



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
Steven P. Cullen

April 16, 2013

Darrel Bowen
15670 Cedar Grove Lane
Wellington, FL 33414

Sent via email only to: dbowen@creativemarketingproducts.com

Re: C13-007 and C13-008

Dear Mr. Bowen,

Enclosed please find a copy of complaint C13-007, including the Complaint, Memorandum of Inquiry, Memorandum of Legal Sufficiency, Memorandum of No Probable Cause and supporting documentation. Also enclosed is a copy of complaint C13-008, including the Complaint, Memorandum of Inquiry and Memorandum of No Legal Sufficiency and Recommendation of Dismissal.

These matters will be placed before the Commission on Ethics (COE) at its regularly scheduled meeting on May 2, 2013 at 3:30pm at the Palm Beach County Governmental Center, 301 North Olive Avenue, 12th Floor McEaddy Conference Room, West Palm Beach, FL 33401.

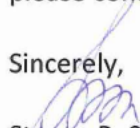
All documents are exempt from public records disclosure unless and until the complaint is dismissed, probable cause is found, or you request in writing that the information be released.

The May 2nd proceeding will be in executive session and closed to the public unless you request otherwise in writing. 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.

Although each complaint will be dealt with individually, along with the COE Advocate, you will be permitted to make a brief oral statement in the nature of oral argument to the commission, based upon the investigator's reports, your written responses, if any, and the recommendation of the advocate, before the probable cause determination. 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. At any time prior to a final public hearing, a negotiated settlement may be entered into upon approval by the COE.

Should you or your representative have any questions regarding the complaints, or the procedures as described, please contact the COE Advocate, Mark Bannon at 561-233-0729.


Sincerely,


Steven P. Cullen
Executive Director

SPC/gal
Attachments

PALM BEACH COUNTY COMMISSION ON ETHICS

MEMORANDUM

To: FILE
From: Steven P. Cullen, Executive Director 
Re: C13-007 and C13-008 – Darell Bowen-Village of Wellington

This memorandum is to correct the address listed for Darell Bowen on the cover letter sent on April 16, 2013. The correct address is 12669 Headwater Way, Wellington, FL 33414

EXECUTIVE SUMMARY

To: Steven P. Cullen, Executive Director
From: James A. Poag, Investigator
Re: C13-007 – Darell Bowen-Village of Wellington

- **Background**

This matter came to the attention of Commission on Ethics staff via a sworn complaint filed by Bart Novak (Complainant), a resident of the Village of Wellington (the Village). The complaint alleges that Darell Bowen (Respondent), former Village Mayor accepted two tickets from the Boys and Girls Club of Palm Beach County (BGCPBC). The Complainant alleges that Respondent accepted two tickets from BGCPBC for his wife and himself to attend the 24TH Annual Wellington Dinner Dance “*Le Cirque!*” held at BGCPBC on December 3, 2011. According to Complainant, Adler used her Village issued credit card to pay for the tickets received by Respondent. A portion of these funds were repaid to the Village in a personal check from Respondent or his wife covering the entire \$125 cost of the wife, and \$26 of the cost of Respondent to attend this function.

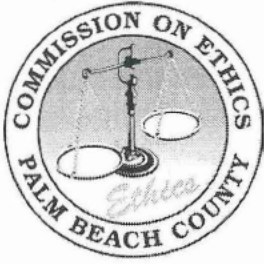
- **Investigative information**

The investigation failed to reveal any evidence that the Respondent misused his official position to provide a special financial benefit to himself or his spouse. Witness testimony and documentary evidence showed that the Village of Wellington was reimbursed in the amount of \$151 the event tickets purchased on behalf of the Respondent. The funds were allocated such that \$125 of the total reimbursement covered the price of the ticket purchased for the Respondent’s wife to attend the event, and \$26 to lower the “gift” amount for himself under the \$100 reporting threshold. Respondent was invited and attended the event in his official capacity as Mayor of the Village, consistent with the performance of his public duties. The COE cannot opine as to the appropriateness of the Village providing its Mayor with a ticket to a social event held within the municipality. This is an issue of policy and outside of the scope of the Code.

Witness testimony and documentary evidence also showed that the Respondent’s ticket to attend the event was purchased by the Village at a cost of \$125, which was the actual cost of the meal, less the charitable donation. The Respondent is a State reporting individual subject to requirements established by Florida State Statute and the Florida Administrative Code.¹ Under state law, there is a specific exemption regarding tickets provided by the charitable organization in which the value of the admission ticket only includes the cost of the event and not the portion of the face value which represents the a charitable donation². In this case, Respondent was invited to attend the event by the charitable organization as a public official, thus subjecting him to the valuation exemption under §112.3148. The Village received a reimbursement amount of \$26 paid to the Village by the Respondent’s wife from their joint account, which placed the value of the Respondent’s ticket under the \$100 reporting threshold established by State Statute and the Palm Beach County Code of Ethics.

