

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
BOARD APPOINTMENT SUMMARY

Meeting Date: August 19, 2014

Department: Public Safety Department
Submitted by: Consumer Affairs Division
Advisory Board Name: Consumer Affairs Hearing Board

I. EXECUTIVE BRIEF

Motion and Title: Staff Recommends Motion to Approve: appointment of one (1) new At Large member to the countywide Consumer Affairs Hearing Board as follows:

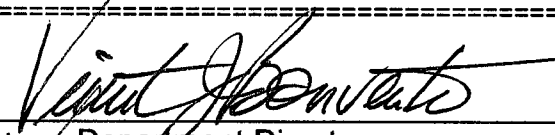
Nominee	Seat #	Requirement	Nominated by:	Term
Phillip Schutzer	1	Attorney	Mayor Priscilla Taylor Vice Mayor Paulette Burdick	08/19/2014 to 09/30/2017


Summary: The Consumer Affairs Ordinance approved by the Board of County Commissioners ("BCC") on December 17, 2013, and codified in Chapter 9, Article I of the Palm Beach County Code, establishes a seven (7) member Consumer Affairs Hearing Board ("Hearing Board"). The Hearing Board serves in both an advisory capacity to the BCC and as an appellate board, hearing administrative appeals filed by persons disputing final decisions made by the Division of Consumer Affairs concerning the towing, vehicle for hire, and moving industries. With the approval of this motion the Hearing Board will have 7 of 7 members. **Countywide (PGE)**

Background and Policy Issues: The BCC recreated the Consumer Affairs Hearing Board as a seven (7) member at-large board to protect the interests of the consumer-public, hear appeals by persons aggrieved by actions of the Division staff, and perform other functions more fully described in the "Palm Beach County Consumer Affairs Ordinance of 2013." Appointment to the Hearing Board is based on residency in the County and experience or interest in the field of consumer affairs. One (1) of the seven (7) members must be an attorney, licensed to practice in the State of Florida. **NOTE:** With the appointment of this seat, the Hearing Board will have all seven seats filled. The Hearing Board will have a diversity count as follows: Asian: 1 (14%) African American: 1 (14%) and White: 5 (72%). The gender ratio (male: female) is 7:0.

Attachments:


1. Memorandum to BCC requesting nomination
2. Application with Resume/biography
3. Current Consumer Affairs Hearing Board Membership List
4. Consumer Affairs Ordinance 2013-035

Recommended by:  7/24/14
 Department Director Date

Approved by:  7/24/14
 Assistant County Administrator Date

II. REVIEW COMMENTS

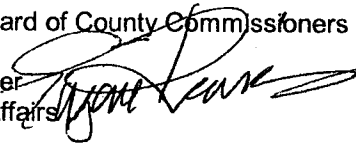
Legal Sufficiency:


Assistant County Attorney

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)



MEMORANDUM

Date: June 1, 2014
To: Mayor Priscilla Taylor,
and Members of the Board of County Commissioners
From: Eugene Reavis, Manager 
Division of Consumer Affairs
RE: **Consumer Affairs Hearing Board (CAHB)
Request for Nomination of One At - Large Member**

The purpose of this memo is to request a nomination to fill one (1) remaining At-Large CAHB seat designated for an attorney, licensed to practice in the State of Florida, who shall be a member of the Palm Beach County Bar Association.

We are providing an application and background information for the interested and qualified individual (attached). If you wish to endorse the nomination, please sign and return the attached application by **Monday, June 16, 2014**. Our recommendation for appointment will be placed on the July 1, 2014 Board of County Commissioners meeting.

The CAHB is selected for countywide representation and serve three (3) year terms, with a limit of three (3) consecutive terms. The CAHB serves in both an advisory capacity to the BCC and as an Appeals Hearing Board to carry out the functions pertaining to alleged unfair or deceptive trade acts or practices as provided for in Palm Beach County Code Chapter 9 Consumer Affairs, article 1. CAHB members assist, advise and cooperate with the Board of County Commissioners and local, state, and federal agencies, protect the interest of Palm Beach County consumers, and hear appeals from administrative action taken against companies believed to be in violation of one of the regulatory ordinances assigned to Consumer Affairs: Towing, Vehicle for Hire, Moving and Price Gouging.

Pursuant to the ordinance, all of the Board members must be citizens of the United States and qualified electors of Palm Beach County. Members of the Hearing Board cannot hold public employment and cannot be interested financially in the profits or emoluments of any contract, work or service for the County.

Any additional candidates will be presented to the Board for appointment at a later date. If you should have any questions, please feel free to contact me at 561-712-6605.

Attachment:

Board/Committee Application – Phillip Schutzer

c: Vince Bonvento, Asst. County Administrator/Director, Public Safety Department
Pamela Eidelberg, Assistant County Attorney

R:\Consumer Affairs\CAHearingBoard\BCC Nomination Request Memo - June 2014.docx

Department of Public Safety
Division of Consumer Affairs
50 South Military Trail, Suite 201
West Palm Beach, FL 33415
Main Office: (561) 712-6600
South and West County: 1-888-852-7362
FAX: (561) 712-6610
www.pbcgov.com/consumer


**Palm Beach County
Board of County
Commissioners**

- Priscilla A. Taylor, Mayor
- Paulette Burdick, Vice Mayor
- Hal R. Valeche
- Shelley Vana
- Steven L. Abrams
- Mary Lou Berger
- Jess R. Santamaria

