



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North  
701 Northwest 1<sup>st</sup> Court · 8<sup>th</sup> Floor · Miami, Florida 33136  
Phone: (305) 579-2594 · Facsimile: (305) 579-0273  
Website: [ethics.miamidade.gov](http://ethics.miamidade.gov)

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### MEMORANDUM

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**TO:** Brian Diaz  
Biologist 1  
Miami Dade County Department of Regulatory & Economic Resources  
  
Lazaro Quinto  
Environmental Section Manager  
Miami Dade County Department of Regulatory & Economic Resources

**FROM:** Etta Akoni, Staff Attorney  
Miami Dade Commission on Ethics and Public Trust

**SUBJECT:** INQ 2023 – 32 Outside Employment §2-11.1(k)(2) and (j)

**DATE:** March 22, 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 Brian Diaz’ outside employment as co-author of a book and the promotion of that book.

**Facts:**

Brian Diaz is employed as a Biologist 1 with Miami Dade County Department of Regulatory and Economic Resources (“RER”). More specifically, Mr. Diaz works in the Natural Forest Community (“NFC”) component of the Tree and Forest Resources Section of RER. Mr. Diaz helps to oversee the regulations on properties containing NFC as per chapter 24-49 of the County code. This involves conducting several types of inspections at NFC properties, including compliance, delineation, and covenant inspections. Mr. Diaz’ position also includes the assessment and issuance of NFC permits, occasionally overseeing regular tree permits, sending letters to new NFC property owners, writing inspection and meeting reports, and helping oversee the Environmentally Endangered Lands (EEL) Covenant program.

Mr. Diaz has co-authored a non-fiction book about the history and current state of natural history sites and ecosystems in South Florida entitled, “Wild Miami: Explore the Amazing Nature in and Around South Florida.” The book was published January 3, 2023, by Timber

Press Inc. Timber Press Inc. is a book publishing company based in Portland, Oregon. Timber Press Inc. is not a registered vendor with Miami Dade County.

As a part of the book's promotion, Mr. Diaz has been asked by Timber Press Inc. to deliver occasional presentations to different groups. These presentations are held at private bookstores, schools, and non-profit groups. As a part of the presentation, Mr. Diaz edits the presentation depending on the audience, conducts the presentation, and sells/signs books at the event. Mr. Diaz also indicates that his presentations and work related to his book do not require the use of any equipment or resources which he uses in his County employment, nor would he work with the same clients. Lastly, his work related to his book will be conducted outside his County hours.

**Issue:**

Whether any prohibited conflict of interest may exist, pursuant to the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance ("County Ethics Code"), between Brian Diaz' County employment with RER, his outside employment as the co-author of a book, and the promotion of said book with the publisher, Timber Press Inc.

**Analysis:**

The Miami-Dade County Conflict of Interest and Code of Ethics ("County Ethics Code") prohibits County employees from accepting outside employment, "which would impair his or her independence of judgment in the performance of his or her public duties." Section 2-11.1(j); *see also* section 2-11.1(k). Additionally, Miami-Dade County Administrative Order 7-1 provides that, "[u]nder 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."

County employees are required to obtain approval from their department director prior to engaging in outside employment. *See* AO 7-1. Departmental directors and their subordinate supervisors may request an opinion from the Miami-Dade Commission on Ethics and Public Trust regarding any potential conflict of interest concerning the proposed outside employment. *See* INQ 21-111; INQ 19-101. Department directors and their subordinate supervisors have the discretion to deny a request for outside employment if they determine that, at any time, the proposed outside employment would be contrary, detrimental, or adverse to the interests of the County or the employee's department. *See* RQO 16-02; RQO 00-10; INQ 13-28.

Based on the information provided during this review, it appears to be unlikely that the type of outside employment that Brian Diaz is seeking to continue in would impair his independence of judgment in the performance of his County duties as a Biologist 1. This is because there is no overlap between his public duties and his outside employment; his outside employment will be performed outside of his County hours; he will not come into contact with the same persons or entities involved in his County work; he will not use the same resources in his outside employment as used in his County work; and, he does not have access to non-public information as part of his County employment that is, or could be, relevant to his outside employment. *See* RQO 17-01; RQO 16-02.

**Opinion:**

Based on the facts presented here and discussed above, Brian Diaz would not have a conflict of interest in his proposed outside employment as an author promoting his book and making presentations about his book.

However, the Commission on Ethics strongly recommends that the following limitations be imposed on Brian Diaz' permission to engage in his proposed outside employment:

- Brian Diaz may not lobby the County. In this case, it means that Brian Diaz may not contact anyone within the County in an attempt to influence a decision about any contract related to his book, *Wild Miami*, or any contract Timber Press Inc. is seeking. *See* Section 2-11.1(m)(1), Miami-Dade County Ethics Code. INQ 19-36, INQ 19-32
- Brian Diaz may not exploit his County position to secure special privileges or exemptions for himself and/or Timber Press Inc. *See* Section 2-11.1 (g), Miami-Dade County Ethics Code; INQ 19-123; INQ 20-43. Specifically, he may not use sick leave to engage in his outside employment. *See* INQ 18-222; INQ 09-194.
- Brian Diaz shall not engage in activities that relate in any way to his outside employment during regular business hours, 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 his outside employment, even after work). *See* Sections 2-11.1 (g), Miami-Dade County Ethics Code; AO 5-5, AO 7-1; INQ 05-29, and INQ 15-240.
- Brian Diaz is 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 or a benefit for Timber Press Inc. *See* Section 2- 11.1(h), Miami-Dade County Ethics Code.
- Brian Diaz shall obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with his 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, Brian Diaz, 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, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

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 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.