

OCT 31 2022

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**BEFORE THE
STATE OF FLORIDA
COMMISSION ON ETHICS**

CONFIDENTIAL

In re: Shawn Cerra,

Respondent.

Complaint No.: 21-224

ADVOCATE'S RECOMMENDATION

The undersigned Advocate, after reviewing the Complaint and Report of Investigation, filed in this matter, submits this Recommendation in accordance with Rule 34-5.006(3), F.A.C.

RESPONDENT/COMPLAINANT

Respondent, Shawn Cerra, serves as the Director of Athletics and Student Activities for the Broward County Public School District. Complainant is Amy Shield of Parkland, Florida.

JURISDICTION

The Executive Director of the Commission on Ethics determined that the Complaint was legally sufficient and ordered a preliminary investigation for a probable cause determination as to whether Respondent violated Sections 112.313(2), 112.313(4), 112.313(6), 112.3148(4), and 112.3148(8), Florida Statutes. The Commission on Ethics has jurisdiction over this matter pursuant- to Section 112.322, Florida Statutes.

The Report of Investigation was released on October 17, 2022.

ALLEGATION ONE

Respondent is alleged to have violated Section 112.313(2), Florida Statutes, by soliciting or accepting something of value to him based upon an understanding that his vote, official action, or judgment would be influenced.

APPLICABLE LAW

Section 112.313(2), Florida Statutes, provides as follows:

SOLICITATION OR ACCEPTANCE OF GIFTS. No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.

In order to establish a violation of Section 112.313(2), Florida Statutes, the following elements must be proved:

1. Respondent must have been either a public officer, a public employee or a candidate for nomination or election.
2. Respondent must have solicited or accepted something of value to him or her, including a gift, loan, reward, promise of future employment, favor, or service.
3. Such solicitation or acceptance must have been based upon an understanding that the Respondent's vote, official action or judgment would be influenced thereby.

ANALYSIS

Respondent was appointed Director of Athletics & Student Activities for the Broward County Public School District (District) in 2016. (ROI 8) His responsibilities include the supervision of all middle and high school athletic activities, tracking volunteer service hours for students, military programs, the Student Enrichment Through the Arts Program, outside venues for student field trips, and generally serving at the "beck and call of the Superintendent." (ROI 9) Respondent took on the responsibility of handling graduation-related matters in 2019. (ROI 10)

In previous years, the District has sought graduation regalia¹ vendors from which each school could select to provide caps and gowns for graduation. (ROI 12) In July 2016, only two vendors – Herff Jones and Jostens – responded to the District's request for bids. (ROI 12) The criteria to be awarded a contract included experience, services, prices, etc. (ROI 12) The evaluation committee gave Jostens a disqualifying score, which left Herff Jones as the winning vendor. (ROI 12) Herff Jones, operating under the business name Chuck Puleri & Associates/Herff Jones, was awarded the District's contract which ran from July 27, 2016 through April 30, 2019. (ROI 7, 12)

In 2017, the School Board re-opened contract negotiations to allow for additional vendors. (ROI 13) Jostens and Herff Jones were approved as vendors. (ROI 13) Again, each school was allowed to select any approved vendor from the pool selected by the District's evaluation committee. (ROI 12, 17) On March 5, 2019, the District awarded Chuck Puleri & Associates, Inc./Herff Jones and Jostens a vendor contract covering from April 30, 2019 through April 30, 2020. (ROI 13) In sum, both Jostens and Herff Jones have been approved vendors since 2017. (ROI 12)

¹ Such items include, but are not limited to caps and gowns, class rings, custom photo products, etc. (ROI 7, 12)

On March 8, 2021, Puleri appeared before the District evaluation committee seeking to secure a three-year contract with the District. (ROI 21) On March 29, 2021, the District evaluation committee voted to recommend awarding Herff Jones exclusive rights for the District's graduation products. (ROI 21)

On April 21, 2021, Caitlin Hanley, an associate with Chuck Puleri and Associates, allegedly emailed South Broward High School Principal Patty Brown stating that Respondent's instructions were:

Please send out an email or communication reminding all students and parents that in order to enter Auto Nation Drive Pink Stadium [the graduation venue] they will be required to have a Herff Jones Rental Cap & Gown. This is for consistency and, more importantly, safety and security. Students wearing non-Herff Jones Rental Cap and Gown or gowns purchased somewhere else online will not be admitted to the stadium for graduation. (ROI 14)

