

## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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October 18, 2023

**Sent via email to:** [dlee@bubblegumsc creations.com](mailto:dlee@bubblegumsc creations.com)

Denise Lee  
Legislative Services Representative 1  
City of Miami  
3500 Pan American Dr, Miami, FL 33133

Owner, BC Print Shop  
800 Ali Baba Avenue, Unit A  
Opa-Locka, FL 33054

Re: INQ 2023-139, Limitations on Doing Business with the City of Miami, Florida, the City of Opa-Locka, Florida, and the Opa-Locka Community Redevelopment Agency

Dear Mrs. Lee,

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“COE”) and requesting our guidance regarding your ability to contract with the City of Miami, Florida, the City of Opa-Locka, Florida, and the Opa-Locka Community Redevelopment Agency.

### Facts

You, Denise Lee, are a Legislative Services Representative 1 for the City of Miami, Florida. In this role you answer phones, assist customers at the City Clerk’s Office front counter and by phone, serve as the City’s lobbyist administrator, scan and shuttle documents, assist at City of Miami Commission meetings, and serve as a passport agent. Additionally, in this role, you log in and log out contracts and agreements executed for the City of Miami and sent to the office of the City Clerk for attestation. This means that when a contract or agreement arrives at the office of the City Clerk, you log it into an excel spreadsheet. The City Clerk has to attest to the City Managers signature on all contracts and agreement. Once the City Clerk attests to the City Managers signature, you bring the contract back from the City Manager’s office, at which the point the contract is logged out of the spreadsheet as returned. You indicate that your role in the attestation process does not involve the creation, negotiations, attestation, or executions of any contracts or agreements for the City of Miami.

You are married to Mr. Joseph Lee. Joseph Lee is a Meter Technician Supervisor for the City of Opa-Locka, Florida. In this role, Joseph Lee services and repairs residential water meters, in addition to making repairs to leaks within the city's system. Joseph Lee does not participate in the contractual or grant selection process for the city of Opa-Locka, Florida. Joseph Lee supervises one meter technician which includes assigning that technician work and completing annual performance reviews.

You are also the owner and sole manager of Bubblegum Creations, LLC., a Florida Limited Liability Corporation created in 2017. Bubblegum Creations, LLC. owns and operates two (2) fictitious name organizations: BC Print Shop and Lee Consulting Group. Lee Consulting Group provides notary<sup>1</sup> and consulting services. Lee Consulting Group helps its clients obtain their LLC's and corporate documentation/licenses as well as provide services for other notarial acts such as deeds mortgages, apostilles etc. BC Print shop is a pack and ship business center that provides copying and printing services, as well as custom merchandise and apparel. BC Print shop is the branch of your business that utilizes the physical location in Opa-Locka, Florida.

While you do not have a particular grant or contract in mind that you wish to currently pursue with the City of Opa-Locka, Florida, there may be a facade grant through the Opa Locka Community Redevelopment Agency available soon that you would be interested in for BC Print Shop store front. Additionally, you would like to register BC Print shop as a vendor with the City of Miami and, as needed, provide custom shirts to departments within the City of Miami, Florida.

#### Issue

Whether the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance ("County Ethics Code") would prevent you and your business from contracting with the City of Miami, the City of Opa-Locka, and the Opa-Locka Community Redevelopment Agency for grants and other financial opportunities.

#### Analysis

##### *A. Contracting with the Cities of Opa-Locka and Miami, Florida*

The County Ethics Code Section 2-11.1(c)(1) provides that [municipal]<sup>2</sup> employees and their immediate family members<sup>3</sup> shall not enter into any contract or otherwise transact any business with the [City], "except as provided in subsections (c)(2) through (c)(6)." The County Ethics Code creates the limited exception that [municipal] employees and their immediate family members may contract with the [City] so long as (1) entering into the contract would not interfere with the employee's full and faithful discharge of his or her [municipal] duties; (2) the employee does not participate in determining the subject contract requirements or awarding the contract; and, (3) *the employee's job responsibilities and job description will not require him or her to be involved with*

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<sup>1</sup> Denise Lee is a Florida Notary Public, Identification number 1676310. Said commission was last issued on August 25, 2021 and expires on August 24, 2025. <https://notaries.dos.state.fl.us/notidsearch.asp?id=1676310> (Website visited October 2, 2023).

