



PALM BEACH COUNTY COMMISSION ON ETHICS
300 North Dixie Highway, Suite 450, West Palm Beach, Florida 33401
Hotline: 877-766-5920 or 561-355-1915

COMPLAINT FORM

1. Complainant

Name: Steven P. Cullen E-Mail: ethics@palmbeachcountyethics.com
Address: 300 N. Dixie Highway, Suite 450
City: West Palm Beach Zip Code: 33401
Phone No #: 561-355-1915

2. Respondent

Name: Donaldson Hearing E-Mail: _____
Address: 1934 Commerce Lane, Suite 1
City: Jupiter Zip Code: 33458
Home #: _____ Work #: 561-747-6336 Cell #: _____
Title/Office Held or Sought: 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, Steven P. Cullen, 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 8th day of January, 2015.



Steven P. Cullen, Executive Director



(Signature of Notary Public, State of Florida)

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



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

PALM BEACH COUNTY COMMISSION ON ETHICS
AFFIDAVIT

To: Steven P. Cullen, Executive Director
From: Anthony C. Bennett, Investigator
Re: AN 14-034 – Donaldson Hearing, Registered Lobbyist, Cotleur & Hearing

• **Facts**

On August 28, 2014, the Commission on Ethics (COE) received a PBC Gift Form that was signed and submitted by Hal Valeche, Commissioner, Palm Beach County. The form indicated Commissioner Valeche received two (2) tickets to the NPC Chamber 2014 Leadership Awards Dinner with a monetary value of \$350 each; received May 9, 2014 from Mr. Don (Donaldson) Hearing of Cotleur & Hearing. According to the Palm Beach County Lobbyist Registry, Don Hearing is a Registered Lobbyist under the name Donaldson Hearing for the lobbying firm Cotleur & Hearing, Inc.

Under Section 2-444(a)2, *Gift law*, of the PBC Code of Ethics, "***No lobbyist, vendor, or principal or employer of a lobbyist who lobbies an advisory board or any county or municipal department that is subject in any way to the advisory board's authority, influence or advice, 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 a member of that advisory board.***"

Mr. Don Hearing has been determined to be a lobbyist who lobbies Palm Beach County in accordance with the Code definition. The amount of the tickets exceeds the allowable gift amount that a registered lobbyist who lobbies an official or an employee of a county or municipality covered under the Palm Beach County Code of Ethics is allowed to give. By giving this gift in excess of \$100 in value to Commissioner Valeche, Mr. Don Hearing may have violated the Palm Beach County Code of Ethics Gift Law stated above.

By: _____

Anthony C. Bennett, Investigator
PBC Commission on Ethics

DATE

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was sworn to (or affirmed) and subscribed before me this 8th day of January, 2015 by Anthony C Bennett, who is personally known to me.



MARK E. BANNON
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE159008
Expires 1/11/2016

Signature of Notary Public

PALM BEACH COUNTY COMMISSION ON ETHICS
MEMORANDUM OF INQUIRY

To: Steven Cullen, Executive Director
From: Anthony C. Bennett, Investigator
Re: AN 14-034 – Donaldson Hearing, Registered Lobbyist, Cotleur & Hearing

- **Background**

This matter came to the attention of the Commission on Ethics (COE) via a PBC Gift Form that was signed and submitted by Hal Valeche, Commissioner, Palm Beach County. The form was received in the COE office on August 28, 2014. The form lists the following relevant information:

- Two (2) tickets to the NPC Chamber 2014 Leadership Awards Dinner with a monetary value of \$350 each; received May 29, 2014 from Mr. Don Hearing of Cotleur & Hearing.

The tickets were given to Commissioner Valeche by Mr. Don (Donaldson) Hearing (Respondent) of Cotleur & Hearing. The amount of the tickets exceeds the allowable gift amount that a registered lobbyist who lobbies an official or an employee of a county or municipality covered under the Palm Beach County Code of Ethics is allowed to give.

After reviewing the form, one additional issue should be considered. Did the Respondent, who is a registered lobbyist to the county, **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, as is required to violate Section 2-444(a)(2), *Gift law*, of the PBC Code of Ethics?

- **Inquiry**

Hal Valeche is a current member of the Palm Beach County Board of County Commissioners. He was elected to serve Palm Beach County District 1 in November of 2012. He filed a copy of the State of Florida Form 9 Quarterly Gift Disclosure (Gifts Over \$100) via fax to the Palm Beach County Commission on Ethics Office on August 28, 2014. Commissioner Valeche is a state reporting official.

The second entry on the gift form listed two tickets to the NPC Chamber 2014 Leadership Awards Dinner that were received by Commissioner Valeche on 5/29/2014. The tickets were listed as being given by Mr. Don Hearing (Respondent) of Cotleur & Hearing, Inc. According to the Palm Beach County Lobbyist Registry, Don Hearing is a Registered Lobbyist under the name Donaldson Hearing for the lobbying firm Cotleur & Hearing, Inc.