County Administrator

Robert Weisman

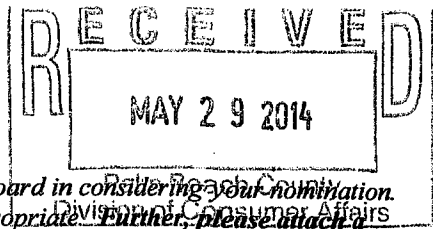
"An Equal Opportunity
Affirmative Action Employer"

 printed on recycled paper

Attachment # 1

Page 1 of 1

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
BOARDS/COMMITTEES APPLICATION**



The information provided on this form will be used by County Commissioners and/or the entire Board in considering your nomination. This form **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. **Further, please attach a biography or résumé to this form.**

Section I (Department): (Please Print)

Board Name: Consumer Affairs Hearing Board Advisory Not Advisory
 At Large Appointment or District Appointment /District #: _____
 Term of Appointment: 3 Years. From: 08/19/2014 To: 09/30/2017
 Seat Requirement: ATTORNEY Seat #: 1
 *Reappointment or New Appointment
 or to complete the term of _____ Due to: resignation other
 Completion of term to expire on: _____

*When a person is being considered for reappointment, the number of previous disclosed voting conflicts during the previous term shall be considered by the Board of County Commissioners: _____

Section II (Applicant): (Please Print)

APPLICANT, UNLESS EXEMPTED, MUST BE A COUNTY RESIDENT

Name: Schutzer Philip M
Last First Middle
 Occupation/Affiliation: Retired
 Owner Employee Officer
 Business Name: N/A
 Business Address: N/A
 City & State: N/A Zip Code: _____
 Residence Address: 9517 Via Elegante
 City & State: Wellington, FL Zip Code: 33411
 Home Phone: (561) 855-4335 Business Phone: (X) none Ext. _____
 Cell Phone: (305) 606-2836 Fax: (NONE)
 Email Address: schutzep@comcast.net

Mailing Address Preference: Business Residence

Have you ever been convicted of a felony: Yes _____ No X
 If Yes, state the court, nature of offense, disposition of case and date: _____

Minority Identification Code: Male Female
 Native-American Hispanic-American Asian-American African-American Caucasian

Attachment # 2
 Page 1 of 4

CONTRACTUAL RELATIONSHIPS: Pursuant to Article XIII, Sec. 2-443 of the Palm Beach County Code of Ethics, advisory board members are prohibited from entering into any contract or other transaction for goods or services with Palm Beach County. Exceptions to this prohibition include awards made under sealed competitive bids, certain emergency and sole source purchases, and transactions that do not exceed \$500 per year in aggregate. These exemptions are described in the Code. This prohibition does not apply when the advisory board member's board provides no regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction and the contract or transaction is disclosed at a public meeting of the Board of County Commissioners. **To determine compliance with this provision, it is necessary that you, as a board member applicant, identify all contractual relationships between Palm Beach County government and you as an individual, directly or indirectly, or your employer or business.** This information should be provided in the space below. If there are no contracts or transactions to report, please verify that none exist. Staff will review this information and determine if you are eligible to serve or if you may be eligible for an exception or waiver pursuant to the code.

<u>Contract/Transaction No.</u>	<u>Department/Division</u>	<u>Description of Services</u>	<u>Term</u>
_____	_____	_____	_____
_____	_____	_____	_____

(Attach Additional Sheet(s), if necessary)

OR NONE

All board members are required to read and complete training on Article XIII, the Palm Beach County Code of Ethics, and read the Guide to the Sunshine Amendment prior to appointment/reappointment. Article XIII, and the training requirement can be found on the web at: _____ . Keep in mind this requirement is on-going.

By signing below I acknowledge that I have read, understand, and agree to abide by Article XIII, the Palm Beach County Code of Ethics, and I have received the required Ethics training (in the manner checked below):

 X By watching the training program on the Web, DVD or VHS
 _____ By attending a live presentation given on _____, 20____

AND

By signing below I acknowledge that I have read, understand and agree to abide by the Guide to the Sunshine Amendment & State of Florida Code of Ethics:

*Applicant's Signature: Philip M. Schutzes Printed Name: Philip M. Schutzes Date: 5/28/14

Any questions and/or concerns regarding Article XIII, the Palm Beach County Code of Ethics, please visit the Commission on Ethics website or contact us via email at _____ or (561) 233-0724.

Return this FORM to:

Palm Beach County Consumer Affairs Division
 50 S. Military Trail, Suite 201
 West Palm Beach, FL 33415

Section III (Commissioner, if applicable):

Appointment to be made at BCC Meeting on: _____

Commissioner's Signature: [Signature] Date: 6/3/14

CONTRACTUAL RELATIONSHIPS: Pursuant to Article XIII, Sec. 2-443 of the Palm Beach County Code of Ethics, advisory board members are prohibited from entering into any contract or other transaction for goods or services with Palm Beach County. Exceptions to this prohibition include awards made under sealed competitive bids, certain emergency and sole source purchases, and transactions that do not exceed \$500 per year in aggregate. These exemptions are described in the Code. This prohibition does not apply when the advisory board member's board provides no regulation, oversight, management, or policy-setting recommendations regarding the subject contract or transaction and the contract or transaction is disclosed at a public meeting of the Board of County Commissioners. **To determine compliance with this provision, it is necessary that you, as a board member applicant, identify all contractual relationships between Palm Beach County government and you as an individual, directly or indirectly, or your employer or business.** This information should be provided in the space below. If there are no contracts or transactions to report, please verify that none exist. Staff will review this information and determine if you are eligible to serve or if you may be eligible for an exception or waiver pursuant to the code.

