



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Kenbrick Johnson, Landslide Operations Officer 1
Miami Dade County Aviation Department

FROM: Etta Akoni, Staff Attorney
Miami-Dade County Commission on Ethics and Public Trust

SUBJECT: INQ 2024-167, Outside Employment §2-11.1(k)(2) and (j)

DATE: December 3, 2024

CC: All COE Legal Staff

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

Facts:

You, Kenbrick Johnson, work for the Miami-Dade County Aviation Department ("Aviation") as a Landside Operations Officer 1. You are a full time County employee, and your work schedule is Wednesday to Sunday from 6 AM to 2PM. In this role, your responsibilities are to provide information, directions, and assistance to airport visitors; monitor airport roads and terminal curb zones; greet drivers; monitor and report unusual activity; provide security for the public and employees; serve as a first line response and facilitate access to professional service in an emergency, such as police, ambulance, or fire rescue; issue citations to offenders of law and airport regulations; coordinate the removal of unattended vehicles; appear in court for citation hearing as a witness to violations, as summoned; report public dissatisfaction and incidents of non-compliance; and establishing procedures for the safe and orderly access to and movement within public areas by pedestrians and vehicles.

You advise that the Landside Operations Officer 1 position does not require a license. You indicated that as Landside Operations Officer 1 you do not work directly with County suppliers, contractors, subcontractors, or clients; and you do not have access to any non-public information that could be used in your proposed outside employment. You also advised that your Aviation position does not afford you the opportunity to recruit vendors,

contractors, bidders, or members of the public who could use your outside employment services.

You are seeking approval to continue your outside employment with the City of Coral Gables, Florida as a part time Parking Enforcement Specialist. The City of Coral Gables (“Coral Gables”) is a municipality and a political division of Miami-Dade County and the State of Florida. You are neither an elected official nor an appointed official for Coral Gables. As a Parking Enforcement Specialist, you will work fifteen (15) hours a week, five (5) hours a day, three (3) days a week on your County non-workdays (which is currently Monday and Tuesday) and non-work hours on your scheduled County workdays. In this role, your responsibilities are to patrol an assigned route to include parking lots, garages, and sections of the Coral Gables to detect parking violations; issue citations for nonmoving violations, including overtime parking, expired license tags, and improperly parked vehicles; monitor vehicles parked in un-metered and metered spaces; records time and returns at specified intervals to cite vehicles remaining in spaces illegally; inspect businesses providing valet parking services to detect possible violations and discuss violations with valet company operators; report suspected abandoned motor vehicles; report missing traffic signals or signs; prepare daily transmittal sheets and maintains records of hourly activities; appear in court for citation hearing as a witness to violations, as summoned; provides road information and assistance to motorists; and perform other related duties as assigned.

You advise that your work with Coral Gables will not require you to regularly come into contact with any county employees, departments, or county boards that you encounter in your County employment. You state that you will not use the same tools for Coral Gables that you use for your Aviation position. You state that, to your knowledge, Coral Gables is not a registered county vendor, and you are not privy to any information or decision making about whether Coral Gables will become a vendor or pursue any contracts, agreements, or business engagements with Miami-Dade County. You advise that, to your knowledge, Coral Gables does not rent space from Miami-Dade County.

Both entities require that you to attend court hearing as a witness when a citation is issued by you for either organization is contested. Generally, City of Coral Gables and Miami-Dade County citations are paid to the Miami-Dade County Clerk of Courts. The Miami-Dade County Clerk of Courts also organizes the hearings when a traffic citation is contested. Court hearings for traffic citations occur during regular court hours at the eight (8) courthouse facilities in Miami-Dade County or on Zoom. Carlos Gutierrez, Parking Enforcement Supervisor for the City of Coral Gables Parking Department indicated in a letter dated November 19, 2024, that Coral Gables agrees that you will not be required to attend court for citations you have issued on their behalf if it conflicts with your schedule with Aviation.

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

Kenbrick Johnson's County employment as a Landside Operations Officer 1 with the Miami-Dade County Aviation Department and his outside employment with the City of Coral Gables as a Parking Enforcement Specialist.

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." Section 2-11.1(j); *see also* section 2-11.1(k). 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." ¹

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 (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.

