

EXECUTIVE SUMMARY

To: Alan S. Johnson, Executive Director
From: Mark E. Bannon, Investigator
Re: C12-016 – Victoria McCullough, Principal of Lobbyist (Gift Law Violation)

- **Background**

On July 22, 2012, Respondent gave a \$4000 donation to Village Mayor Robert Margolis for his legal defense fund regarding a voter recount in the Village of Wellington (the Village) mayoral race. According to state law, a donation to such a legal defense fund is not a political contribution, and therefore is a gift, subject to the prohibitions of the PBC Code of Ethics. At the time of the gift, Robert Margolis had been sworn in as Village Mayor, and Respondent was the principal of several registered lobbyists who lobby the Village.

- **Investigation**

During the investigation it was discovered that the original donation to Robert Margolis from Respondent was attempted to be made in March, 2012. A donation check for \$4000 was sent at that time by Respondent to Margolis' representative via U.S. Mail to help cover the legal expenses of the election recount. This initial mailing occurred prior to Mayor Margolis taking office on April 9, 2012, and prior to Respondent becoming the principal of lobbyists in late June, 2012. The original donation was apparently lost in the mail. Respondent was later re-contacted by a member of Mayor Margolis' election staff and advised they had never received Respondent's pledged donation to assist with these legal fees. The subsequent replacement donation was tendered on July 22, 2012, and given personally from Respondent to the Mayor's wife, Linda Margolis. Therefore, the actual donation took place after Robert Margolis had been sworn in as Mayor and after Respondent became an employer of lobbyists.

Under PBC Code of Ethics Section 2-444(a)(2), *Gift Law*, it is prohibited for any lobbyist, or principal or employer of any lobbyist that lobbies the county or any municipality, to knowingly give any gift valued at more than \$100 to any official or employee of the county or any municipality, for which they or their employees conduct lobbying activities.

Since the gift of \$4000 was given to Mayor Margolis by Respondent after she had become the principal of lobbyists who were registered to lobby the Village, and after Robert Margolis had been sworn in as Village Mayor, this donation of \$4000 constituted a prohibited gift made in violation of §2-444(1)(b).

UPDATED EXECUTIVE SUMMARY

To: Megan C. Rogers, Interim Executive Director
From: Mark E. Bannon, Investigator
Re: C12-016 – Victoria McCullough, Principal of Lobbyist (Gift Law Violation)

- **Background**

On July 22, 2012, Respondent gave a \$4000 donation to Village Mayor Robert Margolis for his legal defense fund regarding a voter recount in the Village of Wellington (the Village) mayoral race. According to state law, a donation to such a legal defense fund is not a political contribution, and therefore is a gift, subject to the prohibitions of the PBC Code of Ethics. At the time of the gift, Robert Margolis had been sworn in as Village Mayor, and Respondent was the principal of several registered lobbyists who lobby the Village.

- **Investigation**

During the investigation it was discovered that the original donation to Robert Margolis from Respondent was attempted to be made in March, 2012. A donation check for \$4000 was sent at that time by Respondent to Margolis' representative via U.S. Mail to help cover the legal expenses of the election recount. This initial mailing occurred prior to Mayor Margolis taking office on April 9, 2012, and prior to Respondent becoming the principal of lobbyists in late June, 2012. The original donation was apparently lost in the mail. Respondent was later re-contacted by a member of Mayor Margolis' election staff and advised they had never received Respondent's pledged donation to assist with these legal fees. The subsequent replacement donation was tendered on July 22, 2012, and given personally from Respondent to the Mayor's wife, Linda Margolis. Therefore, the actual donation took place after Robert Margolis had been sworn in as Mayor and after Respondent became an employer of lobbyists.

On February 1, 2013, Respondent provided a sworn, taped statement as to the facts alleged that she had sent a check for \$4,000 to the Bob Margolis Legal Defense Fund, that she was notified that this check was never received, and that she wrote the July 22, 2012 check as a replacement for this original donation. She also stated that the original check was written at essentially the same time as a check to John Greene's legal defense fund, sometime in late March, 2012. Further, Respondent provided copies of her bank statements for all of 2012 for my review. This review of the year's worth of statements lead to the following information:

- Respondent's bank statement for March, 2012, initially listed a sequence of three checks (#2128, #2129, and #2130) unaccounted for. There were other checks also not accounted for in the March statement. However, I was able to find each of the missing checks from this statement listed on the April statement with the exception of check #2128. In reviewing the entire year of statements, check #2128 is not listed as ever having been cashed or deposited.
- The March 2012 statement also listed the \$4,000 check made out to John Greene's Legal Defense Fund (check #2131), written in late March, showing these funds were withdrawn from her account on March 29, 2012.
- The June 2012 bank statement listed a check for \$4,000 made out to the PBC Democratic Party (check #2234), showing these funds were withdrawn on June 5, 2012. This check was to assist in the election defense of Councilman Matt Wilhite.
- The August 2012 bank statement lists the \$4,000 check to Bob Margolis Legal Defense (check #2401) which was written on July 22, 2012. These funds were withdrawn on August 14, 2012, according to this statement.

- In reviewing all of the bank statements for 2012, there are only two (2) additional times in which checks were written for exactly \$4,000. Neither of the checks were made payable to cash, nor made payable to any of the three (3) Wellington candidates who had opened a legal defense fund. Check #2483 was found on the September statement, and dated September 5, 2012. Check #2608 was found on the November statement and dated November 5, 2012.

Under PBC Code of Ethics Section 2-444(a)(2), *Gift Law*, it is prohibited for any lobbyist, or principal or employer of any lobbyist that lobbies the county or any municipality, to knowingly give any gift valued at more than \$100 to any official or employee of the county or any municipality, for which they or their employees conduct lobbying activities.

Since the gift of \$4000 was given to Mayor Margolis by Respondent after she had become the principal of lobbyists who were registered to lobby the Village, and after Robert Margolis had been sworn in as Village Mayor, this donation of \$4000 constituted a prohibited gift made in violation of §2-444(1)(b).



Palm Beach County Commission on Ethics

Commissioners

Manuel Farach, *Chair*
Robin N. Fiore, *Vice Chair*
Ronald E. Harbison
Daniel T. Galo
Patricia L. Archer

Executive Director

Alan S. Johnson

December 18, 2012

Roma W. Theus, II, Esquire
1365 Santa Barbara Drive
Wellington, FL 33414

Sent via email only to: P917@aol.com

Re: Victoria McCullough
C12-016

Dear Mr. Theus,

This is to inform you that a complaint was filed against your client in the above referenced matter on December 11, 2012. Attached please find a copy of the complaint as well as additional documents prepared by the Commission on Ethics Staff. This information is not a public record until probable cause is found or the complaint is dismissed by the Commission.

On January 10, 2013, this matter will be heard by the Commission on Ethics. For the reasons contained in the reports, Staff is recommending that probable cause be found, but that the Complaint be dismissed and a Letter of Instruction issued. While it is recommended that your client appear, she is not required to attend the executive session/probable cause hearing. The executive session will take place at the following time and location:

January 10, 2013 – 2:15 p.m.
Palm Beach County Governmental Center
301 North Olive Avenue – 12th Floor McEaddy Conference Room
West Palm Beach, FL 33401

The probable cause hearing will be held in executive session and closed to the public unless you provide a written request that the hearing be held in a public forum. You have an opportunity, in accordance with the procedures as set forth in the Commission on Ethics Rules of Procedure, to file a written response to the advocate's recommendation prior to the probable cause hearing. Any documentary evidence that you wish to provide will also be considered by the COE.

Along with the COE Advocate, you will be permitted to make a brief oral statement in the nature of oral argument to the commission before a probable cause determination is made, based upon the Investigator's reports, your written response and the recommendation of the Advocate. If the COE finds no probable cause, the Complaint will be dismissed. If probable cause is found, the COE will set a final public hearing in the matter within 120 days and you will be notified of the proceedings and requirements. Please feel free to contact me should you have any questions regarding procedural issues. For all other matters, please contact the Advocate, Megan Rogers at 561-233-0727.

Sincerely,

Alan S. Johnson
Executive Director

ASJ/gal

2633 Vista Parkway, West Palm Beach, FL 33411 561.233.0724 FAX: 561.233.0735

Hotline: 877.766.5920 E-mail: ethics@palmbeachcountyethics.com

Website: palmbeachcountyethics.com

PALM BEACH COUNTY COMMISSION ON ETHICS
MEMORANDUM OF INQUIRY

To: Alan Johnson, Executive Director
From: Mark E. Bannon, Investigator
Re: AN 12-023 – Victoria McCullough, (Gift law issue based on status as Principal of a lobbyist)

- **Background**

On October 19, 2012, the Commission on Ethics (COE) staff received copies of two (2) State of Florida Quarterly Gift Disclosures (Form 9) filed by Robert Margolis, Mayor of the Village of Wellington (the Village). Listed on these gift disclosure forms were four separate entries indicating that Margolis had received funds for his legal defense fund concerning a re-count for his March 2012 election as Mayor.

One of these entries was a \$4000 gift from Victoria McCullough (Respondent), a resident of The Village. This particular gift was made on July 22, 2012. A check of the county's Central Lobbyist Registration System (CLRS) showed that on June 24, 2012, Steven Gogola registered as a lobbyist with the Village, and listed Respondent as his Principal. On June 29, 2012, Respondent approved this transaction via the CLRS, and was at this point the registered Principal of a lobbyist in the Village. Respondent has three lobbyists who lobby the Village and listed her as their Principal, the other two having registered later in June and July 2012, but prior to the July 22, 2012 date Respondent donated \$4000 to Margolis' legal defense fund.

The relevant entry on Robert Margolis' state gift disclosure form as it relates to Respondent is as follows:

Date Received	Description of Gift	Monetary Value	Name of Person Making Gift	Address of Person Making Gift
7/22/12	Check towards legal defense fund election recount	\$4000	Victoria McCullough	1365 Santa Barbara Dr., Wellington, FL 33414

The inquiry into this matter as it pertained to Robert Margolis was conducted under Case Number AN 12-018, and the formal preliminary investigation was conducted under Case Number C12-015.

- **Inquiry**

During the initial Inquiry into Margolis' actions in accepting these funds from respondent, COE Staff Attorney Megan Rogers was assigned by Executive Director Alan Johnson to research whether such funds were considered to be "gifts" under §2-444, *Gift Law* of the Palm Beach County Code of Ethics. Political contributions are specifically exempted from the definition of "gift" under Code Section 2-444(g)(1)(a). Staff Attorney Rogers located an advisory opinion from the Florida Commission on Ethics advising that funds donated to a legal defense fund are considered to be gifts, and as such are either reportable or prohibited under state law depending on the donor.¹ She also located an advisory opinion from the Florida Division of Elections advising that funds collected for the purpose of defending a recall petition are not considered to be campaign Funds, and thus are not subject to required accounting procedures under Chapter 106 (Campaign Financing Act), Florida Statutes.²

¹ CEO 98-8, April 16, 1998, "A legal defense fund may be established to assist a state legislator with payment of legal expenses, but contributions to the fund would be considered "gifts" for the purposes of Section 112.3148, Florida Statutes."

