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BEFORE THE ARKANSAS ETHICS COMMISSION

ARKANSAS ETHICS
COMMISSION

BY

In Re: Jerry Jones, Sr.
Respondent

Case No. 2016-CO-067

FINAL ORDER

Came for a final adjudication hearing on May 19, 2017, the complaint filed in this case against the Respondent, Jerry Jones, Sr., and based upon due consideration of not only the testimony and other evidence presented at that hearing but also the applicable law, the Arkansas Ethics Commission (hereinafter the "Commission") hereby makes the following findings of fact and conclusions of law:

1. The Commission has jurisdiction over this matter pursuant to Ark. Code Ann. § 7-6-218.
2. The Respondent is a person within the meaning of Ark. Code Ann. § 21-8-402(14) and, as such, is subject to the provisions of Ark. Code Ann. § 21-8-801.
3. The Commission is charged with enforcing Ark. Code Ann. § 21-8-801 which provides, in pertinent part, as follows:

(a) No public servant shall:

(1) Receive a gift or compensation as defined in § 21-8-401 et seq., other than income and benefits from the governmental body to which he or she is duly entitled, for the performance of the duties and responsibilities of his or her office or position[.]

(b) (1) No person shall confer a gift or compensation as defined in § 21-8-401 et seq. to any public servant, the receipt of which is prohibited by subdivision (a)(1) of this section.

(2)(A) The first violation of this subsection by any person other than a registered lobbyist shall result in a written warning.

(B) Upon a second violation and subsequent violations by persons other than registered lobbyists and upon a first violation by registered lobbyists, the penalties provided for in §7-6-218 shall apply.

4. The term “gift” is defined in Ark. Code Ann. § 21-8-802(5) to include “anything of value” but the definition goes on to exclude “[a]nything with a value of one hundred dollars (\$100) or less.”

5. In accordance with the authority granted under Ark. Code Ann. § 7-6-217(g)(1), the Commission has promulgated a set of Rules on Gifts to implement and administer Ark. Code Ann. § 21-8-801.

6. The receipt of gifts by public servants is specifically addressed in § 303 of the Rules on Gifts which provides, in pertinent part, as follows:

(a) No public servant shall receive a gift for the performance of the duties and responsibilities of his or her office or position.

(b) For purposes of this rule, a gift shall be prohibited if it is intended to reward a public servant for doing his or her job or it is intended as a reward for past or future action. In contrast to bribery which requires a showing that a gift and some official action motivated each other, a gift is prohibited by this rule if the gift is for or because of the action. In order for a gift to be prohibited, it need not be shown that the official action was for or because of the gift.

7. The providing of gifts to public servants is specifically addressed in § 304 of the Rules on Gifts which provides as follows:

(a) No person shall confer a gift to any public servant, the receipt of which is prohibited by § 303 of these rules.

(b) The first violation of this section by any person other than a registered lobbyist shall result in a written warning. Upon a second and subsequent violations by persons other than registered lobbyists and upon a first violation by registered lobbyists, the sanctions provided for in Ark. Code Ann. § 7-6-218 shall apply.

8. On November 2, 2016, the Commission received a complaint against the Respondent. Briefly restated, the essential allegation of the complaint was that the Respondent “offered all [North Little Rock] Police Officers tickets to a Dallas Cowboys home game, including paid hotel accommodations and travel” after meeting with Detective Michael Gibbons of the North Little Rock Police Department.

9. On December 5, 2016, the Commission sent the Respondent a letter, via certified mail with a return receipt requested, to notify him that an investigation was being commenced concerning the essential allegation of the complaint. The letter went on to state that the focus of the investigation would be whether or not he violated Ark. Code Ann. § 21-8-801(b)(1) by conferring a prohibited gift or compensation to Detective Gibbons and other North Little Rock Police Officers, all in connection with the gift of tickets to Dallas Cowboys games, including paid hotel accommodations and travel.

10. On December 16, 2016, staff presented the preliminary results of its investigation to the Commission and was instructed to complete the investigation. The Respondent was notified of the Commission’s decision by letter dated December 22, 2016.

11. On April 11, 2017, the Commission sent the Respondent a letter to notify him that the results of the investigation would be presented to the Commission at its

regular monthly meeting on April 21, 2017, for purposes of determining whether or not probable cause existed for the finding of a violation.

12. On April 21, 2017, the Commission considered the results of staff's investigation and determined, by a vote of 3-1, with Commissioner Juneau voting against and Commissioner Younger not present, that probable cause existed for finding that the Respondent violated Ark. Code Ann. § 21-8-801(b)(1) by conferring a prohibited gift or compensation to Detective Michael Gibbons and other North Little Rock Police Officers. The gift in question consisted of tickets to Dallas Cowboys games, hotel accommodations, and travel.

13. On April 25, 2017, the Commission sent the Respondent a letter, via first class mail, notifying him of the Commission's finding of probable cause with respect to the issue of whether or not he violated Ark. Code Ann. § 21-8-801(b)(1) by conferring a prohibited gift or compensation to Detective Michael Gibbons and other North Little Rock Officers. In accordance with Sections VI (15) of the Commission's Rules of Practice and Procedure, said letter contained a written Offer of Settlement proposing that a violation be found but that no sanction be imposed on a showing of "good cause."

14. The evidence relied upon to support a showing of "good cause" was that before Detective Gibbons and the other officers accepted the (offer of tickets, hotel accommodations, and travel), the offer was vetted by the North Little Rock City Attorney's office and a resolution concerning this matter was drafted by the City Attorney's office, presented by the Mayor to the City Council, and approved by a unanimous vote of the City Council at its meeting on October 24, 2016. The evidence further reflected that the Respondent, Detective Gibbons, and the other North Little Rock

Police Officers relied upon the resolution's erroneous conclusion that the gifts fell outside the prohibitions set forth in Ark. Code Ann. § 21-8-801.

