



Palm Beach County Commission on Ethics

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Alan S. Johnson

November 17, 2010

Ritesh Pahwa
Information Systems Services Department
301 N. Olive Ave.
West Palm Beach, FL 33401

RE: RQO 10-033-OE
Outside Employment/Business

Dear Mr. Pahwa,

Your request for an 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 email dated October 27, 2010, whether you, as an employee of Palm Beach County, may operate an outside web based business. You advised that your outside business has not entered into any contract or other transaction for goods or services with Palm Beach County. You also submitted to your supervisor on October 15, 2010, a Notification of Outside Employment form, that stated your work for this business would be completed, "outside of county business hours," and that it would not conflict with your employment with Palm Beach County.

IN SUM, based on the facts you have submitted, as long as your outside business does not enter into any contract with or other transaction for goods or services with Palm Beach County, you are not in violation of §2-443(c) *Prohibited contractual relationships*, by operating this business outside of county business hours. Notwithstanding, you cannot use your official position as a county employee to obtain a financial benefit for yourself, a relative, household member, outside employer or business, customer or client, or non-profit organization of which you are an officer or director as defined in §2-444(a) *misuse of public office or employment*.

THE FACTS you submitted are as follows:

You are employed with Palm Beach County in the Information Systems Services (ISS) Department. You operate a small web based business from home, "outside of county business hours." You and your wife are officers of this business corporation, and the sole owners. You list the purpose of this business as "educating people on how to shop online." You do not have any contractual relationships with Palm Beach County through this business, and have no other transactions for goods or services with the county under this business. Lastly, you have obtained merit rule approval from your Department Supervisor.

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

The Palm Beach County Code of Ethics Section 2-442 states as follows:



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Outside employer or business includes:

- (1) Any entity, other than the county, the state, or any other regional, local, or municipal government entity, *of which the official or employee is a member, official, director, or employee, and from which he or she receives compensation...* (emphasis added)
- (2) Any entity located in the county or which does business with or is regulated by the county, in which the official or employee has an ownership interest. For purposes of this definition, *an "ownership interest" shall mean at least five (5) percent of the total assets or common stock owned by the official or employee or any combination of the members of the official or employee's household or relatives.* (emphasis added)

Section 2-443(c) prohibits officials and employees from entering into "any contract or other transaction for goods or services with the county" through the official or employee's outside employer or business. There are enumerated waivers and exceptions to §2-443(c), however in this case you have advised that you have no such contracts or transactions for goods or services with the county, so at this time this section does not apply to you.

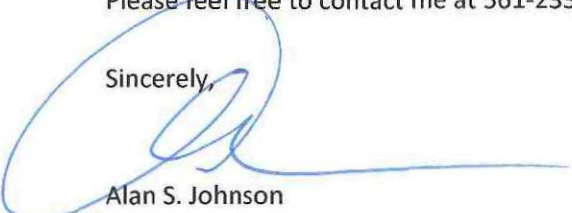
The code of ethics also prohibits you from using your official position with the county to benefit yourself, a relative, household member, outside employer or business, customer or client, or non-profit organization of which you are an officer or director. Section 2-443(a) essentially prohibits you or the above persons or entities from benefiting financially, in a manner not shared with similarly situated members of the general public. You have an ongoing responsibility not to use your official position or office with the county to gain such a financial benefit.

IN SUMMARY, based on the information you provided, you are not prohibited from engaging in your business under §2-443(c).

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