<sup>2</sup> Section 2-11.1(a) of the County Ethics Code provides:

This section shall . . . constitute a minimum standard of ethical conduct and behavior for all . . . employees of municipalities in the County insofar as their individual relationships with their own municipal governments are concerned. References in the section to County personnel shall therefore be applicable to municipal personnel who serve in comparable capacities to the County personnel referred to.

<sup>3</sup> The term "immediate family" includes spouses and domestic partners. *See* County Ethics Code § 2-11.1(b)(9).

*the contract in any way*, including its enforcement, oversight, administration, amendment, extension, termination, or forbearance.(Emphasis Added) *See* County Ethics Code § 2-11.1(c)(2). Additionally, this limited exception from the broad prohibition against contracting with the [municipality] does not authorize a [municipal] employee or his or her immediate family member to contract with the [municipal] department that employees said [municipal] employee. *See id.*

However, The Code of the City of Miami, Florida Section 2-612(a) provides that:

- (a) No [covered]<sup>4</sup> person . . . shall enter into any contract or transact any business with the city or any person or agency acting for the city, or shall appear in representation of any third party before any board, commission or agency of which such person is a member...

Likewise, The Code of the City of Opa-Locka, Florida Section 2-10 provides that:

- (a) No person included in Section 2-9<sup>5</sup> [hereof] shall enter into any contract or transact any business with the city or any person or agency acting for the city. Nor shall such person appear in representation of any third party before the city commission or other city board, commission or agency. Any such contract, agreement or appearance entered into in violation of this section shall render any transaction resulting from the same voidable.
- (b) The word "person" appearing in subsection (a) of this section shall, for purposes of this section, include officers, officials and employees as set forth in section 2-9 hereof and the following family members of such "person":  
Spouse, son, daughter, parent, brother or sister.

Based on the plain language of Sections 2-611 and 2-612(a) of the City of Miami Code, you, as an employee of the city, are considered a prohibited person. Additionally, based on the plain language of Sections 2-9 and 2-10 of the City of Opa-Locka Code, you and Mr. Joseph Lee are both considered prohibited persons, as a municipal employee and a family member of a municipal employee. As Section 2-612(a) of the City of Miami Code and Section 2-10 of the City of Opa-Locka Code are more restrictive than County Ethics Code and does not provide the limited exception for a prohibited person as is detailed in County Ethics Code § 2-11.1(c)(2), you would be prohibited from contracting or transacting business with either the City of Miami or the City of Opa-Locka.

Moreover, while it is noted that you have indicated that you intend to contract with the City of Miami and the City of Opa-Locka through your sole owned business, Bubblegum Creations, LLC.

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<sup>4</sup> “This article shall be applicable to and binding upon every officer, official and employee of the city, including every member of any board, commission or agency of the city.” Code of City of Miami § 2-611.

<sup>5</sup> “Unless otherwise indicated, this article shall be applicable to and binding upon every officer, official and employee of the city, including every member of any board, commission or agency of the city, including those normally considered autonomous and/or semiautonomous.” Code of the City of Opa-Locka § 2-9 (a)

and its two (2) fictitious name organizations: BC Print Shop and Lee Consulting Group, as opposed to you contracting with either of the municipalities in an individual capacity, because you have more than a 10% ownership interest in the above referenced businesses, you therefore have a controlling financial interest in these organizations. *See* Section 2-11.1 (b)(7) of the Miami-Dade County Code. The limited exception in County Ethics Code Section 2-11.1 (c)(2) extends to companies in which municipal employees and/or their immediate family member have a controlling financial interest to contract with the municipality of their or their immediately family member's employment. However, Section 2-612(a) of the City of Miami Code and Section 2-10 of the City of Opa-Locka Code are again are more restrictive than County Ethics Code and do not provide such an exception.

Further, published opinions from the Commission on Ethics and from the Office of the City Attorney for the City of Miami have determined that Section 2-612 of the City of Miami Code prohibited a company from contracting with the City, where a prohibited person held a controlling financial interest in the company. In Commission on Ethics opinion INQ 2013 – 242, the Assistant City Manager's spouse's employer, an engineering company, was allowed to contract with the City of Miami because Assistant City Manager's spouse did not have a controlling financial interest in the company. In Commission on Ethics opinion INQ 2019-54, a law firm whose partner was a member of the City of Miami Planning Zoning and Appeals Board could contract to provide the City with legal services as the partner did not have a controlling financial interest in the law firm. In City of Miami Attorney Opinion 2005-05, the City of Miami could not contract with the real estate development company due to a conflict of interest pursuant to Section 2-612 of the City of Miami Code, because one of the company's principals was also a City of Miami Planning Advisory Board member. And lastly, in City of Miami Attorney Opinion 2008-002, the City of Miami had no conflict of interest in proceeding with a Community Development Block Grant contract with a company for technical support even though the executive director of the company was a City Board Member, because neither the Board Member nor their immediate family owned a controlling financial interest in the company.