² DE 82-1, January 25, 1982, "A committee formed to contribute money to defray the cost of legal expenses incurred by officeholders who are undergoing a recall proceeding are not subject to Chapter 106, Florida Statutes, provided such funds are used for legal expenses only..."

A review of the Central Lobbyist Registration System (CLRS) revealed that Respondent who made a \$4000 contribution on July 22, 2012, was actually the registered principal of three lobbyists for the Village. According to CLRS records, Steven Gogola, 11392 Paradise Cove Lane, Wellington, FL registered as a lobbyist for the Village and listed Respondent as the principal on June 24, 2012. Respondent approved this registration on June 29, 2012. Janna Lhota, 515 East Las Olas Blvd., Suite 1200, Ft. Lauderdale, FL registered as a lobbyist with the Village and listed Respondent as the principal on June 25, 2012 and was approved by Respondent on July 2, 2012. Finally, Jason Lazarus of 222 Lakeview Drive, Suite 1000, West Palm Beach, FL registered as a lobbyist with the Village and listed Respondent as his principal on July 12, 2012. This registration was approved on July 13, 2012 by Respondent. Each of these registrations took place prior to the date the gift was listed as being given to Margolis on July 22, 2012.

I made contact with Margolis and he agreed to meet with me at the COE office for an interview.

- **Interview: Robert Margolis, Mayor, Village of Wellington, and Linda Margolis, wife and campaign assistant for Robert Margolis**

On Wednesday, November 7, 2012, I interviewed Respondent at the COE office. Respondent's wife, Linda Margolis, who assisted with his campaign for Mayor and who had actually accepted the funds from McCullough was present during this interview. Ms. Margolis stated that she was the person who filled out the gift disclosure form. This interview was recorded, and both Robert and Linda Margolis were placed under oath prior to this interview. The interview began at 1:45 PM and was concluded at 2:26 PM.

After obtaining some background information from Robert Margolis, we discussed the gift disclosure forms he filed with the state. Linda Margolis advised that she filled out the forms, and after doing so, her husband Robert signed them. Robert Margolis stated that he and Linda have known Respondent for about ten (10) years, and that she helped support his campaign for Mayor of Wellington.

I asked Robert Margolis if he knew whether Respondent hires lobbyists for any local issues in the Village of Wellington. He stated, "She employs a gentleman named Steve Gogola...could he be her lobbyist? ...Maybe." When I advised him that Mr. Gogola is a lobbyist, Robert Margolis stated that he knew Respondent had employed him for over a year, but did not know he was a registered lobbyist. Again attempting to clarify the statement, I asked Robert Margolis if he was aware whether Respondent employed a lobbyist for Wellington issues. He said the only lobbyist he was aware she employed was Joe Abruzzo, who did not work on local issues.

Robert and Linda Margolis then asked when Respondent's check for \$4000 was dated, and was told July 22nd. Linda Margolis said that their son, Josh Margolis, an attorney in Ft. Lauderdale, was the Trustee of these funds and he had reported that the \$4000 check sent by Respondent originally had never been received. So this check was actually a re-issue of the original donation. They did not know the date of that original check, but believed it was sometime in May.

Robert Margolis briefly discussed the election recount petition and the fact that he was collecting funds to pay for the legal bills incurred during this time. He also stated that they had tried to be very careful about who they accepted funds from for the election defense fund. Both Robert and Linda Margolis agreed they had turned down offers from a private business that wanted to support Robert's legal defense fund because they knew that the business employed lobbyists that lobbied Wellington. Robert Margolis stated that his re-count defense still had outstanding legal bills to pay. He then discussed the steps he and his wife had taken to ensure that they were acting within the code and state law when accepting these funds.

First, Robert Margolis stated that he hired Mark Herron, an attorney from Tallahassee, who specializes in election law, to advise them as to how to properly set up such a fund and who they could and could not take donations from, including anyone who employs lobbyists who lobby Wellington. The campaign also employed a political consultant for the election, Beth Rawlins of Clearwater, and she remained on staff to assist in this re-count defense effort. It was Ms. Rawlins who did most of the solicitations for this fund, while Robert Margolis focused his time on

his elected duties as Mayor. Robert Margolis also said that he advised anyone who approached him to donate to his legal defense fund to go through his son or Beth Rawlins. After it was determined that the initial check had been lost, when Respondent began to discuss the re-issuing of the \$4000 donation check, Robert Margolis stated that he excused himself from the table and his wife accepted it. Linda Margolis stated that she felt she also should not talk to Respondent about the check, but she took custody of it to send to her son since it had been lost once before. All other donations to the defense fund were mailed to their son in Ft. Lauderdale, who deposited them into an account for that purpose.

We then discussed whether they had been told how they were to determine if someone was a lobbyist before taking funds from them. Linda Margolis stated they know most people who lobby in Wellington, which is why they turned down several groups who wanted to donate, including one organization who wanted to donate the entire amount. Robert Margolis then stated he has known Steve (Gogola) since 1983, and never knew he was a lobbyist. Both Robert and Linda Margolis agree that they did not personally solicit funds for this defense fund. They relied on Beth Rawlins for that purpose. Linda Margolis is also certain that Ms. Rawlings asked Respondent for the donation, but is certain Ms. Rawlings also did not know that Respondent employed lobbyists when she did so. Robert Margolis provided me with contact information for attorney Mark Herron, campaign consultant Beth Rawlings, his son, Josh Margolis, and for Respondent.

The interview was ended at 2:26 PM.

- **Interview: Victoria McCullough**

On Monday, November 19, 2012, at approximately 10:00 AM, I met with Respondent at a home she was renovating at 13801 40th Street South in the Village. This interview was not recorded or taken under oath as there were no available facilities at this location to conduct a formal, recorded interview. Respondent was preparing for a trip out of state that day.

During the interview with Respondent, I addressed the reason for my interview, and discussed the \$4000 gift that Village Mayor Robert Margolis reported as being given to him by Respondent for his election re-count legal defense fund. She was very cooperative during my interview, and advised that she had given Margolis \$4000 to offset the cost of his legal bills for the recount petition stemming from his election as Mayor of the Village. She advised that she had been solicited for this donation by Margolis' political consultant, Beth Rawlins. Respondent stated that she agreed to help with the legal costs of the re-call defense because she knew that such legal action was expensive, and she believed that it was a failure of the elections system that caused the problem, which was not the fault of Margolis. She did not believe that he should have to bear the financial burden of this system failure. Respondent also advised me that she had given the same amount (\$4000) to Village Councilman John Greene and Village Councilman Matt Willhite for their election related legal expenses.

We discussed these donations, and I showed Respondent a copy of §2-444, *Gift Law*, the PBC Code of Ethics, pointing out to her that because she was the principal of lobbyists who lobbied the Village, she was prohibited under the code from giving gifts in excess of \$100 to any employee or elected or appointed official of the Village. These donations could not be defined as "political contributions," which would have been exempted under the Gift Law³ because the amount would also have been limited by state law to a maximum of \$500. Because these donations were not political contributions, they are considered "gifts" to the officials that received them, and are regulated by §2-444 of the Code of Ethics. Respondent advised that she was not aware of a prohibition against gifts from "principals," and thought these prohibitions only applied to actual lobbyists. She seemed genuinely concerned that her donations may have been made in violation of the code, and explained to me that she would never intentionally violate the Code of Ethics.

We next discussed the three people listed in the Central Lobbyist Registry System (CLRS) naming her as a principal, and listing the Village of Wellington as the government entity where they lobbied. Respondent advised that

³ §2-444(g)(1)(a)

because of a plan to develop a road running through the Equestrian Preserve area and next to her property on 40th Street South, she became involved in defeating this measure because it violated the Master Plan for the Preserve, and also affected her property adversely. Respondent became involved in this issue in April of 2012, and it was because of this issue that she employed Lobbyist Steven Gogola as a lobbyist to assist her. Respondent stated that her land use attorney, Janna Lhota, also assisted in this matter, and that is why she was also registered. Finally, attorney Jason Lazarus was hired by her to handle the Section 5.1.15 hearing⁴ on the issue, but registered so that he could speak to Village staff if necessary. Respondent did advise that she was not aware that the Code prohibited her from making the legal defense fund donations, and that she had not received any training as to that obligation under the Code. She was unable to provide copies of the three (3) donation checks at this time, because she had not brought them with her to this property. She advised she would provide them to me at a later time.

After our initial conversation, I asked Respondent if she would provide me with a recorded statement about the issues we had discussed. She first stated that she thought it might be appropriate to speak to legal counsel. When I advised her that I would wait until she had spoken to counsel before discussing the issue further, she stated that she may want to just give me the statement as she did not want it to appear that she was not "owning up" to making these donations. Because it was unclear as to her desire to speak with an attorney, I asked her to take some time to think about it, and told her that I would contact her again upon her return to Florida in December.

At this point the interview was ended.

On December 4, 2012, I was able to again speak to Respondent via telephone. She advised she had decided not to retain an attorney and was willing to speak with me.

One purpose of this second contact was based on information discovered during my overall inquiry into the potential Code or Ethics' gift law violations, in particular regarding Councilman John Greene (AN12-024 SI), and Councilman Matt Willhite (AN12-025 SI) and their receipt of \$4000 donations each from McCullough. These inquiries led to the conclusion that while Greene was given \$4000 from McCullough to defray some of his legal costs, and McCullough made a \$4000 donation to the Democratic Party of Palm Beach County on Willhite's behalf for this same reason, these funds were paid prior to either the June 24, 2012 date when Steven Gogola registered as a lobbyist for the Village and listed McCullough as his Principal, and/or June 29, 2012 when McCullough acknowledged being the Principal per the CLRS records. Therefore, these donations would not have been prohibited under §2-444, Gift Law. In regards to the Robert Margolis donation, both Respondent and Margolis indicate that the original donation/gift was given some time before June 24, 2012. It was ultimately lost and replaced with a subsequent check on July 22, 2012. The earlier gift (March, 2012) would not have been prohibited or reportable because Respondent had not yet taken office and McCullough had not yet employed lobbyists. However, the replacement check was tendered in July and the gift was prohibited at that time.

During this telephone conversation, Respondent stated that Matt Willhite's was the first donation, and as he requested, this donation was sent to the Democratic Party of Palm Beach County. Sometime later, after it was pointed out to her by Neil Hirsch that both Greene and Margolis had legal bills as well, she wrote \$4000 checks to both these candidates on the same day. One check was sent to John Greene, and the other to Robert Margolis, which was apparently never received or cashed. Respondent stated she was unaware of this until contacted again by Beth Rawlings, and at that time re-issued the check. Respondent advised that she would try and obtain information from her bank to verify this information and send it to me. Since the check was lost, she was unable to provide a copy of it, but would try to obtain the "stop check order" from her bank. It should be noted that Greene's records show he was given the \$4000 donation on or about March 28, 2012, when it was deposited into his Legal Defense Fund account. Respondent stated that she was sure she made both checks out that same day at her home, and mailed them both the next day.

