



# **PUBLIC AFFAIRS & THE ETHICS COUNSELOR**

**Presented by  
SOCO Director &  
OSD Senior Assistant for PA Policy**

# WHAT WE WILL COVER

- Meet Your Public Affairs Team- Know Thy Client
- 2009 & 2010 NDAA Impact
- Use of Insignias
- Endorsements
- Joint Ethics Regulation (JER) 3-211, Logistical Support of Non-Federal Entities (DoDI 5410.20)
- Widely Attended Gatherings/Gifts/Solicitation
- DODI 5410.16, Assistance to Non-Gov't Entertainment-Oriented Motion Picture, Television, and Video Production

# KNOW THEY CLIENT

- Build strong rapport with Public Affairs team
- Educate them to spot the issues
- Law trumps policy
  - PA makes policy calls
  - Attorneys make the legal calls- make sure lines of communication are OPEN
- **IMPORTANT:** OSD PA must approve national level televised programs and forward for ethics read
  - Essential that service ethics officials make legal determination before their PA office forwards to OSD PA for approval

# DoD Trademark & Licensing Mission

## 2005 NDAA

Established **authority** in 10 U.S.C. 2260 for **collection and utilization of fees** for **registered trademarks** by DoD

## 2008 & 2009 NDAA

Added further granularity by amendments to 10 U.S.C. 2260

## DODD 5535.09 (2007)

References **delegated authority** by **DepSec** to **ASD(PA)**

# 10 U.S.C. § 974

## Historical premise (since 1908)

**Military musicians—while in official capacity—may not engage in the performance of music in competition with local civilian musicians**

### **10 U.S.C. EXCEPTIONS to that premise:**

#### 1908

Under special circumstances when authorized by the President (USMC Band only)

#### 1990

Any band designated as a **special band** may produce recordings for commercial sale

**Note:** Since 1955, unit performances have been guided by DoD Directives (DODD 5410.6 Armed Forces Participation in Public Events—and successive updates) & ethics policies. **Unit exceptions to policy have been sought routinely by Departments;** individual exceptions are guided by Service-level applications/approvals for off-duty employment & ethics policies

# 10 U.S.C. § 974

## 2008 NDAA

**All bands** may produce recordings for commercial sale, at a cost not to exceed expenses

(A) official Federal Government events **supported solely** by appropriated funds

(B) free patriotic events (concerts, parades) or celebrations of national holidays

(C) incidental performances (short patriotic opener or closer) at events not **supported solely** by appropriated funds, in compliance with applicable rules and regulations

**Note:** Due to (A), military events that use MWR funding or charge for meals currently are **limited to support under (C)** – a 15-20 min patriotic opener (with honors), instead of music for cocktails, honors, dinner, dancing and a show.

Ex 1: Annual unit “dining in” on military installations for military members only

Ex 2: Annual command-level awards banquet on military installations for servicemembers and their families, and high-level civilian guests

Ex 3: PME graduation on or off military installations for servicemembers and their families, and high-level civilian guests

Ex 4: MWR concert for servicemembers in deployed locations

**Facts:** 40,000+ performance requests for military bands each year ...

– until 2008 ... 28,000 were supported annually

– after 2008 ... full support was restricted in 34% (9,500); many requests were cancelled

# 10 U.S.C. § 974

## 2010 NDAA

Allows military musicians to provide all musical requirements:

- for official military events, held on or off military installations
- at events that foster cooperative relationships with other nations
- for events sponsored by or for military welfare societies (see Sec 2566)

## Interim Guidance

**Military musicians in an official capacity may not perform background, dinner, dance, or other social music when it occurs outside the gates of a military installation, apart from the exceptions listed under paragraph (a)(3)**

# 10 U.S.C. § 974

## 2010 NDAA(cont)

Note: With the adoption of this language, military bands are now able to **provide all support:**

**... for official military events, held on or off military installations**

Ex: Eight yearly USAF Senior NCO graduation balls in downtown Mont, AL

**... at events sponsored by the military relief societies, IAW existing laws and regulations**

Ex: The annual Marine Corps Ball or Air Force Charity Ball when held only for servicemembers and their families, and donations do not come from prohibited sources

**... at traditional military events fostering morale/welfare of servicemembers and their families**

Ex: “Dinings in” or “out” on or off military installations

**... at events that uphold the standing and prestige of the U.S., or foster and sustain a cooperative relationship with another nation**

Ex: The annual Military Attaché Ball in the National Capitol Region



# 10 U.S.C. § 974

## 2010 NDAA (cont)

**(d) the historical premise and its subsection (a) exceptions do not apply to performances outside the U.S., its commonwealths or its possessions.**

