

BEFORE THE ALASKA PUBLIC OFFICES COMMISSION

ROGER GRIFFIN,)
)
 Complainant,)
)
 v.) Case No. 17-02-POFD
)
 DANIEL HENRY,)
)
 Respondent.)
 _____)

FINAL ORDER

Roger Griffin alleges that Daniel Henry violated the Public Official Financial Disclosure (POFD) requirements by failing to disclose gifts received in connection with trips to Florida he took while serving as an assemblyman for the Municipality of Skagway. For the following reasons, the Commission finds no violation.

I. Background

As an assemblyman for the Municipality of Skagway from 1996 to 2016, Daniel Henry was subject to POFD requirements, including the requirement that he disclose all gifts from a single source with a cumulative value exceeding \$250 in a calendar year.¹

In September 2017, Griffin filed a complaint alleging that Henry violated this requirement by failing to disclose gifts from TWC Enterprises Limited (parent company of ClubLink and the White Pass & Yukon Route Railroad).² Griffin alleged that Henry

¹ AS 39.50.030(b)(1).

² Griffin's complaint also alleged failure to disclose debts to the Internal Revenue Services and the Commission, but in a September 13, 2017, order denying expedited consideration of this matter, the Commission noted that this allegation had already been considered in 17-01-POFD.

took at least four trips to Florida between January 2013 and February 2014 while arranging a lease involving Skagway and the White Pass & Yukon Route Railroad. He alleged that Skagway paid for Henry's airfare, but TWC covered Henry's lodging and meals. He contended that the expenses paid for by TWC should have been reported on Henry's POFD as a gift totaling more than \$250.

Staff investigated and issued a report in October 2017, recommending that the Commission find a violation and impose a civil penalty. Through its investigation, staff determined that TWC covered at least \$516.15 in hotel costs for Henry in 2013, as well as indeterminate costs for meals, rounds of golf, and golf balls during Henry's trips to Florida. Staff concluded that Henry was required to disclose the hotel costs as gifts, but that meals for immediate consumption are exempt from the definition of gift and that staff could not definitively determine the amount of the golf costs. Staff calculated the maximum civil penalty for Henry's failure to disclose the hotel costs to be \$12,760,³ and proposed a 90 percent reduction to \$1,276. Henry filed a response to the staff report.

The Commission considered the matter at its regular meeting on February 21, 2018. Griffin and Henry both appeared telephonically. Griffin argued in favor of a higher penalty than that recommended by staff given Henry's history of past violations. Henry did not dispute that TWC paid for the costs as alleged, but argued that he committed no violation and that the Commission should not impose any penalty because the hotel costs

³ Under AS 39.50.135, violations of POFD requirements carry a maximum penalty of \$10/day.

were not a gift to him personally, but to Skagway. He also argued that the golf costs were not a gift because TWC owned the golf courses and thus incurred no expense.

II. Analysis

The Commission concludes that Henry did not violate the POFD requirements by failing to disclose the hotel costs paid by TWC because they were not a gift to him. Because Henry was travelling on official business for Skagway, Skagway was going to completely reimburse him for his lodging costs, just as it had paid for his airfare. Thus, TWC's payment of Henry's lodging costs was a gift to Skagway rather than a gift to Henry because it covered an expense that would have otherwise been paid by Skagway, not an expense that would have otherwise been paid by Henry.

The Commission agrees with staff that Henry did not violate the POFD requirements by failing to disclose meals paid for by TWC because meals for immediate consumption are exempt from the Commission's definition of gift.⁴

Finally, the Commission concludes that the golf costs paid for TWC and the golf balls given to Henry were indeed gifts to him, but the record does not establish that they totaled over \$250 within a calendar year and thus does not establish a POFD violation.

The Commission expresses no opinion on whether Henry's actions in connection with these various expenses paid by TWC complied with other legal requirements or ethical duties that are not within the purview of this Commission.

⁴ 2 AAC 50.990(13)(C)(iv).

III. Conclusion

The Commission finds no POFD violation, and it therefore need not consider the appropriate penalty or any applicable mitigating or aggravating factors.

This is a final Commission order. It may be appealed to the superior court within 30 days from the date of this order under AS 44.62. A request for the Commission to reconsider this order must be filed within 15 days from the date this order is delivered or mailed under 2 AAC 50.891(g).

Dated: February 21, 2018

BY ORDER OF THE ALASKA PUBLIC OFFICES COMMISSION⁵

⁵ Commissioners Tom Temple, Ronald King, Irene Catalone, Robert Clift, and Adam Schwemley participated in this matter. The decision was made on a 5-0 vote.

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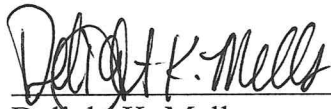
Case No. 17-02-POFD

CERTIFICATE OF SERVICE

On March 2, 2018, I caused a true and correct copy of the Alaska Public Offices Commission's Final Order and this Certificate of Service to be delivered to:

Daniel Henry P.O. Box 279 Skagway, AK 99840 sfcialaska@hotmail.com	<input checked="" type="checkbox"/> Certified Mail <input checked="" type="checkbox"/> Email
Roger Griffin P.O. Box 423 Skagway 99840 taiyamarine@gmail.com	<input checked="" type="checkbox"/> Email

ALASKA PUBLIC OFFICES COMMISSION



Delight K. Mells
Paralegal II

3/2/2018

Date