



Palm Beach County Commission on Ethics

Commissioners
Manuel Farach, Chair
Robin N. Flore, Vice Chair
Ronald E. Harbison
Daniel T. Galo
Patricia L. Archer

Executive Director
Alan S. Johnson

In Re: Scott Swerdlin

C11-027

Public Report and Final Order

COMPLAINANT, Carol Coleman, filed the above referenced COMPLAINT on December 21, 2011, alleging that the RESPONDENT, Dr. Scott Swerdlin, violated Chapter 8, Article XIII, Section 2-443(a), (b) and (c) of the Palm Beach County Code of Ethics when, as Chairman of the Village of Wellington Equestrian Preserve Committee, RESPONDENT substantially participated in a matter that would result in a special financial benefit to the applicant, Equestrian Sports Productions, a customer or client of his outside businesses, Palm Beach Equine Medical Centers and Palm Beach Equine Clinic. In addition, upon ultimately abstaining from the vote, RESPONDENT failed to file a State of Florida Conflict Form 8B, and submit a completed copy to the Palm Beach County Commission on Ethics as required.

Pursuant to Chapter 2, Article V, Division 8, Section 2-258(a)¹ of the Palm Beach County Code of Ethics, the Commission on Ethics is empowered to enforce the Code of Ethics.

Pursuant to Chapter 8, Article XIII, Section 2-443(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;*

¹ Article V, Division 8, section 2-258(a). *Powers and Duties*. 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) Countywide Code of Ethics;
- (2) County Post-employment Ordinance; and
- (3) County Lobbyist Registration Ordinance

(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;*

(5) *A customer or client of the official or employee's outside employer or business;*

Pursuant to Chapter 8, Article XIII, Section 2-443(c) **Disclosure of voting conflicts.** *County and municipal officials as applicable shall abstain from voting and not participate in any matter that will result in a special financial benefit as set forth in subsections (a)(1) through (7) above. The official shall publicly disclose the nature of the conflict and when abstaining from the vote, shall complete and file a State of Florida Commission on Ethics Conflict Form 8B pursuant to the requirements of Florida Statutes, §112.3143. Simultaneously with filing Form 8B, the official shall submit a copy of the completed form to the county commission on ethics. Officials who abstain and disclose a voting conflict as set forth herein, shall not be in violation of subsection (a), provided the official does not otherwise use his or her office to take or fail to take any action, or influence others to take or fail to take any action, in any other 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, as set forth in subsections (a)(1) through (7).*

As identified in Section 2-443(a)(5) an official is prohibited from voting or participating in a matter that will result in a special financial benefit to a customer or client of an official's outside business or employer. A customer or client is defined as any person or entity to which an official or employee's outside employer or business has supplied goods or services during the previous twenty-four (24) months, having, in the aggregate, a value greater than ten thousand (\$10,000) dollars.

On January 30, 2012 the COMPLAINT was determined by staff to be LEGALLY SUFFICIENT. On March 1, 2012, in executive session, the COMMISSION ON ETHICS (COE) found PROBABLE CAUSE to believe a violation may have occurred and set the matter for final hearing. On September 12, 2012, the

RESPONDENT and ADVOCATE submitted a NEGOTIATED SETTLEMENT including a LETTER OF REPRIMAND to the COE for approval. RESPONDENT stipulates to the facts and circumstances as contained in the aforementioned LETTER OF REPRIMAND.

According to the NEGOTIATED SETTLEMENT and based on the facts as set forth in the LETTER OF REPRIMAND, RESPONDENT admits to the allegations contained in counts one and three of the COMPLAINT that he violated §§2-443(a) and (c) of the Palm Beach County Code of Ethics. RESPONDENT agrees to accept a LETTER OF REPRIMAND and to pay a total fine of One Thousand (\$1,000) Dollars. Count two is DISMISSED. Pursuant to The Commission on Ethics Ordinance §2-260.1 *Public hearing procedures*, the Commission finds that the violation was unintentional. As to count one, the Commission assesses a fine of Five Hundred (\$500) Dollars; as to count three, the Commission assesses a fine of Five Hundred (\$500) Dollars; and the RESPONDENT has been issued a LETTER OF REPRIMAND.

Therefore it is:

ORDERED AND ADJUDGED THAT this matter is concluded upon acceptance of the LETTER OF REPRIMAND and payment of the aforementioned One Thousand (\$1,000) Dollar Fine.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on this 12th day of September, 2012.

Palm Beach County Commission on Ethics

By:



Manuel Farach, Chair



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
Alan S. Johnson

September 12, 2012

Dr. Scott Swerdlin
13125 Southfields Road
Wellington, FL 33414

Re: Complaint No. C11-027
Letter of Reprimand

Dear Dr. Swerdlin:

When the Commission on Ethics met in executive session on March 1, 2012, it found that probable cause existed to believe that you may have violated the Palm Beach County Code of Ethics, specifically §§2-443(a), (b) and (c). On September 12th, 2012, you admitted to violating §2-443(a) of the Palm Beach County Code of Ethics entitled, "Misuse of public office or employment" and §2-443(c) of the Palm Beach County Code of Ethics entitled "Disclosure of voting conflicts." The settlement agreement in this case provides for you to accept this public reprimand.

