



Palm Beach County Commission on Ethics

Commissioners

Edward Rodgers, *Chair*
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Executive Director

Alan S. Johnson

October 28, 2010

Christian Davenport
County Historic Preservation Officer/Archaeologist
2300 North Jog Road
West Palm Beach, FL 33411

Re: RQO 10-031
Gift Acceptance

Dear Mr. Davenport,

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

YOU ASKED in your email of October 20, 2010, whether you could accept two tickets to a play, valued at \$40.00 each, in appreciation for helping the playwright understand the Everglades and archaeological procedures in Palm Beach County.

IN SUM, Section 2-444(c) of the Palm Beach County Code of Ethics specifically prohibits an employee from accepting a gift because of "an official action taken" or "duty performed". The assistance you provided was in your official capacity as a Palm Beach County employee, therefore you are prohibited from accepting the gift.

THE FACTS as we understand them are as follows:

You are the county historic preservation officer/archaeologist. Your general duties include identifying, protecting and promoting historic resources within Palm Beach County. Through your training, knowledge and experience you have a great deal of expertise regarding archeological conservation, historic preservation and related issues within Palm Beach County and the State of Florida.

You were contacted in your official capacity by a playwright who requested information regarding the Everglades and how archeology is performed in Palm Beach County. The contact was unsolicited and was treated by you as a basic request for information. In that public outreach and education are part of your official duties with the county, you provided the requested information including an explanation as to procedures in dealing with human remains when discovered and a discussion of the historic resources of the Everglades. You met with the playwright on one occasion and have not seen him since that day. As this was merely a request for information from a citizen, you have no idea whether he is a vendor with the county or has any relationship ongoing with your department. Your only subsequent contact with the playwright was receiving two tickets for his play as a thank you for providing the information. The face value of the tickets is \$40.00 each.



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THE LEGAL BASIS for this opinion relies on the following section of the Palm Beach County Code of Ethics.

Article XIII, Sec. 2-444. Gift Law.

- (c) No person or entity shall offer, give, or agree to give an official or employee a gift, and no official or employee shall accept or agree to accept a gift from a person or entity, because of:
- (1) An official public action taken or to be taken, or which could be taken;
 - (2) A legal duty performed or to be performed or which could be performed; or
 - (3) A legal duty violated or to be violated, or which could be violated by any official or employee.

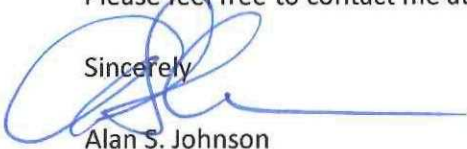
The Code of Ethics specifically prohibits an employee from accepting a gift because of "an official act taken" or "duty performed". Regardless of whether or not a gesture of thanks from the playwright was given with ulterior motive or intent, it is still a gratuity tied to your official act in helping him with information. This is discouraged and specifically prohibited under the code.

IN SUMMARY, you may not accept theater tickets of any value as a thank you for an official public action taken or legal duty performed by helping the playwright obtain the requested information.

This opinion construes the Palm Beach County Code of Ethics Ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at (561) 233-0724 if I can be of any further assistance in this matter.

Sincerely,


Alan S. Johnson
Executive Director

ASJ/gal