⁴ Section 5.1.15 refers to the Section of the Village of Wellington Land Use Regulations that deals with misrepresentation, fraud, deceit or errors of omission in land use development issues. When staff believes this section of the regulations may have been violated, a hearing is held before the Village Council to make this determination.

While this information does not change the fact that a donation of \$4000 was physically made to Robert Margolis by Respondent on July 22, 2012, the fact that it is a replacement check originally issued on or about March 28, 2012, does tend to mitigate this issue. Had the initial check not been lost, the contribution would have occurred prior to Margolis taking office and prior to Respondent becoming the principal of a lobbyist. Therefore the transaction would not have been in violation of the Code. At the time of the initial attempt at this donation, neither Margolis (who was not sworn into office until April 2012) nor Respondent (who did not become a principal of a lobbyist until June 2012) were under the jurisdiction of the Code of Ethics, and thus this donation when originally attempted was neither prohibited nor reportable.

- **Applicable Law**

The following portions of the PBC Commission on Ethics ordinance are relevant to this Inquiry:

Section 2-254. Creation and jurisdiction.

The Palm Beach County Commission on Ethics (hereinafter "commission on ethics") is hereby established. The jurisdiction of the commission on ethics shall extend to *any person required to comply with the countywide code of ethics*, the county lobbyist registration ordinance, and the county post-employment ordinance... (Emphasis added)

The following portion of the Palm Beach County Code of Ethics are relevant to this Inquiry:

Section 2-442. Definitions.

Official or employee means *any official or employee of the county or the municipalities located within the county*, whether paid or unpaid. (Emphasis added)

Robert Margolis was elected Mayor of the Village of Wellington in March, 2012, and was sworn into office on April 9, 2012. The gift of \$4000 given to Margolis for his legal defense fund by Respondent was given on July 22, 2012, according to Margolis' state gift disclosure form.

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. (Emphasis added)

Sec. 2-444. Gift law.

- (a)(1) No county commissioner, *member of a local governing body, mayor or chief executive when not a member of the governing body*, 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 one hundred dollars (\$100)* in the aggregate for the calendar year from any person or business entity that the recipient knows, or should know with the exercise of reasonable care, is a vendor, *lobbyist* or any principal or employer of a lobbyist who lobbies, sells or leases to the county or municipality as applicable.

- (2) No lobbyist, vendor *or principal or employer of a lobbyist that lobbies the county or a municipality shall knowingly give, directly or indirectly, any gift with a value greater than one hundred dollars (\$100)* in the aggregate for the calendar year *to a person who the vendor, lobbyist, or principal knows is an official or employee of that county or municipality*. (Emphasis added)

- Conclusion

While the original gift of \$4000 was attempted in March 2012, prior to either Mayor Margolis taking office (April 2012), or Respondent becoming the principal of a lobbyist (June 2012), the fact remains that a \$4000 donation was made on July 22, 2012. At that time, the donation was prohibited.


Submitted by:



Mark E. Bannon
PB County Commission on Ethics

12/11/12
Date

Reviewed by:


(Initials)

12/11/2012
Date

PALM BEACH COUNTY COMMISSION ON ETHICS
MEMORANDUM OF LEGAL SUFFICIENCY

To: Palm Beach County Commission on Ethics
From: Alan S. Johnson, Executive Director
Re: C12-016 – Victoria McCullough, (Principal of a lobbyist)

- **Recommendation**

Regarding the Complaint against Respondent, Respondent, Victoria McCullough, COE staff recommends a finding of **LEGAL SUFFICIENCY** be entered in complaint number C12-016.

Legal sufficiency exists where there is an allegation of a violation of an ordinance within the jurisdiction of the Ethics Commission, purportedly committed by an individual within the authority of the Ethics Commission, based upon facts which have been sworn to by a material witness or witnesses, and if true would constitute the offenses alleged, relating to a violation occurring after the effective date of the code, and filed with the Ethics Commission within two years of the alleged violation.

- **Background**

On October 19, 2012, the Commission on Ethics (COE) staff received copies of two (2) State of Florida Quarterly Gift Disclosures (Form 9) filed by Robert Margolis, Mayor of the Village of Wellington (the Village). Listed on these gift disclosure forms were four separate entries indicating that Margolis had received funds for his legal defense fund concerning a re-count for his election as Mayor. The amount of these gifts exceeded \$100.

One gift, in the amount of \$4000 was donated by Respondent. Respondent is registered on the Central Lobbyist Registration System (CLRS) as a principal of several lobbyists who lobby the Village.

- **Analysis**

As the principal of a lobbyist who lobbies the Village, Respondent is subject to the provisions of the revised Palm Beach County Code of Ethics (the Code), as of June 1, 2011, when all municipalities came under the jurisdiction of the COE.

The following section of the Palm Beach County Code of Ethics is relevant to this inquiry.

Sec. 2-444(a). Gift law, states as follows:

- (2) No lobbyist, vendor or principal or employer of a lobbyist that lobbies the county or a municipality shall knowingly give, directly or indirectly, any gift with a value greater than one hundred dollars (\$100) in the aggregate for the calendar year to a person who the vendor, lobbyist, or principal knows is an official or employee of that county or municipality. For the purposes of this subsection 2-444(a)(2), the term vendor also includes any person or entity that, because of the nature of their business, may respond to an invitation to bid, request for proposal or other procurement opportunity that has been published by the county or a municipality.

Due to a contentious Village election, including a recount, Margolis incurred legal bills and formed a legal defense fund to offset these expenditures. State law permits the formation of such an entity, however, donations are not considered campaign contributions and are not limited by campaign laws. Donations are considered gifts subject to state and county prohibitions, limitations and reporting requirements. Margolis reported a gift valued at \$4000, received on July 22, 2012, from Respondent for his legal defense fund. Respondent was a registered principal of several lobbyists at the time of the transfer of the gift. These facts, if true, would constitute a violation of the Palm Beach County Code of Ethics.

- **Conclusion**

The sworn testimony of material witnesses as well as documentary evidence obtained during Inquiry does allege sufficient facts that if true would constitute a violation of the Palm Beach County Code of Ethics. Therefore, there is **LEGAL SUFFICIENCY** to open a formal investigation into this matter.

BY:



Alan S. Johnson, Executive Director
Florida bar #223352
Commission on Ethics

12/11/2012
Date



PALM BEACH COUNTY COMMISSION ON ETHICS

2633 Vista Parkway, West Palm Beach, Florida 33411

Hotline: 877-766-5920 or 561-233-0724

COMPLAINT FORM

1. Complainant

Name: Alan S. Johnson E-Mail: Ethics@palmbeachcountyethics.com
Address: 2633 Vista Parkway
City: West Palm Beach Zip Code: 33411
Phone No #: 561-233-0724

2. Respondent

Name: Victoria McCullough E-Mail: _____
Address: 1365 Santa Barbara Drive
City: Wellington Zip Code: 33414
Home #: _____ Work #: _____ Cell #: 561-371-2203
Title/Office Held or Sought: Principal of a Lobbyist

3. IF KNOWN, CHECK THE BOX OR BOXES THAT APPLY

- Allegation is against person in County/Municipal Government
 Allegation is about County/Municipal Whistleblower Retaliation
 Allegation is against a Vendor, Lobbyist, or a Principal of a Lobbyist

4. STATEMENT OF FACTS ATTACHED

Exhibit 1 – Memorandum of Inquiry
Exhibit 2 – Memorandum of Legal Sufficiency
Exhibit 3 – Supporting Documentation

5. OATH

STATE OF FLORIDA
COUNTY OF PALM BEACH

Personally known to me and appeared before me, Alan S. Johnson, Executive Director of the Palm Beach County Commission on Ethics, whose signature appears below, being duly sworn, says that the allegations set forth in this complaint are based upon facts which have been sworn to as true by a material witness or witnesses and which if true would constitute the offenses alleged and that this complaint is instituted in good faith. Signed and sworn to on this

11th day of December, 2012

Alan S. Johnson, Executive Director

(Signature of Notary Public, State of Florida)



GINA LEVESQUE
MY COMMISSION # EE 207356
EXPIRES: July 17, 2016
Bonded Thru Budget Notary Services

(Print, Type, or Stamp Commissioned
Name of Notary Public)

PALM BEACH COUNTY COMMISSION ON ETHICS
MEMORANDUM OF INVESTIGATION

To: Alan Johnson, Executive Director
From: Mark E. Bannon, Investigator
Re: C12-016 – Victoria McCullough, (Gift law issue based on status as Principal of a lobbyist)

- **Background**

On October 19, 2012, the Commission on Ethics (COE) staff received copies of two (2) State of Florida Quarterly Gift Disclosures (Form 9) filed by Robert Margolis, Mayor of the Village of Wellington (the Village). Listed on these gift disclosure forms were four separate entries indicating that Margolis had received funds for his legal defense fund concerning a re-count for his March 2012 election as Mayor.

One of these entries was a \$4000 gift from Victoria McCullough (Respondent), a resident of The Village. This particular gift was made on July 22, 2012. A check of the county's Central Lobbyist Registration System (CLRS) showed that on June 24, 2012, Steven Gogola registered as a lobbyist with the Village, and listed Respondent as his Principal. On June 29, 2012, Respondent approved this transaction via the CLRS, and was at this point the registered Principal of a lobbyist in the Village. Respondent has three lobbyists who lobby the Village and listed her as their Principal, the other two having registered later in June and July 2012, but prior to the July 22, 2012 date Respondent donated \$4000 to Margolis' legal defense fund.

The initial Memorandum of Inquiry (AN 12-023 SI), was presented to the COE Executive Director, Alan S. Johnson, who determined there was legal sufficiency to conduct a preliminary investigation. On December 11, 2012, Director Johnson signed the Memorandum of Legal Sufficiency, and it was submitted to the file. On December 11, 2012, Director Johnson also signed a formal Complaint in this matter, which was also submitted to the file.

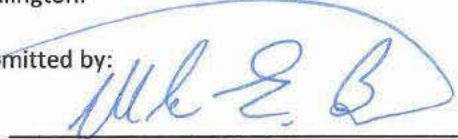
- **Investigation**

The Memorandum of Inquiry, and all documents and statements related to the initial inquiry, are adopted by reference into this Memorandum of Investigation. No further investigation is necessary.

- **Conclusion**

While the original gift of \$4000 was attempted in March 2012, prior to either Mayor Margolis taking office (April 2012), or Respondent becoming the principal of a lobbyist (June 2012), a \$4000 donation was made on July 22, 2012. At that time, the donation was prohibited because Mayor Margolis had been sworn into office, and the Respondent had become the principal of lobbyists who were registered in the CLRS as lobbying the Village of Wellington.