<u>Contract/Transaction No.</u>	<u>Department/Division</u>	<u>Description of Services</u>	<u>Term</u>
_____	_____	_____	_____
_____	_____	_____	_____

(Attach Additional Sheet(s), if necessary)

OR NONE

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Return this FORM to:

**Palm Beach County Consumer Affairs Division
 50 S. Military Trail, Suite 201
 West Palm Beach, FL 33415**

Section III (Commissioner, if applicable):

Appointment to be made at BCC Meeting on: _____

Commissioner's Signature: Laubeth Burdick Date: 6-9-2014

PHILIP M SCHUTZER
9517 VIA ELEGANTE
WELLINGTON, FL 33411

I have a Bachelor of Science degree from the University of Miami; a degree in Pharmacy from the University of Washington and a Juris Doctor degree from the University of Miami.

I have been on the Boards of the Dade County Pharmacy Association; the Sovereigns Condominium and Temple Samuel.

My pharmacy background has been in retail pharmacy, I have been a staff pharmacist and also an owner of three pharmacies at different times and am still licensed in Florida.

I have been an Assistant State Attorney for the Ninth Judicial Circuit, in Orlando, Florida and in private practice. I am still an active member of the Florida Bar, but have not practiced since 1998.

Attachment # 2

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**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
CONSUMER AFFAIRS HEARING BOARD**

I. AUTHORITY :

Ordinance 72-2; as amended by Ordinance 74-4; as amended by Ordinance 74-22; as amended by Ordinance 75-1; as amended by Ordinance 75-1; as amended by Ordinance 077-10, adopted December 27, 1977; as amended by Ordinance 2013-035, adopted December 17, 2013.

II. APPOINTING BODY :

Board of County Commissioners

III. COMPOSITION, QUALIFICATIONS, TERMS & REMOVAL :

The Board shall consist of seven members. At least one member shall be an attorney, licensed to practice in the State of Florida, and all other appointments shall be made by the Board of County Commissioners on the basis of experience or interest in the field of consumer affairs. All Board members shall be for a term of three years with a limit of three consecutive terms. Terms shall begin on October 1st and end on September 30th. Vacancies occurring during a term shall be filled for the unexpired portion of the term, and shall not count towards a member's term limits. Members shall be residents of Palm Beach County at the time of appointment and while serving on the Board. Members serve without compensation.

EXTENDED COMPOSITION :

IV. MEETINGS :

As necessary.

V. FUNCTIONS :

To assist, advise, and cooperate with the BCC and local, state, and federal agencies and officials to protect the interests of the consumer-public; to hear appeals by persons aggrieved by actions of the Consumer Affairs Division not already referred to the state attorney for criminal prosecution; the Board shall reach a prompt decision on all such appeals and may affirm or reverse the action or decision appealed from, provided that such decision shall not be in conflict with the provisions of the Ordinance; and to exercise and perform such other functions, powers and duties as may be deemed necessary or appropriate to protect and promote the welfare of county consumers.

VI. LIAISON INFORMATION :

<u>LIAISON DEPARTMENT</u>	<u>CONTACT PERSON</u>	<u>ADDRESS</u>
Public Safety	Eugene Reavis	50 S Military Trl Ste 201 Consumer Affairs Division West Palm Beach FL 33415 Phone # 561-712-6622

* indicates a member having an action pending

Attachment # 3
 Page 1 of 3



CONSUMER AFFAIRS HEARING BOARD

SEAT ID	CURRENT MEMBER	ROLE TYPE	RACE CODE	GENDER	BUSINESS / HOME PHONE	SEAT REQUIREMENT	APPOINT DATE	REAPPOINT DATE	EXPIRE DATE
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Appointed By : At-Large/Palm Beach County Board of County Commissioners

1	Vacant	Member	UN		-	Attorney	11		
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FL

NOMINATED BY :

2	Martin I. Lipnack	Member	CA	M	561-375-6773	Resident of Palm Beach County	02/04/2014		09/30/2016
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8506 Logia Cir
Boynton Beach FL 33472

NOMINATED BY :

3	Michael T. Carter	Member	AA	M	561-313-2571	Resident of Palm Beach County,	02/04/2014		09/30/2016
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903 43rd St
West Palm Beach FL 33407

NOMINATED BY :

4	Manohar L Athavale	Member	AS	M	561-304-2533	Resident of Palm Beach County	05/04/2011	02/04/2014	09/30/2016
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8712 S Kendale Cir
Lake Worth FL 33467

NOMINATED BY :

* indicates a member having an action pending

Page 2 of 3
Attachment # 3

Appointed By : At-Large/Palm Beach County Board of County Commissioners

5 Frank D. Lewis Member CA M 561-391-1514 Resident of Palm Beach County 04/23/2013 09/30/2015

6812 Calle Del Paz N
Boca Raton FL 33433

NOMINATED BY :

6 Harold Moldoff Member CA M 561-855-7754 Resident of Palm Beach County 04/23/2013 09/30/2015

2797 Muskegon Way
West Palm Beach FL 33411

NOMINATED BY :