Respondent lobbies for several clients that conduct business with multiple municipalities within Palm Beach County, to include lobbying Palm Beach County government officials. Several "Palm Beach County Board of County Commissioners Paid Lobbyist Registration Forms" were found on file which lists Respondent as the principal lobbyist, lobbying on behalf of clients doing business with Palm Beach County Government.

- **Applicable law**

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

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)

Section 2-256. Applicability of code of ethics ordinance.

The Countywide code of ethics ordinance shall be applicable to all persons and/or entities within the jurisdiction of said ordinance and shall apply to the members and staff of the commission on ethics.

As of June 1, 2011, all individuals listed as a Registered Lobbyist according to the Palm Beach County Lobbyist Registration database are within the jurisdiction of the PBC Commission on Ethics and the Code of Ethics and the Lobbyist Registration Ordinance. Respondent is currently Registered Lobbyist for the lobbying firm Cotleur & Hearing.

The following portions of the PBC Code of Ethics are relevant:

Sec. 2-442. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Official or employee means any official or employee of the county or the municipalities located within the county, whether paid or unpaid. The term "*employee*" includes but is not limited to all managers, department heads and personnel of the county or the municipalities located within the county.

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

Lobbyist shall mean any person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying on behalf of a principal, and shall include an employee whose principal responsibility to the employer is overseeing the employer's various relationships with government or representing the employer in its contacts with government. "*Lobbyist*" shall not include:

- (1) any employee, contract employee, or independent contractor of a governmental agency or entity lobbying on behalf of that agency or entity, any elected local official when the official is lobbying on behalf of the governmental agency or entity which the official serves, or any member of the official's staff when such staff member is lobbying on an occasional basis on behalf of the governmental agency or entity by which the staff member is employed.
- (2) any person who is retained or employed for the purpose of representing an employer, principal or client only during a publicly noticed quasi-judicial hearing or comprehensive plan hearing, provided the person identifies the employer, principal or client at the hearing.

Sec. 2-444. Gift law.

- (a)(2) No lobbyist, vendor, or principal or employer of a lobbyist who lobbies an advisory board or any county or municipal department that is subject in any way to the advisory board's authority, influence or advice, 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 a member of that advisory board. For the purposes of this subsection 2-444(b)(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.
- (g) For the purposes of this section, "**gift**" shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration. (Emphasis added)

Section (g)(1)(a-j) lists several exceptions to the gift law, however none of the listed exceptions are applicable under the facts of this case.

- **Analysis and Conclusion**

The following information was developed by this investigator during this Inquiry:

- A PBC Gift Form was received in the COE office on August 28, 2014.
- The form was completed and signed by Hal Valache, District 1 Commissioner, Palm Beach County.
- The form listed the receipt two (2) admission tickets to the NPBC Chamber 2014 Leadership Awards Dinner (monetary value \$350 each) dated May 29, 2014.
- The tickets to the NPBC Chamber dinner was given by Mr. Don Hearing, Lobbyist with the lobbying firm Cotleur & Hearing, Inc.
- According to the Palm Beach County Lobbyist Registry, Hearing is a registered lobbyist for Palm Beach County, and lobbies for several vendors that do business with Palm Beach County.
- The tickets given exceed the allowable gift limit of \$100 according to the Code.

Based on the information gathered, Mr. Don (Donaldson) Hearing has been determined to be a lobbyist, in accordance with the Code definition, of Palm Beach County. Commissioner Valeche filed a State of Florida Form 9 Gift Disclosure Form with the Florida Commission on Ethics which listed him accepting two (2) tickets to the NPBC Chamber 2014 Leadership Awards Dinner valued at \$350 per ticket. He also sent a copy of that form to the PBC COE as required by the PBC Code of Ethics. The tickets were given to the Commissioner by Respondent.

Evidence obtained and reviewed indicates there are sufficient facts present to establish that if the information is true, Respondent may have violated Section 2-444(a)(2) and 2-444(g), Gift Law, of the Palm Beach County Code of Ethics by giving the tickets to a county employee or entity that he is registered to lobby. There was no sworn complaint filed in this matter, but the COE Executive Director has the authority to file a "self-initiated" complaint where legal sufficiency exists. As stated below:

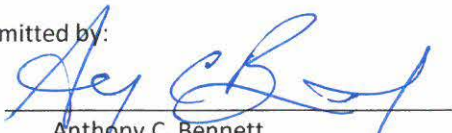
Legal sufficiency to file a self-initiated complaint exists where there is an allegation of a violation of an ordinance within the jurisdiction of the Ethics Commission, purportedly committed by an individual within the authority of the Ethics Commission, based upon facts which have been sworn to as true 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.

- **Recommendation**

Based on the evidence obtained during the initial Inquiry, I recommend that a self-initiated complaint be filed by the COE Executive Director, and that a formal investigation commence.

