energy laws that will ultimately reduce dependence on fossil fuels and protect fragile environments. To further this goal, local chapters of The Sierra Club, such as SCLG, work at a local level to educate citizens on environmental issues. SCLG is a non-profit organization comprised of staff that works entirely on a volunteer basis. SCLG now wishes to expand its outreach efforts in Palm Beach County. This expansion will include the expenditure of donated funds in an effort to highlight the voting records of elected officials on issues related to the environment. SCLG will remain a non-profit and the volunteers will not be compensated for their work.

ANSWER:

The Lobbyist Registration Ordinance requires all lobbyists to register as a lobbyist prior to any lobbying efforts. According to the Ordinance, lobbying means "seeking to influence a decision through oral or written communication or an attempt to obtain the goodwill of any county commissioner, any member of a local municipal governing body, any mayor or chief executive officer that is not a member of a local municipal governing body, any advisory board member, or any employee with respect to the passage, defeat or modification of any item which may foreseeably be presented for consideration to the advisory board, the board of county commissioners, or the local municipal governing body lobbied as applicable."¹

¹ LRO Sec. 2-352. Definitions

Additionally, a lobbyist means any person who is “**employed and receives payment**, or who contracts for economic consideration, for the purpose of lobbying on behalf of a principal, and shall include an employee whose principal responsibility to the employer is overseeing the employer's various relationships with government or representing the employer in its contacts with government.”²

Ultimately, whether a particular individual is considered a lobbyist as defined by the Ordinance is determined by the specific facts surrounding the person's status and the nature of the contact between the individual and public employees or officials. While the conduct of SCLG may potentially fall under the scope of lobbying behavior, one cannot be a lobbyist unless they are “employed” and receive “payment” from a principal. Based on the facts as provided here, no such payment from a principal exists in this scenario.

IN SUMMARY, whether you are required to register as a lobbyist depends not only on the nature of the work, but also on whether you are “employed” and receiving “payment” from a principal. Based upon the information that you have provided, as a SCLG volunteer, you receive no payment for your efforts. Therefore, as an unpaid volunteer, you are not required to register as a lobbyist.

LEGAL BASIS:

The legal basis for this opinion is found in Article VIII – Lobbyist Registration, Sec. 2-352 of the Ordinance:

Lobbying shall mean seeking to influence a decision through oral or written communication or an attempt to obtain the goodwill of any county commissioner, any member of a local municipal governing body, any mayor or chief executive officer that is not a member of a local municipal governing body, any advisory board member, or any employee with respect to the passage, defeat or modification of any item which may foreseeably be presented for consideration to the advisory board, the board of county commissioners, or the local municipal governing body lobbied as applicable.

Lobbyist shall mean any person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying on behalf of a principal, and shall include an employee whose principal responsibility to the employer is overseeing the employer's various relationships with government or representing the employer in its contacts with government.

This opinion construes the Palm Beach County Lobbyist Registration Ordinance and is based upon the facts and circumstances that you have submitted. The COE does not investigate the facts and circumstances submitted, but assumes they are true for purposes of this advisory opinion. It 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.

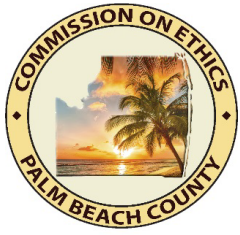
Sincerely,



Christie Kelley
Executive Director

RG/gal

² LRO Sec. 2-352. Definitions



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Michael S. Kridel
Rodney G. Romano

Executive Director
Christie Kelley

September 29, 2023

Janet Steele, Division Director
Palm Beach County Public Safety
Animal Care & Control
7100 Belvedere Road
West Palm Beach, FL 33411

Re: RQO 23-027
Gift Law

Dear Ms. Steele:

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

QUESTION:

Does the Palm Beach County Code of Ethics (Code) prohibit your complimentary attendance at an event when your presence is related to your official business and your admission is gifted by the non-profit agency hosting the event?

BRIEF ANSWER:

As long as the guidance in this opinion is followed, the Code does not prohibit your attendance.

FACTS:

You are the Division Director of Palm Beach County Animal Care and Control (ACC). Part of your role is to collaborate with rescue partners to positively impact as many animals as possible. All of ACC's rescue partners are 501(c)(3) non-profit organizations who engage in a variety of different fundraising events.

