



# Palm Beach County Commission on Ethics

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Alan S. Johnson

July 15, 2011

Shelley Vana, Commissioner  
301 N. Olive Avenue, Suite 1201  
West Palm Beach, FL 33401

Re: RQO 11-048  
Gift Law

Dear Commissioner Vana,

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

YOU ASKED in your email dated July 5, 2011 whether you, as a Palm Beach County Commissioner, could accept the 2011 County Commissioner of the Year Award from the Palm Beach County Business Leadership Network and attend the associated awards luncheon.

IN SUM, you are not prohibited from accepting an award for civic achievement from the Palm Beach County Business Leadership Network or from attending the awards luncheon.

THE FACTS you submitted are as follows:

You are a Palm Beach County Commissioner and have been selected to receive the 2011 County Commissioner of the Year Award from the Palm Beach County Business Leadership Network (BLN). PBCBLN is a 501(c)3 non-profit organization that operates in conjunction with the Coalition for Independent Living Options (CLIO) and serves as a network of for-profit businesses, service agencies and educational institutes, interested in promoting employment options for people with disabilities. CLIO promotes independence for people with disabilities and receives funding from the United Way. PBCBLN staff noted that Commissioner Vana was nominated for this award as a result of her responsiveness to many of the issues facing persons with disabilities in Palm Beach County, as well as her years of service to Palm Beach County schools.

While the Business Leadership Network has existed statewide for several years, the Palm Beach County Chapter was founded in February of 2010. The BLN presents several awards yearly including, Business Leader of the Year, Employer of the Year, On the Job Training Site of the Year and Adult Leader of the Year. The BLN is not a principal or employer of a lobbyist or a vendor; however, while CLIO and United Way are not principals or employers of lobbyists, they are vendors of the County.

Staff contacted the BLN and determined that CLIO will purchase the proposed award which is an 8 by 10 wooden wall plaque valued at \$30 dollars. The BLN intends to present the award at its "Making Connections" conference luncheon on August 24, 2011. The "Making Connections" employer conference is free to local businesses and provides resources and education about the advantages of hiring, retaining and promoting people with disabilities. Both breakfast and lunch will be provided without cost to attendees. The actual per person cost to BLN for breakfast and lunch is \$6.96 and \$14.95 respectively, and will be paid by the United Way.

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

**Sec. 2-444. Gift law.**

- (a)(1) No county commissioner, member of a local governing body, mayor or chief executive when not a member of the governing body, or employee, or any other person or business entity on his or her behalf, shall knowingly solicit or accept directly or indirectly, any gift with a value of greater than one hundred dollars (\$100) in the aggregate for the calendar year from any person or business entity that the recipient knows, or should know with the exercise of reasonable care, is a vendor, lobbyist or any principal or employer of a lobbyist who lobbies, sells or leases to the county or municipality as applicable.

You may not accept a gift of any value in exchange for the past, present and future performance or non-performance of a legal duty or official public action. That being said, you are not prohibited from accepting up to \$100 dollars in the aggregate, during the calendar year, from a vendor, lobbyist, or principal or employer of a lobbyist. While BLN is not a vendor, event and funding sponsors CLIO and United Way of Palm Beach are vendors of Palm Beach County. Attendance at the event is free. The BLN breakfast cost is \$6.96 and the awards luncheon is valued at \$14.95 per person. Even if considered an indirect gift from a county vendor, either CLIO or United Way, the total amount does not exceed \$100. Therefore, consideration of the gift in the context of sec. 2-444(a)(1) prohibitions is not required.

In addition, under sec. 2-444(g)(1)i., accepting a ticket, pass or admission to a public event, appearance or ceremony sponsored by a nonprofit organization that does not employ a lobbyist would not be prohibited regardless of the cost of the event, provided the ticket, pass or admission is given by a representative of the nonprofit sponsor who is not otherwise a vendor, lobbyist, principal or employer of a lobbyist.

So long as you do not accept anything of value because of an "official act taken" or "duty performed," which would result in a quid pro quo in exchange for attending the event, attendance and acceptance of breakfast and lunch does not violate the gift law. Section (g)(1)c addresses receipt of the award.

**Sec. 2-444(g)**

- (1)c. 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. Food and beverages consumed at a single setting or a meal shall be considered a single gift, and the

value of the food and beverage provided at that sitting or meal shall be considered the value of the gift.

(1) Exceptions. The provisions of subsection (g) shall not apply to:

c. Awards for professional or civic achievement;


The definition of "gift", specifically excludes awards for professional or civic achievement. You are being honored for your commitment to issues facing persons with disabilities in Palm Beach County and for your years of government service; for your professional and civic achievement. Therefore, you are not prohibited from accepting the BLN's 2011 Commissioner of the Year Award.

IN SUMMARY, based on the information you have provided, you are not prohibited from accepting the BLN's 2011 Commissioner of the Year Award. Awards for professional or civic achievement are not considered gifts under the gift law provisions of the code of ethics. Furthermore, you are not prohibited from attending the accompanying award luncheon.

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/mr/gal