

MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

COMMISSIONERS

Dr. Judith Bernier, CHAIR
Wifredo “Willy” Gort, VICE CHAIR
Nelson C. Bellido Esq.
Dava J. Tunis, Esq.
Lourdes B. Fernandez, Esq.



EXECUTIVE STAFF

Jose J. Arrojo
EXECUTIVE DIRECTOR

Radia Turay
ADVOCATE

Loressa Felix
GENERAL COUNSEL

January 19, 2024

Via email only to expedite delivery:

Maureen.Porras@cityofdoral.com

Honorable Maureen Porras
Councilwoman
City of Doral
8401 Northwest 53rd Terrace
Doral, Florida 33166

Re: INQ 2024-10, Use of Official Title in Charitable Event Advertisement
Section 2-11.1(g), Miami-Dade Code

Dear Councilwoman Porras:

Thank you for consulting with the Miami-Dade County Commission on Ethics and Public Trust and for seeking guidance regarding the application of Section 2-11.1 of the Miami-Dade Code (County Ethics Code) to the described prospective transactions below.

Facts:

You are a Councilwoman in the City of Doral. You are also an attorney employed as Director of Immigration Legal Services for Church World Service (CWS). CWS is an international faith-based organization that describes its mission as “transforming communities around the globe through just and sustainable responses to hunger, poverty, displacement and disaster.” CWS is a nonprofit, tax exempt entity under section 501(c)(3) of the Internal Revenue Code. Amongst its services to persons in need, CWS offers low-cost legal services to refugees, asylum seekers and immigrants. CWS helps these persons apply for citizenship, green cards, DACA protections, temporary protected status, asylum protection and more.

You are responsible for leading CWS’s national Legal Services team to support and provide technical assistance to the network of local CWS offices’ immigration legal services departments. You oversee support to the local CWS offices to build, scale, and sustain legal services

programming. You are responsible for providing technical guidance in a goal-oriented manner that aims to deliver excellent results and expands CWS's legal work.

You would like to like to participate and lead community outreach events in South Florida where refugees, asylum seekers, and immigrants in need of legal assistance can receive information and guidance. These are not fundraising events, but rather service and information oriented events. The events will be co-sponsored by CWS and other nonprofit entities. Also, and importantly, persons attending these events will not be referred to CWS for legal services at a cost, even at a reduced cost, and the events will not utilize municipal facilities or resources.

You would like to use your official title along with your image in advertisements for these charitable events.

Issue:

May a City Commissioner use her official title in advertisements for charitable community outreach events where refugees, asylum seekers, and immigrants in need of legal assistance can receive information and guidance, while employed as legal services director for a nonprofit that provides low-cost immigration legal services.

Discussion:

Section 2-11.1(j) of the County Ethics Code prohibits an elected official from accepting employment which would impair his or her independence of judgment in the performance of his or her public duties. However, this section does not operate as a general bar on your employment with a nonprofit. The Ethics Commission has previously opined that similarly situated elected officials in Miami-Dade County may hold leadership employment positions for nonprofits.¹

However, elected officials are cautioned against using their official position or public resources to secure special privileges for themselves or others. Consequently, Section 2-11.1(g) of the Ethics Code has been interpreted to prohibit officials from using their official position or any public resources in his or her private employment with a nonprofit organization, or to otherwise benefit the nonprofit.²

The Ethics Commission has repeatedly advised elected officials that they may use official title and public resources to solicit for nonprofit entities or charitable events as these are exceptions to the gift solicitation prohibitions found in Section 2-11.1(e)(2) of the Ethics Code.³ Conversely, officials have been advised that if they engage in fundraising activities on behalf of a nonprofit

¹ See generally INQ 2021-10; INQ 19-44; INQ 18-126; INQ 17-235

² INQ 2023-110 (County Commissioner may not use her official position or public resources to benefit her employer, a nonprofit catholic university, that seeks donations, contributions, and government grants to support programing.)

³ See generally INQ 2023-85

outside employer, they should not use their official title or any references to their governmental agency while engaged in these activities. ⁴

Opinion:

The Ethics Commission has consistently advised elected officials that they may not use their official title, or any public resources, in their private employment, or to benefit their employers, even if the employers are nonprofit entities.

Conversely, the Commission has opined that the Ethics Code permits the use of official title and public resources to solicit gifts and donations for nonprofits and for charitable events as long as the official is not employed by the nonprofit and will otherwise not receive a financial benefit from the donations.

In this case, a hybrid of sorts, you have queried whether you may use your official title to advertise free events to assist persons in need of immigration services, a charitable endeavor, when your nonprofit employer is one of the several event sponsors.

Because the events will not include fundraising or solicitations, and because persons attending will not be referred to your employer for at-cost or even reduced costs legal services, and there appears to be no direct or indirect benefit to your employer, then it would appear that the Ethics Code would not prohibit the use of your image and official title in event advertisements. ⁵

This opinion is limited to facts as presented 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.

Thank you again for consulting with the Ethics Commission and please do not hesitate to contact me should you require any additional assistance.

Sincerely,



Jose J. Arrojo, Esq.
Executive Director

⁴ INQ 2023-110 (Solicitations by an elected official on behalf of his or her outside employer are problematic, even if the employer is a nonprofit. While it would be most advisable to avoid any charitable solicitation on behalf of the outside employer, the official, if he or she decides to participate in these activities, must avoid the use of official title or references to the County [City].); INQ 17-34 (City Commissioner not prohibited from using his official position to solicit donations for the nonprofit entity because neither he nor his staff will receive a personal benefit as a result of the solicitation. However, he may not use his City title to solicit donations for his nonprofit employer, a nonprofit historically black university.)

⁵ This agency is not empowered to interpret or enforce state statutes, but as regards the use of the Doral municipal seal, s. 165.043, F.S., provides that the governing body of a municipality may, by ordinance, designate an official municipal seal and its use, display, or reproduction, except by municipal officials or employees in the performance of their official duties, without the express approval of the governing body is a second degree misdemeanor.)

cc: Loressa Felix, COE General Counsel
Valarie Vicente, Doral City Attorney (vvicente@ngnlaw.com)

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 Ethics Commission 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.