



# Palm Beach County Commission on Ethics

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Alan S. Johnson

August 25, 2011

Mark Swanson, Chief Security Supervisor  
215 North Olive Avenue  
West Palm Beach, FL 33401

RE: RQO 11-070  
Gift Law/ vendor gifts

Dear Mr. Swanson,

Your request for an 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 dated August 18, 2011 whether you may attend a vendor-sponsored event at an upcoming ASIS security conference in Orlando, Florida.

IN SUM, you may not accept a gift of any value, including meals, from any person or entity in exchange for the past, present or future performance of "a legal duty" or an "official action." However, you are not prohibited from attending the Allied Barton VIP reception so long as the value of that event does not exceed \$100 and you do not accept more than \$100 annually, in the aggregate, from Allied Barton.

THE FACTS as we understand them are as follows:

You are the Chief Security Supervisor for Palm Beach County and have been approved to attend the upcoming ASIS International Security Conference in Orlando, Florida. Palm Beach County is paying your travel expenses and registration fee. ASIS is an international organization of security professionals dedicated to increasing effectiveness and productivity through educational programs that address broad security interests. ASIS administers three internationally accredited security certification programs and promulgates standards and guidelines to advance security practice worldwide. ASIS has more than 200 chapters worldwide and you are currently a member of local chapter 215.

As a previous officer and current member of the ASIS local chapter you have been invited to attend a VIP reception hosted by Allied Barton Security Services (Allied Barton), a county vendor. Allied Barton has invited select conference attendees to attend this event at Mythos Restaurant at Universal Orlando Islands of Adventure.

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

Section 2-444(e) prohibits the offer or acceptance of any gift *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.*

Section 2-444(g) defines a gift as the transfer of anything of economic value, including hospitality, food and drink.

Section 2-244(a) prohibits a public employee from soliciting or accepting, directly or indirectly, "a 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 ...is a vendor, lobbyist or any principal or employer of a lobbyist who lobbies, sells or leases to the ... county."

Although Allied Barton is a county vendor, you are not prohibited from attending the event as its guest, so long as the value of the event does not exceed \$100 and over the course of the calendar year, you do not accept additional gifts from Allied Barton totaling, *in the aggregate*, more than \$100. In addressing valuation, Commission on Ethics adheres to the state standards outlined in §112.3148. While admission to the hospitality event is without cost to you, there is a value associated with the event.

Section 112.3148(c), Florida Statutes, provides that where there is no ticket cost to value an event, the value is determined by dividing the total cost for hosting the event by the number of persons attending the event. Section 112.3148(b) provides that any compensation provided to Allied Barton, shall be deducted from the overall value of the gift. Accordingly, you may still attend the event even if the per person cost exceeds \$100, so long as you reimburse Allied Barton the amount in excess of \$100. Please keep in mind, you may never accept or solicit anything of value from a vendor, lobbyist, principal or employer of a lobbyist in exchange for the past, present or future performance of your job.

While you are not prohibited from accepting a gift from a vendor that does not exceed \$100, the COE has some concern about the appearance of impropriety in accepting gifts from vendors who you may potentially recommend to the county, regardless of the fact that you may not be the ultimate decision-maker.<sup>1</sup> While the Code of Ethics does not prohibit such a gift, the county may have procedures that are more restrictive. The Commission on Ethics will enforce violations of the County Code of Ethics, however, responsibility for interpretation and enforcement of county or department policy remains with the county.

IN SUMMARY, based on the information you provided, you are not prohibited from accepting and attending the Allied Barton VIP event, so long as you do not do so because of "a legal duty performed" or "an official public action taken" in exchange for the value received. Given that Allied Barton is a vendor of Palm Beach County, you may not accept more than \$100, in the aggregate, over the course of the calendar year from Allied Barton. Should the value of the VIP event exceed \$100 dollars, while you are not prohibited from attending the event, you will need to reimburse Allied Barton the value in excess of \$100 in order to comply with the code of ethics.

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 should you have any further questions in this matter.

Sincerely,

  
Alan S. Johnson  
Executive Director

ASJ/mr/gal

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<sup>1</sup> See, RQO 11-040