



Via First Class Mail
and
email at john.julien@citynmb.com

ETHICS COMMISSIONERS

Kerry E. Rosenthal, CHAIRPERSON
Dawn E. Addy, VICE CHAIRPERSON
Magda Abdo-Gomez
Judge Seymour Gelber
Erica Wright

ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

December 16, 2009

John Patrick Julien, Councilman
North Miami Beach City Hall
17011 NE 19th Avenue
North Miami Beach, FL 33162

Re: INQ 09-195
Councilman Julien's Hosting Radio Program

Dear Councilman Julien:

North Miami Beach City Attorney Darcee Siegel asked if any ethics conflicts are created if you, a city councilman, host a radio program in your private capacity. We understand that you will not be compensated for your involvement in the program.

The Ethics Commission staff finds no ethics conflicts if you choose to serve as a radio host outside of your official capacity as a city councilman. Our opinion is based on the following:

Precedent exists for allowing an elected official to work as a radio host. Tomas Regalado, who served as a city commissioner in the City of Miami from 1996 until he was elected mayor this year, hosted a daily radio program, was news director for the radio station, and was a frequent commentator on a cable television network.

Mayor Regalado's outside employment did not trigger any ethics complaints or ethics violations at the state or county level. Furthermore, City of Miami Assistant Attorney Gail Dotson found no city legal opinions addressed to Mr. Regalado on this subject and saw no ethics conflicts in Mayor Regalado's previous outside employment.¹

Work in broadcasting is not incompatible with your public service or official duties as a city councilman. Although not binding in this matter,

¹ Telephone conversation on Dec. 14, 2009, with City of Miami Assistant Attorney Dotson after she had conferred with Deputy City Attorney Maria Chiaro.

Florida ethics law is instructive. The Florida statute prohibits public officers from holding any employment or having a contractual relationship that poses a frequently recurring conflict between private interests and public duties or impedes full and faithful discharge of public duties. Fla. Stat. § 112.313(7) (2009). No State Ethics Opinions or Attorney General Opinions address journalism or broadcasting as outside employment, and no ethics complaints have been filed with the State Ethics Commission on the subject.

No gift of “free exposure” or “publicity” is being given or received. The facts in your case differ from those involving Miami Beach City Commissioner Jerry Libbin, whose appearance in public service announcements (PSAs) was considered a gift of free publicity. RQO 08-49.²

In PSAs, the official uses his government position to render services on behalf of his public agency. Because his service in the PSA is not considered adequate consideration under Fla. Admin. Code 34-13.210(1) (2009), the elected official is deemed to have received a gift of free publicity by participating in the PSA. As a radio host, we are assuming you will be acting outside of your official capacity and not rendering services to your city.

If you have further questions, please feel free to contact me.

Sincerely,


VICTORIA FRIGO
Staff Attorney

copy: Darcee S. Siegel, City Attorney, North Miami Beach
at darcee.siegel@citynmb.com

² See also CEO 05-11 and CEO 08-2, respectively, in which state public officers who appeared in PSAs sponsored by Bell South received a gift, as did Bill McCollum who appeared in a PSA supporting women's issues.