7 Harold Murphy Member CA M 56-166-20025 Resident of Palm Beach County 05/18/2010 12/18/2012 09/30/2014

13245 Compton Rd
Loxahatchee FL 33470

NOMINATED BY :

Attachment # 3
Page 3 of 3

* indicates a member having an action pending

ORDINANCE NO. 2013-035

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, REPEALING PALM BEACH COUNTY CODE, CHAPTER 9, ARTICLE I, CODIFYING ORDINANCE NO. 72-2, AS AMENDED, "THE PALM BEACH COUNTY CONSUMER AFFAIRS ORDINANCE," RELATING TO CONSUMER AFFAIRS AND UNFAIR OR DECEPTIVE TRADE PRACTICES; AND ADOPTING A NEW CONSUMER AFFAIRS ORDINANCE; PROVIDING FOR TITLE; PROVIDING FOR DEFINITIONS; PROVIDING FOR SCOPE OF ORDINANCE; PROVIDING FOR EXEMPTIONS; PROVIDING FOR OTHER RIGHTS AND REMEDIES; PROVIDING FOR A CONSUMER AFFAIRS DIVISION; PROVIDING FOR A DIRECTOR OF CONSUMER AFFAIRS; PROVIDING FOR POWERS OF DIRECTOR; PROVIDING FOR COMPLAINTS; PROVIDING FOR THE PROHIBITION OF UNFAIR OR DECEPTIVE TRADE PRACTICES; PROVIDING FOR A CONSUMER AFFAIRS HEARING BOARD; PROVIDING FOR POWERS OF THE CONSUMER AFFAIRS HEARING BOARD - PROCEEDINGS AT HEARING; PROVIDING FOR ASSURANCE OF VOLUNTARY COMPLIANCE; PROVIDING FOR CEASE AND DESIST ORDER OF DIRECTORS; PROVIDING FOR ORDER TO SHOW CAUSE; PROVIDING FOR STATUTES ADOPTED; PROVIDING FOR ENFORCEMENT AND CIVIL PENALTIES; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 125.01, Florida Statutes, as amended, authorizes the Board of County Commissioners of Palm Beach County to provide and maintain for the citizens and visitors of said County, standards which will insure their health, welfare, and well being; and

WHEREAS, Section 125.01, Florida Statutes, provides that the Board of County Commissioners of Palm Beach County may adopt ordinances and resolutions as may be necessary to the exercise of their powers; and

WHEREAS, the protection of the citizens and visitors of Palm Beach County from unfair and deceptive trade acts or practices is necessary in the general interest of the public and to promote the general welfare; and

WHEREAS, it is the intent of the Board of County Commissioners of Palm Beach County to continuously improve consumer protection in Palm Beach County while maximizing the efficient utilization of available resources; and

1 **WHEREAS**, since the date of adoption and implementation of the original enactment of
2 the Consumer Affairs Ordinance, No. 72-2, it has been necessary to amend it from time to time
3 in order to best serve the citizens of Palm Beach County and provide for their general safety and
4 welfare; and

5 **WHEREAS**, a Consumer Affairs Hearing Board was established in 1977 to assist, advise
6 and cooperate with the Board of County Commissioners and local, state, and federal agencies
7 and officials to protect the interest of the consumer public; and to carry out the adjudicatory
8 functions pertaining to alleged unfair or deceptive trade acts or practices; and

9 **WHEREAS**, the Board of County Commissioners of the Palm Beach County adopted
10 Resolution 2013-0193 on March 1, 2013, which imposes specific requirements on members of
11 County advisory boards; and

12 **WHEREAS**, the Consumer Affairs Hearing Board is subject to the provisions of
13 Resolution 2013-0193; and

14 **WHEREAS**, due to the substantial procedural and substantive changes made to this
15 ordinance to bring it into compliance with other County ordinances, since it was last amended in
16 1977, it is more efficient and in the best interest of the Board of County Commissioners to repeal
17 and replace the Consumer Affairs Ordinance in its entirety.

18 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
19 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**

20 **Section 1. The Consumer Affairs Ordinance.**

21 Chapter 9, Article I, of the Palm Beach County Code, "The Consumer Affairs Ordinance,"
22 (Ordinance No. 72-2, as amended), is hereby repealed and the Palm Beach County Consumer
23 Affairs Ordinance of 2013 is hereby adopted as follows;

24
25 **Section 2. Title.**

26 This Ordinance shall be designated and may be cited as the "Palm Beach County Consumer
27 Affairs Ordinance of 2013."

28
29 **Section 3. Definitions.**

30 The following words when used in this Ordinance shall have the following meanings ascribed to
31 them unless the text requires or specifies a different meaning:

- 32
33 (a) "Board" shall mean the Consumer Affairs Hearing Board of Palm Beach
34 County;
35
36 (b) "Consumer" means a purchaser or lessee or prospective purchaser or lessee of
37 consumer goods or services or consumer credit, including a co-obligor or
38 surety;
39
40 (c) "Consumer goods, services, credit and debts" means goods, services, credit
41 and debts which are primarily for personal, household, or family purposes;

