



Palm Beach County Commission on Ethics

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July 8, 2011

Mark Joyce, Firefighter
Palm Beach Gardens Fire Rescue
10500 North Military Trail
Palm Beach Gardens, FL 33410

Re: RQO 11-027
Misuse of Office

Dear Mr. Joyce,

The Palm Beach County Commission on Ethics (COE) considered your request for an advisory opinion, and rendered its opinion at a public meeting held on July 7, 2011.

YOU ASKED in your email of May 25, 2011 whether, as a municipal employee who serves on the board of trustees for the Palm Beach Gardens Firefighters' Pension Fund and as president of Firefighters to the Rescue, a 501c3 non-profit organization, you could obtain and use an official database to email other employees and officials in Palm Beach Gardens and ask them to volunteer at an upcoming event.

IN SUM, as a public employee you are prohibited from using your official position to give a special financial benefit to a non-profit organization of which you are an officer or director.

THE FACTS as we understand them are as follows:

You are a firefighter with the City of Palm Beach Gardens and president of a non-profit 501c3 charity organization called Firefighters to the Rescue, Inc. Firefighters to the Rescue helps public servants pay their medical bills and are planning to host a summer fundraising event. To recruit volunteers to staff the event, you would like to use an official city database to email other Palm Beach Gardens' employees and ask them to volunteer their time.

THE LEGAL BASIS for this opinion is found in the following relevant section of the revised Palm Beach County Code of Ethics, which took effect June 1, 2011.

Sec. 2-443 Prohibited Conduct

- (a) *Misuse of public office or employment.* An official or employee shall not use his or her official position or office, or take or fail to take any action, or influence others to take or fail to take any action, in a manner which he or she knows or should know with the exercise of reasonable care will result in a special financial benefit, not shared with similarly situated members of the general public, for any of the following persons or entities:

(7) a civic group, union, social, charitable, or religious organization, or other not for profit organization of which he or she (or his or her spouse or domestic partner) is an officer or director.

As a Palm Beach Gardens employee you may not use your employment to obtain a special financial benefit for a charity of which you are an officer. Therefore, because you are the president of Firefighters to the Rescue, you may not personally use city resources, such as city email, to ask city employees to volunteer for your event.

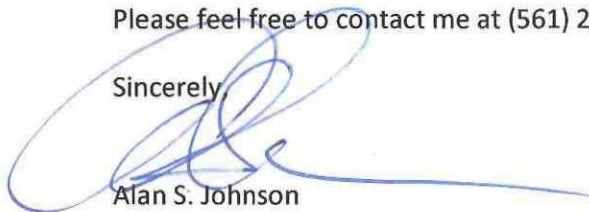
THE RATIONALE for restricting a public employee's use of public resources to benefit a charity of which they are an officer or director is as follows. If all charities in the area had access to the same method for requesting volunteers – a city employee sending out an open request for employees' time – there is no special benefit. However, in this instance, because you are both a director of Firefighters to the Rescue and a public employee, you would be using your public employment to secure a special benefit on behalf of your charity not shared with "similarly situated members of the general public" – other area charities.

IN SUM, you may not use your official position as a Palm Beach Gardens firefighter to give a special benefit to Firefighters to the Rescue, a charity of which you are an officer.

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/mr/gal