Submitted by:



Mark E. Bannon
PB County Commission on Ethics

12/13/2012
Date

Reviewed by:



(Initials)

12/13/2012
Date

PBC Gift Form

**YEARLY GIFT DISCLOSURE
(GIFTS OVER \$100)**

LAST NAME -- FIRST NAME -- MIDDLE NAME Margolis Robert Saul		NAME OF AGENCY Village of Wellington	
MAILING ADDRESS 657 Juniper Pl		DEPARTMENT	OFFICE OR POSITION HELD Mayor
CITY Wellington	ZIP 33414	FOR YEAR 2012	

PART A – STATEMENT OF GIFTS

Please list below each gift, the value of which you believe to exceed \$100, accepted by you during the calendar year (October 1-September 30) for which this statement is being filed. You are required to describe the gift and state the monetary value of the gift, the name and address of the person making the gift, and the date(s) the gift was received. If any of these facts, other than the gift description, are unknown or not applicable, you should so state on the form. As explained more fully in the instructions on page 2 of the form, you are not required to disclose gifts from relatives or certain other gifts. You are not required to file this statement for any calendar year during which you did not receive a reportable gift.

DATE RECEIVED	DESCRIPTION OF GIFT	MONETARY VALUE	NAME OF PERSON MAKING THE GIFT	ADDRESS OF PERSON MAKING THE GIFT
5/19/12	check towards legal defense fund election recount	\$ 2500	Neil Hirsch	13410 South Shore Blvd Wellington FL 33414
7/22/12	check towards legal defense fund election recount	\$ 4000	Victoria McCulbough	1365 Santa Barbara Dr Wellington FL 33414
7/27/12	check towards legal defense fund election recount	\$ 500	Wellington Land Development	3020 Fairlane Farm Rd Wellington, FL 33414
8/17/12	check towards legal defense fund election recount	\$ 500	Herb Hoffman	4645 G Southern Blvd W. Palm Bch, FL 33415

CHECK HERE IF CONTINUED ON SEPARATE SHEET

PART B – RECEIPT PROVIDED BY PERSON MAKING THE GIFT

If any receipt for a gift listed above was provided to you by the person making the gift, you are required to attach a copy of that receipt to this form. You may attach an explanation of any differences between the information disclosed on this form and the information on the receipt.

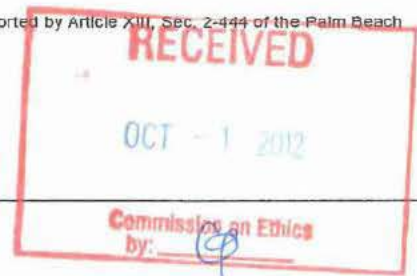
CHECK HERE IF A RECEIPT IS ATTACHED TO THIS FORM

PART C – OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed herein and on any attachments made by me constitutes a true accurate and total listing of all gifts required to be reported by Article XIII, Sec. 2-444 of the Palm Beach

County Code of Ethics.

Robert Margolis
SIGNATURE OF REPORTING OFFICIAL



PART D – FILING INSTRUCTIONS

This form, when duly signed, must be filed with the Commission on Ethics, 2633 Vista Parkway, West Palm Beach, Florida 33411. The form must be filed no later than the first day of November for the previous reporting year.



5750 Sunset Drive ▲ South Miami, FL 33143
7887 North Kendall Drive ▲ Miami, FL 33156
305.667.5511 ▲ www.fnbsm.com

*****AUTO**MIXED AADC 076
4948 0.4670 MB 0.404 19 40 3
BOB MARGOLIS LEGAL EXPENSE FUND TRUST
JOSHUA DAVID MARGOLIS TRUSTEE
657 JUNIPER PL
WELLINGTON FL 33414

Date 5/31/12 Page 1 of 1
Account Number [REDACTED]
Enclosures



REGULAR CHECKING		Number of Enclosures	0
Account Number	[REDACTED]	Statement Dates	5/17/12 thru 5/31/12
Previous Balance	.00	Days in the statement period	15
2 Deposits/Credits	2,600.00	Average Ledger	1,933
Checks/Debits	.00	Average Collected	566
Service Charge	.00		
Interest Paid	.00		
Ending Balance	2,600.00		

Activity in Date Order			
Date	Description	Amount	Balance
* 5/17	DEPOSIT	100.00	100.00
* 5/21	DEPOSIT	2,500.00	2,600.00

WITH MERCHANT CAPTURE YOU CAN MAKE CHECK DEPOSITS WITHOUT HAVING TO PHYSICALLY TRANSPORT THE DEPOSITS TO THE BANK. ENJOY MORE CONTROL OVER THE ITEMS PROCESSED. CONTACT US FOR MORE INFORMATION AT 305.667.5511.

Neil Hirsch



*****AUTO**MIXED AADC 076
 5074 0.4670 MB 0.404 19 40 4
 BOB MARGOLIS LEGAL EXPENSE FUND TRUST
 JOSHUA DAVID MARGOLIS TRUSTEE
 657 JUNIPER PL
 WELLINGTON FL 33414

Date 8/31/12 Page 1 of 1
 Account Number [REDACTED]
 Enclosures



REGULAR CHECKING		Number of Enclosures	0
Account Number	[REDACTED]	Statement Dates	8/01/12 thru 8/31/12
Previous Balance	2,600.00	Days in the statement period	31
2 Deposits/Credits	5,000.00	Average Ledger	5,551
Checks/Debits	.00	Average Collected	5,390
Service Charge	.00		
Interest Paid	.00		
Ending Balance	7,600.00		

Activity	Date	Description	Amount	Balance
* * *	8/13	DEPOSIT	4,500.00	7,100.00
* *	8/20	DEPOSIT	500.00	7,600.00

~~WITH MERCHANT CAPTURE YOU CAN MAKE CHECK DEPOSITS WITHOUT HAVING TO PHYSICALLY TRANSPORT THE DEPOSITS TO THE BANK. ENJOY MORE CONTROL OVER THE ITEMS PROCESSED. CONTACT US FOR MORE INFORMATION AT 305.667.5511.~~

* Victoria McCullough
 Wellington Land Development

** Herb Hoffman

RECEIVED
OCT - 1 2012
 Commission on Ethics
 by: _____

VICTORIA D. McCULLOUGH
1365 SANTA BARBARA DRIVE
WELLINGTON, FL 33414-7220



UBS Financial Services Inc. 2401

25-80/440

PAY TO THE
ORDER OF

July 22 2012
Bob Margolis Legal Defense Fund
Four Thousand \$ *4,000.00*
DOLLARS

DOLLARS



Security
Features
Detail on
Back

Resource Management Account®

800-762-1000

UMB Bank, N.A.
Kansas City, MO 64106

ABCDEFGHIJKL MN OPQRST UVWXYZ

Victoria D. McCullough

MEMO



RECEIVED
OCT - 1 2012
Commission on Ethics
by _____

Mark Bannon E.

From: Tammy Gray L.
Sent: Thursday, November 15, 2012 10:18 AM
To: Mark Bannon E.
Subject: FW: Lobbyist Registration, Your Final Approval is Required/Steven Gogola/Victoria McCullough

Here is the first email that went to Victoria McCullough on June 24th when (lobbyist) Steven Gogola registered her. She must have approved the transaction on June 29th, because that is the effective date in the system.

From: Lobbyist_Admin@pbcgov.org [mailto:Lobbyist_Admin@pbcgov.org]
Sent: Sunday, June 24, 2012 1:22 PM
To: myhaggadune@aol.com
Subject: Lobbyist Registration, Your Final Approval is Required

Transaction Notification to Principal

Please [click here](#) to approve or deny the transaction below.

You have been added as the authorized Principal contact for "Victoria Mccullough" by the following Lobbyist for the Government Entity(s) listed below.

Lobbyist Details:

Name: Steven Gogola
Address: 11392 Paradise Cove Lane, Wellington, FL 33414

Entity(s) Lobbied: Wellington.

Your approval is required in order for the Lobbyist above to represent you and/or your firm.

If not approved within (15) days, this transaction will be canceled.

Mark Bannon E.

From: Tammy Gray L.
Sent: Thursday, November 15, 2012 10:21 AM
To: Mark Bannon E.
Subject: FW: Lobbyist Registration, Your Final Approval is Required Jason Lazarus/Victoria McCullough

Here is the one for Jason Lazarus. It was approved on July 13th by Victoria McCullough.

From: Lobbyist_Admin@pbcgov.org [mailto:Lobbyist_Admin@pbcgov.org]
Sent: Thursday, July 12, 2012 2:41 PM
To: myhaggadune@aol.com
Subject: Lobbyist Registration, Your Final Approval is Required

Transaction Notification to Principal

Please [click here](#) to approve or deny the transaction below.

You have been added as the authorized Principal contact for "Victoria Mccullough" by the following Lobbyist for the Government Entity(s) listed below.

Lobbyist Details:

Name: Jason Lazarus
Address: 222 Lakeview Avenue, Ste 1000, West Palm Beach, FL 33401

Entity(s) Lobbied: Wellington.

Your approval is required in order for the Lobbyist above to represent you and/or your firm.

If not approved within (15) days, this transaction will be canceled.

Here is the email. I'll let you know what I find, if anything.

From: Lobbyist_Admin@pbcgov.org [mailto:Lobbyist_Admin@pbcgov.org]

Sent: Monday, June 25, 2012 11:01 AM

To: janna.lhota@hklaw.com

Subject: Lobbyist Registration, Your Final Approval is Required

Transaction Notification to Principal

Please [click here](#) to approve or deny the transaction below.

You have been added as the authorized Principal contact for "Victoria McCullough" by the following Lobbyist for the Government Entity(s) listed below.

Lobbyist Details:

Name: Janna Lhota

Address: 515 East Las Olas Boulevard, Ste 1200, Fort Lauderdale, FL 33301

Entity(s) Lobbied: Wellington.

Your approval is required in order for the Lobbyist above to represent you and/or your firm.

If not approved within (15) days, this transaction will be canceled.

Mark Bannon E.

From: Tammy Gray L.
Sent: Tuesday, November 20, 2012 12:19 PM
To: Mark Bannon E.
Subject: RE: Lobbyist Registration, Your Final Approval is Required Janna Lhota/Victoria McCullough

You too. ☺

From: Mark Bannon E.
Sent: Tuesday, November 20, 2012 12:08 PM
To: Tammy Gray L.
Subject: RE: Lobbyist Registration, Your Final Approval is Required Janna Lhota/Victoria McCullough

Thanks again Tammy. And, have a very Happy Thanksgiving!!!

Mark

Mark E. Bannon
Senior Investigator
Commission on Ethics
Ph 561-233-0729
Fx 561-233-0735

www.palmbeachcountyethics.com



"Honesty, Integrity, Character"

From: Tammy Gray L.
Sent: Tuesday, November 20, 2012 11:52 AM
To: Mark Bannon E.
Cc: Todd J. Bonlarron
Subject: RE: Lobbyist Registration, Your Final Approval is Required Janna Lhota/Victoria McCullough

Ok, so here is what we have. Lobbyist registered this principal on 6/25/12. The approval email went to the lobbyist, (assuming) this was due to the lobbyist entering the incorrect email address when registering this principal. The transaction was approved on July 2nd and we have no way of knowing who approved it. The lobbyist could have forwarded it to the principal for them to approve. Anyway ISS saw that I went into the system and corrected the email address for the principal on July 5th. The lobbyist must have called me. Hope this helps.

From: Mark Bannon E.
Sent: Friday, November 16, 2012 4:28 PM
To: Tammy Gray L.
Subject: Re: Lobbyist Registration, Your Final Approval is Required Janna Lhota/Victoria McCullough

Thanks...have a great weekend.

