



Florida House of Representatives

Marco Rubio, Speaker
Office of the General Counsel

Jeremiah M. Hawkes
General Counsel

FORMAL OPINION 07-05

To: The Honorable Juan C. Zapata

Prepared by: Jeremiah M. Hawkes, General Counsel
Jason T. Allen, Staff Attorney

Handwritten signatures of Jeremiah M. Hawkes and Jason T. Allen.

Date: October 8, 2007

RE: Raising Money from Registered Lobbyists and Principals for CANCO

This letter is in response to your inquiry as to whether you may raise money from registered lobbyists and principals for the Colombian American National Coalition (CANCO), a 501(c)(3) charitable organization, of which you are a board member.

Your question is answered in the affirmative. The prohibition on lobbyist and principal expenditures is contained in Florida Statute 11.045(4)(a) and reads as follows:

“...no lobbyist or principal shall make, directly or indirectly, and no member or employee of the Legislature shall knowingly accept, directly or indirectly, any expenditure...”

In addition to F.S. 11.045(4)(a), House Rule 15.3(a) prohibits a member from accepting anything that reasonably may be construed to improperly influence the member's official act, decision, or vote.

In January of 2006, the House and Senate published interim lobbying guidelines which contain Frequently Asked Questions regarding interpretations of F.S. 11.045. The essence of your inquiry is addressed in the interim lobbying guidelines by the following Frequently Asked Questions:

18. Question: Can a legislator or legislative employee raise funds from lobbyists or principals for charitable causes?

20. Question: Can a legislator or legislative employee sit on the board of a charitable organization that is not established by, organized by, operated primarily by, or controlled by a legislator or legislative employee, or any combination thereof?

Both questions are answered affirmatively and with the following qualification: The charity may not be directly or indirectly established by, organized by, operated primarily by, or controlled by a legislator or legislative employee, or any combination thereof. The lobbying guidelines also caution members that contributions from exempt organizations are not to be used as a vehicle for skirting the lobbying expenditure law.

The facts applicable to your situation indicate that you are the Chairman of CANCO, a 501(c)(3) charitable organization, and have a vote as a member of the board. However, you do not have tie-breaking authority on the board. You did not establish CANCO, nor was any other legislator or legislative employee involved in the creation of CANCO. You are also the only legislator or legislative employee on the board. Moreover, you receive no compensation from CANCO and are not reimbursed for any expenses you incur as a member of the board. There is also no indication that any funds raised by yourself for CANCO will be used for your personal benefit.

Applying the facts at hand to the statute and the guidelines, there is no indication that CANCO is directly or indirectly established by, organized by, operated primarily by, or controlled by a legislator or legislative employee, or any combination thereof; therefore, following the direction set forth in the interim lobbying guidelines you would not be prohibited from sitting on the board of CANCO nor prohibited from raising funds from lobbyists and/or principals for CANCO.

cc: Office of the Speaker
Office of the Speaker pro tempore
Rules & Calendar Council
Committee on Ethics & Elections
Commission on Ethics
Steven Kahn, Senate Counsel
Jay Vail, Senate Counsel
Office of the Clerk
Majority Office
Minority Office