15. In accordance with Ark. Code Ann. § 21-8-801(b)(2)(A), the written Offer of Settlement provided that the Respondent would be sent a letter giving written warning that conferring a gift that is intended to reward a public servant for performing the duties and responsibilities of his or her position is prohibited under § 21-8-801(b)(1).

16. The Respondent was given ten (10) days to either accept the written Offer of Settlement or request a public hearing before the Commission. That time expired without the Respondent accepting the Offer of Settlement or requesting a hearing. At that point, the Commission was no longer bound by the terms of the Offer of Settlement.

17. On May 9, 2017, the Commission sent the Respondent a letter, via first class mail, giving notice that a final adjudication hearing would be held on May 19, 2017. Said letter contained a separate written notice providing the information required in Ark. Code Ann. § 25-15-208(a)(2).

18. The Respondent appeared with counsel at the final adjudication hearing which was held on May 19, 2017. Said hearing was conducted in accordance with Ark. Code Ann. § 25-15-213.

19. At some point in 2016, the Respondent was watching CNN and saw an interview with Officer Tommy Norman of the North Little Rock Police Department. The interview focused on Officer Norman's involvement in the communities he protects and featured him as an example of good community policing. During the course of the interview, Officer Norman recounted a story in which a murder suspect had specifically

requested that he be permitted to turn himself in to Officer Norman because the suspect had heard on the street that he could do so peacefully and with dignity.

20. The Respondent grew up in North Little Rock and was proud of the positive manner in which the North Little Rock Police Department was portrayed in the CNN interview.

21. During September or October of 2016, Detective Mike Gibbons, who is a member of the North Little Rock Police Department and serves as the president of the North Little Rock Fraternal Order of Police, met the Respondent at a Dallas Cowboys football game. During the course of that meeting, the Respondent indicated that he wanted to provide tickets to a Dallas Cowboys game to North Little Rock Police Department officers.

22. At the North Little Rock City Council meeting on October 24, 2016, Mayor Joe Smith introduced Resolution R16-165 expressing appreciation to the Respondent for his gift of tickets, hotel accommodations, and travel to officers of the North Little Rock Police Department. At that time, Mayor Smith said the resolution was intended to make the gifts "street legal." The resolution was subsequently passed by a vote of 6 – 0, with Aldermen Taylor and Hight not present.

23. Despite the passage of Resolution R16-165, the tickets, hotel accommodations and travel remained a gift from the Respondent and did not become benefits from the City of North Little Rock which the officers were duly entitled to receive.

24. On May 18, 2017, the Respondent entered into a Joint Stipulation of Facts with the Commission. Pursuant thereto, the following facts were stipulated, agreed, and admitted to:

(a)The Respondent gave Detective Michael Gibbons and approximately one hundred (100) other North Little Rock Police Department Officers free tickets, travel, and accommodations to Dallas Cowboys home games during the 2016 season in order to show his appreciation for their work and for volunteering time to outreach programs for children.

(b)The value of the tickets, travel, and accommodations received by Detective Gibbons and the other North Little Rock Police Officers was worth more than one hundred dollars (\$100).

(c)There was no evidence indicating that the Respondent intended to seek or that he sought out favors in exchange for the offer.

(d) Before Detective Gibbons and the other North Little Rock Police Officers accepted the offer of tickets, travel, and accommodations, the offer was vetted by the North Little Rock City Attorney's office. A resolution was drafted by the City's Attorney's office, presented by the Mayor to the City Council, and approved by a unanimous vote of the City Council at its October 24, 2016 meeting.

25. Based upon the facts and the law, the Commission found, by a vote of 3-2, with Commissioners Trusty and Juneau voting no, that the Respondent unintentionally violated Ark. Code Ann. § 21-8-801(b)(1) by conferring a gift to Detective Gibbons and other North Little Rock Police Officers which was intended to reward them for performing the duties and responsibilities of their positions. The gift in question consisted of tickets to Dallas Cowboys games, hotel accommodations, and travel.

26. With respect to the Respondent's violation of Ark. Code Ann. § 21-8-801(b)(1), the Commission determined that the Respondent had shown "good cause" for the violation and, therefore, that no sanction would be imposed.

27. In accordance with Ark. Code Ann. § 21-8-801(2)(A), the Respondent shall be sent a letter giving written warning that conferring a gift that is intended to reward a public servant for performing the duties and responsibilities of his or her position is prohibited under Ark. Code Ann. § 21-8-801(b)(1).

IT IS, THEREFORE, CONSIDERED, DECIDED, and ORDERED by the Commission that the Respondent, Jerry Jones, Sr., unintentionally violated Ark. Code Ann. § 21-8-801(b)(1) in connection with the gift of tickets, hotel accommodations, and travel to attend Dallas Cowboy games, that no sanction be imposed based not only upon Ark. Code Ann. § 21-8-801(b)(2)(A) but also upon "good cause" shown in the form of reliance on the erroneous conclusion in a City Council Resolution that the gift fell outside of the gift prohibition set forth in Ark. Code Ann. § 21-8-801, and that the Respondent be sent a letter giving written warning that conferring a gift that is intended to reward a public servant for performing the duties and responsibilities of his or her position is prohibited under Ark. Code Ann. § 21-8-801(b)(1).

IT IS SO ORDERED this 2nd day of June, 2017.


Sharon Trusty, Chairman
Arkansas Ethics Commission