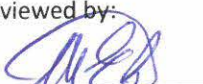
At the point such self-initiated complaint is filed, this matter will be deemed as **LEGALLY SUFFICIENT** under Section 2-260(a)(2), ***Procedure on Complaints Filed, Legal sufficiency of complaints***, of the PBC Commission on Ethics Ordinance.

Submitted by:


Anthony C. Bennett
PB County Commission on Ethics

1/8/15
Date

Reviewed by:


(Initials)

1/8/15
Date

PALM BEACH COUNTY COMMISSION ON ETHICS
LEGAL SUFFICIENCY DETERMINATION

To: File
From: Steven P. Cullen, Executive Director
Re: AN14-034 – Don (Donaldson) Hearing, Registered Lobbyist, Cotleur & Hearing

- **Background**

This matter came to the attention of the Commission on Ethics (COE) staff via a PBC Gift Form that was signed and submitted by Hal Valeche, Commissioner for Palm Beach County. The form was received in the COE office on August 28, 2014. The form indicated Commissioner Valeche received two (2) tickets to the NPC Chamber 2014 Leadership Awards Dinner with a monetary value of \$350 each; received May 9, 2014 from Mr. Don Hearing (Respondent) of Cotleur & Hearing.

According to the Palm Beach County Lobbyist Registry, Don Hearing is a Registered Lobbyist under the name Donaldson Hearing for the lobbying firm Cotleur & Hearing, Inc. Hearing lobbies for several clients that conduct business with multiple municipalities within Palm Beach County, to include lobbying Palm Beach County government officials.

The amount of the tickets exceeds the allowable gift amount that a registered lobbyist who lobbies an official or an employee of a county or municipality covered under the Palm Beach County Code of Ethics is allowed to give.

Respondent, who is a registered lobbyist to the county, may have violated Section 2-444(a)(2), Gift Law, of the Palm Beach County Code of Ethics by **knowingly** giving, 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.

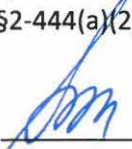
- **Finding**

Based on the information listed in the Memorandum of Inquiry, there is **LEGAL SUFFICIENCY** for further investigation.

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 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.

If true, and Respondent violated the Palm Beach County Code of Ethics by committing the alleged unlawful act of §2-444(a)(2), Gift Law, then the Commission could find Probable Cause.

BY:



Steven P. Cullen, Executive Director
Florida Bar No. 362204
PBC Commission on Ethics

1/8/2015

Date

INVESTIGATIVE REPORT

To: Steven Cullen, Executive Director
 From: Anthony C. Bennett, Investigator
 Re: C15-002 – Don Hearing, Registered Lobbyist

All information from the Memorandum of Inquiry, supporting documents and Legal Sufficiency Determination are incorporated by reference into this investigation.

- **Allegation**

This matter came to the attention of the Commission on Ethics (COE) via a State of Florida Quarterly Gift Disclosure Form (Form 9) that was signed and a copy submitted to the COE by Hal Valeche, Commissioner, Palm Beach County. The Form 9 was received in the COE office on August 28, 2014. The Form 9 lists the following relevant information:

- Two (2) tickets to the NPC Chamber 2014 Leadership Awards Dinner with a monetary value of \$350; received May 29, 2014 from Mr. Don Hearing of Cotleur & Hearing.

The tickets were given to Commissioner Valeche by Mr. Don (Donaldson) Hearing (Respondent) of Cotleur & Hearing. The amount of the tickets exceeds the allowable gift amount that a registered lobbyist who lobbies an official or an employee of a county or municipality covered under the Palm Beach County Code of Ethics is allowed to give.

After reviewing the form, one additional issue should be considered. Did the Respondent, who is a registered lobbyist to the county, **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, as is required to violate Section 2-444(a)(2), *Gift law*, of the PBC Code of Ethics?

- **Investigation**

Respondent is part owner of the Landscaping Architectural firm Cotleur & Hearing, Inc. They have been in business for 24 years, according to their website. They list several entities including the Florida Department of Transportation, Florida Power and Light, along with a multitude of counties and municipalities statewide as clients.

I checked the Palm Beach County Lobbyist Registry website to verify if Respondent was indeed a registered lobbyist that lobbies any Palm Beach County employees or public officials. Respondent's name was found in the database as a lobbyist for a number of companies that conduct business with county and city entities, employees and officials. Below is the listing of his Registry entry in the database:

Lobbyist Details

Lobbyist Name : Hearing, Donaldson
 Lobbyist Firm Name : Cotleur & Hearing, Inc.
 Lobbyist Address : 1116 Commerce Lane, Suite 1, Jupiter FL 33458

Principal Search

First Name

Last Name

Company Name

Principal Name	Company Name	Paid	Effective From	Withdrawn On
Modica, Charles	1116 Love Street, LLC	Yes	06/28/2012	
Greenfield, Andrew	Admirals Cove POA	Yes	09/24/2014	
Miller, Richard	Allegro Development Company, LLC	Yes	09/23/2011	
May, Mark	Bluffs Marina Association, Inc.	Yes	07/29/2013	
Di Giacinto, Henry	Bright Futures	Yes	11/06/2012	

