



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Daniela Sabillon, Pollution Control Inspector
Miami-Dade Department of Regulatory and Economic Resources

Tadeo Monterrubio, Environmental Specialist Supervisor
Miami-Dade Department of Regulatory and Economic Resources

FROM: Susannah Nesmith, Staff Attorney
Miami-Dade Commission on Ethics and Public Trust

SUBJECT: INQ 2023-118, Section 2-11.1(j), Conflicting Employment Prohibited.

DATE: September 7, 2023

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest concerning your company and potential future contracts with the County.

Facts

You are employed by the Miami-Dade Department of Regulatory and Economic Resources (“RER”) as a Pollution Control Inspector. You advised that your job responsibilities primarily involve inspecting wastewater treatment facilities, including sampling the water and writing reports on the permit compliance of the facilities.

You advised that you are seeking to engage in outside employment as an office manager for PAB LAW, P.A. (PAB LAW), a law firm that specializes in immigration and criminal law. The primary attorney at PAB LAW, Pedro Balderramos, is not a registered lobbyist in Miami-Dade County and is not a County vendor, and you advised that the firm does not contract with the County.

At PAB LAW, you will assist with paperwork, appointment scheduling and gather information from clients seeking help with work permits and other immigration issues. You would perform these activities after hours at the office of the firm, using the firm’s phones and computers and other resources. Your supervisor, Tadeo Monterrubio, advised that he did not see any potential overlap between your County duties and your proposed outside employment.

Issue

Whether there is a prohibited conflict of interest that would prevent you from engaging in your proposed outside employment.

Analysis

Sections 2-11.1(j) and (k) of the Miami-Dade County Ethics Code prohibit County employees from engaging in outside employment which would impair the County employee's independence of judgment in the performance of his/her official duties, thereby creating a conflict between the employee's public responsibilities and private interests. The County's Administrative Order 7-1 reiterates the general principle that County employees must conduct the public's business without even an appearance of conflicting loyalties: "Under no circumstances shall a County employee accept outside employment...where a real or apparent conflict of interest with one's official or public duties is possible."

Miami-Dade County employees are required to obtain approval from their department directors/supervisors prior to engaging in outside employment. *See* County's Administrative Order 7-1. Directors/Supervisors may request an opinion from the Miami-Dade County Ethics Commission regarding conflicts of interest in outside employment. *See* INQ 22-22; INQ 19-101; INQ 13-28. The County's Administrative Order No. 7-1 gives a County department director/supervisor the discretion to deny outside employment if he or she finds, at any time, that the outside employment is contrary, detrimental, or adverse to the interest of the County and/or the employee's department. *See* RQO 16-02; RQO 00-10; INQ 23-15; INQ 12-49. Accordingly, **this memorandum does not grant you permission to engage in outside employment.** You must obtain that permission every year from your department director.

Several factors are considered to determine whether a potential conflict of interest exists between an individual's County position and his or her outside employment, including: the nexus between the public duties and the outside employment; whether the employee has decision-making authority over the same subject matter that the outside employment concerns; whether the employee solicits business or customers in the same area over which he or she has jurisdiction in his or her public duties; whether the employee will come into contact with the same or similar people or entities in both his or her public position and outside employment; and whether the public entity with which the employee serves funds or has a contract with his or her outside employer. *See* RQO 17-01; INQ 21-66.

For example, the Ethics Commission has previously found a Zoning Development Analyst for RER did not have a prohibited conflict of interest in serving as a real estate broker in Broward County because her activities in Broward County were unrelated to her work in Miami-Dade County and would thus be unlikely to impair her independence of judgment in the performance of her public duties. INQ 15-216. *See also* RQO 17-01 (discussing multiple factors to consider when evaluating whether outside employment is conflicting).

It appears unlikely your proposed outside employment as an office manager with a law firm specializing in immigration will impair your independence of judgment in the performance of your

County duties at RER, based on the information that you have provided to us at this time, including that a) your work at the law firm will only occur outside of your County working hours; b) you will not be required to encounter the same or similar people or entities as in your County position; c) you will not use the same or similar resources that you use in your County work; d) your County position does not provide you with access to non-public information that is or could be relevant to your anticipated outside employment; and e) your position at RER does not involve the recruitment or management of vendors, contactors, bidders, or members of the public who could also be involved in your anticipated outside employment.

Nevertheless, you must continue to abide by certain limitations outlined below to avoid a conflict:

- You shall not engage in activities that relate in any way to your outside employment during your County work time, including phone calls, or any other communication and/or use of County resources (including but not limited to phones, copiers, computers, fax machines, County vehicles), in connection with your outside employment, even after work. *See* County Ethics Code Section 2-11.1(g); AO 5-5, AO 7-1; INQ 20-43; INQ 19-123; INQ 15-240.
- You are prohibited from disclosing and/or using any confidential and/or proprietary information acquired as a result of your County employment to derive a personal benefit, for the benefit of your private employer or its clients. *See* County Ethics Code Section 2-11.1(h).
- 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 July 1st of each year. *See* County Ethics Code Section 2-11.1(k)(2).¹
- You may not lobby the County. In this case, it means that you may not contact anyone within the County in an attempt to influence a decision on behalf of PAB LAW, or its clients. *See* County Ethics Code § 2-11.1(m)(1).
- The County Ethics Code prohibits County employees from exploitation of their official position. *See* County Ethics Code § 2-11.1(g). This means that you may not use your County position to secure any special privilege or exemption with respect to PAB LAW or its clients.

Opinion

Based on the facts presented here, your proposed outside employment does not present a conflict of interest with your county position.

¹ The form is available online at <https://www.miamidade.gov/elections/library/forms/outside-employment-statement.pdf>.

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

This opinion is limited to the facts as presented to the Commission on Ethics and to an interpretation of the County Ethics Code only. For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

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 Commission on Ethics 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.