Hanley confirmed Respondent's directive which she explained was to ensure uniformity within the appearance of all graduating students. (ROI 15) Brown confirmed that she received the directive from Hanley which she advised was to ensure uniformity, safety, and standards for the graduation ceremony and confirmed that South Broward High had selected Herff Jones as its cap and gown provider. (ROI 16) Brown further explained "there had been instances where students attempted to attend a graduation ceremony without having met the required criteria to 'walk during the graduation ceremony [in caps and gowns not purchased from an approved vendor]. This way, we know who is truly allowed to attend.'" (ROI 16)

Respondent advised that this statement was made during a conference call with 45 District principals, and not in an email, when a principal indicated a parent had asked if it was permissible for a student to purchase a cap and gown package online from a nonapproved District vendor. (ROI 17)

On June 11, 2021, Chuck Puleri & Associates hosted a celebration after the final 2020-2021 school year. (ROI 20) Puleri paid for food and some drinks for the approximately 60 guests. (ROI 20) The invited guests included members of Puleri's staff, friends not associated with the Broward County Schools, Puleri's daughter and her friends, the grounds crew and maintenance crew from Auto Nation Drive Pink Stadium, and friends of the District. (ROI 20) Respondent was invited to the event and attended. (ROI 20) The per person cost was \$50 and the total cost of the event was \$2,594.75. (ROI 20, Exhibit A)

The School Board's decision whether to award the above referenced exclusive contract for graduation regalia, pursuant to the evaluation committee's recommendation, to Herff Jones allegedly was pending at the time of the celebration held by Puleri. (ROI 21) Due in part to questions about the exclusive contract raised in newspaper articles, the recommendation was pulled, District staff advised Herff Jones and Jostens of its intent to re-bid the matter with revised specifications and conditions, and both vendors remained approved vendors with the District. (ROI 21)

It appears that Respondent was never a member of the District's cap and gown evaluation committee, but certainly he was not a member of the District's 2021 evaluation committee. (ROI 22) Three of the four 2021 committee members provided statements² to the Commission's investigator and they each advised that Respondent never spoke to him/her about the committee's work regarding graduation regalia and each member indicated why he/she voted for Herff Jones instead of Jostens. (ROI 22-27)

² "Efforts to read Kathryn Marlow [the fourth member] were unsuccessful." (ROI 26)

Respondent met Chuck Puleri in August 1993, when Puleri was an associate with Herff Jones and Respondent was a "rookie teacher" with the District. (ROI 11) Respondent considers Puleri to be a close friend. (ROI 11, 27)

On or about May 4, 2019 and March 6, 2021, Respondent stayed overnight at the Puleri's home in Naples, Florida (or Isles of Capri, Florida) at the invitation of Puleri.³ (ROI 27, 28, 29) Respondent's stays have never been more than two nights at a time. (ROI 27) Puleri has never charged Respondent for the stay and Respondent covers the cost of the restaurant meals they have during the stay in return for providing the lodging. (ROI 27, 28) Respondent stated:

When I go to his house I pay for everything, I have never paid to stay there. When I go to his house, or anyone's house that I'm staying at, I'm paying for my way one hundred percent of the time. On one particular night I paid and brought dinner on Friday night, and then when we went out on Saturday night I paid for the entire meal. So on that particular trip, out of pocket for me, was somewhere in the neighborhood of \$240. So, to me, it [the stay] was a non-reportable [sic] because I was nowhere near the threshold for reporting a gift because I did not receive any gift except for staying at his house and riding on his boat for about an hour and a half. (ROI 27)

According to Respondent and Puleri, they do not discuss business when they get together and Puleri has never asked Respondent to intervene on his behalf with the District. (ROI 29, 30)

Section 112.313(2), Florida Statutes, contemplates a quid pro quo – solicitation or acceptance of something of value with the understanding that Respondent's official action or judgment would be influence. See CEO 15-13. There is no indication in this case that Respondent solicited or accepted anything of value with the understanding he would be influenced to take official action benefiting Puleri.

³ Puleri does not allow individuals to rent his residence. (ROI 29)

Therefore, based on the evidence before the Commission, I recommend that the Commission find no probable cause to believe that Respondent violated Section 112.313(2), Florida Statutes.

ALLEGATION TWO

Respondent is alleged to have violated Section 112.313(4), Florida Statutes, by accepting something of value from a vendor of his agency that was given to influence official action by Respondent.

APPLICABLE LAW

Section 112.313(4), Florida Statutes, provides as follows:

UNAUTHORIZED COMPENSATION. - No public officer, employee of an agency, or local government attorney or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity.