You have been invited to attend a Tri-County Animal Rescue (TCAR) fundraiser as a guest of their executive director, Suzi Goldsmith.¹ You recently met with Ms. Goldsmith in a work related capacity to discuss a new collaborative effort between ACC and TCAR. It was during this meeting that she extended an invitation to their annual "Peppermint Bark and Brunch" event. When you attended this event in 2022, it was specifically for you to network and meet the people and organizations with whom you will be partnering in your efforts to satisfy the mission statement of ACC.

The advertised price for a single ticket entry to this year's event is \$400.

¹ ACC's new Chief of Veterinary Services was also invited to attend as her guest.

ANSWER:

Under the Palm Beach County Code of Ethics (Code), a gift is considered a transfer of anything of value without adequate and lawful consideration.² In general, a ticket to an event would be considered a gift. However, the Code provides an exception for a ticket to a public event that is related to official county business when that ticket is given by a non-profit sponsor organization which does not employ a lobbyist and the ticket is given by a representative of the sponsor organization who is not otherwise a lobbyist or a principal or employer of a lobbyist.³ Notwithstanding this exception, if the value of the ticket exceeds \$100, the official or employee will need to report the gift pursuant to Sec. 2-444(f)(2) of the Code, or as required under §112.3148, Florida Statutes.⁴

Based on the facts submitted, as a county employee, you are not prohibited from accepting complimentary admission to the "Peppermint Bark and Brunch" as long as the non-profit organization (TCAR) does not employ a lobbyist who lobbies the county and the ticket is given to you by a representative (Ms. Goldsmith) of the non-profit organization who is not a lobbyist or principal or employer of a lobbyist who lobbies the county.⁵ Although your acceptance of the ticket may not be prohibited, because the published cost of attendance exceeds \$100, the gift must be reported on a county gift form and submitted to the Palm Beach County Commission on Ethics.

Additionally, as a county employee, you must be mindful that you are prohibited from using your official position in any way to give a special financial benefit, not shared with similarly situated members of the general public, to specified persons or entities, including yourself.⁶ Lastly, while the Code does not prohibit the giving or acceptance of this ticket, great care must be taken that nothing of value is exchanged because of an "official action taken" or "duty performed" which would result in a quid pro quo in exchange for the ticket.⁷

LEGAL BASIS:

The legal basis for this opinion is found in Sec. 2-444 of the Code:

Sec. 2-444. Gift law.

(f) Gift reports. Any official or employee who receives a gift in excess of one hundred dollars (\$100) shall report that gift in accordance with this section.

(2) All other officials and employees who are not reporting individuals under state law.

b. **All other gifts.** All officials or employees who are not reporting individuals under state law and who receive any gift in excess of one hundred dollars (\$100), which is not otherwise excluded or prohibited pursuant to this subsection, shall complete and submit an annual gift disclosure report with the county commission on ethics no later than January 31 of each year for the previous calendar year (January 1 through December 31). All officials or employees, who are not reporting individuals under state law and who do not receive a gift in excess of one hundred dollars (\$100) during a given reporting period shall not file an annual gift disclosure report.

² Sec. 2-444

³ Sec. 2-444(g)(9)

⁴ Sec. 2-444(f)

⁵ While the COE did not find any evidence that either TCAR or Ms. Goldsmith are currently engaged in lobbyist activities, the burden is on the gift recipient to confirm this fact.

⁶ Sec. 2-443(a)

⁷ Sec. 2-444(e)

(g) Exceptions. For the purposes of this section, the following shall not be considered a gift:

- (9) A ticket, pass or admission in connection with public events, appearances or ceremonies related to official county or municipal business, if furnished by a nonprofit sponsor organization of such public event, or if furnished pursuant to a contract between the event's non-profit sponsor and the county or municipality as applicable, provided the sponsor organization does not employ a lobbyist, and further provided the ticket, pass or admission is given by a representative of the sponsor organization who is not otherwise a lobbyist or a principal or employer of a lobbyist. Notwithstanding the exception as provided in this subsection, the ticket, pass, or admission must be disclosed in accordance with the gift law reporting requirements of subsections (f)(1) and (f)(2);

This opinion construes the Palm Beach County Code of Ethics Ordinance and is based upon the facts and circumstances that you have submitted. The Palm Beach County Commission on Ethics 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, or with any relevant provision within the rules of The Florida Bar. Inquiries regarding possible conflicts under state law or bar rules should be directed to the State of Florida Commission on Ethics or The Florida Bar.

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

Sincerely,



Christie Kelley,
Executive Director

RG/gal