



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 26, 2010

Todd Broadlick, Manager
Palm Beach County Surplus Disposal Program
2455 Vista Parkway
West Palm Beach, FL 33411

Re: RQO 10-029-OE
Part-time outside employment

Dear Mr. Broadlick,

Your request for advisory opinion to the Palm Beach County Commission on Ethics has been received and reviewed. The opinion rendered is as follows:

YOU ASKED in your letter of October 14, 2010, whether you, as surplus disposal manager for Palm Beach County, may continue your part time employment as a sales associate with West Marine Products, Inc., a retail supplier of boating products, without violating the prohibited contracts section of the Palm Beach County Code of Ethics, sec. 2-443(c).

IN SUM, based upon the facts you have submitted, your outside employment is in compliance with the exceptions and waiver provisions of sec. 2-443(d)(5) and therefore is permissible under the prohibited contracts section of the code. You also have an ongoing responsibility to avoid any official action that would benefit your outside employer. Using your official position or office to benefit your outside employer would be in violation of sec. 2-443(a) and a misuse of public office or employment.

THE FACTS as you submitted are as follows:

As Surplus Disposal Manager for Palm Beach County you receive surplus assets from County Departments and prepare them for sale or disposal. In this capacity you do not make any contract or vendor decisions. For the past thirteen years you have held various positions with West Marine Products, Inc., which is a retail supplier of boating products. Currently you work part time as a sales associate assisting retail customers.

Palm Beach County utilizes West Marine as a vendor for Road & Bridge, Ocean Rescue and Parks and Recreation Departments. West Marine has no contracts with the Surplus Disposal Department. You have no connection whatsoever with contracts or pricing arrangements within West Marine.

In your request for advisory opinion you verified that you do not work in a department that enforces, oversees, or administers any contracts with West Marine. You have also verified that there is no contract in place with either the financial or purchasing departments within Palm Beach County. You



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have not participated in any way with the vendor and pricing arrangements between the county and West Marine and have obtained merit rule approval of your supervisor. Lastly, your job responsibilities do not require you to be involved with West Marine in your official capacity.

THE LEGAL BASIS for this opinion relies on the prohibited conduct waiver provisions of sec. 2-433(d)(5) which states as follows:

(5) Notwithstanding any provision to the contrary, subsection (c) shall not be construed to prevent an employee from seeking part-time employment with an outside employer who has entered into a contract for goods or services with the county provided that:

- (a) The employee or relative of the employee does not work in the county department which will enforce, oversee or administer the subject contract; and
- (b) The outside employment would not interfere with or otherwise impair his or her independence of judgment or otherwise interfere with the full and faithful performance of his or her public duties to the contrary; and
- (c) The employee or relative of the employee has not participated in determining the subject contract requirements or awarding the contract; and
- (d) The employee's job responsibilities and job description will not require him or her to be involved in the outside employer's contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance; and
- (e) The employee demonstrates compliance with applicable merit rules regarding outside employment and obtains written permission from his or her supervisor; and
- (f) The employee has obtained a conflict of interest opinion from the Commission on Ethics finding no conflict exists regarding the subject contract. The request for advisory opinion must be made in writing and set forth and include all pertinent facts and relevant documents.

According to the facts you have submitted to the ethics commission, you have complied with each requirement as set forth in subsection (5) above.

IN SUMMARY, as you have submitted sufficient pertinent facts and circumstances that you have complied with all requirements as set forth in subsection (5)(a)-(e) above, including merit rule approval by your supervisor, the Commission on Ethics finds that your part-time employment with West Marine Products, Inc. does not violate the prohibited contracts section of the code of ethics. Your responsibility to comply with the code is ongoing. Should there be any change in circumstance with regard to your compliance with the requirements of subsection (5) above, you will need to either terminate your part-time employment or seek an advisory opinion from this commission reflecting the change in circumstance.



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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

ASJ/gal