¹ §112.3148(7), Florida Statutes, §34-13.500(5), Florida Administrative Code.

² §112.3148(7)(k), Florida Statutes, §34-13.500(9)



PALM BEACH COUNTY COMMISSION ON ETHICS

2633 Vista Parkway, West Palm Beach, Florida 33411

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

FEB 13 '13 AM 11:59

COMPLAINT FORM

1. Complainant (Person bringing Complaint) *Add pages, if necessary.*

Please list all information where you would like to be contacted. Our preference is email.

Name: Bart Novack E-Mail bartman1@bellsouth.net
 Address: 15670 Cedar Grove Lane
 City: Wellington, FL. Zip: 33414
 Home #: 561-790-3344 Work #: _____ Cell #: 561-827-7400

2. Respondent (Person against whom complaint is made) *Add pages, if necessary.*

Please provide as much information as possible.

Name: Darell W Bowen E-Mail _____
 Address: 12669 Headwater Way
 City: Wellington, FL. Zip: 33414
 Home #: _____ Work #: _____ Cell #: _____
 Title/Office Held or Sought: Mayor of Wellington

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

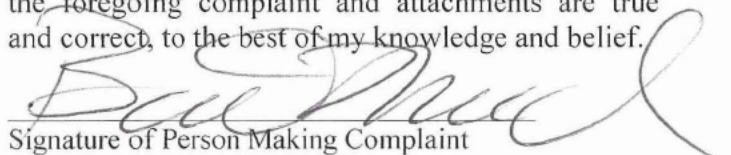
- Allegation is against person in County/Municipal Government
 Allegation is about County: Whistleblower Retaliation

4. STATEMENT OF FACTS BASED ON YOUR PERSONAL KNOWLEDGE

In a separate attachment, please describe in detail the facts and actions that are the basis of your complaint, including the dates when the actions occurred. Also attach any relevant documents as well as names and contact information of persons who may be witnesses to the actions. If known, indicate the section of the ordinance you believe is being violated. For further instructions, see page 2 of this form.

5. OATH

I, the person bringing this complaint, do depose on oath or affirmation and say that the facts set forth in the foregoing complaint and attachments are true and correct, to the best of my knowledge and belief.


 Signature of Person Making Complaint

STATE OF FLORIDA
COUNTY OF Palm Beach

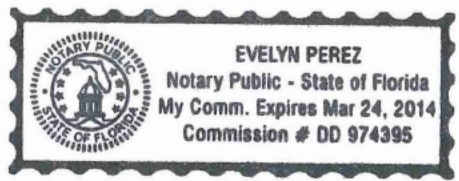
Sworn to (or affirmed) and subscribed before me this 19 day of February, 2013, by
Bart Novack
 (Name of Person Making Statement)

who is personally known to me _____ or produced identification . Type of identification produced:

FDLN 120 073562960


 (Signature of Notary Public, State of Florida)

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



Enclosed is a copy of a check from Mrs. Bowen in the amount of \$151.00 for reimbursement of 2 tickets for the Boys & Girls Clubs of Palm Beach 24th Annual Wellington Dinner Dance.

As I see it, the form shows sponsorship is \$500 for friend 2 tickets or as attendance individual ticket @ \$225.00. So why only gave back \$151.00 not the face value or amount on form?

Also enclosed is Kathy Adler's credit card bill which shows \$250.00 for this purchase and a letter to her stating a contribution? Did they send more seats and who else used those seats? In fact our Village also did a sponsorship for \$2500 who did these seat go to any council members? Was this on a gift form? Are other items being covered up when our Village is buying them with no reimbursement and no gift form? Was Mrs. Bowen's check ever cashed? Why this was not put on Mayor Bowen's credit card or write a check to them. Credit card statement are missing for Village people. WHY? It appears to be standard practice to use other people's credit card. WHY?

Reimbursement for 2 tickets
to 24th Annual Boys and Girls
Club dinner dance

12/3/11 (see
attached)

©2010 Article Checks 1-866-224-7621 www.articlechecks.com

DARELL W. BOWEN 10-87
SHERRY L. BOWEN
12669 HEADWATER WAY
WELLINGTON, FL 33414

63-8419/2670

9497

EZShield[®] PLUS Check Fraud
Protection & ID Restoration

Date

12/5/11

Pay to the
Order of

Village of Wellington

\$ 151.00

One hundred fifty one

+ 00/100
Dollars

Security Features
Included.
Deposit in bank.

PNC BANK, N.A.
WELLINGTON FL 33414

For

Sherry Bowen

tickets - \$ 125.00 each
\$ 250.00
- 151.00 (reimbursed)
\$ 99.00



Boys & Girls Clubs of Palm Beach County

24th Annual Wellington Dinner Dance "Le Cirque!"

