



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Holly McKire, Customer Service Representative 2  
Miami-Dade Water and Sewer Department

Traceley Bootle, Customer Service Supervisor 2  
Miami-Dade Water and Sewer Department

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

**SUBJECT:** INQ 2024-143, Section 2-11.1(j), Outside employment

**DATE:** August 15, 2024

**CC:** All COE Legal Staff

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“Ethics Commission”) and requesting our guidance regarding possible conflicts of interest in Ms. Holly McKire’s proposed outside employment.

#### Facts

Ms. McKire is currently employed as a Customer Service Representative 2 with the Miami-Dade Water and Sewer Department (“WASD”). She advised that her job duties primarily include handling calls from WASD clients related to their accounts, including billing, and issuing work tickets to handle water and sewer related issues.

Ms. McKire owns and operates a Florida limited liability company named Klassy Divine Kandles “K.D.K.” LLC (“KDK”). Through KDK, Ms. McKire manufactures and sells candles. She advised that she is the sole owner and employee of KDK. She further affirmed that her proposed outside employment with KDK only occurs outside of the hours that she works for WASD and that she does not use the same or similar resources as in her County position. She advised that she would not be required to come into contact with the same or similar people or entities in both her public position and her private work. She stated that she does not have access to non-public information that is, or could be, relevant to her proposed outside employment. Finally, she stated that she does not use her County position to advertise or otherwise promote her proposed outside employment.

## Issue

Whether a Customer Service Representative 2 with WASD may engage in outside employment as the owner and operator of a private company manufacturing and selling candles.

## 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.” County Ethics Code § 2-11.1(j); *see also* County Ethics Code § 2-11.1(k). Additionally, Miami-Dade County Administrative Order (“AO”) 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 Ethics Commission 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 (e.g., similar personnel, clients, suppliers, or subcontractors) 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 Contracts Compliance Specialist 1 with WASD did not have a conflict of interest that prohibited him from engaging in outside employment as the owner and operator, with his parents, of Florida corporation providing trained and licensed security personnel for private security, executive protection, and security enforcement services, because his County duties related to the supervision of lawncare and beautification contracts. *See* INQ 23-05 (Small Business Enterprise certification opinion). Similarly, a Plant Electrician with WASD did not have a conflict of interest that prohibited him from engaging in outside employment as the owner and operator of his privately owned company performing residential and commercial electrical work because his County duties involved installation and maintenance of industrial equipment incompatible with residential and commercial use. *See* INQ 16-234.

Additionally, Ms. McKire previously requested an ethics opinion in relation to KDK’s application to participate in the Mom and Pop Small Business Grant program funded by Miami-Dade County.

In that opinion, this agency previously opined that, at that time, Ms. McKire's outside employment appeared unlikely to impair her independence of judgment in the performance of her County duties. *See* INQ 24-50.

Here, based on the facts presented and discussed above, it appears that the type of outside employment in which Ms. McKire seeks to engage by owning and operating KDK would not impair her independence of judgment in the performance of her County duties as a Customer Service Representative 2 with WASD. *See* INQ 24-50; INQ 23-05; INQ 16-234. This is because Ms. McKire's proposed outside employment will be performed outside of her County hours; she will not use the same or similar resources in her outside employment as used in her County work; she will not have contact with the same or similar people in her outside employment as are involved 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 proposed outside employment. *See* RQO 17-01; INQ 23-05; INQ 16-234.

### Opinion

Based on the facts presented here and discussed above, **Ms. McKire does not have a prohibited conflict of interest in her proposed outside employment as the owner and operator of KDK.** *See* RQO 17-01; INQ 24-50; INQ 23-05; INQ 16-234. Furthermore, the Ethics Code imposes the following limitations on Ms. McKire's ability to engage in her proposed outside employment as owner and operator of KDK:

- 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 § 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 KDK or its clients/customers. *See* County Ethics Code § 2-11.1(g). Specifically, she may not offer her or KDK's products to anyone during County working hours, including co-workers, subordinates, and other County employees. *See* INQ 19-101. Furthermore, **Ms. McKire works in a public-facing position as a Customer Service Representative 2 and is cautioned that she may not offer her or KDK's products to members of the public interacting with her in her County role.** *See id.*
- **She may not engage in her outside employment while away from her County work on paid sick leave;** however, absent a County or departmental policy to the contrary, she may engage in her outside employment if away from her County work on paid annual leave or on unpaid leave. *See* INQ 22-97 (a Title Analyst for the Miami-Dade Department of Transportation and Public Works who owned and operated her own company selling handmade soaps could engage in her outside employment while on parental leave).

- 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 KDK or its clients/customers. *See* County Ethics Code § 2-11.1(h); INQ 21-60.
- She may not represent KDK or any of its clients/customers before any County board or agency. *See* County Ethics Code § 2-11.1(m)(1); RQO 04-173. While it does not appear that lobbying activities are a part of her potential activities with KDK, it is important to note that she would be prohibited from engaging in any such activities on behalf of KDK or its clients/customers before any Miami-Dade County board or agency. *Id.*
- 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 § 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 WASD or under state law. Questions regarding possible conflicts based on WASD directives should be directed to WASD 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. McKire can find the required form online at: <https://www.miamidade.gov/elections/library/forms/outside-employment-statement.pdf>.