[Next > | Last Page <<](#)

I reviewed the Northern Palm Beach County Chamber of Commerce website to determine Respondents relationship with the organization. The Chamber was founded in 2007 as a result of a merger between the Jupiter, Tequesta, and Juno Beach Chamber and the Northern Palm Beach Chambers. They list themselves as a not-for-profit organization with over 1300 business members represented. They *"focus on the development and retention of businesses by taking an active role in issues that affect the profitability of local companies, protecting and improving the quality of life for residents and, above all, providing superior services and resources to our members."* During the year 2014, Respondent was listed as the Chairman of the Chamber's Executive Board.

The event in question was the Northern Palm Beach County Chamber of Commerce 2014 Leadership Awards Dinner. The dinner was held on Thursday, May 29, 2014 at PGA National Resort and was hosted by the Northern Palm Beach County Chamber of Commerce. Several individuals from various areas of the community were being honored by the organization. Tickets were made available to those wishing to attend the event at a cost of \$175 per ticket.

On August 28, 2014 a Form 9 was submitted, which listed Valeche accepting two tickets to the 2014 Leadership Awards Dinner from Respondent. Then on October 8, 2014, Commissioner Hal Valeche sent a letter to COE Executive Director Steven P. Cullen, stating he "inadvertently accepted two tickets from Don Hearing for the Northern Palm Beach Chamber's 2014 Leadership Awards Dinner." He identified Respondent as a "Lobbyist" and advised he sent Mr. Hearing a \$350 check to cover the cost of the two tickets to correct the issue. Attached to the letter was a copy of a cashed check from Valeche written to Respondent in the amount of \$350. The check was dated October 8, 2014 and cashed on October 17, 2014. In addition, there was a new Form 9 submitted with the word "Revised" written on top of the form and the NPBC 2014 Dinner tickets entry had been omitted.

On Tuesday, January 20, 2015, at 1:55 pm, I took a sworn taped statement from Commissioner Hal Valeche at Palm Beach County Governmental Center, 300 North Olive Avenue, West Palm Beach, FL 33401. Respondent was sworn in and gave permission to be recorded. Below are the details of that interview:

Valeche stated he was elected and sworn in to the Palm Beach County Commission in November of 2012. He advised he represents District 1. He stated he received Ethics training in November of 2014 at the Florida Association of Counties meeting. He knew Ethics training was a requirement of all county employees. He said he did recall receiving training on the lobbyist section of the ethics training, as well as training on gifts from individuals to include lobbyists. (Valeche also received training on the Palm Beach County Code of Ethics as required, on November 25, 2012, as evidenced by his signed Training Acknowledgement Form located in personnel records.)

Valeche advised that he knew Respondent. He stated he's known Respondent for a long time since his days as a Palm Beach Gardens City Councilman dating back to 2004. He advised that Respondent works as a Land Planner and Landscape Architect. He advised he also knows him as a lobbyist that lobbies Palm Beach County. He stated Respondent is also registered in the Palm Beach County Lobbyist Registry.

Valeche advised he was familiar with the 2014 Leadership Awards Dinner. He stated he attended the event at PGA National. He said he did receive "tickets" to the event. He advised Respondent called him and said "We'd like you to come to the Leadership Awards Dinner" and he accepted the invitation. He clarified that it was a verbal invitation. He said he knew tickets were required to attend the event, but he didn't remember getting a physical pair of tickets delivered to him. He said they could have already been waiting for him at the event, he just wasn't sure.

He advised he submitted a Quarterly Gift Disclosure Form to the COE with the tickets listed, but then submitted a second one to amend the mistake.

He was handed a copy of the first Quarterly Gift Disclosure Form to read for the record:

"Form 9 Quarterly Gift Disclosure (Gifts over \$100) – Part A – Statement of Gifts, Two VIP tickets to SunFest, Monetary Value of \$400, Given by Paul Jamieson, Date received 4/30/2014. Two tickets to NPBC Chamber 2014 Leadership Awards Dinner, Monetary Value \$350, Given by Don Hearing of Cotleur & Hearing, Date received 5/29/2014."

He advised he signed the document and there was a "Received by Commission on Ethics" stamp dated August 28, 2014. He again advised this was the first disclosure form he submitted to the COE.

He was handed a copy of the second Quarterly Gift Disclosure Form to read for the record:

"Form 9 Quarterly Gifts Disclosure (Gifts over \$100) – REVISED – Part A – Statement of Gifts, Two VIP tickets to SunFest, Monetary Value of \$400, Given by Paul Jamieson, Date received 4/30/2014."

He advised he signed this document as well and there was a "Received by Commission on Ethics" stamp dated October 15, 2014. He confirmed the entry regarding the tickets to the 2014 Leadership Awards Dinner was not listed on the "Revised" gift disclosure. He said he omitted the entry because he had sent the money back to Hearing. Respondent said the money was sent back to Hearing by personal check.