- 1
2 (d) "Consumer transaction" means a sale, lease, assignment, award by chance or
3 other commercial disposition of any item of goods, a consumer service or an
4 intangible instrument or commodity to any individual for purposes that are
5 primarily personal, family or household, or that relate to a business
6 opportunity that requires either the consumer's expenditure of money or
7 property and/or his or her personal services on a continuing basis and in
8 which he or she has not been previously engaged, or solicitation by a supplier
9 with respect to any of the foregoing dispositions;
10
11 (e) "Director" shall mean the director or the manager of the Consumer Affairs
12 Division;
13
14 (f) "Division" shall mean the Palm Beach County Department of Public Safety
15 Consumer Affairs Division;
16
17 (g) "Hearing" shall mean an administrative appeal heard by the Consumer Affairs
18 Hearing Board on matters filed by person appealing the decisions of the
19 Division;
20
21 (h) "Meeting" shall mean a meeting of the Board and Division staff to conduct its
22 regular business as necessary;
23
24 (i) "Merchant" means a seller, lessor, creditor or any person who makes
25 available either directly or indirectly goods, services, or credit to consumers.
26 "Merchant" shall include manufacturers, wholesalers and others who are
27 responsible for any unfair or deceptive trade acts or practices as defined in
28 this Ordinance;
29
30 (j) "Person" shall include, where applicable, natural persons, corporations, trusts,
31 partnerships, limited liability companies, incorporated or unincorporated
32 associations, and any other legal business entity whatsoever; and,
33
34 (k) "Unfair or deceptive trade acts or practices" shall mean unfair methods of
35 competition and unfair deceptive acts or practices in the conduct of any
36 consumer transaction and shall include but are not limited to those acts
37 referenced in Section 11. Prohibition of Unfair or Deceptive Trade Acts or
38 Practices.
39

40 **Section 4. Scope of Ordinance.**

41 This Ordinance shall be applicable in both the unincorporated and incorporated areas of Palm
42 Beach County, except that it shall not apply in any municipality that has adopted and maintains
43 in effect ordinances or regulations governing the same matters.
44

45 **Section 5. Exemptions.**

46 Nothing in this Ordinance shall apply to any television or radio broadcasting station or to any
47 publisher or printer of a newspaper, magazine, or other form of printed advertising, which
48 broadcasts, publishes, or prints such advertisements, except insofar as said station or publisher or
49 printer is guilty of deception in the sale, or in the offering for sale of its own services, or to
50 actions or transactions regulated under laws administered by the state public service commission.
51

52 **Section 6. Other Rights and Remedies.**

53 Nothing herein shall prevent any person from exercising any right or seeking any private remedy
54 to which he might otherwise be entitled or from filing any complaint with any other agency.
55

56 **Section 7. Consumer Affairs Division.**

57 There is hereby created the Consumer Affairs Division under the Department of Public Safety.
58

1 **Section 8. Director of Consumer Affairs Division.**

2 The Director of the Consumer Affairs shall be a County employee under the supervision and
3 control of the Director of the Department of Public Safety.

4
5 **Section 9. Powers of Director.**

6 The functions and powers of the Director of the Consumer Affairs Division shall include the
7 following:

- 8
9 (a) To receive complaints from all persons complaining of unfair or deceptive
10 trade acts or practices as defined in this Ordinance;
11
12 (b) To represent the interests of consumers before administrative and regulatory
13 agencies and legislative bodies;
14
15 (c) To enforce the provisions of this Ordinance;
16
17 (d) To investigate complaints, institute actions and proceedings under this
18 Ordinance;
19
20 (e) To conduct appropriate surveys and inspections to determine whether the
21 provisions of this Ordinance are being complied with;
22
23 (f) To report to the appropriate law enforcement officers any information
24 concerning violations of any consumer protection law;
25
26 (g) To render annual reports to the Board of County Commissioners as to the
27 number of complaints filed, the nature thereof and the disposition thereof and
28 other relevant activities of the office and the Board undertaken during the
29 previous year;
30
31 (h) To publicize and disseminate information to the public concerning consumer
32 affairs and to recommend methods for improvement thereof;
33
34 (i) To enlist and encourage public support and the assistance of civic
35 organizations and the cooperation of business enterprises and organizations in
36 consumer affairs;
37
38 (j) To make periodic reports concerning the status of consumer affairs in Palm
39 Beach County and the enforcement of the provisions of this Ordinance, and
40 recommendations concerning consumer protection. Such reports shall be
41 made to the Consumer Affairs Hearing Board and to the Board of County
42 Commissioners of Palm Beach County;
43
44 (k) To prepare assurances of voluntary compliance as provided for in Section 15
45 of this Ordinance; and
46
47 (l) To assist, develop and conduct programs of consumer education and
48 information through public hearings, meetings, publications or other materials
49 prepared for distribution to the consumer.

50
51 **Section 10. Complaints.**

- 52
53 (a) Any consumer may make or file a complaint stating the name and address (if
54 known) of the person alleged to have committed the violation complained of
55 and the particulars thereof, and such other information as may be required by
56 the Consumer Affairs Division.
57
58 (b) Upon the filing of a complaint, the Director shall review the complaint and
59 supporting documentation, if any, and assign a staff investigator, if
60 appropriate. If the staff investigator determines that there are reasonable

1 grounds to believe a violation has occurred, the staff investigator may attempt
2 to conciliate the matter through conferences with all interested parties and
3 such representatives as the parties may chose to assist them, or alternatively,
4 may issue a civil citation.

