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MEMORANDUM

TO: Senator Nan Rich

FROM: Neil Sharma, Assistant County Attorney

DATE: May 16, 2018

RE: **Invitation to Attend the 65th Anniversary VIP Dinner for Henderson Behavioral Health
CAO File: 18-03(E)**

You have inquired whether you have any reimbursement obligation resulting from your May 10, 2018, attendance at the 65th Anniversary VIP Dinner for Henderson Behavioral Health ("event") to which you were invited by Dr. Steven Ronik, CEO of Henderson Behavioral Health ("Henderson"). The event was open to the public at a price of \$250 per person. Food and drinks were offered at the event, at a total per-person cost of \$135. The \$250-event included a \$115 imbedded charitable contribution. If you have any reason to believe that any of these facts are not accurate or have changed, please let us know, as different facts might affect our opinion.

A search of our databases has revealed that Henderson is a County vendor. 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(2), Fla. Stat. The second restriction caps the value of gifts that may be accepted from certain donors. There is no indication that the invitation to the event was offered in an attempt to influence your official position on a matter, and, as such, the first restriction is not applicable here.

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 . . .".

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Something is not a gift if equal or greater consideration is provided. § 112.312(12)(a).

County's Code:

Under the County's Ethics Code, with limited exceptions, Commissioners may not accept any gift, directly or indirectly, from a lobbyist, principal of a lobbyist, contractor, or vendor, which gift exceeds \$5. Florida's definition of "gift" applies when interpreting the County's Ethics Code. This prohibition on the acceptance of gifts notwithstanding, a Commissioner may, to the full extent permissible under state law, accept admission tickets to charitable events available to the public, provided that the Commissioner (1) within 15 days after receiving such ticket, files for public inspection a public disclosure form stating the name of the donor, the value of the tickets, and the date and location of the event; and (2) within 30 days after the event, reimburses the donor for value of foods and beverages consumed at the event. Broward County. Ord. 1-19(d)(4).

Analysis:

Although the cost of a ticket to the event is \$250, upon speaking with Henderson I was advised that there is an elected official rate of \$100. While the amount of a discount offered can itself be considered a gift under certain circumstances, as stated above, Section 1-19 of the Broward County Code specifically provides that Commissioners may accept admission tickets to charitable events available to the public provided the Commissioner complies with the reporting and reimbursement obligations set forth above.

Therefore, because here the value of the food and beverages offered at the event was \$135, you are required to reimburse Henderson \$135 (per person) within 30 days of the event. Please be sure to also file the applicable disclosure within 15 days of the event.

If we may be of further assistance regarding this matter, please let us know.



Neil Sharma
Assistant County Attorney