



Palm Beach County Commission on Ethics

Commissioners

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Executive Director

Alan S. Johnson

August 5, 2011

Honorable Edward Rodgers
A.R.C. Mediation
250 S. Central Blvd., Apt. 104A
Jupiter, FL 33458

Re: RQO 11-041
Awards/Charitable Solicitation

Dear Judge Rodgers,

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 August 4, 2011.

YOU ASKED in your submission dated June 22, 2011, whether you could accept the Anti-Defamation League's jurisprudence award and attend a fundraising reception, where you will accept the award and what limits, if any, apply to the League in advertising and soliciting for donations in conjunction with the event.

IN SUM, you are not prohibited from accepting an award for professional or civic achievement from the Anti-Defamation League or from attending the award reception. ADL is not prohibited from using your name in the written materials promoting the award and the event, so long as they submit a record of all solicitations made, and pledges and donations received, from vendors, lobbyists, principals and employers of lobbyists who lobby the Commission on Ethics, or the county department subject to the commission's authority, in accordance with the transparency requirements of the Code of Ethics.

THE FACTS as we understand them are as follows:

You are a Retired Judge and former municipal elected official. Currently you are Chairman of the Palm Beach County Commission on Ethics (COE). The Anti-Defamation League (ADL), a privately funded, non-profit, civil rights organization, seeks to present you with the ADL Jurisprudence Award.

The ADL has selected you for this honor for your commitment to end discrimination in Palm Beach County, specifically your service as the county's first African American prosecutor, state attorney, and judge as well as your commitment to desegregation and equal pay and your work establishing the first Drug Court in Riviera Beach. ADL intends to present you with the ADL Jurisprudence Award at a reception in December, 2011. The reception will serve as an ADL fundraiser through individual ticket sales and ADL's solicitation of corporate sponsors. ADL has not asked you to solicit for the event but is "hopeful that your friends, colleagues, and admirers from the community will support this event."

In publicizing the event, the ADL intends to refer to you as the Honorable Edward Rodgers in written materials and on the award itself. While ADL will maintain a record of all solicitations and pledges in accordance with 501(c)3 requirements, those records will remain confidential and are considered proprietary

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by ADL. You are neither a member of the Board of Directors of ADL nor an officer of the organization. ADL is not a vendor or an employer of lobbyists within Palm Beach County.

THE LEGAL BASIS for this opinion is found in the following relevant sections of the revised Palm Beach County Commission on Ethics Ordinance and Code of Ethics, which took effect on June 1, 2011:

Sec. 2-256. Applicability of code of ethics ordinance.

The countywide code of ethics ordinance shall be applicable to all persons and/or entities within the jurisdiction of said ordinance and shall apply to the members and staff of the commission on ethics.

Sec. 2-444 Gift Law

(g) For the purposes of this section, "gift" shall refer to the transfer of anything of economic value... without adequate and lawful consideration.

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

c. Awards for professional or civic achievement

The definition of "gift", specifically excludes awards for professional or civic achievement. You are being honored for your years of service to the community and specifically for your dedication to ending discrimination in all of its forms. Therefore, you are not prohibited from accepting the ADL Jurisprudence Award.

Sections 2-444 (b)(1) prohibits an advisory board member, or any other person or business entity on his or her behalf, from soliciting or accepting a gift greater than \$100 in the aggregate for the calendar year from a vendor, lobbyist, principal or employer of a lobbyist who lobbies the recipient's advisory board, or any county or municipal department subject to the board's authority. An advisory board is defined as "any advisory or quasi-judicial board created by the board of county commissioners..."¹ Although individual COE members are not appointed by the BCC, the COE was created by county ordinance.

ADL is not a vendor and does not employ lobbyists within Palm Beach County. Gift law limits, therefore, do not apply. If the value of the tickets to the event exceeds \$100, the gift needs to be reported on an annual gift reporting form pursuant to sec. 2-444(f)(2)b of the code of ethics.

Regarding direct or indirect solicitations of donations, in RQO 10-004 this Commission opined that while an organization may honor an official or employee, those who solicit in conjunction with that event may not solicit or accept gifts in excess of \$100 from lobbyists or principals or employers of lobbyists. This prohibition has since been extended to solicitation or acceptance of charitable gifts from vendors of the official's public entity or board or department, as applicable, as well. It should be noted that The Jurisprudence Award is based upon your prior service to the community, unrelated to your current official position as Chairman of the Palm Beach County Ethics Commission. However, while there is no expectation that you will personally solicit on behalf of ADL, much like the situation discussed in RQO 10-004, the Jurisprudence Award event will serve as fundraiser through associated requests for donations and event ticket fees. Since that opinion was issued, the code of ethics has been revised.

¹ §2-442 Definitions. (Code of Ethics)

According to section 2-444(h)1 of the revised Code of Ethics, solicitations may be made on behalf of a public official, provided a detailed log is maintained of *all donations* from vendors, lobbyists, principals and employers of lobbyists of that official's governmental entity, or board or department in the case of advisory board members, and the log is submitted within 30 days of the event to the Commission on Ethics. You have maintained that you do not intend to solicit directly on behalf of ADL, but ADL will be using your name and your former public title, Honorable Edward Rodgers. Anything that you are authorized to do directly may also be done on your behalf. ADL is permitted to use your name in its solicitations, but it must keep a log of *all donations* from vendors, lobbyists, principals and employers of lobbyists who lobby the Commission on Ethics, or the county department over which the COE exercises authority, and submit the log accordingly. The code revision was intended to allow members of the community, who are also elected officials, advisory board members, or municipal or county employees to solicit on behalf of religious, civic or other charitable organizations while maintaining appropriate transparency.

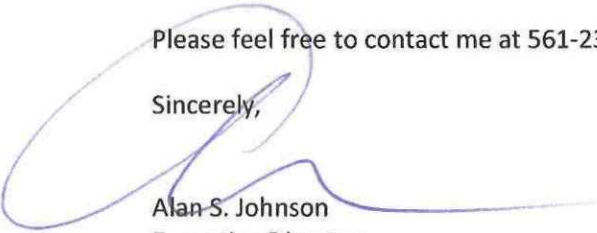
Based upon the revision, we recede from our prior decision in RQO 10-004. However, while charitable solicitations and donations surrounding an event whereby a public official or employee is an honoree or award recipient are permitted, solicitations, donations and pledges made by vendors, lobbyists, principals or employers of lobbyists who lobby, sell or lease to the public entity served by the honoree must comply with the requirements of sec. 2-444(h) and be publicly disclosed.² Solicitations, pledges and donations by individuals or entities not doing business with the public entity, do not require disclosure.

IN SUMMARY, based on the facts and circumstances submitted, you are not prohibited from accepting the ADL Jurisprudence Award. Awards for professional or civic achievement are not considered gifts under the gift law provisions of the code of ethics. You are not prohibited from accepting tickets and attending the accompanying award reception. ADL is not prohibited from using your name, the Honorable Edward Rodgers, in reference to your years of service as a Judge and as a civil rights leader and advocate in the written materials promoting the award and the event, so long as they submit a record of all solicitations made, and pledges and donations received, from vendors, lobbyists, principals and employers of lobbyists who lobby your commission or the department that is subject to your commission's authority, in accordance with the transparency requirements of the Code of Ethics.

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/mr/gal

² Palm Beach County has publicly accessible databases containing all registered lobbyists and vendors doing business or lobbying county government.