



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Arianna Mitchell  
Adoption Clerk, Animal Services Department

Jerry Estevez  
Customer Service Supervisor 1, Animal Services Department

**FROM:** Martha D. Perez  
Temporary Staff Attorney  
Miami-Dade Commission on Ethics and Public Trust

**SUBJECT:** INQ 2024-100; Outside Employment §2-11.1(j) (k)

**DATE:** June 4, 2024

**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 Ms. Mitchell's requested outside employment with Fat Boys Wings & Things (hereinafter "FBWT") as a Cashier.

**Facts:**

Ms. Mitchell is an Adoption Clerk at the County's Animal Services Department (ASD). In general, her responsibilities include interacting with the general public; speaking to prospective adopters in order to identify and pair them with companion pets; explaining the adoption requirements and process; arranging and participating in division-sponsored adoption or special events throughout the community to educate the public on the department's programs and services; and, providing overall counseling services to potential and future pet owners.

Ms. Mitchell's proposed outside employment is as a Cashier at FBWT. Her responsibilities would include handling payment transactions, processing payments, maintaining areas, preparing take-out orders, and serving customers at the take-out counter.

Ms. Mitchell states that she would be working approximately twenty (20) hours per week on her days off from the County. Finally, her county work does not involve any transactions with FBWT.<sup>1</sup>

**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 Ms. Mitchell’s County employment as an Adoption Clerk with ASD and her outside employment as a Cashier at FBWT.

**Analysis:**

Miami-Dade County employees are required to obtain approval from their department directors prior to engaging in outside employment. *See* County’s Administrative Order 7-1. Directors may request an opinion from the Miami-Dade County Ethics Commission regarding conflicts of interest in outside employment. *See* INQ 19-101; INQ 13-28. The County’s Administrative Order No. 7-1 gives a county department director the ultimate discretion to deny outside employment if he or she finds that it is contrary, detrimental, or adverse to the interest of the County and/or the employee’s department. *See* RQO 16-02; RQO 12-07; RQO 00-10; INQ 12-49; INQ 13-28; INQ14-104; INQ 15-22; INQ 16-121.

The Conflict of Interest and Code of Ethics ordinance (County Ethics Code), addresses outside employment in § 2-11.1 (j) - Outside Employment: “Conflicting employment prohibited. No person included in the terms defined in subsections (b)(1) through (6) and (b)(13) shall accept other employment which would impair his or her independence of judgment in the performance of his or her public duties.”

This section of the County Ethics Code prohibits County employees from engaging in outside employment which would impair the County employee’s independence of judgment in the performance of his/her official duties in order to prevent the creation of a conflict between the employee’s public duties and private interests. The County’s Administrative Order 7-1 reiterates the general principle that County employees must conduct the public’s business without even an appearance of conflicting loyalties: “Under 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.*” (Emphasis Added)

**Opinion:**

Inquiries concerning conflicting outside employment require consideration of multiple factors. In our review of this request and the facts presented, we find that there does not appear to be a conflict of interest for Ms. Mitchell, in her position as an Adoption Clerk for

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<sup>1</sup> FBWT is not a county vendor.

Animal Services Department, to conduct outside employment as a Cashier with FBWT, provided she abides by the limitations and conditions addressed herein.

Notably, Ms. Mitchell's specified work responsibilities with FBWT do not overlap with her work responsibilities for the County's Animal Services Department; her duties at FBWT are different from her county duties at ASD; she has confirmed with her supervisor that her work hours would not conflict with her county hours/ schedule; she would not use county resources to perform work for FBWT; and, there is no likelihood that her outside employment could place her in are different situation where her private economic considerations would override the faithful discharge of her county duties *See* INQ 22-86 (a cashier 1 for WASD may engage in outside employment as a part-time head cashier at Home Depot because his outside employment would not impair his independence of judgment in the performance of his County duties).

Based on past COE opinions, Ms. Mitchell must adhere to the following limitations and conditions to avoid the creation of a conflict of interest between her outside employment with FBWT and her county duties:

- She may not be authorized to approve or disapprove any agreements between ASD and FBWT.
- She shall not use County time or resources for her outside employment. *See* Section 2-11.1 (g), Miami-Dade County Ethics Code; INQ 19-123; INQ 20-43.
- She shall not engage in activities that relate in any way to her outside employment during your scheduled work hours (including phone calls, text messages, e-mails, or other communications) and shall not use County resources (including, but not limited to, phones, copiers, computers, fax machines, and County vehicles) in connection with this outside employment, even after work. *See* County Ethics Code Section 2-11.1(g); AO 5-5, AO 7-1, INQ 05-29, and INQ 15-240. <sup>2</sup>
- She shall not disclose and/or use any confidential and/or proprietary information acquired as a result of her county employment to derive a personal benefit or for the benefit of FBWT. *See* Section 2-11.1(h), Miami-Dade County Ethics Code.
- She shall not use her official position to secure special benefits or privileges for FBWT. *See* Section 2-11.1(g), Miami-Dade County Ethics Code.
- She must file, under oath, an annual "Outside Employment Statement" with the Miami Dade Elections Department no later than 12 Noon on July 1<sup>st</sup> of each year, including the July 1<sup>st</sup> following the last year she held such employment. Said statement should include the source of the outside employment, the nature of the work being done pursuant to the same and any amount or types of money or other

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<sup>2</sup> Mr. Estevez and Ms. Mitchell discussed her "essential staff" status and Ms. Mitchell confirmed that her outside employer was aware that her county work schedule takes priority over her outside employment.

consideration received by the employee from said outside employment. *See* Section 2-11.1(k)(2), Miami-Dade County Ethics Code.

- She shall not represent FBWT or lobby the County on behalf of FBWT or contact anyone employed by a Miami Dade County or on a County board in an attempt to influence a decision about any contract or other services related to FBWT. Miami-Dade Code 2-11.1(m)(1), RQO 04-173, INQ 19-32.

*Please note that this memorandum does not grant the employee permission to engage in outside employment. The employee must obtain permission to engage in outside employment yearly from his or her department Director.*

This opinion is limited to the facts as you 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 this 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.