



# Palm Beach County Commission on Ethics

*Honesty - Integrity - Character*

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## Executive Director

Mark E. Bannon

In Re: **Desiree Lancaster**

**C15-026**

## LETTER OF INSTRUCTION

Mark E. Bannon, Executive Director of the Palm Beach County Commission on Ethics (COE) (Complainant) filed the above-captioned complaint against **Desiree Lancaster** (Respondent), an employee of the City of Delray Beach, alleging a violation of the Palm Beach County Code of Ethics, specifically Article XIII, §2-443(d)(Contractual relationships). The complaint alleges, in part, that Respondent's outside business entered into contracts with her public employer, the City of Delray Beach.

- **Facts**

This matter came to the attention of the PBC Commission on Ethics (COE) staff via a letter from Mr. Donald Cooper, city manager for the City of Delray Beach, stating that an audit revealed that Respondent was an employee of Phoenix Pressure Cleaning, LLC, which was a vendor of the City of Delray Beach. While the audit conducted by the City found information indicating Respondent is employed by Phoenix, the investigation by COE staff revealed that Respondent and her husband share a 100% ownership interest in the company.

Respondent is listed as the Registered Agent and a Managing Member for the company Phoenix Pressure Cleaning, LLC, within the Articles of Organization filed with the Florida Department of State. Her husband, Nathaniel Lancaster, is also listed as having an ownership interest in this company. No other officers were listed within the Articles of Organization documents. Together, Respondent and her husband have a 100% ownership interest in Phoenix Pressure Cleaning, LLC. During the investigation, Respondent stated that she was approached by a supervisor specifically requesting the pressure cleaning services from her company. Her husband subsequently secured the contractual job for the requested services. She stated that the first contract was in January 2014 to pressure clean one of the City fire stations. She also stated that there were other contracts to pressure clean another fire station and to pressure clean and paint the life guard towers at the City beach. In total, Respondent's outside business received \$12,071.54 from the City for services rendered.

- **Holding**

Sec. 2-443(d), *Contractual relationships*, states in relevant part:

No official or employee shall enter into any contract or other transaction for goods or services with their respective county or municipality. This prohibition extends to all contracts or transactions between the county or municipality as applicable or any person, agency or entity acting for the county or municipality as applicable, and the official or employee, directly or indirectly, or the official or employee's outside employer or business.

Sec. 2-442, *Definitions*, states in relevant part:

**Outside employer or business** includes:

- (2) Any entity located in the county or which does business with or is regulated by the county or municipality as applicable, in which the official or employee has an ownership interest. For purposes of this definition, an "ownership interest" shall mean at least five (5) percent of the total assets or common stock owned by the official or employee or any combination of the official or employee's household members, spouse, child, step-child, brother, sister, parent or step-parent, or a person claimed as a dependent on the official or employee's latest individual federal tax return.

Sec. 2-260.3. *Dismissal of complaints*, of the Palm Beach County Commission on Ethics ordinance states in relevant part:

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. (Emphasis added)

Although Respondent stated that she does not own any part of the business but that her husband owns the business, under Sec. 2-442, an employee's spouse is one of the listed individuals whose ownership interest is transferred to the employee. Therefore, Phoenix Pressure Cleaning, LLC was Respondent's outside business, and the contracts between the City and Phoenix Pressure Cleaning, LLC were prohibited. Additionally, the evidence also showed that Respondent and her outside business did not meet any of the exceptions to the contractual relationships provision.

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 believes that the violation was unintentional and has determined that the public interest would not be served by proceeding further. However, Respondent is advised that the filing of Ethics Complaint C15-026, along with this Letter of Instruction, is to serve as notice that entering into a contract with her public employer is prohibited under the Code of Ethics, unless an exception applies. Respondent is therefore instructed to be more careful in the future to ensure that she follows the requirements of §2-443(d) to avoid any future enforcement action.

This Letter of Instruction is issued by the Palm Beach County Commission on Ethics in public session on July 7, 2016.

Palm Beach County Commission on Ethics,

By: \_\_\_\_\_

Michael S. Kridel, Chair