

**MEMORANDUM**

**TO:** Commissioner Dale V.C. Holness

**FROM:** Rocio Blanco Garcia, Assistant County Attorney

**DATE:** May 25, 2017

**RE:** **Offer to Pay the Reasonable Travel Expenses of Commissioner Holness to Present the Keynote Address at and to Attend the Trade Mission Event in St. Eustatius on June 1, 2017**  
**CAO File: 17-09E (Gifts)**

Delegates from the islands of St. Eustatius and Saba were among the hundreds of international attendees at the County-sponsored Florida International Trade and Cultural Expo (FITCE) event held in October 2016. As a result of such attendance, you were invited to attend a Trade Mission event in St. Eustatius on June 1, 2017, where you will be delivering the Keynote Address on "Sustainable Development" and will also participate in a panel discussion on various topics, including hotel investment, tourism, and agriculture.

You will not be paid for speaking at the event, but St. Eustatius, the Tourism Development Foundation and/or the St. Eustatius & Saba Chamber of Commerce & Industry (collectively "donors") have offered to pay for your travel expenses, which are expected to exceed \$500. A search of the County's database reveals that none of these donors are County vendors, County contractors, County lobbyists, or principals or employers of lobbyists of the County.

You have asked whether you may accept the donors' offer to pay for your travel-related expenses. It is our opinion that, for the reasons stated below, you may accept payment for your travel-related expenses without any reimbursement obligation.

Under the state and county codes of ethics, there are two primary restrictions on the acceptance of gifts. The first is that no gift may be solicited or accepted if it may reasonably be perceived to have been given to encourage you to take any action in your official capacity. Section 112.313(4), Florida Statutes (2016). The second restriction caps the value of gifts that may be accepted from certain donors.

**Florida Law:**

Under Section 112.3148(4), Florida Statutes, absent any applicable exception, County Commissioners are "prohibited from knowingly accepting, directly or indirectly, a gift from a vendor doing business with the [County] . . . or [from] a lobbyist who lobbies the [County Commission,] or directly or indirectly on behalf of the partner, firm, employer, or principal of a lobbyist, if he or she knows or reasonably believes that the gift has a value in excess of \$100 . . .". There is no monetary limitation on gifts from other sources.

The term "gift," does not include "[a]n honorarium or an expense related to an honorarium event paid to a person . . ." §112.312(12)(b)(3), Fla. Stat. "Honorarium" means a payment of money or anything of value . . . to a reporting individual . . . for [a] speech, address, oration, or other oral presentation by the reporting individual . . . , regardless of whether presented in person, recorded, or broadcast over the media. § 112.3149 (a), Fla. Stat. "Generally, if the purpose of the trip is for [a Commissioner] to give a speech and the inviting entity pays only actual and reasonable transportation, lodging, and food and beverage expenses, those expenses will be considered to be related to an honorarium event." CEO 91-4. "Under such circumstances, the travel expenses . . . will not constitute a "gift.""" Id.

Based on the foregoing, payment for the travel expenses at issue constitutes payment of an honorarium-related expense, which you can accept directly. To the extent payment for such travel expenses could arguably be considered a gift, Florida law also allows you to accept the gift because the donors are not within a category for which a gift would be limited to \$100.

**County's Code:**

Under the Broward County Ethics Code, with certain exceptions not applicable here, Commissioners cannot accept any gift, directly or indirectly, from a lobbyist or vendor, which gift exceeds \$5. "Elected officials may accept gifts from other sources given to them in their official capacity . . . up to a maximum of \$50.00 per occurrence." The term "gift" is defined as under Florida Law. § 1-19(b), Broward Cnty. Code of Ords.

Because "gift" does not include payment of honorarium-related expenses, the County's Code would not prohibit you from accepting payment for the travel expenses associated with the Trade Mission event. To the extent the travel expenses would not be considered honorarium-related expenses, you would only be permitted to accept up to \$50 if the gift were a personal gift to you. However, this Office does not consider the payment of these travel expenses a personal gift to you. Attendance at the Trade Mission event will provide you with the opportunity to promote Broward County and its tourist attractions. It will also allow you to educate yourself on issues of tourism and investment, an important part of the County's economy. As such, the Trade Mission event serves the public's interest,

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and payment for the travel expenses, if at all a gift, is a gift to the County. This conclusion is bolstered by the County having taken formal (precautionary) action on May 23, 2017, to accept payment of the travel expenses as a gift to the County.

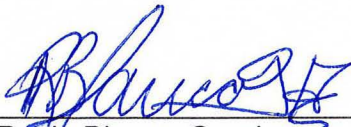
Therefore, because the payment does not constitute a gift under applicable law or because the payment was accepted by the County as a gift to the County, you are permitted to accept payment for your reasonable travel-related expenses without reimbursement obligations.

**Disclosure Obligations:**

This Office opines that you do not have to file a Form 10 disclosing payment of your actual and reasonable travel expenses for the following reasons:

1. Payment of such expenses is an honorarium-related expense from a source for which disclosure is not required. See 112.3149(6).
2. To the extent the County is deemed to be paying for your travel-related expenses (having formally accepted the sponsor's "gift" on behalf of the County), such payment is a business expense associated with your education and the promotion of the County's tourism. See 112.3148(b)(1) and (b)(7).

Please contact Drew Meyers or me if we may be of further assistance on this matter.

  
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Rocio Blanco Garcia  
Assistant County Attorney

cc: Andrew J. Meyers, Chief Deputy County Attorney