Note: With the adoption of this language, military bands may now **provide:**

**... appropriate musical support for events downrange**

Ex: 70 monthly concerts by AFCENT band on U.S. bases throughout CENTCOM

**... all support for public diplomacy initiatives by U.S. Ambassadors**

Ex: USMC Silent Drill Platoon at the Nicaraguan Army 30<sup>th</sup> Anniversary

Ex: Guyana U.S. Embassy 04 July Celebration

# Military Insignia and Commercial Advertising

- 10 U.S.C. 771
  - Limits who is entitled to wear the uniform and any distinctive part of the uniform (NOTE: Violators can be prosecuted under 18 U.S.C. 702 and 704)
- 15 U.S.C. 1125
  - Prohibits any false or misleading representation of fact
- JER, DoD 5500.7-R
  - Prohibits use of titles, positions, or organization name to imply endorsement

# Military Insignia and Commercial Advertising

- DoD Instruction 5410.20, Public Affairs Relations with Business and NGOs Representing Business
  - Requires advance approval by OSD(PA) for use of DoD material, including uniforms and insignia, in any commercial advertising or promotional activity.

# Joint Ethics Regulation

## ENDORSEMENTS

- JER § 3-209:
  - Endorsement of a non-Federal entity (NFE), event, product, service, or enterprise may be neither stated nor implied by DoD or DoD employees in their official capacities
  - DoD personnel must protect against use of titles, positions, organization names to suggest official endorsement or preferential treatment of any NFE (except in limited circumstances)
  - Exceptions: certain organizations listed in JER, i.e., CFC, AFAS

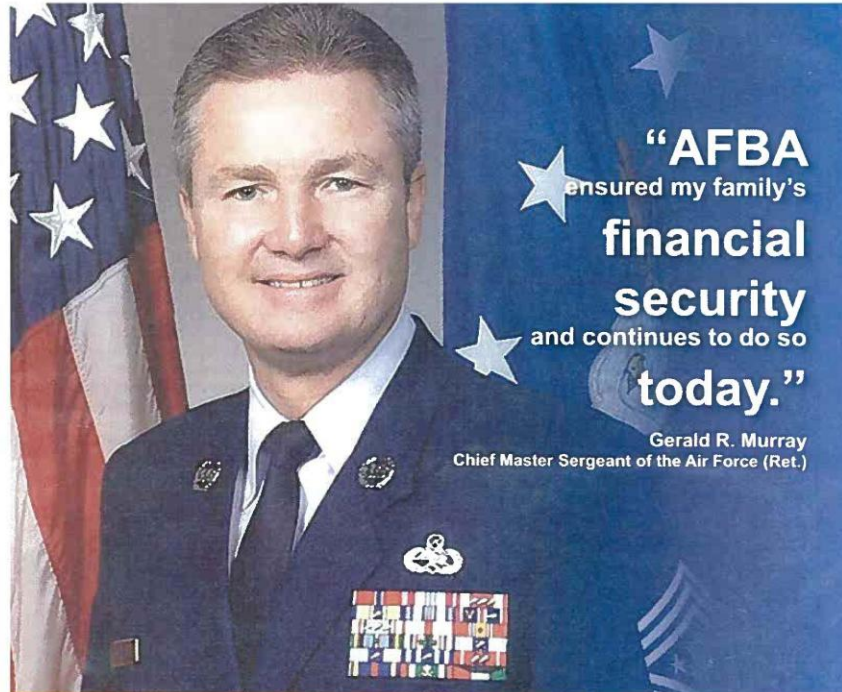
# Joint Ethics Regulation

## ENDORSEMENTS



# Joint Ethics Regulation

## ENDORSEMENTS



“AFBA  
ensured my family's  
**financial  
security**  
and continues to do so  
**today.”**

Gerald R. Murray  
Chief Master Sergeant of the Air Force (Ret.)

Gerald R. Murray was the 14<sup>th</sup> Chief Master Sergeant of the Air Force. Chief Murray retired in 2006 after 29 years of distinguished service and has been an AFBA member since 1996.

“Being a member of AFBA is vital to my family's well-being. I joined AFBA as a young NCO in order to protect my family and enhance our financial health.”

When elected to serve on AFBA's Board as the first career enlisted Director in their history, I was honored; more so I accepted the position in the same manner I did as the 14<sup>th</sup> Chief Master Sergeant of the Air Force—representing the great enlisted men and women, and their families, who so proudly and honorably serve and sacrifice for our Nation.”

**Call us now (800) 776-2322.**

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