Sent from my iPhone

On Nov 16, 2012, at 12:14 PM, "Tammy Gray L." <tgray@pbcgov.org> wrote:

Ok, I have ISS looking into it and who actually approved the registration.

From: Mark Bannon E.

Sent: Thursday, November 15, 2012 1:01 PM

To: Tammy Gray L.

Subject: RE: Lobbyist Registration, Your Final Approval is Required Janna Lhota/Victoria McCullough

All I really need now is when McCullough approved this registration.

Mark E. Bannon

Senior Investigator

Commission on Ethics

Ph 561-233-0729

Fx 561-233-0735

www.palmbeachcountylethics.com

<image001.jpg>

"Honesty, Integrity, Character"

From: Tammy Gray L.

Sent: Thursday, November 15, 2012 10:44 AM

To: Mark Bannon E.

Subject: FW: Lobbyist Registration, Your Final Approval is Required Janna Lhota/Victoria McCullough

SUPPLEMENTAL MEMORANDUM OF INVESTIGATION

To: Megan C. Rogers, Interim Executive Director
From: Mark E. Bannon, Investigator
Re: C12-016 – Victoria McCullough, (Gift law issue based on status as Principal of a lobbyist)

- **Background**

On October 19, 2012, the Commission on Ethics (COE) staff received copies of two (2) State of Florida Quarterly Gift Disclosures (Form 9) filed by Robert Margolis, Mayor of the Village of Wellington (the Village). Listed on these gift disclosure forms were four separate entries indicating that Margolis had received funds for his legal defense fund concerning a re-count for his March 2012 election as Mayor.

One of these entries was a \$4000 gift from Victoria McCullough (Respondent), a resident of The Village. This particular gift was made on July 22, 2012. A check of the county's Central Lobbyist Registration System (CLRS) showed that on June 24, 2012, Steven Gogola registered as a lobbyist with the Village, and listed Respondent as his Principal. On June 29, 2012, Respondent approved this transaction via the CLRS, and was at this point the registered Principal of a lobbyist in the Village. Respondent has three lobbyists who lobby the Village and listed her as their Principal, the other two having registered later in June and July 2012, but prior to the July 22, 2012 date Respondent donated \$4000 to Margolis' legal defense fund.

The initial Memorandum of Inquiry (AN 12-023 SI), was presented to the COE Executive Director, Alan S. Johnson, who determined there was legal sufficiency to conduct a preliminary investigation. On December 11, 2012, Director Johnson signed the Memorandum of Legal Sufficiency, and it was submitted to the file. On December 11, 2012, Director Johnson also signed a formal Complaint in this matter, which was also submitted to the file.

The Memorandum of Inquiry, and all documents and statements related to the initial inquiry, are adopted by reference into this investigative file.

- **Supplemental Investigation**

On Thursday, January 10, 2013, this matter was presented to the Commission on Ethics in executive session. The COE determined that this matter would require additional action by COE staff, and additional documentation to be provided by Respondent and Robert Margolis before they would make a probable cause determination. Specifically, the COE advised that the following information be obtained for their review before the matter was brought back before them for determination of probable cause:

- Copies of bank records from Bob Margolis' election recount legal defense fund, indicating what funds were deposited into this account, who made these donations, and when these deposits were received by the bank.
- Copies from bank records of Respondent indicating any request made from her to stop payment of the "lost" check, as well as a copy of the check register or bank information of sequential checks written by Respondent, that would indicate a missing check in this sequence.
- Copies of similar checks from Respondent, written to Councilman John Greene and to the Palm Beach County Democratic Party on behalf of Councilman Matt Wilhite, for use in their election re-count defense, the dates of these checks, and the amount of these checks.

A sworn statement from Respondent addressing the assertion that the initial check to Margolis was written at or near the time of the check for Greene (March 28, 2012), that this check was never cashed and was reported as missing to Respondent by the Margolis campaign, and that she wrote a second check dated July 22, 2012 as a replacement to a donation she had attempted to make at an earlier date.

On Tuesday, January 15, 2013, I contacted Respondent's attorney Roma Theus by telephone to begin the process of obtaining the documents requested by the COE at the January 10th executive session and to schedule a time to conduct a sworn interview with Respondent. I was advised at that time that he and Respondent were in the process of obtaining the requested documentation of banking records from her bank in Maryland. Theus further advised that he would arrange a time for me to take a sworn statement from Respondent once the documents had been obtained.

On Wednesday, January 23, 2013, I again contacted Theus in regards to this matter. At that time he advised that the banking documents would be arriving at approximately 7:45 PM on Friday, January 25, 2013. Once received, he would make arrangements for me to speak with Respondent.

On Monday, January 28, 2013, I again made contact with Theus to check on the documents and arrange an interview with Respondent. Theus advised that Respondent would not be available until Friday, February 1, 2013 for an interview, and at that time he would also provide the bank documents. I mentioned that the new executive session date was on February 7, 2013, and that I needed to complete my investigation as soon as possible. Theus advised that Respondent was tied up with a tax issue all day Wednesday, January 30th, that might run into January 31st, but that she would make herself available the morning of Friday, February 1, 2013. He also advised that they had ordered an entire year of bank documents, and he needed to spend some time reviewing them.

During this same discussion on January 28, 2013, and per discussions with COE Interim Executive Director Megan Rogers, I asked Theus if his client might be amenable to waiving the confidentiality of the upcoming executive session (scheduled for February 7, 2013), as it related to Bob Margolis and his counsel, Mark Heller. Both Director Rogers and I felt that because these matters were so intertwined, and the Commissioners may need information from one Respondent as it related to the other Respondent, it would allow the COE to have a more complete view of the events that took place. Bob Margolis is the Respondent in case #C12-015, and the same facts and circumstances govern both cases. Theus advised he would speak with his client and advise, although he agreed in principal with the cases being combined in executive session. I requested that if they he agreed to this combined session, that he send an authorization to COE staff by facsimile.

On Tuesday, March 29, 2013, I was contacted by Theus and advised that his client agreed to allow a limited waiver of confidentiality to Bob Margolis and Mark Heron so that the matters could be discussed together in executive session. We also agreed that the sworn interview of Respondent would be conducted at 10:00 AM, Friday February 1, 2013 at the COE office, and the requested bank documents would be provided at that meeting. On this same date, Theus sent an email to me with a document attached waiving the confidentiality of Respondent for the executive session scheduled for February 7, 2013, regarding Bob Margolis and his legal counsel Mark Herron.

- **Interview: Respondent, Victoria McCullough**

On Friday, February 1, 2013, I interviewed Respondent at the COE office. Also present during this interview was Roma Theus, Esq., counsel to Respondent. This interview was audio recorded. At the beginning of this interview, Respondent was placed under oath.

It should be noted that prior to the formal interview, Respondent presented me with banking records for January-December, 2012, from her personal checking account at UBS Bank, and we spent some time reviewing this material. This information was more carefully reviewed by me during the weekend of February 2-3, 2013, and will be discussed in detail later in this supplemental report. For this interview, I presented Respondent and counsel with copies of two (2) documents to review. The first was a copy of check #2401 from her personal account dated July 22, 2012, made payable in the amount of \$4,000 to "Bob Margolis Legal Defense Fund." The second was a six

(6) page document I had created listing what I believed to be the relevant sections of the PBC Code of Ethics for the interview, including portions of §2-442, *Definitions* (specifically defining the terms Lobbyist and Official), and select portions of §2-444(a)(1 & 2), and §2-444(e & g), of the *Gift Law* (specifically dealing with gifts to officials or employees from Lobbyists, principals of lobbyists, or employers of lobbyists, as well as prohibitions against gifts made to influence a public official for any legal action or duty to be performed).

The formal recorded interview began at 10:46 AM, and was concluded at 11:03 AM.

Respondent acknowledged receiving the documents provided by me prior to the interview, and stated under oath that the banking records she provided were to the best of her knowledge accurate and complete as a record of all personal transactions she had made from this account in 2012. She also acknowledged receipt of the copy of the check written for the Bob Margolis Legal Defense Fund on July 22, 2012 in the amount of \$4,000. Respondent was asked to identify this check, and did so. She also agreed at this time that she had written this check and personally given it to Bob Margolis' wife Linda Margolis as a replacement for a lost check she had written some time earlier, but that had been reported by Margolis' Campaign Manager, Beth Rawlings, as never being received by the campaign for the Legal Defense Fund. She stated she had written the original check in March and sent it to Margolis' son and the Trustee of the Legal defense Fund, Josh Margolis, who apparently never received the check.

Respondent and I then discussed a previous, non-recorded conversation we had about the date she had written the initial check for this Legal Defense Fund. She stated that the check for Bob Margolis was written on the same date, and at substantially the same time as another check she had written to Wellington Town Council Candidate, John Greene (check #2131, also for \$4,000 which was written on or about March 22, 2012 according to documents provided by John Greene for a related inquiry, and that cleared Respondent's bank on March 28, 2012, according to the banking records she provided). She stated that not only were both checks written at the same time, but that both were also mailed at the same time. In reviewing this information and the banking documents supplied by Respondent (specifically the account disbursements for March, 2012), I noted that in the sequence of checks surrounding check #2131, written to John Greene, there was also no record in the March accounting for three (3) checks, #2128, #2129, and #2130). Respondent stated that it was likely one of these checks that was the lost check. She also showed me her check book, which does not have a carbon copy page beneath each check, nor has a "check register tab" attached to the check as is often found in personal checkbooks.

Respondent stated that she had written checks in equal amounts to help with each of the three (3) Wellington candidates (Bob Margolis, John Greene and Matt Wilhite) facing an election challenge. The checks to Greene and Margolis were written at essentially the same time, while the check for Wilhite was written later, and was actually to the PBC Democratic Party, as requested by Wilhite. We also discussed the fact that several checks in this statement also appear to be unaccounted for (checks 2133-2150), however these checks were found to have been reported on the April statement as provided by respondent.

We then discussed the several checks written on this account for cash, and we discussed these checks (generally for a few hundred dollars), Respondent stated that she runs a horse rescue operation, and she pays her support staff with checks made out to cash per their request. It should be noted that this pattern appears throughout her banking records, and the amounts of these checks are always less than \$1,000.

I then asked Respondent if she had made any other donations of any amount of money to any of these candidates, either by check or in cash, that is not reflected in the banking records she provided. She stated that she had made a contribution of \$500 to the campaign fund of each candidate, which is the maximum allowed by law, and which she made to each campaign in late 2011. However, she made no other donations of any amount to any of the candidates outside of the \$500 contribution to their election, and the \$4,000 donations to help with their legal defense of the election.

We then discussed the three (3) people who are registered as lobbyists with Wellington, and who list her as the Principal, Janna Lhota, Jason Lazarus, and Steve Gogola (in reviewing this information I found that a fourth person, Alan Krischer, is also registered in this fashion, but this information did not change the analysis that Respondent is

the Principal of at least one (1) lobbyist that lobbies Wellington). Respondent stated that both Lhota and Lazarus are lawyers from the law firm of Holland and Knight, hired to work on her litigation against Wellington, and that they registered in a abundance of caution, but are not "lobbyists" for code purposes. However, she did agree that Steve Gogola does meet this definition, and that he was her lobbyist in July, 2012, when she wrote the replacement check the Bob Margolis Defense Fund.

