



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Robin Gray-Urgelles  
Environmental Resource Project Supervisor  
Miami-Dade Regulatory and Economic Resources

Kirk Linaje  
Biologist 2  
Miami-Dade Regulatory and Economic Resources

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

**SUBJECT:** INQ 2024-117; Outside Employment §2-11.1(j)

**DATE:** June XX, 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 Mr. Linaje's requested outside employment with the non-profit organization MORAES as its Director.

**Facts:**

Mr. Linaje is a Biologist 2 at the County's Regulatory and Economic Resources (RER). He is charged with the management of the Environmentally Endangered Lands Program (EEL), specifically, maintaining, restoring, preserving, and conducting biological investigations on flora<sup>1</sup> and fauna<sup>2</sup> within the identified preserves with the goal of being protected in perpetuity.<sup>3</sup>

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<sup>1</sup> *Flora* refers to plants.

<sup>2</sup> *Fauna* refers to all animal life in a particular region.

<sup>3</sup> Miami-Dade County's Environmentally Endangered Lands (EEL) is a program created in 1990 to protect lands that contain the natural forests and wetland plant communities that sustain rare plants, animals and their habitats, The Program's focus is the protection and conservation of environmentally endangered lands. The EEL Program and its partners have brought more than

Mr. Linaje's proposed outside employment is as volunteer Director of MORAES. MORAES is a non-profit environmental research organization located in Miami, Fla., with the goal to protect South Florida marine resources through collaborative community involvement and stewardship.<sup>2</sup> Some of its current projects include habitat enhancement, sea turtle monitoring, marine debris prevention and clean-up, and *cetacean* research. As volunteer Director, Mr. Linaje will oversee and review scientific reports in regard to marine mammal science and provide avenues for student-based research.

MORAES is not seeking to become a county vendor, contractor, or service provider.

**Issue:**

Whether a prohibited conflict of interest may exist between Mr. Linaje's county employment as a Biologist in RER's EEL Program and his outside employment as volunteer Director of MORAES.

**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. This Administrative Order 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)

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." In other words, Section 2-11.1(j) 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

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20,700 acres of environmentally endangered lands into public ownership since 1990. Additionally, the EEL Program manages 2,800 acres of natural lands within Miami-Dade County Parks, for a total of more than 23,500 acres protected. <https://www.miamidade.gov/environment/endangered-lands.asp>

<sup>2</sup> [soflomoraes.com](http://soflomoraes.com)

performance of his/her official duties in order to prevent the creation of a conflict between the employee's public duties and private interests.

Generally, uncompensated outside employment for a traditional nonprofit entity is not considered outside employment. However, a county employee who serves as the Executive, *Director*, President, or Manager of that nonprofit on a compensated or uncompensated basis and is actively involved in the administration of that entity is engaged in outside employment requiring completion of the outside employment paperwork on a yearly basis. *See* RQO 17-03; INQ 22-44. Thus, Mr. Linaje's work for MORAES constitutes outside employment.

### **Opinion**

In our review of this request and the facts presented, we found that Mr. Linaje's specified volunteer responsibilities with MORAES are not contrary, detrimental, or adverse to the county's RER Department or EEL Program. There does not appear to be a conflict of interest for Mr. Linaje as a Biologist 2 for RER to conduct outside employment as volunteer Director of MORAES, a non-profit organization.

While Mr. Linaje's outside employment as volunteer Director of MORAES may share some of the knowledge base he employs as the manager of the EEL Program at RER, conflicts are unlikely because EEL's mission focuses on the preservation of fauna and flora in environmentally endangered lands in Miami-Dade County and MORAES' pledge is to promote the protection of the marine mammal population through research. *See* INQ 21-20 (systems analyst and computer programmer positions appear to require the use of the same knowledge base however, there is no indication that a prohibited conflict of interest exists); INQ 20-102 (A similarity between an employee's County duties and his outside employment duties does not indicate, by itself, the existence of a conflict of interest); INQ 20-43 (The Ethics Commission has held that use of an acquired knowledge base in outside employment does not in and of itself create a conflict of interest); *see also* INQ 24-111 and INQ 18-54 (citing RQO 00-10; RQO 04-168; RQO 12-07 for the same proposition).

Additionally, we conferred with you, as Mr. Linaje's supervisor, and other than the general inquiry concerning any conflicts under the County Ethics Code, you did not express opposition to his outside employment.

Thus, there is no indication that Mr. Linaje's volunteer activities at MORAES would impair his independence of judgment in the performance of his County duties as Biologist in the County's RER.

Please note, that while there are no ethical conflicts regarding Mr. Linaje's county employment and his volunteer activities at MORAES, certain limitations will apply:

- He shall not engage in activities that relate in any way to his outside employment during his scheduled work hours (including phone calls, text messages, e-mails, or other communications) and may 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>3</sup>

- He may not use any confidential information acquired as a result of his county employment to derive a personal benefit or a benefit for MORAES. *See* Miami-Dade Code § 2-11.1(h).
- He may not exploit his county position to secure special privileges or exemptions for himself or MORAES. *See* §2- 11.1(g). He may not direct targeted solicitations at any RER and/or County vendor or lobbyists for any special cause, even when such solicitations are not prohibited, so as to avoid an appearance of impropriety where he may appear to be applying pressure to one of the County/RER's vendors or contractors to accede to a request for a contribution to MORAES in exchange for its continued business relationship with the County/RER. <sup>4</sup>
- He shall not represent or lobby the County on behalf of MORAES; nor may he appear before any County Board or agency and make a presentation on behalf of MORAES with respect to any contract, certificate, ruling, decision, opinion, application for grant funding or other benefit sought by MORAES. *See* §2-11.1(s); §2-11.1(m)(1), County Ethics Code. Please note, that this prohibition has been interpreted very broadly by the Ethics Commission as it relates to current county officers and employees. *See* RQO 12-10 (“individuals serving in County positions may not engage in any discussions whatsoever with officials, directors or staff of County government on behalf of third parties.”); *see also* RQO 04-173, INQ 19-32.
- Lastly, Mr. Linaje 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 the person 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 consideration received by the employee from said outside employment. *See* Section 2-11.1(k)(2), Miami-Dade County Ethics Code.

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<sup>3</sup> Mr. Linaje has discussed with his supervisor and agreed that he would not conduct any outside employment/MORAES activities during his county work; he will be conducting his volunteer service at MORAES on Saturdays and Sundays; he will not use any county resources in connection with his outside employment; and, agrees that outside employment privileges during time of declared emergencies would be suspended for all essential employees. *See* Online INFORMS Request

<sup>4</sup> Mr. Linaje further agrees that there would be no representation of any interest related to his outside employment with MORAES before his subordinates or his supervisors. *See* Online INFORMS Request

*Please note that this memorandum does not grant you permission to engage in outside employment. You must obtain permission to engage in outside employment yearly from your 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 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.