

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

**JULY 7, 2016**

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

**COMMISSION CHAMBERS  
GOVERNMENTAL CENTER**

**I. CALL TO ORDER**

**II. ROLL CALL**

MEMBERS:

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

STAFF:

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

ADMINISTRATIVE STAFF:

Barbara Strickland, Deputy Clerk, Clerk & Comptroller's Office

**III. INTRODUCTORY REMARKS – None**

**IV. APPROVAL OF MINUTES FROM JUNE 2, 2016**

**MOTION to approve the June 2, 2016, minutes as presented. Motion by Judy Pierman, seconded by Michael Loffredo, and carried 4-0. Clevis Headley absent.**

## COMMISSION ON ETHICS – CONTINUED

### RECESS

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

### RECONVENE

At 2:18 p.m., the meeting reconvened with Chair Kridel, and Commissioners Loffredo, Pierman, and Shullman present. Clevis Headley absent.

## V. EXECUTIVE SESSION

### a. C15-026

Chair Kridel read the following Public Report Finding No Probable Cause and Order of Dismissal, and the Letter of Instruction that was discussed during the executive session:

Complainant, Mark Bannon, Executive Director of the Palm Beach County Commission on Ethics, filed the above referenced complaint on December 4, 2015, alleging that Respondent, Desiree Lancaster, a City of Delray Beach employee, violated §2-443(d) of the Palm Beach County Code of Ethics when her outside business entered into contracts with her public employer.

Pursuant to §2-258(a)<sup>1</sup> of the Palm Beach County Commission on Ethics Ordinance, the COE is empowered to enforce the Palm Beach County Code of Ethics. On July 7, 2016, Respondent and Advocate entered into a negotiated settlement wherein Respondent admitted to violating §2-443(d) of the Palm Beach County Code of Ethics and agreed to accept a Letter of Instruction. The negotiated settlement stipulated that probable cause existed to believe that Respondent violated §2-443(d) but that the violation was unintentional and that the public interest would not be served by proceeding with this complaint. After reviewing the negotiated settlement and all relevant documents associated with the case, the COE approved the negotiated settlement and issued a Letter of Instruction.

Therefore it is:

## V. – CONTINUED

ORDERED AND ADJUDGED that the complaint against Respondent, Desiree Lancaster, 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 July 7, 2016.

By: Michael S. Kridel, Chair

(CLERK'S NOTE: The clerk added the language as printed in the Public Report Finding No Probable Cause and Final Order of Dismissal.)

Chair Kridel read the following Letter of Instruction:

Mark E. Bannon, Executive Director of the Palm Beach County Commission on Ethics (COE) (Complainant) filed the above-captioned complaint against Desiree Lancaster (Respondent), an employee of the City of Delray Beach, alleging a violation of the Palm Beach County Code of Ethics, specifically Article XIII, §2-443(d) (Contractual Relationships). The complaint alleges, in part, that Respondent's outside business entered into contracts with her public employer, the City of Delray Beach.

Facts:

This matter came to the attention of the PBC Commission on Ethics (COE) staff via a letter from Mr. Donald Cooper, city manager for the City of Delray Beach, stating that an audit revealed that Respondent was an employee of Phoenix Pressure Cleaning, LLC, which was a vendor of the City of Delray Beach. While the audit conducted by the City found information indicating Respondent is employed by Phoenix, the investigation by COE staff revealed that Respondent and her husband share a 100% ownership interest in the company.

Respondent is listed as the Registered Agent and a Managing Member for the company Phoenix Pressure Cleaning, LLC, within the Articles of Organization filed with the Florida Department of State.

## V. – CONTINUED

Her husband, Nathaniel Lancaster, is also listed as having an ownership interest in this company. No other officers were listed within the Articles of Organization documents. Together, Respondent and her husband have a 100% ownership interest in Phoenix Pressure Cleaning, LLC. During the investigation, Respondent stated that she was approached by a supervisor specifically requesting the pressure cleaning services from her company. Her husband subsequently secured the contractual job for the requested services. She stated that the first contract was in January 2014 to pressure clean one of the City fire stations. She also stated that there were other contracts to pressure clean another fire station and to pressure clean and paint the life guard towers at the City beach. In total, Respondent's outside business received \$12,071.54 from the City for services rendered.