Respondent was then asked if she was aware of the prohibition in the code of Principals giving donations or gifts to officials or employees, and she agreed that she was not aware of that code provision. She also agreed that she had never received any training on this issue. Finally, Respondent stated that she never gave any of the donations to any candidate for the purpose of influencing any decision or vote on any issue before the Wellington Council. She does agree that she supports candidates that she feel hold her views concerning wellington, and the issues as to growth, but has never asked nor gotten any specific actions for her donations.

End of interview.

I spent several hours reviewing the banking records provided by Respondent making the following observations:

1. Respondent's bank statement for March, 2012, initially listed a sequence of three checks (#2128, #2129, and #2130) unaccounted for. There were other checks also not accounted for in the March statement. However, I was able to find each of the missing checks from this statement listed on the April statement with the exception of check #2128. In reviewing the entire year of statements, check #2128 is not listed as ever having been cashed or deposited.
2. The March 2012 statement also listed the \$4,000 check made out to John Greene's Legal Defense Fund (check #2131), written in late March, showing these funds were withdrawn from her account on March 29, 2012.
3. The June 2012 bank statement listed a check for \$4,000 made out to the PBC Democratic Party (check #2234), showing these funds were withdrawn on June 5, 2012. This check was to assist in the election defense of Councilman Matt Wilhite.
4. The August 2012 bank statement lists the \$4,000 check to Bob Margolis Legal Defense (check #2401) which was written on July 22, 2012. These funds were withdrawn on August 14, 2012, according to this statement.
5. In reviewing all of the bank statements for 2012, there are only two (2) additional times in which checks were written for exactly \$4,000. Neither of these checks were for cash, nor made out to any of the three (3) Wellington candidates who had opened a legal defense fund. Check #2483 was found on the September statement, and dated September 5, 2012. Check #2608 was found on the November statement and dated November 5, 2012.

After reviewing the 2012 bank statements, the only check that remains unaccounted for that was written at or near the time of the check to John Greene, is check #2128. This is likely the original check written to Bob Margolis Legal Defense Fund by Respondent. However, this check was never deposited or cashed so there is no way to verify this information.

Submitted by: 
Mark E. Bannon
PB County Commission on Ethics

2/4/2013
Date

Reviewed by: mck
(Initials)

2/4/2013
Date

PALM BEACH COUNTY COMMISSION ON ETHICS
MEMORANDUM OF PROBABLE CAUSE

To: Commission on Ethics
From: Megan Rogers, Staff Counsel/Advocate
Re: C12-016 – Victoria McCullough, (Principal of a lobbyist)

- **Recommendation**

A finding of **PROBABLE CAUSE** should be entered in the above captioned matter as to the allegations made in the **COMPLAINT**.

Probable Cause exists where there are reasonably trustworthy facts and circumstances for the Commission on Ethics (COE) to conclude that the Respondent, Victoria McCullough, violated the Palm Beach County Code of Ethics.

- **Jurisdiction**

COE has jurisdiction pursuant to Chapter 2, Article V, Division 8, section 2-258(a) of the Palm Beach County Commission on Ethics Ordinance which states in pertinent part:

Article V, Division 8, section 2-258. *Powers and duties.* (a) The commission on ethics shall be authorized to exercise such powers and shall be required to perform such duties as are hereinafter provided. The commission on ethics shall be empowered to review, interpret, render advisory opinions and enforce the;

- (1) Countywide Code of Ethics;
- (2) County Post-Employment Ordinance, and
- (3) County Lobbyist Registration Ordinance.

The violation for which probable cause is recommended is as follows:

Article XIII, §2-444(a)(2), *Gift law*, of the Palm Beach County Code of Ethics prohibits a lobbyist or principal or employer of a lobbyist of a municipality from giving, directly or indirectly, any gift with a value greater than one hundred dollars (\$100.00), in the aggregate for the calendar year, to a person who the lobbyist or principal or employer of the lobbyist knows, or should know with the exercise of reasonable care, is an official or employee of that municipality.

- **Background**

On October 19, 2012, the Commission on Ethics (COE) staff received copies of two (2) State of Florida Quarterly Gift Disclosures (Form 9) filed by Robert Margolis, Mayor of the Village of Wellington. Listed on these gift disclosure forms was an entry indicating that Margolis had received \$4000 from Respondent for his legal defense fund concerning a re-count pertaining to his election as Village Mayor. The amount of this gift exceeds \$100.

- **Facts establishing probable cause**

Margolis is the elected Mayor of Wellington. Pursuant to §2-444(f)(1) a copy of gift disclosure forms required for officials identified by state law as reporting individuals must be submitted to the Palm Beach County Commission on Ethics (COE). Upon receipt of gift disclosure forms from Mayor Margolis, COE staff performed a routine check of the county vendor and lobbyist databases to make sure that none of the gifts were given by a vendor, lobbyist, principal or employer of a lobbyist who lobbies Wellington. This was done because the amount of each gift listed on the forms was in excess of \$100.

Review of the Central Lobbyist Registration System (CLRS) revealed that Respondent was the registered principal of three lobbyists who lobby the Village. According to CLRS records, Steven Gogola, 11392 Paradise Cove Lane, Wellington, FL registered as a lobbyist listing Respondent as the principal on June 24, 2012. Respondent approved this registration on June 29, 2012. Janna Lhota, 515 East Las Olas Blvd., Suite 1200, Ft. Lauderdale, FL registered as a lobbyist listing Respondent as the principal on June 25, 2012. This registration was approved by Respondent on July 2, 2012. Jason Lazarus of 222 Lakeview Drive, Suite 1000, West Palm Beach, FL registered as a lobbyist for Respondent on July 12, 2012, and was approved by Respondent on July 13, 2012. According to the disclosure form submitted by Margolis, he received \$4000 from Respondent on July 22, 2012. Each of these registrations took place prior to July 22, 2012.

COE staff opened an inquiry pursuant to Article V, Division 8, §2-260(a)(b)(2) and COE Rules of Procedure 4.1.1 – 4.1.3.

Both the Mayor and his wife were interviewed by COE staff. The gift disclosure forms were filled out by Mrs. Margolis. After a contentious election involving a recount, Mayor Margolis established a legal defense fund to pay legal bills directly related to the recount. Such a fund is not regulated by state law, however, donations are considered gifts to the elected official. Mayor Margolis was aware of this and timely filed state gift forms.

Respondent originally donated \$4000 to the fund in late March, 2012. At that time, Respondent was not the principal of a lobbyist conducting lobbying activities in the Village. In addition, Margolis was not yet sworn in as Mayor and therefore was not an official. However, according to the uncontroverted testimony of material witnesses, the original check for \$4000 was never received by Margolis or his representatives. Therefore, in July, 2012, a representative of Margolis solicited Respondent to again make the donation to the fund. The state required gift form lists the receipt of this gift as July 22, 2012. At that time, Margolis was an official and Respondent was the principal of Village lobbyists. Notwithstanding any mitigating factors, the July 22, 2012 gift would be prohibited under the Palm Beach County Code of Ethics.

Sec. 2-444(a). Gift law, states as follows:

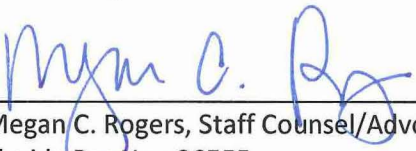
- (2) No lobbyist, vendor or principal or employer of a lobbyist that lobbies the county or a municipality shall knowingly give, directly or indirectly, any gift with a value greater than one hundred dollars (\$100) in the aggregate for the calendar year to a person who the vendor, lobbyist, or principal knows is an official or employee of that county or municipality. For the purposes of this subsection 2-444(a)(2), the term vendor also includes any person or entity that, because of the nature of their business, may respond to an invitation to bid, request for

proposal or other procurement opportunity that has been published by the county or a municipality.

In Respondent's statement, as well as statements of other material witnesses, the gift was initially solicited and intended to be given in March, 2012, however, the original check was lost and never deposited in the legal defense fund account. Notwithstanding, the gift was actually tendered to Mrs. Margolis on July 22, 2012, and at that time, Respondent knew, or should have known that she was the principal of a lobbyist and that such a gift was prohibited under the Code. Respondent stated that she was under the mistaken belief that the gift law prohibitions applied only to lobbyists and not principals of lobbyists. The Code does not require Code of Ethics training for vendors, lobbyists and or principals of a lobbyist as it does for public employees and officials.

- **Conclusion**

Although mitigating factors exist surrounding the facts and circumstances of the alleged prohibited gift to Mayor Margolis, the fact remains that at the time Respondent tendered a \$4000 contribution to the Mayor's legal defense fund, Respondent was a registered principal of several lobbyists who lobby the Village. Based on the initial inquiry and the formal investigation into this matter, there is **PROBABLE CAUSE** to believe that Respondent violated §2-444(a)(2) of the Palm Beach County Code of Ethics. Therefore, a finding of **PROBABLE CAUSE** should be entered in the **COMPLAINT**.

By: 
Megan C. Rogers, Staff Counsel/Advocate
Florida Bar No.: 86555

Date: 12/17/2012



Friendly account name: Victoria's RMA
 Account number: [REDACTED]

Account activity this month (continued)

Check number	Date	Description	Amount (\$)
Checks (continued)			
002126	Mar 19	CASH	-700.00
002127	Mar 22	TOD'S AIR CONDITIONING INC	-416.00
002131	Mar 29	JOHN GREENE LEGAL	-4,000.00
002132	Mar 30	JEFF HUNT	-505.00
002151	Mar 26	CASH	-750.00
002153	Mar 26	CASH	-650.00
002154	Mar 27	LAURENCEO CANO	-650.00
002158	Mar 26	CASH	-450.00
002159	Mar 26	CASH	-450.00
002160	Mar 26	CASH	-450.00
Total checks			-\$88,162.43

Missing checks
 2128, 2129, 2130
 APR. 2012
 K. believes it was
 check # 2130 or
 (# 2128)



2131-2150 APR
 2151-2157 APR

Date	Activity	Description	Amount (\$)
Bill payments			
Mar 1	Withdrawal	ACH WITHDRAWAL HUMANA INSURANCE	-862.89
Total bill payments			-\$862.89

Card Items for your Attention:

Shop with confidence-whether you use your UBS credit card online or offline, you'll never be held responsible for any fraudulent charges. Even better, use your UBS credit card for purchases and you can extend the manufacturer's warranty for up to one year. Enjoy extraordinary protections that just make your life easier.