Dr. & Mrs. Ronald T. Ackerman and Dr. & Mrs. Joshua S. Ackerman
Event Chairpersons

Saturday, December 3, 2011 at Wycliffe Golf & Country Club

SPONSORSHIP OPPORTUNITIES

Contributions are partially tax-deductible as allowable by law

Table with 2 columns: Sponsorship Opportunity and Price. Includes Ring Master (\$25,000), Center Ring (\$15,000), Trapeze (\$10,000), Feature Act (\$7,500), Performer (\$5,000), Benefactor (\$2,500), Supporter (\$1,500), and Friend (\$500).

UNDERWRITING OPPORTUNITIES

Contributions are 100% tax-deductible

Table with 2 columns: Underwriting Opportunity and Price. Includes Dinner (\$25,000), Cocktail Reception (\$10,000), Music/Entertainment (\$5,000), Souvenir Photos (\$5,000), Souvenir Journal (\$3,000), Decorations (\$2,500), Invitations (\$2,000), Wine (\$2,000), Postage (\$1,500), Valet Parking (\$1,500), Table Favors (\$500), and Sponsor a Child (\$1,000/\$500).

ATTENDANCE OPPORTUNITIES

Table with 2 columns: Attendance Opportunity and Price. Includes Table Sponsor (\$2,500) and Individual Ticket (\$225). Handwritten note: 'Actual Value \$125.00' next to Individual Ticket.

[] Yes, we accept the above Sponsorship, Underwriting or Attendance invitation (please check your choices)

Please print your name as you wish it to appear in acknowledgments

Signature _____ Phone _____

[] Sorry, we cannot attend, but enclosed is our contribution of \$ _____

Please make check payable to:
Boys & Girls Clubs of Palm Beach County
800 Northpoint Parkway, Suite 204
West Palm Beach, FL 33407

For more information, please contact:
Alonna Paugh, Special Events Coordinator
561-683-3287 ext. 28
apaugh@bgcpbc.org

Le Cirque!

24TH ANNUAL

WELLINGTON DINNER DANCE

TO BENEFIT



BOYS & GIRLS CLUBS
OF WELLINGTON

Saturday, December 3rd, 2011 ✧ 6:30 p.m. – 12:00 Midnight

Wycliffe Golf & Country Club
4650 Wycliffe Country Club Boulevard

Black Tie

CHAIRPERSONS

Dr. & Mrs. Ronald T. Ackerman ✧ Dr. & Mrs. Joshua S. Ackerman

Special Thanks to

DR. & MRS. RONALD T. ACKERMAN

DR. & MRS. JOSHUA S. ACKERMAN

MS. JOYCE BASHEIN

DR. & MRS. LAWRENCE BERGMAN

MRS. MARIA BECKER

MRS. CHARLENE BISHOP

MRS. HEIDI HARLAND

MS. HEYDYN HERNANDEZ

MS. CHERI PAVLIK

MRS. JANNA ZAIDSPINER

Mission Statement

The Mission of the Boys & Girls Clubs of Palm Beach County is to inspire and assist all young people especially those who need us most, to realize their full potential, as productive, responsible and caring citizens.

Join us for...



BOYS & GIRLS CLUBS OF WELLINGTON



The Boys & Girls Clubs of Palm Beach County is a not-for-profit youth development organization dedicated to providing services to youths from 6 to 18 years of age, particularly those who need us most, with the necessary skills to become productive, responsible and caring adults.

The Boys & Girls Club of Wellington, located at 3401 South Shore Boulevard is a safe, supervised facility open after school and all day on most school holidays. Nearly 750 children participate in Club activities, which include computer training, job skills development, leadership workshops, homework assistance and tutoring, sports and fitness programs, fine arts and performing arts classes. Plans are underway for the construction of a new 21,000 square foot facility to replace the current facility, which has limited space. The new facility will include a gym, computer lab, learning center, arts center, game room and teen lounge. Ground breaking on the new facility will begin early 2012 with a grand opening scheduled for late 2012.

To learn more about how you can help make a difference in the life of a child, please call the Boys & Girls Clubs of Palm Beach County at 561-683-3287 or visit our website at www.bgcpsc.org.

A copy of our financial reports and program information may be obtained from the Florida Department of Community Services by calling toll free 800-435-7352 within the state. Our Florida registration number is 16314. Registration does not imply endorsement, approval or recommendation by the state.

001-0102-51148-02



KATHY ADLER
VILLAGE OF WELLINGTON

[Redacted]

December 05, 2011 - January 04, 2012

Purchasing Card

Cardholder Activity

Account Information	Payment Information	Account Summary
Mail Billing Inquiries to: BANKCARD CENTER PO BOX 982238 EL PASO, TX 79998-2238 Customer Service: 1.888.449.2273 24 Hours TTY Hearing Impaired: 1.800.222.7365 24 Hours Outside the U.S.: 1.509.353.6656 24 Hours For Lost or Stolen Card: 1.888.449.2273 24 Hours	Statement Date 01/04/12 Credit Limit \$5,000 Cash Limit \$0 Days in Billing Cycle 31 Total Activity \$250.00 <hr/> THIS IS NOT A BILL - DO NOT PAY	Credits \$0.00 Cash \$0.00 Purchases \$250.00 Other Debits \$0.00 Cash Fees \$0.00 Other Fees \$0.00 Total Activity \$250.00