He was handed a copy of a cashed check to read for the record:

"A Bank of America on line banking information listing a check in the amount of \$350 made out by me personally to Don Hearing."

He stated he was familiar with §Chapter 112 that covers gifts and knew of the 90 day time grace period that is allotted by the state to return a prohibited gift. He confirmed the payment for the tickets was returned to Respondent after the 90 day grace period.

He said when he realized he received the tickets in error he immediately wrote the check to Respondent to cover the costs. This was not realized until after the 90 day period was over. He said there was no attempt to keep the tickets or money, or hide the tickets in any way. Once he realized what happened he made the attempt to correct the issues, which included filing an amended disclosure form.

He reiterated the check was written by him on October 8, 2014 and cashed by Respondent on October 17, 2014 at 9:34 am. He said again to his knowledge Respondent has received the money for the two tickets.

Valeche said his assistant usually handles all gifts that may come into the office and that they are very knowledgeable on what's permitted and what's not permitted. He said it was just a mistake on his part in accepting the tickets and that he probably did not realize that these tickets were coming from Hearing himself. He initially thought the tickets were coming from the Chamber directly. He said he should have checked though, but once realized the mistake he made all attempts to correct it.

Respondent had nothing else to add to the statement, and it was concluded at 2:07 pm.

On Monday, January 26, 2015, at 9:58 am, I took a sworn taped statement from Mr. Donaldson Hearing at Offices of Cotleur & Hearing, 1934 Commerce Lane Suite 1, Jupiter, FL 33458. Respondent was sworn in and gave permission to be recorded. Below are the details of that interview:

Respondent stated his full name, address, work phone number and email address for the record. He stated he was a Landscape Architect and Land Planner by trade. He said he has worked in this profession since 1982. When asked if he lobbies, he said "I guess you could call it that per the ordinance" because he meets regularly with city officials and city staff members. He said he is listed as a Registered Lobbyist in the Palm Beach County Lobbyist Registry database.

He said his office follows strict guidelines when dealing with meetings with city and county officials. He advised they register as lobbyists on virtually every project they work on within a municipality or entity under the county. He said he was provided guidance roughly two and half years ago that if you are meeting with a staff member it is considered an act of lobbying. He said he questions that idea, but he is very careful so he registers based on each meeting held, this includes provisions written into their contracts that outline the necessity to register prior meetings with officials or staff.

He said he is familiar with the Palm Beach County Code of Ethics, but has "not taken any formal ethics training." He said he is familiar with the Palm Beach County Lobbyist Registration Ordinance, but has "not taken any formal lobbyist training." He advised one of his assistants has taken the ethics and lobbyist training, and stated that he "probably should take the training," but again he has not. He said he is not as familiar with the Gift Law and has not taken any formal training on the gift law. He said he does know that as a registered lobbyist, he can't give a gift to a public official such as a commissioner.

He said he has known Commissioner Valeche for roughly ten or twelve years, ever since he was a council member for the City of Palm Beach Gardens. He acknowledged they had a relationship prior to Valeche becoming a County Commissioner. He said he would say they were close friends.

He said he is familiar with the Northern Palm Beach County Chamber of Commerce. Respondent stated he is currently the past Chairman of Chamber. Last year (2014) he was the Chairman. He said when the Dinner occurred in May 2014, he was still Chair. He said he does not lobby on behalf of the Chamber. He advised his position is a volunteer position. He said he has been a member of the Chamber for 20 to 25 years.

He advised he is familiar with the NPBC Chamber 2014 Leadership Awards Dinner. He said the purpose of the dinner is to recognize various people who have provided great value, benefit and leadership to the community. He said it is not a gathering of vendors that discuss business, but just a ceremonial recognition of selected individuals based on their service to the community. In addition, it is one of the fundraisers used by the Chamber to assist them in their role of helping our communities.

To attend the dinner, a person could purchase an individual ticket. Or such as in his case, Hearing stated since he was one of the sponsors, he was provided a table for use for any guests of his choosing. He said the Chamber actively tries to have public officials, Congressmen, State Representatives and other elected officials attend events such as this one as a way for public officials to remain involved with what's going on in the communities they serve and noted several officials have attended in the past.

He said since he had a sponsorship and seats available at his table, he spoke with the Executive Director of the Chamber and they felt Commissioner Valeche would be a good person to contact to attend the event. Hearing said his assistant, Darlene, sent Valeche an email and said the actual invitation was based on a collective agreement amongst the Chamber Executive Board, not necessarily just from him. He said some of the people who sat at his table he knew, others he did not know because they were invited by the collective Chamber Executive Board. He advised his sponsorship is done as a means to give back, not with the intent of getting seats to influence people.

