



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

December 9, 2010

Anna Stewart
Drowning Prevention Coalition of Palm Beach County
405 Pike Road
West Palm Beach, FL 33411

Re: RQO 10-040
Gift law exclusions

Dear Ms. Stewart,

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 e-mail of December 7, 2010, whether you, as an employee or volunteer of Drowning Prevention Coalition of Palm Beach County (DPC), a county governmental entity, may solicit donations from county vendors or other individuals or businesses, for use by the DPC for county purposes.

IN SUM, since the solicitations are made and donations are used on behalf of the county department for use, "solely by the county in conducting its official business", they are not considered to be gifts under the code of ethics. Therefore, gift prohibitions and reporting requirements of the code do not apply.

THE FACTS as we understand them are as follows:

You are the Manager of the Drowning Prevention Coalition of Palm Beach County. The DPC is funded in part by Palm Beach County and The Children's Services Council of Palm Beach County, a non-profit organization. Notwithstanding the funding source, DPC is an entity of Palm Beach County government within the Palm Beach County Fire Rescue Department.

You have been given the task by your direct supervisor, a Deputy Chief of Palm Beach County Fire Rescue, to find additional funding for the DPC. The purpose of the funding would be the continuation of the county free swim lesson program for underprivileged and special needs children. The form of the donations would be monetary as well as material product donations such as bathing suits, towels and sunscreen for use by the participating children.

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

Sec. 2-444(e) – For the purposes of this section, “gift” shall refer to the transfer of anything of value...

(1) Exceptions. The provisions of subsection (e) shall not apply to:

e. Gifts solicited by county employees on behalf of the county in performance of their official duties for use solely by the county in conducting official business.

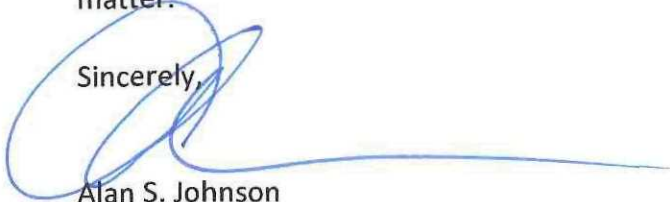
Since the solicitations are made by you as a county employee, on behalf of the county for use solely by the county and the resulting donations solicited in the performance of your official duties are in fact used by the county for county purposes, they are not gifts under the definition as provided by the code of ethics. Any solicited gift not used exclusively for county purposes would be considered a gift and subject to the prohibitions and reporting requirements within the code. Lastly, you must not use any donated item, money or material, for your personal benefit as that would violate sec. 2-443(a) and be a misuse of your public office or employment.

IN SUMMARY, the code of ethics allows you to solicit and accept donations for DPC so long as you are doing so in your official capacity and solely for a county purpose.

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 should you have any further questions in this matter.

Sincerely,


Alan S. Johnson
Executive Director
Commission on Ethics

ASJ/gal