Transactions

Posting Date	Transaction Date	Description	Reference Number	MCC	Charge	Credit
12/06	12/05	BOYS & GIRLS CLUBS OF PA 561-683-3267 FL	24607941339207334100091	7999	250.00	

0000000 00000000 00000000 [Redacted]

Account Number: [Redacted]
December 05, 2011 - January 04, 2012



BANK OF AMERICA
PO BOX 15731
WILMINGTON, DE 19886-5731



KATHY ADLER
VILLAGE OF WELLINGTON
12300 FOREST HILL BLVD
WELLINGTON, FL 33414-5785

**N0002024

Total Activity \$250.00

[Handwritten Signature] 1/30/12
 Cardholder Signature Date

[Handwritten Signature] 1/30/12
 Manager Signature Date

December 31, 2011

Ms. Kathy Adler
Village of Wellington
12300 West Forest Hill Blvd.
Wellington, FL 33414

Dear Ms. Adler:

Thanks to you and thousands of others who care about children in need, less children will be left alone afraid and at risk during the critical hours when they are not in school. Instead they will be with us this year. I would like to offer my sincere thanks for the Village of Wellington's contribution of \$250.00 for the 2011 Wellington Dinner Dance fundraiser.

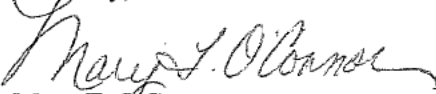
As you may know, more than 6,000 children walk through the doors of one of our 13 Boys & Girls Clubs in Palm Beach County each year and nearly 2,000 come on a daily basis. In addition to providing a fun and supervised haven, the clubs provide youngsters with certified teachers and nationally recognized programs in areas including the arts, health and life skills, recreation sports, fitness, technology, prevention and leadership opportunities.

The Club experience makes a difference as our young people continue to outperform their same school peers, stay in school and graduate at a much higher rate than the general school population. By walking through one of our club doors, we know that great futures await the young people we serve and that would not be possible if it were not for people such as you.

2011 was an exciting year for us as on November 5th, we hosted the ground opening of the new 22,000 square foot Marjorie S. Fisher Boys & Girls Club in West Palm Beach and in early 2012 we will begin construction on a new clubhouse in Wellington. This is only possible because continued community support has enabled us to expand our services to the children who need them most. Our clubs offer children positive, wholesome programs, which enhance their skills and self-esteem so, they can become successful adults.

Thank you again for your interest in our endeavors, and if you would like to learn more or take a tour of one of our Clubs, please call us at: (561) 683-3287. Your investment in our youth will surely pay great dividends in a better future for us all.

Sincerely,



Mary T. O'Connor
President & CEO

CONTRIBUTIONS BENEFIT The Boys & Girls Clubs of Palm Beach County, Inc., A NOT FOR PROFIT TAX EXEMPT ORGANIZATION. A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL INFORMATION OF BGCPCBC, Inc. [registration number CH1403], MAY BE OBTAINED FROM THE DIVISION OF CONSUMER SERVICES BY CALLING TOLL FREE 1-800-435-7352 WITHIN THE STATE OF FLORIDA. REGISTRATION DOES NOT IMPLY ENDORSEMENT, APPROVAL OR RECOMMENDATION BY THE STATE. BGCPCBC, Inc. RECEIVES 100% OF EACH CONTRIBUTION WITH 0% RETAINED BY A PROFESSIONAL SOLICITOR.



BOYS & GIRLS CLUBS
OF PALM BEACH COUNTY

GREAT FUTURES START HERE.

Boys & Girls Clubs of Palm Beach County
General Services Center (all mail)
800 Northpoint Parkway, Suite 204
West Palm Beach, FL 33407-1978
Ph 561-683-3287
Fax 561-683-1618
www.bgcpcb.org

Officers

Chairman

Wallace Turner

Vice Chairmen

Reid Boren
Juan C. Cocuy
Christine D. Hanley
Danielle Hickox Moore

Secretary

Sylvia S. James

Board of Directors

Bob Bertisch
James M. Carman
David S. Donten
Susanna Dwinell
Kim E. Fonseca
Christopher Havlicek
Julie Kime
Thomas M. Kirchhoff
Kevin T. Lamb
Troy Maschmeyer
Ross W. W. Meltzer
H. Woodward Middleton, Jr.
Alexis A. Morrill
Michael Mullin, III
Pat Murphy
Christine Pitts
Thomas C. Quick
Ted A. Scharch
Jay Shearouse
Mary Lou Watchman
James Zahringer

Unit Board Representatives

Gary T. Barrette
David Browne
George D. Buckner, II
Juan A. Nelson
Richard J. Seymour
Dolly Steinman