- 5
6 (c) If the staff investigator determines that there are no reasonable grounds to
7 believe that a violation occurred, the investigator shall prepare a closure letter
8 for the Director to review and approve, prior to dismissing the complaint.
9

10 **Section 11. Prohibition of Unfair or Deceptive Trade Practices.**

11
12 No person shall engage in any unfair method of competition or deceptive act or practice in the
13 conduct of any consumer transaction. A person engages in an unfair method of competition or
14 deceptive trade act or practice when in the course of his or her business, vocation or occupation,
15 he or she knows, or in the exercise of care should know, that he or she in the past engaged, or is
16 now engaging in, any unfair method of competition or deceptive acts or practices in the conduct
17 of any trade or commerce as herein defined. Unfair or deceptive trade acts or practices shall
18 include, but are not limited to, the following:
19

- 20 (a) Representations that goods or services have sponsorship, approval,
21 characteristics, ingredients, uses, benefits, or quantities which they do not
22 have;
23
24 (b) Representations that a person or supplier has a sponsorship, approval, status,
25 affiliation or connection which he or she does not have;
26
27 (c) Representations that goods are original or new if in fact they are not, or if
28 they are deteriorated, altered, reconditioned, reclaimed, or second-hand;
29
30 (d) Representations that goods are of a particular standard, brand, quality, style,
31 or model, if they are of another;
32
33 (e) Representations that goods or services are those of another, if they are not;
34
35 (f) Using deceptive representations or designations of geographic origin in
36 connection with goods or services;
37
38 (g) Advertising goods or services intending not to sell them as advertised;
39
40 (h) Advertising goods or services with intent not to supply reasonable expectable
41 public demand, unless the advertisement discloses a limitation of quantity;
42
43 (i) Making false or misleading statements concerning the need for, or necessity
44 of, any goods, services, replacements, or repairs;
45
46 (j) Disparaging the goods, services, or business of another by false or misleading
47 representations of fact;
48
49 (k) Making false or misleading statements of fact concerning the reasons for the
50 existence of, or amounts of price reductions;
51
52 (l) Failing to return or refund deposits or advance payments for goods not
53 delivered or services not rendered, when no default or further obligation of
54 persons making such deposits or advance payments exists;
55
56 (m) Taking consideration for goods or services intending not to deliver such
57 goods or perform such services, or intending to deliver goods or provide
58 service materially different from those ordered or sold;
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60 (n) Making false or misleading statements concerning the profitability, risk, or
61 any other material aspect of any home-operated business opportunity or
62 venture;

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- (o) Offering gifts, prizes, free items, or other gratuities, intending not to provide them as offered in connection with a sale of goods or services to a consumer;
- (p) Making false or misleading statements concerning the existence, terms, or probability of any rebate, additional goods or services, commission, discount offered as an inducement for the sale of goods or services;
- (q) Using physical force, threat of physical force, or coercion in dealing with consumers;
- (r) Any violation of the Florida Deceptive and Unfair Trade Practices Act, Section 501.201 et seq., Florida Statutes;
- (s) Advertising, representing, or offering for sale an article of food or food product as “kosher” or having the word “kosher” in any language inscribed thereon if such food is not in fact kosher as sanctioned by orthodox Hebrew religious requirements, and,
- (t) Selling or exposing for sale in any hotel, restaurant or other place where food products are sold for consumption on the premises, any meat or meat preparation, or article of food, or food preparation falsely representing the same to be kosher or as having been prepared in accordance with the orthodox Hebrew religious requirements when the meat or meat preparation, article of food or food preparation is not kosher or not prepared in accordance with orthodox Hebrew religious requirements, or; or selling or exposing for sale in such hotel, restaurant or such other place kosher and non-kosher food or food preparation, the latter having not been prepared in accordance with Jewish ritual or not sanctioned by the Hebrew orthodox religious requirements and failing to conspicuously display a sign or other public notice in block letters at least four inches in height “kosher and non-kosher food served here;” or displaying within or outside such hotel, restaurant or other place, words or letters in Hebraic characters or any sign, emblem, insignia symbol or mark in simulation of same, the display of which might reasonably be calculated to deceive or lead a reasonable person to believe that a representation is being made that all food sold or offered for sale on the premises is kosher and prepared in accordance with the orthodox Hebrew religious requirements if such is not true of all the food products sold on the premises.

Section 12. Consumer Affairs Hearing Board.

- (a) The Palm Beach County Consumer Affairs Hearing Board is hereby recreated and reestablished. The Board shall be subject to the uniform policies and procedures established by the Board of County Commissioners for Advisory Boards as currently set forth in Resolution No. 2013-0193, as may be further amended by action of the Board of County Commissioners.
- (b) The Board shall consist of seven (7) members appointed at-large by the Board of County Commissioners. The members of this Board shall be residents of Palm Beach County at the time of appointment and while serving on the Board. At least one (1) member shall be an attorney, licensed to practice in the State of Florida, and all other appointments shall be made by the Board of County Commissioners on the basis of experience or interest in the field of consumer affairs. All Board appointments shall be for a term of three (3) years, with a limit of three (3) consecutive terms. Terms shall begin on October 1st, and end on September 30th. Existing member’s terms shall end on September 30th of the year in which their term expires. Vacancies occurring during a term shall be filled for the unexpired portion of the term, and shall not count toward a member’s term limits. Members serve without compensation. Members shall be governed by the applicable provisions of the State Ethics Code and the applicable provisions of the Palm Beach County Code of Ethics, as may be amended.