Transaction date	Posting date	Description	Amount (\$)
Cash/ATM transactions			
[REDACTED]			
VICTORIA D MCCULLOUGH			
Feb 28	Feb 29	CASHCONNECT	-\$202.50
		ATM FEE REBATE	\$2.50
Mar 06	Mar 07	CASHCONNECT	-\$402.00

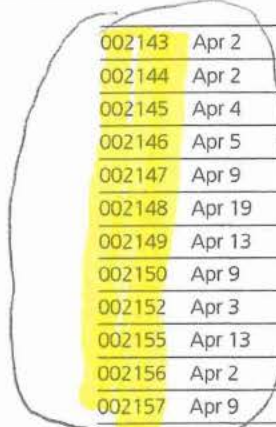
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Account activity this month (continued)

Check number	Date	Description	Amount (\$)
Checks (continued)			
002143	Apr 2	CASH	-600.00
002144	Apr 2	STEVE GAGOLA	-7,350.00
002145	Apr 4	WILD FOR LIFE FDN	-4,000.00
002146	Apr 5	EQUINE ADVOCATES INC	-5,000.00
002147	Apr 9	PALM BEACH SHERIFFS FDN	-2,500.00
002148	Apr 19	MARIA CANO	-400.00
002149	Apr 13	EFEREN CANO	-1,500.00
002150	Apr 9	CASH	-750.00
002152	Apr 3	CASH	-650.00
002155	Apr 13	EFREN CARNO	-1,500.00
002156	Apr 2	MARIA CANO	-400.00
002157	Apr 9	CASH AS OF 04/06/12	-750.00
002161	Apr 9	CASH	-650.00
002162	Apr 10	CASH	-650.00
002163	Apr 19	CASH	-750.00
002164	Apr 30	LAURENCE CANO	-650.00
002165	Apr 10	CASH	-1,000.00
002166	Apr 17	US BANK	-367.49
002169	Apr 17	DIPTERA	-910.00
002170	Apr 16	COMCAST	-306.94
002171	Apr 18	ROMNEY FOR PRESIDENT	-2,500.00
002173	Apr 18	WELLINGTON UTILITIES	-84.51
002175	Apr 20	SOUTHFIELD OF PALM BEACH PO	-554.12
002252	Apr 19	PALM BEACH YACHT CLUB	-70.40
002253	Apr 18	DR ROBERT BOSWELL	-189.00
002254	Apr 17	DR NAOMI KATZOWITZ	-293.00
002256	Apr 17	FPL	-1,948.94
002258	Apr 19	MARIA CANE	-400.00
002259	Apr 20	CASH	-650.00
002260	Apr 16	CASH	-650.00
002261	Apr 16	CASH	-750.00

MISSING CHECKS FROM
MAY



MAY
2226 - 2232
MAY 2240

2167, 2169
2172
2174
2176 - 2251
FINE
2255
2257

continued next page



Account activity this month (continued)

Check number	Date	Description	Amount (\$)
Checks (continued)			
002203	Jun 27	MOULOS DELIVERY	-75.00
002234	Jun 5	THE DEMOCRATIC PARTY OF PAL	-4,000.00
002240	Jun 4	CASH	-700.00
002241	Jun 4	CASH	-700.00
002242	Jun 4	CASH	-700.00
002248	Jun 1	EFREN CANO	-1,500.00
002251	Jun 14	CHRIS VAN HOLLEN FOR CONGRE	-2,500.00
002307	Jun 1	EFREN CANOY	-1,500.00
002308	Jun 7	CASH	-750.00
002310	Jun 1	REID & ASSN	-260.00
002311	Jun 8	ROY LOWE	-250.00
002315	Jun 12	LAURENCEO CANO	-500.00
002316	Jun 19	JURADO PEST CONTROL	-636.00
002318	Jun 5	TOWN & COUNTRY	-25.00
002319	Jun 28	DEPLERA INTL	-743.00
002320	Jun 6	WILLINGTON UTILITIES	-214.38
002322	Jun 6	THE PALM BEACH POST	-148.82
002323	Jun 6	CHARTER	-15.00
002324	Jun 5	COMCAST	-2.56
002328	Jun 7	FPL	-4,605.38
002330	Jun 13	JS ALLESON	-800.00
002331	Jun 18	MARIA CANO	-400.00
002332	Jun 6	EFREN CANE	-1,800.00
002333	Jun 13	CASH	-750.00
002334	Jun 12	LAURENCIO CANO	-700.00
002335	Jun 5	CASH	-500.00
002336	Jun 12	Payee Unrecorded	-505.00
002337	Jun 18	MARIA CANO	-400.00
002338	Jun 11	CASH	-750.00
002339	Jun 11	CASH	-650.00
002340	Jun 19	CASH	-750.00

MATT WILKINSON



continued next page



Account activity this month (continued)

Date	Activity	Description	Amount (\$)
Deposits and other funds credited (continued)			
Aug 28	Transfer	JOURNAL FROM TN 07499 VICTORIA D MCCULLOUGH	24,500.00
Aug 29	Transfer	JOURNAL FROM TN 07499 VICTORIA D MCCULLOUGH	5,400.00
Aug 30	Transfer	JOURNAL FROM TN 07499 VICTORIA D MCCULLOUGH	1,700.00
Total deposits and other funds credited			\$115,200.00

Date	Activity	Description	Amount (\$)
Dividend and interest income			
<i>Taxable interest</i>			
Aug 7	Interest	UBS BANK USA DEPOSIT ACCOUNT AS OF 08/06/12	2.45
Total taxable interest			\$2.45
Total dividend and interest income			\$2.45

Check number	Date	Description	Amount (\$)
Checks			
	Aug 3	ACH WITHDRAWAL CK#2404VZ WIRELE	-112.35
	Aug 6	ACH WITHDRAWAL CK#2408AT&T SERV	-135.29
	Aug 6	ACH WITHDRAWAL CK#2403DISCOVER	-293.24
	Aug 21	ACH WITHDRAWAL CK#2462DirecTV	-168.84
	Aug 22	ACH WITHDRAWAL CK#2463US BANK	-2,617.78
	Aug 23	ACH WITHDRAWAL CK#2464AT&T SERV	-68.78
	Aug 23	ACH WITHDRAWAL CK#2446AT&T SERV	-130.77
002217	Aug 1	CASH	-850.00
002224	Aug 6	MARIA CANO	-200.00
002401	Aug 14	BOB MARGOLIS LEGAL DEFENSE	-4,000.00
002405	Aug 2	MELLON SECURITY	-368.88
002406	Aug 6	WELLINGTON UTIL	-60.51
002407	Aug 7	NAOMI KATZOWITZ	-379.00
002409	Aug 10	JAMES GILCHRIST	-350.00
002410	Aug 6	CASH	-850.00
002412	Aug 1	CASH	-850.00
002417	Aug 6	FPL	-2,522.56
002418	Aug 6	CLEAR IMAGE POOLS	-1,020.00
002419	Aug 13	NATIONAL PRESS CLUB	-426.00
002420	Aug 6	COMCAST	-298.37

continued next page



Resource Management Account
November 2012

Account name: VICTORIA D MCCULLOUGH
Friendly account name: Victoria's RMA
Account number: [REDACTED]

Your Financial Advisor:
ERIC A. PETERSON
203-622-8666/800-628-8174

Account activity this month (continued)

Check number	Date	Description	Amount (\$)
Checks (continued)			
002593	Nov 16	DR NAOMI KATZOWITZ	-99.00
002596	Nov 8	MARTIN CUNNINGHAM	-3,465.00
002603	Nov 19	AFREN CANO	-1,700.00
002608	Nov 5	JS ELLIOTT	-4,000.00
002609	Nov 5	KOFSKIES ESTATE	-1,007.00
002610	Nov 9	EQUESTRIAN AID FDN	-5,000.00
002617	Nov 1	TAX COLL PALM BEACH CO	-170.20
002628	Nov 5	MARIA CANO	-400.00
002637	Nov 5	EDREN CANO	-1,500.00
002641	Nov 13	MARIA CANO	-400.00
002642	Nov 5	CASH	-850.00
002643	Nov 5	CASH	-650.00
002644	Nov 5	CASH	-650.00
002646	Nov 5	CASH	-750.00
002647	Nov 13	CASH	-900.00
002648	Nov 8	EFREN CANOY	-1,500.00
002649	Nov 14	IDLEWILD FURNISHING	-10,804.85
002650	Nov 15	MARIA CANO	-400.00
002651	Nov 19	CASH	-750.00
002652	Nov 19	CASH	-650.00
002653	Nov 19	CASH	-650.00
002654	Nov 26	CASH	-850.00
002655	Nov 28	CASH	-850.00
002657	Nov 23	CASH	-475.00
002658	Nov 20	ST DAVIDS IN THE PINES	-1,500.00
002659	Nov 23	SURF AND TURF	-482.00
002660	Nov 26	CASH	-750.00
002661	Nov 26	CASH	-650.00
002662	Nov 26	CASH	-650.00
002663	Nov 26	CASH	-850.00
002664	Nov 29	MARLENE CUNNINGHAM	-6,090.00

continued next page



Account activity this month (continued)

Date	Activity	Description	Amount (\$)
Deposits and other funds credited (continued)			
Sep 25	Transfer	JOURNAL FROM TN 07499VICTORIA D MCCULLOUGH	10,300.00
Total deposits and other funds credited			\$88,450.00

Date	Activity	Description	Amount (\$)
Dividend and interest income			
<i>Taxable interest</i>			
Sep 10	Interest	UBS BANK USA DEPOSIT ACCOUNT AS OF 09/07/12	2.96
Total taxable interest			\$2.96
Total dividend and interest income			\$2.96

Check number	Date	Description	Amount (\$)
Checks			
	Sep 5	ACH WITHDRAWAL CK#2470Verizon W	-130.13
	Sep 21	ACH WITHDRAWAL CK#2521DirecTV	-168.84
	Sep 24	ACH WITHDRAWAL CK#2526Verizon W	-132.54
	Sep 24	ACH WITHDRAWAL CK#2520DISCOVER	-3,417.30
002459	Sep 4	COMCAST	-156.90
002460	Sep 4	CLEAR IMAGE POOL	-125.00
002461	Sep 4	NATL RESOURCES DEFENSE COUN	-500.00
002471	Sep 4	BOSE	-774.90
002474	Sep 5	ST DAVIDS IN THE PINES	-2,500.00
002476	Sep 10	EFREN CAMO	-1,500.00
002481	Sep 5	LAURENCEO CANO	-650.00
002482	Sep 5	CASH	-850.00
002483	Sep 5	MARTIN CUNNINGHAM	-4,000.00
002484	Sep 4	CASH	-750.00
002485	Sep 4	CASH	-650.00
002486	Sep 4	CASH	-650.00
002487	Sep 5	LAWRENCE CONO	-650.00
002488	Sep 4	CASH	-850.00
002489	Sep 13	CASH	-850.00
002490	Sep 10	EFREN CANO	-1,700.00
002491	Sep 5	CASH	-800.00
002492	Sep 5	ST DAVIDS IN THE PINES	-1,000.00



continued next page

THE LAW OFFICE ROMA W. THEUS, II, P.A.

