



# Palm Beach County Commission on Ethics

**Commissioners**

Edward Rodgers, *Chair*  
Manuel Farach, *Vice Chair*  
Robin N. Fiore  
Ronald E. Harbison  
Bruce E. Reinhart

**Executive Director**

Alan S. Johnson

February 7, 2011

Steve Jerauld, Fire Chief  
Palm Beach County Fire Rescue  
405 Pike Road  
West Palm Beach, Florida 33411

Re: RQO 11-002  
Gifts/Advertised Discounts

Dear Chief Jerauld,

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

YOU ASKED in your e-mail and attachment of January 26, 2011, whether you or members of your department may accept a travel discount offered by two Best Western properties located in Daytona Beach, Florida.

IN SUM, based upon the facts you have submitted, county fire-rescue personnel are not prohibited from accepting this discount when traveling to the Daytona Beach area. However, depending on the amount of the gift, recipients may be required to complete and include the gift in an annual gift disclosure report submitted to the Palm Beach County Commission on Ethics.

THE FACTS as we understand them are as follows: You are the Fire Chief for Palm Beach County and received a marketing letter from the sales manager of the Bahama House hotel in Daytona Beach, Florida. The letter included a flyer offering all Palm Beach County fire-rescue personnel discounted rates at either the Bahama House or Best Western Aku Tiki Inn hotels. Daytona Beach is located in Volusia County and your organization does not have existing or past contracts with either hotel or Best Western International, Inc. (Best Western). Based upon Florida and Palm Beach County Registration Records, Best Western, Bahama House, and the Aku Tiki Inn, are not principals or employers of lobbyists.

THE LEGAL BASIS for the commission's opinion is found in the following relevant sections of the Palm Beach County Code of Ethics:

Section 2-444 of the Code of Ethics (gift law)

- (a) No county commissioner or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than

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one hundred dollars (\$100.00) from any person or business entity that the recipient knows is a lobbyist or any principal or employer of a lobbyist.

Since neither hotel employs a lobbyist, the above prohibition does not apply. Of course, should either hotel employ or serve as the principal of a lobbyist in the future, acceptance of a discount amounting to more than one hundred dollars (\$100.00) over the course of an employee's stay at either property would be a violation of the code.

The relevant section requiring reporting of gifts valued at more than one hundred dollars is as follows:

(d) Gift Reports. Any official or employee who received a gift in excess of One Hundred Dollars (\$100.00) shall report that gift.

(1) *Gift reports for officials and employees identified by state law as reporting individuals.* Those persons required to report gifts pursuant to state law shall report those gifts in the manner provided by Florida Statutes, S.112.3148, as may be amended. A copy of each report shall be filed with the county Commission on Ethics.

(2) *All other officials and employees.* All other officials or employees who received any gift in excess of One Hundred Dollars (\$100.) shall complete and submit an annual gift disclosure report with the county Commission on Ethics no later than November 1 of each year beginning November 1, 2011, for the period ending September 30<sup>th</sup> of each year.

The ethics commission has determined that for the purposes of valuation of allowable gifts, s.112.3148 is relevant. Specifically section (a) and (e) outlined below

(a) The value of a gift provided to a reporting individual or procurement employee shall be determined using actual cost to the donor, less taxes and gratuities...

(e) Lodging provided on consecutive days shall be considered a single gift.

For example, on January 27, 2011 the best available rate listed on the Bahama House website was one hundred and nine dollars and ninety-nine cents (\$109.99). The promotional rate offered to Palm Beach County fire-rescue personnel was 77.00 per night: use of the discount must be reported after a four night stay at the listed rate. Again, for those employees whose discount over the total period of his or her stay amounts to less than one hundred dollars (\$100.00) there is no gift law reporting requirement.



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In addition, employees must be aware of Section 2-444 (c) which prohibits the offer or acceptance of a gift of any value in exchange for an official public action, legal duty performed or legal duty violated by an employee. This prohibition applies to any gift no matter the amount. In this instance, the Bahama House and the Aku Tiki hotels are located in Volusia County and therefore outside the service area of Palm Beach fire-rescue personnel. Although not binding on the Palm Beach County Commission on Ethics, the Florida Commission on Ethics also concluded that providing discounted services to state government employees did not violate the state code.<sup>1</sup>

IN SUMMARY base upon the facts and circumstances you have provided, fire-rescue personnel may take advantage of the discounted hotel rates, however, discounted stays with an aggregate value in excess of one hundred dollars (\$100.00) must be reported in an annual gift disclosure report filed with the Palm Beach County Commission on Ethics. Those individuals identified by state law as "reporting individuals" must comply with s 112.3148, Florida Statutes.

This opinion construes the Palm Beach County Code of Ethics ordinance and is limited to the facts and circumstances you provided. 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 561-233-0724 if I can be of any further assistance in this matter.

Sincerely,

Alan S. Johnson  
Executive Director

ASJ/mcr/gal

<sup>1</sup> *CEO 06-18* (holding that agency officials and employees of the Department of Revenue may accept discounted cellular telephone service from a cellular provider who lobbies the Executive Branch where there was no evidence the discount was offered with an intent to influence agency decision making or obtain the goodwill of an agency official or employee).  
*CEO 88-42* (holding EMT's and paramedics could accept discounted food purchased at local restaurants while on duty where there was no direct relationship between the Emergency Services Division and the restaurants and no evidence that the discount was intended to influence official action).