



# Palm Beach County Commission on Ethics

## **Commissioners**

Edward Rodgers, *Chair*  
Manuel Farach, *Vice Chair*  
Robin N. Fiore  
Ronald E. Harbison  
Bruce E. Reinhart

## **Executive Director**

Alan S. Johnson

October 8, 2010

Dr. Virginia Sayre  
Palm Beach County Animal Care and Control  
7100 Belvedere Road  
West Palm Beach, FL 33411

Re: RQO 10-015

Dear Dr. Sayre,

The Commission on Ethics considered your request and rendered its opinion at a public meeting held on October 7, 2010.

YOU ASKED, in conjunction with Assistant County Administrator Vince Bonvento, in e-mails of August 18 & 19, 2010, whether you, as a Veterinarian employed by the Palm Beach County Animal Care and Control Department, are permitted to engage in outside employment involving low cost vaccination and spay/neuter surgeries for cats and dogs at local area stores. You also submitted a series of follow-up e-mails containing additional information on August 23, 24 & 31,

IN SUM, your work during off duty hours at Paws Plus, offering low cost vaccination, and Luv-A-Pet, a non-profit rescue organization, performing spay/neuter surgeries, does not violate the code of ethics as neither entity has contracts for goods or services with Palm Beach County. Your outside business, Pet Wellness Station, utilizing the premises of The Red Barn, an entity that does enter into transactions with the County, likewise does not violate the code of ethics as you are neither employed by, nor in business with The Red Barn. In addition, you have complied with the applicable merit rule requirements as per s. 2-443(d)(5). Lastly, to the extent that you have received value by utilizing the premises of Red Barn at no charge to conduct your outside business, you will need to comply with the gift law reporting provisions of s. 2-444(d)((2)

THE FACTS as we understand them are as follows:

You are employed full time by Palm Beach County Animal Care and Control (ACC) as a veterinarian. Your duties as a staff veterinarian include surgery, physical examination and treatment of sick, injured and healthy animals. The County charges a nominal fee for these services but generally operates at a net loss. You are not involved with ACC contracts or decentralized purchase orders (DPOs) with county vendors. Your hours of employment with ACC are Monday-Friday, 8:00 am to 4:30 pm. During off-duty hours, you maintain outside employment with Paws Plus, which provides low cost vaccination clinics at pet supermarkets, and Luv-A-Pet, which is a non-profit rescue organization performing low cost spay/neuter surgeries for various animal rescue groups and the public. Neither of these companies is a vendor of, or has contracts with, the county.



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In addition, you indicated that you own a company, Wellness Station, providing low cost vaccinations at area pet stores, including The Red Barn. You advertise this service in local newspapers and hand flyers but do not mention ACC, the county or your position as a staff veterinarian in these advertisements. Of the locations offering your services, only The Red Barn is a county vendor. Wellness Station does not maintain any contracts or transactions with Palm Beach County. You are not paid by, nor do you pay The Red Barn for running the Wellness Center clinic on their property.

According to Animal Care and Control, 13 decentralized purchase orders (DPOs) were issued totaling \$1,364.50 to Red Barn since 10/01/2009. Of that total, four (4) DPOs totaling \$813.75 were for the purchase of penicillin. Normally penicillin is purchased directly through the manufacturer; however, on occasion it is necessary to order from a retail outlet if stocks are low and backordered. The remaining DPOs totaling \$550.75 were for goods needed on short notice (e.g., hay, horse feed, and/or exotic pet foods). You stated that you have no involvement with the Red Barn DPOs.

As to your relationship with the Red Barn, you are not a paid employee, contractor, consultant or vendor of that company. Red Barn allows you space to perform vaccinations at their location free of charge. Red Barn is not a lobbyist, and does not employ lobbyists to lobby Palm Beach County.

ACC responded to staff requests for information regarding any loss of revenue to the county due to your outside employment. The Division shelters nearly 26,000 animals each year and otherwise provides services to the public. While you do perform some of the same services for both ACC and your outside business and employers, ACC vaccination, sterilization and care of sheltered and public animals is performed at a net loss in revenue to the county. According to ACC staff, revenue is enhanced by private vaccinations so long as veterinarians adhere to the law in furnishing rabies certificates to the Division. Accordingly, low-cost clinics performed by entities other than the county save county resources. ACC confirms that you adhere to the law, sell rabies tags and furnish rabies certificates with your outside vaccinations.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the Palm Beach County Code of Ethics:

Sec. 2-443(c) prohibits an employee from entering into any contract or other transaction for goods or services with the county. This prohibition extends not only to an employee, directly or indirectly, but through the employees outside business or employer as well. According to sec. 2-442, the definition of outside employer or business includes any entity where you are employed and receive compensation, or any entity doing business with the county in which you have an ownership interest of at least five (5) percent.

You are an employee of both Paws Plus and Luv-A-Pet; however, these entities do not have contracts or otherwise transact business with the county. The Red Barn does transact with the county, however, you are not an employee of Red Barn. While you do own the Wellness Station, your company does not transact



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business or maintain contracts with the county. Therefore, based on the information provided, you do not have a prohibited contractual relationship in violation of sec. 2-443(c).

Sec. 2-443(a) prohibits you from using your official position or office for personal gain, not shared with similarly situated members of the general public, for yourself, or your outside employer or business. Based on the facts and circumstances submitted, you have not used your position with ACC to advertise or otherwise enhance your part time position with Paws Plus, Luv-A-Pet or Wellness Station. There is no indication that you have otherwise gained a financial benefit, not shared by similarly situated members of the public, and based upon your position with the county.


Sec. 2-444(d)(2) requires that employees who receive a non-exempt gift valued at greater than \$100.00 from a non-lobbyist, principal or employer of a lobbyist, need to file a gift report and submit it to the ethics commission no later than November 1<sup>st</sup> of each year beginning November 1, 2011, for the period ending September 30<sup>th</sup> of each year. A gift is defined as anything of value. To the extent of the fair market value in excess of \$100.00 that you receive by utilizing the premises of Red Barn free of charge to conduct your outside business, you will need to comply with the gift law reporting provisions of s. 2-444(d)((2).

IN SUMMARY, based on the facts you have submitted, your outside employment with Paws Plus and Luv-A-Pet does not violate the prohibited contracts section of the code of ethics. These companies do not transact business with the county. In addition, your outside business, the Wellness Station, does not transact business with the county, and since you are not an employee of The Red Barn, operating your clinic independently on their premises does not subject you to the prohibitions set forth in sec. 2-443(c). You must also comply with gift law reporting provisions.

This opinion construes the Palm Beach County Code of Ethics and is based upon the facts and circumstances that you and staff at ACC have submitted. It 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

ASJ/gal