



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Ricardo Peters, HR Compensation and Job Analyst,
Miami-Dade Human Resources Department

Demi Prieto, HR Compensation and Job Analyst Supervisor,
Miami-Dade Human Resources Department

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2024-121, Section 2-11.1(j), Conflicting employment prohibited; Section
2-11.1(k), Prohibition on outside employment.

DATE: June 28, 2024

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest in Mr. Ricardo Peters' proposed outside employment.

Facts

Mr. Ricardo Peters is currently employed by the Miami-Dade Human Resources Department ("HRD") as a Human Resources (HR) Compensation and Job Analyst. He advised that his primary job duties include reviewing County job openings, requesting job reclassifications, and interviewing employees who have requested reclassification. He explained that job reclassifications involve updating job descriptions or compensations as the responsibilities and duties of the offered position change over time. He further explained that his responsibilities include conducting studies to allocate County positions and/or their compensation.

Mr. Peters advised that he wishes to engage in outside employment as a Pastor at the Cosmopolitan Baptist Church. He advised that his job responsibilities as a Pastor will include preparing and delivering sermons, conducting Bible study, administrating church business meetings, officiating weddings, conducting funeral services, performing baby dedications, counseling members, and meeting with community leaders. He advised that he will receive a monthly housing allowance as compensation for his pastoral services. He further advised that his work as a Pastor will occur

outside of the time/hours that he is expected to perform his duties as an HR Compensation and Job Analyst. He stated that he will not encounter the same or similar people or entities in his proposed outside employment as he encounters in his County work because, in his current role, he does not deal directly with the general public or provide any services that would involve his proposed outside employment as a Pastor. He further advised that he will not use the same or similar resources for his proposed outside employment work because his outside employment is not similar to his current County work. He explained that he is not involved with vendors, contractors, bidders, or members of the public who could also be involved with his proposed outside employment because his current County position solely deals with assisting County employees.

Finally, he advised that Cosmopolitan Baptist Church may be a County vendor because it serves as a County polling location for elections. He provided a copy of the Polling Place Agreement between Cosmopolitan Baptist Church and Miami-Dade County. The Agreement provides that the County is permitted to use the church for any federal, state, county, municipal, or district election, and in exchange the County pays for the use of the church in an amount to cover utilities and custodial services, as well as indemnifies the church for its use as a polling place. Mr. Peters advised that he did not negotiate the Agreement, nor does he have any part in administration of the Agreement, explicitly stating that he is not involved in the use of the church as a polling place and that another person associated with the church is responsible for serving as a liaison with the Miami-Dade County Elections Department regarding the church's use as a polling place.

Issue

Whether Mr. Peters' proposed work as a Pastor at Cosmopolitan Baptist Church constitutes outside employment and, if so, whether any prohibited conflict of interest may exist between his County employment and his proposed outside employment where the Church is a County vendor.

Analysis

This inquiry involves several 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:

A. Prohibition on Outside Employment

Section 2-11.1(k) of the County Ethics Code provides that a County or municipal employee may not receive compensation for his or her services as an officer or employee from any source other than the County, except as permitted in Section 2-11 of the Miami-Dade County Code. "[A] full-time County employee may accept incidental or occasional outside employment so long as such employment is not contrary, detrimental or adverse to the interest of the County or any of its departments," provided that the employee gets approval for the outside employment from his or her department director. *See* Miami-Dade County Code § 2-11(b) & (c). Outside employment is considered "any non-County employment or business relationship in which the County employee provides a personal service to the non-County employer that is compensated or customarily compensated." RQO 17-03.

In practice, an employee of the Miami-Dade Department of Solid Waste Management who serves as Associate Pastor at his or her church is engaged in outside employment because the church collects “love offering[s]” on behalf of the Associate Pastor, even though he or she did not have a set salary. *See* INQ 05-30; *cf.* INQ 06-76 (finding that an employee of the Miami-Dade County Parks, Recreation and Open Spaces (“PROS”) was not engaged in outside employment when she served as an uncompensated volunteer on her church board).

Here, based on the information Mr. Peters provided to us at this time, **his proposed work as a Pastor at the Cosmopolitan Baptist Church constitutes outside employment** because the church will provide him a monthly housing allowance; this compensation makes his proposed work as a Pastor outside employment. *See* RQO 17-03; INQ 05-30.

B. Conflicting Employment Prohibited

The 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). 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.

