



# *Florida House of Representatives*

*Marco Rubio, Speaker*  
Office of the General Counsel

Jeremiah M. Hawkes  
General Counsel

## **FORMAL OPINION 07-06**

To: The Honorable Marco Rubio, District 111

Prepared By: Jeremiah Hawkes, General Counsel 

Date: October 18, 2007

Re: Solicitation of Funds for Charities

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You inquired whether the expenditure ban found in s. 11.045, Florida Statutes would prevent you from soliciting funds from lobbyists and principals for 100 Ideas.Org, Inc., a charity.

Your inquiry is answered in the negative.

### **BACKGROUND**

Your letter of October 8, 2007, indicates that you wish to solicit funds from lobbyists and principals of lobbyists to benefit the activities, mission and cause of a duly registered non-profit corporation entitled 100 Ideas.Org, Inc. (the "Charity"). The Charity was formed on August 14, 2007. The Charity is in the process of applying for its tax exempt status from the Internal Revenue Service under Section 501(c)(3) of the Internal Revenue Code. Additionally, the Charity is in the process of registering with the Division of Consumer Services as a charitable organization, as required by Chapter 496, Florida Statutes.

You are not a member of the Board of Directors of the Charity nor did you establish the Charity. You will not participate in the day to day activities of the Charity nor direct where the funds of the Charity are spent. You will not participate in the activities of the Charity as they relate to its mission, nor will you lend your likeness or name to any informational, educational, promotional or any other such material produced by the Charity. Your sole duty and relationship relating to the Charity is to solicit and/or receive

contributions for the Charity.

You will not receive any compensation of any kind, whether monetary or in-kind, from the Charity or any other entity for soliciting funds for the Charity. Any expenses that may be incurred by you will not be reimbursed by the Charity. You will not receive any reimbursement for travel, long distance telephone charges, time spent soliciting and receiving contributions, or any other such potential expenses.

No State of Florida resources will be utilized in connection with your solicitation and/or receipt of contributions to the Charity.

The phrase "100 Ideas" has become very closely associated with you because of your work around the State of Florida in recent years. You have personally used this phrase numerous times to encourage Floridians to become involved in the government process, as well as to promote the free exchange of ideas to benefit our great State. A website, 100Ideas.org, was established and still is actively updated today. Additionally, the Republican Party of Florida has published a book of the 100 best ideas contributed by Floridians entitled 100 Innovative Ideas for Florida's Future. You also participated in the production of the book and the selection of the ideas to be included in the book.

### ANALYSIS

House Rule 15.4(a) provides that: A member shall scrupulously comply with the requirements of all laws related to the ethics of public officers.

Section 11.045(4)(a), Florida Statutes was created in January 2006 and provides:

Notwithstanding s. 112.3148, s. 112.3149, or any other provision of law to the contrary, 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, except floral arrangements or other celebratory items given to legislators and displayed in chambers the opening day of a regular session.

Before this passage existed there was a prohibition contained in statute that prohibited members from soliciting gifts from lobbyists in s. 112.3148(3), Florida Statutes:

A [Representative] is prohibited from soliciting any gift from a political committee or committee of continuous existence, as defined in s. 106.011, or from a lobbyist who lobbies the [House], or the partner, firm, employer, or principal of such lobbyist, where such gift is for the personal benefit of the reporting individual or procurement employee, another reporting individual or procurement employee, or any member of the immediate family of a reporting individual or procurement employee.

This prohibition did not cover accepting gifts on behalf of charities however. (See s. 112.3148(4) and 112.3148(5). See also House Opinions 02-06, 92-01.)

When s. 11.045(4)(a) was created it was determined that like s. 112.3148, the prohibition did not cover soliciting on behalf of charities. The presiding officers put together a set of interpretative guidelines which provide that a member may solicit funds from a lobbyist on behalf of a charity so long as the charity was not directly or indirectly established by, organized by, operated primarily by, or controlled by a legislator or legislative employee, or any combination thereof. (See Interim Lobbying Guidelines for the House and Senate, issued July 20, 2006, page 17). This interpretation basically maintains the same principle that has been in place for years: members may solicit from lobbyists for charities as long as there is no direct or indirect benefit to the member. Your letter lays out that you did not establish the Charity and have no involvement with the day to day operations of the Charity. Also, you will not be serving in any official role with the Charity nor receiving any compensation from the Charity.<sup>1</sup>

### CONCLUSION

Since you did not establish or control the Charity, you would not be violating House Rule 15.4(a) or section 11.045(4)(a) Florida Statutes should you choose to solicit funds on behalf of the Charity.

*This opinion is prepared in accordance with House Rule 15.8. Pursuant to that rule this opinion could be subject to revision.*

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

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<sup>1</sup> The guidelines do allow members to serve on boards of charities and to receive certain compensation for their service so long as the funds were not donated by lobbyists and earmarked for such purpose. This does not apply here because you are not receiving any compensation from the Charity.