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- (c) Members shall be automatically removed for lack of attendance. Lack of attendance is defined as failure to attend three (3) consecutive meetings or a failure to attend more than one-half of the meetings scheduled during a calendar year. Participation for less than three-fourths of a meeting shall be the same as a failure to attend a meeting. Members removed pursuant to this paragraph shall not continue to serve on the Board and such removal shall create a vacancy. Vacancies shall be filled in the same manner as the original appointments for the remainder of the vacant term.
- (d) Members shall appoint a chairperson and a vice-chairperson. The chairperson and the vice-chairperson shall be elected by a majority vote of the Board and shall serve for a term of one (1) year. The vice-chairperson shall perform the duties of the chairperson in the absence of the chairperson. In the absence of both the chairperson and the vice-chairperson, the Division director or manager may conduct the meeting or hearing. Meetings and hearings shall be governed by Robert’s Rules of Order, and shall be open to the public, duly advertised and otherwise comply with all applicable requirements of Florida’s “Sunshine” law as set forth in Chapter 286, Florida Statutes. A majority of the members currently appointed shall constitute a quorum and action may be taken by the Board upon a vote of a majority of the members present. At any meeting or hearing, the Board may fix and call a meeting or hearing on a future date. The Board shall meet on a regular basis to conduct its business and as necessary to conduct administrative hearings filed by persons appealing the decisions of the Division.
- (e) Any appeal of a decision rendered by the Consumer Affairs Hearing Board regarding a violation of Chapter 501 Florida Statutes shall be directed to the Florida Office of the Attorney General with subsequent judicial review through the District Courts of Appeal. Adjudications of the Consumer Affairs Hearing Board of substantive violations of this Ordinance shall be appealed to the Circuit Court of the Fifteenth Judicial Court by Writ of Certiorari.
- (f) Alternatively, the Division shall have the option to utilize a Special Master to hear matters for appeal, instead of scheduling those appellate matters before the Consumer Affairs Hearing Board. The Division shall establish policies and procedures governing the Special Master process prior to said utilization.

Section 13. Powers of the Consumer Affairs Hearing Board.

The Consumer Affairs Hearing Board shall have the following authority and power:

- (a) To assist, advise, and cooperate with the Board of County Commissioners and local, state, and federal agencies and officials to protect the interests of the consumer-public;
- (b) To hear appeals by persons aggrieved by actions of the Consumer Affairs Division not already referred to the state attorney for criminal prosecution; the Board shall reach a prompt decision on all such appeals and may affirm or reverse the action or decision appealed from, provided that such decision shall not be in conflict with the provisions of this Ordinance; and,
- (c) To exercise and perform such other functions, powers and duties as may be deemed necessary or appropriate to protect and promote the welfare of county consumers.

Section 14. Consumer Affairs Hearing Board – Proceedings at Hearing.

- (a) The Board shall give probative effect to the evidence which would be admissible to civil proceedings in the courts of this state but in receiving evidence due regard shall be given to the competent, reliable and technical

1 evidence which will aid the Board in making a fair determination of the
2 matter, regardless of the existence of any common law or statutory rule which
3 might otherwise make improper the admission of such evidence.
4

- 5 (b) The rules of privilege shall be effective to the same extent that they are now
6 or hereafter may be recognized in civil action. Irrelevant and unduly
7 repetitious evidence shall be excluded.
8
- 9 (c) At the hearing the parties may present testimony and evidence, and the right
10 to cross examine witnesses shall be preserved. All testimony and evidence
11 shall be given under oath or by affirmation.
12
- 13 (d) The Board shall keep a full record of the hearing, which record shall be public
14 and open to inspection by any person; and upon request by any principal party
15 to the proceedings the Board shall furnish such party a copy of the hearing
16 record, at such cost as the Board of County Commissioners deems
17 appropriate.
18
- 19 (e) The general procedure for the hearing shall be as set forth above, and as well,
20 each party shall have the following rights:
21
- 22 (1) To call and examine witnesses;
 - 23 (2) To introduce exhibits;
 - 24 (3) To cross examine opposing witnesses on any relevant matter
25 even though the matter was not covered under direct
26 examination;
 - 27 (4) To impeach any witness regardless of which party first called
28 him to testify; and,
 - 29 (5) To rebut the evidence.
30

31 **Section 15. Assurance of Voluntary Compliance.**
32

- 33 (a) In the enforcement of this Ordinance, the Director may accept an Assurance
34 of Voluntary Compliance with respect to any method, act or practice deemed
35 to be violative of law from any person who has engaged or was about to
36 engage in such method, act or practice. Any such assurance shall be a formal
37 written agreement between the Consumer Affairs Division and the merchant,
38 approved as to form and legal sufficiency by the County Attorney's Office
39 and filed with the Clerk of the Circuit Court. Such Assurances of Voluntary
40 Compliance may be conditioned on a commitment to reimburse consumers or
41 any other appropriate corrective action such as the voluntary payment by the
42 merchant of the costs of the investigation by the Consumer Affairs Division.
43 An Assurance of Voluntary is not evidence of prior violation of this section,
44 however, unless an Assurance of Voluntary has been rescinded by agreement
45 of the parties or voided by the court for good cause. Subsequent failure to
46 comply with the terms of an Assurance of Voluntary shall be deemed prima
47 facie evidence of a violation of this Ordinance. No such Assurance of
48 Voluntary shall act as a limitation upon any action or remedy available to a
49 person aggrieved by a violation of this Ordinance.
50
- 51 (b) Every merchant desiring to negotiate an Assurance of Voluntary Compliance
52 shall be apprised of his right to have his case heard by the Board in the event
53 he does not wish to enter into such Assurance of Voluntary Compliance.
54

55 **Section 16. Cease and Desist Order of Director.**
56

- 57 (a) If the Director, after due investigation, has reason to believe that a person has
58 been or is violating any of the provisions of this Ordinance, then the Director
59 shall cause to be served upon such person a demand to cease and desist,
60 stating the charges and containing a notice of hearing to be held not sooner
61 than ten (10) days and not later than thirty-one (31) days after service of the
62 demand.