Chapter 8, Article XIII, Section 2-443(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; (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; (5) A customer or client of the official or employee's outside employer or business;*

Chapter 8, Article XIII, §2-443(c) **Disclosure of voting conflicts.** *County and municipal officials as applicable shall abstain from voting and not participate in any matter that will result in a special financial benefit as set forth in subsections (a)(1) through (7) above.¹ The official shall publicly disclose the nature of the conflict and when abstaining from the vote, shall complete and file a State of Florida Commission on Ethics Conflict Form 8B pursuant to the requirements of Florida Statutes, §112.3143. Simultaneously with filing Form 8B, the official shall submit a copy of the completed form to the county commission on ethics. Officials who abstain and disclose a voting conflict as set forth herein, shall not be in violation of subsection (a), provided the official does not otherwise use his or her office to take or fail to take any action, or influence others to take or*

¹ §2-443(a)(5) A customer or client of the official or employee's outside employer or business.

§2-442 Definitions. Customer or client means any person or entity to which an official or employee's outside employer or business has supplied goods or services during the previous twenty-four (24) months, having, in the aggregate, a value greater than ten thousand dollars (\$10,000).

fail to take any action, in any other 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, as set forth in subsections (a)(1) through (7).

The facts are as follows:

You were the Chairman of the Equestrian Preserve Committee (the Committee), an advisory board of the Village of Wellington. On December 14, 2011, the Committee met to discuss and vote on planning and zoning amendments for the proposed Equestrian Village Project (the Project). A Project applicant was Equestrian Sports Productions (ESP) and the Project was presented at the hearing by Mr. Mark Bellissimo on behalf of Wellington Equestrian Partners (WEP). Mr. Bellissimo is the Managing Member of WEP and Chief Executive Officer of ESP. ESP is a wholly owned subsidiary of WEP. ESP produces the 12 week Winter Equestrian Festival (the Festival) as well as other equestrian events. You are the manager/owner and registered agent of Palm Beach Equine Medical Centers and Palm Beach Equine Clinic. Palm Beach Equine Medical Centers and/or Palm Beach Equine Clinic have been the official veterinarians for ESP events since 2009. As the official veterinarians, your staff is on site at the Festival 5 days per week for 12 weeks, on an average of 10 hours per day for the Festival, as well as similarly serving during the summer and early fall for other ESP programming. In addition, your businesses provided ESP with equine ambulance services during these events. For these services, you receive advertising at ESP events at no charge. The value of the services you provided to ESP exceeded \$10,000 for the 24 months preceding the December 2011 meeting making ESP a "customer or client" of your outside business. Because of the closely knit relationship between ESP and WEP - that ESP is a wholly owned subsidiary of WEP and that Mr. Bellissimo ran and publicly advertised both companies in such a manner as to make them effectively interchangeable in terms of identity and purpose - WEP also meets the definition of your "customer or client" creating a conflict of interest. The Palm Beach County Code of Ethics prohibits you from voting or participating in a matter that would result in a special financial benefit for you, your outside business or a "customer or client" of your outside business.

Prior to and during the Committee meeting on December 14, 2011, you had been advised by Village of Wellington Attorney Jeffrey Kurtz that you had a potential conflict of interest: You received a copy of the State Conflict of Interest Form 8B as well as a copy of the relevant sections of the Palm Beach County Code of Ethics on December 13, 2011. At the start of the meeting, Mr. Kurtz advised all members that if anyone had a conflict of interest in the Project, they were required to abstain and not participate in the discussion prior to the vote. Notwithstanding your conflict of interest, you did not at that time abstain. You presided over the public hearing during the presentation by Mr. Bellissimo, his agents and members of the public. After the close of testimony, you were advised of the conflict and, after being advised that a vote was required, then stepped down and did not further participate or vote. You knew or should have known that WEP, and by extension ESP, would receive a special financial benefit and never have participated in the meeting. Subsequently, you have failed to file a State Conflict of Interest Form 8B with the Palm Beach County Commission on Ethics as required under the Palm Beach County Code of Ethics.

Your actions constituted two violations of the Palm Beach County Code of Ethics.

The Commission on Ethics is of the strong belief that all public employees and officials are responsible for making sure their actions fully comply with the law and are beyond reproach. As a public official, you are an agent of the people and hold your position for the benefit of the public. The people's

confidence in their government is eroded when they perceive that official actions may be based upon private goals rather than the public welfare. Violations of the Palm Beach County Code of Ethics contribute to the erosion of public confidence and confirm the opinion of those who believe the worst about public officials.

You are hereby admonished and urged to consider the letter and spirit of the Palm Beach County Code of Ethics and apply them in all future actions as a member of any public body to which you may be a part.

Sincerely,



Manuel Farach, Chairman
Palm Beach County Commission on Ethics

MF/gal

Copies to: Joseph D. Small, Esquire, Pro Bono Advocate
Brian Seymour, Esquire