#### *B. Contracting with the Opa-Locka Community Redevelopment Agency*

The Opa-Locka City Commission established The Opa-Locka Community Redevelopment Agency ("Opa-Locka CRA") in 2010 to create a framework for the redevelopment and enhancement of selected areas<sup>6</sup>. The Opa-Locka CRA was established under the authority of Part III, Chapter 163, Florida Statutes, through the adoption of Opa Locka Resolution 10-8043 on April 14, 2010. On June 23, 2012, the CRA entered into an Interlocal Agreement with the City of Opa-Locka and Miami Dade County regarding the creation and operation of the Opa-Locka Redevelopment Area<sup>7</sup>. The Finding of Necessity Report for the Opa-Locka CRA Area was adopted

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<sup>6</sup> In 1969, the Florida Legislature enacted the Community Redevelopment Act of 1969, as it is presently contained in Part III of Chapter 163, Florida Statutes, as amended (the Act). The Act authorizes counties and municipalities in the State of Florida to create community redevelopment agencies, to prepare redevelopment plans for certain defined areas within their boundaries designed as community development areas, in which community redevelopment projects may be undertaken to eliminate and prevent the development and spread of slum and blighted areas through the use of creative financing mechanisms. The Act also authorizes the County to delegate redevelopment powers at the discretion of the County, after a finding has been made determining that slum and blight exists within a defined area.

<sup>7</sup> This agreement was executed prior to the County Commission's adoption of Resolution No. R-499-16, which sets forth certain policies related to community redevelopment agencies. Miami-Dade County Resolution No. R-499-16 requires the County Mayor or the County Mayor's designee to negotiate with each community redevelopment agency the inclusion of the provisions set forth

by the Miami-Dade Board of County Commissioners on December 4, 2012. The Opa-Locka Redevelopment Plan for the Opa-Locka CRA was adopted by Miami-Dade Board of County Commissioners on October 1, 2013, through Resolution R-795-13. Additionally on October 1, 2013, the Miami-Dade Board of County Commissioners approved the creation and funding of the Opa Locka Community and Revitalization Trust Fund through ordinance 13-94. Section 2.7.4 of the By-Laws of the City of Opa Locka CRA, entitled “Code of Conduct,” states “The CRA Board shall be governed by the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, as amended, and any policies that the CRA Board may adopt.”

Although, the City of Opa-Locka Mayor, Vice Mayor, and Commissioners serve as five of the seven Opa-Locka CRA board, the Miami Dade Board of County Commissioners is designated as the governing body for the Opa-Locka CRA in the Interlocal Agreement for the Opa-Locka CRA. Additionally, the Opa-Locka CRA is designated as a “public body corporate and politic” in the Interlocal Agreement. Therefore, the employees of the City of Opa-Locka are separate and apart from the Opa-Locka CRA. As such, Mr. Joseph Lee’s employment with the City of Opa-Locka does not relate to the Opa-Locka CRA. You, Mrs. Lee, have advised that you are not related to anyone employed with the Opa Locka CRA. Even though Mr. Lee works for the City of Opa-Locka, the Opa-Locka CRA is substantially distinct and independent from the city of Opa-Locka, and you would not have a conflict in your application for and accepting an Opa-Locka CRA grant. *See* INQ 07-126 (City of South Miami employees were permitted to accept a scholarship from the South Miami CRA as it substantially distinct and independent from the City of South Miami).

#### Opinion

Based on the facts presented here and discussed above, the language of ordinances cited, and the analysis provided herein, you are prohibited from concurrently being employed by the City of Miami and contracting with the City of Miami, personally and through any of your three companies. Likewise, you are prohibited from concurrently being the spouse of a City of Opa-Locka employee and contracting with the City of Opa-Locka, personally and through any of your three companies. However, you may contract with the Opa-Locka CRA as you nor your immediate family members have a prohibited relationship with the Opa-Locka CRA.

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

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance only. Based on directives from state law, other conflicts may apply. 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/>.

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in the resolution in the community redevelopment agency’s interlocal agreement, including, but not limited to, that the community redevelopment agency will comply with the County’s Code of Ethics.

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.