


MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Honorable Daniella Levine Cava
County Mayor

FROM: Jose Arrojo, Executive Director
Commission on Ethics 

SUBJECT: INQ 2022-53, International Trade Trip to Israel
Sections 2-11.1 (g), (w), (e) of the County Ethics Code

DATE: March 25, 2022

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade County Commission on Ethics and Public Trust and requesting our guidance regarding an international trade trip to Israel.

Facts:

County elected officials have an established practice of traveling to host nations as leaders of international trade delegations. When abroad, the officials and staff members meet with host country government officials, business leaders, and local cultural groups. During these trips, the officials and their staff learn about the host nation's businesses and infrastructure and highlight the County's own businesses, infrastructure, multilingual workforce, geographic location as a transshipment point, and status as a center for international commerce. The goal of the meetings is to identify areas where the host nation and the County can partner in trade and business.

From Friday, March 25, 2022, through Thursday, March 31, 2022, the County Mayor Daniella Levine Cava, accompanied by Commissioner and Vice Chairman Oliver G. Gilbert III, and Commissioner Jean Monestime, will be traveling to Israel as part of an international trade promotion trip (Israel trip) that has been titled "Americas Linkage to Israel."¹ The Israel trip is being co-led by the Mayor and the Greater Miami Chamber of Commerce.

¹ Commissioner Oliver G. Gilbert is also the Vice-Chairperson of the Jay Malina International Trade Consortium of Miami-Dade County.

Over fifty persons will be part of the Israel trip. In addition to the Mayor and two Commissioners, there are seven County employees, members of the elected officials' staffs, that will also be traveling to Israel.

The other travelers include chamber of commerce representatives from the Greater Miami Chamber of Commerce, the Beacon Council, Enterprise Florida, and the *Cámara de Comercio e Industria Latina de los Estados Unidos* ("CAMACOL"). Finally, additional travelers will include representatives of law and accounting firms with a large local presence as well as several large local employers including Baptist Health South Florida, Bank of America, and American Airlines.

While in the host country, the County elected officials and staff will meet with Israeli and American government officials and business leaders, learn about host country businesses, and promote the County's international trade agenda with the goal of establishing subsequent trade and business relationships.

The Israel trip schedule specifically includes meetings with representatives from the Israeli Ministry of Foreign Affairs the United States Ambassador to Israel. There will also be meetings with representatives from the Israeli: aircraft, banking, medical, digital technology, water treatment and desalinization industries.

Meetings with host country cultural groups will include leaders of the host country's LGBTQ community.

Costs associated with airfare, hotel, ground transportation, and room and board for the County elected officials and staff will be paid for with County funds.

Four events that are part of the trip agenda are social in nature and costs associated with those receptions will be paid for, respectively, by American Airlines, Simon Falik, who along with other family members owns Duty Free Americas stores, the law firm of Greenberg Traurig, and the accounting, tax and financial services company, BDO.

Each of these reception hosts are County contractors or the case of Mr. Falik, a principal of a County contractor. American Airlines contracts with the County for use of Miami International Airport facilities. Duty Free Americas contracts with the County for store space at Miami International Airport. The law firm of Greenberg Traurig contracts with the County to provide lobbying services at the federal level in Washington, D.C.

The American Airlines event is a "sending off" reception that will take place at an American Airlines lounge at Miami International Airport. The other three receptions will take place at locations in Israel.

Issues:

Whether Mayor Levine Cava and her accompanying Commissioners and County employees, who will be traveling to Israel on a County outbound international trade promotion trip, may allow costs associated with the trip to be paid for by County funds.

Whether Mayor Levine Cava and her accompanying Commissioners and County employees, who will be traveling to Israel on a County outbound international trade promotion trip, may attend a “send-off” reception hosted by American Airlines, a County contractor.

Whether Mayor Levine Cava and her accompanying Commissioners and County employees, who will be traveling to Israel on a County outbound international trade promotion trip, may attend four social receptions that will be funded, respectively, by four County contractors.

Discussion:

Section 2-11.1(g) of the County Ethics Code, *Exploitation of official position prohibited*, prohibits County officials and employees from exploiting their official position to secure special privileges, exemptions, or benefits for themselves.

The Israel trip involves travel by the County Mayor in her official capacity, with two County elected officials and County staff members. The purpose of the trip is to meet with host nation officials and business leaders so as to learn about its business and infrastructure and promote the County’s international trade agenda with the goal of promoting subsequent trade and business relationships. These are objectively laudable public purposes.²

Section 2-11.1(w) of the County Ethics Code, *Prohibition on acceptance of travel expenses from county vendors*, prohibits county officials or employees from accepting, directly or indirectly, any travel expenses, including, but not limited to transportation, lodging, meals, registrations fees and incidentals from any County contractor, vendor, service provider, bidder, or proposer.

American Airlines is a county contractor or vendor. However, it is not funding travel expenses incurred by the Mayor, Commissioners, or County employees. Instead, it is hosting a local “send-off” event at Miami International Airport.

