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MEMORANDUM

TO: Commissioner Michael I. Udine

FROM: Anthony C. Halmon, Assistant County Attorney

DATE: May 30, 2018

RE: **Dinner at the Square: Does Your Voice Count? - Panel Discussion**
CAO File: 18-04(E)

You have inquired as to whether you will have any reimbursement obligations resulting from your attendance at a panel discussion on June 6, 2018, to which you were invited by Broward College. Specifically, Broward College invited you to serve as the moderator of a panel discussion regarding the mass shooting that recently occurred at Marjory Stoneman Douglas High School in Parkland, Florida, an area within your Commission district. The \$45 per-person cost of the event includes a cocktail reception prior to the panel discussion.

A search of our databases has revealed that Broward College is a principal of a lobbyist who lobbies the County Commission. 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 may affect our opinion.

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. See § 112.313(2), Fla. Stat. 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

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of a lobbyist, if he or she knows or reasonably believes that the gift has a value in excess of \$100[.]”

Florida law defines a gift as “that which is accepted by a donee . . . for which equal or greater consideration is not given within 90 days.” § 112.312(12)(a), Fla. Stat. A gift does not include an honorarium or an expense related to an honorarium event. § 112.312(12)(b)(3), Fla. Stat.

Among other things, an honorarium is the “payment of money or anything of value” to County Commissioners in exchange for their oral presentations or addresses. See § 112.3149(1)(a), Fla. Stat. Florida law expressly prohibits the principal of a lobbyist “from giving an honorarium to a [County Commissioner].” § 112.3149(4), Fla. Stat. An honorarium, however, does not include “the payment or provision of actual and reasonable . . . food and beverage expenses related to the honorarium event, including any event or meeting registration fee, for a [County Commissioner].” § 112.3149(1)(a), Fla. Stat.

In other words, although the principal of a lobbyist is prohibited from paying an honorarium to a County Commissioner, the principal of a lobbyist is permitted to pay for a County Commissioner’s expenses related to an honorarium event.

County’s Code:

Under the County’s Ethics Code, Commissioners cannot accept any gift, directly or indirectly, from a lobbyist, principal of a lobbyist, contractor, or vendor, which gift exceeds \$5. In interpreting whether something constitutes a “gift” under the County’s Code, Florida’s definition of “gift” and the exemptions thereto are controlling.

Analysis:

Although the per-person cost of the event you will be moderating exceeds the \$5 limit that you are permitted to accept under the County’s Code, it is our opinion that you will not be the recipient of a gift, as Broward College will be paying for your expenses in relation to the panel discussion that you will be moderating. As such, the waiver of the \$45 fee constitutes an expense related to an honorarium event.

Therefore, because you will not be receiving a gift, you will not have any reimbursement obligations resulting from this event. Notwithstanding the foregoing, within 60 days of the panel discussion, Broward College is required to provide you with “a statement listing the name and address of the person providing the expenses, a description of the expenses provided each day, and the total value of the expenses provided for the [panel discussion].” § 112.3149(5), Fla. Stat.

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This information will facilitate your completion of an annual statement (Form 10) in compliance with Section 112.3149(6) of the Florida Statutes. If we may be of further assistance regarding this matter, please let us know.



Anthony C. Halmon
Assistant County Attorney