

# 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

In Re: Robert Margolis

C12-015

## PUBLIC REPORT AND FINAL ORDER OF DISMISSAL

COMPLAINANT, Alan S Johnson, Executive Director of the Commission on Ethics, filed the COMPLAINT on November 19, 2012, alleging a possible ethics violation involving RESPONDENT, Robert Margolis, Village of Wellington Mayor.

The COMPLAINT alleges that on July 22, 2012, RESPONDENT, Robert Margolis, knowingly accepted a gift in excess of one hundred dollars (\$100) from a principal or employer of a lobbyist.

Pursuant to Chapter 2, Article V, Division 8, Section 2-258(a)<sup>1</sup> of the Palm Beach County Code, the Commission on Ethics is empowered to enforce the Palm Beach County Code of Ethics. An official may not knowingly accept any gift with a value of greater than one hundred dollars (\$100) from any person or business entity that the recipient knows or should know with the exercise of reasonable care is a lobbyist or any principal or employer of a lobbyist.<sup>2</sup>

On November 19, 2012, the COMPLAINT was determined by staff to be LEGALLY SUFFICIENT. On October 19, 2012, the Commission on Ethics (COE) staff received copies of two (2) State of Florida Quarterly Gift Disclosures (Form 9) filed by RESPONDENT, Mayor of the Village of Wellington. Listed on these gift disclosure forms were four separate entries indicating that RESPONDENT had received funds for his legal defense fund concerning a re-count for his election as Mayor and pursuant to COE Rule of Procedure 4.1.3 a preliminary inquiry was commenced. After obtaining sworn statements from material witnesses and documentary evidence sufficient to warrant a legally sufficient finding a MEMORANDUM OF LEGAL SUFFICIENCY was filed and an investigation commenced pursuant to Article V, Division 8, Section 2-260(d).

The matter was investigated and presented to the Commission on Ethics on January 10, 2013 with a recommendation that PROBABLE CAUSE exists to believe there was a code of ethics violation. At that time, the Commission conducted a hearing. The Commission on Ethics reviewed the COMPLAINT and memorandum of inquiry and requested that staff obtain additional information and the matter was tabled.

<sup>1</sup> Article V, Division 8, section 2-258. Powers and duties, (a) 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) County Code of Ethics;  
(2) County Post-Employment Ordinance, and  
(3) County Lobbyist Registration Ordinance.


<sup>2</sup> Article XIII, sec. 2-444(a) of the Palm Beach County Code

On February 7, 2013 a Supplemental Memorandum of Investigation was presented to the Commission with a recommendation that PROBABLE CAUSE exists to believe there was a code of ethics violation. However, the facts and circumstances warrant a DISMISSAL with a LETTER OF INSTRUCTION to the Respondent. The Commission reviewed and considered the Memoranda of Inquiry, Supplemental Investigation and Probable Cause, recommendation of staff, as well as oral statements of the RESPONDENT and ADVOCATE. At that time the Commission also reviewed Article V, §2-260.3 of the Commission on Ethics ordinance.<sup>3</sup> At the conclusion of the hearing the Commission on Ethics determined that while PROBABLE CAUSE exists in this matter the alleged violation was inadvertent and unintentional. The commission based this determination on the investigative report and that RESPONDENT has voluntarily agreed to return of the prohibited gift to the donor.

Therefore it is:

**ORDERED AND ADJUDGED** that the COMPLAINT against RESPONDENT Robert Margolis is hereby DISMISSED and a LETTER OF INSTRUCTION is to be issued in this case.

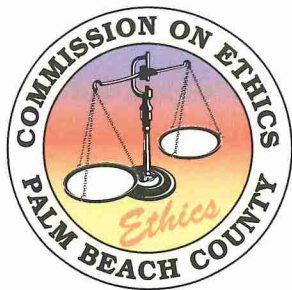
**DONE AND ORDERED** by the Palm Beach County Commission on Ethics in public session on February 7, 2013.

