

why the transcripts should remain confidential, she later learned that the Respondent posted the transcripts on his Facebook site. She acknowledged she did not personally see the Facebook post. Attorney Rogers stated she believes the Respondent released the transcripts because it allowed him to show the public which County Commissioners supported, and which did not support, bringing the Emerald Coast Utilities Authority (ECUA) (the local governmental body providing utility services to the majority of the County) into the litigation. She maintains that the release of the transcripts allowed the Respondent to show his constituents his stance on resolving the problems with the sewer/water system. She added the Respondent is very active on social media and may also have released the transcripts because they constituted new material for him to post to the internet.

Note: The Respondent's current term of office began in November 2018, and ends in November 2022.

(62) The Respondent explained that the litigation involving this matter has been ongoing since 2014, and he believes all matters involved in the litigation have been settled between the County and EUCA. The Respondent stated that, on June 2, 2016, an inter-local agreement was signed between the County and the EUCA settling the litigation between the two entities. He said a second agreement relating to the sewer system was concluded on May 17, 2018. The Respondent maintains that the only court actions in the litigation since the agreements were made have been motions by the County Attorney to extend the time for discovery, and the County Attorney has not made any attempt(s) to produce discovery. He stated that the only purpose these motions served was to keep what was discussed during the shade meetings from being made available to the public.

(63) Escambia County Clerk of Court records reflect that Case Number 2014CA000237, in which Escambia County is the Petitioner, and Innerarity Island Development Corporation and Emerald Coast Utilities Authority are the Respondents, is still an open civil case.

(64) The Respondent acknowledged that, on May 11, 2020, Attorney Rogers provided all of the County Commissioners with an email labeled "Confidential" with the transcripts attached. He said, at that point, he became a "custodian of public records under Florida Law." The Respondent maintains he received a verbal public records request from a citizen, whose name he does not recall, regarding these transcripts. He said citizens had demanded information for several years relating to the shade meetings because they wanted to know who was in favor of the sewer system of Innerarity Island being taken over by the County. The Respondent said he posted the transcripts to his social media sites, and was "absolutely aware" at the time of the confidential restriction noted by County Attorney Rogers. However, he explained that, in spite of the County Attorney listing "Confidential" in the email, he posted the transcripts publicly because he believed they were no longer confidential, inasmuch as the legal disputes had been resolved with the above-referenced inter-local agreements. The Respondent said, "I am responsible to the higher ethical calling of my duty as a custodian of public record, which I became when she [Attorney Rogers] sent me the email, [and] I cannot deny that information to a citizen." He stated he communicated to County Attorney Rogers that he did not agree with her opinion concerning the records, and that he had researched an informal Attorney General Advisory Legal Opinion from November

26, 2014 (appended as Exhibit I) which he believed allowed him to release the transcripts without violating State Statutes. The Respondent acknowledged that he performed the research concerning the Attorney General's opinion himself and did not retain the services of an attorney in this matter. He opined that just because the County Attorney labeled the transcripts as confidential does not make the records confidential. The Respondent added he believes the County Attorney wanted to keep the transcripts confidential because they showed the "dirty operations on the part of the County" and "petty politics" being engaged in by a former County Commissioner.

(65) The Respondent recalled County Attorney Rogers privately told him at some point that all legal matters that were in dispute in the litigation had been settled, but she still did not believe the documents should be released until the project was completed because "you never know when something can go sideways." The Respondent maintains that the release of the transcripts benefitted every citizen in the County by providing them with the knowledge of what the County was doing relative to the utility litigation issue. He stated he did not personally benefit from the release of the transcripts. He said releasing the transcripts to the public did not damage the outcome of the project, nor did it expose the County or citizens to the potential loss of revenue or legal action. He added he did not release the transcripts to intimidate his colleagues on the Commission, but, rather, to make the public aware of what transpired during the meetings.

(66) Attorney Rogers said she may have told the Respondent and other County Commissioners at some point that the legal aspects of the lawsuit had been "essentially resolved." However, she noted the lawsuit was technically ongoing at the time the Respondent released the transcripts, and it still is not closed. Therefore, she believes the transcripts should have remained confidential until the case is closed.