He said as a sponsor, he did not receive physical tickets to give out. So there were no tickets sent via mail or left at the door. He said he was not exactly sure of the actual cost of an individual ticket, but he believed the amount would have been \$175 per ticket. Since there was no physical ticket given to Valeche, Respondent said in order for Valeche to enter the dinner, his name had to have been on an invitation list at the door of the event with the table assignment.

I asked Respondent for a copy of the email sent to Valeche, he advised his assistant had already purged emails from that time frame months earlier and he could not recover it. He apologized.

He advised a few months after the event, someone from Valeche's office called him inquiring about the ticket price for the event. They told him at that time that Valeche was writing a check to cover the cost. He said he received a check for \$350 from Valeche in the mail roughly three and half months after the event. He acknowledged he received the money outside of the 90 day window. He said he did cash the check and received the repayment money. He said his assistant Darlene usually handles all of his personal gift filings and as a general rule he does not give gifts to public officials.

He advised he viewed this incident as a way for public officials to remain involved in their community. He said he serves on several civic boards and feels it is important to have a good rapport with elected officials from municipalities, county, state, etc. to interact and remain active especially when honoring people who provide exceptional service to the community. When he requested Valeche to be there, he didn't even think of it as giving a gift. He said it was actually the other way around, where Valeche was helping him and the Chamber recognize the men and women that were selected to receive awards.

Hearing said the rule is the rule and he understands the process. He advised he will definitely be more careful in future and said he thought the Commissioner's office had every intention of repaying the tickets and thought they just apparently missed it in their filing. He said there was no malicious intent to hand out a gift. This whole incident was just an apparent oversight.

Respondent had nothing else to add to the statement, and it was concluded at 10:15 am.

- **Summary of Investigation**

In order to find a violation of §2-444(a)(2) *Gift law*, it would have to be established that Respondent, who is a registered lobbyist to the county, did **knowingly** give, directly or indirectly, a gift with a value greater than one hundred dollars (\$100) in the aggregate for the calendar year to a person who Respondent knew to be an official or employee of the county.

A search of the Palm Beach County Lobbyist database shows Respondent is listed as a "lobbyist" for several entities. It also shows that he lobbies several city and county employees and officials on behalf of his clients. In a statement provided by Respondent he advised that he is a lobbyist by definition of the Code. He also advised that he has not taken the formal Code of Ethics training or the formal Lobbyist Registration training. He stated his assistant has taken the training and she usually files the appropriate paperwork necessary in regards to lobbying requirements for him.

The Form 9 filed by Commissioner Valeche indicated that Respondent did give two tickets for the 2014 Leadership Awards Dinner valued at \$175 per ticket for a total value of \$350 to Valeche. The gift was given on May 29, 2014. Commissioner Valeche acknowledged that he did receive the tickets from Respondent and that he did attend the event. Respondent advised in his statement that at the time of the event he was the Chairman of the Chamber Executive Board. The decision to invite the Commissioner to the event was a collective one by the Board. He also did acknowledge that a formal invitation was sent from his office to Commissioner Valeche and the Commissioner did attend the event.

On October 15, 2014, the COE received an "amended" Form 9 from Valeche with the entry regarding the two tickets to the awards dinner omitted. In addition, there was an attached check written by Valeche to Respondent in the amount of \$350 for repayment of the tickets. There was also a letter attached addressed to the COE Executive Director from Valeche stating that he "inadvertently accepted two tickets" from Lobbyist Don Hearing in the amount of \$350 and that he had sent a check dated October 8, 2014 to Respondent to pay for the tickets. In Respondent's statement, he verified that he did receive the repayment check and he deposited it his account accordingly.

Florida State Statute 112.3148 *Reporting and prohibited gifts*, allows for a public official to return a gift that is improper within 90 days. The gift was given on May 29, 2014. The 90th day in which Valeche could have

returned or paid for the gift was August 27, 2014. The check dated October 8, 2014 sent by Valeche as repayment for the tickets fell outside of the 90 day period.

Upon review of all submitted documentation, information provided by the witnesses and information learned through sworn statements, Respondent, who is a lobbyist of the County, did send Palm Beach County Commissioner Valeche an improper gift valued above the \$100 as prohibited by the Gift Law. Respondent as a lobbyist is ultimately responsible if an improper gift is given to an official. Additionally, he made personal contact with Respondent to invite him to this event. The fact Respondent admitted he did not take the formal ethics, gift law or lobbyist training, does not absolve him from following the requirements set forth by the Code and Lobbyist Ordinance as it pertains to gifts.

The investigation is concluded at this time.

Submitted by:



Anthony C. Bennett
PB County Commission on Ethics

1/29/2015
Date

Reviewed by:


(Initials)

1/29/2015
Date

(8)(a) Each reporting individual or procurement employee shall file a statement with the Commission on Ethics not later than the last day of each calendar quarter, for the previous calendar quarter, containing a list of gifts which he or she believes to be in excess of \$100 in value, if any, accepted by him or her, for which compensation was not provided by the donee to the donor within 90 days of receipt of the gift to reduce the value to \$100 or less, except the following:

1. Gifts from relatives.
2. Gifts prohibited by subsection (4) or s. 112.313(4).
3. Gifts otherwise required to be disclosed by this section.