Directors For Life/Past Chairmen

William K. Caler, Jr.
Juan Cocuy
Barkley S. Henderson
John Herring
Michael Noto
F. Martin Perry
Richard J. Seymour
Lee K. Spencer
Joseph A. Vassallo
Dennis Witkowski
Col. Alfred M. Worden

President & CEO

Mary T. O'Connor

Club Locations:

Belle Glade, Boca Raton, Canal Point, Delray
Beach, Pahokee, Riviera Beach, South Bay,
Wellington, West Palm Beach



MEMORANDUM OF INQUIRY

To: Steven P. Cullen, Executive Director
From: James A. Poag, Investigator
Re: C13-007 – Darell Bowen-Village of Wellington

- **Background**

This matter came to the attention of Commission on Ethics staff via a sworn complaint filed by Bart Novak (Complainant), a resident of the Village of Wellington (the Village). The complaint alleges that Darell Bowen (Respondent), former Village Mayor accepted two tickets from the Boys and Girls Club of Palm Beach County (BGCPBC). The Complainant further alleges that the tickets had a face value of \$225 per ticket based on a copy of the event flyer provided by Complainant. However the Village paid \$125 per ticket as evidenced by the credit card statement of Kathy Adler, Assistant to the Mayor. Copies of these documents were submitted as attachments to the complaint. The Complainant alleges that Respondent accepted two tickets from BGCPBC for his wife and himself to attend the 24TH Annual Wellington Dinner Dance "Le Cirque!" held at BGCPBC on December 3, 2011. According to Complainant, Adler used her Village issued credit card to pay for the tickets received by Respondent. A portion of these funds were repaid to the Village in a personal check from Respondent or his wife covering the entire \$125 cost of the wife, and \$26 of the cost of Respondent to attend this function. Based on the information submitted the Complaint appears on its face to be legally sufficient to open an investigation into this matter.

- **Inquiry**

On March 19, 2013, I was assigned this complaint for follow-up. I reviewed the information contained in the file in its entirety. My initial review of the documentation contained in the file revealed on December 3, 2011, the BGCPBC held 24TH Annual Wellington Dinner Dance "Le Cirque!" (the event). The cost of the event for an individual ticket was advertised at \$225. I observed on the event flyer submitted by Complainant a handwritten note near the ticket price which read, "Actual value \$125."

My review also revealed that on December 5, 2011, a charge in the amount of \$250 appeared on Adler's Village issued Bank of America Purchasing Card Statement payable to BGCPBC. Also contained in the file was a copy of a check (#9497) from the joint bank account of Respondent and his wife (Sherry Bowen) made payable to the Village in the amount of \$151. The check was dated for December 5, 2011, and also written in what appears to be the same handwriting as the note on the BGCPBC event flyer was the following information: "001-0102-511.48-02-reimbursement for 2 tickets to 24TH Annual Boys and Girls Club dinner dance (12/3/11)."

- **Documents submitted to investigative file:**

1. Boys and Girls Club of Palm Beach County 24TH Annual Wellington Dinner Dance "Le Cirque!" event flyer
2. Copy of Kathy Adler's Bank of America Purchasing Card Statement (December 5, 2011 – January 4, 2012)
3. Copy of Check #9497

- **Applicable Law**

The following portion of the PBC Commission on Ethics ordinance is 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 portions 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... *The term "official" shall mean* members of the board of county commissioners, a mayor, *members of local municipal governing bodies*, and members appointed by the board of county commissioners, members of local municipal governing bodies or mayors or chief executive officers that are not members of local municipal governing body, as applicable, to serve on any advisory, quasi judicial, or any other board of the county, state, or any other regional, local, municipal, or corporate entity.
(Emphasis added)

Darell Bowen served as Mayor of the Village of Wellington from March 2008 until March 2012. It should be noted at the time indicated in the allegations Mayor Bowen was under the jurisdiction of the Palm Beach Code of Ethics.

Sec. 2-443. Prohibited conduct.

(a) *Misuse of public office or employment.* An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:

- (1) Himself or herself;
- (2) His or her spouse or domestic partner, household member or persons claimed as dependents on the official or employee's latest individual federal income tax return, or the employer or business of any of these people;

Sec. 2-444. Gift law.

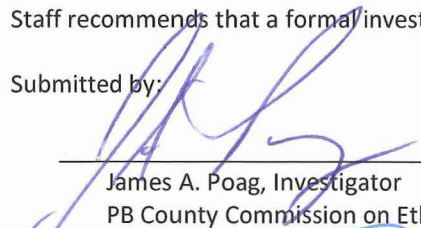
(f) Gift reports. Any official or employee who receives a gift in excess of one hundred dollars (\$100) shall report that gift in accordance with this section.

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

Based on the information obtained from the initial Complaint, if true, considered in concert with the documentary evidence obtained during this inquiry, the Complaint appears on its face to be legally sufficient to open an investigation into this matter.

Staff recommends that a formal investigation be commenced.