Holding:

Sec. 2-443(d), Contractual relationships, states in relevant part:

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.

Sec. 2-442, Definitions, states in relevant part:

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.

## V. – CONTINUED

Sec. 2-260.3. Dismissal of complaints, of the Palm Beach County Commission on Ethics ordinance states in relevant part:

Notwithstanding any other provisions of this division, the commission on ethics may, at its discretion: (a) dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, or (b) dismiss any complaint at any stage of disposition and issue a letter of instruction to the respondent when it appears that the alleged violation was inadvertent, unintentional or insubstantial. In the event the commission on ethics dismisses a complaint as provided in this subsection, the commission on ethics shall issue a public report stating with particularity its reasons for the dismissal. (Emphasis added)

Although Respondent stated that she does not own any part of the business but that her husband owns the business, under Sec. 2-442, an employee's spouse is one of the listed individuals whose ownership interest is transferred to the employee. Therefore, Phoenix Pressure Cleaning, LLC was Respondent's outside business, and the contracts between the City and Phoenix Pressure Cleaning, LLC were prohibited. Additionally, the evidence also showed that Respondent and her outside business did not meet any of the exceptions to the contractual relationships provision.

In light of the facts and circumstances known to the Commission on Ethics, the matter is disposed of by way of dismissal with this Letter of Instruction. The COE believes that the violation was unintentional and has determined that the public interest would not be served by proceeding further. However, Respondent is advised that the filing of Ethics Complaint C15-026, along with this Letter of Instruction, is to serve as notice that entering into a contract with her public employer is prohibited under the Code of Ethics, unless an exception applies. Respondent is therefore instructed to be more careful in the future to ensure that she follows the requirements of §2-443(d) to avoid any future enforcement action.

This Letter of Instruction is issued by the Palm Beach County Commission on Ethics in public session on July 7, 2016.

By: Michael S. Kridel, Chair

**V. – CONTINUED**

(CLERK’S NOTE: The clerk added the language as printed in the Letter of Instruction.)

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

**VI.a. Request for Opinion (RQO) 16-016**

**VI.b. Request for Opinion (RQO) 16-017**

**VI.c. Request for Opinion (RQO) 16-018**

**MOTION to accept the opinions as published. Motion by Judy Pierman, seconded by Sarah Shullman, and carried 4-0. Clevis Headley absent.**

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

**VIII. PROPOSED ADVISORY OPINIONS – None**

**IX. EXECUTIVE DIRECTOR COMMENTS**

Mark E. Bannon, COE Executive Director, stated that:

- He and staff attended council meetings of municipalities to describe the services offered by the Commission on Ethics.
  - June 2016 presentations were held at the City of West Palm Beach, the Village of Palm Springs, and at Community Redevelopment Agencies of the cities of Lake Worth, Belle Glade, and Pahokee.
- Additional presentations were scheduled for the towns of Gulf Stream, Cloud Lake, Manalapan, Lantana, and South Palm Beach, and the Village of Golf.
- To date, 33 meetings among the 38 municipalities were attended or scheduled.
- He and COE General Counsel Christie Kelley conducted 12 ethics training sessions during the week of June 21, 2016, for employees and officials of the Town of Palm Beach.

**IX. – CONTINUED**

- Advertising for additional volunteer pro bono advocates was in progress within the Palm Beach Bar Association, the F. Malcolm Cunningham, Sr. Bar Association, and the Hispanic Bar Association.
- A new ethics training videotaping session was set for either July or August 2016 to incorporate new information.

**X. COMMISSION COMMENTS**

**X.A.**

**DISCUSSED:** Public Speaking.

Chair Kridel spoke at a meeting of the Palm Beach County chapter of the Florida Institute of Certified Public Accountants to provide a 12-month update of the COE's activities. He added that a slide presentation distinguished the differences between the Inspector General Office's and the COE's responsibilities.

**XI. PUBLIC COMMENTS – None**

**XII. ADJOURNMENT**

**At 2:33 p.m., the chair declared the meeting adjourned.**

APPROVED:



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Chair/Vice Chair