In order to establish a violation of Section 112.313(4), Florida Statutes, the following elements must be proved:

1. Respondent must have been a public officer or employee.
2. Respondent or Respondent's spouse or minor child must have accepted some compensation, payment or thing of value.
3. When such compensation, payment or thing of value was accepted:
 - a) Respondent knew that it was given to influence a vote or other action in which Respondent was expected to participate in an official capacity;

or

- b) Respondent, with the exercise of reasonable care, should have known that it was given to influence a vote or other action in

which Respondent was expected to participate in an official capacity.

ANALYSIS

The facts are set forth in Allegation One. The "thing of value" accepted by Respondent was lodging at Puleri's home on or about May 4, 2019 and March 6, 2021 and an invitation, including food and beverages, to a celebration party hosted by Puleri on June 11, 2021. According to Respondent and Puleri, they have had a friendship that dates well before Respondent was appointed Director of Athletics & Student Activities in 2016. Presumably, until that time, Respondent had no dealings with the cap and gown decisions which would benefit Puleri's company.⁴

There is no evidence that either thing of value was given to influence a vote, official action, or the judgment of Respondent. Specifically, members of the 2021 District's cap and gown evaluation committee denied that Respondent ever spoke to them about the evaluation committee's work. (ROI 22-26) In fact, there is no evidence that Respondent had any involvement in the selection process over the course of his employment with the District.

Therefore, based on the evidence before the Commission, I recommend that the Commission find no probable cause to believe that Respondent violated Section 112.313(4), Florida Statutes.

ALLEGATION THREE

Respondent is alleged to have violated Section 112.313(6), Florida Statutes, by using or attempting to use his official position to benefit himself and/or another.

⁴ Respondent was appointed to an assistant principal position in 1997 and appointed to a principal position in 2002 at unknown grade levels. (ROI 8)

APPLICABLE LAW

Section 112.313(6), Florida Statutes, provides as follows:

MISUSE OF PUBLIC POSITION. No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with s. 104.31.

The term "corruptly" is defined by Section 112.312(9), Florida Statutes, as follows:

"Corruptly" means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his or her public duties.

In order to establish a violation of Section 112.313(6), Florida Statutes, the following elements must be proved:

1. Respondent must have been a public officer or employee.
2. Respondent must have:
 - a) used or attempted to use his or her official position or any property or resources within his or her trust,
 - or
 - b) performed his or her official duties.
3. Respondent's actions must have been taken to secure a special privilege, benefit or exemption for him- or herself or others.
4. Respondent must have acted corruptly, that is, with wrongful intent and for the purpose of benefiting him- or herself or another person from some act or omission which was inconsistent with the proper performance of public duties.

ANALYSIS

The facts are set forth above under Allegation One. A public official may not use his public office for his own private gain or for that of other persons. There are three allegations: 1)

Respondent routinely chose Chuck Puleri & Associates/Herff Jones as the exclusive provider of graduation products for the District; 2) Respondent directed District principals to inform parents to only use Chuck Puleri & Associates/Herff Jones for graduation caps and gowns; and 3) Respondent stayed at Puleri's house and attended a party hosted by Puleri.

As to the first allegation, there is no evidence that Respondent had any involvement with the District's evaluation committee which was charged with the responsibility to select a pool of vendors to provide graduation regalia to the District. Furthermore, the individual schools were allowed to select an approved vendor to provide graduation products to the students.

As to the second allegation, Respondent explained that the comment was made to District principals for students to obtain their caps and gowns from an approved vendor contracted with the District, and specifically selected as the provider for each particular school, to maintain uniformity. (ROI 17) Whether the comment was made in an email or during a conference call with 45 District principals is irrelevant. Respondent confirmed his comments were in conformance with the policy of the District. His direction was made for the legitimate purposes to ensure uniformity in the graduation ceremony and provide a security measure.

As to the third allegation, Respondent is not prohibited by Section 112.313(6) to accept invitations to stay at Puleri's home when he timely compensated Puleri for the cost of the stay. Nor is an invitation to a celebration where Puleri paid \$50 per attendee prohibited. Neither of these are reportable gifts pursuant to Section 112.313(4), Florida Statutes, because they do not meet the \$100 threshold amount.

There is no evidence to support elements two, three, and four for a violation.

Therefore, based on the evidence before the Commission, I recommend that the Commission find no probable cause to believe that Respondent violated Section 112.313(6), Florida Statutes.