Submitted by:

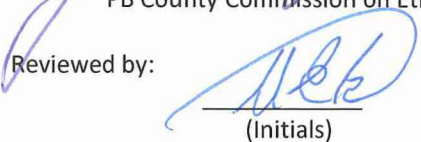


 James A. Poag, Investigator
 PB County Commission on Ethics



 Date

Reviewed by:



 (Initials)



 Date

PALM BEACH COUNTY COMMISSION ON ETHICS
MEMORANDUM OF LEGAL SUFFICIENCY

To: Palm Beach County Commission on Ethics
From: Steven P. Cullen, Executive Director
Re: C13-007 – Darrel Bowen – Village of Wellington

- **Recommendation**

Regarding Respondent, Darrel Bowen, former Mayor, Village of Wellington, the Commission on Ethics Staff recommends a finding of LEGALLY SUFFICIENCY be entered in Complaint C13-007.

Legal sufficiency exists where there is an allegation containing the elements 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 substantially on the personal knowledge of the Complainant, relating to an alleged violation occurring after the effective date of the code, and filed with the Ethics Commission within two years of the alleged violation.

- **Background**

This matter came to the attention of Commission on Ethics staff via a sworn complaint filed by Bart Novak (Complainant), a resident of the Village of Wellington (the Village). The complaint alleges that Darrel Bowen (Respondent), former Village Mayor accepted two tickets from the Boys and Girls Club of Palm Beach County (BGCPBC). According to Village records submitted by the Complainant, the Village staff ordered and paid \$125 per ticket. Complainant alleges that Respondent accepted two tickets from BGCPBC to attend the 24th Annual Wellington Dinner Dance “Le Cirque!” held at BGCPBC on December 3, 2011. According to Complainant, Kathy Adler, Assistant to the Mayor, used her Village issued credit card to pay for the tickets received by Respondent. A portion of these funds were repaid to the Village in a personal check from Respondent or his wife covering the entire \$125 cost of the wife and \$26 of the cost of Respondent to attend this function.

Complainant alleges that the tickets had a face value of \$225 per ticket based on a copy of the event flyer, rather than the \$125 per ticket paid by the Village and said tickets were required to be reported as a gift in excess of \$100. Complainant further alleges that Respondent misused his official position by directing Village staff to purchase tickets for his personal financial benefit.

- **Analysis**

Pursuant to Chapter 2, Article V, Division 8, §2-258(a), the jurisdiction of the Commission on Ethics extends to the county code of ethics, county post-employment and lobbyist registration ordinances. Violations of §2-443(a) (Misuse of public office) and §2-444(f)(1) (Gift reports) of the Code of Ethics are within the jurisdiction of the Palm Beach County Commission on Ethics. The Commission on Ethics has personal jurisdiction over Respondent as a former elected official.

Applying the sworn complaint and documents provided to the Code of Ethics, we review the facts to determine whether reliable information provided points to actions that may violate the Palm Beach County Code of Ethics:

Section 2-443(a), *Misuse of public office or employment*, states in relevant portion:

An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the

exercise of reasonable care will result in a *special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:* (Emphasis added)

- (1) Himself or herself;
- (4) An outside employer or business of his or hers, or of his or her spouse or domestic partner, or someone who is known to such official or employee to work for such outside employer or business;

Sec. 2-444. Gift law.

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

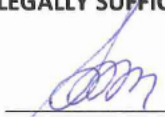
- (1) *Gift reports for officials and employees identified by state law as reporting individuals.* Those persons required to report gifts pursuant to state law shall report those gifts in the manner provided by Florida Statutes, § 112.3148, as may be amended. A copy of each report shall be filed with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

The sworn documentation provided does on its face allege violations of §2-443(a) and §2-444(f)(1).

- **Conclusion**

Because sufficient information is provided by the submitted documents, reasonable inferences from those documents, if true, could support a violation of the code of ethics, case number C13-007 against Respondent, Darrel Bowen, is **LEGALLY SUFFICIENT**. Therefore, an investigation into this matter should proceed.

BY:



Steven P. Cullen, Executive Director
Florida Bar No. 0362204
Commission on Ethics

4/15/13

Date

MEMORANDUM OF INVESTIGATION

To: Steven P. Cullen, Executive Director
From: James A. Poag, Investigator
Re: C13-007 – Darell Bowen-Village of Wellington

- **Background**

This matter came to the attention of Commission on Ethics staff via a sworn complaint filed by Bart Novak (Complainant), a resident of the Village of Wellington (the Village). The Memorandum of Inquiry as filed under case number C-13-007 is incorporated by reference. All evidence obtained during this inquiry is also incorporated by reference.

- **Investigation**

On April 1, 2013 I contacted Kathy Adler, Assistant to the Mayor, in order to discuss the documentary evidence contained in the file. I asked Adler if I could meet with her in order to take a sworn statement. Adler agreed to a meeting and we scheduled an appointment for April 3, 2013.

