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**Background:** Petitioner's rights are protected by §760 Florida Statutes  
**Problem:** §760.06(4) indicates that Petitioner's rights are for sale  
**Request:** The Agency declares whether it accepts bribes

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**28-105.001 | Florida Administrative Code | Purpose and Use**

*"A petition for declaratory statement may be used to resolve questions or doubts as to how the [rules] apply to the petitioner's particular circumstances."*

**§120.565(2) | Florida Statutes (2018)**

*"The petition seeking declaratory statement shall state with particularity the petitioner's set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances"*

**Art. I. Sec. 21 Florida Constitution | Access to Courts**

*"The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial, or delay."*

Precedence

- DH 17-1605-D5-MQA - Case Law (8/30/17)  
The Department of Health entered a declaratory statement

**PETITION**

This Petitions is brought pursuant to §120.565 FS and 28-105 (FAC). The basics are as follows:

<b>1</b>	<b>CAPTION</b>	Petition for Declaratory Statement Before the FCHR
<b>2</b>	<b>PETITIONER</b>	Elias Makere, FSA, MAAA
	Address:	3709 San Pablo Rd. S. 701 Jacksonville, FL 32224
	Email:	justice.actuarial@gmail.com
	Phone:	904.294.0026
	Fax:	n/a
<b>3</b>	<b>COUNSEL</b>	n/a
<b>4</b>	<b>LAW</b>	§760.06(4)
	Relevant Excerpt (emphasis added):	<i>"Within the limitations provided by law, the commission shall have the following powers: (4) To accept gifts, bequests, grants, or other payments, public or private, to help finance its activities."</i>
<b>5</b>	<b>IMPACT</b>	Course of Action in Florida (employment/etc.)
	Explanation:	See "Circumstances" (Page 4)
<b>6</b>	<b>SIGNATURE</b>	
		Elias Makere, Petitioner
<b>7</b>	<b>DATE</b>	8/27/2020

**QUESTION PRESENTED**

Petitioner asks the Agency, "Is a respondent allowed to bribe you during the investigative phase of a discrimination case?"

**CIRCUMSTANCES**

**I. Facts**

1. Petitioner is a Florida resident.
2. Petitioner is contemplating employment within the state.
3. Petitioner also frequents places of public accommodation in Florida.
4. Petitioner is an actuary; a distinction that uniquely qualifies him to develop insurance products. As such, he is planning an insurance policy that will protect him [and others] from the financial losses associated with discrimination.
5. Petitioner is concerned with (a) in-state entities' proclivity to discriminate against him; (b) the subsequent losses he would suffer; and (c) Florida's willingness/motivation to protect his civil rights.

**II. Law**

6. Chapter 760 of the Florida Statutes provides the legal authority for investigations into discrimination. §760.06 (FS) states the following (emphasis added):

*"Powers of the Commission - Within the limitations provided by law, the commission shall have the following powers: ... (5) to receive, initiate, investigate, seek to conciliate, hold hearings on, and act upon complaints alleging any discriminatory practice..."*

7. §760.06(4) continues to state that the Agency can accept gifts/bequests:

*"... the [Agency] shall have the [powers to] accept gifts, bequests, grants, or other payments, public or private..."*

8. According to Chapter 760, the FCHR has jurisdiction over this matter. Furthermore, it has authority to issue a Final Order pursuant to §120.565 (FS) and Rule 28-105 (FAC).

*"... reasoning employed by the agency in support of a declaratory statement may be useful guidance to others who are likely to interact with the agency in similar circumstances." Chiles v. Dep't of State, Div. of Elections, 711 So. 2d 151, 154-55 (Fla. 1st DCA 1998)"*

### III. Application

9. The Agency has a ministerial duty to satisfy §760.06(5) with regards to Petitioner. And contingent upon the Agency's determination, Petitioner will have access to the court system.<sup>1/</sup>

10. Pursuant to Art. I. Sec. 21 of the Florida Constitution, Petitioner's access to the courts cannot be fettered by bribery (emphasis added):

*"The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial, or delay."*

- Art. V Sec. 21 Florida Constitution

11. Petitioner relies on the Agency to protect his civil rights. However, as it stands, he has well-founded uncertainty as to the Agency's motivations. Notably, the controversy between Agency bribery and the constitution.

12. This scenario - where a civilian questions a statutory right - is precisely the scenario that the declaratory statement is designed to cure. See Rosekrantz v Feit, 81 So. 3d 526 (Fla. 3<sup>rd</sup> DCA 2012).

*"The purpose of a declaratory statement is to resolve a controversy or answer questions concerning the applicability of statutes which an administrative agency enforces, adopts, or enters"*

- Citizens v. Florida PSC, 164 So.3d 58 (Fla. 1st DCA 2015)

13. Moreover, Petitioner has demonstrated that he has standing for a declaratory statement. In Couch v State, 377 So. 2d 32 (Fla. 1<sup>st</sup> DCA 1979), the First District Court of Appeals established a two-part test for determining whether an administrative agency (ie, the FCHR) must provide a declaratory statement.

(i) Part One: a movant must show bona fide doubt/dispute

(ii) Part Two: the court must be incapable of resolving the dispute

14. Petitioner satisfied 'Part One' by contrasting the disputed statute with the Florida constitution (ie, §760.06(4) vs Art. I. Sec. 21). He also satisfied 'Part Two' by virtue of the Agency's sole jurisdiction over the statute in controversy (ie, §760.06(4)).

#### **SUMMARY**

Petitioner desires a determination of his rights, duties, and a declaration from the FCHR regarding the permissibility of bribes during investigations of discrimination complaints.

#### **CONCLUSION**

WHEREFORE, pursuant to §120.565 (FS) and Rule 28-105 (FAC), Petitioner respectfully requests a declaration on whether §760.06(4) (FS) allows a respondent to bribe the Agency with gifts/bequests/etc during investigations of discrimination complaints.

Dated this 27<sup>th</sup> day of August 2020.

Respectfully submitted,

**ELIAS MAKERE, FSA, MAAA**

s/ Elias Makere, Pro Se

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**CERTIFICATE OF COMPLIANCE**

I certify that the size and style of type used in this document is Times New Roman 14-point Font (caption) and Courier New 12-point Font (contents); thus complying with the font requirements of Rule 9.210(a)(2) Fla. R. App. P.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 27<sup>th</sup> day of August 2020, I electronically filed the foregoing with the people on the attached service list.

**/s/ Elias Makere**

**Endnotes:**

<sup>1/</sup> either via §760.11(4)(a) FS, §760.35 (FS), or §120.68 (FS).

**SERVICE LIST**

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