Multiple factors are considered when evaluating whether outside employment is conflicting, including similarity of duties with the employee’s County duties, contact with the same or similar entities in both the employee’s County position and proposed outside employment, overlapping work hours, use of County resources in the outside employment, and the management of County vendors who are also involved in the proposed outside employment. *See* RQO 17-01.

In practice, a Human Resources Commander for the Miami-Dade Corrections and Rehabilitation Department (“MDCR”) could engage in outside employment as a Choir Director for a church because the outside employment was unconnected to his County work duties, did not impair his independence of judgment in the performance of his public duties, and the work hours did not conflict with his County employment. *See* INQ 17-32. As another example, an Accountant 3 with the Miami-Dade Public Housing and Community Development Department (“PHCD”) could engage in outside employment as the Chief Financial Officer/Financial Secretary with a church where her job responsibilities mostly involve bookkeeping, regardless of the church’s partnership with a non-profit organization that receives funding from PHCD, because neither her County nor her outside employment job responsibilities relate to the administration or oversight of the PHCD

funds received by the partner non-profit and she has no involvement with the decision making concerning the church's agreement with the non-profit. *See* INQ 14-168.

Here, based on the information provided to us at this time, **it appears to be unlikely that the type of outside employment that Mr. Peters seeks to engage in would impair his independence of judgment as an HR Compensation and Job Analyst.** This is because there is no prohibited overlap between his public duties and his proposed outside employment with the Cosmopolitan Baptist Church: his proposed outside employment will be performed outside of his County work hours; he will not come into contact with the same persons or entities involved in his County work because in his County position he does not deal directly with the general public or provide any services that will involve his proposed outside employment as a Pastor. Furthermore, he will not use the same resources in his proposed employment as used in his County work, and he will not have access to non-public information as part of his County work that could be relevant to his proposed outside employment. Finally, although the Baptist Cosmopolitan Church is a County vendor, he will not have any involvement or oversight in carrying out the Polling Place Agreement between the church and Miami-Dade County in either his County position or in his proposed outside employment. *See* RQO 17-01; INQ 17-32; INQ 14-168.

Opinion

Based on the facts presented here and discussed above, Mr. Peters proposed work as a Pastor for the Cosmopolitan Baptist Church would constitute outside employment because he will receive a monthly stipend for his service. *See* RQO 17-03; INQ 05-30. Furthermore, it does not appear that Mr. Peters would have a conflict of interest in his proposed outside employment as a Pastor for the Cosmopolitan Baptist Church because his proposed outside employment would not impair his independence of judgment in the performance of his County duties. *See* RQO 17-01; INQ 17-32; INQ 14-168.

Furthermore, the Commission on Ethics strongly recommends that Mr. Peters abide by the following limitations, and that such limitations be imposed by his supervisor(s) if they grant him permission to engage in his proposed outside employment with the Cosmopolitan Baptist Church:

- **Mr. Peters may 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 he may not use County resources (including, but not limited to, phones, copiers, computers, fax machines, and County vehicles) in connection with his outside employment, even after work. *See* County Ethics Code § 2-11.1(g); AO 5-5; AO 7-1; INQ 20-43; INQ 19-123; INQ 15-240.
- Mr. Peters may not exploit his County position to secure special privileges or exemptions for himself and/or for the Cosmopolitan Baptist Church. *See* County Ethics Code § 2-11.1(g). For example, this means that Mr. Peters may not promote or solicit funds for the Cosmopolitan Baptist Church from his fellow County employees, applicants for County positions, or from County vendors while engaged in his County position as an HR Compensation and Job Analyst. *See* INQ 22-112 (a Parking Lot Attendant Supervisor for the Miami-Dade Internal Services Department may not use his official position to promote

his privately owned and operated tax preparation business). Furthermore, Mr. Peters should not be involved in any future negotiations with the County regarding the use of the church as a polling location generally or the Polling Place Agreement specifically. *See* INQ 23-94 (a Stewardship Manager for PROS who was an honorary member of a local non-profit should not have any involvement in the negotiation, supervision, or enforcement of a program partnership between PROS and the non-profit).

- Mr. Peters may not disclose and/or use any confidential and/or proprietary information acquired because of his County employment to derive a personal benefit, or for the benefit of the Cosmopolitan Baptist Church. *See* County Ethics Code § 2-11.1(h).

- Mr. Peters must obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with his department director, and **he must file an Outside Employment Statement¹ with the County's Elections Department by noon on July 1st of each year for the prior year's outside employment regardless of whether he made a profit or not in his outside employment.** *See* County Ethics Code § 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 HRD or under state law. Questions regarding possible conflicts based on HRD directives should be directed to HRD 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.

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