Palm Beach County Commission on Ethics,  
  
By: \_\_\_\_\_  
Manuel Farach, Chair

<sup>3</sup> Section 2-260.3. Dismissal of Complaints

Notwithstanding any other provisions of this division, the commission on ethics may, at its discretion: (a) dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, or (b) dismiss any complaint at any stage of disposition and issue a letter of instruction to the respondent when it appears that the alleged violation was inadvertent, unintentional or insubstantial. In the event the commission on ethics dismisses a complaint as provided in this subsection, the commission on ethics shall issue a public report stating with particularity its reasons for the dismissal.





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## LETTER OF INSTRUCTION

The above-captioned complaint against Robert Margolis, Mayor, Village of Wellington (Respondent), alleging a violation of the Palm Beach County Code of Ethics, Article XIII, §2-444(a)(1) (Gift law) was filed by Commission on Ethics Executive Director Alan S. Johnson pursuant to the procedures outlined in the Commission on Ethics Ordinance, Article V, Division 8, §2-260(b)(2). The complaint alleges that Respondent accepted a gift in excess of \$100 from a person who is a principal of a lobbyist who lobbies the Village of Wellington (the Village) in violation of the gift law.

- **Facts and analysis**

Respondent is the elected Mayor for the Village. As an elected municipal official in Palm Beach County, Respondent is subject to the Palm Beach County Code of Ethics.

Pursuant to gift disclosure requirements Respondent submitted a State of Florida Quarterly Gift Disclosure Form (Form 9) indicating that he received a \$4000 gift on July 22, 2012 for his legal defense fund regarding a voter recount in the mayoral race. It was determined through inquiry that the donor was the principal of several registered lobbyists who lobby the Village. The parties represented that an original donation was given in March, 2012, before Respondent took office on April 9, 2012, and before the donor became a principal of lobbyists in late June, 2012. The original donation was lost and a subsequent replacement donation was tendered on July 22, 2012, after Respondent took office and the donor became an employer of lobbyists.

- **Holding**

**Sec. 2-444(a) – Gift law**, states in relevant part:

- (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.

**Sec. 2-260.3 – Dismissal of complaints**, states as follows:

Notwithstanding any other provisions of this division, the commission on ethics may, at its discretion: (a) dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, or (b) dismiss any complaint at any stage of disposition and issue a letter of instruction to the respondent when it appears that the alleged violation was inadvertent, unintentional or insubstantial. In the event the commission on ethics dismisses a complaint as provided in this subsection, the commission on ethics shall issue a public report stating with particularity its reasons for the dismissal.

Respondent did accept a prohibited gift from a principal of lobbyists.

The Commission is mindful that the facts and circumstances indicate Respondent transparently filed the gift on his state quarterly gift form as required. In addition, the gift was initially intended to be given before Respondent took office and before the donor retained a lobbyist for an issue involving her property, thereby becoming a principal. The principal did not engage in any lobbying activities with Respondent prior to the replacement donation of July, 22, 2012, and Respondent testified that he was unaware that the donor employed lobbyists other than for state government issues. Finally, Respondent voluntarily returned the prohibited portion of the gift to the donor.

In light of the facts and circumstances known to the Commission on Ethics, the matter is disposed of by way of dismissal with this Letter of Instruction. The COE concludes that the alleged violation was inadvertent and unintentional and has determined that the public interest would not be served by proceeding further. However, Respondent is now advised that the filing of Ethics Complaint C12-015, along with this Letter of Instruction, is to serve as notice that actions taken by Respondent in accepting a prohibited gift from a principal of a lobbyist without inquiring as to the status of the donor or otherwise ascertaining that status will result in an actionable violation of the Code. Due to the unique circumstances of this transaction the matter is appropriately addressed through this letter of instruction.

Respondent is hereby instructed to be more careful in the future to ensure that he avoid accepting prohibited gifts and to use due diligence in identifying the status of a donor, whether or not the gift is given directly, or indirectly, so as to conform his activities to this Letter of Instruction and to the requirements of §2-444(a)(1) to avoid any future enforcement action.

This letter of instruction is issued by the Palm Beach County Commission on Ethics in public session on February 7, 2013.

Palm Beach County Commission on Ethics

By:  \_\_\_\_\_  
Manuel Farach, Chair