END OF REPORT OF PRELIMINARY INVESTIGATION

EXHIBIT A

EXHIBIT A

Form 9

QUARTERLY GIFT DISCLOSURE (GIFTS OVER \$100)

LAST NAME – FIRST NAME – MIDDLE NAME:			NAME OF AGENCY:	
MAILING ADDRESS:			OFFICE OR POSITION HELD:	
CITY:	ZIP:	COUNTY:	FOR QUARTER ENDING (CHECK ONE):	
			<input type="checkbox"/> MARCH <input type="checkbox"/> JUNE <input type="checkbox"/> SEPTEMBER <input type="checkbox"/> DECEMBER	
			YEAR 20__	

PART A — STATEMENT OF GIFTS

Please list below each gift, the value of which you believe to exceed \$100, accepted by you during the calendar quarter for which this statement is being filed. You are required to describe the gift and state the monetary value of the gift, the name and address of the person making the gift, and the date(s) the gift was received. If any of these facts, other than the gift description, are unknown or not applicable, you should so state on the form. As explained more fully in the instructions on the reverse side of the form, you are not required to disclose gifts from relatives or certain other gifts. **You are not required to file this statement for any calendar quarter during which you did not receive a reportable gift.**

DATE RECEIVED	DESCRIPTION OF GIFT	MONETARY VALUE	NAME OF PERSON MAKING THE GIFT	ADDRESS OF PERSON MAKING THE GIFT

CHECK HERE IF CONTINUED ON SEPARATE SHEET

PART B — RECEIPT PROVIDED BY PERSON MAKING THE GIFT

If any receipt for a gift listed above was provided to you by the person making the gift, you are required to attach a copy of that receipt to this form. You may attach an explanation of any differences between the information disclosed on this form and the information on the receipt.

CHECK HERE IF A RECEIPT IS ATTACHED TO THIS FORM

PART C — OATH

I, the person whose name appears at the beginning of this form, do
depose on oath or affirmation and say that the information disclosed
herein and on any attachments made by me constitutes a true accurate,
and total listing of all gifts required to be reported by Section 112.3148,
Florida Statutes.

SIGNATURE OF REPORTING OFFICIAL

STATE OF FLORIDA

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me by means of
 physical presence or online notarization, this

_____ day of _____, 20__

by _____

(Signature of Notary Public-State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____ OR Produced Identification

Type of Identification Produced _____

PART D — FILING INSTRUCTIONS

This form, when duly signed and notarized, must be filed with the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709; physical address: 325 John Knox Road, Building E, Suite 200, Tallahassee, Florida 32303. The form must be filed no later than the last day of the calendar quarter that follows the calendar quarter for which this form is filed (For example, if a gift is received in March, it should be disclosed by June 30.)

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PART E — INSTRUCTIONS

WHO MUST FILE THIS FORM?

- Any individual, including a candidate upon qualifying, who is required by law to file full and public disclosure of his financial interests on Commission on Ethics Form 6, except Judges. (See Form 6 for a list of persons required to file that form.)
- Any individual, including a candidate upon qualifying, who is required by law to file a statement of financial interests on Commission on Ethics Form 1. (See Form 1 for a list of persons required to file that form.)
- Any procurement employee of the executive branch or judicial branch of state government. This includes any employee of an officer, department, board, commission, council, or agency of the executive branch or judicial branch of state government who has participated in the preceding 12 months through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, or auditing or in any other advisory capacity in the procurement of contractual services or commodities as defined in s. 287.012, F.S., if the cost of such services or commodities exceeds or is expected to exceed \$10,000 in any fiscal year.

NOTE: Gifts that formerly were allowed under Section 112.3148, F.S., now may be prohibited under Sections 11.045, 112.3215, and 112.31485, F.S.

WHAT GIFTS ARE REPORTABLE?

