

OCT 24 2022

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

CONFIDENTIAL

**In re: Donna Korn,**

**Respondent.**

**Complaint Nos. 21-225 & 21-226  
(consolidated)**

**ADVOCATE'S RECOMMENDATION**

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

**RESPONDENT/COMPLAINANT**

Respondent, Donna Korn, serves as a member of the Broward County School Board.<sup>1</sup> Complainants are Amy Shield of Parkland, Florida and John C. Daly, Sr. of Coral Springs, Florida.

**JURISDICTION**

The Executive Director of the Commission on Ethics determined that the Complaints were legally sufficient and ordered a preliminary investigation for a probable cause determination as to whether Respondent violated Sections 112.313(2), 112.313(4), 112.3148(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 September 26, 2022. The Supplemental Report of Investigation was released on October 13, 2022.

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<sup>1</sup> On August 26, 2022, Respondent was suspended by Governor Ron DeSantis for matters related to the Marjory Stoneman Douglas High School shooting. (ROI 9 Footnote)

## **ALLEGATION ONE**

Respondent is alleged to have violated Section 112.313(2), Florida Statutes, by soliciting and/or accepting a thing of value based on the understanding that her 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**

Complainants allege that Respondent, while serving on the Broward County School Board, received a gift of lodging, exceeding a \$100 value, from Chuck Puleri and/or his company, Chuck Puleri & Associates, Inc. (ROI 1, 2, 5)

Chuck Puleri & Associates, Inc. is a vendor of the Broward County School District (District). (ROI 6) It operates as “Chuck Puleri & Associates/Herff Jones” and provides graduation-related products to District students such as class rings, graduation announcements and accessories, caps and gowns, class apparel, and custom photo products. (ROI 6) Puleri’s business has been serving the District since the 1980s. (ROI 6)

In July 2016, the District sought bids from cap and gown vendors, and agreed to authorize any vendor passing a review by a District evaluation committee to become an approved vendor of caps and gowns to graduating seniors. (ROI 7) Schools could then select any approved provider from the poll of approved vendors. (ROI 7) Since that time, at least through April 2020, Puleri’s business has qualified to be an approved provider based on experience, services, and prices among other factors. (ROI 7, 8) Since 2017, another business, Jostens, has been an approved provider. (ROI 10)

In the spring of 2016, Puleri invited Respondent and her children to stay at his residence located in Isles of Capri. (ROI 9, SROI 2) Respondent declined at that time but that summer, she asked Puleri if the invitation was “still good.” (ROI 9) Prior to the stay, she decided to seek, and received, a legal opinion from the Board’s legal counsel which ultimately stated it was permissible for her and her children to visit the Puleri residence. (ROI 9, 10) Based on that legal opinion, Respondent and her children stayed with the Puleri and his wife on nights of August 26 and 27, 2016, and then again for one night on March 25, 2017. (ROI 9, 11) Due to the statute of limitations, the review in this matter is limited to March 25, 2017.<sup>2</sup> (ROI 9 Note)

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<sup>2</sup> The complaint in this matter was filed on December 2, 2021. Therefore, any alleged conduct of Respondent occurring prior to December 2, 2016, is barred from consideration by the Commission on Ethics based on its five-year Statute of Limitations. (ROI 9 Note)

School Board Deputy General Counsel prepared a legal opinion which referenced training provided by former Commission on Ethics Executive Director Chris Anderson which states, "Lodging in a private residence is valued at \$44 per night." (ROI 10) Puleri advised that he does not allow for individuals to rent his private residence located in Isles of Capri. (SROI 2)

Respondent advised that she paid Puleri \$50 in cash to cover the value of the gift of lodging and to comply with the legal opinion she received in 2016 state the value of lodging was \$44 per night. (ROI 11) Puleri confirmed that Respondent paid him \$50 in cash during the March 2017 stay. (ROI 12)

Respondent advised that Puleri never attempted to influence any of her official actions related to agreements with the District. (SROI 3) Puleri confirmed that he never attempted to influence any of Respondent's official actions related to his (Puleri's) agreements with the District. (SROI 2)

The request for legal opinion is an indication that Respondent had no intent to solicit or accept the lodging based on the understanding that her vote, official action, or judgment would be influenced. The evidence is insufficient to support a violation of the relevant statute.

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 a thing of value given to influence an action she was expected to participate in her official capacity.

#### **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 underlying facts and circumstances relating to this allegation are contained above in Allegation One. See the Analysis in Allegation One. The evidence is insufficient to support a violation of the relevant statute.

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 112.3148(4), Florida Statutes, by accepting a gift from a Broward County School District vendor that had a value that exceeds \$100.

#### **APPLICABLE LAW**

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

REPORTING AND PROHIBITED RECEIPT OF GIFTS BY INDIVIDUALS FILING FULL OR LIMITED PUBLIC DISCLOSURE OF FINANCIAL INTERESTS AND BY PROCUREMENT EMPLOYEES. 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 in s. 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, 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.

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. . . .

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.

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

### **ANALYSIS**

The underlying facts and circumstances relating to this allegation are contained above in Allegation One. As indicated above, the March 2017 night of lodging is the "gift" in question.

That night of lodging is valued at \$44. However, the lodging is not a gift as Respondent provided greater consideration within 90 days of the night's stay. As such, while Puleri is a vendor, Respondent did not receive a gift from a vendor. In addition, the value of the lodging did not meet the threshold value 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 112.3148(4), Florida Statutes.

### **ALLEGATION FOUR**

Respondent is alleged to have violated Section 112.3148(8), Florida Statutes, by failing to disclose the receipt of a gift with a value exceeding \$100.

### **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 underlying facts and circumstances relating to this allegation are contained above in Allegations One and Three. See the Analysis in Allegation Three. The evidence is insufficient to support a violation of the relevant statute.

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**

It is my recommendation that:

1. There is no probable cause to believe that Respondent violated Section 112.313(2), Florida Statutes, by soliciting and/or accepting a thing of value from a Broward County School District vendor based on the understanding that her vote, official action, or judgment would be influenced.

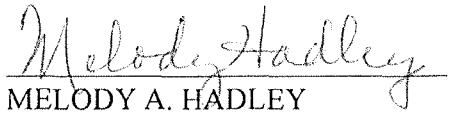
2. There is no probable cause to believe that Respondent violated Section 112.313(4), Florida Statutes, by accepting a thing of value given to influence an action she was expected to participate in her official capacity.

3. There is no probable cause to believe that Respondent violated Section 112.3148(4), Florida Statutes, by accepting a gift from a Broward County School District vendor that had a value that exceeds \$100.

4. There is no probable cause to believe that Respondent violated Section 112.3148(8), Florida Statutes, by failing to disclose the receipt of a gift with a value exceeding \$100.



Respectfully submitted this 24<sup>th</sup> day of October, 2022.

  
MELODY A. HADLEY

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on Ethics

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