If the receptions hosted by Simon Falik, Greenberg Traurig, and BDO in Israel are actually meals then these could constitute travel related expenses as defined in subsection (w) of the County Ethics Code and they may not be accepted as gratuities by the officials or employees.³

² See INQ19-10 (Travel by County officials to Morocco to attend an event focused on expanding trade between Miami and Casablanca and predicated on the establishment of direct non-stop air travel between Miami International Airport and Casablanca, funded in part by the County and the American Chamber of Commerce in Morocco, does not constitute exploitation of official position.); INQ 2022-45 (Travel by County official to Spain on a County outbound international trade promotion trip, funded in part by CAMACOL does not constitute exploitation of official position.)

See also Sections 2-1501 to 2-1503, Miami-Dade Code, regarding the establishment of the Jay Malina International Trade Consortium of Miami-Dade County (ITC), and its public purpose.

³ See RQO 15-02 (Out of town events attended by city officials that constituted meals anticipated to be paid for by city vendors were prohibited by Section 2-11.1(w) of the County Ethics Code absent a waiver from the city’s governing board.)

The prohibited gifts section of the Ethics Code contained in Section 2-11.1 (e)(3), provides that the County elected officials and employees, including the Mayor, may not accept a gift if it is part of a *quid pro quo* transaction. ⁴ Put another way, the gifted receptions hosted by American Airlines, Simon Falik, an owner of Duty Free Americas stores, the law firm of Greenberg Traurig, and the accounting tax and financial services company, BDO, cannot be solicited or accepted for an official public action taken, or which could be taken by the elected official.

There is no indication that these gratis receptions are part of any prohibited exchange transaction. Thus, while the Mayor is clearly limited by the prohibited gifts subsection of the Ethics Code, she is permitted to accept a gift outside of the described *quid pro quo* scenario.

If the receptions are not meals, and the Mayor, the Commissioners, and County employees choose to attend the receptions as described above, then she and they will be required to publicly disclose the gifts under the gift disclosure subsection of the County Ethics Code located at Section 2-11.1 9 (e)(4) of the Code. That section requires County elected officials and certain categories of employees to publicly disclose the receipt of a gift, or a series of gifts from any one person or entity having a value of \$100 or more.

The County Ethics Commission does not have the authority to interpret or enforce the Florida Code of Ethics for Public Officers and Employees, Chapter 112, Florida Statutes (State Ethics Code). Nevertheless, a comment on Sections 112.3148(3) and (4), Florida Statutes, is merited. ⁵

Those sections prohibit an elected official from soliciting a gift from a vendor or contractor doing business with the reporting individual's or procurement employee's agency. Also, the elected official is prohibited from knowingly accepting a gift from a vendor or contractor doing business with the official's agency that the gift has a value in excess of \$100. ⁶

Opinion:

The purpose of the Israel trip is to establish contacts with the host nation's government and business leaders, learn about its businesses and infrastructure and highlight the County's own

⁴ Gifts include "the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item, or promise, or in any other form, without adequate and lawful consideration. Food and beverages consumed at a single sitting or meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift."

⁵ See also Sec. 112.348(5)(a), Florida Statutes (A vendor [contractor] doing business with the reporting individual's or procurement employee's agency...is prohibited from giving, either directly or indirectly, a gift that has a value in excess of \$100 to the reporting individual or procurement employee or any other person on his or her behalf.)

⁶ Pursuant to Section 112.3148(7)(b), Florida Statutes, the elected official can provide compensation within 90 days to pay for the gift or reduce its value to \$100 or less, to avoid the prohibitions found in Sections 112.3148(4) and 112.3148(5).

infrastructure, multilingual workforce, geographic location as a transshipment point, and status as a center for international commerce. The goal of the meetings is to identify areas where the host nation and the County can partner in trade and business relationships. The County will be funding air travel, ground transportation, lodging and meals for the Mayor, Commissioners, and staff.

Consequently, this is a public purpose that is consistent with the established practices and mission of the County. The Mayor, the Commissioners and County employees will be engaged in their official capacities. The trip is not prohibited by Section 2-11.1(g) of the County Ethics Code.

The County contractor funded local event at the airport is not a prohibited travel expense. Consequently, there is no violation of Section 2-11.1(w) of the County Ethics Code.

There are three social receptions occurring in Israel funded by County contractors that will constitute reportable gifts to the County Mayor, Commissioners, and staff. These gift transactions are not part of any *quid pro quo* scenario. These are permissible gifts under the County Ethics Code that should be reported as gifts pursuant to Section 2-11.1(e) of the County Ethics Code and applicable state statutes.

If the social receptions are actually meals funded by the contractors, then the Mayor, Commissioners, and staff may not accept them as gratuities. They are prohibited contractor funded travel expenses as defined by Section 2-11.1(w) of the County Ethics Code, absent a waiver by the Board of County Commissioners.

This opinion is limited to the facts as you and County staff presented them to the Commission on Ethics, is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.