ALLEGATION FOUR

Respondent is alleged to have violated Section 112.3148(4), Florida Statutes, by accepting gifts from a vendor of his agency when he knew or reasonably believed that the gifts had a value of more than \$100.

APPLICABLE LAW

Section 112.3148(4), Florida Statutes, provides as follows:

A reporting individual or procurement employee or any other person on his or her behalf is prohibited from knowingly accepting, directly or indirectly, a gift from a vendor doing business with the reporting individual's or procurement employee's agency, a political committee as defined ins. 106.011, or a lobbyist who lobbies the reporting individual's or procurement employee's agency, 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; however, such a gift may be accepted by such person on behalf of a governmental entity or a charitable organization. If the gift is accepted on behalf of a governmental entity or charitable organization. If the gift is accepted by such person on behalf of a governmental entity or a charitable organization. If the gift is accepted on behalf of a governmental entity or charitable organization, the person receiving the gift shall not maintain custody of the gift for any period of time beyond that reasonably necessary to arrange for the transfer of custody and ownership of the gift.

In order to establish a violation of Section 112.3148(4), Florida Statutes, the following elements must be proved:

1. Respondent must have been a reporting individual or procurement employee.
2. Respondent must have knowingly accepted a gift.

3. The donor of the gift must have been a vendor doing business with Respondent's agency, a political committee, or lobbyist who lobbies the Respondent or his agency or the partner, firm, employer, or principal of a lobbyist.

4. Respondent knew or reasonably believed that the gift had a value of more than \$100.

ANALYSIS

The facts are set forth under Allegations One and Three. This section prohibits a "reporting individual" from knowingly accepting a gift with a value in excess of \$100 from certain donors and Section 112.3148(8), Florida Statutes, requires a reporting individual to file a quarterly gift disclosure form disclosing allowable gifts worth in excess of \$100.⁵ Respondent is a reporting individual because he is required to file an annual disclosure of financial interests.

Lodging provided on consecutive days is considered a single gift. §112.3148(7)(e), Fla. Stat. Lodging in a private residence is valued at the per diem rate of \$80, as provided in Section 112.061(6)(a)1., Florida Statutes. Respondent stated, "When I go to his [Puleri's] house I pay for everything. I have never paid to stay there. When I go to his house, or anyone's house that

⁵ 34-13.500, F.A.C. - - Gift Valuation.

In addition to the provisions contained in Section 112.3148(7), F.S., a donee shall use the following rules to determine the value of a gift received from a donor:

(1) "Actual cost to the donor" as stated in Section 112.3148(7)(a), F.S., means the price paid by the donor which enabled the donor to provide the gift to the donee, excluding taxes and gratuities. Where the donor engages in the business of selling the item or service, other than personal services, that is provided as a gift, the donor's "actual cost" includes the total costs associated with providing the items or services divided by the number of units of goods or services produced.

(2) "Personal services" as stated in Section 112.3148(7)(a), F.S., means individual labor or effort performed by one person for the benefit of another.

(3) "Compensation provided by the donee" as stated in Section 112.3148(7)(b), F.S., means payment provided by the donee to the donor within 90 days after receipt of the gift. Where the gift received by a donee is a trip and includes payment or provision of the donee's transportation, lodging, recreational, or entertainment expenses by the donor, the value of the gift is equal to the total value of the various aspects of the trip paid or provided by the donor, and any consideration paid by the donee for the trip should be subtracted from the total value of the trip. Example: Lobbyist X provides reporting individual Y with a trip to New York to see a play. X pays \$300 for Y's round-trip airfare, \$50 for Y's ground transportation, \$150 for Y's hotel room, and \$100 for Y's ticket to the play. In order to accept the trip from X, Y must pay X at least \$500, so that the value of the gift from X does not exceed \$100.

* * *

(8) Food and beverages consumed at a single sitting or meal are a single gift and are valued together.

I'm staying at, I'm paying for my way one hundred percent of the time. On one particular night I paid and brought dinner on Friday night, and then when we went out on Saturday night I paid for the entire meal. So on that particular trip, out of pocket for me, was somewhere in the neighborhood of \$240. So, to me, it [the stay] was a non-reportable because I was nowhere near the threshold for reporting a gift because I did not receive any gift except for staying at his house and riding on his boat for about an hour and a half."

Respondent received gifts of lodging accommodations from Puleri and food from Puleri's company, a vendor of Respondent's agency. Based on the facts provided, the gift of lodging was not prohibited or reportable because Respondent timely compensated Puleri and Puleri spent under the reporting threshold of \$100 per person for the party food and drinks.