- **Interview with Kathy Adler, Assistant to the Mayor, Village of Wellington**

On April 3, 2013, I went to the Village of Wellington municipal offices located at 12300 Forest Hill Boulevard, Wellington FL and interviewed Kathy Adler, Assistant to the Mayor. The interview was recorded and Adler was placed under oath. No other persons were present during this interview.

I asked Adler to explain why she had purchased two tickets for the 24th Annual Wellington Dinner Dance “*Le Cirque!*” with her Village issued purchasing card. According to Adler, Respondent informed her that he and his wife had been invited to attend the event and that as the Mayor of the Village he felt that his attendance was appropriate since the event was being held in the Village. Adler stated that Respondent also directed her to seek the advice of then Village Attorney Jeff Kurtz prior to purchasing the event tickets to ensure that the purchase of the tickets and his attendance at the event would not constitute a violation of the Palm Beach County Code of Ethics (the Code). According to Adler, Kurtz advised her that the Village could purchase the tickets for Respondent and his wife. However, Respondent would be required to reimburse the Village for the amount for the wife’s ticket, and the amount for his ticket that exceeded the \$100 reportable gift threshold established under the Code, or file a gift disclosure.

I asked Adler to explain, why the Village paid a total of \$125 per ticket opposed to the advertised value of \$225 per ticket as printed on the event flyer. Adler explained that she contacted PGCPBC CEO Mary O’Conner and was informed that the meal portion of the ticket was valued at \$125 and the other \$100 was considered a charitable donation to the BGCPBC. Based on this information, the total cost for two meals at the event totaled \$250. I then asked Adler about check #9497. Adler explained that the Respondent’s wife submitted a check to the Village in the amount of \$151 to cover the total cost of her ticket to the event (\$125), and to cover the amount of Respondent’s ticket that exceeded \$100 gift disclosure threshold established under the Code (\$26), based on the advice of Kurtz. I showed Adler the handwriting that appeared on the event flyer and also on the copy of check #9497. Adler confirmed that it was her handwriting that appeared on these documents. It should be noted that following the receipt of the reimbursement in the amount of \$151, the Village paid \$99 for the Respondent to attend the event.

End of Interview

On April 8, 2013, I contacted Mary O’Conner, President& CEO of BGCPBC. I asked her if Respondent had been invited to attend the 24th Annual Wellington Dinner Dance “*Le Cirque!*” According to O’Conner, the BGCPBC invited Respondent to attend the event on behalf of the Village of Wellington as the Mayor. I then asked her if she could provide me with the actual cost of the meal for the 24th Annual Wellington Dinner Dance “*Le Cirque!*” O’Conner stated that at the time Respondent was invited to attend the event, the BGPBC estimated the cost to be \$125, however the actual cost was \$113.

I asked O’Conner to explain why Respondent was only charged the actual meal cost instead of the full advertised price. O’Conner stated that it was her understanding of the new ethics rules that officials were required to pay any meals that they received. O’Conner also stated that because Respondent was invited to attend the event by the BGCPB and was not purchasing an individual ticket, he was not required to pay the charitable portion of the face value of the event ticket.

- o **Interview with Darell Bowen, Former Mayor, Village of Wellington**

On April 9, 2013, I went to 12769 Forest Hill Boulevard, Wellington FL and interviewed Darell Bowen. The interview was recorded and Bowen was placed under oath. No other persons were present during this interview.

I asked Bowen if he attended the Boys and Girls Club of Palm Beach County 24TH Annual Wellington Dinner Dance “Le Cirque!” event held on December 3, 2011. According to Bowen, he did attend the event as the Mayor of the Village. Bowen stated that he had been invited to attend the event by the BGCPBC in order to represent the Village. He explained that he expressed to the Village Council that he would only attend the event if the Village purchased the tickets because he did not want to violate any ethics laws. I asked Bowen if he sought advice from the Village Attorney or the Palm Beach Commission on Ethics with regard to his attendance. Bowen stated that he did not remember, however, he was insistent that he attended the event as the Mayor and that was why the tickets were purchased by the Village.

I then asked Bowen if he was aware of the advertised ticket price for the event. He stated that he did not recall the advertised ticket price; however the arrangements were made by his assistant Kathy (Adler). I asked Bowen why his wife submitted a check to the Village as reimbursement. According to Bowen, his wife wrote a check to the Village to cover the total price of her ticket and for the portion of his ticket that would bring his ticket price below the gift reporting threshold under the Code of Ethics.

End of Interview

- **Documents submitted to investigative file:**

No additional documents submitted

- **Applicable Law**

The following portion of the PBC Commission on Ethics ordinance is 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 portions 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.... *The term "official" shall mean* members of the board of county commissioners, a mayor, *members of local municipal governing bodies*, and members appointed by the board of county commissioners, members of local municipal governing bodies or mayors or chief executive officers that are not members of local municipal governing body, as applicable, to serve on any advisory, quasi judicial, or any other board of the county, state, or any other regional, local, municipal, or corporate entity. (Emphasis added)

Darell Bowen served as Mayor of the Village of Wellington from March 2008 until March 2012. It should be noted at the time indicated in the allegations Mayor Bowen was under the jurisdiction of the Palm Beach Code of Ethics.