1365 Santa Barbara Drive
Wellington, Florida 33414
Telephone Number 561.793.8169
Facsimile Number 561.791.3669
Mobile Number 954.415.9517

VIA E-MAIL AND FIRST CLASS MAIL

May 13, 2013

Stephen P. Cullen, Esq.
Executive Director
Palm Beach County Commission
On Ethics
2633 Vista Parkway
West Palm Beach, FL 33411

Re: Completeness of Audio Recordings Of Hearings
Held on January 10, 2013 and February 7, 2013,
Regarding Case No. 12-016

Case: In Re Victoria McCullough, Case No. 12-016

Dear Mr. Cullen:

Please be advised that I represent Ms. Victoria McCullough, the Respondent in Case No. 12-016, which was *fully* resolved and is now *closed*. In response to my request, the Palm Beach County Commission on Ethics (the "COE") furnished me with copies of the audio recordings for the hearings the COE conducted on January 10, 2013 and February 7, 2013, in Case No. 12-016.

When I listened to the audio recording of Ms. McCullough's hearing on January 10, 2013, before the COE in Case No. 12-016, I did *not* hear remarks that were made by one of the Commissioners, Daniel Galo, Esq., that he was "sick and tired" of the Commission having to deal with matters arising out of "millionaires and billionaires fighting with each other" in Wellington. Similarly, when I listened to the audio recording of Ms. McCullough's hearing before the COE on February 7, 2013, in Case No. 12-016, I did *not* hear a remark made by Commissioner Patricia Archer or Commissioner Robin Fiore that if a contribution to a legal defense fund Ms. McCullough made was returned to her (Ms. McCullough), that "McCullough could go shopping."

Stephen P. Cullen, Esq.
Executive Director
Palm Beach County Commission
on Ethics
May 13, 2013
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In light of the foregoing, please do the following immediately:

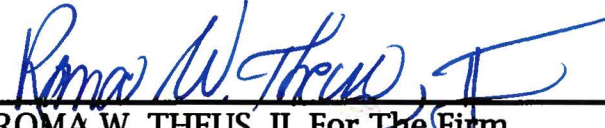
- (A) Furnish me with a fresh set of true, complete and accurate copies of the audio recordings of the COE's hearings regarding Case No. 12-016 that were conducted on January 10, 2013 and February 7, 2013.
- (B) Preserve the originals of the audio recordings of the COE's hearings regarding Case No. 12-016 that were conducted on January 10, 2013 and February 7, 2013.
- (C) Inform me of when a forensic expert may have the opportunity to listen to the original audio recordings of the COE's hearings regarding Case No. 12-016 that were conducted on January 10, 2013 and February 7, 2013.

Thank you for your attention to this matter.

Very truly yours,

THE LAW OFFICE OF ROMA W. THEUS, II, P.A.

By:


ROMA W. THEUS, II, For The Firm

THE LAW OFFICE ROMA W. THEUS, II, P.A.

1365 Santa Barbara Drive
Wellington, Florida 33414
Telephone Number 561.793.8169
Facsimile Number 561.791.3669
Mobile Number 954.415.9517

VIA E-MAIL AND FIRST CLASS MAIL

June 5, 2013

Stephen P. Cullen, Esq.
Executive Director
Palm Beach County Commission
On Ethics
2633 Vista Parkway
West Palm Beach, Florida 33411

**Re: *Appearance Before The Palm Beach County
Commission On Ethics Regarding Issues
About Tape Recordings***

Case: In Re Victoria McCullough, Case No. C12-016

Dear Mr. Cullen:

This letter is a follow-up to your e-mail to me of last Friday (May 31, 2013), which was transmitted to me at 4:13 PM that day; our e-mail to correspondence on May 13, 2013; and my telephone conversation with you yesterday afternoon (Tuesday, June 4, 2013).

Imprimis, please be advised that I have received two sets of audio recordings of the proceedings before the Palm Beach County Commission on Ethics (the "COE") on January 10, 2013 and February 7, 2013 concerning Case No. C12-016 as to Ms. Victoria McCullough ("Case No. C12-016"). Thank you and Ms. Levesque for providing the same.

Second, on the audio recording applicable to the consolidated hearing on February 7, 2013 regarding Case Number C12-015 and Ms. McCullough's case (Case No. 12-016), I was able to hear the comment of either Commissioner Archer or Fiore that "McCullough could just go shopping" if the contribution of Mayor Margolis' legal defense fund were returned to her after listening to the recording several times.

Stephen P. Cullen, Esq.
Executive Director
Palm Beach County Commission
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June 5, 2013
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Third, after listening several times to the recording of the hearing on January 10, 2013 regarding Case No. C12-016, I am still unable to hear the comments of Commissioner Galo identified to you in my letter of May 13, 2013.¹

Fourth, I have received less than a week's notice of the COE's intention to discuss my letter of May 13, 2013 (the "May 13 Letter"). That short notice affects my ability to prepare for and participate in the proceeding scheduled for June 6, 2013, and thus my client's due procedural process rights. *See Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950)(Jackson, J); U.S. Const., Amends V and XIV; Fla. Const., Art I., § 9.

Fifth, at this juncture I am unaware of any due diligence the COE may have performed regarding the issues addressed in the May 13 Letter or of the COE's position, if any, regarding those issues. Again, the absence of this information affects my client's due process rights. *See Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950)(Jackson, J); U.S. Const., Amends V and XIV; Fla. Const., Art I., § 9.

Sixth, kindly inform me of the following: (A) any due diligence that the COE has performed and the results of the same; (B) if no due diligence has been performed, an explanation of why no due diligence has been performed; (C) any position or presentation the COE intends to take or make on June 6, 2013; (D) the make(s), model(s), condition(s) and maintenance records regarding the COE's recording equipment; (E) whether the COE has a written protocol for its making and preservation

¹ As a Federal Prosecutor I handled several cases each involving hundreds of consensually made and wire tap audio tapes. *See, e.g., United States v. United Thomas Agro, Salvatore "Sally" Reale, et al., United States District Court for the Southern District of Florida.* In order to confirm the accuracy of transcripts of those tape recordings, I spent hundreds of hours listening to the tapes over and over again, and thus verified that what appeared on transcripts accurately corresponded to what appeared on the tapes *per se*. This approach is a longstanding and standard law enforcement procedure; and I followed it in listening to audio recordings the COE furnished to me pertaining to Case No. C12-016.

Stephen P. Cullen, Esq.
Executive Director
Palm Beach County Commission
On Ethics
June 5, 2013
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of audio recordings of COE proceedings; and (F) the identities of all persons who have access to the COE's audio recordings.

Seventh, the May 13 Letter evidences a *small* part of my concern about the following systemic regarding the COE:

- Precision, professionalism and proper procedure being followed in proceedings before the COE.²
- Proper decorum on the part of the COE.
- Impartiality of the COE to Respondents. *See Batlemento v. Dove Fountain, Inc.*, 593 So.2d 234, 241-242 (Fla. 5th DCA 1991). As the Fifth District Court of Appeal stated in *Batlemento*, in reversing a judgment in favor of a party who raised the issue of lack of economic resources,

The general rule is that during trial no reference should be made to the wealth or poverty of a party, nor should the financial status of one party be contrasted with the other's. Annotation, *Counsel's Appeal in Civil Case to Wealth or Poverty of Litigants as Grounds for Mistrial, New Trial or Reversal*, 32 A.L.R.2d 9 § 2 at 17 (1956). Argument directly contrasting the poverty of one of the parties with the wealth of the other is especially apt to prejudice the jury. *Id.* at § 5. In Florida, the admission of such evidence or commentary has often been held to constitute reversible error. ^{FN15} Although in Florida the rule generally has been applied in personal injury actions, it has been applied in a wide variety of actions in other jurisdictions. *Vanarsdol v. Farlow*, 200

² For example, and not by way of limitation, in response to my request for a copy of the audio recording of the hearing for Case No. C12-016, the COE furnished me with a copy of the audio recording of the hearing for Case No. C12-015. Similarly, the proceedings for the COE sometimes start hours after the scheduled time, and the pro bono advocates are unprepared. Further, the investigators do not follow-up on matters brought directly to their attention. *See* Trans. Of Hearing on May 2, 2013, before the Palm Beach County Commission on Ethics, *In Re: Robert Saul Margolis*, Case No. 13-001, 38:19 - 43:6.

Stephen P. Cullen, Esq.
Executive Director
Palm Beach County Commission
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[Iowa 495, 203 N.W. 794, 795 \(Iowa 1925\)](#) (recognizing rule in context of fraud action); [El Paso Dev. Co. v. Ravel, 339 S.W.2d 360 \(Texas App.1960\)](#). See generally 32 A.L.R.2d, *supra* at § 3 (1956).

[FN15. See, e.g., Seaboard Air Line Ry. v. Smith, 53 Fla. 375, 43 So. 235 \(Fla.1907\)](#) (reversal required because of plaintiff's argument in personal injury action that he was poor person who would be ward of county for the rest of his life if he did not recover damages, but damages would not be missed by defendant railroad); [Rogers v. Myers, 240 So.2d 516 \(Fla. 1st DCA 1970\)](#) (court reversed judgment for plaintiff in wrongful death action where counsel argued that action involved more than private dispute between parties; it also involved public's liability for welfare; amounted to improper appeal to jurors' self-interest and was highly prejudicial); [Baggett v. Davis, 124 Fla. 701, 169 So. 372 \(Fla.1936\)](#) (plaintiff's testimony that he had no means of support for family other than wages was held improperly admitted because irrelevant and calculated to unduly arouse jurors' sympathy for plaintiff); [Deese v. White Belt Dairy Farms, Inc., 160 So.2d 543 \(Fla. 2d DCA 1964\)](#) (found trial court properly granted motion for new trial where improper testimony that plaintiff was compelled to work because she had no means of support for herself and infant child and was receiving no support from her former husband.)

The COE violated this cardinal and fundamental rule with respect to Case No. C12-016. All litigants are equal before the bar of justice; and no bias for or against a litigant should occur because of the litigant's wealth or lack thereof, or any other classification that might be viewed as suspect or invidious.

➤ The COE's fundamental understanding of and complete acceptance of the principle that Respondents are presumed innocent. See *Taylor v. Kentucky*, 436 U.S. 478 (1978); *Nixon v. United States*, 448 U.S. 683, (1974); *Powell v. Alabama*, 287 U.S. 45 (1932).

Stephen P. Cullen, Esq.
Executive Director
Palm Beach County Commission
On Ethics
June 5, 2013
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- The COE's fundamental understanding of and absolute fidelity to due process of law and equal protection of the law.³

- The COE's fundamental understanding of and strict adherence to rules of procedure, the rules of evidence, and the rights guaranteed to all Respondents and citizens by the Constitutions and Law of both the United States and the State of Florida. See U.S. Const., Amends. I-X, and XIV; 42 U.S.C. § 1983; Florida Const., Art. I, §§ 1-18, 21-22.

Thank you for your attention to the matters addressed in this letter, and my letter to you of May 13, 2013, and our e-mails to one another.

Respectfully submitted,

THE LAW OFFICE OF ROMA W. THEUS, II, P.A.
Counsel for Ms. Victoria McCullough

By:


ROMA W. THEUS, II, For The Firm

³ What may or may not be published in the media is of now moment. The COE cannot base its decisions on what it may have read in the newspaper or heard in the broadcast media. Were it do so, it would be violating the right of Respondent to know precisely what the allegations were against him, her or it, and depriving that Respondent of the ability to defend himself, herself or itself.