- Any gift (as defined below) you received which you believe to be in excess of \$100 in value, **EXCEPT:**
 - 1) Gifts from the following **RELATIVES**: father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, a person who is engaged to be married to you or who otherwise holds himself or herself out as or is generally known as the person whom you intend to marry or with whom you intend to form a household, or any other natural person having the same legal residence as you.
 - 2) Gifts which you are prohibited from accepting by Sections 112.313(4) and 112.3148(4), Florida Statutes. These include any gift which you know or, with the exercise of reasonable care, should know was given to influence a vote or other action in which you are expected to participate in your official capacity; it also includes a gift worth over \$100 from a political committee or committee of continuous existence under the elections law, from a lobbyist who lobbies your agency or who lobbied your agency within the past 12 months, or from a partner, firm, employer, or principal of such a lobbyist.
 - 3) Gifts worth over \$100 for which there is a public purpose, given to you by an entity of the legislative or judicial branch, a department or commission of the executive branch, a water management district created pursuant to s. 373.069, South Florida Regional Transportation Authority, the Technological Research and Development Authority, a county, a municipality, an airport authority, or a school board; or a gift worth over \$100 given to you by a direct-support organization specifically authorized by law to support the governmental agency of which you are an officer or employee. These gifts must be disclosed on Form 10.
- A "gift" is defined to mean that which is accepted by you or by another in your behalf, or that which is paid or given to another for or on behalf of you, directly, indirectly, or in trust for your benefit or by any other means, for which equal or greater consideration is not given within 90 days after receipt of the gift. A "gift" includes real property; the use of real property; tangible or intangible personal property; the use of tangible or intangible personal property; a preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similarly situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin; forgiveness of an indebtedness; transportation (unless provided to you by an agency in relation to officially approved governmental business), lodging, or parking; food or beverage; membership dues;

entrance fees, admission fees or tickets to events, performances, or facilities; plants, flowers, or floral arrangements; services provided by persons pursuant to a professional license or certificate; other personal services for which a fee is normally charged by the person providing the services; and any other similar service or thing having an attributable value and not already described.

- The following are **NOT** reportable as gifts on this form: salary, benefits, services, fees, commissions, gifts, or expenses associated primarily with your employment, business, or service as an officer or director of a corporation or organization, and unrelated to your public position; contributions or expenditures reported pursuant to the election laws, campaign-related personal services provided without compensation by individuals volunteering their time, or any other contribution or expenditure by a political party; an honorarium or an expense related to an honorarium event paid to you or your spouse; an award, plaque, certificate, or similar personalized item given in recognition of your public, civic, charitable, or professional service; an honorary membership in a service or fraternal organization presented merely as a courtesy by such organization; the use of a governmental agency's public facility or public property for a public purpose. Also exempted are some gifts from state, regional, and national organizations that promote the exchange of ideas between, or the professional development of, governmental officials or employees.

HOW DO I DETERMINE THE VALUE OF A GIFT?

- The value of a gift provided to you is determined using the actual cost to the donor, and, with respect to personal services provided by the donor, the reasonable and customary charge regularly charged for such service in the community in which the service is provided. Taxes and gratuities are not included in valuing a gift. If additional expenses are required as a condition precedent to the donor's eligibility to purchase or provide a gift and the expenses are primarily for the benefit of the donor or are of a charitable nature, the expenses are not included in determining the value of the gift.
- Compensation provided by you to the donor within 90 days of receiving the gift shall be deducted from the value of the gift in determining the value of the gift.
- If the actual gift value attributable to individual participants at an event cannot be determined, the total costs should be prorated among all invited persons. A gift given to several persons may be attributed among all of them on a pro rata basis. Food, beverages, entertainment, etc., provided at a function for more than ten people should be valued by dividing the total costs by the number of persons invited, unless the items are purchased on a per-person basis, in which case the per-person cost should be used.
- Transportation should be valued on a round-trip basis unless only one-way transportation is provided. Round-trip transportation expenses should be considered a single gift. Transportation provided in a private conveyance should be given the same value as transportation provided in a comparable commercial conveyance.
- Lodging provided on consecutive days should be considered a single gift. Lodging in a private residence should be valued at \$44 per night.
- Food and beverages consumed at a single sitting or event are a single gift valued for that sitting or meal. Other food and beverages provided on a calendar day are considered a single gift, with the total value of all food and beverages provided on that date being the value of the gift.
- Membership dues paid to the same organization during any 12-month period are considered a single gift.
- Entrance fees, admission fees, or tickets are valued on the face value of the ticket or fee, or on a daily or per event basis, whichever is greater. If an admission ticket is given by a charitable organization, its value does not include the portion of the cost that represents a contribution to that charity.
- Except as otherwise provided, a gift should be valued on a per occurrence basis.

FOR MORE INFORMATION

The gift disclosures made on this form are required by Sec. 112.3148, Florida Statutes. Questions may be addressed to the Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317-5709 or by calling (850) 488-7864; information is provided at: www.ethics.state.fl.us.