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(b) Official notice of hearing, which shall be by personal service, certified mail or posting in a conspicuous place at the merchant's place of business, shall incorporate and set out the following:

- (1) The name of the complainant;
- (2) The alleged charge and approximate date of the commission of the act;
- (3) The section of this Ordinance alleged to be involved;
- (4) Notification as to the time and place of the Board hearing which shall be held not sooner than ten (10) days and not later than thirty-one (31) days after service of the demand;
- (5) Notice to the respondent that he may be represented by counsel, and that he may bring all original documents and other data pertinent to the case; and,
- (6) That the respondent will be given an opportunity to present witnesses and evidence he may deem appropriate.

Section 17. Order to Show Cause.

The person against whom a complaint is filed under this Ordinance shall have the right to appear at the place and time so fixed and show cause why the demand for the Cease and Desist Order should not be upheld by the Board.

Section 18. Statutes Adopted.

- (a) All statutes of the state and rules adopted there under defining and prohibiting false advertising and offenses relating to consumer protection, trade standards, and weights and measures, defined by state law, are adopted and incorporated by reference as part of this Ordinance to the same extend and the same effect as if the provisions of each such statute were set out in full herein, defining and prohibiting each such offense against the state to be prohibited by, or an offense in violation of this Ordinance. This shall include, but is not limited to Part II of Chapter 501, Florida Statutes, and all rules adopted pursuant to section 501.205, Florida Statutes, Chapter 817, Florida Statutes, is hereby adopted by reference. It is the intent of this Ordinance that due consideration and great weight be given to the interpretations of the Federal Trade Commission and the federal courts relating to section 5(a)(1) of the Federal Trade Commission Act (15 USC 45(a)(1)), as from time to time amended.
- (b) Rules having the force and effect of law as authorized under sections 4, 5, and 6 of the Fair Packaging and Labeling Act (P.L. 89-755) that supersede state and local laws which are less stringent than or require information different from such act, are hereby adopted by reference, as published in the Federal Register as part of this Ordinance. No person shall distribute or cause to be distributed, offer for sale, or sell, in this county any packaged consumer commodity unless in conformity with the Fair Packaging and Labeling Act and/or the rules which shall be established by the promulgating authority.

Section 19. Enforcement and Civil Penalties.

- (a) It shall be the duty and responsibility of all law enforcement officials to assist in the enforcement of this Ordinance to the extent that it is within their jurisdiction to do so.
- (b) Whenever any person has been issued a civil citation by a staff investigator and has been found to have engaged in any acts or practices which constitute a violation of any provision of this Ordinance, the person shall be required to pay Palm Beach County a civil penalty not to exceed Two Hundred Fifty

Dollars (\$250) for the first violation and Five Hundred Dollars (\$500) for each repeat violation.

Section 20. Repeal of Laws in Conflict.

All local laws and ordinances applying to the unincorporated area of Palm Beach County in conflict with any provision of this article are hereby repealed to the extent of any conflict.

Section 21. Savings Clause.

All complaints, investigations, orders, hearing processes, and all other functions of the Consumer Affairs Division, or the Consumer Affairs Hearing Board, initiated or completed pursuant to Ordinance 72-2, as amended, shall remain in full force and effect.

Section 22. Severability.

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative or void, it is the intent of the Board of County Commissioners that such holding shall not affect the remainder of this Ordinance.

Section 23. Inclusion in the Code of Laws and Ordinances.

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

Section 24. Captions.

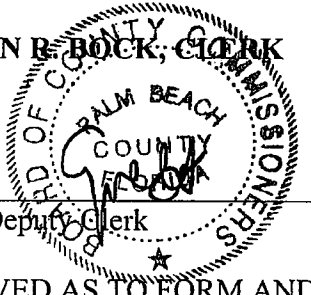
The captions, section headings, and section designations used in this Ordinance are for convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

Section 25. Effective Date.

The provisions of this Ordinance shall become effective upon filing with the Department of State.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the 17th day of December, 2013.

SHARON B. BOCK, CLERK



By: Sharon B. Bock
Deputy Clerk

PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS

By: Priscilla A. Taylor
Priscilla A. Taylor, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: Jammy [Signature]
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the 19 day of December, 2013.



FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

December 19, 2013

Honorable Sharon R. Bock
Clerk and Comptroller
Palm Beach County
301 North Olive Avenue
West Palm Beach, Florida 33401

Attention: Judith Crosbie, Minutes and Records Supervisor- Board Service

Dear Ms. Bock:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Palm Beach County Ordinance No. 2013-035, which was filed in this office on December 19, 2013.

Sincerely,

Liz Cloud
Program Administrator

LC/elr

R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
Telephone: (850) 245-6270 • Facsimile: (850) 488-9879
www.dos.state.fl.us

Attachment # 4

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