



Palm Beach County Commission on Ethics

Commissioners
Manuel Farach, Chair
Robin N. Fiore, Vice Chair
Daniel T. Galo
Patricia L. Archer

Executive Director
Steven P. Cullen

In Re: Gail James (Vorpapel), Respondent

C13-011

PUBLIC REPORT AND FINAL ORDER

COMPLAINANT, Steven P. Cullen, filed the above referenced COMPLAINT on April 16, 2013, alleging that the RESPONDENT, Ms. Gail James, violated Chapter 8, Article XIII, Section 2-443(a), (f) and 2-444 (a) of the Palm Beach County Code of Ethics when, as a Palm Beach County Employee, RESPONDENT accepted travel expenses from a vendor of the county, accepted a gift in excess of \$100 from a county vendor and used her official position to give a special financial benefit to a non-profit organization where she served on the board of directors.

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(f). Accepting travel expenses:*** No official or employee shall accept, directly or indirectly, any travel expenses including, but not limited to, transportation, lodging, meals, registration fees and incidentals from any county or municipal contractor, vendor, service provider, bidder or proposer as applicable. The board of county commissioners or local municipal governing body as applicable may waive the requirements of this subsection by a majority vote of the board or local municipal governing body. The provisions of this subsection shall not apply to travel expenses paid by other governmental entities or by organizations of which the county or municipality as applicable is a member if the travel is related to that membership.

*Pursuant to Chapter 8, Article XIII, **Section 2-444(a) Gift Law:*** 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.

*Pursuant to Chapter 8, Article XIII, **Section 2-443(a) Misuse of Office:*** 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 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

- (7) A civic group, union, social, charitable, or religious organization, or other not for profit organization of which he or she (or his or her spouse or domestic partner) is an officer or director.

On April 26, 2013 the COMPLAINT was determined by staff to be LEGALLY SUFFICIENT. On July 11th, 2013, the RESPONDENT stipulated to PROBABLE CAUSE and 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 two of the COMPLAINT that she violated §2-443(f) and §2-444(a) of the Palm Beach County Code of Ethics. RESPONDENT agrees to accept a LETTER OF REPRIMAND and to pay a total of One Hundred Sixty-Three Dollars in fines. Count three is DISMISSED. Pursuant to The Commission on Ethics Ordinance §2-260.1 *Public hearing procedures*, the Commission finds that the violation was unintentional/intentional. As to counts one and two, the Commission assesses a fine of One Hundred Sixty Three 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 proof of payment of the aforementioned fine in the amount of \$163.00.

DONE AND ORDERED by the Palm Beach County Commission on Ethics in public session on this 11th day of July, 2013.

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
Daniel T. Galo
Patricia L. Archer

Executive Director
Steven P. Cullen

July 11, 2013

Ms. Gail James
c/o Bruce Reinhart, Esquire
McDonald Hopkins
500 South Flagler Drive, Suite 300
West Palm Beach, FL 33401

Re: Complaint No. C13-011
Letter of Reprimand

Dear Ms. James,

When the Commission on Ethics met in executive session on March 1, 2013, 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 July 11, 2013, you waived your right to a probable cause hearing, stipulated to probable cause and admitted to violating §2-443(f) and §2-444(a) of the Palm Beach County Code of Ethics. The settlement agreement in this case provides for you to accept this public reprimand.

Chapter 8, Article XIII, Section 2-443(f) **Accepting Travel Expenses.** *No official or employee shall accept, directly or indirectly, any travel expenses including, but not limited to, transportation, lodging, meals, registration fees and incidental from any county or municipal contractor, vendor, service provider, bidder or proposer as applicable.* The board of county commissioners or local municipal governing body as applicable may waive the requirements of this subsection by a majority vote of the board or local municipal governing body. The provisions of this subsection shall not apply to travel expenses paid by other governmental entities or by organizations of which the county or municipality as applicable is a member if the travel is related to that membership. (emphasis added).

Chapter 8, Article XIII, Section 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.

(g) 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 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. In determining the value of the gift, the recipient of the gift

may consult, among other sources, §112.3148, Florida Statutes and the Florida Administrative Code as may be amended.

The facts are as follows:

You are a Senior Code Enforcement officer for Palm Beach County. In October of 2011, the Palm Beach County Board of County Commissioners entered into a contract for services with Federal Property Registry Corporation (FRPC). Vacant Property Registry (VPR) is a wholly-owned subsidiary of FRPC. FRPC is a vendor of Palm Beach County. Specifically, the county contracts with FRPC/VPR to track foreclosed homes, requiring that within 10 days of foreclosure the lender must pay \$150 to list the property with the company and provide contact information for the bank and a local property maintenance contact. In your official position you are the County liaison FRPC and VPR.

On January 22, 2013 you were contacted by Thomas Darnell, managing director of VPR and invited to attend a sales meeting and training in Melbourne, Florida. After seeking and obtaining your supervisor's approval, you attended the training event and accepted travel expenses including a hotel stay and dining costs totaling \$163.96. The Palm Beach County Code of Ethics expressly prohibits employees and officials from accepting travel expenses from a County vendor unless the travel is waived by the Board of County Commissioners. While your travel on county time was approved by your supervisor, you accepted travel expenses from a County vendor in violation of the Code of Ethics. Furthermore, County employees are prohibited from accepting anything of value in excess of \$100, in the aggregate over the course of the calendar year, from a vendor, lobbyist, principal or employer of a lobbyist, who sells, leases or lobbies Palm Beach County.

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 employee, 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 employees.

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