



Palm Beach County Commission on Ethics

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September 14, 2011

Mr. William Lapp
1386 Victoria Drive
West Palm Beach, FL 33406

Re: RQO 11-078
Misuse of Office/Voting Conflicts

Dear Mr. Lapp,

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, whether a conflict of interest exists were you to serve on the Grant Review Committee (GRC) for the Palm Beach County Office of Equal Opportunity (OEO), if you serve on the board of directors of three non-profit organizations including one in which your wife is the executive director, and these organizations may apply for grant funding from the GRC.

IN SUM, as an appointed volunteer advisory board member you are not prohibited from serving on the GRC, however, you are prohibited from using your official position as an advisory board member to give a special financial benefit, not shared with *similarly situated members of the general public*, to your spouse, your spouse's outside employer or a non-profit organization of which you are an officer or director. Voting, participating or attempting to influence other GRC members or OEO staff may constitute a misuse of office.

THE FACTS as we understand them are as follows:

The Grant Review Committee (GRC) for the Palm Beach County Office of Equal Opportunity (OEO) is an advisory board established to review grant proposals from non-profit organizations addressing the needs of the disabled in Palm Beach County. Your wife is the executive director of the Florida Outreach Center for the Blind (FOCB) and you serve on its advisory board. You also serve on the board of directors of the Palm Beach Chapter of the National Federation of the Blind (PBCNFB) and the Palm Beach County North Lions Club (PBCNLC). You do not receive compensation from any of these non-profits. In the past, the FOCB has applied for grant funding subject to review by the GRC.

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

Section 2-443(a) prohibits you from using your official position to give your spouse, your spouse's outside employer or a non-profit organization if you are an officer or director "a special financial benefit, not shared with similarly situated members of the general public." As executive director, your wife is employed by FOCB. You are a director of FOCB, PBCNFB and PBCNLC. In this instance you may not financially benefit any of these entities over others similarly situated.

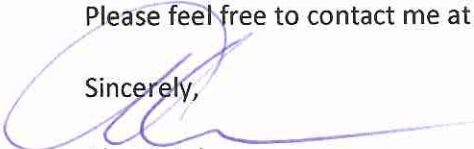
Likewise, §2-443(c) prohibits you from voting on an issue that would result in a special financial benefit attributable to your spouse's employer, the FOCB, or the non-profits you serve as an officer (FOCB, PBCNFB and PBCNLC). The voting conflict section requires you to 1) disclose the nature of your conflict before your board discusses the issue; 2) abstain when the vote takes place and not personally participate in the matter; and 3) File a state voting conflict form (8B) submitting a copy to the clerk and the COE.

IN SUMMARY, based on the facts and circumstances presented, you are not prohibited from serving on the GRC so long as you do not use your appointed office to give your spouse's outside employer, the FOCB, or the non-profits you serve as an officer or director a special financial benefit. When faced with a conflict, you must disclose, not participate and file the required conflict disclosure form 8b.

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

ASJ/mr/gal