COE Sworn Interview Form

This is Anthony Bennett, Investigator with the Palm Beach County Commission on Ethics

This will be an interview with Donaldson (Don) Hearing

Conducted in reference to COE case # C15-002 ; C15-001

Today's date is January 26, 2015

The time by my watch is 9:58 a

The location of this interview is: 1934 Commerce Lane (Suite 1)
Jupiter, FL 33458

Please state:

- ☒ Your Full Name
- ☒ Your Occupation/ Title, and the Public Entity you serve
- ☒ Your Work Address
- ☒ Your Work Phone Number
- ☒ An Email Address that you wish to use for COE contact

Oath

Please raise your right hand:

Do you swear or affirm that during this interview you will tell the truth, the whole truth and nothing but the truth?

- Do you understand that you are under oath?
- ☒ Do you agree that this interview is being conducted voluntarily, and that no threats or promises have been made to compel you to talk with me today?
- ☒ Do you understand that this conversation is being audio recorded?

Join the Northern Palm Beach County
Chamber of Commerce at the

2014 Leadership Awards Dinner

Presented by Roger Dean Stadium

Thursday, May 29th

6:00 pm - Cocktail Reception & Silent Auction

7:00 pm - Dinner & Awards

PGA National Resort & Spa

400 Avenue of the Champions
Palm Beach Gardens, FL 33418

Honoring the

2014 Award Recipients

Gaeta Chairman's Award of Excellence
Michele Jacobs, The Forbes Company

Business of the Year
Lockheed Martin Corporation

Community Leader of the Year
Patrick Rooney, Jr.

Small Business of the Year
Loggerhead Fitness

Non-Profit of the Year
Place of Hope

Young Professional of the Year
Jennifer Sardone-Shiner

Board of Directors Special Recognition
The City of Riviera Beach and the Riviera Beach CRA



P.O. Box 1989
West Palm Beach, FL 33402-1989
(561) 355-2001
FAX: (561) 355-3990
www.pbcgov.com



**Palm Beach County
Board of County
Commissioners**

Priscilla A. Taylor, Mayor

Paulette Burdick, Vice Mayor

Hal R. Valeche

Shelley Vana

Steven L. Abrams

Mary Lou Berger

Jess R. Santamaria

County Administrator

Robert Weisman

October 8, 2014

Mr. Steven P. Cullen, Esq.
Executive Director
Palm Beach County Commission on Ethics
300 N. Dixie Highway, #450
West Palm Beach, FL 33401

Dear Mr. Cullen:

It has recently come to my attention that on May 29, 2014, I inadvertently accepted two tickets from Don Hearing, for the Northern Palm Beach Chamber's 2014 Leadership Awards Dinner.

Mr. Hearing is a registered lobbyist. I have since sent Mr. Hearing a check in the amount of \$350 to cover the cost of the tickets. I would be happy to furnish you a copy of the check upon request. I filed the Quarterly Gift Disclosure listing this gift with your office on August 27, 2014.

I sincerely apologize for this oversight and I can assure you that it will not happen again.

Sincerely,

A handwritten signature in cursive script that reads "Hal R. Valeche".

Hal R. Valeche
County Commissioner

Revised

Form 9

QUARTERLY GIFT DISCLOSURE (GIFTS OVER \$100)

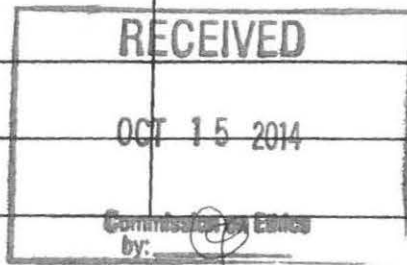
LAST NAME -- FIRST NAME -- MIDDLE NAME: Valeche, Hal R.			NAME OF AGENCY: Palm Beach County Board of County Commissioners	
MAILING ADDRESS: 301 N. Olive Avenue, 12th Floor			OFFICE OR POSITION HELD: County Commissioner	
CITY: West Palm Beach, FL	ZIP: 33401	COUNTY: Palm Beach	FOR QUARTER ENDING (CHECK ONE): <input type="checkbox"/> MARCH <input type="checkbox"/> JUNE <input checked="" type="checkbox"/> SEPTEMBER <input type="checkbox"/> DECEMBER	
			YEAR 2014	

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 quarter 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 the reverse side 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 quarter 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
4/30/2014	Two VIP tickets to SunFest	\$400	Paul Jamieson Executive Director	525 Clematis Street WPB, FL 33401

