



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Assistant Chief Paul Acosta  
City of Miami Beach Police Department  
  
Chief Wayne Jones  
City of Miami Beach Police Department

**FROM:** Loressa Felix, General Counsel  
Commission on Ethics and Public Trust

**SUBJECT:** INQ 2023-111 Conflicting/Outside employment, Sections 2-11.1(k)(2) and (j),  
County Ethics Code

**DATE:** August 29, 2023

**CC:** All COE Legal Staff

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest in your proposed outside employment.

Facts: You are employed as the Assistant Chief of Police for the City of Miami Beach Police Department (City). You would like to engage in outside employment as a cast member for a television show.

As Assistant Chief, you are responsible for and oversee all aspects of the administration of the department including both support and technical services. You handle budget, finance, training, technical support, information technology, personnel backgrounds, personnel hiring, court liaison, property and evidence, accreditation, grants, and all other matters pertaining to the administration of the department. You also serve at the direction of the City Chief of Police, Wayne Jones, in any matter so directed.

You were contacted by the production company, Magical Elves, who want to cast you in a television show about adjudicated crime investigations that took place in South Florida over its history. Your role will be on camera, providing your opinion and expertise as a law enforcement professional regarding cases and what law enforcement looks for at these adjudicated crime scenes.

Magical Elves is a production company for non-fiction content for domestic and international television markets. Magical Elves is a part of the Tinopolis Group's portfolio of production

companies. The Tinopolis Group is one of the largest television content suppliers in the UK and a producer of programs for many of the top networks in the US.

The television show is intended to be a new crime scene investigation series. The show will contain ten (10) episodes for the first season. The series seeks to highlight the hard work of dedicated law enforcement necessary to solve crimes. The series will air on a major broadcast network and their streaming services. Filming is expected to begin in the next few weeks and conclude at the end of October 2023.

You advise that Magical Elves would provide you with the resources necessary to perform your role as a cast member for this production. Your duties would occur outside of your City hours of employment. Magical Elves has agreed to work with you on your assigned days off, and there is no plan to work or film during a normal work week or hours. Should a need to work during your scheduled hours arise, you are prepared to request vacation leave. You also advise that there will not be any overlap of outside employment and on duty hours. You further advise that you not work with the same people or similar entities that you currently work with in your City employment. The investigations reviewed in the television series will not include investigations handled by your department nor will you review or analyze cases involving officers subordinate to you in your public role. Further, you will not dress in your City uniform during filming, and will only utilize your name and designation as a “law enforcement expert” instead of your City title. You will not discuss any matters that are not already public record as it relates to the City of Miami Beach. Lastly, the Chief of Police has no objection to your participation in the production of this series.

Issue: Whether any prohibited conflicts of interest may exist between your City employment and your outside employment as a cast member for a television series.

Analysis and Opinion:

Both the County Ethics Code and the City of Miami Beach Ethics Code prohibit municipal employees from engaging in outside employment which would impair the municipal employee’s independence of judgment in the performance of his/her official duties thereby creating a conflict between the employee’s public duties and private interests. *See* Sections 2-11.1(j) and (k), County Ethics Code; Section 2-453, City of Miami Beach Code.

Additionally, the final decision to grant or deny an employee permission to engage in outside employment rests with the employee’s department director. *See* INQ 18-212. Such a decision may be based on staffing needs, departmental policies, collective bargaining agreements, personnel issues, performance issues, conflicts of interest, etc. *See id* (citing RQO 00-10, RQO 12-07, INQ 18-24).

In consideration of your inquiry, we must look to several factors, one of which is whether there is similarity in your duties as the Assistant Chief of Police and your prospective outside employment as a law enforcement expert/production cast member providing an opinion on crime scene investigation. In this instance, both positions require you to utilize a similar knowledge base involving law enforcement investigation; however, there is no indication that a prohibited conflict of interest exists. *See* INQ 21-54; INQ 21-64; and INQ 22-114.

The Ethics Commission has previously opined that a similarity between an employee's County or municipal duties and his or her outside employment duties does not indicate, *by itself*, the existence of a conflict of interest. *See* INQ 18-54 (citing RQO 00-10; RQO 04-168; RQO 12-07 which note that outside employment with similar duties and functions can avoid conflict when abiding by certain limitations) (emphasis added). Therefore, the similarities in the services you would be providing in the two positions does not preclude you from engaging in outside employment particularly as you have indicated that you will not be working for a City vendor; all equipment and resources needed for your outside employment will be provided by your outside employer; you will not work with the same people or similar entities that you currently work with in your City employment; you will work outside your City hours (or take vacation leave as necessary); you will not utilize your public title or uniform in the filming of the television series; and the investigations reviewed in the television series will not include investigations handled by your department nor will you review or analyze cases involving officers subordinate to you in your public role. Further, the Ethics Commission has also held that use of an acquired knowledge base in outside employment for a privately owned company does not in and of itself create a conflict of interest. *See* INQ 20-43.

Moreover, the Ethics Commission previously found that a Miami-Dade Police Department 911 Communications Manager, who conducted quality assurance reviews for dispatch, could also work for a private employer evaluating the quality assurance of employees of other outside/non-County agencies without creating a real or apparent conflict of interest with his official or public duties, albeit with limitations. *See* INQ 18-54. Similarly, the Zoo Miami's Communications and Media Relations Director and Zoo Goodwill Ambassador was permitted to continue his outside employment which included publishing images captured and stories about wildlife expeditions, hosting a nationally televised wildlife documentary television series, working as a wildlife consultant for the film and television industry, and lecturing on wildlife photography to a variety of groups and organizations, both locally and nationally, which required to use of his acquired knowledge and expertise, also did not create a real or apparent conflict of interest with his public duties. *See* INQ 22-106.

Nevertheless, the Ethics Commission strongly recommends that the following limitations be imposed on your permission to engage in the aforementioned outside employment in order to avoid a conflict:

- You may not use City time or resources in your outside employment. *See* Section 2-11.1 (g), Miami-Dade County Ethics Code; INQ 19-123; INQ 20-43.
- You shall not engage in activities that relate in any way to your outside employment during regular business hours, including phone calls, or any other communication and/or use of City resources (including but not limited to phones, copiers, computers, fax machines, City vehicles, in connection with your outside employment, even after work). *See* Sections 2-11.1 (j) and (g), Miami-Dade County Ethics Code; INQ 05-29, and INQ 15-240.
- You are prohibited from disclosing and/or using any confidential and/or proprietary information acquired as a result of your City employment to derive a personal benefit or a benefit for Magical Elves or its affiliates. *See* Section 2-11.1(h), Miami-Dade County Ethics Code.

- You may not exploit your City position to secure special privileges or exemptions for yourself or Magical Elves or its affiliates. *See* Section 2-11.1(g), Miami-Dade County Ethics Code.
- You may not represent Magical Elves or its affiliates before any City board or agency. *See* Section 2-11.1(m)(1), Miami-Dade County Ethics Code; RQO 04-173. Notably, while it does not appear that lobbying activities are a part of your potential duties for Magical Elves, it is important to note that you would be prohibited from doing any such activities on behalf of Magical Elves or its affiliates.
- You shall obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with your department director and shall file an Outside Employment Statement with the County’s Elections Department by noon on July 1st of each year. *See* Section 2-11.1(k)(2), Miami-Dade County Ethics Code.

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

We appreciate your consulting with the Commission in order to avoid possible prohibited conflicts of interest. If the facts associated with your inquiry change, please contact us for additional guidance.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.