Sec. 2-443. Prohibited conduct.

(a) *Misuse of public office or employment.* An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:

- (1) Himself or herself;
- (2) His or her spouse or domestic partner, household member or persons claimed as dependents on the official or employee's latest individual federal income tax return, or the employer or business of any of these people;

Sec. 2-444. Gift law.

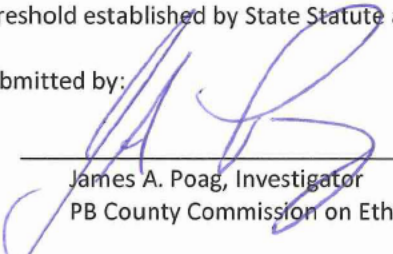
(f) Gift reports. Any official or employee who receives a gift in excess of one hundred dollars (\$100) shall report that gift in accordance with this section.

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

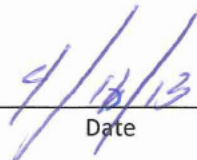
The investigation failed to reveal any evidence that the Respondent misused his official position to provide a special financial benefit to himself or his spouse. Witness testimony and documentary evidence showed that the Village of Wellington was reimbursed in the amount of \$151 the event tickets purchased on behalf of the Respondent. The funds were allocated such that \$125 of the total reimbursement covered the price of the ticket purchased for the Respondent's wife to attend the event, and \$26 to lower the "gift" amount for himself under the \$100 reporting threshold. Respondent was invited and attended the event in his official capacity as Mayor of the Village, consistent with the performance of his public duties. The COE cannot opine as to the appropriateness of the Village providing its Mayor with a ticket to a social event held within the municipality. This is an issue of policy and outside of the scope of the Code.

Witness testimony and documentary evidence also showed that the Respondent's ticket to attend the event was purchased by the Village at a cost of \$125, which was the actual cost of the meal, less the charitable donation. The Respondent is a State reporting individual subject to requirements established by Florida State Statute and the Florida Administrative Code¹. Under state law, there is a specific exemption regarding tickets provided by the charitable organization in which the value of the admission ticket only includes the cost of the event and not the portion of the face value which represents the a charitable donation². In this case, Respondent was invited to attend the event by the charitable organization as a public official, thus subjecting him to the valuation exemption under §112.3148. The Village received a reimbursement amount of \$26 paid to the Village by the Respondent's wife from their joint account, which placed the value of the Respondent's ticket under the \$100 reporting threshold established by State Statute and the Palm Beach County Code of Ethics.

Submitted by:

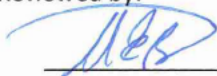


James A. Poag, Investigator
PB County Commission on Ethics



Date

Reviewed by:



(Initials)



Date

¹ §112.3148(7), Florida Statutes, §34-13.500(5), Florida Administrative Code.

² §112.3148(7)(k), Florida Statutes, §34-13.500(9)

PALM BEACH COUNTY COMMISSION ON ETHICS
MEMORANDUM OF NO PROBABLE CAUSE

To: Commission on Ethics
From: Mark Bannon, Advocate
Re: Case Number C13-007 – Darrel Bowen, Village of Wellington

- **Recommendation**

A finding of NO PROBABLE CAUSE and DISMISSAL 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 believe that the Respondent, Darrel Bowen, violated the Palm Beach County Code of Ethics.

- **Jurisdiction**

The COE has jurisdiction pursuant to Chapter 2, Article V, Division 8, §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) County Code of Ethics;
- (2) County Post-Employment Ordinance, and
- (3) County Lobbyist Registration Ordinance.

Article XIII, §2-443(b) *Corrupt misuse of official position*, of the Palm Beach County Code of Ethics (the Code) prohibits any employee or official from corruptly using their position to give a benefit to themselves or another.

Article XIII, §2-444(e), prohibits an official from accepting a gift because of the performance of a legal duty or official action.

This memorandum adopts by reference the Memorandum of Inquiry prepared by COE staff.

- **Background**

This matter came to the attention of the Commission on Ethics (COE) staff through sworn complaint filed by Bart Novak, a resident of the Village of Wellington (the Village). The Respondent, Darrel Bowen, served as the Mayor of the Village from April, 2008 until April, 2012. All employees and elected/appointed officials of the Village were subject to the jurisdiction of the Commission on Ethics as of June 1, 2011.

Specifically, the complaint alleges that Respondent used his official position to specially financially benefit himself by directing Village staff to purchase tickets for Respondent and his wife to attend the Boys and Girls Club of Palm Beach County 24th Annual Wellington Dinner Dance held on December 3, 2011. In addition the complaint alleges that while the Village paid \$125 per ticket, the face value of the BGCPBC tickets was \$225 and that Respondent failed to properly report the gift on his state of Florida quarterly gift reporting form.