



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:**           Kassandra Johnson  
                  Correctional Corporal  
                  Miami-Dade County Corrections and Rehabilitation Department

                  Fernando Blanco  
                  Correctional Sergeant  
                  Miami-Dade County Corrections and Rehabilitation Department

**FROM:**       Nolen Andrew Bunker, Staff Attorney  
                  Commission on Ethics

**SUBJECT:**   INQ 2023-41, Section 2-11.1(j), Conflicting employment prohibited.

**DATE:**       April 7, 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 Ms. Kassandra Johnson's proposed outside employment.

#### Facts

An inquiry has been submitted concerning whether a conflict of interest would exist were Ms. Kassandra Johnson, an employee of the Miami-Dade County Corrections and Rehabilitation Department ("MDCR"), to engage in outside employment as a real estate agent with Grant and Associates Real Estate, Inc. ("Grant") and/or Keys with KJ, LLC ("Keys").

Ms. Johnson is currently employed by MDCR as a Correctional Corporal. Her job duties are primarily to ensure that all sworn staff maintain their correctional officer certification as part of the MDCR Training Bureau. She is also responsible for ensuring MDCR employees receive the Prison Rape Elimination training and department-wide CPR training.

Ms. Johnson advised that she would like to engage in outside employment as a licensed Florida real estate agent. A records check with the Florida Department of Business and Professional Regulation confirms that Ms. Johnson has been a registered real estate sales associate since

August 2022. Ms. Johnson further advised that she is currently brokered through Grant, a Florida for-profit corporation, and that she plans to create Keys as a Florida limited liability company through which she will conduct business as a real estate agent. She advised that she will be the one-hundred percent owner and operator of Keys.

A records search indicates that Grant is not a County vendor. Ms. Johnson also stated that, to her knowledge, Grant is not a County vendor. She further indicated that Keys will not be a County vendor.

With regard to her anticipated real estate work, Ms. Johnson advised that her outside employment will only occur outside of the times/hours that she is expected to perform her duties as a Correctional Corporal for MDCR. She further advised that, as part of her proposed outside employment, she will not be required to encounter the same or similar people or entities as in her County position. Ms. Johnson advised that her position with MDCR does not involve the recruitment or management of County vendors or contractors. She also advised that she will not use the same or similar resources for her proposed outside employment as those that are used in her County work. Finally, Ms. Johnson advised that, as part of her County position, she does not have access to non-public information that is, or could be, relevant to her proposed outside employment.

#### Issue

Whether any prohibited conflict of interest may exist between Ms. Johnson's County employment and her proposed outside employment as a real estate agent with Grant and/or Keys.

#### 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.

In the past, a Correctional Lieutenant for MDCR was able to engage in outside employment as a real estate associate for The Keyes Company, which was a County vendor at the time, without giving rise to a prohibited conflict of interest, so long as she abided by certain restrictions. *See*

INQ 18-05. Likewise, a Special Projects Administrator 2 with MDCR's Budget and Finance Bureau was able to engage in outside employment as a real estate broker for Bernard and Associates, LC without giving rise to a prohibited conflict of interest, so long as he abided by certain restrictions. *See* INQ 17-96.

Based on the information provided to us at this time, it appears to be unlikely that the type of outside employment that Ms. Johnson is seeking to engage in would impair her independence of judgment in the performance of her County duties as a Correctional Corporal for MDCR. This is because there is no overlap between her public duties and her proposed outside employment: her proposed outside employment will be performed outside of her County hours; she will not come into contact with the same persons or entities involved in her County work; she will not use the same resources in her outside employment as used in her County work; and, she will not have access to non-public information as part of her County employment that is, or could be, relevant to her outside employment as a real estate agent. *See* RQO 17-01 (discussing multiple factors to consider when evaluating whether outside employment is conflicting); RQO 16-02; INQ 18-05; INQ 17-96.

### Opinion

Based on the facts presented here and discussed above, Ms. Johnson would not have a conflict of interest in her proposed outside employment as a real estate agent with Grant and/or Keys.

However, the Commission on Ethics strongly recommends that the following limitations be imposed on Ms. Johnson's permission to engage in her proposed outside employment with Grant and/or Keys:

- She may not engage in activities that relate in any way to her outside employment during her scheduled work hours (including phone calls, text messages, e-mails, or other communications) and she may not use County resources (including, but not limited to, phones, copiers, computers, fax machines, and County vehicles) in connection with her 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.
- She may not exploit her County position to secure special privileges or exemptions for herself and/or for Grant or its clients and/or for Keys or its clients. *See* County Ethics Code 2-11.1(g). **Specifically, she may not offer her or Grant's or Keys' real estate services to anyone during County working hours, including co-workers and other County employees.** *See* INQ 19-101.
- She may not disclose and/or use any confidential and/or proprietary information acquired because of her County employment to derive a personal benefit, or for the benefit of Grant or its clients and/or Keys or its clients. *See* County Ethics Code Section 2-11.1(h).
- She may not represent Grant and/or Keys before any County board or agency. *See* County Ethics Code Section 2-11.1(m)(1); RQO 04-173. While it does not appear that lobbying activities are a part of her potential activities as real estate agent for Grant and/or Keys, it

is important to note that she would be prohibited from doing any such activities on behalf of Grant or its clients and/or Keys or its clients.

- She must obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with her department director, and **she must file an Outside Employment Statement<sup>1</sup> with the County's Elections Department by noon on July 1st of each year regardless of whether she made a profit or not in her outside employment.** See County Ethics Code Section 2-11.1(k)(2).

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.

Other conflicts may apply based on directives from MDCR or under state law. Questions regarding possible conflicts based on MDCR directives should be directed to MDCR or the Mayor's Office. 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.

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<sup>1</sup> Ms. Johnson can find the required form online at: <https://www.miamidade.gov/elections/library/forms/outside-employment-statement.pdf>.