



GCDE ETHICS ADVISORY OPINION

To: Commissioner Matthew Sparks

From: Donald J. Doody, City Attorney *DJD*
Jacob G. Horowitz, Assistant City Attorney *JGH*

Date: November 14, 2018

Re: City of Oakland Park ("City") / Code of Ethics – Advisory Opinion

I. ISSUE AND FACTS PRESENTED

On November 8, 2018, you attended a ribbon cutting for the grand opening of Josef & Joseph Jewelers (the "Event"). The Event included a raffle, and all members of the public in attendance were invited to fill out a raffle ticket as they walked in the door. When the owners drew winners from the raffle pool, your ticket was included among the raffle winners. You have advised that your prize was a watch estimated to be valued at \$350.00. Josef & Joseph Jewelers is not a contractor or vendor of the City. You have asked whether the prize watch constitutes a gift under the Broward County Code of Ethics for Elected Officials ("Code of Ethics") and, if so, whether you may accept the same.

II. ANSWER

Yes you may accept the watch. The prize of a watch won in a game of chance, such as the Event raffle, is not a "gift," as defined by Section 112.312(12), F.S.; however, since the value of the watch exceeds \$100, you are advised that it is in your best interest to report the prize to the Florida Commission on Ethics on the Form 9 quarterly gift disclosure. Since all attendees at the Event were invited to enter the raffle and you were not afforded this opportunity as a result of your public position, the prize would not be considered an "official capacity" gift. Therefore, there is no prohibition under the Code of Ethics and state law would apply.

III. ANALYSIS

The Code of Ethics incorporates the definition of "gift" from Section 112.312(12), F.S. This definition does not include prizes for games of chance that are available to the general public.

Section 1-19(C)(1)(a) of the Code of Ethics prohibits gifts, regardless of value, from lobbyists, vendors or contractors of the City. Based on the facts provided, the jeweler does not fall within any of these categories. This section also provides a \$50.00 limit on gifts given to elected officials in their "official capacity." The \$50.00 limit does not apply to gifts given to elected officials in their non-official capacity. Such gifts are subject to Ch. 112, F.S.

Since participation in the raffle was open to the public and your entry was not predicated upon your position as a city commissioner, the prize would not be considered a gift in your official capacity. There is no limit to gifts that you may accept in your non-official capacity, subject to the requirements of state law. In accordance with Section 112.3148, F.S., all gifts valued in excess of \$100 must be disclosed quarterly on the Form 9.

Similarly, note that the Florida Commission on Ethics ("FCE") previously concluded that a city commissioner may accept an expenses paid trip for two (2) to London from a developer that appeared before the city commission since the trip was won in a game of chance that was open to the public. See CEO 86-19 (February 29, 1986). Based on this FCE analysis, it is our opinion that you may legally accept the prize watch won in a raffle at the Event. While the prize does not technically constitute a "gift" under Florida law, since the value of the watch exceeds \$100, in an abundance of caution, you should disclose the prize on the Form 9 quarterly disclosure that is filed with the FCE.

IV. CONCLUSION

Based on the foregoing, it is the opinion of the City Attorney's Office that you may accept a watch won as a prize in a game of chance that was open to the general public. It is in your best interest to disclose the prize on the Form 9 quarterly disclosure that is filed with the FCE.

This advisory opinion is issued pursuant to Section 1-19(c)(8) of the Broward County Code of Ordinances and may be relied upon by the individual who made the request. This analysis is limited solely to the facts presented. Please contact our office if there is any additional information that we can provide.