



Palm Beach County Commission on Ethics

CommissionersEdward Rodgers, *Chair*Manuel Farach, *Vice Chair*

Robin N. Fiore

Ronald E. Harbison

Bruce E. Reinhart

Executive Director

Alan S. Johnson

July 19, 2010



Mr. Gary Walk
Casey Ciklin Lubitz Martens & O'Connell
515 North Flagler Drive, 20th Fl
West Palm Beach, FL 33401

Re: RQO 10-002

Dear Mr. Walk,

On May 14, 2010, you submitted a letter to Patty Hindle, Palm Beach County Administration regarding a potential conflict of interest with your application to serve on the County Internal Audit Committee. The letter was referred to the Palm Beach County Commission on Ethics for review and the COE rendered its opinion at a public meeting held on July 15, 2010.

YOU ASKED in your letter of May 14, 2010 whether the fact that your partner receives \$7,500.00 for his administration of an escrow account involving funds used by Palm Beach County for construction on Atlantic Avenue would constitute a conflict of interest for you in serving on the County Internal Audit Committee.

IN SUM, the Ethics Commission opined that under the Palm Beach County Code of Ethics the agreement whereby your partner receives \$7,500.00 from the County constitutes a prohibited contractual relationship should you be appointed to the Audit Committee.

THE LEGAL BASIS for this prohibition is found in Sec. 2-443 of the Ethics Code. Paragraph (c) states in pertinent part –

Prohibited contractual relationships. No official or employee shall enter into any contract for goods or services with the county. This prohibition extends to all contracts or transactions between the county or any person or agency acting for the county, *and the official or employee, directly or indirectly, or the official or employee's outside employer or business.* (emphasis added)

If appointed to the Audit Committee you would become an "official" within the meaning of the code and contracts for goods or services with your "outside employer or business" and the county would be prohibited unless subject to an enumerated exception or waived by the Board of County Commissioners



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by supermajority vote. None of the exceptions enumerated in sec. 2-443(d) apply to your situation. The waiver provision of the code states as follows:

Sec. 443(d) Exceptions and waiver. The requirements of subsections (a) and (c) above may be waived as they pertain to advisory board members by the board of county commissioners upon full disclosure of the transaction or financial benefit prior to the waiver and an affirmative vote of five (5) members of the board of county commissioners.

At this time, if you would like to serve on the Palm Beach County Internal Audit Committee you will need to obtain a waiver from the board of county commissioners pursuant to s. 443(d) of the code of ethics.

This opinion construes the Palm Beach County Code of Ethics Ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at (561) 233-0724 if I can be of any further assistance in this matter.

Sincerely,

Alan S. Johnson
Executive Director
Commission on Ethics

ASJ/gal