Therefore, based on the evidence before the Commission, I recommend that the Commission find no probable cause to believe that Respondent violated Section 112.3148(8), Florida Statutes.

ALLEGATION FIVE

Respondent is alleged to have violated Section 112.3148(8), Florida Statutes, by failing to file a CE Form 9, "Quarterly Gift Disclosure."

APPLICABLE LAW

Section 112.3148(8), Florida Statutes, provides as follows

(8)(a) Each reporting individual or procurement employee shall file a statement with the Commission on Ethics on the last day of each calendar quarter, for the previous calendar quarter, containing a list of gifts which he or she believes to be in excess of \$100 in value, if any, accepted by him or her, for which compensation was not provided by the donee to the donor within 90 days of receipt of the gift to reduce the value to \$100 or less, except the following:

1. Gifts from relatives.
2. Gifts prohibited by subsection (4) or s. 112.313(4).

3. Gifts otherwise required to be disclosed by this section.

Section 112.312(12)(a), Florida Statutes, provides in its relevant part:

"Gift" for purposes of ethics in government and financial disclosure required by law, means that which is accepted by a donee or by another on the donee's behalf, or that which is paid or given to another for or on behalf of a donee, directly, indirectly, or in trust for the donee's benefit or by any other means, for which equal or greater consideration is not given within 90 days

ANALYSIS

The facts are set forth under Allegations One, Three, and Four. Please see the analysis under Allegation Four.

Therefore, based on the evidence before the Commission, I recommend that the Commission find no probable cause to believe that Respondent violated Section 112.3148(8), Florida Statutes.

RECOMMENDATION

1. There is no probable cause to believe that Respondent violated Section 112.313(2), Florida Statutes, by soliciting or accepting something of value to him based upon an understanding that his vote, official action, or judgment would be influenced.

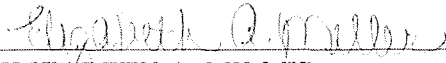
2. There is no probable cause to believe that Respondent violated Section 112.313(4), Florida Statutes, by accepting something of value from a vendor of his agency that was given to influence official action by Respondent.

3. There is no probable cause to believe that Respondent violation Section 112.313(6), Florida Statutes, by using or attempting to use his official position to benefit himself and/or another.

4. There is no probable cause to believe Respondent violated Section 112.3148(4), Florida Statutes, by accepting gifts from a vendor of his agency when he knew or reasonably believed that the gifts had a value of more than \$100.

5. There is no probable cause to believe Respondent violated Section 112.3148(8), Florida Statutes, by failing to file a CE Form 9, "Quarterly Gift Disclosure."

Respectfully submitted this 31st day of October 2022.



ELIZABETH A. MILLER

Advocate for the Florida Commission
on Ethics

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CEO 15-13—December 16, 2015

**CONFLICT OF INTEREST; SOLICITATION OR ACCEPTANCE
OF THING OF VALUE; UNAUTHORIZED COMPENSATION**

**DEPARTMENT OF TRANSPORTATION EMPLOYEE ACCEPTING VOLUNTEER
OPPORTUNITY FROM INDUSTRY ASSOCIATION**

To: Name withheld at person's request (Tallahassee)

SUMMARY:

The Code of Ethics would not prohibit a Florida Department of Transportation (FDOT) employee from accepting an opportunity from an industry association to volunteer his services on a charitable construction project team.

CEO 13-2 is referenced. ¹

QUESTION:

Would the Code of Ethics prohibit an FDOT employee from participating in a charitable construction project coordinated by a transportation related industry association?

Under the circumstances presented, your question is answered in the negative.

Through your letter of inquiry and additional information supplied to our staff, you relate that you are an FDOT employee working as a State Construction Structure Engineer, a position that does not require the disclosure of financial interests pursuant to Section 112.3145, Florida Statutes, and a position that is not that of a "procurement employee" under Section 112.3148, Florida Statutes.² You state that in this position you specialize in the construction of bridge structures and thus have influence over the policies and procedures that govern the work of material suppliers, design engineers, fabricators, inspectors, and construction contractors who perform work on Florida's State Highway System. You further advise that you have been in communications with the National Steel Bridge Alliance (NSBA),³ a nonprofit transportation-related industry association that is working to assemble a team of qualified volunteers to undertake a charitable bridge construction project in South America overseen by, and in coordination with, the benevolent, nonprofit organization Bridges to Prosperity (B2P).⁴ B2P affords entities such as the NSBA with the ability to participate in its Industry Partnership Program in which the partnering entity provides a prescribed monetary donation directly to B2P in furtherance of its charitable purpose. The donation amount is calculated to defray the cost of bridge construction materials and supplies. Thereafter the respective industry partner is able to coordinate the selection of a project team and participate in the charitable project itself. However, project team members provide their expertise on a volunteer basis and thus receive no compensation for their service. Moreover, individual team members are responsible for paying the full cost of their respective transportation, food, and lodging expenses incurred pursuant to their participation in the project.