Conflicting employment can occur when activities or responsibilities of the outside employment occur during the prescribed County working hours. In Miami-Dade County Commission on Ethics and Public Trust complaint C24-22-06, *City of Miami Beach v. Karhonda White*, probable cause was found that Ms. White violated Section 2-11.1(j) of the Ethics Code, "*Conflicting employment prohibited*," as she worked on her City telecommuting days at her personal business location where she was engaged in her outside employment and extensively utilized the City's computer and network to conduct her outside employment. *Id.*

However, a distinction can be drawn in the instant matter. Your stated work hours with the City of Coral Gables Parking Department will be on the days you do not work for Miami-

¹ Additionally, State law prohibits an employee of an agency from having or holding any employment or contractual relationship that will create continuing or frequently recurring conflicts between her private interests and the performance of her public duties. §112.313(7)(a), Fla. Stat. (2017).

Dade County or during times of the day when you are not scheduled to work for Miami-Dade County. The City of Coral Gables Parking Department has provided directly to COE a letter that indicates that in the event you are called to court as a witness for a parking violation, they will not require your presence if it conflicts with your work schedule for Miami-Dade County.

Additionally, in considering the similarities of the duties for the two positions, both positions require you to issue citations and act as a witness in contested traffic hearings; however, there is no indication that a prohibited conflict of interest exists. *See* INQ 22-31 (Parking Attendant Assistant Supervisor does not have a conflict of interest regarding his employment at the County and his outside employment as a municipal Parking Enforcement Officer, because his outside employment would not impair his independence of judgment in the performance of his public duties, as he will not assist the same clients or use the same resources in both positions; his work for the City would be performed outside of his County hours; he will not interact with County employees in his outside position; and he has no involvement, oversight, supervision, or authority over the City, its staff, or its traffic enforcement operations in his County position).

The Ethics Commission has previously opined that a similarity between an employee's County duties and his or her outside employment duties does not indicate, *by itself*, the existence of a conflict of interest. *See* INQ 18-54 (citing RQO 00-10; RQO 04-168; RQO 12-07 which note that outside employment with similar duties and functions can avoid conflict when abiding by certain limitations) (emphasis added). Therefore, the similarities in the services you would be providing in the two positions does not preclude you from engaging in outside employment particularly as your outside employment will be performed outside of your County hours, and if there is an obligation to the City of Coral Gables that occurs during your County work hours, Coral Gables will excuse you; you will not come into contact with the same persons or entities involved in his County work; you will not use the same tools in his outside employment as is used in his County work; you do not have access to non-public information as part of your County employment that is, or could be, relevant to your outside employment; and you do not have any involvement, oversight, supervision, or authority over the City, its staff, or its traffic enforcement operations in your County position. *See* RQO 17-01; RQO 16-02.

Opinion:

Based on the information provided during this review, it appears to be unlikely that the type of outside employment that Kenbrick Johnson is seeking to engage in would impair his independence of judgment in the performance of his County duties as a Landslide Operations Officer 1. Thus, Kenbrick Johnson does not have a conflict of interest in his proposed outside employment with Coral Gables.

However, the Commission on Ethics strongly recommends that the following limitations be imposed on Kenbrick Johnson's permission to engage in his proposed outside employment:

- Kenbrick Johnson shall not engage in activities that relate in any way to his outside employment during his regular work hours, including phone calls, or any other communication and/or use of County resources (including but not limited to phones, copiers, computers, fax machines, County vehicles, in connection with his outside employment, even after work). *See* Sections 2-11.1 (g), Miami-Dade County Ethics Code; AO 5-5, AO 7-1; INQ 05-29, and INQ 15-240.
- Kenbrick Johnson is prohibited from disclosing and/or using any confidential and/or proprietary information acquired as a result of his County employment to derive a personal benefit or a benefit for the City of Coral Gables. *See* Section 2-11.1(h), Miami-Dade County Ethics Code.
- Kenbrick Johnson shall obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with his supervisor and department director through the designated County human resources system, which is currently INFORMS. Also, full time County employees are required to annually file an Outside Employment Financial Statement, disclosing income earned, or the lack thereof, from their outside employment, on a yearly basis with the Miami-Dade County Commission on Ethics and Public Trust by 12 Noon on July 1st of each year. *See* Section 2-11.1(k)(2), Miami-Dade County Ethics Code.

This opinion is limited to the facts as you, Kenbrick Johnson, 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 opinions provided by the legal staff after review and approval by the Executive Director and/or General Counsel. INQs deal with opinions previously addressed in public session by the Miami-Dade Commission on Ethics and Public Trust or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Ethics Commission when the subject matter is of great public importance or where there is insufficient precedent. While this is an informal opinion, covered parties that act contrary to this opinion may be subject to investigation and a formal Complaint filed with the Ethics Commission.