



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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

MEMORANDUM

TO: Gabrielle Carey Johnson
Owner and President, Gabby Cares of South Florida, LLC.
Board Member, Miami-Dade County Commission for Women

FROM: Etta Akoni, Staff Attorney
Miami Dade County Commission on Ethics & Public Trust

SUBJECT: INQ 2023-35, Section 2-11.1(c), Limitations on Contracting with the County, and Section 2-11.1(j), Conflicting Employment Prohibited.

DATE: March 28, 2023

CC: All COE Legal Staff; Office of Miami-Dade County Commissioner Marleine Bastien, District 2; Victoria Goss, Training Coordinator, Neighbors and Neighbors Association

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“Ethics Commission”) and requesting our guidance regarding possible conflicts of interest concerning a County Board Member applying for a Mom and Pop Small Business Grant funded by Miami-Dade County.

Facts

You were appointed by the Honorable Oliver Gilbert III, Chairman of the Miami Dade County Board of County Commissioners to the Miami-Dade County Commission for Women as a Board Member, where you currently serve until November of 2024. Established in 1973, the Commission for Women is an advisory board to the Board of County Commissioners, the County Administration, and the public at large about issues pertaining to the status of women. The Commission for Women also advocates for the women in the community and strives to improve their quality of life.

The Commission for Women is comprised of fifteen (15) members. These members are covered persons under the County Ethics Code. *See* Sections 2-11.1(a) and (b)(4).¹ The Ethics Commission has exclusive interpretation jurisdiction regarding the County Ethics Code and its application to covered persons and entities. It shares enforcement jurisdiction with the State Attorney, who may prosecute knowing violations of the Ethics Code as second-degree misdemeanors.² Your Commission for Women position duties do not include any oversight or administration of the Mom and Pop Small Business Grant program.

You own and operate a Florida Limited Liability Company named Gabby Cares of South Florida, LLC., which provides mental health and counseling services. Your office is physically located in an unincorporated area of Miami Dade County, Florida, within the boundaries of District 2 of the Miami-Dade County. You are responsible for all aspects of the organization and operation of Gabby Cares of South Florida, LLC. You would like to apply for a Mom and Pop Small Business Grant for Gabby Cares of South Florida, LLC. through Miami-Dade County Commissioner Marleine Bastien's District 2 Office.

The Mom and Pop Small Business Grant program is funded by Miami-Dade County. The Neighbors and Neighbors Association, a Florida not-for-profit organization, administers and makes recommendations regarding the Mom and Pop Grant applications; funds are distributed to qualifying businesses by the thirteen (13) County Commission district offices.

Issue

Whether there is a prohibited conflict of interest that would prevent Gabby Cares of South Florida, LLC., your privately owned business, from accepting a Mom and Pop Small Business Grant.

Analysis

Section 2-11.1 (c) (3) of the County Ethics Code permits advisory personnel to contract with the County, individually or through a firm, as long as the contract is not with any agency or department that is subject to the regulation, oversight, management, policy setting or quasi-judicial authority of the board on which the person is a member. This inquiry involves several additional sections of the Miami-Dade County Code of Ethics and Conflict of Interest Ordinance ("County Ethics Code"), each of which is analyzed in turn below:

¹ The County Ethics Code shall be applicable to all County personnel as defined herein and shall also constitute the minimum standard of ethical conduct and behavior for all advisory personnel in the County. The term "advisory personnel" shall refer to the members of those County advisory board and agencies whose sole or primary responsibility is to recommend legislation or give advice to the Board of County Commissioners.

² See generally Sections 2-1072, 2-1074 and 2-11.1(cc), Miami Dade County Code (Ethics Commission Enabling Ordinance and Ethics Code penalty provisions).

A. Outside Employment

Work conducted for Gabby Cares of South Florida, LLC. by you constitutes outside employment, as defined by the County Ethics Code. The County Ethics Code prohibits County board members 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 INQ 14-136*. Conflicting employment can occur when a County board member encounters the same or similar persons or entities in both her County board service and outside employment. *See INQ 22-21*.

Based on the information provided to us at this time, it appears to be unlikely that the type of outside employment that you engage in through Gabby Cares of South Florida, LLC. would impair your independence of judgment in the performance of your County duties as a Board Member of the Miami-Dade County Commission for Women.

B. Mom and Pop Small Business Grant

Gabby Cares of South Florida, LLC. **may accept the Mom and Pop Small Business Grant**, so long as the Miami-Dade County Commission for Women is not involved in any way in processing or administering the grant. This includes the condition that you may not participate in determining or awarding the grants. Additionally, none of your board responsibilities may require you to be involved in the grants in any way, including enforcement, oversight, administration, amendment, extension, termination, or forbearance. *See County Ethics Code §§ 2-11.1(c), (n)*.

C. Lobbying

While the Miami-Dade County Commission for Women is not at this time involved in the Mom-and-Pop grant program, you are nevertheless reminded that as a County advisory board member, you may not represent, directly or indirectly, a third party before the Miami-Dade County Commission for Women. *See County Ethics Code § 2-11.1(m)(2)*.

D. Exploitation of Official Position

The County Ethics Code prohibits County board members 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 Gabby Cares of South Florida, LLC.’s application to, and ultimate participation in, the Mom and Pop Small Business Grant program, or to any other grant program to which Gabby Cares of South Florida, LLC. or you are applying to.

Opinion

Based on the facts presented here and discussed above, Gabby Cares of South Florida, LLC.'s participation in the Mom and Pop Small Business Grant program **does not appear to give rise to any prohibited conflict of interest.**

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/>.

We appreciate your consulting with the Commission in order to avoid possible prohibited conflicts of interest. If the facts associated with your inquiry change, or if there are any further questions, 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.