☐ 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 Section 112.3148, Florida Statutes.	STATE OF FLORIDA COUNTY OF <u>Palm Beach</u> Sworn to (or affirmed) and subscribed before me this <u>14th</u> day of <u>October</u> , 20 <u>14</u>
	by <u>Hal R. Valeche</u> <u>Cindy L. DeFilippo</u> (Signature of Notary Public - State of Florida) MY COMMISSION # EE 082988 EXPIRES: May 4, 2015
SIGNATURE OF REPORTING OFFICIAL <u>Hal R. Valeche</u>	(Print, Type, or Stamp of Notary Public) Personally Known <input checked="" type="checkbox"/> <input type="checkbox"/> Not Personally Known Type of Identification Produced _____

PART D — FILING INSTRUCTIONS

This form, when duly signed and notarized, must be filed with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, Florida 32303. The form must be filed no later than the last day of the calendar quarter that follows the calendar quarter for which this form is filed (For example, if a gift is received in March, it should be disclosed by June 30.)



Online Banking

Regular Checking - 2435: Account Activity Transaction Details

Check number: 00000001993

Post date: 10/17/2014

Amount: -350.00

Type: Check

Description: Check

HAL R VALECHE 126 VIERA DR PALM BEACH GARDENS, FL 33418-1741		10/18/14	1993
Pay To The Order Of <u>Don Heape</u>		Date	63-4630 FL 22280
<u>Three hundred fifty and 00/100</u>		\$ 350.00	
Bank of America		Dollars	
ACH RVT 089100777			
For <u>Hal R Valeche</u>			
⑆063000047⑆ 001442792435⑈1993			

TR:30 37-341 10/17/14 09:34 AM
Customer



Palm Beach County Commission on Ethics

Commissioners

Salesia V. Smith-Gordon, *Chair*

Michael S. Kridel, *Vice Chair*

Michael F. Loffredo

Carmine A. Priore

Clevia Hearley

Executive Director

Steven P. Cullen

Negotiated Settlement

In Re: Donaldson Hearing

C15-002

Pursuant to section 2-260(d) of the Palm Beach County Commission on Ethics Ordinance, the Commission *may enter into such stipulations and settlements as it finds to be just and in the best interest of the citizens of the county*. Commission on Ethics Rules of Procedure 6.16 permits the COE Advocate to enter into settlement negotiations and present proposed agreements to the Commission for consideration and approval. Advocate and Respondent do hereby submit the following settlement agreement in the above captioned matter based upon the following terms and conditions:

1. Respondent, Donaldson Hearing, believes it to be in his best interest to avoid the expense and time of litigation in this matter and desires to resolve the issues contained in the Advocate's probable cause recommendation. Accordingly, Respondent, who is a registered lobbyist of the County, admits to giving a gift, in the form of two tickets to the Northern Palm Beach County Chamber of Commerce's Annual Leadership Awards Dinner with a face value of \$350 to a person who he knows is an official of the county. Respondent admits that the conveyance of this gift could reasonably be perceived as a violation of Section 2-444(a)(2), *Gift law*, of the Code of Ethics, but maintains that any such violation was unintentional and inadvertent.
2. Pursuant to this Proposed Settlement Agreement, the Commission on Ethics agrees to dismiss the Complaint and Issue a Letter of Instruction as prescribed under section 2-448(b) of the Palm Beach County Code of Ethics, believing that the public interest would not be served by proceeding further and that the alleged violation was inadvertent and unintentional. Respondent agrees to attend a one-hour training on the Code of Ethics within thirty (30) days from the date this agreement is accepted by the COE, and to repay the cost of the gift to the Northern Palm Beach County Chamber of Commerce or a charity of Respondent's choice.
3. This Proposed Settlement Agreement embodies the entire agreement of the parties respecting the subject matter herein. There are no promises, terms, conditions or obligations other than those contained in this Proposed Settlement Agreement.
4. This Proposed Settlement Agreement supersedes any and all previous communications, representations, and offers, either verbal or written, between the Advocate and Respondent. By signing this document, Respondent acknowledges that he is doing so freely, voluntarily and without duress; that he is competent to enter this agreement; that he has been given the opportunity to review this Proposed Settlement Agreement with an attorney; and that he has fully and completely read and understands the terms and conditions herein.

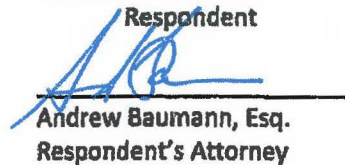
5. Advocate and Respondent agree that settlement of this action in the manner described above is just and in the best interest of the Respondent and the citizens of Palm Beach County.
6. Evidence of this offer of compromise and settlement is inadmissible to prove any of the allegations alleged against Respondent or any other individual or party.
7. Respondent understands and agrees that NO OFFER IS FINAL UNTIL ACCEPTED BY THE COMMISSION ON ETHICS.


Sarah Shullman, Esq.
Volunteer Advocate

2/26/15
Date


Donaldson Hearing,
Respondent

2.26.15
Date


Andrew Baumann, Esq.
Respondent's Attorney

2/26/15
Date