



Palm Beach County Commission on Ethics

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July 7, 2011

Mr. Craig Spatara, RESTORE Initiative Program Manager
Palm Beach County Criminal Justice Commission
301 N. Olive Avenue
West Palm Beach, Florida 33401

Re: RQO 11-045
Outside Employment/Contractual Relationships

Dear Mr. Spatara,

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

YOU ASKED in your email dated June 28, 2011 whether you, as a Palm Beach County employee need to file an outside employment waiver when your outside part-time employer is the City of West Palm Beach, another governmental entity.

IN SUM, based on the facts you have submitted, as long as your outside part-time employer is another governmental entity, you do not have to obtain and file an outside employment waiver.

THE FACTS you submitted are as follows:

For thirteen years, you worked for the City of West Palm Beach Police Department as the Coordinator of its Weed and Seed Safe Haven program. In March of 2011, you joined the county staff as the RESTORE program manager within the Criminal Justice Commission (CJC). You have been offered part-time employment as a grant writer/consultant for the West Palm Beach Police Department and in anticipation of accepting the position, obtained merit rule approval from your county supervisor. In this position, you would be paid by the City of West Palm Beach, serve under the supervision of the Chief of Police, and complete all work during non-County time.

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

Section 2-442. Definitions

Outside employer or business includes:

- (1) Any entity *other than the county, the state, or any other federal regional, local, or municipal government entity* of which the official or employee is a member, official, director, proprietor, partner, or employee, and from which he or she receives compensation for services rendered or goods sold or produced. (emphasis added)

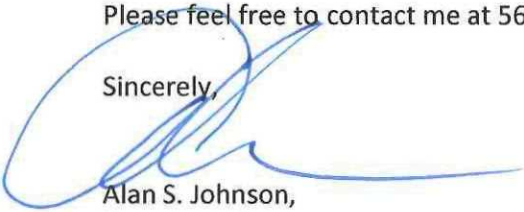
The definition of *outside employer or business*, specifically excludes "county, state, or any other federal regional, local or municipal government entity." The City of West Palm Beach is a municipal government entity. Therefore you are not prohibited from accepting employment with West Palm Beach, nor are you required to apply for a part-time employment waiver. As a county employee you have complied with the county merit rule system and have obtained supervisor approval. While this is not a prohibited contractual relationship, please keep in mind that as a public employee, you may not use either position to obtain a special financial benefit "not shared with similarly situated members of the general public" for certain persons or entities or otherwise corruptly misuse either position.

IN SUMMARY, because the City of West Palm Beach is a governmental entity and is not considered an outside employer as defined by the code of ethics, you are not prohibited from accepting part-time employment with West Palm Beach, nor are you required to complete a conflict of interest waiver.

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