Communications with NSBA employees indicate that the NSBA is seeking to participate in B2P's Industry Partnership Program and thus has committed to donate the applicable partnership funds. The NSBA also is coordinating the selection of a B2P team of technical experts, including yourself, comprised largely of department of transportation employees from different states as well as some NSBA personnel.

The Code of Ethics for Public Officers and Employees provides in relevant part:

SOLICITATION OR ACCEPTANCE OF GIFTS.—No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any

understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby. [Section 112.313(2), Florida Statutes]

UNAUTHORIZED COMPENSATION.—No public officer, employee of an agency, or local government attorney or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity. [Section 112.313(4), Florida Statutes]

In the instant matter, the NSBA has approached you with an opportunity to participate on a B2P project team in an uncompensated, volunteer capacity. Although the NSBA, as a prospective participant in B2P's Industry Partnership Program, has committed to providing a charitable donation directly to B2P, it has not offered nor does it intend to contribute any funds towards the payment of your transportation, hotel accommodation, or food and beverage costs during the pendency of the project. Nor does it intend to reimburse you for any of these expenses. Rather, you confirmed that you intend to cover the full cost of your expenses incurred during the project and that you further intend to use annual leave while you are volunteering on the B2P project. Thus, under the circumstances you present the "thing of value" being offered by the NSBA to you is the opportunity to donate your expertise, time, and services to a charitable organization.

Section 112.313(2), Florida Statutes, prohibits a public officer from soliciting or accepting anything of value base upon an understanding that his or her official action will be influenced. It is not inconceivable that an opportunity to participate in a charitable endeavor could be used or offered as a quid pro quo for official action. CEO 13-2. In the facts before us, however, there is no indication that you solicited the opportunity to participate on the NSBA's B2P bridge project team with the understanding that your official action or judgement would be influenced in violation of Section 112.313(2), Florida Statutes, or that there otherwise is a quid pro quo within the meaning of the statute.

Section 112.313(4), Florida Statutes, prohibits a public officer from accepting anything of value when the officer knows, or with the exercise of reasonable care should know, that it was given to influence some action in which the employee was expected to participate in his official capacity. Although the NSBA is an association formed for the purpose of advancing the use of steel in bridge construction, there is no indication from the facts involved herein that the opportunity to volunteer your services on a B2P charitable project team was afforded to you by the NSBA with the intention of influencing your decision-making authority regarding the selection of materials for bridge structures in your capacity as a State Construction Structure Engineer with FDOT.⁵

Accordingly, under the scenario presented, we find that the Code of Ethics would not prohibit your acceptance of an offer from an industry association to volunteer your services on a charitable bridge construction project team.

Your question is answered accordingly.

ORDERED by the State of Florida Commission on Ethics meeting in public session on December 11, 2015, and **RENDERED** this 16th day of December, 2015.

Stanley M. Weston, *Chair*

[1] Prior opinions of the Commission on Ethics may be obtained from its website (www.ethics.state.fl.us).

[2] As you are neither a reporting individual nor a procurement employee the additional gifts restrictions contained in Section 112.3148, Florida Statutes, are not applicable in the instant matter.

[3]The NSBA, a division of the American Institute of Steel Construction (AISC), is a national, nonprofit organization dedicated to advancing steel bridge design and construction. The NSBA is not a lobbyist or the principal of lobbyists registered to lobby in Florida nor is it a vendor of the FDOT.

[4]B2P is a U.S. based 501(c)(3) nonprofit organization that works with corporate partners to coordinate financial support for projects and develop teams of volunteers with technical expertise in the engineering field to build bridges in developing countries.

[5]As you have no contractual or employment relationship with either the NSBA or B2P, Section 112.313(7)(a), Florida Statutes, which prohibits you from having an employment or contractual relationship with any business entity regulated by or doing business with the FDOT, or any contractual relationship which would give rise to a continuing or frequently recurring conflict or impediment to your public duty performance, is inapplicable here. Section 112.313(7)(a) provides:

CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee . . . ; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties